I. COURSE MATERIALS

While there is no casebook, this course relies on primary sources including statutes, cases, treaties and conventions. All will be electronically provided to the student by the professor through your Ubalt account. Due to ongoing armed conflicts around the world, this syllabus may be amended at any time.

II. CONCEPTS AND GOALS

This course will present students with an overview of Military Law, including:

- Public and Customary International Law and its place in American law.
- The history and framework of the Law of Armed Conflict.
- A familiarity with the development of the Jus in Bello as found in the treaties, tribunals and case law.
- The treatment of prisoners of war as well as civilian populations from the perspective of international fora.
- The application of law across the conflict spectrum including what law applies during a military occupation.
- The evolving treatment of war crimes by nations and armies.
- The continuing line of authority dealing with detainees at Guantanamo Bay and elsewhere.
- The legal aspects that underpin the ability of the US military to play a role in civil society.

III. ASSIGNMENTS AND GRADES

A. Class assignments: Students are expected to complete the reading assignments from the text and supplemental materials, to attend class on time and participate meaningfully in class discussions of readings and problems. You are expected to consistently participate in class discussions in order to demonstrate that you have read and reflected on issues raised in the assignments. Consistent with the School of Law’s Academic Regulations, students are permitted up to two (excused or unexcused) class absences. If you know that you will be absent from class, please provide faculty as much notice as possible.

B. Ninety percent (90%) of your grade will come from a paper of at least 25 pages in length. For further guidance as to what the School of Law requires for an upper level writing requirement paper, please see http://law.ubalt.edu/template.cfm?page=231. Ten percent (10%) will be based on your diligence and preparation in reading and critically thinking about the assigned reading as reflected in meaningful class participation.
August 18, 2015
Public & Customary International Law

Bas v. Tingy, 4 U.S. (4 Dallas) 37 (1800)
The Prize Cases, 67 U.S. 635 (1862)
The Paquete Habana, 175 U.S. 677 (1900)

Discussion between Justices Scalia and Breyer on International Law
http://www.freerepublic.com/focus/f-news/1352357

August 25, 2015
History and Legal Framework of the Law of War

West Rand Central Gold Mining Company, Ltd v. The King, 2 K.B. 391 (1905)
Kawasaki of Kobe v. Bantam Steamship Co., Ltd., 2 K.B. 544 Court of Appeal
When Judges Make Foreign Policy by Noah Feldman, NY Times 9/28/2008

September 01, 2015
Jus ad Bellum, Foreign and Domestic

UN Charter, articles 2, 39, 41-42, 51
UN Resolutions 678, 794, 940, 1031, 1264, 1386
The Caroline Case
The National Security Strategy of 2002

September 08, 2015
Means and Methods of Warfare

The War Powers Act, 50 USC 1541-1548
MA v. Laird, 451 F.2d 26

The Hague Convention of 1907, found via the following link:
http://avalon.law.yale.edu/20th_century/hague04.asp

The Hostages Cases found at:
http://www.ess.uwe.ac.uk

September 15, 2015
Means & Methods of Warfare (cont’d)

Trial of Lothar Rendulic

Trial of Otto Skorzeny and Others:
http://ess.uwe.ac.uk/WCC/skorzeny.htm
http://www.time.com/time/magazine/article/0,9171,794446,00.html
First Geneva Convention, Common Article 3 and Additional Protocols (I & II):
http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/genevaconventions

Essay on the 1954 Hague Convention on Cultural Property:
http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/57jq39?opendocument

Army Field Manual 27-53:

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By class time on September 29, all students must have submitted a précis of approximately 250 words
detailing the subject on which they intend to write their paper.
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September 22, 2015
Protection of the Sick and Wounded on the Battlefield

First Geneva Convention, Common Article 3 and Additional Protocols (I & II):
http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/genevaconventions

Report of the UN Factfinding Mission on the Gaza Conflict
http://www2.ohchr.org/english/bodies/hrcouncil/specialsession/9/factfindingmission.htm

September 29, 2015
Prisoners of War

Correspondence between Generals Forrest and Washburn:
http://www.civilwarhome.com/forrestcorrespondence.htm

Hague Conventions IV, articles 4-20

Lieber Code articles 1-30; 48-80; 105-118 found at:
http://avalon.law.yale.edu/19th_century/lieber.asp

Geneva Convention of 1929

Geneva Convention of 1949


US v. Staff Sergeant Walter Griffen, 39 C.M.R. 586; 1968 CMR

Trial of General Dostler

Trial of Max Wielen and 17 Others

Both of the last two found at www.ess.uwe.ac.uk
October 06, 2015
WAR CRIMES

Application of Yamashita, 327 US 1 (1946)

The High Command Case (aka Von Leeb and 13 others) found at ...
www.ess.uwe.ac.uk/WCC/ghtrial1.htm

US v. Captain Medina: see judge's summation at:
http://www.law.umkc.edu/faculty/projects/ftrials/mylai/MYL_LAW3.HTM
and the prosecutor's brief on command responsibility at ...
http://www.law.umkc.edu/faculty/projects/ftrials/mylai/MYL_MED2.HTM

US v. 1Lt William L. Calley, Jr., 46 C.M.R. 1131 (1973)
Koster v. US, 231 Ct. Cl. 301 (1982)
Hague IV articles 23, 25, 27, 28
FM 27-10 para 499

October 13, 2015
WAR CRIMES (cont’d)

ICTY charter at http://www.icty.org/sections/AbouttheICTY
See also http://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf
... and read pages 7-14 (articles 1-34)

... please read articles (1-8)

ICTY v. Milan Martic found at:

American Servicemembers' Protection Act of 2001, 22 USCA 7421-7433
Military Extraterritorial Jurisdiction Act, 18 U.S.C. 3261

October 20, 2015
Law of Occupation

Geneva Convention IV, articles 6, 33, 43, 47, 53, 64-65, 68; part II; part III, sec 1-4
Geneva Convention Additional Protocol I, article 3
Hague IV, articles 28, 42, 43, 47
FM 27-10 paras 351, 358, 394 &397
UCMJ article 99
Eisenhower’s Proclamation #1
CPA Regulation #1
US v. Custer Battles LLC (EDVA 2006)

October 27, 2015
**Military Commissions, Detainees and Enemy Combatants**

Ex Parte Valandigham, 68 US 1 Wall 243 (1863)
Ex Parte Milligan 71 US (4 Wall.) 2 (1866)
Ex Parte Quirin, 317 US 1 (1942)
Application of Yamashita, 327 US 1 (1946)
Johnson v. Eisentrager, 339 US 763 (1950)

Padilla v. Hanft, found in two acts at...

**November 03, 2015**
**Guantanamo Bay and the War on Terror**

The Detainee Act of 2005
Military Commissions Act of 2006

**November 10, 2015**
**DEFENSE SUPPORT TO CIVIL AUTHORITIES**

Posse Comitatus Act, 18 U.S.C. 1385
Military Support for Civilian Law Enforcement Agencies, 10 U.S.C. 371-382
The Insurrection Statutes, 10 U.S.C. 331-334
The Stafford Act, 42 U.S.C. 5121 et seq. as amended
The National Strategy for Homeland Security (October 2007) found at...

Laird v. Tatum, 408 US 1 (1972)
Bisonette v. Haig 776 F.2d 1384

**November 17, 2015**
**Fundamentals of Military Criminal Law and “the unique culture”**