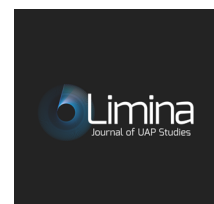




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Michael Bohlander’s *Contact with Extraterrestrial Intelligence and Human Law: The Applicability of Rules of War and Human Rights* (2023) both starts and ends in a position of strength. In this regard, it serves as an excellent introduction to an emerging, currently somewhat amorphous field of study – what might be termed *extraterrestrial studies*. It also sounds a cautionary tone regarding the limitations of our conceptual and (especially) our legal framework as per the possibility and consequences of extraterrestrial contact, as well as exploring how such limitations relate to existential risk considerations in the Space Age. In other words, we do not really have a conceptual or legal framework for contact contingencies, and this is a problem. As Bohlander opens the book, “It is statistically rather unlikely that humans are the only intelligent and spacefaring species in the known universe, yet we can know nothing about the species identity of other civilisations until and unless contact is made [...],” yet, in such a case, “[r]elying on alien altruism and benign intentions is wishful thinking. That is the fundamental premise of this book” (1).

Perhaps one of the most important features of Bohlander’s argument is that he does not merely postulate contact as an occasion for posing an abstract thought experiment. Neither does he make preemptive assertions, or unwarranted assumptions, about the nature or reality of extraterrestrial intelligence (ETI). Instead, he accomplishes the rather difficult task of positioning his intervention *conceptually* within the historical frameworks of relevant disciplinary areas and within the normative discourse of legal theory. As he establishes fully, this is a valuable thing to do because we – that is, humans, as such – are largely unprepared for such contact, if it occurs. It is worth noting here that studying existential risk is always an uphill battle, because existential risks are always prospective until they are

not – at which point, it is too late. (Climate change is perhaps the prime instructive example here, as collective inaction, failures of imagination, and ignorance or skepticism have all contributed significantly to the intractability and magnitude of a planetary-scale problem that now affects everyone and easily costs hundreds of billions of dollars per year.)

In Chapter 1 (“Introduction”), Bohlander justifies the need for the book’s intervention, as well as responding to some relatively familiar objections to addressing the possibility of contact in the first place. Correctly, Bohlander notes the epistemological limitations of dismissals and negations of the extraterrestrial hypothesis (ETH). Indeed, a significant theme in the book is the “lack of mutual understanding between what one might call the scientific and the normative

disciplines,” which only contributes to the difficulty of addressing the prospect of contact realistically (8). He also notes the difficulty or limitations of his own position, which perhaps mirrors the difficulty of the issue area itself (not to mention the haze of obfuscation that so frequently surrounds it). Bohlander is quite clear on the following point, however: the book does not presume that contact has occurred, nor does it presuppose the ETH.

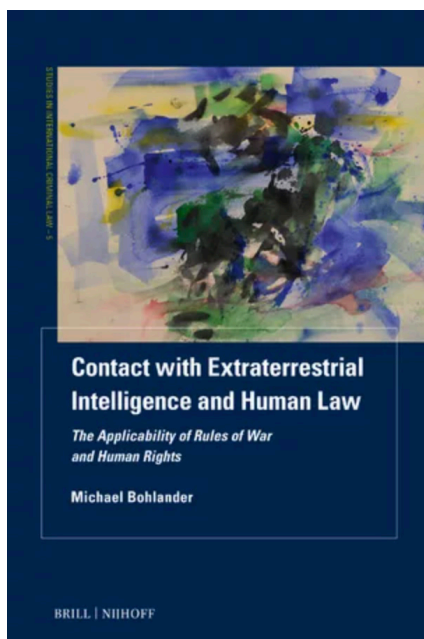


Fig 1. Cover image of *Contact with Extraterrestrial Intelligence and Human Law: The Applicability of Rules of War and Human Rights*
 Source: <https://brill.com/coverimage?doc=%2Ftitle%2F68174&width=300&type=webp>

That being said, Bohlander registers both the scale of impact such an event or revelation likely would have, as well as the degree of existential risk that necessarily attends it. Importantly, whether or not contact occurs (or even whether or not ETI exists), the existential risk factor remains quite real. As noted above, this is a conceptual quirk of addressing existential risks at all. For existential risks are and remain real risks, *whether they materialize or not*. While Bohlander does not entirely frame his intervention explicitly in terms of existential risk analysis (although he does provide an admirably complete footnote citing this literature in Chapter 3), such concerns clearly haunt the book. As he writes, if ETI (in the form of either distant signals or UAPs) “are indeed at some stage found to be of nonhuman or extraterrestrial origin, humanity thus has so far no reason to believe that they would be invariably benign in an altruistic sense, or that any other ETI would be in the future” (7). This raises the specter of hostile

contact and its potential consequences for the human species, not to mention our preparedness (or, rather, *unpreparedness*) for such an eventuality.

Chapters 2 and 3 (“The Scientific SETI Environment” and “Social Science Aspects of SETI”) survey familiar aspects of the conceptual and historical landscape surrounding the ETH. For example, Bohlander presents clear and succinct explanations of the Drake Equation, the Fermi Paradox, the field of astrobiology, the history of SETI approaches, and the conceptual and strategic costs of anthropocentrism and anthropomorphism in this area. What emerges from this survey is the observation that entertaining the ETH is not at all unreasonable, especially given the risk factors at play. Additionally, Bohlander suggests, so-called “contact optimism” is probably dangerous and untenable (whether it is conceptual, i.e., assuming that ETI will be humane or even comprehensible, or practical, e.g., in the case of *Voyager* or of various signals that have been broadcasted relatively willy-nilly into outer space). In Chapter 3, Bohlander provides a similar such survey, describing the Rio and San Marino Scales (intended to quantify impact factors of contact), as well as some competitor models. As he notes, despite various attempts to outline or recommend mitigation strategies, preparations, or reply protocols, none of these have been implemented in any significant way (e.g., by national or international actors with the capacities or resources to respond to contact at scale). Perhaps surprisingly, the impression that emerges from these surveys is not of meaningful human provisioning for the possibility of contact as much as of our total lack of preparedness – conceptually, materially, and strategically. This is a major theme of the book.

Chapter 4 (“Science Fiction and (First) Contact Scenarios”) effectively serves as an expanded postscript to the foregoing surveys in Chapters 2 and 3. In the chapter, Bohlander provides representative characterizations of contact scenarios drawn from a range of science fictional accounts. At first glance, this seems extraneous to the purpose of the book. Perhaps it even undercuts the book’s aims to some extent. After all, if we are to treat the ETH as a serious risk, why risk muddying the discussion with a plethora of fictional accounts? However, the purpose of Bohlander’s discussion emerges quite clearly over the course of the chapter. He is using fictional scenarios as a way of exploring and interrogating conceptual parameters related to how contact (and the ETH, more generally) is conceived. In other words, Bohlander’s aim in this chapter is arguably critical

and interrogative. You could say he is using these scenarios to unsettle assumptions and possible intuitions about what ETI might be like – and, therefore, what contact means for us as a planetary species. This is precisely what Bohlander warns against consistently throughout the book, and the host of examples he marshals from the archives of science fiction accomplishes this goal admirably.

Chapter 5 (“Hostile Contact and Current International and Domestic Law”) provides a broad survey of the details and history of current international and domestic law insofar as these domains apply (or fail to apply) in the contact scenario. Bohlander asks, “are the rationales underlying our current law of armed conflict adequate for, or at least adaptable to, war with an alien species?” (108) Specifically, the chapter addresses the liability of humans and the liability of ETI. Regarding the liability of humans, Bohlander discusses complexities related to territorial jurisdiction and the applicability of categories and concepts drawn from law and legal theory, including genocide, crimes against humanity, war crimes, and crimes of aggression (including preemptive warfare). He notes the legion of conceptual difficulties here, as well as noting the degree to which these concerns (e.g., identifying agents in order to ascribe liability, motivations, and responsibility) ostensibly overlap with other domains of concern (e.g., artificial intelligence, autonomous drones, drone swarms, etc.).

On the whole, Bohlander’s conclusions are quite stark. As he writes, “in a hostile first contact scenario, rapid dominance will most likely (have to) be the paramount goal of each side, in order to dictate unilaterally the conditions of a surrender and future relationship or, in the absence of a willingness to compromise, to ensure the ability of annihilation of all meaningful resistance in order to extinguish the risk of a future rise of retaliatory action by the vanquished species” (125). Partly, these conclusions derive from the aforementioned conceptual difficulties, but they also derive from the transformative stakes in question (e.g., potentially ranging from planetary autonomy or control to species-level survival). Bohlander also notes the prospective difficulty of navigating potential incompatibilities between humans and ETIs regarding communication, goals, legal norms, and moral values, much less the material and strategic gaps implied. As such, he concludes, it is an open question to what extent *any* of the conceptual and legal norms discussed could apply to an interspecies conflict. “The somewhat disconcerting conclusion is that the values which we subscribe to in an interhuman context are nigh impossible to adhere

to in a situation when the preservation of the human species from annihilation or its freedom from occupation and enslavement are at stake” (137).

In Chapter 6 (“Preparing for Hostile Contact”), Bohlander discusses the material and strategic parameters of a hostile contact scenario. In summary, as a warfighting domain, outer space is subject to exotic difficulties for which humans are largely unprepared. Bohlander surveys some recent developments in conceptualizations of outer space as a theater of conflict, and he also notes the degree to which the ETH does not largely feature in discussions about space law or the militarization of space. Much of the discussion in this chapter involves highlighting the degree to which familiar assumptions about domains of conflict, in fact, do not extend to space for a variety of physical and technological reasons. This places humans – viewed as a planetary species – at a distinct disadvantage in any conflict which might arise following hostile contact with an ETI.

In other words, Bohlander’s argument in this chapter synthesizes all too well with his conclusions in the foregoing chapters: (1) We do not know if the ETH obtains. (2) If it obtains, then we do not know what ETI is like. (3) This has consequences for how we might communicate with, or even conceptualize, ETI. (4) We cannot rely on existing norms and precedents to regulate a contact scenario (or, potentially, any future relations) with ETI. (5) Regardless of 1-4, we are strategically and technologically unable and unprepared to defend or police the planet or its immediate environs in any meaningful capacity whatsoever. This litany of incapacities and vulnerabilities does not, however, warrant dismissing the ETH as “unthinkable.” If anything, it calls for additional attention and inquiry, especially given the impact factors potentially at stake. Simply ignoring a big, wicked problem because it is big and wicked is a totally inadequate response to the problem.

Finally, in Chapter 7 (“Legal Prolegomena of Peaceful Relationships with ETI”), Bohlander begins to explore the connections between, and potential consequences for, human rights law (or, as he calls it, somewhat pithily, “humans’ rights law”) in light of the ETH. First and foremost, it is worth noting here that Bohlander is quite clear about the prospective nature of such an exploration, as well as the degree to which any of his findings or suggestions may need revision following real-world contact. As the foregoing chapters testify, the complexities and possibilities here are legion. That being said, he frames his contribution in this chapter as an exploration of “the human baseline for

negotiations with ETI within a range of potential conceptual options that humans could expect to be faced with” (161).

To start, then, Bohlander identifies two of the most relevant factors affecting human rights guarantees if the ETH obtains (and diplomatic relations are in any way possible): network regulation density (i.e., the density of requirements imposed on network members) and rights hierarchies and enforcement mechanisms (i.e., the degree of leeway regarding regional versus universal requirements, as well as the means by which rights are enforced). In this context, Bohlander surveys the range of human rights considerations in terms of their potential negotiability or non-negotiability. As he notes, “certain rights would be relatively uncontested candidates for negotiation while others quite certainly would not” (186). Specifically, he reviews the recognition of legal personhood (ostensibly necessary for any form of rights law in the first place), the self-determination of a species, equality and minority rights, bans on cruel or degrading treatment, due process, freedom of movement and freedom of religious expression, privacy rights, and family and child rights. While Bohlander’s work here is detailed and precise, in addition to covering many relevant caveats and considerations, it is nevertheless difficult to avoid observing that the conceptual framework of human rights itself is a relatively recent artifact in the history of human culture. This suggests, in turn, that human rights (or perhaps even “rights” altogether) may well be a far more contingent, local conceptual formation than broadly Kantian universalists might want to acknowledge. Additionally, while it may (or may not) be that human rights law serves as the optimal starting place for our normative orienteering, there are numerous and perhaps even pervasive enforcement problems already, in both national and international contexts, whether or not the ETH obtains.

As noted at the start, Bohlander starts and ends the book in a strong position. The book starts in a strong position by justifying the need for his intervention and then (throughout Chapters 2-5) by providing the reader with the information needed to frame the whole book’s intervention correctly and to register its significance. Likewise, the book ends in a strong position because Bohlander begins to explore the conceptual framework and normative (legal and political) consequences of contact and the ETH. Throughout the book, Bohlander provides detailed and extensive surveys of the complex, multidisciplinary background to this issue. Much of the takeaway from these surveys is *the degree to which we are conceptually, legally, materially, and strategically underprepared for any contact scenario whatsoever*. In conclusion, Bohlander’s

book targets some specific weaknesses in our conceptual and legal framework as regards contact and the ETH. These weaknesses matter because of the existential risk implications they entail, which cannot be addressed *except* prospectively. Addressing them after contact is made will already be too late. Hence, Bohlander’s book should be read by anyone willing to entertain the possibility that existential risks can, and should, be preempted. A colorful analogy to insurance could perhaps be made profitably here. For everyone else, I suppose the existential risk will be addressed after it obtains – and, doubtlessly, with great equanimity and strategic purpose.