

## READING LIST

Revised.2 November 13, 2006

### SEMINAR ON TREATY REGIMES: NEGOTIATION AND IMPLEMENTATION

Fall 2006, Rutgers Law School, Newark

Professor John Burroughs ([johnburroughs@lcnp.org](mailto:johnburroughs@lcnp.org), 212 818 1861, cell 917 439 4585)

Mondays, 3:55 – 5:50 p.m., Room 403

***This reading list will be revised and expanded throughout the semester.*** Dates of discussion in class are approximate and subject to change. Required readings are identified with an asterisk and are provided. Other readings are recommended for further study or for research papers.

Required books:

The Weapons of Mass Destruction Commission, Hans Blix, Chairman, *Weapons of Terror: Freeing the World of Nuclear, Biological and Chemical Weapons* (2006). Provided in-class at no charge.

Nicole Deller, Arjun Makhijani, and John Burroughs, eds., *Rule of Power or Rule of Law? An Assessment of U.S. Policies and Actions Regarding Security-Related Treaties* (2003). Provided in-class for \$8.

James Gustave Speth, *Red Sky at Morning* (2004). Provided in-class for \$10.

August 21 - Introduction to seminar, no readings assigned

August 28 – Introduction to the Nuclear Non-Proliferation Treaty (NPT) and the United Nations Framework Convention on Climate Change (UNFCCC); treaty regimes and international law generally

\**Rule of Power or Rule of Law*, 1-30, 101-112, optional 129-140

\**Weapons of Terror*, 50-54, 165-184

\*“The New U.S. Approach to Verification,” Paula A. DeSutter, Assistant Secretary for Verification, Compliance, and Implementation, Remarks at the Carnegie International Nonproliferation Conference "Sixty Years Later" Panel on The Future of Verification, Washington, DC, November 7, 2005, <http://www.state.gov/t/vci/rls/rm/57098.htm>

Treaty on the Non-Proliferation of Nuclear Weapons (1 July 1968) 729 UNTS 169  
<http://www.armscontrol.org/documents/npt.asp>

United Nations Framework Convention on Climate Change (9 May 1992) 1771 UNTS 107  
Access at [http://unfccc.int/essential\\_background/convention/background/items/2853.php](http://unfccc.int/essential_background/convention/background/items/2853.php)

## **I. Treaty Regimes on Ozone Depletion and Climate Change**

### September 11 and 18 - Negotiation and Implementation of the Vienna Convention for the Protection of the Ozone Layer and the UNFCCC

\*James Gustave Speth, *Red Sky at Morning* (2004) 77-97

\*Philippe Sands, *Lawless World* (2005) 69-94 - TWO COPIES OF THIS BOOK ARE ON COURSE RESERVE IN THE LIBRARY.

“Remarks by President Bush on Global Climate Change,” June 11, 2001

<http://www.state.gov/g/oes/rls/rm/4149.htm>

\* Vienna Convention for the Protection of the Ozone Layer

Access at [http://www.unep.ch/ozone/Treaties\\_and\\_Ratification/2A\\_vienna\\_convention.asp](http://www.unep.ch/ozone/Treaties_and_Ratification/2A_vienna_convention.asp)

\*United Nations Framework Convention on Climate Change (9 May 1992) 1771 UNTS 107

Access at [http://unfccc.int/essential\\_background/convention/background/items/2853.php](http://unfccc.int/essential_background/convention/background/items/2853.php)

\*Montreal Protocol for the Protection of the Ozone Layer

Access at [http://www.unep.ch/ozone/Treaties\\_and\\_Ratification/2B\\_montreal\\_protocol.asp](http://www.unep.ch/ozone/Treaties_and_Ratification/2B_montreal_protocol.asp)

\*Kyoto Protocol to the UNFCCC

Access at [http://unfccc.int/essential\\_background/kyoto\\_protocol/background/items/1351.php](http://unfccc.int/essential_background/kyoto_protocol/background/items/1351.php)

### September 25 – Implementation of UNFCCC, continued

\*Climate Change Fact Sheet, White House, Office of the Press Secretary, May 18, 2005

<http://www.state.gov/g/oes/rls/fs/46741.htm>

\*United Nations Climate Change Conference, 2005, Montreal

[http://unfccc.int/meetings/cop\\_11/items/3394.php](http://unfccc.int/meetings/cop_11/items/3394.php) – review website generally; no hard copy readings provided

\*Jim Hansen, “The Threat to the Planet,” *New York Review of Books* (July 13, 2006) 12-16. Online at <http://www.nybooks.com/articles/19131>

\**Red Sky at Morning*, 98-116, 151-190

Intergovernmental Panel on Climate Change, *Climate Change 2001: Synthesis Report: Summary for Policymakers*. Online at <http://www.ipcc.ch/pub/un/syeng/spm.pdf> See also <http://www.ipcc.ch/>

*Summary: Insurmountable Risks: The Dangers of Using Nuclear Power to Combat Global Climate Change*, Brice Smith, Institute for Energy and Environmental Research (IEER PRESS, 2006). Online at <http://www.ieer.org/reports/insurmountablerisks/summary.pdf>

*The Future of Nuclear Power: An Interdisciplinary MIT Study* (Massachusetts Institute of Technology, 2003). Summary and full report online at <http://web.mit.edu/nuclearpower/>

## II. Treaty Regimes on Nuclear, Chemical, and Biological Weapons

### October 2 – Negotiation of the NPT and its indefinite extension

\*Treaty on the Non-Proliferation of Nuclear Weapons (1 July 1968) 729 UNTS 169  
<http://www.armscontrol.org/documents/npt.asp>

\*Package of Decisions, 1995 NPT Review and Extension Conference,  
<http://www.reachingcriticalwill.org/legal/npt/1995dec.html>

\**Rule of Power or Rule of Law*, 19-25 (previously assigned for August 28)

\*Michael O. Wheeler, *International Security Negotiations: Lessons Learned from Negotiating with the Russians on Nuclear Arms*, INSS Occasional Paper 62 (February 2006) 35-50. Online at  
<http://www.usafa.af.mil/df/inss/OCP/ocp62.pdf>

\*Jayantha Dhanapala with Randy Rydell, *Multilateral Diplomacy and the NPT: An Insider's Account* (UNIDIR, 2005) 1-57. Copies handed out in class.

Thomas Graham, Jr., *Disarmament Sketches* (2002) 257-293. One copy on course reserve.

### October 9 and 16 – 1996 Advisory Opinion of the International Court of Justice, 2000 NPT Review Conference, implementation of the disarmament obligation

\**Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, July 8, 1996, International Court of Justice, <http://www.icj-cij.org/icjwww/icasess/iunan/iunanframe.htm>. Read the main opinion and also the separate declaration of the ICJ president, Mohammed Bedjaoui, in English at <http://lcnp.org/wcourt/bedjaoui.htm>; you may wish also to browse the individual statements of other judges, notably Judge Weeramantry and Judge Schwebel.

\*Final Document of the 2000 NPT Review Conference, Article VI, pp. 13-15; also browse other parts of the document, especially relating to Articles III and IV. Online at  
<http://www.reachingcriticalwill.org/legal/npt/2000FD.pdf>

\**Rule of Power or Rule of Law*, 24-40

\**Weapons of Terror*, 60-66, 72-73, 87-109

John Burroughs, "The Disarmament Debate: The Fate of the Nuclear Non-Proliferation Treaty," *Harvard International Review*, Summer 2005. Online at  
<http://hir.harvard.edu/articles/print.php?article=1355>

John Burroughs, "The Legal Framework for Non-Use and Elimination of Nuclear Weapons," Briefing Paper for Greenpeace International, February 2006. Online at  
<http://lcnp.org/disarmament/Gpeacebrfpaper.pdf>

### October 23, 2006 – no class

October 30 and November 6, 2006- Implementation of the non-proliferation provisions of the NPT; the role of the IAEA; Safeguards Agreements and their Additional Protocol; preventing nuclear terrorism; Iran case; Security Council Resolution 1540

### General

\**Weapons of Terror* at 66-72, 73-87, 169-175

\*International Atomic Energy Agency Statute, Art. III, esp. (B)(4), Art. XII, esp. (C)  
[http://www.iaea.org/About/statute\\_text.html](http://www.iaea.org/About/statute_text.html)

\*Iran's Safeguard Agreement with the IAEA, esp. Arts. 18, 19  
<http://www.iaea.org/Publications/Documents/Infcircs/Others/infcirc214.pdf>

\*Model Additional Protocol, browse Arts. 2-10  
<http://www.iaea.org/Publications/Documents/Infcircs/1998/infcirc540corrected.pdf>

IAEA Safeguards Statement 2005  
<http://www.iaea.org/OurWork/SV/Safeguards/es2005.pdf>

### Iran situation

\*IAEA Board of Governors resolution, February 4, 2006  
<http://www.iaea.org/Publications/Documents/Board/2006/gov2006-14.pdf>

\*UN Security Council Presidential Statement, March 28, 2006  
<http://lcnp.org/disarmament/docs/iran06marchprst.pdf>

\*UN Security Council Resolution 1696, July 31, 2006  
<http://www.reachingcriticalwill.org/legal/unsc1696.html>

\*IAEA Director General Report, August 31, 2006  
<http://www.iaea.org/Publications/Documents/Board/2006/gov2006-53.pdf>

\*IAEA Board of Governors resolution, September 24, 2005  
<http://www.iaea.org/Publications/Documents/Board/2005/gov2005-77.pdf>

\*Draft Security Council resolution on Iran (October 2006) – proposed by Britain, France, Germany - any resolution that is adopted may be quite different than this  
<http://www.niacouncil.org/Files/Draft%20SC%20Res.pdf>

\*Security Council resolution 1718 on North Korean nuclear test, October 14, 2006  
[http://www.lcnp.org/disarmament/docs/UNSC-DPRKorea\\_English.pdf](http://www.lcnp.org/disarmament/docs/UNSC-DPRKorea_English.pdf)

IAEA Director General Report, November 2004  
<http://www.iaea.org/Publications/Documents/Board/2004/gov2004-83.pdf>

Institute for Science and International Security summary of past safeguards reporting violations by Iran <http://www.isis-online.org/publications/iran/irannptviolations.pdf>

Blog posting by Michael Spies re draft resolution on Iran, October 30, 2006  
<http://disarmamentactivist.org/2006/10/30/the-phantom-threat/>

Iran resources page, Lawyers' Committee on Nuclear Policy  
<http://lcnp.org/disarmament/iran/index.htm>

Proliferation News and Resources, Carnegie Endowment for International Peace  
<http://www.carnegieendowment.org/npp/>

### Security Council Resolution 1540

\*Resolution 1540  
<http://www.reachingcriticalwill.org/political/SC/1540.pdf>

\**Weapons of Terror* at 182-183

John Burroughs, "Security Council as World Legislature," *Disarmament Times* (spring 2004) at 2  
<http://disarm.igc.org/DisarmTimes/DT-2004-2.pdf>

Lars Olberg, "Implementing Resolution 1540: What the National Reports Indicate," *Disarmament Diplomacy* (Spring 2006), <http://www.acronym.org.uk/dd/dd82/82lo.htm>

### November 13, 2006- UN Charter; Comprehensive Test Ban Treaty – negotiation and efforts to bring into force

\*UN Charter, Articles 24 and 25, and Chapters VI and VII. All relevant to Security Council authority for resolution 1540 and resolutions on Iran and North Korea. Online at  
<http://www.un.org/aboutun/charter/index.html>

\*Comprehensive Test Ban Treaty, Articles I-IV  
<http://www.state.gov/www/global/arms/treaties/ctb.html>

\**Rule of Power or Rule of Law*, 41-57

\**Weapons of Terror*, 105-108

\*Thomas Graham, *Disarmament Sketches*, 236-257 (on course reserve in library)

*Nuclear Disorder or Cooperative Security*, 51-67

November 15, 2006 – Chemical Weapons Convention: nature and implementation

\*Chemical Weapons Convention, esp. preamble and Article I (skim the rest).

[http://www.armscontrol.org/act/1997\\_04/cwctext.asp](http://www.armscontrol.org/act/1997_04/cwctext.asp)

\**Rule of Power or Rule of Law*, 67-74

\**Weapons of Terror*, 126-137

Chemical Weapons Implementation Act, at [http://fas.org/bwc/us\\_cwc\\_implementing\\_legislation.htm](http://fas.org/bwc/us_cwc_implementing_legislation.htm)

Amy Smithson, “Recharging the Chemical Weapons Convention,” *Arms Control Today* (March 2004), [http://www.armscontrol.org/act/2004\\_03/Smithson.asp](http://www.armscontrol.org/act/2004_03/Smithson.asp)

Amy Smithson, “Bungling a No-Brainer: How Washington Barely Ratified the Chemical Weapons Convention,” in *The Battle to Obtain U.S. Ratification of the Chemical Weapons Convention*, Henry L. Stimson Center, Occasional Paper No. 35, July 1997, at <http://www.stimson.org/pubs.cfm?ID=33>

Alexander Kelle, “Overview of the First Four Years,” in Jonathan B. Tucker, ed., *The Chemical Weapons Convention: Implementation Challenges and Solutions*, Monterey Institute, April 2001, at <http://cns.miis.edu/pubs/reports/tuckcwc.htm>

Jonathan B. Tucker, “The Chemical Weapons Convention: Has It Enhanced U.S. Security?,” *Arms Control Today*, April 2001, at [http://www.armscontrol.org/act/2001\\_04/tucker.asp](http://www.armscontrol.org/act/2001_04/tucker.asp)

Model Nuclear Weapons Convention, <http://ippnw.org/nwc2.pdf>

November 20, 2006 – Biological Weapons Convention: nature, implementation, efforts to negotiate a verification protocol

\*Biological Weapons Convention, <http://www.armscontrol.org/treaties/bwc.asp>

\**Rule of Power or Rule of Law*, 75-91

\*Nicole Deller and John Burroughs, “Arms Control Abandoned: The Case of Biological Weapons,” summer 2003 *World Policy Journal*, at <http://www.worldpolicy.org/journal/articles/wpj03-2/deller.html>

\**Weapons of Terror*, 112-123

Trevor Findlay, “Verification and the BWC: Last Gasp or Signs of Life?,” *Arms Control Today* (September 2006), [http://www.armscontrol.org/act/2006\\_09/bwcverification.asp](http://www.armscontrol.org/act/2006_09/bwcverification.asp)

Nicholas A. Sims, “Towards the BWC Review Conference: Diplomacy Still in the Doldrums,” *Disarmament Diplomacy*, Issue No. 82, Spring 2006, <http://www.acronym.org.uk/dd/dd82/82ns.htm>

Biological and Toxin Weapons Convention website, <http://www.opbw.org/>

Marylia Kelley and Jay Coghlan, "Mixing Bugs and Bombs," The Bulletin of the Atomic Scientists (September/October 2003) [http://www.thebulletin.org/article.php?art\\_ofn=so03kelley](http://www.thebulletin.org/article.php?art_ofn=so03kelley)

Mark Wheelis, "Will the New Biology Lead to New Weapons?" Arms Control Today (July/August 2004) [http://www.armscontrol.org/act/2004\\_07-08/Wheelis.asp](http://www.armscontrol.org/act/2004_07-08/Wheelis.asp)

### **III. Treaty Regimes and International Law: Theories and Conclusions (November 27, 2006)**

\*Anne-Marie Slaughter, chapter 1, pp. 30-43 ("Principal Paradigms in International Relations Theory"), in "The Technology: Principal Theories of International Relations," International Law and International Relations, Académie de Droit International, Recueil des Cours 2000, vol. 285, Martinus Nijhoff Publishers, The Hague, 2004 [not available on internet, will be supplied]

\*Philippe Sands, *Lawless World*, 223-239 (on course reserve in library)

\**Weapons of Terror*, 167-169 (previously assigned for August 28)

\**Rule of Power or Rule of Law*, 129-140

\**NRDC v. EPA*, 464 F.3d 1; 2006 U.S. App. LEXIS 22074 (D.C. Cir. 2006)

Jed Rubinfeld, "Commentary: Unilateralism and Constitutionalism," 79 N.Y.U.L. Rev. 1971 (December 2004). Rubinfeld's views are critiqued by Sands at 235-236 of *Lawless World*.

Anthony Clark Arend, "Do Legal Rules Matter? International Law and International Politics," 38 Va J. Int'l L 107 (1998)

John Bolton, "Is There Really 'Law' in International Affairs," 10 Transnat'l L Contemporary Problems 1 (2000)

Harold Hongju Koh, "Foreword: On American Exceptionalism," 55 Stan. L. Rev. 1479 (May 2003)