

# Ethics, Law and Armed Conflict

Spring 2014

## *Course Description*

This course will critically examine selected legal and moral doctrines related to international armed conflict, including both the right of states to resort to force (*jus ad bellum*) and the rules governing the conduct of hostilities (*jus in bello*). We will look at the relationship of legal rules and moral codes to the just war tradition, and how normative principles shape the conduct and critique of international armed conflict. Topics may include, among others, the nature and scope of legitimate, proportional self-defense; the treatment of prisoners of war/detainees; war crimes; humanitarian intervention; the law governing resort to force against contemporary terrorist networks; the justification for non-combatant immunity and the converse combatant's privilege; proportionality in the conduct of war; drone warfare and other targeted killings; and other contemporary controversies that characterize armed conflict in the early twenty-first century.

## **GENERAL COURSE INFORMATION**

Class Meets:

Tuesdays & Thursdays, 4:40 pm – 6:00 pm  
First Floor Courtroom

Professor David Ritchie  
Room 307  
Office Phone: 478-301-5686  
Email address: [Ritchie\\_d@law.mercer.edu](mailto:Ritchie_d@law.mercer.edu)

Office Hours:

I encourage you to ask questions as the semester progresses. While class time is the best time to ask questions of a general nature (because your classmates will benefit from your questions, as you will from theirs), you may have questions of a more individual nature. I normally maintain at least 20-30 office hours each week. The actual times tend to vary some from week to week, depending upon the assignments that are due during a given week. If I am not in when you come by, leave me a note or e-mail message with your phone number so we can schedule a mutually convenient time to meet.

## **Course Book**

Yoram Dinstein, *War, Aggression, and Self-Defense*, 5<sup>th</sup> ed. (Cambridge 2011).

Other readings will be distributed throughout the semester.

## Course Requirements

### STUDENT RESPONSIBILITIES

#### Class Attendance and Participation

All students are expected and required to attend every class period. Everyone is also required to view the film and complete the readings for each class period. Most class periods will be devoted to in-class discussions, and absences diminish the experience of the rest of the class. Allowances will be made for unavoidable scheduling conflicts or emergencies, however. If you cannot attend class, you must let me know as soon as possible (preferably before class), so allowances can be made for your absence. Attendance and class participation are graded, and more than two absences will significantly affect your grade.

### ASSIGNMENTS

Every student must produce two reflection papers on discussion questions distributed during class. These papers will comprise 30% of the final course grade (15% each). There will also be a research paper on a topic chosen by each student in consultation with me. The paper will be worth 60% of the term grade. Finally, all students are expected to attend class and participate. Your attendance and participation will contribute to your final class grade. I have reserved 10% of the final grade for attendance and participation. For each absence beyond two, your final grade will be reduced by two points.

### GRADING

|                                    |     |
|------------------------------------|-----|
| First Reflection Paper             | 15% |
| Second Reflection Paper            | 15% |
| Final Paper                        | 60% |
| Class Attendance and Participation | 10% |

#### Late Submissions/Missed Tests

Papers turned in late lose 15% of the grade. Any late paper must be turned in within one week of the due date or the grade will be a zero.

#### Disability Accommodation

All requests for reasonable accommodation from students with disabilities will be welcomed.

Students with a documented disability should inform the instructor at the close of the first class meeting or as soon as possible. If you are not registered with Disability Services, I will refer you to the Dean of Students for consultation regarding documentation of your disability and

eligibility for accommodations under the ADA/504. In order to receive accommodations, eligible students must provide each instructor with a Faculty Accommodation Form from Disability Services. Students must return the completed and signed form to the Dean of Students. Students with a documented disability who do not wish to use accommodations are strongly encouraged to register with Disability Services and complete a Faculty accommodation form each semester. For further information please contact Disability Services at 301-2778 or visit the website at [http://www.mercer.edu/stu\\_support/swd.htm](http://www.mercer.edu/stu_support/swd.htm).

#### Mercer University Honor Code

You are expected to be in full compliance with the University Honor Code for the duration of this course. All suspected violations of the University Honor Code will be forwarded to the Honor Council.

Some of the most probable kinds of Honor Code violation include, but are not limited to:

- Cheating
- Plagiarism
- Facilitation of others' violation of the Honor Code
- Unauthorized prior possession of tests/exams
- Submitting work of others or work previously used without informing the instructor

#### Other Important Class Policies

Cell phones: out of courtesy for all of those participating in the learning experience, all cell phones must be turned off before entering any classroom, lab, or formal academic or performance event. In my classroom the same policy goes for smartphones, texting devices, or laptop computers not being used for course-related tasks.

Low grades or risk of failure: if you receive failing grades on any major assignment or test during the course or if you think you're in danger of getting an F for the course grade you are urged to see me so that we can discuss how to improve your work.

Incompletes: I will only grant an incomplete in place of a grade under the most pressing circumstances.

## COURSE SYLLABUS

### Week I (January 14 & 16)

#### **International Law Basics; The Culture of Warism**

Readings: William James, The Moral Equivalent of War (handout)  
Kipton Jensen, William James and the Anti-War Campaign (handout)

### Week II (January 21 & 23)

#### **Defining War**

Readings: Dinstein Chapters 1 & 2  
Other Readings TBA

### Week III (January 28 & 30)

#### **Regulating War and Aggression**

Readings: Dinstein, Chapters 3 & 4 (Sections 1 through 3)  
Jeff McMahan, Just War – Parts I & II  
Michael Walzer, Just and Unjust Wars (Part I)

### Week IV (February 4 & 6)

#### **Regulating War and Aggression, cont.**

Readings: Dinstein, Chapters 4 (Sections 4 through 7) & 5  
Other readings TBA

Watch: Andrew Bacevich, The New American Militarism  
<http://www.carnegiecouncil.org/studio/multimedia/20130415b/index.html>

### Week V (February 11 & 13)

#### **The Contemporary Status of War**

Readings: Dinstein, Chapter 6  
Other readings TBA

Watch: Five to Rule them All: The UN Security Council and the Making of the Modern World <http://www.carnegiecouncil.org/studio/multimedia/20091102b/index.html>

**Week VI (February 18 & 20)**

**Self-Defense**

Readings: Dinstein, Chapter 7 - 9

Watch: Amichai Magen, Democracies and the Right of Self-Defense  
<http://www.youtube.com/watch?v=8XmA6R0dE78>

**Week VII (February 25 & 27)**

**Self-Defense, cont.**

Readings: Seth Lazar, Responsibility, Risk, and Killing in Self-Defense  
Cheyney Ryan, Self-Defense, Pacifism, and the Possibility of Killing

In class: Rome Statute of the ICC, Article 31  
Desert Storm Rules of Engagement

**Week VIII (March 4 & 6)**

**Treatment of Prisoners of War/Detainees**

Readings: Selections from Yoram Dinstein, *The Conduct of Hostilities Under the Law of International Armed Conflict*, 2d ed. (Cambridge 2010)  
Selections from Wayne McCormack, *Understanding the Law of Terrorism* (Lexis/Nexis 2007).

**Week IX (March 11 & 13) Undergrad Spring Break**

**Fieldtrip to the National Prisoner of War Museum and Memorial – Andersonville**

**Week X (March 18 & 20) Law School Spring Break**

**No Class**

**Week XI (March 25 to 27)**

**War Crimes**

Readings: Ruti Teitel, Nuremberg and its Legacy: Fifty Years Later  
Edward Wise, The Significance of Nuremberg  
Neil Kritz, War Crimes Tribunals: Who Should Do Them—And How

Watch: Nuremberg Trials [http://www.youtube.com/watch?v=\\_8pVElnR1M8](http://www.youtube.com/watch?v=_8pVElnR1M8)

### **Week XII (April 1 & 3)**

#### **Terrorism and The “War” on Terror**

Readings: Selections from Paul Christopher, *The Ethics of War & Peace: An Introduction to Legal and Moral Issues*, 3d ed. (Pearson 2004)  
Selections from Wayne McCormack, *Understanding the Law of Terrorism* (Lexis/Nexis 2007).

### **Week XIII (April 8 & 10)**

#### **Humanitarian Intervention**

Readings: Ian Hurd, Is Humanitarian Intervention Legal? The Rule of Law in an Incoherent World  
Selections from Paul Christopher, *The Ethics of War & Peace: An Introduction to Legal and Moral Issues*, 3d ed. (Pearson 2004)

### **Week XIV (April 15 & 17)**

#### **Drones and Other Targeted Killings**

Readings: Mark Maxwell, Rebutting the Civilian Presumption: Playing Whack-a-Mole Without a Mallet?  
Jeremy Waldron, Justifying Targeted Killings With a Neutral Principle?  
Daniel Brunstetter & Megan Braun, The Implications of Drones on the Just War Tradition

Watch: Rise of the Drones <http://www.youtube.com/watch?v=HopKAYthJV4>

### **Week XV (April 22 & 24)**

#### **Final Wrap-up and Discussion of Final Papers**

**Final Papers are due by 5:00 pm EST on Tuesday, April 29, 2014**