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Terrorism and the international law of occupation / David Kretzmer

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Author zone:	David Kretzmer
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Abstract:	<p>Terrorist acts may be carried out in times of both peace and armed conflict. They may be committed in the sovereign territory of a state or in territory occupied by that state during an armed conflict. If we take the simplest definition of terror – acts of violence against persons not taking an active part in hostilities in an armed conflict in order to spread terror among the population – such acts are already unlawful under all domestic legal systems, as well as under military law which applies in occupied territory. This chapter is concerned not with the application of domestic law or military law to terrorism but with the norms of international law that apply to terrorism in occupied territory. Territory is regarded as occupied when, in the course of an international armed conflict, it falls under the actual authority of a hostile army. Since states may not acquire territory through use of force, the occupying power does not acquire sovereignty over the occupied territory. At the same time, as the main feature of the occupying power's authority is the inability of the legitimate government of the occupied territory to exercise governmental authority there, international law places obligations on the occupying power to fill the void on a temporary basis.</p>
Authors:	Kretzmer, David
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