

STAR LAWS

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the conclusions expressed herein
are solely those of the presenter,
speaking in his personal capacity.*

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God grant me the serenity to accept the things I cannot change; courage to change the things I can; and wisdom to know the difference.

Reinhold Niebuhr, 'Serenity Prayer', 1951



CHALLENGES

- Congested
- Competitive
- Contested
- Complex
- Commons
- Conscience



STRATEGY

‘Strategy’ concerns the capability and preparedness of a State to protect its national interests and pursue national objectives, possibly even at the expense of other States, by the threat or actual use of force, if other ways and means (such as diplomacy, economics and the control of information) are insufficient.



TERRESTRIAL CHALLENGES

- Control of resources
- Indivisible interests
- Information asymmetry and strategic miscalculation
- Credible commitments
- Power transition
- Hostilities are real possibility



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- Hostilities are real possibility
- Will involve the space domain



STRATEGIC UTILITY OF LAW

- Normative framework reduces information asymmetry and facilitates credible commitments
- Must:
 - Reflect State sovereignty
 - Be widely accepted
 - Involve consequences
 - For breaches that are verifiable
 - Apply to the domain
 - Apply to the circumstances
 - Be clear
- Principles of space law and current proposals are ineffective



DISCUSSION



You must know there are two ways of contesting, the one by the law, the other by force; the first method is proper to men, the second to beasts; but because the first is frequently not sufficient, it is necessary to have recourse to the second.

Niccolo Machiavelli
Chapter 18, 'The Prince', 1515

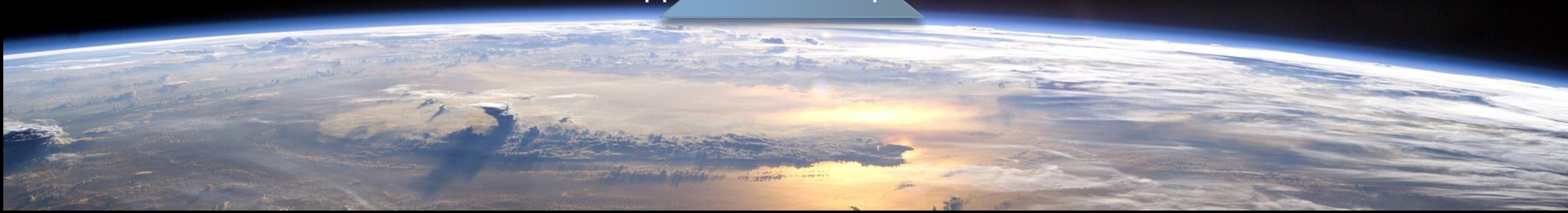


LAW OF ARMED CONFLICT

State sovereignty
Wide acceptance

Consequences for
verifiable breaches
Clarity

Applies to initiation and conduct of hostilities
Applies to outer space?



DEVELOPMENT OF LOAC

- International treaty negotiations
 - Domains other than land
 - Arms control (Hague) vs regulation of conduct (Geneva)
- Evolution of modern warfare



MANUALS

- Manuals
 - Writings of “the most highly qualified publicists”
 - Expression of what the law is, not what it should be
- Oxford Manual 1880—The Laws of War on Land
- Oxford Manual 1913—The Laws of Naval War
- San Remo Manual of International Law Applicable to Armed Conflict at Sea 1994
- Harvard Manual of International Law Applicable to Air and Missile Warfare 2010
- Tallinn Manual of International Law Applicable to Cyber Warfare 2013
- McGill? Manual of International Law Applicable to Space Warfare 20xx



“War holds a great place in history, and it is not to be supposed that men will soon give it up – in spite of the protests which it arouses and the horror which it inspires – because it appears to be the only possible issue [*outcome*] of disputes which threaten the existence of States, their liberty, their vital interests. ... It may be said that independently of the international laws existing on this subject, there are today certain principles of justice which guide the public conscience, which are manifested even by general customs, but which it would be well to fix and make obligatory. ... it is not sufficient for sovereigns to promulgate new laws. It is essential, too, that they make these laws known among all people, so that when a war is declared, the men called upon to take up arms to defend the causes of the belligerent States, may be thoroughly impregnated with the special rights and duties attached to the execution of such a command.”

Gustave Moynier
Preface to the Oxford Manual 1880

