
New Norms in Outer Space: Washington's Direct Dissent from Direct Ascent

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Ongoing efforts by the international community to uphold international peace and stability across outer space necessitates the collective consideration of the international community on the fundamental utility of human rights principles - recognising its established and authoritative body of precedent; and potential to guide norms of responsible activities across the final frontier.

On April 18, the U.S. made history by becoming the first nation to publicly and unilaterally [commit](#) to a moratorium on conducting destructive Direct-Ascent Anti-Satellite (DA-ASAT) missile tests. In establishing and reinforcing the international rules-based order in outer space, the declaration by Vice President Kamala Harris held that Washington would not only uphold this commitment, but would call upon other like-minded nations to make equivalent commitments to charting new norms of responsible behavior in space. While this call has received [broad support](#) from the international community - including France, Germany, Ireland, South Korea, and the UK - [Canada alone](#) has since expressed its formal intent to adopt the moratorium.

Outlined by VP Harris, the U.S. commitment to this new norm was significantly influenced by two key irresponsible actions. The first involved the highly controversial Russian DA-ASAT test in [November 2021](#). Here, the deliberate destruction of the inactive Cosmos 1408 satellite, using a Nudol missile, contributed to at least [1,500](#) trackable pieces of debris in low earth orbit. The [international community](#) widely condemned the act as a threat to continuing space operations and human spaceflight. The second incident concerned China's [2007 ASAT](#) test, where the decision to destroy a defunct Fengyun weather satellite using a DF-21 missile resulted in the creation of over [3,000 pieces](#) of orbital debris.

The announcement's significance is carried within its symbolism of the Biden Administration's attempt to respond to an increasingly contested, congested, and competitive outer space environment - one within which 15.5 per cent (516) of the [total number](#) of satellites in orbit have military or dual-use purposes. The US appears intent to capitalize upon the Moratorium as a staging point toward reinforcing the international rules-based order in space, observed through the continuing coalescing of norms of responsible behaviour and historical practice. In furtherance of this, the international community must recognise the significance of human rights in guiding state behaviour through a universal, indivisible, and inalienable set of ethical values.

Growing concerns

Challenges facing the outer space environment have increasingly risen into public knowledge and international discourse over the past several years. On the issue of space debris, this was observed during the [2021 G7 Summit](#) in the UK, where member states issued a watershed pledge to take action to tackle the growing hazard of space debris to the safe and sustainable use of space. On the issue of congestion, this was displayed during China's issuance of a *note verbale* in [December 2021](#) before the UN Office for Outer Space Affairs (UNOOSA), castigating the US regarding the alleged danger of collision presented by SpaceX's Starlink satellite constellation.



The US declaration emphasizes the common and significant dangers posed by ASAT-related activities to all citizens of the world. Indeed, academics and policymakers have repeatedly [highlighted](#) how the testing or deliberate use of kinetic ASAT weapons can lead to the spread of thousands of pieces of untraceable debris throughout Earth's orbital environment. This is particularly concerning, where even debris the size of a [pebble](#) can cause devastating damage to important satellite systems in outer space.

While the intent of a state actor engaging in the deliberate use of an DA-ASAT weapon may be to only target the space-based assets of a particular adversary, such an act bears the inherent risk of generating an unknown amount of debris. Strategic military space assets are not the only thing at stake, since kinetic ASAT attacks may also threaten civilian and commercial satellites engaged in the provision of critical services. Herein, reckless or negligent generation of debris from such incidents result in an uncontrollable and exponentially increasing [cascade](#) of collisions.

Where collateral damage from errant orbital debris can disrupt the functioning of earth observation satellites; telecommunication services; and Global Navigation Satellite Systems (GNSS) - this interruption in the availability, accessibility, and adequacy of critical space-related services adversely impacts upon the realization of human rights. For this reason, this moratorium on DA-ASAT testing represents an equally critical moment for the international community to safeguard the continued sustainable use of earth's orbital environment; and to hold states accountable to their international obligations to respect, protect, and fulfill human rights.

Analysis

The White House's accompanying briefing room [release](#) declared that "Conflict or confrontation in outer space is not inevitable, and the United States seeks to ensure outer space remains free from conflict. The Biden-Harris Administration has made clear that the United States will engage the international community to uphold and strengthen a rules-based international order for space."

This vision resonates closely with the inclusive and universal intent of the 2020 [Artemis Accords](#), the membership of which has since doubled in size to include 18 states since the start of the Biden administration. Where the accords strive to establish a common vision through a practical set of principles, guidelines, and best practices to promote the sustainable and beneficial use of space for all humankind; the achievement of such is contingent upon ensuring the sustained peaceful use of outer space.

While the political commitment to voluntarily refrain from DA-ASAT tests is worthy of praise, it is advanced that the universal, inherent, and ethical authority of human rights values provide the most promising means to build upon such political rhetoric and sustain international momentum in driving grassroots change. Indeed, DA-ASAT weapons only represent one subset of [counter space](#) capabilities, which are currently driving the weaponization and militarization of outer space.

- Kinetic physical attacks - including direct-ascent, co-orbital, and ground station attacks;
- Non-kinetic physical attacks - including electromagnetic pulse, high-power laser, and high-power microwave attacks;
- Electronic attacks - including jamming or spoofing; and
- Cyber attacks - including data interception, data corruption, and seizure of control attacks.

Noting the expansive typology of weapons and capabilities in the counter space environment, the U.S. Moratorium represents a comparatively insubstantial step in the right direction, rather than a perceived unconditional commitment to prioritizing peace and stability in space above all else. However, from a human rights interpretation the decision carries potential implications for developing human rights jurisprudence across outer space.

The Human Rights Connection

Recognising the ever-present, interrelated, and inalienable character of human rights; the implied focus of the US Moratorium alludes to several common interests and rights through its emphasis upon



ensuring safe access to space, safeguarding the sustainability of the outer space environment, and reinforcing the international rules-based order through a coalescing set of norms of responsible behaviour.

Firstly, the Right to Life (RTL) - as drawn from Article 3 of the Universal Declaration of Human Rights (UDHR) and Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR). This right carries the [obligation](#) for states to protect the lives of their citizens and people rising in their territory; to adopt all relevant measures to secure enjoyment of RTL; and to refrain from violating this right. Where people's life expectancy can be affected by environmental degradation resulting from natural causes of unsustainable human action, governments must take preventive and corrective action to address any activity which has negative effects upon people's life expectancy. RTL has been recognised by different national, regional and international mechanisms as closely related to the [right to a healthy environment](#). The substance of the Moratorium is thus interpretable as reinforcing the obligation of governments to respect RTL - particularly where the prospect of an increasingly hazardous, contested, and debris-polluted environment in space can significantly and adversely impact upon the health and safety of people in space (i.e. astronauts, tourists).

Second, the [Right to a Healthy Environment](#) (RHE) represents a developing right recognised in the 1972 Stockholm Declaration, alluded to within the 1992 Rio Declaration, and affirmed by the UN Human Rights Council in 2021. RHE recognises the [two-way relationship](#) between a safe, clean, healthy and sustainable environment and holding states accountable to respect, protect, and fulfill human rights. Likewise the obligation to respect, protect and fulfill is directed toward ensuring a safe, clean, healthy and sustainable environment. There is international acknowledgment of this principle, with approximately [two-thirds](#) of national constitutions recognising this right. This is reinforced across international space affairs, noting the frequent reference to the terms of due regard, harmful interference, and sustainability across the 1967 Outer Space Treaty and [UN COPUOS Long-term Sustainability Guidelines](#). Concerning the Moratorium, the document emphasizes the importance of developing a shared understanding of safe and responsible activities in space as crucial to reducing the risk of miscommunication and miscalculation, in order to create a more stable space environment. The presence of RHE within Moratorium is thus alluded to, where Harris challenges states to consider the broader environmental impacts which the weaponization and militarization of space can have upon the exploration, sustainability, and use of space by all nations.

Finally, the Right to Peace (RTP) is recognised within the 2016 [UN Declaration on the Right to Peace](#). This recognises that everyone has the right to enjoy peace, such that all human rights are promoted and protected and development is fully realised. This encourages states to respect, implement, and promote justice and the rule of law, and guarantee freedom from fear and want as a means to build peace. As a developing right, RTP has been [interpreted](#) as interrelated with several other rights - including RTL, the right to dignity, and the right to order allowing the full outcome of rights. These issues intersect with the threat of armed conflict, noting the potential for the continued [weaponization and militarisation](#) of outer space through ASAT testing and use to undermine international security, escalate military tensions, and endanger the realisation of RTP. The Moratorium makes several references on the importance of responsible and peaceful actions in contributing toward a more stable space environment; in recognising the threats posed by an increasingly competitive, militarized, and weaponized environment upon the outer space ecosystem. RTP thus carries the obligation for states to engage in good-faith measures to preserve the peace, avoid escalatory actions, and engage in de-confliction efforts - including disarmament through mutual trust, mutual benefit, equality, and cooperation.

Moving forward

Where the US moratorium on the testing of DA-ASATs presents a watershed moment in preventing the weaponization and militarization of outer space, its ability to ensure the continued peace and stability in space is tenuous. This is attributed to several reason - including the fact that only one of the existing space powers have committed themselves to this effort; that the scope of this moratorium is highlight specific and limited to the testing DA-ASATs alone, which does not exclude the testing of other ASAT weaponry nor its active use during conflict in space; and that US motivation for introducing and



promoting this moratorium may be interpreted as a means to limit the growing space capabilities of other nations.

Regardless, the Moratorium's ethical authority and political force is self-evident, and is arguably derived from a position of genuine concern surrounding the continuing stability and sustainability of the space domain - recognising the growing threat posed by space debris to the peaceful and scientific exploration of outer space.

Human rights present an established and operative framework for translating strategic legal discourse into practical policy action. This is founded upon the universal, inherent, inalienable, and indivisible qualities of human rights values and principles. Therefore, in encouraging other spacefaring nations to commit to the Moratorium, and to promote broad consensus across the international community on this issue, governments must recognize and acknowledge the inherent intersection between responsible behaviors, outer space affairs, and human rights.

