

# HUMANITARIAN LAW & POLICY



## If you teach it, they'll enroll: IHL education in Canadian law schools

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*Members of armed forces receive international humanitarian law (IHL) training as a matter of course, but they are not the only actors who must apply this body of law; lawyers within governments, international organizations, and NGOs all have roles in this regard. Did they have the opportunity to study IHL? And contemporary armed conflicts have made IHL compliance an issue on university campuses around the world. But do students have access to IHL courses?*

*In this post, international law professor Marina Sharpe answers these questions in relation to Canadian law schools, finding that while IHL is not widely offered, student interest in the subject is strong.*

*ICRC Humanitarian Law & Policy Blog · If you teach it, they'll enroll: IHL education in Canadian law schools*

Members of most armed forces receive international humanitarian law (IHL) training. *Recent research* demonstrates that this is effective in 'shaping both combatant attitudes and behaviour in battlefield operations'. But military members are not the only actors whose work requires knowledge of IHL. Domestic and international civil servants, political staff, staff of some NGOs and think tanks, and certain academics and lawyers in private practice will all likely encounter IHL in their work. While many such individuals will have been trained as lawyers, it is far from clear that they will have had the opportunity to study IHL during law school.

This affects IHL's application. While individuals in dedicated IHL advisory, instructional, and advocacy roles will of course be well educated, trained, or even self-taught in IHL, a limited law school IHL offering will impact the number of graduating lawyers who choose IHL-related careers. It will also affect the capacity of individuals whose jobs touch, but are not focused on, IHL to engage with IHL issues. It is not a stretch to suggest that less IHL knowledge across relevant institutions impacts IHL implementation.

Additionally, contemporary armed conflicts, particularly the ongoing war in the Middle East, have increased university students' awareness of and democratic demands related to IHL. But curriculums do not necessarily match this interest.

In this context, Hye Joon Lee and I conducted pilot research to map the extent of IHL teaching in Canadian law schools. Some of our results are presented here; they will be published in full in an academic journal in the coming months. The post begins by highlighting key calls and reasons for IHL dissemination among university students in general and law students in particular. It then turns to the primary research, describing its methodology and some of its findings. These reveal a paucity of, but strong interest in, IHL courses across Canadian law schools. The post concludes with reflections on how this initial research might be taken forward in Canada and beyond.

## **Why IHL education matters: building knowledge for compliance**

Recognizing the role of dissemination to IHL's implementation and application, the drafters of the Geneva Conventions (GCs) and their Additional Protocols (APs) included obligations to disseminate IHL to the civilian population through educational means. Each of the four GCs contains the same obligation in this regard: the 'High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population' (arts 47/48/127/144).

The 'if possible' language does not render dissemination to civilians optional. Rather, the words recognize that some federal states do not have jurisdiction over education (ICRC Commentary *para 2781*). The APs include similar

provisions. API requires that states parties ‘undertake, in time of peace as in time of armed conflict, to disseminate the Conventions and this protocol as widely as possible in their respective countries and, in particular ... to encourage the study thereof by the civilian population’ (*art 83(1)*). APII provides that it ‘shall be disseminated as widely as possible’ (*art 19*). Dissemination to the civilian population is also required under customary IHL (*rule 143*). These obligations are linked to the *common Article 1* obligation ‘to respect and to ensure respect for’ the GCs ‘in all circumstances’.

While these provisions do not mention universities specifically, Kuster argues that ‘it is hard to imagine how’ relevant segments of the civilian population ‘could become familiar with IHL rules ... if not through tertiary education’ (*page 8*). The ICRC *advises* that because IHL instruction ‘should be provided primarily to the public authorities responsible for its application’, it should ‘be stepped up in universities, specifically in faculties of law’. The diplomatic conference that developed the APs adopted a resolution on dissemination, which recommends that states ‘take all appropriate measures to ensure that knowledge of’ IHL ‘is effectively disseminated, particularly by: ... recommending that the appropriate authorities intensify’ IHL teaching in universities, particularly faculties of law (Resolution 21). In view of the key role of higher education in IHL implementation, the ICRC has for over three decades operated a *programme* dedicated to supporting IHL academics.

Other relevant actors have also called for IHL education. The last two International Conferences, which bring states parties to the GCs and national Red Cross/Red Crescent societies together in Geneva once every four years, adopted resolutions on dissemination. In 2019, the International Conference *called on* states and Movement components ‘to take concrete, and where appropriate, coordinated activities, including through partnerships with academics ... to disseminate IHL effectively’, while ‘continuing to disseminate IHL at the domestic level as widely as possible to the general public, including to youth’. The 2024 International Conference *encouraged* states ‘and specifically educational authorities, to engage with National Societies to integrate’ IHL ‘into formal curricula or learning objectives’. Even the UN Security Council has underlined ‘the important role that education and training in’ IHL ‘can play in supporting efforts to halt and prevent acts of violence’ (*para 5*).

University-level IHL instruction is also important because respect for this body of law underlies issues that have long been debated on university campuses. Such debates intensified after 7 October 2023. University students and others in Canada expressed their opposition to their perceptions of universities’ support for Israel in spring 2024 by setting up protest camps on campuses across the country, including at McGill University in Montreal (27 April–10 July 2024), the University of British Columbia in Vancouver (29 April–7 July 2024), and the University of Toronto (1 May–2 July 2024). In addition to encampments, students (and others) across Canada have staged regular street and campus protests against the war in Gaza; there have also been counter-protests and separate events in support of Israel. To support their responsible citizenship, tertiary curriculum should address the issues about which students are passionate.

## How we mapped IHL in Canadian law schools

To determine the extent to which the foregoing obligations and calls are realized in Canadian law schools, we studied law students’ (not including LLM and PhD/JSD students) access to a stand-alone IHL course during the five-year period 2018 to 2023. When offered in Canadian law schools, IHL is typically a one-semester upper-year elective course.

There are 24 law schools in Canada. Two, Toronto Metropolitan University and *Université du Québec en Outaouais*, were excluded from the study because they only began operations in 2020 and 2023 respectively. We sent a questionnaire to the remaining 22 law schools – either to relevant professors identified via school websites and/or to associate deans (academic) – and received complete responses from 17. We obtained information on three schools online. The results below thus relate to 20 of the 22 law schools we hoped to study. To elicit information about both access and uptake, the questionnaire included questions on the total size of the JD/LLB/BCL student body; whether the school offered one or

more stand-alone IHL courses at any point during the study period and, if so, their enrolment capacity; and the actual enrolment in any courses offered. The annual student population data certain respondents provided was an estimate. All data was analyzed using Excel.

This was a pilot project interested only in one type of IHL course (stand-alone courses) and one category of student (first degree law students, as opposed to graduate law students or students in other disciplines). It should, therefore, be noted that some law schools and universities more generally teach IHL in ways not captured by the results. Many schools include IHL as a discrete topic within a broader public international law course. Additionally, some schools, such as *Université Laval*, address IHL within a course that also covers connected topics, such as international human rights law, international refugee law, and the law on the use of force. Finally, universities may offer a stand-alone IHL course to non-law students. For example, Royal Military College Saint-Jean offers a course titled ‘The Law of Armed Conflict’ to International Studies undergraduates. It should also be noted that the pandemic likely affected law schools’ course offerings, particularly during 2020-21 and 2021-22.

## What the numbers reveal: IHL offerings and interest in Canada

The research revealed that stand-alone IHL courses are not widely available to Canadian law students. On average over the study period, only 4.12% of all students had access to an IHL course and just 3.04% of students took IHL. However, when IHL is offered, students tend to enroll. These findings are presented in more detail in the tables below. Table 1 presents the offering dimension of the data.

**Table 1. Canadian law schools offering IHL**

	<b>% of schools</b>	<b>Number of schools</b>	<b>List of schools</b>
<b>2018-19</b>	25%	5	Dalhousie, McGill, Montréal,* Queen’s, Windsor
<b>2019-20</b>	25%	5	Dalhousie, McGill, Montréal, Queen’s, Windsor
<b>2020-21</b>	20%	4	Dalhousie, McGill, Montréal, Queen’s
<b>2021-22</b>	20%	4	Dalhousie, McGill, Montréal, Queen’s
<b>2022-23</b>	30%	6	Dalhousie, McGill, Montréal, Queen’s, UBC, Victoria
<b>Mean over study period</b>	24%	4.8	N/A

*\*Due to the number and capacity of the courses it offered, Université de Montréal educated more law students in IHL over the study period than all other law schools combined.*

Table 2 presents enrollment or demand dimensions of the data by school.

**Table 2. Demand by school: percentage of course capacity used in schools offering IHL**

	2018-19	2019-20	2020-21	2021-22	2022-23	Mean per school demand over study period
<b>Dalhousie</b>	73.33%	26.67%	86.67%	33.33%	86.67%	61.33%
<b>McGill</b>	86.67%	60.00%	90.00%	73.33%	50.00%	72.00%
<b>Montréal</b>	63.27%	62.93%	70.75%	72.11%	99.66%	73.74%
<b>Queen's</b>	53.13%	70.91%	75.81%	90.91%	85.25%	74.75%
<b>UBC</b>	N/A	N/A	N/A	N/A	40.00%	40.00%
<b>Victoria</b>	N/A	N/A	N/A	N/A	95.00%	95.00%
<b>Windsor</b>	100%	100%	N/A	N/A	N/A	100%

On average over the study period, IHL courses in Canadian law schools were, across all schools, 73.57% subscribed.

## Meeting the moment: the need to expand IHL education

The rationale for IHL education outlined above, coupled with the dearth of stand-alone IHL courses available to Canadian law students and their interest in such courses when they are available, together make a strong case for increasing the availability of IHL in Canadian law schools. That this research demonstrates this so clearly also augurs in favour of conducting it in other jurisdictions; some research already exists for *the United States*. Further Canadian research might explore why stand-alone IHL courses are not more widely available in law schools, whether IHL is taught using alternative methodologies, such as *clinical* and *experiential* education, and the extent to which IHL is taught in universities outside of law schools.

With the number of armed conflicts increasing around the world, IHL education has arguably never been more important than it is today. Universities, and law schools in particular, should equip their graduates to address the issues these conflicts generate, respond to the presumably increasing demand for IHL expertise across the range of institutions that must engage with this body of law, and provide students making IHL-related political demands with access to courses responsive to their interest.

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### See also:

- Cordula Droegge, *Championing IHL compliance in contemporary armed conflict: the 2024 ICRC Challenges Report*, October 9, 2024
- Andrew Bell, *Can IHL training influence military conduct in war?*, May 7, 2024
- Jonathan Kwik, Ai Kihara-Hunt, Kelisiana Thynne, *From theology to technology: a call for IHL ambassadors in the Asia-Pacific region*, March 28, 2024



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