

# EFIL Research Programme

Annual Report 2017



**Universiteit  
Leiden**  
Rechtsgeleerdheid

Discover the world at Leiden University

# Welcome



Dear all,

I am proud to introduce the 2017 *Exploring the Frontiers of International Law Research Programme Report*.

2017 marked the second year of the Programme after it was split from the Securing the Rule of Law in a World of Multi-Level Jurisdiction Research Programme. The EFIL Programme has continued to produce high-quality, field-leading research across both the Grotius Centre for International Legal Studies and the International Institute for Air and Space Law.

The diversity of research undertaken across the Centre and the Institute demonstrates the ways in which our researchers are exploring how international law applies to new social phenomena and global challenges.

But exploring the frontiers of international law requires more than just quality research. It requires that the research be disseminated and shared. Our researchers remain actively involved in the broader community, having published many blog posts and presented at—and hosted—numerous conferences. The Grotius Centre for International Legal Studies now presents three MOOCs, with another on International Humanitarian Law on the way.

Congratulations to all researchers for their achievements in 2017, and we hope this report gives you a taste of the diversity and richness of the research and activities with which we are involved.

**Professor Carsten Stahn**

*Coordinator, Exploring the Frontiers of International Law Research Programme*

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In 2017, the EFIL  
Programme produced

**33** Journal Articles

**43** Book Chapters

**8** Book Editorships

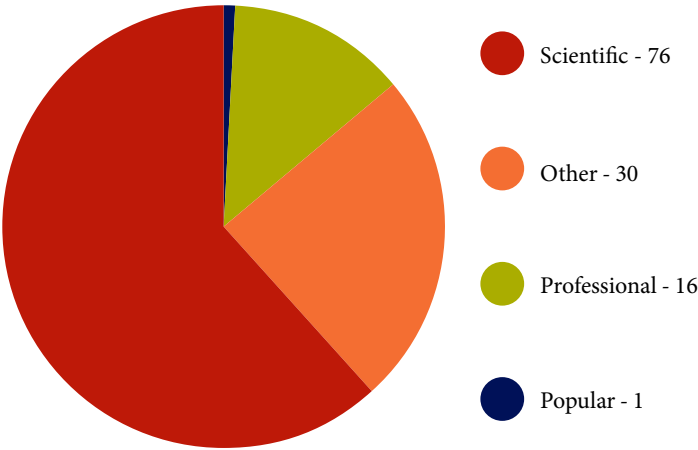
**6** PhD Theses

**4** Books

# Statistics

	2015	2016	2017
Journal Articles	28	28	33
Book Chapters	16	71	43
Editorships	3	2	8
PhD Theses	3	5	6
Books	1	3	4
All	66	153	123

# 2017 Classifications







## Highlights From 2017

The EFIL Programme had an exciting 2017. The researchers in the Grotius Centre and the International Institute of Air and Space Law continue to excel. Our students, too, demonstrated their research and advocacy skills in several international competitions.

### Inaugural Lecture of Professor Helen Duffy

In 2015, Professor Helen Duffy was appointed the Gieskes Chair of Human Rights and International Humanitarian Law. Her inaugural lecture, delivered on 13 March 2017, was on the topic of 'Strategic Human Rights Litigation: Bursting the Bubble on the Champagne Moment'. In the lecture, Professor Duffy called upon the audience to think about litigation success not in terms of the outcome of the case, but rather in a broader sense which looks at the process of that litigation and the changes that have been effected through it. Her latest book, *The War on Terror and the Framework of International Law*, is available from CUP.

### Professor Larissa van den Herik Records New Lecture for the United Nations Audiovisual Library of International Law

Professor, and Vice-Dean of Research, Larissa van den Herik has recorded a lecture for the United Nations Audiovisual Library of International Law on Commissions of Inquiry. This will be Larissa's second entry in the Library, a collection of lectures by renowned and field-leading scholars in international law. Larissa's first lecture, on International Criminal Law and Domestic Courts, is available for viewing [here](#).

### Secretary General of ICAO visits International Institute of Air and Space Law

On 5 September 2017, IIASL alumna (class of 2001) and current Secretary General of ICAO H.E. Dr. Fang Liu visited the IIASL, and delivered a lecture and Q&A to students and alumni of the LL.M. in Advanced Studies in Air and Space Law. At the end of this lecture, three alumni and a current student of the IIASL – Benamyn Scott (class of 2014), Andrea Trimarchi (class of 2016), Rishiraj Baruah (class of 2016), and Anne-Marie Schuite (expected class of 2018) respectively – presented H.E. Dr. Fang Liu with Prof. Mendes de Leon's 'An Introduction to Air Law' to

which they each contributed (picture on the right). This landmark event was preceded by H.E. Dr. Fang Liu's reception by H.M. King Willem Alexander of the Netherlands (picture on the left), and was followed by a reception where H.E. Dr. Fang Liu had the opportunity to meet the future pioneers of the aviation industry.

### IIASL International Advisory Board welcomes ICJ Judge Peter Tomka as its new Chairman

The International Institute of Air and Space Law welcomed H.E. Judge Peter Tomka as the new chairman of its International Advisory Board. During the Board meeting on 15 November 2017, H.E. Judge Tomka officially succeeded Professor Laurens Jan Brinkhorst as chairman of the board. Judge Tomka has been a Board member since 2009. His very prestigious position at the International Court of Justice since 2003, including a term as President from 2012-2015, as well as his deep knowledge of international law and space law, and his dedication and loyalty to the board are much appreciated.

### Mooting Competitions

The Grotius Centre for International Legal Studies continued to be involved with numerous moot competitions over 2017, giving students from the Centre's programmes the opportunity to enhance their learning experiences through practical advocacy exercises:

- > Hugh McGowan; Lena Ellen Becker; Stephen (Fen) Greatley-Hirsch; Mariana Leite; and Lilla Ozoráková, coached by Assistant Professor Jens Iverson and Sara Pedroso, won the 2017 International Criminal Court Moot Court Competition;
- > Conor Keegan; Nikolas Sabjan; Rehab Jaffer; and Peter Sprietsma, coached by Assistant Professor Simone van den Driest and

Sophie Starrenburg, won the Max Huber Award for Best Overall Score (comprised of the scores awarded for the memorial and the oral argumentation of both Applicant and Respondent); the Award for the Best Oral Argumentation for the Applicant; and Conor Keegan won the Best Oralist Award in the Telders Moot Court Competition;

- > Lamyae Ramdani; Qiaozi Guanglin; Eveanne Travers; and Raihana Haidary, coached by Assistant Professor Sergey Vasiliev and Sophie Schiettekatte, competed in the Philip C Jessup International Law Moot;
- > Kaetlin Gale; André Nwadiakwa; and Toby Varian, coached by Catherine Harwood, participated in the Frits Kalshoven International Humanitarian Law and progressed to the final round;
- > The Grotius Centre in conjunction with The Hague Municipality hosted the National Moot Court Competition, giving high school students from The Hague district the chance learn about international criminal law and have a go at advocacy in the international city of peace and justice. The Grotius Centre and The Hague Municipality will join forces again in 2018 to host the International Moot Court Competition, for international high school students.

### Open Access Publications

Carsten Stahn, Jennifer Easterday, and Jens Iverson's volume, *Jus Post Bellum: Mapping the Normative Foundations* (Oxford University Press, 2014) has become open access and is available through Oxford University Press's website. In addition, the second volume in the series published in 2017 (*Environmental Protection and Transitions from Conflict to Peace*) has also been made available open-access. These two volumes provide a valuable contribution for both scholarship and practice. A third volume is forthcoming.





## Visiting Researchers at the Grotius Centre

In 2017, the Grotius Centre for International Legal Studies hosted three visiting researchers: Valérie Suhr, Kushtrim Istrefi, and Rosemary Grey. Valérie researches gender studies in international criminal law; Kushtrim worked on his forthcoming book *European Judicial Responses to Security Council Resolutions: A Consequentialist Assessment*; and Rosemary conducted interviews with ICC officials, monitored trials, and connected with other scholars in the field of the prosecution of sexual and gender-based crimes in international criminal law. Luigi Prosperi also joined the Kalshoven-Gieskes Forum on International Humanitarian Law as a Senior Guest Lecturer.

## Assistant Professor Tanja Masson-Zwaan is Interviewed about Space Mining on BBC Radio

In an interview on BBC Radio on 14 April 2017, Assistant Professor Tanja Masson-Zwaan discusses the glistening horizon of “space mining”, i.e. the mining of asteroids, the Moon, and other celestial bodies for different resources. In this interview, Assistant Professor Masson-Zwaan explains that the Outer Space Treaty (the “constitution” of outer space) does not contain explicit agreements concerning the mining of resources in outer space, and she concludes that the envisioned mining in outer space must take place in a regulated and reasonable manner.

## Nico Schrijver elected President of Institute of International Law (*Institut de Droit international*)

The former director of the Grotius Centre, Professor Nico Schrijver, has been elected President of the Institute of International Law. Nico was elected at the end of the Hyderabad session and will preside over 2019’s Hague session. The

Institute is a group of renowned international lawyers dedicated to encouraging respect for, and the development of, international law.

In addition, Nico was recently sworn in by his Majesty the King of the Netherlands Willem-Alexander into the *Raad van State*. The *Raad van State* is a high-level advisory organ of the Dutch government, advising the King on bills to be presented by the Parliament and treaties. It also functions as the highest Administrative Appeals Court in the Netherlands. Nico’s appointment is for life, and he will maintain a position at the Grotius Centre in a reduced capacity.

## Eric de Brabandere Awarded Grant from Swedish Research Council

Professor Eric de Brabandere, Professor Ulf Linderfalk (Lund University), and Dr Anna Anna Nilsson (Lund University) have been awarded a €657,256 from the Swedish Research Council to conduct a research project on Discretion in International Law. This is a significant research project. It aims at inquiring into the legal criteria that constrain the exercise of discretion within and across a number of distinct areas of international law. The objective of this inquiry is to gain a fuller understanding of the concept of discretion and its various applications in international law.

*The book launch of Environmental Protection and Transitions from Conflict to Peace*











## Conferences and Events

Researchers from the International Institute of Air and Space Law and the Grotius Centre for International Legal Studies participated in and hosted many conferences and events in 2017, demonstrating a commitment to community engagement and professional development.

### Quality Control in Preliminary Examinations

The *Quality Control in Preliminary Examinations: Reviewing Impact, Policies and Practices* conference was held on 13 and 14 June 2017 at the Peace Palace. It was co-organised by Professor Carsten Stahn and Professor Morten Bergsmo. The process of preliminary examinations at the International Criminal Court (ICC) is one of the most important phases a matter goes through. Yet despite their importance, preliminary examinations are also one of the more mysterious processes in the Court.

Leiden-affiliated speakers included Professor Carsten Stahn; Assistant Professor Jens Iverson; Ana Cristina Rodríguez Pineda; and

Assistant Professor Dov Jacobs. They all presented papers on various aspects of the preliminary examination process.

Papers from the conference will be reviewed and considered for publication in a volume edited by Carsten Stahn and Professor Morten Bergsmo. It is expected that the volume will be published at the end of 2017 as an open-access publication through the Torkel Opsahl Academic ePublisher.

### The Small Satellites Tech, Business & Regulatory Industry Workshop

The 'Small Satellites Tech, Business & Regulatory Industry Workshop' was held at ESTEC, the Netherlands, on 13 April 2017. The work-

shop was organised in partnership with the Dutch NPOC, the International Institute of Air and Space Law at Leiden University, ISIS – Innovative Solutions in Space B.V., and was sponsored by the Netherlands Space Society, SpaceNed and Airbus Defence and Space Netherlands B.V.

### 29<sup>th</sup> Annual European Air Law Association Conference

On 2 and 3 November 2017, EALA held its 29<sup>th</sup> Annual Conference in Lisbon. The conference, which was inaugurated by EALA's President Professor Mendes de Leon, provided an opportunity to learn about topical developments in air law, such as Brexit, and to discuss these

developments with the many experts that attended, both as speakers, and as delegates.

### **Non-Permanent United Nations Security Council Members Seminar**

In 2018, the Netherlands will commence a one-year term as a non-permanent member of the United Nations Security Council. Professors Nico Schrijver and Niels Blokker considered that the time was right to reflect on substantive and procedural matters concerning the role of the elected members.

Guests included past and present United Nations Ambassadors; the Assistant Secretary-General for Legal Affairs; colleagues from the Ministry of Foreign Affairs; as well as researchers from Australia, Mexico, Sweden, the United Kingdom, and elsewhere. In addition, the Seminar was pleased to welcome the Vice President of the International Court of Justice, Abdulqawi Yusuf; the Foreign Affairs Spokesperson of the VVD in the Tweede Kamer, Han ten Broeke; the Director Multilateral Organisations and Human Rights from the Dutch Ministry of Foreign Affairs, Peter van Vliet; Coordinator of the Task Force for the UN Security Council Membership of the Dutch Ministry of Foreign Affairs, Mariët Schuurman; and Leiden University Law Faculty Vice Dean of Research, and member of the Grotius Centre, Professor Larissa van den Herik as panel chairs. The United Kingdom Deputy Permanent Representative to the Security Council even joined a panel through a video link from New York!

### **The Crime of Aggression: The Dawning of a New Era?**

On 29 June, Professor Larissa van den Herik chaired the book launch and panel discussion of *The Crime of Aggression: A Commentary*, edited by Professor Claus Kreß and Stefan Barriga. The panel discussion took place at

Wijnhaven in the Hague and featured the editors with Dapo Akande, Darryl Robinson, and Niels Blokker. The event was well-attended in anticipation of the activation of the ICC's jurisdiction over the crime of aggression, which occurred in December at the annual Assembly of States Parties to the Rome Statute.

### **The Laws of Armed Conflict and Attacks on Medical Facilities**

On 28 September, the Leiden University Medical Centre and MSF Holland organised a well-attended public lecture on 'The Protection of Medical Personnel and Facilities in Armed Conflict' to raise awareness of this alarming trend. Speakers included Professor Mattijs Numans (LUMC); Katrien Coppens (MSF/AZG); Professor Barend Middelkoop (LUMC); Jelte van Wieren (Dutch Ministry of Foreign Affairs); and Associate Professor Dr Robert Heinsch (Grotius Centre and the Kalshoven-Gieskes Forum for International Humanitarian Law).

The audience heard worrying statistics about the amount of attacks MSF facilities and staff have been subjected to over recent years and the effects these attacks have on the amount of doctors volunteering to help the wounded. The attacks also have a chilling effect on wounded people seeking assistance when they need it, fearful that medical facilities are no longer safe places. Jelte van Wieren highlighted the priorities for the Netherlands as it takes its place as a democratically-elected member of the United Nations Security Council in ensuring respect and compliance for international law and accountability for those who violate it (noting that these positions were subject to change given the current lack of government in the Netherlands). Dr Robert Heinsch explained to the audience how international law protects medical facilities and staff during armed conflict and the imperfections in the legal regimes

to ensure that these laws are respected, answering many questions on these topics during the Q&A session.

### **ICTY Legacy Dialogue Series**

The Grotius Centre was proud to host part of the ICTY Legacy Dialogue Series that took place this season in the Hague. The Legacy Dialogue Series was an opportunity to reflect on the ICTY's development and the contributions it made to international law as it prepares to shut its doors for the last time at the end of December 2017.

Five parts of the Legacy Dialogue Series were held in the Hague at the Grotius Centre for International Legal Studies. The Centre hosted panels on the stories of the Chambers, the Registry, the Office of the Prosecutor, and the Defence. A final session—the ICTY Symposium: Final Reflections on the ICTY—was held on 18 December.

All sessions provided insightful insider accounts of the ICTY's growth and development over its lifetime, including personal stories from key figures as to how challenges were overcome.

### **Panel Discussion on the 40th Anniversary of the Additional Protocols**

On 8 June 2017, in order to call attention to the 40<sup>th</sup> anniversary of the 1977 Additional Protocols, the KGF organised a celebratory panel discussion, in cooperation with the Grotius Centre and the Netherlands Red Cross. The panel featured esteemed guests, including Judge Alphons Orie (ICTY), Prof Horst Fischer (Leiden University), Dr Hans Boddens Hosang (NL Ministry of Defence), and Ms Mireille Hector (NL Ministry of Foreign Affairs).



## Prize Showcase

Many talented EFIL researchers, students, and programmes were awarded prizes in 2017, a testament to the dedication and passion with which they approach their work and a demonstration of Leiden's world-class teaching and research. Well done!

### **IIASL wins the NLF's Award for Excellent Education**

The Nederlands Lucht- en Ruimtevaart Fonds (NLF, or 'Netherlands Aerospace Fund') started awarding, in 2014, the "Award for Excellent Education" to a program or school which distinguished itself in the most positive way. The Award for Excellent Education for the year 2017 was awarded to Leiden University's International Institute of Air and Space Law. With this Award the NLF not only wants to show appreciation, but also stimulate excellence in education.

### **Roberto Cassar wins Geoff Masel Aviation Law Prize of the ALAANZ**

Each year the Aviation Law Association of Australia and New Zealand (ALAANZ) awards the 'Geoff Masel Aviation Law Prize' for the best paper submitted by a current undergraduate student or Masters Student on a subject relating to aviation or space law, with consideration given to the level of experience of the entrant. The Geoff Masel Prize 2017 was awarded to Roberto Cassar (IIASL class of 2017) for his paper "Survival of the Freest – The Impact of Brexit on Easyjet p.l.c."

### **Leiden Alumni Petri Freundlich Wins the Max van der Stoel Award for LLM Thesis**

Leiden University alumni Petri Freundlich was recently awarded the Max van der Stoel Award for his LLM thesis. The first prize in the category Master's theses and academic articles went to Mr Freundlich for the thesis International Humanitarian Law in Human Rights Courts: a Comparative Analysis Between the European Court of Human Rights and the Inter-American Court of Human Rights, written in the Public International Law program of Leiden University. This first prize carries a monetary award of €1,000. His advisor, Leiden University Assistant Professor Jens Iverson, is



extremely proud of Mr Freundlich's work. He states:

"Mr Freundlich's thesis provides an original contribution to the fields of human rights and international humanitarian law. It focuses on how human rights courts (namely the European and Inter-American courts) take norms of international humanitarian law into account in their case-law. This research shows how norms of humanitarian law affect the interpretation of human rights under the European and the American human rights conventions. It analyses similarities and differences between the two courts and how different rules (whether treaty-based or customary) of humanitarian law affect the interpretation of human rights norms in the courts' reasoning. Several fundamental human rights such as the right to life or the right to liberty are examined. I hope Mr Freundlich publishes his work and that it is widely read."

The Max van der Stoel Human Rights Award was established by Tilburg University and, for several years now, has been awarded by the School of Human Rights Research to research carried out in The Netherlands and Belgium. Since 2002, this award has been called the Max van der Stoel Human Rights Award, in honour of the man who, in that year, left Tilburg University as Professor of International Law and who had proven to be an indefatigable champion of human rights.

### **Dimitra Stefoudi awarded Scholarship to Attend 68th International Astronautical Congress**

Dimitra Stefoudi (class of 2016 and current PhD candidate) was awarded a scholarship by the Secure World Foundation to attend the 68th Annual International Astronautical Congress from 25-29 September 2017 in Adelaide, Australia. During the conference various aspects of the use and exploration of outer

space were discussed by distinguished experts, among which was none other than Elon Musk. Dimitra Stefoudi was the ambassador of the International Institute of Air and Space Law at the IAC in Australia.

### **Claudiu Mihai Taiatu wins Diederiks-Verschoor Award of the IISL**

The "Diederiks-Verschoor Award" is granted annually by the International Institute of Space Law (IISL) Board of Directors to the best paper accepted for presentation at the Institute's Colloquium by an author not older than 30 years who has not published more than five papers in the Proceedings of IISL Colloquia. In 2017, the IISL Board of Directors granted the Diederiks-Verschoor Award to Claudiu Mihai Taiatu (IIASL class of 2017) for his paper "Space Traffic Management: Top Priority For Safety Operations".

### **EALA Prizes**

During the 29th Annual EALA Conference, alumni Nandini Paliwal (IIASL class of 2016) and Valentina Vecchio (IIASL class of 2017) were awarded the first and second place, respectively, for their papers in the 2017 EALA Prize. EALA Prize 2017. Nandini Paliwal won the First Prize for her paper "Interpretation Of The Term 'Bodily Injury' In International Air Transportation-Whether Recovery For Mental Injury Is Tenable Under The Warsaw System And Montreal Convention?". Valentina Vecchio won the Second Prize for her paper "Securing The Skies From Unruly Passengers – Onwards To The Montreal Protocol".

### **Exploring the Frontiers of International Law Research Prize**

The Faculty Board of the Law School has decided that each Research Programme can award a prize to PhD candidates—both internal and external—for research output. Many

submissions of a very high quality were received, with the prize being awarded to Alexander Mayer-Rieckh for his paper, *Guarantees of Non-Recurrence: An Approximation*. Congratulations Alexander!



## Summer Schools and Training Courses

The Grotius Centre shares the expertise and experience of its researchers with students and professionals through a wide selection of summer schools and courses. 2017 also saw the creation of the Duke-Leiden Institute in Global and Transnational Law, commencing in 2018.

The Grotius Centre Summer Schools and Training Courses provide professionals and students with the opportunity to learn from experts and equip them with the skills to advance their own studies and practice.

This summer, the Grotius Centre welcomed 262 students and professionals from all over the globe to a total of seven summer schools and training courses in the fields of international law and human rights.

Summer schools and training courses were held on:

- > International Criminal Law
- > Frontiers of Children's Rights
- > International Humanitarian Law in Theory and Practice
- > Human Rights, Transitional Justice and the Protection of the Environment after Conflict
- > Brandeis in the Hague Summer Programme
- > Sexual Orientation and Gender Identity in International Law: Human Rights and Beyond
- > International Arbitration

### The Duke-Leiden Institute in Global and Transnational Law

In 2017, Duke University and Leiden University agreed to host an Institute in Global and Transnational Law. The Duke-Leiden Institute in Global and Transnational Law will welcome around 50 students and professionals

who wish to deepen their knowledge in international and comparative law as well as participants interested in transnational practice. The institute hopes to bring together a diverse group of students, practitioners and faculty members from varied legal backgrounds and cultures to allow for an enriching experience and fruitful exchanges.

The first session of the Institute will be held for one month in summer 2018. This collaboration, drawing on the combined expertise of two leading universities, will equip the next generation of scholars and practitioners to tackle the challenges facing the international legal order as they prepare for their professional careers.

# Massive Open Online Courses Taking Leiden to the World

For those not able to travel to Leiden and the Hague, want to gain more knowledge about a field of interest, or see whether international law is for them, the Grotius Centre's selection of MOOCs lets the Centre to teach anywhere in the world without geographic boundaries.

## **International Law in Action 1: A Guide to the International Courts and Tribunals in The Hague**

Over 5 weeks, this course explains the functions of each international court and tribunal present in The Hague, and looks at how these institutions address contemporary problems. On the basis of selected cases, and through interviews with judges and lawyers, the course explores the role of these courts and tribunals and their potential to contribute to global justice. The course is taught by Professor Larissa van den Herik; Assistant Professor Cecily Rose; and Dr Yannick Radi, and debuted in January 2016.

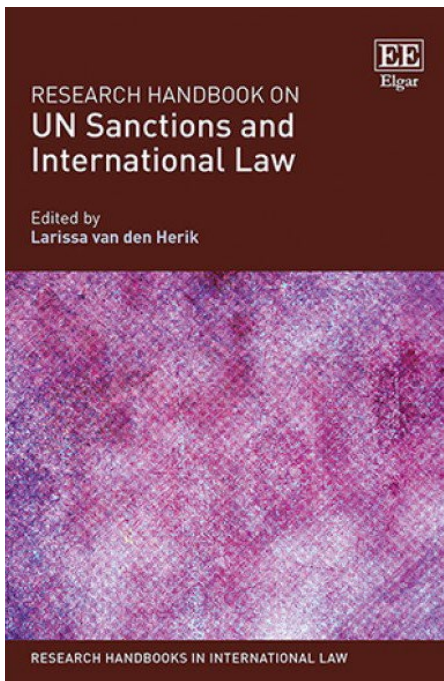
## **International Law In Action 2: Investigating and Prosecuting International Crimes**

Taught by Professor Carsten Stahn; and Assistant Professors Sergey Vasiliev and Joe Powderly, this second course gives students an insider's perspective into the work of international criminal courts and tribunals and how international crimes are investigated and prosecuted. The course explores the nature of international crimes, how they are prosecuted and investigated, and concludes by analysing the strengths, weaknesses, opportunities, and threats facing this new form of justice as it moves from its infancy to maturity.

## **International Law in Action 3: The Arbitration of International Disputes**

The third course in the series will commence on 29 January 2018. The course, taught by Professor Eric de Brabandere and Assistant Professor Giulia Pinzauti, will teach students about how international disputes are resolved. Students will learn about the different adjudicatory bodies and their jurisdiction, learn that there are many kinds of international disputes, and tackle challenging questions concerning how awards are enforced. The MOOC will provide a sample of the field for those thinking of pursuing the new Advanced Masters in International Dispute Settlement, commencing 2018.

# Book Showcase



**Larissa van den Herik**

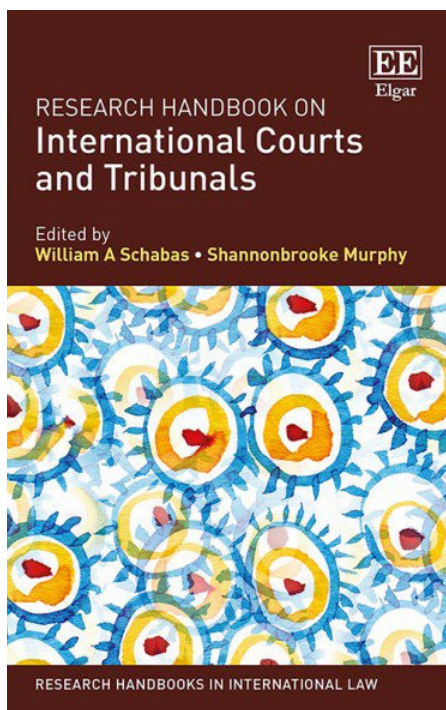
*Research Handbook on UN Sanctions and International Law*

The twenty-five years following the conclusion of the Cold War witnessed an unprecedented intensification of the usage of UN sanctions. This Research Handbook maps how UN sanctions multiplied and diversified during this period and analyses the substantive and procedural transformations to UN sanctions regimes, through the lens of international law.

Expert contributors explore different types of UN sanctions regimes, most notably counter-terrorism regimes, counter-proliferation regimes and conflict-resolution regimes. They trace developments across these regimes, such as increased references to international legal standards in sanctions design and procedure as well as interplays with other processes and informal arrangements. Key chapters also specifically examine synergies between UN sanctions and unilateral measures and explore the different legal frameworks that shape and govern these respective regimes. Offering a holistic study of UN sanctions, this Research Handbook identifies cross-cutting issues and common challenges in order to provide an outlook on the future of UN sanctions in a 21st century setting.

Comprehensive and engaging, students and scholars of international law and human rights law, as well as international relations more widely, will find this book an essential companion. Its forward-thinking approach will also benefit legal practitioners at the UN, other international organisations and law firms.



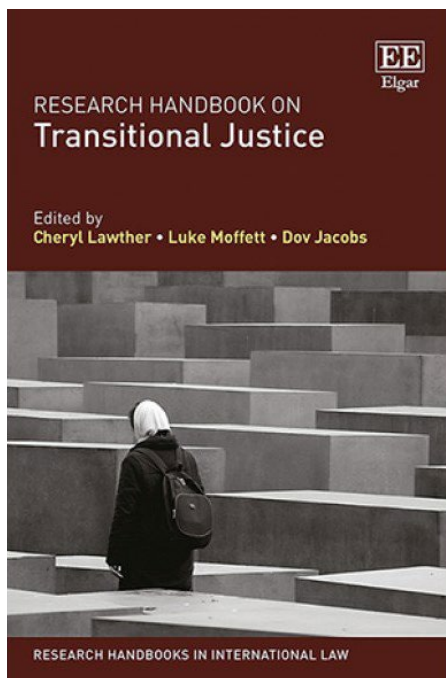


**William Schabas and Shannonbrooke Murphy**  
*Research Handbook on International Courts and Tribunals*

Since the establishment of the Permanent Court of Arbitration for international dispute resolution in 1899, the number of international courts and tribunals has multiplied and the reach of their jurisdiction has steadily expanded. By providing a synthetic overview and critical analysis of these developments from multiple perspectives, this Research Handbook both contextualizes and stimulates future research and practice in this rapidly developing field.

Made up of specially commissioned chapters by leading and emerging scholars, the book takes a thematic and interpretive, system-wide and inter-jurisdictional comparative approach to the main issues, debates and controversies related to the growth of international courts and tribunals. Its review of influential international judgements traverses the areas of international peace and security law, international human rights law, international criminal law and international economic law, while also including critical reflection by practitioners.

This nuanced review of the latest thinking on scholarly debates and controversies in international courts and tribunals will be both a key resource for academic researchers and a concise introduction to the subject for post-graduate students. Its chapters also contain topics of practical relevance to lawyers and international decision-makers.

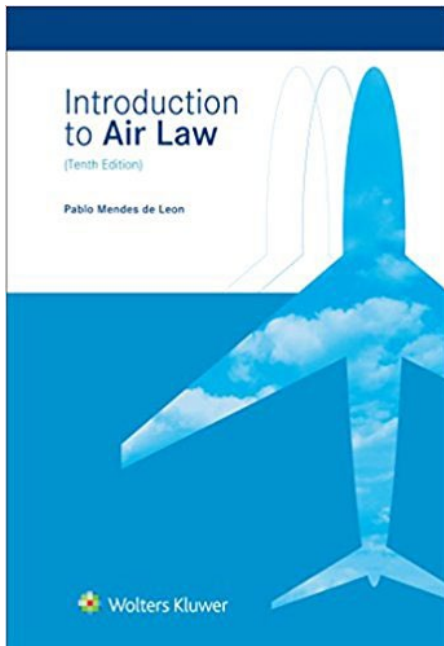


**Cheryl Lawler, Luke Moffett, and Dov Jacobs**  
*Research Handbook on Transitional Justice*

Providing detailed and comprehensive coverage of the transitional justice field, this Research Handbook brings together leading scholars and practitioners to explore how societies deal with mass atrocities after periods of dictatorship or conflict. Situating the development of transitional justice in its historical context, social and political context, it analyses the legal instruments that have emerged.

The Research Handbook is extensive in scope, with chapters discussing the concepts, actors, mechanisms and practices of transitional justice. They address the challenges of implementing a range of transitional justice mechanisms, including methods of truth recovery, criminal trials and reparation and lustration programmes. Going a step further, this book also expands the gaze of transitional justice to include underexplored areas, such as art and transitional justice, media and transitional justice and unique international case studies, such as Cambodia and Palestine.

Timely and thought provoking, the Research Handbook on Transitional Justice will be of interest to both scholars and students, particularly those working in the areas of transitional justice and peace-building. It will also prove a valuable reference tool for practitioners of transitional justice and international criminal justice, helping to inform best practice.

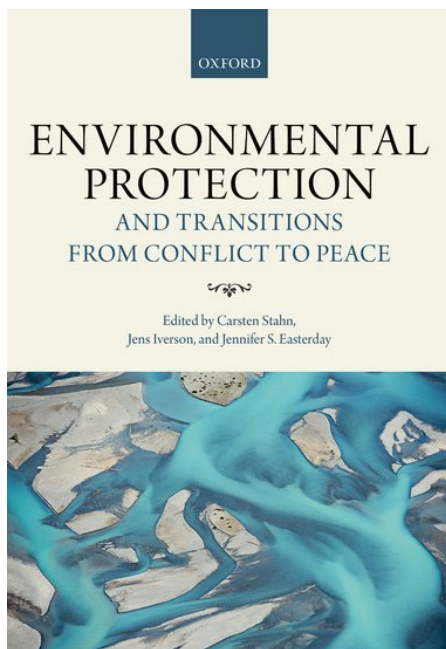


Pablo Mendes de Leon

*Introduction to Air Law, 10th Edition*

*(First written by Isabella Diederiks-Verschoor in 1974)*

This edition of the book seeks to address the catalytic events that have taken place in the world of aviation since the previous, ninth edition five years ago. These catalytic events pertain, among other things, to market access and market behaviour by air carriers, including competition, new perceptions of safety and security, particularly in relation to transparency of accident investigation and cybersecurity, case law in the area of airline liability, with new cases from the United States, the United Kingdom, and elsewhere, the growing importance of environmental concerns, the rights and obligations of passengers, and innovative methods for financing aircraft. Special attention has been paid, in this edition, to regional integration movements, especially in Europe, affecting the mentioned subjects. Further, the book's extensive references to other sources in the field have been expanded and updated by the author and experts in specialized areas.



Carsten Stahn, Jens Iverson, and Jennifer Easterday  
*Environmental Protection and Transitions from Conflict to Peace*

This book is the first targeted work in the legal literature that investigates environmental challenges in the aftermath of conflict. The volume brings together academics, policy-makers, and practitioners from different disciplines to clarify policies and practices of environmental protection and key legal considerations related to normative frameworks (e.g. international environmental law, international humanitarian law, transitional justice, and human rights), the treatment of substantive principles (e.g. proportionality under *jus in bello* and *jus post bellum*, environmental integrity), 'shared responsibility', and accountability mechanisms for environmental damage. By providing a comprehensive and in-depth analysis of environmental protection and natural resource management during the transition to peace, the volume reveals strong links between the peace-orientation of *jus post bellum* and environmental principles, such as intergenerational equity and precaution. There is a great deal of work to do to ensure greater protection of the environment before, during, and after conflict. It remains a challenge to align protection with the political interest of states, and the increasing involvement of non-state actors in armed conflict. This volume marks a starting point for an urgently needed space for states, international organizations, and civil society to discuss, and debate conflict and the environment. By engaging with the International Law Commission's 2016 Draft Principles on the Protection of the Environment in Relation to Armed Conflicts, the volume adds clarity to the law and momentum to the development of the law in this important area.

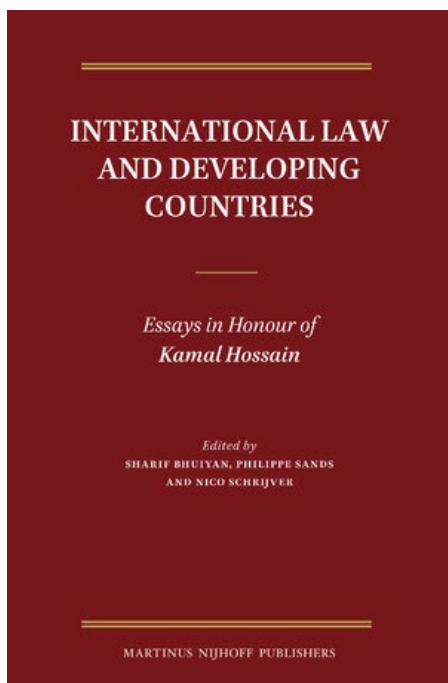




eleven  
international publishing

**P J Blount, Tanja Masson-Zwaan, R Morro-Aguilar, and K U Schrogli**  
*Proceedings of the International Institute of Space Law 2016*

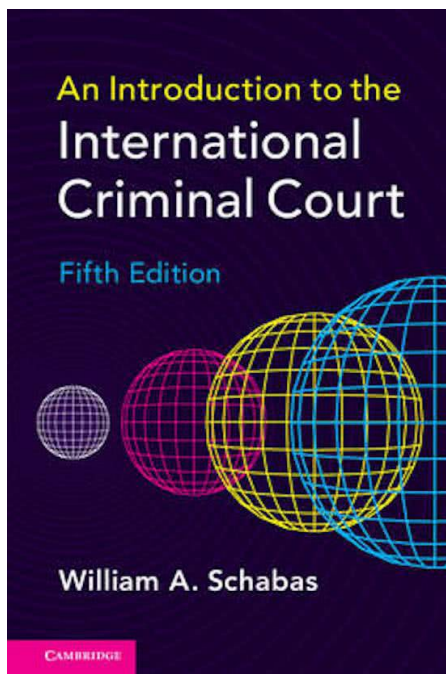
This volume contains the proceedings of the 59th Colloquium on the Law of Outer Space held during the IAC in Guadalajara, Mexico in September 2016, as well as the papers presented at the IISL-ECSL Space Law Symposium held on the occasion of the 55th Session of the Legal Subcommittee of the UN Committee on the Peaceful Uses of Outer Space in Vienna, Austria in April 2016, and the report of the 11th Eilene M. Galloway Symposium on Critical Issues in Space Law, held in Washington D.C., United States in December 2016. It also contains the report and best written memorials of the World Finals of the 25th Manfred Lachs Space Law Moot Court Competition.



Sharif Bhuiyan, Philippe Sands, and Nico Schrijver

*International Law and Developing Countries: Essays in Honour of Kamal Hossain*

This book celebrates Kamal Hossain's lifelong and significant contribution to the development of international law and the cause of developing countries. It brings together an interview with Hossain by the editors, and thirteen essays written in his honour by scholars representing a wide spectrum of expertise in international law. The interview provides an introduction to the rich and varied life of a statesman, a drafter of his country's constitution, and an acclaimed constitutional and international lawyer. The subjects covered in the essays include the new international economic order (NIEO), human rights, counter-terrorism, climate change, oil and gas law, arbitration, law of the sea, international trade law and judicial reform. These essays offer important perspectives on the issues addressed.



**William Schabas**

*An Introduction to the International Criminal Court, 5th Edition*

The International Criminal Court ushered in a new era in the protection of human rights. The Court prosecutes genocide, crimes against humanity, war crimes, and the crime of aggression when national justice systems are either unwilling or unable to do so themselves. This fifth edition of the seminal text describes a Court which is no longer in its infancy; the Court is currently examining situations that involve more than twenty countries in every continent of the planet. This book considers the difficulties in the Court's troubled relationship with Africa, the vagaries of the position of the United States, and the challenges the Court may face as it confronts conflicts around the world. It also reviews the history of international criminal prosecution and the Rome Statute. Written by a leading commentator, it is an authoritative and up-to-date introduction to the legal issues involved in the creation and operation of the Court.

## ONTDEK HET INTERNATIONALE RECHT

MET SPECIALE AANDACHT VOOR DE ROL VAN DEN HAAG,  
INTERNATIONALE STAD VAN VREDE EN RECHT



DOOR PROFESSOR WILLEM VAN GENUGTEN  
DANIELA HEERDT, LL.M.  
PROFESSOR NICO SCHRIJVER

Willem van Genugten, Daniela Heerdt, and Nico Schrijver  
*Ontdek het Internationale Recht*

International law has a huge impact on everyday life, but often only specialists are aware of that. The goal of this book is to make international law accessible for all people interested but not (yet) being such experts. It is an invitation to discover international law, and to see how it links to major challenges of today's world. A second goal of the book is to highlight and explain the long-standing relationship between international law and the City of The Hague, "an epicentre of international justice and accountability" in the words of UN Secretary General Ban Ki-moon. Describing international law as it is and discussing trends and barriers, the authors draw optimistic conclusions in the end, despite the fact that putting international law into practice is in many ways an uphill struggle. They reach their conclusions by looking at international law as part of the 'ongoing civilization of relations between states'. Analyzing a range of topics, they also make clear that international law serves as a domain that tackles 'problems without passports' in increasing interaction between people(s), states, the civil society (NGOs, trade unions, religious groups) and companies, all that being supported and critically followed by the academic community.

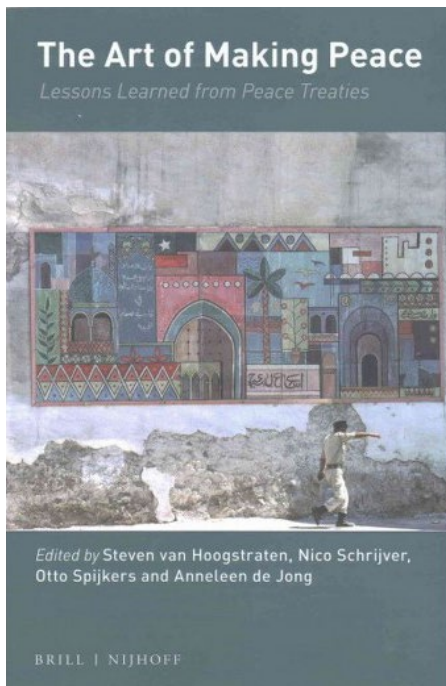




Jan Waszink

*Hugo de Groot in Leiden: Een Wandeling*

This walking tour follows the locations of Hugo Grotius' (1583-1645) undergraduate years in Leiden. Grotius matriculated at Leiden in 1594 when he was 11 years of age, and left the university in 1598. Later, as a politician and as a scholar, he became one most well-known Dutchmen from the Golden Age. Nowadays he is regarded as one of the principal founders of the current system of international law, and for that reason as one of the foremost intellectuals from European history. The scenic tour shows the places where he lived and studied, and gives an impression of the town, of some of the people around him and the workings of Leiden university at that time. Leiden university was established in 1575 and had by then already gained an international reputation as a centre of innovative science and scholarship.



**Steven van Hoogstraten, Nico Schrijver, Otto Spijkers, and Anneleen de Jong**  
*The Art of Making Peace: Lessons Learned from Peace Treaties*

International law has a huge impact on everyday life, but often only specialists are aware of that. The goal of this book is to make international law accessible for all people interested but not (yet) being such experts. It is an invitation to discover international law, and to see how it links to major challenges of today's world. A second goal of the book is to highlight and explain the long-standing relationship between international law and the City of The Hague, "an epicentre of international justice and accountability" in the words of UN Secretary General Ban Ki-moon. Describing international law as it is and discussing trends and barriers, the authors draw optimistic conclusions in the end, despite the fact that putting international law into practice is in many ways an uphill struggle. They reach their conclusions by looking at international law as part of the 'ongoing civilization of relations between states'. Analyzing a range of topics, they also make clear that international law serves as a domain that tackles 'problems without passports' in increasing interaction between people(s), states, the civil society (NGOs, trade unions, religious groups) and companies, all that being supported and critically followed by the academic community.

# Grotius Centre Working Paper Series

The Grotius Working Paper Series gives Leiden academics the possibility to publish English language papers that have been accepted for publication on SSRN, so long as reviewer comments have not been implemented. In 2017, the Series published:

- > **2017/070-PIL:** Cecily Rose, *Treaty Monitoring and Compliance in the Field of Transnational Criminal Law*
- > **2017/069-ICL:** Catherine Harwood, *The UN Independent Investigation Commission in Lebanon*
- > **2017/068-PIL:** Evelien Campfens, *Whose Cultural Heritage? Crimean Treasures at the Crossroads of Politics, Law and Ethics*
- > **2017/067-PIL:** Evelien Campfens, *Nazi-looted art: a note in favour of clear standards and neutral procedures*
- > **2017/066-ICL:** Larissa van den Herik and Elies van Sliedregt, *International Criminal Law and the Malabo Protocol: About Scholarly Reception, Rebellion and Role Models*
- > **2017/065-PSL:** Catherine Harwood and Larissa van den Herik, *Commissions of Inquiry and Questions of Jus ad Bellum*
- > **2017/064-SDL:** Daniëlla Dam-de Jong and James Stewart, *Illicit Exploitation of Natural Resources*
- > **2017/063-IEL:** Eric de Brabandere, *Fair and Equitable Treatment and (Full) Protection and Security in African Investment Treaties: Between Generality and Contextual Specificity*
- > **2017/062-IEL:** Eric de Brabandere and Saskia Lemeire, *The jurisdiction ratione temporis of international investment tribunals: Some observations on the Decision of the Tribunal in Ping An v Belgium*
- > **2017/061-HRL:** Sergey Vasiliev, *Cross Fertilisation under the Looking Glass: Transjudicial Grammar and the Reception of Strasbourg Jurisprudence by International Criminal Tribunals*
- > **2017/060-PIL:** Zsuzsanna Deen-Racsmány, *The Relevance of Disciplinary Authority and Criminal Jurisdiction to Locating Effective Control under the ARIO*
- > **2017/056-HRL:** Eric de Brabandere and Maryse Hazelzet, *Corporate Responsibility and Human Rights: Navigating between international, domestic and self-regulation*



## PhD Defences

The EFIL Programme had six PhD candidates graduate in 2017 from the International Institute for Air and Space Law and the Grotius Centre for International Legal Studies. Congratulations to all!

**Thomas Leclerc:**

*Les Mesures Correctives des Émissions Aériennes de Gaz à Effet de Serre: Contribution à l'Etude des Interactions entre les Ordres Juridiques en Droit International Public*

On 16 November 2017, Thomas Leclerc defended his thesis, 'Les Mesures Correctives des Émissions Aériennes de Gaz à Effet de Serre: Contribution à l'Etude des Interactions entre les Ordres Juridiques en Droit International Public'. He was supervised by Professor Pablo Mendes de Leon (Leiden University) and Professor Loïc Grard (Université de Bordeaux, France). Leclerc's research departs from the notion that the search for a global and correc-

tive measure to reduce greenhouse gas emissions from international civil aviation has been facing legal obstacles. These obstacles have taken the form of conflicts of norms linked to the general challenge of the interactions between international aviation law, climate change law, and the law of the European Union. Leclerc thus examines these issues of interactions between legal orders and provides recommendations to restore legal certainty needed to ensure sustainable development of international civil aviation. More specifically, Leclerc demonstrates the underestimated relevance of the ongoing distinction between the legal regimes of air navigation, and international air transport, which is a key legal element in the search for a

global and corrective solution to the impact of international civil aviation on climate change. Leclerc was awarded *Cum Laude*.

**Lalin Kovudhikulrungsri:**

*The Right to Travel by Air of Persons with Disabilities*

On 16 November 2017, Lalin Kovudhikulrungsri defended her thesis, 'The Right to Travel by Air of Persons with Disabilities'. She was supervised by Professor Pablo Mendes de Leon and Professor Aart Hendriks. In her work, Lalin examines the problems faced by persons with disabilities from the pre-journey to after disembarkation at the airport of destination. Lalin defends the view that an obligation erga



omnes can be conceptualized through accessibility being a global public good. Hence, Lalin argues, States are obliged to provide accessible air travel to persons with disabilities even if they are not a party to the Convention on the Rights of Persons with Disabilities. She further holds that, in order to balance the rights and obligations, and ensure a uniform manner, the International Civil Aviation Organization and the Committee on the Rights of Persons with Disabilities should jointly publish an interpretation guideline to guarantee that air law and human rights law are not neglected. Lalin also proposes that States refrain from exercising extraterritorial jurisdiction in their accessibility standards, and that they should incorporate a clause concerning accessibility in air services agreements.

#### **Nobuo Hayashi:** *Military Necessity*

On 11 May 2017, Nobuo Hayashi defended his PhD entitled 'Military Necessity' at the Academiegebouw. He argued that two influential views on military necessity exist under today's international humanitarian law (IHL). According to one, IHL prohibits all acts lacking in military necessity. They become unlawful simply because they are militarily unnecessary, even if they do not violate any of the law's specific rules. The other holds that military necessity and humanity inevitably conflict with each other. Since IHL already embodies a compromise between them, neither pleas are admissible vis-à-vis its unqualified rules. Hayashi challenged both positions and developed a new, contextualised theory.

He was supervised by Professor Carsten Stahn, and the Committee consisted of Professors Larissa van den Herik, Terry Gill, Jan Kleffner, Helen Duffy, and Associate Professor Robert Heinsch.

#### **Miriam Cohen:** *Reparations for International Crimes and the Development of a Civil Dimension of International Criminal Justice*

Miriam's research looked into the development of a civil dimension of international justice and whether it can exist within the ethos of international criminal proceedings. It investigated whether this dimension should be integrated in the international criminal process or whether a separation of these mechanisms is preferred; in this latter case, it inquired whether other mechanisms, such as domestic civil litigation and/or administrative mechanisms, such as trust funds, should be the way forward. The goal of Miriam's research was to examine whether, and to what extent, international criminal justice should be concerned with a civil dimension, by which justice theories it is guided, how this dimension is best shaped and how it should further develop. In this light, her thesis started by looking at punishment and reparation through the analysis of the interplay between retributive and restorative or reparative justice theories. It then examined the leading International Criminal Court decisions on reparations and dwelled upon whether some aspects of criminal justice (e.g. standard of evidence, rights of the accused, prosecutorial discretion, etc.) are in tension with the civil nature of reparations. Building on domestic experiences, case studies and criminal law theories, her research provides a fresh outlook on the question of reparations for victims of international crimes in international criminal proceedings and beyond.

Miriam was supervised by Professors Larissa van den Herik and Carsten Stahn.

#### **Jens Iverson:** *The Function of Jus Post Bellum in International Law*

Jens' study focussed on legal and normative principles of the transition from armed conflict to peace, often called *jus post bellum*. *Jus post bellum* is a phrase frequently used without definition, or with little understanding that others may use the term to mean something else. It is almost never used with anything approaching a full exposition of the intellectual history upon which it is built. Before recent scholarship, the laws and principles that constitute the *jus post bellum* were rarely expounded. This study helps to consolidate a firmer theoretical grounding for the term, as well as a clearer intellectual history and analysis of its content. *Jus post bellum* remains comparatively under-theorised, and frequently referenced without realising that many authors be talking past each other, meaning different things while using the same term. Jens' hope for his thesis is not only to help clarify the debate over the term, but also to move the consensus towards a hybrid functional approach to *jus post bellum*, that is, to define an approach to this area of law that focuses on the goal of achieving a just and sustainable peace rather than a mere discussion of law that applies during early peace.

Jens was supervised by Professors Carsten Stahn and Larissa van den Herik.

#### **Alessandro Tonutti:** *The role of modern international commissions of inquiry: a first step to ensure accountability for international law violations?*

In the latest twenty years we have witnessed an exponential proliferation of international commissions of inquiry mandated to investigate serious violations of international law. However, the inquiry tool has been originally institutionalised at the beginning of the 20th century

as mean of preventive diplomacy aimed at stating the facts for dispute settlement purposes. Since then inquiries have significantly evolved into mechanisms that denounce and shed light on serious violations of international law in order to provoke a response by the international community. What are the underlying causes of this new role and of the recent surge of inquiry commissions? Should commissions of inquiry be viewed as merely fact-finders or as law-applicable/adjudication bodies? Should their tasks be confined to finding the facts or may they perform more dynamic and political roles such as raising alert and provoking reactions? What (arguably) should be the role of commissions of inquiry in the criminal accountability process? These and other questions are the core of this academic contribution which, through a comprehensive analysis of the work and practice of commissions of inquiry, aims to shed more light on a topic that has increasingly become the focus of intense debate among academics, practitioners and international decision-makers.

Alessandro was supervised by Professor Bill Schabas and Dr Emanuele Sommario (Sant'Anna, Italy).

## The Hague Space Resources Governance Working Group

The International Institute of Air and Space Law hosts The Hague Space Resources Governance Working Group, which was established in 2015. The objective of the Working Group is to assess the need for a regulatory framework for space resource activities related to the use of mineral and volatile materials on the Moon and other celestial bodies, as well as, in case of need, to lay the groundwork for the development of such a regulatory framework.

The Working Group was hosted by a consortium of organizations representing all continents. It had 22 members and more than 40 observers. The members represented governments, international organizations, space agencies, the industry, and academics from various disciplines. Four face-to-face meetings were held in Leiden, the Netherlands. The Working Group has been recognized as a valuable informal international multi-stakeholder forum to discuss space resource governance issues. The Working Group has also been invited to participate in the UN Action Team on Exploration and Innovation, set up to support Thematic Priority 1 of UNISPACE+50, in turn to be held in June 2018.

On 13 September 2017, The Hague Space Resources Governance Working Group agreed on the “Draft Building Blocks for the Development of an International Framework on Space Resource Activities”. In so doing, the Working Group achieved its objective of provisionally identifying and elaborating 19 Building Blocks, thereby bringing to a close “Phase 1” of its work. Ultimately it was decided to continue to work for two more years, and the IIASL will continue to host the working group in Leiden.



# Kalshoven-Gieskes Forum on International Humanitarian Law

## **Dr Robert Heinsch Lectures on Basic IHL Principles to ICC Office of the Prosecutor**

In February, the Forum's Director, Dr Robert Heinsch, gave a lecture on 'The Basic IHL Principles Governing the Conduct of Hostilities with regard to Unlawful Attacks' to a group of staff members of the Office of the Prosecutor of the International Criminal Court in The Hague.

## **Dr Giulia Pinzauti Lectures on The United Nations and International Courts**

In March, Dr Giulia Pinzauti addressed the Senior Course 130 at the NATO Defence College in Rome on the subject of 'The United Nations and International Courts' to an audience comprised of 54 military officers and government officials from 19 different countries.

## **Intensive IHL Training**

In June 2017, Dr Robert Heinsch gave an intensive IHL training to Judges and Prosecutors at the Leadership Development and Civic Education Centre of the German Armed Forces in Koblenz.

## **IHL Clinic Session at the 12th Advanced Seminar on IHL for University Lecturers and Researchers in Geneva**

On 26 September 2017, KGF Director Dr Robert Heinsch, together with the Directors of the partner clinics of the Leiden IHL Clinic, Laurie Blank (Emory School of Law), Yael Vias Gvirsman (IDC Herzliya) and Giulio Bartolini (Roma Tre University), presented the work of

their IHL Clinics in the framework of the 12th Advanced Seminar in IHL for University Lecturers and Researchers organised by the ICRC and the Geneva Academy at the ICRC headquarters in Geneva, Switzerland.

## **Launch of the IHL in Action Platform**

On 27 September 2017, the ICRC launched the 'IHL in Action' database in the context of its project 'IHL in Action: Respect for the law on the battlefield'. The case studies in the database were conducted by the Leiden IHL Clinic of the KGF, together with its partner IHL Clinics at Emory Law School (USA), IDC Herzliya (Israel) and Roma Tre University (Italy).

## **2017 IHL Clinic Exchange Conference**

From 9 to 15 November 2017, three of the Kalshoven-Gieskes Forum's IHL Clinic teams, their supervisors, and the Clinic's Director Dr Robert Heinsch, attended the annual IHL Clinic Exchange Conference in Atlanta and Washington, DC, to meet with students from the KGF's partner IHL Clinics, Emory Law School (USA) and IDC Herzliya (Israel). This year, the Conference was hosted by the Emory Law Clinic and its IHL Clinic Director Prof Laurie Blank from Emory Law School. Between 9 and 11 November, the three Clinic delegations were hosted at Emory Law School in Atlanta, where they discussed and presented their current Clinic projects, and participated in a panel discussion on the lessons learned and challenges faced by IHL. Between 12 and 15 November, the programme continued in Washington, DC. The students visited the Holocaust Memorial Museum, where they partic-

ipated in a panel discussion on the complexity of contemporary conflicts, and in a simulation exercise organised by the ICRC. The group also visited the Pentagon, where operational briefings dealing with different IHL issues were delivered, and had a panel discussion on counter-terrorism. On the final day of the Conference, the students participated in a 'war game' exercise at the National War College, applying their knowledge of IHL to different scenarios in the context of military operations.

## **ILA Study Group Concludes**

Dr Robert Heinsch, together with his colleagues Professor Terry Gill (Amsterdam) and Professor Robin Geiss (Glasgow), finished a five-year process of examining 'The Conduct of Hostilities under International Humanitarian Law - Challenges of 21st Century Warfare' in the context of an ILA study group.

## **Opening Lecture of the Regular & Advanced LL.M. Programmes**

On 15 September 2017, the KGF and the Grotius Centre hosted an Opening Lecture for the new academic year for the Regular and Advanced LL.M. Programmes in Public International Law. Due to the passing of Professor Emeritus Frits Kalshoven on 6 September 2017, the Opening Lecture commenced with a short in memoriam for the name giver of the KGF, with Rogier Bartels, Jeroen van den Boogaard and Robert Heinsch remembering Prof Kalshoven as one of the most important experts in the field of IHL, but first and foremost, as a wonderful, humble human being.

# Publications from 2017

## Articles

**Eric de Brabandere, 'Fair and Equitable Treatment and (Full) Protection and Security in African Investment Treaties: Between Generality and Contextual Specificity' (2017) 18 *Journal of World Investment and Trade* 530.**

> Available [here](#).

This article seeks to test whether African investment treaties present a specific approach – i.e. distinct from the North-American and Western Hemisphere – to fair and equitable treatment (FET) and (full) protection and security (FPS). The first main argument is that the concepts of FET and FPS are not substantially impacted by the mere fact of being included in investment agreements to which African States are party. The second main argument is that the understanding, interpretation and definitions of these concepts within Africa is not fundamentally different than in other regions. Thirdly, notwithstanding the similarity in the wording of these standards of treatment in African investment treaties, there may still be room for taking into account the specific circumstances of the States in which the investment is made, including the level of development of the host State.

**Eric de Brabandere and Ingo Venzke, 'The Leiden Journal of International Law at 30' (2017) 30(1) *Leiden Journal of International Law* 1.**

> Available [here](#).

In 2017 the Leiden Journal is celebrating its

30th anniversary. Since the inception of the journal in 1988, much has changed. This includes not only the structure, layout, organization and publisher of the journal, but also the general environment in which the journal is published. This editorial's aim is to briefly sketch the journal's life over the past 30 years and to reflect on it.

**Evelien Campfens, 'Whose Cultural Heritage? Crimean Treasures at the Crossroads of Politics, Law and Ethics' (2017) 22(3) *Art Antiquity and Law* 193.**

> Available [here](#).

> Also available as Grotius Centre Working Paper 2017/068-PIL in the Working Paper Series folder.

Disputes concerning cultural heritage are often cause for vivid controversies, where issues of property and State sovereignty are intertwined with intangible aspects such as a cultural-historical identity. A case which exemplifies this is the so-called 'Crimean Gold' case, currently being litigated in Amsterdam.

At stake are 500-or-so archeological artefacts from the Crimean Peninsula that had been sent to Amsterdam on a short-term loan by four Crimean museums for the exhibition 'Crimea: Gold and Secrets from the Black Sea' at the Allard Pierson Museum. The period of this exhibition in 2014 coincided with a series of political events, resulting in the Russian annexation of Crimea and its secession in March 2014 from the Ukrainian State of which the Peninsula had been part since 1954. This se-

cession, however, is not recognised by most other States, including the Netherlands, adding a layer of complexity to the case. After the exhibition, the Allard Pierson was confronted with two competing claims to the objects: the Ukrainian State on the one hand and the Crimean museums on the other. Ukraine claims the objects as national patrimony and State property; the Crimean museums seek their return on the basis of guarantees contained in the loan agreement and the argument that Crimea is the 'genuine home' of the artefacts – having been discovered and preserved there over time.

**Evelien Campfens and I Tarsis, 'Cri-Me-a-River! Crimean Gold in the Crosshairs of Geopolitics' (2017) 18(1) *IFAR Journal* 36.**

> Available [here](#).

This paper discusses the complexities surrounding a major loan exhibition of ancient gold and other objects lent to the Allard Pierson Museum in Amsterdam in 2014 by five different museums in the Ukraine, including four in Crimea. The exhibition has gotten embroiled in geopolitics. During the loan period, Crimea seceded from the Ukraine, and the AP Museum was left not knowing to whom to return the objects. The issue is being decided in an Amsterdam court.

**Nadia Sánchez Castillo-Winckels, 'Why "Common Concern of Humankind" should return to the work of the International Law Commission on the Atmosphere' (2017) 29 *Georgetown Environmental Law Review* 131.**

**Thea Coventry, 'Pretrial detention: Assessing European Union Competence under Article 82(2) TFEU' (2017) 8(1) *New Journal of European Criminal Law* 43.**

> Available [here](#).



Intuitively setting European Union (EU)-wide common standards on pretrial detention appears advisable: It strengthens fair trial standards for persons accused of criminal offences and aids cooperation among the judiciary of Member States. However, at second glance, the European Parliament and Council's competence to act appears somewhat shaky. This article examines whether the EU has competence to legislate on pretrial detention under Article 82(2) of the Treaty for the Functioning of the EU.

Zsuzsanna Deen-Racsmány, 'The Status and Criminal Accountability of Members of Formed Police Units: Conflicting Positions, Current Status Quo and Future Prospects' (2017) 20(1) *Max Planck Yearbook of United Nations Law Online*.

Ige Dekker and Nico Schrijver, 'Volkenrecht' (2017) 142 *Ars Aequi KwartaalSig-naal* 8166.

Ige Dekker and Nico Schrijver, 'Volkenrecht' (2017) 143 *Ars Aequi KwartaalSig-naal* 8372.

> Available [here](#).

Ige Dekker and Nico Schrijver, 'Volkenrecht' (2017) 144 *Ars Aequi KwartaalSig-naal* 8441.

> Available [here](#).

Ige Dekker and Nico Schrijver, 'Volkenrecht' (2017) 145 *Ars Aequi KwartaalSig-naal* 8510.

> Available [here](#).

Kabir A N Duggal, 'Evidentiary Principles in Investor State Arbitration' (2017) 28(1) *The American Review of International Arbitration* 3.

Mamadou Hébié, 'L'exécution des décisions de la Cour africaine des droits de l'homme et des peuples' (2017) 121(3) *Revue générale de droit international public* 689.

Robert Heinsch, 'In memoriam Professor Frits Kalshoven: Some Personal words on the passing of one of the most respected International Humanitarian Law experts of the last century' (2017) *Leiden Journal of International Law*

Larissa van den Herik, 'Proceduralising Article 51' (2017) 77 *Heidelberg Journal of International Law* 65.

> Available via SSRN [here](#).

The unilateral use of force by a State against a non-State actor in another State is nowadays routinely justified by invoking Art. 51 of the Charter of the United Nations (UN Charter). The preference for a Charter-based exception has moved alternative legal bases to the background. The reliance on Art. 51 in a non-State actor context has provoked intense debate whether self-defence is indeed available as a legal basis for such uses of force, and if so under what exact conditions and threshold criteria. In interpreting the applicable law, there are, as is well-known, two main camps, referred to as the "expansionists" and the "restrictivists". Those two camps seem to become ever more entrenched in their positions without much appetite for compromise.

Larissa van den Herik, 'Zwischen parlamentarischer Diplomatie und Aktivismus: Über das Gutachten des niederländischen Beirats für Völkerrecht zur Verwendung des Begriffes "Völkermord" im politischen Raum' (2017) 12 *Zeitschrift für Internationale Strafrechtsdogmatik* 724.

Larissa van den Herik, 'Важность установления фактов: возвращаясь к концепции Ф.Ф. Мартенса = The Importance of Finding Facts: Revisiting Fyodor Martens' Concept of Inquiry' (2017) 23(3) *Meždunarodnoe pravosudie (International Justice)* 1.

> Available [here](#).

В статье переосмысливается выдвинутая во времена Ф. Ф. Мартенса концепция расследования и оценивается её полезность в современных условиях и применимость в контексте, который определяется развитием киберпространства и появлением новых технологий. Расследование представляет собой установление фактов независимой третьей стороной. В настоящее время, для которого так характерны обвинения в дезинформации, совершении хакерских атак, использовании фейковых новостей и альтернативных фактов, надлежащее установление фактов и наличие независимых институтов и механизмов, способных установить факты, возможно, становится важнее, чем когда-либо ранее. Базируясь на ретроспекции при описании концепции «расследования» в международном праве, эта статья (основанная на лекции, прочитанной в НИУ ВШЭ в Москве) раскрывает современную международно-правовую панораму установления фактов на примере трёх разных моделей. Это модель технической экспертизы, модель защиты прав человека и модель национального расследования. В статье также поднимаются некоторые вопросы, которые касаются способности современных процессов по установлению фактов адаптироваться к будущим вызовам и динамике XXI века.

Emma Irving, 'When International Justice Concludes: Undesirable but Unreturnable

Individuals in the Context of the International Criminal Court' (2017) 15(1) *Journal of International Criminal Justice* 115.

> Available [here](#).

The story of international criminal justice does not end when the verdict is read; for both the affected communities and for the individual accused, the story goes on. This article explores the situation facing some accused before the International Criminal Court (ICC) once their trial is over, their sentence (if convicted) is served, and they are released from custody. In many cases, the former ICC accused will simply return home and continue on with a life similar to the one they led before their ICC trial. But for some this will not be possible, particularly where the situation in their home country is such that they would be at risk if they returned there. In that case, they will need to find another country where they can safely reside, but such efforts will often be hindered by a reluctance on the part of states to host persons accused of international crimes, no matter the outcome of the trial. In these cases, such individuals can often become stuck in the legal limbo of being 'undesirable but unreturnable' (hereinafter, UbU): undesirable because they are unwelcome in other states, but unreturnable because they cannot be returned home. This article explores what the expression 'undesirable but unreturnable' means, how the situation that it describes arises in general international law, and in particular how the situation arises in the ICC context. The article then looks at the practice of the ICC to date in dealing with former accused who face being caught in the 'UbU' limbo, and goes on to set out three ways in which the ICC could play a bigger role in addressing the issue.

AEM Leijten and Floris Tan, 'KwartaalSignaal Europese mensenrechten' (2017) 143 *Ars Aequi KwartaalSignaal* 8371.

AEM Leijten and Floris Tan, 'KwartaalSignaal Europese mensenrechten' (2017) 145 *Ars Aequi KwartaalSignaal* 8512.

> Available [here](#).

Xuechan Ma, 'An Empirical Study of the Voting Patterns of Judges of the International Court of Justice (2005-2016)' (2017) 10(3) *Erasmus Law Review* 163.

Xuechan Ma, 'Historic Title Over Land and Maritime Territory' (2017) 4(1) *Journal of Territorial and Maritime Studies* 31.

> Available [here](#).

This article intends to give a better understanding of the theoretical roots and practical operations of the concept "historic title" under two different spatial frameworks of land and sea. The opinions of publicists and judicial decisions rendered by international courts and tribunals pertinent to "historic title" are examined. Moreover, the analysis adopts comparative approach. The concept "historic title" has separate and independent development paths under the frameworks of land and sea which indeed mirrors the historical development of these two corresponding spatial orders. Furthermore, the norm of "*effectivité*" over land territory and "historic title" over maritime territory share the same legal structure. But "historic title" over land territory has a distinct problem, the lack of applicability in practice. Few researchers have touched on the topic in comparison of the same concept "historic title" in different spatial contexts, as well as the comparison between "historic title" and "*effectivité*." Therefore, the findings make original contributions to these topics and also have important implications for the states involved in territorial sovereignty disputes.

Xuechan Ma, 'Introducing Non-legal Adjudicators as a Counterbalanced Measure for

Non-appearance in Inter-State Adjudication and Arbitration' (2017) 2 *Transnational Dispute Management*.

> Available [here](#).

Non-appearance, which is not uncommon in the practice of inter-State adjudication and arbitration, adds significant difficulties to fact-finding. International adjudicators face a special duty of fact-finding in these cases. Unfortunately, adjudicators tend to adopt a reactive attitude towards fact-finding. As a result, the cases of non-appearance requires a proactive measure to ensure factual accuracy. This article investigates the practice of introducing external experts into these cases as a possible solution, and concludes that this practice is subject to the risks of fraud and party's non-compliance. However, as revealed by the *Indus Waters* case, introducing non-legal adjudicators may provide a promising solution to eliminate these risks.

Alexander Mayer-Rieckh, 'Guarantees of Non-Recurrence: An Approximation' (2017) 39 *Human Rights Quarterly* 416.

> Available [here](#).

In response to massive human rights violations, states are obliged not only to prosecute the perpetrators, provide reparations to the victims and tell the truth about the violations but also to guarantee their non-recurrence. The literature on prosecution, truth-telling and reparation abounds but guarantees of non-recurrence remain under-explored. This article begins to develop a more systematic understanding of this concept, situating it at the interface between corrective and distributive justice. While defining guarantees of non-recurrence broadly, the article provides criteria for developing specific prevention strategies in a given context. Particularly relevant in this regard are measures to disable abusive capacities.

Tanja Masson-Zwaan, 'In Memoriam Professor Dr. I.H. Ph. Diederiks-Verschoor' (2017) 4 *Ruimtevaart: orgaan van de Nederlandse Vereniging voor Ruimtevaart* 16.

Tanja Masson-Zwaan, 'Ruitemijnbouw: mag dat wel?' (2017) 9 *Ars Aequi* 740.

Tanja Masson-Zwaan and N Palkovitz, 'Regulation of Space Resource Rights: Meeting the needs of states and private parties' (2017) 35 *Questions of International Law* 5.

Jason Morgan-Foster, Giulia Pinzauti, and Philippa Webb, 'The International Court of Justice in the Leiden Journal: A Retrospective' (2017) 30(3) *Leiden Journal of International Law* 571.

> Available [here](#).

Last year the International Court of Justice (ICJ) marked its seventieth anniversary, and in the most recent issue of the Leiden Journal of International Law, Hugh Thirlway recognized this milestone with a look back through some key developments at the Court, focusing on the last few years. Here, we would like to undertake a retrospective of another sort, paying tribute to the ongoing connection between the Court and the Journal by taking a brief tour through the Journal's coverage of the Court over the years. It is hoped that this retrospective will not only bring back some fond memories but also – by viewing this material as a whole, and pointing out certain gaps in the Journal's coverage of the Court's work – stimulate future analyses.

Vid Prislán, 'Domestic Explanatory Documents and Treaty Interpretation' (2017) 66(4) *International & Comparative Law Quarterly* 923.

> Available [here](#).

The article discusses the increasing use by international courts and tribunals of domestic explanatory materials—such as various statements, reports, and explanatory memoranda that usually complement the domestic approval of treaties—in the process of treaty interpretation. After examining the types of materials that can be used as interpretative aids in accordance with the general rules on treaty interpretation (Articles 31–32 VCLT), the article scrutinizes the various ways in which domestic explanatory materials have informed the interpretation of treaty provisions in the practice of international adjudicatory bodies. The analysis focuses on the legal grounds on which such materials have been admitted in the interpretative process, the reasons for which resort has been made to them by the adjudicating body, as well as the circumstances in which such documents have been invoked by the litigating parties. The article then discusses certain advantages and disadvantages stemming from the use of domestic explanatory materials in the interpretative process.

Darryl Robinson, 'A Justification of Command Responsibility' (2017) 28(4) *Criminal Law Forum* 633.

> Available [here](#).

In this article, I advance a culpability-based justification for command responsibility. Command responsibility has attracted powerful, principled criticisms, particularly that its controversial “should have known” fault standard may breach the culpability principle. Scholars are right to raise such questions, as a negligence-based mode of accessory liability seems to chafe against our analytical constructs. However, I argue, in three steps, that the intuition of justice underlying the doctrine is sound. An upshot of this analysis is that the “should have known” standard in the ICC

Statute, rather than being shunned, should be embraced. While Tribunal jurisprudence shied away from criminal negligence due to culpability concerns, I argue that the “should have known” standard actually maps better onto personal culpability than the rival formulations developed by the Tribunals.

Cecily Rose and MA Becker, 'Investigating the Value of Site Visits in Inter-State Arbitration and Adjudication' (2017) 8(2) *Journal of International Dispute Settlement* 219.

> Available [here](#).

Site visits by the bench occur rarely in inter-state adjudication and arbitration. Against this backdrop, the recent site visits in *Indus Waters Kishenganga Arbitration* (Pakistan v India) and *Bay of Bengal Maritime Boundary Arbitration* (Bangladesh v India) are noteworthy and raise questions about how on-site inspections influence the decision-making process and whether site visits are an underused fact-finding tool. An analysis of these site visits, as well as past examples of site visits by arbitral tribunals and the International Court of Justice, reveal that the utility and value of site visits by the bench is difficult to ascertain, and there is little evidence that site visits have played a dispositive role. Moreover, in many disputes, other fact-finding methods may be more suitable than a site visit. But if site visits do, in fact, play a significant role in decision-making, then adjudicators should acknowledge that influence in a more transparent manner.

William Schabas, 'Al Mahdi Has Been Convicted of a Crime He Did Not Commit' (2017) 49 *Case Western Reserve Journal of International Law* 75.

> Available [here](#).

On September 27, 2016, Ahmad Al Faqi Al

Mahdi was convicted by a Trial Chamber of the International Criminal Court for the crime of directing an attack against buildings dedicated to religion and historic monuments which were not military objectives, pursuant to article 8(2) (e) (iv) of the Rome Statute. Al Mahdi was sentenced to nine years' imprisonment. A month earlier, he had pleaded guilty to the charge at the beginning of his trial, which as a consequence took only a few days.

Pundits heralded the trial with clichés reserved for such occasions—"landmark," "historic judgment," "breakthrough"—and it seemed as if it was a long-awaited tonic for the struggling institution. This was an easy win for the Court: an expeditious trial of a few days for a contrite defendant previously linked to the global pariah, the "deviant people" of Al Qaeda. But perhaps this gift came at a price that was too good to be true. A closer look at the Rome Statute suggests that Al Mahdi did not commit the crime for which he was convicted.

**William Schabas, 'The Human Right to Peace' (2017) 58 *Harvard International Law Journal* 28.**

**Nico Schrijver, 'Het belang van het Weens verdragenrecht bij de strubbelingen over de Associatieovereenkomst EU-Oekraïne en het Canada-EU verdrag' (2017) 178(1) *Rechtsgeleerd Magazijn Themis* 1.**

> Available [here](#).

Een van de mooiste verdragen is het Verdrag van Wenen inzake het verdragenrecht, ook wel het Weens Verdragenverdrag genoemd. Dit verdrag geeft de regels die gelden voor onder meer de sluiting, goedkeuring, bekrachtiging, voorlopige toepassing, interpretatie, wijziging, opschorting en beëindiging van verdragen. De tekst van het verdrag is helder, terwijl de inhoud rijk en allesbehalve ongerijmd is. De tekst komt uit de schoot van de VNCommissie

voor Internationaal Recht, een gremium van onafhankelijke deskundigen uit alle windstreken en rechtssystemen van de wereld dat in de jaren 50 en 60 van de vorige eeuw zo'n 15 jaar met de opstelling ervan bezig is geweest. Het Weens Verdragenverdrag (WVV) geldt als een van de eerste multilaterale verdragen waar ook de ontwikkelingslanden hun stempel op hebben kunnen drukken.

**Nico Schrijver and Ige Dekker, 'Volkenrecht' (2017) 66 *Ars Aequi KwartaalSignaal*.**

> Available [here](#).

**Carsten Stahn, 'Daedalus or Icarus? Footprints of International Criminal Justice over a Quarter of a Century' (2017) 77 *Heidelberg Journal of International Law* 1 (forthcoming).**

> Available via SSRN [here](#).

International criminal justice has taken a long journey over the past quarter of a century. This essay analyses the evolution through an analogy to the Greek myth Daedalus and Icarus. It argues that, similar to the flight in the tale, the journey of international criminal justice is marked by rise and fall and need for re-orientation. It examines some of the major developments and critiques through a contextualisation of seven key moments: 1) *Tadić*: The Grounding of the Humanist Tradition; 2) *Akayesu*: New Consciousness Regarding Sexual and Gender-Based Violence; 3) *Kristić*: The 'New Law' on Genocide; 4) The *Al-Bashir Arrest Warrant*: Law v Politics; 5) *Lubanga*: The Global Victim as Constituency; 6) *Charles Taylor*: Even-Handedness and Dilemmas of Accessory Liability; and 7) *Saif Gadafi and Al Senussi*: The New Frontiers of Complementarity. It shows that each of them marks an important turning point for modern understandings of international criminal justice. It concludes that like Icarus, international criminal juris-

diction is ill-advised to fly too close to the sun, and too low to the sea.

**Carsten Stahn, 'Damned If You Do, Damned If You Don't: Challenges and Critiques of Preliminary Examinations at the ICC' (2017) *Journal of International Criminal Justice* (forthcoming).**

> Available via SSRN [here](#).

Preliminary examinations are one of the most important, yet under studied elements of International Criminal Court (ICC) practice. Hardly any policy document raises greater anxiety than the yearly Office of the Prosecutor (OTP) report on preliminary examinations. The current docket covers some of the world's most daunting crises (e.g. Ukraine, Palestine, Iraq, Afghanistan). When the Rome Statute was drafted, little attention was devoted to preliminary examination. Most work on international criminal procedure focuses on investigations. This contribution shows that preliminary examinations have turned partly into a new species of proceedings, somewhere between internal analysis, atrocity alert, and monitoring of situations. The OTP Strategic Plan (2016-2018) associates preliminary examination with ambitious rationales, such as early warning, deterrence, or complementarity. But the functioning, purpose and effectiveness of preliminary examinations remain contested. There is a significant gap between expectations and reality. This contribution revisits some of the competing approaches to preliminary examinations in particular, and ICC practice in general: the grey zones in the legal framework and emerging methodological challenges (e.g. phased-based approach, prioritization, confidentiality v. transparency). It argues that certain dilemmas will never fully go away and do not necessarily lend themselves to abstract legal regulation. But it suggests certain improvements to practice, including deeper en-



agement with situations and their context, a better connection between atrocity alert and complementarity strategies, and a more thorough explanation of choices not to proceed. The longer a preliminary examination lasts, the more pressing these requirements become.

**D Stefoudi, *Environmental Protection of Outer Space: Contemporary Issues and Future Perspectives* (2017) *Manurawa Law Journal* 1.**

## Books

**Pablo Mendes de Leon, *Introduction to Air Law* (Wolters Kluwer, 10th ed, 2017).**

**William Schabas, *Introduction to the International Criminal Court* (Cambridge University Press, 5th ed, 2017).**

> Available [here](#).

The International Criminal Court ushered in a new era in the protection of human rights. The Court prosecutes genocide, crimes against humanity, war crimes, and the crime of aggression when national justice systems are either unwilling or unable to do so themselves. This fifth edition of the seminal text describes a Court which is no longer in its infancy; the Court is currently examining situations that involve more than twenty countries in every continent of the planet. This book considers the difficulties in the Court's troubled relationship with Africa, the vagaries of the position of the United States, and the challenges the Court may face as it confronts conflicts around the world. It also reviews the history of international criminal prosecution and the Rome Statute. Written by a leading commentator, it is an authoritative and up-to-date introduction to the legal issues involved in the creation and operation of the Court.

**Nico Schrijver, Daniela Heerd, and Willem**

**van Genugten, *Discover International Law (Ontdek het internationale recht, met bijzondere aandacht voor Den Haag als Stad van Vrede en Recht)* (Wolf Legal Publishers, 2017).**

> Available [here](#).

International law has a huge impact on everyday life, but often only specialists are aware of that. The goal of this book is to make international law accessible for all people interested but not (yet) being such experts. It is an invitation to Discover International Law, and to see how it links to major challenges of today's world. A second goal of the book is to highlight and explain the long-standing relationship between international law and the City of The Hague, "an epicentre of international justice and accountability" in the words of UN Secretary General Ban Ki-moon. Describing international law as it is and discussing trends and barriers, the authors draw optimistic conclusions in the end, despite the fact that putting international law into practice is in many ways an uphill struggle. They reach their conclusions by looking at international law as part of the 'ongoing civilization of relations between states'. Analyzing a range of topics, they also make clear that international law serves as a domain that tackles 'problems without passports' in increasing interaction between people(s), states, the civil society (NGOs, trade unions, religious groups) and companies, all that being supported and critically followed by the academic community.

**Jan Waszink, *Hugo de Groot in Leiden: Een Wandeling* (Leiden University Press, 1st ed, 2017).**

> Available [here](#).

This walking tour follows the locations of Hugo Grotius' (1583-1645) undergraduate years in Leiden. Grotius matriculated at Leiden in 1594 when he was 11 years of age, and left the

university in 1598. Later, as a politician and as a scholar, he became one most well-known Dutchmen from the Golden Age. Nowadays he is regarded as one of the principal founders of the current system of international law, and for that reason as one of the foremost intellectuals from European history.

The scenic tour shows the places where he lived and studied, and gives an impression of the town, of some of the people around him and the workings of Leiden university at that time. Leiden university was established in 1575 and had by then already gained an international reputation as a centre of innovative science and scholarship.

## Book Chapters

**Freya Baetens, 'The Iron Rhine case: On the right track to sustainable development?' in MC Cordonier Segger, Y Saaito, and JCG Weeramantry (eds), *Sustainable Development Principles in the Decisions of International Courts and Tribunals 1992 – 2012* (Routledge, 2017).**

> Available [here](#).

The 2002 New Delhi Declaration of Principles of International Law relating to Sustainable Development set out seven principles on sustainable development, as agreed in treaties and soft-law instruments from before the 1992 Rio 'Earth Summit' UNCED, to the 2002 Johannesburg World Summit on Sustainable Development, to the 2012 Rio UNCED. Recognition of the New Delhi principles is shaping the decisions of dispute settlement bodies with jurisdiction over many subjects: the environment, human rights, trade, investment, and crime, among others.

This book explores the expanding international jurisprudence incorporating principles of international law on sustainable development. Through chapters by respected experts, the volume documents the application and in-

terpretation of these principles, demonstrating how courts and tribunals are contributing to the world's Sustainable Development Goals, by peacefully resolving disputes. It charts the evolution of these principles in international law from soft law standards towards recognition as customary law in certain instances, assessing key challenges to further judicial consideration of the principles, and discussing, for instance, how their relevance for compliance and disputes related to the 2015 Paris Agreement on climate change. The volume provides a unique contribution of great interest to law and policy-makers, judges, academics, students, civil society and practitioners concerned with sustainable development and the law, globally.

**Sharif Bhuiyan, Philippe Sands, and Nico Schrijver, “I Believe in the Power of Human Beings to be Agents of Change”. An Interview with Kamal Hossain’ in Sharif Bhuiyan, Philippe Sands, and Nico Schrijver (eds), *International Law and Developing Countries. Essays in Honour of Kamal Hossain* (University Press Limited, 2017)**

> Available [here](#).

This book celebrates Kamal Hossain's lifelong and significant contribution to the development of international law and the cause of developing countries. It brings together an interview with Hossain by the editors, and thirteen essays written in his honour by scholars representing a wide spectrum of expertise in international law. The interview provides an introduction to the rich and varied life of a statesman, a drafter of his country's constitution, and an acclaimed constitutional and international lawyer. The subjects covered in the essays include the new international economic order (NIEO), human rights, counter-terrorism, climate change, oil and gas law, arbitration, law of the sea, international trade law and judicial reform. These essays offer important

perspectives on the issues addressed.

**Niels Blokker, ‘Member State Responsibility for Wrongdoings of International Organizations: Beacon of Hope or Delusion?’ in Ana Sofia Barros, Cedric Ryngaert, and Jan Wouters (eds), *International Organizations and Member State Responsibility: Critical Perspectives* (Brill, 2017).**

> Available [here](#).

International Organizations and Member State Responsibility: Critical Perspectives is the first international public law book entirely devoted to the topic of member state responsibility. Throughout its ten contributions, it takes stock of the legal developments brought about by the International Law Commission's work on international responsibility, and critically unveils the major remaining conceptual gaps in the field.

The novel approaches offered in the book serve as a repository of the various understandings within academia and legal practice that reflect the evolution of the contemporary law of international (member state) responsibility.

Contributors: Ana Sofia Barros, Cedric Ryngaert, Jan Wouters, Antonios Tzanakopoulos, Catherine Brölmann, Esa Paasivirta, Francesco Messineo, Ige Dekker, Jean d'Aspremont, Niels Blokker, Paolo Palchetti, Ramses Wessel, Tom Dannenbaum

This Volume was previously published as (2015) *International Organizations Law Review* 12(2).

**Niels Blokker and Stefan Barriga, ‘Conditions for the Exercise of Jurisdiction Based on Security Council Referrals’ in Claus Kreß and Stefan Barriga (eds), *The Crime of Aggression: A Commentary* (Cambridge University Press, 2017) vol 1.**

> Available [here](#).

The 2010 Kampala Amendments to the Rome Statute have paved the way for the International Criminal Court to prosecute the ‘supreme crime’ under international law: the crime of aggression. This landmark commentary provides the first comprehensive analysis of the history, theory, legal interpretation and future of the crime of aggression after Kampala. As well as explaining the positions of the main actors in the negotiations, the authoritative team of leading scholars and practitioners set out how countries have themselves criminalized illegal war-making in domestic law and practice. In light of the anticipated activation of the Court's jurisdiction over this crime in the very near future, this book offers a meticulous legal analysis of how to understand the material and mental elements of the crime of aggression as defined at Kampala. Alongside *The Travaux Préparatoires of the Crime of Aggression* (Cambridge, 2011), this commentary provides the definitive resource for anyone concerned with the illegal use of force.

**Eric de Brabandere, “‘Mercantile Adventurers’? The Disclosure of Third Party Funding in Investment Treaty Arbitration’ in Willem van Boom (ed), *Litigation, Costs, Funding and Behaviour* (Routledge, 2017).**

> Available [here](#).

This collection explores the practical operation of the law in the area of litigation costs and funding, and confronts the issue of how exposure to cost risks affects litigation strategy. It looks at the interaction of the relevant legal regime, regulatory framework and disciplinary rules with the behaviour of litigants, courts and legislatures, examining subjects such as cost rules and funding arrangements. The book discusses a wide range of topics such as cost-shifting rules, funding and mass tort litigation, cost rules and third-party funding (TPF) rules in specific areas such as intellectual property (IP)

litigation, commercial arbitration, investment arbitration, the role of legal expense insurance arrangements, fee regulation and professional ethics. The contributors include renowned scholars, experts in their respective fields and well-versed individuals in both civil procedure and the practice of litigation, arbitration and finance. Together, they present a broad approach to the issues of costs, cost-shifting rules and third-party funding. This volume adds to the existent literature in combining topics in law and practice and presents an analysis of the most recent developments in this fast developing area.

**Eric de Brabandere, 'Role of Courts in International Economic Law' in Thomas Cottier and Krista Nadakavukaren Schefer (eds), *Elgar Encyclopedia of International Economic Law* (Edward Elgar, 2017) 45.**

> Available [here](#).

The Encyclopedia is the definitive reference work on international economic law. This comprehensive resource helps redefine the field by presenting international economic law in its broadest, real-world context.

Organized thematically rather than alphabetically, the subject is split into four principal sections: the foundations and architecture of international economic law, its principles, its main regulatory areas, and the future challenges that it faces. Comprising over 250 entries written by leading scholars and practitioners, traditional international economic law subject matter is supplemented by coverage of newly developing areas. Thus, the concepts and rules of trade, investment, finance and international tax law are found alongside entries discussing the relationship of international economic law with environmental protection, social standards, development, and human rights.

**Eric de Brabandere and David Holloway,**

**'Sanctions and International Arbitration' in Larissa van den Herik (ed), *Research Handbook on UN Sanctions and International Law* (Edward Elgar, 2017) 304.**

> Available [here](#).

The twenty-five years following the conclusion of the Cold War witnessed an unprecedented intensification of the usage of UN sanctions. This Research Handbook maps how UN sanctions multiplied and diversified during this period and analyses the substantive and procedural transformations to UN sanctions regimes, through the lens of international law.

Expert contributors explore different types of UN sanctions regimes, most notably counter-terrorism regimes, counter-proliferation regimes and conflict-resolution regimes. They trace developments across these regimes, such as increased references to international legal standards in sanctions design and procedure as well as interplays with other processes and informal arrangements. Key chapters also specifically examine synergies between UN sanctions and unilateral measures and explore the different legal frameworks that shape and govern these respective regimes. Offering a holistic study of UN sanctions, this Research Handbook identifies cross-cutting issues and common challenges in order to provide an outlook on the future of UN sanctions in a 21st century setting.

Comprehensive and engaging, students and scholars of international law and human rights law, as well as international relations more widely, will find this book an essential companion. Its forward-thinking approach will also benefit legal practitioners at the UN, other international organisations and law firms.

**Eric de Brabandere and Maryse Hazelzet, 'Corporate Responsibility and Human Rights – Navigating between international, domestic and self-regulation' in Yannick**

**Radi (ed), *Research Handbook on Human Rights and International Investment Law* (Edward Elgar, 2017).**

> Available [here](#).

> Available as Grotius Centre Working Paper 2017/056-HRL, [here](#).

To date, corporations have had no direct human rights obligations under international law. Nonetheless, the increasing role of non-state actors in international society, and as a consequence, the increasing impact of non-state actors on human rights can no longer be ignored. This chapter explores the factual and normative dimensions of international corporate responsibility for human rights violations. It also analyses existing mechanisms and new proposals for enhancing the accountability of transnational corporations, either through the use of 'soft' instruments, domestic mechanisms or through self-regulatory mechanisms.

**Daniëlla Dam-de Jong, 'From Engines for Conflicts into Engines for Sustainable Development: The Potential of International Law to Address Predatory Exploitation of Natural Resources in Situations of Internal Armed Conflict' in K Hulme (ed), *Law of the International Armed Conflict: The International Legal Library of Law and the Environment* (Edward Elgar, 2017).**

> Available [here](#).

Forming part of a major series by Edward Elgar Publishing, *Law of the Environment and Armed Conflict* selects the most important and influential research articles relating to the protection of the environment in armed conflict. The book plots the trajectory of research on this issue from early weapons impacts and the Vietnam War, to the first major challenge for wartime environmental protections in the Gulf Conflict, liability for harm and possible future directions.

With an original introduction by the editor,

this single volume will be an essential resource for researchers and policy makers alike.

**Daniëlla Dam-de Jong, 'Internationale instellingen en de aanpak van conflict-grondstoffen' in H de Coninck et al (eds), *Rood-groene politiek voor de 21e eeuw: een pact tussen generaties* (Van Gennip, 2017).**

> Available [here](#).

Onze planeet staat op het spel. De politiek kan niet alleen het tij ten goede keren, maar ze heeft wel een duidelijke opdracht. Zich breed maken, niet gokken op de goede wil van sommige ondernemers of de bereidheid van bewuste burgers, maar sturen op betere wetten en betere regels. Waarom en hoe, daarover schrijven in dit handboek voor rood-groene politiek onderzoekers, ondernemers en strategen, van jong tot oud, maar allemaal ervaren en geëngageerd.

Oudgedienden Jan Pronk en Ed Nijpels verhouden zich tot de opdracht die het boek uitspreekt, namelijk dat de politiek zich on-dubbelzinnig breed maakt om een rol te spelen in het debat over vergroening, duurzaamheid en klimaatbeheersing. Als zij tot een vergelijk komen, dan kan 'Den Haag' niet achterblijven. De jonge auteurs Lieke Melsen, Socrates Schouten en Heleen de Coninck nemen die handschoen op, met als een doel een pact dat generaties overstijgt én behoedt. Attje Kuiken (PvdA-Tweede Kamerfractie, o.v.) en Wijnand Duyvendak (mede auteur aan het boek) reageren.

**Daniëlla Dam-de Jong, 'Standard-setting practices for the management of natural resources in conflict-torn States' in Carsten Stahn, Jens Iverson, and Jennifer Easterday (eds), *Environmental Protection and Transitions from Conflict to Peace* (Oxford University Press, 2017) 169.**

> Available [here](#).

Natural resources have financed a number of armed conflicts in the last decades. Restoring governance over these natural resources to the government is an essential component of strategies to enable a transition to durable peace for resource rich states which have suffered from armed conflict. The UN Security Council has played a key role in efforts to break the link between natural resources and conflict financing, including by setting standards for the proper management of natural resources. This chapter identifies the standards that have been developed by the Security Council in relation to Liberia and the DRC and examines their implementation in the mandates of peacekeeping operations and in programmes set up by regional and international organizations. It is argued that the Security Council through its standard-setting helps to shape the normative content of the applicable *jus post bellum*.

**Daniëlla Dam-de Jong, 'UN natural resources sanctions regimes: incorporating market-based responses to address market-driven problems' in Larissa van den Herik (ed), *Research Handbook on UN Sanctions and International Law* (Edward Elgar, 2017) 304.**

> Available [here](#).

The twenty-five years following the conclusion of the Cold War witnessed an unprecedented intensification of the usage of UN sanctions. This Research Handbook maps how UN sanctions multiplied and diversified during this period and analyses the substantive and procedural transformations to UN sanctions regimes, through the lens of international law.

Expert contributors explore different types of UN sanctions regimes, most notably counter-terrorism regimes, counter-proliferation regimes and conflict-resolution regimes. They trace developments across these regimes, such

as increased references to international legal standards in sanctions design and procedure as well as interplays with other processes and informal arrangements. Key chapters also specifically examine synergies between UN sanctions and unilateral measures and explore the different legal frameworks that shape and govern these respective regimes. Offering a holistic study of UN sanctions, this Research Handbook identifies cross-cutting issues and common challenges in order to provide an outlook on the future of UN sanctions in a 21st century setting.

Comprehensive and engaging, students and scholars of international law and human rights law, as well as international relations more widely, will find this book an essential companion. Its forward-thinking approach will also benefit legal practitioners at the UN, other international organisations and law firms.

**Helen Duffy, 'Detention and Interrogation Abroad: The 'Extraordinary Rendition' Programme' in A Nollkaemper and I Plakokefalos (eds), *The Practice of Shared Responsibility in International Law* (Cambridge University Press, 2017).**

> Available [here](#).

This is the third book in the series *Shared Responsibility in International Law*, which examines the problem of distribution of responsibilities among multiple states and other actors. In its work on the responsibility of states and international organisations, the International Law Commission recognised that attribution of acts to one actor does not exclude possible attribution of the same act to another state or organisation. Recognising that the applicable rules and procedures for shared responsibility may differ between particular issue areas, this volume reviews the practice of states, international organisations, courts and other bodies that have dealt with the issue of international



responsibility of multiple wrongdoing actors in a wide range of issue areas, including energy, extradition, investment law, NATO-led operations and fisheries. These analyses jointly assess the fit of the prevailing principles of international responsibility and provide a basis for reform and further development of international law.

**John Dugard, 'Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (2004)' in Eirik Bjorge and Cameron Miles (eds), *Landmark Cases in Public International Law* (Hart Publishing, 1st ed, 2017) 539.**

> Available [here](#).

The past two hundred years have seen the transformation of public international law from a rule-based extrusion of diplomacy into a fully-fledged legal system. Landmark Cases in Public International Law examines decisions that have contributed to the development of international law into an integrated whole, whilst also creating specialised sub-systems that stand alone as units of analysis. The significance of these decisions is not taken for granted, with contributors critically interrogating the cases to determine if their reputation as 'landmarks' is deserved. Emphasis is also placed on seeing each case as a diplomatic artefact, highlighting that international law, while unquestionably a legal system, remains reliant on the practice and consent of states as the prime movers of development.

The cases selected cover a broad range of subject areas including state immunity, human rights, the environment, trade and investment, international organisations, international courts and tribunals, the laws of war, international crimes, and the interface between international and municipal legal systems. A wide array of international and domestic courts are also considered, from the International Court

of Justice to the European Court of Human Rights, World Trade Organization Appellate Body, US Supreme Court and other adjudicative bodies. The result is a three-dimensional picture of international law: what it was, what it is, and what it might yet become.

**Jennifer Easterday and Hana Ivanhoe, 'Conflict, Cash, and Controversy: Protecting Environmental Rights in Post-Conflict Settings' in Carsten Stahn, Jens Iverson, and Jennifer Easterday (eds), *Environmental Protection and Transitions from Conflict to Peace* (Oxford University Press, 2017) 274.**

> Available [here](#).

Addressing environmental concerns in a post-conflict setting is a difficult undertaking; yet addressing these concerns, particularly their cyclical nature, is vital to ensuring that post-conflict countries develop sustainably. Fundamental human rights may also be implicated where there is systematic environmental degradation and those rights infringements in turn can threaten efforts at peace and stability. Given the inadequacy of existing post-conflict country domestic and international hard law governing environmental rights and protections, voluntary and soft law norms and the corporate social responsibility movement are critical to ensuring that multinational investment in post-conflict countries is in line with sustainable development principles and the long-term economic and environmental prosperity of those countries, and therefore should be included in a holistic jus post bellum framework. These norms provide a critical opportunity to harness the power of private corporations and investments to ensure sustainable development, resulting in a more durable transition to peace in post-conflict states.

**Matthew Gillet, 'Eco-Struggles: Using**

**international criminal law to protect the environment during and after non-inter-national armed conflict' in Carsten Stahn, Jens Iverson, and Jennifer Easterday (eds), *Environmental Protection and Transitions from Conflict to Peace* (Oxford University Press, 2017) 220.**

> Available [here](#).

This chapter examines the provisions of international criminal law applicable to serious environmental harm, particularly during non-international armed conflicts ('NIAC'). After describing incidents of serious environmental harm arising in armed conflicts, the analysis surveys the provisions of international criminal law applicable to environmental harm during NIACs, including war crimes, crimes against humanity, genocide, and aggression. It then examines the basis for extending to NIACs the protection against military attacks causing excessive environmental harm (set out in Art. 8(2)(b)(iv) of the Rome Statute), which is currently only applicable in IACs. The examination of this possible amendment of the Rome Statute covers a broad range of instruments and laws forming part of international and national legal codes, all addressing grave environmental harm. Finally, the analysis turns to accountability for environmental harm as a facet of jus post bellum, emphasizing the interconnected nature of environmental harm and cycles of violence and atrocities.

**Catherine Harwood, 'Contributions of International Commissions of Inquiry to Transitional Justice' in Cheryl Lawther and Luke Moffett (eds), *Research Handbook on Transitional Justice* (Edward Elgar, 2017) 401.**

> Available [here](#).

Providing detailed and comprehensive coverage of the transitional justice field, this Research Handbook brings together leading

scholars and practitioners to explore how societies deal with mass atrocities after periods of dictatorship or conflict. Situating the development of transitional justice in its historical context, social and political context, it analyses the legal instruments that have emerged.

The Research Handbook is extensive in scope, with chapters discussing the concepts, actors, mechanisms and practices of transitional justice. They address the challenges of implementing a range of transitional justice mechanisms, including methods of truth recovery, criminal trials and reparation and lustration programmes. Going a step further, this book also expands the gaze of transitional justice to include underexplored areas, such as art and transitional justice, media and transitional justice and unique international case studies, such as Cambodia and Palestine.

Timely and thought provoking, the Research Handbook on Transitional Justice will be of interest to both scholars and students, particularly those working in the areas of transitional justice and peace-building. It will also prove a valuable reference tool for practitioners of transitional justice and international criminal justice, helping to inform best practice.

Robert Heinsch, 'Commentary on Rule 84 "Individual Criminal Responsibility for War Crimes"' in M Schmitt (ed), *Tallinn Manual 2.0 on the International Law Applicable to Cyber Warfare* (Cambridge University Press, 2017) 391.

Robert Heinsch, 'Modern drone warfare and the geographical scope of application of IHL: pushing the limits of territorial boundaries?' in Jens David Ohlin (ed), *Research Handbook on Remote Warfare* (Edward Elgar, 2017) 79.

Robert Heinsch, 'The Role and Impact

of the ICRC in the Development of Core International Humanitarian Law Treaties: The ICRC and the Geneva Conventions of 1949' in A Zimmerman and R Geiss (eds), *Humanizing the laws of war - the Red Cross and the development of international humanitarian law* (Cambridge University Press, 2017) 27.

Robert Heinsch and Sofia Pouloupoulou, 'Difficulties in Prosecuting Drone Strikes as a War Crime under International Criminal Law: An International Humanitarian Law Perspective' in European Centre for Constitutional and Human Rights (ed), *Litigating Drone Strikes: Challenging the Global Network of Remote Killing* (European Centre for Constitutional and Human Rights, 2017) 58.

Pablo Mendes de Leon, 'Conclusion générale' in C Grigorieff and V Correia (eds), *Le droit du financement des aéronefs* (Bruylant, 2017) 499.

Pablo Mendes de Leon and H van Traa, 'Space Law' in A Nollkaemper and I Plakokefalos (eds), *The Practice of Shared Responsibility in International Law* (Cambridge University Press, 2017) 453.

Cecily Rose, 'Non-Binding Instruments and Democratic Accountability' in Holly Cullen, Joanna Harrington, and Catherine Renshaw (eds), *Experts, Networks and International Law* (Cambridge University Press, 2017) 205.

> Available [here](#).

Highlighting how the challenges raised by globalization - from environmental management to financial sector meltdowns - have encouraged the emergence of experts and networks as powerful actors in international governance,

the contributions in this collection assess the methods and effectiveness of these new actors. Unlike other books that have focused on networks or experts, this volume brings these players together, showing how they interact and share the challenges of establishing legitimacy and justifying their power and influence. The collection shows how experts and networks function in different ways to address diverse problems across multiple borders. The reader is provided with a broader and deeper practical understanding of how informal authority actually operates, and of the nature of the relationship between different actors involved in policymaking. Through a range of case studies, the contributions in this collection explain how globalization is reshaping traditional forms of power and authority.

Larissa van den Herik, 'The Individualization and Formalization of UN Sanctions' in Larissa van den Herik (ed), *Research Handbook on UN Sanctions and International Law* (Edward Elgar, 2017) 1.

> Available [here](#).

The twenty-five years following the conclusion of the Cold War witnessed an unprecedented intensification of the usage of UN sanctions. This Research Handbook maps how UN sanctions multiplied and diversified during this period and analyses the substantive and procedural transformations to UN sanctions regimes, through the lens of international law.

Expert contributors explore different types of UN sanctions regimes, most notably counter-terrorism regimes, counter-proliferation regimes and conflict-resolution regimes. They trace developments across these regimes, such as increased references to international legal standards in sanctions design and procedure as well as interplays with other processes and informal arrangements. Key chapters also specifically examine synergies between UN

sanctions and unilateral measures and explore the different legal frameworks that shape and govern these respective regimes. Offering a holistic study of UN sanctions, this Research Handbook identifies cross-cutting issues and common challenges in order to provide an outlook on the future of UN sanctions in a 21st century setting.

Comprehensive and engaging, students and scholars of international law and human rights law, as well as international relations more widely, will find this book an essential companion. Its forward-thinking approach will also benefit legal practitioners at the UN, other international organisations and law firms.

Larissa van den Herik, 'The Individualisation of Enforcement in International Law: Exploring the Interplay between United Nations Targeted Sanctions and International Criminal Proceedings' in Tiyanjana Maluwa, Max du Plessis, and Dire Tladi (eds), *The Pursuit of a Brave New World in International Law: Essays in Honour of John Dugard* (Brill, 2017).

> Available [here](#).

The Pursuit of a Brave New World in International Law presents critical perspectives on various inter-related themes in the areas of human rights, international law, terrorism and international criminal justice. The discussions reflect the wide-ranging subjects that John Dugard has engaged with over the last five decades as an international law scholar, teacher and judge. The essays pay homage to Professor Dugard's impressive body of work as both a theorist and practitioner of international law and international human rights law. While some of the discussions in the volume critically examine his views, as expressed in his academic writings, judicial opinions and official United Nations reports, others deal with subjects that have been inspired by or are relat-

ed to Dugard's work.

Tanja Masson-Zwaan, 'Legal aspects of space debris' in C Bonnal and D S McKnight (eds), *IAA Situation Report on Space Debris - 2016* (International Academy of Astronautics, 2017) 139.

Tanja Masson-Zwaan, 'Preface [Highlights of the IISL in 2016]' in P J Blount, Tanja Masson-Zwaan, R Moro-Aguilar, and K U Schrogl (eds), *Proceedings of the International Institute of Space Law 2016* (Eleven International Publishing, 2017) xiii.

Tanja Masson-Zwaan, R Lefeber, R Reibaldi, and Merinda Stewart, 'The Hague Space Resources Governance Working Group: A Progress Report' in P J Blount, Tanja Masson-Zwaan, R Moro-Aguilar, and K U Schrogl (eds), *Proceedings of the International Institute of Space Law 2016* (Eleven International Publishing, 2017) 163.

Cecily Rose, 'Non-Binding Instruments and Democratic Accountability' in H Cullen, J Harrington, and C Renshaw (eds), *Experts, Networks and International Law* (Cambridge University Press, 2017).

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Highlighting how the challenges raised by globalization - from environmental management to financial sector meltdowns - have encouraged the emergence of experts and networks as powerful actors in international governance, the contributions in this collection assess the methods and effectiveness of these new actors. Unlike other books that have focused on networks or experts, this volume brings these players together, showing how they interact and share the challenges of establishing legitimacy and justifying their power and influ-

ence. The collection shows how experts and networks function in different ways to address diverse problems across multiple borders. The reader is provided with a broader and deeper practical understanding of how informal authority actually operates, and of the nature of the relationship between different actors involved in policymaking. Through a range of case studies, the contributions in this collection explain how globalization is reshaping traditional forms of power and authority.

Hilde Roskam, 'Crime-Based Targeted Sanctions: promoting respect for international humanitarian law by the Security Council' in T Gill, T McCormack, R Geiß, H Krieger, and C Paulussen (eds), *Yearbook of International Humanitarian Law* (TMC Asser Press, 2017) 89.

William Schabas, 'Double standards and the quest for justice' in Samuel Totten (ed), *Last Lectures on the Prevention and Intervention of Genocide* (CRC Press, 2017) 282.

> Available [here](#).

Last Lectures on the Prevention and Intervention of Genocide is a collection of hypothetical 'last lectures' by some of the top scholars and practitioners across the globe in the fields of human rights and genocide studies. Each lecture purportedly constitutes the last thing the author will ever say about the prevention and intervention of genocide.

The contributions to this volume are thought-provoking, engaging, and at times controversial, reflecting the scholars' most advanced thinking about issues of human rights and genocide.

This book will be of great interest to professors, researchers, and students of political science, international relations, psychology, sociology, history, human rights, and genocide

studies.

**William Schabas, 'Interacting with Academic Institutions' in Morten Bergsmo, Klaus Rackwitz, and Song Tianying (eds), *Historical Origins of International Criminal Law* (Torkel Opsahl Academic Publishers, 2017) vol 5, 377.**

> Available [here](#).

**William Schabas, 'Introduction' in W Schabas and S Murphy (eds), *Research Handbook on International Courts and Tribunals* (Edward Elgar, 2017).**

> Available [here](#).

This collection takes a thematic and interpretive, system-wide and inter-jurisdictional comparative approach to the debates and controversies related to the growth of international courts and tribunals. By providing a synthetic overview and critical analysis of these developments from a variety of perspectives, it both contextualizes and stimulates future research and practice in this rapidly developing field.

**William Schabas, 'La Comisión de Crímenes de Guerra de las Naciones Unidas : Propuesta de una corte penal internacional' in Roldán Jimeno Aranguren (ed), *Justicia Transicional: Historia y Actualidad* (Aranzadi, 2017) 89.**

El libro pretende ser una contribución al estudio de la justicia transicional, desde la doble mirada que proporciona la historia y la actualidad. En la primera parte Ruti G. Teitel recorre los hitos de la justicia transicional y Amaia Álvarez reflexiona sobre los límites conceptuales del discurso de la justicia transicional en los estados democráticos.

La segunda parte se dedica a los tribunales internacionales y a las comisiones de la verdad tanto históricas como actuales, y cuenta con los estudios de William A. Schabas, Alicia

Chicharro, Shane Darcy, Zoi Aliozi, Anita Ferrera y Cath Collins.

La tercera parte, centrada en la justicia transicional española, se nutre de los artículos de Roldán Jimeno, Paloma Aguilar y Clara Ramírez-Barat, y Josep Maria Tamarit.

La cuarta parte descende a la justicia transicional de los procesos de paz derivados de los conflictos vasco y norirlandés, estudiado el primero por Joxerramon Bengoetxea, y el segundo por Aoife Duffy y Kathleen Cavanaugh. El libro se cierra con elencos bibliográficos, legislativos y jurisprudenciales.

**William Schabas, 'Nikolaos Politis and the Earliest Negotiation to Establish an International Criminal Court' in Jean-Paul Jacqué et al (eds), *Liber Amicorum Stelios Perrakis* (Sidferis, 2017) 167.**

> Available [here](#).

**Nico Schrijver, 'Groningers hebben het internationale recht aan hun kant' in PAJ van den Berg and G Molier (eds), *In Dienst van het Recht* (Boom Juridisch, 2017).**

> Available [here](#).

In 2017 nam prof. mr. J.G. Brouwer afscheid als hoogleraar Algemene Rechtswetenschap aan de Rijksuniversiteit Groningen. Met deze bundel willen de auteurs hun waardering voor het werk en de persoon van Jan Brouwer kenbaar maken. Als titel is gekozen: In Dienst van het Recht. Het gemeenschappelijke kenmerk van zijn geschriften over onderwerpen als aan koffieshops gerelateerde drugsoverlast, voetbalrellen, gebiedsverboden, burenruzies en de Groningse aardbevingsproblematiek is immers dat zij getuigen van een maatschappelijke betrokkenheid met de rechtsstaat als leidraad.

De bijdragen in deze bundel sluiten bij die benadering aan. De auteurs hebben vrijwel allemaal geschreven over vergelijkbare actuele en maatschappelijk relevante onderwerpen,

waarbij tevens voor een kritisch-juridisch perspectief is gekozen. De verschillende bijdragen zijn ondergebracht in vier clusters: openbare-orde recht en de verhouding tussen wetgever, bestuur en rechtspraak; de spanning tussen de handhaving van de openbare orde en de bescherming van grondrechten; de (gespannen) verhoudingen binnen het vernieuwde Statuut voor het Koninkrijk; en, tot slot, de afhandeling van conflicten tussen overheid en burger, waarbij uiteraard ook de Groningse aardbevingsproblematiek aan de orde komt.

**Nico Schrijver, 'Managing the Global Commons: common good or common sink?' in TG Weiss and P Roy (eds), *The UN and the Global South, 1945 and 2015* (Routledge, 2017).**

> Available [here](#).

The global commons, comprising the areas and resources beyond the sovereignty of any state, build upon the heritage of Grotius's idea of mare liberum – an idea that aimed to preserve the freedom of access for the benefit of all. However, the old mare liberum idea digressed into 'first come, first served' advantages for industrialised countries. Especially at the initiative of developing countries, it has now been replaced by a new law of international cooperation and protection of natural wealth and resources beyond the limits of national jurisdiction. The global commons have thus served as the laboratory for testing new legal principles and the rights and corollary duties emanating from them. Occasionally path-breaking innovations in regulation have been practised, most notably the imposition of a ban on whaling, penalties for the production and use of ozone-depleting substances and the freezing of claims to sovereignty over Antarctica.

**Nico Schrijver, 'The Absence of Peace Agreements: Commentary' in Nico Schri-**



iver, Steven van Hoogstraten, Otto Spijkers, and Anneleen de Jong (eds), *The Art of Making Peace: Lessons Learned from Peace Treaties* (Brill, 2017).

> Available [here](#).

This unique volume looks at international peace treaties, at their results, effects and failures. It reflects the outcome of an international conference held in the Peace Palace (The Hague) on the occasion of the Centenary of this institution, which opened its doors on the eve of World War I.

The volume offers the reflections of the leading experts attending the conference and the open debate which followed. The Treaty of Versailles of 1919, the mother of all peace treaties, is the first to be critically discussed. How should this treaty be viewed with the knowledge of today? What are the lessons learned in the light of historic developments? Subsequently, the Dayton Agreement, which sealed the end to the bloody conflict in the former Yugoslavia (1992-1995), and the Sudan Agreement, which came into being after lengthy negotiations in 2005, are analysed in the same way. Finally, the situations which arose in relation to the devastating wars between Iran and Iraq (1980-1988) and between Kuwait and Iraq are discussed. As these states could not reach a settlement themselves, the United Nations Security Council imposed the terms of the ceasefire and peaceful cooperation in important and innovative resolutions.

The book offers additional perspective by looking at the role of judicial settlement by the International Court of Justice or the Permanent Court of Arbitration, vis-a-vis the instrument of political mediation between states with the help of a third party. Mediation can be very effective, but certain conditions are required for it to be successful, conditions which are not easy to bring about in today's world. Dispute settlement under international law is

and continues to be the core business in the Peace Palace.

Carsten Stahn, Jens Iverson, and Jennifer Easterday, 'Introduction: Protection of the Environment and Jus Post Bellum: Some Preliminary Reflections' in Carsten Stahn, Jens Iverson, and Jennifer Easterday (eds), *Environmental Protection and Transitions from Conflict to Peace* (Oxford University Press, 2017) 1.

> Available [here](#).

Protection of the environment and natural resources is a key element in the transition from armed conflict to peace. Most academic studies have focused on classical peacetime or conflict situations. The United Nations Environmental Programme ('UNEP') qualified the environment as a 'silent casualty' of armed conflict. Exploring the protection of the environment in the aftermath of armed conflict and its relationship to sustainable peace is a relatively novel perspective. This chapter establishes the relationship between jus post bellum and environmental protection. It suggests that jus post bellum (1) provides a lens to view environmental protection as continuum throughout cycles of conflict or conflict transformations; (2) strengthens the argument that concerns of environmental protection are not set aside by armed conflict but relevant throughout conflict and its aftermath; (3) strengthens the case for due diligence of actors beyond armed conflict; and (4) allows a differentiated look at the treatment of harm and remedies.

Carsten Stahn, 'Das Ringen um den Frieden: Jus ad bellum – jus contra bellum – jus post bellum?' in Andreas von Arnould (ed), *Völkerrechtsgeschichte* (Duncker & Humblot, 2017) 147.

> Available [here](#).

Völkerrechtsgeschichte(n). Der Begriff deutet

an, dass die Geschichte des Völkerrechts nicht einfach-linear ist, sondern vielgestaltig und abhängig von der Perspektive dessen, der sie erzählt. Sich mit Geschichte zu befassen, heißt zu fragen, wer an was aus welchem Grund erinnert. Der Begriff deutet zugleich an, dass die Historiographie eng mit jenen Narrativen verbunden ist, die Völker und Staatengruppen zu Kollektiven formen. Welche historischen Gegenbilder schaffen wir mit der Rede vom »Westfälischen System«, wie konstruieren wir Epochen und Zäsuren, wie konzeptualisieren wir historischen Wandel – und aus welcher Perspektive? Diesen Fragen geht der vorliegende Band nach. Zugleich werden fundamentale Konzepte des Völkerrechts (internationale Gemeinschaft, Krieg und Frieden, Räume) in ihrem Wandel historisch rekonstruiert. Auf diese Weise soll die Funktion deutlich werden, die solche Rekonstruktionen für unsere Deutung des Völkerrechts der Gegenwart erfüllen.

Carsten Stahn, 'Legacy in International Criminal Justice' in Margaret deGuzman and Diane Marie Amann, *Arcs of Global Justice: Essays in Honour of William A Schabas* (Oxford University Press, 1st ed, 2017).

> Available [here](#).

This work honours William A. Schabas and his career with essays by luminary scholars and jurists from Africa, Asia, Europe, and the Americas. The essays examine contemporary, historical, cultural, and theoretical aspects of the many arcs of global justice with which Professor Schabas has engaged, in fields including public international law, human rights, transitional justice, international criminal law, and capital punishment.

D Stefoudi, 'Big Data from Space - Legal issues related to access and dissemination of large volumes of space-generated

data' in P J Blount, Tanja Masson-Zwaan, R Moro-Aguilar, and K U Schrogl (eds), *Proceedings of the International Institute of Space Law 2016* (Eleven International Publishing, 2017) 49.

D Stefoudi, 'Space Big Data, Small Earth Laws: Overcoming the regulatory barriers to the use of space big data applications' in P Soille and P G Marchetti (eds), *Proceedings of the 2017 Conference on Big Data from Space* (ISPR: European Commission Joint Research Centre 2017) 86.

Sergey Vasiliev, 'Between International Criminal Justice and Injustice: Theorising Legitimacy' in Nobuo Hayashi and Cecilia Bailliet (eds), *The Legitimacy of International Criminal Tribunals* (Cambridge University Press, 2017).

> Available [here](#).

With the ad hoc tribunals completing their mandates and the International Criminal Court under significant pressure, today's international criminal jurisdictions are at a critical juncture. Their legitimacy cannot be taken for granted. This multidisciplinary volume investigates key issues pertaining to legitimacy: criminal accountability, normative development, truth-discovery, complementarity, regionalism, and judicial cooperation. The volume sheds new light on previously unexplored areas, including the significance of redacted judgements, prosecutors' opening statements, rehabilitative processes of international convicts, victim expectations, court financing, and NGO activism.

W Zhang, 'I.C.J.'s Judicial Functions: Reflections Inspired by the Weeramantry Dissent in the Lockerbie Case' in A Eyffinger A and N Gunawardena (eds), *One world, one home, one law for all: A tribute to Chris-*

*topher Gregory Weeramantry* (Stamford Lake, 2017) 323.

### Editorships

Sharif Bhuiyan, Philippe Sands, and Nico Schrijver (eds), *International Law and Developing Countries. Essays in Honour of Kamal Hossain* (University Press Limited, 2017)

> Available [here](#).

P J Blount, Tanja Masson-Zwaan, R Moro-Aguilar, and K U Schrogl (eds), *Proceedings of the International Institute of Space Law 2016* (Eleven International Publishing, 2017).

Cheryl Lawther, Luke Moffett and Dov Jacobs (eds), *Research Handbook on Transitional Justice* (Edward Elgar, 2017).

> Available [here](#).

Providing detailed and comprehensive coverage of the transitional justice field, this Research Handbook brings together leading scholars and practitioners to explore how societies deal with mass atrocities after periods of dictatorship or conflict. Situating the development of transitional justice in its historical context, social and political context, it analyses the legal instruments that have emerged.

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Larissa van den Herik (ed), *Research Handbook on UN Sanctions and International Law* (Edward Elgar, 2017).

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The twenty-five years following the conclusion of the Cold War witnessed an unprecedented intensification of the usage of UN sanctions. This Research Handbook maps how UN sanctions multiplied and diversified during this period and analyses the substantive and procedural transformations to UN sanctions regimes, through the lens of international law.

Expert contributors explore different types of UN sanctions regimes, most notably counter-terrorism regimes, counter-proliferation regimes and conflict-resolution regimes. They trace developments across these regimes, such as increased references to international legal standards in sanctions design and procedure as well as interplays with other processes and informal arrangements. Key chapters also specifically examine synergies between UN sanctions and unilateral measures and explore the different legal frameworks that shape and govern these respective regimes. Offering a holistic study of UN sanctions, this Research Handbook identifies cross-cutting issues and common challenges in order to provide an outlook on the future of UN sanctions in a 21st century setting.

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panion. Its forward-thinking approach will also benefit legal practitioners at the UN, other international organisations and law firms.

**William Schabas and Shannonbrooke Murphy (eds), *Research Handbook on International Courts and Tribunals* (Edward Elgar, 2017).**

> Available [here](#).

Since the establishment of the Permanent Court of Arbitration for international dispute resolution in 1899, the number of international courts and tribunals has multiplied and the reach of their jurisdiction has steadily expanded. By providing a synthetic overview and critical analysis of these developments from multiple perspectives, this Research Handbook both contextualizes and stimulates future research and practice in this rapidly developing field.

Made up of specially commissioned chapters by leading and emerging scholars, the book takes a thematic and interpretive, system-wide and inter-jurisdictional comparative approach to the main issues, debates and controversies related to the growth of international courts and tribunals. Its review of influential international judgements traverses the areas of international peace and security law, international human rights law, international criminal law and international economic law, while also including critical reflection by practitioners.

This nuanced review of the latest thinking on scholarly debates and controversies in international courts and tribunals will be both a key resource for academic researchers and a concise introduction to the subject for post-graduate students. Its chapters also contain topics of practical relevance to lawyers and international decision-makers.

**Nico Schrijver, Steven van Hoogstraten, Otto Spijkers, and Anneleen de Jong (eds), *The Art of Making Peace: Lessons Learned***

**from *Peace Treaties* (Brill, 2017).**

> Available [here](#).

This unique volume looks at international peace treaties, at their results, effects and failures. It reflects the outcome of an international conference held in the Peace Palace (The Hague) on the occasion of the Centenary of this institution, which opened its doors on the eve of World War I.

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**Carsten Stahn, Jens Iverson, and Jennifer Easterday (eds), *Environmental Protection and Transitions from Conflict to Peace* (Oxford University Press, 2017).**

> Available [here](#).

This book is the first targeted work in the legal literature that investigates environmental challenges in the aftermath of conflict. The volume brings together academics, policy-makers, and practitioners from different disciplines to clarify policies and practices of environmental protection and key legal considerations related to normative frameworks (e.g. international environmental law, international humanitarian law, transitional justice, and human rights), the treatment of substantive principles (e.g. proportionality under jus in bello and jus post bellum, environmental integrity), 'shared responsibility', and accountability mechanisms for environmental damage. By providing a comprehensive and in-depth analysis of environmental protection and natural resource management during the transition to peace, the volume reveals strong links between the peace-orientation of jus post bellum and environmental principles, such as intergenerational equity and precaution. There is a great deal of work to do to ensure greater protection of the environment before, during, and after conflict. It remains a challenge to align protection with the political interest of states, and the increasing involvement of non-state actors in armed conflict. This volume marks a starting point for an urgently needed space for states, international organizations, and civil society to discuss, and debate conflict and the environment. By engaging with the International Law Commission's 2016 Draft Principles on the Protection of the Environment in Relation to Armed Conflicts, the volume adds clarity to the law and momentum to the development of the law in this important area.

## Databases

Jan Waszink, *A full and critical edition of the text of Hugo Grotius' De Iure Praedae Commentarius (IPC) as preserved in the single extant manuscript, Leiden UL, BPL 917* (2017).

> Available [here](#).

## Annotations

Eric de Brabandere, 'Rb. Den Haag, 20-04-2016, nr. C/09/477160 / HA ZA 15-1: De Voorlopige Toepassing van het Verdrag inzake het Energiehandvest (ECT) – Een Commentaar op het vonnis van de Rechtbank Den Haag in de Yukos-Zaak' (2017) 19(1) *Tijdschrift voor Arbitrage* 26.

Floris Tan, 'ECtHR 18 May 2017, Appl. No. 22007/11 (Jóhannesson v Iceland)' 140(8) *European Human Rights Cases* (2017).

## Conference Papers

Yudan Tan, 'The Identification of Customary Rules in International Criminal Law' (Paper presented at the 2016 European Society of International Law Research Forum, Istanbul, 21-22 April 2016).

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This paper aims to examine whether a different methodology has emerged to identify customary rules in the field of international criminal law. It briefly touches upon debates regarding customary international law as a source of international criminal law. In order to seek whether a different theory in academia has been reached, it critically studies the classic two-element (State practice and *opinio juris*) identification methodology of customary law, its modifications and one-element approaches. It then explores the unique characteristics and difficulties in identifying customary rules of international criminal law. Finally, it recapitulates the jurisprudence of international

criminal tribunals to ascertain whether these tribunals have formed a consistent method for custom identification.

It concludes that a different method has not been reached in academia or adopted by judges in practice to identify customary rules of international criminal law. The two-element approach still serves as guidance for general identification, but it should not be too rigid in specific criminal cases. International practitioners, particularly judges, should be cautious in the identification of customary rules of international criminal law, so as to prosecute and punish suspects of international crimes without endangering the principle of legality.

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