
THE INTERSECTION OF LAW AND HYBRID WARFARE: A CRITICAL REVIEW

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Abstract

War, as previously perceived, is no longer confined to battlefields or military zones. It has taken on a new form, i.e. Hybrid warfare. This approach combines conventional tactics with unconventional methods, including cyberattacks, disinformation, and economic pressure, thereby significantly impacting international relations and security. This sophisticated strategy blurs the distinction between war and peace, challenging nations' responses. Its ambiguity frequently enables aggressors to act beneath the level of conventional conflict, complicating diplomatic efforts and legal responses. As a result, trust among nations has diminished, alliances face greater strain, and the global security landscape has grown more complex. States are increasingly investing in cybersecurity and resilience strategies to better defend against emerging hybrid warfare tactics. This ongoing challenge requires the international community to adapt diplomatic, legal, and security structures to mitigate the destabilizing impact of hybrid warfare on global stability. Specifically, current legal frameworks, especially those rooted in traditional principles of International Law, require reassessment. This research aims to investigate hybrid warfare by examining its legal aspects within international law, with an emphasis on the conundrum posed by this evolving type of conflict. The research methodology for examining international law and hybrid warfare uses a combination of doctrinal and qualitative research methods. These include a literature review, case studies, and response evaluations. Content analysis will identify legal gaps, while comparative analysis will explore potential solutions. The objective is to determine if existing international law adequately covers hybrid warfare.

Keywords: Hybrid warfare, International law, Jus ad Bellum, Jus in Bello, Use of force.

Introduction

Hybrid warfare combines conventional or kinetic and unconventional or non-kinetic methods. Sometimes referred to as non-linear warfare, active measures, or grey zone conflict, it lacks a universally agreed-upon definition. Typically, it is understood as the concurrent application of different kinetic and conventional tactics alongside non-kinetic and conventional strategies to reach a wide-ranging strategic objective. In 2014, NATO leaders summarized this concept understanding in the "Wales Summit Declaration".¹ A nation employing hybrid warfare disrupts another's internal dynamics through unconventional military tactics like cyber operations, economic pressure, and influence strategies. This may also include support for local opposition, spreading misinformation, and using unmarked military personnel. Hybrid warfare is unique due to its emphasis on cyber means and non-state actors, allowing aggressors to maintain a degree of deniability that can reduce global resistance to their actions.²

¹ Hybrid warfare integrates both overt and covert conventional and non-conventional strategies in a seamless manner. It is imperative for the Alliance to have the right tools and procedures to effectively deter and respond to these hybrid threats, as well as to bolster national forces. The declaration highlighted that NATO is thoroughly prepared to confront the specific challenges associated with hybrid warfare. For further details, consult the North Atlantic Treaty Organization, Wales Summit Declaration, issued by the Heads of State and Government participating in the North Atlantic Council in Wales, September 5, 2014. <https://nsarchive.gwu.edu/document/27175-document-2-north-atlantic-treaty-organization-wales-summit-declaration-issued-heads>.

² For details, see Jen Stoltenberg, Keynote Speech by NATO Secretary General at NATO Transformation Seminar, Mar. 25, 2015, http://www.nato.int/cps/en/natohq/opinions_118435.htm; Michael Kofman, "Russian Hybrid Warfare and Other Dark Arts, War on the Rocks" 2016. <http://warontherocks.com/2016/03/russian>

The concept of hybrid warfare has recently gained attention due to conflicts in Ukraine, Syria, and other areas, highlighting vulnerabilities in modern societies and armed forces. This focus intensified after Russia's annexation of Crimea in 2014 and its actions in Eastern Ukraine, as both the public and military experts were surprised by the effectiveness and unexpected nature of these strategies, which posed challenges for counteraction.

The hybrid warfare concept is traced back to Russia's Chief of General Staff, Gerasimov, who described hybrid warfare as an “asymmetric response to the global spread of liberal democracy, aligning with Clausewitz’s view of war as an extension of politics”.³ He emphasized that non-military methods—such as political, economic, informational, and humanitarian tactics—are often more critical than military force in achieving strategic goals.⁴ These tactics involve protests and covert military operations. Hybrid warfare remains a debated concept. Key examples include Russia's annexation of Abkhazia and South Ossetia, the aggressive actions to seize Crimea in 2013-2014, and the covert deployment of unmarked soldiers, known as ‘little green men,’ in Eastern Ukraine.⁵ Hybrid warfare includes activities like the 2007 disinformation campaign in Estonia, which led to anti-government protests and cyberattacks, as well as coup attempts in Macedonia and Montenegro in 2016 and 2017, support for right-wing parties in France and Germany, and interference in the 2016 U.S. elections. These actions align with Gerasimov's concept.⁶ Significantly, Hybrid warfare should be seen as an all-inclusive strategy, not merely a collection of tactics, designed to destabilize the world order.

The previous conversation raises several questions: How can countries effectively identify and counter the different forms of hybrid warfare that extend beyond traditional military actions? What measures can be implemented to protect democratic processes and critical infrastructure from more covert hybrid tactics like disinformation campaigns and cyberattacks? Additionally, how does the idea of hybrid warfare challenge existing international laws and norms regarding conflict and sovereignty? This research briefly addresses these questions and provides an overview of how hybrid warfare impacts international law.

From traditional Warfare to the Notion of Hybrid Warfare

Previously, warfare was mainly regarded as a conflict between sovereign nation-states, especially till mid of mid-20th century.⁷ Since war was connected to interstate relations, its rules were governed by international law. While for non-state actors’ (NSA) acts of violence,

hybrid-warfareand-other-dark-arts/; .Frank Hoffman, “Hybrid Warfare and Challenges”, *Joint Force Quarterly* (2009):34–39;

³ Tukka Elonheimo, “Comprehensive Security Approach in Response to Russian Hybrid Warfare”, *Strategic Studies Quarterly* 15, no. 3 (2021): 113–37, <https://www.jstor.org/stable/48618299>.

⁴James K. Wither, “Making Sense of Hybrid Warfare”, *Connections* 15, no. 2 (2016): 73–87, <http://www.jstor.org/stable/26326441>.

⁵ Evan Essex, “Indicators and warnings of Russian military offensives”, *Legacy Theses & Dissertations*, 2009 – 2024, <https://doi.org/10.54014/3WEE-KXVQ>.

⁶ Douglas Cantwell, “Hybrid Warfare: Aggression and Coercion in the Gray Zone”, *American Society of International Law* 21, no. 14 (2017):1-3, https://www.asil.org/insights/volume/21/issue/14/hybrid-warfare-aggression-and-coercion-gray-zone#_edn6.

⁷ Ulrich Preuß, “Equality of States-Its Meaning in a Constitutionalized Global Order”, *Chicago Journal of International Law* 9, no. 1 (2008): 17-49. Emer De Vattel, *The Law of Nations or the Principles of Natural Law: Applied to the Conduct and to the Affairs of Nations and of Sovereigns* (T. & J.W. Johnson, 1916),235.

domestic law was used, unless the law of war was invoked through belligerency recognition.⁸ Previously, international law worked as a binary framework, demarcating war from peace, international from non-international, State and non-state, and conventional from non-conventional conflicts⁹. Moreover, war was differentiated into legal and material forms.¹⁰ However, these distinctions did not always align with actual warfare practices. In reality, states and their opponents employed a wide range of force, using both symmetrical and asymmetrical tactics across conflicts.¹¹ Therefore, hybrid warfare is not a recent development.¹² Nonetheless, international law did not acknowledge this complexity, as nations refused to apply *jus in bello* to irregular adversaries who were not recognised as belligerents.¹³ Throughout the 20th century, the sharp legal distinctions of conventional warfare began to fade, giving way to increasing ambiguity and a legal framework in transition.¹⁴

The implementation of “Common Article 3 of the Geneva Conventions, 1949”, broadened the ambit of state-centered conflicts beyond interstate conflicts.¹⁵ However, this broadened scope was seen as to weaken traditional legal boundaries of warfare.¹⁶ And upon state consensus, it was agreed that GC Common Article 3 should not include “acts of banditry and rioting”, while concentrating exclusively on armed conflicts that involve a certain level of organization among insurgents.¹⁷ However, these vague terms offer little clarity in distinguishing minor disturbances from genuine non-international armed conflicts.¹⁸ While

⁸ Actions taken by individuals or groups without the endorsement or approval of their government do not qualify as legitimate acts of war and are subject to punishment based on the nature or severity of the offense.

For detail see, Henry Wager Halleck, *International Law or Rules Regulating the Intercourse of States in Peace and War* (Van Nostrand, 1861), 386.

⁹ Lisa Oppenheim, *International Law: A Treatise, Vol. II (War and Neutrality)*, 1st (Longmans Green and Co., London, 1906), 54–58 and 93.

¹⁰ Lindsey Moir, “The Historical Development of the Application of Humanitarian Law in Non-International Armed Conflicts to 1949” *International and Comparative Law Quarterly* 47, no.2 (1998):337–361.

¹¹ This is reflected in such concepts as “small wars” and “imperial policing”. For details see, Douglas Wedderburn-Maxwell, “Classic Distinctions and Modern Conflicts in International Humanitarian Law”, (Master Thesis, Lund Thesis, 2014).

¹² See generally, Williamson Murray and Peter. R. Mansoor (eds), *Hybrid Warfare: Fighting Complex Opponents from the Ancient World to the Present* (Cambridge University Press, 2012). However, this is not to deny the novelty of the legal challenges that hybrid warfare presents. See Aurel Sari, “Hybrid Warfare, Law and the Fulda Gap”, in Winston S. Williams, and Christopher M. Ford (eds), *Complex Battlespaces The Law of Armed Conflict and the Dynamics of Modern Warfare* (online edn, Oxford Academic, 2018):161-191.

¹³ Aurel Sari, “Legal Resilience in an Era of Gray Zone Conflicts and Hybrid Threats”, *Cambridge Review of International Affairs* 33, no.2(2020):1-22

¹⁴ For additional background on hybrid warfare See, Williamson Murray and Peter. R. Mansoor (eds), *Hybrid Warfare: Fighting Complex Opponents from the Ancient World to the Present*, 2012.

¹⁵ For an overview of the negotiation of Common Art. 3, see Lovat Henry, “Negotiating Common Article 3 (1949)” In *Negotiating Civil War: The Politics of International Regime Design* (Cambridge University Press, 2020), 89-138.

¹⁶ Plenary Meeting, July 28, 1949, Federal Political Department, Final Record of the Diplomatic Conference of Geneva of 1949, Vol. II, Sec. B (Bern, 1949), at 327–330 (Burma).

¹⁷ Ibid.

¹⁸ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, <https://ihl-databases.icrc.org/en/ihl-treaties/apii-1977>. Moreover, Article 1(2) distinguishes non-international armed conflicts from “internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature”, but this does not offer much more clarity. Eric Jensen, “Applying a Sovereign Agency Theory of the Law of Armed Conflict”, *Chicago Journal of International Law* 12, no. 2 (2012): 685-727.

international tribunals have created more specific criteria,¹⁹ applying them remains difficult.²⁰ Resultantly, the regulations surrounding NIAC have blurred the binary division of war and peace. This modification also challenges the notion that war pertains only to IAC. Although states have increasingly applied IHL principles to NSA, particularly in situations of armed conflict, they have largely resisted granting combatant status to individuals fighting against these NSA,²¹ while retaining the right to prosecute them under criminal law.²² As a result, the distinction between combatants and non-combatants has become unclear in NIAC. The dynamic landscape of warfare has put traditional legal systems to the test. Progress in technology and worldwide interconnectivity has heightened the risks posed by NSA. Following the events of September 11, 2001, Common Article 3 was not applied to "Al-Qaeda" because the war on terror is considered a transnational conflict rather than a non-international.²³ Essentially, the Administration relied on a legal perspective from before 1949, deeming international humanitarian law irrelevant regarding irregular enemies abroad.²⁴ In *Hamdan vs Rumsfeld*, the Supreme Court ruled that international laws governing warfare apply to conflicts involving both countries and non-state groups, like terrorist organizations, confirming that these rules must be followed in all such conflicts.²⁵ The ruling in *Hamdan* resulted in the incorporation of conflicts with non-state actors in *jus in bello*. However, it also presents considerable difficulties in applying and enforcing these laws across national boundaries and in situations involving various non-traditional fighters. Nevertheless, it highlighted the shortcomings of the GC CA 3 and "Additional Protocol II" legal structure. The traditional rulings on NIAC offer limited guidance on issues like the legal authority on arresting adversaries, targeting principles, or the geographic scope during various transnational

¹⁹ Prosecutor v. Ljube Bošković and Johan Tarčulovski (2008) Judgment, July 10, 2008 (ICTY Trial Chamber II), paras 175–205. For details see, Akande Dapo, "Classification of Armed Conflicts: Relevant Legal Concepts", in Wilmschurst Elizabeth (ed), *International Law and the Classification of Conflicts* (Oxford University Press, 2012), 32-79.

²⁰ Caterina Milo, "Tackling Lacunae in International Courts and Tribunals' Procedure: The Role of External Precedent", *The Italian Review of International and Comparative Law* 2, no. 2 (2023): 323-346, <https://www.sciencedirect.com/org/science/article/pii/S2772564223000369>.

²¹ See, Military Prosecutor v. Omar Mahmud Kassem and Others 1969, <https://casebook.icrc.org/case-study/israel-military-prosecutor-v-kassem-and-others>? Aviral Deep and Debosmita Choudhury, "Painting the Israel-Palestine Conflict in Colours of Jus in Bello - Military Prosecutor V. Omar Mahmud Kassem and Others", *International Journal of Law Management & Humanities* 4, no. 4(2021): 3249-3254.

²² This principle is expressly given by Additional Protocol II, Art. 3(1). See also, Article 19 Second Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed conflict, 26 March 1999.

²³ President George W. Bush, Memorandum to the Vice President, Secretary of State, Secretary of Defense, could be visited at White House, "The White House Torture Memoranda" 37 Case Western. Reserve Journal of International Law 37, (2006):615-620, <https://scholarlycommons.law.case.edu/jil/vol37/iss2/21>. Also see, James Pfiffner, "The Constitutional Legacy of George W. Bush", *Presidential Studies Quarterly* 45, no. 4 (2015): 727-741.

²⁴ It is essential to highlight that the principles of International Law are applicable solely to conflicts between civilized nations, where both sides acknowledge them and are ready to adhere to them. These principles do not apply in conflicts involving uncivilized states and tribes, where they are replaced by the commander's judgment and by those standards of justice and humanity that are deemed appropriate in the specific situation. War Office, *Manual of Military Law Great Britain*, 235. See also C. Elbridge, "How to Fight Savage Tribes" *American Journal of International Law*, 21 (1927): 279–288.

²⁵ *Hamdan v. Rumsfeld*, 126 S.Ct. 2749 (2006), Peter J. Spiro "Hamdan v. Rumsfeld. 126 S.Ct.2749." *The American Journal of International Law* 100, no. 4 (2006): 888–95. <http://www.jstor.org/stable/4126323>.

conflicts.²⁶ This void was addressed by implemented essential regulations for waging war in IAC and NIAC, as demonstrated by state practice,²⁷ international agreements,²⁸ court rulings,²⁹ and authoritative legal clarifications by states.³⁰ This development has clarified some uncertainties about targeting non-state enemies.³¹ However, “it has placed IHL in conflict with international human rights law.”³²

The distinction between symmetrical and asymmetrical tactics is influenced by technological advancements. The NSA has challenged the capabilities of both traditional and non-traditional adversaries using technology.³³ Additionally, Russia has demonstrated how states can exploit their adversaries' vulnerabilities through irregular tactics and information warfare, leading international human rights law and IHL at conflict.³⁴

According to “General James N. Mattis and Lieutenant Colonel (ret.) Frank Hofmann conflicts in future would likely to combine regular and irregular tactics into a complex form of warfare, often referred to as a hybrid war”.³⁵ Hofmann later emphasised that this hybrid approach involves integrating various aspects of warfare, such as “the physical and psychological, kinetic and non-kinetic, military and non-military domains.”³⁶ He predicted that future adversaries would merge traditional warfare with irregular tactics, terrorism, and criminal acts, creating a blend of state-level lethality with the passionate and enduring nature

²⁶ See, IngberRebecca", Interpretation Catalysts in Cyberspace", *Texas Law Review* 95, no. 7 (2017): 1531-1554.; Naz K. Modirzadeh, “Folk International Law: 9/11 Lawyering and the Transformation of the Law of Armed Conflict to Human Rights Policy and Human Rights Law to War” *Harvard National Security Journal*, 5 (2014):225-304.

²⁷ For instance, United States Central Command, Investigation Report on the Airstrike on the Médecins Sans Frontières / Doctors without Borders Trauma Center in Kunduz, Afghanistan on October 3, 2015, Nov. 21, 2015, at 90–95 (applying the concepts of lawful target, combatant, military objective, precautions and proportionality in attack in the context of a non-international armed conflict); Kunduz Case, Judgment, Oct. 6, 2016 (Federal Court of Justice, Germany), paras 46–55 (applying Arts 50, 51, 52 and 57 of Additional Protocol I in the context of a non-international armed conflict). Also see

²⁸ For instance, “Rome Statute of the International Criminal Court”, July 17, 1998, 2187 UNTS 90, Art. 8(2)(e), as amended by Amendment to Article 8 of the Rome Statute of the International Criminal Court, June 10, 2010, 2868 UNTS 195.

²⁹ See, Prosecutor v. Duško Tadić (1995) Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, IT-94-1-T, Oct. 2, 1995 (ICTY Trial Chamber), para. 127 (indiscriminate attacks, protection of civilian objects, certain means and methods of warfare); Prosecutor v. Stanislav Galić (2003) Judgment, IT-98-29-T, Dec. 5, 2003 (ICTY Trials Chamber), paras 57–58 (indiscriminate attacks, proportionality, precautions).

³⁰ Gudrun Monika Zagel, “International Organisations and Human Rights: The Role of the UN Covenants in Overcoming the Accountability Gap.” *Nordic Journal of Human Rights* 36, no.1 (2018): 74–90.

³¹ Yorem. Dinstein, *Non- International Armed Conflicts in International Law* (Cambridge University Press, 2014), 211.

³² Ibid.

³³ Technological progress has given non-state groups (like terrorist organizations or rebel groups) more powerful weapons and tools. These groups can now reach farther and be more visible, often through media and communication technologies. Non-state actors have become capable of challenging established governments and their militaries. These groups can use both unconventional (guerrilla-style) tactics and sometimes even traditional military methods. The Second Lebanon War is an example where this blending of tactics was observed.

³⁴ Scott Boston and Dara Massicot, “The Russian Way of Warfare: A Primer”, RAND Corporation, 2017, <https://www.rand.org/pubs/perspectives/PE231.html>.

³⁵ See also, Ilmari Kähkö, "The Evolution of Hybrid Warfare: Implications for Strategy and the Military Profession," *Parameters* 51, no. 3 (2021), 116-127. James N.Mattis, and Frank G. Hoffman. “Future Warfare: The Rise of Hybrid Wars.” *United States Naval Institute Proceedings Magazine* 131, no.11 (2005): 18–19.

³⁶ Frank G. Hoffman, “Hybrid Warfare and Challenges”, *Joint Forces Quarterly*, no. 52 (1st Quarter 2009): 34-39. See also, Aurel Sari, “Hybrid Warfare, Law and the Fulda Gap”,

of irregular combat.³⁷ The uniqueness of hybrid strategy lies in the seamless integration of different methods to produce synergistic effects within a single operational environment.³⁸ Many subsequent commentators have adopted Hofmann's definition, further developing the concept of hybrid war.³⁹

Characterizing hybrid warfare as a novel phenomenon in global relations has been met with criticism. Given that all nations partake in secret operations and that non-military tactics are standard diplomatic instruments, some argue that this concept is not particularly innovative.⁴⁰ It also resembles Cold War-era operations by opposing blocs and the irregular warfare tactics of many modern states. Experts are divided on whether it offers a useful framework for understanding current and future security threats. Critics argue that combining different conflict modes is as old as warfare itself, providing little new insight.⁴¹ Some claim that the hybrid warfare concept adds limited value to existing strategic terminology,⁴² while Sceptics highlight its 'elastic quality',⁴³ rendering it a vague 'catch-all phrase'⁴⁴ that reduces its analytical utility⁴⁵ and can become an 'orthodox label' hindering innovative thinking.⁴⁶

Many critics question the usefulness of hybrid warfare theory in understanding and countering Russia's military tactics.⁴⁷ They argue it overstates Russia's capabilities and intentions, wrongly treats Ukraine operations as a formal doctrine,⁴⁸ and heavily relies on the Crimea events of February 2014, overlooking the specific factors that led to that success.⁴⁹ Sceptics also doubt whether, beyond adding cyber capabilities and terminology, hybrid war

³⁷ See also Frank G Hoffman, *Conflict in the 21st Century: the Rise of Hybrid Warfare* Potomac Institute for Policy Studies, (2007), 28-30.

³⁸ Ibid, 29.

³⁹ For instance Hybrid warfare is defined as where one of the parties combines all available resources to produce synergistic effects against a conventionally adversary. Waseem Ahmad Qureshi, "The Rise of Hybrid Warfare", *Notre Dame Journal of International & Comparative Law* 10, no.2 (2020):17. In a different context, hybrid warfare is described as a blend of both symmetric and asymmetric warfare according to Hoffman's definition. However, it aims to expand on this concept by highlighting the various types of participants engaged in hybrid conflicts.3see, Jocelyn Garcia, "'Hybrid Warfare': One Term, Many Meanings", *Small War Journal*, <https://smallwarsjournal.com/2022/02/25/hybrid-warfare-one-term-many-meanings>.

⁴⁰ Balaji Chandramohan, "Waging Hybrid Warfare." *New Zealand International Review* 45, no. 6 (2020): 16–19, <https://www.jstor.org/stable/48651787>.

⁴¹ Russell W. Glenn "Thoughts on "Hybrid" Conflict", *Small Wars Journal* (2009), <https://smallwarsjournal.com/blog/journal/docs-temp/188-glenn.pdf>. For details see, Frank G. Hoffman, "Complex Irregular Warfare: The Next Revolution in Military Affairs", *Orbis* 50, no.3 (2006): 395–411.

⁴² Chiara Libiseller, "'Hybrid Warfare' as an Academic Fashion." *Journal of Strategic Studies* 46, no. 4 (2023): 858–80, <https://www.tandfonline.com/doi/full/10.1080/01402390.2023.2177987>.

⁴³ Jan Angstrom, Escalation, Emulation, and the Failure of Hybrid Warfare in Afghanistan, *Studies in Conflict & Terrorism*, 40, no.10 (2017): 838–856.

⁴⁴ John J. McCuen "Hybrid Wars", *Military Review* 88, no.2 (2008):107-113.

⁴⁵ Mikael Weissmann, "Hybrid warfare and hybrid threats today and tomorrow: towards an analytical framework", *Journal on Baltic Security* 5, no.1(2019): 17-26.

⁴⁶ Andrew Monaghan, "The 'War' in Russia's 'Hybrid Warfare'," *Parameters* 45, no. 4 (2015): 64-77.

⁴⁷ Lawrence Freedman, "Ukraine and the Art of Limited War", *Survival* 7, (2014). The benefits of hybrid warfare are doubted and Commentators have also dispute the novelty of Russian Hybrid warfare. For details see, Mark Galeotti, Hybrid, "Ambiguous, and Non-linear? How New is Russia's 'New Way of War'?", *Small Wars & Insurgencies* 27,(2016):293–296.

⁴⁸ Cox, Dan G., Bruscino, Thomas & Ryan, Alex, "Why Hybrid Warfare is Tactics Not Strategy: A Rejoinder to 'Future Threats and Strategic Thinking'", *Infinity Journal* 2, no. 2(2012):25-29.

⁴⁹ Monaghan, "The 'War' in Russia's 'Hybrid Warfare'", 68.

offers any genuinely new insights.⁵⁰ While these points have some validity, they overlook the broader context of hybrid warfare, which emerges from our operational landscape where law is a strategic tool. Non-state entities now contest state authority, and while inter-state conflicts have decreased, internal armed conflicts have risen. In response to hybrid threats from Russia, countries are investing in strategic methods to combat this new type of warfare, forming coalitions to address these challenges.⁵¹

The Legal Implications of Hybrid Warfare under International Law

a. Jus ad Bellum

Hybrid warfare challenges traditional jus ad bellum regulations, blurring lines between traditional warfare and cyber-attacks, disinformation campaigns, economic coercion, and clandestine operations.

Grasping the relationship between hybrid warfare and international law is crucial for combating hybrid threats. These strategies erode the safeguards of territorial integrity and sovereignty. The key concern is the prohibition on acts of aggressive war, with hybrid methods regarded as the “Supreme international crime.”⁵² The Kellogg-Briand Pact, along with its mention in the Nuremberg and Tokyo trials, classifies the Crime of Aggression as a violation of international law. The UN Charter also prohibits this crime, which is widely acknowledged as a violation of international legal standards. The Charter restricts acts of aggression by prohibiting the use of force, except in cases of self-defense or when authorized by the Security Council. Article 2(4) states that “nations have the right to defend themselves against threats or actual use of force that endangers their territorial integrity or political sovereignty”.⁵³ Prohibited actions include activities akin to armed attack, which form the basis of a state's right to self-defense under Article 51 of the UN Charter, allowing force in defense against armed assault.

Article 5 of NATO's Atlantic Charter emphasizes collective defense, stating that an armed assault on one member is considered an assault on all, thereby prompting a collective response. This strategy is designed to deter aggression and maintain the shared security of allies.⁵⁴ Both the UN Charter and NATO's framework illustrate the balance between individual state rights and multilateral defense commitments in maintaining international peace and security.⁵⁵

⁵⁰ Benjamin Wittes, What is Hybrid Conflict?, Lawfare, September 11, 2015, <https://lawfareblog.com/what-hybridconflict>. See also Damien Van Puyvelde, “Hybrid War – Does It Even Exist?” *NATO Review*, <http://www.nato.int/docu/review/2015/Also-in-2015/hybrid-modern-future-warfare-russiaukraine/EN>.

⁵¹ The European Centre of Excellence is in Helsinki, officially opened in October 2017, engages in strategic dialogue, research, training, and consultation to identify vulnerabilities to hybrid threats and enhance resilience against them. For brief info see, Press Release, Government of Finland, European Centre of Excellence for Countering Hybrid Threats Established in Helsinki, April 11, 2017), http://valtioneuvosto.fi/en/article/-/asset_publisher/10616/eurooppalainen-hybridituhkien-osaamiskeskus-perustettiin-helsinkiin; Press Release, North Atlantic Treaty Organization, NATO Welcomes Opening of European Centre for Countering Hybrid Threats, (Apr. 11, 2017), http://www.nato.int/cps/en/natohq/news_143143.htm.

⁵² Tessa McKeown, “The Nuremberg Trial: Procedural Due Process at the International Military Tribunal,” *Victoria University of Wellington Law Review* 19, no. 45 (2014): 110-149.

⁵³ See U.N. Charter Art. 2(4). See also G.A. Res. 3314 (XXIX), Definition of Aggression (Dec. 14, 1974), <https://documents-ddsny.un.org/doc/RESOLUTION/GEN/NR0/739/16/IMG/NR073916.pdf?OpenElement>.

⁵⁴ Article 4 of the NATO. <https://vajiramandravi.com/upsc-daily-current-affairs/prelims-pointers/article-4-of-the-nato/>.

⁵⁵ Pol Navarro I Serradell, “A Comparative Study of Article 5 of the NATO and Article 42(7) Of the Treaty on The European Union: 2 Its Scope and Limits,” *European Army Interoperability Centre*, (2024):1-20.

One of the various contentious issues related to the right of self-defense, which is partly outlined in Article 51 of the UN Charter and governed by customary international law, is the clarification of what constitutes an “armed attack.” According to the ICJ, it is the sole “trigger” for the inherent right to a state self-defense against both regular military forces and irregular armed groups dispatched by a state. In cases of individual self-defense, the exercise of this right depends on whether the state in question has been subjected to an armed attack. As illustrated in *Nicaragua v. United States of America*

The Court sees no reason to deny that, under customary law, the prohibition of armed attacks can also apply when a State sends armed bands into the territory of another State if such an operation, due to its scale and effects, would have been considered an armed attack rather than a mere frontier incident if carried out by regular armed forces.⁵⁶

The classification of actions as an “armed attack,” “act of aggression,” or unlawful use of force” according to Article 2(4) of the UN Charter is still a matter of contention, since neither the UN Charter nor other treaty laws provide definitions for these terms.⁵⁷ In the Nicaragua case, the ICJ claims that what constitutes “an armed attack” cannot simply be categorized as “a mere frontier incident,” regardless of how that term is defined.⁵⁸

Hybrid warfare evolves gradually, often remaining below the threshold of armed conflict, making it hard to identify attacks under international law. This ambiguity may deter states from self-defense due to fears of backlash, encouraging aggressive actors to use hybrid tactics risk-free, thereby undermining global peace. Inconsistent responses due to a lack of clear guidelines can embolden aggressors and destabilize regional security, particularly when actions are low-intensity or executed by irregular groups.⁵⁹

The jurisprudence of International Court of Justice (ICJ) has indicated that, according to customary law, a ban on armed assaults could apply to a State that dispatches armed groups into another nation if the scope and consequences of that action are similar to those of an armed attack rather than a trivial border incident, as would be the case if conducted by official military forces.⁶⁰ In the Nicaragua case, the ICJ explained that a “simple border incident”—although this term needs clarification—does not meet the criteria of an “armed attack” and therefore does not automatically justify self-defense, unless the attack's severity warrants such a response. Nonetheless, some argue that this cautious interpretation has been challenged by certain states and scholars.⁶¹ It appears more persuasive to shift focus from the ICJ's stress on the severity in the Nicaragua ruling and rather regard any action that results in or is likely to result in property damage, injury, or loss of life as an “armed attack.” This definition would strengthen a state's right to self-defense under IHL principles of necessity and proportionality,

⁵⁶ See *Nicaragua v. United States of America*, particularly the section on page 103 of the 1986 ICJ Reports, paragraph 195, which was delivered on June 27, 1986.

⁵⁷ For details see, Yoram Dinstein, *War, Aggression and Self-Defence*, 190-193.

⁵⁸ Roman Kwiecień, “The Nicaragua Judgment and the Use of Force – 30 Years Later”, *POLISH Yearbook of international law* (2016): 22-36.

⁵⁹ Violeta Vasiliauskienė & Vyktintas Stumbrys, “Problematic Aspects of the Legal Definition of Hybrid Warfare”, *Public Security And Public Order* 33, (2023):142-153.

⁶⁰ Morten M. Fogt, “Legal Challenges Or “Gaps” By Countering Hybrid Warfare – Building Resilience In Jus Ante Bellum”, *Southwestern Journal Of International Law* 27, no. 1 (2020) 30-98. Also see, Kasey McCall-Smith, “Treaty Bodies: Choreographing the Customary Prohibition against Torture”, *International Community Law Review* 21, 3-4 (2019): 344-368

⁶¹ Ibid.

ensuring that responses to minor assaults, including hybrid warfare, remain proportionate and legally justified.

The event accumulation theory examines whether multiple smaller incidents can collectively be seen as an armed attack.⁶² The ICJ recognizes a severity threshold that distinguishes "the most severe forms" of force from "less severe ones," emphasizing how minor incidents can escalate into armed attacks. This "spiking" theory is employed by some governments to justify self-defense claims, and while several states support it, the rise of transnational terrorist attacks is prompting others to adopt this approach more openly.⁶³

In international law, normative aggregation is important when a series of malicious cyber activities can be connected to a single State. As in domestic criminal law, individual malicious cyber acts need not constitute separate wrongful acts if their combined effects breach an international obligation.⁶⁴ This approach, known as the "Accumulation of Events Theory" or "Nadelstichtaktik," illustrates how several actions can be viewed collectively as a breach.⁶⁵

Determining if hybrid activities qualify as armed attacks for self-defense requires assessing if their outcomes are similar to kinetic weapons. The overall impact of harmful actions must be causally related, time-linked, and originate from a common source.⁶⁶ The assessment begins with the initial wrongful act and continues until it ends. Self-defense should be proportionate and necessary to be effective. When addressing hybrid actions, evaluations of the principles of necessity and proportionality focus on what is required to diminish the offending state's capability or intention to persist in its wrongful actions.⁶⁷

The attribution issue remains unresolved; it's unclear if the actions can be attributed to specific states or non-state groups. Evidence linking hybrid attacks to particular actors and assessing the scale of minor attacks is uncertain. This ambiguity complicates establishing a legal basis, such as *jus ad bellum*, for invoking self-defense or collective self-defense, while still allowing a victim state to justify self-defense on the basis of a series of hybrid acts.

Many *jus ad bellum* issues regarding state self-defense involve complex legal grey areas. Key questions include the nature of the targeted entity in an armed attack—whether it's a person, military unit, facility, or territory—along with the required proof and intent (*mens rea*). The debate continues on whether multiple small incidents can collectively justify action, allowing states to conduct legally acceptable hybrid actions under self-defense standards.⁶⁸

Covert tactics are essential in hybrid warfare, exploiting vulnerabilities in the global enforcement framework. These weaknesses emerge when actions go unpunished, particularly in cases of ambiguous attribution. Aggressors operate in a grey zone between peace and conflict, minimizing international response and creating confusion that undermines decision-

⁶² M. Ahmadi Fard, M. Hatami and F. Azadbakht, "The Theory of Accumulation of Events in the Appeal to International Self-Defense," *International Law Review* 40, no. 70 (2023): 53-76.

⁶³ Ibid.

⁶⁴ J. Francisco Lobo, "One Piece at a Time: The 'Accumulation of Events' Doctrine and the 'Bloody Nose' Debate on North Korea", *Lawfare*, March 16, 2018, <https://www.lawfaremedia.org/article/one-piece-time-accumulation-events-doctrine-and-bloody-nose-debate-north-korea>.

⁶⁵ Ibid.

⁶⁶ Michael McLaughlin, "Deterring the Next Invasion: Applying the Accumulation of Events Theory to Cyberspace", *Opiniojuris*, February 2, 2023, <https://opiniojuris.org/2023/03/02/deterring-the-next-invasion-applying-the-accumulation-of-events-theory-to-cyberspace/>

⁶⁷ Ibid.

⁶⁸ Morten M. Fogt, "Legal Challenges Or "Gaps" By Countering Hybrid Warfare – Building Resilience In *Jus Ante Bellum*", 30-98.

making and alliances. This hampers states' abilities to address hybrid threats, highlighting the need to reassess Article 2(4) to tackle these challenges.

b. Jus in Bello

Jus in bello, or IHL, regulates the conduct of warfare.⁶⁹ When analyzing hybrid warfare, questions and issues arise surrounding the jus in bello or IHL. The measures of hybrid warfare, as mentioned, are often executed below the threshold of international law. Therefore, the connection between hybrid warfare and IHL is intricate and poses several challenges for various reasons.

Hybrid warfare complicates the application of International Humanitarian Law (IHL) by blurring the lines between warfare and peace, making it difficult to gauge the presence and intensity of armed conflict. The Tadic case at the ICTY has provided a widely recognized definition of armed conflict that is frequently referenced.⁷⁰ ICTY states that “an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organised armed groups or between such groups within a State.”⁷¹ In hybrid actions, states often hide their involvement by using proxies and unmarked personnel, complicating the identification of the organizers and the determination of armed conflict. The intensity of these actions is difficult to measure; individually, they may not qualify as an armed attack, but together, they can lead to similar consequences. This raises the question of whether these actions can be aggregated to determine if the threshold for armed conflict has been reached.

Second, a key principle of jus in bello is the clear distinction between combatants and non-combatants or civilians⁷² to protect non-combatants and ensure that hostilities are conducted in a manner that minimizes harm to them.⁷³ Nevertheless, this distinction is considerably influenced by the various actors are involvement in hybrid warfare. This challenges categorization of individuals engaged in armed conflicts, leading to significant inquiries about the legal status of these participants and the protections provided to civilians under IHL.⁷⁴

As traditional battle lines become obscured, the uncertainty surrounding who qualifies as a combatant intensifies consequently making it harder to apply principles of IHL.⁷⁵ As a result, the effectiveness of it in safeguarding at-risk populations is challenged, underscoring a pressing need for clear legal definitions and enforcement strategies in light of the changing

⁶⁹ Yoram Dinstein, *the Conduct of Hostilities under the Law of International Armed Conflict* (Cambridge University Press, 2004), 1.

⁷⁰ Ibid.

⁷¹ For details see, *The Prosecutor v. Dusko Tadic*, ICTY 1995. IT-94-1-A, 2 October 1995, para. 70, <https://www.icty.org/x/cases/tadic/acdec/en/51002.htm>.

⁷² Kusal Amarasinghe, “The shape of war in the 21st century: An Analysis Of The Challenges Posed By The Contemporary Armed Conflicts With Reference To International Humanitarian Law”, *International Journal of Law* 7, no.1(2021): 01-06. For details, Yoram Dinstein, *the Conduct of Hostilities under the Law of International Armed Conflict*, 82.

⁷³ Ibid. See also, Shane Reeves, “The Viability of the Law of Armed Conflict in the Age of Hybrid Warfare”, *Lawfare*, December 5, 2016, <https://www.lawfaremedia.org/article/viability-law-armed-conflict-age-hybrid-warfare>

⁷⁴ Stuart Casey-Maslen, *Hybrid Warfare under International Law*, 57.

⁷⁵ Marco Marsili, “Hybrid Warfare: Above or Below the Threshold of Armed Conflict?” *Honvédségi Szemle*. 150, (2022):36-48.

landscape of warfare.⁷⁶ Furthermore, conventional jus in bello systems, primarily focused on physical interactions and national boundaries, struggle to account for the complexities of digital warfare. The integration of cyber tactics into hybrid warfare complicates matters and raises questions regarding the evaluation of the legality of cyber-attacks, especially when these operations may not cause immediate physical harm or fatalities but can still disrupt vital services and induce chaos.⁷⁷

Third, the principle of proportionality prohibits attacks “which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated”.⁷⁸ Article 51(5)(b) of the 1977 Additional Protocol I, deals with it.⁷⁹ In hybrid warfare, which combines conventional and unconventional tactics, applying this principle is increasingly difficult.⁸⁰ Instance may involve, a state might carry out cyberattacks to disrupt critical infrastructure, resulting in widespread economic damage and possible civilian casualties. While the military advantage might be immediate, the long-term consequences and potential escalation could outweigh the initial gains.⁸¹ A state may conduct cyberattacks to disrupt critical infrastructure, leading to economic damage and civilian casualties. While the immediate military advantage might seem beneficial, the long-term consequences and potential escalation could outweigh the initial gains.⁸² The interconnectedness of modern societies complicates the Principle of Proportionality, as hybrid conflicts can lead to unintended effects and difficulties in tracing attacks. This highlights the need for a new framework to evaluate proportionality and attribution in evolving conflicts.

⁷⁶ Gergley Tóth,, “Legal Challenges in Hybrid Warfare Theory and Practice: Is There a Place for Legal Norms at All?.” In: Sergey Sayapin, S., Evhen Tsybulenko,(eds) *The Use of Force against Ukraine and International Law*. (T.M.C. Asser Press: 2018), 179.

⁷⁷ Morten M. Fogt, “Legal Challenges Or “Gaps” By Countering Hybrid Warfare – Building Resilience In Jus Ante Bellum”, 30-98.

⁷⁸ Yoram Dinstein, *the Conduct of Hostilities under the Law of International Armed Conflict*, 119.

⁷⁹ The 1907 Hague Regulations also address this principle, acknowledging it as part of customary international law. These regulations introduced the principle of distinction as a core rule, which prohibits direct attacks on non-military objectives. Nonetheless, this does not mean that targets with both civilian and military importance can be attacked without restrictions. Article 23(e) bans the use of “arms, projectiles, or material calculated to cause unnecessary suffering,” while Article 27 advises attacking forces to minimize, as much as possible, damage to buildings of religious or cultural importance. See, Anita Parlow, “Toward a Global Ban on Landmines.” *International Review of the Red Cross*, (1995), <https://doi.org/10.1017/s0020860400072934>). It wasn't until the 1977 Geneva Convention that a consensus on the finer points of proportionality was achieved. The first additional protocol to this document, which was later ratified, includes several specific provisions that are regarded as embodying the concept. The clearest of these is Article 51(5). For details see, Dr. Amichai Cohen, “Proportionality in the Modern Law of War: An Unenforceable Norm, or the Answer to Our Dilemma?”, *the Begin-Sadat Center for Strategic Studies* (2006), Proportionality in the Modern Law of War: An Unenforceable Norm, or the Answer to Our Dilemma?. The principle of proportionality is “among the most complex and misunderstood in [IHL] with respect to both interpretation and application. For details see, CDR Peter Pascucci, “Distinction and Proportionality in Cyber War: Virtual Problems with a Real Solution”, *Minnesota Journal of International Law* 6, no.2 (2017):419-460.

⁸⁰ Stuart Casey-Maslen, *Hybrid Warfare Under International Law* 143. .see also, CDR Peter Pascucci, “Distinction and Proportionality in Cyber War: Virtual Problems with a Real Solution”, 419-460.

⁸¹ Alaa Al Dakour Al Aridi, “The Problem of Hybrid War in International Law”, Doctoral Dissertation Vilnius University, 2022, 213.

⁸² CDR Peter Pascucci, “Distinction and Proportionality in Cyber War: Virtual Problems with a Real Solution”, 419-460.

Additionally, hybrid warfare could entail the manipulation of current legal structures, which might diminish the efficacy of IHL. States can exploit legal loopholes to justify actions that would typically breach accepted legal norms. Consequently, laws of war may need to be reassessed and modified to confront the unique challenges posed by these contemporary conflicts.⁸³ Further, Hybrid warfare presents significant challenges in the investigation and prosecution of breaches of *jus in bello*, which was evident in the case of “Russia’s annexation of Crimea”.⁸⁴

The use of proxy forces and secret operations complicates the attribution of responsibility for violations of international humanitarian law. States may engage in deniable actions to evade accountability, creating a complex legal and ethical environment. The difficulties in establishing clear command and control in hybrid warfare further hinder the identification and accountability of those who commit violations.⁸⁵

In summary, the complex nature of hybrid warfare raises concerns regarding the sufficiency of current legal frameworks to tackle these new challenges. Consequently, the global community faces an urgent need to modify and enhance systems for upholding international humanitarian law amid hybrid warfare, in order to ensure that offenders are held accountable and to strengthen the deterrent effect of these legal principles.⁸⁶ Addressing these obstacles will require collaborative actions from legal experts, military strategists, and international law practitioners to create frameworks that adapt to the evolving nature of contemporary conflict.

Way Forward: Establishing a Holistic Legal Framework for Hybrid Warfare

The earlier conversation indicates that legal standards shape the evaluation of political and military activities, particularly the definition of an "armed attack" in Article 51 of the UN Charter. To prevent reactions described by the Charter, hybrid warfare must remain beneath

⁸³ Ibid.⁸³ Amb Mikko Kinnunen, Dr Aurel Sari, “Dear Geneva: Let's Talk Hybrid Warfare”, Geneva Center for Security Policy, March 18, 2019, <https://www.gcsp.ch/news/dear-geneva-lets-talk-hybrid-warfare>.

⁸⁴ Following the invasion on February 24th, ICC Prosecutor Karim A.A. Khan outlined his intention to seek permission to begin investigations into the developments in Ukraine. A referral from a State Party is the most efficient method, as it streamlines the ICC's authorization process compared to the prosecutor's own-initiative investigations. By March 2nd, 2022, 40 countries had approached the court regarding the situation in Ukraine. On that date, Khan declared the commencement of investigations into potential war crimes, crimes against humanity, and genocide committed by anyone on Ukrainian soil since 2013. However, the ICC cannot prosecute individuals for the crime of aggression in the Ukraine conflict. This crime is distinct from the other three, as it specifically involves political or military leaders rather than lower-ranking soldiers implicated in war crimes. It is associated with "a person in a position effectively to exercise control over or to direct the political or military action of a State", Article 8 bis (1) of ICC Rome statute, 1998. In contrast to the other three fundamental crimes, the International Criminal Court's (ICC) authority over the crime of aggression is limited to the territories of State Parties to the Rome Statute that have accepted the ICC's jurisdiction over this crime or through a referral by the UN Security Council. As neither Ukraine nor Russia are members of the ICC, and given Russia's veto power in the Security Council, the ICC is unable to bring charges against Russian senior officials, including President or top military leaders, for the crime of aggression. For details see, Jannis Figura, “International criminal justice and the war in Ukraine”, *Peace & Conflict Management, Research*, January 14, 2023, <https://behorizon.org/international-criminal-justice-and-the-war-in-ukraine/>. See also, Sonia Boulos, “Prosecuting Russia’s Crime of Aggression: A critical reflection”, *Revista de Estudios en Seguridad Internacional* 10, no.1(2024): 179-194, <https://seguridadinternacional.es/resi/html/prosecuting-russias-crime-of-aggression-a-critical-reflection/>

⁸⁵ Amb Mikko Kinnunen, Dr Aurel Sari, “Dear Geneva: Let's Talk Hybrid Warfare”, Geneva Center for Security Policy, March 18, 2019, <https://www.gcsp.ch/news/dear-geneva-lets-talk-hybrid-warfare>.

⁸⁶ Amb Mikko Kinnunen, Dr Aurel Sari, “Dear Geneva: Let's Talk Hybrid Warfare”, Geneva Center for Security Policy, March 18, 2019, <https://www.gcsp.ch/news/dear-geneva-lets-talk-hybrid-warfare>.

the legal level of an armed attack. Therefore, hybrid strategies seek to exploit existing legal limits, weaknesses, and gaps. This involves understanding the differences among intervention, use of force, armed attacks, internal unrest, tensions, IAC, and NIAC. It is also crucial to differentiate between overall and effective control in hybrid conflict. These thresholds and vulnerabilities have long existed; hybrid warfare exploits them without creating them. What may be new is the intentional use of hybrid tactics to achieve strategic goals in a changing environment. This creates specific legal difficulties, and the examination of the legal dimensions of hybrid warfare has thus far been rather restricted.

Hybrid warfare threatens the rule of law. It involves obvious breaches of international law, often hidden behind superficial legal justifications, which reveal and exacerbate the weaknesses of the international legal framework.

Moreover, it questions the legal framework governing non-conventional/kinetic operations. Although IHL mainly emphasises regulating kinetic effects, military doctrine and practices are increasingly adopting a wider range of non-kinetic strategies and techniques. This raises questions about the theoretical foundations of the warfare framework, which relies on the (albeit imperfect) binary division of war and peace. Furthermore, the 21st century has revealed a pattern of blurring the lines between war and peace, highlighting the growing significance of non-kinetic strategies in achieving states' political objectives. At Chatham House, General Houghton stated that "the clear division between war and peace no longer exists, suggesting we are now in a constant state of global competition."⁸⁷ Similarly, according to Michael Fallon, the UK Secretary of State for Defence, hybrid warfare is "a phenomenon that blurs the boundaries of what constitutes an act of war". This erosion of distinctions, as discussed by Gerasimov, Houghton, and Fallon, poses a significant challenge to a rule-based framework that depends on clear separation and peace.⁸⁸

When addressing the issue of legal thresholds and their potential manipulation, clarifying these boundaries could help reduce legal ambiguity. However, this is often ineffective because these thresholds are not due to legislative errors or negligence but rather to fundamental political choices and deadlocks. Legal grey areas arise because States either choose not to, or fail to, reach consensus on clarifying laws. Therefore, efforts to reduce legal uncertainty only provide partial solutions. A more practical approach might involve developing comprehensive policies and doctrines to promote unified efforts. Furthermore, legal ambiguity could be perceived as a benefit instead of a disadvantage, particularly in situations involving multinational disputes.

Hence, hybrid warfare revisits several longstanding legal debates that have emerged in recent years. These include discussions on how to classify armed conflicts, the standards for attributing actions, and the legal limits of NIAC. Attribution is particularly significant because governments often deny their involvement in hybrid operations to avoid provoking retaliation from their opponents.

The legal challenges of hybrid warfare are complex. Addressing these issues requires a comprehensive strategy that functions on both strategic and operational levels. Ensuring

⁸⁷Building a British military fit for future challenges rather than past conflicts, Speech by General Sir Nicholas Houghton, Chief of the Defence September 15, 2015, <https://www.gov.uk/government/speeches/building-a-british-military-fit-for-future-challenges-rather-than-past-conflicts>. See generally, Lonnekey Peperkamp, "The Blurry Boundaries Between War and Peace: Do We Need to Extend Just War Theory?" *Archiv Für Rechts- Und Sozialphilosophie*, 102, no.3 (2016):315-332.

⁸⁸ Stronger defence in a more dangerous world, speech by Michael Fallon, Secretary of State for Defence, December 7, 2015, <https://www.gov.uk/government/speeches/stronger-defence-in-a-more-dangerous-world>.

compliance with the rule of law remains an ongoing challenge, as it is crucial to uphold the fundamental principles of international law. This challenge is heightened by the deliberate vagueness inherent in hybrid warfare, which makes it harder to identify specific violations and hinders a coordinated response. In a highly competitive and divided information environment, legal arguments and claims increasingly compete for attention.

When discussing legal thresholds and their misuse, it's helpful to clarify these boundaries to minimise ambiguity. However, this method is ineffective because thresholds are not due to legislative mistakes but stem from fundamental political deadlocks. Legal uncertainties arise because States either choose not to or are unable to clarify every law. Therefore, addressing legal uncertainty can only partially resolve the issue. A more effective approach might be to develop strong policies and doctrines.

Hybrid warfare blends legal and political objectives, often using law to advance political aims. For law to truly serve society, it should remain separate from politics. The strategic use of law in hybrid warfare risks this separation, necessitating a clear understanding of 'lawfare.' General Charles Dunlap describes lawfare as the strategic use of legal principles to achieve military objectives. It's essential to differentiate between legitimate legal actions in warfare and manipulative tactics to effectively analyze adversarial actions and respond to hybrid threats.

Therefore, to create a comprehensive legal framework for hybrid warfare under international law, the following aspects need to be considered:

1. Assess current legal frameworks: Review existing international laws and agreements that may pertain to hybrid warfare, including the UN Charter, IHL principles, and customary international law.
2. Identify deficiencies in existing regulations: Highlight areas where current legislation does not adequately address hybrid warfare and suggest new legal frameworks to bridge these gaps.
3. Create attribution mechanisms: Develop reliable strategies to classify hybrid war actions as the responsibility of either state or non-state actors, which is essential for ensuring accountability.
4. Define thresholds for intervention: Set clear standards to decide when hybrid warfare activities qualify as armed attacks or armed force under international law.
5. Include cyber-specific regulations: Create detailed legal guidelines for cyber operations, encompassing rules of engagement and proportional responses.
6. Address non-military actions: Develop legal standards for managing issues like disinformation tactics and economic coercion. Clearly define state accountability by specifying the obligations and responsibilities of states in the prevention and management of hybrid warfare actions.
7. Create enforcement mechanisms: Implement effective measures for enforcement and compliance to guarantee adherence to the new legal framework.
8. Encourage capacity building: Take such measures to help states enhance their abilities to identify, revert, and respond to hybrid warfare, and suggest ways to improve information sharing and cooperation among nations to tackle hybrid challenges.

Conclusion

Hybrid warfare has blurred the line between traditional war and other types of conflict, making it harder to link hybrid activities to specific entities and challenging the application of jus ad bellum and jus in bello principles. To address these issues, establishing a legal framework for hybrid warfare is crucial. This framework should define hybrid warfare, establish attribution

mechanisms, and set thresholds for when hybrid actions qualify as an armed attack or use of force. It must also cover cyber operations, non-kinetic strategies, and the roles of NSA. Additionally, promoting international cooperation and creating enforcement tools are essential for its effectiveness. The global community needs to adapt its legal approaches to protect civilian infrastructure, distinguish between belligerents and non-belligerents, and uphold the rule of law amid the evolving nature of hybrid warfare. This involves balancing the need to clarify legal uncertainties with the flexibility to address emerging threats. Ultimately, responding to the legal challenges of hybrid warfare requires a comprehensive strategy that combines legal expertise, military tactics, and international cooperation. A well-structured legal framework will enable the world to respond to hybrid threats more effectively while maintaining the core principles of international law and security.

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