Is Cyberwar Legal?

A Four Hundred Year Retrospective










DELTA


BARCLAYS
NYSE
Morgan Stanley
1241
BARCLAYS
Summit Materials
SUM
14,098,537
22,222,222
18.00
20.16
20.99
19.65
BNY MELLON
Danbury



Are Cyber Attacks Permissible according to the Laws of War?

Seven minute Survey on the Right to War

1) 1600's to 1928: Old World Order

2) 1928 to Present: New World Order

Hugo Grotius

1583-1645



Grotius' Theory of War

War is a permissible remedy for wrongdoing













Recover
Stolen
Property

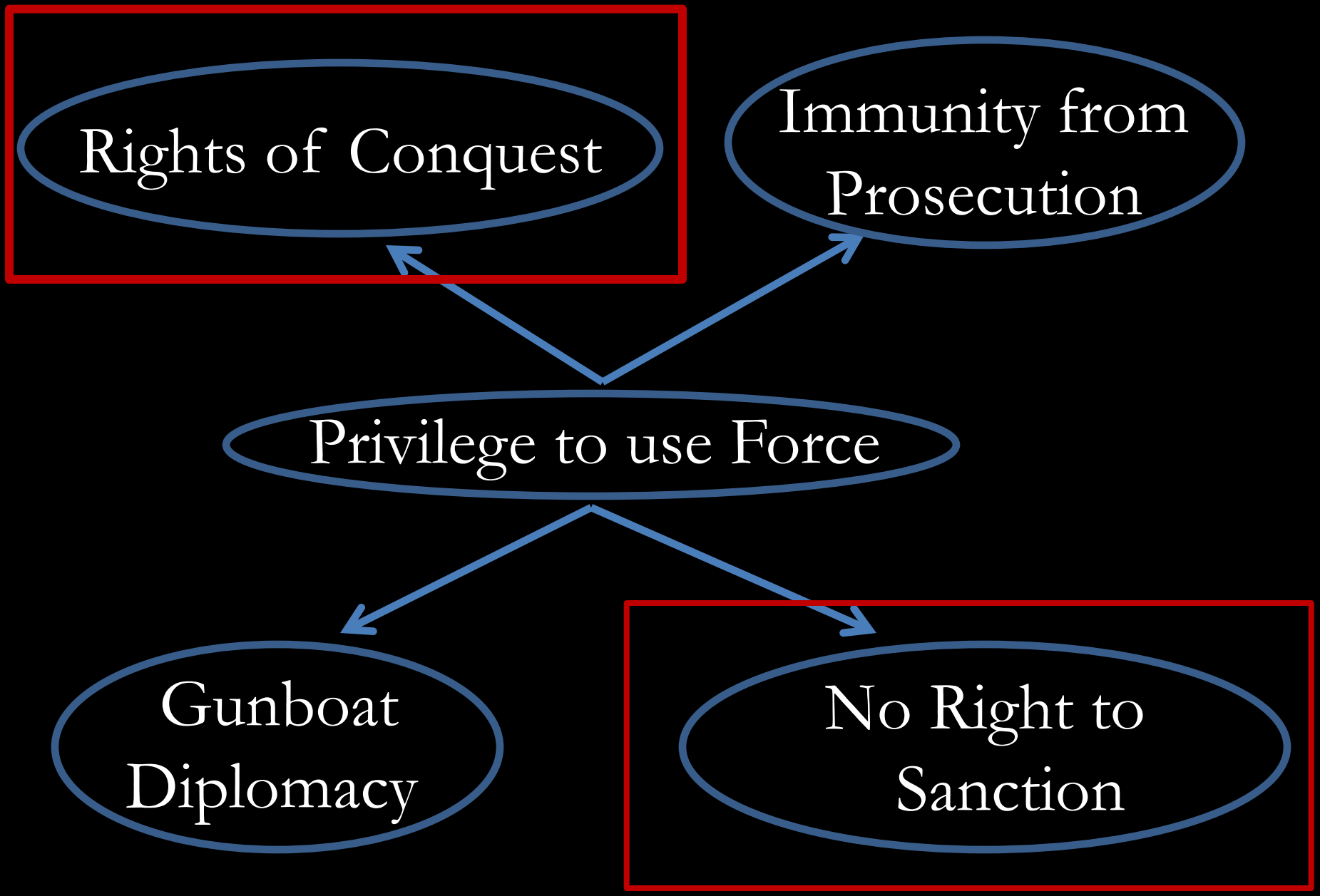





wallcoo.com



The Old World Order

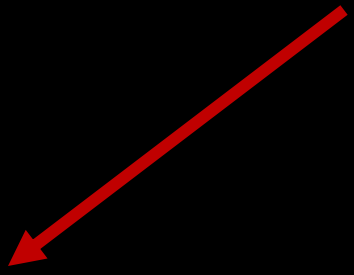


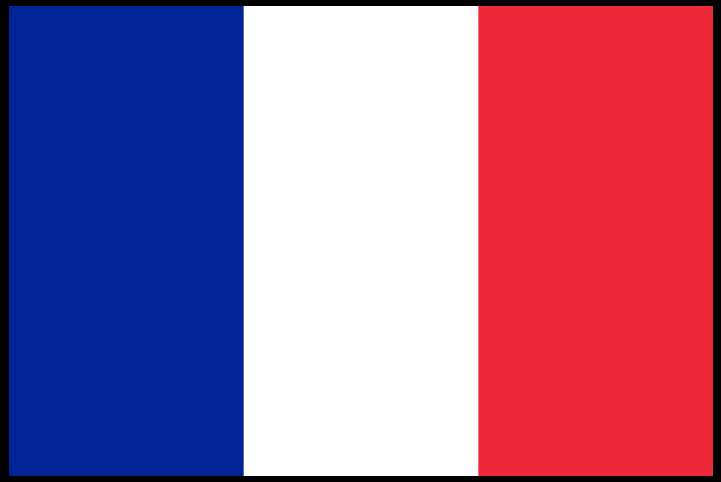
The Legal Right of Conquest


Mexican Cession 1848
Oregon
Idaho
Wyoming
Nevada
Utah
Colorado
California
Arizona
New Mexico
Texas
Pacific Ocean
Klamath
Sacramento
San Joaquin
Kings
Green
Colorado
Gila
Salt
Rio Grande
San Francisco
Monterey
Los Angeles
San Diego
Las Vegas
Pueblo
Santa Fe
Albuquerque
Tucson
El Paso

No Economic Sanctions











Old World Order

WAR → LEGAL

ECONOMIC SANCTIONS → ILLEGAL

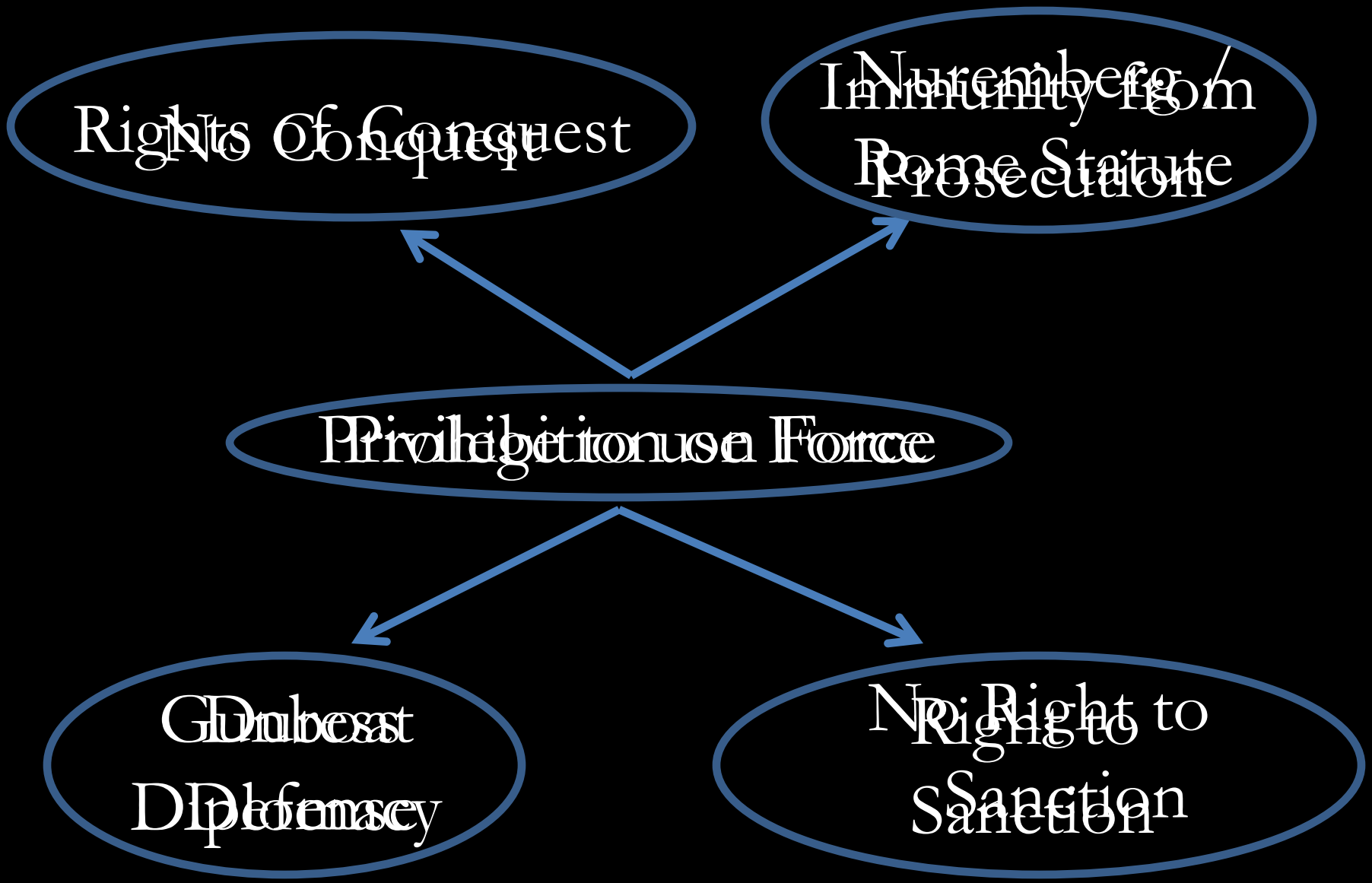


Kellogg-Briand Pact (1928)

Kellogg-Briand Pact, Article 1.

The High Contracting Parties . . . condemn recourse to war for the solution of international controversies, and renounce it, as an instrument of national policy in their relations with one another.

The New World Order





Japan Invades Manchuria, 1931

Right of Conquest

No Right of Conquest

Economic Sanctions are Illegal

Economic sanction are legal

How do Cyberattacks fit into the New World Order and its outlawry of war?

Critical Question

Are Cyberattacks more like
Kinetic War or Economic Sanctions?

Why is Kinetic War Illegal?

1) Violent

2) Active Harming

Economic Sanction are Legal

1) Non-Violent

2) Passive Harming

2 X 2 Matrix

	Active	Passive
Violent	**Kinetic War**	
Non-Violent		**Economic Sanctions**

Cyber Matrix

	Active	Passive
Violent	**Kinetic effects**	**Allowing others to use your networks for attacks**
Non-Violent	**DDOS, Ransomware, Election Interference**	**Cutting off access to your networks**

Cyber operations in
top left/bottom right
regulated by the Laws of War

Norm of non-interference





Suggestion: Cyber-attacks that interfere with essential government functions violate the norm of non-interference and therefore illegal

Elections, Utilities, Financial System

Enforcement?

- Cyber Clubs: Member states agree to cyber norms.
- Those who flout the norms lose access to club network.