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OUTLAWS OF THE MOON? CRIME AND PUNISHMENT FOR A SPACEFARING CIVILISATION

Abstract

As humanity looks to establish permanent settlements beyond the orbit of the Earth, national space agencies and private companies are developing ambitious plans for the expansion of humans into a space-faring species. These developments have prompted significant research and development into the necessary technical aspects of exploration. There has also been significant studies conducted in respect of the impact of space activity upon humans physiologically and psychologically, utilising the experiences of crew members aboard the International Space Station. Despite these studies, there has been only limited discussion on the way in which human behaviour should be regulated in outer space when situations of conflict arise or behaviour is deemed not acceptable to the wider group. This paper will examine theoretical and doctrinal approaches to criminal law and discuss how such principles can be successfully transplanted into the nascent arena of extra-terrestrial exploration.

Although human spaceflight has progressed from its earliest years, the relatively low number of travellers means there has been no real need to contemplate the way in which individuals are sanctioned or even establishing what ‘good’ or ‘bad’ behaviour looks like in the context of human space travel. As plans for settling on other planets develop and the number of travellers from increasingly diverse backgrounds increase, the need to consider what criminality is, and how it might be dealt with in these foundational years becomes more salient. The international treaties that govern human space activity are, unsurprisingly, silent on this area. The Outer Space Treaty places responsibility for authorising and on-going supervision of space activities to individual nations. With this in mind, the paper will consider whether the fragmentation of crime and punishment along national jurisdictional lines is either inevitable or desirable.

This paper will build upon the embryonic research into criminality in outer space and consider three distinct, but interrelated questions. The paper will start by considering foundational principles that could govern the administration of justice, on both long duration spaceflight and the early settlements of celestial bodies. Related to that, the discussion will evaluate how the competing jurisdictional approaches to criminality will be balanced in the space environment. Finally, broader questions surrounding the technical and procedural measures that will need to be incorporated into the earliest stages of mission planning will be addressed. Such considerations will ensure that justice and order is maintained as humans start to contemplate what it is to be an interplanetary species.