



IHL AND OUTER SPACE: THE ICRC PERSPECTIVE

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OUTLINE

1. The ICRC's **humanitarian approach** to the issue of military use of outer space
2. **Existing limits under international law** on military operations in or in relation to outer space
3. **Challenges for the application of IHL** to military operations in or in relation to outer space
4. The ICRC's **preliminary recommendations**



TERMINOLOGY

- **Space system:** space component, ground component, and any link between them
- **Threats to space systems:** electronic warfare, cyber operations, directed energy operations, the use of anti-satellite weapons or other counter-space capabilities (e.g. RPO)
- **Military space operations:** military operations in, to, from and through outer space and those against space systems

MILITARY USE OF OUTER SPACE

- Space and space objects have been used for military purposes since the **dawn of the space era**.
- Outer space is becoming a new theatre of major **power competition** or even an “**operational** domain”.
- Increase in the **likelihood** of space systems being **targeted**.





ROLE OF SPACE IN CIVILIAN LIFE

Technology enabled by space systems plays an **indispensable role** in our life.

- Health care, transportation, communications, energy and trade.

Humanitarian operations and space systems: weather, communications, navigation and earth observation/imaging satellites.



ICRC'S HUMANITARIAN APPROACH

ICRC's concern: potential human cost for **civilians** on earth of the use of weapons and other military operations in, or in relation to, outer space during armed conflicts.



LIMITS UNDER INTERNATIONAL LAW

On Military operations in Outer Space

Military operations in or in relation to outer space during armed conflicts do not occur in a **legal vacuum**

They are constrained by **existing international law**:

UN Charter

Outer Space Treaty

Law of
neutrality

IHL



RELEVANT RULES OF INTERNATIONAL LAW

1. Customary and treaty rules **prohibit or restrict** the choice of weapons, means and methods of warfare, notably the following prohibitions:

- Placement in orbit of **nuclear weapons** or other weapons of **mass destruction** (OST, art. IV.1)
- **Military use** or conduct of **military manoeuvres** on the Moon and celestial bodies (OST, art. IV.2)
- **Indiscriminate** weapons, weapons causing **superfluous injury or unnecessary suffering**, and weapons **specifically prohibited** (CIHL, rules 70-84)
- **Environmental modification techniques** (ENMOD, arts. 1 and 2)

+ Obligation to conduct a **legal review** of new weapons, means or methods of space warfare (API, art. 36)



RELEVANT RULES OF INTERNATIONAL LAW

2. **IHL constrains** any military operation conducted in the context of an armed conflict, **including those that are carried out in outer space or the effects of which extend to outer space.**

Relevant rules on the conduct of hostilities include:

- Principle of **distinction**
- Prohibition against **indiscriminate and disproportionate** attacks
- Obligation to take **all feasible precautions** in attack and against the effects of attack

RELEVANT RULES OF INTERNATIONAL LAW

3. IHL also affords **specific protection** to certain objects and persons in armed conflicts, including space systems necessary for the safety and functioning of:

- Objects **indispensable** to the **survival** of the civilian population.
- **Specifically protected** persons and objects, such as medical units and transport.
- Works and installations containing **dangerous forces**.



RELEVANT RULES OF INTERNATIONAL LAW

4. All **feasible precautions** must be taken to protect civilians and civilian objects against effects of military space

- Already in **peacetime**

Measures that could be considered:

- **Segregation** of military uses and civilian uses of space objects
- Identification of space systems **serving specially protected objects**
- **Registration** as military or civilian space objects



CHALLENGES FOR IHL APPLICATION

Military operations in or in relation to outer space

In light of the specificities of space, ICRC encourages States to work towards a **common understanding** of how **IHL** applies in **outer space**, with a view to affording **protection for civilians and civilian objects** against the effects of military space operations



CHALLENGES FOR THE APPLICATION OF IHL

- The notion of “**attack**” under IHL and military operations against space systems
- The military use of a space object and the impact on its civilian character (**dual-use** space objects)
- Space **debris**



ICRC'S PRELIMINARY RECOMMENDATIONS

- In January 2023, ICRC made **5 preliminary recommendations** in a working paper presented to the UNGA Open-Ended Working Group (OEWG) on “reducing space threats through norms, rules and principles of responsible behaviours”.
- These recommendations focus on norms to **minimize the risk of civilian harm**, which should be implemented **at all times**.



RECOMMENDATION 1

States should **not conduct or support** any military operation or other activity **designed or expected** to **disrupt, damage, destroy or disable** space systems necessary for the provision of **essential civilian services** and for the protection and functioning of **persons and objects specifically protected** under international law.



RECOMMENDATION 2

Whenever feasible, States should **segregate** the **military use** of space systems (including satellites, communication links and ground stations) **from their civilian use**, particularly with regard to systems necessary for the provision of essential civilian services and for the protection and functioning of persons and objects specifically protected under international law.



RECOMMENDATION 3

States should **identify, register, mark, announce** and/or **otherwise indicate** those space systems within their jurisdiction or control that are to be **spared from the effects of military space operations.**



RECOMMENDATION 4

States should **not develop, test or use kinetic counter-space capabilities** or **conduct other harmful operations** against space systems that are **designed or expected to create space debris.**



RECOMMENDATION 5

States should cooperate to **increase the resilience** of satellite services for **humanitarian relief and emergency response** in times of armed conflict and other emergencies.



RESOURCES

- [ICRC comments on the Chair's Draft Report](#) of the Open-ended working group on reducing space threats through norms, rules and principles of responsible behaviours (August 2023)
- ICRC working paper on [Preliminary recommendations on possible norms, rules and principles of responsible behaviours relating to threats by States to space systems](#) (January 2023)
- ICRC working paper on the [Constraints under International Law on Military Operations in Outer Space during Armed Conflicts](#) (April 2022)
- ICRC position paper on [The Potential Human Cost of the Use of Weapons in Outer Space and the Protection Afforded by International Humanitarian Law](#) (April 2021)



THANK YOU

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