National Security Law

Syllabus
and
Assignments

Professor John Norton Moore
Georgetown University Law Center
Spring 2017

Class Website:
http://www.faculty.virginia.edu/jnmoore/nslcoursegu/
“The justest dispositions possible in ourselves will not secure us against [war]. It would be necessary that all other nations were just also. Justice indeed on our part will save us from those wars which would have been produced by a contrary disposition. But how to prevent those produced by the wrongs of other nations? By putting ourselves in a condition to punish them. Weakness provokes insult and injury, while a condition to punish it often prevents it.”

**Thomas Jefferson**

from *THE PAPERS OF THOMAS JEFFERSON*, Letter to John Jay, August 23, 1785
National Security Law

Syllabus

(Assignments begin on page 6)

Professor John Norton Moore
Fridays, 5:45-7:45 pm
Room: Hotung 1000

Spring 2017
Georgetown University Law Center

Date          Topics

January 13   I.  Introduction and Context

       A.  Goal Clarification: What is National Security?

       B.  Principal Theories of International Relations: How well do they work?

       C.  The Causes of War: The State of Human Knowledge

       D.  Traditional Approaches to Preventing War

           - Diplomacy
           - Balance of Power
           - Deterrence
           - Collective Security
           - Arms Control
           - World Federalist
           - Functionalism and Other

January 20   (Inauguration day, no classes meet)

January 27   E.  The “Democratic Peace,” “Incentive Theory,” and Newer Approaches

       F.  “Restrictivism” or “The Minimalist Tradition”: Good Motives and Bad Results in a Non-Debate about Law and Deterrence

II.  The International Law of Conflict Management

       A.  Historical Development of the International Law of Conflict Management

February 3   B.  Institutional Modes of Conflict Management

           - The United Nations System: Goals, Structure, and Legal Framework
           - The Role of the Security Council
           - Peacekeeping and Peace-Enforcement
           - Strengthening the United Nations System: Incremental and Utopian Models
### C. Lawfulness of the Use of Force in International Relations: *Jus ad Bellum* (Pt.I)


3. Low-Intensity-Conflict, Intervention, Anticipatory Defense, and Other Continuing Problems

<table>
<thead>
<tr>
<th>Date</th>
<th>Topics</th>
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<tbody>
<tr>
<td><strong>February 10</strong></td>
<td><em>Jus ad Bellum</em> (Part II)</td>
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<tr>
<td></td>
<td>4. Illustrative Case Study: The Indo-China War</td>
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<td><strong>February 17</strong></td>
<td>5. Illustrative Case Study: The Secret War in Central America</td>
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<td><strong>On Your Own</strong></td>
<td>Review the assigned readings for this section on your own:</td>
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<td>6. Illustrative Case Study: The Grenada Mission</td>
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<td><strong>February 17 (cont’d)</strong></td>
<td>7. The Gulf War (1990-91): An Illustrative Case Study of Security Council Action</td>
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<td>9. The September 11 attack, the response in Afghanistan, and the War on Terrorism</td>
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<td>10. The War in Iraq: Legal &amp; Policy Issues</td>
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<td><strong>March 3</strong></td>
<td>D. Human Rights for Contexts of Violence: Norms Concerning the Conduct of Hostilities: <em>Jus in Bello</em></td>
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<td>1. Theoretical and Historical Overview</td>
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<td>- General Principles</td>
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<td>- Applicable Conventions</td>
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<td>Date</td>
<td>Topics</td>
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<tr>
<td>March 10</td>
<td>E. War Crimes and the Nuremberg Principles</td>
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<td>F. Illustrative Case Studies: War Crimes in the Gulf War and in the Yugoslav (Bosnia-Herzegovina, Croatia, Serbia) Conflict</td>
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<td>G. The International Criminal Court</td>
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<td>H. International Terrorism and Its Control: The Events of September 11 and Their Aftermath</td>
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<td></td>
<td>I. Domestic Terrorism</td>
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<tr>
<td>March 17</td>
<td>*** SPRING BREAK March 12-19 No classes meet ***</td>
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<tr>
<td>March 24</td>
<td>III. Strategic Stability and Arms Control &amp; American Security Doctrine</td>
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<tr>
<td></td>
<td>A. Theoretical and Historical Overview</td>
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<td>B. Nuclear Weapons and Their Effects</td>
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<td>C. Strategic Arms Limitation Talks (SALT I &amp; II) and Strategic Arms Reduction Talks (START I, II, &amp; III) and Resulting Treaties and Agreements</td>
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<td></td>
<td>D. Mutual Balanced Force Reduction/Conventional Armed Forces in Europe Talks (MBFR/CFE) and Theater Nuclear Force/Intermediate-Range Nuclear Force Talks (TNF/INF) and Resulting Treaties</td>
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<td></td>
<td>E. Contemporary Issues: Nonproliferation and Counterproliferation of Nuclear, Chemical, and Biological Weapons and Ballistic Missiles - Non-Proliferation Treaty (NPT), July 1, 1968 and recent review conference - Chemical Weapons Convention (CWC), January 13, 1993 - Biological Weapons Convention, April 1972 - Missile Technology Control Regime (MTCR) - Comprehensive Test Ban Treaty (CTBT)</td>
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<td></td>
<td>❖ 1993-2006 North Korean Violation of NPT as a Case Study</td>
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<td>F. United States-Russian Strategic Cooperation</td>
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<td>G. The Debate about National Missile Defense</td>
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<td>Date</td>
<td>Topics</td>
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<td><strong>March 31</strong></td>
<td><strong>IV. National Institutional Framework</strong></td>
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<td>A. The Constitutional Framework for the Division of National Security</td>
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<td>Powers Between Congress and the President</td>
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<td>1. Historical Background and General Principles</td>
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<td>2. The Authority of Congress and the President to Conclude, Interpret,</td>
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<td>and Terminate Agreements Relating to National Security</td>
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<td>3. The “Dual vs. Unitary” Theory Debate Arising from the “Broad-</td>
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<td>Narrow” Issue in Interpreting the Anti-Ballistic Missile (ABM) Treaty</td>
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<td><strong>April 7</strong></td>
<td>4. The Authority of Congress and the President to Use the Armed Forces</td>
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<td>5. The War Powers Resolution</td>
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<td><strong>Guest Speaker:</strong></td>
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<tr>
<td></td>
<td>Robert F. Turner</td>
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<td>Associate Director, Center for National Security Law</td>
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<td><strong>B. The National Security Process</strong></td>
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<td><strong>April 14</strong></td>
<td>*** EASTER BREAK April 14-16 No classes meet ***</td>
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<td><strong>April 21</strong></td>
<td>C. Secrecy, Access to Information, and the Classification System</td>
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<td>D. Intelligence and Counterintelligence</td>
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<td><strong>V. Individual Rights and Accountability</strong></td>
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<td>A. Freedom of Expression, Protection of Privacy, and National Security</td>
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<td>1. The First Amendment of the United States Constitution and National</td>
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<td></td>
<td>Security</td>
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<td>2. The Fourth Amendment of the United States Constitution and National</td>
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<td>Security</td>
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<td><strong>B. Detainee Rights</strong></td>
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<td>Date</td>
<td>Topics</td>
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<td>On Your Own</td>
<td>Review the <em>suggested</em> readings for this section on your own:</td>
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<td></td>
<td>C. National Security Violations</td>
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<td>April 28</td>
<td>VI. Other National Legal Issues</td>
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<td>A. Homeland Security</td>
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<td>B. Law and Warfare in the Cyber Domain</td>
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<td>On Your Own</td>
<td>Review the <em>suggested</em> readings for sections C and D on your own:</td>
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<td></td>
<td>C. The Environment and National Security</td>
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<td>D. Security Aspects of Oceans Law</td>
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<td>April 28 (cont.)</td>
<td>VII. Economic Sanctions and Export Controls</td>
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<td></td>
<td>A. An Introduction to Economic Sanctions</td>
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<tr>
<td></td>
<td>B. An Introduction to Export Controls</td>
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**Classes end April 29, 2017**
Texts for Reading Assignments


UN Charter: CHARTER OF THE UNITED NATIONS. Available at the law school bookstore. Also available online at http://www.un.org/en/charter-united-nations/

Course Reader: Selected readings (Part I & Part II) compiled by Professor Moore for the course. Copies available at the Copy Center.

Optional Readings: Some readings throughout the syllabus are marked “optional.” These readings provide additional background information and can be used to get a more comprehensive understanding of the topic. They are not required, like all other readings, but are recommended for anyone interested in additional reading on a subject.

CLASS WEBSITE: http://faculty.virginia.edu/jnmoore/nslcoursegu/

Date | Topics
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January 13 | I. Introduction and Context

A. Goal Clarification: What is National Security?

B. Principal Theories of International Relations: How well do they work?

Casebook: 3-18 (A. Arend, ch. 1)

C. The Causes of War: The State of Human Knowledge

D. Traditional Approaches to Preventing War

- Diplomacy
- Balance of Power
- Deterrence
- Collective Security
- Arms Control
- World Federalist
- Functionalism and Other

January 13 (cont.)

Casebook:
19-32 (J.N. Moore, ch. 2)

Course Reader, Part 1:
1-17 R. J. Rummel, “Power Kills; Absolute Power Kills Absolutely” (October 20, 1991)

January 20
(Inauguration day, no classes meet)

January 27

E. The “Democratic Peace,” “Incentive Theory,” and Newer Approaches

Readings, On Reserve:

Documents:

Readings, On Reserve:

F. “Restrictivism” or “The Minimalist Tradition”: Good Motives and Bad Results in a Non-Debate About Law and Deterrence

Optional Readings for January 27:

Documents:
3:56 Charter of Paris for a New Europe, signed Nov. 21, 1990 [http://www.osce.org/node/39516]
<table>
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<th>Date</th>
<th>Topics</th>
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| 3:57       | Organization of American States (OAS) General Assembly Resolution 1080,

**Readings, On Reserve:**  

A video of Professor Moore’s presentation on “Solving the War Puzzle” at the Library of Congress is available at [http://faculty.virginia.edu/jnmoore/pdf/solvingwarpuzzle.pdf](http://faculty.virginia.edu/jnmoore/pdf/solvingwarpuzzle.pdf)

**II. The International Law of Conflict Management**

**A. Historical Development of the International Law of Conflict Management**

**Casebook:**  
35-73 (J.N. Moore, ch. 3)

**Documents:**  
2:12 Kellogg-Briand Pact, 1928  
[http://avalon.law.yale.edu/20th_century/kbpact.asp](http://avalon.law.yale.edu/20th_century/kbpact.asp)

**February 3**

**B. Institutional Modes of Conflict Management**

- The United Nations System: Goals, Structure, and Legal Framework  
- The Role of the Security Council  
- Peacekeeping and Peace-Enforcement  
- Strengthening the United Nations System: Incremental and Utopian Models

**Casebook:**  
209-264 & 285-316 (R. Higgins, D. Sarooshi, & P. Webb ch. 5)

**Online Resource:**

**Documents:**  
2:3 United Nations Charter, 1945 [Skim]  
2:4 Uniting for Peace Resolution, 1950 [Skim]

**February 3 (cont’d)**

**February 10**

**C. Lawfulness of the Use of Force in International Relations: Jus ad Bellum**

1. The Prohibition of War as an Instrument of National Policy: The
<table>
<thead>
<tr>
<th>Date</th>
<th>Topics</th>
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<tbody>
<tr>
<td></td>
<td>Complementary Norms of Aggression and Defense</td>
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<td><strong>Casebook:</strong></td>
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<td>75-100 (J.N. Moore, ch. 4)</td>
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<td><strong>Casebook:</strong></td>
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<td>100-105 (J.N. Moore, ch. 4)</td>
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<td><strong>Documents:</strong></td>
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<td>2:6 Inter-American Treaty of Reciprocal Assistance (Rio Treaty), 1947 [Skim]</td>
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<td>2:8 Charter of the Organization of American States (Revised) [Skim]</td>
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<td>2:15 Definition of Aggression Resolution, 1973 [Skim]</td>
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<td>3. Low-Intensity Conflict, Intervention, Anticipatory Defense and Other Continuing Problems</td>
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<td><strong>Casebook:</strong></td>
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<td>123-133, 138-140, 178-180 (J.N. Moore, ch. 4)</td>
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<td><strong>Optional Readings for February 3-10:</strong></td>
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<td><strong>Readings, On Reserve:</strong></td>
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<td><strong>Course Reader, Part 1:</strong></td>
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<td><em>Excerpts from cases heard at the International Court of Justice—</em></td>
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<td>101(insert B) Case Concerning Oil Platforms (Islamic Republic of Iran v. U.S.A.), 2003 I.C.J. (November 6)</td>
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<td>101(insert C) Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (request for advisory opinion) 2004 I.C.J. (July 9)</td>
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<td><strong>Course Reader, Part 1:</strong></td>
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<td>4. Illustrative Case Study: The Indo-China War</td>
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<td><strong>Casebook:</strong></td>
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<td>133-138 (J.N. Moore, ch. 4)</td>
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<td><strong>Course Reader, Part 1:</strong></td>
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<td><strong>Casebook:</strong></td>
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<td>140-154 (J.N. Moore, ch. 4)</td>
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<td><strong>Course Reader, Part 1:</strong></td>
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<td><strong>On Your Own</strong></td>
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<td><strong>Casebook:</strong></td>
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<td>162-166 (J.N. Moore, ch. 4)</td>
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<td>Feb. 17 (cont’d)</td>
<td>7. The Gulf War: An Illustrative Case Study of Security Council Action</td>
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<td><strong>Documents:</strong></td>
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<td>2:17 UN Security Council Resolution 678 (1990)</td>
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<td><strong>Readings, On Reserve:</strong></td>
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<td>#6 O. Schachter, <em>United Nations Law in the Gulf Conflict</em>,</td>
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<td>Yugoslavia (Bosnia-Herzegovina, Croatia, Serbia), Somalia, Haiti, and Rwanda</td>
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*NOTE: Because of the multiplicity of readings for this date, first review those under “9. The September 11 attack, the response in Afghanistan, and the War on Terrorism,” and “10. The War in Iraq.” After this, you are required to read General and choose at least two of the six country case studies below based on your interest. The remaining four are optional.

**Course Reader, Part 1:**

**General:**
- President Obama’s speech the UN General Assembly on Sept. 24, 2013 -
  https://www.washingtonpost.com/politics/transcript-president-obamas-speech-at-the-un-general-assembly/2013/09/24/64d5b386-2522-11e3-ad0d-b7c6d2a594b9_print.html [Skim]
- Richard Schifter, Special Assistant to the President and Counselor, National Security Council, “Is There a Clinton Doctrine?”—Remarks at the American Enterprise Institute Symposium, Nov. 2, 1993

**Libya:**
- Testimony by Legal Adviser Harold Koh, U.S. Department of State, on Libya and War Powers, June 28, 2011 (http://www.state.gov/s/l/releases/remarks/167250.htm)

**Yugoslavia:**
- Amendment to H.R. 4301, as reported, offered by Mr. McCloskey, Mr. Gilman, Mr. Bonior, Title XII - Bosnia and Herzegovina Self-Defense
- Administration Talking Points Regarding McCloskey/Gilman Amendment

**Somalia:**
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<th>Date</th>
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<tr>
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<td>231-64 <em>skim</em> Report to the Congress on US Policy in Somalia, October 13, 1993</td>
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<tr>
<td>February 24 (cont’d)</td>
<td>Haiti:</td>
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<td>267 UN General Assembly Res. 46/7 (1991)</td>
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<td>Rwanda:</td>
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<td>Kosovo:</td>
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<td>349-51 UN Security Council Resolution 1160 adopted on March 31, 1998</td>
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<td>352-54 UN Security Council Resolution 1199 adopted on September 23, 1998</td>
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<td>355-56 Understanding the Rambouillet Accords: US Dept. of State, Bureau of European Affairs, Fact Sheet: March 1, 1999</td>
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<td>357-59 Address to the Nation: March 24, 1999, President William Clinton</td>
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<td>360-61 US and NATO Objectives and Interests in Kosovo: US Department of State, Fact Sheet: March 26, 1999</td>
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<td>362 Letter from the President to the Speaker of the House of</td>
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<th>Date</th>
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<tr>
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<td>Representatives and the President of the Senate: April 5, 1999</td>
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<td>363</td>
<td>Letter from the President to the Speaker of the House of Representatives and the President of the Senate: April 7, 1999</td>
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<td>364-75</td>
<td>Kosovo Chronology: Department of State, May 21, 1999</td>
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<td>376</td>
<td>Letter from the President to the Speaker of the House of Representatives and the President of the Senate: May 26, 1999</td>
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<td>377-78</td>
<td>Erasing History: Ethnic Cleansing in Kosovo: US Department of State Report, May, 1999</td>
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<tr>
<td>379-80</td>
<td>Indictment of Slobodan Milosevic and Other Serb Officials: US Department of State Fact Sheet: May 28, 1999</td>
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<td>381-83</td>
<td>Remarks to Kosovar Albanians at the US Institute of Peace Conference: Secretary of State Madeleine K. Albright, September 14, 1999</td>
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<td>384-89</td>
<td>Kosovo and Yugoslavia: Law in Crisis, Prof. Robert Hayden</td>
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<td>390-91</td>
<td>Legal Basis for NATO Military Action . . . The Balkan Action Council: April 1, 1999</td>
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<td>392-93</td>
<td>Legality of the NATO Action, John M. Rogers, University of Kentucky College of Law</td>
</tr>
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<td>394-95</td>
<td>The Kosovo Situation and Military Action, Frederic L. Kirgis, <em>ASIL Insight</em> March, 1999</td>
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<td>396</td>
<td>Comment, Branko M. Rakic, <em>ASIL Insight</em>, March, 1999</td>
</tr>
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<td>397-98</td>
<td>World Court Rejects Yugoslav Requests to Enjoin . . . Peter H.F. Bekker and Christopher J. Borgen, <em>ASIL Insight</em> June, 1999</td>
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<tr>
<td>399-400</td>
<td>Indictment of Slobodan Milosevic, Michael P. Scharf, <em>ASIL Insight</em>, June 1999</td>
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**February 24 (cont’d)**

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<tr>
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<th>9. The September 11 attack, the response in Afghanistan, and the War on Terrorism</th>
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**Course Reader, Part 1:**


402-03 *What is Article 5?* NATO Decision regarding NATO and the Scourge of Terrorism


February 24 (cont’d)  

10. The War in Iraq: Legal & Policy Issues

Documents:
2:19  U.N. Security Council Resolution 1441, adopted Nov. 8, 2002

Course Reader, Part 1:

Optional Readings for Feb 24:

Course Reader, Part 1:
420i-20j Rumsfeld’s Memo of Options for Iraq War, Nov. 6, 2006
420k-20n Iraq Study Group Report: Executive Summary, Dec. 6, 2006

March 3  

D. Human Rights for Contexts of Violence: Norms Concerning the Conduct of Hostilities: *Jus in Bello*

1. Theoretical and Historical Overview
   - General Principles
   - Applicable Conventions

Casebook:
321-336  (H. Leive, J. Grunawalt, & D. Graham ch. 6)

Documents:
2:21  *Skim* Hague Convention IV (1907)
2:22  *Skim* Hague Convention V (1907)
2:23  *Skim* Hague Convention IX (1907)
2:24  *Skim* Hague Convention XIII (1907)
2:25  *Skim* Geneva Convention for Amelioration of the Wounded (1949)
2:26  *Skim* Geneva Convention Relative to the Treatment of Prisoners of War (1949)
2:27  *Skim* Geneva Convention Relative to the Protection of
Civilian Persons in Time of War (1949)

2:28 *Skim* Protocol Relating to the Protection of Victims of International Armed Conflicts (1977)

2:29 *Skim* Protocol Relating to the Protection of Victims of Non-International Armed Conflicts (1977)


4:10 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)


**Casebook:**

336-59, 362-365 (H. Levie, J. Grunawalt, & D. Graham, ch. 6)

**Course Reader, Part 2:**


3. Procedures for Implementation and Enforcement (including Reprisals and Protecting Powers)

**Casebook:**

359-62 (H. Levie, J. Grunawalt, & D. Graham, ch. 6)

**March 10**

E. War Crimes and the Nuremberg Principles

**Casebook:**

413-455 (M. Scharf, ch. 8)

**Documents:**

2:34 Nuremberg Trials Final Report (1945)

2:35 Affirmation of the Principles of International Law Recognized by the Charter of the Nürnberg Tribunal (1946)

F. Illustrative Case Studies: War Crimes in the Gulf War and in the Yugoslav (Bosnia-Herzegovina, Croatia, Serbia) Conflict
Course Reader, Part 2:

**Gulf War:**
450-52 UN General Assembly Res. 45/170 (1990)

**Yugoslav Conflict:**

**Documents:**
2:36 UN Security Council Resolution 780 (1992)

G. The International Criminal Court

Course Reader, Part 2:

Readings, On Reserve:
#7 *Origin of the International Criminal Court*

Documents:
Mar. 10 (cont’d)  H. International Terrorism and Its Control: The Events of September 11 and Their Aftermath

Casebook:
485-522  (J. Murphy, ch.10)

Readings, On Reserve:
#8  J. Moore, Civil Litigation Against Terrorism: Neglected Promise, in LEGAL ISSUES IN THE STRUGGLE AGAINST TERROR 197, 231-234 (Moore & Turner, eds., 2010) [a draft protocol to UN anti-terrorism conventions].
#9  A. Deeks, Pakistan’s Sovereignty and the Killing of Osama Bin Laden 15 INSIGHTS, Issue 11 (May 05, 2011)

Online (skim): For greater granularity about ISIS see the following links:
http://www.pbs.org/wgbh/frontline/film/rise-of-isis/  (video program)

See also the Institute for the Study of War: http://www.understandingwar.org/

Documents:

Choose One of the following Three:
2:42  Skim Tokyo Convention on Offenses and Certain other Acts Committed on Board Aircraft (1963)
2:48  Skim International Convention against the Taking of Hostages (1979)

I. Domestic Terrorism

Casebook:
1463-1477  (M.E. Bowman, ch. 33)

March 17  ** ** SPRING BREAK March 12-19 —No Classes Meet ** **
March 24

III. Strategic Stability and Arms Control & American Security Doctrine

A. Theoretical and Historical Overview

Casebook:
839-57 (A. Coll, ch. 18)
563-96 (R. Lehman, G. Roberts, & D. Mahley ch. 13)

Documents:
1:1 Washington’s Farewell Address: The American Interest in Diplomatic Freedom, Sept. 17, 1796 [Skim]
1:5 George Kennan, The Long Telegram, Feb. 22, 1946* [Skim]
1:8 National Security Council Memorandum # 68 [1950] [Skim]
2:7 North Atlantic Treaty, 1949 [Skim]
4:13 Final Warsaw Declaration: Toward a Community of Democracies (2000) [Skim]

B. Nuclear Weapons and Their Effects

Casebook:
673-82 (R. Lehman, G. Roberts, & D. Mahley ch. 13)

*For those who are interested, see also U.S. INSTITUTE OF PEACE, ORIGINS OF THE COLD WAR: THE NOVIKOV, KENNAN, AND ROBERTS “LONG TELEGRAMS” OF 1946 (1991), which contains full texts of the telegrams: from George Kennan, U.S. Chargé d’Affaires in Moscow, to the U.S. State Department (Feb. 22, 1946); from Nikolai Novikov, Soviet Ambassador to the United States, to Soviet Foreign Minister Viacheslav Molotov (Sept. 27, 1946); and from Frank Roberts, Britain’s Chargé d’Affaires in Moscow, to British Foreign Minister Ernest Bevin (March 1946).

C. Strategic Arms Limitation Talks (SALT I & II) and Strategic Arms Reduction Talks (START I, II, & III) and Resulting Treaties and Agreements

Casebook:
596-625 (R. Lehman, G. Roberts, & D. Mahley ch. 13)

Documents:
3:21 ABM Treaty, 1972
3:22 SALT I, 1972 [excerpts]
3:30 START II, 1993 [excerpts]
D. Mutual Balanced Force Reduction/Conventional Armed Forces in Europe
Talks (MBFR/CFE) and Theater Nuclear Force/Intermediate-Range Nuclear
Force Talks (TNF/INF) and Resulting Treaties

Casebook:
625-73; 682-90 (R. Lehman, G. Roberts, & D. Mahley, ch. 13)

Documents:
3:17 CFE Treaty 1990 [excerpts]
3:18 White House Fact Sheet on CFE
3:19 CFE Treaty 1999 [excerpts]
3:26 INF Treaty, Dec. 8, 1987 [excerpts]

March 24 (cont’d) E. Contemporary Issues: Nonproliferation and Counter-proliferation of Nuclear,
Chemical, and Biological Weapons and Ballistic Missiles

- Non-Proliferation Treaty (NPT), July 1, 1968 and recent review
conference
- Chemical Weapons Convention (CWC), January 13, 1993
- Biological Weapons Convention, April 1972
- Missile Technology Control Regime (MTCR)
- Comprehensive Nuclear Test Ban Treaty (CTBT)

Course Reader, Part 2:
586-89 U.S. Arms Control and Disarmament Agency, Office of
Public Affairs, “Fact Sheet: The Missile Technology
Control Regime” (May 17, 1993) [Skim]
590-92 U.S. Arms Control and Disarmament Agency, Official
Text Statement of Ambassador Thomas Graham, Jr.
(Sept. 13, 1994) [Skim]
593-96 U.S. Arms Control and Disarmament Agency, U.S.-
Democratic People’s Republic of Korea agreed
Framework (Oct. 21, 1994) [Skim]
597-600 Agreed Framework Between the United States of
America and the Democratic People’s Republic of
Korea, Geneva (Oct. 21, 1994) [Skim]
601-04 Letter of Transmittal to the Senate of the White House
from President William J. Clinton: September 22, 1997
605-06 Why Ratify the CTBT? Bureau of Arms Control Fact
Sheet: October 8, 1999 [Skim]
607-10 CTBT Facts and Fiction: US Department of State,
October 8, 1999 [Skim]
611-26 Decision Briefs: October 11-12, 1999, Center for
Security Policy [Skim]
March 24 (cont’d)  

**Documents:**

- 3:7 Non-Proliferation Treaty [excerpts] (1968)
- 3:39 Missile Technology Control Regime (formed 1987)

1993-2006 North Korean Violation of NPT as a Case Study

**Course Reader, Part 2:**


F. United States-Russian Strategic Cooperation

**Course Reader, Part 2:**


G. National Missile Defense

**Course Reader, Part 2:**


March 31  

IV. National Institutional Framework

A. The Constitutional Framework for the Division of National Security Powers Between Congress and the President

1. Historical Background and General Principles
Casebook:
859-903  (R. Turner, ch. 19)

2. The Authority of Congress and the President to Conclude, Interpret, and Terminate Agreements Relating to National Security

Casebook:
973-1007  (R. Dalton, ch. 21)

3. The “Dual vs. Unitary” Theory Debate Arising from the “Broad-Narrow” Issue in Interpreting the Anti-Ballistic Missile (ABM) Treaty

Course Reader, Part 2:

Optional Readings for March 31:
Course Reader, v. 2:

April 7
4. The Authority of Congress and the President to Use the Armed Forces Abroad

Guest Speaker:
Robert F. Turner
Associate Director, Center for National Security Law

Casebook:
927-57  (R. Turner, ch. 20)
Course Reader, Part 2:

April 7 (cont’d)

5. The War Powers Resolution

Casebook:
957-72 (R. Turner, ch. 20)

Course Reader, Part 2:

Documents:
5:29 National Commitments Resolution (1969)
5:30 War Powers Resolution (1973)
5:31 Nixon’s Veto of the War Powers Resolution

Readings, On Reserve:
#10 H.H. KOH, The National Security Constitution We Inherited: From the Founding to the National Security Act, in THE NATIONAL SECURITY CONSTITUTION: SHARING POWER AFTER THE IRAN-CONTRA AFFAIR 67-100 (1990)

B. The National Security Process

Casebook:
1009-40 (J. Baker, ch. 22)

Documents:
5:1 National Security Act of 1947


April 14
*** EASTER BREAK April 14-16 No classes meet ***
April 21

C. Secrecy, Access to National Security Information, and the Classification System

Casebook:
1087-1130 (R. Turner, ch. 24)

Documents:
5:49 Executive Order 13292 on National Security Information [Skim]
5:50 Executive Order 13381 on eligibility for access [Skim]

D. Intelligence and Counterintelligence

Casebook:
1041-86 (Morgan & Fredman, ch. 23)

Documents:
5:54 Skim Executive Order 12333 on U.S. Intelligence Activities
5:56 Hughes-Ryan Amendment (intelligence oversight, 1991)
5:61 Intelligence Reform and Terrorism Prevention Act of 2004

E. The Foreign Intelligence Surveillance Act

Casebook:
1201-20 (M. Shadel, ch.27)

Documents:
5:53 Skim Foreign Intelligence Surveillance Act (1978)

Optional Readings for April 21:

Course Reader, Part 2:

Supplementary Online (skim per your interest)
V. Individual Rights and Accountability

A. Freedom of Expression, Protection of Privacy, and National Security

1. The First Amendment of the United States Constitution and National Security

Casebook:
1131-68 (R. O’Neil & J. J. Wheeler ch. 25)

2. The Fourth Amendment of the United States Constitution and National Security

Casebook:
1169-99 (M.E. Bowman, ch. 26)

B. Detainee Rights

Casebook:
457-83 (J. Altenburg & T. Nachbar, ch. 9) [skim]

Optional Readings for April 21:

Course Reader (briefly skim these excerpts), Part 2:

On Your Own

Review the suggested readings for this section on your own:

C. National Security Violations

Casebook:
1221-64 (J. Breinholt, ch. 28)

April 28

VI. Other National Legal Issues

A. Homeland Security

Casebook:
1417-62 (S. Spaulding, ch. 32)
### Documents:
- 5:6 Posse Comitatus Act (1878)
- 5:9 Homeland Security Act of 2002

B. Law and Warfare in the Cyber Domain

#### Casebook:
- 537-62 (P. Rosenzweig, ch. 12)

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**On Your Own**

Review the *suggested* readings for additional issues that can be read based on your own personal interest.

A. The Environment and National Security

#### Casebook:
- 1479-1553 (J. Cruden, ch. 34)

**Course Reader, Part 2:**
- 831-33 UN General Assembly Res. 47/37 (1992)

B. Security Aspects of Oceans Law

#### Casebook:
- 755-83 (H. Robertson & J. Kraska, ch. 15)

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**April 28 (cont.) VII. Economic Sanctions and Export Control**

A. An Introduction to Economic Sanctions

#### Casebook:
- 1315-48 (R.R. Newcomb & M. Roberts, ch. 30)

B. An Introduction to Export Controls

#### Casebook:
- 1389-1410 (L. Christensen & A. Cotterill, ch. 31)

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Classes end April 29, 2017
JOHN NORTON MOORE

John Norton Moore is the Walter L. Brown Professor of Law at the University of Virginia School of Law. He also directs the University’s Center for National Security Law and the Center for Oceans Law & Policy and was the Director of the Graduate Law Program at Virginia for more than twenty years. Viewed by many as the founder of the field of national security law, Professor Moore chaired the prestigious American Bar Association’s Standing Committee on Law and National Security for four terms. He is the author or editor of over 25 books and over 165 scholarly articles and served for two decades on the editorial board of the *American Journal of International Law* and is currently an honorary editor of the *Journal*. He is a member of the Council on Foreign Relations, the American Law Institute, the American Society of International Law, the Order of the Coif, Phi Beta Kappa, and numerous other professional and honorary organizations.

In addition to his scholarly career, Professor Moore has a distinguished record of public service. Among seven Presidential appointments, he has served two terms as the Senate-confirmed Chairman of the Board of Directors of the United States Institute of Peace and, as the first Chairman, set up this new agency. He also served as the Counselor on International Law to the Department of State, and as Ambassador and Deputy Special Representative of the President to the Law of the Sea Conference, Chairman of the National Security Council Interagency Task Force on the Law of the Sea, and as a member of the United States’ legal team before the International Court of Justice in the *Gulf of Maine* and *Paramilitary* cases (a Deputy Agent for the United States in the *Paramilitary* case). Professor Moore served as a Member of the Director of Central Intelligence’s Historical Review Board from 1998-2002.

In the recent past, he has served as a Consultant to both the President’s Intelligence Oversight Board and the Arms Control and Disarmament Agency. He has also been a member of the National Advisory Committee on Oceans and Atmosphere, the United States Delegation to the Conference on Security and Cooperation in Europe, and the Presidential Delegation of the United States to observe the elections in El Salvador. In 1990, he served, with the Deputy Attorney-General of the United States, as the Co-Chairman of the United States-USSR talks on the Rule of Law. He also served as the legal advisor to the Kuwait Representative to the United Nations Iraq-Kuwait Boundary Demarcation Commission. Currently he is also a consultant to the OSS Society.