



**DEPARTMENT OF POLITICAL SCIENCE
FACULTY OF ARTS**

**POLI 543/643 (L01)
Law and Armed Conflict
Winter 2021**

INSTRUCTOR: Dr. Maureen S. Hiebert
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OFFICE HOURS: Mondays 2:00pm – 3:00pm, Thursdays 11:00am – 12:00noon via Zoom.
Link to be provided on D2L course website under Content/Office Hours Zoom link.
COURSE DAY/TIME: Tuesdays 11:00am – 1:45pm.
DELIVERY METHOD: Web-based; synchronous
COURSE PRE-REQUISITES for POLI 543: Political Science 342 or 483
POLI 643: None

COURSE DESCRIPTION

In this course we will examine key texts and topics concerning the development, conceptualization, codification, and practical application of the laws of armed conflict. The course will begin with an historical overview of the customary laws of war in the ancient and Medieval eras and the evolution and eventual codification of these laws beginning in the mid-nineteenth century through to the contemporary period. This section will include an on-going analysis of how this process of law-generation and development paralleled changes in the means and methods of warfare as well as the advent of human rights and international criminal law. Part II examines the question of when the laws of armed conflict do and do not apply to the use of armed force, key legal principles, laws concerning protected and non-protected persons (civilian and military) and the means and methods of warfare. We then examine what constitutes war crimes and detail the legal responsibilities of commanders and their subordinates. Finally, we look at emerging challenges to LOAC such as cyber warfare and autonomous weapons systems.

COURSE OBJECTIVES & LEARNING OUTCOMES

By the end of the course students will have a grasp of the legal principles underpinning humanitarian law, the content of these laws, the practicalities of applying (or not) the laws governing armed conflict, the use of international criminal law to deter and punish wrong-doing, and more broadly, the complex interplay between law, international politics, and military operations.

REQUIRED TEXTBOOK(S)

There are four required texts for this course. They are available for purchase at the University of Calgary Book Store. All other readings are available on-line through the University of Calgary Library.

Lindsay Moir, *The Law of Internal Armed Conflict* (Cambridge University Press, 2002).

Gary D. Solis, *The Law of Armed Conflict: International Humanitarian Law in War*, Second Edition (Cambridge University Press, 2016).

Theodor Meron, *Henry's Wars and Shakespeare's Laws: Perspective on the Law and War in the Later Middle Ages* (Clarendon Press, 1993).

This book is also available on-line through Oxford Scholarship On-line at:

<http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198258117.001.0001/acprof-9780198258117?rskey=rEeLrv&result=3>

John Fabian Witt, *Lincoln's Code: The Laws of War in American History* (Free Press, 2012).

REQUIRED TECHNOLOGY

To complete this course you will need: a computer device with internet connection and audio and web camera functions or a microphone and web camera hooked up to a computer. This technology is necessary to participate in weekly synchronous seminars and submit assignments to D2L.

COURSE COMPONENT WEIGHTS AND DUE DATES

1. Participation (20% of final grade)

Since the class is a seminar, it is imperative that students come to each class having read all of the readings and prepared to discuss the readings in detail. Assessment of student participation will be based on both the quality and quantity of students' interventions, with emphasis placed on the ability of the student to show that they have read all of the assigned readings for the week.

2. Papers (65% of final grade)

a) Short Papers (2 x 15%)

Each student must write two short papers.

POLI 543 Students: maximum 2000 words

POLI 643 Students: maximum 3000 words

1st short paper between Weeks 2 and 6; 2nd short paper between Weeks 7 and 11.

Each paper will be based on all of the assigned readings for one week. These short papers should not simply summarize the readings, but rather draw out the common themes, locate them in the context of the study of law and armed conflict, and evaluate their contributions both to the specific topic as well as the broader debates in humanitarian law.

POLI 543 and POLI 643 students should try to answer the following questions: (i) what is the main theoretical or practical issue at stake? (ii) what is the main contribution of each author and (iii) how does each reading contribute to our knowledge of LOAC and its application in the real world?

POLI 643 students should **also** examine (i) whether or not we learned something from the readings that we didn't already know, (ii) evaluate what kind of evidence is used, and (iii) assess the reliability and validity of the conclusions drawn by the authors.

Short papers are **due** via the Dropbox on D2L by **10:59am on the day the readings analyzed in the paper are discussed in class**. Please use the following file naming format: your last name, paper number, course number - e.g. Hiebert1POLI543 (or 643); Hiebert2POLI543 (or 643).

b) Long Paper (1 x 35%): due Tuesday, April 13 by 11:59pm (Week 13)

Each student must also write a research paper.

POLI 543 Students: maximum 4500 words (excluding bibliography)

POLI 643 Students: maximum 6000 words (excluding bibliography)

Students will write a research paper on a topic related to some aspect of law and armed conflict selected by the student in consultation with the professor.

POLI 543 students are expected to include a (i) clear research question and (ii) thesis statement in the introduction and to (iii) provide sufficient evidence to illustrate their case study (or cases if doing a comparative analysis) and arguments.

POLI 643 students are expected to write a more detailed paper with a (i) clearly defined research question and (ii) analytical framework, (iii) a more extensive empirical case study (or cases if doing a comparative analysis) in which the analytical framework is tested/illustrated, and (iv) use a wider variety and number of sources.

The long paper is **due** via the Dropbox on D2L by **11:59pm on the due date**. Please use the following file naming format: your last name, paper number 3, course number - e.g. Hiebert3POLI643 (or 543).

3. Mock Conference Presentation (15% of final grade): March 30, April 6, April 13 (Weeks 11, 12, 13)

The last 2.5 weeks of the course will be taken up with student presentations of their long papers. These presentations will take the form of a mock academic conference in which students present their long research paper on a panel with other students presenting on similar themes. Each presentation will be approximately 15 minutes in length.

If a student misses a required course component, please get in touch the instructor as soon as possible.

COURSE SCHEDULE & TOPICS

DATE	TOPIC	READINGS
Week 1 January 12	Introduction to the Course	<i>(optional)</i> Gary D. Solis, <i>The Law of Armed Conflict: International Humanitarian Law in War</i> , chapter 1, (p. 3 - top of p. 31 only)
Week 2 January 19	Law and War in the Ancient World	Adriaan Lanni, “The Laws of War in Ancient Greece”, <i>Law and History Review</i> (Fall 2008), Vol. 26, No. 3, pp. 469-489. M. D. Goodman and A. J. Holladay, “Religious Scruples in Ancient Warfare”, <i>Classical Quarterly</i> , (1986), Vol. 36, No. 1, , pp. 151–171 Peter Krentz, “Fighting by the Rules: The Invention of the Hoplite Agon”, <i>Hesperia</i> (2002), Vol. 71, No. 1, pp. 23-39. Gary D. Solis, <i>The Law of Armed Conflict: International Humanitarian Law in War</i> (2016), <i>Hellenica Book II</i> , by Xenophon, (pp. 31-32). Thucydides, <i>History of the Peloponnesian War</i> , 5.84–116: Melian Dialogue; (numerous translations available on-line).
Week 3 January 26	Medieval and Early Modern Regulation of Warfare	Theodor Meron, <i>Henry’s Wars and Shakespeare’s Laws: Perspectives on the Law and War in the Later Middle Ages</i> chapters 1-6 (pp. 1-130), chapter 8 (pp.142-153)
Week 4 February 2	Humanitarian Law in the Era of Mechanized and Total War	John Fabian Witt, <i>Lincoln’s Code: The Laws of War in American History</i> , chapter 6 (pp. 170-196), chapter 8 (pp. 220-250) Gary D. Solis, <i>The Law of Armed Conflict: International Humanitarian Law in War</i> (2016), chapters 2–3, (pp. 42–155)
Week 5 February 9	Contemporary Law and Armed Conflict	Ganesh Sitaraman, “Counterinsurgency, the War on Terror, and the Laws of War”, <i>Virginia Law Review</i> , Vol. 95, No. 7, 2009, pp. 1745–1839 Daniel Bethlehem, “Self -Defense Against an Imminent or Actual Armed Attack by Non-State

		Actors,” <i>The American Journal of International Law</i> (2012), Vol. 106, pp. 770-777 Tom Ruys, “The Meaning of ‘Force’ and the Boundaries of the <i>Jus Ad Bellum</i> : Are ‘Minimal’ Uses of Force Excluded from UN Charter Article (2(4))?” <i>The American Journal of International Law</i> (2014), Vol. 108, pp. 159-210
Reading Week February 16 NO CLASS		
Week 6 February 23	Forms of Armed Conflict and the Applicability of Law	Gary D. Solis, <i>The Law of Armed Conflict: International Humanitarian Law in War</i> (2016), chapter 5, (pp. 159–199). Lindsay Moir, <i>The Law of Internal Armed Conflict</i> (2002) chapters 1–3, pp. (1–132)
Week 7 March 2	Law and the Conduct of Hostilities I: People (Combatants, Non-Combatants, POWs)	Gary D. Solis, <i>The Law of Armed Conflict: International Humanitarian Law in War</i> (2016), chapters 6–7 (pp. 200-327) Lindsay Moir, <i>The Law of Internal Armed Conflict</i> (2002) chapter 5, (pp. 193-231)
Week 8 March 9	Law and the Conduct of Hostilities II: Methods, Means, Weapons	Gary D. Solis, <i>The Law of Armed Conflict: International Humanitarian Law in War</i> (2016), chapters 12–13 (pp. 474–534), chapter 19 (pp. 732-756) International Court of Justice, <i>Legality of the Threat or Use of Nuclear Weapons</i> , Advisory Opinion of 8 July 1996 (available at: http://www.icj-cij.org/docket/files/95/7497.pdf)
Week 9 March 16	Legal Obligations in Armed Conflict: War Crimes, Lawful Orders, Command Responsibility	Gary D. Solis, <i>The Law of Armed Conflict: International Humanitarian Law in War</i> (2016), chapters 8-10 (pp. 328-456)
Week 10 March 23	LOAC and the Emerging Battlefield I: Cyber Warfare and Autonomous Weapons	Gary D. Solis, <i>The Law of Armed Conflict: International Humanitarian Law in War</i> (Cambridge University Press, 2016), chapter 17, (pp. 673-709), chapter 14, (pp. 535-568) Michael N. Schmitt, “The Law of Cyber

		<p>Targeting,” <i>Naval War College Review</i> (Spring 2015) Vol. 68, No. 2, pp. 11-29</p> <p>Robin Geiss, “Cyber Warfare: Implications for Non-International Armed Conflicts,” <i>International Law Studies</i>, U.S. Naval War College (2013), Vol. 89, pp. 627-645</p> <p>Noel Sharkey, “The Evitability of Autonomous Robot Warfare,” <i>International Review of the Red Cross</i> (Summer 2012) Vol. 94, No. 886, pp. 787-799</p> <p>Ashley Deeks, Noam Lubell, Daragh Murray, “Machine Learning, Artificial Intelligence, and the Use of Force by States,” <i>Journal of National Security Law and Policy</i> (2019) Vol. 10, pp. 1-25.</p>
<p>Week 11 March 30</p>	<p>LOAC and the Emerging Battlefield II: Autonomous Weapons (continued);</p> <p>Mock Conference Panel I</p>	<p>Heather M. Roff, “The Strategic Robot Problem: Lethal Autonomous Weapons in War,” <i>Journal of Military Ethics</i>, Vol. 13, No. 3, 2014, pp. 211-227</p> <p>Marcus Schulz, “Autonomous Weapons and Distributed Responsibility,” <i>Philosophy and Technology</i> (2013), Vol. 26, pp. 203-219</p>
<p>Week 12 April 6</p>	<p>Mock Conference Panel II & III</p>	<p>No Readings</p>
<p>Week 13 April 13</p>	<p>Mock Conference Panel IV & V</p>	<p>No Readings</p>

Please note that the above schedule is tentative and may change as the need arises.

WRITING STATEMENT

Written assignments in this course are in part graded on the quality of writing skills, including but not limited to such elements as grammar, punctuation, sentence structure, clarity, citation, and organization, will be taken into account in the determination of grades. Students are encouraged to make use of the services offered through Writing Support Services in the Student Success Centre by contacting them at <http://www.ucalgary.ca/ssc/writing-support>.

GRADING SCALE: The following grading scale will be used:

A+ (91-100)	B+ (77-79)	C+ (67-69)	D+ (55-59)
A (85-90)	B (73-76)	C (63-66)	D (50-54)
A- (80-84)	B- (70-72)	C- (60-62)	F (0-49)

LATE PENALTIES

Both short-papers must be submitted by 10:59am on the day the readings covered in the paper are discussed in class. No late short papers will be accepted.

The late penalty for the long paper is: -5% including weekends.

INSTRUCTOR GUIDELINES

Students requiring assistance are encouraged to speak me during class or office hours. Should you wish to meet outside of office hours, please email to make an appointment. It is to the student's advantage to keep such appointments. All meetings will be held via Zoom.

Email is a common form of communication but it is not always the most effective way of answering student questions. If you cannot make office hours, please request a one on one meeting outside of these hours, to be held virtually.

IMPORTANT POLICIES AND INFORMATION

Supporting Documentation and the Use of a Statutory Declaration

As stated in the University Calendar:

Students may be asked to provide supporting documentation for an exemption/special request. This may include, but is not limited to, a prolonged absence from a course where participation is required, a missed course assessment, a deferred examination, or an appeal. Students are encouraged to submit documentation that will support their situation. Supporting documentation may be dependent on the reason noted in their personal statement/explanation provided to explain their situation. This could be medical certificate/documentation, references, police reports, invitation letter, third party letter of support or a statutory declaration etc. The decision to provide supporting documentation that best suits the situation is at the discretion of the student. Students cannot be required to provide specific supporting documentation, such as a medical note.

Students can make a Statutory Declaration as their supporting documentation (available at ucalgary.ca/registrar). This requires students to make a declaration in the presence of a

Commissioner for Oaths. It demonstrates the importance of honest and accurate information provided and is a legally binding declaration. Several registered Commissioners for Oaths are available to students at no charge, on campus. For a list of locations to access a Commissioners for Oaths, visit ucalgary.ca/registrar).

Falsification of any supporting documentation will be taken very seriously and may result in disciplinary action through the Academic Discipline regulations or the Student Non-Academic Misconduct policy.

This statement is accessible at: <https://www.ucalgary.ca/pubs/calendar/current/m-1.html>

Absence From a Mid-term Examination

Students who are absent from a scheduled term test or quiz for legitimate reasons are responsible for contacting the instructor via email within 48 hours of the missed test to discuss alternative arrangements. A copy of this email may be requested as proof of the attempt to contact the instructor. Any student who fails to do so forfeits the right to a makeup test.

Deferral of a Final Examination

Deferral of a final examination can be granted for reasons of illness, domestic affliction, and unforeseen circumstances, as well as to those with three (3) final exams scheduled within a 24-hour period. Deferred final exams will not be granted to those who sit the exam, who have made travel arrangements that conflict with their exam, or who have misread the examination timetable. The decision to allow a deferred final exam rests not with the instructor but with Enrolment Services. Instructors should, however, be notified if you will be absent during the examination. The Application for Deferred Final Exam, deadlines, requirements and submission instructions can be found on the Enrolment Services website at <https://www.ucalgary.ca/registrar/exams/deferred-exams>.

Appeals

If a student has a concern about the course or a grade they have been assigned, they must first discuss their concerns with the instructor. If this does not resolve the matter, the student then proceed with an academic appeal. The first step in an academic appeal is to set up a meeting with the Department Head. Appeals must be requested within 15 days of receipt of the graded assignment.

University Regulations

Students are responsible for familiarizing themselves with the University policies found in the Academic Regulations sections of the Calendar at www.ucalgary.ca/pubs/calendar/current/academic-regs.html.

Student Accommodations

Students seeking an accommodation based on disability or medical concerns should contact Student Accessibility Services; SAS will process the request and issue letters of accommodation to instructors. For additional information on support services and accommodations for students with disabilities, visit www.ucalgary.ca/access/.

Students who require an accommodation in relation to their coursework based on a protected ground other than disability should communicate this need in writing to their Instructor.

The full policy on Student Accommodations is available at <http://www.ucalgary.ca/policies/files/policies/student-accommodation-policy.pdf>.

Plagiarism and Other Forms of Academic Misconduct

Academic misconduct in any form (e.g. cheating, plagiarism) is a serious academic offence that can lead to disciplinary probation, suspension or expulsion from the University. Students are expected to be familiar with the standards surrounding academic honesty; these can be found in the University of Calgary calendar at <http://www.ucalgary.ca/pubs/calendar/current/k.html>. Such offences will be taken seriously and reported immediately, as required by Faculty of Arts policy.

Required Access to Technology

Please see the University's resource page at https://ucalgary.service-now.com/it?id=kb_article&sys_id=86e7438013753ac06f3afbb2e144b031

Copyright Legislation

As stated in the University of Calgary Calendar, Academic Regulations, "students are required to read the University of Calgary policy on Acceptable Use of Material Protected by Copyright and requirements of the copyright act to ensure they are aware of the consequences of unauthorised sharing of course materials (including instructor notes, electronic versions of textbooks etc.). Students who use material protected by copyright in violation of this policy may be disciplined under the Non-Academic Misconduct Policy."

<https://www.ucalgary.ca/policies/files/policies/acceptable-use-of-electronic-resources-and-information-policy.pdf> and <https://laws-lois.justice.gc.ca/eng/acts/C-42/index.html>

Instructor Intellectual Property

Course materials created by instructors (including presentations and posted notes, labs, case studies, assignments and exams) remain the intellectual property of the instructor. These materials may NOT be reproduced, redistributed or copied without the explicit consent of the instructor. The posting of course materials to third party websites such as note-sharing sites without permission is prohibited. Sharing of extracts of these course materials with other students enrolled in the course at the same time may be allowed under fair dealing.

Freedom of Information and Protection of Privacy (FOIP)

FOIP legislation requires that instructors maintain the confidentiality of student information. In practice, this means that student assignment and tests cannot be left for collection in any public place without the consent of the student. It also means that grades cannot be distributed via email. Final exams are kept by instructors but can be viewed by contacting them or the main office in the Department of Political Science. Any uncollected assignments and tests meant to be returned will be destroyed after six months from the end of term; final examinations are destroyed after one year.

Faculty of Arts Program Advising and Student Information Resources

For program planning and advice, please consult with the Arts Students' Centre by calling 403-220-3580 or by email at artsads@ucalgary.ca. You can also visit arts.ucalgary.ca/advising for program assistance.

For registration (add/drop/swap), paying fees and assistance with your Student Centre, contact Enrolment Services at (403) 210-ROCK [7625].

Important Contact Information

Faculty of Arts Undergraduate Students' Union Representatives

Phone: 403-220-6551

Email: arts1@su.ucalgary.ca, arts2@su.ucalgary.ca, arts3@su.ucalgary.ca,
arts4@su.ucalgary.ca

Students' Union URL: www.su.ucalgary.ca

Graduate Students' Association

Phone: 403-220-5997

Email: askgsa@ucalgary.ca

URL: www.ucalgary.ca/gsa

Student Ombudsman

Phone: 403-220-6420

Email: ombuds@ucalgary.ca

Campus Mental Health Resources

The University of Calgary recognizes the pivotal role that student mental health plays in physical health, social connectedness and academic success, and aspires to create a caring and supportive campus community where individuals can freely talk about mental health and receive supports when needed. We encourage you to explore the excellent mental health resources available throughout the university community, such as counselling, self-help resources, peer support or skills-building available through the following resources:

SU Wellness Centre: <http://www.ucalgary.ca/wellnesscentre/>

Student Wellness Services:

<https://www.ucalgary.ca/wellness-services/services/mental-health-services>

Campus Mental Health Strategy website: <https://www.ucalgary.ca/mentalhealth/>.