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Analysis of 100 Cases of Legal Warfare

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15. Bans on Combat Methods for Environmental Changes

Case: The US Armed Forces Change Meteorological Conditions for Operations

In 1961, the US staged an aggressive war to prop up the South Vietnamese regime against South Vietnam National Liberation Front. In August, 1964, the US claimed "a North Vietnam torpedo boat launched surprise attack against a US ship" as an excuse, and extended the war to North Vietnam. The Vietnamese people during the anti-US aggressive war established a well known transportation line called "Ho Chi Minh trail" that connected the southern and northern parts of Vietnam. Most of equipment and materials provided by North Vietnam and the Chinese government were delivered to the South through this transportation line.

During the war, the US forces secretly carried out rainmaking projects in Laos, Vietnam, Cambodia, and adjacent region, sent out aircraft more than 3000 sorties successively, dropped nearly 50,000 catalysis bombs, caused frequent heavy rains in the region, and made "Ho Chi Minh trail" an important transportation highway between South and North Vietnam, wrecked and muddy, and greatly reduced the transportation efficiency. In addition, the US forces frequently bombed the communication line and suspended supplies and materials transportation to operations in the South, and brought enormous disadvantages to combats in the South. This was the first time the US forces changed meteorological conditions for actual combats. Since the late 20th century, the US forces intensified the effort on environmental warfare researches, including the earthquake making "Argus Program", the lightning making "Firefighting Plan", and the storm making "Storm Plan" and so on. An US military research report pointed out that humanly controlled weather "will offer commander a tool that impacts combat space with an impossible method for the past." It is said that the US is soon capable of using weather as a weapon against atomic bomb.

[Comment and Analysis]

This case mainly involves the law of war about combat methods application for environmental changes

First, the US forces actively researched and employed operational methods to change natural environments in wars, which had violated laws and regulations of war. The combat methods for natural environmental changes are stringently prohibited by laws of war. In 1971 and in 1974, the UN General Assembly passed resolutions one after another forbidding activities aimed to affect environments and weathers for military or

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other hostile purposes. In 1977 the 35th Article of the First Additional Protocol in the Geneva Fourth Pact prescribed that: prohibit using operational methods and means that aim to or possibly cause broad, long term, and serious damages in natural environments. In 1977, the Article stipulated that in the UN Pact of Prohibition of Technological Applications Aimed to Change Environments for Military or other Hostile Purposes: all of signatory states commit themselves not to employ environmental changing technologies that damage and cause permanent and serious environmental impacts, as means to destroy, sabotage, or damage any other of signatory nation for military or any other hostile purposes. Second, if the US armed forces continue to adopt environmental changing technologies in operations, they would constitute war criminal conducts. International Criminal Court Terms prescribed in 1998 that, any side who deliberately launches attacks that cause broad, long term, and serious damages in natural environments, whose extent is apparently overacted conduct compared with anticipated, concrete, and direct military interest, would constitute a war crime. Although the United States was not a signatory nation of the Terms, the provisions of the Terms can be suitably cited to accurately assess the nature of war conduct committed by the US armed forces. In summary, the conduct carried out by the US armed forces to change meteorological conditions in operations had seriously violated laws of war.

[Inspirations]

The case above tells us that, one, scientific and technological developments have provided practical possibilities for operations aimed to change environments. The application of the means and methods for environmental changes in war will bring human being serious and permanent harms, which are a type of indiscriminate, unlimited, and extremely brutal combat method that must be firmly forbidden. Two, UN Pact of Prohibition of Technological Applications Aimed to Change Environments for Military or Other Hostile Purposes has bigger shortcomings that lack clear reference and assessment standards on the means and methods that could broadly, permanently, and seriously change environments under what circumstances, which have provided a few nations loopholes to search for operational methods to change environments. Three, to maintain national security, we should also closely follow the step of new military transformation while faithfully fulfilling obligations of international laws, actively study and grasp various high tech military technologies, effectively prevent and stop fewer hegemonic nations using high tech military technologies to threaten and sabotage the world peace, and actively safeguard our security and stability in the multiple polar posture of the world.

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60. Military Activities in Special Economic Zone must Respect Rights of Coastal Nations

Case: Incident in which Japan sank an unidentified ship in a special economic zone of China.

On December 22, 2001, the Japanese Maritime Security Agency pursued an unidentified suspicious ship in East China Sea area, the both sides exchanged fires, and the chased ship was sunk and crew missing. The Japanese Maritime Security Agency immediately held a news conference and claimed that: On December 21, at 16:00, Japanese Maritime Self-Defense Force's sentry surveillance aircraft (in Japanese exclusive economic waters area) discovered a suspicious ship in coastal waters of Japanese Yamazaki Menorah. On 22nd 1:10 am, Maritime Self-defense Force informed the maritime Security agency about it. On 22nd 6:20 am, Maritime Security agency's aircraft identified this ship 240 kilometers northwest from Ibusuki Amamioshima, and sent out patrol boats to intercept it. At 12:48, Japanese Maritime Security Agency's patrol boats arrived in the sea area where the unknown ship was confirmed. Starting from 14:36, after the patrol boats broadcasted requiring the ship to stop but with no result, multiple Japanese patrol ships fired warning shots to the ship, and chased it toward west. Soon this nuclear ships and multiple Japanese patrol boats and aircraft entered into the East China Sea special economic zone. At 16:16, Japan patrol boats used shipboard machine-guns firing at this ship, caused the ship deck on fire. At 22:09, the nuclear ship was stopped by the interception. On the ship the crew members employed pistols and other weapons fired at Japanese patrol ships. Both sides exchanged fires. At 22:13, the ship submerged. 15 people on the ship jumped into water and were missing after that. The Maritime Security Agency indicated that at present they have discovered three masculine corpses at the sunken wreck site. After the incident, Japanese Prime Minister Junichiro Koizumi said that it was "justifiable defense" for Japanese patrol boats to fire at the nuclear ship. Japanese media vigorously exaggerated that Japan is facing dangers at sea and required strengthening and revised relevant laws. On the other hand, Japanese opposition parties and many domestic and foreign experts also raised questions about whether the Japanese conduct in this incident was in compliance with international laws and criticized that Japan tries to use the opportunity to expand its military activities.

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[Comment and Analysis]

The Japanese "navy" lacks legitimate basis to use force in China's special economic zone, whose conduct is contempt of international laws and sea laws, and causes legal disputes because of the unjustified violation of China's special economic zone interest. The rationalities that Japanese Maritime Security Agency presented include that, they discovered that there was no fishing gear and crew members on this nuclear ship's deck. The case is similar with the suspicious ship detected 2 years ago. Therefore Japan thinks that according to the "Fishery Law" 74th Article, it is authorized to request the ship stopping and accepting inspection and inquiry; According to the UN Law of the Sea, "to pursue foreign ship that violates domestic laws in territorial sea or special economic zone at sea," and according to "Maritime Security agency Law" 2nd item in 20th Article, "one can reasonably use weapons if a ship refuses stop order and tries to flee within domestic territorial waters," the patrol boats' firing conduct was also in compliance with the "justifiable defense" provision in the 36th Article of Criminal Law.

But Japan's rationalities cannot withstand legal test.

First, the "UN Law of the Sea" formulated in 1982 whose 58th Article prescribes that "in special economic areas, all countries, no matter coastal or landlocked nations, under limitations of this pact's provisions, enjoy navigation and flight across freedoms, sea floor cables and pipes laying freedoms, and legitimate sea and international uses relevant to those freedoms." In other words, as long as the ship did not harm Japan's peace, good order, and security, it had the right to "harmlessly pass through" the Japanese special economic zone.

Second, Japan exerted its inspection right on the ship on the basis of violation of Japan's Fishery Law. But the Japanese Maritime Security Agency was already clearly aware that there was no fishing gears on the ship. Thus, the application of the law is not closely relevant.

Third, Japanese Maritime Security Agency's patrol ships and aircraft had pursued the ship for more than 8 hours. The UN Law of the Sea defines the pursuit right as that: "When authorities of a coastal nation think a foreign ship violating its law and regulations with sufficient reasons, they can pursue the foreign boat. The pursuit should begin within the nation's internal waters, archipelago waters, territorial sea or adjacent area where the ship or one of its boats was." One noticeable thing is that, what the law says here is the so called "territorial sea" and "adjacent area", and the action needs sufficient reasons. The UN Law of the Sea also points out that, for conducts that violate coastal nation's law and regulations within its special economic zone, the pursuit right can be exerted in terms of the provision. However, the Japanese Maritime Security Agency lacks the reasons to judge the ship suspicious and exert the pursuit right on the basis only that "there was no fishing gears and crew members on the ship deck and the case was similar with that suspicious one discovered 2 years ago."

Fourth, according to provisions of the UN Law of the Sea, the pursuit right should be automatically suspended when a chased boat enters into its domestic territorial sea or a

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third nation's territorial sea. The attacks launched by those pursuing boats of the Japanese Maritime Security Agency occurred within China's special economic zone without any notice in advance. This type of conduct results in legal disputes about whether it complies with international laws by using weapons in non-territorial sea area, whether it respects China's sovereignty and dignity within the sea area, and whether it is in compliance with relevant Chinese laws.

Fifth, the Japanese military assault action was also inapplicable to its domestic laws. According to the 20th Article of Japan's Maritime Security Agency Law, "weapons can be reasonably used on a ship refusing to stop and trying to flee within domestic territorial sea." But the unclear ship never entered into Japan's territorial sea. The Maritime Security Agency did not have the legitimate basis to fire at the fleeing boat.

Sixth, about the issue of justifiable defense. Japan's multiple patrol ships fired deterrent shots and direct shots at the unknown boat and caused the ship deck on fire. The unclear boat fired back 4 minutes before it was sunk. According to the provision about the justifiable defense, one can only start self-defense after he is attacked.

Seventh, the Japanese government should obtain an approval from the Chinese government before salvaging the sunken wreck. The 9th Article in the People's Republic of China Special Economic Zone and Continental Shelf Law formulated by the UN Law of the Sea Pact clearly stipulates that, any international organizations, foreign countries or individuals who conduct oceanography researches within People's Republic of China's special economic area and continental shelf, must be approved by authorities of People's Republic of China, and must be in compliance with laws and regulations of People's Republic of China." But the Japanese government mistakenly thinks that, although the wreck is located in China's special economic zone, the underwater investigation is a so called "criminal activities" investigation that does not constitute damages to China's economic interest. This is totally wrong. Since the ship wreck could submerge on the continental shelf below the special economic zone, the wreck salvage must affect oceanic organism protection activities in the economic zone and continental shelf. Thus, for the search and salvage of the wreck, what the Japanese government alleged that it does not need an approval from China is not the case at all. On the contrary, it should obtain the approval in advance from the Chinese government in terms of either international laws or China's domestic laws.

[Inspirations]

This case is mainly about the issue whether Japan used its force legitimately in China's [or a neutral nation] special economic zone. First, we must closely pay attention to safeguard our national territorial sea and rights. In terms of provisions of the UN Law of the Sea Pact, our country has the sovereignty rights for "exploration, development, cultivation, and control of natural resources [no matter organisms or non-organisms] in sea beds or bottoms or their water areas, including economic development and exploration in those areas, such as the sovereignty rights for using sea waters, currents, wind power for generating energies and other activities," construction and use of artificially made islands, facilities, and structures; oceanography research; oceanic environmental protection and conservation, and other rights and obligations prescribed by

the pact. These sovereign rights must be effectively secured and respected. Especially, under the circumstances in which there are still disputes about special economic zones boundary issues between China and Japan, we must strengthen our awareness about territorial sea and prevent any nations damaging our country's oceanic interest. Second, according to provisions of San Remo Manual of International Armed Conflicts at Sea, if belligerents carry out hostile activities in a neutral nation's special economic zone, they should not only be in compliance with law of war, but also pay appropriate attention to rights of coastal country. They should notify the neutral nation if they lay mines. These all prove that Japan is not allowed to launch attacks within our nation's special economic zone without approval. Otherwise, its conduct damages our nation's legitimate rights.

Third, we must be highly vigilant on Japan's method and motivation by using force. Mutually respect of sovereignties and peaceful coexistence are basic principles for all nations in the world in accordance with international laws. Resorting to its powerful naval force, the Japanese government violated other nation's oceanic rights at will. Especially, under the circumstances in which there are still disputes about the special economic zones and continental shelves boundary issues in East Sea between China and Japan, the Japanese Maritime Security Agency even sent 15 patrol boats and a dozen of aircraft to intercept the so called unclear ship, including dispatching the Aegis class frigates "Buddha's Warrior" and "Yamakiri". This is the first time for the Japanese Maritime Security Agency to directly fire at a foreign ship in 48 years, and within China's special economic zone. This cannot help but make people highly alert on Japan's defense policy while it has revised its peace constitution, formulated "Emergency Act", strengthened military collaborations between Japan and the U.S., and dispatched more troops abroad.

64. Prohibition of Abuse of Visit Right at Sea

Case: the Incident in which U.S. warships intercepted China's commercial ship "Galaxy"

The Galaxy ship was a whole container freighter owned by China Oceanic Shipping Head Corporation Guangzhou oceanic Shipping Company. Its fixed navigation line followed Tianjin Xingang - Shanghai - Hong Kong - Singapore - Jakarta - Dubai - Dammam - Kuwait. On July 7, 1993, "Galaxy" embarked at Tianjin Xingang and arrived in Shanghai. On 12th it left Shanghai for Hong Kong. Originally it planned to arrive in Singapore and Jakarta before reaching Dubai on August 3. On July 23, officials of the US Embassy in China urgently made an appointment with officials of the International Department of China's Foreign Ministry and alleged that: the US side has obtained precise intelligence that indicates the Chinese freighter "Galaxy" that embarked on July 15 from Dalian Port, with freights of thiodiglycol and SOCI materials [i.e. raw materials] for chemical weapons production, and is navigating toward Bandar Abbas Port in Iran.

The US government requests the Chinese government to take immediate measures to suspend this export conduct. Otherwise, the U.S. would impose sanctions on China in terms of its domestic laws. On August 3 at 8:00 am, when Galaxy navigated into Gulf of

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Oman, a US helicopter hovered above the ship making photographs and inquiring about the freight transportation, as well as departure and destination ports information, and tried to stop the freighter navigating.

At 19:30, this ship dropped anchor and stopped about 11 nautical miles from the Hormuz Strait by following instructions from its company. At this time, three U.S. warships No. 61, No. 975, and No. 996 took turns to patrol around the freighter while U.S. reconnaissance aircraft and helicopter were hovering above the ship as if they were facing a big enemy. The United States requested the Chinese government to instruct the ship either returning home or accepting U.S. crew to board the ship for inspection, or staying at certain place waiting for further instruction for the excuse that the ship was carrying thiodiglycol and SOCI materials for chemical weapons production, and navigating toward Iran. After the Chinese government made a public pronouncement and refused the groundless accusation and unreasonable request by the U.S. government, the United States still refused to release the freighter. Because the ship stayed at sea for quite long and living conditions on board deteriorated, the ship moved 38 nautical miles toward southwest and anchored in international waters of the Oman Sea and obtained fuel, food and water supplies on August 19 from United Arab Emirates services company through contacts. To address the Galaxy interception issue as soon as possible, China suggested

Finally, governmental representatives of Kingdom of Saudi Arabia were willing to accept Galaxy entering into Dammam Port through multiple parties' efforts for a Chinese inspection crew and Saudi representatives to inspect the ship. The United States also sent experts who participated in the inspection as technical consultants. On August 25th, Galaxy arrived at Saudi Dammam Port to accept inspection after it drifted in international waters for more than 20 days. On August 26, the three parties held a meeting at which Chinese representatives reiterated that China stringently fulfills the international obligations prescribed in Convention on the Prohibition of Chemical Weapons without transporting raw materials for chemical weapons production to Iran, and agreed to open the 29 containers that China is shipping to Iran for inspection. From the morning of August 28th, a two day's containers opening inspection did not find those two types of chemicals. The U.S. side again proposed to inspect 49 containers loaded from Tianjin Xingang Port and Shanghai Port. The Chinese side approved it. The inspection sampled and tested 5 trucks of methanoic acids, 2 boxes of agricultural chemicals, and 1 box of turpentine oil and found nothing of the two types of chemicals. But the U.S. side still did not want to give up and suggest inspecting all of freights containers without reasons. The U.S. side could not keep promises with inconstance and tear agreements again and again. For this conduct, the Chinese side pronounced solemnly that: to quickly clarify the truth and settle the issue, the Chinese side agrees to expand the inspection under the circumstances in which China opposes the request made by the U.S. side, and under the conditions that the inspection result report should be jointly signed by representatives of the three parties; agreement on notifying the inspection result report to anchorage ports of governments; and ensuring the freighter entering into ports for unloading freights. After the inspection agreement was reached, all of containers on board were opened for inspection but the United States was disappointed and ended the inspection. In the afternoon at 1pm on September 4th, representatives of China, Saudi Arabia, and the United States formally signed the Inspection Report that confirmed no

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raw materials for chemical weapons on board of Galaxy. The United States fulfilled the agreement and notified projected moorage ports of relevant nations about the inspection results and finally ended the event.

[Comments and Analysis]

First, the U.S. conduct of intercepting and inspecting Galaxy has seriously violated international laws. Freedom in international waters is a commonly acknowledged principle in international laws, and a core and foundation of the international waters system. Its connotations include that: international waters open to all nations; no matter either coastal countries or landlocked nations, all of them have the freedom to carry out activities that are not forbidden by international laws; the freedom in international waters does not mean that it is not controlled by laws; both the International Waters Pact and the UN Law of the Sea Pact stipulate that, freedom in international waters is exercised under conditions of those pacts and international laws and regulations. When nations exercise the freedom in international waters, in addition to complying with relevant international laws and regulations, they must also consider the interests when other nations exercise the freedom. The 88th Article in the UN Law of Sea Pact made in 1988 stipulated that, "the international waters should be only used for peace purposes." The 87th Article prescribed that, "the international waters open to all nations," and every one has the right to exercise the "navigation freedom" right in international waters, and other nations are neither allowed to intervene in or obstruct ships navigation nor dispatch warship and military aircraft to track, monitor, and harass them.

Second, the United States has flagrantly stomped on the international pact about that ships navigating in international waters are administered by ships' flag nations, harmed China's sovereign control on ships, and damaged China's international image and reputation. The United States has seriously violated the provisions of the pact and betrayed the principles of the UN Charters by sending warships and military aircraft to track, monitor, and harass Galaxy in international waters and sky that was in normal commercial navigation in international waters. The Galaxy incident is a typical case in which a superpower flagrantly sabotaged the existing international laws. Although the United States used forces to intercept and inspect Galaxy, the final fact shows the world that China was innocent, who was in compliance with international laws and relevant resolutions of the UN. On the contrary, the United States was again condemned by international media because it ignored international laws.

Third, the United States should be responsible for the compensations because of its unlawful international conduct. The total delayed shipping days are 33 from when Galaxy anchored in the eastern entrance of the Hormuz Strait on August 2, 1993 to being completely inspected at Dammam Port of Saudi Arabia on September 4, 1993, where all of 782 containers in Galaxy were checked one by one. The delay inflicted China's companies losses up to 12.93 million US dollars, and the freighter crew suffered distresses both psychologically and physically. Representatives of the Chinese government pointed out in a statement made in Dammam that the Chinese side is completely justified to ask a public apology from the U.S. government who should admit

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its mistakes, compensate losses, and ensure not to make similar incident in the future. For the boarding inspection, the Third Item of 110th Article in the UN Law of Sea Pact clearly prescribes that "if a suspicion is proved groundless, and a boarded ship does not carry out any suspicious activities, the ship should be compensated for any losses or damages it might be inflicted." Based on this, the claim submitted by China that requests the United States to compensate China for all its losses has sufficient bases of international laws.

[Inspirations]

First, we must comply with universally acknowledged international laws, principles, and regulations to maintain the initiative politically and legally without providing excuses to others in international maritime struggles with oceanic superpowers. In terms of international laws and laws of war, naval warships of coastal nations and belligerent countries have the boarding right in their administered sea areas or international waters. The boarding right is also called as the visit right that authorizes warships of all nations to have inspection rights to approach and board suspicious ships that are reasonably thought of committing international crimes or violating international laws. In 1958, the 22nd Article of International High Seas Pact stipulated that, "warships can inspect and verify flag hanging rights of any ships suspicious of carrying out pirates and slaves trafficking conducts held with reasonable evidences, and any ships hanging foreign national flags or refusing to hang their national flags but in fact the commercial ships that have the same nationality with those warships". Thus, it restored the warships inspection, search, and capture rights. The 110th Article of the UN Law of the Seas Pact particularly prescribes the boarding right and expands ship categories that can be boarded from three types specified by International High Seas Pact to five ones, i.e., including the "non-nationality and illegally broad-casting ships." When one exercises the boarding right, he must strictly comply with principles of international relations to cautiously exercise the boarding right. International law principles require cautious exercise of the boarding right. The UN Law of the Sea also prescribes that, "warships are not allowed to board ships for inspection unless they have reasonable evidences." If the boarding is groundless and the boarded ship has never carried out any suspicious conduct, the ship should be compensated for any possible inflicted losses or damages.

Third, we should be good at utilizing international laws and launching legal struggles against adversary, revealing its conduct that violates and sabotages international laws for winning sympathies and supports from the international community; we should coordinate with political and diplomatic struggles and persistently hold opponent accountable for its violations by law, never give up claim right for compensations, and always maintain political and diplomatic pressures.

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91. Legal Planning from Launch of the War to Process of the War

Case: War laws applications between the United States and Iraq in Iraq Wars

On March 20, 2003, the United States, United Kingdom, and some other nations launched the Iraqi War without formal authorization from the UN Security Council. Although the United States lacked bases of international laws for staging the war, it had not given up various efforts in politics for legitimacy of the war launch. The Iraqi side had also carried out legal countermeasures in terms of international laws. It can be said that, in the Iraqi War, both the U.S. and Iraqi sides had performed carefully planned legal warfare on the war legitimacy and application of laws of war. The details of the case are specified in comments and analysis as follows:

[Comments and Analysis]

1. The War Legitimacy Struggle between Both the U.S. and Iraqi Sides.

To make its military action legitimate against Iraq, the United States must cover itself with a legitimate jacket through authorization of the UN Security Council. The UN Security Council No. 1441 Resolution passed under an American proposal defines stringent and harsh conditions for Iraq to accept weapons inspections and points out that, if Iraq refuses those conditions, it would face "severe consequences." The UN Security Council did not authorize the United States to use force against Iraq without approval in efforts of other member nations of the council. And whether Iraq has fulfilled the resolution must be determined by the UN Security Council, i.e., the United States must obtain an approval before it takes any military action against Iraq. Iraq seized the opportunity timely and agreed to restore the UN weaponry inspection work that had been suspended for 4 years, and tried to avoid military attack from the United States with maximum tolerance. To drive Saddam regime falling into trap, the United States violated resolutions of the UN Security Council and repeatedly pointed out the so called facts that Iraq had defied the weaponry inspection, and time and again came up with the inspection conditions that were very difficult for Iraq to accept. Iraq held that, as long as it did not breach resolutions of the UN Security Council, the United States would not be able to obtain legitimate bases for taking military action, and would put the United States into a passive position because its military action against Iraq would be illegal. Thus, the Iraqi side took the measures of "giving up charter to save general" and "compromise step by step", to avoid confrontation against the UN Security Council. It even destroyed a few dozens of "regulations violated Sam-2 missiles when facing big enemy and agreed to let the United States using U-2 reconnaissance aircraft to monitor its territories so that the United States could not receive the authorization for military strike against Iraq from the UN.

Iraq accepted the UN Security Council No. 1441 Resolution about the weaponry inspection, and was quite collaborated with the inspection work. Under those circumstances, the United States had to either retrieve its launched arrow and go back home or act willfully with force to search for weapons of massive destruction that

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apparently violates the Charters of the United Nations and international laws without seizing any WMD evidences. Under these circumstances, the United States had also seen that since it could not attain formal authorization for using force against Iraq from the UN Security Council, it had better use force immediately against Iraq in the excuses that Iraq had breached an array of weaponry inspection resolutions passed by the Security Council; the United States tried to maintain resolutions of the Security Council; and it had received the "factual authorization" from the Security Council, rather than it was vetoed again by the Security Council for using force against Iraq. US Secretary of State Powell accepted the interview of Abu Dhabi television station on March 26, 2003 and argued: "This war is authorized by the UN No. 1441 Resolution and previously passed No.678 and No.687 Resolutions. Thus, this is a war under the circumstances of international authorization." He also added that he believed that forces of the allies would find WMDs within Iraq, requested a debate about the war legitimacy in the UN Security Council, and hoped that the international community would confirm the war legitimacy. This also proves that the United States still at least orally regarded UN resolutions as the legitimate sources for using force and hoped that the international community acknowledged its legitimacy to use force directly against Iraq for the excuse that Iraq did not comply with resolutions of the Security Council. It had actually lost the most important score in the legal struggle. There is no doubt that the United States has posed serious threats by using force against a sovereign nation to the UN authority, the inviolability of state sovereignty established for years after WW II, and established collective security systems. The anti-war waves in all nations of the world were directly pointed to the war conduct committed by the U.S. government. Among the 15 member nations of the UN Security Council, most of them and the Arabic Alliance, European Union, and other important regional organizations either objected to the war or disagreed with it. On April 9, 2003, Sweden Prime Minister Persson said in Stockholm that, he hoped that no similar tragedy would occur again as the Iraq War in the future. When he heard that the U.S. and U.K. joint forces had occupied Baghdad, the Iraqi capital, Persson said to media that, the United States and United Kingdom has violated international laws by launching the war, which is unacceptable and should not occur again in other nations. Sergio Vinocur, a Costa Rica international law expert and Costa Rica University public international law professor also pointed out that the present Iraq War is an aggressive one whose "pre-emptive" war theory makes the international law process fall back a whole century. Turkey also refused to open its borders to the U.S. forces, which seriously affected the U.S. military deployment and made the U.S. side failing to open a northern battlefield. More than 30 US ships carrying air force's mechanized infantry division equipment had to wait from Turkey ports, and then detour to Mediterranean Sea through the Suez Canal and Red Sea, Hormuz Strait before arriving in the Persian Gulf for troops landing.

2. Applicable War Laws Utilizations between the U.S. and Iraqi Sides

In the Iraqi War, the utilizations of laws of war between the U.S. and Iraqi sides are mainly shown in how to differentiate military targets from civic ones and how to limit utilization of WMDs. Although the United States lost the legitimacy for launching the war, it dared not ignore laws of war at will to do everything it wanted. It had to comply

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with relevant laws of war as much as possible to reduce the resistance extent in the international community against its violations of laws of war. Otherwise, if the United States severely breached laws of war and caused huge volumes of civic facilities heavy damages and big casualties of civilians, it would definitely incite strong oppositions from the international community and even from domestic masses, and could break its war alliance that was fragile from the beginning. The United States was also aware well that the war was executed with coercion under broad oppositions from most nations of the world. When launching military strikes against Iraq, it tried to use precision guided weapons as much as possible to concentrate on attacking military targets and reduce damages of cultural and ancient sites, hospitals, schools, civic facilities, and civilians casualties so that it could diminish the opposition pressures from the international community and win sympathies.

1). Differentiation of Military Targets from Civic Ones. The primary approaches the United States took include that, one, vital targets of the Saddam regime were primary striking ones. The priority for the United States to launch the Iraqi War was to overthrow the Saddam regime. To achieve the goal, it carefully selected its primary striking targets including Iraqi core leaders, Iraqi forces' command and control systems, fields of National Guard troops. The U.S. forces had fired and dropped several thousands of missiles and bombs from the Decapitation Operation targeted at Saddam and a few of high level leaders. Its attacking points were concentrated on those buildings in which those leaders were hiding, Iraqi airports, bridges, power plants, and important factories and communications lines were basically not listed as air strike targets. For some infrastructures, the U.S. forces did not attack them and instead even took measures to protect them. For instance, from the beginning of the war, the U.S. forces dispatched troops into Iraq quickly to protect some oil wells and refinery factories. The reasons for the forces to do it were because the United States would be responsible for rebuilding of Iraq after the end of the war. Second, execution of precision strikes. In this Iraqi War, the American and British joint forces utilized huge amounts of new equipment, new technologies, and new means again in a concentrated way. Especially, the joint forces dropped huge volumes of precision guided weapons and greatly improved air strike accuracies. According to statistics, in the Gulf War in 1991, precision guided bombs were 8% of the total of dropped munitions by the U.S. forces; in the Kosovo War in 1999, they were 35% of the total of dropped munitions; in the Afghanistan War, they were 56% of the total of dropped ones; and in the recent Iraqi War, the precision guided bombs dropped by the American and British joint forces could exceed 90%. All of munitions the USAF dropped were precision guided bombs. Third, control and utilization of news media. The United States understood well about the importance for controlling and employing media publicities in modern war. To prove the legitimacy of its military actions to the world, it had organized many reporters from relevant nations to visit there with troops. On one hand, it utilized stringent official and military censorshipships to coordinate with its military operations for winning the war, which made confusions and headaches to those reporters, because they could not attain thorough, complete, and truthful reports, especially, about the destructive aspect of the war, except some official news. The U.S. military also deliberately fabricated fake news continuously and withheld important news. On the other hand, the United States allowed Iraqi media to let the world know that how it controlled destructions in the war. For instance, a "peaceful scene"

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always was shown in TV programs broadcasted by the Iraqi side to prevent rumors and speculations. Although the U.S. forces attacked Iraqi propaganda facilities including TV and radio stations, they deliberately did not destroy them so that they could learn operations of the Saddam regime. But under disadvantaged circumstances, they launched warning strikes including bombing Iraqi TV station and its news unit.

The countermeasures took by the Iraqi side: first, scattering and "obscuring" military targets. The Iraqi forces learned the lesson when they were massacred in deserts and plains in the last Gulf War, and retreated troops for deploying them in cities or around residences. They camouflaged important military equipment and deployed it in residences by mixing it with civic facilities so that it was difficult for the U.S. forces to detect it. Second, execution of street fight. The Iraqi troops utilized street combats in towns and residences and successfully obstructed the joint forces offensives and occupations. The joint forces had to delay offensive pace because they dared not launch destructive attacks against residences in the eyes of those reporters who went with the joint forces. Third, conduct of targeted propaganda warfare. The Iraqi side fully exerted media to expose civilians huge casualties and serious damages of civic facilities caused by the U.S. side and called for troops and civilians to bravely resist the enemies.

2). Prohibition of Weapons of Massive Destruction.

The main reason or one of excuses for the United States to use force was that Iraq possessed biological and chemical weapons forbidden by the UN because they were weapons of massive destruction, and owned missiles with ranges of exceeding those prescribed by regulations [150 kilometers]. In the beginning of the war, whether the Iraqi side had or could use those prohibited weapons also drew close attentions from the international committee. If the Iraqi forces were discovered to use those weapons, they would have to face serious consequences, which would also provide the U.S. troops some "legitimate" reasons to launch the war. The Iraqi side declined they had those weapons, and the allies had never discovered them either using or possessing WMDs until the end of the war. On the contrary, the United States had adopted depleted uranium munitions and cluster bombs and caused big civilians casualties and severe damages of national environment. Those combat methods have been condemned by the international community. This proves that the fundamental principle of war is the winning one. When the United States tries to achieve its military objectives, it would use all weapons available for the excuse of the "military needs". To reduce their casualties price, the U.S. forces carried out large scale "shocking" strikes on Iraqi important positions, facilities, and equipment, and also caused severe damages and sabotages to civilians and natural environment.

3) Approaches between the U.S. and Iraqi Sides about Compliance with Humanitarian Protection Provision

Flagrantly breach of the humanitarian protection provision in war will constitute a war crime. According to relevant international laws and regulations, deliberately attack and kill of civilians and prisoners of war or seriously harms of them, tortures or inhuman treatments of them, etc., are all war crimes. To constrain adversaries, protect one's own

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interest, and avoid accusation of committing war crimes, both the U.S. and Iraqi sides implemented their own approaches on the humanitarian protection issue.

First, although the United States had no civilians protection issue for its own civilians since it operated in Iraqi territories, it should assume the responsibility and obligation to protect Iraqi civilians in terms of laws of war. Because laws of war did not have the provisions that prohibit servicemen and civilians to carry out suicide attacks, and forbid civilians to use force to resist invaders, the Iraqi side called for civilians uprising to fight aggressors and launch suicidal attacks against the U.S. troops who were confused by those suicidal assaults. When the U.S. forces attacked civic targets and caused big civilians casualties, the Iraqi side would expose violations of laws committed by the U.S. side through TV programs broadcasts that showed bombs-devastated civilian houses and killed or wounded women and children done by the joint forces, so that the U.S. side would be condemned strongly by the international community. For instance, an incident in which U.S. troops fired at a civilian vehicle and killed 7 Iraqi women and children, and wounded two. It stirred up very protests in the international community, which forced the U.S. side to express "very sorry."

Second, to obstruct bombing Iraqi TV stations, Hydraulic power plants, and other facilities, many Iraqis volunteered to be human shields. According to laws of war, if the Iraqi side deliberately put civilians or others who should be protected into places mentioned above to shield, support, or obstruct military actions, it would constitute war crime; but if civilians and others who are protected volunteer to be human shields, associated personnel would not be investigated for war crimes.

On the issue of prisoners of war, it is also a hotspot that highlights approaches adopted by the both sides. The POWs issue greatly affects national mood and troops' morale and even outcome of war. To launch psychological warfare, TV programs of the U.S. side first broadcasted the scenes of Iraqi POWs; the Iraqi side also published videos that showed U.S. POWs. The U.S. president and high ranking officials made statements immediately that held the Iraqi side violated the Geneva Pact about POWs and committed war crime. The Iraqi side declined the accusation, held that it did not breach the POWs pact, and committed itself to treat American and British POWs fairly according to the pact. Although the pact does not have provisions that specify clearly about broadcast of POWs videos because of limited historic conditions then, if one side treats prisoners of war inhumanly with coercion or insult, it would constitute violation of laws of war.

In general, no matter whether they truly cared the issue, the both sides treated POWs quite well in the process of the war. For instance, the U.S. forces claimed that they had provided blankets, food, and sanitation items to POWs, and carried out physical checks for them. To show they had stringently complied with the Geneva Pact about POWs Treatments, the U.S. side also agreed to allow personnel of International Red Cross Organization to visit prisons that held Iraqi POWs. According to words of U.S. servicemen who were rescued by the joint forces, the Iraqi side did not harm prisoners of war, and it treated them well in living, and even released them. However, after achieving major victories in the Iraqi War, the face of the U.S forces who maltreated POWs was gradually exposed. Especially, the scandal of maltreating POWs in Abu Ghraib Prison near Baghdad shocked the world, which made U.S. troops not only facing a complete failure morally but also significantly diminishing their military victory. In a certain sense, the POWs maltreatment scandal rendered the United States a more passive position in the

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international community and Arabic world, and made it unable to accomplish anticipated objectives and effects.

4). Applications of Various Media Propagandas and Psychological Deterrent Means for Strengthening Legal Warfare Effects

In recent few modern wars, pamphlets dissemination and broadcast propaganda are basic means for U.S. forces to coordinate with operations. In the Iraqi War, the two types of basic means were exerted to the maximum extent. The U.S. forces claimed that, compared with the Gulf War in 1991, the biggest difference of this Iraqi War was to conquer the adversary's psychology, not its actual strengths. To achieve the goal, the U.S. government utilized news media and carried out all dimensional psychological deterrence in order to overthrow the Saddam regime within the shortest time and with the lowest price. According to incomplete statistics from reports of the U.S. side, U.S. troops spread more than 12 million pamphlets in Iraq that attacking cruelties and illegitimacy of the Saddam regime and trying to make Iraqi troops surrender so that they could achieve victory without combat. In the war, the U.S. forces and media repeatedly propagated powers of precision guided bombs and the irresistible momentum of the U.S. offensive for striking morale of the Iraqi side, destroying decision making will of the Saddam regime, and forcing the Iraqi forces to give up resistances. In the first day of the war, the U.S. forces adopted missiles to assault Baghdad and tried the Decapitation Operation to eliminate Saddam at one time. In the second day, mainstream media in the United States quickly reported the whole process of the detailed and secret decision making by the US military and tried to convince people that personnel within the Iraqi government indeed disclosed Saddam's whereabouts to U.S. intelligence organizations. The U.S. forces thought the psychological warfare could sow discords between Saddam and his generals and could achieve some effects that were impossible accomplished by military strike. This intention was directly revealed by British media who called it as an U.S. sowing discord scheme. When Schwartzkopf, chief commander of "Desert Storm" in the Gulf War, mentioned the approach and said of the effects that, "the psychological impacts can be understood. Now he [Saddam] knows that it is those people around him who disclosed his whereabouts. How he could not be scared." After that, a significant turn took place in the war and the U.S. forces seized Baghdad with ease. We should say that the U.S. forces resorted to media propaganda and psychological means and achieved the effects of seizing the initiative and winning the psychological warfare without combats.

Iraq also had achieved unprecedented effects with psychological countermeasures by using media propagandas. After the war broke out, Iraq consistently reported brutal scenes of big civilians casualties caused by U.S. bombings to the international community. It intended to expose the U.S. forces who were violating laws of war, win supports from international media, and force the U.S. and U.K. to end the war as soon as possible. Iraq also continuously broadcast news about victories won by Iraqi forces and inflicted casualties of U.S. forces, showed pictures of U.S. POWs in hopes of stirring up anti-war mood within the United States. Although Iraqi media propagandas and psychological warfare were not in an advantaged position, it did launch an array of psychological warfare counterattacks by employing media, including American and British POWs were shown in front of media, Saddam who made public speech after the United States claimed that he was killed by

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bombs, the division commander of the Iraqi 51st Division who rebuked the rumor fabricated by the U.S. forces, especially, the meeting scene broadcasted by Iraqi official TV station where Saddam and his senior generals were present and Hammachi, a female general nicknamed "Anthrax Mrs." who stood by Saddam. This scene caused panics in the U.S. troops who thought that was a sign showing Iraqis prepare to launch chemical weapons attack. So, U.S. front troops were instructed immediately to put on anti-chemical warfare clothes, which prove that is a typical work of psychological warfare countermeasure. If operations, carried out by the both sides' forces with modern military technologies and weapons equipment, are called as the "first battlefield," then, the shapeless battlefield of all dimensional penetrations and impacts created by the both sides with news propagandas and psychological means, can be undoubtedly called as the "second battlefield."

[Inspirations]

We can learn that legal struggles in military combat play an important role. First, they can serve to the legitimacy of a war and win supports from the international community; second, they can effectively apply games of war to limit adversary's illegal conducts in war, reduce our losses in war, maintain good international image of our just and civilized army; third, legal warfare in military combat must closely coordinate with effectively applications of modern propagandas media, psychological warfare, and public opinion warfare, and fully exert the "three warfare."

92. Excuses for Hegemonic Nation to Intervene in Internal Affairs of Other Country

Case: Legal Strategy for the United States to Use Force Interfering in Internal Affairs of Grenada

On October 13, 1983, a coup d'état took place in Grenada. The United States thought the new regime after the coup has very close relationships with both Cuba and the Soviet Union, and the pro-Soviet and Cuba new government would pose threat to interest and security of the United States and become the second Cuba. To maintain its own interest, the United States resorted to force to interfere in domestic affairs of other nation. A report submitted by Morano, Director of the Latin America Unit of the U.S. National Security Council, held that, "the coup occurred in Grenada will make it become the second Cuba. The Soviets will use the opportunity to build nuclear weapons launch sites. If not take prompt action, Cuba would further penetrate into Grenada." First, before President Reagan formally made the decision to using force, the National Security Council held a meeting on October 22 to study and seek legitimacy for using force to comply with domestic laws. Second, after it decided to resort to force, President Reagan notified a few important figures in the US Congress about the decision so that he could get support from the Congress. He explained that dispatch of troops is for preventing the new Grenada government close to the Soviet Union and Cuba posing threat to U.S. interest and security: "The chaotic situation at present in Grenada cannot be controlled. The Soviets and Cubans could have involved in it already. U.S. citizens living there could be withheld as hostages. From a perspective of the United States, acceptance of request

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for troops dispatch from Caribbean nations is risky. Bidding our time could cause bigger danger." On October 24, U.S. President Reagan made the decision to send troops to Grenada, a Caribbean island nation, codename: "Furious Operation," according to inputs from the National Security Council and Joint Chiefs of Staff Committee. To show the internationality and legitimacy of the invasion forces, the United States also assembled 7 Caribbean Organization nations including Jamaica, Antigua, Saint Lucia, and Barbados, etc, and formed a so called joint force of 300 troops. In fact, some nation sent only 12 policemen. The United States sent several tens of thousands forces from army, navy, and air force, and occupied Grenada with one strike.

[Comments and Analysis]

Grenada originally was a British colony. It won its independence in 1974. The Grenadian government carried out a pro-Soviet and Cuba policy after the independence. The military coup took place in Grenada provided the United States a good opportunity and it prepared to take pre-emptive action to punish Grenada. But the 2nd Article in the Charter of the United Nations stipulates that, "all of member nations should resort to peaceful methods to solve international disputes to prevent endangering international peace, security, and justice." "All of member nations are not allowed to adopt threat or force in their international relations, or any other methods in compliance with principles of the UN, to harm any member nation or country's territorial integrity or political independence." The United States, as a permanent member nation of the UN, was fully aware that, employment of force without approval seriously violates UN principles and international laws. So, it must find legitimate excuses.

When U.S. President Reagan formulated the forces dispatch plan, he orally pointed out three reasons for the invasion: one, to protect a few hundred American students who are studying in Grenada, two, to protect Scoon, British governor there; three, taking action according to the legitimate former Bishop government and 6 governments of Eastern Caribbean nations requests.

1). About acceptance of requests from Eastern Caribbean Nation Organization and restoration of democratic system in Grenada. On October 23, 1983, leaders of member nations of the organization held an emergency meeting Spanish Port, capital of Trinidad and Tobago and decided to ask the United States for assistance after intense debates. When U.S. President received the request, he said very proudly that, "This time for the United States to send troops there is legitimate. We dispatch our forces under a universal request from the Eastern Caribbean nations and aim to help Grenada restoring democratic system." "A few days ago, we were still hesitated to send troops to Grenada, which was not that we lack military capabilities except the legitimacy of using the force. Now the six eastern Caribbean nations ask us for help and sending troops to intervene in Grenada, our opportunity finally arrives!" To quickly receive official invitation from Eastern Caribbean Nations Organization, the United States sent its ambassador in Costa Rica immediately to the meeting held by the organization urging the six nations' leaders sending official invitation telegram without writing down incorrect receiver name and address.

2). About protection of U.S. citizens and students. On October 20, when the United States was discussing about dispatching forces to Grenada, it intended to come up with the main reason for protecting U.S. 800 students to reasonably constitute "self defense" conduct. Monroe, Director of the Latin America Unit of the US National Security Council thinks

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in his report that, "There are 800 U.S. students in Grenada Medical College who could be in siege. We should send troops there immediately to rescue them." U.S. President Reagan thought that, if we lack reasons for sending troops, invasion of a sovereign nation without approval would stir up strong oppositions from international media and make many unnecessary troubles to the United States. As for U.S. students who could be harmed by the military regime after the coup, it is only a possibility. In fact, no matter which regime is in power, it dare not insult Americans with ease. The regime after the coup actually did not take any measure to harm those U.S. students. Austin, a leader of the coup, also sent a telegram to the U.S. government saying that, any U.S. citizens who are willing to leave Grenada can do it freely with either regular airlines aircraft or chartered aircraft. Apparently, the excuse that those U.S. students could become hostages is inadequate. Protection of those students is just one of excuses.

3). About protection of British governor. After Grenada won its independence, a British governor was still left there as an honorable ruler in name only. The reason why the United States intended to rescue Scoon, the British governor stationed in Grenada, is that it tried to address the disagreement between U.K. and U.S. about the Grenadian issue so that it could obtain support from U.K., because UK disagreed with U.S. who intended to send troops there. Since Grenada was within sphere of British influence originally, U.K. did not agree with that U.S. intervenes in its former colony. The British governor was actually "protected" by the regime.

4). About legal struggles in the United Nations. The U.S. invasion of Grenada shocked the United Nations who opposed it. U.N. Secretary De Cuellar made a statement immediately that concerns the event seriously. The Security Council held an emergency meeting under the request of Nicaragua for debates. Representatives of Grenada, the Soviet Union, China, Mexico, and others from Latin America, Africa, and Asia made speeches one after another, and strongly condemned that U.S. is completely despising universally acknowledged international law principles, stumps on basic principles of the UN Charter, and destroying the regional peace and stability, and strongly requested U.S. to withdraw its troops immediately. Even nations as Italy, Germany, Sweden, Spain, Greece, and some western nations also condemned the U.S. invasion. On November 2, 1983, the UN General Assembly held a full members meeting and passed a resolution on the Grenada situation with an overwhelming majority: 108 members voted for it; 9 opposed it; and 27 waived their rights to vote. The resolution calls for all nations to respect the sovereignty, territorial integrity, and independence of Grenada, and requests immediate suspense of armed intervention and withdrawal of foreign troops. Many nations also held anti-American demonstrations to protest the U.S. cruel invasion. The United States did not expect its invasion of Grenada that caused such a big response from the international community. It on one hand used its permanent member status in the Security Council to justify its invasion, on the other hand, held multiple news conferences to explain the reasons of the invasion, and reiterated the three reasons for U.S. to use force. It also mentioned that the military penetrations of the Soviets and Cubans had posed threat to U.S. interest in the region. In fact, the United States fell into a very passive situation because of violations of international laws.

[Inspirations]

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No matter how U.S. adopts "legitimate reasons" to justify using force to intervene in internal affairs of other nation, those reasons are groundless without bases of international laws. For this type of seriously violations of international laws, one must firmly fight against them. First, the UN can be used to condemn this type of seriously breaching the UN principles and aggressive conduct by using force. According to the Resolution about Definitions of Aggression passed by the UN General Assembly in which the First Article prescribes that, "Any military occupation achieved by armed forces invasion or attacking another nation's territory shall constitute aggression crime. Since the U.S. conduct in fact violated international laws, it must be naturally condemned strongly by the international community. Second, one can reveal that the U.S. government lacks bases from its domestic laws that do not allow using force at will to invade other nation through media propagandas. It is an illegal conduct that violates domestic laws. Media publicity inspired domestic anti-invasion waves in the U.S. Some congressmen pointed out that the invasion of Grenada done by the Reagan Administration is unethical, illegal, and violations of the Constitution. People of all sectors in the States strongly opposed the U.S. invasion of Grenada and held that domestic laws are inadequate. Some of masses went to streets and called for "Reagan resignation," and shouted "We want peace, not war." After that, the U.S. Congress cited the law of war authorization and requested withdrawal of combat troops from Grenada within 60 days. On November 16, the White House had to announce that, the United States will withdraw its combat troops from Grenada no later than December 23.

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In terms of basic principles, the three all are in the service of the overall situation of national political, diplomatic, and military struggle. Where they differ is that public opinion warfare emphasizes grasping the first opportunity for public opinion struggle and seizing and maintaining dominance (*zhudaoqian*); legal warfare values legal principles to ensure that military activities are on just grounds, to our advantage, and conducted with restraint, and PSYWAR emphasizes applying a variety of means to comprehensively exert pressure and constantly penetrate the psychological line of defense. In terms of application modes, all three belong to "soft strike" of a nonviolent nature, and operations with unarmed strengths, all belong to "soft strike" of a nonviolent nature, and act on the human cognitive domain, moreover, they all apply and rely on information and IT means to carry out operations. Where they differ is that the main operational means of public opinion warfare are a variety of media, including newspapers, radio and TV, and networks; the main operational means of PSYWAR are psychological means for deterrence of the spirit, guiding of emotions, and use of cunning to thwart the enemy's plans (*yongzhi lamou*); and legal warfare, then, takes the law as a weapon and adopts means such as legal deterrence and legal sanctions to strive for the political and military initiative. At the operational level, they all implement the higher-level decisions and instructions and flexibly apply struggle tactics. But the levels where they bring into play a role show slight differences: public opinion warfare and legal warfare in a greater way bring into play roles and influence at the strategic level, while the role brought into play by PSYWAR at the campaign and tactical levels [end of page 217] has a bigger space compared to public opinion warfare and legal warfare. In terms of mechanism of action, all three have a multidimensional quality (*duoyuanxing*), i.e., they embody direct attack and a confrontational quality but also embody indirect and outflanking attack and confrontation. Public opinion warfare and legal warfare mainly put special emphasis on influencing the public opinion of international society and of the public [at large], while PSYWAR, besides influencing the public opinion of national society and the public, often even more directly will act on the opponent's troop morale and popular will.

III. Methods and requirements for implementation of public opinion warfare, PSYWAR, and legal warfare...218

The implementation of public opinion warfare usually is established on the basis of armed deterrence and actual combat and employs dissemination of public opinion information and the awing effects of the violence of war to form destructive power against the spirit and will and realize soft-kill effects. The requirements for its implementation are as follows: first is the need to forestall the opponent by a show of strength (*xiansheng duoren*). This means that in war, for the important activities in each phase, the major events followed by the masses, and the sensitive issues that can be

251

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exploited by the enemy, [we] must try to be first to disseminate the information and take initiative to guide public opinion. Second is creating momentum to control the situation (*zaoshi kongqi*). Public opinion serves as an information field (*xinxi chang*) and the main body for momentum-creating activity (*zaozhi huodong*), it requires holding multidimensional favorable postures, forming a certain scale, grasping the big picture, and eagerly striving for the initiative on the public opinion battlefield. Third is lashing out at the vital sites. This means a need to grasp the opponent's important mental pillars and public opinion pillars and press forward at his weak spots and tender spots, as well as come from places unknown to many to shake the enemy and harass him, weaken the enemy's command authority, harass his operational plans, shake his troop morale, and rout the enemy in mental terms. Fourth is pursuing the advantage while avoiding harm. Where there is public opinion warfare, there will be anti-public opinion warfare. For unfavorable public opinion information, [we] should put into effect active transfer-shifting (*zhuanyi*) or avoidance, change passivity into the initiative, seize the initiative in public opinion propagation, and to the maximum possible extent, suppress and limit the enemy's realization of effectiveness in public opinion propagation.

The methods for implementation of PSYWAR include the following: psychological attack propaganda, warning and intimidation (*jingshi kongqi*), control by conciliation and reforming (*huaiiron ganhua*), leading by interests, and sowing discord and inciting defection, as well as psychological protection for the friendly side. PSYWAR in war activities needs to earnestly implement the strategic intent and decisions of the state and the armed forces, unfold psychological offensives tightly centering on weakening the enemy's operational will, and to the maximum extent, disintegrate the enemy forces and gain popular sentiment. The requirements for implementation of PSYWAR are as follows: first is mutual combination with armed strike. [This means] the need to implement PSYWAR throughout the entire course of the war activities, use armed strike as the backing for executing psychological strikes, accomplish integration (*yitihua*) of all operational command and war activities, and use the psychological strikes to strengthen and expand the armed strikes' effects. Second is parallel adoption of attack and defense, with attack as primary. [This means] the need to fully recognize the enemy's PSYWAR real strength and the severe challenges that modern war poses to our side, attach high importance to our own protection work for PSYWAR, combine attack and defense with prevention coming first, and maintain potent combat power. [end of page 218] Especially important are keen assessment of the circumstances, grasping of time opportunities, preemption, and from start to finish taking the initiative in PSYWAR. Third is synthetic application of a variety of strengths. [This means] the need for integrated application (*zhenghe yunyong*) of PSYWAR professional strengths, the PSYWAR backbone strengths in active-duty units, and the associated PSYWAR strengths from reserve-duty

252

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fuse the military network-EM infrastructure into the midst of the state's overall building, set out from the overall situation standpoint, carry out unified *guihua* planning and shared use of combination and building (*hejue gongyong*), and thus obtain the dual benefit of economic and S&T development plus preparations for military struggle. [This means] relying on local electronic and IT superiority, cultivating network-EM warfare talent, and mobilizing active participation by the local associated professional and technical personnel to form a grand network-EM talent contingent. [This also means] fully exploiting (*kaifā*) the network-EM space warfare potential contained in the national relevant departments, enterprises, and masses of people, and constantly assimilating and incorporating the civilian sector's most advanced research and [end of page 215] applied achievements to form a national network-EM applications and building *ixi* system with military-civilian integration (*yunming yiti*) and common impetus.

Section 8: Public Opinion Warfare, PSYWAR, and Legal Warfare...216

I. Meaning of public opinion warfare, PSYWAR, and legal warfare ["lawfare"]...216

Public opinion warfare is public-opinion confrontational activity in which the opposing sides, using public opinion as a weapon, control and exploit various means of propagation and information resources in order to carry out guidance-quality propaganda for the major problems involved in war. Public opinion warfare is a multiplier of political influencing power, mental lethality, and military deterrent force. It is a war activity having special might and has an important position and role in guiding and controlling public opinion and in building public opinion postures favorable to the friendly side and unfavorable to the enemy. The main missions of public opinion warfare are to unify military-civilian thought and will, weaken and disintegrate the enemy's will to fight, build a favorable public opinion environment, and manage and control public opinion information. Under informationized conditions, along with the development of mass media and its full-dimensional, large-scale synchronous dissemination of the war situation, public opinion has become an important domain in the two sides' contention in war and an important factor in controlling the development of the war situation.

PSYWAR is a struggle activity that applies specific information and media based on the strategic intent and the operational mission and via rational propaganda, suppressive deterrence, and guiding of emotions, exerts an influence on the psychology and behavior of the target objects. PSYWAR influences the cognitive and decision-making systems of the enemy state and its armed forces and, in mental respects, disintegrates the enemy. Its goals are to execute psychological attack to capture spirit, exert an influence on the

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adversary's psychology, disintegrate his morale, and gain a big victory at a small cost or directly realize breaking the enemy's resistance without fighting. Strategic-level PSYWAR is broad-sense PSYWAR; it not only is one mode of war activities but also is an important means of complementing national political and diplomatic struggle. The main missions of PSYWAR are to weaken and disintegrate the enemy's combat power, influence and split up the enemy camp, build and consolidate the friendly psychological line of defense, and be of service to decision-making on national strategy and military activities. PSYWAR can independently implement and bring into play enormous operational effectiveness and is seen as "the fourth operational pattern, distinguished from land, sea, and air combat."

Legal warfare signifies struggle activities conducted via legal means to strive for legal superiority and to gain political initiative and military victory. The law applicable to legal warfare includes domestic law and international law, as well as [end of page 216] the law of war, of which domestic law not only includes the domestic law of [UN] member states or the engaging nations but also involves the domestic law of states not drawn into a conflict or of neutral states. Legal warfare is an important form of complementation for national political, diplomatic, and military struggle, and is a component of modern war activities. In war activities, legal warfare unfolds centering on military operations as the principal line and is carried out with military real strength as the backing. In the course of legal warfare, the pursuit of victory in legal terms is not at all taken as the fundamental goal but rather to gain victory in war or to establish the necessary favorable environment and conditions for gaining victory. Legal warfare activities at the strategic level include the following: disposition of legal warfare activities, formulation and promulgation of wartime military laws, external issuing of statements on military law, calling of press conferences to explain legal issues that are sensitive and have a major influence in war, and investigation of responsibility for violation of international law by foreign military strengths.

II. Ties among and distinctions among public opinion warfare, PSYWAR, and legal warfare...217

Among modern war activities, public opinion warfare, PSYWAR, and legal warfare all have gaining the political initiative and military victory as goals, subjugation of the spirit and destruction of the will as features, and armed strike as backing. Among the three, there is something of each in the other two so that they infiltrate one another and draw on the momentum of one another to jointly constitute a unified integrated whole not only with mutual distinctions but also with close ties.

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units and society, and fully bringing into play the roles of modern broadcast media, electronic and IO platforms, and special operations means to strengthen integrated-whole operational effectiveness.

The methods for implementation of legal warfare mainly include the following: legal deterrence, legal counterattack, legal constraints, legal sanctions, and legal protection. In legal warfare under informationized conditions, the political quality, policy quantity, and strategic quality all are very strong, so [we] need to fully bring into play the role of legal warfare in military struggle to provide legal brace-support (*zhicheng*) for seizing success in operations. The requirements for implementation of legal warfare are as follows. First is to take safeguarding of state interests as the highest criterion. The state interests are the objective basis for strategic decision-making and war activities and also are the starting point for legal warfare. When formulating COAs for implementing legal warfare, selecting the fighting methods for legal warfare, and applying legal warfare weapons, [we] need to weigh the advantages and disadvantages from the political standpoint to ensure the correct direction for legal struggle. Second is respecting the basic criteria for legal warfare. Along with the constraints on war by nations worldwide and the enhanced awareness of opposition to the unlawful use of force, the influence of the law on war and armed conflict is growing greater day by day. The launch of legal warfare must adhere to the basic criteria of international law, maintain the authority of domestic law, involve an accurate understanding of the associated rules and regulations, and be flexibly applied in war activities to ensure gaining the initiative. Third is unfolding by centering on military activities. Whether timely and forceful legal support (*zhichi*) can be provided directly for the operational activities is an important standard for weighing the efficacy of legal warfare. Legal warfare in modern war must unfold by tightly centering on the military activities, and in the different phases, according to the different operational requirements, legal struggle unfolded at the right time can promote the smooth implementation of the military activities. Fourth is grasping the flexible application of norms (*gufan*). Based on the developing changes in the war circumstances, [this means] the need to accurately grasp the specific application of legal norms in different situations, pursue the advantage while avoiding harm, and seize the initiative. [end of page 219; end of chapter]

