

Department of Political Science
GLOBAL LAW AND COURTS
POLS*4020 [1.00]

Adam Kochanski
Fall 2023

SYLLABUS

Professor:	Dr. Adam Kochanski adam.kochanski@uoguelph.ca
Meetings:	M, 2:30-5:20 MCKN 311
Office Hours:	MCKN 532 (or via Teams) T/TH, 4:30-5:30 (or by appointment) <i>Please send me an e-mail to schedule a meeting outside my regular office hours</i>

Inquiries sent via e-mail will typically receive a response back within two working days (weekends excluded).

Prerequisites:	1 of POLS*3020, POLS*3130, POLS*3350
Restrictions:	POLS*4040. CJPP and CJPP:C students are restricted to a maximum of 3.00 credits in SOC and POLS 4000-level CJPP restricted electives.
Required Texts:	Available on CourseLink or via the University of Guelph's online library catalogue

CALENDAR DESCRIPTION

The seminar critically investigates topics in comparative, transnational, or international law and judicial processes.

DETAILED COURSE DESCRIPTION

"There can be no peace without justice, no justice without law and no meaningful law without a Court to decide what is just and lawful under any given circumstance"

(Benjamin Ferencz, Prosecutor at the Nuremberg Trials)

This "capstone" seminar engages the historical, political, and legal dimensions of international criminal law. Following upon the introductory session, the remainder of the course is organized into three main sections:

- I. Conceptual and Historical Underpinnings
- II. Levels
- III. Emerging Issues, Anxieties and Possibilities

Part I of the course explores the conceptual and historical foundations of international criminal law. Key developments in the immediate post-World War II period to try core international crimes will be examined. The class will also assess different conceptions of justice that have emerged across time and space. **Part II**

shifts to efforts to prosecute war crimes, crimes against humanity, and genocide across different levels. Our analysis will cover criminal proceedings in courts established at the international, regional, national and local levels. **Part III** investigates cross-cutting themes in international criminal law, including backlash against the International Criminal Court, victim participation and the role of civil society, sexual and gender-based violence and open source information in human rights investigations.

Throughout the course, students will be encouraged to question dominant assumptions in the theory and practice of international criminal law, reflecting critically on both the prospects and limitations of this field. To animate key concepts, theories, and legal proceedings, the course will draw on a plethora of case studies from across the world, zooming in on tribunals that have been established to try core international crimes in Europe, Latin America, Southeast Asia and Africa.

LEARNING OBJECTIVES

The main learning objective of this course is to provide an advanced theoretical, conceptual and empirical understanding of global law and courts, focusing on international criminal law. Students will acquire knowledge about the conceptual and historical underpinnings of international criminal law, and how it has been theorized and practiced across time and space in various contexts to prosecute core international crimes. Students taking this course will (1) sharpen their academic writing and research skills, (2) refine their presentation and oral communication skills, (3) develop their critical thinking skills, (4) improve their global understanding by acquiring knowledge about an array of case studies and (5) be able to identify key academic and policy stakes, preparing them to undertake further scholarly research or professional training in this area.

TEACHING METHODS

This is a **seminar course**, meaning while there will be some formal instruction in certain weeks (~10 to 15 minutes max. or as needed), the course is largely structured around weekly seminar discussions and group presentations facilitated by the professor and students centred on the required readings. Participation is an integral component of the course and its success depends on it. Students are expected to come to meetings prepared having read all the required texts. This is necessary for meaningful, critical and informed discussion and debate. At times, our weekly discussions may be animated by a guest speaker.

SENSITIVE CONTENT STATEMENT

International criminal law touches on numerous topics (war crimes, crimes against humanity, and genocide, which includes conflict-related sexual violence) that some students may find distressing. Nonetheless, these subjects have been included in the course materials because they reinforce the course's learning objectives.

EMAIL COMMUNICATION

As per university regulations, all students are required to check their <uoguelph.ca> e-mail account regularly: e-mail is the official route of communication between the University and its students.

WHEN YOU CANNOT MEET A COURSE REQUIREMENT

When you find yourself unable to meet an in-course requirement because of illness or compassionate reasons, please advise the course instructor (or designated person, such as a teaching assistant) in writing, with your name, id#, and e-mail contact. See the Undergraduate Calendar for information on regulations and procedures for [Academic Consideration](#).

DROP DATE

Courses that are one semester long must be dropped by the end of the last day of classes; two-semester courses must be dropped by the last day of classes in the second semester. The regulations and procedures for [Dropping Courses](#) are available in the Undergraduate Calendar.

COPIES OF OUT-OF-CLASS ASSIGNMENTS

Keep paper and/or other reliable back-up copies of all out-of-class assignments: you may be asked to resubmit work at any time.

ACCESSIBILITY

The University promotes the full participation of students who experience disabilities in their academic programs. To that end, the provision of academic accommodation is a shared responsibility between the University and the student.

When accommodations are needed, the student is required to first register with Student Accessibility Services (SAS). Documentation to substantiate the existence of a disability is required, however, interim accommodations may be possible while that process is underway.

Accommodations are available for both permanent and temporary disabilities. It should be noted that common illnesses such as a cold or the flu do not constitute a disability.

Use of the SAS Exam Centre requires students to make a booking at least 14 days in advance, and no later than November 1 (fall), March 1 (winter) or July 1 (summer). Similarly, new or changed accommodations for online quizzes, tests and exams must be approved at least a week ahead of time.

More information: www.uoguelph.ca/sas

ACADEMIC MISCONDUCT

The University of Guelph is committed to upholding the highest standards of academic integrity and it is the responsibility of all members of the University community – faculty, staff, and students – to be aware of what constitutes academic misconduct and to do as much as possible to prevent academic offences from occurring. University of Guelph students have the responsibility of abiding by the University's policy on academic misconduct regardless of their location of study; faculty, staff and students have the responsibility of supporting an environment that discourages misconduct. Students need to remain aware that instructors have access to and the right to use electronic and other means of detection.

Please note: Whether or not a student intended to commit academic misconduct is not relevant for a finding of guilt. Hurried or careless submission of assignments does not excuse students from responsibility for verifying the academic integrity of their work before submitting it. Students who are in any doubt as to whether an action on their part could be construed as an academic offence should consult with a faculty member or faculty advisor.

The [Academic Misconduct Policy](#) is outlined in the Undergraduate Calendar.

USE OF GENERATIVE ARTIFICIAL INTELLIGENCE (AI)

Students are not permitted to use generative AI in this course. Please refer to the University of Guelph-issued [statement on artificial intelligence systems, ChatGPT, and academic integrity](#) from March 2023 and regulations and procedures around academic misconduct in the [undergraduate](#) and [graduate](#) calendars.

RECORDING OF MATERIALS

Presentations which are made in relation to course work—including lectures—cannot be recorded or copied without the permission of the presenter, whether the instructor, a classmate or guest lecturer. Material recorded with permission is restricted to use for that course unless further permission is granted.

RESOURCES

The [Academic Calendars](#) are the source of information about the University of Guelph's procedures, policies and regulations which apply to undergraduate, graduate and diploma programs.

ILLNESS

Medical notes will not normally be required for singular instances of academic consideration, although students may be required to provide supporting documentation for multiple missed assessments or when involving a large part of a course (e.g., final exam or major assignment).

COURSE REQUIREMENTS

(In the event of extraordinary circumstances beyond the University's control, the content and/or evaluation scheme is subject to change.)

Table 1. Components of the Final Grade

Assessment	Weight	Due Date
Participation	20 %	Weekly as of Week 2
Reading Responses	10 %	Weekly as of Week 2
Presentation	30 %	Weekly as of Week 3
Essay	40 %	December 1

Note: All assignments must use Times New Roman, 12-point font and double-line spacing. All margins must be set to 2.54cm ("Normal") and the page size to "US Letter". Pages must be numbered. The use of condensed fonts is not permitted. Please submit all written assignments in PDF format. The [APA citation style](#) (in-text) must be used for assignments requiring citations/a bibliography (see [Department of Political Science Writing Guide](#)). Failure to adhere to these style and format guidelines may result in a %5 deduction.

ASSESSMENT METHODS

Participation (20%)

Participation will be assessed based on your active and informed involvement in class discussions. You are expected to complete all the assigned material before each class and to be an active participant in debate and discussion on the weekly themes. The *quality* of your comments will be given the most weight. A quality contribution demonstrates familiarity with the course readings, critical engagement with themes and respect for others' opinions. The professor will regularly make use of roundtables in order to give each student an opportunity to raise a question or issue relating to the readings. This means having completed the reading response question for that week and having at least one or two questions about the readings ready for the beginning of every class. I will grade your participation for each seminar out of 10 starting in **Week 2** using the grading criteria in the rubric below. Your participation grade will be the **average of your grades from Weeks 2 to 13** (because things happen, your lowest grade will be dropped).

Table 2. Seminar Participation Grading Criteria

Grade	Participation	Discussion	Reading
9-10	Always	Excellent—leads debate; offers critical and original analysis and comments; uses assigned readings to back up arguments; actively listens to peers.	Clearly has done and understands all the readings; intelligently uses this understanding to animate discussion.
8-8.5	Almost always	Good—thoughtful and original comments for the most part; willing, able and frequent contributor.	Has done all the readings; provides competent analysis.
7-7.5	Frequent	Acceptable—has basic grasp of key concepts; arguments sporadic and at times incomplete or largely opinion-based and poorly supported by assigned readings.	Displays familiarity with most readings but tends not to analyze it or explore connections across them.
6-6.5	Occasional	Minimally acceptable—remarks in class marred by misunderstanding of key concepts; only occasionally offers comments or opinions.	Actual knowledge of material is outweighed by improvised comments and remarks.
5-5.5	Rare	Insufficient—rarely speaks; restates readings without offering any original analysis.	Little to no apparent familiarity with assigned material.

Reading Responses (10%)

Reading responses will often form the basis of our weekly seminar discussions. Starting in **Week 2**, I will post reading response questions each week on CourseLink. Please select ONE of the questions from the list and submit a short, thoughtful response (~250 words). The response must explicitly engage with topics and/or concepts raised in that week’s material. In-text citations should be used making direct reference to the assigned readings. No bibliography is required given that you will be drawing only on the readings in the syllabus. Please upload your responses via CourseLink on Sundays by 11:59 p.m. EST. They will receive a pass/fail grade (pass for completing the response; fail for late submissions, responses that do not meet the guidelines or no submission). The objective is to encourage students to think critically about the readings before class. There will be 11 opportunities to submit reading responses. You may miss one without being penalized.

Presentation (30%)

At the start of the semester, I will circulate a list of case studies that students will be able to sign up for (one to two cases each week starting in **Week 3**). Your task is to prepare a (maximum) 15-minute presentation. The presentation will offer a concise and engaging report of the country’s experience with armed conflict. Given that 15 minutes is not a lot of time, each word should be chosen with purpose and intention. Your sentences should be crisp and delivered forcefully. Your oral remarks must be accompanied by visual aids, such as a few PowerPoint slides or similar. Students may decide to pre-record their presentation and play it in class. I will post additional tips for this assignment on CourseLink. The presentations will be scheduled for the first hour of class. In weeks when there are two presentations, the other will follow immediately after the break. The presentations will be followed by a 10 to 15-minute Q&A. Students will be assessed on the content and delivery of the presentation, the effectiveness of their visual aids, and their ability to answer questions. In addition to the presentation slides, students are required to submit a one-page (max) bibliography listing their sources (these should be predominantly scholarly sources) by 11:59 p.m. EST on the date of your presentation. A PDF of your slides will be shared in that week’s content tab for other students to learn from.

Your presentation will:

- Provide a brief, high-level overview of the country and the nature of the armed conflict (careful: do not get bogged down in detail – max 3-4 min).
- Give a synopsis of criminal proceedings that have been pursued or not and relate the case study to that week's readings (this is the heart of the presentation, avoid summarizing the articles – about 6-7 min).
- Provide an analysis of the strengths or weaknesses of the approach taken in that specific context (in the remaining time, feel free to be prescriptive in terms of the policy or normative implications of the case).

Essay (40%)

This ~10-12-page paper (roughly 4,000 words; no title page, word count does not include the bibliography) will give students an opportunity to delve deeper into the operation of a specific tribunal or issue relating to global law and courts – whether conceptually or theoretically, or historically or empirically through a case study (students can either expand on one of the case studies discussed or use the essay as an opportunity to explore another case or body of literature that interests them). While writing styles differ, the hallmark of a good essay is a well-structured paper with a clear and identifiable question and argument. Students are encouraged to **discuss their essay idea with me** before starting their research in **Weeks 8 or 9** of the course (a sign-up sheet will be circulated). Things to run by me: (1) the rationale, (2) research question(s), (3) argument and (4) implications. Please submit your essay via CourseLink by 11:59 p.m. EST on **Dec. 1**.

ASSESSMENT POLICIES AND ADDITIONAL INFORMATION

POLICY ON LATE SUBMISSIONS

There is a penalty for late submissions. Exceptions may be made for illness (supported by a medical note), or other extenuating circumstances deemed as such by the professor.

Presentations: This is a time-sensitive assignment – your peers are counting on you to be ready to go on time for class. Presentations not delivered during the meeting they were scheduled will receive a grade of 0 (zero).

Written Assignments:

- Reading responses received by 11:59 p.m. EST will receive a pass/fail grade. Responses not received by that time will receive a 0 grade.
- Late final essays will be accepted up to one week after the original deadline with a 10% deduction. Final essays will not be accepted after that time (11:59 p.m. EST on **Dec. 8**).

LANGUAGE QUALITY

While the content of written assignments will ultimately be the main determinant in assessments, the quality of writing will inevitably play a role. Students who are not proficient in the English language are encouraged to take advantage of McLaughlin Library's [Writing Services](#) and [Learning Services](#).

HOW TO READ AND PREPARE FOR THIS COURSE

This is a challenging, reading-intensive course. Students are expected to come to class prepared to discuss the materials. As a guide, you might ask yourself some of the following questions when you have finished each reading:

1. The author's argument is ...
2. The following are the key concepts and terms that I noticed were in the reading ...
Are any of these unclear?
3. Has this article introduced any new ideas or made me think differently about a particular topic?
4. Do I agree or disagree with the argument? Why or why not?

5. What additional questions does the article raise?
 6. How does this reading relate to the other assigned readings and/or concepts discussed in class?
 7. How does the author support their conclusions? Is their evidence convincing?
 8. What are the implications of the article for research and practice?
 9. The key takeaway from the reading is ...
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COURSE OUTLINE

Week 1 September 11

Introduction to the Course

Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (Viking Press, 1963), Chapter 1 “The House of Justice.”

I. Conceptual and Historical Underpinnings

Week 2 September 18

Vengeance, Forgiveness and Forgetting

Martha Minow, *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence* (Beacon Press, 1998), Chapter 2 “Vengeance and Forgiveness.”

Payam Akhavan, “Beyond Impunity: Can International Criminal Justice Prevent Future Atrocities?” *American Journal of International Law* 95 (1) (2001): 7–31.

Mark A. Drumbl, “Impunities,” in *The Oxford Handbook of International Criminal Law*, eds. Kevin Heller, Frédéric Mégret, Sarah Nouwen, Jens Ohlin, and Darryl Robinson (Oxford University Press, 2020), 238–260.

Week 3 September 25

History and Sources of International Criminal Law

Antonio Cassese, *Cassese’s International Criminal Law*, 3rd ed. (Oxford University Press, 2013), Chapter 1 “Fundamentals of International Criminal Law.”

Christian Tomuschat, “The Legacy of Nuremberg,” *Journal of International Criminal Justice* 4 (4) (2006): 830–844.

Milena Sterio, “The Yugoslavia and Rwanda Tribunals: A Legacy of Human Rights Protection and Contribution to International Criminal Justice,” in *The Legacy of Ad Hoc Tribunals in International Criminal Law: Assessing the ICTY’s and the ICTR’s Most Significant Legal Accomplishments*, eds. Milena Sterio and Michael Scharf (Cambridge University Press, 2019), 11–24.

Recommended:

Gerry Simpson, “The Conscience of Civilisation, and Its Discontents: A Counter History of International Criminal Law,” in *International Criminal Law in Context*, ed. Philipp Kastner (Routledge, 2017), 11–27.

Case studies available for presentations: Germany and Japan

Week 4 October 2

International Crimes and Responsibility

Paola Gaeta, “War Crimes and Other International ‘Core’ Crimes,” in *The Oxford Handbook of International Law in Armed Conflict*, eds. Andrew Clapham and Paola Gaeta (Oxford University Press, 2014), 737–765.

Claus Kreß, “On the Activation of ICC Jurisdiction over the Crime of Aggression,” *Journal of International Criminal Justice* 16 (1) (2018): 1–17.

Carsten Stahn, *A Critical Introduction to International Criminal Law* (Cambridge University Press, 2019), Chapter 2 “Individual and Collective Responsibility.”

Case studies available for presentations: Former Yugoslavia and Rwanda

Week 5 October 9

Reading Week (no class)

II. Levels

Week 6 October 16

International Courts

Benjamin N. Schiff, *Building the International Criminal Court* (Cambridge University Press, 2008), Chapter 2
“River of Justice.”

William A. Schabas, *An Introduction to the International Criminal Court*, 6th ed. (Cambridge University Press, 2020), Chapter 4 “Triggering the Jurisdiction.”

Kirsten Ainley, “The International Criminal Court on trial,” *Cambridge Review of International Affairs* 24 (3) (2011): 309–333.

Recommended:

International Criminal Court, “Rome Statute of the International Criminal Court,” A/CONF.183/9, New York, 17 July 1998.

Case studies available for presentations: Libya and Mali

Week 7 October 23

Hybrid Courts and Regionalization

Mark Kersten, “As the pendulum swings – the revival of the hybrid tribunal,” in *International Practices of Criminal Justice: Social and Legal Perspectives*, eds. Mikkel Jarle Christensen and Ron Levi (Routledge, 2017), 251–273.

Charles C. Jalloh, “The Place of the African Court of Justice and Human and Peoples’ Rights in the Prosecution of Serious Crimes in Africa,” in *The African Court of Justice and Human and Peoples’ Rights in Context: Development and Challenges*, eds. Charles C. Jalloh, Kamari M. Clarke, and Vincent O. Nmechiele (Cambridge University Press, 2019), 57–108.

Reed Brody, “Bringing a Dictator to Justice: The Case of Hissène Habré,” *Journal of International Criminal Justice* 13 (2) (2015): 209–217.

Case studies available for presentations: Sierra Leone and Chad

Week 8 October 30

National Courts and Universal Jurisdiction

Naomi Roht-Arriaza, “Just a ‘Bubble’? Perspectives on the Enforcement of International Criminal Law by National Courts,” *Journal of International Criminal Justice* 11 (3) (2013): 537–543.

Susan Kemp, “Guatemala Prosecutes former President Ríos Montt: New Perspectives on Genocide and Domestic Criminal Justice,” *Journal of International Criminal Justice* 12 (1) (2014): 133–156.

Máximo Langer and Mackenzie Eason, “The Quiet Expansion of Universal Jurisdiction,” *European Journal of International Law* 30 (3) (2019): 779–817.

Case studies available for presentations: Argentina and Guatemala

Week 9 November 6

Local Courts and Legal Pluralism

Kamari M. Clarke, *Fictions of Justice: The International Criminal Court and the Challenge of Legal Pluralism in Sub-Saharan Africa* (Cambridge University Press, 2009), Chapter 3 “Multiple Spaces of Justice: Uganda, the International Criminal Court, and the Politics of Inequality.”

Susan Thomson and Rosemary Nagy, "Law, Power and Justice: What Legalism Fails to Address in the Functioning of Rwanda's *Gacaca* Courts," *International Journal of Transitional Justice* 5 (1) (2011): 11–30.

Victor Igreja, "Traditional Courts and the Struggle against State Impunity for Civil Wartime Offences in Mozambique," *Journal of African Law* 54 (1) (2010): 51–73.

Case studies available for presentations: Mozambique and Uganda

III. Emerging Issues, Anxieties and Possibilities

Week 10 November 13

Backlash against the International Criminal Court

Line Engo Gissel, "A Different Kind of Court: Africa's Support for the International Criminal Court, 1993–2003," *European Journal of International Law* 29 (2) (2018): 725–748.

Kurt Mills and Alan Bloomfield, "African resistance to the International Criminal Court: Halting the advance of the anti-impunity norm," *Review of International Studies* 44 (1) (2018): 101–127.

Oumar Ba, *States of Justice: The Politics of the International Criminal Court* (Cambridge University Press, 2020), Chapter 2 "States of Justice."

Case studies available for presentations: Kenya and Sudan

Week 11 November 20

Victim Participation and the Role of Civil Society

Mariana Pena and Gaele Carayon, "Is the ICC Making the Most of Victim Participation?" *International Journal of Transitional Justice* 7 (3) (2013): 518–535.

Adriana Rudling, "'I'm Not that Chained-Up Little Person': Four Paragons of Victimhood in Transitional Justice Discourse" *Human Rights Quarterly* 41 (2) (2019): 421–440.

Roxani Krystalli, "Narrating victimhood: dilemmas and (in)dignities," *International Feminist Journal of Politics* 23 (1) (2021): 125–146.

Case studies available for presentations: Colombia and Côte d'Ivoire

Week 12 November 27

Prosecuting Sexual and Gender-Based Violence

Rosemary Grey and Louise Chappell, "Prosecuting Sexual and Gender-Based Crimes in the International Criminal Court," in *Gender and War: International and Transitional Justice Perspectives*, eds. Solange Mouthaan and Olga Jurasz (Intersentia, 2019), 209–234.

Rachel Killean, "An Incomplete Narrative: Prosecuting Sexual Violence Crimes at the Extraordinary Chambers in the Courts of Cambodia," *Journal of International Criminal Justice* 13 (2) (2015): 331–352.

Maria Eriksson Baaz and Maria Stern, *Sexual violence as a weapon of war? Perceptions, prescriptions, problems in the Congo and beyond* (Zed Books, 2013), Chapter 2, "Rape as a weapon of war?"

Case studies available for presentations: Cambodia and Democratic Republic of the Congo

Week 13 December 1

New Technologies and Open Source Information

Federica D'Alessandra and Kirsty Sutherland, "The Promise and Challenges of New Actors and New Technologies in International Justice," *Journal of International Criminal Justice* 19 (1) (2021): 9–34.

Michelle Burgis-Kasthala, "Assembling Atrocity Archives for Syria: Assessing the Work of the CIJA and the IIIM," *Journal of International Criminal Justice* 19 (5) (2020): 1193–1220.

Henning Lahmann, “Ukraine, Open-Source Investigations, and the Future of International Legal Discourse,” *American Journal of International Law* 116 (4) (2022): 810–820.

Case studies available for presentations: Syria and Ukraine