

Chapter 78

Can Terrorism Mold Itself to Outer Space? An International Legal Perspective

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ABSTRACT

Benefiting from the progress of technology, terrorism poses a major threat to international peace and security. Terrorist acts might move to other forms and are the culmination of processes that often begin with radicalization, the formation of extremist views, and acceptance of violence as a means through which to attempt change. As with other types of offenses, there is no internationally agreed upon definition of terrorism, but several conducts are universally accepted as expressions thereof. Terrorist-related offenses include the use of violence for political purposes, such as the hijacking of aircraft, targeting of marine vessels, the use of chemical or nuclear weapons against civilians, kidnapping, and other forms of targeting civilians. Terrorism itself is not a new phenomenon, yet the early 21st century is being shaped by a more intense focus on the issue and an increased awareness of terrorist acts and groups. If terrorism in outer space became a reality, then the cause is not different from other forms of terrorism in that violent extremism is often driven by feelings of isolation and exclusion, as well as fear and ignorance. To strengthen a sustainable solution, responses to violent extremism must be implemented in a framework respectful of human rights and the rule of law; otherwise, the exclusion is exacerbated, and the international community will witness another form of chaos.

Everybody's worried about stopping terrorism. Well, there's a really easy way: stop participating in it. —Noam Chomsky

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INTRODUCTION

The phenomenon of terrorism has grabbed the interest of many in recent years as the viciousness has plagued the globe. One condition that poses a significant threat is the unpredictability of a spatial target. We have witnessed the occurrence of terrorism on the land, sea, and air, notably by non-state actors and some would argue states whose sponsorship has claimed associated therewith. But if space is man's next frontier, can there be the possibility for this form of violence to expand accordingly? Our aim here is to conjure the probability and attach the relevant elements of international law to it.

Scant attention has been (Remuss, 2009; Coleman & Coleman, 2017; Lakos, 2007) the threat of terrorism activated in an outer space venue. Reasons for this condition have yet to be fully explored; some would say that there is a lack of a credible threat (Blount, 2019). Hence our attention also is brought to bear here. To begin, we operationalize our ideas with what we understand to be "terrorism" and "outer space". While there is no singularly accepted international legal definition of terrorism, we offer two official American approaches: Thus, the Federal Bureau of Investigation (FBI) understands the phenomenon as "the unlawful use of force or violence against persons or property to intimidate or coerce a Government, the civilian population, or any segment thereof, in furtherance of political or social objectives" (US DEPT. OF JUSTICE, 1998).

While the U.S. Department of Defense considers terrorism as "the unlawful use of violence or threatened violence, often motivated by religious, political, or other ideological beliefs, to instill fear and coerce governments or societies in pursuit of goals that are usually political" (US DEPT. OF JUSTICE, 2016). Concerning "outer space," there is similarly lack of a definitive and objective nomenclature (Cooper, 1955; Oduntan, 2011; Meyar, 1953; Murphy; 1953). It should be noted here that "outer space" extends beyond the atmosphere (Matte, 1984).

The term terrorism carries the connotation of death and mayhem, or rather, the destruction of person and property, and in our concern in this paper, the destruction made to or from the celestial bodies in outer space. As shall be suggested often, terrorism's complexity, rooted in an almost overwhelming number of variables and multifaceted principles makes it difficult to define precisely and thus even more difficult to comprehend for people who desire to contain or abolish it.

When scholars formulate definitions for events such as war, general violence, and other acts, we often find these definitions clear and acceptable. However, terrorism has been an exception to that rule, and is controversial because there is an abundance of definitions of such phenomena; moreover, several may often conflict with each other. Those tiring of this debate may rightly suggest that defining terrorism is not that important and that what is important is attacking the phenomenon regardless of the definition. Considering that terrorism is one of the most extreme forms of violence on the face of the earth and that it has political goals which it attempts to achieve spreading fear, we might agree with those who believe defining terrorism is irrelevant to the goal of its extirpation. Nevertheless, possibly thinking many people do not bother to define terrorism. Could they believe that mere application of the term to action is evidence enough that the act is one of terrorism?

Moving on to our concern with outer space as it is defined in The Kármán line which is a boundary between Earth's atmosphere and outer space and thinking about the legality of territorial sovereignty upwards from the actual globe is relatively recent—the 20th century. It was the international lawyer, Arthur K. Kuhn, who presented his ideas of "Aerial Navigation and Its Relation to International Law" in 1908 (Kuhn, 1919). Then in 1943, a Czech jurist, Dr. Vladimír Mandl, commenting on Article 1 of the Paris Convention on Civil Aviation of 1919 argued that there was no reason to argue a case for states to

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