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CONSIDERATIONS OF LAWFARE (PART 3)
CASE STUDIES AND STATE RESPONSES

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The preceding two articles in this specific series-of-three explored some of the more prominent facets of 'lawfare', including its underlying concepts and techniques. In this culminating article, two contemporary case studies of lawfare are examined. Although several additional aspects (and cases) of lawfare remain to be explored, national judiciaries and policymakers alike have noted with concern the increasing use of lawfare in their respective areas of jurisdiction, and consequently, an outline of some judicial and policy responses and recommendations are also provided in this article.

Contemporary Case Study I: Lawfare during the (ongoing) Ukraine Conflict

With the outbreak of armed conflict in February of 2022, Ukraine has what appears to be a fairly comprehensive strategy of lawfare against Russia. It even put up a website about its 'Lawfare Project' which declared:

> *"[O]ne of the key areas of confrontation is the legal one. The legal front is inconspicuous, but extremely important. Its key feature is that there is no noticeable disproportion in weight with the enemy. It is not subject to force-sharing agreements. Where there are no weapons, there is international law, sanctions, and a tribunal. In the West, "legal war" received a special term - lawfare. And on this front, Ukraine (state bodies and state-owned enterprises) is fighting quite well.*
>
> *"We are moving from the sometimes chaotic hit-skip tactics to a well-thought-out, comprehensive and coordinated legal defense of our rights and interests, and for this purpose we have involved leading foreign legal advisers who help to develop a strategy for legal confrontation."*[1]

Eric Chang elaborates on Ukraine's lawfare against Russia:

> *"In the immediate aftermath of Russia's invasion of Crimea, Ukraine launched a legal blitzkrieg against Russia, including several inter-State proceedings before the European Court of Human Rights (ECtHR), an ad hoc proceeding under the dispute settlement procedures of UNCLOS, a proceeding before the International Court of Justice, and three consultations at the World Trade Organization. Ukraine further lodged two declarations under Article 12(3) of the Rome Statute of the International Criminal Court, voluntarily accepting the jurisdiction of the ICC in order to allege crimes committed in*

[1] "About Lawfare Project History", *Law Confrontation with Russian Federation*, https://lawfare.gov.ua/about.

> *Crimea from November 21, 2013, to February 22, 2014, and from February 20, 2014, onward. The Office of the Prosecutor of the ICC opened preliminary investigations in response to both declarations. Beyond the Ukrainian government's direct involvement as a party in these proceedings, over 8,500 individual applications relating to the conflict in Crimea and eastern Ukraine have been submitted to the ECtHR. (Ukraine continued its legal proceedings in the aftermath of the February 2022 invasion, filing further cases against Russia at the ICJ and the ECtHR.*"[2]

In addition to the above-mentioned legal proceedings by Ukraine, individual Ukrainian investors in Crimea, relying to the Bilateral Investment Treaty between Ukraine and Russia, have been conducting their own forms of lawfare against Russia;

> *"International investment law is a specialised subset of public international law, and its defining feature is a unique dispute resolution forum known as investor-State dispute settlement (ISDS), which has allowed private Ukrainian investors to file international arbitration claims directly against Russia for damages arising out of Russia's 2014 invasion and subsequent occupation of Crimea. These claims allege Russia's breach of treaty protections to Ukrainian investments in various industry sectors. The initial arbitration awards have uniformly found Russia liable, issuing damages collectively worth billions of US dollars (USD). These awards are accruing compounding legal interest, which will increase indefinitely until paid, settled, or until Russia withdraws from Crimea. Of equal significance, these investment claims have creatively leveraged LOAC principles to allow the Ukrainian investors to avail themselves of the ISDS forum and, ultimately, accomplish Ukraine's lawfare objectives.*"[3]

Of course, both Russia and Ukraine have been engaging in lawfare against each other for a while. As the Ukrainian lawyer and author, Dr Zakhar Tropin, notes:

> *"An example of connecting lawfare with other dimensions of hybrid warfare was the mutual blocking of international carriage by the Russian Federation and Ukraine in 2016. It is necessary to remember that individuals started to block movement of trucks from Russia to the territory of Ukraine. In response, the Russian government decided to prohibit transit of Ukrainian cargo through the territory of the Russian Federation. Ukraine referred to the mechanisms for the settlement of international disputes within the World Trade Organisation stating that the Russian Federation had violated the principle of freedom of transit. In this case, Ukraine at least received an informational and economic advantage due to the fact that the Russian Federation responded to the actions of individuals (non-governmental persons) with a legislative act..."*[4]

> *"An additional example of the use of international institutional mechanisms is the situation involving the distribution of Crimea's international dialing code. The Russian Federation intentionally increased the number of its representatives in the International Telecommunication Union before it met. Due to*

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[2] Eric Chang, "Lawfare in Ukraine: Weaponizing International Investment Law and the Law of Armed Conflict Against Russia's Invasion", *Strategic Perspectives* 39: 10. https://www.ndu.edu/Portals/68/Documents/stratperspective/inss/strategic-perspectives-39.pdf

[3] *Ibid*, 1, 11-13.

[4] Zakhar Tropin, "Lawfare as Part of Hybrid Wars: The Experience of Ukraine in Conflict with the Russian Federation", *Security and Defence Quarterly* (March 2021): 19, http://cejsh.icm.edu.pl/cejsh/element/bwmeta1.element.doi-10_35467_sdq_132025/c/sdq-pdf-132025-64166.pdf

> *these actions, Ukraine failed to obtain prohibition from the ITU for Russia to use its international code for Crimea (NKRZI, no date). This is used by the Russian Federation as one of the indirect arguments for Crimea belonging to the Russian Federation."*[5]

Against its developed adversaries that were supporting Ukraine directly or indirectly or both, Russia, too, adopted its own lawfare measures. For instance, it decriminalised in March 2022 *"parallel imports"* under its domestic law.[6] This effectively weakened — inside Russia — the Intellectual Property right(s) and protection(s) hitherto accorded to products imported from developed nations.[7] In professing its adherence to law even as it passed this law, Russia argued — and formally submitted to the World Intellectual Property Organisation — as follows:

> *"Under the international exhaustion principle, its implementation cannot be considered as the violation of the exclusive rights to the goods which were sold under the rightsholder's authorization in any other country of the world. The international exhaustion principle allows the parallel import of original goods, that is the import of goods protected by intellectual property rights can be carried out by the person not authorized by the rightsholder.*
>
> *"The international treaties, including the 1994 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), allow the implementation of the international exhaustion principle. Most states in the world apply this instrument to prevent anticompetitive practices and abuse of the rightsholders' market position."*[8]

On the other hand, the United States and the European Union also undertook a whole slew of lawfare measures against Russia, including sanctions stemming *inter alia* from US domestic law

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[5] *Ibid*, 20.

[6] World Intellectual Property Organization, "Implementation of the Federal Law No 46-FZ "On Introduction of Amendments to Various Laws" dated 8 March 2022", https://www.wipo.int/edocs/mdocs/sct/en/sct_45/sct_45_russian_federation_info_paper_1.pdf

[7] Ashutosh Pandey, "How Russia is dodging Western sanctions", *DW,* https://www.dw.com/en/how-russia-is-dodging-western-sanctions-with-gray-market-imports/a-62850223
See also: Michael Malloy and Pavel Arievich, "Russian Government Assumes Broad Powers to Curtail IP Rights", *Dlapiper*, accessed September 19, 2023, https://www.dlapiper.com/cs/czech/insights/publications/2022/03/russian-government-assumes-broad-powers-to-curtail-ip-rights/
See also: Alexey Markov and Anton Sidnin, "Parallel Imports: New legal developments", *Ernst and Young*, accessed September 19, 2023, https://assets.ey.com/content/dam/ey-sites/ey-com/en_ru/topics/tax/tax-messenger/2022/04/ey-parallel-imports-new-legal-developments-4-april-2022-law-eng.pdf?download
See also: Chris Devonshire-Ellis, "Russia Legalizes Parallel Imports", *Russia Briefing*, accessed September 19, 2023, https://www.russia-briefing.com/news/russia-legalizes-parallel-imports.html/
See also:: Pjotr Sauer and Andrew Roth, "The grey Zara market: how 'parallel imports' give comfort to Russian consumers", *The Guardian*, accessed September 19, 2023, https://www.theguardian.com/world/2022/aug/12/russia-grey-market-parallel-imports-consumers-western-brands-zara

[8] World Intellectual Property Organisation, "Implementation of the Federal Law No. 46-FZ"
See also: Mark Halle, "The Exhaustion of Intellectual Property Rights," *The International Institute for Sustainable Development*, accessed September 19, 2023, https://www.iisd.org/system/files/publications/com_exhaustion.pdf
See also: Ayşe Selcen Büyük, "Exhaustion Principle in the Intellectual Property Law", *SSRN*, accessed September 19, 2023, https://ssrn.com/abstract=3279357

such as the Countering America's Adversaries Through Sanctions Act of 2017 (CAATSA) and the International Emergency Economic Powers Act (IEEPA). Further, selected Russian banks were removed from the SWIFT global electronic payment system.[9]
US-based social media giants such as Facebook and Instagram — which extol the virtues of free speech and expression — decided to *"temporarily"* allow hateful and/or violent online content against Russia during the conflict in Ukraine. This was done by creating overnight, exceptions to company rules and policies against hateful or abusive content. The phrase 'death to Russian invaders' was specifically allowed.[10]

Others invoked and used law differently. Switzerland, for instance, maintained its famed 'Swiss neutrality' during the conflict by invoking its domestic legislation to first withhold arms requested by Poland.[11] Two days later, it also publicly disallowed/vetoed requests by The Federal Republic of Germany to *"re-export"* Swiss-made ammunition to Ukraine.[12] This Swiss legislation is called 'The Federal Act on War Material 514.51', and Articles 18(2), 19(2) thereof that deal with exemptions, revocations, etc., pertaining to *"War Materiel"* and licence(s) thereto, were invoked by Switzerland as a low-cost but effective way of maintaining Swiss neutrality in an environment in which staying neutral was difficult.[13] This is not to say that Switzerland did not apply sanctions against Russia, which it certainly did, but it did so by adopting the EU sanctions regime *into* Swiss municipal law.[14] However, invoking its domestic law in the manner and at the time it did has helped Switzerland walk a diplomatic tightrope during the (still ongoing) Ukraine conflict, while at the same time achieving its own political objectives during the crisis in which it found itself.

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[9] Scott R. Anderson et al., "What sanctions has the world put on Russia", *Lawfare*, accessed September 19, 2023, https://www.lawfaremedia.org/article/what-sanctions-has-world-put-russia
See also: Barry Eichengreen, "Sanctions, SWIFT, and China's Cross-Border Interbank Payments System", *Center for Strategic and International Studies*, https://www.csis.org/analysis/sanctions-swift-and-chinas-cross-border-interbank-payments-system
[10] Munsif Vengattil and Elizabeth Culliford, "Facebook Allows War Posts Urging Violence against Russian Invaders", *Reuters*, https://www.reuters.com/world/europe/exclusive-facebook-instagram-temporarily-allow-calls-violence-against-russians-2022-03-10/
See also: Andy Stone, Twitter post, March 11, 2022, 3:55 a.m., https://twitter.com/andymstone/status/1502048035458719746?s=20&t=oIOEutEOO87yPSoPs-PLaQ
See also: Veronika Kyrylenko, "Meta OKs Hate Speech against Russian Invaders", *The New American,* https://thenewamerican.com/meta-oks-hate-speech-against-russian-invaders//?print=pdf
[11] Michael Shields and Jonathan Oatis, "Neutral Swiss Rule Out Arms Deliveries to Poland", https://www.reuters.com/world/europe/neutral-swiss-rule-out-arms-deliveries-poland-2022-03-21/
[12] Michael Shields and Raissa Kasolowsky, "Swiss Veto German Request to Re-export Ammunition to Ukraine, SonntagsZeitung reports", *Reuters*, https://www.reuters.com/world/europe/swiss-veto-german-request-re-export-ammunition-ukraine-paper-2022-04-24/
[13] The Federal Act on War Materiel 514.51, Online English version, https://www.fedlex.admin.ch/eli/cc/1998/794_794_794/en
[14] "Swiss Sanctions in relation to the Situation in Ukraine", *Walderyss Attorneys at Law*, https://www.walderwyss.com/user_assets/publications/Newsletter-168_E.pdf

Contemporary Case Study II: Lawfare by The People's Republic of China

To circumvent international law on fishing and Exclusive Economic Zones, The People's Republic of China (PRC) advances its own particularistic interpretations of international law that selectively pick and apply legal provision(s) to manipulate international legal norms, validate its invalidated claims, and accommodate its anti-access strategy.[15] In this context, Orde Kittrie notes:

> *"China has used its inaccurate interpretation of EEZ law to justify the interception and harassment of US and other nations' ships operating within its EEZ, and of US and other nations' aircraft flying above its EEZ…..From time to time, ostensibly private Chinese cargo ships and fishing vessels are used as government proxies to interfere with US ships. Using fishing vessels in this manner provides the Chinese government with some level of plausible deniability from a legal perspective, although from a practical perspective the pattern of behaviour is easily ascribable to the Chinese government."*[16]
> *In addition to its maritime operations, China's EEZ lawfare strategy includes declaratory statements incorporated into China's UNCLOS ratification depositary instrument, domestic legislation formally claiming security interests in its EEZ, development of supportive legal scholarship, and a strategic communications campaign.*[17]

In addition to lawfare in the Exclusive Economic Zones of other States, PRC also attempts to expand its sovereign right(s) and jurisdictional claim(s) in the South China Sea by turning submerged reefs into *de facto* inhabited islands. These island-building activities are typified by the conversion of Fiery Cross Reef in the Spratly Islands Group within the South China Sea, into an 'island', between the years 2006 and 2022, as shown in Figure 1 and 2 below:

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[15] Chang, "Lawfare in Ukraine", 7-8.
See also: Christian Schultheiss, "What Has China's Lawfare Achieved in the South China Sea?," *ISEAS Yusof Ishak Institute*, https://www.iseas.edu.sg/wp-content/uploads/2023/06/ISEAS_Perspective_2023_51.pdf
See also: Doug Livermore, "China's "Three Warfares" In Theory and Practice in the South China Sea", *Georgetown Security Studies Review*, https://georgetownsecuritystudiesreview.org/2018/03/25/chinas-three-warfares-in-theory-and-practice-in-the-south-china-sea/
See also: Priscilla Tacujan, "Chinese Lawfare in the South China Sea", *The Journal of Political Risk*, https://www.jpolrisk.com/chinese-lawfare-in-the-south-china-sea-a-threat-to-global-interdependence-and-regional-stability/
[16] Orde F Kittrie, "Lawfare: Law as a Weapon of War", (Oxford University Press, New York, 2016), 166.
[17] *Ibid.*

Figure 1: *Fiery Reef on 22 January 2006, before conversion by the PRC*
Image Credits: Center for Strategic and International Studies/Asia Maritime Transparency Initiative
https://amti.csis.org/fiery-cross-reef/#jp-carousel-24020

Figure 2: Fiery Reef on 17 June 2022, after conversion by the PRC
Image Credits: Center for Strategic and International Studies/Asia Maritime Transparency Initiative https://amti.csis.org/fiery-cross-reef/

Likewise, Figure 3, 4, and 5 below, show the systematic nature of PRC island-building activities on Mabini Reef (also known as Johnson Reef), which is, once again, located in the Spratly Island group and is additionally claimed by the Philippines, Taiwan, and Vietnam.

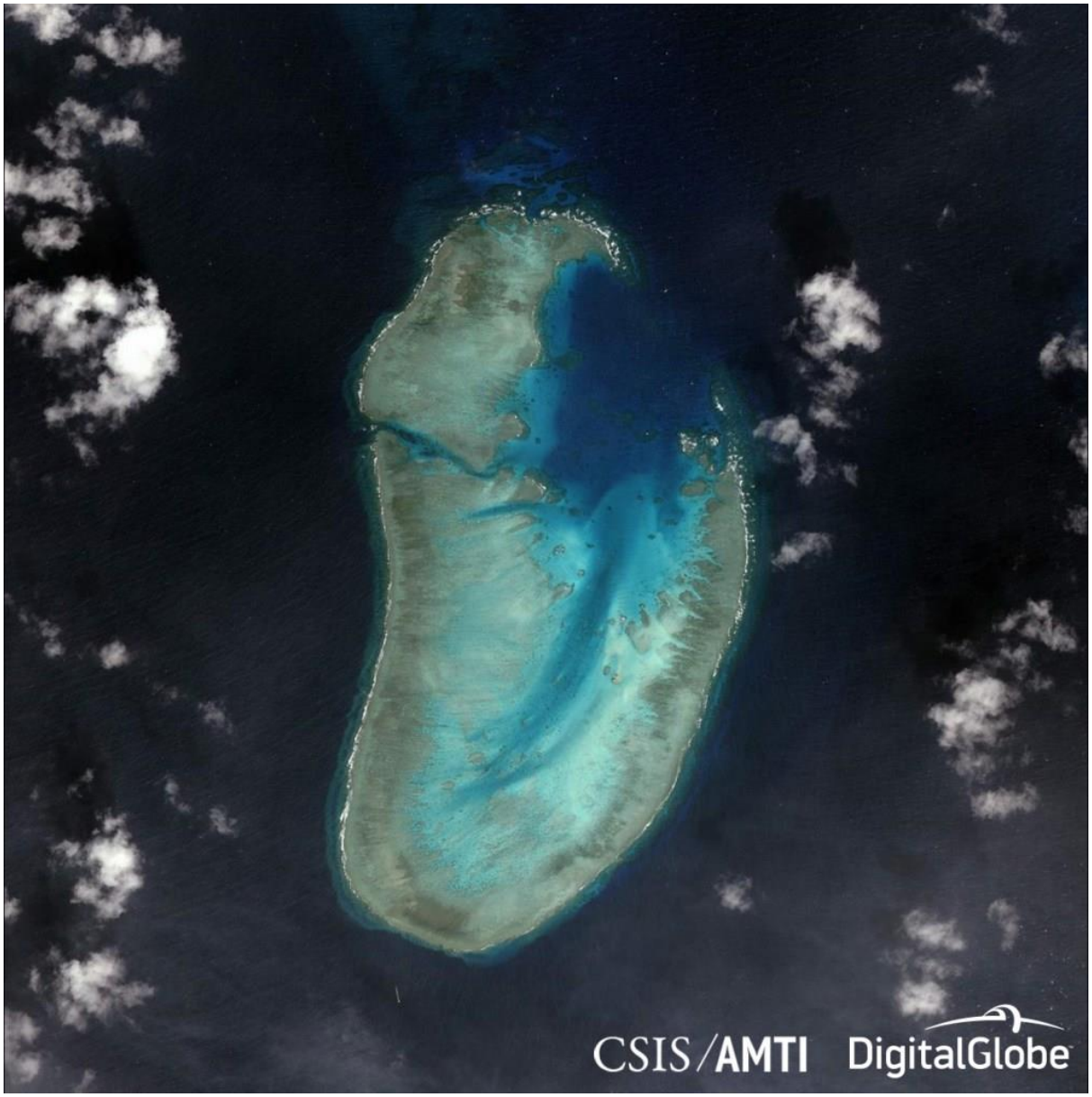

Figure 3: Mabini (Johnson) Reef on 29 November 2004, before conversion by the PRC
Image Credits: Center for Strategic and International Studies/Asia Maritime Transparency Initiative
https://amti.csis.org/johnson-reef/#jp-carousel-24282

Figure 4: Mabini (Johnson) Reef on 19 July 2014, after partial conversion by the PRC
Image Credits: Center for Strategic and International Studies/Asia Maritime Transparency Initiative
https://amti.csis.org/johnson-reef/#jp-carousel-24285

Figure 5: Mabini (Johnson) Reef on 11 February 2022, after conversion by the PRC
Image Credits: Asia Maritime Transparency Initiative
https://amti.csis.org/johnson-reef/#jp-carousel-30528

The manner in which PRC turns submerged reefs into *de facto* inhabited 'islands' is not accidental. These activities represent attempts to expand its sovereign right(s) and jurisdictional claim(s) in the South China Sea, while at the same time delegitimising the claim(s) of others. They also effectuate *de facto* area-denial and thereby significantly improve China's strategic position against other stakeholders in the South China Sea. By creating such "facts" on the sea, PRC fundamentally changes what would have been a geographical inevitability and a persistent *status quo* into a new reality that works in its favour. Over time, it will *"become harder and harder to document which features were 'rocks,' which were 'islands' and which were neither prior to construction - and these determinations may be essential to resolving contested maritime claims in the region*."[18]

The PRC's revisionist interpretations and assertions are also aimed at changing customary international law through State practice. This is because customary international law can be

[18] Ingrid (Wuerth) Brunk, "US Policy on the South China Sea", *Lawfare*, https://www.lawfaremedia.org/article/us-policy-south-china-sea

nullified or even changed through State practice undertaken in conjunction with an assertion that such practice is consistent with international law.[19] Of course, such assertions by the PRC will be complemented by its diplomatic efforts to get other States to acquiesce to such assertions. In addition to instrumental uses of new or existing legal provisions, another type of lawfare practised by the PRC is what Kittrie terms *"Compliance-leverage disparity lawfare"* or the phenomenon of leveraging existing disparity, inequality or comparative advantage between actors to achieve advantage(s) over an opposing actor.[20] This type is typically undertaken on the kinetic battlefield or in an armed conflict, where the processes and transparency of international law exert greater force on State actors than on non-State ones.

Professor Douglas Guilfoyle of Australia's University of New South Wales makes a telling point when he states,

> *"For China, law is one of the key domains in which it is pursuing its strategy to consolidate its control over the South China Sea. The Chinese gamble has been that it can pursue this strategy in the name of legitimate self defence against perceived United States encroachment without disrupting regional stability. The flaw in its approach has been to underestimate the extent to which its policy has impinged on other States' core national interests in the maritime domain, interests which they conceptualise in legal terms."*[21]

However, it can also be undertaken outside a kinetic battlefield, and is most notably undertaken by PRC in the non-proliferation arena. Kittrie demonstrates, as an example, *"the PRC's long history of gaming the international legal system by entering into legally binding nuclear nonproliferation obligations with which its rivals (including the United States, Japan, and South Korea) tend to comply, while China secretly violates those obligations by providing nuclear technology to its allies, often through proxies."*[22]

These nuclear transfers by the PRC do not stop at well-established recipient States such as Pakistan and the Democratic People's Republic of Korea (North Korea). Silently but effectively, and whether under direct or tacit PRC approval, these illegally transferred nuclear materials and technologies also find their way much farther afield to States such as Libya and Iran.[23] In so doing, the PRC exploits loopholes in the compliance regime(s) of international law to deliberately and seriously damage as well as contain its regional rivals (such as Japan and India) and its global ones such as the US, too.

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[19] "Statute of The International Court of Justice", Article 38.

[20] Kittrie, "Lawfare: Law as a Weapon of War", 17-28.

[21] Douglas Guilfoyle, "The rule of law and maritime security: Understanding Lawfare in the South China Sea", https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3378904

[22] Kittrie, 12, 173-183.

See also: Congressional Research Service, *Chinese Nuclear and Missile Proliferation*, by Paul K Kerr, Washington DC: August 28, https://crsreports.congress.gov/product/pdf/IF/IF11737

[23] Richard Cronin et al, "Pakistan's Nuclear Proliferation Activities and the Recommendations of the 9/11 Commission: US Policy Constraints and Options", *National Digital Library of India*, https://digital.library.unt.edu/ark:/67531/metadc805398/m2/1/high_res_d/RL32745_2005Mar16.pdf

Conclusion

Given its versatility and low cost-benefit ratio, the uses of lawfare across forums and jurisdictions will in the future multiply, diversify, and become more complex in terms of provisions and concepts invoked. This series of three articles shows that lawfare may be deployed by a variety of State and non-State actors towards attrition as well as manoeuvre in the pursuit of their respective politico-military objective(s).

In a comparative sense, lawfare is, indeed, less costly to human life; moreover, it is almost invariably less expensive than traditional or kinetic forms of warfare that have hitherto formed the predominant forms of fighting between States and their adversaries. Lawfare often reduces chances of military conflict and lowers the costs of military preparation. This frees vast national resources that may then be deployed to public benefit and welfare within States, especially developing States like India.

Thus, as an asymmetric tool that can be effectively deployed in hybrid conflict(s) of the future, the use of lawfare will only grow in a world and international legal order that is — continually and at speed — evolving and changing.

The growing use of lawfare should not surprise us. The world is continually made, unmade and re-made by experts of all shades and hues, and legal experts are no different. In a world where public opinion gets increasingly tired of armed conflict, but where flux and fault lines persist and even worsen, the role of legal experts as peaceful negotiators and builders of rules, norms and consensus is likely to be enhanced. Professor David Kennedy, Director of the Institute for Global Law and Policy at Harvard Law School, opines that:

> *"The professional practices of legal experts inside and outside the military illustrate the work of expertise in contemporary world making and management. Warfare has been a central preoccupation and presented a kind of ultimate test for international law. It is hard to think of international law governing the relations among States without having something to say about war — when war is and is not an appropriate exercise of sovereign authority, how war can and cannot be conducted; which of war's outcomes will and will not become components of a postwar status quo, and so on. It is conventional to imagine that international law restrains war by making distinctions: this is war, and this is not; this is sovereignty, and this is not; this is legal warfare, and this is not. The terms with which these legal distinctions are drawn change over time. The vernacular may be more or less sodden with ethical considerations, more or less rooted in the specific treaty arrangements entered into by states. The distinctions may be drawn more or less sharply, may be matters of kind or degree. What goes on one or the other side of these distinctions may change, but the idea that law is about distinguishing war from peace, sovereign right from sovereign whim, legal from illegal conduct, on the battlefield and off, endures."*[24]

[24] David Kennedy, "A World of Struggle: How Power, Law and Expertise shape global political economy", Princeton University Press, 2016, 256.

Finally, one would add a note of caution to legal experts and advise them against abandoning integrity and becoming mere mouthpieces of the State. For a liberal democratic State such as India, political control over rule-making processes is less dangerous than the spectre of political power dictating the application of law. As Reifner observes,

> *"Authoritarian forces have always stressed the primacy of the role of the government and the courts rather than that of parliaments, of law rather than rights, and of the judge rather than the defence lawyer. Traces of this struggle are visible in the very nomenclature of the profession. The counterpart of the old Roman advocatus, the "helper on call", whose role persists in the profession of the English defence advocate, was banned by the counter-revolutionary Prussian kings at the beginning of the nineteenth century. In German, the word "advokat" has always been the object of ridicule. In its place, the German word "rechtsanwalt" (attorney at law), originally used to denote a court functionary who defended the law (recht) as opposed to the individual, has come to be used as the equivalent of the English word "lawyer".'*[25]

Recommendation

> *"Countries are bound by treaties, national agreements, and special relationships. Private citizens do not have these limitations."* — Nitsana Darshan-Leitner.[26]

At the tactical level, small teams of private litigators who are outside the government appear best suited to wage or counter lawfare against State(s) or other actor(s), whether the target is inside or outside State jurisdiction(s). Such small teams would ride-upon and, *inter alia*, rely upon the power of historical narratives as a tool of both lawfare as well as counter-lawfare. Such teams can be remarkably effective, particularly when their impact is measured in cost-benefit terms. Indeed, such small teams of specialized litigators ought to form part of a State's centralised legal strategy to ensure the protection of State interests — on an international field — during a hybrid conflict. Centralisation of control, and the planning and implementation of legal actions at an international level, would constitute core elements of such a strategy especially for actions in international institutions or under foreign jurisdiction(s). Additionally, indirect State involvement in or with such litigating teams would be preferable to direct involvement because it would avoid setting precedents that could be used against the deploying State by its adversaries.[27] Low-key sharing of information can make this practical, but such public-private collaboration in lawfare can also have its risks.

Even so, such teams are an idea worth exploring. One clear domain for exploitation by such teams is the prosecutorial discretion built into the Rome Statute and into practical procedures at the ICC.[28]

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[25] Udo Reifner, "The Bar in the Third Reich: Antisemitism and the Decline of Liberal Advocacy", *McGill Law Journal* 32, No 1 (December 1986): 96-124, 98-99.

[26] Kittrie, "Lawfare: Law as a Weapon of War", 311.

[27] *Ibid.*

[28] Kittrie, "Lawfare: Law as a Weapon of War", 223-229, 235.

Finally, Indian policymakers would be well-advised to note the following successful instances of lawfare by small teams of lawyers:[29]

1. A small team of two attorneys — comprising a father-daughter duo — successfully litigated against (and closed down) an organisation that was raising funds for *Hamas* in the US.[30]

2. Litigation in the form of a lawsuit by another small team of lawyers resulted in a favourable verdict for the US Government, which held that a bank which knowingly provides financial services to a terrorist group can be held liable for the group's terrorist acts.[31] This verdict continues to deter banks around the world from doing or continuing to do business with whoever or whatever the US Government deems 'terrorists'.

3. A small team of lawyers successfully sued Iran for the deaths of 241 US marines killed by *Hezbollah*'s bombing of a US Marine Corps barrack in Beirut, in 1983.[32]

About the Author

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[29] *Ibid*, 51, 89-109.

[30] Richard Posner, "Boim v. Holy Land Foundation", 549 F.3d 685 (7th Cir. 2008), https://casetext.com/case/boim-v-holy-land-foundation

[31] Brian M Cogan, "Linde v. Arab Bank", No. 04-CV-2799 (E.D.N.Y. Sept. 22, 2014), https://casetext.com/case/linde-v-arab-bank-21

[32] George Daniels, "Sokolow v. Palestine Liberation Organisation, No. 04 Civ. 00397 (S.D.N.Y. Nov. 19, 2014), https://casetext.com/case/sokolow-v-palestine-liberation-organization-2

See also: Kittrie, "Lawfare: Law as a Weapon of War", 65-70.