



Prying Cyber Networks: Contemplation on Cyber Espionage in the Existing Legal Framework

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On May 25th, the US State Department issued a multi-nation alert accusing China of engaging in a cyber espionage campaign targeting military and government establishments. While such notifications are not uncommon in contemporary political discourse, the debate surrounding cyber espionage is crucial for understanding related activities like terrorism and hacking.

Cyber espionage, or cyber spying, involves the unauthorized acquisition of personal, sensitive, or proprietary information without individuals' knowledge or consent. However, the Budapest Convention and other treaties primarily focus on domestic criminal laws, lacking clear international norms for regulating cyber espionage. This leads to conceptual ambiguity when addressing this issue.

The cooperation among States in the realm of cyber infrastructure is undoubtedly influenced by political considerations. While collaboration

is crucial for addressing common cyber threats, it can also be misused to justify cyber espionage and attacks. In many cases, providing irrefutable evidence to attribute such attacks to specific States is a complex task.

Russia has been accused of cyber attacks and interference in other countries' affairs. The alleged involvement of Russian state-sponsored groups in hacking the Democratic National Committee (DNC) during the 2016 US presidential election exemplifies this. While substantial evidence points towards Russian involvement, definitively establishing a direct link to the Russian government proves challenging.

A notable example is also the Estonia Cyber Attacks of 2007, which targeted Estonian governmental institutions, causing significant disruptions and prompting a global reassessment of cyber security measures. In response, the NATO Cooperative Cyber Defence Centre of Excellence was established in Tallinn, underscoring the growing recognition of cybersecurity's international importance.

News at a Glance

Guatemala's First High-Risk Appeals Chamber mandated the release of three military officers who were previously convicted of crimes against humanity, directly contravening a March ruling from the Inter-American Court of Human Rights (IACHR). This has raised concerns regarding potential infringements of human rights and violations of Guatemala's international obligations. For more information, see [here](#).

South Korean law enforcement have apprehended 77 individuals as part of an investigation of a suspected network of industrial espionage. The investigation primarily targeted domestic companies, but it also exposed eight cases related to the leakage of technology secrets to foreign countries, particularly China. For more information, see [here](#).



China has also been implicated in several significant cyber attacks, indicating potential State-sponsored involvement. Examples include 'Operation Shady RAT,' which targeted various organizations, including Olympic committees, before the 2008 Beijing Olympics. The 'Night Dragon' attacks in 2011 focused on Western energy firms and were traced back to Chinese IP addresses. 'Operation Aurora' involved the theft of Google source code, with command-and-control servers traced to Chinese schools. These incidents highlight the need for enhanced defenses against state-sponsored cyber threats and raise cybersecurity concerns.

To effectively address cyber espionage, the focus should shift towards comprehensive international norms, as existing treaties primarily concentrate on domestic legislation. However, challenges such as jurisdictional conflicts, territoriality issues, and determining the legality of espionage in peacetime further complicate the matter.

Fighting Terrorism-Diplomacy vs. Military

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The importance of diplomatic agents in the fight against terrorism is observed from the earliest convention itself. Modern diplomacy comes in as an alternative to the hard power implemented by, for example, the US, against terrorism. The methods of modern diplomacy, namely mediation, negotiation and agreement, keep in line with the principles of peaceful settlement of disputes in the United Nations Charter. The Third Committee, Sixth Committee, the Ad Hoc Committee and more recently, the United Nations Office of Counter-Terrorism (UNOCT) among others have been established to facilitate the same.

One of the most well-known anti-terrorism campaigns is The Global War on Terrorism (GWOT). Catalysed by the terrorist attack on the World Trade Centre on 9th September 2001, the US undertook the use of force in various nations such as Iraq, Vietnam and Afghanistan to remove operatives in terrorist groups.

News at a Glance

The European Commission (EC) initiated infringement proceedings against Poland over its new law. The new law establishes a committee to investigate whether certain officials acted under "Russian influence" between 2007 and 2022. It authorizes the committee to hand out 10-year bans from obtaining security clearances and controlling public funds. For more information, see [here](#).

The UN International Residual Mechanism for Criminal Tribunals (IRMCT) expanded the convictions and increased the sentences of two individuals who helped to murder and deport non-Serbs during the Balkan wars. The IRMCT's Appeals Chamber dismissed the appeals of their convictions for various war crimes, including aiding and abetting murder and forced deportation, against Croats and Bosnian Muslims. For more information, see [here](#).



The US, however, isn't the first to undertake such an initiative. Terrorism as a global threat has been brought up in the UN General Assembly from as early on as 1973 when the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents was adopted. Following this have been several other conventions, out of which the US only ratified the International Convention for the Suppression of the Financing of Terrorism, 1999, with reservations.

Disregarding diplomacy, the USA used displays of military strength as the primary countermeasure to terrorism. In the face of civilian casualties, the use of force proves ironically futile in its goal of reducing terror among the masses. Contrarily, diplomacy - the best example being the case of the Italian Militant Organisation, the Red Brigades - involves reducing terrorist activity through promises of amnesty, safe surrender, and/or reduced sentences with guarantees of safety and security to family members for information.

This approach works with the assumption that the root of terrorism is the lack of opportunity

and political participation.

Diplomacy thus, counters terrorism in a relatively targeted manner. While admittedly, this method requires skill and tends to be time consuming in nature, it might prove effective to the extent of sowing distrust and reducing the terrorist network.

Additionally, the formulation of a comprehensive treaty on the international level on terrorist activity on all aspects with solidarity among nations on counterterrorist measures might help significantly in combating this issue. Violence ought to be the last resort with the safety of innocent civilians being kept the utmost priority.

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