

The Internet *in Bello*: Cyber War Law, Ethics & Policy

Seminar held 18 November 2011, Berkeley Law

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III. Opening Remarks by David Caron

C. William Maxeiner Distinguished Professor of Law, University of California, Berkeley, School of Law; President, American Society of International Law

In his welcoming remarks, David Caron looked back to the founding of the American Society of International Law in 1906. Despite the development of new weapons and new practices in naval warfare, it was a period of optimism regarding the possibility for peaceful means, particularly arbitration or litigation, to provide an alternative to the use of force in the resolution of disputes. That optimism was shattered by the First World War, which set the course for the 20th century's many armed conflicts.

He noted that in this new millennium, hopes are again pinned on a new institution, the International Criminal Court, but we are again faced with new weapons and new challenges, including cyber warfare. Discussions within and between the responsible government agencies and others, including ASIL, are important in exploring how international law applies to these developments as well as in arriving at a common understanding of terminology. In a remark that was echoed by many speakers throughout the day, Caron observed that lawyers tend to try to think in analogies. For example, are drones like other weapons, or are they somehow special? Is this a new category, or is this part of a new category, and how do the old rules fit?

Before turning to the summary of the discussions, it should be noted that all of the seminar experts spoke in their individual capacity and did not necessarily represent the views of their current or former employers. While the presentations are attributed here, the discussions took place under Chatham House rules.

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