WAR AND LAW SEMINAR
Fall, 2013
Joyce Malcolm

“In time of war the laws are silent.” Roman Saying

Office: 418 Hazel, X9150, jmalcolm@gmu.edu
Office Hour: Thursday 3:00 – 4:00pm and by appointment.

Books: John Keegan, The Face of Battle
        Michael Reisman & Chris T. Antoniou, eds, The Laws of War: A
        Comprehensive Collection of Primary Documents on International Laws
        Governing Armed Conflict
        Michael Howard, ed. al, The Laws of War: Constraints on Warfare in the
        Western World

The array of legal issues raised by war are among the most pressing our country, and
indeed our civilization, now confront. Among these are the questions of when military
force is appropriate; the role of, and protections for, uniformed armies; who should serve;
the proper treatment of conquered populations and non-combatants; treatment of
prisoners-of-war and non-state actors; honorable behavior when waging asymmetric
warfare; and the war powers of the American executive and Congress. Placing these
legal questions in an historical context is enlightening and tremendously helpful. This
course will examine these and other issues in that context while exploring today’s
evolving legal standards.

REQUIREMENTS:

Reading is assigned for each class and should be read in advance.

Grading will be based on a research essay (70%), a presentation (15%) and class
participation (15%).

Handouts: will be distributed a class in advance or sent by TWEN.
PLEASE NOTE:
The handouts for the first class may be picked up from the rack outside my office
door, Room 418.

TWEN: This course will be listed on TWEN. Please register.
TOPICS

August 15  
**Introduction:** War and Law: Rules of Warfare  
**Reading:** “Killing No Murder”, John Keegan, *The Face of Battle*, pp. 45-52  
The Melian Dialogue, Thucydides, *The Peloponnesian Wars*  
https://www.mtholyoke.edu/acad/intrel/melian.htm  
**Handout:** Clausewitz, *On War*, excerpts

August 22  
**Just War, Chivalry, Honour: The Legacy**  
**Reading:** Howard, *The Laws of War*, chap. 3, The Age of Chivalry  

August 29  
**Mercenaries vs Militia: Warriors vs Military Professionals**  
**Reading:**  
Reisman & Antoniou, pp. 44-45.  
**Handout:** Machiavelli, excerpt from *The Prince*  
Michael Robert, “The Military Revolution”

September 5  
**Controlling the Military: Anglo-American Strategies**  
**Reading:** English Bill of Rights  
http://www.constitution.org/eng/eng_bor.htm;  
**Handout:** The Mutiny Act, 1689  
Excerpts from debates at Constitutional convention and state ratifying conventions.  
Declaration of Independence

September 12  
**Civilians and War: Mass War and the Guerrilla Challenge**  
**Reading:** Howard, *The Laws of War*, chap. 6, The Age of Napoleon  
Reisman & Antoniou, *The Laws of War*, Hague Convention, Qualifications of Belligerents, pp. 41-42  
**Handout:** Excerpts, Geoffrey Best, *Humanity in Warfare*

September 19  
**The Guerrilla Challenge: The Vietnam War, Iraq and Afghanistan**  
**Reading:** Summers, *On Strategy*, Introduction, chaps. 1, 3, 6, 9

September 26  
**International Peace Conferences: Successes and Failures**  
**Reading:** Reisman & Antoniou, *The Laws of War*, pp. 35-36, 150-152  
**Handout:** selections, Best, *Humanity in Warfare*, pp. 128-157, 179-200

*RESEARCH PAPER OUTLINE & PRELIMINARY*
BIBIOGRAPHY

October 3  Men against Fire, World War I, Conscientious Objectors, Spies, Traitors
   Reading: Keegan, *Face of Battle*, The Somme, pp. 219-230, 247-251, 285-289
   Reisman & Antoniou, *the Laws of War*, p. 83
   US Treason, US Code, Title 18, part 1, chap. 115, ss2381.
   **Handout:** Michael Howard, “Men Against Fire”

October 17  The First Casualty: The Role of the Press in Wartime
   **Handout:** Phillip Knightley, *The First Casualty: From the Crimea to Vietnam: The War Correspondent as Hero, Propagandist, and Myth Maker*.

October 24  Bombing Civilians, POWs, Saboteurs: Lessons of Nuremberg
   Reading: Howard, *The Laws of War*, chap. 9, Air Power, pp. 140-154
   Reisman & Antoniou, pp 318-332

October 31  Asymmetric Warfare and the Geneva Agreements: Soldiers vs Non-State Actors
   *Hamdan v. Rumsfeld*

November 7  Detainee Cases
   Public Committee Against Torture v. State of Israel, Supreme Court of Israel, Sept. 6, 1999.

November 14  Should the Laws Be Silent in Times of War?

December 9  RESEARCH PAPER DUE (noon)