

Civil Rights in Outer Space

By Rebecca Schembri

Abstract

This paper considers First Amendment rights—specifically freedom of speech, freedom of peaceful assembly, and freedom of expression in off-Earth establishments. What are the constitutional needs of a proposed indoor city for the planet Mars, where civil conformity is required to execute an impossible feat: the construction of a civilization in a lethal environment that has no air, no food supply, and no water? This danger will make it difficult for a Mars-based population to sustain a democracy in its early years. Although Mars City will be led and populated, in part, by private American citizens, civil rights must be restrained within the settlement to protect human life. A guideline for such restrictions can be found in the American Uniform Code of Military Justice, or UCMJ, which is a code of conduct that protects mission directives and mission morale on military bases. The UCMJ is authorized by Congress; it severely limits First Amendment rights, and it mandates obedience toward mission leaders. In sum, Mars City officials must keep the settlement safe, cohesive, and productive. Because of this, First Amendment rights on Mars will be limited until the city can bear the fluctuations of a democracy.

Introduction

SpaceX, an American rocket ship company led by CEO Elon Musk, plans to build a city on Mars by 2050. Mars City will be self-sustaining: it will not depend on Earth; nor will it adopt Earth's laws. New Martian laws will maintain the city's fragile infrastructure: a set of connected buildings that must protect residents from solar and cosmic radiation, sub-zero temperatures, and a carbon dioxide atmosphere. The settlement will be mission-oriented; Mars City will not be a democracy. To protect the population, leaders must limit civil liberties, including freedom of speech, freedom of expression, and freedom of assembly. This is because Mars City must have safety. It must have unity, and it must advance. Although the settlement will be led by private citizens, it will abide by military guidelines.

I. Need for Safety

Human life on Mars will depend on habitats that use life-support systems to generate breathable air, potable water, and lab-raised food. Therefore, large crowds must be prohibited. If an upset occurs, or if a herd of people pushes through areas not designed for large crowds, the masses could cause collateral damage to the outer space city. Mars is not like Earth, which is abundant in food, water, and air. Earth can support protests and large gatherings. Mars cannot. Mars is a deadly environment. Large assemblies and protests could jeopardize many lives if the protests escalated to violence or panic. Also, if many people were hurt at once, the medical system could be burdened and could fail to

function. Unlike on Earth, where humans have access to hospitals, medical care on Mars will be limited, because production of medical supplies, and plants for medicine, will be scarce. The settlement will not be equipped to treat large numbers of patients at once. Also, if members of the labor force and essential personnel are injured in a riot, the absence of workers could compromise the effectiveness of Mars City's life-support systems, which could destroy the entire mission. Martian law must keep the settlement safe. It must trade civil liberty for civil safety.

II. Need for Cohesion

Mars City will require mission unity. People who publicly disagree on mission directives will seed restlessness and dissent among settlers.¹ On Earth, the UCMJ limits freedom of speech to protect the morale of soldiers working together to fight a war. Soldiers and base civilians are not allowed to spread contempt for leaders, or for the mission.² Similarly, Mars City must have rules that ensure moral cooperation for the common good.³ The population must be of one purpose and one mind. Settlers will be subject to quarantine mandates, treatment and vaccine mandates, and population mandates. Propaganda against these rules could harm the mission. For example, rejection of a vaccine mandate could lead to a contagion spreading through the indoor city, harming the entire population. Leaders will control this outcome by limiting freedom of speech and freedom of expression.⁴ Also, settlers may be prohibited from wearing garb and logos that could cause division and break moral cohesion. This is seen in the UCMJ, which forbids insignias on clothing.⁵ Accessories are not allowed: Jewish soldiers, for example, may not wear a yarmulke in the military because the headpiece symbolizes separation from the whole—it disrupts the unity of the mission.⁶ It is unclear whether Martian leadership will forbid such expressions entirely, or only while a person is on duty. But leaders on Mars must ensure that settlers are dedicated to Mars City, and that everyone keeps their personal devotions and opinions private.

III. Need for Advancement

Complete dedication to labor mandates will be necessary for the advancement of Mars City. The settlement will be under strict growth and maintenance requirements to prevent environmental threats to current and future generations. All settlers will be required to

¹ John Vile, David L. Hudson, and David Schultz (eds.), "Military Personnel, Rights of," in *Encyclopedia of the First Amendment* (Thousand Oaks, CA: CQ Press, 2009), 743-44, doi.org/10.4135/9781604265774.n873.

² US Department of Defense, "Uniform Code of Military Justice," December 20, 2019, Articles 88, 89, and 95, jsc.defense.gov/Portals/99/Documents/UCMJ%20-%202020December2019.pdf?ver=2020-01-28-083235-930.

³ Vile et al., "Military Personnel, Rights of."

⁴ Nigel Warburton, *Free Speech* (Oxford: Oxford University Press, 2009), 98.

⁵ US Department of Defense, "Uniform Code of Military Justice," Article 106a.

⁶ Vile et al., "Military Personnel, Rights of."

work and to contribute. If Mars follows the UCMJ, settlers will be prohibited from disobeying orders.⁷ Insubordinate conduct will be prohibited.⁸ Desertion will be prohibited.⁹ Contempt toward officials in charge will be prohibited.¹⁰ These laws will enable Mars City to progress—they will be a set of social rules designed to grow and protect the human settlement, and to stifle untimely revolution.¹¹

IV. Counterargument and Rebuttal

Some futurists, however, argue that Mars City should not be like a military base. It should be a free society where citizens can act for the good of the galaxy. On Mars, they say, people should be subject to fewer laws and less regulation than on Earth: Mars should be self-governed. But these futurists are misled. Although it is true that relocating to Mars will be a reset, it is a fantasy to think that Mars will not have stricter rules than on Earth. It is not practical to trust that humans will naturally agree while in a life-threatening environment. History shows otherwise: not even twenty people can get along in an emergency without the structure of leadership and protocols. Humans need rules or they will have a *Lord of the Flies* scenario where good people turn to murder and barbarism. In the novel by William Golding, a group of schoolboys survive an airplane crash and become stranded on an island. The boys fail to establish civilized norms and they form factions, reverting to violence and the murder of some of their classmates. Their tribalism is interrupted by their eventual rescuers, and the boys are prevented from destroying each other. This violence can happen on Mars if there is no solid structure of normative behavior. Nobody is coming to rescue anybody in outer space. The people must be of one accord to survive.

Conclusion

Scholars argue that freedom of speech is key to any democracy.¹² The focus needed to erect a city on a planet that has no breathable air, no food source, and no water is immense. The mission will require grave concentration until large-scale life support systems are functional, and a democracy can emerge. Until then, Mars leadership must maintain safety, cohesion, and advancement for the common good. Great sacrifice will be required to populate the planet Mars. For humankind to become a multiplanetary species, all settlers will be asked to bear the burden of civil conformity.

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⁷ US Department of Defense, "Uniform Code of Military Justice," Article 92.

⁸ US Department of Defense, "Uniform Code of Military Justice," Article 90.

⁹ US Department of Defense, "Uniform Code of Military Justice," Article 85.

¹⁰ US Department of Defense, "Uniform Code of Military Justice," Article 88.

¹¹ Vile et al., "Military Personnel, Rights of."

¹² Warburton, *Free Speech*, 98.

Editors' Notes: Like our featured article, which explores the challenges of educating students on Mars, here Schembri considers the challenges of governing adults in the first settlements. Hers is a sobering assessment that suggests civil liberties (and even democracy itself) may be second to the safety and cohesion of the fledgling community. Inspired by pandemic-era civil disobedience, Schembri imagines the consequences of citizens failing to follow quarantine mandates or sowing dissidence by speaking out against the mission of the community. Though she does not address the issues here, this article raises serious questions about who might hold the leaders of such a community accountable, and how. Will might make right on Mars? Will there be interplanetary law in place to hold leaders accountable for crimes against humanity? These are fundamental questions of space philosophy. (The concept of dictators in remote communities with limited resources also brings to mind the *Star Trek* episode "The Conscience of The King" in which Governor Kodos orders the execution of half the population of a colony to ensure the other half survives a lack of food.) **Gordon Arthur and Mark Wagner.**



About the Author: Rebecca Schembri is a space diplomat and author from Reno, Nevada. She graduated in Social Science, International Relations, and Legal Studies from Harvard University Extension School in 2022. She is Harvard-certified in social justice and business communication. Rebecca advocates for outer space exploration and for ethical space law and policy. She also saves the world from asteroids as the Public Communications Manager at the B612 Foundation.