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AFJAGS Podcast: Episode 74

Pursuit of Power: A Look at Russia & Ukraine Through an Ops Law Lens

Host: Major Laura Quaco

Guests: Dr. Andy Akin and Lieutenant Colonel Sandra O'Hern

In this episode, Major Laura Quaco continues her conversation with Lieutenant Colonel Sandra O'Hern and Dr. Andy Akin, discussing operations and international legal principles related to Russia and the Russia-Ukraine conflict.

[Intro music – The Air Force Song (Instrumental)]

Introduction

Major Laura Quaco:

Good morning, afternoon and evening listeners. Welcome back to The Air Force Judge Advocate General School Podcast. I'm Major Laura Quaco and I'm your host for this podcast. Now this is the second part of my conversation on Russia with Dr. Andy Akin and Lieutenant Colonel Sandra O'Hern. For those of you who listened last time, welcome back. Thanks for joining us again.

For those of you who missed it, you don't have to go back and listen to the first episode. But I highly recommend you do, because it provides some good historical context

and background for this episode. Now, Dr. Andy Akin is a National Security studies professor at our Command and Staff College with a specific focus on Russian studies. And Lieutenant Colonel O'Hern is a reserved judge advocate with a ton of operational law experience.

And in her civilian capacity, she works for the Institute for Security Governance. In the last episode, Dr. Akin and Lieutenant Colonel O'Hern provided some phenomenal background on Russia history and some of the historical context between Russia and Ukraine leading up to the Russia-Ukraine conflict. In this episode, we jump right into the second part of the conversation. Where we first discuss operational law and then move towards some application looking at real life examples between Russia and Ukraine.

But before I hit play on the remainder of the conversation, you know I'm going to have the typical disclaimer at the end of the episode. But because I'm a lawyer and everything, I just want to foot stomp like we did at the beginning of the last episode, that anything discussed in this podcast is purely an academic conversation. It's all open source information.

Any views or opinions are not those of the Department of Defense, the Air Force, its agencies or components, or even the organizations that our guests work for. So now, without any further ado, I'm going to turn it over to the rest of that conversation. Enjoy.

So now we've got a better understanding of the historical background and context. But before we get into the nitty gritty of our conversation, let's talk about some of the operational law, you know, principles and concepts that might be kind of important as background knowledge for our conversation today.

And something that I think we're going to kind of talk about is something called hybrid warfare. And Lieutenant Colonel O'Hern, would you mind giving some background on hybrid warfare? Is it like traditional irregular warfare? What's that all about?

Hybrid Warfare

Lt Col O'Hern:

Sure, I'd be happy to. I'm kind of sorry to leave the historical because there's conversation, because there's so much more that we could cover. But moving onto to hybrid warfare. Yes. I think this is an important area of discussion, primarily because it's Russia ... Russia and China both are actually very adept and effective at using different tools of hybrid warfare.

And a lot of when you read about the concept of hybrid warfare, a lot of times it is associated with Russia and some of Russian activities. But I just want to clarify that the notion or the concept of hybrid warfare is not uniquely Russian, nor is it a Russian term. It really is something that's used globally in a lot of different contexts.

And it's it can be challenged to define as well. I mean, when you talk to different practitioners or different experts in the field, they'll define it in different ways or even use it in different term, different terms for it. You'll see gray zone activity or gray zone conflict or irregular warfare. And the definitions do matter. I know, at least in my work, when I'm working with different allies and partners, how they define this concept matters and what words they use matter, because from a legal perspective, that will define what they're allowed to do, what tools they're allowed to use, and how they might be able to respond.

So really, in short, it's I think the best way to describe it is really a blending of conventional military force and tactics with irregular tactics. And really can run the gamut of cyber, electronic information, economic—really any number of areas that can be brought into what would be used in hybrid warfare. Another kind of key factor is it's non-linear.

So unlike conventional warfare, where you sort of have a start, you have a finish and you kind of see the sequence of events to reach a military objective. It's very non-linear, linear, where you have multiple actors, both government, non-government, some not even belonging to the particular country. Who's the actor? It will have difficulties with trying to attribute who is committing which actions, which makes it very difficult to target who the adversary actually is.

And it really mixes both from a legal perspective, both domestic and international law, human rights law and LOAC or law of war elements. And furthermore it's not even limited to a single domain. So it's we're in conventional war when we're doing our sort of basic operational law learning as JAGS, we learn about the different domains of air space, cyberspace, land, maritime.

This really is a blend of all domains and all instruments of power and really occurring simultaneously in some cases or in or, you know, all at once. So why is that important to

us as legal practitioners? I think it's a fascinating concept and it really requires us to kind of have a different legal understanding and even a psychological shift of what warfare is compared to previous decades.

Maj Quaco:

And for our non-military listeners. So, you know, they might be thinking of World War One or Two or fighting in the trenches. What kind of real-life examples can you give about hybrid warfare?

Lt Col O'Hern:

Well, I mean, there's any number of examples. Most commonly, what we're seeing recently is this use of disinformation to effect or to manipulate legal frameworks. It can be activities that go just up until the point of actual conflict or an actual act of aggression. So it can be, you know, a cyber attack on a hospital and it can be difficult to attribute who conducted that cyber attack.

Where was the actor? Is it a state actor or a non-state actor? So that's maybe a very simplistic form of or example of what might be considered hybrid warfare.

Maj Quaco:

Yes. Thank you for explaining Ma'am.

Lt Col O'Hern:

So I think for us on the legal side, it can be very challenging because like that example I just gave, it's not combined confined to state borders and it's not confined to a military action like you would have seen, like you mentioned in the trenches of World War One or World War Two. What we see is these blurred lines between military and civilian realms and not bound by state borders.

So our legal frameworks traditionally, when we're thinking of the Lieber Code, then moving on to the Geneva Conventions or the Hague Conventions or the other various treaties and legal frameworks and customary international law that we have that govern these areas, those were conceptualized in the context of traditional

or conventional warfare. So trying to do that, like I said, that sort of psychological shift and sort of having a new legal understanding of warfare is a challenge.

And even more challenging is how do you counter that? What strategies can you use to counter that to address these threats? There's no sort of one size fits all military campaign or operation to counter, you know, incoming missiles or something like that. It really expands the options of what we need to look out to be able to effectively counter some of these threats.

Lawfare

Maj Quaco:

And so now I'd like to shift that into a conversation about lawfare for those of us, you know, attorneys on the line or people who are interested, could you explain a little bit about lawfare now?

Lt Col O'Hern:

Yeah, sure. So lawfare is not a new term. And I think a lot of our listeners probably have some sense or some understanding of what lawfare is. You know, for lack of a better word, it's essentially the use of law to effectively achieve a military objective. It usually is used in conjunction with other methods or means or instruments of power.

You know, I like to think of law as an instrument of power, although maybe conventionally it's not. And it's also not intrinsically evil. I think a lot of times it's used as like, Oh, lawfare. They're doing something bad to get to whatever it is they're trying to achieve. But really there's a proper alternatives and proper use of the law to gain objectives as an alternative to using conventional methods or conventional weaponry.

And one example that comes to mind is, for instance, during our time in Afghanistan, the U.S. put restrictions on satellite imagery contracts to be able to effectively achieve the military objectives. Now, there was nothing nefarious or particularly manipulative about that, but it was a use of the law to be able to achieve that objective.

So lawfare can be used in a proper way, just like an attorney would in a court.

We intentionally have opposing counsels that can have different interpretations of the law, and that's perfectly fine. I think where this gets interesting or where we're really focused is more on malign legal operations, where the law is used sort of inappropriately or in an incorrect manner to gain an objective and malign legal operations is not my term. I've also heard people use unlawful—like unlawful—but I think that's probably the better focus of what we're looking at.

And in particular what we're seeing as far as Russia being able to use effectively use this. So for legal advisors, this is really a critical element of hybrid warfare, hybridity. And it's oftentimes used in conjunction with disinformation and can truly be very effective. And it essentially revises the rule of law and undermines rule-based systems and allows the perpetrator to sort of escape legal obligations or dodge legal requirements effectively and be able to shape their own legitimacy or justify their own violations.

So with that, I can certainly go into a few examples of how Russia's been able to effectively use this malign legal operations concept to their advantage.

Maj Quaco:

Yes, please do.

Lt Col O'Hern:

So like I said, I don't think this would be nearly as effective if it wasn't done in coordination with disinformation. And I know Dr. Akin touched a bit on quite a bit on disinformation and control of the media. And Russia truly has been very effective. They're not the only actor that is effective at this, but they certainly have.

So. The way I see it, there's a number of different areas or categories of malign legal operations that they're able to put to use in their favor. One is, is the very blatant just simply containing their adversary during the time of the

USSR. They effectively did this in Afghanistan. And then more recently, Russia has been effective in doing this in Ukraine and then also in Georgia.

I want to take a step back and highlight that this the annexation of Crimea or even the occupation in the eastern Donbas region of Ukraine is not the ... those are not the only the only instances where Russia has gone in and contained certain geographic areas within the region. I think a lot of folks maybe are not aware, but for instance, the annexed regions in Georgia, specifically Abkhazia and South Ossetia and then Nagorno-Karabakh region of Azerbaijan, and then the trends in this region of Moldova.

And this is in addition to what we saw in Ukraine. So more has gone on than I think maybe a lot of folks realize. Another area that I think Russia is very effective at using malign legal operations is to, like I mentioned before, shaping legitimacy. So and this is truly effective because I think when you call into question the legitimacy of an adversary's legal actions, whether it's true or not, it can really shape the perception of the global community of that actor.

So even just by calling into question the legality of what a country is doing can really be effective. So specifically, a way that Russia has done this in the past is they make claims so they'll file Interpol red notices—these are essentially international arrest warrants—that are carried out by Interpol, and they'll use this tactic to target dissidents.

They'll also use it as a basis for extradition to get folks back over to Russia where they can have legal control over them. Another area is lawsuits, both defamation lawsuits against journalists, critics, dissidents, researchers. Basically any person out there that they feel is a threat to the to the Kremlin. And also human rights claims by violations of human rights.

So claims have been filed against Ukraine for many years as a form of antagonizing or sort of destabilizing.

And the fact that it may or may not be true is kind of irrelevant in this case. These are just very effective tax tactics that sort of unsettle the target of who they're targeting. Accusations are another. And again, even sort of that perception of impropriety that comes from an accusation can have some devastating effects on the sort of standing of the of the country that's being targeted.

So when their human rights are being called into question, that obviously raises the scrutiny of the international community. So Russia knows this and they know that's effective. So, for instance, in 2014, in the annexation of Crimea, one of their claims was that they were violating, violating human rights and the universal Declaration on Human Rights and violating the rights of the ethnic Russian population there.

Whether that was true or not, that was irrelevant. It was the fact that they could use that as a claim. One of the more prominent examples of successfully using accusations, at least in their mind, is the Kerch Strait incident, where they claimed that the Ukrainian navy had violated the UN Convention on the Law of the Sea. As well as a bilateral treaty designating the Sea of Azov in the Kerch Strait as shared territorial waters and the UN Convention on the Law of the Sea, or "UNCLOS," for short, guarantees access through that strait.

Well, when the ... after the annexation of Crimea, Russia claimed that even though no one else recognized, for the most part the annexation of Crimea, Russia claimed that this is now Russian territorial water in that strait. And as a result, they said Ukraine needs to ask permission and be granted permission to go through that strait with Ukrainian naval vessels and merchant vessels as well.

Well, Ukraine doesn't recognize Crimea as Russian as along with the rest of the international community for the most part. So Russian's claim was that they repeatedly ordered Ukrainian naval vessels to leave, and this is in 2018. To leave the area because it was Russian territorial waters. And when Ukraine did not, the three

vessels were attacked by Russian forces, Russian Coast Guard, as well as planes and helicopters.

And they took the soldiers as prisoners and confiscated the boats. So there's a lot more to what happened in that incident. But it's interesting because they did use a legal framework to justify why they did what they did.

Maj Quaco:

And it's really interesting because ... us, as lawyers, we can agree to disagree. We can look at a rule of law and have different interpretations. So now throw in another country to the mix and their lawyers and their interpretations.

Lt Col O'Hern:

It is really interesting, and I've only been able to talk to Ukrainian lawyers on this front and get their perspective. Of course, it aligns with how we would generally in the international community read that legal framework. But it's interesting when a country can just flat out sort of make a claim that, well, these are now our territorial waters.

So we call the shots here and even though no one else might see it that way, they stand by that legal interpretation. And so it's kind of interesting. And I mean, there's really a lot of examples I can use. I'll just highlight maybe a couple more and then maybe open it back up to more discussion.

But there's also some ... an effective way of use of probing legal gaps. Where there maybe isn't clear black and white legal red lines, they'll kind of probe at that and see how far they can they can get. And really, when you think of it, how have they been able to do everything they've done so far. Really, because they've been able to take each step without a lot of repercussion from the international community or the West.

So in some ways, some would argue that this just encourages continued acts of aggression on the part

of Russia. But one interesting one and this relates to the military and military lawyers is so we have a really well-known exercise on our side called Sea Breeze, and that occurs in the Black Sea. And we generally close off about eight square kilometers of ... it's an exercise, it's a large exercise. And it goes for about 10 to 12 days.

And so that's how we conduct this exercise. Now, in response, a lot of times when we have an exercise, Russia will respond with their exercise so that Russia responded with their exercise, noting that they have a right to conduct their military exercises, which they do. But what they did in the Black Sea instead of the eight square kilometers or by comparison, they closed off almost 117,000 square kilometers, blocking about 25% of international routes for the bordering countries of the Black Sea of Romania, Ukraine, Georgia and Bulgaria.

So sure, you're allowed to do military exercises, but to what extent? That was sort of this probing that happened. Another similar very similar example is, is the well-known Zapad exercise that they do with Belarus. And the conventional force in Europe Treaty, as well as the Office of Security and Cooperation in Europe, have rules that require countries to report the troop numbers, especially if it's over a certain threshold.

So for any kind of snap drills that involve over 13,000 troops, they have to be reported by law so that these can be monitoring, monitored. So in the case of Russia and Belarusian exercise, they argued that, okay, well, the 13,000 is that limit for reporting. Well, we're only sending in 12,700 troops, so we're free.

We don't have to report, but observers and reports stated that it was more like 140,000 to 240,000 troops that were going in, and many of them were left there in Belarus for kind of obvious reasons. So that's sort of another example of where they've kind of pushed the issue and really didn't get a lot of response. So we're able, I guess, in effect, to get away with it.

I can certainly go into a couple of other examples, but I don't want to take up too much time.

Dr. Akin:

Yeah. So what I was going to bring up as well, you kind of mentioned this in a couple of places. One of the inherent strengths of particular democratic societies and states is that the institutions are considered legitimate because they have rules and norms and expectations for how those institutions behave, and they are guaranteed or enforced again by standards. Voting the legal system, all of these institutions, again, have a lot of legitimacy.

And what the Russians are so effective at through these lawfare and even hybrid campaigns is questioning the legitimacy of others institutions while promoting the legitimacy of their own, even though it's a complete facade. And that, I think, is also one of the biggest capabilities that Russia has been able to put out and why they're so dangerous at this.

You know, another one of those perfect examples is these sham referendums on joining the Russian Federation throughout the Donbas in those republics, you know, where the Russian Federation pointed to the outcome and said, look, these people had the free choice. They voted to become part of Russia. We have to respect that. You know, the international community has to respect this. When, of course, you know, there was a myriad reports of how coercive and forced and falsified, you know, those votings ... those regimes were done.

So you begin to amplify that on, you know, just all kinds of fronts and domains. You know, you even mentioned the lawsuit of publication. There's a phenomenal book on Putin and sort of the of the origins of Putinism and the corruption that went along with it by Karen Dawisha. It's called a *Kleptocracy*. And it was initially supposed to be published in the UK, but because the libel laws in the United Kingdom are different than in other places, Russia actually filed suit under libel to

keep the book from being published. Ultimately had to be published in the United States, with a different publisher. But again, another example of Russia working through these institutions to mask or hide their intent, their capabilities, their interests, or even bad information about them from getting out there.

Lt Col O'Hern:

No, I think you hit it spot on. I mean, they really are very good at playing both sides of the same coin and blatantly so to the point where outsiders might look at who's really going to believe that. And how can they do that with a straight face. But it certainly happens. And there's many, many more examples.

And by the way, that book is *Kleptocracy* is an excellent book and does do a great job of explaining some of this background how effective this is. But no, that's a perfect example of how they make these claims to sort of harass or stop actions or to control the actions of others when they don't like what's being said or done.

So it's ... and again, I think it's particularly relevant to legal practitioners and really brings to my mind the importance of legal resiliency in trying to develop counter strategies or address or preempt some of this because this is the sense of legal resiliency I don't think was at the top of the minds of a lot of legal practitioners. Particularly in the region, but even for us here in the U.S.

So I think that's a fascinating concept that needs to be addressed. And I have my ideas on different ways that perhaps we can do that. But ... and I think Ukraine honestly has done a really good job on the legal resiliency front from, you know, really trying to and effectively, I think, take control of the narrative that's being put out there, being proactive.

I mean, you see several daily updates from President Zelensky and the Ukrainian government to address issues as they come up instead of hiding from them, which I think was a tactic by a lot of the international community previously. And really educating and recognizing this

disinformation and this legal malign operations as they're happening and being very also being very conspicuous about compliance with international law or, you know, international humanitarian law or law of armed conflict or law of war principles.

And from that perspective, I think the Ukrainians have really done a great job.

Law of War and International Humanitarian Law

Maj Quaco:

It's really fascinating to hear more about, you know, malign legal operations and those specific examples. So thanks both of you for that discussion. Now, I want to go back, you know, when you're talking about hybrid warfare, you mentioned law of war or LOAC, you know, law of armed conflict, which now we mostly say law of war.

But I want to talk about law of war and international humanitarian law. So for our nonmilitary folks and non judge advocates, they might hear about various actions or various attacks and wonder, is that okay? Is that legal? Like, how do we decide that type of act is permissible? So could you give a little bit of an overview of what legal advisors and commanders in those types of environments consider to make those kinds of determinations?

Lt Col O'Hern:

Yeah, of course. And I think that it's a good segue way from the comments I gave on, you know, legal resiliency and counter strategies, because I think a good solid understanding of the law of war or what, you know, more commonly in the international community would be called international humanitarian law or IHL and an understanding of what those sort of primary principles are.

And I can even give some examples really on both sides of where this has really come into play in the Ukraine context. But just very briefly, for those who may not

know, when we're looking at law of war or IHL principles, you know, it's sort of agreed upon that the primary principles you be looking at are military necessity, in other words, is this is it is military action required in this particular situation, avoidance of unnecessary suffering.

So depending on the methods and means of warfare that you're using, are you ensuring that you're limiting the amount of suffering that has to be inflicted to achieve this military objective? The third principle would be distinction—ensuring that you're distinguishing between military targets and civilian targets. And then finally, proportionality. Are you using just enough military power to achieve that objective without sort of going overboard?

Of course, there's a lot of subcategories and nuances to each one of those four primary principles, but just for the sake of simplifying the concepts, those are the main principles that military forces need to keep in mind. So in the case of what we're seeing currently in and reported in the news and discussed quite frequently on a lot of in a lot of media outlets, is this sort of constant violation of IHL or law of war principles by Russia during this invasion.

And certainly Russia has made accusations against Ukrainians for doing the same. So it's not just a one sided or a one way street for this. But there's been verified multiple, multiple attacks on civilian targets in violation of these principles and arguably intentional attacks on military targets from apartment buildings, civilian roadways, hospitals, playgrounds, you name it. One of the more egregious ones that happened early on in March of last year was the Mariupol theater attack, where hundreds of civilians were taking shelter in a theater.

This includes families, children. And they had even gone so far as to in big, big letters write the word *deti* ... Russian for children out in front of the theater to alert anyone that would be looking to target this, that there

are children in here. This is not a target. And also, under international law, they're not required to do that.

It is incumbent on the military operation that is targeting to determine civilian target or not, regardless of whether they've put that word out there or not. But this just goes to show they went kind of above and beyond to identify what the purpose of was for this building. So Russia used precision guided munitions and struck this theater, essentially demolishing it.

There's out there in the public you can see pictures of before and after in several news accounts. Essentially trapping civilians that were seeking shelter in the basement. And this this essentially was consistent with the Russia's pattern of targeting nonmilitary objects. And Russia is a signatory to the Geneva Convention. Although Putin has tried to withdraw. But every country is a signatory at this point.

And it shows, this is a horrible example, but it does its good at showing how the different elements or principles of the law of war were violated. For instance distinction. It was clearly a civilian object. It was not a military object. Proportionality wasn't necessary. Depending on what their military objective was, was there a need to completely decimate the entire theater. And then no precaution to minimize harm to civilians?

That unnecessary suffering principle was clearly violated. So that was one example of a very egregious example of where Russia completely sort of did not follow or even attempt to follow any of those recognized principles.

Maj Quaco:

Are they required to address that and give some kind of justification or why they think it was lawful?

Lt Col O'Hern:

I mean, ultimately, especially and this gets into another area of the investigation and case preparation for war crimes. In the system, this is just one of hundreds and hundreds of examples. So, I mean, technically, if the

system works the way we've set it up and it's supposed to work, they would be ... have to respond to war crimes allegations.

In this particular case, they're ... the only response that I've seen reported in this and many other cases is that they're being used for military purposes. But really with nothing that I've seen, at least to back that up. And certainly in this case, it was pretty evident by all the footage that there was nothing to back that up in this particular case.

But that's been a pretty constant response on the Russian side to these allegations so far. Another interesting example of a violation of IHL principles that wasn't reported on as much is this notion that ... Russia taking in the Black Sea, taking warships and painting over the hull numbers, there's always numbers on the hull for warships and they're always painted gray and removing the flag on the vessels.

So one of the requirements under international law to include the UN Convention on the Law of the Sea that I mentioned earlier, as well as the Hague Convention, is again, that principle of distinction, making sure that you know this is a military target. Well, now if the Russians have painted over the hull numbers and removed the flags, they've now sort of circumvented these laws and are sort of able to kind of hide this, you know, hiding themselves as a warship, even though it's pretty obvious what they were.

So, you know, one might question, well, why would they do this? To what end? Well, one of the requirements, legal requirements, is Ukrainians have to identify it as a legal target, as a military object, before they can fire on it. Well, if there is nothing identifying it, this now puts them in the conundrum of not being able to fire on it.

And then they ... all the Russians can also flip that around and say, well, the Ukrainians attacked civilian vessels, even though from photographs it's pretty clear these

are not civilian vessels. So this is another way that Russia can sort of deny its obligations under international law. There's also a couple of examples on the Ukrainian side of where they are really trying to proactively, proactively and conspicuously comply with international law that I can certainly go into.

Maj Quaco:

Sure.

Lt Col O'Hern:

So, one area that really raised a lot of questions, particularly at the start of the invasion, but continuing on is the use of volunteers and volunteer forces in the defense of Ukraine. And these include the territorial defense forces as well as there's been a lot of international response where they have an international legion attached to their territorial defense forces, where Foreign fighters can come in.

There's been allegations from Russia that these are mercenaries. That's been debunked for a number of reasons of what's required for them to qualify as mercenaries. And they also have to comport with requirements under international law if they're going to serve in this capacity essentially to take part in any kind of hostilities. So they have to be clearly distinguished.

You'll see them, they'll either have a patch or an armband, they have to openly carry arms, and they have to conduct any sort of military operations, not necessarily support, although it depends how close those are to actual acts of conflict. But they have to conduct those operations in accordance to the laws and customs of war. And in the case of Ukraine, in these territorial defense forces and the International Legion, they've really been very proactive in ensuring that they are complying.

I'm sure there's been some instances here and there, but of whether or not they are complying. But overall, when you look at reports and read what's coming out, that they are actually proactively complying. And I think this sort of ties, again, to that legal resilience of them

really going above and beyond to make sure that the world sees that they are complying with their legal requirements and obligations.

And the same goes for ... early on there were some allegations on the side of Russia, how they were treating with how they're treating captured combatants or POWs. And again, Ukraine has really made an effort to go above and beyond to show how those individuals are being treated. I mean, there's more there that, you know, I don't touch on.

But at least from what we're seeing in most reports, they're really being proactive about that.

Dr. Akin:

And the only thing I could add to that is looking historically at the Russian way of war going back, I mean, obviously to Chechnya in the nineties, but even before. Laws of war and humanitarian concerns have always been secondary, if not, you know, just ignored aspects of Russian operations that it's just you know, it is what it is.

It is a very demonstrable concept. The other thing that is concerning in this context is that Russia clearly has no qualms with choosing military strategies of punishment for civilians and attrition where they just, you know, they will indiscriminately destroy infrastructure, whether it's civilian or has any military application whatsoever. And then also terrorizes civilian populations in an effort to bring about those political objectives.

And Americans in particular, you know, given our sort of very clean and surgical approach on most towards military operations, find this abhorrent. But it's very, very common for the Russians to make use of it.

Lt Col O'Hern:

Yeah, that's a great point, Dr. Akin. I mean, we see allegation after allegation and really with no inclination to adjust how Russia is conducting their operations. So it's ... the aftermath is really going to be very interesting as investigations into a lot of these alleged war crimes

occur and where that will where that will end up and what sort of accountability will result.

So that is definitely interesting. Another piece on the POW. issue that just occurred to me because I just read about it and I think it's fascinating this there's this new project on the part of the Ukrainian government called I Want to Live. And it's a project to allow Russian soldiers to surrender by the use of drones.

So essentially there's information that's put out on how they can surrender with a drone, essentially leading them to where they need to surrender. And, you know, this sort of use of technology intersecting with legal obligations because there's certain requirements that have to be met to surrender on the side of the country that's receiving the member that's surrendering.

And it really is fascinating and interesting to see that Ukraine is really taking this sort of advanced approach of doing everything it can to do things the right way. And so I just wanted to mention that recent project that they had started.

Final Thoughts

Maj Quaco:

Wow. That's really interesting to hear kind of the dichotomy and how Russia and Ukraine are acting in the same conflict. And I'm sure there's, you know, six more hours or probably more that we could talk on this very subject. But I think we're going to wrap it up for today. But before I do that, I just want to turn it over to the two of you to give any kind of last words of wisdom or what you want our listeners to take home from today's conversation.

Dr. Akin:

What I think is imperative for the listeners to know is that we are seeing a couple of pretty significant occurrences in the last year. We're seeing the liberal international system championed by the United States since the

Second World War challenged. We're also seeing it positively respond in ways that we didn't anticipate a year ago. We're definitely seeing a return to the power and force of identity politics and what that can lead to in terms of military aggression and redistribution of territory.

And I think we're also, you know, once again, being reminded that we are returning to this era of state versus state and big power politics.

Lt Col O'Hern:

Yeah. Just to add on what Dr. Akin eloquently said, I would point out for our legal practitioner listeners, don't underestimate your work and your value. And in all of this, I think what is happening is important as a legal practitioner and important to take notice and for everyone, even non-legal practitioners. I think it's also important to take note of what is happening is this is really just not Ukraine at stake, but really the concept of a rules-based system and our international support for that, that rules-based system.

Maj Quaco:

Yes, ma'am. Very well put. All right. Well, Dr. Akin and Lieutenant Colonel O'Hern, thank you so, so much for joining me on The AFJAGS Podcast. I know I could not have done this episode without the two of you, and I certainly learned a lot. And I'm sure our listeners did as well. So thank you so much.

Dr. Akin:

Thank you for having me.

Lt Col O'Hern:

Thank you so much. It's my pleasure.

Closing

Maj Quaco:

All right. I hope you all enjoyed that conversation with Lieutenant Colonel O'Hern and Dr. Akin. I know I sure did. But if you've got any feedback input whatsoever, please review, rate, subscribe. I'll take anything you've got about this episode, about other episodes. If you've got ideas for future episodes, please, please, please let me know. And with that, that is all I have for you folks today.

Hopefully, we will see you all next time. Until then, this podcast is in recess.

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Major Victoria Smith:

Nothing from this show should be construed as legal advice. Please consult an attorney for any legal issues. Nothing in this show is endorsed by the Federal government, the Air Force, or any of its components. All content and opinions are those of its guest and host.

Glossary

- **AFJAGS:** Air Force Judge Advocate General's School
- **IHL:** International Humanitarian Law
- **JAG:** judge advocate general
- **LOAC:** Law of Armed Conflict
- **POW:** Prisoner of War
- **UN:** United Nations
- **UNCLOS:** UN Convention on the Law of the Sea
- **USSR:** Union of Soviet Socialist Republics

Transcript Edit by Major Jasmine Russell

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