

January 2003

The Law of Information Conflict: National Security Law in Cyberspace

Stephen D. Rynerson

Follow this and additional works at: <https://digitalcommons.du.edu/djilp>

Recommended Citation

Stephen D. Rynerson, The Law of Information Conflict: National Security Law in Cyberspace, 31 Denv. J. Int'l L. & Pol'y 637 (2003).

This Book Note is brought to you for free and open access by the University of Denver Sturm College of Law at Digital Commons @ DU. It has been accepted for inclusion in Denver Journal of International Law & Policy by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, digitalcommons@du.edu.

The Law of Information Conflict: National Security Law in Cyberspace

Keywords

Obligations, Weapons, Military, War and Peace, Self-Defense, Humanitarian Law

THOMAS C. WINGFIELD, *THE LAW OF INFORMATION CONFLICT: NATIONAL SECURITY LAW IN CYBERSPACE*, Aegis Research Corp., Falls Church, VA (2000); ISBN: 0-9670326-1-X; 497 pp. (hardcover).

Despite having authored a string of well-received law review articles,¹ *The Law of Information Conflict* is Thomas C. Wingfield's first full-length book. Mr. Wingfield is Principal National Security Policy Analyst for the Aegis Research Corporation, which specializes in security consulting on information technology issues. Accordingly, *The Law of Information Conflict* is focused on the question of how international law applies to military and intelligence operations in cyberspace.

The book is divided into four main parts. Part I contains the book's introduction, including a brief comparison between the evolution of international law concerning aerial warfare and cyber warfare, and a chapter analyzing the military applications of cyberspace. This latter chapter is a superficial overview that, while useful for persons not familiar with information operations, could be skipped by those who have previous experience with the subject.

Part II of *The Law of Information Conflict* is also divisible into two major portions. The first three chapters are devoted primarily to a summary of the current status of international law concerning the outbreak of hostilities, with discussion of the principles of necessity, proportionality, avoidance of unnecessary collateral damage and anticipatory self-defense. Particular attention is paid to the implications of U.N. Charter Articles 2(4), 39 and 51 and Geneva Convention Article 2. This section is capped off with "a linear model for a heuristic use of force analysis" that lays out a range of possible diplomatic and military responses against a spectrum of interstate relations reaching from peace to open warfare. The second portion of Part II applies the principles drawn from the previous chapters' analyses of international law to possible acts of cyberwarfare (such as jamming telecommunications) to establish what sorts of response would be appropriate. This section ends with a flowchart setting out the questions that must be answered to determine whether an information operation would constitute a use of force under international law and another linear model for a heuristic use of force analysis, this time fleshing out the model with specific sorts of state conduct previously discussed in the second section.

Part III of the book is devoted to the subject of the law of armed conflict. It opens with a detailed overview of key principles in the law of armed conflict, including discrimination between civilian and military targets, military necessity and prevention of unnecessary suffering, proportionality of response and the law of

1. Including *Taking Aim at Regime Elites: Assassination, Tyrannicide, and the Clancy Doctrine*, 22 MD. J. INT'L L. & TRADE 287 (1999) and *Forcible Protection of Nationals Abroad*, 104 DICK. L. REV. 439 (2000).

chivalry. This is followed by a compilation of commentary on, and excerpts of, key documents on the subject of the law of armed conflict. These range from the 1856 Paris Declaration Respecting Maritime Law to the 1981 U.N. Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects. The final section of Part III is a survey of particular legal doctrines covering information warfare in the context of the specialized theaters of sea, air and space, as well as the implications of the domestic laws of the state targeted for a hostile information operation.

The Law of Information Conflict concludes with Part IV, which offers a chapter distinguishing computer network espionage (a permissible activity under international law) from computer network attack, and a chapter summarizing the key points of international law relating to cyberwarfare developed through the course of the book. Also included in the book's final pages are a glossary of legal and intelligence terminology and no fewer than six appendices. The appendices cover, *inter alia*, the sources of international law, excerpts of the U.N. Charter and U.N. General Assembly Resolution 3314 on the definition of interstate "aggression," and selected U.S. government documents on rules of military engagement and information operations.

Published on a limited in-house basis by the security consulting firm Aegis Research Corporation, *The Law of Information Conflict* is, in fact, more than a mere book, it is a conceptual multi-media extravaganza. In addition to the actual book, discussed above, Aegis also offers a CD-ROM on the subject of information warfare, which includes the full text of the book, as well as workshops that build on themes discussed in the book.

In conclusion, although not necessarily of use to a skilled practitioner or advanced student of international law or cyberwarfare, *The Law of Information Conflict* is a useful introduction to a topic that will become ever more important in the Twenty-First Century.

*Stephen D. Rynerson**

* The author received his J.D. from the University of Denver, College of Law in 2003. He also received a B.S. in Economics and B.A. in History from Regis Univeristy in 1997. He is currently an associate in Perkins Coie's Denver office practicing in their new Unfair Competition group. His article *Everybody Wants to Go to Heaven, But Nobody Wants to Die: The Story of the Transatlantic Common Aviation Area* appeared in 30 DENV. J. INT'L L. & POL'Y 421 (2002).