



NATIONAL SECURITY LAW
SYLLABUS

Semester: Fall 2024

Course Number: LAW 6930

Credits: 3

Days & Time: Tuesdays & Thursdays @ 10:35 AM – 12:00 PM

Location: Holland Hall 360

Zachary D. Kaufman, J.D., Ph.D.
Professor of Law

Office Location: Holland Hall 332

Office Hours: (1) Mondays 2 pm – 3 pm (via Zoom), (2) Thursdays 3:20 pm – 4:20 pm (in person),
and (3) by appointment (via Zoom or in person)

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Faculty Assistant: Victoria Rudd ([reddva@law.ufl.edu](mailto:reddiva@law.ufl.edu), 352-273-0906)

I. COURSE INFORMATION

A. COURSE DESCRIPTION

This course surveys the framework of domestic laws—constitutional, statutory, and regulatory—and international laws that authorizes and constrains the U.S. government’s pursuit of national security policies, with an emphasis on developments in this area since September 11, 2001. This broad survey course in national security law analyzes the balance between liberty and security, examining both substantive questions (how and where to strike the balance?) and institutional questions (what are the roles and powers of the president, Congress, and courts in striking that balance?). National security contexts explored include (1) the use of force abroad (including targeted killing), (2) domestic security, (3) secrecy, and (4) investigation, detention, interrogation, and prosecution of suspected perpetrators of terrorism and atrocity crimes.

B. LEARNING OUTCOMES

Through and as a result of this course, students will:

- develop an understanding of substantive law applicable in various national security contexts;
- engage in legal analysis and reasoning—both written and oral—related to legal issues raised by U.S. national security policy;
- evaluate the strength of legal arguments presented on either side of national security debates; and
- assess the efficacy and implications of various doctrines applied in U.S. courts.

C. CLASS SURVEY

So that I may get to know you better, by August 13 please fill out [this Google form](#).

D. SUBJECT MATTER

In this course we will study difficult subject matter. We will read and discuss materials that address troubling topics, such as torture, targeted killing, and genocide.

It is essential for everyone in the class to communicate with the thoughtfulness, sensitivity, and care that these topics warrant. I will do my best for such communication, and I ask you to do the same. Please let me know privately if you have concerns about participating in discussion of a particular topic.

E. COMMUNICATION AND OFFICE HOURS

My primary means of communicating with you outside of class will be by email and by posts on our course's Canvas site. You are expected to check your email and Canvas and are responsible for any announcements or assignments I send via email or post on Canvas.

I am happy to answer questions by email if they are short or related to class logistics. I will do my best to respond to all questions within three business days. Substantive course-related questions are typically best addressed in office hours. During office hours I'm also happy to discuss course-related issues in the news, provide career advice, and talk about clerkships, public service, law firms and other opportunities in the private sector, or anything else you find interesting and productive.

When emailing me about meeting or for any other purpose, please include the abbreviated bracketed course name—"[NSL]"—at the beginning of a descriptive subject header. For example, if emailing me a note that you must miss a class due to illness, your subject header would be something like: "[NSL] Upcoming Absence due to Illness."

I will hold office hours at the times listed at the beginning of this document. You may schedule appointments via email and you may do so alone or in groups. Please be respectful of your classmates by promptly cancelling any appointment you do not intend to keep.

If you cannot meet during my regular office hours, I would be glad to find an alternative time. Please email me and include several options when you are available to meet.

F. STUDENT COURSE EVALUATIONS

Your feedback about the course is important and greatly appreciated. You are expected to provide professional and respectful feedback on the quality of instruction in this course. Please click [here](#) for guidance on how to provide feedback in a professional and respectful manner.

You will have two opportunities to provide feedback formally: a mid-term evaluation that I will administer and a final evaluation that the University of Florida (UF) will administer. For the mid-term evaluation, you will be notified when the evaluation period opens and you may complete evaluations through the Google Form I will provide. For the final evaluation, you will be notified when the evaluation period opens and you may complete evaluations through the email you receive from GatorEvals, in your Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/>. Summaries of courses' final evaluation results are available at: <https://gatorevals.aa.ufl.edu/public-results/>.

In addition, please email me or visit my office hours to provide any additional feedback.

G. COURSE EXPECTATIONS AND REQUIREMENTS

The expectations and requirements for this course are as follows:

- **Compliance with the University of Florida Levin College of Law Honor Code:** Academic honesty and integrity are fundamental values of the UF community. The UF Levin College of Law (UF Law) Honor Code also prohibits use of artificial intelligence, including, but not limited to, ChatGPT and Harvey, to assist in completing quizzes, exams, papers, or other assessments unless expressly authorized by the professor to do so. When using artificial intelligence, you must provide proper attribution to it. You are required to read and understand the UF Law Student Honor Code, which is available at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honorcode-and-committee/honor-code>. If you have any questions about the UF Law Student Honor Code, please let me know.
- **Canvas Registration:** You are required to register for the Canvas site for this course.
- **Checking Canvas and Email:** To ensure that you receive any class announcements or adjustments, you are required to check this course's Canvas page and read this course's email messages at least 3 weekdays per week.
- **Class Attendance:**
 - **Requirement:** Students are expected to attend and participate in class. I assume that each student enrolled in this course is committing to attend every class to the best of their abilities. Class attendance is required by both the American Bar Association (ABA) and UF Law. Attendance will be taken at each class session. You are responsible for ensuring the recording of your own attendance. You may not record attendance for another student. UF Law's policy on attendance is available at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>. A student who fails to meet this attendance requirement will be dropped from this course.
 - **Timeliness:** As a matter of professionalism, you are expected to be on time for class—meaning seated and ready to begin when class starts. Arriving late is disruptive not only to me, but also to your classmates. Please do not arrive late to class or leave early absent extenuating circumstances. If you need to do so, please notify me in advance and sit near an exit to minimize your disruption to others. Late arrivals may be treated as absences.

- Exception #1: 2 Absences for Any Reason: To allow for exigencies in life, you are permitted two class absences—for any reason—without impacting your final grade. If possible, professional courtesy encourages you to notify me if you will not be in class. Please let me know if you have a family or health situation or emergency that will require missing more than two classes, and we will discuss how to accommodate you.
- Exception #2: Absences for Illness: Please do not attend class if you are ill. All absences for illness are excused. The two-absence-for-any-reason policy does not apply to illness.
- Exception #3: Absences for Religious Holidays: UF Law respects students' observance of religious holidays (<https://catalog.ufl.edu/ugrad/1617/regulations/info/attendance.aspx>). All absences for religious holidays are excused. The two-absence-for-any-reason policy does not apply to religious holidays.
 - Students, upon prior notification to their instructors, shall be excused from class or other scheduled academic activity to observe a religious holy day of their faith.
 - Students shall be permitted a reasonable amount of time to make up the material or activities covered in their absence.
 - Students shall not be penalized due to absence from class or other scheduled academic activity because of religious observances.
- Grading and Credit: For each unexcused absence beyond two, and not including absences for illness or religious holidays, your grade will be lowered by one-third of a grade (e.g., A- to B+). If you miss three or more scheduled classes without my explicit permission (again, not including absences for illness or religious holidays), I have the discretion to render you ineligible to receive credit for the course. This policy starts on the first day of classes, not the end of the add/drop period.
- Class Preparation and Participation: Preparation for and participation in class discussion are necessary both for your own understanding of the material and for the benefit of your classmates. You are expected to be prepared for every class, which means (1) having read, listened to, or viewed and being ready to discuss the material assigned for that class and (2) having the assigned material available during class in hard copy or electronic format in case we make reference to particular parts. If, for any reason, you are not prepared for a class, please let me know at least 2 hours in advance via email and I will not call on you that day. Being unprepared without permission more than 2 times during the semester will affect your grade.
 - ABA Out-of-Class Hours Requirement: American Bar Association Standard 310 requires that students devote at least 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. Each class is approximately 1 hour and 25 minutes in length, requiring at least 2 hours and 50 minutes of preparation outside of class. Such preparation includes reading, listening to, or viewing the assigned material.
 - In-class engagement: During class, I will call on members of the student panel assigned for that class and I will solicit volunteers from among all students in the course. I expect that you will speak multiple times throughout the course. Learning in this course is a collaborative process. Each student's contributions will be important and valuable for our discussion.

- Discourse and the Classroom: As a law student and future lawyer, it is important that you be able to engage in rigorous discourse and critical evaluation while also demonstrating civility and respect for others, including your classmates, any guest speakers, and me. This is even more important in the case of controversial issues and other topics that may elicit strong emotions, as is the case in this course. The most productive discussions develop from students sharing contrasting opinions in a civil, respectful manner. Each class member is entitled to your respect, and to a presumption that their views are being offered in good faith—even if they are views with which you sharply disagree.
- Technology: To avoid distractions during class, please do not use laptops or any other electronic devices (including tablets and mobile phones) for anything other than class purposes and please silence all electronic devices (including laptops, tablets, and mobile phones). You should not use class time to check email or social media, engage in text conversations, browse the Internet, or otherwise use electronic devices in a manner that distracts you or others from class.
- Grading: While your grade is mostly based on the exam, exceptional performance in class discussion can raise your grade and poor performance can lower it. For the percentage your grade may be affected, see “Grading” – “Your Grade” below.
- Chatham House Rule on Discussion and Attribution: Classroom discussions are subject to the Chatham House rule: participants are free to use the information received, but neither the identity nor the affiliation of the speakers, nor that of any other participant, may be revealed. This rule, which applies to students and any guest speakers, is meant to encourage frank discussion and allow students and guest speakers to try out arguments. Robust but respectful debate is encouraged. You may not post online or otherwise share recordings, screenshots, classmates’ remarks, or any other class content. If you have any questions or concerns about class discussions—or feel in any way uncomfortable speaking in class for any reason—please contact me.

H. GRADING

- UF Law Grading Policies: UF Law’s mean and mandatory distributions are posted on the College’s website and this course adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

UF Law’s grading policies are available at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>.

- **Your Grade:** Your grade will be based upon attendance, participation, and the exam in the following proportion:

Class Component	Percent of Grade
Attendance and Participation	20%
Exam	80%
TOTAL	100%

As part of your attendance and participation, I reserve the right to deduct points from your final grade if you engage in behavior that significantly disrupts the learning environment for your classmates, such as (1) arriving late to class; (2) leaving class early; (3) not silencing your laptop, tablet, or mobile phone; (4) using any electronic devices for purposes unrelated to class; or (5) uncivil, disrespectful, or insensitive commentary or behavior that chills classroom discussion.

- **Exam:** Your grade will be based primarily on an exam at the end of the semester.
 - This exam will be “**limited open book**.” That means that during the exam:
 - You **must ONLY use** material for this course.
 - Accordingly, you **are permitted** to consult the syllabus’s required coursebook, other assigned material, slides and other course materials that you downloaded from our course’s site on Canvas, your class notes, and any outline or other materials that you helped to prepare.
 - **Note:** You should download (e.g., from Canvas) any permissible materials **prior to** the exam, as you will not have access to the Internet during the exam.
 - You **must NOT use** any other materials.
 - Accordingly, you **are NOT permitted** to consult other people, the Internet, outlines that you did not help to prepare (including commercial outlines or outlines prepared by other students without your help), artificial intelligence, or any other online or offline sources.
 - All answers must be exclusively your own work. You may not consult with others about the exam once the exam period has started. You may not use artificial intelligence during the exam.
 - The exam will be comprehensive: anything assigned for class or discussed during class may be tested.
 - The exam will test:
 - your understanding of legal rules and principles as well as policy considerations, and
 - your ability to apply such law and policy in new contexts and to critically analyze legal problems.
 - I will discuss the exam in class at an appropriate point. I won’t talk about the details of the exam in nonpublic settings where the whole class doesn’t have the option to be present (such as in office hours).

- UF Law’s policy on exam delays and accommodations is available at: <http://www.law.ufl.edu/student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

I. ACCOMMODATIONS FOR STUDENTS WITH DISABILITIES

Students requesting accommodations for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester. It is important for students to share their accommodation letter with their instructor and discuss their access needs as early as possible in the semester. Students may obtain information about various resources on UF Law’s Student Resources Canvas page, which is available at <https://ufl.instructure.com/courses/427635>.

J. CLASS RECORDINGS

Florida law permits all students to make their own video and/or audio recordings of all “class lectures,” and professors may not prohibit or interfere with such recordings. A “class lecture” is defined as an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A “class lecture” does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Student may use such recordings only for the following purposes: (1) their own educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited, and students may not “publish” recorded lectures without the written consent of the instructor. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code. “Publish” is defined as sharing, transmitting, circulating, distributing, or providing access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third party note/tutoring services.

K. HEALTH AND WELLNESS RESOURCES

Law school can be a daunting experience, especially when life outside the law school becomes challenging. UF Law provides numerous resources for your support, and I encourage you to seek help if you have concerns. If you are comfortable doing so, you may also notify me so that I can direct you to further resources. UF Law’s health and wellness resources are available at: <https://www.law.ufl.edu/wellness-at-uf-law>.

L. UF LAW STANDARD SYLLABUS POLICIES

Other information about UF Law’s policies—including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations—is available at: <https://www.law.ufl.edu/uf-law-student-handbook-and-academic-policies>.

M. COURSE MATERIALS

1. **Required Coursebook:** NATIONAL SECURITY LAW (Stephen Dycus et al. eds., 7th ed. 2020). ISBN: 978-1-5438-0679-3. Please be sure to obtain the correct edition.
2. **Canvas:** I will post some course materials to Canvas.
3. **Online:** Some course materials are available publicly online. For those materials, I provide a hyperlink in their listing below.

II. SCHEDULE

- This syllabus features 26 class sessions.
- Unless otherwise noted, page numbers refer to the required coursebook.
- I may adjust the syllabus to accommodate our pace, to incorporate relevant news items, to accommodate a guest speaker’s availability, or in response to unforeseen developments. I will announce any such changes promptly and will post an updated syllabus to Canvas. If we do not complete material during the designated class, you should expect that we will return to it in the following class.

Class Session	Date	Topic(s)	Reading Assignment(s)
NATIONAL SECURITY AND SEPARATION OF POWERS			
1	Tuesday, Aug. 20	Course Overview and Introduction to National Security Powers	<ul style="list-style-type: none"> • This Syllabus • Selected provisions of the U.S. Constitution (1325-31) • The Spectrum of the President’s National Security Powers (25-52) (through Chief Justice Roberts’s dissent)
2	Thursday, Aug. 22	The President’s National Security Powers	<ul style="list-style-type: none"> • <i>The Prize Cases</i> (55-60) • <i>Little v. Barreme</i> (63-68) • The President’s Emergency Powers (68-71, notes 1 and 2 on 72, and note 6 on 74-75)
3	Tuesday, Aug. 27	Congress’s National Security Powers	<ul style="list-style-type: none"> • Declarations of War and AUMFs (81-89) • PODCAST: Radiolab, “60 Words” (<u>Required</u>: Intro – 00:00-06:30 & Segment 2 – 23:40-40:25; <u>Optional</u>: The rest) • The War Powers Resolution (89-99) • Harold Koh Testimony re Libya (Canvas: Handout #1)
4	Thursday, Aug. 29	The Court’s National Security Powers	<ul style="list-style-type: none"> • Congressional Standing (139-40 only note 5 + <i>House of Rep. v. Mnuchin</i> (Canvas: Handout #2, pp. 6-10)) • Causes of Action & Qualified Immunity (149-51 & <i>Hernandez v. Mesa</i> (Canvas: Handout #2, pp. 10-23)) • The State Secrets Privilege (154-61)
STRATEGY			
5	Tuesday, Sept. 3	National Security Strategy and National Defense Strategy <u>Guest Speaker:</u> Jim Mitre	<ul style="list-style-type: none"> • 2022 National Security Strategy (Oct. 2022) (1-22) • 2022 National Defense Strategy (Oct. 2022) (1-23) • Kevin Kelly, <i>Bees Do It: Distributed Governance, in</i> OUT OF CONTROL: THE NEW BIOLOGY OF MACHINES, SOCIAL SYSTEMS, AND THE ECONOMIC WORLD (1995)

USE OF FORCE			
6	Thursday, Sept. 5	<i>Jus ad Bellum</i> and <i>Jus in Bello</i>	<ul style="list-style-type: none"> • The Right to Wage War: Introduction (241-42) • Law Regarding Resort to the Use of Force (242-48) • International Humanitarian Law (265-86)
7	Tuesday, Sept. 10	Collective and Unilateral Uses of Force	<ul style="list-style-type: none"> • Collective Use of Force: Afghanistan (338-46) • Unilateral Use of Force (347-61 through note 10) • Syria and Beyond (Note 4 on 364, note 6 on 365-67, and Canvas: Handout #3)
8	Thursday, Sept. 12	Targeted Killing	<ul style="list-style-type: none"> • Introduction (375-77) • Standards and Procedures (392-99 only notes 2, 5, 6, 8, and 9) + (Targeting General Sulcimani (Canvas: Handout #4)) • Targeting U.S. Citizens (400-11)

III. ADDITIONAL RESOURCES

Additional resources about National Security Law are available, including the following blogs, podcasts, and movies:

Blogs:

- JustSecurity.org
- Lawfare.org
- CenterOnNationalSecurity.org

Podcasts:

- National Security Law Podcast (<https://www.nationalsecuritylawpodcast.com/>)
- Lawfare Podcast (<https://www.lawfareblog.com/topic/lawfare-podcast>)
- Rational Security Podcast (<https://www.lawfareblog.com/topic/rational-security>)
- Deep State Radio Podcast (<https://podcasts.apple.com/us/podcast/deep-state-radio/id1245002955>)
- Serial: Season 4 (<https://serialpodcast.org/home>)

Movies:

- Argo
- Citizenfour
- Enemy of the State
- Gattaca
- The Mauritanian
- The Report
- Sneakers
- Terminator
- Terminator 2