

Course Outline

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<b>COURSE:</b>	<b>LAWS 4606 B – International Law and Armed Conflict</b>
<b>TERM:</b>	<b>WINTER 2020</b>
<b>PREREQUISITES:</b>	<b>LAWS 2908 or PAMP 3000, LAWS 2601 and fourth-year Honours standing</b>
<b>CLASS:</b>	<b>Day &amp; Time: Tuesdays 11:35-2:25</b> <b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR:</b>	<b>Trevor Purvis</b>
<b>CONTACT:</b>	<b>Office: D599 Loeb</b> <b>Office Hrs: Tuesdays 2:35-5:00</b> <b>Telephone: 613-520-2600, ext.3673</b> <b>Email: trevor_purvis@carleton.ca</b>

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**CALENDAR COURSE DESCRIPTION**

UN Charter prohibition of the use of force. Exceptional, permissible uses of armed force. Role of Security Council in determining legality of armed intervention. Collective security, peacemaking, peacekeeping, neutrality, prohibited means of warfare. Humanitarian International Law, Geneva Red Cross Conventions, war crimes, International Criminal Court.

**COURSE DESCRIPTION**

The laws governing resort to the use of force (*ius ad bellum*) and the conduct of hostilities (*ius in bello*) have a long pedigree, each having been central to the emergence of what we have come to know as public international law. In the Western philosophical, theological, and legal traditions the principles governing the laws of war can be traced to Greek and Roman thought, and the early Christian Church. This course traces the development of each of these branches of the laws of war, from antiquity, through the ostensible efforts to “humanize” warfare that dominated the Eurocentric development of the laws of war through the 19th and 20th centuries. Central to our considerations will be the persistent counterpoint running through this evolution; a counterpoint struck by the dark “underbelly” of humanitarian law: the constant presence of those excluded from law's reach, from the barbarians at the margins of the “universal” empires of Rome and the Holy Roman Empire, to the “terrorist” outlaws of the 21st century.

The course is arranged as a weekly seminar. Students will be assigned readings from the course reading-list to present in class. Presentations should be brief. Their purpose is to draw out the principle points and/or problems/themes arising from the readings, and to create a foundation for broader class discussion of the reading materials.

Please note that this course has an extensive reading list, and while I don't expect people will be able to read everything each week, you should make every effort to cover as much of the material as you can each week and to participate in weekly discussion. The weekly journals require you to display a firm grasp of the materials from across the course, so if you aren't doing the readings you will find the course very difficult to do well in.

## **REQUIRED TEXTS**

This term we will be relying on an array of reading from various sources. All materials can be located electronically through the library collection or over the Internet more generally.

## **EVALUATION**

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.

## **COURSE EVALUATION**

Class Participation - 20%

Weekly journals - 20%

Term Paper - 60% (6,000 words – Due the last day of term)

**(All components must be completed in order to get a passing grade)**

## **PARTICIPATION**

While attendance is not mandatory, participation is. If you are not in attendance you cannot participate. If you don't have time to attend class you should probably seek another course.

Each student will be responsible for introducing readings at least twice in class. Assignment of subsequent weeks' readings will be given at the end of each class.

## **WEEKLY JOURNALS**

You will be expected to submit weekly written reflections on the readings. These may include consideration of such questions as: What themes link the readings? What is the central thrust of each? How do they speak to the issues of the period upon which they focus? How might they speak to central themes in international law today? What's your own critical assessment of the arguments adduced?

The intention of this exercise is to briefly engage the materials in written form *prior to the commencement of class*. This will leave you much better prepared to engage thoughtfully in weekly discussion.

Your reflections should comprise roughly 1 ½ to 2 pages (single spaced) each week.

Each failure to submit your reflections on time will result in a grade-point reduction in your Weekly Journals grade after the second such tardy or failed submission.

## **TERM PAPERS**

It is critical that your term papers have, at their core, questions dealing with the relationship between *international law and armed conflict*. There are myriad ways you might approach this combination, but be sure that these two are at the centre of your paper's focus.

Students will be required to submit a brief paper proposal online before class on Week 9 (March 3). The proposal should consist of a working title, roughly a half-page (1-2 paragraph) description of how you envisage the paper developing, and a brief bibliography of preliminary materials you've identified in relation to your proposal.

(All components must be completed in order to get a passing grade)

#### A Note on Resources

There are innumerable websites with a vast wealth of material that you could draw upon as background information and/or additional sources. One of the most interesting and useful for our immediate purposes is the website of the International Committee of the Red Cross at <http://www.icrc.org/eng/index.jsp>. The legacy of Henri Dunant, the ICRC is a remarkable institution whose special neutral status has granted it unprecedented credibility and authority as an official exponent of the current status of the law of armed conflict. It has, in turn, gained a reputation as the principal frontline provider of services to those hors de combat in warzones internationally. If you want authoritative statements of the current status of the laws of armed conflict, this is an invaluable source of information. You should be particularly aware of the materials posted at [http://www.icrc.org/customary-ihl/eng/docs/v1\\_cha](http://www.icrc.org/customary-ihl/eng/docs/v1_cha). On this page are links to a series of brief, highly readable summaries of the current status of the laws of International Humanitarian Law as Customary International Law. Here you will find succinct formulations of such crucial concepts to the law of armed as “distinction”, “proportionality”, and “military necessity”, and much more as well. Much of what we will be reading this term is engaged directly with this orthodoxy, either arguing for its customary, universally binding character, or denying its continued relevance under conditions that render them no longer practicable or feasible (i.e. a post-Westphalian world order dominated by profound asymmetries of power and correspondingly disparate strategic approaches to conflict).

### **SCHEDULE**

#### **Class Schedule**

#### **Week 1 – January 7, 2020**

##### **Introduction**

#### **Week 2 – January 14, 2020**

##### **Theoretical Considerations**

##### **Required Reading**

Jochnick, C. A., & Normand, R. (1994). The Legitimation of Violence: A Critical History of the Laws of War. *Harvard International Law Journal*, 35, 49-94.

Mégret, F. (2006). From “Savages” to “Unlawful Combatants”: A Postcolonial Look at International Humanitarian Law's “Other”. In A. Orford (Ed.), *International Law and Its Others* (pp. 265-317). Cambridge: Cambridge University Press.

Solis, G.D. (2010) Law of Armed Conflict's Four Core Principles. In G.D Solis *The Law of Armed Conflict: International Humanitarian Law in War* (pp. 250-285). Cambridge: Cambridge University Press.

##### **Supplementary Reading**

Lieblich, E. (2019). The Facilitative Function of Jus in Bello. *European Journal of International Law*, 30(1), 321-340.

O'Connell, M.E. (ed.) (2012). *What is War?: An Investigation in the Wake of 9/11*. Leiden & Boston: Martinus Nijhoff Publishers.

**Week 4 -- January 21, 2020****Justice and War? Antiquity's Bequest****Required Reading**

Thucydides (1910). The Melian Conference. In *The History of the Peloponnesian War* (R. Crawley, Trans.). London: J.M. Dent & Sons Ltd., pp.300-306. Available online at:

<http://www.wellesley.edu/ClassicalStudies/CLCV102/Thucydides--MelianDialogue.html>

Anghie, A. (1996). Francisco de Vitoria and the Colonial Origins of International Law. *Social & Legal Studies*, 5(4), 321-336.

Coverdale, J.F. (2004). An Introduction to the Just War Tradition, 16 *Pace International Law Review*. 221-277. Online at: <http://digitalcommons.pace.edu/pilr/vol16/iss2/1>

Myers, R.J. (1996). Notes on the Just War Theory: Whose Justice, Which Wars? *Ethics & International Affairs*, 10(1), 115-130.

**Supplementary Reading**

Anaya, S. J. (1996). *Indigenous Peoples in International Law*. New York, Oxford University Press.

Bellamy, A. J. (2006). *Just Wars: From Cicero to Iraq*. Cambridge, UK; Malden, MA, Polity.

Draper, G. I. A. D. (1992). Grotius' Place in the Development of Legal Ideas about War. *Hugo Grotius and International Relations*. H. Bull, B. Kingsbury and A. Roberts. Oxford, Oxford University Press.

Johnson, J. T. (2006). "The Just War Idea: The State of the Question." *Social Philosophy and Policy* 23(01): 167-195.

Khadduri, M. (1955). *War and Peace in the Law of Islam*. Baltimore, Johns Hopkins Press.

Walzer, M. (1977). *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. New York: Basic Books.

Williams, R. A. (1990). *The American Indian in Western Legal Thought: The Discourses of Conquest*. Oxford & New York, Oxford University Press.

**Week 4 – January 28, 2020****“Exterminate all the brutes” - Missions civilizatrice and the “White man's Burden”****Required Reading**

Anghie, A. (1999). Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law. *Harvard International Law Journal*, 40(1), 1-66.

Colby, E. (1927). How to Fight Savage Tribes. *American Journal of International Law* 21(2)279-288.

Ward, T. (2005). State Crime in the Heart of Darkness. *British Journal of Criminology* 45(4): 434-445.

Wright, Q. (1926). The Bombardment of Damascus. *American Journal of International Law* 20: 263-280.

**Supplementary Reading**

Anghie, A. (2001-2002). "Colonialism and the Birth of International Institutions: Sovereignty, Economy, And The Mandate System of the League of Nations." *New York University Journal of International Law and Politics* 34(3): 513-634.

Hochschild, A. (1998). *King Leopold's Ghost: A Story of Greed, Terror, and Heroism in Colonial Africa*. New York, Houghton Mifflin Company.

Lindqvist, S. (1992). *Exterminate All the Brutes: One Man's Odyssey into the Heart of Darkness and the Origins of European Genocide*. New York, The New Press.

Lindqvist, S. (2001). *A History of Bombing*, New Press.

Reeves, J. S. (1909). "The Origin of the Congo Free State, Considered from the Standpoint of International Law." *The American Journal of International Law* 3(1): 99-118.

**Week 5 – February 4, 2020****Civilizing the Un-Civilizable?****Required Reading**

Carnahan, B. M. (1998). Lincoln, Lieber and the Laws of War: The Origins and Limits of the Principle of Military

Necessity. *American Journal of International Law*, 92(2), 213-231.

Davies, N.J.S. (2009). The Caroline Case and American Drone Strikes in Pakistan. *Peace Review: A Journal of Social Justice*, 21(4), 429-436.

Roscher, B. (2002). The “Renunciation of War as an Instrument of National Policy”. *Journal of the History of International Law*, 4, 293-309.

Meron, T. (1987). The Geneva Conventions as Customary Law. *American Journal of International Law*, 81(2), 348-370.

Zulaika J. (1998). Tropics of Terror: From Guernica's 'Natives' to Global 'Terrorists'. *Social Identities* 1:93-108.

### **Supplementary Reading**

Jennings, R.Y. (1938). The Caroline and McLeod Cases. *American Journal of International Law*, 32(1), 82-99.

Kramer, R. (2013) From Guernica to Hiroshima to Baghdad: The normalization of the terror bombing of civilians. *State Crime in the Global Age*. In W.J. Chambliss, R. Michalowski, R. Kramer (Eds.) *State Crime in the Global Age* (pp.118-133). New York: Routledge.

Lindqvist, S. (2001). *A History of Bombing*, New Press.

Meron, T. (2000). The Humanization of Humanitarian Law. *American Journal of International Law* 94(2): 239-278.

Wright, Q. (1953). The Outlawry of War and the Law of War. *American Journal of International Law* 47: 365.

## **Week 6 – February 11, 2020**

### **From Nuremberg to Vietnam**

#### **Required Reading**

Lippman, M. (1993). War Crimes: The My Lai Massacre And The Vietnam War'. *San Diego Justice Journal* 1.

Nagel, T. (1972). War and Massacre. *Philosophy and Public Affairs*, 1(2), 123-144.

Prévost, A.M. (1992). Race and War Crimes: The 1945 War Crimes Trial of General Tomoyuki Yamashita. *Human Rights Quarterly*, 14(3), 303-338.

Ryan, A. (2007). Nuremberg’s Contributions to International Law. *Boston College International & Comparative Law Review* 30, 55-89. Online at <http://lawdigitalcommons.bc.edu/iclr/vol30/iss1/5>

#### **Supplementary Reading**

Hitchens, C. (2001). The Case Against Henry Kissinger, Part One: The Making of A War Criminal. *Harpers Magazine*. February. Available online at: [www.icaonline.org/files/hitchens\\_harpers\\_kissinger.pdf](http://www.icaonline.org/files/hitchens_harpers_kissinger.pdf). Especially from ‘Dress Rehearsal: The Secret of ‘68’ to ‘Chile Part I: Statesman as Hitman’.

Oliver, K. (2003). "Atrocity, Authenticity and American Exceptionalism: (Ir)rationalising the Massacre at My Lai." *Journal of American Studies* 37(2): 247-268.

Taylor, T. (1971). *Nuremberg and Vietnam: An American Tragedy*. New York: Bantam Books.

Tomuschat, C. (2006). The Legacy of Nuremberg. *Journal of International Criminal Justice*, 4(4), 830-844.

Turse, N. (2013). *Kill anything that moves: the real American war in Vietnam*. New York: Metropolitan Books/Henry Holt and Co.

Walzer, M. (1977). *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. New York: Basic Books.

Zolo, D. (2009). *Victors' Justice: From Nuremberg to Baghdad*. London & New York: Verso.

## **Week 7 – February 18, 2020**

### **Reading Week – No Class**

## **Week 8 – February 25, 2020**

## **Week 9 – March 3, 2020**

### **“The Responsibility to Protect” or “The Burden” Revisited?**

#### **Required Reading**

- Bellamy, A.J. (2005). Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq. *Ethics & International Affairs*, 19(2), 31-54.
- Ercan, P. G. (2015). Responsibility to protect and inter-state crises: why and how R2P applies to the case of Gaza. *The International Journal of Human Rights*, 19(8), 1098-1111.
- MacFarlane, N.S., Thielking, C.J. and Weiss, T.G. (2004). "'The responsibility to protect': Is anyone interested in humanitarian intervention?". *Third World Quarterly* 25: 977-992.
- Orford, A. (1999). Muscular Humanitarianism: Reading the Narratives of the New Interventionism. *European Journal of International Law*, 10(4), 679-711.

### Supplementary Reading

- Branch, A. (2005). American Morality over International Law: Origins in UN Military Interventions, 1991-1995. *Constellations*, 12(1), 103-127.
- Bricmont, J. (2006). *Humanitarian Imperialism: Using Human Rights to Sell War*. NYU Press.
- Chandler, D. (2004). The Responsibility to Protect? Imposing the 'Liberal Peace'. *International Peacekeeping*, 11(1): 59-81.
- Chesterman, S. (2001). *Just War or Just Peace?: Humanitarian Intervention and International Law*. Oxford: Oxford University Press.
- International Commission on Intervention and State Sovereignty (2001). *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (No. 341.233). International Development Research Centre (Canada).
- Orford, A. (2003). *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law*. Cambridge: Cambridge University Press.
- (2011). *International Authority and the Responsibility to Protect*. Cambridge University Press.
- Zolo, D. (2002). *Invoking Humanity: War, Law and Global Order*. London: Bloomsbury.

### Week 10 – March 10, 2020

#### Imperial Outposts Amidst the Barbarians: Iraq

##### Required Reading

- Bellamy (2004). Ethics and Intervention: The "Humanitarian Exception" and the Problem of Abuse in the Case of Iraq. *Journal of Peace Research*, 41(2), 131-147.
- Bhuta, N. (2003). A Global State of Exception? The United States and World Order. *Constellations*, 10(3), 371-391.
- Center for Economic and Social Rights (2002). *Tearing Up The Rules: The Illegality of Invading Iraq*. <http://www.cesr.org/article.php?id=1087>.
- Carr, M. (2008) The Barbarians of Fallujah. *Race & Class*, 50(1): 21-36.
- Elshtain, J.B. (2002). A Just War? Online at: [http://www.boston.com/news/packages/iraq/globe\\_stories/100602\\_justwar.htm](http://www.boston.com/news/packages/iraq/globe_stories/100602_justwar.htm).
- Oberleitner, G. (2004). A just war against terror? *Peace Review*, 16(3), 263-268.
- O'Huiginn, D. (2004). Denial of Water to Iraqi Cities. *Cambridge Solidarity with Iraq* (CASI). Online at <http://www.fredsakademiet.dk/library/water.htm>

##### Supplementary Reading

- Brecher, J., Cutler, J. and Smith, B. (2007). *In the Name of Democracy: American War Crimes in Iraq and Beyond*. London: Macmillan.
- Brunnée, J. and S. Toupe (2004). "Slouching Toward New Just Wars: International Law and the Use of Force After September 11." *Netherlands International Law Review* 51(3): 363-392.
- Brussels Tribunal - Remembering Fallujah - A dossier of The BRussels Tribunal Online at <http://www.brusselstribunal.org/pdf/Fallujah.pdf>.
- Gregory, D. (2004). *The Colonial Present*. Oxford: Blackwell Publishers.
- Kramer, R., Michalowski, R. and Rothe, D. (2005). "The Supreme International Crime": How the US War in Iraq Threatens the Rule of Law. *Social Justice*, 32(2) (100):52-81.

- Kramer, R., Michalowski, R., & Rothe, D. (2005). "The Supreme International Crime": How the US War in Iraq Threatens the Rule of Law. *Social Justice*, 32(2), 52.
- Nardin, T. (2005). Humanitarian Imperialism. *Ethics & International Affairs*, 19(02): 21-26.
- Purvis, T. (2006). Looking for Life Signs in an International Rule of Law. In A. Bartholomew (Ed.), *Empires Law*. London: Pluto.
- Roberts, A. (2003). The law and the use of force after Iraq. *Survival*, 45(2), 31-56.

### Week 11 - March 17, 2020

#### Distinction, Proportionality and Military Necessity meet asymmetric Warfare: Cast Lead & Protective Edge

##### Required Reading

- Halper, J. (2010) The Second Battle of Gaza: Israel's Undermining of International Law. *Monthly Review*. Online at <http://mrzine.monthlyreview.org/2010/halper260210.html>.
- Joronen, M. (2016). "Death comes knocking on the roof": Thanatopolitics of Ethical Killing During Operation Protective Edge in Gaza. *Antipode*, 48(2), 336-354.
- Kasher, A. (2009). Operation Cast Lead and the Ethics of Just War: Was Israel's conduct in its campaign against Hamas morally justified? *Azure* 37.
- The Goldstone Report (excerpts) *Journal of Palestine Studies*, Vol. 39, No. 2 (Winter 2010), pp. 60-121 (especially pp. 72-117).
- Slater, J. (2012). Just War Moral Philosophy and the 2008—09 Israeli Campaign in Gaza. *International Security*, 37(2), 44-80.
- Weizman, E. (2010). Legislative Attack. *Theory, Culture & Society* 27(6): 11-32.

##### Supplementary Reading

- Brecher, J., Cutler, J. and Smith, B. (2007). *In the Name of Democracy: American War Crimes in Iraq and Beyond*. London: Macmillan.
- Geiß, R. (2006). "Asymmetric conflict structures." *International Review of the Red Cross* 88(864): 757-777.
- Ghoshray, S. (2008). "When Does Collateral Damage Rise to the Level of a War Crime: Expanding the Adequacy of Laws of War against Contemporary Human Rights Discourse." *Creighton Law Review* 41(4): 679-711.
- Horowitz, A., Ratner, L. and Weiss, P. (eds.) (2011). *The Goldstone Report: The Legacy of the Landmark Investigation of the Gaza Conflict*. New York: Nation Books.
- International Crisis Group (2010) War Crimes in Sri Lanka - Asia Report N°191. May 2010. Online at [http://www.crisisgroup.org/~media/Files/asia/south-asia/sri-lanka/191%20War%20Crimes%20in%20Sri%20Lanka.pdf](http://www.crisisgroup.org/~/media/Files/asia/south-asia/sri-lanka/191%20War%20Crimes%20in%20Sri%20Lanka.pdf).
- Kahl, C.H. (2007). In the crossfire or the crosshairs? Norms, civilian casualties, and US conduct in Iraq. *International Security*, 32(1): 7-46.
- Kasher, A. (2009). Operation Cast Lead and the Ethics of Just War: Was Israel's conduct in its campaign against Hamas morally justified? *Azure* 37.
- (2009). 'Israel & the Rules of War': An Exchange, *The New York Review of Books*, 56(10). Retrieved from <http://www.nybooks.com/articles/22761>.
- Kasher, A. et al (2009) 'Israel & the Rules of War' - An Exchange *The New York Review of Books*. See the complete exchange with Walzer & Margalit
- Khalidi, M. A. (2010). "The Most Moral Army in the World": The New "Ethical Code" of the Israeli Military and The War on Gaza. *Journal of Palestine Studies*, 39(3), 6-23.
- Luft, M. (2018). Living in a Legal Vacuum: The Case of Israel's Legal Position and Policy towards Gaza Residents. *Israel Law Review*, 51(2), 193-234.
- MacLeod, I. J. and A. P. V. Rogers (2007). "The Use of White Phosphorus and the Law of War." *Yearbook of International Humanitarian Law*. 10: 75-97.
- Schabas, W. A. (2010). Gaza, Goldstone, and Lawfare. *Case Western Reserve Journal of International Law*, 43, 307.

**Week 12 – March 24, 2020****New Technologies for “New Wars”?****Required Reading**

- Asaro, P. (2012). On banning autonomous weapon systems: human rights, automation, and the dehumanization of lethal decision-making. *International Review of the Red Cross*, 94(886), 687-709.
- Brooks, R. (2014). Drones and the International Rule of Law. *Ethics & International Affairs*, 28(01), 83-103.
- Geiss, R. (2015). [\*The International-Law Dimension of Autonomous Weapons Systems\*](#). International Dialogue department of the Friedrich-Ebert-Stiftung: International Policy Analysis.
- Sadat, L. N. (2012). America's Drone Wars. *Case Western Reserve Journal of International Law*, 45(1 & 2), 215-234.
- Schmitt, M. N. (2014). The Law of Cyber Warfare: Quo Vadis Symposium: War in the Digital Age. *Stanford Law & Policy Review*(2), 269-300.

**Supplementary Reading**

- Amnesty, International. (2013). *“Will I be Next?” US Drone Strikes in Pakistan*. London: Amnesty International Publications, available at: <http://www.amnesty.ca/research/reports/will-i-be-next-us-drone-strikes-in-pakistan>
- Ahmad, S. (2013). A Legal Assessment of the US Drone Strikes in Pakistan. *International Criminal Law Review*, 13(4), 917-930.
- [Boothby, W. H.](#) (2014). Online book: [Conflict law : the influence of new weapons technology, human rights and emerging actors](#)
- Chehtman, A. (2017). The *ad bellum* Challenge of Drones: Recalibrating Permissible Use of Force. *European Journal of International Law*, 28(1), 173-197.
- Evangelista, M., & Shue, H. (Eds.). (2014). *The American Way of Bombing: Changing Ethical and Legal Norms, from Flying Fortresses to Drones*. Ithaca: Cornell University Press.
- Gregory, D. (2011). From a View to a Kill: Drones and Late Modern War. *Theory, Culture & Society*, 28(7-8), 188-215.
- Gross, M. L. (2006). Assassination and Targeted Killing: Law Enforcement, Execution or Self-Defence? *Journal of Applied Philosophy* 23(3): 323-335.
- (2010). *Moral Dilemmas of Modern War: Torture, Assassination, and Blackmail in an Age of Asymmetric Conflict*. Cambridge: Cambridge University Press.
- The Intercept: *The Drone Papers*. <https://theintercept.com/drone-papers/>
- Liu, H.-Y. (2012). Categorization and legality of autonomous and remote weapons systems. *International Review of the Red Cross*, 94(886), 627-652.
- Mayer, J. (2009). The Predator War: What are the risks of the C.I.A.'s covert drone program? *The New Yorker*. (October 26, 2009): <https://www.newyorker.com/magazine/2009/10/26/the-predator-war>
- Millson, R. O., & Herman, D. A. (2015). *Killing by Drones: Legality under International Law*. The Foundation for Law, Justice and Society.
- O’Connell, M. E. (2010). Unlawful Killing with Combat Drones: A Case Study of Pakistan, 2004-2009 *Notre Dame Legal Studies Paper*. The Law School: University of Notre Dame.
- (2014). Banning Autonomous Killing: The Legal and Ethical Requirement That Humans Make Near-Time Lethal Decisions. In M. Evangelista & H. Shue (Eds.), *The American Way of Bombing: Changing Ethical and Legal Norms, from Flying Fortresses to Drones* (pp. 224-236). Ithaca: Cornell University Press.
- (2014). 21st Century Arms Control Challenges: Drones, Cyber Weapons, Killer Robots, and WMDs The Legal Challenges of Globalization: A View from the Heartland. *Washington University Global Studies Law Review*, 13, 515-534.
- Schmitt, M. N. (2013). *Tallinn manual on the international law applicable to cyber warfare*: Cambridge University Press.
- Stanford International Human Rights and Conflict Resolution Clinic, & Global Justice Clinic at NYU School of Law. (2012). *Living Under Drones: Death, Injury, and Trauma to Civilians From US Drone Practices in*



Pakistan, available at: <https://law.stanford.edu/publications/living-under-drones-death-injury-and-trauma-to-civilians-from-us-drone-practices-in-pakistan/>

Vogel, R. J. (2010-2011). Drone Warfare and the Law of Armed Conflict. *Denver Journal of International Law and Policy*, 39, 101-138.

### **Week 13 – March 31, 2020**

#### **New Wars, New Rules and an Enemy Unlike Others - The “Exceptionality” of Terrorism**

##### **Required Reading**

Bassiouni, M.C. (2005). The Institutionalization of Torture Under the Bush Administration. *Case Western Reserve Journal of International Law* 37: 389-425.

Michaelsen, S. & Shershow, S.C. (2004). Beyond and before the law at Guantanamo. *Peace Review*, 16(3), 293-303.

Post, J.M., & Panis, L. K. (2005). Crimes of Obedience. *Democracy and Security*, 1(1), 33-40.

Kasher, A., & Yadlin, A. (2005). Assassination and preventive killing. *SAIS Review of International Affairs*, 25(1): 41-57.

Sadat, Leila. (2006). Ghost Prisoners and Black Sites: Extraordinary Rendition Under International Law. *Case Western Reserve Journal of International Law* 37(2/3): 309-342.

##### **Supplementary Reading**

Bellamy, A.J. 2006. 'No pain, no gain. Torture and ethics in the war on terror'. *International Affairs*. 82, 121-148.

Brown, M. (2005). “Setting the Conditions” for Abu Ghraib: The Prison Nation Abroad. *American Quarterly*, 57(3), 973-997.

Greenberg, K.J., & Dratel, J.L. (2005). *The Torture Papers: The Road to Abu Ghraib*. Cambridge: Cambridge University Press.

Gregory, D. (2009). Vanishing points: Law, violence, and exception in the global war prison. In S. Boehmer & S. Morton (Eds.), *Terror and the Postcolonial* ( pp.55-98). Oxford: Wiley-Blackwell.

Gross, M.L. (2010). *Moral Dilemmas of Modern War: Torture, Assassination, and Blackmail in an Age of Asymmetric Conflict*. Cambridge: Cambridge University Press.

Hamm, M.S. (2007). ‘High Crimes and Misdemeanors’: George W. Bush and the Sins of Abu Ghraib. *Crime, Media, Culture*, 3(3): 259-284.

Yoo, J.C. (2004). The Status of Soldiers and Terrorists under the Geneva Conventions. *Chinese Journal of International Law* 3(1): 135-150.

### **Week 14 April 7, 2020**

#### **Review**

### **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) [www.carleton.ca/pmc](http://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](http://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/>