

Course Outline

COURSE:	LAWS 3908C – Approaches in Legal Studies II
TERM:	WINTER 2020
PREREQUISITES:	LAWS 2908 and third year Honours standing
CLASS:	Day & Time: Tuesday, 8:35 - 11:25 am
	Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Professor Christiane Wilke
CONTACT:	Office: D 499 Loeb
	Office Hrs: Tuesdays, 2:30 - 4:30 pm
	Email: Christiane.wilke@carleton.ca

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 law regulate war? Can war be ethical? How do institutions such as the United Nations identify war crimes? Which kinds of violations of the laws of war end up at the International Criminal Court, and with which results? In this course we build research skills through interdisciplinary engagements with scholarly texts, court decisions, and a range of reports and military documents. We emphasize critical and theoretically grounded engagements with war and keep asking questions about the relationships between global hierarchies, warfare, and the legal responses to war. Students will build their research paper writing skills through a series of in-class exercises, structured assignments, a research paper proposal, and a research paper.

REQUIRED TEXTS

LAWS 3908.C course pack. Available at Octopus Books, 116 3rd Avenue (off Bank St).

EVALUATION

- **Attendance: 5%**
- **Participation: 5%**
- **Paper 1: 20%**
- **Paper 2: 20%**
- **Paper 3 (research paper proposal): 10%**
- **Final Exam (research paper): 40%**

- **Attendance and participation:** This class is structured around discussions and workshops on doing research. So it is important that you both do the readings that will be the basis of our discussions and group work, and that you come to class to participate in the workshops. Attendance and participation are valued at 10% combined, but regular attendance and informed participation will help you write much better assignments.
- **Everyone's active participation** is crucial for the success of the class. Participation is valued at **5 points** and presumes, of course, that you have read the texts carefully and that you attend class.
- **Attendance policy:** regular attendance is the key to the success in seminar classes. Attendance counts for **5 points**. After the first class you missed, each further class that you miss without a documented excuse leads to a 1 point deduction. (Example: If you miss two classes, you will get 4 out of 5 points for attendance.)
- **Short papers 1 and 2 (5-6 pages each)** are responses to essay questions/tasks that will be handed out in class in advance. You will answer one out of two or more questions. The emphasis is on applying theoretical concepts from the readings to primary material. Some of the questions/tasks will ask you to construct your own research question.
- **Short paper 3 (3-4 pages excluding bibliography)** is a research paper proposal, including a literature review and a bibliography of no less than twelve items, ten of which have to be scholarly publications.
- **The short papers are due on these dates (not in class!):**
- **Paper 1: Friday, February 14th**
- **Paper 2: Friday, March 13th**
- **Paper 4: Friday, March 27th**
- **Late penalty for short papers: 10% (2 points out of 20, or 1 point out of 10) per day.**
- **The final exam** will be a take-home exam in form of a research paper (12-15 pages, excluding bibliography).

- The **final exam is due on Monday, April 27th**. No late final exams will be accepted without documented medical or equivalent legitimate reasons.

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.

SCHEDULE

Week 1 (January 7th): Introduction: Law, War, Research

Week 2 (January 14th): Laws of War

Frédéric Mégret, "Theorizing the Laws of War," in: Anne Orford and Florian Hoffmann, eds., *The Oxford Handbook of the Theory of International Law* (Oxford: Oxford University Press, 2016), 762-778.

Yoram Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict*, 2nd ed. (Cambridge: Cambridge University Press, 2010), 1-32.

Week 3 (January 21st): Law, Space & War

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

Craig Jones, "Frames of law: targeting advice and operational law in the Israeli military," *Environment and Planning D: Society and Space* 33 (2015): 676-696.

Recommended:

Chris af Jochnick and Roger Normand, "The Legitimation of Violence: A Critical History of the Laws of War," *Harvard International Law Journal* 35 (1994): 49-95.

Week 4 (January 28th): Civilians & Complexity

Amanda Alexander, "The Genesis of the Civilian," *Leiden Journal of International Law* 20 (2007): 359-376.

Erin Baines, *Buried in the Heart: Women, Complex Victimhood and the War in Northern Uganda* (Cambridge: Cambridge University Press, 2017), 1-30, 78-98.

Week 5 (February 4th): International Law and Civilian Deaths

Yoram Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict*, 2nd ed. (Cambridge: Cambridge University Press, 2010), 121-155.

Neta Crawford, *Accountability for Killing: Moral Responsibility for Collateral Damage in America's Post-9/11*

Wars (Oxford: Oxford University Press, 2013), 1-32.

Watson Institute: *Human Costs of Post-9/11 Wars: Lethality and the Need for Transparency*. November 2018.

Available online:

<https://watson.brown.edu/costsofwar/files/cow/imce/papers/2018/Human%20Costs%2C%20Nov%208%202018%20CoW.pdf>

Recommended:

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

Week 6 (February 11th): Investigating NATO Airstrikes in Afghanistan

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

United Nations Assistance Mission to Afghanistan, *Annual Report on the Protection of Civilians in Armed Conflict 2008*, 1-25.

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.

Recommended:

Human Rights Watch (HRW), "Letter to Secretary of Defense Robert Gates on US Airstrikes in Azizabad, Afghanistan." 14 January 2009. Accessed 12 November 2019. Available online: <https://www.hrw.org/news/2009/01/14/letter-secretary-defense-robert-gates-us-airstrikes-azizabad-afghanistan> (accessed 29 November 2019).

Week 7 (February 25th): The International Criminal Court, Africa, and Afghanistan

Kamari Maxine Clarke, *Affective Justice: The International Criminal Court and the Pan-Africanist Pushback* (Durham and London: Duke University Press, 2019), 49-90.

International Criminal Court, Pre-Trial Chamber II, *Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan*. 12 April 2019. CC-02/17. Available online: https://www.icc-cpi.int/CourtRecords/CR2019_02068.PDF (accessed 29 November 2019).

Recommended:

Kate Clark, "ICC rejects war crimes investigation in Afghanistan: Continuing impunity for perpetrators, no voice yet for victims," *Afghanistan Analysts Network*, 13 April 2019. Available online: <https://www.afghanistan-analysts.org/icc-rejects-war-crimes-investigation-in-afghanistan-continuing-impunity-for-perpetrators-no-voice-yet-for-victims/>

Week 8 (March 3rd): Counterinsurgency and Civilian Deaths

International Security Assistance Force (ISAF). Tactical Directive (public version). 6 July 2009.

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

Center for Army Lessons Learned (CALL), *Afghanistan Civilian Casualty Prevention: Observations, Insights, and Lessons*. June 2012, 1-10, 15-33.

Additional Sources:

American Civil Liberties Union (ACLU), Documents received from the Department of the Army in response to ACLU Freedom of Information Act Request, Part 2:

<https://www.aclu.org/sites/default/files/webroot/natsec/foia/log2.html> (accessed 29 November 2019).

Week 9 (March 10th): Philosophical Approaches

Judith Butler, *Frames of War: When Is Life Grievable?* (London & New York: Verso, 2010), 1-33.

Maja Zehfuss, *War and the Politics of Ethics* (Oxford: Oxford University Press, 2018), 91-134.

Recommended:

Adil Ahmed Haque, *Law and Morality at War* (Oxford: Oxford University Press, 2017).

Week 10 (March 17th): International Criminal Law, Trials

Sarah Nouwen, "International Criminal Law: Theory all Over the Place", in: Anne Orford and Florian Hoffmann, eds., *The Oxford Handbook of the Theory of International Law* (Oxford: Oxford University Press, 2016), 738-761.

Barrie Sander, "The expressive turn of international criminal justice: A field in the search of meaning," *Leiden Journal of International Law* 32 (2019): 851-872.

Week 11 (March 24th): A Child Soldier on Trial

Adam Branch, "Dominic Ongwen on Trial: The ICC's African Dilemmas," *International Journal of Transitional Justice* 11 (2017): 30-49.

International Criminal Court (ICC), Pre-Trial Chamber II, Decision on the Confirmation of Charges against Dominic Ongwen, 23 March 2016, ICC-02/04-01/15. Available online: https://www.icc-cpi.int/CourtRecords/CR2016_02331.PDF (accessed 29 November 2019), 71-104.

Week 12 (March 31st): War, Work, Emotions

Naz K. Modirzadeh, "Cut These Words: Passion and International Law of War Scholarship," *Harvard International Law Journal* 61 (forthcoming).

Week 13 (April 7th): Conclusion & Research Paper Workshop

Readings: TBA

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 Equity Services website:

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 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) www.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:*

<http://carleton.ca/studentaffairs/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: carleton.ca/sexual-violence-support

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. <http://carleton.ca/law/current-students/>