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‘Peaceful Use’ Principle"FA Consideration on the Method of Interpretation on Principle

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On 27 January 1967 , Treaty of Principles Governing the Activities of States Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies(1967 treaty)was opened for signature by all States at London, Moscow, and Washington.¹⁾ It came into force on 10 October 1967. This treaty has been given the metaphorical name saying that ‘Magna Charta of Space, Constitution of Space, Space Charter or Fundamental Law of Space’.²⁾ 1967 Treaty has several important principles as norm in it. ‘PeacefulUse’(PU) is"ng one of principle norms"h(principle or principles)in the treaty. PU is provided in article 4, article 9, and article 11.³⁾

Principles are norms which require that something be realized to the greatest extent possible given the legal and factual possibilities.⁴⁾ Careful attention on interpretation of principles should be deserved on the ground that a characteristic of principles is abstract, therefore, interpretation on principle has, in generally, a high egoistic probability, e.g. an expedient or arbitrary interpretation. Central to this issue is how to prevent egoistic

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interpretation as a part of basic studies on the treaty interpretation theor.

There is common functional characteristic in interpretation on principle and general clauses. Interpretation on them should be supplemented some legal estimations adjusted to the given social-historical conditions. The decoding of genuine trends of given historical change should be reflected in interpreting of principles. The introducing of PU into 1967 treaty and the interpretation of PU were carried out by decoding of international circumstances and ideas on space development at that time. Fierce military race of US vs. USSR was , in particular, the most decisive variational function. Space exploration and use in the present time is under the rare changing phase. A phase of scene in space development and idea on it had been totally changed. The reason for space development is in changing process : from "for individual interest" to "common interest for humankind, above all, survival for humankind."⁵⁾This changing process and meaning have not nothing to do with interpretation on PU.

The theoretical pursuit for how to rethink the method on treaty interpretation, especially on principles interpretation, should be launched. Rise of International principle norms which embody the common interests of entire international society or international community is remarkable. This remarkable rise causes the competition on interpretation of the principles. It is necessary to re-examine the method of interpretation on principles . What needs to be emphasized is how to reflect the genuine meaning and course of historical change in the interpretation on PU"the question I have to ask here is where is the methodological point to interpret on PU. This is the very leitmotiv.

I will briefly show following order of this article beforehand. Theme 1 is to prove how to be introduced PU into 1967 Treaties, and to explain what does have the significance of international law study on it. Theme

2 is to arrange the present interpretation on PU "Fnon-aggressive use vs. non- military use caused the competing interpretation on PU, and to try to connect this competing interpretation to its' theoretical and substantive background. Theme 3 is to propose a crucial issue for international law' to be considered on it. The point of this issue is how to catch the direction of trend of PU in any historical transformation. And how to draw on this point to make the interpretation on PU principle.

1. 1967 Treaty"FO n the Introduction and the Interpretation of PU Principle.

1-1 : On the Introduction of UP principle into 1967 Treaty

There are some characteristics on treaty interpretation on principles in international general treaty : its means the constitutive/organic treaty(IGT). It is the legal-political interpretation : the legal policy interpretation named by H. kelzen. ⁶⁾This characteristic on treaty interpretation indirectly depend on the rise of IGT and that of principles in IGT The direct reason depend on the nature of interpretation on principle. The reason why IGT was established in response to the necessity of international demands for global common interests, however, it is difficult to have unanimously approved, it culminated in the vague consent : the inevitable nature of IGT. This is not the exception that proves principles in 1967 Treaty.

The requirements on Principle interpretation is how to read the orthodromic pass of principles.

Every interpreter has interpreted in accordance with their legal policy within interpretative rules.

There have been conventionally the competition and collision of

interpretation on principle, and yet, the interpretation has enjoyed tentative legitimacy as far as a definite counter interpretation.

Every related experts and delegates dispatched to 1967 treaty establishing work understood the characteristics of principle interpretation. There are many same precedents of the interpretation on principle" principle norms in the charter of U.N., the Antarctic treaty and the charter of International Atomic Energy agency etc.⁷⁾In the outskirts of this treaty establishment, a large numbers of reconnaissance satellite and communications satellites code named such as an MOL, Samos and Csmosatellite of U.S. and U.S.S.R., were really operated. Both countries predicted the possibility of military strategy / tactics in the heaven, seeking their own military and comprehensive interests was their without overlooking goal. They have confronted, on the other hand , to how to deal with anti- nuclear movement and public opinions : expanded to global scale simultaneously. The experts and representatives taking parts of the drafting work of 1967 treaty worked out the two-prolonged policy, one is for international opinions , another is for their military necessity.

In October, 1957, as soon as Sputnik 1 was launched, the military race in outer space went into a steep climb . In the global community, the Vogue of 'Peaceful Use taken off like wildfire on the world at the same time. An unspoken agreement on the introduction of PU into 1967 treaty : the world was began to veiled in an affirmative atmosphere on this introduction . This introduction was approved with the understanding that every state observe the conventional way of interpretation on treaty, especially on that of principles in IGT. This understanding is' six of one and half a dozen of the other as far as the George Orwell 's famous phrase in '1984' "WAR IS PEACE FREEDOM IS SLAVERY, IGNORANCE IS STRENGTH". ⁸⁾This

slogan looks like the rhetorical pronouncement of the interpretation on principle .

However, some anxieties to the expansion of nuclear armaments race of U.S. and U.S.S.R. were not only came to be recognized by humankind ,but also by the party concerned of both countries. PU for the whole humankind in space came to be insisted on with passion. The proposal for introducing PU into 1967 Treaty is submitted to the COPUOS drafting committee by both countries ⁹⁾For example, Article 101 –NASA Act is established by the Congress in 1958 provided the peaceful exploration and use and the benefits for all of humankind in the outer space. The Secretary-General Khrushchev of the Soviet Union launched the peaceful coexistence policy to close ranks with her international rivals. These reactions made us to bring back their past crocodile tears policy: the peaceful policy on nucleus weapons and energy of U.S in 1946.¹⁰⁾

UN resolution 1962 (x viii): "The Declaration of Legal Principles Governing the Activities of State in the Exploration and Use of Outer Space " in 1963 didn't adopt the measure on introduction of PU at the first committee of General Assembly. ¹¹⁾ It was the eloquent evidence what an entangled interests issue is. The PU has been , however, introduced into UN resolution 1984(x viii): "The Resolution of Question of General and Complete Disarmament" in 1963. The reason why their national interests are tangled.

Much ardor of the disarmament/peace-thirsty society produced a number of UN documents for PU.¹²⁾ In this draft meetings, some delegates tried to connect PU to Common Interests for Humankind . The reason why it is not until all of humankind have PU in space that commoninterest realize the genuine peace in space. As Bin Cheng pointed out in his monograph, these slapstick comedy or/and tragedy

equals to saying "Si vis pacem, para bellum".¹³⁾

1-2 : On the Interpretation on UP principle in 1967 Treaty

There are two problematic points to draw the real aspect on this interpretation. The following point should be emphasized that the interpretation was put emphasis only on military context. The standpoint of U.S.S.R on the interpretation on PU stands non-military. It does not mean the abolishment of military affairs in itself, but the curtailment against U.S. military deployment in around the world. As for other states within Soviet Block mean it only an anti-war protests and /or a kind of a cooper tablet with a crucifix for their allegiance for Moscow. American interpretation stands non-aggression. This was only an alternative expression of self-defense and /or national defense. Furthermore, it was only an alternative expression to secure only military security for own country and its' ally.¹⁴⁾ After the dismantling of the cold-war, the peak of her power in space is predicted through from 1990's to near future, this prediction came true in contemporary : Space Control by U.S. prevailed to the rest of the world .

The next point should be emphasized that the melting speed of borderline between military and civil is accelerating.¹⁵⁾ It means that militarization of the whole social structure. The interpretation has been carried out ,therefore, only in military and national security contexts.¹⁶⁾ The result of the interpretation in military context produced " non-military and non-aggression" interpretation.

We set about to explain the conflicting interpretation on PU. The interpretation as "non-military use" on PU .and Article 2(PU on atoms) in the Charter of International Atomic Energy Agency (the Agency's genesis was US President Eisenhower's "Atoms for Peace" address to the General Assembly of the United Nations on 8 December 1953.

These ideas helped to shape the IAEA Statute, which 81 nations unanimously approved in October 1956. The Statute outlines the three pillars of the Agency's work - nuclear verification and security, safety and technology transfer).are similar.¹⁶⁾ The Soviet Union and their comrades have consistently supported " non-military interpretation" from the beginning to the present. They have stated if certain states make use of military forces for their space activities, it will induce the hostile and hazardous reactions of other states in high probability of appearance" Fevery kind of military activities can inevitably cause aggressionor excessive military actions. Prof.G.Gal gave his view on this interpretation as follows : (1)Article 3 of 1967 Treaty prescribes states parties shall carry on space activities in accordance with international law, including the Charter of the United Nations. (2)These provisions prohibited aggression in space and celestial bodies. (3)PU of Article 4should be interpret as non-military, because if PU were to be interpreted as non-aggression, it would be a duplication of non-aggression.¹⁷⁾ His comment on this duplication may be so hung up on trivial legal rhetoric, if we take the fact that this treaty must be established as soon as possible at that time.

The comment on the interpretation by Prof. Bin Cheng should be introduced. He pointed out U.S interpretation on PU in relation article 4 is "Needless, Wrong, and Potentially Noxious". The content is as follows.

(1)In short, "Needles"interpretation means that since US has for many years used the term PU in relation to outer space to mean non-aggressive, and has no protest, this interpretation has been accepted by other states. He pointed out thisreasoning is invalid., inasmuch as there is no call for other states to protest for as long as US has violated on rule of international law or any of its treaty obligation.

(2) In short, "Wrong" means that US interpretation on PU to mean non-aggressive would simply be wrong if applied to 4-2 of this treaty., Which is where the world appears in article 3. The same would be true if applied to article 3 of the 1979 Treaty (Moon Treaty). Any such interpretation would render the first sentence of article 4-2 of this treaty completely meaningless and redundant, and cannot, therefore, be valid.

(3) In short, "Potentially Noxious" means that US interpretation on PU was whimsical and it carries with seeds of serious consequences: US has restricted its interpretation to some non-existent limitation on the military use of the outer void space.¹⁸⁾ If other states tried to operate their military forces for their space activities, could US prepared to allow PU in these treaties to be interpreted by the other parties as meaning also " non-aggressive" ?¹⁹⁾ May be no.

It is enough to prove that U.S.'s requisite to military free-hand in space. Therefore, it seems reasonable to infer that U.S. will be able to make the most use of military activities in space. This interpretation is derived from his statement made before the First Committee of the UN in 1962, Senator Gore, representative of U.S. to the UN. In short, his statement as follows :

It is the view of the United States that outer space should be used only for peaceful " \this is, non-aggressive and beneficial" \purpose. We must continue our efforts for general and complete disarmament with safeguards. Until this is achieved, the test of any space activities must be consistent with the UN Charter and other obligations of law.²⁰⁾

A similar view stated by Pr. McDougl, Pr. Laswell, and Pr. Vlasic . In short, they said that it is impossible to draw a line definitely between military and non-military, peaceful and non-peaceful, and

military-use and non-military-use. All sort of activities in space and on earth related space activities are military-non-military complex, besides it has difficulty in verifying of classification on these activities. Given that complete verifications are executed, it makes this classification worth.²¹⁾

2. On the Background of theory

I will discuss the background of theory on PU interpretation under the following topics" Ftheory and its Change.

"2-1 : On the Background of Interpretation Theory on PU

Let's begin the discussion on the background of this competitive / collusive interpretation. This author points out that the progress of international society caused the rise of IGT . This rise and progress are correlative.

Socialization of the world had been developing in a long-term trend. This progress can be said , in other words, "the socialization without international social contract".²²⁾ I cannot but hesitate to seize this progress as "socialization of the world". The present international order by prevailing of a few super-powered states is, however, different from the socialized world substantially .The socializationof world is making steady progress. Though this symbolic meaning of the progress is the rise of IGT, what needs to be emphasized is what it is difficult to establish IGT without any objections. They cannot but hurry to establish IGT as a temporary measures no matter what the ill-condition. The double effects of the temporary measures and the abstract of principle would produce the competition and/or collision of the interpretation on principle.

What is important in the rise of IGT is to cause the interpretation on principle without substances i.e. legal evisceration. Its' evisceration give serious influence to the discipline of international law(DIL). The this evisceration makes to possible to the predominance of arbitrary interpretation on principle, it cannot be permitted from the viewpoint of the effectiveness and the validity of DIL. What theoretical actions to be exercised? The problematic concern of the methodology on the interpretation of principle must be proposed

Having specified the central problem, I will now discuss a methodology on interpretation on principle of international treaty. At the outset, lets' explain the nature of treaty. we have a meaningful doctrine on this problem: a series of works on the treaty interpretation theory by G. G. Fitzmaurice. Summing up his view, he divided the treaty interpretation into two categories. One is for the aim of *raison d'État*, another is for the technical measures to realize its' aim.²³⁾ In his phrase, three main schools of thought on the subject is explained; these three main schools could conveniently be called the 'intensions of the parties' or 'founding fathers' school; the 'textual' or 'ordinary meaning of the words' school; and the 'telenological or 'aims and objects' school. The ideas of these three schools are not necessarily exclusive of another, and theories of treaty interpretation can be constructed compound of all three.

Having explained his category, I will now set two categories for more the examination. One is "policy oriented interpretation" , another is "norm oriented interpretation". The instance of the former is "Harvard the Draft Convention of the Law of Treaties" and "its' comment of article 19. According this approach , Interpretation of treaty is to give any advantageous means for interpreters , and suggests the possibility of a free hand interpretation.²⁴⁾ This approach has not strictly

be prohibited by article 31 and 32 in "Vienna Convention on The Law of Treaties" in 1980.²⁵⁾ It is very difficult to find out some authorities for the latter. In generally, H. Kelsen pointed out in his one of eminent works "*Reine Rechtslehre*" that to interpret norms means to form some legal policies.²⁶⁾

Having explained the general theory on treaty interpretation, I will now explain the theory on the principle interpretation. The legal norms are divided into two categories ; rule and principle. Both of them are to be brought together under the concept of a norm. The former are norms of relatively low generality, but, the latter is norms of relatively high generality. An example of the latter is the norm that everyone enjoys freedom of speech. Everyone could relatively interpret on its' freedom within a certain legal limitation. By contrast, rules are norms which are always either fulfilled or not. For example, rules as norms which provide that every infancy is prohibited to drink alcoholic beverages is a norm relatively low generality. The generality oriented is the definite line between rule and principle.²⁷⁾ The competing interpretation on the latter is naturally.

On the other hand, a German legal philosopher Robert Alexy wrote, "The distinction between rules and principles becomes most apparent in the case of competing principles and conflicts rules. What they have in common is that two norms, each taken on their own. Lead to inconsistent results when applied that is, they lead to two mutually incompatible concrete legal ought-judgments. What separates them is the way the conflict is resolved."²⁸⁾

There was another concealed theme in this remark. It is how to read the changing historical trends which influence the interpretation on principles. Because, the changing historical trends creates *optimization requirements*(OR).²⁹⁾ It is absolutely necessary for the interpretation on

principle to read the content of OR. OR is composed of historical ideologies. These ideologies are created to match with the current of the times and to be introduced into OR.

What is the optimization requirements as a guideline for the interpretation on principle? It is surely "the exploration and use of outer space for human-survival." Outer space has been opened for the geopolitics space of human survival. The interpretation on PU principle must be interpreted to match with this idea.

2-2 : On the Modification of PU Principle

Modification of interpretation of PU has been an unchangeable trend in the present. The reason is why a new problematic phase is opened to the exploration and use of outer space. Its' problematic phase is the human survival as OR saying that PU principle. The human survival must be introduced into OR. Human survival as OR has two viewpoints to be shared. One is the aspect of the military impact saying that militarization and weponization ³⁰⁾in space ; realistic crisis. Another is the aspect of the rethink on peace and military; idea crisis. The traditional thinking diagram ; peace vs. war , has been not reflected what the present social structure is ; the industrial" \academic" \military" \politics complex.³¹⁾ We could not work over our plot on peace without thinking of war and vice versa.

The problematic point of realistic crisis against human survival is how to prevent the up-tempo military race in outer space. This initiative doesn't mean to deny all of the military activities. On the contrary, its' initiative pursuits for military use for human survival in outer space: 'militaries as 'forces for good" ³²⁾in outer space. This military force is for human survival. The forces uses their modernized military technology and power against many and much disasters from

outer space.

The problematic point of idea crisis against human survival is how to change the traditional way of thinking on the peace vs. war diagram. The problem which I have to consider is how to create the new diagram on peace and war. An object of discussion on this theme should be changed.

An new object to be set up is the total social structure of the present in itself. In other words, the object to be asked for is not war or peace in itself, but war induced social structure. We must expand our idea on war on the earth and in the outer space towards not national security, but human survival.

3: On Optimization Requirement

The purpose of the interpretation on principles, including that of PU, is the manifestation and the justification of states will. The parties could interpret principles as far as the policy oriented interpretation is permitted. Even though the interpretation is the policy oriented one, the temporal justification will be given to it. The interpretation "non aggressive and non military" was shared with characteristic of the interpretation on principle. The question if this interpretation on PU should be sustained or not was thrown in front of us.

As is well known, some principles as the result of constitutional agreements are provided in constitutional and IGT. It is said that OR is resumed to be a functional concept to work principles for the maximum legal requests of parties. OR has been wrapped with a great possibility for parties, I wonder what's in it. Vacancy is the truth. Any parties could push it into OR. If some parties try to persuade

other parties to support their OR, it must be have universal nature. The more a party acquire other parties' support to OR, the higher the persuasion rises. A persuasive OR must be given to other parties. The question to be asked here is what OR should be rebuilt in historical span from the present to the future. This question is considered from two view points: " the correlation of constitutionalism / IGT / principles " and " the correlation of principles / PU principle / OR".

3-1, On Optimization Requirement and International Constitutionalism

The first issue to be considered here is why constitutionalism , including its' international aspect, must be mentioned. The reason why principles are provided in IGT. We can infer, therefore, the origination of IGT is international constitutionalism. It could be analogized the mutual relation of modern constitutionalism in domestic constitution and international constitutionalism. This mutual relation could be recollected theoretically the theory of social contract. The theory of social contract was worked over the precedents' plot: T. Hobbes, J. Rock, and J. J. Rousseau' social contract theory. In generally, social contract theory has been explained a kind of social fiction since the end of 19th century.³³⁾ The problem is if it is a social fiction or not. It should be positioned in a following fact: prescribed principles in modern constitution was the fruits of social contract, and social contract was a convincing piece of evidence existing the contents and the trend of maximum public consensus in the given social-historical conditions. Judging inferentially from the above mentioned, IGT has been established by international social contract is probable.

Then I explain this probable: the inferential recognition from the relative viewpoint of the present development stage of global

community and international law. I don't have back the following recognition: no international social contract has appeared in the present world. The germination of international social contract is not only assumptive but also fixative. For example, the UN Charter may be understood as the constitution of international society: the UN Charter as appearance of general will of the present international society.³⁴⁾ This appearance may be an irrefutable evidence for international social contract. 1967 treaty, similarly, as a kind of IGT is irrefutable evidence for international social contract. We could recognize the existence of international constitutionalism in the present international arena.

3-2, On Optimization Requirement and Interpretation on Principles

How to read the historical changing nature and trend, and how to reflect these reading facts to principle interpretation. It seems to be meaningful to quote again the view of R. Alexy. He explained "the decisive point in distinguishing rules from principles is that principles are norms which require that something be realized to the greatest extent possible given the legal and factual possibilities. Principles are *optimization requirements*, characterized by the fact that they can be satisfied to varying degree, and that the appropriate degree of satisfaction depends not only on what is factually possible but also what is legally possible. The scope of legally possible is determined by opposing principle and rules."³⁵⁾ In short, Any principles have OR. The inside of OR is vacancy. Any parties could slip their egoistic interpretation on principle into OR, and could demand their justification.

Then, what kinds of ideologies to be introduced into PU principle of 1967 treaties at the present time"FOR on PU. Military ideologies are not desirable but human survival ideologies. The meaning of space development for humankind is changing gradually. Most of space-faring

states are, however, keeping their nationalistic policy. Outer space should be reconstructed as not Utopia, but Eunomia.³⁶⁾ New OR as PU will be useful for this reconstruction.

Conclusion : On the Present Issue on Principle

Interpretation and International Law

The history of the human toward space has produced rich and epoch-making knowledge, in particular, on the origin and the future of the human as Prof. T.Matsui wrote in his works.³⁷⁾ Our human kind could create academic useful knowledge about the meaning of our existence. What we are thought is space faring should not be carried out for a variety of exclusive interests(special interests) but inclusive interests(community interests).³⁸⁾ The interpretation on PU should be carried out in accordance with human survival ensuring. This treaty interpretation approach will be useful for interpretation on principles in IGT which is raising. There is a further question which needs to be asked. I will now briefly discuss the theoretical commutation point on interpretation of principles.

I propose this issue: "the underestimation and/or indifference on the facts-find in legal reasoning process". The reason to be asked here is this issue connected with interpretation on principles. As above mentioned, interpretation on principle is required to grasp the changing social –historical trends: facts find. The importance of facts find for lawyers has only minor meaning. Because the conventional legal reasoning for facts find is performed by legal syllogisms. Syllogisms for them is useful tool. Facts are grasped to fit syllogisms reasoning.

Facts to be grasped are legally arranged facts. This is not facts, but legally interpreted facts.³⁹⁾ Syllogisms could not be moved to the out of law. It is necessary, however, to grasp facts to interpret principles. Because parties must find out changing ideology included in OR as facts. How to find out not legally arranged facts? Many studies have been tried. Many hints has been proposed. For example, there are convenient and useful theory for international lawyers, the work of J.Esser, K.Larenz, K.Engisch("mutual continuous functions between norms and facts" and "crossing with viewpoint of norms and that of facts "), R. Dworkin and R. Alexy etc.⁴⁰⁾These authors have pointed out the necessity of the reassessment method on the way of facts find. The improvement of precision on facts find in syllogisms process is necessary for international law in order to prevent arbitrary interpretation on principles.

Notes

- 1) See e.g., Yasuo, Noguchi. "Uchu Jyoyaku" Commentary on Space Treaty 1/2, Gaimushou Chousa Geppou 8.2(1967):54-63.
- 2) "Basic Law" means the form of a series of law prescribed on basic institution, basic legal policy and basic standard in a certain legal branch.
- 3) Four types on PU are prescribed in this treaty."F1)Peaceful uses of outer space(Res.1348X III"Article 11 and 13 in 1967 treaty)"B2)Peaceful exploration and use of outer space(Res.1472"@XIV"Article 9 in 1967 treaty)"B3)The exploration and use of outer space for peaceful use(the preamble in 1967 treaty)"B4)Peaceful purpose(Article4-2 in 1967 treaty).
- 4) Alexy, Robert. A Theory of Constitutional Rights, Trans. Rivers, Julian. Oxford : Oxford Univ. Press, 2002: 47-48,cf.KAMEMOTO Hiroshi, Houtekishiko"Legal way of thinking". Tokyo: Yuhikaku, 2006: 59-96. 125-174. The theory of R.Alexy has been introduced in this book.
- 5) See e.g., Robinson, George S., and White, Harold M. Jr. Envoys of Mankind"FA"@Declaration of First Principles for The Governance of Space Society. Washington, D.C."FSmithonian"@Institute"@Press, 1986.
- 6) Kelsen, Hans. Junsui Hogaku"Reine Rechtslehre"1935,Trans, YOKOTA Kisaburo. Tokyo: Iwanami Shoten, 1975: 153.
- 7) Rybakob, Yuri M."Juridical Nature of 1959 Treaty System." Antarctic Treaty System : An Assessment. Washington"FWashington Academy Press,1986: 33-54.
- 8) Orwell, George . The Complete Works of George Orwell"ENine Nineteen Eighty-Four, ed. Peter Davison(London: Secker & Warburg,1987),p.18.

- 9) Cheng, Bin. *Studies in International Space Law*. Oxford: Clarendon Press, 1997:513.
- 10) Cheng, Bin. *Studies*, pp.513-514.
- 11) Yasuo, Noguchi. *Commentary*: 54-57.
- 12) Cheng, Bin. *Studies*, 514.
- 13) This Latin Proverb means in English "If you desire peace, prepare for war". Bin Cheng, *Studie*, p.513.
- 14) Logsdon, John m. (Director, Space Policy Institute Elliott School of International affairs, The George Washington Univ.) lectured by this title " U.S. POLICY ON SPACE SECURITY COMPETITION AND COOPERATION WITH EUROPE AND ASIA" on April 24, 2007 in Tokyo, At the lecture, he used " Space Control " in order to explain on U.S. new national space policy issued August 31, 2006. " Space Control" hit the nail right on the head of U.S. Space Policy.
- 15) See e, g., Goldman, Nathau C. *American Space Law: International and Domestic* . San Diego: Iwoa State University Press. 1988.
- 16) The Charter of IAEA ARTICLE II: The Agency shall seek to accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world. It shall ensure, so far as it is able, that assistance provided by it or at its request or under its supervision or control is not used in such a way as to further any military purpose. The word is presumed to existence contrary word: peaceful purpose.
- 17) Gāl, G. " Activities on Orbit and on Celestial Bodies" ETwo notions of Peaceful Uses" *Proceedings of 25th IISL Collquim* (1984):84.
- 18) Cheng, Bin. " Introducing a New Term to Space Law" FOuter Void

- Space." The Korean journal of Air and Space Law 11(1999):321-327.
- 19) Cheng. Bin. Studies,521-522.
- 20) A/C.1/PV.1289,p.13"B
- 21) McDougal, Myers S, Laswell, Harold D and Vlasic Ian V. Law and Public Order in Space. New Haven"FYale University Press.1964:388.
- 22) Allot, Philip. Eunomia.1990, PAP.ED, Oxford: oxford University Press: viii- x ix- - - Eunomia [Eunomia]. Trans. Shigeyoshi Ozaki. Tokyo: Bokutakusha. 2007:19-25.
See.e.g., Koskenniemi, Marti. From Apology to Utopia. Helsinki: Lakimiesliton Kustannus.
- 23) Sir Fitzmaurice, Gerald . "The Law and Procedure of International Court of Justice "FThe Treaty Interpretation and Certain Other Treaty Ponits," Brit.Yb. Int'L 28(1951):1-2.
- 24) See e.g. " Draft Convention on the Law of Treaties Supplement"FResearch in International Law" A.J.I.L.29(1935):657-665and937-977.
- 25) Yoshiro , Matsui. "kokusaihou kaishaku Hihan [Critics on the International Treaty Interpretation], "Marukusushugi Hougakukouza 7 Gendai Hougaku Hihan [Marxism Jurisuprudence 7]. Tokyo : Nihon Hyoron Sha:221-230.
McNair writes,"There is no part of the law treaties which the text-writer approaches with more trepidation than the question of interpretations ."Lord McNair. The Law of Treaties. Oxford"FClarendon Press.1961:364.
See e.g. Jacobs, Francis G. "Varieties of Approach to Treaty Interpretation"Fwith Special Reference to The Draft Convention on The Law of Treaties before The Vienna Diplomatic Conference." International and Comparative Law Quartery18(April

- 1969):318-346. McDougal, Myers S, Laswell, Harold D and Miller, James G. Miller, The Interpretation of Agreements and World Public Order "FPrinciple of Content and Procedure. New Haven"FYale University Press,1967:35-118.
- 26) Kelzen.H. Junsui Hogaku:152-154.
- 27) The same explanation is shown by Alexy,. A Theory:44-45.
- 28) Alexy,. A theory:48-49.
- 29) Alexy,. A theory:47-48.
- 30) Both terms has been created and practiced in UN Geneva Disarmament Conference. "Militarization" means a passive approach against military affairs in space.
Contrary, "weaponization"means a active approach in there.
See e.g. Ramey, Robert A."Armed" Conflict on the Final Frontier: The Law of War in Space", Air Force Review 48(2000):1-111,
Teets, Peter B."The Military Uses of Space ,National Security Space"F Enabling Joint Warfighting."Joint Force Quarterly (Winter 2002-03):31-37.
- 31) President Dwight Eisenhower famously referred to the "military-industrial complex" in his farewell address. This symbolic phrase means to refers to a close and symbiotic relationship among armed forces, private industry and academy circle, and associated political and commercial interests.
- 32) Elliot, Lorraine. " Cosmopolitan Ethics and Militaries as 'Force for Good'", Prins, Gwyn. "Cosmopolitan military actions : Who can and will act now", " Lawler, Peter. " The Good State as Cosmopolitan Agent", Ryan, Alan. " Cosmopolitan Objectives and the Strategic Challenges of Multinational Military Operations", Smith, Susan." Logistics and Multinational Military Operations ", Elliot, Lorraine and Cheeseman, Forces for Good Cosmopolitan

- Militaries in the twenty-first century. ed.,Manchester"FManchester University Press.2004:1-97.
- 33) The question on social contract theory we have to ask : social contract by agreement and social contract by violence. Webber, Max. Shokugyou toshitenno Seiji [Politik Als Beruf] 1980, Trans, Waki Keihei. Tokyo: Iwanami Shoten, 1994:9.
- 34) Allot, Eunomia: x ix " \ x x iv "D
- 35) Alexy,. A theory:57-59.
- 36) Allot, Eunomia: x x vii- x x x iii "D
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- 38) McDougal, Myres and Laswell Harold D." The Identification and Appraisal of Diverse Systems of Public Order." Studies in World Public Order. New Haven : Martinus Nijhoff, 1987:10-13.
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