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NORMS OF RESPONSIBLE BEHAVIOUR IN OUTER SPACE AND THE LAW OF ARMED
CONFLICT**Abstract**

After describing the nature of norms and the concept of responsible behaviour, the paper addresses the process at the UN which started with cyber law (the first area where “norms of responsible behaviour” entered official UN language around the turn of the century), and produced most recently the report of the UN Open-ended Working Group on “Reducing space threats through norms, rules and principles of responsible behaviours” (2022-2023). It is very noteworthy that this OEWG was the first UN forum where the application of international humanitarian law to outer space was discussed at length (a topic more commonly associated with Geneva), and it was precisely a forum concerning responsible behaviours. Is there a nexus between norms of responsible behaviour and international humanitarian law?

The simple answer is yes. Various political commitments that have been seen as examples of responsible behaviour in outer space directly relate to military activities: e.g. unilateral bans on destructive direct-ascent ASAT testing or ‘no first placement of weapons in outer space’ resolutions.

Furthermore, the idea of responsible behaviour as it has emerged for both space and cyber operation at the UN level can be used to determine elements relevant to the international law of armed conflict. Norms of responsible behaviour serve to prevent conflict; disregarding such rules, or in other words ‘irresponsible actions’ do not automatically amount to starting a conflict but can be indicative of an illegal use of force / armed attack, as well as used in the determination of proportionality.

One such example is the intentional physical destruction of a space object; before the “Norms” OEWG it was already thematised in the UN Committee on the Peaceful Uses of Outer Space’s “Space Debris Mitigation Guidelines” of 2007 (which require that such be avoided) and “Long-Term Sustainability Guidelines” of 2019 which is premised on the idea that the interests and activities of states in outer space, as they have defence or national security implications, should be compatible with preserving outer space for peaceful exploration and use. Such destruction will represent irresponsible behaviour highly indicative of an armed attack and fail proportionality tests. Another example relates to critical infrastructure; if space systems constitute critical infrastructure, their designation as such may mean actions targeting that system amount to illegal use of force.

If this nexus is confirmed, however, does it make norms of responsible behaviour stronger or instead unlikelier to gather further consensus?