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Non-kinetic capabilities and the threshold of attack in the law of armed conflict / Bart van den Bosch

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Abstract:	In this chapter it is argued that within the framework of the Law of Armed Conflict (LOAC), attack and kinetic operations can be used as equivalents where military operations that do not constitute attacks have a large overlap with non-kinetic operations. These topics present more than just a linguistic exercise because many (restrictive) rules in LOAC are constructed around the definition of 'attack', placing fewer restrictions on other military operations. Traditionally, the qualification of attack is determined by the (intended) physical consequences of a military operations. if it does not (intend to) result in physical consequences, it is not defined as an attack. If this approach is applied to non-kinetic military capabilities, especially in cyberspace with its non-physical components, the questions is raised whether the traditional physical consequences are still valid criteria for determining whether or not a military operations qualifies as attack.
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