# Human Rights and International Space Law

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Respect for human rights should lie at the core of humanity - to value the life, dignity, and bodily integrity of the human condition, and respect the conscience and freedoms of any person. To bolster these fundamental rights principles, a body of international human rights law exists, in the broader global public interest, as a useful model for national domestic laws. This body of law comprises over 100 treaties, declarations, guidelines, recommendations and principles, together forming the corpus of international human rights (OHCHR, 2014), establishing standard fundamental rights and specific protocols relating from racial and gender discrimination to child and migrant protection.

The adoption of human rights instruments by a sovereign signifies its commitment to respect and protect the fundamental rights of each of its citizens. Consequently, observation satellites overhead, in all their forms orbiting the Earth, have displayed incredible potential in collecting valuable, detailed, and timely data enabling the monitoring and enforcement of human rights across the globe (Wang et al., 2013). The right of an underlying State to be let alone, obscured from the watchful gaze of satellites, is not as practicable as it once was (Christol, 1982). Rather, the human rights paradigm at the center of international law is complemented by the wealth of valuable data satellites produce to substantiate human rights claims (Froehlich and Taiatu, 2020).

For satellite imagery to become relevant in the protection of human rights, a framework for the methodologies and procedures is necessary to seek synergy between the currently disparate international legal regimes applicable to human rights and outer space. Therefore, with Earth observation enabling human rights monitoring while subject to international space law (ISL), herewith is an analysis of how adequate United Nations (UN) space law instruments are in enabling human rights monitoring through Earth observation data.

## Human Rights and the Outer Space Treaty

Entered into force in 1967, ratified by 110 and signed by a further 23 countries (UNOOSA, 2020), the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (UNOOSA, 1967) - also known as the Outer Space Treaty (OST) - outlines a constitution for space activities conducted in outer space and human space activities. Article III of the OST forms one of the cardinal postulates, of which space law constitutes a lex specialis, guaranteeing the application of public international law. It affirms that the exploration and use of outer space should be conducted in accordance with international law to promote peace, security, and international collaboration. But most importantly, it explicitly recalls the United Nations Charter that mandates the UN Member States to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion" (UN, 1945).

In the OST's preamble, reference is made twice to "peoples", thus clarifying that the document's principles must be read in favor of States and their citizenries. Here, collective rights are inferable but

individual rights less so with an ordinary interpretation of the word. In particular, the third preambular paragraphs states "the exploration and use of outer space should be carried on for the benefit of all peoples." Further, OST must be read in light of the context in which it was produced, thus also considering its preamble.

Although not representing a legally binding principle, these prefacing sentiments provide a guide in interpreting its dictates (UN General Assembly, 1969). All in all, the humanistic preambular language of OST inspires space activities to service collective peoples under OST, in addition to individuals given existing customary human rights obligations of States under international law.

**UN Remote Sensing Principles and Human Rights**

Political resolutions created by consensus at the UN Committee on the Peaceful Uses of Outer Space (UNCOPUOS), and conveyed to the United Nations General Assembly (UNGA), sought to develop space law jurisprudence in the form of space treaty-making during the 1960s and 1970s.

As defined in a UNGA resolution on Remote Sensing Principles (UNGA, 1986), remote sensing is 'sensing of the Earth's surface from space by making use of the properties of electromagnetic waves emitted, reflected or diffracted by the sensed objects, for the purpose of improving natural resource management, land use and the protection of the environment' (RSP, 1986, sec 1a). The relation of this technology and its applications being in accordance with human rights purposes is stated according to the Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting (United Nations General Assembly, 1982), adopted by the UNGA in 1982 (DBSP, 1982, sec B).

The accepted scope of human rights in Remote Sensing Principles (RSP) includes the areas of natural resource management, land use and environmental protection (UNGA, 1986). These areas are related to the right to own property and protect that property from arbitrary deprivation (UNGA, 1948. Article 17), the right to an adequate standard of living, the right to security from events that cause a 'lack of livelihood in circumstances' beyond the control of the deprivation (UNGA, 1948. Article 25), and the rights to life, health and a certain quality of life as they relate to the environment and climate change (inter UNGA, 1948, Articles 3 and 25; Carney, 2010; Vanderheiden, 2017). However, this scope still fails to cover a range of human rights abuses, wherein the definition is still absent of a human element.

From the OST it is clear that space activities are mandated as universal and inalienable - to benefit all peoples. However, the established technical definition of remote sensing in RSP within international discourse lacks focus on people themselves. Nevertheless, RSP is a political, non-binding resolution, meaning a sovereign State may recognize and implement a broader and deeper notion of remote sensing and in turn the idea of space benefiting our species.

**Space Benefits Declaration and Human Rights**

As previously highlighted, under the OST, the freedoms of exploration and use of outer space are limited only by the condition they take place to benefit all countries (Hobe, S., Schmidt-Tedd, B., Schrogl, 2017). Still this concept is not clarified in the treaty OST, hence in 1996 COPUOS issued a declaration of principles "[...] on International Cooperation in the Exploration and Use of Space for the benefit and interest of all States, with particular regard to the needs of countries in development" (UNGA, 1996) - also known as the Space Benefits Declaration (SBD).

While this document does not also explicitly refer to the use of satellite data in the monitoring of human rights, it emphasizes the freedom of states in determining "all aspects of their participation in international cooperation". This facilitates the possibility of using such data for commercial and non-commercial purposes, even in the pursuit of causes related to violations of human rights (UNGA, 1996).



**Conclusion**

While international law exists to guarantee the full and equal enjoyment of human rights, their implementation is not commonplace across ISL jurisprudence due to lack of clarity and specificity regarding the relationship between space technologies and human rights. International sources of space law do little to help a reader understand the relationship between space activities and human rights monitoring.

The OST, by its character as a set of general principles for space activities, makes sweeping references to '[hu]mankind' and 'all peoples' as beneficiaries of space utilization and exploration, while encouraging internationally cooperative space activities. Collective rights are much more clearly inferred from this treaty language compared to the individual rights. Non-binding but nevertheless clarifying resolutions from the UN such as RSP essentially define remote sensing as ancillary to earthly human activities, but neglect the inherent and often intangible rights of individuals. The SBD, carefully attentive to State sovereignty in light of territorial exposure to remote sensing, broadly urges cooperation without specifying the means and ends of such ventures.

Countries seeking to promote the rule of law in space and meet their international human rights obligations must therefore consider human rights values and principles as a core component in its earth observation missions. Conversely, human rights missions should further utilize space data to strengthen their efforts, integrating space technology into the business of their governments. Where the use of earth observation images to monitor the rights enforcement of each of the 7.8 billion people inhabiting the earth proves infeasible, this predicates the need for increased focus within ISL upon individual human rights protections. As an analogy, where space technology continues to advance and our resolution increases, so too must our understanding of human rights issues across outer space affairs increase in understanding.