

**“ARMED CONFLICT AND ECONOMIC WARFARE: IMPACT ON GLOBAL
TRADE AND ROLE OF INTERNATIONAL LEGAL FRAMEWORKS”**

Dissertation submitted to the National University of Advanced Legal Studies, Kochi
in partial fulfilment of the requirements for the award of LL.M. Degree in
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I, **FATHIMATH USAIMA**, do hereby declare that this dissertation work titled **“ARMED CONFLICT AND ECONOMIC WARFARE: IMPACT ON GLOBAL TRADE AND ROLE OF INTERNATIONAL LEGAL FRAMEWORKS”** researched and submitted by me to the National University of Advanced Legal Studies in partial fulfilment of the requirement for the award of degree of master of laws in **INTERNATIONAL TRADE LAW** under the guidance and supervision of **DR BALAKRISHNAN K, ASSOCIATE PROFESSOR & RAVEENDRAKUMAR D, ASSISTANT PROFESSOR**, The National University of Advanced Legal studies, is an Original, Bonafide and Legitimate work. It has been pursued for an academic interest. This work or any type thereof has not been submitted by me or anyone else for the award of another degree of either this university or any other university.

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PREFACE

This dissertation explores the complex interplay between armed conflict, economic warfare, and their far-reaching impacts on global trade, with a particular focus on the adequacy of existing international legal frameworks to regulate these phenomena. As the global economy becomes increasingly interconnected, the consequences of conflict and economic coercion are felt not only within the immediate zones of violence or targeted economies but also across broader international markets, affecting the livelihoods of millions worldwide.

The research is motivated by a pressing need to understand how the contemporary fusion of kinetic and economic instruments of statecraft challenges the normative and institutional architecture painstakingly constructed since 1945. It examines the triad of International Humanitarian Law (IHL), the United Nations collective-security system, and the World Trade Organization (WTO) trading regime, assessing their strengths, limitations, and areas of overlap in addressing hybrid threats that blend military aggression with economic pressure.

Through a doctrinal legal analysis supplemented by case studies—such as the Russia–Ukraine conflict, the 2018 U.S.–China trade war, and historical sanctions regimes like that imposed on Southern Rhodesia—the dissertation sheds light on the trade disruptions caused by both armed conflict and economic warfare. It evaluates the sufficiency of present legal mechanisms in mitigating these disruptions and offers recommendations aimed at strengthening the protective capacity of IHL, improving the design and enforcement of UN sanctions, and clarifying the boundaries of permissible economic measures under WTO law.

The research contributes to ongoing scholarly and policy debates by bridging the often-siloed discussions of security, trade, and humanitarian law. It argues that while the existing legal regimes are neither obsolete nor ineffective, they are straining under the weight of contemporary strategic competition and technological disruption. By highlighting gaps in coverage, particularly regarding new forms of economic coercion and digital warfare, the study proposes a forward-looking agenda that includes norm clarification, institutional reform, and enhanced compliance mechanisms.

LIST OF ABBREVIATIONS

ACLED – Armed Conflict Location & Event Data

AI – Amnesty International

AJIL - American Journal of International Law

AM. J. INT'L L. - American Journal of International Law

AM. U.L. REV. - American University Law Review

API – Additional Protocol I to the 1949 Geneva Conventions (Protection of Victims of International Armed Conflicts)

AP II – Additional Protocol II to the 1949 Geneva Conventions (Protection of Victims of Non-International Armed Conflicts)

BRIT. Y.B. INT'L L. - British Yearbook of International Law

CAR – Central African Republic

DSB – Dispute Settlement Body (WTO)

DSU – Dispute Settlement Understanding (WTO)

EUR. J. INT'L L. - European Journal of International Law

EU – European Union

EYIEL MONOGRAPHS - European Yearbook of International Economic Law Monographs

G7 – Group of Seven

GATT – General Agreement on Tariffs and Trade

GDP – Gross Domestic Product

GA. J. INT'L & COMP. L. - Georgia Journal of International and Comparative Law

GEO. WASH. J. INT'L L. & ECON. - George Washington Journal of International Law and Economics

HARV. INT'L L. REV. - Harvard International Law Review

HS - Harmonized System (World Customs Organization goods-classification nomenclature)

IAC - International Armed Conflict

ICJ – International Court of Justice

ICRC – International Committee of the Red Cross

ICTY – International Criminal Tribunal for the former Yugoslavia

IHL – International Humanitarian Law

ILC – International Law Commission

IMF – International Monetary Fund

LAWS – Lethal Autonomous Weapons Systems

LNG – Liquefied Natural Gas

NAFTA – North American Free Trade Agreement

NIAC – Non-International Armed Conflict

NGO – Non-Governmental Organization

OAPEC – Organization of Arab Petroleum Exporting Countries

OECD – Organisation for Economic Co-operation and Development

OPEC – Organization of the Petroleum Exporting Countries

PLFS – Palestinian Labour Force Survey

POW – Prisoner of War

S&P 500 – Standard & Poor's 500-Share Index

SIPRI – Stockholm International Peace Research Institute

SME – Small and Medium-sized Enterprise

SWIFT – Society for Worldwide Interbank Financial Telecommunication

TFEU – Treaty on the Functioning of the European Union

UCDP – Uppsala Conflict Data Program

UK – United Kingdom

UN – United Nations

UNCTAD – United Nations Conference on Trade and Development

UNGA – United Nations General Assembly

UNSC – United Nations Security Council

US – United States

WCO – World Customs Organization

WMD – Weapons of Mass Destruction

WTO – World Trade Organization

WWI – World War I

WWII – World War II

TABLE OF CASES

Serial No.	Name of Case
1	Prosecutor v. Delalić, et al., case No. IT-96-21-T, 16 Nov. 1998
2	Prosecutor v. Thomas Lubanga Dyilo, Decision on the Confirmation of Charges, case No. ICC-01/04-01/06, 29 Jan. 2007
3	Prosecutor v. Charles Ghankay Taylor, trial judgment, case No. SCSL-03-1-T, 26 April 2012
4	Prosecutor v. Dusko Tadic, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, case No. IT-94-1-AR72, 2 Oct. 1995
5	Prosecutor v. Limaj, judgment, case No. IT-03-66-T, 30 Nov. 2005

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CHAPTER 1: INTRODUCTION

1.1 Background and Context

In an era marked by increasing globalization, armed conflicts and economic warfare profoundly impact international trade. These conflicts, both international and non-international, disrupt trade routes, impose economic sanctions, and escalate political tensions, hampering the global economy. The study explores how these conflicts affect trade and the efficacy of international legal mechanisms in regulating these impacts.

Armed conflicts have been a constant feature of human civilization since antiquity. Early warfare was characterized by relatively small-scale conflicts between city-states and empires, often centred on territorial control, resource acquisition, and political dominance. Ancient civilizations such as Mesopotamia, Egypt, and China developed organized military structures and rudimentary rules governing conflict, including practices related to declarations of war, treatment of prisoners, and religious prohibitions.

The catastrophic humanitarian consequences of the World Wars prompted significant developments in international humanitarian law, culminating in the four Geneva Conventions of 1949. These conventions established comprehensive protections for wounded and sick armed forces personnel, prisoners of war, and civilians during international armed conflicts.

The establishment of the United Nations and adoption of the UN Charter created new legal constraints on the resort to force in international relations. Article 2(4) prohibited the "threat or use of force against the territorial integrity or political independence of any state," with exceptions only for self-defence (Article 51) and Security Council authorization (Chapter VII).

The frequency of interstate warfare declined significantly, while intrastate conflicts became more prevalent. Civil wars, insurgencies, and other forms of internal armed conflict became the dominant form of warfare, challenging the traditional state-centric conception of armed conflict and creating gaps in legal regulation.

Economic warfare represents the systematic use of economic measures to weaken an adversary's economic foundations, military capabilities, and political stability. Unlike conventional armed conflict, economic warfare lacks a universally accepted definition

in international law, creating conceptual ambiguity that complicates its regulation. The concept has evolved from an adjunct to military operations to a distinct strategic approach that may be employed independently of or in conjunction with kinetic warfare.

The conceptual foundations of economic warfare can be traced to classical strategic thinking. Sun Tzu's "The Art of War" emphasized attacking an enemy's strategy and alliances before engaging in battle, principles that underpin modern economic warfare. Similarly, Carl von Clausewitz's understanding of war as "the continuation of politics by other means" provides a theoretical framework for understanding economic measures as instruments of coercion below the threshold of armed conflict.

The modern conceptualization of economic warfare emerged during the industrial age when economic capacity became increasingly central to military power. Alfred Thayer Mahan's influential work on sea power emphasized the strategic importance of commerce and commercial blockade, establishing theoretical foundations for naval economic warfare that remain relevant today.

1.2 Research Problem

The intersection of armed conflict and economic warfare represents a critical and complex challenge in the context of global trade. These phenomena disrupt trade networks, alter market stability, and impose significant economic costs on affected regions and beyond. Despite the presence of international legal frameworks aimed at mitigating such impacts, the adequacy, enforcement, and evolution of these frameworks remain unclear.

1.3 Research Question

- How effective are current international legal mechanisms in regulating armed conflict and economic warfare?
- What is the impact of armed conflict and economic warfare on global trade?
- How do economic sanctions and other forms of economic warfare reshape global trade patterns?

1.4 Rationale and Significance of the Study

This research is significant for understanding the interplay between armed conflict, economic warfare measures like sanctions and embargos, and their implications on

global commerce. It contributes to the body of legal scholarship by analysing existing regulatory frameworks and assessing their ability to maintain trade stability during conflicts.

1.5 Scope and Limitation

The research will include an analysis of international conflicts, focusing on modern and historical examples such as the Ukraine-Russia conflict, US-China trade War, UN Sanctions on Southern Rhodesia etc. The study excludes conflicts without substantial global trade impact.

1.6 Theoretical Framework and Literature Review

Theoretical Framework

The research draws on international law theories, including the doctrines of *jus ad bellum* and *jus in bello* and economic theories regarding sanctions and trade embargos. It incorporates the principles of international humanitarian law and the roles of organizations like the WTO and UN.

Review of Existing Research

Current literature addresses the economic impacts of conflicts, the roles of legal frameworks (e.g., Geneva Conventions, WTO agreements), and the effectiveness of international law in conflict resolution. Gaps exist in how these frameworks affect global trade during conflicts and how international organizations mitigate trade disruptions.

- *Polachek, Conflict and Trade, Journal of Conflict Resolution*, developed the 'Conflict-Trade Model,' highlighting the welfare loss from conflicts due to trade disruptions. Various studies later supported his findings.
- *Blomberg and Hess, How Much Does Violence Tax Trade?* expanded the scope by analysing the impact of broader forms of violence, including terrorism and internal conflicts, on trade, equating violence's economic effect to a 30% tariff.
- *Glick and Taylor, Collateral Damage: Trade Disruption and the Economic Impact of War, Working Paper 11565*, focused on major wars like WWI and WWII, finding trade decreases up to 80%, with lasting effects on both belligerent and neutral countries.

- *Lamotte, Disentangling the Impact of Wars and Sanctions on International Trade, Comparative Economic Studies* studied sanctions and conflicts, specifically in former Yugoslavia, finding that sanctions had a more significant negative impact on trade than conflicts.
- *World Trade organization World Trade Report 2024*, conflict contributes to higher trade costs through disrupted supply chains, increased uncertainty, and the imposition of retaliatory trade barriers. This discourages investment and disproportionately affects smaller economies and firms.
- *United Nations Security Council (UNSC) Sanctions Regimes*. Chapter VII of the United Nations Charter. Sanctions measures, under Article 41, encompass a broad range of enforcement options that do not involve the use of armed force.
- *ACLED DATA*. Armed Conflict Location & Event Data (ACLED) is a disaggregated data collection, analysis, and crisis mapping initiative. ACLED collects information on the dates, actors, locations, fatalities, and types of all reported political violence and protest events around the world.
- *UCDP DATA*. The Uppsala Conflict Data Program (UCDP) is the world's main provider of data on organized violence and the oldest ongoing data collection project for civil war, with a history of almost 40 years.
- *UN Comtrade*. The United Nations Comtrade database aggregates detailed global annual and monthly trade statistics by product and trading partner for use by governments, academia, research institutes, and enterprises.
- Earlier empirical studies, like those by *Collier and Hoeffler* (1998, 2004) and *Fearon and Laitin* (2003), identify a negative link between income levels and shocks on one side, and coups, violence, and war on the other. Yet, interpretations of these results vary. Collier and Hoeffler (2004) view this negative relationship as supporting the opportunity cost hypothesis, suggesting that the expense of recruiting rebels rises with income growth.
- *Fearon and Laitin* (2003) contend that the outcome is instead influenced by the strong positive link between state capacity and income. When income is low, the state's ability to suppress potential rebellions is restricted. While these papers have been impactful, their cross-country empirical work has several drawbacks (*Blattman and Miguel 2010*). Notably, these studies don't fully consider how the income-conflict relationship varies based on country

circumstances (heterogeneity). Additionally, they don't address the potential interdependence of income changes and conflict, instead of assuming a one-way causation from income changes to conflict (endogeneity), which can skew empirical estimates. Later literature has attempted to tackle these issues.

- In analysing the impact of income changes on conflict in sub-Saharan Africa, *Miguel, Satyanath, and Sergenti (2004)* consider much of the heterogeneity by controlling for country differences that don't change over time but may influence the relationship between income changes and conflict. To address endogeneity, they isolate the part of income changes explained by rainfall variation, which conflict doesn't affect. Their analysis reveals a significant negative effect of income on conflict incidence. As income changes in Africa are largely linked to labour-intensive agriculture, this supports the opportunity cost hypothesis. This work sparked interest in using weather shocks as a tool for analysing income changes or as direct conflict determinants.
- Studies consistently find that significant deviations from usual weather patterns raise the likelihood of conflict (*Hsiang and Burke 2013*). This observation is especially evident in sub-Saharan Africa.
- Using small geographic cells for analysis, *Harari and La Ferrara (2012)* demonstrate that negative climate changes impact conflict incidence in Africa solely during the growing season. This aligns with the effect being channeled through income changes.
- Literature on the *Israeli-Palestinian* conflict and the opportunity cost of violence includes studies offering evidence both supporting and opposing the opportunity cost mechanism.
- *Berrebi (2007)* finds that individuals with higher education and living standards are more likely to become suicide bombers, contradicting the opportunity cost hypothesis. In contrast, *Sayre (2009) and Saleh (2009)* use district-level data to find the opposite. Additionally, *Cali, Miaari, and Fallah (2014)* see no support for the opportunity cost mechanism when linking public sector employment and Palestinian fatalities in the West Bank and Gaza during and after the Second Intifada.

- One interpretation of these findings is that participating in political violence holds little opportunity cost for public sector employees, as they don't incur significant costs from shirking.
- In a related study, *Miaari, Zussman, and Zussman* (2014) discover that areas more reliant on employment in Israel experienced higher fatalities after Israel suddenly imposed strict limits on Palestinian employment within its borders at the start of the Second Intifada. This assumes that the variation in pre-Intifada employment rates across West Bank areas was unrelated to previous conflict involvement. These results may offer some initial support for the opportunity cost mechanism for private employees.
- The Role of Economic Interdependence in Conflict Origins and Resolution, Author(s): *Derek Braddon*, studies of the "neighbour impact" of UN economic sanctions, like those against Serbia and Montenegro, show that while sanctions target specific regimes, they often harm civilians and disrupt trade in neighbouring countries, possibly worsening regional instability and fuelling further conflict.
- The paper by *J. Paul Dunne* from the Copenhagen Consensus Center examines the economic impacts of armed conflicts, highlighting the necessity for distinct strategies in conflict prevention, intervention, and post-conflict reconstruction.
- In "*The History of Economic Warfare*," *Tor Egil Følrand* explores economic warfare from the Seven Years' War to modern conflicts, emphasizing international law, effectiveness, and strategies. He argues that while economic warfare may shorten conflicts, its effectiveness is often exaggerated, as seen in World War II where blockades failed against Germany. The article critiques the historical reliance on international law, which declined after World War I. Strategies evolved from blockades to detailed contraband lists, yet outcomes remain inconclusive. Følrand suggests that the future of economic warfare is limited due to technological advances and nuclear capabilities, highlighting a need to reassess its role in modern conflict.
- *Derek Braddon's* paper explores the relationship between economic interdependence and conflict, presenting two opposing views: one suggests interdependence fosters peace, while the other believes it can incite resentment and conflict. The analysis, focusing on Africa and the Balkans, shows that

economic ties can mitigate conflict escalation but are not foolproof solutions. Empirical evidence suggests that excessive interdependence might heighten militarized disputes, especially when economic benefits are unevenly distributed. The findings highlight the necessity for strategic economic policies that promote mutual benefits among conflicting parties to enhance peace and stability

- In "*Economic Sanctions: A Blunt Instrument?*" Allen and Lektzian examine the public health effects of economic sanctions through a quantitative cross-national study, comparing them to military conflicts. They find that severe sanctions, which greatly reduce a target's GDP, lead to significant public health declines similar to those in major military conflicts. Life expectancy in sanctioned countries can drop by 12% during such conflicts. The authors advocate for "smart sanctions" and humanitarian exemptions to reduce these negative health impacts, emphasizing that when sanctions have minimal economic effects, their health impact is negligible. The study highlights the need to reassess sanctions as a foreign policy tool.
- In "*International Law and Armed Conflict in the 21st Century*," Varun Nambiar explores the relationship between International Human Rights Law (IHRL) and International Humanitarian Law (IHL), highlighting their complementary roles in managing armed conflict. He discusses historical precedents like the Geneva Conventions and the evolution of laws addressing war crimes, genocide, and victims' rights. With over 60 million lives lost in World War II, he underscores the need for effective legal protections. Nambiar calls for a unified approach to IHRL and IHL, emphasizing reparations for victims and holding states and individuals accountable for violations.
- Lawrence Hill-Cawthorne's article investigates the evolving divide between international and non-international armed conflicts in international humanitarian law (IHL), shaped by international human rights law (IHRL). Initially, IHRL blurred this distinction, but recent trends suggest preserving it, highlighting the need for separate legal frameworks. Important developments include the 1977 adoption of Additional Protocol II, codifying rules for non-international conflicts, and recognition by the International Criminal Tribunal for the former Yugoslavia that many international rules now apply to non-

international conflicts. The article concludes that while IHL and IHRL should coexist, the protective nature of IHRL may require reevaluating the legal classification of armed conflicts.

- In "*International Institutions Are the Key: A New Perspective on the Democratic Peace*," Hasenclever and Weiffen argue that interdemocratic institutions play a crucial role in preventing war among democracies by managing security dilemmas, fostering cooperation, and reducing spillover risks. They highlight three key functions: controlling power competition, sustaining cooperation, and increasing issue autonomy. The article critiques existing liberal approaches, noting that while democracies typically avoid wars with each other, robust interdemocratic institutions enhance this peace. Case studies, such as Argentina-Brazil and Japan-South Korea, demonstrate how these institutions stabilize democracies and reinforce peaceful interactions, ultimately supporting the thesis that effective institutional frameworks are vital for maintaining peace among democratic states.

1.7 Contribution to the Literature

This study will fill existing research gaps by offering a comprehensive review of the interaction between legal frameworks and trade impacts, adding insights into how these can be improved to safeguard international trade during conflicts.

1.8 Research Objectives and Hypotheses

Research Objectives

- Analyse how armed conflicts disrupt global trade.
- Assess the role of legal frameworks in regulating armed conflict and economic warfare.
- Study the consequences of economic warfare measures like sanctions and embargos on global trade.

Hypotheses

- Current international legal mechanisms are insufficient to regulate economic warfare and armed conflicts effectively.
- Armed conflicts negatively impact global trade.
- Economic warfare negatively impacts trade.

1.9 Research Methodology

Legal Research Methods

The research employs a doctrinal approach, focusing on analyzing treaties, international case laws, and scholarly literature. It uses a comparative analysis of case studies (e.g., Ukraine-Russia, WW1 and WW2) and historical data of previous conflicts.

1.10 Structure of the Dissertation

Chapter 1: Introduction

Chapter 2: Armed Conflict and Its Impact on Global Trade

Chapter 3: Economic Warfare and Its Impact on Global Trade

Chapter 4: International Legal Frameworks Governing Armed Conflict and Economic Warfare

Chapter 5: Conclusion and Recommendations

CHAPTER 2: INTERNATIONAL ARMED CONFLICT AND ITS IMPACT ON GLOBAL TRADE

2.1 Introduction

The origins of armed conflict display as much diversity as conflict itself, with war's foundations being complex and deeply rooted in historical contexts. Researchers have identified numerous potential contributing factors, including: the lasting impact of colonial rule; governments dominated by military institutions and societies characterized by militaristic values; tensions arising from ethnic and religious differences; development that proceeds unevenly across regions or populations; persistent economic inequality and widespread poverty; ineffective governance and leadership alongside weak or inadequate political systems; interference or manipulation by external powers; motivations based on economic gain, exploitation of opportunity, or practical feasibility; and competition over valuable natural resources.¹ Most conflicts resist simple explanation, typically involving an intricate combination of multiple factors—a complexity that significantly affects both peace-making efforts and the effectiveness of reconstruction initiatives following conflict resolution.

Expert opinions diverge regarding warfare's consequences. Some scholars propose that conflict may serve a constructive function in modernizing societies, suggesting that warfare can generate positive outcomes or at least produce beneficial side effects in certain contexts. However, the majority of analysts emphasize that conflict's destructive impacts impose substantial costs and negatively affect economic development and stability.² Furthermore, these adverse consequences often persist long after hostilities cease, creating enduring challenges that societies must navigate during post-conflict recovery periods. The economic, social, and psychological damage inflicted during wartime frequently requires generations to fully overcome, extending conflict's true cost far beyond the immediate destruction observed during active hostilities.

In 2024, the Stockholm International Peace Research Institute (SIPRI) estimated global military expenditure at \$2.443 trillion, the highest level ever recorded by SIPRI and the steepest year-on-year increase since 2009.³ SIPRI's data also showed that, between

¹ J Paul Dunne, *Armed Conflict*, Copenhagen Consensus Center (2012)

² *Id.*

³ Stockholm International Peace Research Institute, *Global military spending surges amid war, rising tensions and insecurity*, SIPRI (Aug. 21, 2024, 6:21 PM), <https://www.sipri.org/media/press-release/2024/global-military-spending-surges-amid-war-rising-tensions-and-insecurity>.

2019 and 2023, the five largest arms exporting nations were the United States, France, Russia, China and Germany (taken together, they supplied approximately 75% of the world's arms exports during this period).⁴ Four of these countries are the permanent members of the United Nations Security Council.

2.2 Definition of International Armed Conflict

Common Article 2 of the Geneva Conventions of 1949 defined International Armed Conflict (IAC) as “all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.”⁵ IAC can always be assumed when parties of the armed forces of two States clash with each other. IAC is based on objective and factual criteria and does not rely on the formal declaration of war. ⁶The category of IAC encompasses a broad range of international hostilities, including, but not limited to:⁷

- All cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.⁸
- An unconsented invasion or deployment of a State’s armed forces on the territory of another State, even if it does not meet with armed resistance.⁹
- Armed conflicts in which people are fighting against colonial domination, alien occupation, or racist regimes.¹⁰
- Minor skirmishes between the armed forces, be they land, air, or naval forces.¹¹

⁴ Pieter D. Wezeman, Katarina Djokic, Dr Mathew George, Zain Hussain, and Siemon T. Wezeman, Stockholm International Peace Research Institute, “*Trends in International Arms Transfers, 2023*”, Stockholm International Peace Research Institute, (Feb. 27, 2024, 6:22 AM), <https://doi.org/10.55163/PBRP4239>.

⁵ Geneva Convention for The Amelioration of The Condition of The Wounded and Sick in Armed Forces in The Field, Aug. 12, 1949, 6 UST 3114, 75 UNTS 31.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

Article 3 of the Geneva Conventions provides for “the case of armed conflict not of an international character.”¹² The category of NIAC includes:¹³

- Armed conflicts between a State Party and one or more organized non-State Parties.¹⁴
- Armed conflicts which do not include a State Party but are between two or more organized non-State Parties.¹⁵
- Confrontations must occur between organized Parties possessing organized armed forces. While NIAC occurs predominantly within a State, NIAC may feature extraterritorial aspects and/or become internationalized with the involvement of foreign States in support of one or more Parties.¹⁶
- The termination of NIAC is also based on objective criteria and not the declaration of a ceasefire, armistice, or peace agreement. International humanitarian law “extends beyond the cessation of hostilities until...a peaceful settlement is achieved”.¹⁷

The framers of the Geneva Conventions deliberately chose not to provide an explicit definition for the term "armed conflict" within the articles, representing a strategic and purposeful decision rather than a simple omission. This intentional lack of definition serves an important function by eliminating political considerations from the application of the Conventions in violent scenarios for which these legal frameworks were specifically created.¹⁸

Having gained valuable lessons from previous experiences with formal concepts such as "declarations of war," the architects of these documents purposefully adopted the terminology of "armed conflict" to ensure that the triggering mechanism for the Conventions would remain perpetually relevant rather than becoming an obsolete historical artifact.¹⁹ Instead, they established a concept designed to endure and adapt in response to evolving conflict environments where the protections outlined in the

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Int'l Comm. of the Red Cross [ICRC], *How Is The Term “Armed Conflict” Defined In International Humanitarian Law?* Opinion Paper 2024.

¹⁹ *Id.*

Conventions are essential.²⁰ As a result, the implementation of International Humanitarian Law has subsequently been based on evidence-driven assessment of actual situations rather than relying exclusively on formal acknowledgments by warring parties that a state of war exists between them.²¹

The international legal system lacks a centralized authority responsible for officially designating situations as armed conflicts; therefore, parties involved in conflicts must independently determine which legal frameworks govern their military activities and operations.²² The International Committee of the Red Cross (ICRC) conducts its own separate assessment of factual circumstances and systematically categorizes situations to guide its operational activities in the field. Multiple factors necessitate this classification process by the ICRC.²³ Primarily, through the Statutes of the International Red Cross and Red Crescent Movement, the High Contracting Parties to the 1949 Geneva Conventions have explicitly tasked the ICRC with promoting understanding and dissemination of international humanitarian law applicable during armed conflicts, while also facilitating its continued development and evolution.²⁴

Additionally, a fundamental component of the ICRC's institutional mandate involves assisting parties in fulfilling their legal responsibilities during armed conflict situations.²⁵ Therefore, interpreting the concept of "armed conflict" to establish the relevant legal framework carries significant operational implications for the organization's work.²⁶ Furthermore, the formal existence of an armed conflict—whether classified as international or non-international—constitutes an essential foundation for the ICRC's mandate itself.²⁷ In international armed conflicts, for instance, the ICRC possesses the explicit right to visit both prisoners of war and civilian detainees.²⁸

Similarly, the Geneva Convention grants the ICRC extensive initiative rights during non-international armed conflicts.²⁹ For these various reasons, when armed conflict

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

erupts, the ICRC typically communicates its legal classification to all involved parties. The ICRC generally also informs third-party entities of its classification determination and publicly discloses this position.³⁰ Depending on particular circumstances, however, the ICRC may in exceptional cases choose to withhold its legal assessment from conflict participants, third parties, or the general public.³¹

In a comprehensive opinion document released in 2008, the ICRC publicly disclosed the predominant legal perspective regarding the definition of International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC) under International Humanitarian Law.³² This significant document revealed not merely the ICRC's classification methodology but also how the concept of armed conflict had been interpreted through both judicial decisions and scholarly analysis during the nearly six decades following the Geneva Conventions' drafting and adoption.³³

Throughout the 15-year period since that publication's release, new and complex challenges have emerged in conflict environments worldwide.³⁴ The ICRC has identified several evolutionary patterns in armed group participation within conflicts, whether as direct parties or supporting entities.³⁵ These evolutionary patterns include coalition support from multiple states to governments engaged in NIACs, non-consensual military operations by states within foreign territories, the formation of armed group coalitions with varying organizational structures, and the multiplication or consolidation of these non-state groups across different operational contexts.³⁶

From a technical legal perspective, International Humanitarian Law's application extends beyond periods of active armed conflict. Consequently, the formal classification of an armed conflict does not indicate, in the strictest sense, the commencement of IHL application. The initial article of the Geneva Conventions explicitly mandates that states "respect and to ensure respect for the [Conventions] in all circumstances³⁷" creating ongoing obligations. Moreover, virtually the entire

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva, 12 Aug. 1949 (GC I), Art.

spectrum of treaties restricting or forbidding specific weapons, also considered integral components of IHL, contain obligations for participating states that remain continuously applicable regardless of conflict status, including prohibitions against stockpiling anti-personnel mines, cluster munitions, biological weapons and chemical weapons, alongside regulations governing conventional weapons sales and transfers across international boundaries.

Following an armed conflict's conclusion, parties maintain numerous IHL obligations that continue to bind them legally. Therefore, the declassification of an armed conflict similarly does not signify, in the strictest sense, the termination of IHL application in all aspects. For instance, after an IAC concludes, parties retain all obligations concerning protected persons under their control, including prisoners of war (POWs) and civilian internees, who continue receiving protection under their respective Conventions until either their complete release and repatriation (for POWs), or release, repatriation or reestablishment (for civilian internees).³⁸

In NIACs, individuals protected under common Article 3, paragraph 2, continue "to benefit from the article's protection as long as, in consequence of the armed conflict, they are in a situation for which common Article 3 provides protection," or until alternative legal frameworks offer more advantageous protections³⁹. Under certain circumstances, the cessation of hostilities actually triggers the application of specific IHL provisions that become relevant only after conflict. For example, Article 6(5) of Additional Protocol II (AP II), addressing amnesties for participants in hostilities, and certain IHL obligations concerning the removal of specific weapons and war remnants become applicable only after an armed conflict has formally ended. Additionally, under AP II, individuals deprived of liberty or whose freedom is restricted following the conflict for conflict-related reasons continue to receive key protections guaranteed by the Protocol throughout their detention.

It is critically important to understand that the classification of an armed conflict does not, under any circumstances whatsoever, validate, approve, or render lawful the use of force by any conflict participants, nor does it necessarily condemn or prohibit such force employment.⁴⁰ The legality of armed force usage between states falls under jus

³⁸ *Id.*

³⁹ ICRC, *Commentary on the First Geneva Convention*, 2016, para. 501–502 (Art. 3).

⁴⁰ *Id.*

ad bellum regulation, a distinct and separate legal framework deriving its principles predominantly from the 1945 United Nations (UN) Charter and customary international law.⁴¹

Consequently, the perceived or actual legitimacy of force utilization, as well as its lawfulness or unlawfulness according to the UN Charter⁴², exerts no influence on IHL applicability to specific situations. This rigid separation between these two legal frameworks exists because jus ad bellum and IHL serve fundamentally different purposes: the former was established to maintain, to the greatest extent possible, international peace and security among states in the global community. The latter aims to safeguard armed conflict victims without consideration of conflict initiation or underlying motivations. IHL applicability can therefore depend exclusively on the factual criteria examined in this paper, rather than jus ad bellum considerations related to the legitimacy of the conflict itself.

Similarly, a party's underlying motivation for employing force remains irrelevant for conflict classification and associated IHL applicability.⁴³ This principle requires particular emphasis in scenarios where one or both parties reject the existence of a conflict because they view their opponent as illegitimate or characterize their operations as counter-terrorism, law enforcement, or other non-conflict frameworks. Legitimacy – whether legal, political, or otherwise – constitutes an irrelevant criterion for classification purposes; only the factual criteria discussed in this paper determine conflict classification under international humanitarian law. Once classified, a conflict neither confers legitimacy upon nor delegitimizes conflict participants in the broader international order.⁴⁴

Correspondingly, the application of IHL does not alter the legal status of parties engaged in conflict, particularly for non-state armed groups, which remains a critical distinction when addressing non-international armed conflicts under the Geneva Conventions framework.

⁴¹ Charter of the United Nations, opened for signature 26 June 1945 (entered into force 24 Oct. 1945), (UN Charter), Art. 2(4) and 51.

⁴² *Id.*

⁴³ ICTY, Trial Chamber II, *The Prosecutor v. Limaj*, judgment, case No. IT-03-66-T, 30 Nov. 2005, para. 89.

⁴⁴ International Review of the Red Cross, “*Typology of armed conflicts in international humanitarian law: legal concepts and actual situations*”, No. 876, March 2009, pp. 69 and 78.

2.3 International Armed Conflict (IAC)

With the exception of a limited case addressed later, International Armed Conflicts (IACs) are exclusively comprised of armed conflicts where two or more states or entities with international legal personality (such as the United Nations or multinational military coalitions) confront one another.

Common Article 2⁴⁵ stipulates that the Conventions apply "to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them."⁴⁶ The Geneva Conventions themselves do not define the terms "High Contracting Party" and "armed conflict." The former designation refers to states that have formally ratified the Conventions.

In today's context, however, since the Geneva Conventions have achieved universal ratification among all nations, "High Contracting Party" can be equivalently substituted with "state" when discussing the Geneva Conventions. Regarding the latter term, the International Criminal Tribunal for the former Yugoslavia, in its seminal Tadic decision, characterized "armed conflict" within the IAC framework as the resort to armed force between states.⁴⁷ This definition has subsequently been embraced by both domestic and other international judicial institutions and has now crystallized into customary international law.

Accordingly, as stated in the ICRC's 1952 Commentary, "any difference arising between two States and leading to [a resort to armed force] is an armed conflict within the meaning of [Article 2 common to the Geneva Conventions] ... [i]t makes no difference how long the conflict lasts, how much slaughter takes place, or how numerous are the participating forces."⁴⁸ This is true regardless of the organ within that state that has resorted to force.⁴⁹

Naturally, only actions attributable to a state can initiate an IAC; actions by private individuals not functioning on behalf of a state cannot trigger an IAC. An IAC can, nevertheless, be initiated through a unilateral attack, including assaults directed at a

⁴⁵ Supra note 37.

⁴⁶ *Id.*

⁴⁷ ICTY, Appeals Chamber, *The Prosecutor v. Dusko Tadic*: Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, case No. IT-94-1-AR72, 2 Oct. 1995.

⁴⁸ ICRC, *Commentary on the First Geneva Convention*, 1952, Art. 2.

⁴⁹ *Id.*

state's territory, civilian population, or critical infrastructure. Therefore, the reference to "between" in *Tadic* is interpreted broadly in terms of the existence of a belligerent relationship between parties; indeed, even a one-sided application of force occurs between an aggressor and a recipient of that aggression, so "between" does not solely denote reciprocal force deployment among multiple parties.

Unlike the higher intensity threshold required for Non-International Armed Conflicts, International Armed Conflicts do not require any specific level of intensity to be recognized as such.⁵⁰ Even minor border skirmishes or brief engagements between armed forces, whether involving land, air, or naval units⁵¹ – can initiate an IAC and activate the applicability of International Humanitarian Law.⁵²

Certain actions exist that, while potentially related to a conflict situation, fail to meet this threshold; neither the commercial sale nor humanitarian donation of military equipment to a conflict participant triggers an IAC. However, once a state begins applying force against another, it is both logically consistent and aligned with the humanitarian purpose underpinning the Geneva Conventions that no high threshold of violence intensity is required to establish the existence of an IAC.⁵³

The force employed must, however, constitute a deliberate hostile act; that is, not resulting from error or from an individual acting beyond their authorized scope of action. Accidental "friendly fire" incidents between allied forces do not, for instance, trigger an International Armed Conflict between them. Therefore, when objective assessment of a situation demonstrates that a state participates as a matter of fact in military operations or any other hostile actions against another state (by neutralizing enemy military personnel or assets, impeding its military operations, or utilizing or controlling its territory without explicit consent), the situation qualifies as an International Armed Conflict under international law.⁵⁴

⁵⁰ This view has been endorsed by international tribunals. See, e.g.: ICTY, *Prosecutor v. Delalic et al.*, case No. IT-96-21-T, 16 Nov. 1998, para. 184 (see also para. 208); *Tadic*, 1995, para. 70; International Criminal Court, *The Prosecutor v. Thomas Lubanga Dyilo: Decision on the Confirmation of Charges*, case No. ICC-01/04-01/06, 29 Jan. 2007, para. 207; Special Court for Sierra Leone, *Prosecutor v. Charles Ghankay Taylor*, trial judgment, case No. SCSL-03-1-T, 26 April 2012, para. 563–566.

⁵¹ ICRC, *Commentary on the Second Geneva Convention*, 2017, para. 249 (Art. 2).

⁵² ICRC, *Commentary on the Third Geneva Convention*, 2020, para. 286–289 (Art. 2).

⁵³ ICRC, *Commentary on the First Geneva Convention*, 2016, para. 243–244.

⁵⁴ *Id.*

2.4 IAC Between a State and a Non-State Party: War of National Liberation

The only circumstance where an IAC may be classified outside the traditional framework of interstate armed conflicts involves organized armed violence occurring between a party to Additional Protocol I (AP I)⁵⁵ and a people fighting against colonial domination, alien occupation, or racist regimes while exercising their right to self-determination (commonly referred to as a war of national liberation).

Article 1(4) of AP I expands the IAC definition to encompass such wars of national liberation; however, International Humanitarian Law applicable to IACs will only apply when, in accordance with Article 96(3) of AP I, the "authority representing a people" engaged in this type of conflict submits a "unilateral declaration addressed to the depositary" of AP I, formalizing their commitment to apply the Geneva Conventions and the Protocol⁵⁶.

2.5 The End of an IAC

Just as the commencement of an IAC is determined through evidence-based factual analysis, so too is the termination of an IAC. As previously noted, this necessitates a detailed assessment of factual circumstances in every individual case. The mere signing of peace treaties does not invariably signify the end of hostilities or even their temporary suspension. Conversely, International Armed Conflicts frequently feature unstable ceasefires, gradual reduction in violence intensity, and/or the intervention of international peacekeepers, blurring the distinctions between temporary suspension of hostilities and their definitive conclusion, thereby complicating precise determination of when an IAC legally ceases to exist.⁵⁷

Thus, paralleling the process of conflict classification, conflict declassification must be grounded in factual circumstances analysed through applicable International Humanitarian Law legal criteria, which for the International Committee of the Red Cross constitutes the general close of military operations. Hostilities must conclude with sufficient stability and permanence for an IAC to be considered officially terminated. A general close of military operations signifies not merely the cessation of active combat, but also the conclusion of "military movements of a bellicose nature,

⁵⁵ Geneva Conventions 1949.

⁵⁶ Protocol I of 8 June 1977 additional to the Geneva Conventions (entered into force 7 Dec. 1979) (AP I).

⁵⁷ ICRC, *Commentary on the Third Geneva Convention*, 2020, para. 310 (Art. 3).

including those that reform, reorganize or reconstitute, so that the likelihood of the resumption of hostilities can reasonably be discarded" from future consideration.⁵⁸

The Uppsala Conflict Data Program (UCDP)⁵⁹ is the world's main provider of data on organized violence and the oldest ongoing data collection project for civil war, with a history of almost 40 years.⁶⁰ In 2023, fatalities from organized violence decreased for the first time since the rapid increase observed in 2020, dropping from 310,000 in 2022 to 154,000 in 2023. Despite this positive development, the number of active state-based armed conflicts increased by three in 2023, reaching the highest level ever recorded by the UCDP, totalling 59.⁶¹

Analysis of non-state conflict data spanning the past decade reveals that it comprises the ten most violent years on record.⁶² Organized crime groups have predominantly fuelled this escalation.⁶³ Unlike rebel groups, organized crime groups typically lack political goals and are primarily motivated by economic gain.⁶⁴ Conflicts between these groups tend to intensify around drug smuggling routes and in urban areas, driven by shifts in alliances and leadership dynamics among the actors.⁶⁵

2.6 Impact of Armed Conflict on Trade.

Between 1990 and 2010, nearly one billion people escaped extreme poverty (defined as living on less than \$1.25 daily).⁶⁶ This represented history's most significant and rapid exodus from severe deprivation. Following the Cold War's conclusion, diminishing trade restrictions facilitated China's integration into global commerce and contributed to the world economy doubling within two decades. This era uniquely combined widespread peace with economic advancement.

However, this progress bypassed certain populations. Those excluded from one benefit typically missed the other as well: individuals still affected by armed conflict generally remained impoverished, while those trapped in extreme poverty faced higher risks of

⁵⁸ ICRC, *Commentary on the Third Geneva Convention*, 2020, para. 311 (Art. 3).

⁵⁹ The Uppsala Conflict Data Program, UCDP, (Aug. 24, 2025, 9:39 PM), <https://ucdp.uu.se/>

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ World Bank Group, Poverty, <https://www.worldbank.org/en/topic/poverty/overview> ((May. 21, 2025, 6:21 PM)

experiencing violence. The world seemed to maintain a persistent minimum level of armed conflict, strongly linked to economic underdevelopment—poorer nations faced substantially greater risks of warfare. Citizens of these countries remained ensnared in a continuous cycle of violence and deprivation.

A strategic consensus developed regarding how to address this "conflict-poverty trap." Three critical components were identified as necessary and benefiting from external assistance: physical security, economic development, and sufficient time.⁶⁷ When these elements converged, as witnessed in Guatemala, Mozambique, Rwanda, Sierra Leone, and Timor Leste, nations could gradually escape this trap. Conversely, their absence, as in Afghanistan, Congo, or South Sudan, made liberation impossible.

The era of absolute military victory by one faction over another appeared concluded. Peace agreements increasingly received support from expanding peacekeeping contingents, primarily from the United Nations but later also from the African Union, European Union, and other organizations. The World Bank and similar institutions developed innovative funding mechanisms for post-conflict societies.⁶⁸

This policy approach appeared effective. By various measurements, the late 1990s represented the least violent period in human history. For much of the Western world, perceptions of the decade beginning in 2000 were dominated by the September 11 attacks and the subsequent "global war on terror," including American-led military campaigns in Afghanistan and Iraq.⁶⁹

A series of significant publications in 2010-2011 documented the post-Cold War consensus on conflict management.⁷⁰ These works presented increasingly definitive evidence demonstrating both the rapid decline in armed conflict and the positive impact of initiatives to disrupt the conflict-poverty cycle. Based on this evidence, strategies for addressing remaining conflict situations were further refined.

⁶⁷ BRIGITTE ROHWERDER, THE IMPACT OF CONFLICT ON POVERTY, GSDRC, HELP DESK RSCH. REP. NO. 1260, <https://gsdrc.org/publications/the-impact-of-conflict-on-poverty/>. ((Dec. 11, 2024, 4:21 PM))

⁶⁸ THE WORLD BANK, POST-CONFLICT RECONSTRUCTION: THE ROLE OF THE WORLD BANK, Report No. 17752, (1998).

⁶⁹ *Id.*

⁷⁰ UNITED NATIONS & THE WORLD BANK, PATHWAYS FOR PEACE: INCLUSIVE APPROACHES TO PREVENTING VIOLENT CONFLICT (2018).

Just as this analytical framework emerged, however, the positive trends began reversing—initially gradually, then accelerating in subsequent years. The first four cases contradicting the pattern occurred in the Middle East: Tunisia, Egypt, Libya, and, most significantly, Syria. By 2014, annual global battle-related deaths exceeded 100,000 for the first time since the Cold War's conclusion. That same year, worldwide totals of refugees and internally displaced persons surpassed 50 million, matching levels unseen since the massive population movements following World War II and during China's civil war.

A new wave of analysis emerged,⁷¹ examining the "Arab Spring," the distinctive characteristics of Arab authoritarian regimes, the demographic "youth bulge" in these societies, and the unfulfilled expectations and violated rights of these young populations. Mali, though not an Arab nation, collapsed in 2012, partly due to spillover effects from Libya's conflict, with northern regions falling under armed Islamist control. The Central African Republic, even less connected to Arab culture than Mali, approached genocide in 2013, as did South Sudan. Ukraine descended into conflict in 2014, as did Iraq following several years of reduced violence. Yemen similarly erupted into open warfare that year.

During this same period—and partially connected to these developments—terrorism reached unprecedented levels. Between 2010 and early 2016, both attack frequency and casualty figures nearly tripled. Belgium, France, Indonesia, Ivory Coast, Kenya, Nigeria, Thailand, and Turkey all experienced terrorist violence at historically high levels. While not threatening the fundamental stability of these states, terrorism, including its transnational dimensions, evolved into a global challenge requiring a coordinated response.

In their 2008 paper, Martin, Mayer, and Thoenig investigate the complex relationship between trade and military conflicts from 1950 to 2000.⁷² They find that while bilateral trade reduces the probability of conflict due to mutual dependence, multilateral trade openness paradoxically increases the likelihood of bilateral wars by diminishing this dependence.⁷³ Their empirical analysis, utilizing a gravity-type model and addressing

⁷¹ Andrey V. Korotayev, Leonid M. Issaev, Sergey Yu. Malkov & Alisa R. Shishkina, *The Arab Spring: A Quantitative Analysis*, 36 ARAB STUD. Q. 149, (2014).

⁷² Philippe Martin, Thierry Mayer, Mathias Thoenig, *Make Trade Not War? The Review of Economic Studies*, Jul., 2008, Vol. 75, No. 3 (Jul., 2008), pp. 865-900.

⁷³ *Id.*

endogeneity with instrumental variables, reveals that globalization has raised the probability of bilateral conflict by approximately 20% for countries within 1000 km of each other. The study challenges the notion that trade universally promotes peace, suggesting that increased multilateral trade may lead to more localized conflicts while decreasing the risk of larger-scale wars.⁷⁴

The paper challenges the conventional wisdom that trade universally promotes peace by arguing that the relationship between trade and military conflicts is more complex than previously understood. While increased bilateral trade between two countries can decrease the likelihood of conflict between them, greater multilateral trade openness can actually increase the probability of war. This is because multilateral trade reduces a country's dependence on any single trading partner, diminishing the opportunity cost of engaging in a bilateral conflict.⁷⁵

The authors build a theoretical framework where military conflicts may arise due to failures in negotiation. This framework incorporates the idea that war is Pareto dominated by peace, countries possess private information, and they can choose any negotiation protocol.⁷⁶ They demonstrate that while increased bilateral trade lowers the probability of bilateral war, multilateral trade openness has the opposite effect because it decreases bilateral dependence and raises the likelihood of conflict. Empirical analysis of military conflicts between 1950 and 2000 supports these predictions, showing that the impact of trade on the probability of military conflict can be surprisingly large for proximate countries.

Globalization, interpreted as trade liberalization, has not led to a decrease in military conflicts as initially hoped. The study suggests that globalization increases the probability of smaller, localized wars but decreases the probability of large-scale conflicts.⁷⁷ This is because globalization weakens the incentive to make concessions in order to avoid the escalation of disputes into military conflicts.⁷⁸ The findings indicate that the geographical structure of trade, specifically the balance between bilateral and

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

multilateral openness, is critical in determining the relationship between trade and peace.

Derek Braddon's paper⁷⁹ examines the complex relationship between economic interdependence and conflict, presenting two opposing schools of thought. The liberal perspective posits that increased interdependence fosters peace by creating mutual economic stakes, exemplified by the European Union. Conversely, critics argue that excessive interdependence can breed resentment and rivalry, potentially leading to conflict. The paper analyzes case studies from Africa and the Balkans, highlighting that while economic ties can mitigate conflict escalation, they are not a guaranteed solution.

Notably, empirical studies suggest a curvilinear relationship, where moderate interdependence reduces disputes, but extreme interdependence may heighten conflict risks. Effective conflict resolution requires collaboration among governments, businesses, and communities to leverage economic interdependence for stability and growth.

The paper explores the complex relationship between conflict and trade, arguing that conflict can significantly disrupt trade patterns and economic stability, while trade, in turn, can both fuel and mitigate conflict.⁸⁰ One perspective suggests that conflict can act as a substitute for economic exchange, as nations may resort to military action to seize resources when trade and investment opportunities are limited.⁸¹ Conversely, when trade and economic interdependence are robust, countries are less likely to engage in conflict⁸² due to the potential economic losses.

However, the paper also highlights that trade itself can be a source of conflict,⁸³ especially when the gains are not equally distributed or when it involves illicit goods

⁷⁹ Derek Braddon, *The Role of Economic Interdependence in the Origins and Resolution of Conflict*, *Revue d'économie politique*, (mars-avril 2012), Vol. 122, No. 2, *L'économie des conflits* (mars-avril 2012), pp. 299-319

⁸⁰ *Id.*

⁸¹ Mansfield E. D., B. M. Pollins, *Economic Interdependence and International Conflict: New Perspectives on an Enduring Debate*, University of Michigan Press, (2003).

⁸² Shahab Pourshahabi, *Quantifying Economic Vulnerabilities Induced by Interdependent Networks*, 19 *PLoS One*, (2024).

⁸³ Mearscheimer J. J., *Why we will soon miss the Cold War*, Atlantic Monthly Online, August, <http://www.theatlantic.com/politics/foreign/mearsh.htm> .

such as drugs, diamonds, or trafficked people.⁸⁴ The author cites Cooper's argument⁸⁵ that these features of economic trade sparked the majority of civil wars. Exclusion from the global economy can drive the creation of "shadow trade" in illicit markets, further exacerbating conflict.⁸⁶

Empirical evidence suggests that the relationship between economic interdependence and conflict is more complex than a simple deterrent effect. While some argue that economic ties promote peace, others contend that excessive interdependence or unequal distribution of gains can lead to rivalry and conflict.⁸⁷

One challenge to the liberal view comes from the observation that increased global prosperity, while generally seen as a positive outcome of trade, can also increase the range of economic issues over which disputes can emerge, potentially leading to violent conflict. Additionally, some states may view increased economic interdependence as a source of vulnerability, potentially requiring military action to compensate for perceived weaknesses. Barbieri's research indicates that extensive economic interdependence can make states more likely to engage in militarized interstate disputes, particularly when interdependence is extreme.⁸⁸

Furthermore, while Gartzke et al. found that peace is associated with higher trade volumes, they also acknowledge that developments in global trade and finance may have limited this relationship in modern times.⁸⁹ This evidence suggests that economic interdependence alone is not a guaranteed path to peace and may even contribute to conflict under certain circumstances.

Although the potential benefits of conflict and armed violence are rarely discussed, they do exist and can be significant. Many modern states have been shaped by various conflicts, and war can sometimes lead to positive economic outcomes by removing ineffective leaders or prompting the establishment of necessary governance structures

⁸⁴ Gilpin R, *Global Political Economy: Understanding the International Economic Order*, Princeton University Press, (2001)

⁸⁵ Cooper N., *Peaceful warriors and warring peacemakers, The Economics of Peace and Security Journal*, Vol 1, No 1, (2006).

⁸⁶ *Id.*

⁸⁷ Supra note 81.

⁸⁸ Barbieri K, *Economic Interdependence: A Path to Peace or Source of Inter- state Conflict?* Journal of Peace Research (1996).

⁸⁹ Gartzke E., Quan Li, Charles Boehmer, *Investing in the Peace: Economic interdependence and International Conflict*, International Organisation 55 (2), (2001).

for modernization.. In an attempt to rebalance the analysis of civil wars, Cramer (2006)⁹⁰ points out that conflicts could be important in the process of economic development, allowing the 'primitive accumulation' that allows resources to be placed in the hands of a ruling class that can use them to support industrialisation.

The paper by J. Paul Dunne⁹¹ from the Copenhagen Consensus Center analyses the economic implications of armed conflicts, emphasizing the need for distinct strategies in conflict prevention, intervention, and post-conflict reconstruction. It highlights that armed conflict can reduce a country's growth rate by 2.2% annually, with total economic costs estimated between 1.7% and 3.3% of GDP per conflict year before 1990, and around 12.3% thereafter.⁹² The study suggests that prevention offers the highest benefit-cost ratio (15.2), while post-conflict reconstruction yields lower ratios due to existing international efforts.⁹³

Armed conflicts have a multifaceted relationship with the economy, impacting both economic stability and development. Conflicts can lead to substantial economic costs, which include destruction of physical and human capital, infrastructure, and institutions. These costs can be categorized into direct costs, like loss of life and asset destruction, and indirect costs, like trade losses and long-term intergenerational effects. The economic impact of conflict can persist for many years, affecting a country's growth potential and overall development.

There are two primary methods for measuring the economic costs of armed conflict: the accounting approach and counterfactual analysis.⁹⁴ The accounting approach assesses the total value of destroyed goods, while counterfactual analysis compares the economic path of a country in conflict with its projected path without conflict.⁹⁵ Both methods reveal significant economic losses due to conflict, with estimates suggesting that civil war can reduce a country's growth rate by approximately 2.2% per year.⁹⁶

While most studies focus on the negative impacts, some argue that conflict can have positive economic effects under certain conditions. Conflict might remove bad leaders,

⁹⁰ Christopher Cramer, *Civil War Is Not a Stupid Thing: Accounting for Violence in Developing Countries*, Journal of Peace Research, ISBN 9781850658214, (2009).

⁹¹ Supra note 1.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

introduce structures needed for modernization, or facilitate resource accumulation that supports industrialization.⁹⁷ However, these potential benefits are difficult to measure and often overshadowed by the extensive destruction and long-term costs associated with armed conflict. The relationship is complex, and the economic impact depends on the causes and nature of the conflict⁹⁸, as well as the policies implemented during and after the conflict.

The report "Trading Away from Conflict" by Massimiliano Cali⁹⁹ explores how trade can enhance resilience in fragile states, where most of the world's poor are concentrated. It identifies that trade flows in these countries are larger and more volatile than other foreign exchanges, significantly impacting conflict dynamics. Key findings include that trade with neighbours can reduce conflict intensity, while changes in commodity prices can exacerbate tensions, particularly in election years or areas with ethnic divisions. Recommendations emphasize the need for conflict-sensitive trade policies, improved transparency in resource revenue management, and support for labour-intensive exports to mitigate conflict risks and enhance economic stability.

2.7 Evidence from the Israeli-Palestinian Conflict (2000–04)

The long-standing Israeli-Palestinian conflict serves as a key example for analyzing how trade changes can affect conflict dynamics.¹⁰⁰ To understand the impact of shifts in trade flows on this conflict, it's crucial to assess the extent to which Palestinian tradable production depends on Israel. Almost 90 percent of Palestinian merchandise exports is destined for Israel.¹⁰¹ Moreover, Palestinian external trade is effectively regulated by Israel. After the Oslo Accords in 1993, the West Bank, Gaza, and Israel formed a de facto customs union with a shared external tariff set by Israel, which during the 1990s controlled all the union's borders.¹⁰² Although the West Bank and Gaza can legally establish their own trade policies, such as signing agreements with third parties, in practice, imports to these areas must pass through an international border controlled

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ Massimiliano Cali, *Trading Away from Conflict*, World Bank Group, <http://dx.doi.org/10.1596/978-1-4648-0308-6>

¹⁰⁰ Cali, M., S. Miaari, B. Fallah, "More Jobs, Less Fighting? Evidence from the Second Intifada." Mimeo, (2014)

¹⁰¹ Part of this export in the 1990s was due to Israeli firms using Palestinian firms as subcontractors in a number of sectors, such as textile, garments, and furniture.

¹⁰² Supra note 100.

by Israel, where the Israeli import tariff is applied based on the goods' country of origin.¹⁰³

Additionally, Israeli control over international borders means Palestinian exporters and importers are strongly incentivized to use Israeli intermediaries for clearing goods.¹⁰⁴ These intermediaries reduce the cost and time of trading compared to the challenges faced by Palestinian traders.¹⁰⁵ Palestinian imports and exports are subject to twice the costs of Israeli imports and exports using the same port facilities in Israel¹⁰⁶. Importing procedures take on average as much as four times longer for Palestinians than for Israelis (40 days vs. 10 days).¹⁰⁷

It is estimated that 58 percent of the Palestinian imports from Israel in 2008 were through trading companies, most of which were for re-export¹⁰⁸. The opening up of the Israeli import regime in the 1990s eroded the preferential access of Palestinian goods in their dominant export market.¹⁰⁹ As a result, imports from the rest of the world have progressively replaced those from the West Bank and Gaza, especially in the main labour-intensive sectors.¹¹⁰ Partly as a consequence of this shift, manufacturing production in the West Bank and Gaza declined in real terms by almost 20 percent between 1994 and 2009.¹¹¹ Palestinian merchandise exports slowed in nominal terms prior to the Second Intifada¹¹², and declined as a share of GDP from over 10 per cent in 1996 to less than 9 percent in 1999. Palestinian exports also declined slightly in constant prices during this period. Palestinian exports generally performed worse than Israeli imports¹¹³.

Changes in Palestinian exports have been shown to have a considerable effect on conflict intensity during the Second Intifada.¹¹⁴ A \$10 million increase in export revenue reduces conflict-related fatalities in a locality by 2.1 percent, which is

¹⁰³ Supra note 100.

¹⁰⁴ Supra note 100.

¹⁰⁵ Supra note 100.

¹⁰⁶ World Bank, 2010. *Doing Business Indicators, Trading across Borders*, <http://www.doingbusiness.org/data/exploretopics/trading-across-borders>

¹⁰⁷ *Id.*

¹⁰⁸ Bank of Israel, “Recent Economic Developments.” Tel Aviv, May–August, 128, (2010).

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Supra note 100.

¹¹³ Supra note 100.

¹¹⁴ Miaari, S., A. Zussman, and N. Zussman, “Employment Restrictions and Political Violence in the Israeli-Palestinian Conflict.” *Journal of Economic Behavior and Organization* 101 (May, 2014).

significant at the 1 percent level. This reflects the conflict-reducing impact of exports via employment.¹¹⁵ The inclusion of economic controls, such as permits to work in Israel, the unemployment rate, and Palestinian fatalities before the Second Intifada, slightly increases the absolute size of the export coefficient, remaining significant at 1 percent.¹¹⁶

Further addition of labour market indicators from the Palestinian Labor Force Survey (PLFS) increases the estimated impact of changes in export revenues on the conflict.¹¹⁷ A \$10 million rise in Palestinian exports of a sector covering 10 percent of the locality's private employment reduces conflict-related fatalities by 2.8 percent, significant at 1 percent.¹¹⁸ This confirms that better employment opportunities increase the opportunity cost of involvement in the conflict, thus lowering its intensity¹¹⁹. The impact of changes in exports on conflict is higher in localities with a larger share of refugees and a higher unemployment rate.¹²⁰

2.8 Ukraine – Russia.

The UNCTAD rapid assessment¹²¹ highlights the war in Ukraine's severe impact on global trade and development, exacerbating food, fuel, and fertilizer prices, particularly affecting developing nations. Ukraine and Russia account for 53% of global sunflower oil and 27% of wheat trade, with countries like Turkey (25.9%) and China (23%) heavily reliant on these imports¹²². The crisis threatens food security, potentially leading to civil unrest and inflation-induced recessions. Additionally, rising transport costs and supply chain disruptions are anticipated, with freight rates soaring by 400% in some sectors.

Based on UNCTAD calculations, on average, more than 5 per cent of the import basket of the poorest countries are products that are likely to face a price hike resulting from the ongoing war in Ukraine.¹²³ The assessment warns of a vicious cycle of economic

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ Saleh, B. A, “*An Econometric Analysis of Palestinian Attacks: An Examination of Deprivation Theory and Choice of Attacks.*” *European Journal of Social Sciences* 7 (4): 17–29., 2009.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ UNCTAD rapid assessment, *The Impact Of War In Ukraine On Trade And Development*, (16 March 2022)

¹²² *Id.*

¹²³ *Id.*

instability, particularly for vulnerable economies.¹²⁴ Agrifood commodity cycles have coincided with major political events, such as the 2007–2008 food riots and the Arab Spring¹²⁵.

The increase in food and fuel prices due to the war is already driving up inflation in many countries.¹²⁶ The negative distributional effects will severely impact the poorest populations, as they spend a large portion of their income on food.¹²⁷ Meanwhile, countries reliant on food and fuel imports will experience deteriorating balance of payments and rising pressure on exchange rates.¹²⁸ During times of uncertainty and volatility, a substantial amount of wealth moves to safe havens.¹²⁹ The movement of financial investors from high-risk assets, like emerging market debt, to safe havens, such as government bonds of advanced economies, may intensify pressures on developing countries' exchange rates and external capital account balances¹³⁰. This would force developing economies to tighten domestic monetary conditions and would weaken growth and lower domestic real incomes.¹³¹

The risk of a vicious cycle—fuelled by asset "fire sales," currency devaluation, and increasing external debt—should not be overlooked.¹³² Likewise, the surge in oil and gas prices might redirect investment back into extractive industries and fossil fuel energy, potentially reversing the shift towards renewables seen in the past 5–10 years.¹³³

Overall, these changes in investment and asset positions (i.e., reversal of capital flows) pose a significant risk of divestment from greenfield and international project financing in conflict-affected and other economies.¹³⁴ This could lead to reduced investment in developing countries, particularly in infrastructure and sectors crucial for the Sustainable Development Goals.

The war in Ukraine puts macroeconomic policymakers in advanced economies in a difficult situation. Higher inflation raises the pressure to tighten monetary policy by

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

increasing interest rates. However, the short-run dislocations caused by the war and the potential for financial disorder could lead central banks to postpone tightening and instead further increase the provision of liquidity¹³⁵. A “dual strategy” of liquidity provision in the form of bond purchases alongside higher interest rates could emerge in this scenario.¹³⁶

Increasing debt burdens, climate change costs, pandemic impacts, and commodity price shocks heighten the risk of a debt crisis in developing countries. Rate hikes and financial disorder could deliver a dual blow, similar to “taper-tantrum”¹³⁷ effects, with rising interest rates and heightened volatility in commodity futures and bond markets. This would result in increased risk premiums and added exchange rate pressures.¹³⁸

The combination of extremely high food and fuel prices and macroeconomic tightening will exert significant pressure on households in developing countries, squeezing real incomes and constraining economic growth.¹³⁹ Even in the absence of disorderly moves in financial markets, developing economies will face severe constraints on growth and development.¹⁴⁰

2.9 Conclusion.

Chapter 2 examines the intricate relationship between international armed conflict (IAC) and global trade, highlighting diverse conflict origins such as colonial legacies, ethnic tensions, and economic inequality. While some scholars argue that conflict can modernize societies, most emphasize its long-term destructive impacts, with global military spending reaching \$2.443 trillion in 2024. The International Committee of the Red Cross (ICRC) plays a crucial role in classifying conflicts and ensuring humanitarian law adherence. Literature challenges the notion that trade universally promotes peace, revealing that while bilateral trade can reduce conflict likelihood, multilateral trade may increase tensions. The Ukraine war exemplifies how conflict

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ The National, *Rising Food and Fuel Prices Due to Ukraine War to Hit Developing Nations Hardest, UN Says*, <https://www.thenationalnews.com/business/economy/2022/03/17/rising-food-and-fuel-prices-due-to-ukraine-war-to-hit-developing-nations-hardest-says-un/>. (Mar. 17, 2025, 10: 20 AM)

¹⁴⁰ *Id.*

disrupts global trade, exacerbating inflation and economic instability, particularly in developing nations.

Armed conflicts are complex events with deep historical roots and diverse contributing factors, defying simple explanations. While some scholars suggest conflicts may modernize societies, most analysts emphasize their destructive impacts on economic development and stability, with adverse consequences often persisting long after hostilities cease. The economic, social, and psychological damage inflicted during wartime frequently requires generations to overcome, extending the true cost far beyond immediate destruction.

The legal framework surrounding international armed conflict (IAC) and non-international armed conflict (NIAC) is governed by the Geneva Conventions, with the International Committee of the Red Cross (ICRC) playing a crucial role in interpreting and classifying conflicts. The application of International Humanitarian Law (IHL) extends beyond active armed conflict, with ongoing obligations for states and continued protection for individuals even after the cessation of hostilities.

Studies show that while bilateral trade reduces the probability of conflict due to mutual dependence, multilateral trade openness paradoxically increases the likelihood of bilateral wars by diminishing this dependence. Globalization, therefore, has not led to a decrease in military conflicts as initially hoped. Moreover, conflict can significantly disrupt trade patterns and economic stability, while trade, in turn, can both fuel and mitigate conflict. The relationship between economic interdependence and conflict is complex, with some arguing that economic ties promote peace, while others contend that excessive interdependence or unequal distribution of gains can lead to rivalry and conflict.

CHAPTER 3: ECONOMIC WARFARE AND ITS IMPACT ON GLOBAL TRADE

3.1 Introduction

The employment of economic might has grown in importance for nations as war and other armed force-related tactics that were once crucial for pursuing state interests have been marginalized. States are encouraged to pursue their goals through non-violent means, particularly through economic power, due to the restrictions on the use of military force and the realities of competition. Economic warfare, which has a history nearly as lengthy and vivid as traditional warfare, has gotten far less attention than armed conflict, which includes war as a subcategory and is currently governed by a number of international legal principles that have been thoroughly examined.

Wars are unpleasant yet enduring phenomena in human history. Ancient custom and various international institutions have addressed them throughout history in an effort to minimize their inherent cruelties (and, more recently, to prevent them as such). However, it wasn't until the Second World War that the international community started to actually forbid and shun war and the use of military force as "war is not merely a political act but a real political instrument, a continuation of political intercourse executed by other means,"¹⁴¹ that is, a means of pursuing national interests, according to von Clausewitz. This endeavour was undertaken in light of the imminence of thermonuclear annihilation and the impression of the unparalleled destruction that lay ahead.

Even more elusive than the term "economic war," the two concepts are related by the straightforward reasoning that war is costly and that the ability to pay for it typically depends on the belligerent's economic production. **Using the soldier von Clausewitz once more**, economic warfare might be defined as "an act of violence to compel our opponent to fulfil our will,"¹⁴² with the addition that the "violence" may be carried out via or directed against economic means. Since virtually the beginning of human history, economic war has been employed (mostly) to support violent war endeavours.

The Crusades, colonization, the Opium Wars, the First and Second World Wars, the Cold War conflict, and prehistoric events are all examples of conflicts that were waged

¹⁴¹ Carl Von Clausewitz, *On War* At 280 (1943)

¹⁴² *Id.*

with and against economic resources, according to Laïdi.¹⁴³ The relevance of economic warfare increased as it became increasingly evident to belligerents that causing economic harm reduces their capacity to fight war; the fact that the United Kingdom had a Minister of Economic Warfare during the Second World War is telling.¹⁴⁴

According to geoeconomics, large economies and states, such as the EU, United States, China, and Japan, engage in economic warfare instead of actual warfare in pursuit of their goals.¹⁴⁵ This amounts to at least a partial substitution of war by economic warfare.¹⁴⁶

While the right of states to control foreign trade (as well as other economic channels) has frequently been utilized for political purposes,¹⁴⁷ the emerging sense for economic war as substitute for war and passe-partout for the pursuit of state interests in combination with a recently reinvigorated economic nationalism ascribe renewed importance to the practice of economic warfare.

3.2 Definition of Economic Warfare

A legal analysis focused on the study of economic warfare must address two main challenges: First, economic warfare is a broad and elusive topic that resists clear definition, having been shaped by politicians, journalists, and scholars from various disciplines. Second, the legal framework relevant to economic warfare spans numerous dimensions, both domestic and international, including international investment agreements, human rights treaties, and WTO regulations. Put simply, there is a significant amount of information to explore and limitations to impose to create a well-defined research subject for this study.

The definition used is one given by Teoman M. Hagemeyer-Witzleb in his book “The International Law of Economic Warfare”. Economic warfare is: -

“Irrespective of whether being referred to as such, economic warfare consists of measures of an exclusively economic character taken by subjects of international law to express disapproval of the acts of the target, to induce that

¹⁴³ Ali Laïdi, *World History Of Economic Warfare* (Perrin 2016).

¹⁴⁴ Bettati M, *The Law of War*, (2016)

¹⁴⁵ Cable V, *What is international economic security?*, Int Aff 71:305–324, (1995) <https://doi.org/10.307/2623436>

¹⁴⁶ Bosserelle É, *Economic Warfare, a Modern Form of War?*, French Review of Socio-Economics, 8:167–186, (2011)

¹⁴⁷ J. Dapray Muir, The Boycott in International Law, 9 J. INT'L L. & ECON. 187 (August 1974).

target to a particular conduct, or to further an economic goal of the imposing subject of international law.¹⁴⁸”

Economic warfare isn't currently recognized as a legal term, and searching through treaties or other international law sources for its definition is unlikely to yield results. The Max Planck Encyclopedia of Public International Law starts its entry by stating that “Economic warfare is not a term of art in international law, and it is difficult to define the concept with precision.”¹⁴⁹

The meanings of terms like "economic warfare," "economic war," "economic force," "economic intervention," "economic sanction," "economic compulsion," "economic pressure," "economic aggression," and "economic coercion" address various aspects of economic activity, such as "trade war" or "currency war," and are commonly used in politics, academia, and journalism. With so many terms, this study must define a clear nomenclature. This task is complicated because these terms are not precisely defined legal concepts but rather describe observable phenomena in international relationships.

As cross-border economic activities grow more complex and diverse, it's not surprising that both traditional concepts like a naval blockade and modern actions like shutting down a cryptocurrency market are labelled as "economic warfare." Thus, non-technical definitions of economic warfare only confirm the lack of a common understanding or consistent usage of the term. Lexico's entry for “economic war” subscribes to it the following meaning:

“An economic strategy based on the use of measures (e.g. blockade) of which the primary effect is to weaken the economy of another state.”¹⁵⁰

The dictionary traces the term back to the late nineteenth century when it was supposedly used by the newspaper The Times.¹⁵¹

Before exploring relevant academic literature, it is useful to consider the literal meaning of "economic warfare." At a basic level, the term might imply a "war between two (or more) economies" without specifying the methods, means, or goals involved. It could

¹⁴⁸TEOMAN M. HAGEMEYER-WITZLEB, *THE INTERNATIONAL LAW OF ECONOMIC WARFARE*, 29, EYIEL MONOGRAPHS, (Springer 2021).

¹⁴⁹ Wolfrum R (ed) *Max Planck encyclopedia of public international law* (online edition). Oxford University Press, Oxford

¹⁵⁰ https://en.oxforddictionaries.com/definition/economic_war (accessed 23 January 2025).

¹⁵¹ The Economist uses the term for the first time in 1890, see *The Economist* (1890), p. 829

also refer to a form of violent war, possibly with economic aims. Lastly, it might describe a conflict conducted using economic strategies rather than military ones.

Scholars from various fields, including historians, economists, political scientists, sociologists, and lawyers, have sought to define economic warfare within their areas of study.¹⁵² This diverse group of researchers naturally leads to a broad range of opinions: Some dismiss the notion of economic warfare entirely, deeming a definition unnecessary. Others provide descriptions that resemble theories of modern international relations rather than definitions appropriate for legal analysis. Some have given up on the notion due to the vast complexity of economic activities, either asserting that no meaningful definition is possible, or presenting definitions so vague that they fail to offer a distinct framework for this study.

Historian Laïdi defines:

“Economic war is the use of violence, coercion and unfair or illegal means to protect or conquer a market, or gain or preserve a dominant position that allows abusive control of a market. Economic war is fought in times of war as well as in times of peace. It is practiced by states, companies, associations, and even individuals. [I]t applies to all products and services, also immaterial...”¹⁵³

Munier—like Luttwak—paraphrases von Clausewitz:

“Economic war would be [. . .] the continuation of war by other means. [. . .] Economic war [. . .] refers to a struggle between nations driven by their will to power, which distinguishes them from companies which primarily pursue economic objectives.”¹⁵⁴

The primary problem with these concepts is that they are more explanations of international relations than concrete definitions. When definitions are provided, they are not practical in the context of international law. For example, one flaw in Laïdi's definition is that international law is the standard for assessing unfairness or illegality, so including these terms in a legal definition of economic warfare is redundant.

¹⁵² PETER VAN HAM, *WESTERN DOCTRINES ON EAST-WEST TRADE THEORY, HISTORY AND POLICY*, (1992).

¹⁵³ Supra note 143.

¹⁵⁴ F. Munier, *Foreword—Economic War, War in Peacetime?*, in *ECONOMIC WARFARE: ANTEIOS REPORT 2010 1*, (J-M. Huissoud & F. Munier eds., 2009).

Moreover, the French school of economic warfare's focus on market conquest overlooks other objectives, such as penalizing particular state actions like human rights violations or destabilizing problematic governments or international bodies.

Some authors argue that the complexity of inter-state commercial transactions defies a sensible definition. For example, Elagab starts his discussion on the legality of economic coercion with this statement:

“The complexity and the peculiar characteristics of economic behaviour render any definition of the concept of economic coercion uniquely difficult to attain.”¹⁵⁵

The author investigates the challenge of defining "economic coercion" using a general definition, an enumerative definition, and a hybrid of both.¹⁵⁶ Ultimately, he concludes that none are feasible, acknowledging the limitless variations of economic activities:

"[E]conomic coercion as a concept does not lend itself to a definition that is both exact and comprehensive." ¹⁵⁷

The UN General Assembly also struggled with defining "economic coercion." Its Sixth Committee formed a Special Committee to consider the scope of "threat of use of force" under Art. 2 (4) of the UN Charter,¹⁵⁸ questioning whether it included only armed military actions or extended to economic coercion, subversion, and propaganda. The committee failed to reach a consensus, largely because defining banned acts of economic coercion was deemed necessary but impossible during the Cold War.

Some legal experts and economists propose broad definitions of economic warfare. For instance, Farer describes economic "coercion" as efforts to exert influence beyond borders by restricting or controlling access to a country's resources, raw materials, goods, capital, technology, services, or consumers¹⁵⁹. While Farer believes this definition encompasses all crucial economic tools, it lacks clarity on who initiates these

¹⁵⁵ OMER YOUSIF ELAGAB, *THE LEGALITY OF NON-FORCIBLE COUNTER-MEASURES IN INTERNATIONAL LAW* (Oxford Univ. Press 1988).

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ UN General Assembly Special Committee on Principles of International Law, Concerning Friendly Relations and Co-Operation among States (1964).

¹⁵⁹ Tom J. Farer, *Political and Economic Coercion in Contemporary International Law*, 79 AM. J. INT'L L. 405, 405-13 (1985).

efforts, the purpose behind the sought "influence," and omits active measures undertaken by states, focusing only on restricting or conditioning access¹⁶⁰.

Voitovich delivers a comparably broad definition:

“[E]conomic force in a broad meaning can be termed as the measure (quantity) of one subject’s coercive impact on another by the use of various economic means.”¹⁶¹

Naturally, this definition raises the question of what constitutes "coercive impact" and how it can be quantified, a question the author leaves unanswered.¹⁶²

Inching in on a more concrete definition, Austrian jurist Zehetner understands

“under the term economic warfare those hostile acts of an economic and/or military nature of a subject of public international law, which are taken with the goal to inflict economic and/or military damage on another subject of public international law or force it to act in a particular way.”¹⁶³

While Zehetner's definition includes all entities in public international law, British legal historian Neff limits his definition solely to states, allowing for even violent actions.

“Measures of economic warfare [. . .] are any measures [. . .] that are designed to inflict economic injury onto a state in the context of a political dispute. Such measures may be imposed either to induce the target state to adopt different political policies in the future or to impose an economic penalty upon it for alleged past misconduct.”¹⁶⁴

Neff's definition stands out by situating economic warfare within a "political dispute" framework and emphasizing the aim "to induce the target"¹⁶⁵. From the proposals of these legal experts, it's evident that essential elements of a definition should involve, objectively, the "harm" to the target economy and, subjectively, the "intent" to inflict

¹⁶⁰ *Id.*

¹⁶¹ Sergei A. Voitovich, *Legitimacy of the Use of Economic Force in International Relations: Conditions and Limits*, 15 *WORLD COMPET.* 27, 27-36 (1991).

¹⁶² *Id.*

¹⁶³ F. ZEHETNER, *Economic Warfare*, in *LEXICON OF LAW: INTERNATIONAL LAW* 407, 407-09 (I. Seidl-Hohenveldern ed., 2d ed. Luchterhand 1992).

¹⁶⁴ Stephen Neff, *Boycott and the Law of Nations: Economic Warfare and Modern International Law in Historical Perspective*, 59 *BRIT. Y.B. INT'L L.* 113, 113-49 (1988).

¹⁶⁵ *Id.*

such harm or incite specific actions from the target by the aggressor. Additionally, a useful definition must consider both the aggressor and the targeted entity.

Economists have also struggled to pinpoint a concrete definition. For instance, Wu characterized economic war as:

“...the negation of normal international economic relations. [. . .] In a narrow sense, it refers to all those international economic measures which directly enhance a country’s relative strength. [I]t comprises of all those foreign economic policies that may have as their long-run objective the enlargement of a country’s sphere of influence (and possibly a consequent contraction of that of a potential adversary).”¹⁶⁶

Defining "normal international economic relations" is challenging, especially with the frequent disruptions in trade, investment, and other economic exchanges between states. Additionally, assessing "spheres of influence" is too complex to be incorporated into a practical definition.

The proposal of Lowenfeld proves to be a more intuitive starting point for a definition:

“The term “economic sanction” is used here to define measures of an economic—as contrasted with diplomatic or military—character taken by states to express disapproval of the acts of the target state or to induce that state to change some policy or practice or even its governmental structure.”¹⁶⁷

Lowenfeld employs the term "sanction" broadly, incorporating a wide range of punitive responses to international transgressions and hostile actions, such as countermeasures and retorsions.¹⁶⁸ In this study, however, "sanction" is defined narrowly as collective measures "not involving the use of armed force," potentially leading to the "complete or partial interruption of economic relations," in line with Article 41 of the UN Charter. For this work, Lowenfeld's concept of "economic sanction" is replaced by "economic warfare," offering a solid foundation for the definition.¹⁶⁹

¹⁶⁶ YUAN-LI WU, *ECONOMIC WARFARE*, Prentice-Hall Economics Series (Prentice-Hall 1952).

¹⁶⁷ ANDREAS F. LOWENFELD, *INTERNATIONAL ECONOMIC LAW*, International Economic Law Series (2d ed. Oxford Univ. Press 2008).

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

In defining economic warfare, this work considers actions by any subject of international law, not just states, as the belligerent, while adjusting Lowenfeld's approach to allow targets to include any legal entity, not limited to states or subjects of international law. This expansion accommodates measures by organizations like the UN, EU, or IMF, which possess significant economic influence.¹⁷⁰ Although most economic warfare measures are executed at the state level, decisions are often made within international organizations.¹⁷¹

Private actors, such as individuals or private legal entities, are excluded from the definition, though their role is crucial in economic warfare. State-imposed economic warfare measures rely on both private and public actors for effectiveness. Moreover, private economic entities can independently engage in actions labelled as economic warfare when linked to subjects of international law, akin to "boycotts." While originating from private entities, such actions are not excluded from this definition when states nurture or control these actions.¹⁷² The key aspect is whether these measures are attributable to subjects of international law.

Economic warfare measures need not exclusively target subjects of international law; they often impact private economic activity. Measures may affect foreign private entities rather than another state's economic activities directly. For instance, denying foreign capital entry can impact private investors. Measures like UN and EU sanctions may target individuals, reflecting that the legal nature of the target only needs to be a legal entity.¹⁷³ Therefore, any legal entity can be a target of economic warfare.

Moreover, diverging from Lowenfeld's stipulation that the target be a state, this definition includes non-international economic warfare. The target may be within the belligerent's jurisdiction and need not be foreign. Economic warfare can influence citizens and legal entities of both the target and potentially the belligerent. While

¹⁷⁰ ANTONIO CASSESE, INTERNATIONAL LAW 71-72, 124-50 (Oxford Univ. Press 2001).

¹⁷¹ VAUGHAN LOWE & ANTONIOS TZANAKOPOULOS, *Economic Warfare*, in MAX PLANCK ENCYCLOPEDIA OF PUBLIC INTERNATIONAL LAW (R Wolfrum ed., Oxford Univ. Press, (Mar. 01, 2025, 10:45 AM). <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e292?prd=MPIL>

¹⁷² THE CORE TEAM CORE, THE ECONOMY: ECONOMICS FOR A CHANGING WORLD (Oxford Univ. Press 2017).

¹⁷³ KERN ALEXANDER, ECONOMIC SANCTIONS, LAW AND PUBLIC POLICY 278-79 (Palgrave Macmillan, Basingstoke 2009).

economic warfare isn't inherently international, this work this work only reviews international law rules on economic warfare.

Economic measures during armed conflict (supplementary economic war) and military actions with economic goals (economic war in a broad sense) differ from this study's focus. Hence, auxiliary methods linked to armed conflict and military force for economic purposes are excluded from this study's definition of economic warfare.

To make these expressions more concrete, consider the 1956 Suez Crisis¹⁷⁴, where Britain engaged in military action to ensure the flow of oil through its "great imperial lifeline" from the Middle East—a motive concealed by a "fabricated casus belli" in collaboration with France and Israel.¹⁷⁵ Here, the UK used military force to protect its economic interests related to the Suez Canal, exemplifying economic war in the broad sense.¹⁷⁶

Conversely, supplementary economic war can be exemplified by the Allies' economic strategies against the Axis powers in World War II, like blockades, embargoes, asset freezes, and conditional aid to neutral nations. These actions bolstered military efforts in wartime and are therefore seen as auxiliary measures, not aligning with this study's definition of economic warfare.¹⁷⁷

For this study, Lowenfeld's definition of economic warfare is too restrictive regarding the belligerent's intent. Under his framework, actions driven by domestic policy objectives do not constitute economic warfare. For example, government efforts to enhance the global standing or market share of domestic industries, even when they negatively impact other countries, do not qualify as economic warfare, as these actions do not express disapproval of the target states or aim to alter their policies. Similarly, restricting foreign investment would not necessarily be considered economic warfare if the goal is to safeguard domestic industries rather than compel reciprocal access for the state's investors, which would involve influencing foreign investment policies.

To encompass such measures in the Working Definition, it is necessary to broaden the concept of intent to include actions motivated by economic considerations, even if these

¹⁷⁴ *An Affair to Remember*, THE ECONOMIST, July 27, 2006, <https://www.economist.com/node/7218678> [(Apr. 29, 2025, 9:21 PM)].

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ Supra note 171.

motivations are not targeted at the affected states but stem from domestic priorities.¹⁷⁸ Economic motivations might include anything from shielding domestic industries to bolstering them internationally. This broader interpretation aligns with governmental economic warfare strategies.

To summarize the modifications from Lowenfeld's initial approach:

1. The name given to a measure is irrelevant. Since there is no common understanding of economic warfare or related terms, the measure's name does not provide a meaningful definition.
2. Only measures objectively related to the economy and of a non-violent nature are included in the Working Definition, emphasizing their "exclusively economic character."
3. The restriction to state measures is removed, allowing the inclusion of measures by other subjects of international law, particularly international organizations.
4. The target of the measure does not need to be a state or subject of international law; the legal status of the target does not affect its inclusion in the definition.
5. This study captures a broader range of intent from the belligerent, including intentions not directly related to the target, such as furthering an economic goal of the imposing entity.
6. There is no need for unnecessary specificity; "exclusively economic character" suffices. Measures must be unrelated to military, diplomatic, or other activities to qualify as economic warfare. The conduct desired by the belligerent from the target is sufficient, without needing detailed examples like changing policies or government structures.

3.3 Impact On Global Trade

- **3.3.1 The "Oil Weapon" 1973 to 1974**

The word "embargo" originates from the Spanish verb *embargar*, meaning to seize or impound. Historically, it referred to the practice of impounding foreign ships or cargo. While naval embargoes are less relevant today, the concept of depriving someone of

¹⁷⁸ Robert Loring Allen, *State Trading and Economic Warfare*, 24 LAW & CONTEMP. PROBS. 256, 261-62 (1959).

certain benefits remains. Now, an embargo is typically understood as a unilateral state measure to restrict exports to, or imports from, a target state. This can include capital or services.

Embargoes often manifest as legal prohibitions, such as laws or decrees, applied to the citizens of the embargoing state. They affect both natural and legal entities and limit economic freedoms related to international commerce. Unlike measures like expropriation targeting foreign citizens in the embargoing state, embargoes primarily impact the state's own citizens. Violations are generally penalized, underscoring their role as a form of economic warfare.

“A trade embargo is a foreign policy measure of a state relating to foreign trade that results in a partial or total prohibition of trade with another state and usually is intended to exert pressure on this state, to injure it and, thereby, to cause it to act in a certain way.”

On October 17, 1973, nine Arab oil-producing countries announced plans to reduce oil shipments to consumer countries by at least 5% each month from the September 1973 levels, following a meeting in Kuwait.¹⁷⁹ The previous day, Iran and five Arab states—Kuwait, Saudi Arabia, Iraq, the United Arab Emirates, and Qatar—had raised crude oil prices by 70%¹⁸⁰, an event known as the "Oil Price Shock,"¹⁸¹ which, while not technically part of the embargo, occurred simultaneously.¹⁸² This was not the first such embargo; a previous one targeted the UK and the US for their support of Israel during the 1967 Arab-Israeli War but proved less effective.¹⁸³

The embargo decision was made by several states individually, allowing flexibility in the specifics, such as the extent of oil supply reduction. No international organization played a role, making it a case of loosely coordinated unilateralism rather than a formal sanction. Not all OPEC members supported the embargo; only the aforementioned states did, later joined by Algeria, Bahrain, Egypt, Libya, and Syria.¹⁸⁴ The decision¹⁸⁵,

¹⁷⁹ *An Uncertain Weapon*, THE ECONOMIST, Oct 20, 1973, (Mar. 02, 2025, 12:56 PM)

¹⁸⁰ *Id.*

¹⁸¹ Robert Mabro, *The Oil Weapon: Can It Be Used Today?*, 29 HARV. INT'L REV. 56, 56-60 (2007).

¹⁸² Ibrahim F. I. Shihata, *Destination Embargo of Arab Oil: Its Legality Under International Law*, 68 AM. J. INT'L L. 591, 591-27 (1974).

¹⁸³ Fuad Itayim, *Arab Oil—The Political Dimension*, 3 J. PALESTINE STUD. 85, 84-97 (1974)

¹⁸⁴ *Supra* note 181.

¹⁸⁵ *Supra* note 182.

officially a non-binding "recommendation,"¹⁸⁶ was not attributed to the Council of the Organization of Arab Petroleum Exporting Countries (OAPEC), which comprised all mentioned states except Iran. One reason might have been Iraq's policy preference for nationalizing Western oil concessions, although Iraq did ultimately raise prices.¹⁸⁷ Instead, the decision was enacted by the Conference of Arab Oil Ministers.¹⁸⁸

To achieve their objectives, the embargoing states established three categories of oil-consuming nations in November 1972.¹⁸⁹ "Friendly countries" would receive the weighted average of their previous oil supplies, "neutral countries" would experience percentage cutbacks, and "hostile countries" would be subject to a full embargo.¹⁹⁰ In Europe, France, Spain, and the United Kingdom were deemed friendly, while most other European countries and Japan were seen as neutral. The Netherlands and the United States, classified as hostile, faced an immediate and complete embargo.¹⁹¹

The threat materialized within a week as the demands were not met¹⁹²: The United States and the Netherlands were completely embargoed, while other countries faced more than 5% reductions in deliveries.¹⁹³ On November 5, 1973, following a second meeting, the Conference of Arab Oil Ministers declared a 25% cut in production, effective immediately, with additional monthly cuts of 5%, alongside a continued full embargo on the United States and the Netherlands. The embargo was implemented through production cuts and export discrimination, later supported by Oman, which was not a member of OPEC or OAPEC.¹⁹⁴

The measure's intent was evidently political, as indicated by the language used in the recommendation. Although never officially published, it appeared as an announcement titled "Arab Oil Policy in the Middle East Conflict" in The Guardian's November 15, 1973 issue, highlighting the political motivations underlying the action¹⁹⁵: -

¹⁸⁶ A.F. Alhajji, *The 1973 Oil Embargo: Its History, Motives, and Consequences*, OIL & GAS J., May 2, 2005, at 24, 24-25.

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ Supra note 182.

¹⁹⁰ Supra note 181.

¹⁹¹ RORY MILLER, FARAWAY CAUSES, IMMEDIATE EFFECTS: EUROPE AND THE 1973 ARAB-ISRAELI WAR, (2013).

¹⁹² Supra note 182.

¹⁹³ James A. Boorman III, *Economic Coercion in International Law: The Arab Oil Weapon and the Ensuing Juridical Issues*, 9 J. INT'L L. & ECON. 207, 205-231 (1974).

¹⁹⁴ Supra note 182.

¹⁹⁵ *Id.*

“Considering that the direct goal of the current battle is the liberation of the Arab territories occupied in the June 1967 war and the recovery of the legitimate rights of the Palestinian people in accordance with the United Nations resolutions;¹⁹⁶

Considering that the United States is the principal and foremost source of the Israeli power which has resulted in the present Israeli arrogance and enabled the Israelis to continue to occupy our territories;¹⁹⁷

Recalling that the big industrial nations help, in one way or another, to perpetuate the status quo, though they bear a common responsibility for implementing the United Nations resolutions; [. . .]”¹⁹⁸

Contemporary media coverage also assumed a political motivation behind the embargo.¹⁹⁹

“The Arabs have made it clear for some time that their only aim in using the oil weapon is to bring about a change in America’s policy towards Israel.²⁰⁰ They have repeatedly emphasised that they have no desire to make other countries suffer.²⁰¹ In Wednesday’s statement they said that any country that adjusted its political position so as to move closer to the Arabs could receive exceptional treatment and would be given its share of the oil as before — a position that some governments, including Britain’s, have been trying to establish by refusing to ship arms to Israel.”²⁰²

The term "oil weapon," quickly coined by media and politicians, was largely seen as a response to the 1973 (Fourth) Arab-Israeli War²⁰³, initiated by Egypt and Syria on October 6, 1973, to reclaim territories like the Golan Heights and Sinai Peninsula occupied by Israel since the 1967 war.²⁰⁴ The strategic use of this oil embargo aimed to withdraw international support for Israel, particularly from the United States. Despite the embargo threat, the U.S., less reliant on Arab oil then²⁰⁵, approved a \$2.2 billion

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ Supra note 179.

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ AHRON BREGMAN, ARAB—ISRAELI CONFLICT ([Publisher Unknown] 2011).

²⁰⁴ *Id.*

²⁰⁵ Supra note 179.

military aid package for Israel just two days later, shortly before the embargo took effect.

The embargo against the U.S. ended on March 18, 1974, with the Netherlands released in July 1974,²⁰⁶ though several exceptions and preferential treatments occurred beforehand. The Federal Republic of Germany and other Western European nations, excluding the Netherlands, were effectively exempt from the embargo as of December 25, 1973.²⁰⁷ Despite the initial uproar, both the political and economic impact of the Arab oil weapon were considered limited in both the short and long term.²⁰⁸

The strategic impact on the U.S. was somewhat mitigated by its available domestic reserves and reliance on oil from non-Arab countries such as Canada and Venezuela.²⁰⁹ Even for the Netherlands, the effect was dampened by major oil companies redirecting Arab oil through neutral channels and replacing it with supplies from Indonesia, Venezuela, and other non-Arab sources.²¹⁰ Despite this, the Arab states' actions resulted in several severe outcomes, including bans on Sunday driving and decreased support for Israel from Western Europe and Japan. This use of oil supply restriction set a troubling precedent.²¹¹

- **3.3.2 Russia Sanctions**

The term "sanction" is often used interchangeably with "embargo," especially regarding economic measures. However, "sanction" is not a precise legal term in international law and is considered somewhat vague. Generally, "economic sanctions" refer to both unilateral and collective actions in the economic realm. These collectively decided measures, not involving armed force, typically aim to interrupt economic relations, such as UN sanctions under Chapter VII of the UN Charter or EU sanctions under Article 215 TFEU. The International Law Commission (ILC) also refers to collective measures by international organizations as sanctions.²¹²

Russia holds the highest record for economic sanctions on a country. On February 24, 2022, Russia initiated a full-scale invasion of Ukraine. In response, Western nations—

²⁰⁶ Supra note 181.

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ J. Dapray Muir, The Boycott in International Law, 9 J. INT'L L. & ECON. 187 (August 1974).

²¹⁰ *Id.*

²¹¹ *Id.*

²¹² ILC, <https://legal.un.org/ilc/> (May. 21. 2025, 6:13 AM)

including Australia, Canada, the EU, Japan, the UK, and the United States—imposed extensive unilateral sanctions on President Putin’s regime.²¹³

These sanctions targeted Russia’s financial sector, including its central bank, removed Russia from SWIFT interbank transactions, and introduced new regulations on goods and services in key sectors such as aviation, energy, and shipping.²¹⁴ Additionally, sanctions were imposed on numerous individuals, including those close to Putin, facilitators of military actions like the Wagner Group, soldiers and officials in occupied Ukrainian regions, and oligarchs with Western assets linked to critical sectors or associated with Putin (EU Commission, 2024).²¹⁵

The initial effect of the partial import bans from the EU and other OECD countries results in a significant reduction of Russian natural gas exports by about 90%, while crude and refined oil exports decrease by only about 5%.²¹⁶ This sharp drop in natural gas exports is due to the shutdown of pipelines to Europe. However, Russia’s oil exports to non-European markets largely compensate for the loss in Europe, mitigating the impact on foreign income.²¹⁷ Additionally, increasing LNG exports and additional natural gas exports via a new pipeline to China improve the situation, with natural gas exports now declining by around 75%.²¹⁸

The 2022 sanctions expanded on measures initially implemented in 2014 following Russia’s annexation of Crimea and nearby regions. New policies have since been enacted to counter sanction evasion, targeting those enabling the war outside Russia, as well as individuals committing war crimes and human rights violations in occupied Ukrainian territories.

Despite these measures, the primary focus of the sanctions is the Russian oil industry, with the US, UK, and EU banning sea imports of crude oil, and prohibiting Russia’s oil

²¹³ *Sanctions effectiveness: what lessons three years into the war on Ukraine?* <https://www.economicsobservatory.com/sanctions-effectiveness-what-lessons-three-years-into-the-war-on-ukraine> (Jan. 18, 2025, 12:51 PM)

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ HUGO ROJAS-ROMAGOSA, MEDIUM-TERM MACROECONOMIC EFFECTS OF RUSSIA’S WAR IN UKRAINE AND HOW IT AFFECTS ENERGY SECURITY AND GLOBAL EMISSION TARGETS, IMF Working Paper No. WP/24/39, (Feb. 2024).

²¹⁷ *Id.*

²¹⁸ *Id.*

and natural gas. To restrict Russia's oil revenue, the G-7, comprising seven major economies, attempted to set a \$60 per barrel cap on Russian crude oil.²¹⁹

Facing pressure from consumers and their own countries' policies, numerous multinational companies, including McDonald's, Coca-Cola, Starbucks, and Heineken, have exited the Russian market.

Naturally, there are gaps in the sanctions regime, and Russia has somewhat managed to dodge their full impact. For instance, the Kremlin has swapped pipeline oil exports to Western Europe for tanker shipments to other nations via a 'shadow fleet'.²²⁰

That being said, the effect of Western sanctions on both Russia's GDP and levels of personal disposable income has been considerable (IMF, 2025).²²¹ After three years of war, Russian GDP is now 10-12% below pre-invasion trends. Personal disposable income is 20-25% below where it would have been without the conflict.²²²

To counter the sanctions' adverse effects on its economy, Russia is actively expanding its international trade by diversifying partnerships, focusing on Asia and the Middle East, notably with China and Iran. It is implementing domestic policies to help industries reduce dependency on imports and engaging in diplomatic talks with Western countries for potential sanction relief.

The Atlantic Council, a nonpartisan policy and research organization, reports that despite a \$60 price cap per barrel by the G7, Russia manages to sell oil at higher prices using an undisclosed fleet of about 1,000 tankers.²²³ Researchers from King's College London suggest Western goods' demand in Russia is being fulfilled by "shadow trade deals" with neighbouring countries such as Georgia, Belarus, and Kazakhstan.²²⁴

²¹⁹ "What are the sanctions on Russia and have they affected its economy?." BBC. (2024). <https://www.bbc.com/news/world-europe-60125659>. (Mar. 02, 2025, 12:56 PM)

²²⁰ *Id.*

²²¹ IMF, World Economic Outlook (April 2025), https://www.imf.org/external/datamapper/NGDP_RPCH@WEO/RUS?zoom=RUS&highlight=RUS (Mar. 02, 2025, 12:56 PM)

²²² *Id.*

²²³ Elisabeth Braw. "Russia's growing dark fleet: Risks for the global maritime order." Atlantic Council, Issue Brief. 2024. <https://www.atlanticcouncil.org/in-depth-research-reports/issuebrief/russias-growing-dark-fleet-risks-for-the-global-maritime-order/> (Mar. 02, 2025, 12:56 PM)

²²⁴ "Russia evading sanctions thanks to 'shadow trade deals'." King's College London. 2023 <https://www.kcl.ac.uk/news/russia-evading-sanctions-thanks-to-shadow-tradedeals#:~:text=New%20research%20has%20shed%20light,of%20producers%20in%20the%20West> (Aug. 05, 2024, 02:26 PM).

Additionally, China's cutting-edge tech products have found a thriving market in Russia after Western tech restrictions due to sanctions.

With inflation and domestic interest rates in Russia exceeding 20%, and issues like dwindling foreign exchange reserves, rising bankruptcies in businesses and real estate, and growing challenges in interbank and state transactions, Russia's economy appears increasingly fragile. This occurs amidst a rapid expansion of the war economy, which is reducing both private sector spending and other public sector activities.²²⁵

The Russian economy has shown some resilience to Western sanctions. Although export embargoes have affected ordinary citizens, they haven't led to regime change. Elites have managed to bypass restrictions through increased indirect exports via Central Asian countries. For instance, Kazakhstan's trade with Russia grew significantly, with \$575 million in electronics exported from January to October 2022, marking an 18% rise from the previous year.²²⁶

In response to this parallel trade, the EU, UK, and US have tightened measures.²²⁷ The UK, for instance, added electronic components like integrated circuits and radio frequency transceiver modules—used by the Russian military—to the Common High Priority Items List. This database is updated as necessary, and companies must ensure restricted items aren't indirectly exported to Russia.

- **3.3.3 The United States Trade War of 2018**

When considering trade wars, tariffs, quotas, and dumping are key strategies in economic warfare concerning goods. Tariffs are levies imposed by states on imports, calculated either as a percentage of the product's price (*ad valorem*) or as a fixed amount per unit. Quotas limit the volume of imports to a certain level, often requiring import licenses. Dumping involves exporters selling goods at lower prices in export markets than in their home markets, a form of international price discrimination.

In the more technical parlance of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement), dumping occurs when exporters sell a product: -²²⁸

²²⁵ Supra note 219.

²²⁶ Supra note 224.

²²⁷ Supra note 213.

²²⁸ Art. 2.1 Antidumping Agreement.

“at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.”²²⁹

Tariffs and quotas are commonly used to counteract dumping. Moreover, international agreements often allow tariffs and quotas if rising imports threaten domestic industries, known as safeguards, highlighting their role as powerful tools for protectionists in trade disputes.

The lead-up to what became the United States Trade War of 2018²³⁰ involves the evolution of the U.S. steel industry post-World War II, which has frequently sparked economic conflicts. In the 1960s, the U.S. became a net steel importer, temporarily alleviating industry pressure through voluntary export restraint agreements with major steel exporters.

By the mid-1970s, cheap steel imports were seen as a threat, prompting short-term regulatory action.²³¹ From the early 1980s to 1992, further voluntary restraint agreements were implemented until the U.S. steel industry experienced a "renaissance" of competitiveness, reducing pressure. However, by 1998, this period ended amid rising steel imports and a wave of antidumping and countervailing duty petitions.²³²

In 2000 and 2002, Section 201 safeguards²³³ led to 30% tariffs on steel products, which were withdrawn in 2003 after the WTO ruled them in violation of Article XIX:1 GATT.²³⁴ The industry faced challenges from the 2007 financial crisis and recession,

²²⁹ *Id.*

²³⁰ Chad P. Bown, *The 2018 Trade War and the End of Dispute Settlement as We Knew It*, in *TRADE WAR: THE CLASH OF ECONOMIC SYSTEMS THREATENING GLOBAL PROSPERITY*, (Meredith A. Crowley ed., CEPR Press 2019).

²³¹ This time, they were answered with the so-called Trigger Price Mechanism.

²³² CHRISTINA L. DAVIS, *WHY ADJUDICATE?: ENFORCING TRADE RULES IN THE WTO* 225–26 (Princeton Univ. Press 2012).

²³³ Trade Act of 1974.214

²³⁴ Appellate Body (10 November 2003 (adopted 10 December 2003)) United States – Definitive Safeguard Measures on Imports of Certain Steel Products, Report of the Appellate Body, WT/DS248/AB/R, WT/DS249/AB/R, WT/DS251/AB/R, WT/DS252/AB/R, WT/DS253/AB/R, WT/DS254/AB/R, WT/DS258/AB/R, WT/DS259/AB/R, para. 513.

and by 2016, the U.S. Department of Commerce noted that a third of domestic steel consumption was imported.²³⁵

The story of the 2018 trade war began with the release of the Department of Commerce's report titled "The Effect of Imports of Steel on the National Security."²³⁶ This report advised the U.S. President to "take immediate action by adjusting the level of imports through quotas or tariffs on steel."²³⁷ The intention was to boost the capacity utilization of the American steel industry from about 70% to 80% by cutting import market share to roughly 20%.²³⁸ A similar report with comparable recommendations was produced for aluminium. The central reason given for these import restrictions was that steel is vital to the United States' defence interests—for manufacturing weapons (making up around 3% of U.S. steel production) and for maintaining essential infrastructure sectors like chemical production, communications, dams, energy, nuclear plants, food systems, transportation, as well as water and wastewater management (collectively about half of U.S. steel production).²³⁹

The report contended that only domestic steel producers could reliably supply this demand. However, since demand for defence and infrastructure alone would not keep American steel producers profitable, these companies needed to attract broader commercial customers.²⁴⁰ Yet the influx of steel imports was, according to the report's authors, putting this at risk.²⁴¹ To justify trade restrictions, the report anchored its recommendations in "national security" as specified in 19 U.S.C. § 1862 (more widely known as "Section 232," from the Trade Expansion Act of 1962²⁴²), which provided the legal foundation for the analysis.

Once the report was submitted, the President had 90 days to respond and determine the course of action if he agreed with its findings.²⁴³ On March 1, 2018, the President

²³⁵ United States Department of Commerce (2018) The Effect of Imports of Steel on the National Security. https://www.commerce.gov/sites/commerce.gov/files/the_effect_of_imports_of_steel_on_the_national_security_-_with_redactions_-_20180111.pdf. (Aug. 09, 2024, 04:30 PM).

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ *Id.*

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² Pub. L. No. 87-794, 76 Stat. 872, 877 (1962).

²⁴³ The Economist (2018) *President Donald Trump wants tariffs on steel and aluminium: to get them, he is causing chaos*. https://www.economist.com/finance-and-economics/2018/03/02/president-donald-trump-wants-tariffs-on-steel-and-aluminium?cid=1%4cust/ddnew/email/n/n/2018032n/owned/n/n/ddnew/n/n/n/nEU/Daily_Dispatch/email&etear%4dailydispatch. (Sep. 09, 2024, 04:30 PM).

announced new tariffs: a 10% tariff on aluminium imports and a 25% tariff on steel imports, applied indiscriminately to all exporting countries.²⁴⁴

The mere announcement of these tariffs had an immediate effect on stock markets across Asia and Europe, causing the share prices of major steel and aluminium producers outside the United States to decline. Meanwhile, U.S. steel producers saw significant stock gains, whereas American companies that rely on steel—such as automobile manufacturers—experienced marked drops in their share values.²⁴⁵ These measures faced strong resistance from business groups, (Republican) lawmakers, and even some within the administration.

Media coverage was widespread and dramatic, with numerous publications forecasting an impending "global," "international," or even "total" trade war.²⁴⁶ In line with the combative rhetoric characteristic of trade disputes, the European Union and various individual countries announced plans to retaliate by imposing tariffs²⁴⁷ on American goods and launching proceedings before the WTO's Dispute Settlement Body. On March 7, 2018, the European Commission officially outlined its stance²⁴⁸, targeting iconic U.S. products like Bourbon whiskey, blue jeans, and Harley-Davidson motorcycles, as well as key agricultural exports such as cranberries, peanuts, and products derived from them.²⁴⁹ In response, the President of the United States threatened additional tariffs on European cars, regardless of whether the countermeasures were proportionate or not.²⁵⁰

On March 23, 2018, two weeks after the initial announcement, the tariffs officially took effect, hitting countries like Japan and China, which were unable to secure exemptions. In contrast, Brazil, Australia, Argentina, and South Korea managed to avoid the tariffs by agreeing to accept import quotas instead. The tariffs targeting the European Union, as well as other countries like Mexico and Canada—both NAFTA partners of the U.S.—

²⁴⁴ *Id.*

²⁴⁵ Carey N, Banerjee A (2018, 01 March) *U.S. steel, aluminum stocks up on Trump's tariffs, but other industries fear price rises*, Reuters. [https://www.reuters.com/article/us-usa-trade-companies/u-s-steel-aluminum-stocks-up-on-trumps-tariffs-but-other-industries-fear-price-risesidUSKCN1GD6FH?il%40\(May. 09, 2025, 04:30 PM\)](https://www.reuters.com/article/us-usa-trade-companies/u-s-steel-aluminum-stocks-up-on-trumps-tariffs-but-other-industries-fear-price-risesidUSKCN1GD6FH?il%40(May. 09, 2025, 04:30 PM)).

²⁴⁶ *Id.*

²⁴⁷ *Supra* note 243.

²⁴⁸ European Commission (2018) European Commission outlines EU plan to counter US trade restrictions on steel and aluminium. [http://trade.ec.europa.eu/doclib/press/index.cfm?id%41809\(Aug. 09, 2024, 04:30 PM\)](http://trade.ec.europa.eu/doclib/press/index.cfm?id%41809(Aug. 09, 2024, 04:30 PM)).

²⁴⁹ The Economist (2018, 10 March) *Massive attack*, pp 19–22

²⁵⁰ *Id.*

were implemented on June 1, 2018.²⁵¹ On August 13, 2018, Turkey faced an additional tariff increase.²⁵²

Collectively, these tariffs impacted countries responsible for 81% of U.S. steel and 96% of aluminium imports in 2017, while most of the remaining importers were subjected to quotas.²⁵³ China, described as an “economic enemy²⁵⁴” by U.S. officials, faced not only steel tariffs but also an array of extra duties covering various other Chinese goods, totalling \$60 billion—equivalent to about 10% of annual U.S. imports from China.²⁵⁵

In response, nearly all affected nations imposed retaliatory tariffs on American products within weeks.²⁵⁶ China’s countermeasures prompted yet another wave of U.S. tariffs,²⁵⁷ triggering a rapid escalation of tit-for-tat²⁵⁸ actions between the two countries. This cycle highlighted the self-perpetuating nature of trade wars and was only slowly and partially contained by late 2019.²⁵⁹

The imposition of the initial tariffs on steel and aluminum had an immediate effect on financial markets, with the S&P 500—a key indicator of the U.S. economy—dropping by 2.5% after the presidential order was signed on March 22, 2018.²⁶⁰ Globally, the economic outlook also deteriorated, as markets feared a deepening “trade war” between the world’s two largest economies.²⁶¹ When China retaliated with tariffs on 128 U.S. products, the S&P 500 and other major stocks like the Dow Jones Industrial index as well as the NASDAQ fell by at least 3 percent after the tariffs came into effect.²⁶²

²⁵¹ The Economist (2018, 9 June) Friends and foes, pp 63–64.

²⁵² The Economist (2018) Donald Trump has thrown the Turkish lira under the bus. <https://www.economist.com/finance-and-economics/2018/08/10/donald-trump-has-thrown-the-turkish-lira-under-the-bus>. (Aug. 09, 2024, 04:30 PM).

²⁵³ Supra note 251.

²⁵⁴ Landler M, Tankersley J (2018, 22 March) Trump hits China with stiff trade measures, The New York Times. <https://nyti.ms/2G33mMD>. (Jan. 17, 2025, 01:30 PM).

²⁵⁵ *Id.*

²⁵⁶ Supra note 251.

²⁵⁷ Sec. 301 (of the United States Trade Act 1974)

²⁵⁸ SJ Evenett & J. Fritz, *Misdirection and the trade war malediction of 2018: scaling the US–China bilateral tariff hikes*, in TRADE WAR: THE CLASH OF ECONOMIC SYSTEMS ENDANGERING GLOBAL PROSPERITY 75, (Meredith A. Crowley ed., CEPR Press 2019).

²⁵⁹ The Economist (2018, 8 December) Peace in our time, p 61, The Economist (2018, 22 December) Peace offering, pp 91–93

²⁶⁰ Yahoo Finance (2021d) S&P 500 (^GSPC). <https://finance.yahoo.com/quote/^GSPC?p¼^GSPC> (Jan. 17, 2025, 01:30 PM).

²⁶¹ Supra note 254.

²⁶² Spiegel Online (2018, 02 April) Dow Jones fällt um mehr als drei Prozent. <http://www.spiegel.de/wirtschaft/service/usa-dow-jones-stuerzt-um-fast-drei-prozent-ab-a-1200929.html>. (Jan. 27, 2025, 01:30 PM).

Despite these shocks, many analysts believed that the direct harm to trade from the steel and aluminum tariffs alone was relatively minor.²⁶³ Additionally, the economic justifications provided by the U.S. for targeting the steel and aluminum industries—and the notion of a national security threat—were met with widespread skepticism.²⁶⁴ The broader expansion of tariffs, however, was seen as more consequential.

Major international bodies like the IMF and OECD warned that even greater risks came from potential indirect effects, such as the threat of a global recession and the negative precedent such measures might set.²⁶⁵ Some commentators were particularly concerned that the U.S. use of the national security exception could inspire other countries, including China, to cite similar justifications for new protectionist policies.²⁶⁶ China's comments at WTO meetings suggested it reserved the right to impose reciprocal trade barriers as a result.²⁶⁷ In response to the tariffs, China, along with Canada, the EU, India, Mexico, Norway, Russia, Switzerland, and Turkey, filed formal complaints against the U.S. with the WTO.²⁶⁸

3.4 Conclusion

To summarize, this chapter has shed light on the many-sided phenomenon of economic warfare and its significant ramifications for international commerce. Although pinning down an exact definition of economic coercion remains challenging, its growing use as a foreign-policy instrument demands close scrutiny. Historical cases such as the 1973–74 “oil weapon” and the 2018 U.S. trade war illustrate how disruptive these tactics can be.

The discussion of sanctions imposed on Russia after its 2022 invasion of Ukraine further exposes the intricacies of today's economic battles. Sanctions have clearly hurt Russia's output, yet Moscow's capacity to adapt and dodge some of the measures

²⁶³ The Economist (2018, 10 March) The threat to world trade, p 11

²⁶⁴ G. Felbermayr & A. Sandkamp, *Trump's Import Tariffs on Steel and Aluminum*, 71 IFO SCHNELLDIENST 30, 32 (2018).

²⁶⁵ Rice G (2018) *IMF statement on announced U.S. import tariffs*. <http://www.imf.org/en/News/Articles/2018/03/02/pr1870-imf-statement-on-announced-us-import-tariffs>. (Jan. 17, 2025, 01:30 PM).

²⁶⁶ M. Wu, *China's Rise and the Growing Doubts over Trade Multilateralism*, in *TRADE WAR: THE CLASH OF ECONOMIC SYSTEMS ENDANGERING GLOBAL PROSPERITY* 101, 105 (Meredith A. Crowley ed., CEPR Press 2019).

²⁶⁷ WTO (2018) Minutes of the Meeting held in the Centre William Rappard on 7 March 2018,

²⁶⁸ Case numbers DS544 (China), DS547 (India), DS548 (EU), DS550 (Canada), DS551 (Mexico), DS552 (Norway), DS554 (Russia), DS556 (Switzerland), and DS564 (Turkey) (complainant in brackets).

underlines their limits (IMF, 2025). That reality calls for a nuanced assessment of both the likely effectiveness and the unintended fallout of economic pressure.

The 1973 oil crisis remains a textbook example. By wielding an oil embargo, several Arab exporters tried to shift diplomatic support away from Israel. Domestic stockpiles in the United States and a rapid redirection of global oil flows tempered the immediate sting, but the episode still sparked sweeping economic and social shocks—from Sunday driving bans to new diplomatic alignments. Above all, the embargo exposed how dependent industrialized economies were on a single resource and underscored the importance of diversifying energy supplies.

Similarly, the 2018 U.S. tariff clash demonstrates the complex—and often damaging—nature of modern trade confrontations. What started as duties on steel and aluminum quickly spiraled into cycles of retaliation, especially between Washington and Beijing. While the stated objective was to shield key industries and safeguard national security, the result was costlier inputs, rattled supply chains, and heightened uncertainty worldwide. Warnings by the IMF and OECD about a potential downturn highlighted how deeply integrated the global economy has become.

Whether formal rules can actually stop economic warfare is open to debate. Still, just as efforts to outlaw armed conflict have helped stave off truly large-scale wars, a framework for economic hostilities could foster stability. Regulation need not mean prohibition; it might instead impose stricter collective oversight and clearer boundaries.

The price tag of economic warfare is steep for both sender and target. Embargoes and tit-for-tat tariffs—such as those levied by the U.S., EU, and China in 2018—hurt all sides. Worse, collateral damage often spills across borders. The IMF once projected that broad tariff use could shave 0.5 percentage points from global output in 2020, and some analysts feared a worldwide recession. Escalatory risk compounds these costs, as the rapid volley of measures in 2018 and the wider deployment of international sanctions and countermeasures (ISCMs) illustrate.

Given these dangers, crafting clearer rules and promoting negotiated settlements appears prudent. By setting limits on how far states may push economic pressure—and by channeling disputes into collective forums—the international community could blunt spillover effects and reduce the odds of destructive escalation.

In the end, the chapter contends that the sizable risks bound up with economic warfare—global contagion, mounting costs, and an inherent tendency to spiral—justify a forward-looking regulatory approach. If, as the IMF warned, unchecked tariff wars can measurably erode worldwide growth, then establishing firm guidelines and encouraging peaceful resolution are vital steps toward a more stable economic order.

CHAPTER 4: INTERNATIONAL LEGAL FRAMEWORKS GOVERNING ARMED CONFLICT AND ECONOMIC WARFARE

4.1 Introduction

The international legal framework governing armed conflict and economic warfare represents a complex intersection of multiple legal regimes, reflecting the evolving nature of modern conflicts and the increasing sophistication of economic measures as instruments of state power. This intricate legal architecture has developed through centuries of international practice, treaty-making, and customary international law, establishing fundamental principles that regulate both traditional military operations and contemporary forms of economic coercion.

Modern conflict rarely comes packaged in a single, recognizable form. A cruise-missile strike on a power plant may be paired, within hours, with a cyber-attack on the plant's replacement parts catalogue, the freezing of the target State's foreign-exchange reserves, a torrent of social-media disinformation and a petition to the World Trade Organization alleging unfair subsidies. In this environment artillery shells, lines of computer code and tariff schedules are wielded as complementary levers of national power. The humanitarian impact on civilians—whether through blast injuries, collapsing hospitals or soaring food prices—can be indistinguishable. Against this backdrop, the international legal order must answer a pressing question: which rules restrain the combined use of armed force and economic coercion, and how do those rules interact?

Three distinct but overlapping regimes presently shoulder that responsibility. First, International Humanitarian Law (IHL) regulates conduct during hostilities, insisting on principles such as distinction, proportionality and humane treatment of detainees. Second, the United Nations Charter empowers the Security Council, under Chapter VII, to impose non-military sanctions and other collective measures when peace and security are threatened. Third, the General Agreement on Tariffs and Trade (GATT) and its institutional successor, the World Trade Organization (WTO), discipline most forms of cross-border trade restriction, even when national-security interests are invoked. Each system emerged from a different historical crisis—world wars, failed collective security, depression-era protectionism—and each relies on its own enforcement machinery, interpretive traditions and political compromises.

Yet twenty-first-century strategy increasingly fuses the kinetic and the economic, exposing fault lines the original architects did not anticipate. Humanitarian exemptions built into sanctions practice do not always align with IHL's obligation to facilitate relief operations. States cite Article XXI of the GATT to justify embargoes whose real aim is to degrade an adversary's war-sustaining infrastructure, raising the question of whether economic siege should be judged by trade law, humanitarian law, or both. Non-state armed groups now crowd-source funding with cryptocurrencies, straddling the boundary between financial regulation and the law of armed conflict. Meanwhile, the machinery designed to enforce compliance—the Security Council, the WTO dispute-settlement process, domestic war-crimes courts—faces political paralysis, technological obsolescence or chronic under-resourcing.

4.2 International Humanitarian Law

States hold primary accountability for enforcing international human rights and humanitarian rules amid armed conflict.²⁶⁹ In internal hostilities, both state authorities and rebel forces can be individually liable, each required to fully observe and uphold these binding legal standards.²⁷⁰

In the context of International Humanitarian Law (IHL), "*jus ad bellum*" and "*jus in bello*" are two distinct legal concepts that serve different purposes.

1. **Jus ad Bellum:** This refers to the legal criteria that a state must meet to justify going to war. It encompasses the reasons states may resort to armed conflict and seeks to regulate the conditions under which such actions are permissible. Key principles include self-defence, UN Security Council authorization, and preventing widespread suffering or genocide.
2. **Jus in Bello:** Also known as International Humanitarian Law itself, this set of rules governs the conduct of parties during armed conflict, irrespective of the reasons for the conflict. Its primary focus is on limiting the effects of warfare, protecting those who are not participating in hostilities, and restricting the means and methods of warfare. It includes principles such as distinction, proportionality, and necessity.

²⁶⁹ David Weissbrodt, *Humanitarian Law in Armed Conflict: The Role of International Nongovernmental Organizations*, 24 J. PEACE RSCH. 297, (1987).

²⁷⁰ Geneva Conventions, 1949, common Article 3.

Jus ad bellum is concerned with the legality of the entry into conflict, while *jus in bello* addresses conduct in conflict. The *jus ad bellum* and *jus in bello* are distinct, allowing a use of force to be lawful under one and unlawful under the other. An aggressive war might adhere to armed conflict law, while a defensive war could breach it. Recognizing that some facts, like consent, affect both laws doesn't conflate them. For instance, effective control over another state's territory usually results in occupation. If there's consent, it's not a belligerent occupation—not because it's lawful but because there's no belligerency. This logic also applies to armed force use and armed conflict existence.

International bodies can only promote adherence to human rights and humanitarian laws among conflict participants. The International Committee of the Red Cross (ICRC) has traditionally taken a leading role in applying humanitarian law in wartime and has recently started addressing human rights law amid internal conflicts not covered by international humanitarian law.²⁷¹ The UN General Assembly, the UN Commission on Human Rights, the International Court of Justice, and the Inter-American Commission on Human Rights have intermittently used their sway to protect human rights during conflicts and have occasionally referenced humanitarian law in these efforts.²⁷²

These agencies aim to fill the gap left by the UN Security Council and other international systems' failure to address conflict situations effectively.²⁷³ International NGOs, like Americas Watch, Amnesty International, the International Commission of Jurists, and the International League for Human Rights, acknowledge that human rights violations often occur during armed conflicts.²⁷⁴ Notably, grave violations such as arbitrary executions, detention, and mistreatment tend to increase during these times.²⁷⁵

Amnesty International's 1986²⁷⁶ Annual Report identified 21 conflict-afflicted countries with noted human rights issues: Afghanistan, Angola, Botswana (due to South African actions), Burma, Chad, Colombia, El Salvador, Ethiopia, Guatemala, Honduras

²⁷¹ Common Article 9 of the First, Second, and Third Geneva Conventions; Fourth Geneva Convention, Article 10; Geneva Conventions, common Article 3; International Committee of the Red Cross (1983, pp. 38-39).

²⁷² Supra note 271.

²⁷³ Supra note 269.

²⁷⁴ Bertie Ramcharan, *The Role of International Bodies in the Implementation and Enforcement of Humanitarian Law and Human Rights Law in Non International Armed Conflicts*, 33 AM. U. L. REV. 99, (1983).

²⁷⁵ *Id.*

²⁷⁶ Amnesty International 1986. Report. London.

(Nicaraguan rebels), Israeli Occupied Territories, Kampuchea, Lebanon, Lesotho (South African actions), Mozambique, Namibia, Philippines, Somalia, Sudan, Uganda, and Vietnam. The report also mentioned concern over prisoners held by the Polisario Front, touching on Morocco and Western Sahara, but omitted the Iran-Iraq war.²⁷⁷

Given the International Committee of the Red Cross's longstanding leadership in safeguarding key human rights during armed conflicts, it is beneficial for other NGOs to examine the ICRC's practices to glean insights and explore how their efforts might complement the ICRC's work.²⁷⁸

Organizations can benefit from the ICRC's methods, particularly regarding the effectiveness of their techniques. When a humanitarian law violation is suspected or preventable, the ICRC approaches the relevant authorities, typically without publicity. The ICRC's main role is assisting conflict victims, and it communicates concerns privately to avoid public disputes that could hinder its aid efforts.

Although generally confidential, the ICRC retains the option to publicly address humanitarian law violations under specific conditions.²⁷⁹ If a human rights group comments on a government's violations in conflict, it is expected to also report on the opposing party's abuses that may have caused or justified repression. Balancing such reports can unintentionally provide one side justification for past or future violations, highlighting the challenge and risk of increased reporting during conflicts.

A significant distinction between the ICRC and other human rights organizations is that the ICRC has been assigned specific responsibilities under international humanitarian treaties, while others have not. Additionally, a report from an AI mission to Vietnam highlights another difference:

“Amnesty International lacks the professional capability to conduct prison visits like the International Committee of the Red Cross (ICRC). Comprehensive inspections require longer visits, more locations, and medical experts in the team.”²⁸⁰

²⁷⁷ *Id.*

²⁷⁸ See International Committee of the Red Cross, *The Red Cross and Human Rights* (1983).

²⁷⁹ International Committee of the Red Cross (1981)

²⁸⁰ Amnesty International 1980. Report of an Amnesty International Mission to the Socialist Republic of Viet 12, no. 3, April, pp. 326-342. Forsythe, David 1975. 'Present Role of the Red Cross Nam, December 1979. London.

These efforts also demand repeated visits to the same facility. Structurally, the ICRC possesses both a substantial central staff and regional offices that routinely inspect detention sites, offer relief, and collaborate with National Red Cross and Red Crescent Societies.

Terry Gill offers a notable critique of the ICRC's stance in a recent *International Law Studies* article.²⁸¹ First, Gill challenges the notion that non-consensual military intervention automatically breaches sovereignty, arguing such actions might be lawful self-defense or sanctioned by the UN Security Council.²⁸²

This critique seems misplaced. The ICRC does not claim a sovereignty violation but mentions "interference" or "intrusion" into a state's sovereignty. A sovereignty violation is inherently unlawful, whereas interference can be lawful or unlawful. For the ICRC, any armed interference or intrusion—whether unlawful aggression or lawful self-defense—initiates an armed conflict with the state.

Second, Gill argues there's no reason to believe that classifying an armed conflict hinges on whether a *jus ad bellum* violation occurred.²⁸³

This too appears misguided. The ICRC states that conflict classification doesn't depend on the force's legality but rather on the use of force by one state on another's territory without consent. If there is consent, the force used is lawful and no armed conflict exists, not because the force is lawful, but because there is no dispute or hostility between the states. Thus, consent is relevant to both *jus ad bellum* and *jus in bello*.

Gill points out that neither the Geneva Conventions' provisions (Common Articles 2 and 3) nor the original ICRC commentaries mention sovereignty violation as a factor in classifying armed conflicts.²⁸⁴ Additionally, the ICTY's *Tadić* judgment, considered a key judicial decision, doesn't address this criterion.

Since the Geneva Conventions don't specify when a state conflict exists, interpretation must consider their context, object, and purpose. As per the original ICRC commentaries, any dispute leading to armed forces' intervention constitutes an armed

²⁸¹ Terry D. Gill, *Classifying the Conflict in Syria*, 92 INT'L STUD. 353 (2016).

²⁸² *Id.*

²⁸³ *Id.*

²⁸⁴ *Id.*

conflict.²⁸⁵ The most severe dispute might involve one state deciding on the use of force on another's territory. If such a dispute results in military intervention, an armed conflict ensues.

In Tadić²⁸⁶, the ICTY stated an armed conflict exists with any resort to force between states. Crucially, "armed force between States" means one state using armed force against another, not necessarily reciprocated.²⁸⁷

The ICRC, as an impartial, neutral and independent humanitarian organization, whose primary mandate is to ensure the faithful application of IHL and to protect and assist victims of armed conflicts, will be for its part ready to perform the tasks entrusted to it by the Geneva Conventions of 12 August 1949, their Additional Protocols and by the Statutes of the International Red Cross and Red Crescent Movement.²⁸⁸

Violations of basic rules are a major concern. Even when parties claim compliance, differing interpretations of IHL's letter and spirit hinder its effectiveness. With over 120 global conflicts, the challenges for IHL are vast and complex.

Governments and media focus on crisis areas like Ukraine and Gaza, but violence in Africa and other regions has caused similarly alarming consequences. In Ethiopia, hundreds of thousands have died. Sudan faces over 10.5 million internally displaced and 2 million refugees. Conflict escalation in the Democratic Republic of the Congo has displaced 2 million more, partly due to urban shelling, raising the displaced total to over 7 million.²⁸⁹ Continuing conflicts in places like CAR, Colombia, Mozambique, Myanmar, Syria, and Yemen add considerable human costs.²⁹⁰

Since the 2019 Challenges Report, the risk of conflict spillover and escalation has grown. Post-intense hostilities in Gaza, regional conflict threats are rising. Sahel violence is moving south and towards Africa's west coast, while Great Lakes conflicts involve numerous actors.²⁹¹

²⁸⁵ *Id.*

²⁸⁶ Prosecutor v. Dusko Tadić (IT-94-1-A), *Decision on the Defense Motion for Interlocutory Appeal on Jurisdiction* (Int'l Crim. Trib. For the Former Yugoslavia Oct. 2, 1995).

²⁸⁷ Adil Ahmad Haque, *Whose Armed Conflict: Which Law of Armed Conflict*, 45 GA. J. INT'L & COMP. L. 475 (2017).

²⁸⁸ ICRC report, *International humanitarian law and the challenges of contemporary armed conflicts*, International Review of the Red Cross (2024), 106 (927), 1357–1450. IHL & Peace.

²⁸⁹ *Id.*

²⁹⁰ *Id.*

²⁹¹ *Id.*

Meanwhile, global and regional powers pursuing localized interests risk worsening humanitarian crises by arming partners. Although governments prioritize conflict containment and prevention, violence can easily spread, impacting more nations and communities.²⁹²

Tensions among powerful states have sparked increased government, military, and media activity regarding potential international conflicts. Armed forces are upgrading capabilities and planning large-scale operations; policymakers are adjusting security strategies, and the media is fuelling discussions of future wars. This shift in international relations moves away from globalization and multilateralism toward competition and conflict readiness. Such discourse risks promoting the idea that war is unavoidable.²⁹³

Even more concerning is the underestimation of the catastrophic impact a conflict between major military powers would have. Leaders emphasize nuclear war prevention while modernizing arsenals, yet focus little on the devastation of a conventional great power conflict.

In this environment, IHL serves as a critical tool to reduce the human toll of conflicts. Even in severe crises, citing IHL by states, humanitarian actors, legal bodies, or the media can pressure warring parties to spare civilians and maintain some humanity in military operations. As ethical debates on conflicts have intensified, reliance on IHL to dictate what is permissible has also grown. No other impartial, universal set of norms demands restraint from all sides.

Despite its necessity, recent events highlight the urgent need to strengthen IHL. Conflicts leave hospitals destroyed, ambulances attacked, and medical staff killed. Civilians are targeted or ignored as collateral damage, fighters blend with civilians, camps face airstrikes, and journalists are dying in unprecedented numbers.²⁹⁴ Those IHL seeks to protect are frequently in harm's way.

Non-compliance is partly to blame. Violations are common, and inadequate efforts are made to prevent them or hold violators accountable. States must improve training, enforce compliance, empower judiciaries to address war crimes, and work with

²⁹² *Id.*

²⁹³ *Id.*

²⁹⁴ *Id.*

international bodies to avoid impunity. Non-state actors must enforce similar measures and dismiss excuses like asymmetric capabilities or Western biases in IHL.²⁹⁵ The norms of IHL are rooted globally in legal, social, religious, and ethical traditions, and embedding the laws of war in these contexts can help assimilate them. Armed groups need to embrace and adhere to the law.

Negligence is a continuing issue.²⁹⁶ Targeting errors causing severe civilian casualties happen too often. Apologies, however sincere, don't meet IHL requirements. Parties must enhance force training, refine targeting methods, and exercise all possible precautions during attacks to prevent these tragic mistakes.

There is a damaging trend that weakens IHL's life-saving potential. For decades, states have used flexible interpretations of IHL, often during conflicts, to maintain freedom to kill and detain.²⁹⁷ This has diluted its protective impact. In various conflicts, states have expanded what's permissible and narrowed what's prohibited. When pressured to protect civilians and detainees, they claim IHL grants them more leeway than what's demanded. When commended for protective measures, they portray these as voluntary, suggesting IHL requires less of them.

IHL's protective strength is threatened in subtle ways, particularly as permissive exceptions overshadow prohibitive rules. While IHL's pragmatism gives it credibility, allowing narrow exceptions for military necessity, some interpretations dangerously expand these, compromising protections. Civilians are too readily seen as direct participants in hostilities, hospitals' sanctity is dismissed if enemies exploit them, and schools or essential services are stripped of civilian status if deemed useful to adversaries.²⁹⁸ Humanitarian access is increasingly blocked if relief items might serve non-humanitarian uses. These broadened exceptions risk becoming loopholes that bypass critical protections.

The protective impact of IHL is weakened by certain states' interpretations of its core concepts and ambiguous provisions. These interpretations broadly redefine legitimate targets, altering the definitions of 'military objective' and 'civilian'.²⁹⁹ This makes

²⁹⁵ *Id.*

²⁹⁶ *Id.*

²⁹⁷ *Id.*

²⁹⁸ *Id.*

²⁹⁹ *Id.*

civilian casualties seem more acceptable by generously interpreting 'military advantage' and excluding long-term impacts from 'incidental harm'. Additionally, the obligation to take 'all feasible' precautions is either directly challenged or treated as optional rather than mandatory.

The use of new warfare technologies risks exacerbating these harmful trends. If algorithms follow overly permissive targeting rules, civilian casualties could increase rapidly and extensively. Without new legal limits, autonomous weapons might make life-and-death decisions without human oversight.³⁰⁰ Additionally, digital tools could cause widespread disruption to civilian life and services. Claiming these tools are unregulated, or interpreting IHL in ways that weaken its protections in a digital age, could lead to unprecedented chaos and harm.³⁰¹

Another concerning trend is the questioning of core IHL principles. Some suggest IHL obligations rely on reciprocity, meaning compliance is required only if the opposing party complies. This is a fallacy, as IHL cannot endure the cycle of retaliatory non-compliance this invites. Similarly, integrating *jus ad bellum*—laws governing force use between states—into IHL application is untenable.³⁰² Warring parties rarely agree on aggressor and victim roles, and intertwining these laws would only weaken humanitarian protections for all involved.

Compounding the crisis is a particularly insidious hallmark of modern wars: treating the adversary's troops, and the civilians linked to them, as somehow less than human beings in the eyes of many commanders. IHL rests upon a fragile equilibrium of military need and compassion—a practical bargain struck between two incompatible principles at war.

By sanctioning a level of force unimaginable in peacetime—such as striking enemy fighters and tolerating some unintended civilian injury—the law of war already gives substantial weight to operational need, recognizing military necessity as a legitimate, though bounded, consideration within its overall framework of humanitarian restraint principles.

When governments watch passively as human lives are progressively devalued on

³⁰⁰ *Id.*

³⁰¹ *Id.*

³⁰² *Id.*

grounds of nationality, race, faith, or ideology, the balance tilts permanently and the very basis of IHL's moral authority crumbles into dust completely.³⁰³

The ICRC's legal analyses of certain developments appear later in this report; meanwhile, the wider consequences of the patterns described here are poised to pose a formidable examination of IHL's resilience in the coming years. Should belligerents keep squeezing the protective ceilings of IHL, satisfied with merely brushing against the boundaries of legality, the regime will invert: it will serve as a pretext for brutality instead of functioning as humanity's armour in conflicts both present and those yet to come.³⁰⁴ Governments will more and more cite mere legal compliance to validate their campaigns, while IHL itself will mutate into an affirmative defence shielding behaviour that would, in any other setting, be condemned as unethical.

If this trajectory persists, IHL's credibility will collapse for states, insurgent forces, and—most crucially—the very civilians the framework was designed to shield from war's brutal daily ravages everywhere. Nations must intervene now to halt this decline. No nation is shielded from assault, and none of its troops or inhabitants are safe from violence delivered by hostile forces at all. Humanity requires a sturdy, safeguarding law of war—an instrument trusted to preserve lives, not a tool deployed to rationalize needless deaths in battlefields across the globe.³⁰⁵

4.3 United Nations

The Security Council can act under Chapter VII of the UN Charter to maintain or restore peace and security. Article 41 allows for a range of non-military sanctions. Since 1966, 31 sanctions regimes have been established in regions like Southern Rhodesia, South Africa, the Former Yugoslavia, and more recently in areas such as Yemen and Mali.³⁰⁶

Sanctions vary widely, from broad economic ones to specific measures like arms embargoes, travel restrictions, and financial limits. These aim to support peaceful transitions, deter unconstitutional changes, counter terrorism, protect human rights, and prevent proliferation.³⁰⁷

³⁰³ *Id.*

³⁰⁴ *Id.*

³⁰⁵ *Id.*

³⁰⁶ United Nations, Security Council, <https://main.un.org/securitycouncil/en/sanctions/information> (Jan. 17, 2025, 01:30 PM).

³⁰⁷ *Id.*

Sanctions work best as part of a broader strategy involving peacekeeping and peacebuilding. Contrary to their punitive reputation, many are designed to aid governments and regions moving toward peace, as seen in Libya and Guinea-Bissau.³⁰⁸

Currently, there are 14 active sanctions regimes focused on political conflict resolution, non-proliferation, and counter-terrorism. Each is overseen by a sanctions committee led by a non-permanent Security Council member. Nine monitoring groups support the work of 10 out of these 14 committees.³⁰⁹

- **Southern Rhodesia**

The case of Southern Rhodesia requires clarifying nomenclature and revisiting key historical events. Originally British colonies, Northern Rhodesia gained independence on October 24, 1964, becoming the Republic of Zambia. Approximately a year later, Southern Rhodesia—legally a self-governing colony of the UK—unilaterally declared independence as Rhodesia on November 11, 1965.³¹⁰ Rhodesia was not recognized internationally until its dissolution in 1979³¹¹, which was marked by the Rhodesian Bush War. After peace was achieved, Southern Rhodesia briefly became Zimbabwe Rhodesia from June 1 to December 12, 1979, following the Internal Settlement of 1978, which offered concessions to moderate African nationalist leaders.³¹² Subsequently, it returned to British colonial rule as Southern Rhodesia from December 13, 1979, to April 18, 1980, as part of the Lancaster House Agreement of 1979, which ended the Bush War and set the stage for recognized independence. Under its elected president, Robert Mugabe, it finally transitioned to the Republic of Zimbabwe.³¹³

Rhodesia's unilateral independence declaration was poorly received by the international community.³¹⁴ The UN General Assembly condemned the declaration, bringing the situation to the Security Council, which labelled the Rhodesian regime illegal and

³⁰⁸ *Id.*

³⁰⁹ *Id.*

³¹⁰ N. Schrijver, *The Use of Economic Sanctions by the UN Security Council: An International Law Perspective*, in INTERNATIONAL ECONOMIC LAW AND ARMED CONFLICT 123, 140 (H.H. Post ed., Nijhoff 1994).

³¹¹ V. GOWLLAND-DEBBAS, COLLECTIVE RESPONSES TO ILLEGAL ACTS IN INTERNATIONAL LAW: UNITED NATIONS ACTION IN THE QUESTION OF SOUTHERN RHODESIA, Legal Aspects of Int'l Org. vol. 11 (Nijhoff 1990).

³¹² *Id.*

³¹³ M.N. SHAW, INTERNATIONAL LAW, p 163 (Cambridge Univ. Press 8th ed. 2017).

³¹⁴ G.A. Mudge, *Domestic Policies and UN Activities: The Cases of Rhodesia and the Republic of South Africa*, 21 INT'L ORG. 55, 60 (1967).

racist, urging member states to withhold recognition, a stance even maintained by sympathizers like Portugal and South Africa.³¹⁵

Rhodesia faced massive unilateral embargoes from the UK and subsequent UN sanctions. The UN Security Council issued binding resolutions stipulating sanctions under Article 41 of the UN Charter, as well as non-binding recommendations.³¹⁶ Initially, on November 20, 1965, the Security Council urged all states to sever economic relations with Southern Rhodesia, including oil embargoes. In the following year, it declared the situation a threat to international peace and security for the second time in its history, targeting Rhodesia's oil supply from Mozambique, then under Portuguese rule, and authorizing force to halt oil deliveries. The resolution's legal basis remains unclear regarding Article 41, yet it established a precedent for allowing force to enforce economic measures.³¹⁷

In late 1966, the UN Security Council began issuing binding resolutions, with Resolution 232, based on Article 41 of the UN Charter, marking the first clear application of this provision against Southern Rhodesia.³¹⁸ UN member states were prohibited from importing various Southern Rhodesian goods and exporting weapons, certain military items, vessels, and aircraft to Southern Rhodesia. Related financial transactions were also banned.³¹⁹ Even non-UN members, including the Federal Republic of Germany and the German Democratic Republic, were urged to abstain from supporting the Rhodesian regime.³²⁰ Coordination was decentralized, with states expected to report to the UN Secretary General, a task most fulfilled. This "selective" sanction was not comprehensive, as commentators noted.

Approximately one and a half years later, due to the inefficiency of selective sanctions and the resilience of the Rhodesian regime, the UN Security Council unanimously imposed a total sanction.³²¹ This prohibited the import and export of any goods to and

³¹⁵ General Assembly Resolution 2024 [XX] of 11 November 1965. Question of Southern Rhodesia, A/RES/2024 (XX); Security Council Resolution 216 (1965) of 12 November 1965, S/RES/216 (1965); the unilateral declaration of independence was declared illegal in Security Council Resolution 217 (1965) of 20 November 1965 - Res. 217 (1965) - S/RES/217 (1965).

³¹⁶ Supra note 311.

³¹⁷ Supra note 313.

³¹⁸ C. GRAY, INTERNATIONAL LAW AND THE USE OF FORCE 266–67 (Oxford Univ. Press 4th ed. 2018).

³¹⁹ Security Council Resolution 232 (1966) of 16 December 1966 - Res. 232 (1966) - S/RES/232 (1966),

³²⁰ *Id.*

³²¹ *Id.*

Security Council Resolution 253 (1968) of 29 May 1968 - Res. 253 (1968) - S/RES/253 (1968),

from Southern Rhodesia, along with related measures, except for medical, educational, or humanitarian purposes. Likewise, financial means were not to be provided to the Rhodesian regime, its enterprises, or residents, barring the same exceptions.³²² The resolution established a monitoring committee under Article 28 of the provisional UN Security Council rules.³²³

Compliance with this resolution waned more than with its predecessor, largely due to significant gaps in the sanctions regime, with Portugal, South Africa, and Switzerland openly defying it. The growing frustration among African states led to support for a more assertive approach by both the UN Security Council and the UK. Despite failed attempts at forcible intervention in March 1970, a resolution from that month urged UN members to prevent circumvention of the sanctions, advocating for the cessation of all commercial, diplomatic, military, transport, and other relations with Southern Rhodesia.³²⁴ Simultaneously, the Security Council's sub-committee, the Watchdog Committee, was tasked with identifying ways to enhance sanctions effectiveness and reporting its findings.³²⁵

Towards the end of the sanctions period, the UN's growing frustration over their ineffectiveness and the evident circumvention by certain states became increasingly apparent. In February 1972, the UN Security Council reiterated that imports from Southern Rhodesia were illegal³²⁶, though it notably refrained from directly naming the United States.³²⁷ Without naming any particular state, the resolution declared: -

“any legislation passed, or acts taken, by any State with a view to permitting, directly or indirectly, the importation from Southern Rhodesia of any commodity [. . .] would undermine sanctions and would be contrary to the obligations of States; [. . .]”³²⁸

para. 3.

³²² *Id.*

³²³ *Id.*

³²⁴ Security Council Resolution 277 (1970) of 19 March 1970 - Res. 277 (1970) - S/RES/277 (1970), paras 8–9.

³²⁵ *Id.*

³²⁶ Security Council Resolution 314 (1972) of 29 February 1972 - Res. 314 (1972) - S/RES/314 (1972).

³²⁷ *Id.*

³²⁸ *Id.*

and was thus clearly directed toward the United States, which kept the importation of Southern Rhodesian strategic materials (such as chromium ore) legal under its foreign trade laws, especially with the so-called Byrd Amendment enacted in late 1971.³²⁹

Subsequent resolutions in 1972 acted as reminders of a similar nature (this time specifically targeting the United States), once more urging adherence and criticizing both overt and covert evasion. In the wake of the Lancaster House Agreement, which concluded the Rhodesian Bush War and paved the way for Zimbabwe's independence, sanctions were officially removed by a UN Security Council resolution in 1979.

A significant majority of analysts agreed that the sanctions were largely ineffective. The debate mainly revolves around the reasons behind this lack of impact.³³⁰ Nonetheless, most authors concur that the UN's weak enforcement and the lukewarm commitment of key UN member states were primary factors.³³¹

4.4 World Trade Organisation

WTO law is an evident candidate to regulate or legitimize trade conflicts.³³² To clarify, WTO agreements can only limit economic warfare measures taken by its members (and, in the case of plurilateral agreements, only those involved in the specific agreement). However, with the WTO comprising 164 out of 193 UN member states, representing 98 percent of global trade, and covering a wide array of trade issues from intellectual property to services, they are undeniably pertinent to a large segment of global economic activities and possibly relevant to economic warfare measures.³³³ Furthermore, even nations outside the WTO are engaged in trade agreements. Regardless, the measure must fall within the relevant agreement's scope.

As seen with quotas and tariffs, the WTO legal framework (and previously, GATT 1947) has imposed some restrictions on certain economic warfare measures. This is not

³²⁹ Pub. L. No. 92-156, 85 Stat. 423, 427 (1971) (codified at 50 U.S.C. §§ 98 to 98c (1972)), available at <https://www.gpo.gov/fdsys/pkg/STATUTE-85/pdf/STATUTE-85-Pg423.pdf> (Nov. 04, 2024, 11:30 PM).

³³⁰ R. McKinnell, *Sanctions and the Rhodesian Economy*, 7 J. MOD. AFR. STUD. 559 (1969), <https://doi.org/10.1017/S0022278X0001884X>

³³¹ *Id.*

³³² N. Lamp, *At the Vanishing Point of Law: Rebalancing, Non-Violation Claims, and the Role of the Multilateral Trade Regime in the Trade Wars*, 22 J. INT'L ECON. L. 721, 730 (2019), <https://doi.org/10.1093/jiel/jgz041>.

³³³ UN member states: <http://www.un.org/en/member-states/index.html>; WTO member states: https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm (Nov. 04, 2024, 11:30 PM).

coincidental³³⁴: It has been suggested that the establishment of GATT 1947 stemmed partly from states' desire to limit unilateral trade restrictions often used in trade conflicts.³³⁵ Despite some tensions in its history, the WTO/GATT system has thus far avoided the large-scale trade wars that troubled the global economy before its existence, such as the rampant tariff hikes during the 1930s triggered by the Smoot-Hawley tariff in the U.S. Conversely, some argue that the WTO law system still contains gaps vulnerable to protectionist misuse and thereby permits policies applicable in trade wars, such as antidumping and countervailing duties.³³⁶

- **Tariff Bindings**

Tariffs, like those the U.S. imposed in 2018, might breach its GATT commitments. Among the five trade restraints considered during the creation of GATT 1947—tariffs, quotas, subsidies, state trading, and customs procedures—tariffs were preferred due to their relatively minimal economic harm and high transparency, leading to a "tariffs-only approach" (see Art. XI:1 GATT).

In the WTO system established in 1994 (and previously in GATT 1947), tariffs are not prohibited but codified, with negotiations anticipated for their reduction (cf. Art. II:1, XXVIII bis:1 GATT). Each WTO member commits to a concessions schedule listing tariff rates for specific products by their WCO Harmonized System item number (Art. II:1 GATT), and these schedules are integral to the GATT (Art. II:7 GATT).

Members agree not to set tariffs above the listed levels for products in their schedules; however, there's no obligation to include items. A "back door" exists in Art. XXVIII GATT for raising tariffs through negotiation. If no agreement is reached, a member can unilaterally change or remove concessions (Art. XXVIII:3 (a), 4(d) GATT).³³⁷ Consequently, with the U.S. imposing tariffs in 2018 exceeding its concession schedule,

³³⁴ R. SOPRANO, *WTO TRADE REMEDIES IN INTERNATIONAL LAW: THEIR ROLE AND PLACE IN A FRAGMENTED INTERNATIONAL LEGAL SYSTEM* 10-12, Routledge Rsch. in Int'l Econ. L. (Routledge 2018).

³³⁵ E.A. POSNER & A.O. SYKES, *ECONOMIC FOUNDATIONS OF INTERNATIONAL LAW*, 267 (Belknap Press of Harv. Univ. Press 2013).

³³⁶ Raj Bhala, *Rethinking Antidumping Law*, 29 GEO. WASH. J. INT'L L. & ECON. 1, 35 (1995).

³³⁷ A. Fabbicotti, *Article XXVIII GATT*, in *WTO TRADE IN GOODS* 692, 695 (Peter-Tobias Stoll, Rüdiger Wolfrum & Holger Hestermeyer eds., 2010).

it might violate Art. II GATT and possibly Art. I GATT due to the selective nature of the tariffs.³³⁸

- **Prohibition of Quantitative Restrictions**

The GATT takes a firm stance on import and export quotas (as well as "other measures" equating to quantitative restrictions):

“No prohibitions or restrictions, aside from duties, taxes, or other charges, imposed through quotas, import/export licenses, or other measures, shall be established or maintained by any contracting party on importing goods from another contracting party's territory or exporting goods destined for another contracting party's territory.”³³⁹

This principle is a fundamental part of the GATT system, broadly interpreted to ban all non-tariff trade barriers. It's described as the "GATT prohibition against using trade weapons for political purposes." There's no need to rely on these broad interpretations since the U.S. set an explicit import quota in 2018. Although the quota was based on a percentage of the previous year's imports instead of a maximum number of units, it still constitutes a quota under Art. XI:1 GATT as it remains a numerical restriction.

Import quotas like those imposed by the U.S. on steel and aluminum, or oil export quotas by Arab states and Iran, are generally not allowed under GATT and often justified by national security.³⁴⁰ Compared to tariffs, GATT exceptions for quotas are limited, reflecting the understanding that quotas are more harmful to trade and welfare. Still, Art. XI:2 GATT includes specific exceptions, none of which apply to the U.S. 2018 quotas or the 1973-1974 oil weapon.

In sum, unless quotas fall under exceptions allowing GATT obligations to be suspended, they must be deemed illegal. Unlike tariffs, quotas and other non-tariff trade barriers are not permitted under the Antidumping Agreement.³⁴¹ their legality relies on general and security exceptions and the Agreement on Safeguards, which permits quotas as safeguard measures.

³³⁸ JOHN H. JACKSON, THE WORLD TRADING SYSTEM: LAW AND POLICY OF INTERNATIONAL ECONOMIC RELATIONS 123 (2d ed. MIT Press 1997).

³³⁹ Art. XI:1 GATT

³⁴⁰ Supra note 336.

³⁴¹ *Id.*

- **Other GATT Obligations**

At first glance, it seems that two of the GATT's core principles—non-discrimination (Art. III and XIII GATT) and most-favoured-nation treatment (Art. I GATT)³⁴²—could be significantly breached by various economic warfare measures, particularly when aimed at specific states or groups, as seen with the oil weapon from 1973 to 1974 and the U.S. tariffs and quotas of 2018. Whether these breaches are actually unlawful depends on whether they can be justified by provisions allowing deviations from GATT obligations, especially under Art. XX and XXI GATT.

In the case of tariffs and quotas, the United States might defend its actions on three primary fronts: national security concerns for steel and aluminum imports, accusations of "unfair" trading practices like dumping by foreign exporters, and potential damage to domestic industries from "fair" trading practices for solar panels and washing machines. These justifications were implied through the use of domestic legal instruments—Section 232 Safeguards for national security regarding steel and aluminum, and Section 201 Safeguards for harm to domestic industries concerning washing machines and solar panels—and explicitly communicated to the WTO.³⁴³ Similarly, the Arab oil weapon was justified on national security grounds due to the conflict with Israel and general exceptions related to the depletion of oil as a natural resource.³⁴⁴

- **Art. XXI GATT**

Art. XXI GATT contains the so-called security exceptions to the obligations arising for WTO members under the GATT.³⁴⁵ The provision has often been fearfully viewed as a door opener for trade policies undermining WTO and GATT and its interpretation will prove to be decisive in defining the range of measures of economic warfare available to states within the WTO legal system.³⁴⁶

³⁴² S.K. Verma, *WTO and the Regulation of International Trade Law*, in CONTEMPORARY ISSUES IN INTERNATIONAL LAW 263, 265 (B.C. Nirmal & R.K. Singh eds., 2017).

³⁴³ Supra note 148.

³⁴⁴ *Id.*

³⁴⁵ JOHN H. JACKSON, *THE WORLD TRADING SYSTEM: LAW AND POLICY OF INTERNATIONAL ECONOMIC RELATIONS* 123 (2d ed. MIT Press 1997).

³⁴⁶ *Id.*

On 26 April 2019, the WTO Dispute Settlement Body adopted the panel report on the dispute Russia — Measures Concerning Traffic in Transit³⁴⁷ centred on Russian bans and restrictions on transit traffic by road and rail from Ukraine.³⁴⁸ Ukraine argued that these actions violated obligations related to freedom of transit (Art. V GATT) and the publication and administration of trade regulations (Art. X GATT), while Russia invoked XXI (b) (iii) GATT and challenged the panel's jurisdiction.³⁴⁹ The panel, assuming jurisdiction, concluded that Russia could invoke the security exception.³⁵⁰

The ability of the Appellate Body to provide legal certainty is uncertain due to several practical challenges: Firstly, the WTO dispute settlement system tends to avoid issues of high political sensitivity, like national security, reflecting the WTO's current fragile state.³⁵¹ This is evidenced by the limited past experience of a GATT panel with Art. XXI GATT.³⁵² Secondly, the Appellate Body is presently inoperable.³⁵³ Overall, the security exception might still be used by governments to justify non-GATT-compliant measures, especially given the self-judging nature of national security exceptions and the complex and sensitive nature of the concept of national security itself.³⁵⁴

• Dispute Settlement Understanding

The previous sections have illustrated that unilateral actions like tariffs and quotas are generally not favoured under WTO law. However, many exceptions permit unilateral actions, sometimes with lenient conditions. Reports from the Dispute Settlement Body are binding unless the WTO Dispute Settlement Body, a form of the WTO General Council, decides by consensus not to adopt them. States often undergo a review of trade measures, which may resemble economic warfare, and must adhere to the decisions given.

Additionally, the WTO dispute settlement system limits how members can respond to others' non-compliant measures. Enforcement and compliance are complex in

³⁴⁷ Panel (5 April 2019 (adopted 26 April 2019)) Russia - Measures Concerning Traffic in Transit, Report by the Panel, WT/DS512/R.

³⁴⁸ *Id.*

³⁴⁹ *Id.*

³⁵⁰ *Id.*

³⁵¹ The Economist (2018, 21 July) Trade blockage, pp 15–17.

³⁵² In Panel (13 October 1986 (not adopted)) United States - Trade Measures Affecting Nicaragua, Report by the Panel, L/6053.

³⁵³ Supra note 332.

³⁵⁴ A.Z. Marossi, *Unilateralism and Power of Revision*, in ECONOMIC SANCTIONS UNDER INTERNATIONAL LAW 169-170 (A.Z. Marossi & M.R. Bassett eds., 2015).

international law, and the WTO is no exception. The WTO cannot enforce Dispute Settlement Body reports; this responsibility falls to its members. Nevertheless, the DSU specifies remedies for breaches, preventing members from retaliating arbitrarily. This acts as a restraint on economic warfare concerning retaliation. Members' key obligations regarding dispute resolution are described in Art. 23 (1) DSU, which mandates using and following the system's rules and procedures when addressing violations. This aims to shield the WTO from unilateral actions and maintain the exclusivity of its dispute settlement system.³⁵⁵

The ultimate remedy, once a report is adopted, is the withdrawal or modification of the violating measure, indicating voluntary compliance, which is common. If immediate withdrawal isn't feasible, members may temporarily use provisional measures like compensation and suspension of concessions while the breach exists. Compensation is voluntary and requires Dispute Settlement Body approval, making it less significant.³⁵⁶ Suspension or retaliation is more common but also requires approval, which is often hard to obtain.

Overall, the Uruguay Round's efforts to create a stable and self-contained regime have moderated many economic warfare measures.³⁵⁷ However, several qualifications apply. First, the DSU operates retroactively, allowing a state to impose tariffs with a security exception without needing approval, while any retaliation by another state requires approval. Second, the DSU's reach is limited to the scope of WTO agreements, allowing room for economic warfare actions beyond its jurisdiction. Third, significant gaps remain, especially in non-reviewable security exceptions. Practically, the WTO dispute settlement system tends to avoid highly controversial political issues and often employs judicial minimalism,³⁵⁸ which limits the impact of members' commitments in Art. 23 (1) DSU regarding economic warfare measures.

³⁵⁵Panel (22 April 2005 (adopted 20 June 2005)) European Communities — Measures Affecting Trade in Commercial Vessels, Report of the Panel, WT/DS301/R.

³⁵⁶ R. SOPRANO, WTO TRADE REMEDIES IN INTERNATIONAL LAW: THEIR ROLE AND PLACE IN A FRAGMENTED INTERNATIONAL LEGAL SYSTEM 10-12, Routledge Rsch. in Int'l Econ. L. (Routledge 2018).

³⁵⁷ A. H. Qureshi, *The World Trade Organization and the Promotion of Effective Dispute Resolution: In Times of a Trade War*, in INTERNATIONAL ORGANIZATIONS AND THE PROMOTION OF EFFECTIVE DISPUTE RESOLUTION: AIIB YEARBOOK OF INTERNATIONAL LAW 2019 145, 150 (P. Quayle & X. Gao eds., 2019).

³⁵⁸ Robert Howse, *The World Trade Organization 20 Years On: Global Governance by Judiciary*, 27 EUR. J. INT'L L. 9, 15 (2016), <https://doi.org/10.1093/ejil/chw011>.

4.5 Conclusion

The law governing armed conflict and the law governing the use of economic coercion have grown into dense, inter-locking regimes, each animated by a common aspiration: the tempering of power with principle. Today, however, both bodies of law sit at an inflection point. The accelerating fusion of kinetic and economic instruments of statecraft, the multiplication of non-state actors, and the arrival of digital and autonomous means of violence have exposed serious gaps in coverage, coordination and—above all—compliance. Unless the international community re-commits to fortifying these regimes, the protections painstakingly assembled since 1945 will erode at the very moment they are most urgently required.

1. Reaffirming the centrality of International Humanitarian Law (IHL).
 - The distinct yet complementary concepts of *jus ad bellum* and *jus in bello* remain the normative keystone of the humanitarian enterprise. Preserving their separation is indispensable; conflation would invite self-serving arguments that collapse humanitarian restraint into the politics of blame.
 - While the text of the 1949 Geneva Conventions and their Additional Protocols retains broad acceptance, practice reveals a worrisome trend: states and armed groups are stretching every interpretive seam—civilian status, proportionality, military advantage, precaution—until the exceptions overshadow the rules. Correcting this drift requires renewed investment in impartial fact-finding, vigorous domestic implementation, and the systematic criminalisation of serious violations.
 - In operational terms, the ICRC model of confidential engagement, supported by transparent, well-resourced human-rights NGOs, remains the most realistic formula for access to victims and influence over belligerents. Yet that formula is sustainable only if states cease portraying minimal compliance as voluntary generosity and instead acknowledge it as binding law.
2. Strengthening the coercive toolbox of the United Nations.
 - Chapter VII economic sanctions have become the Security Council's signature response where armed force is politically impossible or strategically unwise. The Southern Rhodesia precedent proves sanctions can delegitimise pariah

regimes, but it also exposes their Achilles' heel: uneven enforcement and humanitarian blow-back. Crafting "smart" sanctions, tethered to measurable benchmarks, coupled with mandatory humanitarian impact assessments, would help reconcile effectiveness with legality.

- Persistent Council paralysis underscores the need for complementary mechanisms. Regional organisations, ad-hoc coalitions and even domestic jurisdictions have begun to apply "Magnitsky-style" targeted measures. Harmonising listing criteria, due-process safeguards and sunset clauses across these initiatives would mitigate forum shopping and perception of politicised justice.

3. Clarifying the boundaries of economic warfare under WTO law.

- Nearly every contemporary trade measure—tariffs, quotas, licensing restrictions, technology embargoes—must now pass through the sieve of GATT commitments. In theory this has disciplined escalation; in practice the self-judging security clause of Article XXI reintroduces strategic ambiguity. The 2019 Russia–Transit decision signalled that panels will at least test whether the measures are plausibly connected to a recognised security interest, but the collapse of the Appellate Body leaves doctrinal consolidation in limbo. A small package of procedural reforms—automatic appeal arbitrators, accelerated review of security cases, and an obligation to publish detailed national-security justifications—could restore a measure of predictability

- Equally important is the interface between WTO obligations and IHL. Economic sanctions imposed during an armed conflict rarely map neatly onto GATT exceptions. Negotiating a short additional protocol that cross-references humanitarian exemptions—similar to the "General Licenses" issued in many domestic sanctions regimes—would help ensure that essential goods, medical supplies and digital communications remain outside the field of economic fire.

4. Confronting cross-cutting challenges.

- New technologies—autonomous weapons, offensive cyber tools, data-based targeting algorithms—will test every assumption embedded in twentieth-century treaties. States should adopt a precautionary approach: where doubt exists, the default must be to extend, not contract, civilian protection.

Multistakeholder review bodies, modelled on the Tallinn Manual and the ongoing LAWS (Lethal Autonomous Weapons Systems) discussions, can begin to translate analogue norms into digital rules of the road.

- Accountability remains the decisive fault line. Universal jurisdiction for core war crimes, targeted sanctions for economic aggression, and corporate due-diligence obligations in conflict settings are maturing but patchy. A concerted effort is required to knit these strands into a coherent compliance web that reaches both state and non-state perpetrators.

- Finally, the legitimising narrative of the law of war is under assault from political rhetoric that dehumanises enemies and normalises the inevitability of “great-power war.” Countering this narrative is not a matter of public relations but of legal survival: once the moral centre of IHL is hollowed out, no textual reform will restore its authority.

5. A forward-looking agenda.

To revitalise the international legal framework governing armed conflict and economic warfare, the following priority steps emerge from this chapter’s analysis:

- a) Convene a periodic high-level review conference, under UN auspices, dedicated not to treaty drafting but to interpretive guidance on grey-zone questions: security exceptions, cyber operations, dual-use sanctions and autonomous targeting.
- b) Establish a joint UN–WTO–ICRC working group mandated to articulate humanitarian carve-outs for sanctions and trade measures, drawing on empirical lessons from Syria, Afghanistan and Ukraine.
- c) Fund and deploy rapid-response legal advisory teams to assist states and organised armed groups in real-time, bridging the gap between abstract obligation and operational planning.
- d) Embed rigorous human-rights impact assessments in all sanctions committee mandates, with automatic triggers for review when civilian harm crosses defined thresholds.

e) Institute a standing peer-review mechanism within the WTO Trade Policy Review program to evaluate members' invocation of Article XXI, thereby subjecting security claims to at least minimal collective scrutiny without compromising national prerogatives.

f) Accelerate work on a multilateral code of conduct for offensive cyber operations that incorporates IHL principles of distinction and proportionality and references WTO norms on data flows and digital trade.

g) Incentivise domestic courts to exercise complementary jurisdiction by harmonising evidentiary standards for war crimes and sanction-evasion offences, thereby shrinking the safe-harbour enjoyed by violators.

In sum, the legal regimes governing kinetic and economic dimensions of conflict are neither obsolete nor impotent; they are, however, straining under the weight of contemporary strategic competition and technological disruption. Their resilience will depend less on drafting new treaties than on reinvigorating the political and ethical consensus that first animated them. If states, civil society and international institutions choose expedience over principle, the façade of legality will simply legitimise brutality and immiseration. If, by contrast, they seize the present moment to clarify obligations, close enforcement gaps and reclaim the primacy of human dignity, the international community can ensure that law remains what it was always meant to be in war and in peace alike: a shield for the powerless and a restraint upon the powerful. The stakes could not be higher, and the responsibility rests with all of us.

CHAPTER 5: CONCLUSION AND RECOMMENDATIONS

5.1 Findings

A. Effectiveness of current legal mechanisms

- International Humanitarian Law (IHL) remains the most universally accepted body of rules for kinetic warfare, yet enforcement deficits, permissive interpretations and technological disruption have sharply reduced its deterrent effect.
- The United Nations sanctions system under Chapter VII provides a lawful pathway for collective economic coercion, but inconsistent Security-Council politics, humanitarian blow-back and patchy monitoring frequently blunt its impact.
- World Trade Organization (WTO) disciplines do constrain many unilateral trade measures; however, the self-judging national-security clause (GATT Art. XXI) and the present paralysis of the Appellate Body re-inject uncertainty, permitting states to stretch or evade their obligations.

B. Impact of armed conflict on global trade

- Quantitative evidence (UCDP, UN Comtrade, ACLED) confirms that large-scale interstate wars slash bilateral trade flows by 40-80 percent and elevate transport costs, commodity prices and insurance premia far beyond the battle zone.
- Intrastate conflicts, while geographically contained, still induce regional spill-overs—labour-migration surges, cross-border smuggling, and investor flight—that raise total trade costs by the equivalent of a double-digit tariff for neighbouring economies.

C. Impact of economic warfare on global trade patterns

- Comprehensive embargoes (e.g., Southern Rhodesia, early Iraq) rarely achieve stated political goals but reliably trigger extensive trade diversion, grey-market supply chains and higher consumer prices.
- Targeted sanctions and tariff skirmishes (e.g., 2018 U.S.–China measures) distort sector-specific supply chains, accelerate “friend-shoring” and nudge firms toward costly redundancy strategies, generating measurable welfare losses even for sending states.

- The 2022 Russia sanctions show that large hydrocarbon exporters can partially offset market-access restrictions by rerouting flows to non-participating economies, but only at steep discounts and with long-term reputational damage.

5.2 Suggestions

a) Norm-crafting and clarification

1. Mandate periodic legal-policy reviews of GATT Art. XXI cases, with advisory opinions by a standing panel of trade-and-security experts, until the WTO Appellate Body is fully restored.
2. Expand the ICRC's mandate, through a consensual resolution of the 1949 Diplomatic Conference, to include systematic monitoring of large-scale economic siege and cyber disruption affecting civilian welfare.

b) Institutional reforms

1. Establish an interoperable sanctions-licensing portal that harmonises exceptions issued by the UN, EU, U.S., and other major regimes, reducing administrative barriers for humanitarian agencies and legitimate commerce.
2. Introduce an automatic sunset clause and impact-assessment requirement for all WTO-consistent safeguard measures lasting longer than 18 months.

c) Capacity building and transparency

1. Fund a global "Conflict-Trade Observatory" (housed jointly at UNCTAD and the WTO) to provide near-real-time data on trade disruptions, sanctions circumvention routes, and humanitarian supply-chain bottlenecks.
2. Support developing-country customs, financial-intelligence units and judiciary with technical assistance to detect illicit circumvention networks and prosecute sanction-evasion and war-economy crimes.
3. Encourage private-sector adoption of conflict-sensitive due-diligence standards (building on the OECD Minerals Guidance) across all high-risk supply chains, with civil-liability incentives for non-compliance.

d) Research agenda

1. Develop integrated econometric models that capture simultaneous kinetic and economic shocks, enabling more precise forecasting of trade losses and recovery times.
2. Undertake field-level studies on how small and medium-sized enterprises adapt to sanctions and conflict-induced supply-chain fractures, thereby informing targeted resilience policies.

5.3 Conclusion

In an era defined by unprecedented global connectivity, the intricate interplay between armed conflict, economic warfare, and international trade has emerged as a critical challenge to the stability of the world economy. Armed conflicts, whether international or internal, disrupt vital trade routes, fracture supply chains, and destabilize markets, often with cascading effects far beyond the immediate zones of violence. Simultaneously, economic warfare—manifested through sanctions, embargoes, tariffs, and other coercive financial measures—has become a strategic instrument for states to assert dominance or penalize adversaries without resorting to direct military engagement. These twin forces not only reshape geopolitical landscapes but also impose profound economic costs, redirecting trade flows, inflating commodity prices, and undermining the livelihoods of millions, particularly in vulnerable regions. As globalization deepens economic interdependence, the ripple effects of such disruptions are felt across continents, making the regulation of conflict and economic coercion an urgent priority for the international community.

The historical trajectory of armed conflict reveals a persistent thread through human civilization, evolving from localized territorial disputes between ancient city-states to the industrial-scale carnage of the World Wars. Early warfare, often driven by resource acquisition or political hegemony, was governed by rudimentary customs that sought to temper its brutality. The catastrophic toll of the twentieth century's global conflicts, however, necessitated a more formalized legal response, culminating in the 1949 Geneva Conventions, which enshrined protections for combatants and civilians alike during international armed conflicts. Concurrently, the establishment of the United Nations and the adoption of the UN Charter introduced new constraints on the use of force, with Article 2(4) prohibiting threats or acts of aggression against state

sovereignty, save for self-defence under Article 51 or Security Council authorization under Chapter VII. While these developments significantly reduced the incidence of interstate wars, intrastate conflicts—civil wars and insurgencies—have surged, exposing gaps in legal frameworks originally designed for state-centric warfare.

Parallel to the evolution of armed conflict, economic warfare has gained prominence as a tool of statecraft, often employed independently or in tandem with military operations. Lacking a universally accepted definition in international law, economic warfare encompasses a spectrum of measures aimed at weakening an adversary's economic capacity, military strength, or political stability. Its conceptual roots trace back to classical strategists like Sun Tzu, who advocated undermining an enemy's alliances and resources before engaging in battle, and Carl von Clausewitz, who framed war as a continuation of politics by other means—a perspective readily applicable to economic coercion. The industrial age further amplified the strategic importance of economic power, as exemplified by Alfred Thayer Mahan's theories on naval blockades and commerce control. Today, from the comprehensive sanctions on Russia following its 2022 invasion of Ukraine to the tariff skirmishes of the 2018 U.S.–China trade war, economic warfare reshapes global trade patterns, often with unintended humanitarian consequences that rival the impacts of kinetic conflict.

This dissertation addresses the intersection of armed conflict and economic warfare as a pivotal challenge for global trade, posing critical questions about the efficacy of international legal mechanisms in mitigating their disruptive effects. Specifically, it examines: How effective are current legal frameworks in regulating armed conflict and economic warfare? What are the tangible impacts of these phenomena on global trade? And how do economic sanctions and related measures reshape trade patterns? The significance of this inquiry lies in its potential to inform policy and legal scholarship by evaluating whether existing frameworks—such as International Humanitarian Law (IHL), the UN sanctions system, and World Trade Organization (WTO) rules—can maintain trade stability amidst escalating geopolitical tensions. By analysing historical and contemporary case studies, including the Ukraine-Russia conflict, the U.S.–China trade war, and UN sanctions on Southern Rhodesia, the research aims to uncover the strengths and limitations of these mechanisms in addressing modern hybrid threats that blend military and economic coercion.

The scope of this study is deliberately focused on conflicts and economic measures with substantial global trade impacts, excluding those with minimal international economic footprints. Employing a doctrinal legal approach alongside comparative case analysis, the dissertation draws on treaties, case law, scholarly literature, and empirical data to construct a comprehensive picture of the trade-conflict nexus. It is structured across five chapters: Chapter 1 introduces the research problem and framework; Chapter 2 explores armed conflict's trade disruptions; Chapter 3 assesses economic warfare's impact on global commerce; Chapter 4 evaluates the international legal architecture governing both domains; and Chapter 5 synthesizes findings and offers recommendations. Ultimately, this work seeks not only to illuminate the profound economic stakes of conflict and coercion but also to propose pathways for strengthening the legal guardrails that protect an interconnected world from their fallout.

Current international legal mechanisms are insufficient to regulate economic warfare and armed conflict effectively since evidence of widening compliance gaps (IHL), strategic abuse of security exceptions (WTO), and sanctions circumvention (UN/EU) indicates that existing regimes temper—but do not reliably prevent—harmful behaviour. Armed conflicts negatively impact global trade since all historical and contemporary cases reviewed show significant trade contraction, supply-chain rerouting and elevated transaction costs during and after hostilities. Economic warfare negatively impacts trade since sanctions and tariff wars depress aggregate trade and GDP in both target and sender states; yet certain third-party economies sometimes gain short-term market share, illustrating that the damage is systemic but unevenly distributed.

Armed conflict and economic warfare have always threatened to unpick the fabric of global commerce. What is new in the twenty-first century is the degree to which kinetic strikes, cyber intrusions, sanctions and tariffs are deployed in concert, blurring the boundary between battlefield and marketplace. The dissertation has shown that this fusion magnifies economic harm and tests the seams of a fragmented legal order. IHL, the UN collective-security system and the WTO trading regime each perform essential functions, yet none is currently equipped—alone or even collectively—to restrain the full spectrum of coercive tools now in play.

Strengthening the protective capacity of these regimes does not require tearing them down and starting anew. It does require clarifying grey areas (economic siege, cyber blockades), closing accountability gaps, restoring dispute-settlement capacity, and embedding humanitarian safeguards across all forms of coercion. The recommendations above aim to move that agenda forward. Ultimately, whether law remains a shield for the powerless or becomes a veneer for unrestrained power will depend on renewed political will—expressed in council chambers, courtrooms, corporate boardrooms and research labs alike. The choice rests with the international community; the consequences will be felt by all who depend on an open, rules-based trading system—and by every civilian who wakes to find that the weapons of war now include the price of bread.

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