



# ICRC

## **Open-ended working group on reducing space threats through norms, rules and principles of responsible behaviours**

**Geneva, 9 May 2022**

**International Committee of the Red Cross (ICRC)**

**Statement under Agenda Item 5**

### **Introduction to the Working Paper on “Constraints under International Law on Military Operations in, or in Relation to, Outer Space during Armed Conflicts”**

Thank you Mr. Chair.

On behalf of the ICRC, allow me first to congratulate you, Mr. Lagos, for your assumption of the chair of the open-ended working group (OEWG) on reducing space threats through norms, rules and principles of responsible behaviours. We appreciate your leadership in steering the work of this group. Please be assured that you can count on our full support.

The ICRC welcomes the opportunity to contribute its expertise to the discussion at the OEWG. In line with its humanitarian mission and specific expertise, the ICRC submitted a working paper on “Constraints under International Law on Military Operations in, or in Relation to, Outer Space during Armed Conflicts” (A/AC.294/2022/WP.4), which is available on UNODA webpage dedicated to this group. This paper is simultaneously submitted to the consultation by the Secretary General as per General Assembly Resolution 76/230 on “Further practical measures for the prevention of an arms race in outer space”.

Despite the long-term desire of the international community to explore and use space for peaceful purposes, space systems have been employed for military purposes since the dawn of the space era. As the role of space systems in military operations increases, the likelihood that these systems would also be targeted during armed conflicts also increases, whether it is the ground component, the space component or any link between them.

Military operations in, or in relation to, outer space during armed conflicts could have significant harmful impacts on civilians on earth because technology enabled by space systems permeates most aspects of civilian life. This makes the potential consequences of attacks on space systems a matter of humanitarian concern.

It is important to underline that should a State decide to carry out military operations in outer space, such operation would not occur in a legal vacuum. They are constrained by international law, as confirmed in the Outer Space Treaty and recalled in Resolution 76/231. Relevant international law includes, among others:

- the UN Charter, which governs the lawfulness of the resort to force between States. It prohibits the threat or use of force, and mandates Member States to settle their international disputes by peaceful means.
- space law treaties, in particular the Outer Space Treaty, which stresses the peaceful purposes of the exploration and use of outer space and sets out prohibitions of, and limitations to, the placement of certain types of weapons and other military activities in outer space.
- the law of neutrality, which regulates relations between belligerent States and neutral States in times of armed conflict and serves to mitigate and contain the adverse effects of a conflict.
- IHL, also known as the law of armed conflict or *jus in bello*, which establishes limits on the right of belligerents to choose weapons, means and methods of warfare during armed conflicts with a view to protect civilian populations, civilians and civilian objects from the danger arising from military operations. IHL notably prohibits weapons that are indiscriminate by nature as well as a number of specific types of weapon.

IHL constrains any military operation conducted in the context of an armed conflict, including those that are carried out in outer space or the effects of which extend to outer space. It includes, in particular, the principle of distinction, the prohibition of indiscriminate and disproportionate attacks, and the obligation to take all feasible precautions to avoid, or at least to minimize, incidental civilian harm. When assessing whether or not a military operation in outer space during armed conflicts would violate IHL, all foreseeable direct and indirect incidental harm to civilians and civilian objects in outer space and on earth must be considered.

This is also the case when considering the legality of targeting a dual-use space object that has become a military objective, which might remain prohibited by the principles of proportionality and precautions. The risk of creating debris and the cascading threats that debris poses to civilian space objects must also be considered when applying these rules.

Mr. Chair, Excellencies, ladies and gentlemen,

Affirming that international law, including IHL, constrains military operations in, or in relation to, outer space during armed conflicts neither encourages the weaponization of outer space, nor legitimizes hostilities in outer space. In this regard, the ICRC's contribution is made in line with the aim of this group to prevent an arms race in outer space and to free it from conflict.

Indeed, the ICRC urges States to consider the risk of humanitarian consequences when taking any decision with regard to military operations in relation to outer space, at national or multilateral levels. In particular, in light of the risks of significant civilian harm, States may decide to set additional general prohibitions or specific limits with regard to weapons, hostilities or other military operations in relation to outer space for a range of reasons, including humanitarian ones, as they did in the Outer Space Treaty. If new legally binding instruments or other norms, rules and principles are to be developed in this regard, they must be consistent with and should build on and strengthen the existing legal framework, including IHL.

The ICRC is grateful for the opportunity to introduce this paper today. We will further elaborate on the prohibitions and limits laid out in our paper in the course of the work of the OEWG throughout the week.

We stand ready to lend our expertise to any future discussion on this matter.

Thank you for your attention.