

# NATIONAL SECURITY LAW

Syllabus - Fall Semester 2014

Professor Williams

Mondays & Wednesdays 9:00 a.m. – 10:30 a.m.

Office Hours, Mondays & Wednesdays 8:00 a.m. – 8:45 a.m.; 11:00 a.m. – 11:45 a.m.;  
Thursdays 9:15 a.m. – 11:15 a.m.; 12:15 p.m. – 2:00 p.m.  
Room 307

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## **Goals**

Students should be able to identify, construct and apply (legal!) national security policies to a variety of issues and situations. This should come from a greater understanding of the past and present National Security policies of the United States, as well as national and international laws regarding the use of force, and the political impact thereof.

## **Grading**

This is a paper course and thus the final paper will make up the majority of your grade, approximately **75%**. The final paper must be at least **20 pages total**, including 10 pt. font footnotes. Class participation will count for approximately **25%** of your final grade. It is wise to read for class and participate in class discussion. In addition to speaking, class participation includes (1) attendance, (2) punctuality, (3) preparation and (4) professionalism. There is no eating allowed in class or video recording of any kind. Those who need to miss more than 2 classes should let me know and seek special permission.

## **Key Dates**

October 24, 2014: All paper topics due by 9:00 a.m. PST. There will be no changing of paper topics. You must consult with me about your topic prior to selection.

November 15, 2014: All rough drafts due by 5:00 pm PST on TWEN. Everyone must turn in some kind of rough draft. It can be 1 page or 30, but the more you turn in, the more I review. The earlier you turn in your rough draft, the sooner you get it back . .

December 15, 2014: All papers due by 12:00 p.m. noon PST on TWEN.

## **TWEN**

Please sign up for the TWEN cite for this course. The password is “compiegne”.

### **Course Materials**

National Security Law is a particularly fluid field of study. As such, there is no textbook for the course. All of the readings are free and available to you either online, through Westlaw, or handout. The readings for each week will be provided to you in advance, and consist of articles, cases, and other materials I have compiled for your review. The following are the scheduled reading assignments as of August 2014. Though not anticipated, any changes to the syllabus will be clear and announced in advance, both in class and on TWEN.

#### **I. History and the Study of War**

Class 1 – No reading required.

Class 2 - Kenneth Waltz, Man the State and War, (1954), the Introduction, p. 1 – 15.

(TWEN) and Google Books online. Kenneth W. Kemp, “Just War Theory”

<http://courseweb.stthomas.edu/kwkemp/Papers/JWTR.pdf> pg. 1 only!

#### **II. The Use of Force in International Relations - Necessity & Proportionality**

Class 3 – Article 2(4) and Article 51, UN Charter; McDougal & Feliciano, selected pages; (TWEN/Online).

Class 4 - McDougal & Feliciano, selected pages; Lillich, Forcible Self-Help Under International Law (TWEN). Crisis in the Gulf – John Moore (selected pgs).

Class 5 – 9/11 and what happened next; Charney - the Right to Self-Defense?, 95 Am. J. Int'l L. 835; Franck: Self Defense is a Right, 95 Am. J. Int'l L. 839.

Class 6 - Security Counsel Resolutions 678, 687, 1441 (handouts/online); Colin Powell's speech (TWEN); Meyer – Int'l Law (TWEN). Entebbe.

#### **III. Laws Of War – Geneva and Hague Conventions**

Class 7 – Geneva Conventions, Common Article 3 and Protocol I (TWEN/online).

Class 8 - In class simulation – no reading required.

#### **IV. Separation of Powers and National Security Law**

Class 9 – Articles 1 – 3 of the U.S. Constitution (handouts and on TWEN). Harold Koh and the Role of Congress (Selected pages); Federalist Papers, Pacificus/Helvidius debates (TWEN).

Class 10 - *United States v. Curtiss-Wright Export Corp.* 299 U.S. 304, 315-321 (1936); *Youngstown Sheet & Tube Co. v. Sawyer* 343 U.S. 579 (1952) (selected pages); Robert Turner, *Truman, Korea, and the Constitution: Debunking the "Imperial President" Myth*, 19 Harv. J.L. & Pub. Pol'y 541 – 547 (1996).

Class 11 - The War Powers Resolution (Handouts/TWEN); John Hart Ely, War and Responsibility, Chapter 1 (TWEN).

Class 12 - Jane E. Stromseth, 106 Yale L.J. 845 (selected pages).

Class 13 – In class simulation – no reading required.

#### **V. War and Individual Liberties**

Class 14 – *Ex-Parte Milligan*, 71 U.S. 2 (1866), *Korematsu v. United States*, 323 U.S. 214 (1944), *Ex Parte Endo*, 323 U.S. 283 (1944) (TWEN).

Class 15 - *New York Times Co. v. United States*, 403 U.S. 713 (1971) - selected pages; Edward Snowden and NSA spying (TWEN/online).

Class 16 – *Ex Parte Quirin*, 317 U.S. 1 (1942); Bush Memo to Cheney, 2002 (TWEN).

Class 17 - *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004).

Class 18 – Movie – no reading required.

Class 19 – MCA of 2006 and Boumediene discussion. No reading required.

Class 20 - In Class Simulation – no reading required.

#### **VI. Terrorism and National Security Law**

Class 21 – Ayman al-Zawahiri and Egyptian Islamic Jihad (online).

Class 22 – Why U.S.?

Class 23 – Stephen Holmes, [\*In Case of Emergency: Misunderstanding Tradeoffs in the War on Terror\*](#), 97 Cal. L. Rev. 301, (2009) (selected pages).

Class 24 - Predator Drones (TWEN);

Class 25 - The Kill List, selected works (online and/or TWEN).

Class 26 – Iraq, Part III (online and/or TWEN).

Class 27 – Story . . .

Class 28 – Review for other finals : )