LAW AND CONFLICT

Professor: Pr. William Schabas and Pr. Sharon Weill
Academic Year 2017/2018: Fall semester

BIOGRAPHICAL INFORMATION

William A. Schabas is one of the leading publicists in the field of International Human Rights Law and related areas. He has written more than 20 books and 300 journal articles on such subjects as the abolition of capital punishment, genocide, the Universal Declaration of Human Rights and the International Criminal Tribunals. Professor Schabas was a member of the Sierra Leone Truth and Reconciliation Commission. He has conducted missions for International Human Rights NGOs and has been a consultant to the United Nations. He has argued important cases before the Grand Chamber of the European Court of Human Rights.

Dr. Sharon Weill is a lecturer in international law and associate researcher at CERI, Sciences Po; author of the book The Role of National Courts in Applying International Humanitarian Law (Oxford University Press, 2014). Her particular field of interest is the relationship between international and domestic law, the politics of international law, human rights lawyers, the judicial enforcement mechanism of international law and the role of law in the global war on terror.

She has been teaching at PSIA-Sciences Po, Paris II and at CERAH (a joint program of the University of Geneva and the Graduate Institute of International Studies), where she has been also coordinating the legal studies of the master's program in humanitarian action.

During 2015-2016, she did research at the University of California, Berkeley, on the role of criminal justice and court in the war on terror; her field research included the military commission at Guantanamo Bay, Cuba, and the Israeli military courts in the occupied Palestinian territories. Back in Paris, she pursues her research on within French courts. Prior to that, she was a part of a research group in the European project "Security in Transition" led by Mary Kaldor at the London School of Economics in the UK. Dr Weill is also legal advisor to various NGOs and UN bodies.

COURSE OUTLINE

Session 1: The legal framework applicable during conflicts - an introduction

- The legality of the use of force under international law
The international rule of law?

Reading:

Session 2: Basic notions of International Humanitarian Law: Qualification of conflicts/combatants/ civilians

- Case study: The War on Terror

Readings

Further readings

Session 3: Jus ad Bellum and the responsibility to protect (RTP) / Prof Schabas

Reading material, to be sent.

Sessions 4-5: Detention and the prohibition of torture

IHL and human rights law: similarity and differences: Prisoners of Wars (POWs) v. The right to a fair trial; habeas corpus, Torture

- Case study: The military commissions at Guantanamo Bay
COURSE OUTLINE

Legal documents

- The UN Convention Against Torture (1984), Articles 1-8.
- The International Covenant on Civil and Political Rights (1966), Article 9, 14.
- The Fourth Geneva Convention (1949), Articles 146-147.

Readings:


Further readings:

- Senate Intelligence Committee report on CIA torture, Dec 2014


Session 6: Refugees, Internally Displaced Persons and the principle of non-refoulement/ Prof Schabas

Reading material, to be sent.

Session 7: The right to life and the targeted killings policy

- Case study: The targeted killing of Bin Laden

Readings:

• Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston, Addendum, Study on Targeted Killings, UN Doc A/HRC/ 14/24/Add.6 (28 May 2010).


Further readings:
• Israeli High Court of Justice 769/02, The Public Committee v. The Government of Israel, (14 December 2006).

• Film: ‘Eye in the Sky’ directed by Gavin Hood, 2015

Session 8: Conduct of hostilities and the protection of the civilian population during conflicts

• Case study: Operation Cast Lead and Protective Edge (Gaza, 2008 and 2014)

Readings:


Session 9: Military occupation

• Case Study: Israel / Palestine

Reading:
• International Court of Justice (ICJ), Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (4 July 2004). (selected paragraphs).


Further readings:

• Kretzmer, D., « The Occupation of Justice », 2002
COURSE OUTLINE

- ICRC, Occupation and other forms of administration of foreign territory: expert meeting (2012)

- Gisha (Israeli NGO), "Scale of Control: Israel’s Continued Responsibility in the Gaza Strip", November 2011

- Documentary Film: « The law in these parts » by Raanan Alexandrowicz: https://www.thelawfilm.com/eng#!/the-film

Session 10: Weapons

Reading material, to be sent.

Sessions 11 - 12: Enforcement Mechanisms and Accountability - International, Regional and National Courts

Readings:


- Weill, S., "Building respect for IHL through national courts", International Review of the Red Cross, Volume 96 (895/896), 2014, pp. 859-879. (available online)


Further readings:

- William A. Schabas, An Introduction to the International Criminal Court, Fourth printing (Cambridge University Press, 2014)

General background books for the course:
- White, N., Advanced Introduction to International Conflict and Security Law (Elgar Advanced Introductions series, 2014)
International Humanitarian Law (IHL):
- Sharon Weill, The Role of National Courts in Applying IHL (Oxford University Press, 2014)

Human Rights Law:
- Dinah L. Shelton, Advanced Introduction to International Human Rights Law (*Elgar Advanced Introductions series*, 2014)

International Criminal Law:
- Cassese et al, Cassese’s International Criminal Law (Oxford University Press, 2013)