

Collective Security Crisis: Challenges to Space Law and Space Security

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The article focuses on the presence of real risks to sustainable development, which manifest in the everyday reality of today. Attention is drawn to this issue in the context of the privileged position of certain states over others, enabling them to advance the concept of “war and peace” in their favor. Evidence is presented to confirm the lack of security guarantees even when adhering to international norms and having official agreements. The problems of state monopolies and individual private entities violating the principle of equality are outlined. The consequences of this phenomenon are demonstrated in the context of regulating outer space. Other challenges for ensuring collective security are characterized through the lens of the absence of sovereignty of any country within the confines of outer space. Various conflict resolution options for violations of rules or the order of space activities are identified, emphasizing the need to develop new rules for space flights and stay on space objects, followed by the implementation of different standards of behavior in space. The overall coherence of the material is achieved through the cumulative use of fundamental research methods such as analysis, argumentation, and presentation of evidence.

Keywords: collective security, space security, crisis, risks, space law, national security, global security

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Introduction

At the outset, it should be noted that collective security as it exists in the world today is a myth. Modern hegemonic countries use balance – of-power policies to force other non-hegemonic countries to reconsider their attitude to war and peace and adapt to their rules of the game. Stable development under threat, we have returned to the Times of the Cold War and to a new round of weapons. All countries began to prepare for war.

The fact that political balance is neither a gift from the gods nor a naturally stable state, but is the result of active human intervention and the action of political forces (Spykman, 2007), was pointed out by a well – known American geopolitics’, the father of the concept of “restraint” and the founder of classical realism in the American theory of international

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relations-Nicholas John Spykman. In his work “America’s Strategy in World Politics: The United States and the Balance of Power,” Spykman claimed that balance in the world can only be achieved in combination with a show of strength in international relations (Spykman, 2007).

And this, unfortunately, is a true statement.

Even, the crisis, which Europe, and other countries experiences, was provoked by the war of the Russian Federation against Ukraine. Which showed that the state can sign all kinds of agreements, protocols, fulfil their requirements and norms, but all this still will not guarantee its security.

As a clear example, we can cite the Memorandum on security assurances in connection with Ukraine’s accession to the Treaty on the Non-Proliferation of Nuclear Weapons, which was signed between Ukraine and the guarantor countries – the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

These guarantor countries have assumed the following obligations: 1) respect the independence and sovereignty and existing borders of Ukraine; 2) refrain from the threat or use of force and/or weapons against the territorial integrity or political independence of Ukraine; 3) do not use nuclear weapons against Ukraine. That is, a direct ban was established against the use of nuclear weapons, and as for other types of weapons and threats of the use of nuclear weapons, there was only a recommendation – to refrain (Memorandum, 1994).

And the most interesting point that was defined in the analyzed agreement was in what way these guarantees will be realised in case of a situation, if Ukraine will be threatened with nuclear weapons use or becomes a victim of an act of aggression. They will ask the United Nations Security Council to provide assistance to Ukraine and consult with each other. But we have all seen how the UN Security Council reacted to the events in Ukraine with its veto power of the hegemonic countries. And what do consultations with Russia lead to?

And for this, Ukraine gave up its nuclear arsenal, and it was at that time the third in the world in terms of number.

Discussion

Thus, security is traditionally understood in connection with the sovereignty of a state and its territorial integrity, as stated in Article 2(4) of the UN Charter (UN, 1945). However, modern realities indicate the existence of security problems without reference to the territories of states and their sovereignty. These problems have gone beyond traditional borders and spread not only to various specific marine zones (Germond, 2015), the Arctic (Geopolitics, 2014), Antarctica (Antarctic, 2012), outer space (Bourbonniere, 2005), but even to cyberspace (The Routledge, 2010). Recent events with monopolist Elon Musk’s (Izvoshchikova, 2023) failure to provide access to the Internet have deprived Ukraine of the opportunity to destroy the Russian fleet in advance, which constantly carried out and continues to carry out rocket attacks on our cities and villages.

So how is it possible to regulate the monopolization of outer space? And how can he talk about collective security in a space environment where not only there are no national borders and territories, but not fully studied the possibilities of using technologies created by people, and most importantly the consequences of their application. For example, the use of an electromagnetic pulse that can burn out electrical networks at a considerable distance and cause extremely heavy damage (Electromagnetic, 2022) or change the trajectory of an asteroid with a kinetic impact (Bardan, 2022).

All this poses new challenges to space law. After all, the basic principles of space activities were adopted 60 years ago. They are extremely important, but they are the least in need of reformatting, and ideally in the development and adoption of new principles and rules of behaviour in space. After all, collective security has always been considered and is being considered in a territorial context and concerned the inviolability of the sovereignty of countries. But space is boundless and there is no place for the sovereignty of any country in it. Therefore, it is necessary to create space security using new approaches, but taking into account mistakes in the past.

First of all, space security has received legal consolidation in the regulatory legal acts adopted within the framework of the UN, in which the word “security” occurs more than 100 times, but the very definition of what is “space security” or “security of space activities” is absent.

As an example, we will present some provisions of space law. Thus, in the Outer Space Treaty, the third principle establishes that “space activities are carried out in the interests of maintaining international peace and security and developing international cooperation and mutual understanding” (Treaty, 1966). One of the guarantees of the implementation of the given principle is a norm that enshrines the right of any state participating in space activities to verify the actions of another state party. Namely art. 15 The Agreement on the Activities of States on the Moon and Other Celestial Bodies establishes that:

“... all spacecraft, equipment, installations, stations and facilities on the Moon are open to other participating states. These participating states shall notify the planned visit at a reasonable time in advance in order to allow for appropriate consultations and to take maximum precautions to ensure safety and avoid interference with normal operations at the facility to be visited. In accordance with this Article, any state party may act independently or with the full or partial assistance of any other state party or through appropriate international procedures within the framework of the United Nations Organisation and in accordance with the Charter” (Agreement, 1979).

Thus, the above – mentioned rules have created the order in which there is a right and an obligation, but there is no responsibility for non-compliance with the rules. What happens if a state party prevents such an inspection by another state party or an international organization, for example, a representative of UN. There are several options for a possible settlement of the dispute – consultations and assistance from a global mediator – the UN Secretary-General.

And how long can such consultations take? And what if the parties do not agree and the UN Secretary-General does not help? Then the parties, at their own discretion, choose other peaceful means, taking into account the circumstances and nature of the dispute. But again, the question arises: what other peaceful means are these?

And what if the emergency landing was made not by an astronaut, who, according to space law, should be safe and immediately returned to the state in whose register their spacecraft is listed, but by a private person – a journalist, a traveller? And if a private ship had to make an emergency landing on the territory of a non-friendly country, or even worse on the territory where the military operations are taking place, who will conduct a rescue operation? And in general, what is the legal status of individuals in space? And this is not a question of individual safety of an astronaut or a tourist – it is a question of collective safety in space.

So how can we agree on the security in space if there are no international security tools on Earth today other than military force.

In the history there are such examples when inveterate enemies agreed on the rules and stuck to them. For example, in the Agreement between the Union of Soviet Socialist Republics and the United States of America on the Prevention of Incidents on the high seas and in the airspace above it of May 25, 1972. In which an understanding was set out regarding measures aimed at improving the safety of navigation of ships of their respective armed forces on the high seas.

Specifically, the agreement provides for ():

- steps to avoid collision;
- not interfering in the “formations” of the other party;
- avoiding maneuvers in areas of heavy sea traffic;
- requiring surveillance ships to maintain a safe distance from the object of investigation so as to avoid “embarrassing or endangering the ships under surveillance”;
- using accepted international signals when ships maneuver near one another;
- not simulating attacks at, launching objects toward, or illuminating the bridges of the other party’s ships;
- informing vessels when submarines are exercising near them; and
- requiring aircraft commanders to use the greatest caution and prudence in approaching aircraft and ships of the other party and not permitting simulated attacks against aircraft or ships, performing aerobatics over ships, or dropping hazardous objects near them.

If the rules of this treaty for the actions of sea vessels are used by analogy with spaceships/satellites in outer space, then approximately the following can be obtained:

- that in all cases where spacecraft/satellites are operating close to each other, operators should apply a strategy of keeping them in orbit that would prevent collisions;
- that spacecraft / satellites of one state that operate near an existing satellite formation (groups of satellites performing a coordinated flight) under the jurisdiction and/or control of the second state/other states must coordinate their own maneuvering operations with the operations of the formation);
- that separation by orbit heights for ultra-large satellite systems should be considered as one of the possible options for preventing collisions of both satellites of the same system and satellites belonging to different systems;
- that satellites carrying out an inspection mission in orbit in the immediate vicinity of the non-operated satellite being inspected should operate at a distance that does not exceed the permissible threshold for the probability of a collision;
- spacecraft/satellites that monitor other space boxes/satellites must maintain a distance that excludes the risk of collisions, as well as avoid performing maneuvers that interfere with or endanger other space boxes/satellites that are under observation, so as not to put them in a difficult position and not endanger spacecraft / satellites under surveillance;
- spaceships/satellites of the parties should not simulate attacks by pointing guns, rocket launchers and other weapons towards a passing spacecraft/satellite of the other side, do not launch any objects in the direction of passing spacecraft of the other side, and do not use powerful lighting installations/pulses along the path of passing spacecraft/satellite of the other side.

Let’s summarize:

- the relevant agreement provides for ways to exercise caution and take self-limiting measures and, in general, comply with standards of polite behavior;
- such regulation aims to ensure that states do not cross critical thresholds.

That is, it is clear from the above that first of all it is necessary to develop new rules for space flights and staying on space objects, and only then on their basis to develop various standards of behavior in space.

Conclusion

I would like to note that all of the above poses new challenges to space law. After all, the basic principles of space activities were adopted 60 years ago. They are extremely important, but they are the least in need of reformatting, and ideally in the development and adoption of new principles and rules of behavior in space. After all, collective security has always been considered and is being considered in a territorial context and concerned the inviolability of the sovereignty of countries. But space is boundless and there is no place for the sovereignty of any country in it. Therefore, it is necessary to create space security using new approaches, but taking into account mistakes in the past.

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