



# The adaptability of space law to the phenomenon of territorialisation of space

How can current space law adapt to the challenges of militarization and appropriation of space?



## Abstract

**Space law** targets humans who intend to take action in space. A layman might wonder on what basis the states that have terrestrial sovereignty have agreed to develop a body of legal rules concerning the moon, celestial bodies and the empty spaces of the cosmos. The answer to this question is historic because space is a child of World War II, the Cold War and nuclear deterrence. Indeed, the drafting of the five United Nations treaties (January 27, 1967) relating to space is dependent on the era of the Cold War and the strong political and military rivalry between the United States and the USSR.

## Introduction

Some qualify these treaties as **out of date**, but their revision is delicate. However, space law has not changed since the 1960s; it remains a soft law made up of non-binding rules, not respected by states and with which certain governments prefer to maintain the status quo. One can wonder about the practical effectiveness of these rules and their respect by the big powers, like the United States, Russia or China.

In addition, new threats have appeared, leaving the space devoid of all international regulations in the face of the so-called phenomenon of territorialisation. Indeed, in the past, space was nothing more or less than a place and a symbol of a strategic confrontation in a precise historical context. We see the time of controlled space coming because it becomes a target.

**Territorialisation** supposes an appropriation of a territory which can take several forms (legal, economic, military). Logically, natural resource and risk management can also be partly territorialized. Space is being territorialized under the effect of the hidden overbidding between the United States, Russia and China. A desire to control space as a new territory to be conquered, passing through a phase of militarization and appropriation of space resources.

## Methods and Materials

Use a search for an analogy with the regime of the International Sea, the Arctic, and the Antarctic.

Some other headings we use:

- Article III of the Outer Space Treaty
- Manuals of operational international law on naval warfare
- Humanitarian policy
- Conflict research
- Extraction in the international area.
- General international law
- Charter of the United Nations (U.N.)



## Aims

### 1) Demonstrate the phenomenon of territorialisation

- Demonstrate the phenomenon of territorialisation from the 60's to today.
- Demonstrate the lack of adaptability of space law over the years.

### 2) Build on existing law with general international law.

- Understand how the regime of space treaties and general international law apply to delimit the legal gaps in military space operations and future extraction of natural resources from existing law.
- Define a legal framework of control in order to enforce the existing prohibitions on militarisation and appropriation of space.

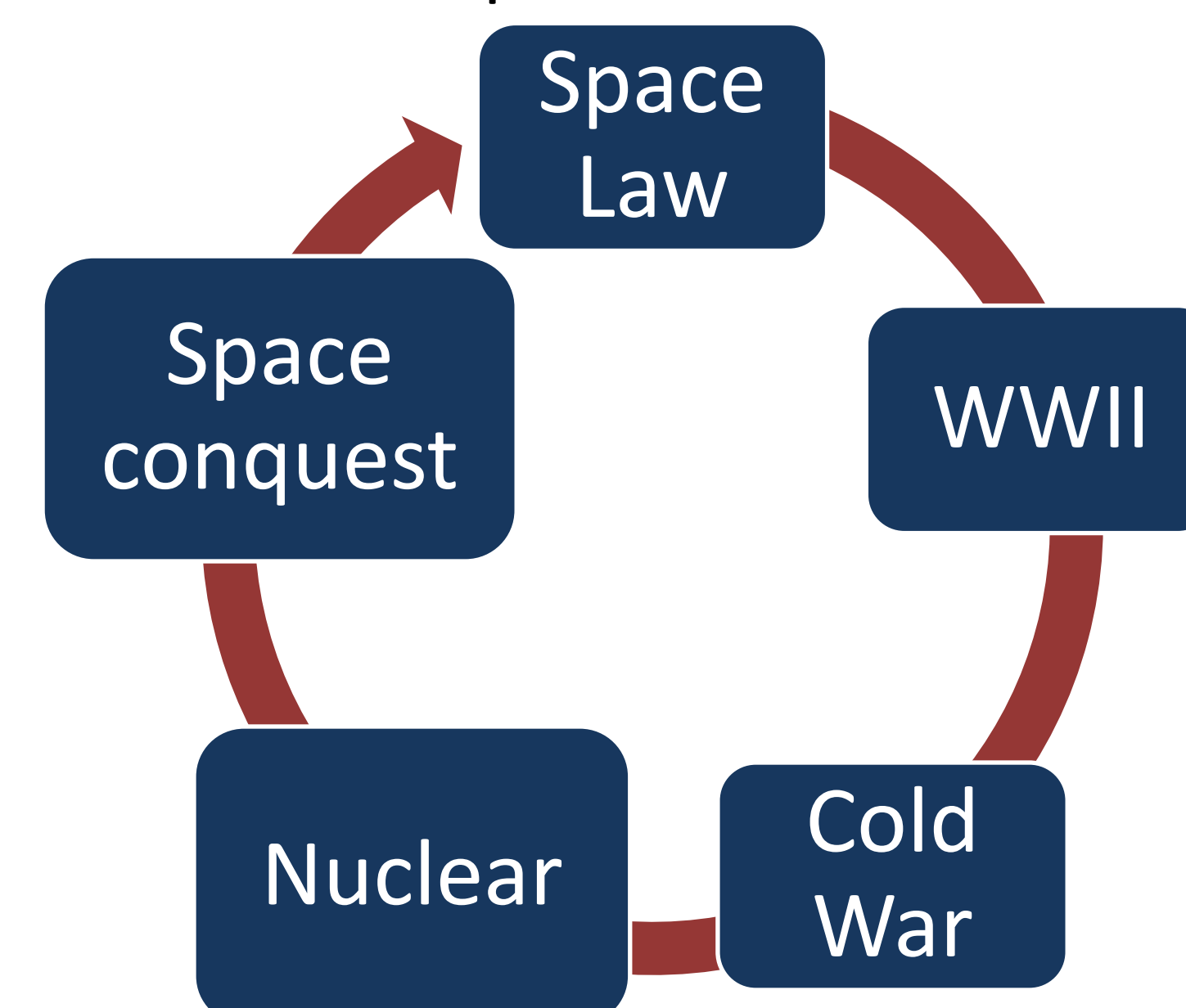
### 3) The need for clarification

- Define rules of interpretation that allow complete precision to determine how the different legal regimes will be reconciled in a given context.
- Clarify some questions that become key operational problems in real-time that require clear answers.

### 4) Creation of a legal regime for military space activities and extraction of natural resources from space when this is not defined by Space Law.

- Understand how the space treaty regime and general international law apply to establish boundaries, freedoms, and constraints for an ever-increasing range of military space operations and future natural resource extraction.

Historical reasons for space law.



The three pillars of this thesis.



## Discussion

The aim of this research is to demonstrate, initially, how this phenomenon of territorialisation came to us, by making an inventory of space law and its lack of adaptability from the 60s to today.

Once the phenomenon of territorialisation has been demonstrated, the aim of the second part is to demonstrate the new threats linked to the militarization of space. For that we will have to outline our current dependence on space. So this research must expose said reasons, but especially the doctrine related to the weaponization of space.

The concept of ownership is not defined by any space law instrument. Article II of the 1967 Treaty specifies certain forms of appropriation. First, it explicitly prohibits both the proclamation and the acquisition of sovereignty by way of occupation. But the concept of natural resource and its exploitation is not defined by the Treaty.

## Conclusions

It remains to be seen whether we will in reality witness a colonisation of space, coupled with a fantastic militarisation of space and an arms race of all kinds.

Isn't it better indeed, to legislate and supervise the activities of militarization and space exploitation rather than to see Space robbed and vandalized by private actors, concealing unscrupulous States and skilfully mixing civil activities and military?

Isn't a *Res Nullius* Space synonymous with easy prey? Mirage? No legal man's land? Gold rush?

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