

Law 700 - National Security Law
Professor Banks
Fall 2008

Syllabus # 1

Text: Dycus, Berney, Banks & Raven-Hansen, National Security Law (4th ed., Aspen, 2007), and 2008-2009 Supplement (Aspen 2008). Additional materials may be assigned from the course Blackboard page from time to time.

Assignments: We will sometimes cover one or more assignments per class. Other assignments will require two or three class days. Classroom participation is expected; preparation is assumed. A "participation group" system will be explained during the first class. In addition, each of you will be asked to contribute to group presentations to the class during the semester. One additional syllabus will be distributed later in the semester. If you have a disability that may affect your performance in this class, see Assistant Dean Tomas Gonzales in suite 444 to discuss necessary accommodations.

Examinations

and Grades: Your grade for the course will be determined by your scores on three take-home exams. The exams will be distributed on Thursday, September 25, Tuesday, November 4, and Thursday, December 4. They will be due on Thursday, October 2, Tuesday, November 11, and Tuesday, December 9. These exams will be based on problems in the text, or on other problems that I prepare. Excellence in class participation may weigh in your favor by as much as one-third letter grade. While I have no objection to the use of tape recorders in class, I do object to cell phone, pager, or other like interruptions. Please be sure that any such device is turned off during class sessions. In addition, laptops may be used in class only for taking notes; internet use and instant messaging are not permitted.

Contacting Me:

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Part I. The Analytic Framework: Separate Branches with Shared National Security Powers

1. Introduction and Original Understanding 1-26 (Group 1)
1113-1119
2. The Separation of National Security Powers 27-58 (Group 2)
3. The President's Foreign Relations Powers 59-67 (Group 3)
4. Commander in Chief's War Powers 67-80 (Group 4)
5. The President's Emergency Powers + Executive Privilege 80-92 (Group 5)
6. Congress's Declaration of War Power 93-101 (Group 1)
7. Congress's Defense Appropriations and Other Powers 102-118 (Group 2)
8. Limitations on Congress's National Security Powers 124-132 (Group 3)
9. The Courts' National Security Role 133-156 (Group 4)
10. The Making and Interpretation of Treaties and Agreements 157-173 (Group 5)
11. The Domestic Legal Effect of Treaties and Agreements 173-182 (Group 1)
12. The Domestic Legal Effect of Customary International Law 182-198 (Group 2)

Part II. Using Force Abroad

13. Commencing General War: The Vietnam War 201-225 (Group 3)
14. Limiting the Scope of the Vietnam War 225-230 (Group 4)
15. Ending the War 230-239 (Group 5)
16. The War Powers Resolution 240-254 (Group 1)
17. Unilateral Self-Defense and Rescue: Origins and Usage 255-260 (Group 2)
18. Repelling Attacks and Anticipatory Self-Defense 260-264 (Group 3)
19. Rescue 264-273 (Group 4)
20. Striking First 273-283 (Group 5)
21. Collective Self-Defense, Korean "Police Action" 284-294 (Group 1)

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| 22. | The Persian Gulf war | 294-302 (Group 2) |
| 23. | Preemptive War | 303-317 (Group 3)
Supp. 1-8 |
| 24. | Humanitarian and Peace/Stability Operations | 318-336 (Group 4) |