International Lawyer

Volume 51 | Number 3 Article 8

2018

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THE INTERNATIONAL LAWYER
A TRIANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

Crossing the Line: The Law of War and Cyber Engagement – An Introduction

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On April 27, 2017, The National Security Committee of the American Bar Association, Section of International Law organized and executed a blue-ribbon panel titled, "Crossing the Line: The Law of War and Cyber Engagement."[2] The panel's participants were tasked with building analytical bridges by and between the laws of armed conflict and self-defense and answering questions concerning cyber security.[3] The panel's participants, comprised of experts in the fields of National Security, the Law of Armed Conflict ("LOAC"), and technology and export controls, cogently addressed presenting questions, such as, whether advancements in technology nullify the traditional rules of engagement, or in the alternative, do the rules of engagement have application to cyberspace as a new battlefield?[4] If so, how and in what context do such rules apply? Further, when do cyber operations constitute an "armed attack" or "use of force" pursuant to International Law and Article 51 of the U.N. Charter?[5] When are those engaged in cyber operations "belligerents" or "combatants" pursuant to such laws? Are cyber operations subject to domestic jurisdiction under national legal regimes, or in the alternative, does international law govern these operations? Which legal regimes are to be applied (e.g., criminal/espionage/sabotage or the law of armed conflict)? In conclusion, panelists discussed how non-state actors (i.e., hackers or hacker groups) conducting information gathering or denial operations (e.g., DoS or DDoS) are to be addressed pursuant to international law.

1. Jonathan Michael Meyer, Attorney at Law, Vice Chair of the ABA SIL, National Security Law Committee, Co-Chaired and Moderated the Panel, "Crossing the Line: The Law of War and Cyber Engagement," which transpired on April 27, 2017, during the ABA SIL Spring Meeting in Washington, DC.

2. *Crossing the Line: The Law of War and Cyber Engagement*, ABA SECTION OF INTERNATIONAL LAW: NATIONAL SECURITY COMMITTEE (Apr. 27, 2017), https://www.americanbar.org/groups/international_law/media/crossing_the_line.html.

3. *Id.*

4. *Id.*

5. U.N. Charter art. 51.

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