**Legal Issues of Borders and State Territory: The Case of Kyrgyzstan**

**LLM 509 / LAW 289**

**Tuesday 17:00 – 18:30, Rm. 301**

**Prof. Meghan McCormack**

This course will introduce students to the growing field of border studies, a field that combines elements of law, political theory, and anthropology. We'll cover the historical development of bordered national territory as a political concept, the imposition of borders on Central Asian territory during the early Soviet period, and the legal issues that have arisen - especially since independence - in light of Soviet authorities' failure to fully delimit the boundaries of the then-Kyrgyz SSR (now Kyrgyz Republic). This class will include a full review of national legislation on borders as well as an anthropology-based overview of local residents' struggles to live on un-delimited territory.

Grades are based on class attendance and participation (25%), a midterm quiz to be administered in-class (25%), and a 3-hour final exam to administered through the e-course website (50%). Note that while attendance is optional, students will be graded on their in-class attendance and participation. In other words: you are free not to attend, but your grade will be worse. Finally, grades for assignments handed in late will be decreased by one grade point for each day late (i.e. 1 day late means your grade goes from an A to a B, 2 days late from an A to a C, etc.).

**Week 1 (Jan. 16) – Introduction**

* In class: National Geographic Society: [Border](http://nationalgeographic.org/encyclopedia/border/)

**Week 2 (Jan23) – The concept of “border” – history**

* Anderson, Malcolm. 1997. Frontiers: Territory and State Formation in the Modern World. ***Reading handed out in class*.**
* Brunet-Jailly, Emmanuel. 2009. “The State of Borders and Borderland Studies 2009: A Historical View and View from the Journal of Borderland Studies.”

**Week 3 (Jan. 30) – What purposes do borders serve?**

* Baud and Schendel. 1997. “Toward a Comparative History of Borderlands.” Journal of World History 8: 2, pp. 211 – 242.
* Megoran, Raballand, and Bouyjou. 2005. “Performance, Representation and the Economics of Border Control in Uzbekistan,” Geopolitics 10, pp. 712 – 740.

**Week 4 (Feb. 6) – The legal bases for borders: ~~conquest~~, treaty, uti possidetus, adjudication**

* Shaw. 1997. “Peoples, Territorialism and Boundaries.” European Journal of International Law 8 478 – 507. ***Read only pages 491 – 507.***
* Carter Center. 2010. Approaches to Solving Territorial Conflicts: Sources, Situations, Scenarios, and Suggestions. ***Read only pages 1 – 26.***
* Ratner. 1996. “Drawing a Better Line: Uti Possidetis and the Borders of New States.” The American Journal of International Law 90 (4): 590 – 624.
* Additional resources on the illegality of the use of force to be provided in class.

**Week 5 (Feb. 13) – Borders in dispute: case law under international arbitration (part 1)**

* Sumner. 2004. “Territorial Disputes at the International Court of Justice.”
* *Western Sahara Advisory Opinion*, 1975 I.C.J. **Specific paragraphs to be assigned in-class.**

**Week 6 (Feb. 20) – Borders in dispute: case law under international arbitration (part 2)**

* *Burkina Faso v. Mali*, 1986 I.C.J. (Judgment of Dec. 22). **Specific paragraphs to be assigned in-class.**
* Review content of *Western Sahara* and handout on Greenland case

**Week 7 (Feb. 27) – The legal bases for Kyrgyzstan’s borders**

Overall:

* Agreement Establishing the Commonwealth of Independent States, 31 I.L.M. 138 (1992); Alma Ata Declaration and Protocol, 31 I.L.M. 147 (1992)
* Law of the Kyrgyz Republic “On the National Border of the Kyrgyz Republic,” 16 May 2015 No. 98.

Kazakhstan, Tajikistan, Uzbekistan:

* See treaties cited in Сыдыгалиева А.Б. “Система комплексного управления границей.” Бишкек: 2012, pp. 16 – 17, 67 – 76.

China (optional reading):

* Guo, Rongxing. *Asian Political, Economic and Security Issues: Land and Maritime Boundary Disputes of Asia* (2009) – p. 43, 90
* **Skim:** ДОПОЛНИТЕЛЬНОЕ СОГЛАШЕНИЕ между Кыргызской Республикой и Китайской Народной Республикой о кыргызско-китайской государственной границе, 26 August 1999
  + Ratified 25 May 2002

**Week 8 (Mar. 6) – MIDTERM QUIZ**

*This quiz will cover the legal dimensions of the course* *(case law, legal bases for border delimitation, Kyrgyzstan-relevant statutes and international treaties). It will be 25% of your grade.*

**Week 9 (Mar. 13) – The History of Kyrgyzstan’s Borders: Ethnicity under the Russian Empire**

* Reeves, Madeleine. Border Work: Spatial Lives of the State in Rural Central Asia. Cornell: 2014, pp. 68 – 73.
* Abashin, Sergei. 2004. “Naselenie fergansckoi doliny,” In Ferganskaya dolina: etnichnost’, etnicheskie protsessy, etnicheskie konflikty. Moscow, pp. 38 – 101.

**Week 10 (Mar. 20) – SPRING BREAK**

**Week 11 (Mar. 27) – The History of Kyrgyzstan’s Borders: Soviet National Territorial Delimitation**

* Abashin, Sergei, et. al. “Soviet Rule and the Delineation of Borders in the Ferghana Valley, 1917 – 1930,” In Studies of Central Asia and the Caucuses: Ferghana Valley: The Heart of Central Asia, 94 – 118.
* **Optional:** Abdullaev, Kamoludin and Ravshan Nazarov. “The Ferghana Valley Under Stalin, 1929 – 1953,” In Studies of Central Asia and the Caucuses: Ferghana Valley: The Heart of Central Asia, 119 – 139.

**Week 12 (Apr. 3) – Kyrgyzstan’s Borders Today: Un-delimited Spaces, Special Rules, Illegitimate Lines?**

* Anderson, Malcolm. Anderson, Malcolm. 1997. Frontiers: Territory and State Formation in the Modern World. Chapter 4.
* Абдылдаев, Сыргак. “Граница государственного суверенитета Кыргызстана: Китайский синдром.” [Kyrgyz Sovereignty and the State Border: the China Syndrome]. Новости. ЦентрАзия. 01.05.2004. Available: http://www.centrasia.ru/newsA.php?st=1083390420
* Постановление Правительства КР от 4 апреля 2016 года № 172 "Об утверждении Правил пограничного режима и режима пограничной полосы Кыргызской Республики"
* Постановление Правительства КР от 3 марта 2016 года № 106 "Об утверждении Порядка привлечения граждан Кыргызской Республики к охране Государственной границы Кыргызской Республики"

**Week 13 (Apr. 10) – Kyrgyzstan’s Borders Today: Enclaves**

* Reeves, Madeleine. 2009. “Materializing State Space: ‘Creeping Migration’ and Territorial Integrity in Southern Kyrgyzstan.” Europe-Asia Studies 61: 7, pp. 1277 – 1313.
* *Case Concerning the Right of Passage Over Indian Territory (Portugal v. India)*, Judgment of 12 April 1960.
* India v. Bangladesh – a replicable success? See article [here](http://hsfnotes.com/publicinternationallaw/2015/06/19/1974-india-bangladesh-land-boundary-agreement-enters-into-force-and-ends-long-running-boundary-issues/).

**Week 14 (Apr. 17) – Conclusions, Review**

*During this class we will review the content of the entire course and make up for any unfinished topics.*