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Classification of cyber capabilities and operations as weapons, means, or methods of warfare / Jeffrey T. Biller and Michael N. Schmitt

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Abstract:	<p>Despite several persistent controversies regarding how international law applies to cyber operations during an armed conflict, general understanding of the law in this domain is maturing. This article examines three terms drawn from classic international humanitarian law (IHL) – weapons, means, and methods of warfare – in the context of cyber operations. The article begins by identifying those IHL and neutrality rules that the use of the terms implicates, namely the weapon review obligation, the requirement to choose among available means and methods of attack to minimize civilian harm, and the prohibition on transportation of weapons across neutral territory. It then assesses the prevailing understandings of weapons, means, and methods of warfare in an effort to tease loose the sine qua non characteristics that define the terms. This analysis leads to the conclusion that cyber capabilities cannot logically be categorized as weapons or means of cyber warfare. However, they may qualify as a method of warfare in certain contexts. Finally, the findings are applied to the attendant legal requirements and prohibitions in order to evaluate their effect of those rules.</p>
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