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The relationship between space law and cyberlaw, and other recent developments in space law (5)

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THAT ESCALATED QUICKLY: THE CYBER-ASAT CONUNDRUM

Abstract

States have dabbled in Anti-satellite (ASAT) technologies for decades, but the world has yet to see a significant breakout of these technologies. Instead, ASAT activities have been limited to strategic signalling wherein states let others know that they have ASAT capability, but refrain from a significant deployment of that technology. This restraint has been largely based on a combination of law and policy mixed with strategic limitations. This math is changing dramatically as the ramifications of cyberspace are realized.

While space law has no affirmative prohibition on the use of ASAT weapons, states have generally shown restraint in the use of these weapons based on the perceived aftereffects, such as debris creation, that result from such use. These aftereffects can have legal and strategic implications that stay the hand of the state. Network technologies on the other hand can minimize these aftereffects in such a way that they may no longer be an unacceptable legal and strategic risk for states. The world has already seen this in the terrestrial sphere as states have begun to engage in new forms of intervention via cyberspace. This paper will seek to evaluate how cyber-ASAT operations fit in to the current legal and strategic framework, and analyze to what extent states may still be restrained by these considerations.

This paper will proceed by first establishing the nature of emerging cyber-operations and how these types of operations can be used in space. It will then give a brief account of the existing legal restraints on ASATs by examining traditional space law as well as the law of armed conflict. Finally, it will analyze how cyber operations fit within this framework, and why they are changing the nature of space security. This section will also include suggestions on how the space security regime can be strengthened in light of these changing circumstances.