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RECONNAISSANCE OR SPY SATELLITES; LEGAL CHALLENGES AND IMPLICATIONS FOR
INTERNATIONAL LAW

Abstract

The potential use of satellites for espionage purposes has been an object of legal debate since the 1960's. On the one hand, the former eastern Soviet bloc was concerned about the fact that certain satellites could be used for the performance of espionage activities. On the other hand, western States, such as the US, deemed that the activities conducted by such satellites constitute no violation of international law, so long as they are peaceful.

In more detail, in the context of space law, under Article IV(2)(lit. a) OST, outer space, the Moon and other celestial bodies shall be used exclusively for peaceful purposes. However, there is no legal unanimity regarding the interpretation of the phrasing "exclusively for peaceful purposes". In this regard, this lack of unanimous interpretation has contributed to the lack of a clarified legal status of the aforementioned satellites. Consequently, the question still remains; are they legally used reconnaissance satellites or are they illegally used spy satellites? Even more so, State practice makes matters more complicated, given that even the first Sputnik satellite, launched by the USSR in 1959, contained infra-red devices, which aimed to map the United States (US) for targeting purposes.

In this light, as the world progresses, new possibilities and challenges are constantly emerging. Notably, artificial intelligence (AI) has penetrated into the latest technologies, thus expanding the possible uses of space assets. As a result, the utilization of AI technology on future or already launched reconnaissance/spy satellites could equip them with new capabilities, which could lead to new unforeseeable consequences.

Accordingly, this paper aims to clarify the legal status of said satellites, address the legal issues arising from their use and examine their notable effects on sovereign States and civilians. More specifically, this paper will evaluate the practical problems arising from their application, through the spectrum of the NewSpace wave, which is highlighted by the rapid growth of the use of AI technologies.