

## Course Information

Course Number: *INTA 650*  
Course Title: *Intersection of National Security Law and International Law*  
Section: *001*  
Time: *Wednesdays 6:30pm*  
Location: *DC Campus*  
Credit Hours: *3.0*

## Instructor Details

Instructor: Andrea Harrison  
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Phone: 214-326-6988  
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Instructor: Jonathan Horowitz  
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## Course Description

An introduction to the nature and sources of U.S. national security law and how it intersects with international law including such topics as counterterrorism, use of force, security detention, cyber warfare, new technologies, and sanctions and export controls. In order to expose students to the world of national security, most weeks will include a guest lecture by a practitioner specializing in a specific area of national security or international law.

## Course Prerequisites

*None.*

## Special Course Designation

*None.*

## Course Learning Outcomes

*Students will be able to recognize the basic principles of national security law and international law and understand how they intersect in the real world. In addition, students will be able to:*

- *Describe the applicable legal frameworks and specific legal rules of use of force, detention and other key issues;*

- *Critically assess the development of different rules and competing interests in national security law and international law; and*
- *Identify the issues and legal rules and apply them to contemporary events.*

### Textbook and/or Resource Materials

National Security Law (NSL), eds. Stephen Dycus, Arthur L. Berney, William C. Banks, and Peter Raven-Hansen, Aspen Publishers, 4th Edition.

### Grading Policy

- *The final paper will constitute 100% of the final grade unless the student chooses to provide a first draft, in which case the draft paper will be graded at 25% of the final grade and the final paper will count towards 75% of the final grade.*

	Exceptional (A)	Acceptable (B)	Unsatisfactory (C)	Fail (F)
Focus (30%) Clear Topic/Main Idea Context, Audience and Purpose Meets Assignment	Paper topic or main idea is clearly stated and establishes a clear, insightful, possibly original point of view. The paper demonstrates a thorough understanding of the context, audience and purpose of the assignment.	Paper topic or main idea is clearly stated and is relevant and consistently linked throughout the paper. The paper completes the task specified by the assignment and includes all of the assignment's required components.	Paper topic or main idea is present but may be unclear, too narrow or too broad. Parts of the assignment are underdeveloped, missing, or not linked to the assignment.	The paper has no clear topic or main idea. Substantive portions of the assignment are underdeveloped, missing, or not linked to the assignment.
Evidence/ Analysis/ Synthesis (30%) Sources and Reasoning Analysis Alternative Perspectives Conclusion	Paper is supported by high quality and relevant sources, as well as comprehensive research. Reasoning is clear, insightful and compelling with substantiating evidence. Alternative perspectives are comprehensively addressed.	Paper is supported by relevant and appropriate sources and effective research. Reasoning is valid and well-conceived. Minimal/minor errors of fact. Alternative perspectives are partially represented. Conclusions	Paper topic is only partially supported by relevant sources. Quality and quantity of research are superficial. Reasoning lacks sufficient rigor. Contains significant inaccuracies, or misrepresentation of source materials. Limited alternative perspectives.	Paper is not adequately supported; and research is inadequate; minimal use or inclusion of valid sources; evidence and reasoning are weak, inaccurate and/or irrelevant.

		synthesize the main ideas of the paper.		Minimal analysis reflected in the paper.
<p>Organization (30%)</p> <p>Logical Flow of Ideas</p> <p>Transitions</p> <p>Paragraph Structure</p> <p>Digressions and Irrelevancies</p>	<p>Paper is inherently logical in structure; reader can easily follow the reasoning from introduction to conclusion. Skillful transitions effortlessly link ideas within and between paragraphs. Consistently strong paragraph construction referencing topic sentences.</p>	<p>Paper flow is mostly continuous; individual sections are coherent. Adequate transitions guide the reader within and between paragraphs. For the most part, paragraph structure is solid throughout.</p>	<p>Paper flow is mostly disjointed; individual sections are hard for the reader to follow with gaps in the flow. Paper is sometimes difficult to follow because of confusing arrangement of supporting ideas and/or ineffective transitions. Digressions or irrelevancies frequently distract reader from the reasoning and flow of the paper.</p>	<p>Logical flow of ideas is interrupted, broken, or non-existent. Writer's thoughts are difficult to follow throughout; transitions are not used, abrupt, confusing, or unclear. Paragraph structure is nonexistent. Digressions and irrelevancies consistently distract the reader from the reasoning and flow of the paper.</p>
<p>Mechanics and Style (10%)</p> <p>Command of English</p> <p>Writing Quality</p> <p>Need for Revision</p>	<p>Displays excellent command of standard written English. Well-crafted sentences throughout. Virtually error free in syntax, grammar, mechanics, word choice, and spelling.</p>	<p>Demonstrates sound command of standard written English. Contains few errors in syntax, grammar, mechanics, word choice, or spelling that might distract the reader.</p>	<p>Demonstrates a rudimentary command of standard written English. Contains many errors in spelling, punctuation, capitalization, sentence structure, and/or word choice that interfere with communication.</p>	<p>Demonstrates minimal command of standard written English. Contains extensive errors in spelling, punctuation, word choice, capitalization and/or sentence structure that hinder and/or severely degrade communication.</p>

*The assignments will be graded with letter grades: A, A/B, B, B/C, C, D, F. Those letter grades will be converted into numerical equivalents for calculation of the final grade on the following 100 point scale: A=95, A/B=90, B=85, B/C= 80, C=75, D=65, F=0. Final grades will be assigned according to the following scale: A=90-100, B=80-89, C=70-79, D=60-69, F=below 60.*

### Late Work Policy

- *Late papers will be accepted but will be deducted 5 points per day after the due date.*

- *Exceptions may be considered on a case-by-case basis in line with [Student Rule 7](#), but these exceptions should be requested well in advance or for unforeseen occurrences, the professors should be made aware as soon as possible.*

## Course Schedule

Activity	Due Date
Paper topic	February 9 <sup>th</sup>
Feedback from professor on topic	February 16 <sup>th</sup>
Paper outline & schedule time to discuss with professor	(Optional) March 2 <sup>nd</sup>
Draft Paper	(Optional) March 30 <sup>th</sup>
Feedback from professor on drafts ( <i>if submitted</i> )	April 6 <sup>th</sup>
Final Paper	May 5 <sup>th</sup>

### CLASS 1. COURSE INTRODUCTION/ FOUNDATIONS OF INTERNATIONAL LAW AND NATIONAL SECURITY LAW (January 19th)

**Learning objectives:** *Understand the sources and frameworks under international law and; understand the sources and mechanisms of U.S. domestic/national security law and be able to assess how these two areas of the law intersect and conflict. Recognize the difference between the jus ad bellum and the jus in bello.*

**Required Reading:**

- i) International Law

UNODC's Counter-Terrorism in the International Law Context, "Basics concepts of international law," pp. xiii-xx, available at:

[https://www.unodc.org/pdf/terrorism/CTLTC\\_CT\\_in\\_the\\_Intl\\_Law\\_Context\\_1\\_Advance\\_copy.pdf](https://www.unodc.org/pdf/terrorism/CTLTC_CT_in_the_Intl_Law_Context_1_Advance_copy.pdf)

**(Recommended reading)**

If you have not previously had an international law course, we would recommend perusing this overview of the international human rights framework and reading any documents with which you are unfamiliar: <https://ijrcenter.org/ihr-reading-room/overview-of-the-human-rights-framework/>

Lawrence Hill-Cawthorne, "Humanitarian Law, Human Rights Law and the Bifurcation of Armed Conflict," *International and Comparative Law Quarterly* 64 (2015).

**Required Reading:**

ii) Domestic/National Security Law

National Security Law (NSL), eds. Stephen Dycus, Arthur L. Berney, William C. Banks, and Peter Raven-Hansen, Aspen Publishers, 4th Edition. 157-198 (Chapter 7: The Domestic Effect of International Law)

*Marbury v. Madison*, 5 U.S. 137 (1803). <https://supreme.justia.com/cases/federal/us/5/137/>

American Bar Association. "What is an executive order?" Accessed 2021.

[https://www.americanbar.org/groups/public\\_education/publications/teaching-legal-docs/what-is-an-executive-order-/](https://www.americanbar.org/groups/public_education/publications/teaching-legal-docs/what-is-an-executive-order-/)

*Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952).

[https://supreme.justia.com/cases/federal/us/343/579/#tab-opinion\\_1940406](https://supreme.justia.com/cases/federal/us/343/579/#tab-opinion_1940406) (3 pp.)

**(Recommended reading)**

NSL: 59-157 (Chapter 4-6 may be useful background reading on separation of powers under U.S. constitutional law)

Dunlap, Charles. "Lawfare." In *National Security Law & Policy*, edited by John Norton Moore, Guy B. Roberts, and Robert F. Turner. Durham, NC: Carolina Academic Press, 2015. Pp. 823-38

**CLASS 2. GEOGRAPHICAL, TEMPORAL AND PERSONAL SCOPE OF THE LAW** (January 26<sup>th</sup>)

CASE STUDY: AL NASHIRI AND THE U.S.S. COLE BOMBING

**Learning objectives:** *Be able to identify which international and domestic legal frameworks apply to a given situation, and how to identify the territorial, personal, and temporal aspects of the law.*

**Required Reading:**

i) Geographical scope: Classification of Conflicts & Extraterritorial Jurisdiction

Lubell, Noam and Derejko, Nathan, A Global Battlefield? Drones and the Geographical Scope of Armed Conflict (November 25, 2012). *Journal of International Criminal Justice*, 2013, Forthcoming, Available at SSRN: <https://ssrn.com/abstract=2212185>

IHL and Challenges, ICRC, 2015, paras. 53-69, available at: <https://casebook.icrc.org/case-study/icrc-international-humanitarian-law-and-challenges-contemporary-armed-conflicts-2015#challenges-2015-para26>

Department of Justice White Paper, Lawfulness of a Lethal Operation Directed Against a U.S. Citizen Who Is a Senior Operational Leader of Al-Qa'ida or An Associated Force , 8 November 2011, available at: <https://www.justice.gov/sites/default/files/oip/legacy/2014/07/23/dept-white-paper.pdf>

- ii) Temporal Scope: When does a conflict begin and end?

[Geneva Convention I, Art. 5](#); [Geneva Convention III, Art. 5](#); [Geneva Convention IV, Art. 6](#); [Additional Protocol I, Art. 3](#); [Additional Protocol II, Art. 2\(2\)](#)

US Congress, House. War Powers Resolution. H. Res. 542. 93rd Cong. (1973).  
[http://avalon.law.yale.edu/20th\\_century/warpower.asp](http://avalon.law.yale.edu/20th_century/warpower.asp)

United States District Court, District of Columbia, *Razak v. Obama*, 174 F.Supp.3d 300, 29 March 2016, available at: <https://casebook.icrc.org/case-study/usa-guantanamo-end-active-hostilities-afghanistan>

Rule of Law in Armed Conflicts (RULAC), Classification of armed conflicts (read the following tabs: "Overview," "International armed conflicts," "non-international armed conflicts." Optional reading: "Contemporary challenges for classification,"), available at: <https://www.rulac.org/classification#collapse3accord>

- iii) Personal Scope: Combatants, Civilians, Unprivileged Enemy Belligerents and Terrorists

[GC I, Art. 13](#); [GC II, Art. 13](#); [GC III, Art. 4](#); [GC IV, Art. 4](#); [AP I, Arts. 43, 44, and 50](#).

*Presidential Authority to Detain "Enemy Combatants"*, Jennifer K. Elsea, *Presidential Studies Quarterly*, Sep., 2003, Vol. 33, No. 3, *The Permanent War* (Sep., 2003), pp. 568-601, available at: <https://www.jstor.org/stable/27552514>

### CLASS 3. USE OF FORCE & TARGETING (February 2nd)

GUEST LECTURE: TBD

**Learning objectives:** *Understand the difference between the various legal frameworks on the use of force by States against other States, non-state actors, and individuals. Understand the basic principles of use of force and targeting rules, including self-defense.*

**Required Reading:**

- i) Use of Force and Self-Defense (jus ad bellum) and Targeting (jus in bello)

NSL: 240-302 (Ch. 9 War Powers Resolution and Ch. 10 Unilateral Self Defense and Rescue and Ch. 11 Collective Self-Defense)

International Law Association, Use of Force report, 2018, pp. 13-20, at [https://www.ila-hq.org/images/ILA/DraftReports/DraftReport\\_UseOfForce.pdf](https://www.ila-hq.org/images/ILA/DraftReports/DraftReport_UseOfForce.pdf)

Report on the Legal and Policy Frameworks Guiding the United States' Use of Military Force and Related National Security Operations (*2016 Framework Report*), Part One Section II. "International Law and the U.S. Use of Military Force," pp. 8-11, 19-21 December 5, 2016, at

<https://fas.org/man/eprint/frameworks.pdf>

Article 51 Letter (Soleimani strike), January 8, 2020, at <https://www.justsecurity.org/wp-content/uploads/2020/01/united-states-article-51-letter-soleimani.pdf>

Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions (Annex: the targeted killing of General Soleimani), pp. 23-40, at <https://undocs.org/en/A/HRC/44/38>

Jennifer Elsea, "Legal Issues Related to the Lethal Targeting of U.S. Citizens Suspected of Terrorist Activities," Congressional Research Service (2012), available at: <https://sgp.fas.org/crs/natsec/target.pdf>

ICRC, Study on Customary International Humanitarian Law, Rules 1, 6 - 21 (just read the rules), available at [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul)

*Interpretative Guidance on Direct Participation in Hostilities*, pp. 9-20, available at: <http://www.icrc.org/eng/assets/files/other/icrc-002-0990.pdf>

ii) Use of Force under International Human Rights Law

"Use of Force in Law Enforcement and the Right to Life: The Role of the Human Rights Council," The Geneva Academy (November 2016), pp. 5-20, available at: [https://www.geneva-academy.ch/joomlatools-files/docman-files/in-brief6\\_WEB.pdf](https://www.geneva-academy.ch/joomlatools-files/docman-files/in-brief6_WEB.pdf)

***(Recommended reading)***

NSL: 303-317 (Ch. 11 Preemptive Self-Defense)

Christof Heyns, Dapo Akande, Lawrence Hill-Cawthorne and Thompson Chenget, "The International Law Framework Regulating the Use of Armed Drones, (2016).

Pardiss Kebriaei, "The Distance Between Principle and Practice in the Obama Administration's Targeted Killing Program: A Response to Jeh Johnson," available at: <https://ylpr.yale.edu/distance-between-principle-and-practice-obama-administrations-targeted-killing-program-response-jeh>

Brian Finucane, "Failure to Warn," Just Security Blog, (4 Oct 2021) available at: <https://www.justsecurity.org/78450/failure-to-warn-war-powers-reporting-and-the-war-on-terror-in-africa/>

Jennifer Daskal, Ashley Deeks, & Ryan Goodman: Strikes in Syria: The International Law Framework, Just Security, September 24, 2014, at <https://www.justsecurity.org/15479/strikes-syria-international-law-framework-daskal-deeks-goodman/>

Ashley Deeks: "Unwilling or Unable": Toward a Normative Framework for Extraterritorial Self-Defense, 2012, at [http://www.vjil.org/assets/pdfs/vol52/issue3/Deeks\\_Post\\_Production.pdf](http://www.vjil.org/assets/pdfs/vol52/issue3/Deeks_Post_Production.pdf)

Deciding to Use Force Abroad: War Powers in a System of Checks and Balances, 2005, pp. 9-19, at [https://archive.constitutionproject.org/pdf/War\\_Powers\\_Deciding\\_To\\_Use\\_Force\\_Abroad1.pdf](https://archive.constitutionproject.org/pdf/War_Powers_Deciding_To_Use_Force_Abroad1.pdf)

Michael J. Glennon, John B. Bellinger III, Elizabeth N. Saunders, Samuel Moyn: Debating the Legality of the Post-9/11 'Forever War,' September 1, 2016, at <http://www.cfr.org/united-states/debating-legality-post-911-forever-war/p38254>

Shiri Krebs, "Rethinking Targeted Killing Policy: Reducing Uncertainty, Protecting Civilians from the Ravages of Both Terrorism and Counterterrorism, 44 Fla. St. U.L. Rev. 944 (2018)

#### **CLASS 4. DETENTION AND TORTURE: GUANTANAMO AND BEYOND (February 9<sup>th</sup>)**

GUEST LECTURE: CHRIS JENKS, PROFESSOR, SMU DEDMAN SCHOOL OF LAW

**Learning objectives:** *Differentiate between the legal regimes governing detention in peacetime and armed conflict, identify the specific rules on treatment, legal grounds and transfers.*

**Required Reading:**

- i) Legal authorities for security/military detention

NSL: 703-757 (Chapter 17: Military Detention)

Framework Report, Part Two, Section III A. and B. "Scope of Military Detention Authority Under the 2001 AUMF," December 5, 2016, 28-30, at <https://fas.org/man/eprint/frameworks.pdf>

Knut Doermann, "Detention in Non-international Armed Conflicts," (2012), *International Legal Studies*, <https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1067&context=ils>

Detention, *How Does Law Protect in War*, available at: <https://casebook.icrc.org/glossary/detention>  
(read the summary and peruse the outline)

- ii) Treatment and Torture

NSL: 759-812 (Ch. 27: Interrogating Terrorist Suspects)

*Report of the Senate Select Committee on Intelligence Committee Study of the CIA's Detention and Interrogation Program*, (Dec 2014), Executive Summary (**read only** pp. 1-19 as printed on bottom of page - i.e. findings #1-20), available at: <https://www.intelligence.senate.gov/sites/default/files/publications/CRPT-113srpt288.pdf>

Rule 90 of the ICRC's Customary IHL Study, available at: [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule90](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule90)



McCain-Feinstein Amendment (2015), Section 1045, available at: <https://www.justsecurity.org/wp-content/uploads/2017/01/McCain-Feinstein.pdf>

**CLASS 5. TERRORISM/COUNTERTERRORISM LEGAL ISSUES (February 16<sup>th</sup>)**

GUEST LECTURE: TBD

**Learning objectives:** *Identify the many legal frameworks criminalizing various aspects of terrorism and regulating counterterrorism operations and identify the legal and political issues arising from such regulations.*

**Required Reading:**

NSL: 465-476 (Ch. 17: Defining Terrorism); 817-844 (Ch. 28: Criminalizing Terrorism and Material Support)

“The Applicability of IHL to Terrorism and Counterterrorism,” ICRC report, 1 October 2015, available at: <https://www.icrc.org/en/document/applicability-ihl-terrorism-and-counterterrorism>

UNODC’s Counter-Terrorism in the International Law Context, “Counter-terrorism and international human rights law,” pp. 1-30, available at: [https://www.unodc.org/pdf/terrorism/CTLTC\\_CT\\_in\\_the\\_Intl\\_Law\\_Context\\_1\\_Advance\\_copy.pdf](https://www.unodc.org/pdf/terrorism/CTLTC_CT_in_the_Intl_Law_Context_1_Advance_copy.pdf)

John B. Bellinger III, “Legal Issues in the War on Terrorism,” London School of Economics October 31, 2006, available at: [http://www.lse.ac.uk/publicEvents/pdf/20061031\\_JohnBellinger.pdf](http://www.lse.ac.uk/publicEvents/pdf/20061031_JohnBellinger.pdf)

**(Recommended Reading)**

Sebastian Rotella, “Domestic Terrorism: A More Urgent Threat, but Weaker Laws,” ProPublica, January 7, 2021, at <https://www.propublica.org/article/domestic-terrorism-a-more-urgent-threat-but-weaker-laws>

157 Civil Rights Organizations Oppose a New Domestic Terrorism Charge, January 19, 2021, at <https://civilrights.org/resource/135-civil-rights-organizations-oppose-a-new-domestic-terrorism-charge/>

*For reference:* See this database of various UN Conventions on Terrorism: [https://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2\\_en.xml](https://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2_en.xml)

**CLASS 6. NEW TECHNOLOGIES & WEAPONS: TREATIES, ARTICLE 36 REVIEWS (February 23<sup>rd</sup>)**

GUEST LECTURE: CHRIS JENKS, PROFESSOR, SMU DEDMAN SCHOOL OF LAW

**Learning objectives:** *Understand how international law and U.S. domestic law regulates new technologies and weapons to be used in warfare or in law enforcement operations, from the research and development phase to deployment.*

**Required Reading:**i) New Technologies

“Defense Primer: U.S. Policy on Lethal Autonomous Weapon Systems,” Congressional Research Service. <https://crsreports.congress.gov/product/pdf/IF/IF11150>

Dustin Lewis, “A Key Set of IHL Questions Concerning AI-Supported Decision-Making,” (2021), available at: [https://www.coleurope.eu/sites/default/files/uploads/page/collegium\\_51\\_web.pdf](https://www.coleurope.eu/sites/default/files/uploads/page/collegium_51_web.pdf)

“Artificial intelligence and machine learning in armed conflict: A human-centred approach,” ICRC Position Paper (March 2021), available at: <https://international-review.icrc.org/articles/ai-and-machine-learning-in-armed-conflict-a-human-centred-approach-913>

ICRC position and background paper on autonomous weapons systems (2021), available at <https://www.icrc.org/en/document/icrc-position-autonomous-weapon-systems>

Eric Talbot Jensen, The human nature of international humanitarian law (2018), available at <https://blogs.icrc.org/law-and-policy/2018/08/23/human-nature-international-humanitarian-law/>

ii) Weapons Reviews

[Art 35, API](#)

[Art. 36, Additional Protocol I](#)

ICRC Commentary to Art 36, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=F095453E41336B76C12563CD00432AA1>

ICRC Commentary to Art 35, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/1a13044f3bbb5b8ec12563fb0066f226/2f157a9c651f8b1dc12563cd0043256c>

Alan Backstrom and Ian Henderson, “New capabilities in warfare: an overview of contemporary technological developments and the associated legal and engineering issues in Article 36 weapons reviews, *IRRC*, Volume 94 Number 886 Summer 2012, available at: <http://www.icrc.org/eng/resources/international-review/review-886-new-technologies-warfare/review-886-all.pdf>

Dustin A. Lewis, “Legal reviews of weapons, means and methods of warfare involving artificial intelligence: 16 elements to consider,” ICRC Humanitarian Law and Policy Blog (March 2019), available at: <https://blogs.icrc.org/law-and-policy/2019/03/21/legal-reviews-weapons-means-methods-warfare-artificial-intelligence-16-elements-consider/>

**CLASS 7. CYBER WARFARE (March 2nd)**

GUEST LECTURE: GARY BROWN, ASSOCIATE DEAN, COLLEGE OF INFORMATION AND CYBERSPACE, NATIONAL DEFENSE UNIVERSITY

**Learning objectives:** Analyze how the rules of international law and national security law apply in the cyber domain, and how current practice is influencing the development of specialized rules and definitions in cyberspace.

**Required Reading:**

The White House. Presidential Policy Directive (PPD)-41. "United States Cyber Incident Coordination." July 26, 2016. <https://obamawhitehouse.archives.gov/the-press-office/2016/07/26/presidential-policy-directive-united-states-cyber-incident>.

Department of Defense. *2018 Cyber Strategy Summary*. Washington, DC: Department of Defense, 2018. [https://media.defense.gov/2018/Sep/18/2002041658/-1/-1/1/CYBER\\_STRATEGY\\_SUMMARY\\_FINAL.PDF](https://media.defense.gov/2018/Sep/18/2002041658/-1/-1/1/CYBER_STRATEGY_SUMMARY_FINAL.PDF).

The White House. *National Cyber Strategy*. Washington, DC: White House, 2018. <https://www.whitehouse.gov/wp-content/uploads/2018/09/National-Cyber-Strategy.pdf>. Pp. 1-26.

Koh, Harold Hongju. "International Law in Cyberspace." *Harvard International Law Journal* 54 (December 2012). <https://harvardilj.org/wp-content/uploads/sites/15/2012/12/Koh-Speech-to-Publish1.pdf>.

Schmitt, Michael. "The Law of Cyber Warfare: *Quo Vadis?*" *Stanford Law & Policy Review* 25: 269-299. <https://law.stanford.edu/wp-content/uploads/2018/03/schmitt.pdf>.

**(Recommended Reading)**

Schmitt, Michael N. *Tallinn Manual 2.0 on the International Law Applicable to Cyber Operations*. 2nd ed. Cambridge, UK: Cambridge University Press, 2017. doi:10.1017/9781316822524. Pp. 401-503

ICRC *Position Paper: International humanitarian law and cyber operations during armed conflicts*, March 2020. <https://international-review.icrc.org/articles/ihl-and-cyber-operations-during-armed-conflicts-913>

Brown, Gary D. "Commentary on the Law of Cyber Operations and the DoD Law of War Manual." In *The United States Department of Defense Law of War Manual: Commentary and Critique*, edited by Michael A. Newton. Cambridge, UK: Cambridge University Press, 2019. doi:10.1017/9781108659727. Pp. 337-359

**CLASS 8. SURVEILLANCE LAW (March 9<sup>th</sup>)**

GUEST LECTURE: TBD

**Learning objectives:** *Understand the basic principles of the right to privacy under international and domestic law, and how surveillance or other forms of data collection is regulated.*

**Required Reading:**

NSL: 337-366 (Ch. 14: Origins and Evolving Limits of Intelligence Operations); 506-552 (Ch. 19: Congressional Authority for National Security Surveillance)

Andrew McCarthy, “End the FISA,” March 2020, at <https://www.nationalreview.com/magazine/2020/03/23/end-the-fisa/>

George Croner, “A Response to ‘End the FISA’: Why It’s a Good Law and Sound Policy,” March 2020, at <https://www.justsecurity.org/69175/a-response-to-end-the-fisa-why-its-a-good-law-and-sound-policy/>  
**(Recommended reading)**

NSL: 640-658 (Ch. 23: Surveillance Abroad)

Sharon Bradford Franklin, “Rethinking Surveillance on the 20th Anniversary of the Patriot Act,” (26 Oct. 2021), available at: <https://www.justsecurity.org/78407/international-human-rights-fact-finding-in-hostile-environments/>

The White House. *National Security Council Intelligence Directive No. 6: Signals Intelligence (Effective 17 February 1972)*. Washington, DC: The White House, 1972.  
<https://fas.org/irp/offdocs/nscid-6.pdf>.

The White House. Executive Order No. 12333 of December 4, 1981, “United States Intelligence Activities,” 3 *Code of Federal Regulations*, 1981 Comp. (as amended by Executive Orders 13284 (2003), 13355 (2004) and 13470 (2008)).

“Freedom of assembly under attack: General and indiscriminate surveillance and interference with internet communications,” IRRIC No. 913, March 2021. <https://international-review.icrc.org/articles/freedom-assembly-under-attack-surveillance-interference-internet-communications-913>

**CLASS 9. ACCOUNTABILITY MECHANISMS (March 23<sup>rd</sup>)**

GUEST LECTURE: TBD

**Learning objectives:** *Understand the sources and mechanisms of accountability and liability under international law and how it intersects with U.S. law and policy.*

**Required Reading:**

Dapo Akande, "Sources of International Criminal Law," in Antonio Cassese's *The Oxford Companion to International Criminal Justice*, available at: <https://www.ejiltalk.org/wp-content/uploads/2018/12/AkandeSourcesofIntCrimLaw.pdf>

Beth van Schaack, "Imagining Justice for Syria," *Articles of War Blog* (25 August 2020), available at: <https://lieber.westpoint.edu/imagining-justice-syria/>

Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005), available at <https://www.ohchr.org/en/professionalinterest/pages/remedyandreparation.aspx>

**(Recommended reading)**

Nema Milaninia, *Biases in machine learning models and big data analytics: The international criminal and humanitarian law implications*, IRRC No. 913, March 2021), available at: <https://international-review.icrc.org/articles/biases-machine-learning-big-data-analytics-ihl-implications-913>

**(March 16<sup>th</sup> – Spring Break)**

**CLASS 10. SANCTIONS AND EXPORT CONTROLS (March 30th)**

GUEST LECTURE: TBD

**Learning objectives:** *Understand both the international and U.S. domestic sanctions and export control regimes and recognize how these regimes may conflict with other bodies of law such as the laws of armed conflict or international human rights law.*

**Required Reading:**

"What are economic sanctions?", Council on Foreign Relations, available at: <https://www.cfr.org/background/what-are-economic-sanctions>

Dustin A. Lewis and Naz K. Modirzadeh, "Taking into Account the Potential Effects of Counterterrorism Measures on Humanitarian and Medical Activities: Elements of an Analytical Framework for States Grounded in Respect for International Law (May 2021), available at: <http://blogs.harvard.edu/pilac/files/2021/05/Taking-Into-Account.pdf>

"When the Giving Gets Tough: Navigating Risk in Sanctioned Locations," CAF America available at: [https://www.cafamerica.org/wp-content/uploads/CAFAmerica\\_Sanctions\\_WP\\_FINAL-1.pdf](https://www.cafamerica.org/wp-content/uploads/CAFAmerica_Sanctions_WP_FINAL-1.pdf)

**CLASS 11. HUMANITARIAN RELIEF AND HUMANITARIAN ACCESS/OBLIGATIONS OF NON-STATE ACTORS UNDER INTERNATIONAL LAW (April 6<sup>th</sup>)**

GUEST LECTURE: TBD

**Learning objectives:** Introduce students to the role of non-state actors – including armed actors, civilians or humanitarian organizations – in the delivery of humanitarian aid or medical assistance during armed conflict and other situations of violence and identify how legal obligations may differ between State and non-actors engaged in humanitarian action.

**Required Reading:**

NSL: 318-335 (Ch. 13 Humanitarian and Peace/Stability Operations)

Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict, <https://www.unocha.org/sites/unocha/files/dms/Documents/Oxford%20Guidance%20Conclusions%20pdf.pdf>

Sean Watts, “Humanitarian Logic and the Law of Siege: A Study of the Oxford Guidance on Relief Actions,” available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3329415](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3329415)

“Briefing: Why humanitarians wary of ‘humanitarian corridors’”, *IRIN*, 19 March 2012, available at: <http://www.irinnews.org/report/95101/briefing-why-humanitarians-wary-of-humanitarian-corridors>

“The Chaos Convoy,” *Foreign Policy*, 13 August 2014, available at: [http://www.foreignpolicy.com/articles/2014/08/12/russia\\_ukraine\\_humanitarian\\_aid\\_convoy\\_putin\\_trajan\\_horse\\_red\\_cross](http://www.foreignpolicy.com/articles/2014/08/12/russia_ukraine_humanitarian_aid_convoy_putin_trajan_horse_red_cross)

“There is no legal barrier to UN cross-border operations in Syria,” *The Guardian*, 28 April 2014, <http://www.theguardian.com/world/2014/apr/28/no-legal-barrier-un-cross-border-syria>

## CLASS 12. REFUGEES, IDPs, MIGRATION (April 13<sup>th</sup>)

GUEST LECTURE: TBD

**Learning objectives:** Learn the definitions of different categories of migrants under international law and identify some of the basic principles and rules of U.S. immigration law, particularly as it relates to migratory flows resulting from conflict or climate crises.

**Required Reading:**

A Primer on Refugee Law: <https://www.lawfareblog.com/primer-refugee-law>

UNODC’s Counter-Terrorism in the International Law Context, “International refugee law, migration and counter-terrorism,” pp.33-71, available at: [https://www.unodc.org/pdf/terrorism/CTLTC\\_CT\\_in\\_the\\_Intl\\_Law\\_Context\\_1\\_Advance\\_copy.pdf](https://www.unodc.org/pdf/terrorism/CTLTC_CT_in_the_Intl_Law_Context_1_Advance_copy.pdf)

Syrian Refugees: A Primer on International Legal Obligations <https://freedomhouse.org/blog/syrian-refugees-primer-international-legal-obligations>

General Comment 15, Human Rights Committee, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=INT%2fCCPR%2fGEC%2f6625&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=INT%2fCCPR%2fGEC%2f6625&Lang=en)

A Note on Non-Refoulement, UNHCR, available at: <http://www.unhcr.org/3ae68ccd10.html>

### CLASS 13. CLIMATE AND CONFLICT (April 20<sup>th</sup>)

GUEST LECTURE: TBD

**Learning objectives:** *Understand how international law regulates the environment, especially during situations of armed conflict, and critically assess how climate crises may intersect with broader national security concerns.*

**Required Reading:**

*The World Climate and Security Report 2021*, International Military Council on Climate and Security, 9-11, 33-39, 67-68. <https://imccs.org/wp-content/uploads/2021/06/World-Climate-and-Security-Report-2021.pdf>

*When Rain Turns to Dust*, International Committee of the Red Cross. [https://www.icrc.org/sites/default/files/topic/file\\_plus\\_list/rain\\_turns\\_to\\_dust\\_climate\\_change\\_conflict.pdf](https://www.icrc.org/sites/default/files/topic/file_plus_list/rain_turns_to_dust_climate_change_conflict.pdf)

Michael Bothe, Carl Bruch, Jordan Diamond, and David Jensen, "International law protecting the environment during armed conflict: gaps and opportunities," *IRRC*, No. 879, 30 September 2010, available at: <https://international-review.icrc.org/sites/default/files/irrc-879-bothe-bruch-diamond-jensen.pdf>

### CLASS 14. HUMAN RIGHTS INVESTIGATIONS (April 27<sup>th</sup>)

**Learning objectives:** *Learning objectives: States are primarily responsible for engaging in investigations into alleged human rights and international humanitarian law violations. In the absence of, or alongside, such investigations, the United Nations, civil society, and others also often engage in fact-finding activities. This class focuses on how these activities are conducted, how they differ from State-led investigations, and how new technologies may be changing how these investigations work.*

**Required Reading:**

Office of the High Commissioner for Human Rights (OHCHR), *Commissions of Inquiry and Fact-Finding Missions on International Human Rights and Humanitarian Law: Guidance and Practice* (2015), available at [https://www.ohchr.org/Documents/Publications/Col\\_Guidance\\_and\\_Practice.pdf](https://www.ohchr.org/Documents/Publications/Col_Guidance_and_Practice.pdf), p. 32-65; 88-92

Daniela Gavshon and Emily Rice, "International Human Rights Fact-finding in Hostile Environments," *Just Security Blog* (1 Oct. 2021), available at: <https://www.justsecurity.org/78407/international-human-rights-fact-finding-in-hostile-environments/>

McDermott, Y., Koenig, A. and Murray, D., (2021). Open Source Information's Blind Spots: Human and Machine Bias in International Criminal Investigations. *Journal of International Criminal Justice*. 11 (3), 85-105, available at <http://repository.essex.ac.uk/30118/>

Amnesty International; Citizen Evidence Law: "Using artificial intelligence to scale up human rights research: a case study on Darfur" (2020), available at <https://citizenevidence.org/2020/07/06/using-artificial-intelligence-to-scale-up-human-rights-research-a-case-study-on-darfur/>

## University Policies

### Attendance Policy

The university views class attendance and participation as an individual student responsibility. Students are expected to attend class and to complete all assignments.

Please refer to [Student Rule 7](#) in its entirety for information about excused absences, including definitions, and related documentation and timelines.

### Makeup Work Policy

Students will be excused from attending class on the day of a graded activity or when attendance contributes to a student's grade, for the reasons stated in Student Rule 7, or other reason deemed appropriate by the instructor.

Please refer to [Student Rule 7](#) in its entirety for information about makeup work, including definitions, and related documentation and timelines.

Absences related to Title IX of the Education Amendments of 1972 may necessitate a period of more than 30 days for make-up work, and the timeframe for make-up work should be agreed upon by the student and instructor" ([Student Rule 7, Section 7.4.1](#)).

"The instructor is under no obligation to provide an opportunity for the student to make up work missed because of an unexcused absence" ([Student Rule 7, Section 7.4.2](#)).

Students who request an excused absence are expected to uphold the Aggie Honor Code and Student Conduct Code. (See [Student Rule 24](#).)

### Academic Integrity Statement and Policy

"An Aggie does not lie, cheat or steal, or tolerate those who do."

"Texas A&M University students are responsible for authenticating all work submitted to an instructor. If asked, students must be able to produce proof that the item submitted is indeed the work of that student. Students must keep appropriate records at all times. The inability to authenticate one's work,



should the instructor request it, may be sufficient grounds to initiate an academic misconduct case” ([Section 20.1.2.3, Student Rule 20](#)).

*You can learn more about the Aggie Honor System Office Rules and Procedures, academic integrity, and your rights and responsibilities at [aggiehonor.tamu.edu](http://aggiehonor.tamu.edu).*

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## **Americans with Disabilities Act (ADA) Policy**

Texas A&M University is committed to providing equitable access to learning opportunities for all students. If you experience barriers to your education due to a disability or think you may have a disability, please contact the Disability Resources office on your campus (resources listed below). Disabilities may include, but are not limited to attentional, learning, mental health, sensory, physical, or chronic health conditions. All students are encouraged to discuss their disability related needs with Disability Resources and their instructors as soon as possible.

*Disability Resources is located in the Student Services Building or at (979) 845-1637 or visit [disability.tamu.edu](http://disability.tamu.edu).*

## **Title IX and Statement on Limits to Confidentiality**

Texas A&M University is committed to fostering a learning environment that is safe and productive for all. University policies and federal and state laws prohibit gender-based discrimination and sexual harassment, including sexual assault, sexual exploitation, domestic violence, dating violence, and stalking.

With the exception of some medical and mental health providers, all university employees (including full and part-time faculty, staff, paid graduate assistants, student workers, etc.) are Mandatory Reporters and must report to the Title IX Office if the employee experiences, observes, or becomes aware of an incident that meets the following conditions (see [University Rule 08.01.01.M1](#)):

- The incident is reasonably believed to be discrimination or harassment.
- The incident is alleged to have been committed by or against a person who, at the time of the incident, was (1) a student enrolled at the University or (2) an employee of the University.

Mandatory Reporters must file a report regardless of how the information comes to their attention – including but not limited to face-to-face conversations, a written class assignment or paper, class discussion, email, text, or social media post. Although Mandatory Reporters must file a report, in most instances, a person who is subjected to the alleged conduct will be able to control how the report is

handled, including whether or not to pursue a formal investigation. The University's goal is to make sure you are aware of the range of options available to you and to ensure access to the resources you need.

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*Students wishing to discuss concerns in a confidential setting are encouraged to make an appointment with [Counseling and Psychological Services \(CAPS\)](#).*

*Students can learn more about filing a report, accessing supportive resources, and navigating the Title IX investigation and resolution process on the University's [Title IX webpage](#).*

**Statement on Mental Health and Wellness**

Texas A&M University recognizes that mental health and wellness are critical factors that influence a student's academic success and overall wellbeing. Students are encouraged to engage in healthy self-care by utilizing available resources and services on your campus

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*Students who need someone to talk to can contact Counseling & Psychological Services (CAPS) or call the TAMU Helpline (979-845-2700) from 4:00 p.m. to 8:00 a.m. weekdays and 24 hours on weekends. 24-hour emergency help is also available through the National Suicide Prevention Hotline (800-273-8255) or at [suicidepreventionlifeline.org](http://suicidepreventionlifeline.org).*