Conrad Grebel University College

University of Waterloo

PACS 301 Special Topics: Human Rights,
Humanitarian Law, and International Criminal Prosecution

Fall 2018

Class Time: Tuesday and Thursday, 1:00 – 2:20 pm

Location: Room 1300, Conrad Grebel University College

Instructor: Lowell Ewert

Office Hours: Tuesday and Thursday, 2:30 – 3:30 pm

Office Location: Room 2126

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Acknowledgment:

We are on the traditional territory of the Attiwandaron (Neutral), Aniashinaabe, Haudenosaunee peoples. The University of Waterloo is situated on the Haldimand Tract, the land promised to the Six Nations that includes ten kilimeters on each side of the Grand River.

# Course Description:

This course will introduce students to principles of human rights that are designed to preserve peace and fundamentals of International Humanitarian Law (IHL) which function to make the restoration of peace more likely. The spectrum of these complementarity and at times contradictory bodies of international law will be explored. Particular attention will be given to an examination of key provisions of IHL (Hague, Geneva Conventions, Protocols), as well as how breaches of IHL are prosecuted (International Criminal Court, regional courts, role of domestic courts). The definition of war crimes, crimes against humanity, and notions of terrorism will be compared to actions generally deemed lawful under IHL. The application of IHL to contemporary conflicts in Syria, Iraq, and Afghanistan will be analyzed. The goal of this course is to better understand how human rights, IHL and criminal prosecution can be leveraged to build peace and stop war.

# Course Objectives:

**S**tudents who complete this course will be able to:

* Recognize basic human rights principles that undergird the entire human rights system
* Deepen their understanding of how the protection of human rights is essential for peace
* Understand basic principles of international humanitarian law and when these apply
* Understand the practical application of humanitarian law and why it matters
* Articulate how human rights, humanitarian law, and international criminal prosecution complement each other, and collectively contribute to peace
* Effectively analyze common critiques of human rights, humanitarian law and international criminal prosecution
* Apply principles of human rights, humanitarian law, and criminal prosecution to contemporary conflicts

# Concept Map:



The concept map for this course consists of the skeleton of a house composed of a floor, walls, and roof. The floor of the house is composed of international law that sustains the entire structure, with the wall on the right half of the house composed of the Law of War, the walls on the left hand composed of human rights law, which walls supports a roof that protects people from harsh elements of figurative hail, hear, wind and snow that would otherwise make life for occupants inside the house unbearable. Inside the structure of the house are more easily moveable walls composed of domestic law, custom and culture, that form the basis for occupants to live together with mutual respect.

# Course teaching methodology:

A seminar course, PACS 301 will emphasize critical analysis and discussion. It will not assume that there is one “right” answer to questions posed or issues discussed, but rather that there are ways of thinking that will enable students to develop their own personal viewpoints. It will be assumed that students have much to contribute and they will be expected to be engaged in class discussions and come to class well prepared. This course assumes that we all learn best and internalize lessons learned most effectively in a process of dialogue with each other. Students must therefore personally wrestle with concepts discussed in order to benefit from the course. Teaching methodologies that will be used will include:

* Presentation of key topics by course instructor
* Small group discussions
* Student questions posed in class
* Videos and guest lecturers
* Discussion of current events relevant to course topics
* Participation in a conference entitled *IHL: Instruments of Peace,* to be held at the Balsillie School for International Affairs on November 13, 2018
* Student involvement in research, presentations and reports

# Required Reading Materials:

This course will make use of one text book that can be purchased at the University of Waterloo Bookstore, numerous articles available on the internet, plus some posted on the PACS 301 Learn website. The required text book available from the bookstore is *Evidence for Hope: Making Human Rights Work in the 21st Century*, by Kathryn Sikkink, Princeton University Press, 2017.

Web Page:

This course will make use of a WATERLOO LEARN website. This site will provide general information for the course, reading assignments, grades for assignments, and other matters that may be posted from time-to-time. Important announcements such as the cancellation of class due to illness will also be posted there, so please try to check the site before each class, just in case.

# Course Evaluation and Assignments:

Baseline reflection essay(5% of course mark) – due September 13, 2018, before the start of class. No research is required to complete this essay as this is a reflection paper.

* + Two page essay (500 words) that responds to the following:
		- Section 1 - Human rights:
			* On a scale of 1 – 10 (1 being poor and 10 being excellent), assign a score to measure what you believe to be the effectiveness of the human rights system in projecting people globally.
			* Explain why you gave this mark.
			* In your opinion, what is the key strength of human rights and what is the key failure.
		- Section 2 - International humanitarian law:
			* On a scale of 1 – 10 (1 being poor and 10 being excellent), assign a score to measure what you believe to be the effectiveness of IHL to reduce killing and destruction in the times of war or armed conflict.
			* Explain why you gave this mark.
			* What is the key strength of IHL and key failure.
		- Section 3 - International criminal prosecution:
			* On a scale of 1 – 10 (1 being poor and 10 being excellent), assign a score to measure what you believe to be the effectiveness of international criminal prosecution to hold war criminals accountable for their actions.
			* Explain why you gave this mark.
			* What is the key strength of international criminal prosecution and key failure.

On-line quizzes (15% of course mark) – due each week throughout the term.

* + Students will be required to complete a series of ten quizzes composed of randomly assigned true/false questions, two of which do not count towards the final term grade, on the reading materials assigned each week. The quiz will be available for any 60 minute period from the Monday at 12 noon before class to Tuesday 12 noon the day of class, for the weeks for which there is a quiz.  **Students may work in groups of two throughout the term to complete the quiz.**

Expert Rapporteur (15% of course mark). Due dates will vary for this assignment beginning September 18 and ending October 2 - see the due date noted on the sign-up sheet in Learn. In class, we will regularly discuss various human rights and humanitarian law treaties and instruments. Each student will select an instrument to research in order to become a key class expert resource on this body of law. Students will be expected to draft a 1,250 – 1,500 word paper (excluding title page and bibliography), utilizing at least five sources, on their chosen instrument that will address the following issues:

* + When was the instrument drafted?
	+ Why was it drafted?
	+ Who was involved in it’s drafting? How might this have influenced the outcome?
	+ What are key provisions that summarize the document? In other words, what are essential core principles that undergird the entire instrument?
	+ What are common criticisms of this instrument?
	+ Include other pertinent attributes that you think important to note.
	+ What in your opinion has been the impact of this instrument?

In-class assignments (10% of course mark).

* + In 10 classes, you will be asked to reflect on some aspect of the class, a reading assignment, or application of the course topic to a contemporary theme. The marks of the 8 highest will be recorded. The assignments will be graded mostly as pass/fail if they indicate a reasonable amount of interaction with the question/reflected given. More detail about expectations for this assignment will be given in class prior to the activity. No make-up assignments will be given.

Major project (40% of course mark) – due November 29, 2018 before the start of class. Students will be expected to complete a major project that addresses an issue studied that is of particular interest to them. Students may work alone, or in groups of up to three. Projects may consist of a traditional research paper of 12 – 15 pages (roughly 3,000 – 3,500 words in length) per student contribution. Students may propose an alternative assignment (digital, etc.) that will roughly equal an equivalent workload. If the research paper option is selected, students will be expected to use footnotes formatted in Chicago style. If adequately footnoted, no bibliography is needed. Papers should include:

* + Title page
	+ Table of Contents
	+ Executive summary
	+ Main body of paper
	+ Conclusion

Final Reflection Essay (15% of course mark) – due before the start of class November 27, 2018.

* + Students will be required to complete a five page essay (approximately 1,250 words) that reflects on any changes in attitude they may have experienced towards course topics during the term. This essay should:
		- Review and evaluate the student’s baseline essay and explain why you agree or disagree with what was written at the start of the term.
		- Reflect on what surprised you most when re-reading your baseline reflection.
		- Note significant changes in opinion that you may have had.
		- Note key areas in which your thinking is still unsettled or unclear.
		- Discuss whether you think a course like this that emphasizes human rights, IHL and international criminal prosecution should be a PACS course, or instead is more appropriately taught in another department.
		- Reflect on other matters related to course themes that you feel pertinent.
		- It is expected that this Final Reflection will be footnoted, and refer to sources assigned or used in research.

# UWaterloo Policies

Academic Integrity:In order to maintain a culture of academic integrity, members of the University of Waterloo are expected to promote honesty, trust, fairness, respect and responsibility.

Arts: [Academic Integrity website](https://uwaterloo.ca/arts/undergraduate/student-support/academic-standing-understanding-your-unofficial-transcript/ethical-behaviour) University of Waterloo: [Academic Integrity Office](https://uwaterloo.ca/academic-integrity/)

Discipline:A student is expected to know what constitutes academic integrity, to avoid committing academic offences, and to take responsibility for his/her actions. A student who is unsure whether an action constitutes an offence, or who needs help in learning how to avoid offences (e.g., plagiarism, cheating) or about “rules” for group work/collaboration should seek guidance from the course professor, academic advisor, or the Undergraduate Associate Dean. When misconduct has been found to have occurred, disciplinary penalties will be imposed under Policy 71 – Student Discipline. For information on categories of offenses and types of penalties, students should refer to Policy 71 - Student Discipline.

Grievance:A student who believes that a decision affecting some aspect of his/her university life has been unfair or unreasonable may have grounds for initiating a grievance. Read Policy 70 - Student Petitions and Grievances, Section 4.

Appeals:A student may appeal the finding and/or penalty in a decision made under Policy 70 - Student Petitions and Grievances (other than regarding a petition) or Policy 71 - Student Discipline if a ground for an appeal can be established. Read Policy 72 - Student Appeals.

# Other sources of information for students:

Note for students with learning differences:The [AccessAbility Services (AAS)](https://uwaterloo.ca/accessability-services/) office, located in Needles Hall Room 1132, collaborates with all academic departments to arrange appropriate accommodations for students with disabilities without compromising the academic integrity of the curriculum. If you require academic accommodations to lessen the impact of your disability, please register with the ASS office at the beginning of each academic term.

Counselling Services: Counselling Services provides free confidential counselling, in both individual and group sessions, with qualified professionals to help registered students, faculty and staff with personal concerns, educational career decisions, and strategies to studies and exams: [www.adm.uwaterloo.ca/infocs](file:///C%3A%5CUsers%5Clmewert%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CINetCache%5CContent.Outlook%5C1XPFOCRK%5Cwww.adm.uwaterloo.ca%5Cinfocs), ext. 33528, NH Room 2080.

Accommodation for Illness: A medical certificate presented in support of an official petition for relief from normal academic requirements must provide all of the information requested on the “University of Waterloo Verification of Illness” form or it will not be accepted. More information can be obtained from Health Services and the form is available in pdf: <https://uwaterloo.ca/health-services/student-medical-clinic/services/verification-illness>

The Writing Centre: Writing Centre staff offer one-on-one support in planning assignments and presentations, using and documenting research, organizing and structuring papers, and revising for clarity and coherence. Make an appointment or drop in at the Library for quick questions or feedback. To book a 50-minute appointment and to see drop-in hours, visit [www.uwaterloo.ca/writing-centre](file:///C%3A%5CUsers%5Clmewert%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CINetCache%5CContent.Outlook%5C1XPFOCRK%5Cwww.uwaterloo.ca%5Cwriting-centre)

# Weekly schedule

The following course schedule may change from time-to-time to reflect the actual pace of class discussion and movement through course topics. Any changes to this course schedule will be announced in class at least a week in advance, and an announcement circulated on LEARN about changes.

## September 6: Introduction

* + Reading assignment: none

## September 11: Do human rights work?

* + Reading assignment:
		- *Evidence for Hope,* Chapter 1: Introduction – Anger, Hope, and the Belief You Can Make a Difference, pgs. 3 - 21
	+ Assignment:
		- Quiz 1 covering readings for Sept. 11 – 13 is due on-line before class begins

## September 13: Criticisms of Human Rights

* + Reading assignment:
		- [Universal Declaration of Human Rights](http://www.un.org/en/universal-declaration-human-rights/index.html)
		- *Evidence for Hope,* Chapter 2: Response to the Critics, pg. 22 – 51.
	+ Assignment:
		- Two page baseline essay is due.

## September 18: Human rights - just another form of Western, capitalistic, Judeo-Christian Imperialism?

* + Reading assignment:
		- [*Covenant on Economic, Social and Cultural Rights*](https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx)*,* Articles 1 – 15
		- *Evidence for Hope,* Chapter 3: The Diverse Origins of Human Rights, pgs. 55 – 93.
	+ Assignment:
		- Quiz 2 covering readings for Sept. 18 – 20 is due on-line before class begins

## September 20: The competition embedded in human rights

* + Reading assignment:
		- [*Covenant on Civil and Political Rights*](https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx)*,* Articles 1 - 27
		- *Evidence for Hope,* Chapter 4: The Struggles for Human Rights during the Cold War, pgs. 94 – 136.
		- Douglas Hostetter. “[A Conscientious Objector in War Zone](https://www.nytimes.com/2017/06/02/opinion/a-conscientious-objector-in-a-war-zone.html),” New York Times, June 2, 2017.
	+ Assignment: none

## September 25: Human rights impact

* + Reading assignment:
		- *Evidence for Hope,* Chapter 5: Why Is It so Hard to Measure the Effectiveness of Human Rights Law and Activism, pgs., 139 – 180.
		- [*Convention on the Rights of Persons with Disability*](https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#preamble)*,* Articles 1 – 15
	+ Assignment:
		- Quiz 3 covering readings for Sep. 25 – 27 is due on-line before class begins.

## September 27: Human rights NGOs (guest Andrew Thompson, former Chair, Amnesty International Canada)

* + Reading assignment:
		- *Evidence for Hope,* Chapter 6: What Does and Doesn’t Work to Promote Human Rights, pgs. 181 – 221.
	+ Assignment: none

## October 2: Transition between human rights and International Humanitarian Law

* + Reading assignment
		- *Evidence for Hope,* Chapter 7: Conclusions – Evidence for Hope Without Complacency, pgs. 225 – 254.
	+ Assignment:
		- Quiz 4 covering readings for Oct. 2 - 4 is due on-line before class begins.

## October 4: Introduction to IHL

* + Reading assignment:
		- Available on Learn. John Cerone. “International Humanitarian Law.”
		- David Crane. “[A Darkened Age – The Rule of Law in Protecting Morality and Humanity](http://www.jurist.org/forum/2017/06/David-Crane-a-darkened-age.php).” *Jurist.*
	+ Assignment: none

## October 9 – 10 READING DAYS

## October 11: Future directions in human rights (guest Dean Peachey, Executive Director and Coordinator, Global College Human Rights Program, University of Winnipeg)

* + Reading assignment:
		- Available on Learn. Kenneth Cmiel. “The Recent History of Human Rights,” taken from Iriye, Goedde and Hitchcock, editors, *The Human Rights Revolution: An International History,* Oxford University Press, (2012), pgs. 27 – 51.
	+ Assignment: none

## October 16: Principle of distinction

* + Reading assignment:
		- Read Chapter 1 – Rules 1 – 6: [Distinction Between Civilians and Combatants](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter1), prepared by ICRC,
	+ Assignment:
		- Quiz 5 on reading materials for Oct. 11, 16, and 18.

## October 18: Principles of distinction continued

* + Reading assignment:
		- Read Chapter 2 – Rules 7 – 14: [Specifically Protected Persons and Objects](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha), prepared by ICRC
	+ Assignment: none

## October 23: Special issues – non-state actors

* + Reading assignment:
		- “[The Roots of Restraint in War](https://shop.icrc.org/the-roots-of-restraint-in-war.html?___store=fr),” ICRC, June 27 2018, pgs. 1 – 52.
	+ Assignment:
		- Quiz 6 on reading materials for October 23 and 25.

## October 25: Special issues – children and disabilities

* + Reading assignment:
		- “[How law protects persons with disabilities in armed conflict](https://www.icrc.org/en/document/how-law-protects-persons-disabilities-armed-conflict),” ICRC
		- “[Children protected under international humanitarian law](https://www.icrc.org/eng/war-and-law/protected-persons/children/overview-protected-children.htm),” ICRC October 29, 2010
	+ Assignment: none

## October 30: Syria – case study (potential guest Samira Koujok)

* + Reading assignment:
		- **WARNING – THIS READING ASSIGNMENT CONTAINS GRAPHIC CONTENT AND PHOTOS.** “[If the Dead Could Speak: Mass Deaths and Torture in Syria’s Detention Facilities](https://www.hrw.org/report/2015/12/16/if-dead-could-speak/mass-deaths-and-torture-syrias-detention-facilities),” Human Rights Watch, December 16, 2015
	+ Assignment:
		- Quiz 7 covering readings for Oct. 30 and Nov. 1 is due on-line before class begins.

## November 1: ISIS – case study

* + Reading assignment:
		- “[They came to destroy: ISIS Crimes Against the Yazidis](https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_32_CRP.2_en.pdf),” Human Rights Council Report, June 15, 2016.
		- Available on Learn. “Charles Taylor Indictment.”
	+ Assignment: none

## November 6: Personal accountability

* + Reading assignment:
		- Available on Learn. William Hodge. “Making a Monster: Exploring the Development of Perpetrators, Bystanders, and Rescuers,” Vol. 8 Impunity Watch Annual Review,” 2017 – 2018, pgs. 126 – 147.
		- Jon Wiener. “[A forgotten hero stopped the My Lai massacre 50 years ago today](http://www.latimes.com/opinion/op-ed/la-oe-wiener-my-lai-hugh-thompson-20180316-story.html),” Los Angeles Times, March 16, 2018
	+ Assignment:
		- Quiz 8 on reading materials for November 6 and 8.

## November 8: A soldier’s view

* + Reading assignment:
		- “[Legal Framework](http://www.forces.gc.ca/en/about-reports-pubs-military-law-strategic-legal-paper/law-interrogations-legal-framework.page),” National Defence and the Canadian Armed Forces paper, read *Section I: International Humanitarian Law*
		- Available on Learn. Lieutenant-Colonel John Conrad. “This Side of Paradise,” in Conrad, *What the Thunder Said: Reflections of a Canadian Officer in Kandahar,* Canadian Defence Academy Press, 2009, pgs. 25 – 35.
	+ Assignment: none

## November 13: IHL Conference at BSIA (no class)

* + Reading assignment:
		- To be determined – paper presented at conference
	+ Assignment:
		- Quiz 9 on reading materials for November 13 and 15.

## November 15: Amnesties – how hostilities may end

* + Reading assignment:
		- “[Amnesties and International Humanitarian Law: Purpose and Scope](https://www.icrc.org/en/document/amnesties-and-ihl-purpose-and-scope).” ICRC factsheet
		- “[Rule 159. Amnesty](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule159).”
		- Simon M. Meisenberg. “[Legality of amnesties in international humanitarian law. The Lome’ Amnesty Decision of the Special Court for Sierra Leone](https://www.icrc.org/eng/assets/files/other/irrc_856_meisenberg.pdf).”
	+ Assignment: none

## November 20: International criminal prosecution

* + Reading assignment:
		- [Rome Statute of the International Criminal Court](https://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome_Statute_English.pdf), Preamble through Article 8.
		- Available on Learn. David Crane. “The Special Court for Sierra Leonne,” taken from Crane, Sadat, and Scharf, *The Founders: Four Pioneering Individuals Who Launched the First Modern-Era International Criminal Tribunals,* Cambridge University Press (2018), pgs. 74 – 93.
		- Available on Learn. Martha Minow. “Vengeance and Forgiveness,” taken from *Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence,* Beacon Press, (2007), pgs. 9 – 24.
	+ Assignment
		- Quiz 10 on reading materials for November 20 and 22.

## November 22: Humanitarian action during times of armed conflict

* + Reading assignment:
		- “[Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief](http://spherehandbook.org/en/the-code-of-conduct-for-the-international-red-cross-and-red-crescent-movement-and-ngos-in-disaster-relief%26display%3Dprint/).”
	+ Assignment: none

## November 27: Cover topics to be discussed

* + Reading assignment: none
	+ Assignment:
		- Final reflection essay due

## November 29: Summary, student reports, tie up loose ends.

* + Readings assignment: none
	+ Assignments:
		- Major project due