

THE LAW OF MODERN CONFLICT: CYBER WAR, DRONES AND ESPIONAGE

Instructor: Aaron Shull, M.A., LL.B., LL.M.
Course code: Political Science 310n
Office: DAWB - 2-129
Office hours: Monday 6-7 p.m. or by appointment
Class Room: Bricker Academic Building BA110
Class Time: Monday from 7:00-9:50 p.m
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COURSE DESCRIPTION

This course examines some of the most complex legal problems in modern conflict. The conduct of international affairs can be a rough business, but one in which actions remain constrained by the rule of law. Students will be provided with a basic understanding of the core principles of public international law, before advancing on to a critical examination of the dynamic interplay between international politics and international law in modern conflict and global security. Topics covered will include prohibitions on the use of force and cyber-attacks, unmanned aerial strikes and territorial sovereignty, and international espionage.

REQUIRED TEXTBOOKS

John H. Currie, *Public International Law*, Irwin Law, 2008.

John Kaag & Sarah Kreps, *Drone Warfare*, Wiley, 2014.

Glenn Greenwald, *No Place to Hide Edward Snowden, the NSA, and the U.S. Surveillance State*, Metropolitan Books, 2014.

EVALUATION

Class Participation (10%): Each student is expected to have done the readings prior to the class for which they are assigned, and a level (3rd year undergraduate) appropriate version of the Socratic method will be used to evaluate student preparation, understanding and analytical capacity.

Group Debate (15%): Students will be assigned debate teams at the beginning of the semester. The teams will be assigned a position (either for or against) and a topic and will be required to argue the assigned position on the assigned topic. Each student may not necessarily agree with the assigned position, but will still be required to articulate a compelling case in favor of that position. As an example, the first debate topic is whether drone strikes in Pakistan are legal. A student may well think that these strikes are contrary to international law, but may be required to argue a case in favor of their legality.

It is not necessary for every student on the team to act as a speaker. However, it is imperative that each student participates in the exercise. Therefore, if a student is not acting as a speaker it would be expected that they conduct research and analysis to support the oral argument being advanced in favor of the team. Each team will be expected to internally select the number of speakers and those individuals who will speak on behalf of the team.

Group Factum (20%): In support of the Group Debate exercise, each team will also be expected to prepare a 5-page (single spaced) written assignment. This assignment will be crafted to support the team’s oral argument. The written assignment must address the arguments the team plans to raise during oral argument, the cases and evidence to be relied on, and the corresponding analytical reasoning. The written assignment will be due at the beginning of class *the week prior* to the date of the assigned Group Debate. The Written Argument *will* be provided to the other team and to the rest of the class.

Mid-Term (20%): This will be an in-class mid-term comprised of multiple choice and short answer questions.

Take Home Final Exam (35%): The final exam will include a ‘fact pattern’. This will be a factual scenario and students will be required to analyze the facts presented, to apply the legal concepts from the course, and to reason through to a suitable legal conclusion.

COURSE TOPICS & READINGS

Week	General Topic	Specific Topic/Readings
1 – Jan. 9	Introduction	
2 – Jan. 16	International Law	<u>Legal Personality; Sources of International Law</u> Readings: <ul style="list-style-type: none"> • John H. Currie, <i>Public International Law 2nd edition</i>, 2008. <ul style="list-style-type: none"> ○ Chapter 3: Sources of International Law ○ Chapter 4: The Law of Treaties ○ Chapter 5: Customary International Law
3 – Jan. 23	International Law	<u>State Jurisdiction; State Responsibility; Use of Force</u> Readings: <ul style="list-style-type: none"> • John H. Currie, <i>Public International Law 2nd edition</i>, 2008. <ul style="list-style-type: none"> ○ Chapter 7: States and Territory ○ Chapter 8: State Jurisdiction ○ Chapter 11: The Use of Force in International Relations ○ Chapter 12: State Responsibility
4 – Jan. 30	Drones	<u>Drones and International Law</u>

		<p>Readings:</p> <ul style="list-style-type: none"> John Kaag and Sarah Kreps, <i>Drone Warfare</i> – Chapters 1, 2, & 4
5 – Feb. 6	Drones	<p><u>Drone Strikes</u></p> <p>Readings (can be accessed from WLU Library database):</p> <ul style="list-style-type: none"> Mahmood Ahmad, <i>The Use of Drones in Pakistan: an Inquiry into the Ethical and Legal Issues</i>, (The Political Quarterly, Vol. 85, No. 1, January–March 2014). Andrew C. Orr, <i>Unmanned, Unprecedented, and Unresolved: The Status of American Drone Strikes in Pakistan under International Law</i>, 44 CORNELL INT’L L.J. 729 (2011).
6 – Feb. 13	Drones	<p><u>Future of Drone Warfare</u></p> <p>Readings:</p> <ul style="list-style-type: none"> John Kaag and Sarah Kreps, <i>Drone Warfare</i> – Chapters 5 and Chapter 6 <p>Optional Reading:</p> <ul style="list-style-type: none"> Council on Foreign Relations: <i>Limiting Armed Drone Proliferation</i> http://www.cfr.org/drones/limiting-armed-drone-proliferation/p33127?co=C009601 <p>Debate 1: <u>Are drones in Pakistan (non-combat zone) legal?</u></p>
Feb. 20	READING WEEK – NO CLASS	
7 – Feb. 27	MIDTERM	
8 – March 6	Cyber War	<p><u>The Law of Cyber Warfare</u></p> <p>Readings:</p> <ul style="list-style-type: none"> <i>Tallinn Manual on the International Law Applicable to Cyber Warfare</i> pg. 1-72 (Part I); pg. 75-94; pg. 140-153 http://www.ccdcoe.org/tallinn-manual.html Matthew C. Waxman, <i>Cyber-Attacks and the Use of Force: Back to the Future of Article 2(4)</i> http://www.yjil.org/docs/pub/36-2-waxman-cyber-attacks-and-the-use-of-force.pdf <p>Debate 2: <u>Students will be provided with a hypothetical fact pattern that includes a cyber-attack and will be asked to debate the legality of that attack.</u></p>
9 – March 13	Cyber War	<u>Politics of Cyber War; Case Studies: Estonia & Stuxnet</u>

		<p>Readings:</p> <ul style="list-style-type: none"> • <i>Cyber Security and International Law</i> – Can be accessed from: http://www.chathamhouse.org/sites/files/chathamhouse/public/Research/International%20Law/290512summary.pdf • Jeremy Richmond, <i>Evolving Battlefields: Does Stuxnet Demonstrate a Need for Modifications to the Law of Armed Conflict?</i>, 35 Fordham Int'l L.J. 842 • Scott J. Shackelford, <i>From Nuclear War to Net War: Analogizing Cyber Attacks in International Law</i>, 27 BERKLEY J. INT'L L.192 <p><u>Debate 3:</u> Were the Stuxnet attacks legal under the relevant principles of international law?</p>
10 – March 20	Espionage	<p><u>The Law and Politics of Espionage</u></p> <p>Readings:</p> <ul style="list-style-type: none"> • Glenn Greenwald, <i>No Place to Hide</i> (first half) • <i>Report to Congress on Foreign Economic Collection and Industrial Espionage, 2009-2011</i> http://www.ncix.gov/publications/reports/fecie_all/Foreign_Economic_Collection_2011.pdf <p>Optional reading:</p> <ul style="list-style-type: none"> • Aaron Shull, <i>Global Cybercrime: The Interplay of Politics and Law</i> http://www.cigionline.org/sites/default/files/no8_1.pdf <p><u>Debate 4:</u> Is cyber espionage legal?</p>
11 – March 27	Espionage	<p><u>Case Studies: NSA Snowden Revelations, Chinese and Russian Cyber Espionage</u></p> <p>Readings:</p> <ul style="list-style-type: none"> • Glenn Greenwald, <i>No Place to Hide</i> (second half) • <i>Beyond Snowden: An NSA Reality Check</i> - can be accessed from: http://www.worldaffairsjournal.org/article/beyond-snowden-nsa-reality-check • <i>What it Takes: In Defense of the NSA</i>- can be accessed from: http://www.worldaffairsjournal.org/article/what-it-takes-defense-nsa <p><u>Debate 5:</u> Snowden – hero or traitor?</p>

12 – April. 3	REVIEW/EXAM PREP	
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REQUIRED SCHOOL INFORMATION

Foot Patrol Walk Home Service:

1.519.886.FOOT x3668

Foot Patrol is a volunteer operated walk-home service, available daily during evening hours. Male-female, radio-dispatched teams trained in Emergency First Aid are available on request to escort students to and from campus as well as to off-campus destinations, either by foot or by van.

Counselling Services and Peer Help Line:

1.886.281.PEER x7337

Counselling Services are available to help students deal with emotional, psychological and social challenges of university. Counselling, consultation or referrals are available at the Student Wellness Centre. Peer Help Line, a confidential listening, referral, information and support line, is available during evening hours to provide support.

PROHIBITION ON PLAGIARISM

Wilfrid Laurier University uses software that can check for **plagiarism**. Students may be required to submit their written work in electronic form and have it checked for plagiarism.

Students with disabilities or special needs are advised to contact Laurier's [Accessible Learning Office](#) for information regarding its services and resources. Students are encouraged to review the Calendar for information regarding all services available on campus.

The Political Science Department's policy on **deferred midterm and final examinations** can be found at <http://www.wlu.ca/arts/politicalscience>