

**COURSE:** LAWS 3908.C – Approaches in Legal Studies II**TERM:** Winter 2022**PREREQUISITES:** LAWS 2908 and third-year Honours standing**CLASS:** Day & Time: Mondays, 11:35 a.m. – 2:25 p.m.  
Where? On Zoom**INSTRUCTOR:** Professor Christiane Wilke**CONTACT:** Office Hrs: By appointment, on ZoomEmail: [christiane.wilke@carleton.ca](mailto:christiane.wilke@carleton.ca) [please include the course number in the subject line]

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**CALENDAR COURSE DESCRIPTION**

Advanced approaches to interdisciplinary research and analysis in law and legal studies. Emphasis on the important role of theory. Approaches considered will vary by section, and may include theoretical, quantitative, qualitative, literary, or historical approaches.

**COURSE DESCRIPTION**

How does international law shape contemporary armed conflict? How can we research how people “do” law? This course prepares students to plan, craft, and execute their own research projects that involve the analysis of primary sources. The immediate thematic focus is on the relationship between international law and armed conflict.

The US military and allied NATO militaries have been involved in long-term armed conflicts in Afghanistan and Iraq since the early 2000s. The risks and burdens of these wars have been very unequally distributed. How does international law shape the conduct of these conflicts and the justifications of violence? How do different actors produce legally relevant knowledges about the war? These are some of the thematic questions that this course will allow students to

explore.

Students have access to different kinds of primary sources paired with suggested theoretical readings. We use a textbook on qualitative methods in order to understand the principles and ethics of crafting qualitative research projects.

### **COURSE OBJECTIVES**

In this course you will:

- Learn about the benefits and limits of qualitative methods in socio-legal research
- Distinguish socio-legal research from other forms of research with and about law
- Understand the importance of integrating theoretical texts with empirical research
- Appreciate the importance of drawing on research that relies on marginalized perspectives and ways of knowing
- Learn how to use specific research methods and techniques (case study analysis, media analysis, sampling, coding, interpretation)
- Identify potential ethical problems with research practices and complete the Tri-Council Ethics Training
- Be aware of ethical issues in research beyond institutional requirements and have strategies for navigating these issues
- Develop skills and strategies for conducting and presenting qualitative research based on the systematic interpretation of primary sources
- Conduct a literature review
- Write a research paper that demonstrates all of these skills (Yay!)

### **REQUIRED TEXTS**

Sharlene Nagy Hesse-Biber, *The Practice of Qualitative Research* (3<sup>rd</sup> edition) (Sage, 2017).

The book is available from Octopus Books, a local independent bookstore with a long and strong history of supporting small publishers and local authors. You can shop in person (116 3<sup>rd</sup>

Avenue, off Bank St) or online for curbside pickup or shipping to anywhere in Canada. If possible, please support small businesses that are vital parts of our communities.

All other readings will be posted on Brightspace.

### **HOW AND WHEN DO WE MEET?**

We will combine weekly Zoom meetings (during class time) with discussion forums. In order to learn how to do research, we need to do it rather than hear about it.

During the class meetings, I will give some context to the readings, establish connections between the readings and our task of working towards a strong research paper, and lead you in exercises towards this task. We will replace traditional lectures with hands-on learning.

**Wednesday through Sunday: Brightspace Discussion Forum.** Each week of the term, we will discuss the readings on the Brightspace discussion forum. In response to the prompts, please post 2 short comments or questions (1-3 sentences are sufficient) between Wednesday morning and Sunday evening. These posts should reflect your responses to the texts, your questions, and your uncertainties. Questions about things you have not understood are great and helpful for everyone. As I prepare for class on Monday, I will read through the discussion forum threads and use the questions and comments to structure the class time.

**Monday: live class sessions.** In order to allow for an interactive class experience, the class will be divided into two groups. For the first four weeks, group 1 meets Mondays 11:35 am—12:50 pm; group 2 meets Mondays 1—2:15 pm. In subsequent weeks, your class time (11:35am or 1pm) depends on which primary sources you choose. So please keep your schedule free for 11:30 to 2:15 the entire term.

**Choose your own path:** For the purposes of this course, I have assembled baskets of primary sources and suggested reports, theoretical sources, and methodological texts that might help with interpreting these sources. In week five of the course we read one source that is representative of each basket. This will help you make decisions on the path forward. In some weeks of the course, the assigned readings are partially or fully determined by the path you

have chosen. As a consequence, some of the Zoom sessions will be divided into breakout rooms depending on the primary sources you're engaging with.

## **EVALUATION**

All assignments in this course build towards the research paper that you will complete as a take-home exam. In order to write a strong research paper, it is important that you engage with the readings, complete the training on research ethics, think about the role of socio-legal research, decide on your primary sources and how to analyze them, and complete a literature review.

Participation: 20%

Tri-Council training: 5%

Research Reflection assignment: 10%

Research Paper Proposal: 15%

Theory assignment: 15%

Research paper (take home exam): 35%

**Participation (20%). (Introduction 2% + Meet the team 2% + 16 x 1% per comment = 20%)**

- **Introduce yourself!** Please write a short post (additional photo, audio, or video optional) for the cuLearn site. 2%
- **Meet the team.** Schedule a meeting with the professor or the TA to talk about your assignments, how to approach research, Honours Research Paper or graduate school plans, or any aspect of the course. 2%
- **Let us know what you think about the readings.** In eight weeks of the class, post two comments or questions on the readings. Each comment/question is worth 1% of your mark. Comments/questions should show engagement with and understanding of the texts. Comments that show no engagement with the readings and/or are disrespectful of others will receive partial or no marks.

**Tri-Council Training (5%). Due April 11<sup>th</sup>.**

Complete the TCPS 2: CORE (Tri-Council Policy Statement: Course on Research Ethics) by the end of the course: <https://tcps2core.ca/welcome>. At the completion of the online training, you will receive a pdf certificate, which you will post. The certificate only confirms completion; it doesn't mention how many attempts you needed to answer any of the questions. This is a pass/fail activity; you either submit the certificate or you don't.

**Research Reflection Assignment. 10%, 4-5 pages, due February 10<sup>th</sup>, 11pm.**

This assignment draws on readings from weeks one through four. You will answer a question on the features and limits of socio-legal research in relationship to international law.

**Research Paper Proposal. 15%, 5-6 pages, due March 10<sup>th</sup>, 11pm.**

In the research paper proposal, you describe the scope, relevance, and context of your research project, identify your primary sources, and describe and justify the methods you will use to interpret and analyze them.

**Theory & Literature Review Assignment. 15%, 5-6 pages, due March 31<sup>st</sup>, 11pm.**

For the purpose of this course, the initial research paper proposal doesn't contain a literature review section. This assignment contains two options. Option 1 will ask you to situate your project in relationship to different theoretical approaches in the literature. Option 2 will allow you reflect on the role of theory in interpreting primary sources.

**Take home exam: Research Paper. 35%, 12-15 pages, due April 28<sup>th</sup>, 11pm.**

Write the research paper that you have been proposing and developing throughout the course. You are encouraged to take feedback from your peers as well as the teaching team into account as you complete this project.

**Standard disclaimer:**

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

### **LATE PENALTIES AND REQUESTS FOR EXTENSIONS**

In this course, deadlines for different assignments are set for different reasons, but they should not become barriers. Depending on the reasons for the deadlines, we can either move the deadline or modify the assignments for any student who is experiencing significant barriers (medical or otherwise) to completing the assignments.

The discussion forum posts are due before the class discussion because we want to build towards the class discussion. But you don't have to do these comments or questions every week, so there is always flexibility to work around weeks in which you have to take a break from school work. If such a situation occurs, please let me know and we make a plan about how you can fulfill the course requirements in other ways.

The larger assignments have deadlines for two reasons: (1) fairness to everyone, and (2) we want to be able to move on instead of lingering on the assignments. If you are dealing with circumstances that prevent you from dedicating the usual amount of time to this class and you require an extension on these assignments, please let me know.

For shorter extensions (up to five days), an email is sufficient. For longer extensions and requests to modify the assignment or evaluation structure due to medical or other urgent issues, please complete this form: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf> and send it to me via email.

**SCHEDULE****Week 1 (January 10<sup>th</sup>)****Introduction: Law, War, Research**

Sharlene Nagy Hesse-Biber, *The Practice of Qualitative Research* (3<sup>rd</sup> edition) (Sage, 2017), 2-35. (chapters 1, 2).

CIVIC, "24 NGOs Call for Urgent Congressional Oversight Over U.S. Civilian Harm Policies," available online: <https://civiliansinconflict.org/press-releases/ngos-call-for-urgent-oversight/>.

Jennifer Trahan, "Prosecutor De-Prioritizes ICC Investigation of US Torture Program," *Opinio Juris*, 1 October 2021. Available online: <https://opiniojuris.org/2021/10/01/prosecutor-de-prioritizes-icc-investigation-of-us-torture-program/>.

**Week 2 (January 17<sup>th</sup>)****Law & War in the 21<sup>st</sup> Century**

Antonio Cassese, *International Law*, 2<sup>nd</sup> ed (Oxford University Press, 2005), 399-434.

Nicola Perugini and Neve Gordon, *The Human Right to Dominate* (Oxford University Press, 2015), 71-100.

**Week 3 (January 24<sup>th</sup>)****What is Socio-Legal Research?**

Reza Banakar, "On Socio-Legal Design" (2019), Lund University Repository. Available online: [https://lucris.lub.lu.se/ws/portalfiles/portal/65005127/10\\_aaaSocio\\_legal\\_methodology\\_v\\_10.pdf](https://lucris.lub.lu.se/ws/portalfiles/portal/65005127/10_aaaSocio_legal_methodology_v_10.pdf) (accessed 2 December 2021).

Sharlene Nagy Hesse-Biber, *The Practice of Qualitative Research* (3<sup>rd</sup> edition) (Sage, 2017), 36-64 (chapter 3).

**Week 4 (January 31<sup>st</sup>)****Socio-Legal Approaches to International Law**

Eliav Lieblich, "How to Do Research in International Law? A Basic Guide for Beginners," *Harvard International Law Journal Online* 62 (2021): 42-67.

John Fabian Witt, "Form and Substance in the Law of Counterinsurgency Damages," *Loyola of Los Angeles Law Review* 41 (Summer 2008): 1454-1482.

Laleh Khalili, "Gendered Practices of Counterinsurgency," *Review of International Studies* 37 (2011): 1471-1491.

**Week 5 (February 7<sup>th</sup>)****Meet the Primary Sources**

We are working towards writing a qualitative research paper on issues of international law and violence in Afghanistan, Syria, or Iraq. At this point you have the choice of four different types of primary sources. While each set of primary sources is open to multiple lines of inquiry, this step is a fork in the road towards your research paper. For this week, we are all reading examples from each of the four baskets of primary sources. After this class, you will choose one option.

**Example for option A:**

Claim under Foreign Claims Act (Tikrit, Iraq), filed 11/30/2005. Army Bates 24188-24236.

Available online:

[https://www.aclu.org/sites/default/files/webroot/natsec/foia/pdf/Army24188\\_24236.pdf](https://www.aclu.org/sites/default/files/webroot/natsec/foia/pdf/Army24188_24236.pdf)

**Example for option B:**

ICC Pre-Trial Chamber II, *Request to authorise resumption of investigation under article 18(2) of the Statute* (27 September 2021), ICC-02/17. <https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-02/17-161>

**Example for option C:**



United States Central Command (USCENTCOM), *Report on the AR 15-6 Investigation into new information relative to civilian casualties from engagement by U.S. and Afghan Forces on 21-22 AUG 2008 in Azizabad, Shindand District, Herat Province, Afghanistan*. October 1, 2008. [Brightspace]

Example for option D:

Airwars, *News In Brief: US Media Coverage of Civilian Harm in the War Against So-Called Islamic State* (2019). Available online: <https://airwars.org/wp-content/uploads/2019/07/Airwars-News-in-Brief-US-media-reporting-of-civilian-harm.pdf> [read the sections that speak to your interests]

## Week 6 (February 14<sup>th</sup>)

### Case Studies, Media Analysis, and Interpretation

**Everyone:** Sharlene Nagy Hesse-Biber, *The Practice of Qualitative Research* (3<sup>rd</sup> edition) (Sage, 2017), 306-339 (chapter 11, data analysis and interpretation).

**Options A, D:** Sharlene Nagy Hesse-Biber, *The Practice of Qualitative Research* (3<sup>rd</sup> edition) (Sage, 2017), 246-271 (chapter 9, on analyzing media).

**Options B, C:** Sharlene Nagy Hesse-Biber, *The Practice of Qualitative Research* (3<sup>rd</sup> edition) (Sage, 2017), 218-245 (chapter 8, on case studies).

## Week 7 (March February 28<sup>th</sup>)

### Primary Sources Workshop II: Crafting your Research Project

**Task:** read more of the primary sources (plus applicable additional sources) from the basket of primary sources you have chosen. Spend 3-4 hours reading and taking notes.

## Week 8 (March 7<sup>th</sup>)

### Theorizing Law & Armed Conflict

**Everyone:** Antony Anghie and B. S. Chimni, "Third World Approaches to International Law and Individual Responsibility in Internal Conflicts," *Chinese Journal of International Law* 2, no. 1 (2003): 77-104.

#### In addition:

**Option A:** Thomas Gregory, "The costs of war: Condolence payments and the politics of killing civilians," *Review of International Studies* (2019): 1-21.

**Option B:** John Reynolds and Sujith Xavier, "'The Dark Corners of the World': TWAIL and International Criminal Justice," *Journal of International Criminal Justice* 14 (2016).

**Option C:** Eyal Weizman, *The Least of all Possible Evils: Humanitarian Violence from Arendt to Gaza* (Brooklyn: Verso, 2018), 99-136.

**Option D:** Muhammad Idrees Ahmad, "The magical realism of body counts: How media credulity and flawed statistics sustain a controversial policy," *Journalism* 17 (2016): 18-34.

#### Week 9 (March 14<sup>th</sup>)

### Victims, Perpetrators, and International Law

Maria Elander, "The Victim's Address: Expressivism and the Victim at the Extraordinary Chambers in the Courts of Cambodia," *International Journal of Transitional Justice* 7 (2013): 95—115.

Sofia Stolk, "A Sophisticated Beast? On the Construction of an 'Ideal' Perpetrator in the Opening Statements of International Criminal Trials," *European Journal of International Law* 29 (2018): 677—701.

#### Recommended Reading:

Sara Kendall and Sarah Nouwen, "Representational Practices at the International Criminal Court: The Gap Between Juridified and Abstract Victimhood," *Law and Contemporary Problems* 76 (2013): 235—262.

**Week 10 (March 21<sup>st</sup>)****Research Ethics: Institutional Frameworks**

Sharlene Nagy Hesse-Biber, *The Practice of Qualitative Research* (3<sup>rd</sup> edition) (Sage, 2017), 66-103 (chapter 4).

Complete TCPS 2: CORE (Tri-Council Policy Statement: Course on Research Ethics) by the end of the course: <https://tcps2core.ca/welcome>

Reference document (supplementary): Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans – TCPS 2 (2018). <https://ethics.gc.ca/eng/documents/tcps2-2018-en-interactive-final.pdf> or [https://ethics.gc.ca/eng/policy-politique\\_tcps2-eptc2\\_2018.html](https://ethics.gc.ca/eng/policy-politique_tcps2-eptc2_2018.html).

**Week 11 (March 28<sup>th</sup>)****Research Ethics beyond Institutional Frameworks**

Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (2<sup>nd</sup> edition) (Zed Books, 2012), 1—41.

Anaheed Al-Hardan, "Decolonizing Research on Palestinians: Towards Critical Epistemologies and Research Practices," *Qualitative Inquiry* 20 (2014): 61 –71.

**Week 12 (April 4<sup>th</sup>)****Space for thinking & research**

We will hold an information session on pursuing research in Honours Research Papers and graduate programs. We will also have time to address any issues that have come up during the course. Some readings might be assigned to respond to specific requests, concerns, and issues.

**Week 13 (April 11<sup>th</sup>)****Research Paper Workshop**

Sharlene Nagy Hesse-Biber, *The Practice of Qualitative Research* (3<sup>rd</sup> edition) (Sage, 2017), 340-365 (chapter 12).

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## **ACADEMIC ACCOMMODATIONS**

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows: <https://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf>

### **Pregnancy obligation**

Please contact me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details, visit the Department of Equity and Inclusive Communities (EIC):

<https://carleton.ca/equity/>

### **Religious obligation**

Write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details, visit the Department of Equity and Inclusive Communities (EIC): <https://carleton.ca/equity/>

### **Academic Accommodations for Students with Disabilities**

If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (PMC) at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me as soon as possible to ensure

accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable)

<https://carleton.ca/pmc>

### **Plagiarism**

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence. More information on the University's Academic Integrity Policy can be found at: <https://carleton.ca/registrar/academic-integrity/>

### **Survivors of Sexual Violence**

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/studentssupport/svpolicy/>

### **Accommodation for Student Activities**

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

For more information on academic accommodation, please contact the departmental administrator or visit: <https://students.carleton.ca/services/accommodation/>

**Department Policy**

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations: <https://carleton.ca/law/current-students/>