

Legal Aspects of the Use of Outer Space for Propaganda Purposes

Third ISMLLW Conference
« *Silent Leges inter Arma?* »
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1. Law of Outer Space

Outer Space Law:

- strict definition v. broad definition
- legal status and regime

Space Data:

- generated, transmitted to and from outer space
- *collecting and providing information out of the scope of any foreign sovereignty*

2. Propaganda & Subversion

Propaganda:

- information, ideas, opinions, or images, often only giving one part of an argument, that are broadcast, published, or in some other way spread with the intention of influencing people's opinions (Cambridge Dictionary)

Subversion:

- the act of trying to destroy or damage an established system or government (Cambridge Dictionary)

3. Relevance of Space Technology in Propaganda

Acquiring (unauthorized) information

- Earth observation
(optical, thermal, radar)
- Remote sensing

Broadcasting (unauthorized) information

- Direct Radio, TV,
Internet

Hacking (covered under Cyberlaw)



Offshore platform of the 'Principality of Sealand'

4. Short Historical Recap of Satellite Broadcasting Technology

Early 1920's: First international commercial radio broadcasting

1945: A.C. Clarke's *Wireless World*

1957: First Earth artificial satellite (SPUTNIK)

1962: First TV satellite (TELSTAR)

Late 1970's: Rise of satellite TV industry

1990's: Rise of global Internet +

First satellite (digital) radio broadcasting

2003: Launch of eBird, first 'Internet-satellite'

5. International Regulation of Information Broadcasting

Treaty on the Principles governing the Activities of States in the Exploration and the Use of Outer Space, including the Moon and Other Celestial Bodies
(27 January 1967)

- *international responsibility* of States for national governmental and non-governmental activities
- obligation to prevent *potentially harmful interference* with other States' activities

historical note: In 1962, USSR attempted to include the principle of the *prohibition of the use of outer space for propagating war, national or racial hatred or enmity between nations* in a UNGA Resolution foreshadowing the 1967 Outer Space Treaty.

5. International Regulation of Information Broadcasting (cont.)

International Convention concerning the Use of Broadcasting in the Cause of Peace (23 September 1936)

- commitment to prohibit and to stop *any transmission* which would be regarded as an incentive to act against internal order and security of a party, to war, or which would feature *statements of incorrectness*

UNESCO Declaration of Guiding Principles on the Use of Satellite Broadcasting for the Free Flow of Information, the Spread of Education and Greater Cultural Exchanges

(15 November 1972)

‘Satellite broadcasting should be apolitical and conducted with due regard for the rights of individual persons and non-governmental entities, as recognized by States and international law.’

5. International Regulation of Information Broadcasting (cont.)

Convention relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (21 May 1974)

- *intended destination* of the signal + notion of ‘*programme*’

Convention on the Transfer and Use of Data of Remote Sensing of the Earth from Outer Space (19 May 1978)

- concerns former Soviet region countries
- commitment to refrain from disclosing <50 meters resolution images of a Party’s territory, or to use them in any detrimental way

6. International Regulation of Information Acquisition

UNGA Resolution 37/92 on Principles governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting (10 December 1982)

- Purpose: Achieving, through international cooperation, a right balance between freedom of speech and right to information on the one hand and national (political & cultural) sovereignty on the other hand

UNGA Resolution 41/65 on Principles relating to Remote Sensing of the Earth from Outer Space (3 December 1986)

- Remote sensing activities should be conducted in compliance with international law, UN Charter and Outer Space treaties

7. Policy Aspects of Information Acquisition

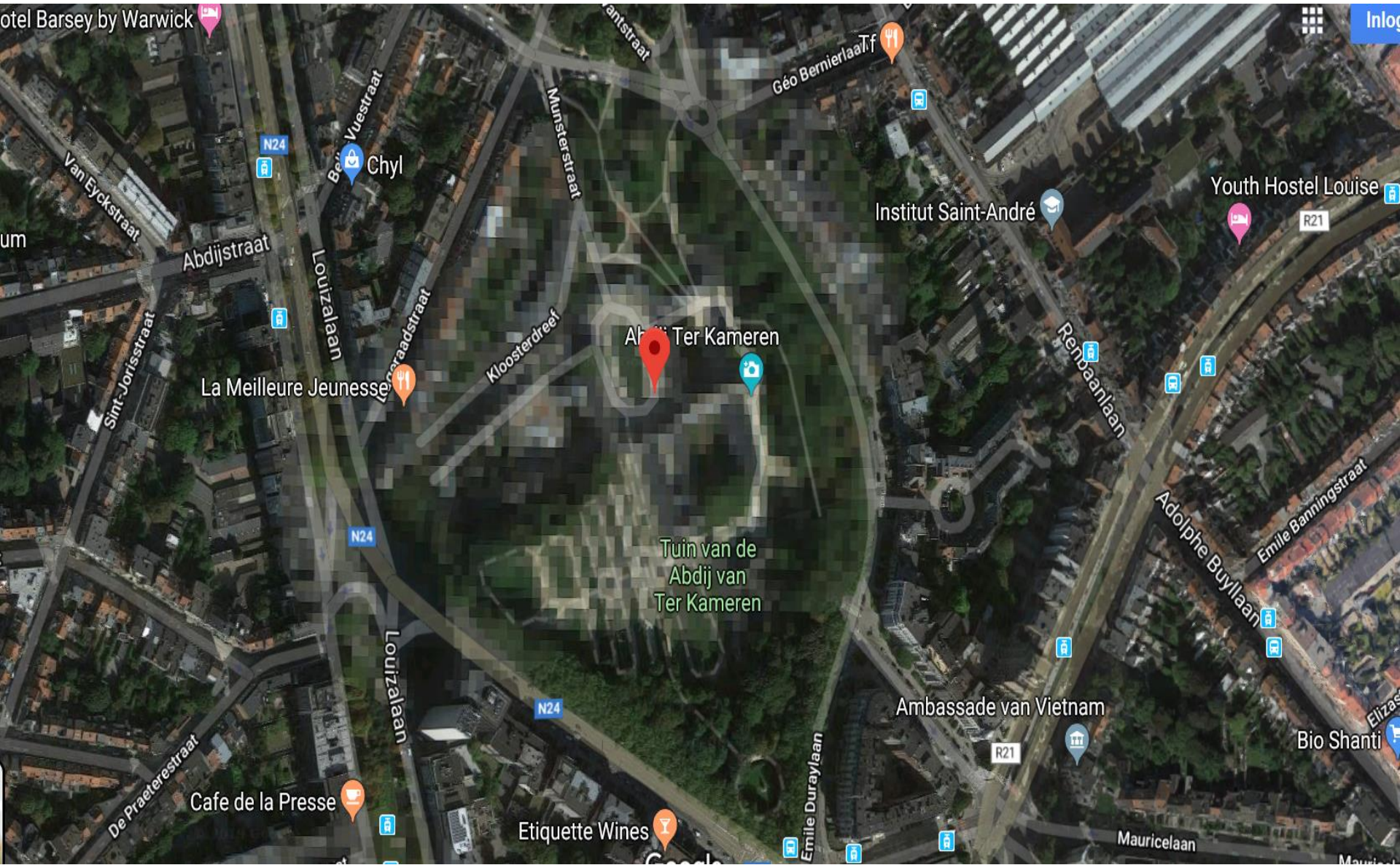
Google Maps & Cie: new challenge for State security and strategic interests

Interpretation of image may be misleading in certain case and serve as a hoax

In addition to providing terrorist intelligence, uncontrolled medium or high resolution data may serve as support to propaganda

Censorship might even worsen the situation by allowing irrational and conspiracy theories (e.g. Black Night satellite, 1998), or by drawing unwanted attention on specific areas

GoogleMaps downgraded resolution ($> 3m$) of military sites (A.M. 15/01/2019) example #1



GoogleMaps downgraded resolution ($> 3m$) of military sites
(A.M. 15/01/2019)
example #2



Conclusion

- Several international legal instruments of Space Law provides for general prevention or prohibition of the use of space systems for harmful propaganda or subversion purposes, but have remained theoretical so far
- Global Net: freedom v. regulation = ?
- ‘**New Space**’ provides the opportunity for a growing number of stakeholders throughout the world to launch, operate and exploit their own space systems with multiple applications (SatCom, EO)
- (+) Operating satellites as well as broadcasting by radio-signals require licenses delivered by State authority
- (-) Propaganda and subversion remain subjective and diffuse notions whose content is subject to (political and/or opportunistic) interpretation
- (-) Technical features of space systems and of their cyber-extensions make it difficult to regulate them without transfrontier cooperation
- **Self-regulation** by global operators (broadcasting companies, social networks, geodata providers) might be the most effective way until now to regulate information in a world business environment where States seem reluctant (or unable) to intervene through international cooperation



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