



Star Wars and Lessons in Law with Thomas Harper Nerdin' About Podcast Transcript, Season 1 Episode 3

Kaylee

Hey there this is your friendly neighborhood rat detective just popping in at the front of the episode for a bit of a spoiler warning. Today we're going to be chatting about Star Wars, and some of the legal issues that arise from the original films, up to and including the Mandalorian. If you're making your way through the series, and are concerned about spoilers, maybe wait to listen to this one until you're all caught up. Whatever you decide, you do you, and may the fourth be with you.

Michael

Hey everyone, welcome to Nerdin' About I'm space Michael. With me as always, is my co-host who last episode we learned has or may have a pair of chicken goggles? That is Kaylee Byers. How you doing Kaylee?

Kaylee

I'm doing good. You know, I actually don't have those chicken glasses yet, but that's a very good reminder that I need to call my grandmother, and get her to send them to me because I need them. How are you doing?

Michael

Oh, you know, just doing wonderful over here in my abode, which I have not left for weeks.

Kaylee

Yeah, you and me both. It's starting to smell in here. So today we are going to be diving into Star Wars and legal matters with Thomas Harper. We're really excited. This is like the perfect sort of meeting of the Nerd Nite interests. In addition to being a huge Star Wars fan, Thomas is also an army JAG attorney, and podcasts for The Legal Geeks, where he uses Star Wars to teach about legal topics. So today we're going to be diving into those legal topics. Thanks so much for joining us, Thomas.

Thomas

Oh, yeah, I appreciate you guys. Despite several weeks in quarantine, I do not look like a wookiee yet. We've reached a point in my household of bathtub haircut, where I flip a bucket over in the bathtub, sit in the center and sit very still, while my wife cuts my hair. It's almost like living a scene in an action movie where a bomb squad is trying to defuse a bomb, except my hair is the bomb, and don't cut the wrong wire.

Kaylee

So we thought we might start off, because you're a huge Star Wars fan, can you tell us your Star Wars origin story? What got you interested in Star Wars?

Thomas

So my dad was a public school art teacher growing up, he had a little art studio, and had toys and stuff all around it, and so I was exposed a little bit. One day I sat down, we had our console TVs



if you remember those. We had a little 20 inch TV, and then surrounding it was like 800 pounds of solid wood, and those big knobs on the front. We had one of those, we had a VCR, and this is like the early 90s like 92-93, and he popped in a VHS recorded copy that he had recorded of A New Hope, off of Fox or TBS, like some cable station. So I watched it straight through with commercials thinking that that's the way movies were, they just had these little breaks in them, where you got to see about toilet paper and paper towels and stuff.

Kaylee

How refreshing there was a time when there was toilet paper and paper towels.

Thomas

I know just look at that garbage, who would ever need that, except on occasion. That won't be worth the price of gold one day! No, but I joke because, there are all these folks that had these experiences in the theatre, and I never had that. It was like sitting in my living room in front of this tiny TV, with a garbled picture, but from the moment that first Star Destroyer came on the screen in A New Hope, I might as well been in the theatre. You couldn't have shaken me out of that trance that I was in from start to finish.

Michael

So Thomas later on in life, if we fast forward through your timeline here, you decide to become a lawyer, and at some point you connect these two worlds: the world of law and the world of Star Wars. Take us through that story when you started to connect those two.

Thomas

That was like the moment where I ignored the Ghostbusters warning of not crossing the streams. So I was an army officer on active duty at the time, and one of the early jobs that I had in the JAG Corps was as an operational law attorney. So the business there is advising on the rules of engagement, the law of war, law of armed conflict, that sort of thing. Part of my job, at least at home station before I deployed to Afghanistan, was going around and helping prep units to deploy. So that involved teaching, in some cases, young soldiers about these rules of engagement that they would be going out to use and these are soldiers, they're trained to do their thing, you would think it would be easy to impart some of these lessons to them because it's what they do. What I found was when I was able to connect some of these lessons, and some of these rules to a movie scene, whether it was Star Wars or something else, that's when the light bulbs clicked on. You could see out in the audience where they were starting to make the connection and be like, "Okay, well now I get it, here's this nerd is talking to me in abstract terms, I don't really get it", but when you put it in the context of Luke Skywalker against the Death Star or something like that, that's when the light bulb clicked. So it was really an effective teaching tool, and then one day I get a call from my buddy who was stationed out on the west coast, and he said, "I just came from San Diego Comic Fest, and there's this group there that presented a mock trial on Batman." And I was like, "wait a minute, what?" and he said "and they also had a legal discussion of Star Wars as a panel discussion", and I was like, "wait a minute, you're messing with me, right? Like this is not real". And he's like, "No man, look him up." This was back in 2016, and I cold emailed Josh Gilliland, who's one of the co-founders, and I pitched an article about whether the use of the Death Star was a war crime. He said that sounds great and the rest is history.



Michael

So speaking of the Death Star as a war crime, let's start there with getting into some of these particular situations in the Star Wars universe, and since it sounds like that was your first foray into it, maybe walk us through some of the nuances of that idea of the Empire as war criminals.

Thomas

Star Wars is very good at making things like black and white. There aren't many grey areas in Star Wars, which is why it's a beautiful thing to use as a teaching vehicle, because that's what George Lucas intended. You know, light versus dark, bad versus good. When you take the Death Star, even though there are multiple layers of legal issues there, at its core when you look at its most famous use against Alderaan, blowing up Leia's home planet, what you get down to there is an issue of targeting in the real world of law. So when you look at how war is fought, it seems like an oxymoron to think that there are rules surrounding something as violent and destructive as combat. There haven't always been, but over the millennia as bloody war after bloody war was fought, and lives were lost, folks started to get sick and tired of the unbridled destruction. So you started to see a slow march toward trying to rein in that destructiveness, and it gave us what we have today which is the law of armed conflict, which is just a package of all sorts of international treaties and domestic laws. No need to dive into that fire swamp. We call them in the business "the sacred texts", as Luke Skywalker would say. In any event, when you look at it, you can't just shoot anything or blow up anything, certain things are off limits. One of the clearest pieces of targeting that's a no-no, that's completely out-of-bounds, is intentionally targeting civilians. This is where I tie it back into Star Wars being good at making things black and white. In Alderaan you have an entire planet of civilians. Leia stands there on the bridge of the Death Star just pleading with Grand Moff Tarkin, she says "no, we're a peaceful people, we have no weapons, you can't do this." There is no grey area with Alderaan, as far as we know in canon. There might be a spy here or there, I mean certainly Leia and her adoptive father Bail Organa are working for the rebellion, but by and large the average Joe there on the planet is a non-combatant. In the real world you can't intentionally target non-combatants. Certainly the LOAC (Law of Armed Conflict) understands that there can be collateral damage, but there are limits to all that sort of thing, and here there's no grey area. Grand Moff Tarkin intentionally targeted Alderaan for a reason. In fact, he knew exactly what he was doing. He knew that this was a non-military target, that there was no military necessity to blow this planet up, that's why he told Leia "if you prefer another target, a military target, then name the system". He's trying to extract information out of her, namely the location of the secret Rebel base, the first time you watch that you're like Grand Moff Tarkin's an asshole, then you go back and watch it again with this little bit of extra knowledge, and you're like he was really cold and calculating. When you talk about breaches of the law of war and war crimes, an intentional mass killing of civilians like this is just a great example of what a ruthless murderer this guy is, and the lengths that he's willing to go to execute Emperor Palpatine's intent. So it really sends it home when you understand sort of the framework behind it.

Michael

Well, Dantooine is far too remote to make an effective demonstration of this battle station.



Kaylee

Oh my gosh, this is the episode where I get my nerd card taken away.

Thomas

What's great is, I don't care how many times you've seen Star Wars, these lines ring true, like you've heard these lines before, but getting to go back and watch it with a little bit of extra flavor, or a different spin on it, is why I love taking a look at stuff like this.

Michael

So if we go through some of the big points that you made, when we first heard you talk at the Nerd Nite-athon a few weeks ago. One of the key points that you made was the legality that the rebels may have in their destruction of the Death Star, maybe take us through a bit of that scenario.

Thomas

So here you're flipping it on its head, taking sort of the Clerks approach to it. Every few years somebody comes out with a clickbait article "Well what about those rebel terrorists blowing up all these millions of Imperials on the Death Star. Why don't people wag the finger at the Rebel Alliance?" When it comes to A New Hope, and the first Death Star, it really comes down to a question of self defense of the rebels, and their status as combatants. Whether somebody is a combatant or not, we touched on the importance of it a little bit with that talk of Alderaan, because you are either in the fight or you're not. You either have a protected status as somebody like a civilian that can't be targeted, or you have some other status as a unprivileged belligerent, or a combatant, something along those lines. That matters because your classification as a fighter on the battlefield makes a difference in how you get treated if you're captured. So if you're entitled to prisoner of war protections, and that matters in terms of the protections that are offered by the Geneva Conventions, it's really important. So when you look at the Rebel Alliance, and you wonder, well, this is a guerrilla movement conducting a civil war, why are they bothering to wear uniforms? Why do they wear insignia openly? Why isn't this like Rogue One where you see the Partisans of Saw Gerra, in that great scene on Jeddah where they ambush that Imperial patrol, they're dressed as civilians, and then suddenly they throw off their civilian clothes, and reveal their blasters and shoot up the stormtroopers. That seems like an effective way of fighting, why don't the Rebel Alliance soldiers do that? And the question comes down to their legitimacy, right? Things like a unit wearing a uniform openly, things like wearing distinctive insignia matter, and in the broader context when it gets to the idea of open warfare against the Galactic Empire, they at least want some shot at their prisoners having some sort of protections. I don't know if Emperor Palpatine stopped to create like the Imperial Geneva Conventions, I kind of doubt it based on his background, but we'll pretend like they have something like that. The rebels would have a reason, and there are multiple points in different Star Wars mediums, whether it's the rebels TV show, or Clone Wars, where you do see this tug that it's not just about winning battles, it's about fighting, and doing the right thing. If you sacrifice your morals, and you sacrifice the moral high ground in chasing a battlefield victory, what's that victory really worth? So when we bring it back to Yavin, the rebels there are faced with a situation really of self-defence when the Death Star enters the planets orbit. The Death Star is not there to pay them a kind visit, they're bringing the Death Star there to blow the hell out of that planet, to blow up the Rebel base. Tarkin himself says, "this day will see the end of



the Rebel Alliance", and they're going to snuff this place out. The Imperial military's sole focus has been finding this place, and putting an end to this Civil War once and for all. So there's no question that the Rebels as an entity, as a fighting force, are facing down certain death if they don't do something. Whether you're an underprivileged belligerent, whether you're a combatant, or a uniformed fighter, you're always going to have, as the US recognizes, the inherent right to self defense, both at a national level, but also on the battlefield. You've got a right to defend yourself, and the Rebels here are facing a super laser blast that would end their existence, and had every reason to launch those 30 fighters, and do what they could to try to destroy the Death Star. So what you call a terrorist, I call a legitimate military strike.

Michael

Maybe get into that Clerks debate for just a second. If you think about some of the workers that did help to build that big battle station, and perhaps were completely unaware that the Death Star, as perhaps the rebels called it, was bad. You know maybe they called it the Fun Star that was actually going to have a very practical use that was going to help people. They were contracted, hey, let's build this space station, and it's actually going to help people, that was what they went into it knowing, and then they die. So with the families, would they have any legal recourse after that, if they actually legitimately thought that they were building a useful battle station?

Thomas

So it's an interesting question. At this point in galactic history, we'll take it sort of deep in canon, the destruction of Alderaan was notorious, everybody knew that the Empire blew it up, the Empire wanted the galaxy to know that they blew it up. So I think it would be hard for any kind of contractor, as well meaning as they might be, to look the other way by the time the second Death Star started to get built. That says nothing to the fact that it's the exact same design as the original Death Star that was just blown up, it's just a little bigger. So it's gonna be hard for them to plead ignorance that they didn't know what the purpose of this battle station was for. Realistically, when you go to any kind of combat zone on Earth today, there are going to be civilian contractors that are accompanying the force there doing a wide variety of jobs, a lot of jobs that have nothing to do with the combat mission. When I was in Afghanistan, we had civilian contractors cutting hair, and we had civilian contractors serving meals. They're not carrying around weapons, they're not out there on patrol, or kicking in doors, or conducting raids. They're just providing life sustaining activities, and there's an inherent risk that goes along with that. They're still considered civilians. So they're not supposed to be targeted intentionally, but in the context of the Death Star, I would say that you're sitting on one of the biggest legitimate military targets in the entire galaxy. So it's gonna be hard for one of them to argue that "hey Empire, you created this, you were negligent, or you were reckless in terms of your disregard for my own safety". Their response to that, if they can even get around something like sovereign immunity, the government's bar to litigation against itself, the response to that is going to be you assume the risk. You knew the job that you were taking on with this dangerous battle station, alongside the Emperor's finest Legion, and I would absolutely expect like a black suited Imperial attorney to have a response like that.



Kaylee

So thinking about families and family recourse to some of these things, taking it back to Star Wars movies that I have seen. So Darth Vader, if he didn't have a will, what happens to Luke and Leia? Do they now just get the Empire, like what happens?

Thomas

Vader seems like the kind of person that's too preoccupied to have sat down and drafted a will like with an Imperial JAG officer. So to the extent that he had an estate to inherit, there'd be a set of default rules that would kick in known as intestate succession. What that does is, and every state in the US has sort of a slight variation on these default rules, if there's no will, intestate succession law will kick in, and it will look to your surviving heirs, so Luke and Leia, and it will provide a default set of rules on how your property should be split. So in the case of those two, because Padmé his wife has long since passed, they'd likely take the property 50/50.

Kaylee

Including the helmet correct, like does the helmet get split?

Thomas

How do you think it got to Kylo Ren?

Kaylee

And this is the hole in the movies I have and have not seen.

Thomas

I think the more likely scenario here is that you'd have Luke or Leia renounce their inheritance, because of anything ill-gotten because of his time in the Empire. So like he's got this giant castle on Mustafar, that lava planet where he got his legs chopped off. I don't think that Luke or Leia would necessarily want that as a personal asset, so they might renounce that maybe they give it to charity or something like that.

Kaylee

Give the lava planet to charity!

Thomas

Yeah, you can have my Dad's castle, his death castle.

Michael

So Thomas we got to bunch of questions from our audience. Sophie asks about the ownership of Anakin and his Mom, and they were both slaves on Tatooine, and why couldn't the Jedi get involved in that situation?

Thomas

They probably could have. I think that's the moral conundrum that Qui-Gon and Obi-Wan find themselves in. Padmé points it out, she points out the hypocrisy, "I thought that slavery was outlawed in the galaxy", and Qui-Gon was like "well that's not the way the real world works way out here on the outskirts." I think this is a longer discussion for another time. I think this is at the



core of the rot within the Jedi Order, that injustices like this are actively going on in the galaxy, and where's the rest of the Jedi Order at this point in time? You've got 10,000 Jedi Knights they can't stop everything, they can't stamp out every problem, but I think the average person, certainly the average slave on Tatooine would say, "What the hell? You take this kid because he's got a high midi-chlorian count, and he's useful to you, and to your ends, or the larger ends of the Jedi Order and the Force as you see them. Where does that leave the rest of us that don't have those powers?" I think that's a fascinating discussion for another time, but it's one of the great failures of the Jedi Order.

Michael

Absolutely. I've really loved the way that Rian Johnson took that direction in *The Last Jedi*, when Luke makes this realization that maybe the Jedi suck, and maybe he went down the wrong path, like he learned a lot of cool tricks, but as a dogma as this religion to follow, it has flaws just like all dogmatic religions do.

Kaylee

An equally serious and important question that I think needs to be asked, is from Parker who asks, "Who is baby Yoda's legal guardian?"

Thomas

Well, no one as of the end of *The Mandalorian* because only a court can appoint a legal guardian. I think Din Djarin, the Mandalorian, as he's more commonly known, probably has a case to apply for legal guardianship. In fact, *The Legal Geeks* did a mock guardianship hearing with an actual Mandalorian cosplayer that's up on YouTube, and they had a little baby Yoda. The standard is what's in the best interest of the child. I think a court is gonna wrestle with this tug of war between the Mandalorians core culture. As we see toward the end of the first season is that he is now religiously charged with protecting this child until he's either returned to his parents, whoever they may be, or until he reaches adulthood. That's how he was raised. He was rescued in the Clone Wars and the Mandalorians did that for him, and made him a foundling, and he's shown time after time in the first season that he's willing to lose his own life in defense of this child. So I don't know that there's a better protector in the galaxy for that baby. The problem for him is that as long as this baby is with him, it's like in constant peril, whether it's like remnant Imperial forces, or like murderous assassination droids or whatever. It's sort of like this constant minefield, but I don't know that there's anybody else, at least in the immediate short term, that can take care of him and keep him safe.

Kaylee

He would really love it, I think if you were his reference for this application.

Michael

So Kaylee should we do a segment?

Kaylee

Bring on that segment, Michael.



Michael

So we'll start with you, Thomas. What have you been nerding out about recently?

Thomas

Fans of the Clone Wars will be united with me, they've brought the Clone Wars back for its 7th and final season. 12 episodes to sort of wrap this series up, in its reanimation from the dead. Tomorrow morning, at least in the US, the first of the last four episodes will be the last arc which is the siege of Mandalore, and it's the penultimate story arc for this series to wrap up on. Basically it's Darth Maul and his criminal enterprise, versus the Jedi and Ahsoka Tano, and it's going to be just an epic four part story arc. I can't wait for it. I'm getting up before the sun even rises to watch this thing.

Kaylee

Is your daughter waking up with you to watch it?

Thomas

She wakes up at like 6am anyhow, so I have to back my time up and watch it ahead of her.

Kaylee

Michael, what are you nerding about?

Michael

Well, the day that we're recording this actually is April 16, but I am working on an event that will be on April 22 and that's Earth Day, and I work at the Space Centre. Honestly, I have to say, I wasn't really that interested in doing an Earth Day event, last year when we were planning it, and we actually weren't, we were going to rebrand it Earth 2099. But now I honestly feel that celebrating Earth Day actually means something, and I've been thinking about where Earth Day comes from, which was in 1970, the very first Earth Day. That's because astronauts went out into space and took pictures of our home planet, and you saw all of the worlds that were in conflict at the time, there were countries at war, but astronauts noted that there was no borders, it was just land and water and sky, and this was really the start of the cosmic perspective, and it actually started the whole environmental movement that Earth Day is all about. I've been pulling together some of these thoughts for our event. So in the future when people are listening to this, you should be able to see our Cosmic Night online Earth Day event, on YouTube.

Kaylee

I'm excited to see some of those because I've been to Cosmic Nights in-person, and they're really, really fun.

Michael

I hope not to get too drunk when hosting.

Michael

What about you, Kaylee, what are you nerding about?



Kaylee

Oh, my goodness. Well, Michael as you know, I am in the finishing stages of my thesis, and my thesis is all about urban rats, and where they move and the pathogens that they carry. Right now, as I'm writing these conclusions to my thesis, I'm seeing all these notifications about rats moving through the streets more than we would normally see them moving. It seems that maybe some of these closures of restaurants, and limiting access to food may be causing rats to move further, and maybe be more active. So that's what I've been nerding about lately.

Michael

So while the rat detective is busy finishing your PhD, all this activity is happening out there. They're waiting for you to return.

Kaylee

Finally they start moving, because usually they don't move all that much. Now they're out there moving, and I just can't go track them.

Michael

Well, Thomas, that brings us to the end of this episode of Nerdin' About, and this group that you're associated with The Legal Geeks, where can people find out more about them?

Thomas

Yeah, so it's www.thelegalgeeks.com, that has all the blogs and we link to the podcast on there. You can find the podcast, really anywhere that you can download podcasts, and then on twitter @thelegalgeeks and same thing on Instagram.

Kaylee

Amazing. Well, thank you so much for hanging out with us. This is really, really fun. I learned a lot about Star Wars, things I have not seen yet, and thank you for tuning in and listening to our third episode of Nerdin' About. You can leave us a review on these various podcast platforms. If you've got something nice to say let us know, if you don't have something nice to say, maybe wait a couple months until I've defended my thesis that would be great. You can find us on Instagram, Twitter, and Facebook @NerdNiteYVR. Thanks so much for tuning in.

Michael

May the fourth be with you everyone.

Transcribed by <https://otter.ai>