

## Articles

# War in law: A corpus linguistic study of the lexical item *war* in the laws of war

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## ABSTRACT

As a crucial register of modernity, the laws of war provide a discursive environment for the production and/or maintenance of key categories associated with organized violence. The register hosts the concepts which are used to refer to mass organized violence (*war*, *armed conflict*), and has both constructed and/or amplified categories of person that have been developed to legitimate war and give coherence to the international laws of war (e.g., prisoners of war, civilians). With the key texts of the international laws of war including such well-known instances as the 1949 Geneva Conventions now available in a searchable corpus format via the Sydney Corpus Lab, this paper explores the usage and meaning of *war* in this register where, in principle, the word *war* is a central part of a body of law which purports to put limits on organized violence. The method is essentially corpus driven: it takes the usages of this lexical item in this register and explores its frequency, its typical local lexical environments, and its collocates. The analysis shows that while the concept of war is essential to the laws of war, it remains ill-defined, indeed virtually undefined, at the same time that its collocational habits affirm its naturalness and legitimacy. As has been found elsewhere, in the laws of war, *war* and *violence* are treated as distinct phenomena, operating in distinct lexical environments. The paper is a contribution from corpus linguistics to the work of understanding the ideological effects of this highly significant legal register.

## 1. Introduction

The first official 'law of war' is traced to the first open multilateral treaty. Written in 1856, the Paris Declaration Respecting Maritime Law (signed on 16 April 1856 (115 CTS 1)), was the beginning of a new register<sup>1</sup> which would be the foundation of all modern international law (Roberts, 2019). This treaty did not emerge out of nowhere: the precursors of modern international law can be traced back to Roman law, or even prehistoric cultures (Mullins, 2023). But in relation to the modern laws of war, the Paris Declaration constituted a new beginning. Only 321 words in its original French, the text consisted of four short 'maxims', to which members of the international community were invited to become signatories. Within a decade, representatives of 12 European states met in Geneva to set out the first treaty containing a set of 'rules of war' about the treatment of wounded combatants and the protection of medical personnel and infrastructure (Moyn, 2021). The first of the Geneva Conventions was promulgated, and over time 'Geneva law'

would come to be associated with the protection of captives and non-combatants, and eventually, civilians. The first limit on the weapons of war was developed in 1868, and over time, a concept of 'Hague law' would come to mean the use of international law to restrict the 'means and methods' of war (Crawford and Pert, 2015). Through the bloody wars of the 20th, and now the 21st century, the multilateral, international treaty continues to be the bedrock of international law in general. Specifically with respect to war, a body of legal texts, which include 'declarations', 'conventions', 'protocols', 'resolutions', 'statutes', and 'treaties' (and a miscellany of other texts such as the Lieber 'Code', and the Oxford 'manual' on the laws of war), has been recognized as setting the legal framework around war. This body of law is hosted by the International Red Cross, an organization intimately tied to the development of the laws of war, and which describes its mandate as including 'to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles' (International Committee of the Red Cross, 2023).

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<sup>1</sup> We note the debate over terms such as register and genre. We follow Halliday's concept of register in this paper. See Halliday et al. (2007). As noted below, this body of law consists mainly of treaties, but in fact includes some texts which are not treaties.

For many reasons, the laws of war are overdue for linguistic, including corpus linguistic, attention. Firstly, they have a central place in the history of the emergence of the international community and of the profession of international law (Moy, 2021). Secondly, these texts have carried the responsibility of generating the register's characteristic semantic properties which allow them to be recognised as the texts pertaining to the regulation of war. For example, these texts create the 'defining principles' of the laws of war, including concepts such as 'distinction', 'proportionality', and 'military necessity' (Crawford and Pert, 2015). Thirdly, given the topicality of these texts around the apparent limits on geopolitical violence, these texts are important to be studied for their ideological effects. As wars are so deeply consequential, and with war infrastructure so acutely intertwined with capitalism, every citizen of every modern nation has a claim on this body of texts. As Jochnick and Normand (1994) argue, 'while the laws themselves speak to sovereign nations, their psycho-social effects are visited upon the public at large' (p. 58).

In addition to these motivations for the study of the laws of war, there is the extensive literature within legal scholarship which contests the history and effects of these texts. The standard view argues that each step in the creation of the texts of the international laws of war has been part of a trajectory of progress, a period of 'development, refinement and codification' in which 'the once fragmented and amorphous codes and practices of the past have emerged as a consolidated, universally binding body of international law regulating the conduct of hostilities and providing humanitarian protection to the victims of all armed conflicts' (Melzer, 2016, p. 37). But this 'grand narrative of international law as the purveyor of peace and civilisation to the whole world' (Jouannet and Peters, 2014, p. 4) is challenged in literature too extensive to summarize in this paper, but includes for instance recent work on the deeply gendered nature of these texts (see e.g., Crowe, 2016; Mégret, 2018; 2023; van Dijk, 2022). It has also been argued that for 'most of its history, international law was generally in tune with imperial and increasingly racialized projects', with one of the key architects of the first Geneva Convention in 1864 also working on behalf of the Belgian King Leopold II in his colonisation of the Congo (Moy, 2021, p. 94–95). See Alexander (2021) for a summary of recent critical literature.

These culturally important texts provide a meeting place for the disciplines of law and linguistics, two disciplines which have long been in dialogue (Goodrich, 1987; Tiersma, 1999; Solan and Tiersma, 2012), although cross-disciplinary conversations in the field of international

law have only more recently begun (Potts and Kjær, 2016; Lukin, 2020; Pirker and Smolka, 2017, 2020; Lukin and Araújo e Castro, 2022). Collaborations across these disciplines have also seen the use of corpora and corpus linguistic methods in legal studies (Solum, 2017; Goldfarb, 2017; Phillips and Egbert, 2017; Solan, 2020; Mouritsen, 2017). These developments include the use of existing corpora to resolve or problematize legal questions, as well as the development of specifically legal corpora, such as the corpus of US Supreme Court Opinions, a corpus of State Conventions on the Adoption of the US Constitution, corpora of US caselaw and early statutes, and a new Corpus of US State Statutes (Egbert and Wood, 2023).

To add to this growing linguistically-enhanced legal studies infrastructure, the texts constituting the international laws of war are also now available in a fully accessible corpus interface via the Sydney Corpus Lab (<https://sydneycorpuslab.com/>), under the title the Macquarie Laws of War Corpus (MQLWC), (with 'Macquarie' denoting the institution where this corpus was compiled, as well as providing an aid to its find-ability in light of the popularity of the terms *war* and *law*). With its starting point in the mid-19th century, this body of international law accumulates through the remainder of the 19th century, extending itself and evolving throughout the 20th and now into the 21st century, with every decade since the 1850s seeing further developments of the laws of war (see Fig. 1). The current set up to 2020 is constituted by 110 texts (excluding one text that is an image only). These texts have been widely accessible on an individual basis, and the International Committee of the Red Cross maintains a database of 'international humanitarian law' (an alternative naming of this body of law - see Crawford et al., 2023), from which this corpus was compiled. The ICRC's system provides access to a wider set of texts beyond those constituting the modern laws of war (e.g., text commentaries, texts associated with customary law, for example, from sources such as military manuals, national legislation and case law - see Crawford and Pert, 2015) and in all official languages of the United Nations. But its search functionality is very limited, and not amenable to the kinds of methods of inquiry developed in corpus linguistics.

The new accessibility to these texts offers many potential directions of inquiry (Lukin and Araújo e Castro, 2022). Given the centrality of the concept *war* to this corpus, our focus in this paper is to explore this lexical item and its semantic terrain in this very particular register. It is not simply that this lexical item is highly frequent in this register (a point illustrated and discussed below), but the problem of the meaning of *war*,

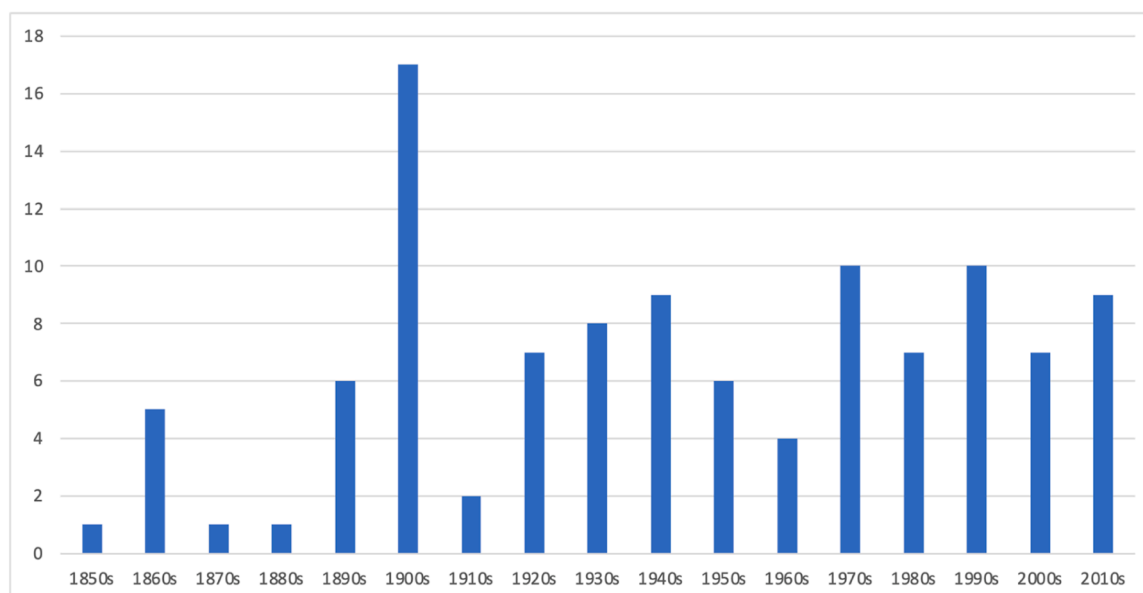


Fig. 1. Number of laws of war texts by decade, 1850'S TO 2010'S.

indeed its meanings, inhere in the history of these texts, and the natural fuzziness of this lexical item, a feature of all words, has particular consequences in this register. The attempt to replace the term *war* with *armed conflict* from the 1949 Geneva Conventions is a token of the complicated relationship between the concept of war, and the laws which in principle are devoted to its regulation. Some recent scholarship in the field draws attention to the definitional difficulties around this weighty word and concept: see for instance, Vasquez's (2009) *The War Puzzle Revisited*, which begins with a chapter on 'Conceptualizing war', or Clapham's (2021) book simply called *War*, which begins with a chapter called 'The Multiple Meanings of War'. Clapham argues that the consequences of definitional problems can be seen in matters ranging from life insurance claims to the rights believed to flow from or to be derogable within a 'state of war', to matters of trade (see Chapter 1). Since the discourse of international law has been said to 'highlight (...) some aspects of the world while leaving others in the dark' (Koskeniemi, 2005, p. 570), our paper explores how this crucial word is recruited in an environment in which legal meanings and authority over the use of organized violence are being constructed. The paper forms part of a larger project to understand the role of language in legitimating some forms of violence, while stigmatizing others (García Marrugo, 2013, García (2020), (2021); Lukin, 2019; Lukin and García Marrugo, 2023).

## 2. Methodology and data

As described in the introduction, the MQLWC is the set of texts (English only) hosted by the ICRC in its international humanitarian law database, from the first recognised text of the international law of war up until 2020, 110 texts in all, and approximately 392, 000 words (based on the CQPweb tokenization). Details on the construction of the corpus can be found in Lukin and Araújo e Castro (2022). The corpus includes treaties which are in force, as well as those deemed 'historical', i.e., texts no longer in force, or texts which were never technically in force, but deemed significant to the foundations of this field of law, such as the 1863 Lieber Code, written in the context of the American Civil War (Rubin, 1996).

A key feature of the corpus is that it is diachronic, extending from the middle of the 19th century up until the 21st century. This nearly 170-year period is one of considerable historical and political change, and the texts of this corpus are naturally sensitive to this change. Compare, for example the 1856 Paris Declaration, as previously mentioned a mere 321 words in its original French, with the late 20th century text of the Rome Statute of the International Criminal Court (17 July 1998), which consists of 128 'articles', produced in six original languages (Arabic, Chinese, English, French, Russian, Spanish), and running at over 30,000 words in its English version. The Rome Statute is longer than the Paris Declaration by a factor of almost 100 to one. Table 1 illustrates the general tendency towards these texts becoming longer over time, by comparing the texts of the laws of war pre- and post-World War II. The

Table 1

Comparing number of texts, word count, and token count of the texts of the laws of war pre- and post-WWII.

	Number of texts	Word (token) count	Average word count	Count of word type	TTR (Type-to-Token Ratio)
Pre-WWII (1856–1938 = 82 years)	48 (44 %)	99, 236 (28.5 %)	2067	5032	0.050
Post-WWII (1945–2019 = 74 years)	62 (56 %)	248, 769 (71.5 %)	4012	6213	0.025

Table notes: The post-WWII texts were significantly longer ( $M = 4012.4$ ,  $SD=5917.6$ ) than the pre-WWII texts,  $t(83.1)=2.4$ ,  $p=.02$ .

figures indicate a doubling in the average length of these texts in second half of the 20th century and into the 21st century, compared with the pre-war period. Koskeniemi (2001) argues that the laws of war undergo a profound shift following the Second World War, such that 'the profession never really recovered from the war', becoming both 'depoliticized and marginalized', or 'turned into a technical instrument for the advancement of the agendas of powerful interests of actors in the world scene' (p. 3). Notably, as these texts get longer, they do not become more lexically varied or complex. Table 1 also shows the comparison in type-to-token ratio (TTR), a measure of lexical richness or lexical variety in a text or set of texts (Brezina, 2018, p. 57), calculated by dividing the number of types for each period (that is, the number of unique words used in the corpus) by the number of tokens or words in the data set. As the texts of the laws of war become longer, the TTR halves, from 0.050 in the pre-WWII period down to 0.025 in the post-WWII period. The TTR comparison suggests that while the texts have become longer, they are not more lexically diverse, in fact they have become more repetitive.

## 3. The frequency of war in the laws of war

A high frequency lexical item in a corpus is always a useful place to begin a corpus inquiry. This section calibrates the frequency of war in the laws of war by examining its frequency in relation to comparator corpora and, where available, its rank in the corpus and text dispersion. In addition, the use of this lexical item in modern international law is given some historical context, by examining the frequency, usage and grammatical form of this item in historically prior data, specifically in

Table 2

Frequency, rank and text dispersion of war in a range of corpora.

	Normalized frequency of war (words per million)	Rank for the word war [based on lemmas, includes grammatical items]	Text dispersion of war
Early English Books Online (EEBO) Date: 1475–1700 Size: c. 1.2 billion	202	314	44 % [19,393/44,422]
Corpus of Late Modern English Texts (CLMET) Date: 1710–1920 Size: c. 35 million	190	475	NA
Corpus of Historical American English (COHA) Date: 1820 - 2019 Size: c. 475 million	455	276	NA
MQLWC Date: 1856–2019 Size: c. 392K	3580	32	72 % [80/110]
British National Corpus (BNC) Date: early 1990s Size: c. 100 million	276	346	54 % [2204/4048]
Corpus of Contemporary American English (COCA) Date: 1990–2019 Size: 1 billion	319	276	NA
News on the Web (NOW) Date: 2010-yesterday [searched 08/11/23] Size: >17 billion	200	NA	NA

Table Notes: EEBO figures exclude the earlier spelling of war, i.e. warre. Its frequency is < 1 wpm.

the Early English Books Online corpus. Table 2 sets out the frequency, rank and text dispersion of the word *war* in the MQLWC: it has a normalized frequency of 3580 words per million,<sup>2</sup> ranks at number 32 in a lemmatized frequency list which includes grammatical items (e.g., *the*, *of* and *to*), and appears in 72% of the texts in the corpus (80/110). By comparing these figures with other data, it is clear that *war* is highly frequent in the laws of war, even relative to its high frequency outside this register. Across the following corpora - the Early English Books Online corpus (EEBO, Version 3), the Corpus of Late Modern English Texts (CLMET - version 3.1), the Corpus of Historical American English (COHA), the British National Corpus (BNC), the Corpus of Contemporary American English (COCA), and the News on the Web (NOW) corpus - the normalized frequency of the word *war* ranges from 190 wpm to 455 wpm, with an average normalized frequency of 274 wpm. The normalized frequency of *war* in the laws of war is 13 times this averaged frequency. These comparative corpora also show the dispersion of the lexical item *war*, and its high rank across these different eras and varying domains of English.

But prior to the rise of this register, the word *war* had many hundreds of years of usage. One window into this usage is the Early English Books Online (EEBO) corpus, which provides access to public discourse in diverse fields, including literature, philosophy, politics, religion, history, and other disciplines, from the years 1475 to 1700. This was an era which saw considerable developments in relation to war, including the emergence of military discipline as well as considerable technological advances which transformed the nature of war. In this period, European armies grew, in most cases increasing tenfold in size. These changes are, Malešević (2010) and others argue, essential to the birth of the modern state and the rise of modernity. The frequency and dispersion of *war* in the EEBO data reflect this period of considerable upheaval in which war and its growing bureaucratic organization is a central sociological force. The EEBO corpus also shows that the concept of the 'laws of war' was already in public discourse well before the emergence of the first multilateral treaty in 1856, with the term 'law of war' first appearing in a text published in 1535, more than 300 years before the first modern law of war (Lukin and García Marrugo, 2023) (EEBO Text ID: A00381). Thus, the idea that *war* was subject to some kind of legal regulation predates the development of the modern laws of war.

It is part of the register of the laws of war that *war* is a nominal, objectified thing. Across all instances in the corpus ( $n = 1411$ ),<sup>3</sup> this lexical item only appears within the structure of a nominal group. While this is unremarkable to modern sensibilities, the EEBO corpus shows that this exclusively nominal use of *war* is a feature of the time period in which the laws of war have emerged. During the period covered by the EEBO corpus, *war* exists in both nominal and verbal form - see Fig. 2 which shows some concordance lines with the lexical item *warred*, showing the use of this lexical item as what Halliday refers to as a 'material process' (Halliday and Matthiessen, 2014). In other words, *war* in this period, construes not only a thing but also a form of action. When tracked by each century of the corpus, the data shows the waning of the verbal usage of *war*: using the form *warred*, its normalized frequency is 4.970 words per million in the 1400s, and falls to 0.631 wpm in the texts of 1700s.

In summary, EEBO shows that over the period of its texts, the lexical item *war* is frequent enough to be in the top 500 lemmas of the corpus, and while predominantly nominal, the verbal form is still available, albeit with decreasing frequency over time. From the first text of the

laws of war corpus in 1856, *war* is only a nominal element, a grammatical evolution of the term that the Google Books corpus also confirms: a search of *war* as a verb (via the syntax 'war\_VER') gives no results at all for the period 1800 to 2018. It seems safe to conclude that *war* has become predominantly nominal by the time the first law of war is promulgated, that is, that *war* becomes a reified thing over the period leading up to the first open multilateral treaty. In addition, the frequency data from the other comparator corpora show that *war* is a frequent concept across a variety of domains of public, modern life. This logically means that both before the emergence of the specific legal register seeking to provide a legal framing to war, as well as alongside its c. 170 years of development, the pivotal concept of the laws of war - that is, the idea of war itself - was, and continues to be widely used, and in this process the lexical item *war* has been busy accumulating patterns of collocations and associations. Thus, when the word *war* begins its formally legal life, it has already established associations and typical formulations, and these continue to be affirmed or developed both within and outside this legal register. Given the ongoing high frequency, and therefore, constant presence, of this word outside the laws of war, it is reasonable to claim that despite the register specificity of the international laws of war, the concept of *war* inside this specifically legal register has been very much conditioned by the patterns it inhabits outside of the register.

#### 4. Defining *war* in the laws of war

Notably, across the instances of the word *war* in the MQLWC, there is one single attempt at a definition of the concept, which appears in the 1863 Lieber Code. Written in the context of the American Civil War, the Lieber Code has been described as a crucial source from which 'the basic rules of the modern *jus in bello* are derived more or less directly' (Rubin, 1996, p. 652). In the Lieber Code, the concept of 'public war' is defined as 'a state of armed hostility between sovereign nations or governments' (Article 20), a definition very close to that offered by the Oxford English Dictionary: 'Hostile contention by means of armed forces, carried on between nations, states, or rulers, or between parties in the same nation or state; the employment of armed forces against a foreign power, or against an opposing party in the state' (Oxford English Dictionary, s.v. 'war, n.<sup>1</sup>', July 2023). Thus, the one and only definition of *war* in the laws of war is no more than a definition that can be found in a dictionary. In other words, the only definition of *war* within this legal register is essentially identical to the one that emerged in non-legal, common parlance.

The Lieber Code also offers a definition of the concept 'civil war' as a 'war between two or more portions of a country or state, each contending for the mastery of the whole, and each claiming to be the legitimate government', in Section 10 of the Lieber Code, titled 'Insurrection - Civil War - Rebellion'. This proximity of *civil war* to the concepts of *insurrection* and *rebellion* shows the shared semantic space between these words naming forms of organized violence, with the words indicating that they are somehow differentiable from neighbouring terms. In principle *civil war* is distinct from *insurrection* and *rebellion*, which hover constantly in its shadow. Lieber's definitions of these terms provide a classic illustration of Saussure's point of the reliance of signs on other signs: an insurrection is 'the rising of people in arms against their government'; a rebellion 'is applied to an insurrection of a large extent', and a civil war is a term 'also applied to a war of rebellion'.

A decade after the end of the American Civil War, a US Supreme Court judgement ruled that the American Civil War was in fact not 'a war' in any legal sense (Williams v Bruffy, (1877) cited in Rubin, 1996, p. 650). This curious case makes the lack of attention to legally defining *war* at least a little paradoxical, more so when in more modern texts in this corpus, there is a strong emphasis on the use of definition as an attempt to try to make key categories more stable and workable (and see the discussion on the definition of *aggression* below). This can be seen in

<sup>2</sup> Tokenization processes vary across corpus software. The number of tokens counted in AntConc is 348, 008, around 50K fewer than in CQPweb, generating a normalised frequency of 4278 words per million for the word *war*.

<sup>3</sup> The CQPweb tokenization generated 1403 concordance lines in the MQLWC. Using AntConc, the set of 1411 was retrieved, which included variations such as 'men-of-war' and 'prisoners-of-war' not retrieved in the CQPweb version.



No	Text	Solution 1 to 10	Page 1 / 1
1	A00005	parties . And after that it befell that though king is	warred oft times together . And ever he that was strongest toke him
2	A05076	be slain . The Romans in revenging the death of their ambassadors	warred against the Fidenates , and Uetentes , Tolumnius was slain , and
3	A11019	this , he thought in himself thus . Lo , I have	warred against the Emperor all the days of my life , and now
4	A20479	King of Epire , Alexander his sister King of Epire , who	warred in Italy , King Phillip his wife of Macedone the most puissant
5	A33329	and Germans : And this young Charles , imitating his Father ,	warred valiantly , and with discretion against them , and coming first to
6	A43514	he found him not inclinable to his opinions . For this cause	warred upon , and Vanquished by Simon de Monfort , Father of Simon
7	A49808	Customs , inconsistent with the living & Life-giving Truth are to be	warred against : Id verum quod prius , prius quod have initio ,
8	A49872	as to pierce through the Heart of the Beast , who hath	warred to hinder the Lord 's triumphant Reign in his Saints . By
9	A67910	or sending the General of his European Horse , who never	warred without 60000 Horsemen . Wherefore the Germans made no great haste ,
10	A71307	Giaquas . Of these , see Andrew Battle , which lived and	warred with them . The conditions of the people of Batta . The

Fig. 2. Selection of concordance lines with lexical item *warred*.

particular from the 1977 Geneva Convention Additional Protocol I onwards, in which the use of *means* for definitional purposes begins to become prevalent. Within the laws of war, we find definitions even for terms such as *shipwrecked*, and *knowledge*; in one particular text (the 1977 Additional Protocol I to the Geneva Conventions), we find terms such as *medical transportation*, *medical transports* and *medical vehicles* all being deemed worthy of definition.

The single attempt at a definition of *war* in this body of law echoes Mégret's (2016) claim that the laws of war 'occupy a very peculiar place', in which they are 'devoted to the principled regulation of a thing - war - that is itself acknowledged pragmatically as existing and in a sense prior to attempts to regulate it' (p. 762). Following World War II, the concept of a *war of aggression* briefly enters the laws of war, in two texts associated with the Nuremberg Trials. Around the same time, the ineffability of *war* is recognised in the writing of the 1949 Geneva Conventions, when the International Committee of the Red Cross made a case for replacing the word *war* with the word *armed conflict*, on the basis that it was possible to 'argue almost endlessly about the legal definition of "war"'. By replacing *war* with a 'much more general expression', the scope for debate over the meaning of the term would supposedly be reduced (Pictet, 1952, p. 32). The term is introduced in the 1949 Geneva Conventions, and again, despite the linguistic responsibility of this term, is also treated as if no definition is necessary, as if its meaning must be so obvious as not to require any particular specification.

In the move from *war* to *armed conflict*, *war* did not disappear from the laws of war, although its frequency declines from 6585 wpm pre-WWII to 2392 wpm in the postwar period, a decline of 64 %. Table 5 in Appendix 1 displays the top 20 keywords in the comparison of the laws of war from before and after World War II, and shows *war* to be a keyword in the pre-WWII period compared with the post-WWII period, while *conflict* is a key word in the post-WWII period relative to the pre-WWI period. In addition, the 'laws of war', at least in academic circles, come to be referred to as the 'laws of armed conflict' (Crawford et al., 2023). Best (1997) argues that the substitution of *war* with *armed conflict* failed to 'avert the evasive casuistries' (p. 143), because the issue of how to tell whether 'a war (...) was enough of a war' so that it triggered the framework of international law remained (p. 170-171).

5. War and its collocates

If the use of the term *war* in the laws of war is not focused on delineating the properties and boundaries of the concept, what linguistic work is it doing? This section examines the dominant collocates of *war* in the laws of war (based on the following collocation parameters (Brezina et al., 2015): Log Dice (min=6), 5L5R minimum collocate and collocation frequency of five). With these settings, the MQLWC returned 381 collocates of *war*. Fig. 3, generated with LancsboxX (Brezina et al., 2020), shows the top 20 collocates. Ignoring the grammatical items, the dominant collocates are *prisoner/s*, *time*, *laws*, *customs*, *explosive*, and *remnants*. To see these collocates in the flow of the text, AntConc (Anthony, 2020) was used to extract and sort concordance lines. Of the total instances of *war* in the corpus, more than half (54 % -760/1411) are

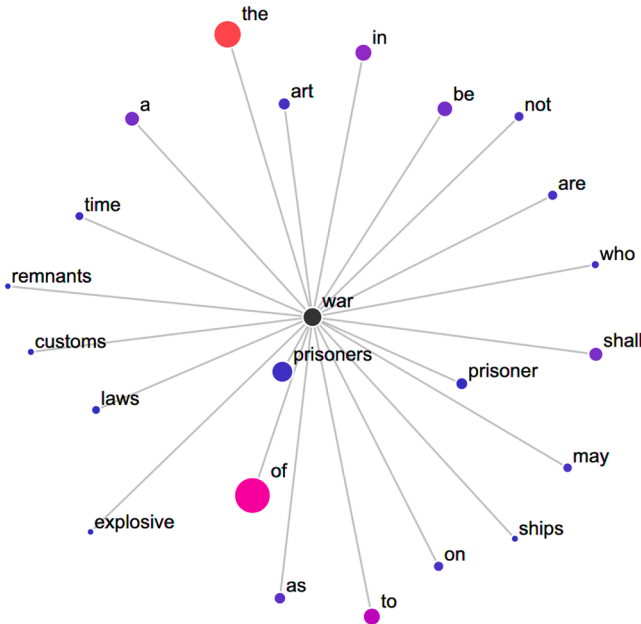


Fig. 3. Dominant collocates of *war* in MQLWC (TOP 20 Collocates).

consumed by the construction of a central category of person in the laws of war, namely *prisoner/s of war*. Table 3 sets out the most frequent categories of person in the laws of war, showing that *prisoner/s of war* is second in frequency only to the very generic reference to *person/s*, and more dominant than categories such as *belligerent/s*, *enemy*, *civilian/s*, *combatant/s*, and *forces*.

As such, the term *war* is at least 50 % of the time focused not on *war* itself, as the name for a category of organized violence, but on one 'by-product' of such violence. In fact, the remaining top collocates function in a similar manner, construing the following concepts: *time of war*, *customs of war*, *explosive remnants of war*, and *laws of war*, all of these terms showing *war* as part of the phrase *of war* in a postmodification

Table 3  
Dominant categories of person in the MQLWC.

	Raw frequency	wpm	Text dispersion
<i>person/s</i>	1330	3394	66 % [73/110]
<i>prisoner/s of war</i>	760	1863	34 % [37/110]
<i>belligerent/s</i>	435	1110	39 % [43/110]
<i>forces</i>	380	970	50 % [55/110]
<i>enemy</i>	250	638	29 % [32/110]
<i>civilian/s</i>	164	418	24 % [26/110]
<i>combatant/s</i>	66	168	24.5 % [27/110]

Table notes: Uses of these terms where they are not the Head of the nominal group (including head of an embedded nominal group - see Halliday and Matthiessen (2014)) were manually excluded from the total figures - that is, where the terms appeared as Classifiers to another entity, they were excluded.

relation to another element, creating categories of things which form part of the universe that *war* generates. Lukin (2019, p. 86–87) notes the extensive compounding around the lexical item *war*, with nearly 250 compound items recorded in the Oxford English Dictionary, from domains including family life, artistic forms and types of artist, instruments of war, forms of attitude towards war or mental strain/illness associated with war, social institutions pertaining to war, the economy or finance associated with war, the effort and achievement particular to war, space, time and war-related governance. The dominant collocates in the laws of war contribute to these categories of the things of *war* created in, or recruited, to the laws of war, and can be seen as part of the enormous panoply of war’s things (both concrete and abstract) and legal types of person.

Table 4 sets out the top 15 ngrams with *war* (i.e., a series of adjacent words where ‘n’ is the number of words), and these forms encompass 77 % of the usages of *war* in the laws of war. Thirteen of these 15 ngrams are constructions in which *war* appears as the postmodifier in the phrase of *war*. The two remaining ngrams construct *war* as a location, viz *in war*, and *in a war*. As well as the lack of any serious attempt to give *war* a legal definition, its dominant grammatical place is either in a postmodifier of a nominal group - decentring *war* with the nominal environment - or in a prepositional phrase constructing a Circumstance - and so decentring the concept within a clausal configuration. One could conclude that the laws of war do not put *war* itself under a legal gaze.

What do these other dominant collocates offer by way of imbuing *war* with associations and connotations? The reference to *time of war* is found in the very first text of the laws of war, the Paris Declaration: the text’s prefacing statement is ‘That maritime law, in time of war, has long been the subject of deplorable disputes’. The concept of a *time of war* invokes a very deep association, going back to the much-quoted aphorism from Ecclesiastes, that there is ‘a time for everything, and a season for every activity’, including ‘a time for war’. In this expression, war is just like a natural season, taken as a natural part of life. At the time of writing, Israeli Prime Minister Benjamin Netanyahu has defended Israel’s bombing and invasion of Gaza precisely in these terms. Rejecting calls for a ceasefire, Netanyahu stated at a press conference on October 28, 2023, that ‘The Bible says that there is a time for peace and a time for war. This is a time for war’ (CNN, 2023). Netanyahu’s claim rests on the implication that with something called *war*, rights to violence follow. But this label on the violence was soon contested, when South Africa applied to the International Court of Justice to hear a case against Israel under the 1948 Genocide on the Prevention and Punishment of the Crime of Genocide (International Court of Justice, 2023, December 29). This case shows that the meaning of a form of violence does not declare itself, it is bestowed by language; and when powerful states are invested in the meaning of such violence, the limits of language – its essential indeterminacy and fuzziness (Halliday, 2013) – come to the fore.

Table 4  
Top 15 ngrams of *war* in MQLWC.

Ranked frequency	Ngram	Percentage (raw frequency)
1	prisoner/s of war	54 (760)
2	time of war	5 (74)
3	customs of war	4 (50)
4	explosive remnants of war	3 (45)
5	law/s of war	3 (42)
6	operations of (the) war	1.5 % (21)
7	state of war	1 (19)
8	use in war	1 (16)
9	in case of war	1 (15)
10	operations of war	1 (11)
11	protection of war [victims]	1 (11)
12	usages of war	1 (11)
13	contraband of war	1 (10)
14	in a war	1 (10)
15	necessities of war	1 (9)
TOTAL		77 %

While only 5 % of uses of *war* reflect this explicit phrase *time of war*, the phrase appears in 33/110 texts (30 %), and in addition the relationship of war and time is lexicalised around *war* in a variety of other forms, such as *during the war*, *commencement of the war*, *after the war*, or simply *in (the/a) war*, which is temporal rather than spatial (or perhaps both). The term *state of war* also has temporal connotations, because a *state* is a ‘combination of circumstances or attributes belonging at a particular time to a person or thing’ (Oxford English Dictionary, s.v. “state, n.”, September 2023). The expression *in case of war* similarly naturalizes war as something that just happens, and for which one should naturally prepare. The term *customs of war* constructs the idea that war is like a culture, defined in some sense by its traditional practices. This notion of *customs of war* echoes the pervasive, if problematic notion of ‘customary law’ (Merkouris et al., 2022) considered a key source of international law, and which works on the basis that accepted practice in the behaviour of states is enough to grant that practice legal status (Crawford and Pert, 2015).

*War* is also constructed as useful, in the term *the usages of war*, and as a thing that has its own needs via the expression *the necessities of war* - a term with only nine instances across eight texts, but with a longevity that sees it appear first of all in 1868 (Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight, St Petersburg, 1868), where *necessities of war* are in a counterpoint to the ‘requirements’ and ‘laws of humanity’, up to the 1998 Rome Statute. The *necessities of war* also echoes one of the defining principles of the laws of war, namely *military necessity* (Crawford and Pert, 2015), a concept wholly constructed within this register (see Lukin and Araújo e Castro, 2022), and which gives legal status to acts of military violence as long as they are able to be defended as ‘necessary’. It has been argued that the laws of war in fact ‘privilege military necessity at the cost of humanitarian values’ and that as a result ‘the laws of war have facilitated rather than restrained wartime violence’ (Jochnick and Normand, 1994, p. 50).

*War* also has its *operations* (viz. *the operations of (the) war*), a collocation that brings meanings of order and rational organization. While the data shows only 21 instances of the *operations of (the) war* across only 11 texts, again the term has longevity appearing first in 1874 (in the International Declaration concerning the Laws and Customs of War, Brussels, 27 August 1874), right up to the 1998 Rome Statute, and through to a 2010 amendment to this Statute. In addition, this ngram resonates with the general concept of *operations* (including *military operations*), which has a frequency of 515 wpm, and appears in 41 % (45/110) of the texts in the corpus. The *operations of war* are a token of the ‘bureaucratization of coercion’, a term coined by Malešević (2010) to describe how warfare evolved from a ‘narrow circle of aristocrats engaging in quasi-ritualistic skirmishes with a few casualties’ to become ‘a total event involving millions of mobilised and ideologised citizens bent on the destruction of entire societies deemed to be enemies’ (p. 7).

The list in Table 4 also shows the use of the term *laws of war*, with the term appearing first in the 1863 Lieber Code already mentioned. As also noted earlier, the idea of *laws of war* predates the development of what is now considered the laws of war: the association between *war* and its lawfulness predates the first treaty recognised as part of the modern laws of war by some 300 years. This assumption is echoed in the early texts of this corpus. The first treaty, the 1856 Paris Declaration, gives as part of its *raison d’être* that there is ‘uncertainty of the law’, thereby giving itself space to come into existence. The Lieber Code proceeds as if there is already existing a set of laws of war, since the ‘law of nations’ already made legal the act of warring against another sovereign state. Martial Law, for instance, is described as ‘simply military authority exercised in accordance with the laws and usages of war’ (Article 4). It further states that the ‘laws of nations’ allow a state to make war on another, and ‘therefore, admits of no rules or laws different from those of regular warfare’ (Article 67). In this defining document of the ‘laws of war’, the act of making war was already deemed legal, and war is already possessed its own rules and law.

The prosodies which these collocations endow are part of war’s

modern meanings: war has its own time, its necessities and usefulness; it has customs, and it has rational organization. And it is lawful, with its 'laws' and 'rules' already in existence. In summary, these prosodies give *war* a robust legitimacy, despite it being an ill-defined category. The concordance lines do show occasional negative associations with war: for instance the *hardships of war* (1863 Lieber Code); *evils of war* (between 1899 and 1907 in four Hague Conventions, with the *disasters of war* in one of the 1907 Hague Conventions); the *dangers of war* and the *hazards of war* (see the Third and Fourth 1949 Geneva Conventions); and the *horrors of war* (in the 1971 Prohibition of Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons). Over time the concept of *war crimes* emerges, in line with the move towards the idea of criminalizing aspects of organized violence. The keyword comparison referred to early (see Table 5 in Appendix 1) shows the higher relative frequency post World War II of lexical items such as *trial*, *prosecutor*, *chamber*, and *tribunal*, reflecting this development (Mégret, 2016). The term *war crimes* first appears in the 1934 Monaco First Draft Convention (Sanitary cities and localities; 27 July 1934), and is first defined in the 1945 Nuremberg Charter as simply 'violations of the laws or customs of war' (see Article 6(b)) (Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, and Charter of the International Military Tribunal, London, 8 August, 1945). The term is then extensively defined in Article 8 of the 1998 Rome Statute Article, across a span of 1650 words, constituted by nine ranking clauses with 129 embedded clauses, a remarkable degree of internal clausal complexity, although not unexpected in a legal register (see Lukin, 2020 for a discussion of the grammar of this definition). The term *war crime/s* constitutes 1.9 % (27/1411) of the instances of *war* in the laws of war across 10/110 texts (9 %). Clearly, this collocation offers a negative prosody in relation to war. But equally it shows the resilience of *war* as a signifier, because *war* collocates as happily with *crime* as with *law*.

## 6. War, aggression and violence

Mégret (2016) has argued that 'international humanitarian law helps distinguish the particular use of violence known as war from other uses of violence' - those which he argues 'as a result of not remotely abiding by any limitations, cannot possibly qualify as war' (p. 766). One such attempt is the concept of a *war of aggression*, which appears very briefly in the laws of war: once in the 1945 Nuremberg Charter, and once in the 1950 Principles of Nuremberg. Following these two texts, the word *aggression* is no longer associated with *war*. *Aggression* goes on to be constructed in terms of an 'act of aggression' (the 1977 Geneva Convention Additional Protocol and 1994 San Remo Manual Armed Conflict at Sea), before emerging as the term *crime of aggression* in the 1998 Rome Statute. The association of *war* with *aggression* displays a very minimal relationship.<sup>4</sup> If *war* has been treated as a category not requiring definition, a definition of *aggression* was very much required, given that it was needed to bear the burden of illegitimate nation state violence. Attempts to define the concept of aggression began soon after World War II ended, and international consensus around a definition was achieved more than 25 years later (Stone, 1977; Wilmshurst, 2008). The crime of aggression is part of the 1998 Rome Statute, but for lack of agreement on its meaning, the actual definition of the concept was not made operational in international law for another nearly two decades (International Criminal Court, 2017). The comparison here between the lack of attention to the meaning of *war*, and the concerted effort by many people and states over decades to determine a legal meaning of the word

*aggression*, is further illustration of some kind of collective unconscious acceptance that *war* sets its own terms.

It has been argued since at least Saussure (e.g., his relations in *absentia* - see Saussure, 1974, p. 123) that the absence of words or terms is meaningful. Wikipedia's page devoted to war (which averages over 50,000 monthly views) describes war as 'generally characterized by extreme violence, destruction and mortality' (<https://en.wikipedia.org/wiki/War> - accessed May 13th 2023), but the term *violence*, while present in the laws of war, is kept at a distance from the lexical item *war*. Lukin (2019) argues that part of the work of ideologies of war is to keep the defining characteristic of war, i.e., violence, at a distance. The evidence for the claim is the lack of or minimal collocational relation between these terms, in data as diverse as the BNC and a compiled corpus of news reports from the first two-week period of the 2003 invasion of Iraq (data is from Australian, Asian, US, UK, and Middle East news sources; text number=2654; number of words=2,123,428). *Violence* carries highly negative associations, while *war* is a legitimate, lawful, rational activity, in which men (sic) 'serve their country' and make sacrifices for a greater good. It is not that *violence* is absent from the laws of war: it makes 64 appearances across 25/110 (23%) texts, first in the 1863 Lieber Code, and most recently in the 2013 Arms Trade Treaty. Fig. 4 visualizes the collocates of violence, which show that violence in the context of the laws of war is associated with *sporadic* or *isolated* acts, and is linked with gender (i.e., violence against women) and with children. The idea of the *violence of war* is not a concept within the laws of war. Despite the deep association of war and violence, and the putative role of the laws of war in establishing the limits of 'ethical violence' (Alexander, 2021), this register maintains a boundary between these two words.

## 7. Conclusion

The laws of war, developed over the last nearly 170 years, are a highly significant body of law for understanding the way war is conceptualized in law in the modern world. This paper has explored the lexical item *war* within the corpus of the laws of war, showing the naturalism of this category in its high frequency in this register, and the unconscious treatment of this concept as self-evident or transparent in

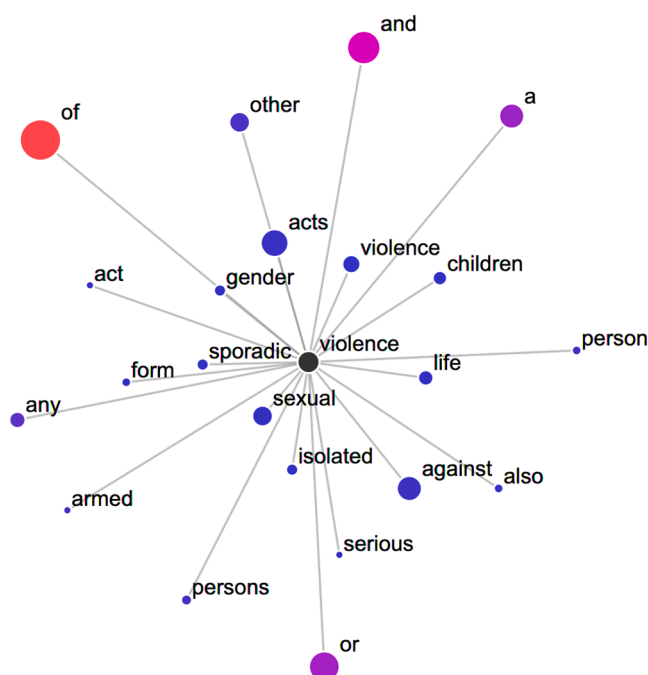


Fig. 4. Collocates of *violence* (5L5R; logdice (Min=6); MIN collocation frequency=5).

<sup>4</sup> Using Log Ratio, 5L5R, minimum collocate frequency of 5, *aggression* is a collocate of *war* with an expected frequency of 2.041, and observed frequency of 5 in 3 texts. Log Ratio score = 1.373. In 3 of these 5 instances of collocation, the two terms come together in order that they be clearly differentiated from each other as distinct categories.

the almost complete lack of definition. The examination of its dominant collocates show this lexical item most typically being recruited to categories in which the word *war* contributes to construing many types of people and things which war seems to produce, and which its ideologies appear to require. Considered, albeit briefly, from a sociological perspective, these findings echo Malešević's (2010) claim that 'the human relationship with violence and war is complex and paradoxical'. They are also suggestive of the ideological work this lexical item is doing to bolster the 'highly developed organisational mechanisms of social control and well articulated and institutionally embedded ideological doctrines capable of justifying such action', i.e., the application violence on a mass scale (p. 1, 4–5). That these texts continue to keep the words *war* and *violence* distinct only underscores this point. Our study is just one window into the semiotic work of this register. With the texts now publicly accessible via the MQLWC, there is an opportunity for researchers to bring the expertise of linguistics to further understand 'how the laws of war work, or, more deeply, what the laws of war do or stand

for' (Mégret, 2016, p. 793).

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**Annabelle Lukin:** Conceptualization, Formal analysis, Methodology, Writing – original draft, Writing – review & editing. **Alexandra García Marrugo:** Conceptualization, Methodology, Visualization, Writing – original draft, Writing – review & editing.

Declaration of competing interest

None.

Appendix 1

Table 5

Table 5		
Comparison of top 20 keywords in the texts of laws of war, pre- and post-world war II.		
	pre WWII (1856 - 1938)	post WWII (1945–2019)
1	art(icle)	conflict
2	war	party
3	belligerent	article
4	enemy	parties
5	belligerents	protocol
6	powers	states
7	government	this
8	must	united
9	neutral	trial
10	ship	prosecutor
11	army	appropriate
12	vessel	shall
13	netherlands	cultural
14	private	person
15	is	state
16	ships	chamber
17	plenipotentiaries	secretary
18	they	civilian
19	ratifications	any
20	prisoners	weapons
21	as	nations
22	them	child
23	prize	tribunal
24	country	request
25	their	international

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