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International Humanitarian Law and Codifying Constraints on Space Warfare

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IHL and Codifying Constraints on
Space warfare

The Basics of Space Law

- What is Outer Space?
- Is this an important question?
- How is Outer Space regulated?

Some Fundamental Principles - 1967 Outer Space Treaty



- Freedom to explore and use / free access for all
- 'province of mankind' / 'common heritage of mankind'
- No appropriation / claims of sovereignty
- International law applies (including UN Charter)
- Interests of maintaining international peace and security
- No nuclear weapons / weapons of mass destruction
- 'Peaceful Purposes'
- State responsibility / liability for 'national activities in outer space'
- International cooperation / keeping UN informed

Military Uses of Outer Space – the reality



- 'Non-military' v 'non-aggressive'
 - a redundant argument?
- Operation Desert Storm – the first 'Space War'
 - Kosovo, Afghanistan, Iraq, Libya etc
- Military satellites / space assets – an 'integrated battle platform'
- Commercial satellites
 - 'dual use' satellites
 - Communications
 - GPS technology
 - Remote sensing
- Weapons systems
 - Terrestrial – missile defence shield / ballistic missiles / ASATS etc
 - In space?
- 'Fourth Territory'?

Space Security – International / National Policy

- Activities of the Major Space Faring States
- Space Ambitions of other States
- A Space Arms Race? – UNGA Resolutions
- Draft PPWT 2008

Application of IHL Principles

- International law applies in outer space
- No 'territorial' limitation to *jus in bello*
 - IHL Principles apply
 - where hostilities carried out
 - where acts cause (direct) effects?
- Outer Space used for
 - 'passive' military activities
 - as an 'active' theatre of warfare?

Application of IHL Principles

- Principles of
 - Distinction
 - Military Objective
 - Proportionality
 - appropriate for actions in outer space?
- Can a satellite be a legitimate target of war?
 - military satellites
 - 'dual-use' satellites
- Effects?
 - communities / States / regions etc reliant on satellite technology

Concluding Comments

- Space technology already used to conduct armed conflict
- Increasing likelihood that space may become a 'theatre of war'
- Every State highly dependent on satellite technology for
 - Security interests
 - Non-military uses
 - Raising standard of living
- Legal 'status' of satellites – legitimate military target?
- How to apply / adapt the *jus in bello*?
- Need for specific standards
 - Definitions – 'space' / 'peaceful purposes' / 'military uses'
- Adhere to the collective 'humanity' principles of space law