

LEGAL WARFARE AS A STRATEGIC INSTRUMENT IN THE CONFIGURATION OF CONTEMPORARY CONFLICTS

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ABSTRACT

In the context of the intensification of hybrid wars and global geopolitical competition, international law and national legal norms no longer function solely as regulatory mechanisms but have become instruments of influence within the logic of confrontation. This article examines the main modalities of lawfare, ranging from the use of international courts and the imposition of economic sanctions to the exploitation of normative gaps and the adoption of legislation with extraterritorial effects. The analysis of representative case studies (Israel-Palestine, USA-China, Russia-Ukraine) demonstrates that lawfare simultaneously serves as a tool for justifying one's own actions and discrediting adversaries, producing significant consequences for public perception and the balance of power. The article highlights the consolidation of lawfare as a strategic instrument of hybrid warfare and underscores its implications for the stability and legitimacy of international law.

KEYWORDS: legal warfare, lawfare, contemporary conflicts, hybrid warfare, legal strategy

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1. Introduction

The evolution of armed conflicts over the past decades highlights a profound transformation of the traditional paradigm, moving beyond the classical framework of land, naval, and air confrontations. The expansion of competition into new domains – cyber, informational, and cognitive – has generated alternative modalities for projecting and exercising power. Within this dynamic, legal warfare, or lawfare (Dunlap Jr., 2001), has emerged as a distinct dimension with increasing strategic relevance in the architecture of contemporary conflicts.

The research on this subject is based on a qualitative, analytical-explanatory approach, employing the comparative case study method. The selection of cases (the

Middle East, the Ukrainian conflict, and the South China Sea dispute) was made based on their strategic significance, international visibility, and the diversity of forms in which lawfare manifests. The analysis aims to identify patterns in the strategic use of legal norms, international institutions, and legal discourse, as well as to assess their impact on legitimacy and the balance of power. The limitations of the study stem from the dynamic nature of the conflicts under analysis and from unequal access to complete official sources.

From a historical and cultural perspective, lawfare is not an innovation of the contemporary era but rather the modern expression of a much older practice: the use of law as an instrument of domination,

legitimization, and control. From the imperial codes of antiquity to the international tribunals of the twenty-first century, law has always been more than a regulatory mechanism – it has served as a symbolic weapon of order. During the colonial era, European colonial powers extended this logic by imposing their legal norms on foreign territories. The British, French and Spanish empires justified their domination by claiming to civilise the colonised peoples through law. Thus, law became a form of “symbolic violence” exercised in the name of order (Muller & Sintomer, 2006).

In the twentieth century, lawfare manifested itself through the ad hoc tribunals and international trials established in the aftermath of the two world wars. The Nuremberg Tribunal (1945-1946) (Owen, 2006) inaugurated the modern paradigm of international criminal law, transforming justice into a form of political pedagogy. In this process, the legal act served not only as an instrument of punishment but also as a means of rewriting history, establishing through its verdict an official narrative regarding guilt and legitimacy.

Lawfare can be defined as “*the use of legal systems and institutions to influence internal or external affairs, either as a more rational and peaceful alternative to military confrontation or as a less benign extension of it*” (Dunlap Jr, 2021). From this perspective, the judicial sphere becomes a genuine battlefield, where international treaties, courts, and national legislation with global effects are converted into strategic instruments. Far from representing a peripheral phenomenon, legal warfare now occupies a central position in the architecture of contemporary conflicts, exerting significant influence over the dynamics of global power relations.

At the same time, the analysis of lawfare cannot be separated from the broader context of hybrid warfare, within which military, political, economic, legal,

and informational dimensions intertwine in a multidimensional competition. The use of law as a strategic weapon reflects not only a shift in the means of confrontation but also a reconfiguration of legitimacy in international relations. Thus, studying this phenomenon becomes essential for understanding the configuration of current conflicts and the transformations reshaping the international order.

The major transformations in the international security environment in recent decades have brought to the forefront complex phenomena that are difficult to situate within the traditional patterns of war theory. Contemporary conflicts are characterized by a fluid blend of military, economic, informational, and legal instruments, making their analysis transcend the boundaries of a single discipline. In this context, the legal order – once conceived as a mechanism for regulation and limitation of violence – has evolved into a strategic weapon employed to achieve political and military objectives.

Legal warfare thus becomes an essential component of hybrid conflicts (Efimov, 2019), in which the boundaries between peace and war, legality and illegality, legitimacy and illegitimacy are deliberately blurred. States and non-state actors employ international treaties, mechanisms of the International Criminal Court, sanctioning instruments, or ad hoc tribunals both to justify their own actions and, equally, to erode the perceived legitimacy of their adversaries’ actions. In parallel, global public opinion is influenced through informational campaigns that portray these legal actions as expressions of a superior moral order. Consequently, lawfare is not merely a technical-legal strategy but also a cultural phenomenon, reflecting how societies define the relationship between norms, power, and justice (Kitttrie, 2016).

Security studies and political science have devoted increasing attention to this issue, recognizing that the analysis of

contemporary conflicts cannot be complete without integrating the legal dimension. At the same time, specialists in international law warn of the dangers of instrumentalizing legal norms, which – rather than guaranteeing stability in the international order – become themselves zones of contestation. From this perspective, legal warfare raises essential questions: How far can the strategic use of legal instruments be pushed without undermining their authority? Is lawfare an expression of the adaptability of the international legal order to the realities of modern conflict, or, on the contrary, a manifestation of its crisis?

Moreover, the phenomenon has a strong cultural and axiological dimension (Manners, 2002). While in the Western strategic space there is a predominant tendency to use law in order to legitimize military interventions or economic sanctions in the name of universal values, other strategic cultures – such as the Russian or Chinese – regard legal norms as flexible instruments, adaptable to national interest. These divergent perceptions generate additional tensions, illustrating the fact that *“legal warfare is not merely a battle of arguments before international courts, but also a confrontation between cultural paradigms: for some, law is the expression of a universal moral order; for others, it is simply a political tool in a multipolar world”* (Rajkovic, 2020).

The working hypothesis starts from the premise that legal warfare represents not only an extension of hybrid conflict but also a fundamental challenge to the rules-based international order. If the legal act is diverted from its intended purpose, it risks losing its neutrality and becoming a source of instability. Yet the same dynamic also highlights its potential for adaptation and transformation, insofar as the global community identifies mechanisms for balancing the strategic use of norms with the need for legitimacy and stability.

From a constructivist perspective, lawfare is understood not merely as the manipulation of norms but as a struggle over the definition of legality itself. The legal act functions as an instrument for constructing political reality, and norms become expressions of the identities and values of international actors. According to constructivist theory (Finnemore & Sikkink, 1998), the legitimacy of an action does not derive solely from its conformity to a formal rule but from the discursive acceptance of that rule within the international community. In this context, lawfare entails a narrative battle for control over the concepts of “law”, “justice”, and “legality”. For example, humanitarian interventions, economic sanctions, or international criminal proceedings simultaneously function as legal instruments and political messages, intended to shape global public perceptions.

2. Law as a Political Weapon: An Interdisciplinary Approach

The analysis of the lawfare phenomenon cannot be complete without an interdisciplinary approach, as it lies at the intersection of law, political science, and strategic culture.

In political science, the concept aligns with the theory of normative power (Manners, 2002), according to which political actors influence the international environment by disseminating their own values and norms. Lawfare thus becomes a particular form of normative power, in which the state does not impose its will through coercion but through the discursive construction of legitimacy. This dimension is closely related to the idea of soft power: power results not only from military or economic capabilities but also from the attractiveness of ideas, institutions, and values (Nye Jr., 2004). In this sense, a trial before the International Criminal Court, a United Nations Security Council resolution (2015), or a legally framed media campaign

may have strategic effects comparable to those of a military or diplomatic operation.

From the perspective of international law, lawfare provokes a redefinition of the function of norms. Whereas in the classical paradigm international law served to limit violence and protect sovereignty, today it is actively employed to reshape the conditions of legitimate intervention. The interventions in Kosovo (1999), Iraq (2003), and Crimea (2014) demonstrated that norms can be invoked selectively, and legitimacy can be constructed through interpretation. In this context, the legal act is no longer merely an arbiter but an active participant in conflict, becoming a space for strategic confrontation. International courts, economic sanctions, and exceptional legal regimes function simultaneously as mechanisms of political pressure and instruments of strategic communication.

The connection between lawfare and strategic culture is also fundamental. According to Jack Snyder, strategic culture represents the set of values and perceptions that shape a state's military and diplomatic behavior (Snyder, 1977). Applying this theory to the legal domain, one can observe that each society develops its own way of understanding and employing legal instruments. Western states tend to view law as an extension of a universal moral order, whereas other powers treat it as a flexible instrument of negotiation and legitimation. In Russian strategic culture, for example, law is often subordinated to state interest, while in Chinese strategic culture it is understood as a means of maintaining harmony and stability rather than a transcendent norm.

This diversity of perspectives confirms that lawfare is not merely a legal strategy but also a cultural reflection of collective identities. The legal act is not only a "mechanism of regulation" but also a cultural device for producing order, expressing and legitimizing collective

representations of power and social equilibrium (Comaroff & Comaroff, 2006).

Thus, the analysis of lawfare requires an approach that transcends the boundaries of institutionalized legal doctrine and enters the domains of political philosophy, culture, and the sociology of law. The legal act is not simply a norm but a strategic language of power, and legal confrontations between states – whether before international tribunals or within the symbolic arena of the global order – constitute today one of the subtlest forms of warfare.

Legal warfare involves exploiting the international normative framework (international humanitarian law, international criminal law, the law of the sea, human rights regulations) to obtain asymmetric advantages. Instead of direct confrontation, actors resort to politico-legal strategies, using international justice institutions, authoritarian legal regimes, and legal rhetoric as forms of pressure and of shaping international public opinion. Therefore, this type of warfare must be understood not only as a theoretical concept but as an operational reality of the contemporary international system. Beyond its normative dimension, the phenomenon gains empirical substance through the ways in which state and non-state actors exploit legal instruments to advance their strategic interests, as illustrated by relevant case studies depicting the practical application of legal warfare in distinct regional contexts.

2.1. Conflicts in the Middle East: Palestine-Israel, Iraq, Syria

In the context of conflicts in the Middle East, the legal dimension of confrontation has acquired decisive strategic value, becoming an essential instrument of political and diplomatic competition. The Palestine-Israel case illustrates the transformation of political confrontation into a legal one through the constant appeal to international human rights law and international criminal law.

The Palestinian Authority has used the institutional mechanisms of the International Criminal Court (ICC) (Schabas, 2017) to submit complaints concerning settlement policies in the West Bank and Israeli military operations in the Gaza Strip, framing them as war crimes and grave violations of international humanitarian law. These steps represent a form of strategic instrumentalization of the international legal framework, intended to exert political and moral pressure on Israel through international legal mechanisms.

Israel, in turn, rejects the jurisdiction of the International Criminal Court, invoking its non-party status to the Rome Statute (Schabas, 2016) and reaffirming the principle of legal sovereignty in criminal matters. Through this position, Israel seeks to maintain its decision-making autonomy in matters of security and military action, relying on defensive legal arguments to reinforce its legitimacy at the international level.

Regarding Iraq and Syria, the legal dimension of the conflicts has been marked by the invocation of international norms by both sides, reflecting the tension between the principles of state sovereignty and the imperatives of collective security. External military interventions carried out in these areas were frequently justified by invoking the Responsibility to Protect (R2P) doctrine (ICISS, 2001) and the right to collective self-defense, concepts well established in contemporary international law.

International coalitions led by Western states grounded the international recognition of their actions on United Nations Security Council resolutions (United Nations, 1945) and on extensive interpretations of international humanitarian law, viewing armed intervention as a necessary measure to protect civilian populations and combat transnational terrorism.

In opposition, regional actors and affected governments – particularly the Syrian government – contested the validity

of these justifications, labeling external interventions as violations of the principle of non-interference in internal affairs and of the territorial integrity of the state. Consequently, the legal sphere became an arena of symbolic confrontation between two incompatible paradigms: the legality of humanitarian intervention and the legitimacy of national sovereignty.

This fragmentation underscores the fact that, in the context of the conflicts in Iraq and Syria, international law has functioned simultaneously as an instrument of constraint and justification, reflecting the dual nature of legal warfare as a mechanism for exercising normative power within the international system.

2.2. The Ukrainian Conflict

The conflict in Ukraine represents one of the most complex and illustrative manifestations of legal warfare in the contemporary era, as it integrates in exemplary fashion all dimensions of this phenomenon: the strategic use of international institutions, the construction of legal discourse, and the employment of the normative framework as a means of strengthening strategic legitimacy. Beginning in 2014, with the annexation of Crimea, and intensifying significantly after the Russian Federation's large-scale aggression in February 2022, the international legal order has transformed into a parallel arena of confrontation alongside the military one, in which law, sanctions regimes, and the management of global public perception are employed as instruments for consolidating power.

Ukrainian decision-makers adopted an active juridico-diplomatic strategy, appealing to the International Criminal Court (ICC) and the International Court of Justice (ICJ), invoking violations of international humanitarian law and of the Convention on the Prevention and Punishment of the Crime of Genocide (1948). In March 2023, the ICC issued

arrest warrants for senior Russian officials, including President Vladimir Putin, accused of the unlawful deportation of Ukrainian children from occupied territories (Cîrciumaru, Petrescu & Ioniță, 2022) – an unprecedented decision that underscores the principle of individual criminal responsibility at the highest political level.

In parallel, the European Union, the United States, and their Western allies imposed a complex regime of economic and legal sanctions grounded in public international law and domestic compliance legislation, thereby shaping an emergent form of juridico-economic warfare. These coercive measures sought not only to deter aggression but also to redefine the legal architecture of European security, in which law becomes an instrument of strategic deterrence.

On the other side, the Russian Federation constructed an alternative legal narrative, invoking the right to collective self-defense (under Article 51 of the UN Charter) and the protection of Russian minorities in Donbas and Crimea as legal justifications for the military intervention (Cîrciumaru, Petrescu & Ioniță, 2022). This strategy reflects the use of legal discourse in a defensive-propagandistic manner through which Moscow attempts to counter diplomatic isolation and challenge what it portrays as the Western monopoly over interpreting the international legal order.

Thus, the Ukrainian conflict highlights the dual nature of legal warfare, in which the same norms are invoked for contradictory purposes – defending the international order versus contesting it. In this context, international law becomes a field of normative power in which legality, legitimacy, and global perception are transformed into symbolic weapons of geopolitical confrontation. This dynamic confirms that, in the post-2022 era, the Ukrainian conflict does not represent a mere complementary dimension of military warfare but a structural component of the new global strategic paradigm, in which

law simultaneously serves as a means of constraint, justification, and contestation.

2.3. The Maritime Dispute in the South China Sea

In the Asia-Pacific region, the dispute over the South China Sea constitutes one of the most relevant contemporary expressions of legal warfare in the field of the law of the sea. The struggle for control over maritime routes, energy resources, and strategically significant islands has transformed the international legal framework into an essential instrument of regional and global geopolitical competition.

China has grounded its territorial claims on the “nine-dash line” doctrine (Rață, 2017), asserting historical continuity of sovereignty over most of the disputed maritime area. In opposition, the littoral states – particularly the Philippines, Vietnam, Malaysia, and Indonesia – have appealed to the dispute-resolution mechanisms provided by the United Nations Convention on the Law of the Sea (UNCLOS), challenging the historical claims invoked by Beijing and reaffirming the principle of freedom of navigation (Permanent Court of Arbitration, n.d.).

The defining moment of this juridico-strategic confrontation was the 12 July 2016 decision of the Permanent Court of Arbitration in Republic of the Philippines versus People’s Republic of China, whereby the arbitral tribunal rejected the validity of the nine-dash line, declaring it incompatible with UNCLOS provisions. The ruling reaffirmed the Philippines’ sovereignty over its exclusive economic zone and confirmed the principle that historical rights cannot prevail over international law.

Although China refused to recognize or implement the arbitral verdict, invoking the tribunal’s alleged lack of jurisdiction and the political nature of the case, the legal and symbolic effects of the decision were significant. The ruling strengthened the

normative position of international maritime law, providing an important precedent for the delimitation of maritime spaces and for legitimizing the positions of smaller states vis-à-vis major powers.

Thus, the South China Sea dispute illustrates how international law becomes a field of strategic confrontation in which legal norms function simultaneously as instruments for asserting, challenging, and contesting state power. This situation reflects the dual and paradoxical nature of legal warfare – its capacity to operate both as a regulatory mechanism and as a means of geopolitical competition within the contemporary international order.

In the context of contemporary conflicts, international law has become a strategic instrument of power, used by states and organizations both to justify their own actions and to undermine the legitimacy of their adversaries. Through lawfare, legal norms and institutions are exploited for strategic purposes to confer legality upon political, military, or economic interventions, thereby strengthening domestic and international support. In parallel, the same norms are invoked to denounce “illegal” behavior and to politically isolate rivals, transforming courts, diplomatic discourse, and international bodies into tools of symbolic and legal pressure. In this sense, law is no longer merely a regulatory framework but a field of strategic confrontation, where legitimacy becomes a key resource in global competition.

Legal warfare exerts a profound impact on the architecture of international security, reshaping the relationships between norms, power, and legitimacy. Through the selective use of international law, state and organizational actors redefine the operating rules of the global system, transforming legal institutions into arenas for projecting strategic influence (Lindez & Miró Colmenárez, 2024). This trend partially undermines the traditional role of law as a stabilizing factor, generating

normative fragmentation and competition among various interpretations of international legality. As a consequence, the international order becomes increasingly asymmetric, dominated by states capable of combining legal power with political, economic, and military capabilities (Kittrie, 2016). Courts, sanctions, treaties, and resolutions no longer function solely as regulatory tools but also as instruments of geopolitical influence, intensifying tensions between the principles of international law and the realities of power. Thus, legal warfare not only reflects but also redefines the global security balance, transforming law into an active mechanism of strategic competition among major powers.

3. Conclusions

Legal warfare (lawfare) has established itself as one of the most prominent manifestations of the transformation of contemporary conflicts, marking the shift from classical military confrontations to a competition for legitimacy and influence. Within this new logic, international law becomes a strategic instrument of power, employed both to confer legitimacy upon one’s own actions and to undermine the legal credibility of adversaries. Through the political instrumentalization of norms, states and international organizations no longer act solely within the existing legal order but actively reshape it, redefining the relationship between norms, power, and legitimacy.

Lawfare reflects a dual reality: on the one hand, it can strengthen the rules-based international order by offering peaceful means of dispute resolution; on the other hand, its selective use generates normative divergence, double standards, and confrontation between competing legal interpretations of international legality. This ambivalence underscores the structural tension between the universal ideal of law and the inherently conflictual nature of international politics.

Contemporary cases – from the South China Sea dispute and the Ukrainian conflict to the legal controversies in the Middle East – demonstrate the operational character of legal warfare. In all these examples, the legal act is transformed into a space of strategic confrontation, where courts, sanctions, and legal instruments operate as tools of geopolitical influence.

Therefore, legal warfare is not merely an integrated dimension of hybrid conflict but an expression of the transition toward a geopolitics of norms, in which the struggle for power is conducted through

interpretation, argumentation, and legitimacy. Legal warfare reshapes the international security architecture, transforming the legal act from a regulatory mechanism into an active instrument of global strategic competition. Understanding this phenomenon thus becomes essential for analyzing new forms of conflict and anticipating the future evolution of the international order. Through a comparative analysis of case studies, the research highlights the operational nature of lawfare and confirms its structural integration within the architecture of hybrid conflict.

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