

# TEACHING THE **LAW OF WAR**

## Students contribute to issues of humanitarian law around the world

BY CHRISTINE VAN DUSEN

Room G349, an unassuming office on the third floor of Gambrell Hall at Emory Law, may seem a world away from a concertina wire-topped prison block at Guantanamo Bay Detention Camp (“Gitmo”) in Cuba. But the two places are deeply connected.

In this office, occupied by Professor Laurie Blank, students have been assigned research about whether detention at Gitmo is constitutional, how detainees are treated, and whether particular detainees should be imprisoned there at all. Working under Blank’s supervision, the students worked directly for lawyers representing detainees at Gitmo. They researched and drafted habeas corpus briefs to ascertain and challenge the lawfulness of a particular detention. And they wrote letters to detainees to keep them apprised of their cases and share news from their home countries.

This clearly wasn’t just an academic exercise. This work, done as part of Emory’s International Humanitarian Law (IHL) Clinic, gave students the chance to get hands-on experience working on real cases, research projects, and training programs for courts, militaries, NGOs, and other groups that focus on understanding, applying, and upholding the law of war.

Blank, previously a program officer in the Rule of Law Program at the United States Institute of Peace, is a clinical professor of law and director of the clinic since 2008. She describes the clinic’s mission as twofold: It gives students the opportunity to see what it’s like to work in the real world of international law while providing support to the staff-strapped organizations that work on issues of humanitarian law around the world.

“As any quick glance at a newspaper will tell you, there is plenty to do with regard to accountability, advocacy, and training for implementation of the law and the protection of civilians,” Blank says. “For the organizations working in this area, there’s never enough manpower or resources or time to do all the work that needs to be done. The clinic marries these two goals.

“This is the only place in the country where students can do this kind of work,” Blank says. “It’s a pretty unusual opportunity. Students come to Emory because they



want to do this.” When she first started the IHL Clinic, the students worked primarily with law firms in Atlanta that represented detainees at Gitmo. Now, the clinic partners with as many as a dozen organizations, with one student assigned to an organization each semester. Students have worked with international tribunals, such as the Special Tribunal for Lebanon, set up by the United Nations to investigate the assassination of the prime minister of Lebanon 10 years ago, and NGOs in the US and abroad working to prosecute perpetrators of atrocities in international and national courts.

### Real-world impact

**Ben Farley 11L** is one of those students. He came to Emory Law armed with a master’s degree in international affairs and a strong interest in foreign policy and international law. But it wasn’t until he started working in the clinic that he really began to understand how national security laws actually work.

“I did not go to law school with the intent of ending up where I am, but the clinic really piqued my interest,” says Farley, who is now the US State Department’s Senior Advisor to the Special Envoy for Guantanamo Closure, the senior official responsible for closing the prison. “It seemed like a fascinating opportunity to learn about how national security law really functions. I quickly became enamored with the subject matter.”

Farley’s assignment in the clinic was to survey, for Amnesty International, the legal frameworks for accountability for atrocities, including genocide, crimes against humanity, war crimes, and other international crimes. “We were looking at foreign law for African countries and helping to fill out research that Amnesty was doing,” he says. “I assisted Laurie with a Supreme Court amicus brief on the role of accountability for torture and other abuses of POWs and detainees throughout American history, in a case on foreign sovereign immunity. The brief was filed on behalf of retired military officers in the US.”

Though Farley initially thought he’d end up at a big firm, he’s glad to be working in government, where he can put into practice what he learned in the clinic. “What I do on a day-to-day basis may not be legal analysis, but all of it is informed by international humanitarian law and domestic national security law. Both topics were subject matter that I was exposed to for the first time in the clinic,” he says. “It was such an interesting experience, doubly so because it has a real impact on the course of action that the US chooses to take on a daily basis.”

### Building partnerships

The Geneva-based International Committee of the Red Cross (ICRC) provides assistance to victims of war and

armed violence and promotes respect for international humanitarian law. And now it pursues those goals with the help of Emory’s IHL Clinic.

The clinic works with the ICRC’s delegation in Washington, DC, providing research each year on United States practice for the ICRC’s Customary International Humanitarian Law Database. Students in the IHL Clinic research and analyze US cases, legislation, military manuals, and official statements to help understand how the law is interpreted and applied, Blank says.

At Marine Corps University (MCU) in Quantico, Virginia, clinic students are building relationships as well as databases. When US Marine four-star General John F. Kelly visited Emory in 2009 at the invitation of **John M. Dowd 65L**, Blank suggested the IHL Clinic could be a natural partner, providing research, writing, and curriculum support to members of the military.

“He spoke with my students, and we talked about ways to enhance relationships between the military and civilian academic institutions, and how it’s so important to understand what the other is doing because that can enhance the way we think about the issues,” Blank says. “He was really instrumental in helping us build this relationship with MCU, which has flourished over the last several years.” Kelly visited Emory again in 2015 at Dowd’s invitation.

The IHL Clinic and MCU are the perfect fit, says Dr. Rebecca Johnson, associate professor of national security affairs at MCU. “So much of what we do hinges on the law of armed conflict. To have another expert was fantastic,” she says. “There are legal restraints on what service members can do, but we had no one on staff to put those restraints into the exercises we do with the students.”

Professor Blank and an IHL Clinic student visit MCU at the start of each semester, meeting with course directors to brainstorm about how the clinic student can contribute to MCU’s curriculum, for example, by creating ethical-decision-making games and scenarios — with many focusing on overlapping treaty obligations — that allow MCU students to weigh the legal implications of their actions in the field.

“Our students aren’t legal experts; it’s just one element of a 10-month curriculum,” Johnson says. “But the students are starting to ask more legal questions about what they can do to figure things out and whom to talk to. There’s now more of an awareness.”

This is particularly important in today’s world of armed conflict, where it’s difficult to tell the difference between civilians and soldiers and the fighting isn’t confined to a battlefield. “These issues are not going away; they’re going to continue to be important,” Johnson says.

Among the clinic’s partners is the United Nations

*The clinic really piqued my interest. It seemed like a fascinating opportunity to learn about how national security law really functions. I quickly became enamored with the subject matter.*

—Ben Farley 11L, Senior Advisor to the Special Envoy for Guantanamo Closure



During a visit in March of this year, General Kelly meets with infectious disease specialist Dr. Aneesh Mehta to tour Emory Hospital's special isolation unit and discuss the potential for the spread of Ebola.

Committee Against Torture, which monitors countries' compliance with the UN Convention Against Torture. **Audrey Patten 12L**, who received a graduate degree in East Asian studies before attending Emory Law, jumped at the chance to work with the US expert member of the committee. In 2010, she conducted research for the committee's review of Turkey, including during its hearings in Geneva, Switzerland.

"I was helping them in real time and, later, assisting in writing the committee's concluding observations," she says. "When it was over, I was able to follow reactions to the committee observations in the Turkish press, thereby seeing an immediate connection between the clinic project and the real world."

In 2011, Patten returned to the clinic, researching the legal framework for reparations for human rights and law of war violations for an NGO based in Washington, DC.

"While our projects were for outside organizations, Professor Blank was there as the point person to help students problem-solve, to bounce research ideas off of, and find creative ways to present their research," says Patten. "It was exciting to feel linked to the wider world of international law while still a student."

Recently, Patten was selected to serve as a clinical fellow at Harvard Law School, where she now teaches in a legal services clinic. "My belief in the importance of clinical legal education and the desire to work with students as a lawyer grew, in large part, from my positive experiences in the IHL Clinic," she says.

The clinic has been able to partner with so many organizations as a result of Blank's own networking and expertise. As the co-author of *International Law and Armed Conflict: Fundamental Principles and Contemporary Challenges in the Law of War* and *Law of War Training: Resources for Military and Civilian*

*Leaders*, Blank has become an authority on international humanitarian law and regularly attends workshops and presents at national and international conferences and expert workshops.

"I'm always out and about," she says. "I speak with colleagues and say, 'This is what we do; do you want some assistance?' And they tell me their needs, and we come up with a way that we can help. We've got great students at Emory doing great work, so the IHL Clinic has a strong reputation. That certainly encourages organizations to seek us out when they need assistance as well."

### Continuing the work

**Ryan Light 15L**'s first assignment during his time with the IHL Clinic focused on a major international project on cyber warfare, researching international law and helping to draft rules for a manual on how it applies to cyber operations, even before conflict sparks.

"It was a pretty unique opportunity being able to do that as a second-year law student," he says.

Light did a second tour with the clinic in his third year, this time working with military defense counsel at the Office of Military Commissions, researching legal issues for pretrial motions for the attorneys representing Khalid Sheikh Mohammed. Mohammed, who has been referred to as the principal architect of the 9/11 attacks, is currently being held in US custody at Gitmo.

"They used the information I researched and wrote," he says. "It was an incredible experience to make a direct legal impact in the real world."

His work with the clinic will likely serve him well in his postgraduate career as a judge advocate for the US Marine Corps. "My first tour will most likely be in criminal litigation, which does not sound like it has a lot to do with the clinic. However, my second clinic assignment was on a defense team," says Light. "I got to work directly with defense lawyers and write defense motions."

Light recently met with a prospective student who had just joined the Marines and was planning to go to law school.

"I brought him to the class," Light says. "I told him, 'We don't just have a professor who focuses on this stuff and teaches the class. We have a clinic set up, where you're going to get real-world experience. If you want to be an attorney and a Marine, you should come to Emory.'" Getting a sense of what it's really like to practice law on the global stage is an invaluable experience, Blank says, and one which sticks with students long after graduation.

"They're getting the opportunity to work on the front-page, cutting-edge issues in the areas of international law and armed conflict," she says. "They can see what this world is really about and make a difference."



Ryan Light 15L is poised to become a US Marine Corps judge advocate. While he volunteered in the clinic, he worked with military defense counsel on a high-profile case involving a 9/11 terror attack suspect.