LAW H 542
INTERNATIONAL HUMANITARIAN LAW
School of Law, University of Washington, Seattle
Syllabus V3 for spring 2013

Adjunct Senior Lecturer: Frederick Michael Lorenz JD, LLM – lorenz@u.washington.edu
Class Meets: Monday and Wednesday 1:30 to 3:20 in EXEC 110, the Boeing Auditorium in the
New Executive Education Center across from the Law School and behind Peccar Hall.
Office Hours: after class or by appointment in Thomson Hall, room to be announced
Class Page on UW Common View https://catalyst.uw.edu/workspace/lorenz/20401/

Course Summary and Schedule

This course will meet concurrently with the Jackson School Course JSIS A 465, please note that the
combined class will meet in the law school between 1:30 and 3:20 on two Friday afternoons in
addition to the Monday-Wednesday sessions in the Boeing Auditorium. Where listed the entire text
chapter is required reading before class, including cases and materials, and be prepared to discuss
in class the *highlighted cases listed below. At the end of each regular classroom hour the class will
form small discussion groups for questions posed by the instructor. Note carefully the schedule
below, and the course will conclude on Wednesday, May 22 when final papers are handed in.

Part 1: Introduction, Definitions and History
Week 1, Monday April 1, a. Course introduction and administration. b. Fundamentals of
Wed April 3, Law students meet separately with instructor in first hour. Second Hour: Codes,
Conventions and Declarations, Read Ch 2. *US v. Private Schwarz

Week 2, Monday, April 8, a. History of International Humanitarian Law through 1946, Read Ch 3.
*High Command Case. Discussion of the Bush Administration “unlawful combatant” theory.

Part 2: The Framework: Conflict Status and Individual Status
*Prosecutor v. Limaj and *Hamdan v. Rumsfeld

Includes Presentation on “unprivileged enemy belligerents.” see web site for additional readings.
Also: Targeted Killing and UAV’s (Drones).
Wednesday April 17 LOAC Four Core Principles, Ch 7. *Kupreškić case. What is a War Crime?

*Friday April 19, Room 133, Gates Hall (Law School), Presentation on Military Commissions, see
web site for additional readings. Law Student Exercise A. In first hour and Classroom Panel in
Second Hour, more details provided later in this syllabus and in the first week of class.
Part 3: Battlefield Issues


Wed, May 1:  a. Rules of Engagement (ROE), Ch 13 and Special Presentation on Somalia, see posted readings.  Second Hour:  ROE and Escalation of Force in Iraq and Afghanistan

Part 4: Accountability Issues and International Courts During May there will be an optional evening showing of the film: Breaker Morant, study questions posted in advance, and date will be scheduled.

*Friday May 3, Room 133, Gates Hall (Law School), Panel on IHL-LOAC Issues in Afghanistan. Army and Marine Judge Advocates will talk about recent experience in the field. Opportunity for questions and discussion in second hour.


Week 7 Mon May 13:  Gas, Biological and Chemical Weapons. Ch 17 *The Moscow Theater Hostage Crisis. Second Hour: Cyber Warfare: What is a “proportional” response to a computer attack?

Wed. May 15: Exercise #1 Targeted Killing of US Citizens. Who can be targeted? Is the current US Policy lawful and necessary? Who has authority to make the decision? Should it be made more transparent or should there be a secret “national security court” to approve the list?

Week 8, Mon May 20: Exercise #2 Crimes Against Humanity and the ICC. Is the current standard too broad? Does the ICC have the capacity to deal with the all the situations under its purview? To what extent should politics enter the decision by the ICC to investigate a situation?

Wed May 22: Exercise #3 Drones and Cluster Bombs. Arguments for and against the lethal technology that is currently in the US arsenal. Based upon the principles of IHL-LOAC are these technologies lawful and if so, can they be used to properly discriminate between military targets
and innocent civilians? Even if lawful, are there practical consequences that should limit their use? (last required day for law students) *Final Briefs Due in class today.* Final discussion and course evaluations

**Overview** International Humanitarian Law, sometimes called the Law of Armed Conflict or LOAC, is a branch of Public International Law. The course will begin with an introduction to the basic principles of international law and the historical development of rules developed by civilized nations to protect the victims of armed conflict and limit the destructive impact of warfare. After each lesson we will review the concepts and discuss cases from the courts and tribunals that have established standards for command responsibility. The International Criminal Court (ICC) will be the subject of a discussion: What role should the ICC have in recent conflicts including Libya, Kenya and Ivory Coast?

During the course we will be giving special attention to the Middle East and use case studies from Libya, Syria, Iraq and Afghanistan. We will look at the problems associated with small arms and light weapons, and recent efforts to develop a treaty for the prohibition of cluster bombs. We will study the "war against terrorism," including the US detainees at Guantanamo and the legal basis for policies and action pursued by the US. The course will include a combination of lecture, classroom discussion and small group exercises.

**Course Objectives:**

1. To review the history and development of international humanitarian law.
2. To understand the challenges in the protection of victims of armed conflict and placing limits on warfare.
3. To understand the dynamic relationship between politics, human rights, and international law.
4. To appreciate the difficulty of applying international law to particular factual situations.
5. To develop an understanding of international law issues in the Middle East, particularly in Iraq, Libya and Afghanistan.
6. To provide practice in advocacy and oral argument in a simulated courtroom or public hearing.
7. To sharpen the analysis of current events, and how the law works in its daily practical application.

**Assignments, Participation and Grades**

This is a course that requires in-class participation in small discussion groups, one “exercise” with an oral argument and two written assignments. The first brief will be part of your exercise and oral argument, and will be about 8-10 typewritten double space pages, or 2,600 words. The second and final paper will be about fifteen pages, or 4,500 words, and will be handed in on the final day of class. Each of the papers will count as 1/3 of the final grade, class participation will also be 1/3 of the final grade; this will include your participation in the classroom exercises, discussion groups and oral argument. Sample briefs and final papers will be made available before the first week of class on the class web page listed above.

**Exercises and Oral Argument:**

Law students will sign up for one of the five exercises during the first week of class. The first two exercises (A and B) are for law students only, see the schedule for dates. For the last three exercises law students will be teamed with undergraduates, law students will present the legal argument and
undergraduates will present policy and technical arguments for the team. Each law student will have one exercise with a brief, and sign up for one of the five exercises early in the quarter. The first law student exercise (Military Commissions) comes early, at the end of week 3. Four law students will be assigned to one of the 9/11 cases, two as prosecutors and two as defense counsel. There will be two issues, with a prosecutor and defense counsel for each issue. The first issue will be “unlawful influence” and the second issue will be the nature of an international crime, and whether conspiracy and “support for terrorism” are included. More detail will be provided in this syllabus the week before class starts, and law students can “sign up” for the first exercise before class starts by sending an e-mail to the instructor. Students who choose the first exercise will have more time to finish the second and final writing assignment.

**Last Three Exercises:** During week 7 and 8 there will be three exercises in which students will play the roles of States and organizations facing difficult issues of international humanitarian law. There will be multiple opposing teams with three or four people on each side, law students and undergraduates will be combined on these teams. During the exercise each team will have a specified period to state its position; each student will only have about 5-7 minutes maximum. More information on exercise procedure will be provided in class, students can sign up for roles beginning on the second day of class and sign up must be completed by the second week of class. Consider signing up for a role you may not necessarily agree with, you are bound to learn more in the process. You will have to sign up for a particular role, such as Exercise 3, Team A, and a sign-up sheet will be used and posted on the web page. There may be some flexibility in assigning particular roles, if students have suggestions to add or modify certain subjects or roles. Each team should present a unified position, and it would be helpful to elect a spokesperson for each team. A team can often divide the responsibilities into three areas, policy, legal, and factual/technical/historical. The objective is to work together to make the best possible presentation. These are complex subjects, so you need to work together to understand all the components. We will discuss this in class in advance of the exercise and I will try to give helpful hints on organizing your presentation, or meet separately with your group.

**Discussion Groups:** At the end of each regular classroom hour the class will form small discussion groups and discuss questions posed by the instructor. Starting on the second day of class law students will be asked to form discussion groups with undergraduates and these discussion groups will sit together for most of the quarter. This is designed to promote classroom discussion and encourage analysis from different perspectives.

**Late Papers:** All papers must be handed in class on the scheduled due date, penalties will be assessed (grade reductions) for late papers. The first brief is due and filed as an e-mail attachment two days before the date of the oral argument or “exercise,” see the class schedule for dates and subject matter. The Final Paper (Brief) is due in class Wednesday May 22, note the policy on late papers.

**REQUIRED TEXT BOOKS:**


**Reading assignments:** The assignments are listed in the schedule; the reading for that class must be completed before the scheduled class. After the chapter assignments there will be references to the cases and materials, all are part of the required reading but some will be listed and receive special *emphasis for discussion in class. A few items of reading material will be posted on the class web page and e-mail notification will be sent out in advance.

**OPTIONAL AND RECOMMENDED READING LIST and LINKS:** Will be posted on the class web page, see the heading “Links and Resources.”

**E-MAIL POLICY:** It is important that you check your UW e-mail regularly, or provide for forwarding messages from UW to the account you use (such as gmail). I will be sending notices to the UW list serve which keeps an up to date list of all students registered for this course. Send me an e-mail ([lorenz@u.washington.edu](mailto:lorenz@u.washington.edu)) if you have a question about the course, or anything we cover in class. I will often respond to questions by an e-mail to the group.

**LAPTOP COMPUTERS AND MOBILE DEVICES IN CLASS** We live in a world of vast information at our fingertips, but there is a problem if you are using a device to check e-mail, Facebook or other sources outside the course. You will not be tested on the lectures so the importance of taking notes in class should be limited. I will always post the days lecture slides on the day after the lecture. If I ask a question in class about the assigned readings I would prefer that you respond from memory rather than pulling up the answer on your computer. So please make reasonable use of the computer in class if you must bring it.

**Final Paper:** A fifteen page brief on a topic approved in advance by the instructor and handed in on the final day of class. There are a number of timely themes in the news every day, such as the standards for military interrogation, the scope of the torture convention, the responsibility of government contractors, and the accountability of high government officials and lawyers for war crimes. All papers need to have a clear thesis or argument succinctly stated. For example: *The current US policy on indefinite detention of “terrorists” at Guantanamo is unlawful and impractical.* In class we will discuss the policy that allows indefinite detention even where the accused is acquitted of alleged crimes, or never brought to trial.

The topic you choose for the final brief should be different from the one you argued in your previous exercise in class. It is better to be specific in terms of a particular conflict (say Darfur and Genocide) rather than genocide as a theoretical concept. Suggestions on topics will be provided and discussed during the course. I welcome your comments on the course texts, or any improvements you might recommend for the course.

Frederick Michael Lorenz, JD, LLM