

INTERNATIONAL HUMANITARIAN LAW CONFERENCE
**NON-STATE ARMED ACTORS AND NEW DEVELOPEMENTS IN IHL: CANADA'S
RESPONSIBILITY IN INSTANCES OF MILITARY COLABORATION**

Human Rights Research and Education Centre (HRREC)
University of Ottawa
Ottawa, Ontario
January 24th, 2018

EXTERNAL REPORT

Prepared By

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Provincial IHL Coordinator
Canadian Red Cross, Ontario



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Background

This conference was the third half-day IHL Conference organized in partnership between the Ontario International Humanitarian Law Unit of the Canadian Red Cross and the Human Rights Research and Education Centre (HRREC) at the University of Ottawa. This event was further made possible thanks to the contributions from the Strategic Partnership between the Canadian Red Cross and Global Affairs Canada.

The organizing committee included members from HRREC, the Canadian Red Cross and by members of the International Humanitarian Law Working Group for Ottawa (IHL WG – OTT) who were involved with many of the logistical tasks leading up to the conference and on the day of the event.

Objective

As part of the mandate of the Red Cross Red Crescent Movement and thus National Societies around the world, public engagement on humanitarian issues and International Humanitarian Law (IHL) is an important objective. Through academic conferences, the Canadian Red Cross Society upholds this strategic objective by providing a space to engage the academic community in impartial discussions on IHL as it relates to contemporary issues.

The objective of the conference was not only to educate the public and bring awareness to the discussion surrounding IHL and the responsibilities of States engaged in military collaboration, but also to engage academics and students alike in discussions on the application of IHL and the role of the Red Cross Red Crescent Movement in promoting and safe-guarding these laws.

The speakers that participated in the panel discussions during the conference offered their expertise on IHL including issues of individual non-State actors and non-State Armed Groups, the different applicability of criminal law vs. IHL, violations, prosecuting violations, Canada's perspective of State responsibility under IHL, the perspective of the International Committee of the Red Cross, and gender mainstreaming which deepened the attendee's understanding and also offered an opportunity to consider where we are today and things to consider as an international community moving forward.

There were 78 people in the audience who were made up of students (undergraduate, masters and PhD candidates) within Law, International Affairs and International Relations programs from both UOttawa and Carleton University. The rest of the attendees were made up of military lawyers (Office of the Judge Advocate General), Government department employees including Global Affairs Canada, professors and professionals from other humanitarian organizations. It is note worthy to mention here that the Honorable Allan Rock, former Canadian Ambassador to the United Nations and former President of the University of Ottawa was in attendance as well.



The Conference

The conference was arranged, for the most part, by individual speakers rather than set up in panels as there were a number of different issues to be addressed under the overall theme. The conference began and was opened by John Packer, Director, Human Rights Research and Education Centre, University of Ottawa. Professor Packer welcomed everyone to the conference and then introduced Viviana Fernandez, Assistant Director, Human Rights Research and Education Centre to the podium. Ms. Fernandez then introduced the President and CEO of the Canadian Red Cross, Mr. Conrad Sauvé, who gave opening remarks.

Ms. Fernandez then came to the podium and introduced Mr. Jonathan Somers, Senior Legal Advisor for the Canadian Red Cross who delivered a brief introduction to IHL and IHRL as it relates to non-state armed groups. This was to provide a base understanding of the underpinning theme of the conference (IHL) to set the stage for the rest of the afternoon. This included some of the challenges for an international legal system designed to deal with state actors. Ms. Sabrina Henry, Legal and Policy Officer, CRCS and ICRC, Canadian Delegation, was also slated to deliver part of this presentation however she fell ill and could not attend.

Mr. Terry Beitner, Director and General Counsel of the Crimes Against Humanity and War Crimes Section, Department of Justice Canada was next to deliver his remarks. He began by briefly discussing the management and treatment of allegations of war crimes and crimes against humanity by Canada's Crimes Against Humanity and War Crimes Program. Mr. Beitner went on to discuss the legal analytical framework of the examination of allegations and highlighted the importance of identifying whether armed actors are aligned with states or are indeed non-state armed actors. Afterwards, there was an opportunity for the audience to ask questions. Once this period of time was over, participants were invited to take a short break where coffee and water were provided.

Upon return from the break, Ms. Fernandez introduced Mr. Andrew Carswell, who is the Sr. Delegate to Canada for the International Committee of the Red Cross (ICRC) as well as Lieutenant Colonel Paul Frost, from the Office of the Judge Advocate General of the Canadian Armed Forces, who both spoke about State responsibility but from different points of view; ICRC and Canada respectively. Mr. Carswell began by providing an overview of ICRC's interpretation of the Geneva Conventions concept of "ensure respect" of IHL, and how it intersects with the international law governing State responsibility. He then argued that the law needs to be interpreted in such a way as to allow armed forces to take measures aimed at ensuring the compliance of their allies without fear of being held accountable for IHL violations that may be unilaterally perpetrated by them in spite of those measures. His presentation was followed by Lt Col Frost, who pointed out that a plain reading of International Humanitarian Law and the Law of State Responsibility revealed a comprehensive framework for determining accountability for violations committed during armed conflict, whether by state or non-state actors. He further explained that States have the obligation to "respect and ensure respect" for IHL within the scope of their jurisdictions, and they are free to choose the most appropriate means to fulfill that obligation. While there are a number of reasonable measures that States can and arguably should take to promote IHL compliance when providing military training and assistance to foreign partner forces, the legal responsibility to address IHL non-compliance by those forces rests primarily with the territorial State. Due to the very related natures of both of their



presentations, both Mr. Carswell and Lt Col Frost presented from the panel table and also fielded questions from the audience together as many questions overlapped between the two perspectives presented.

After the question and answer period was over, Ms. Fernandez introduced our final speaker, Ms. Kristine St-Pierre who represented the Women, Peace and Security Network-Canada and delivered an overview of key considerations when it comes to gender and IHL, and discussed how the Women, Peace and Security agenda can inform military collaboration with Non-State Armed Actors. Ms. St-Pierre then took questions from the audience who actively engaged with her during this period.

To close the conference, Ms. Fernandez welcomed Ms. Tatjana Radovanovic, Senior Director, Ontario Operations from the Canadian Red Cross Society who summarized the key points that were addressed throughout the afternoon. She not only thanked the guest speakers but also thanked the audience and emphasized their importance and the value they bring to the discussion. Attendees were then encouraged to complete the Feedback Form that was included in the conference package provided at registration. Lastly, everyone was invited to the informal reception that was held on the 5th floor of the Fauteux building immediately following the conference. Many attendees joined the reception where light refreshments were served and took advantage of the time to network and engage with the speakers, organizing committee and one another.



Annex 1 – Event Poster



**Non-State Armed Actors
and Developments in IHL**
Canada's responsibilities in instances
of military collaboration

Join us as we explore new developments in International Humanitarian Law (IHL) and Canada's responsibilities under IHL when engaging in military collaboration. This conference will bring together experts from the field including academics, practitioners and representatives from the Red Cross Red Crescent Movement

January 24, 2018

57 Louis Pasteur
Fauteux Hall - Room 147
Ottawa | Ontario | K1N 6N5

1:00pm – 5:00pm

REGISTER NOW: <http://www.redcross.ca/IHLOttawa>

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Annex 2 – Agenda

2018 Canadian Red Cross International Humanitarian Law Conference

University of Ottawa | Fauteux Hall, Moot Court Hall (Room 147) | January 24, 2018

Non-State Armed Actors and New Developments in IHL: Canada's responsibilities in instances of military collaboration

12:30 – 1:00	Registration (Entrance, Fauteux Hall)	
1:00 – 1:05	Call to Order and Welcome	Professor John Packer Director HRREC, Ottawa U Master of Ceremonies Viviana Fernandez Assistant Director HRREC, Ottawa U
1:05 – 1:15	Welcome and Opening Remarks	Conrad Sauve President and CEO, CRCS
1:15 – 2:15	Introductory Remarks on International Humanitarian Law and Non-State Armed Actors	Sabrina Henry Legal and Policy Officer, CRCS and ICRC, Canadian Delegation Jonathan Somer Sr. Legal Advisor, IHL CRCS
2:15 – 2:40	Challenges in the Identification and Treatment of Non-State Armed Actors for International Crimes	Terry Beitner Director and General Counsel of the Crimes Against Humanity and War Crimes Section, Department of Justice Canada
2:40 – 3:00	Q&A / Discussion	ALL
3:00 – 3:15	Break	
3:15 – 3:30	State Responsibility for the Conduct of Non-State Allies in Armed Conflict; the ICRC View	Andrew Carswell Sr. Delegate to Canada, ICRC
3:30 – 3:45	State Responsibility for the Conduct of Non-State Allies in Armed Conflict; a Canadian View	Lt Col Paul Frost Office of the Judge Advocate General, CAF
3:45 – 4:15	Q&A / Discussion	ALL
4:15 – 4:30	A Gender Perspective: Reflections for Practice	Kristine St-Pierre, Women, Peace and Security Network-Canada
4:30 – 4:50	Q&A / Discussion	ALL
4:50 – 5:00	Closing Remarks	Tatjana Radovanovic Senior Director, Ontario Operations, CRCS
5:00 – 6:00	Reception (HRREC, Room 570)	ALL



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Annex 3 – Speaker Biographies

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2018 **Canadian Red Cross** International Humanitarian Law Conference
University of Ottawa | Fauteux Hall, Room 147 | January 24, 2018

Non-State Actors and Developments in IHL: Canada's Responsibilities in Instances of Military Collaboration

Speaker Biographies

John Packer

John Packer is an Associate Professor of Law and Director of the Human Rights Research and Education Centre at the University of Ottawa. He has previously taught at the Fletcher School (Tufts University) and the University of Essex, held Fellowships at Cambridge and Harvard Universities, and lectured at academic and professional institutions around the world. Before taking up his position at the University of Ottawa in 2014, John was the Constitutions Expert for the UN's Standby Team of Mediation Experts advising in numerous peace processes and political transitions around the world focusing on conflict prevention and resolution, diversity management, constitutional and legal reform, and the protection of human rights including minorities. In a 30-year career, John has contributed to processes in over fifty countries and has advised numerous inter-governmental organisations, governments, communities and other actors. From 1995 to 2004, he was Senior Legal Adviser and then the first Director of the Office of the OSCE High Commissioner on National Minorities in The Hague working across Central and Eastern Europe and throughout the former Soviet Union. From 1987 to 1995, he worked for the ILO, UNHCR and then the UN High Commissioner for Human Rights mainly investigating serious violations of human rights in Iraq, Afghanistan and Burma/Myanmar. John's strength in the practice of international law and relations underpins his vision for applied research and problem-solving in international public policy and domestic conflicts. He serves on the boards of a number of NGOs and is a Member of the Expert Advisory Panel for the Shared Societies Project of the Club de Madrid comprising 100 former Heads of State or Government of democracies.

Viviana Fernandez

Viviana Fernandez is the Assistant Director at the Human Rights Research and Education Centre, University of Ottawa (uOttawa). She represents the University of Ottawa in the Steering Committee of the Scholars at Risk (SAR) Network - Canada Section since 2016 and in the SAR's International Advisory Committee. Viviana joined the Boards at Women in International Security Canada in 2015 and the Interdisciplinary Research Laboratory on the Rights of the Child (uOttawa) in 2014. At WIIS Canada, she has taken the lead of the organization of the 16 Days of Activism Against Gender-Based Violence campaign for Canada.

Prior to taking up her position at the Human Rights Research and Education Centre, Viviana joined uOttawa in 2004 as the Head of the Research Office at the Telfer School of Management. Due to work and/or studies, she has lived in Chile, France, the United States, the United Kingdom and Canada.



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Conrad Sauvé

Conrad Sauvé has been the President and CEO of the Canadian Red Cross since 2008. Under his leadership, the Canadian Red Cross has strengthened its capacity in emergency management and health programming and made significant contributions in the wake of multiple large-scale domestic and international emergencies. Mr. Sauvé has a proven track record of bringing together diverse partners in support of complex humanitarian challenges. He led the successful negotiation of a strategic partnership with the Government of Canada, and fostered innovative partnerships with health organizations, universities and other humanitarian actors.

The emergency management capacity of the Red Cross was recently showcased during the Canadian Red Cross' largest domestic response in history – the Alberta fires. Through the power of technology and innovative digital platforms, the Red Cross was not only able to register evacuees online but made the largest and fastest cash transfer in the organization's history. In addition to this response, Mr. Sauvé has overseen a strengthened Memorandum of Understanding with Public Safety Canada to ensure the Red Cross and all levels of government are prepared for future emergencies.

In partnership with the Government of Canada, Mr. Sauvé oversaw the development and launch of the only Red Cross field hospital in North America. Over the past six years, the field hospital has been deployed to Ecuador, the Philippines, Haiti, Nepal and parts of Africa in the wake of various emergencies and disasters. In addition, through a first of its kind Memoriam of Understanding with the British Columbia government, the hospital has the capacity to respond to a catastrophic event along the West Coast.

Following the 2010 Haiti earthquake, Mr. Sauvé built partnerships with Canadian health experts from St. Justine Hospital to work alongside the Red Cross and the local community in rebuilding a hospital in Jacmel, Haiti. These efforts are part of a \$35 million health program that is improving access to quality health services as well as building stronger communities through community-based health and first aid.

For the past twenty years, Mr. Sauvé has been involved in several health and social service committees, associations and executive boards. He holds a BSc from the Université du Québec à Montreal and is a graduate of McGill University's International Masters in Health Leadership.



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Jonathan Somer

Jonathan Somer is interim Senior Legal Adviser with the Canadian Red Cross. In 2013, Jonathan founded Persona Grata Consulting, advising humanitarian organisations on IHL and strategic development. From 2008-2013, Jonathan was Legal Advisor and Programme Coordinator on children and armed conflict with Geneva Call, an international NGO that engages armed non-State actors towards respect for international humanitarian norms. Previously, he worked with the Organization for Security and Cooperation in Europe, and as consultant with among others the United Nations, the Humanitarian Policy and Conflict Research Programme of Harvard University, and the International Law Department of the Danish Ministry of Foreign Affairs.

Jonathan was awarded the 2007 Henri Dunant Prize for excellence in IHL scholarship. He sits on several experts groups related to armed non-state actors, and is a member of the Editorial Board of the Journal of International Humanitarian Legal Studies and the IHL Companion. He holds a B.A from the University of Western Ontario, a J.D. from the University of British Columbia, and an L.L.M from the Geneva Academy of International Humanitarian Law and Human Rights.

Terry Beitner

Terry Beitner studied criminology at the Université de Montréal and law at the University of Ottawa. He was called to the bar in 1989 and is a member of the Barreau du Québec and the Law Society of Upper Canada. He was appointed Director and General Counsel of the Crimes Against Humanity and War Crimes Section in 2000. His practice is focused on International Criminal Law and related Canadian legal remedies. The War Crimes Section provides legal advice to the RCMP on criminal investigations related to international offences. Additionally, his group provides advice to Canadian immigration authorities seeking to deny entry and remove individuals in Canada who may have been involved in war crimes. Terry also gives lectures at universities across the country and is an instructor at the University of Ottawa Human Rights Research and Education Centre's annual summer program on International Humanitarian Law.



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Andrew J. Carswell

Based in Ottawa since 2015, Andrew Carswell currently serves as the senior delegate to Canada for the International Committee of the Red Cross (ICRC). Between 2011 and 2015, Andrew was ICRC's senior delegate to the U.S. and Canadian Armed Forces, advising Combatant Commands, deploying operational units and advanced military colleges regarding ICRC's field interaction with armed forces and the international legal framework governing military operations. Between 2009 and 2011 he served as advisor for the ICRC's Unit for Relations with Arms Carriers in Geneva, where he supported twenty five armed forces delegates worldwide regarding their efforts to implement the law of armed conflict at the national level; and between 2006 and 2009 he was based in Pretoria as Regional Delegate to the Armed Forces of Southern Africa and the Indian Ocean. He has served on ICRC operations in Jordan regarding Syria, Afghanistan, Rwanda, South Sudan, Madagascar and Zimbabwe, amongst others. Prior to his career with the ICRC, he served as an officer in the Canadian Armed Forces Office of the Judge Advocate General (2000-05), where he specialized in military prosecutions, international law and legal training. He was deployed to the NATO chain of command as a divisional legal advisor in Bosnia (2002) and served as third in command of the Canadian Military Prosecution Service (2003-05). Before joining the military, he was a criminal prosecutor in the city of Calgary, Canada (1997-2000). He performed his articles of clerkship at the Court of Appeal of Alberta (1996-97), and remains a member of the Alberta Law Society. He has authored publications on the law of armed conflict.

A Canadian national, Andrew holds a Master's degree with distinction in the international law of armed conflict from the University of Geneva and the Graduate Institute of International Studies, in addition to a law degree from Cardiff University and an undergraduate degree in politics and history from McGill University.

Lt. Colonel Paul Frost

Lieutenant-Colonel Paul Frost is a legal officer serving with the Office of the Judge Advocate General for the Canadian Armed Forces. He is currently the Director of International Law in the JAG Operations Division at National Defence Headquarters in Ottawa, where he works as the principal legal advisor on international law issues, with a particular focus on international humanitarian law. LCol Frost has also served as legal advisor to the military's Strategic Joint Staff, as the senior regional supervising legal advisor for Central Canada, and as a tactical unit legal advisor with Canadian Special Operations Forces Command. His operational experience includes international deployments as the Canadian Task Force Legal Advisor in Afghanistan, Haiti, and the Mediterranean, and domestic deployments with the military legal teams supporting civil authorities at the 2010 Vancouver Winter Olympic Games and the Toronto G8/G20 conference. LCol Frost holds a master's degree in law from Columbia University.



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Kristine St-Pierre

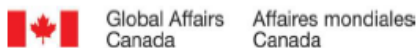
Kristine St-Pierre is a gender & women, peace and security adviser and trainer with a specific focus on policing and peace operations. She has worked with numerous security and humanitarian organisations in the development and delivery of gender/WPS expertise and training. She also sits on the steering committee of the Women, Peace and Security-Network Canada, a network of non-governmental organizations and individuals committed to promoting and monitoring Government of Canada efforts to implement and support UN Security Council Resolutions on women, peace and security.

Tatjana Radovanovic

Tatjana Radovanovic is Director of Regional Operations for GTA and West Ontario with Canadian Red Cross Society. Leading the teams responsible for delivery of Red Cross programs in GTA and West Ontario such as community support services, community initiatives, disaster management, community and program development, project and program management, community and government relations, coordination and evaluation of planning activities, are just a few of her responsibilities in this role. Tatjana also serves as a volunteer in several Red Cross programs such as Instructor and Team Leader for Detention Monitoring program, Instructor for Disaster Management and Humanitarian Issues Program and Advisor for Youth in Action initiative.

Tatjana has been with the Red Cross since 1986, working both in Canada and Internationally. In her non-Red Cross time Tatjana served as Director of the Board, for several Toronto not-for-profit organizations, including Centro Clinton Daycare, Skills for Change, and Wychwood Open Door which allowed her to extend her reach to the people from a variety of socio-economic and cultural backgrounds and support their success and integration in the community.

Tatjana holds a Masters Degree in Education, B.Sc. in Education and Computer Science and has an extensive training in Information Technology, Business Continuity and Emergency Planning, and Community Health.



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Annex 4 – Pre-Reading List

2018 Canadian Red Cross International Humanitarian Law Conference

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Non-State Actors and Developments in IHL: Canada's Responsibilities in Instances of Military Collaboration

PRE-CONFERENCE READING LIST

- Title** Consultations on Canada's National Action Plan: Note #1: Four Pillars of the Women, Peace and Security Agenda
Author *Women, Peace and Security Network*
LINK <http://cnapconsult.org/wp-content/uploads/2017/04/BAckground-1-Pillars.pdf>
- Title** **Aiding and Assisting: Challenges in Armed Conflict and Counterterrorism**
Author *Chatham House, the Royal Institute of International Affairs*
LINK <https://www.chathamhouse.org/publication/aiding-and-assisting-challenges-armed-conflict-and-counterterrorism>
- Title** **Commentary 2016 on Article 1 Common to the Geneva Conventions**
Author *ICRC*
LINK [ICRC Commentary on article 1 common to the Geneva Conventions](https://www.icrc.org/eng/resources/documents/commentary/article1-common-to-the-geneva-conventions-2016)
- Title** **Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries**
Author *UN*
LINK [International Law Commission Draft Articles on State Responsibility for Internationally Wrongful Acts](https://www.unhcr.org/refugees/pdf/15022014.pdf)
- Title** **Elements of Crimes**
Author *ICC*
LINK <https://www.icc-cpi.int/NR/rdonlyres/336923D8-A6AD-40EC-AD7B-45BF9DE73D56/0/ElementsOfCrimesEng.pdf>
READ Article 7(1)a Crime Against Humanity of Murder and Article 8(2)c(i)-1 War Crime of Murder (in a non-international armed conflict).



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Annex 5 – Photos



Pre-Conference meeting with Speakers and members of the Organizing Committee



Pre-Conference meeting between speakers



Prior to the conference (from left to right): Andrew Carswell, Sr. Delegate to Canada, ICRC; Conrad Sauvé, President and CEO, CRCS; Terry Beithner, Director and General Counsel of the Crimes Against Humanity and War Crimes Section, Department of Justice Canada; Jonathan Somer, Sr. Legal Advisor, CRCS.



Welcoming remarks delivered by Professor John Packer, Director of the Human Rights Research and Education Centre, University of Ottawa



Opening remarks delivered by Conrad Sauvé, President and CEO of the Canadian Red Cross



Introduction to IHL delivered by Jonathan Somer, Sr. Legal Advisor, Canadian Red Cross





Presentation delivered by Terry Beitner, Director and General Counsel of the Crimes Against Humanity and War Crimes Section, Department of Justice Canada



Allan Rock, former President of the University of Ottawa and Canadian UN Ambassador speaking with the conference speakers at the break





Moderator Viviana Fernandez, Assistant Director, Human Rights Research and Education Centre, University of Ottawa, introducing the panel



Andrew Carswell, Sr. Delegate to Canada, ICRC delivering his presentation





Lt Col Paul Frost, Office of the Judge Advocate General, Canadian Armed Forces delivering his presentation



Kristine St-Pierre, from the Women, Peace and Security Network-Canada, delivering her presentation





Tatjana Radovanovic, Senior Director, Ontario Operations, Canadian Red Cross



Reception catering





Informal reception guests



Informal reception guests

