International Law and Covert Operations
Georgetown University Law Center
Spring 2017
Thursdays 1:20-3:20
Professors James W. Zirkle and Rita Siemion

Course Syllabus

Due Dates/Deadlines:

Paper Topics Due: **March 2**
Draft Papers Due (optional): **March 23**
Final Papers Due (May 2017 graduates): **May 1**
Final Papers Due (non-graduating students): **May 16**

Course Material:

In addition to the assigned weekly readings posted on Canvas, we will use the following books:


Course Description:

With the end of World War II and the establishment of the UN, particularly Articles 2(4) and 51, the international community has endeavored with mixed success to regulate the use of force. International relations have traditionally been conducted with a Westphalian view of individual state sovereignty and territorial integrity. Respect for state sovereignty encourages stability. Today non-state actors operating across state boundaries present a new and complex set of problems. And states tend to act in what they perceive to be their own self-interest, which may or may not be in strict compliance with Art. (2)(4). In addition, technology has expanded the ways in which states can now use force to attempt to alter outcomes. Targeted killings (or non-judicial killings) using unmanned aerial vehicles (UAVs) are but a recent example of the application of limited force to obtain a desired outcome. Covert activities, while raising substantial policy issues, may avoid some of the legal and political difficulties associated with the use of overt military force and may become an increasingly attractive option in situations, including threats to human rights, where diplomatic or economic coercion are not sufficiently viable and action is deemed necessary by state decision makers. There is a tremendous amount of scholarship emerging that focuses on this and other aspects of covert activities.
In this course, we will first examine the U.S. law regulating such activities, including Title 10 and Title 50 and Congressional Oversight. But most of the course will be devoted to reviewing the relevant areas of international law (including the Law of Armed Conflict, International Humanitarian Law and Human Rights Law) that are most often invoked in analyzing the legality of the use of force. We will examine case studies involving several types of operations, including renditions, reprisals and humanitarian rescue operations. The course will examine a variety of scholarly legal arguments in the context of specific covert operations that have been reasonably well documented. We will discuss the law enforcement model often proposed where targeted killing is involved and compare it with the armed conflict approach. This course will examine how neutral legal norms are applied in specific contexts and how political reality can shape outcomes and the application of such norms.

**Part I: Introduction to Covert Action**

January 19: Domestic Authority for Covert Action

January 26: Sovereignty Constraints: The U.N. Charter Framework

February 2: Lethal Force Constraints: The Law of Armed Conflict and Human Rights Law

**Part II: Congressional Oversight**

February 9: Title 10/Title 50 Convergence and DoD vs. CIA
   Guest Speaker: Eliana Davidson
   Deputy General Deputy General Counsel, Intelligence
   Office of General Counsel
   U.S. Department of Defense

February 16: Traditional Military Activities

February 23: NO CLASS (Monday classes meet instead)

**Part III: Determining Which Rules Apply**

March 2: IHRL and the Law of Armed Conflict: Does the Legal Framework Matter?
   *Paper Topics Due

March 9: Bridging the Divide Between IHRL and LOAC through Legal Interpretation and Layers of Policy Constraints

March 16: NO CLASS (Spring Break)
March 23: Detention Authority in Non International Armed Conflicts  
Guest Speaker: Gary Solis  
Draft Papers Due (optional)

**Part IV: Case Studies**

March 30: Al Awlaki and America’s Drone Wars

April 6: Bin Laden, Entebbe Raid, Eichmann Rendition, Dubai Operation

April 13: Israel’s Revenge for the Munich Olympics Massacre (Striking Back)

April 20: Israel’s Attacks on Iraqi and Syrian Nuclear Facilities (Raid on the Sun)

April 27:  Eye in the Sky Discussion/Course Wrap Up