

EFIL Research Programme

Annual Report 2018



**Universiteit
Leiden**
Rechtsgeleerdheid

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Welcome



Dear all,

I am proud to introduce the 2018 *Exploring the Frontiers of International Law Research Programme Report*.

2018 marked the third 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 Grotius Centre for International Legal Studies and the International Institute for Air and Space Law proudly contribute to the EFIL Programme by producing diverse, high-quality, and field-leading scholarship.

We are proud of our researchers for the ways they explore how the law applies to new social phenomena and global challenges.

We are also proud that our research continues to be disseminated broadly through open-access scholarly publications, blog posts, conferences, events, and now an incredible four MOOCs.

Congratulations to all researchers for their achievements in 2018. As always, it is wonderful to see the way everyone continues to explore the frontiers of international law!

Professor Carsten Stahn

Coordinator, Exploring the Frontiers of International Law Research Programme

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In 2018, the EFIL
Programme produced

30 Journal Articles

39 Book Chapters

4 Book Editorships

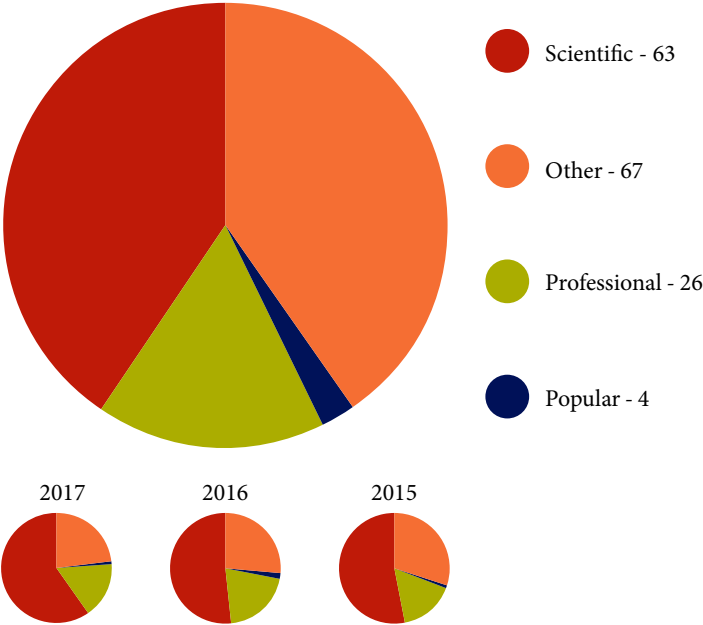
4 PhD Theses

7 Books

Statistics

	2015	2016	2017	2018
Journal Articles	31	40	38	30
Book Chapters	27	72	55	39
Editorships	7	4	9	4
PhD Theses	3	5	7	4
Books	4	1	4	7
All	123	177	146	160

2018 Classifications





Highlights From 2018

The EFIL Programme once again had an exciting year. Here we share some of the research and dissemination highlights that demonstrate the ways we explore the frontiers of international law, and encourage others to do the same!

Heritage Destruction, Human Rights, and International Law

Leiden's Global Interactions grants aim to stimulate research that address the question of how global change across time and space leads to a convergence and loss of variation or increasing diversity and conflict.

The Grotius Centre's Dr Joe Powderly and the Faculty of Archaeology Department of Heritage and Society's Dr Amy Strecker jointly received a Global Interactions grant to develop inter-faculty research on 'Heritage Destruction, Human Rights, and International Law'.

They jointly arranged a grant funded, high-level seminar to consider creative ways that the protection of important heritage sites

and landscapes could be advanced beyond rhetoric.

The programme, which took place from 30 April to 2 May, included a wide range of speakers. The conference managed to draw upon some of the key scholars currently active in the field of cultural heritage law from across the globe, including a number of members of the prospective ILA Committee on 'Participation in Cultural Heritage Governance', which will be launched at the 2018 ILA meeting in Sydney. The keynote address was delivered by Francesco Francioni, who posed the question whether international law is ready for the recognition of a general obligation to prevent and avoid destruction of cultural heritage. Over the

course of the next two days, panels discussed 'Heritage Destruction in Armed Conflict and Recent Developments', 'Heritage Destruction in Peacetime and Human Rights', 'Conflicting (And Complementary?) Areas of International Law', and 'Challenging Concepts and Assumptions'.

Joe and Amy are currently working with the panellists on an edited volume as a result of the conference.

They again collaborated in the Leiden-Delft-Erasmus Centre for Global Heritage and Development's first Summer School on Heritage Destruction, Human Rights, and International Law.

The Summer School was open to all stu-

dents and professionals who wanted to acquire a general knowledge of how heritage destruction is dealt with in international law in times of conflict and peace.

The programme brought together students and professionals from a wide range of backgrounds and gave a broad overview of heritage protection in international law with a particular focus on heritage destruction. Students learnt how heritage is protected in international law, the rules governing that protection in armed conflict and peacetime, the link between heritage and human rights, and the increasing case law from international criminal courts treating heritage destruction as a war crime and crime against humanity.

A Critical Introduction to International Criminal Law

Cambridge University Press will publish Professor Carsten Stahn's new textbook, *International Criminal Law: A Critical Introduction*. The book breaks new ground: not only is it the first international criminal law textbook to present core scholarship alongside critical perspectives, but it is freely available as an open-access publication.

The approach is novel and a marked shift away from how international criminal law is traditionally taught. "The discourse has developed beyond the legal discipline", Carsten explains. "I wanted to build in the influence from criminology, from anthropology. We have more critical research on the foundations of international criminal law from various disciplines. I wanted to take into account some of these novel and fresh perspectives to challenge our current conceptualisation of core themes".

"We also have this second stage of critical discourse on international criminal law emerging", he adds. "What I wanted to do in this book is integrate this critical research and some of the questions that are raised by

critique and present them alongside the main treatment of mainstream ICL scholarship".

Carsten hopes to demonstrate the importance of considering both critical studies and traditional legal scholarship when trying to make sense of the ramifications and limitations of international criminal law. "One of the problems is that mainstream voices sometimes don't listen to the critiques because some of them might be too radical, some might challenge their assumptions. At the same time," Carsten says, "some of the critical scholarship tends to look with a degree of scepticism towards mainstream doctrine and sometimes doesn't bring out what constructive solutions might be found to address the critiques. The purpose of the book was really to bring this dialogue forward and integrate it".

Strategic Human Rights Litigation

Professor Helen Duffy's *Strategic Human Rights Litigation* was published in 2018 by Hart Publishing, supported by the Nuhanovic Foundation.

"The book has been germinating for a really long time", Helen says. "I've been doing human rights litigation off and on for twenty-odd years, and over that period of time I came increasingly to the view that although human rights litigation was becoming more popular and vastly more voluminous, this wasn't always matched by a depth of understanding of what we actually achieve through it. Sometimes we assumed its value, rather than sought to understand it".

Researching and writing gave her the opportunity to revisit some of her own work, and to seek insights from others, including those affected by the cases, as to their positive and negative impact.

"Ultimately", she says, "I hope the book will help contribute to a conversation about what we need to do to litigate more strategically, to

maximise the benefit of the process for human rights protection".

Re-Accreditation of the Advanced Masters Programmes!

The Masters of Laws (Advanced) in Air and Space Law and Public International Law were assessed as 'excellent' during the recent accreditation round by the Nederlands-Vlaamse Accreditatie Organisatie (NVAO). This is a wonderful achievement for the Faculty and a testament to the work of the International Institute for Air and Space Law, the Grotius Centre for International Legal Studies, and all those involved with these premier Masters programmes.

Advanced LLM in International Dispute Settlement and Arbitration

The Grotius Centre for International Legal Studies of Leiden Law School offered for the first time an advanced master in International Dispute Settlement and Arbitration (in short "IDSA"). Prof. Eric De Brabandere, Programme Director, describes the master as one which "focuses on public international law, but blends in private law dimensions, equipping graduates with skills for a new legal landscape since the requisite skill sets for private or public arbitration or dispute settlement are merging".

In its first year, the Advanced Master attracted 15 students with diverse backgrounds from all around the globe. Most students have already an established career in their home countries and the programme offers them a chance to enter the international law field. "Choosing the new IDSA programme was a no-brainer. I believe this programme appeals to all those who, as I, have a passion for public international law but wish to focus on its most practical facet: litigation", says Nicolas Bianchi, a current student.

Many of the teaching staff are arbitrators,

attorneys-at-law or prominent members of international organizations such as the Permanent Court of Arbitration and the International Court of Justice. This is an incredible added-value to the course, as explained by current student Stephan Kugler: “Being taught not only by academics but mainly by practitioners is without any doubt the outstanding strength and advantage of this program”. In addition to the theory, the students are trained in professional skills, including drafting arbitral awards and arguing written and oral motions in courses such as Negotiation and Mediation and Legal Writing, Advocacy and Litigation Techniques.

Inaugural Lecture of Eric de Brabandere

Professor Eric de Brabandere delivered his inaugural lecture ‘To The Hague! International Dispute Settlement from Practice to Legal Discipline’ on 23 February 2018. The lecture is available on the [Leiden University Repository](#).

The International Criminal Court Moot Court Competition

The Grotius Centre once again hosted the International Criminal Court Moot Court Competition, attracting hundreds of students from 70 teams from all across the world.

In addition to the competition itself, the opening ceremony included the world premier of Canadian director Barry Avrich’s new film, *Prosecuting Evil: The Extraordinary Life of Ben Ferencz*. The film, as well as being a fascinating insight into the life and work of the famous Nuremberg prosecutor (featuring Ferencz himself!), also has significant historical value. It captures on film Ferencz’s life story, making his infectious passion for international criminal justice accessible to a broad audience. Avrich can be commended for capturing so well the story of Ferencz and the importance of his work, as well as his tireless efforts to create a more just world. It is essential viewing for any student of international criminal law, as well as those interested in justice, human rights, or world politics.

The competition participants were extremely fortunate to see the film’s first public screening. Afterwards, students could interact with Avrich, Ferencz, and his son Don Ferencz in an entertaining and insightful panel discussion that also got them excited for the week of competition to come.

Scenes from the 2018 International Criminal Court Moot Court Competition.





Conferences and Events

The Grotius Centre for International Legal Studies and the International Institute of Air and Space Law hosted, or were involved with, many conferences and events over 2018. These events form a core part of the EFIL Programme's research activities.

Air Law Conference in Athens

In March 2018, the Travel Law Forum 2018 was organised in Athens with the support of IIASL. The meeting focused on 'Consumer Rights in Digital Era'. Prof. Mendes de Leon delivered one of the opening speeches and many IIASL alumni were among the panellists.

The four panels addressed airline liability, consumer rights, shared economy platforms-future trends, and Brexit, and brought together international experts from the aviation and tourism sector.

30th Annual European Air Law Association Conference

In November 2018, EALA held its 29th Annual

Conference in Brussels. The conference, which was opened 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, which as always included many IIASL students and alumni.

9th International Air Law Moot Court Competition

The 9th Leiden-Sarin International Air Law Moot Court Competition took place from 12 to 15 April 2018 in Incheon (Seoul), South Korea. The founders of the competition, the

International Institute of Air and Space Law at Leiden University and the Sarin Legal Aid Foundation from India are grateful to Incheon International Airport Corporation for hosting this year's competition.

This edition welcomed 21 teams from 15 countries. The following countries participated: Ecuador, France, Germany, Greece, Hong Kong, Indonesia, Netherlands, Poland (2), Russia, Singapore, Sri Lanka, Turkey, Ukraine (2), United Arab Emirates, China (3) and India (3).

The winner of the International Air Law Moot Court 2018 was Rajiv Gandhi National University of Law, Punjab, India, and the Runner up team was from Singapore Management

University, Singapore. See [here](#) for more information.

Student observers at UN COPUOS



In April 2018, a record number of IIASL students traveled to Vienna to attend the sessions of the Legal Subcommittee of the UN Committee on the Peaceful Uses of Outer Space (COPUOS) as observers.

Space Law during the State visit of the Dutch Royal couple to Luxembourg

In May 2018, Tanja Masson-Zwaan and her

colleague at the University of Luxembourg, Prof Mahulena Hofmann, had the honour of addressing the King and Queen of the Netherlands and the Grand-Duc and Grand-Duchess of Luxembourg during the State visit of the Dutch Royal couple to Luxembourg.

They addressed the teaching of space law at their respective universities and their academic cooperation, the legal aspects of space mining, and the work of The Hague Space Resources Governance Working Group, together with students from Leiden and Luxembourg. The use of space resources was the theme of the Royal's visit to the Belval Campus of the University of Luxembourg, where the company ispace and a technical school also presented their work.

See [here](#) for more information.

ISU Space Studies Program 2018

During July and August, the Space Studies Programme (SSP) of the Strasbourg-based International Space Universi-

ty took place in Leiden, The Hague, Noordwijk and Delft, hosted by the Netherlands Space Office, the Universities of Delft and Leiden and ESA-ESTEC. 135 participants from 35 countries attended the intensive 9-week program, which was opened by H.M. King Willem-Alexander of the Netherlands. A good number of activities took place at Leiden Law School, and the official closing ceremony was held at the Academy Building.

Tanja Masson-Zwaan was one of the initiators to bring the Space Studies Programme (SSP) to the Netherlands five years ago and was a member of the Local Organising Committee. This summer school of the International Space University (ISU) is organised every year for young professionals, PhD candidates and master's students involved or interested in everything related to space. Masson-Zwaan played a major role as a core lecturer in this year's programme, joined by her colleagues Dimitra Stefoudi and Neta Palkovitz. They held a range of lectures, department activities and introductions during team projects about space policy and law. Leiden University's astronomers were also involved in different aspects of the programme, and a good number of the participants were Leiden University alumni, students and researchers. In connection with the SSP, the 'Sizzling Summer of Space' was organized in close collaboration among the participating cities, during which all kinds of activities for the general public were organized about space, from a film evening to a Science Café and an exhibition of satellites to the Leiden in Space day. See [here](#) and [here](#) for more information.

Tanja Masson-Zwaan interviewed about President Trump's plans for a Space Force

In an [interview](#) on Een Vandaag on 20 June 2018, Asst. Professor Tanja Masson-Zwaan discussed Trump's announcement about establishing a Space Force, alongside the land, sea and air forces. She explained that currently, US space operations are part of the air force, and that it remains to be seen whether this new plan will bring major changes. The Outer Space Treaty of 1967, which was ratified by the US, stipulates that weapons of mass destruction may not be placed in space, but it is not likely that this would be an objective of the

Space Force. A Space Force per se is not prohibited.

Tanja was interviewed on the same topic in [De Volkskrant](#) on 19 June, and again in [Trouw](#) on 1 July.

ICC Scholars Forum

Assistant Professor Sergey Vasiliev and Professor Larissa van den Herik organised the ICC Scholars Forum held in June. Sergey, Assistant Professor Emma Irving, Assistant Professor Joe Powderly, and Professor Carsten Stahn all presented at the Forum and Larissa commented on a paper prepared by Charles Jallow. The high-level Forum brought together leading scholars and practitioners in the field of international criminal justice.

Universal Jurisdiction: Bridging the Accountability Gap and Providing Justice to Victims

This discussion, hosted at the Grotius Centre, follows the launch of the 2018 Annual Report on Universal Jurisdiction #UJAR: Make way for Justice #4 Momentum towards accountability, published annually by TRIAL International, FIDH (The International Federation for Human Rights), REDRESS, the European Centre for Constitutional and Human Rights and FIBGAR. The report highlights how universal jurisdiction is increasingly used all around the world to ensure accountability and justice for victims of serious international crimes such as torture, war crimes, genocide and crimes against humanity.

The event aimed at raising the profile of universal jurisdiction and seeks to bring together key stakeholders in The Hague, including in particular diplomats, representatives from the ICC and MICT, academia and civil society as well as the media.

David Schwendiman Reflects on his Time at the Kosovo Specialist Prosecutor's Office and the Challenges Ahead

The former Specialist Prosecutor of the recently established Specialist Prosecutor's Office, which is tasked with investigating and prosecuting crimes committed in 1998, 1999 and 2000 in Kosovo, looked back on the challenges faced, the challenges met, and the challenges to come for the Specialist Prosecutor's Office.

He addressed the historical and political origins of the Office as context for a discussion of the unique place the Office holds in the evolution and development of means for enforcing international criminal norms. He also reflected on the role of the Specialist Prosecutor and the challenges the person who holds the office must overcome to be effective.

ICC investigation into 2008 Georgia-Russia conflict: the ongoing impact of international crimes 10 years later

The armed conflict in the summer of 2008 between Georgia and Russia saw attacks against the civilian population, which resulted in murders, forcible transfers of population, persecutions on ethnic grounds; as well as attacks intentionally targeting peacekeepers, the destruction of property, and pillaging. According to a mission of the European Union, the conflict resulted in 850 deaths and more than 100,000 internally displaced persons. Ten years later, the consequences of this conflict and serious international crimes committed continue to exist.

While no perpetrator of crimes against humanity committed 10 years ago has been charged, the survivors of this war continue to suffer from kidnappings, illegal detentions, and extortion on a daily basis due to the shifting demarcation line, the Administrative

Boundary Line (ABL), which is not recognised by the international community. In February 2018, FIDH and HRIDC published a report assessing the ongoing impact of the 2008 Russia-Georgia conflict.

The Panel discussion focussed on the outcomes of the report as well as the continuous challenges of the ICC investigation. The Panel consisted of civil society actors both from Georgia and Russia who have been closely involved in documenting and addressing the international crimes committed during the 2008 conflict.

Heritage Destruction, Human Rights and International Law

Leiden Global Interactions recently awarded a GIAS grant to Dr Amy Strecker (Faculty of Archaeology) and Dr Joseph Powderly (Grotius Centre) for their inter-faculty collaboration on 'Heritage Destruction, Human Rights and International Law.'

Central to the project is the convening of this high level advanced seminar in Leiden from 30 May to 2 May 2018. Amongst the primary objectives of the advanced seminar was to move beyond the usual focus of international law on the destruction and threat to heritage in the context of armed conflict, to also include an examination of heritage destruction in peacetime, and the role of human rights law in this regard. The symposium began on the afternoon of 30 April with a keynote address by Prof. Francesco Francioni on the question of, "Is International Law Ready for the Recognition of a General Obligation to Prevent and Avoid Destruction of Cultural Heritage?"



Righting the Balance: Defence Perspectives of International Criminal Justice

An oft-cited object of international criminal justice is to hold perpetrators accountable for the most serious crimes of international concern. The legitimacy of this aim remains preserved only insofar as the ensuing proceedings are conducted fairly, impartially and in full equality vis-à-vis the positions of the Prosecution and the Defence. However, are we successfully striking this balance? Drawing from the experience of leading international criminal practitioners and scholars, this panel discussion sought to explore the under-examined defence perspective on the international criminal landscape, in hope of recalibrating the scales.

The Kosovo Specialist Chambers: Comparative Legal Perspectives

As the prospect of indictments issued by the Special Prosecutor's Office looms large, the time is ripe to begin scrutinizing the legal framework under which the Kosovo Specialist Chambers (KSC) will be operating.

To this end, this Supranational Criminal Law Series lecture, co-organized by the Institute for European Studies, focussed on various legal matters that will be of critical importance for the KSC. More specifically, the panel discussion addressed cooperation with the KSC, the victim participation and reparations regime of the KSC, and defense rights under the KSC framework. It consisted of reputable specialists who have both the theoretical knowledge and practical experience with regards the issues at hand.

Anthea Roberts: Is International Law International?

Anthea Roberts is a specialist in public international law, investment treaty law and arbitration, and comparative international law. Prior

to joining the ANU, Anthea was an Associate Professor at the London School of Economics, a Visiting Professor at Columbia Law School and Harvard Law School. She is also currently a Visiting Professor on the Masters of International Dispute Settlement at the Graduate Institute/University of Geneva. In 2017-18, Anthea is serving as one of the two inaugural Legal Fellows for the Australian Department of Foreign Affairs and Trade as part of their new Diplomatic Academy.

Anthea has recently published a monograph 'Is International Law International?' (2017 OUP) and an edited collection called 'Comparative International Law' (2017 OUP) which both challenge the claimed universality of international law. 'Is International Law International?' won the American Society of International Law's Certificate of Merit for Preeminent Contribution to Creative Scholarship and has been Oxford University Press' top selling law monograph worldwide in 2017-18.

The Grotius Centre hosted her lecture on the book.

Launch of the Kalshoven-Gieskes Forum on International Humanitarian Law's MOOC

In this recent addition to the Centre's MOOC catalogue, Professor Robert Heinsch, Assistant Professor Giulia Pinzauti, and Assistant Professor Emma Irving give students a deep insight into the rules that govern armed conflict, and aim to mitigate human suffering on the battlefield. Students benefit from a mix of theory and practice and can participate in an ongoing case study where drones are flying over the fictitious country Arfula, and detainees are locked up in tiny cells. They can join discussions about IHL success stories and major IHL challenges, with distinguished speakers from the ICRC and the US Naval War College.

Seminar on international law and environmental peacebuilding

On 28 and 29 June 2018, Daniëlla Dam-de Jong organized a seminar on international law and environmental peacebuilding. The seminar brought together sixteen international experts from academics and practice to discuss the contribution of international law to environmental peacebuilding. Environmental peacebuilding is a relatively novel field of research. It focuses on reducing conflict risks associated with natural resources and on creating opportunities for conservation and benefit-sharing through natural resource cooperation. The seminar assessed the role of international law in facilitating and constraining (political) choices related to natural resource management in post-conflict settings. In addition, it explored options to address some of international law's inherent limitations in promoting environmental peacebuilding. Several of the contributions to the seminar will be published in a *Research Handbook on International Law and Environmental Peacebuilding* (Edward Elgar). This book will be co-edited by Britta Sjöstedt from Lund University and is expected to appear in 2020.





Prize Showcase

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 2018, the IISL Board of Directors granted the Award for the second time in a row to an IIASL student. This time, the winner was Andrea Capurso (IIASL class of 2018), for his paper on 'The Non-Appropriation Principle: A Roman Interpretation'. See [here](#) for more information.

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 2018 was awarded to Pietro Benintendi (IIASL class of 2018) for his paper 'Code-sharing in the Air Service Agreements: A Critical Analysis of the Creation of Another "Un-freedom" of the Air'. See [here](#) for more information.

IATA Constance O'Keefe Aviation Law Writing Award

This was another award won by 'summa cum laude' student Pietro Benintendi of the IIASL class of 2018, this time with the paper titled 'Liability under Code-sharing Arrangements: Do the Guadalajara Convention and Chapter V of the Montreal Convention apply to Connecting Code-sharing?'

ESPI/ECSL/DLR Essay Competition

Claudiu Mihai Tăiatu (IIASL Class of 2017) won second place in the worldwide essay competition on 'Legal aspects relating to satellite constellations' organized by the European Space Policy Institute (ESPI), the European

Centre for Space Law (ECSL), and the German Aerospace Center (DLR). See [here](#) for more information.

NLF Plesman Award

The Nederlands Lucht- en Ruimtevaart Fonds (NLF, Netherlands Aerospace Fund) awarded the 'Albert Plesmanprijs' to LLM alumna Annemarie Schuite for her thesis investigating 'Aviation Safety versus Medical Disclosure'. See [here](#) for more information.

EALA Prizes

During the 30th Annual Conference of the European Air Law Association (EALA), held in Brussels on 9 November, Brendan Lord and Pietro Benintendi (IIASL class of 2018) were awarded the first and second place of the EALA Prize, for their papers on 'The Protection of Personal Data in International Civil Aviation' and 'A Tale of Two Codes: Free-flow

Code-sharing in the EU Competition Law Assessment', respectively. See [here](#) for more information.

The Philip C Jessup International Law Moot

The Leiden team put on a brilliant performance at the Dutch qualifying competition in Maastricht of the Philip C Jessup International Law Moot. It progressed to the final round and came out as the winners with a unanimous vote from the three-strong bench, presided by professor Flinterman who founded the Jessup tradition in the Netherlands 45 years ago.

The team then traveled to Washington DC in April to represent the Netherlands at the international rounds of the competition where each student showcased excellent pleading skills and an extensive knowledge on general public international law. Globally the team ranked 38th and took advantage of the possi-

bility to engage in cultural and academic exchange with legal professionals from all over the world in the context of the Jessup competition as well as the American Society of International Law Annual Meeting that took place simultaneously.

The Leiden team consisted of Vanessa Menendez, Tiffany Ancey, Georgia Beatty, Rashmi Dharia and Jirat Jitwarawong (Reg LLM). It was coached by Sophie Schiettekatte, Charlotte Servant-l'Heureux and Felipe Rodriguez.





Summer Schools and Training Courses

Every year, the Grotius Centre welcomes students and professionals from all over the world to its various summer programmes. The participants get the opportunity to learn first-hand from leading academics and experts in the fields.

In 2018, the Grotius Centre offered 9 summer programmes and welcomed over 300 participants from 76 different countries to The Hague, Leiden and Amsterdam. The programmes held in 2018 were:

- > International Criminal Law
- > International Humanitarian Law
- > International Arbitration
- > Human Rights, Transitional Justice and Environmental Protection
- > Frontiers of Children's Rights
- > Sexual Orientation and Gender Identity in International Law
- > Brandeis in The Hague Summer Programme

As well as two new programmes:

- > Heritage Destruction, Human Rights and International Law
- > Duke-Leiden Institute in Global and Transnational Law

Heritage Destruction, Human Rights and International Law

The first edition of the Summer School on Heritage Destruction, Human Rights and International Law took place in August 2018 under the coordination of Dr. Joseph Powderly and Dr. Amy Strecker. The 35 participants engaged with the most current debates concerning the role of international law in dealing with heritage destruction such as how heritage is

protected in international law; the rules governing that protection in armed conflict and in peace time; and the link with human rights. They also explored these topics through case law. The success of this first edition has led to the upcoming Summer School on Cultural Objects, Human Rights and International Law which will take place in The Hague from 26 to 30 August 2019.

Duke-Leiden Institute in Global and Transnational Law

“The Duke-Leiden Institute is an incredibly unique program that allowed me to study international law in the home of some of the greatest international courts and scholars” – *Kaitlyn, 2018 participant*

The Duke-Leiden Institute in Global and Transnational Law, organized in collaboration with Duke University School of Law, took place for the first time in 2018. This one-month programme welcomed 38 participants who followed courses taught by lecturers from both Duke Law School and Leiden Law School. This allowed for the participants to benefit from the combined expertise from two leading universities and to acquire a comparative perspective on the various topics. During their month in The Hague, the students furthermore got the opportunity to hear from prominent scholars and experts such as Judge Donoghue from the International Court of Justice, Judge Baragwanath in his capacity as Chair of P.R.I.M.E. Finance's Advisory Board, and Judge Morrison from the International Criminal Court. They also visited legal institutions including the International Criminal Court and the Permanent Court of Arbitration, and discovered the Netherlands through visits to the Loevestein Castle, Amsterdam and Delft. We look forward to hosting the second edition of the Institute in 2019.



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 commenced on 29 January 2018. The course, taught by Professor Eric de Brabandere and Assistant Professor Giulia Pinzauti, teaches students about how international disputes are resolved. Students 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 provides a sample of the field for those thinking of pursuing the new Advanced Masters in International Dispute Settlement.

International Humanitarian Law in Theory and Practice

In this recent addition to the Centre's MOOC catalogue, Professor Robert Heinsch, Assistant Professor Giulia Pinzauti, and Assistant Professor Emma Irving give students a deep insight into the rules that govern armed conflict, and aim to mitigate human suffering on the battlefield. Students benefit from a mix of theory and practice and can participate in an ongoing case study where drones are flying over the fictitious country Arfula, and detainees are locked up in tiny cells. They can join discussions about IHL success stories and major IHL challenges, with distinguished speakers from the ICRC and the US Naval War College.

Book Showcase

STRATEGIC HUMAN RIGHTS LITIGATION

Understanding and Maximising Impact

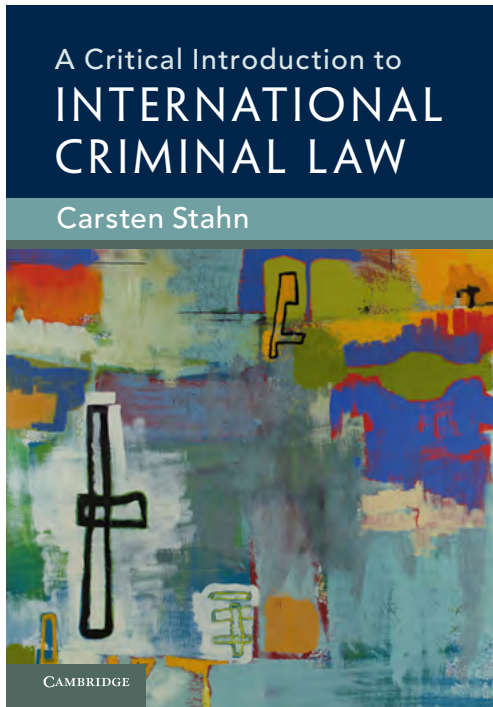
HELEN DUFFY



Helen Duffy

Strategic Human Rights Litigation: Understanding and Maximising Impact

Strategic human rights litigation (SHRL) is a growing area of international practice yet one that remains relatively under-explored. Around the globe, advocates increasingly resort to national, regional and international courts and bodies 'strategically' to protect and advance human rights. This book provides a framework for understanding SHRL and its contribution to various forms of personal, legal, social, political and cultural change, as well as the many tensions and challenges it gives rise to. It suggests a reframing of how we view the impact of SHRL in its multiple dimensions, both positive and negative. Five detailed case studies, drawn predominantly from the author's own experience, explore litigation in a broad range of contexts (genocide in Guatemala; slavery in Niger; forced disappearance in Argentina; torture and detention in the 'war on terror'; and Palestinian land rights) to reveal the complexity of the role of SHRL in the real world. Ultimately, this book considers how impact analysis might influence the development of more effective litigation strategies in the future.



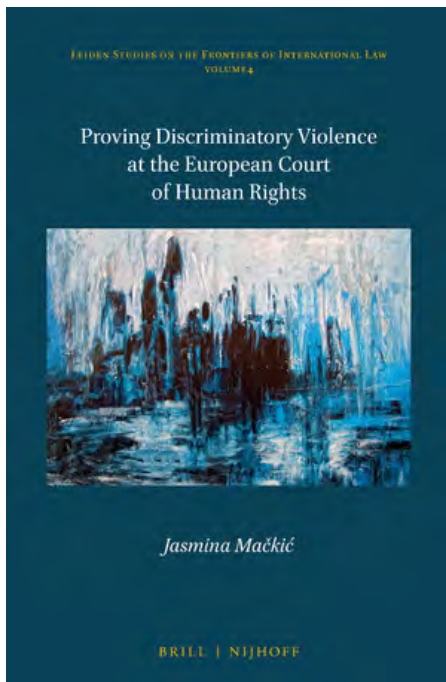
Carsten Stahn

A Critical Introduction to International Criminal Law

6

International criminal law has witnessed a rapid rise after the end of the Cold War. The United Nations refers to the birth of a new 'age of accountability', but certain historical objections, such as selectivity or victor's justice, have never fully gone away, and many of the justice dimensions of international criminal law remain unexplored. Various critiques have emerged in socio-legal scholarship or globalization discourse, revealing that there is a stark discrepancy between reality and expectation. Linking discussion of legal theories, case-law and practice to scholarship and opinion, *A Critical Introduction to International Criminal Law* explores these critiques through five main themes at the heart of contemporary dilemmas: The shifting contours of criminality and international crimes; The tension between individual and collective responsibility; The challenges of domestic, international, hybrid and regional justice institutions; The foundations of justice procedures; Approaches towards punishment and reparation.

Suitable for students, academics and professionals from multiple fields wishing to understand contemporary theories, practices and critiques of international criminal law.



Jasmina Mackic

Proving Discriminatory Violence at the European Court of Human Rights

In *Proving Discriminatory Violence at the European Court of Human Rights* Jasmina Mačkić unveils the evidentiary issues faced by the European Court of Human Rights when dealing with cases of discriminatory violence. In that context, she evaluates the Court's application of the standard of proof 'beyond reasonable doubt' and aims to answer the question whether that standard forms an obstacle in establishing the occurrence of discriminatory violence. In addition, she offers an assessment into the circumstances in which the burden of proof may shift from the applicant to the respondent state. The author also looks at the types of evidentiary materials that may be used by the Court in order to establish discriminatory violence.

International Institutional Law

Sixth Revised Edition

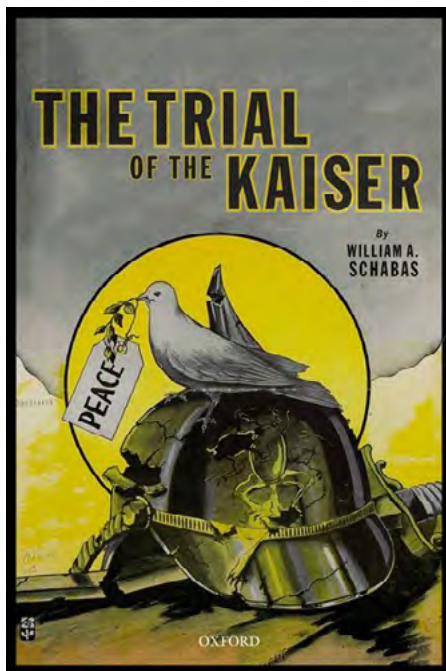
Henry G. Schermers
&
Niels M. Blokker

BRILL | NIJHOFF

Henry Schermers and Niels Blokker

International Institutional Law 6th Edition

This sixth, revised edition of International Institutional Law covers the most recent developments in the field. Although public international organizations such as the United Nations, the World Trade Organization, the African Union, ASEAN, the European Union, Mercosur, NATO and OPEC have broadly divergent objectives, powers, fields of activity and numbers of member states, they also share a wide variety of institutional characteristics. Rather than being a handbook for specific organizations, the book offers a comparative analysis of the institutional law of international organizations. It includes chapters on the rules and practices concerning membership, institutional structure, decision-making, financing, legal order, supervision and sanctions, legal status and external relations. The book's theoretical framework and extensive use of case-studies is designed to appeal to both academics and practitioners.



William Schabas
The Trial of the Kaiser

In the immediate aftermath of the armistice that ended the First World War, the Allied nations of Britain, France, and Italy agreed to put the fallen German Emperor Kaiser Wilhelm II on trial, in what would be the first ever international criminal tribunal. In Britain, Lloyd George campaigned for re-election on the slogan 'hang the Kaiser', but the Italians had only lukewarm support for a trial, and there was outright resistance from the United States.

During the Peace Conference, international lawyers gathered for the first time to debate international criminal justice. They recommended trial of the Kaiser by an international tribunal for war crimes, and the Americans relented, agreeing to a trial for a 'supreme offence against international morality'. However, the Kaiser had fled to the Netherlands where he obtained asylum, and though the Allies threatened a range of measures if the former Emperor was not surrendered, the Dutch refused and the demands were dropped in March 1920.

This book, from renowned legal scholar William A. Schabas, sheds light on perhaps the most important international trial that never was. Schabas draws on numerous primary sources hitherto unexamined in published work, including transcripts which vividly illuminate this period of international law making. As such, he has written a book which constitutes a history of the very beginnings of international criminal justice, a history which has never before been fully told.

Internationaal publiekrecht als wereldrecht

N.J. Schrijver



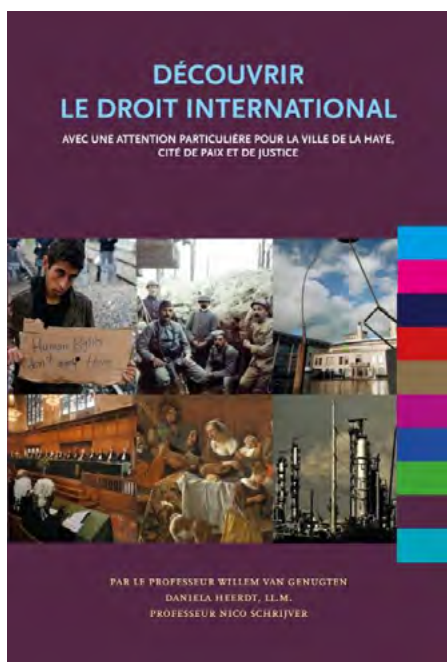
Nico Schrijver

Internationaal Publiekrecht als Wereldrecht

Internationaal publiekrecht als wereldrecht behandelt in hoofdlijnen de boeiende wereld van het internationale recht.

Drie vragen staan hierbij centraal. Ten eerste in hoeverre de beginselen en regels van het internationale recht 'wereldrecht' vormen, dat wil zeggen voor de hele wereld gelden en ook door de gehele internationale gemeenschap geaccepteerd worden. De tweede vraag luidt in hoeverre, naast staten en internationale organisaties, wereldburgers, volken en multinationale ondernemingen aan het internationale publiekrecht rechten kunnen ontlelen en of zij ook plichten hebben. Ten slotte wordt ingegaan op de vraag in hoeverre het internationale publiekrecht en de daarop gebaseerde organisaties gezien kunnen worden als hoeders van het algemene wereldbelang. Hierbij gaat het om zaken zoals bescherming van kwetsbare ecosystemen, vrede en veiligheid, respect voor universele rechten van de mens en van volken, armoedebestrijding en het bevorderen van duurzame ontwikkeling.

Het boek geeft tevens een gedegen inleiding tot de basisleerstukken (rechtsbronnen, rechtsdeelnemers, geschillenbeslechting, e.d.) en is ook om die reden meer dan een simpel ABC van het internationale publiekrecht.



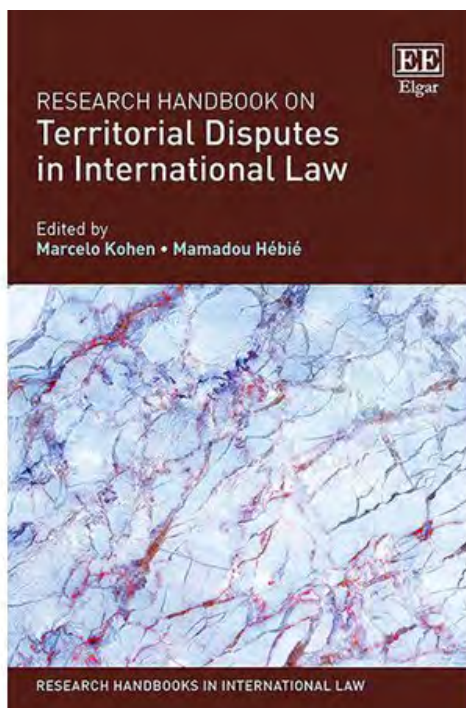
Willem van Genugten, Daniela Heerdt, and Nico Schrijver

Découvrir le droit international, avec une attention particulière pour la ville de la Haye (French translation of Discover International Law, 2017)

Bien souvent, seuls les spécialistes savent que le droit international a une incidence énorme sur notre vie quotidienne. L'objectif de cet ouvrage est de rendre le droit international accessible à toutes les personnes qu'il intéresse mais qui ne sont (pas encore) des experts en la matière. C'est une invitation à découvrir le droit international et constater les liens qu'il entretient avec les défis majeurs auxquels est confronté le monde actuel. Le second objectif de cet ouvrage est de souligner et d'expliquer la relation qu'entretiennent de longue date le droit international et la ville de La Haye, 'l'épicentre de la justice et de la responsabilité internationales' selon les mots du ancien Secrétaire général des Nations Unies Ban Ki-moon.

Après avoir exposé l'état actuel du droit international et envisagé les tendances et les obstacles auxquels il est confronté, les auteurs tirent finalement des conclusions optimistes en dépit du fait que l'application pratique du droit international représente sous de nombreux aspects une tâche difficile. Ils tirent leurs conclusions en considérant que le droit international participe à l'évolution structurée des relations entre États. Analysant un certain nombre de sujets, ils démontrent également que le droit international est un domaine qui aborde des 'problèmes sans passeports' en multipliant les interactions entre les peuples, les États et la société civile (ONG, organisations syndicales, groupes religieux) et les entreprises, avec le soutien et l'attention scrupuleuse de la communauté universitaire.

Les auteurs sont professeurs (Willem van Genugten et Nico Schrijver) et doctorante (Daniela Heerdt) spécialistes de droit international. Ils disposent d'une grande expérience dans le domaine de projets portant sur l'État de droit à travers le monde.



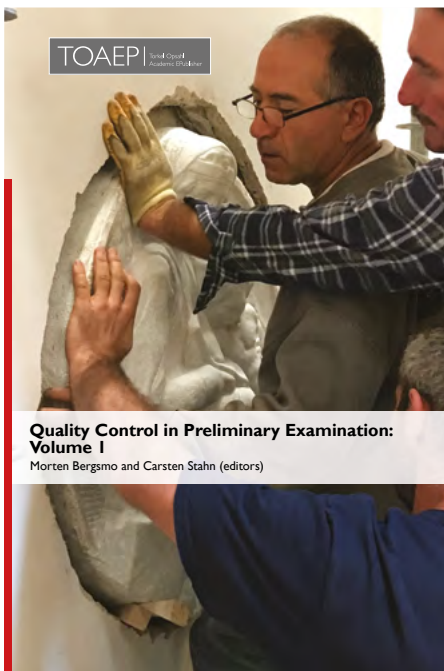
Marcelo Kohen and Mamadou Hébié (eds)

Research Handbook on Territorial Disputes in International Law

Territorial disputes remain a significant source of tension in international relations, representing an important share of interstate cases brought before international tribunals and courts. Analysing the international law applicable to the assessment of territorial claims and the settlement of related disputes, this Research Handbook provides a systematic exposition and in-depth discussions of the relevant key concepts, principles, rules, and techniques.

Combining extensive knowledge from across international law, Marcelo Kohen and Mamadou Hébié expertly unite a multinational group of contributors to provide a go-to resource for the settlement of territorial disputes. The different chapters discuss the process through which states establish sovereignty over a territory, and review the different titles of territorial sovereignty, the relation between titles and effectivités, as well as the relevance of state conduct. Select chapters focus on the impact of foundational principles of international law such as the principle of territorial integrity, the right of self-determination and the prohibition of the threat or use of force on territorial disputes. Finally, technical rules that are crucial for the assessment of territorial claims, especially the techniques of intertemporal law and critical date, as well as evidentiary rules, are presented.

An essential resource for practitioners, international law academics and public officials including judges and arbitrators, this Research Handbook is a highly original collection of scholarship and research on territorial disputes and their settlement.



Morten Bergsmo and Carsten Stahn (eds)

Quality Control in Preliminary Examinations, Volumes 1 and 2

6

Preliminary examinations have turned into one of the most important activities of the ICC. By September 2016, nine situations are under preliminary examination. Three of them (Afghanistan, Georgia, Iraq/UK) concern permanent members of the United Nations Security Council. The ICC Office of the Prosecutor ('OTP') has issued a 2013 Policy Paper on Preliminary Examination and annual preliminary examination reports. Situations such as Palestine or Colombia count among the most complex and challenging areas of inquiry. Human rights fact-finding bodies call on the ICC to consider opening new proceedings. But the ICC faces constraints, in terms of its mandate, jurisdictional limitations, and resources. Attention has shifted from situation to situation. Only limited strategic and long-term thinking has been devoted to broader policy questions, such as the context, rationale and role of PEs, the suitability of the existing legal framework, ICC methodologies, public communication during PEs, the impact of PEs in and across situations, and lessons learned from specific case studies.

The 'Quality Control in Preliminary Examination' project seeks to address these and related challenges from the perspective of multiple disciplines and angles. The project started with a thematic expert meeting in The Hague in September 2015. The second phase of the project takes stock of existing approaches to preliminary or pre-investigation examination, reviews ICC and national policies and practices, identifies lessons from countries where the ICC has engaged in prolonged preliminary examination, and explores how a culture of quality control can be enhanced in preliminary examination.

PROCEEDINGS OF
THE INTERNATIONAL INSTITUTE
OF SPACE LAW



eleven
international publishing

P J Blount, Tanja Masson-Zwaan, R Morro-Aguilar, and K U Schrogel
Proceedings of the International Institute of Space Law 2017

This volume contains the proceedings of the 60th Colloquium on the Law of Outer Space held in Adelaide, Australia in September 2017, as well as the papers presented at the IISL-ECSL Space Law Symposium held on the occasion of the 56th Session of the Legal Subcommittee of the UN Committee on the Peaceful Uses of Outer Space in Vienna, Austria in March 2017, the report of the 1st Meeting of the Members and Followers of the International Institute of Space Law held in Moscow, Russia in December 2017, and the report of the 12th Eilene M. Galloway Symposium on Critical Issues in Space Law, held in Washington D.C., United States in December 2017. It also contains the report and best written memorials of the World Finals of the 26th Manfred Lachs Space Law Moot Court Competition held in September 2017.

Grotius Dialogues

The Grotius Dialogues provide a forum for Grotius Centre-affiliated researchers to present their current research and obtain feedback from colleagues. In 2018, the Grotius Dialogues were proud to host the following discussions:

- > **Kushtrim Istrefi**, European Judicial Responses to Security Council Resolutions: A Consequentialist Assessment
- > **Evelien Campfens**, Whose cultural objects? Justice and injustice in the field of looted art
- > **Meagan Wong**, Aggression and the International Criminal Court: the issue of State responsibility
- > **Emma Irving**, Human Rights Fact Finding in the Digital Age: Beyond Opportunities and Challenges
- > **Eliana Tersa Cusato**, Environmental Protection and Armed Conflict
- > **Luigi Proserpi**, A Bull in a China Shop: the Impact of the ICC Decisions on Jurisdiction on the Disputes over State Sovereignty and Borders
- > **Debora Capalbo**, The obligation to negotiate in good faith nuclear disarmament: from art. VI of the Nuclear Non-Proliferation Treaty to the Treaty on the Prohibition of Nuclear Weapons
- > **Joris Larik**, Brexit, Transatlantic (Treaty) Relations and Beyond
- > **Ashley Deeks**, “Predicting Enemies,” - the military’s future use of predictive algorithms to assist in wartime detention and targeting decisions

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 2018, the Series published:

- > **2018/082-PIL:** Larissa van den Herik and Emma Irving, *Due Diligence and the Obligation to Prevent Genocide and Crimes against Humanity*
- > **2018/081-PIL:** Eric de Brabandere, *Measures of Constraint and the Immunity of International Organisations*
- > **2018/080-IEL:** Eric de Brabandere, *Amicus Curiae (investment arbitration)*
- > **2018/079-IEL:** Eric de Brabandere, *(Re)calibration, Standard-Setting and the Shaping of Investment Law and Arbitration*
- > **2018/078-IEL:** Eric de Brabandere, *Human Rights Counterclaims in Investment Treaty Arbitration*
- > **2018/077-ICL:** Jens Iverson, *Disarming the Trap: Evaluating Prosecutorial Discretion in Preliminary Examinations beyond the False Dichotomy of Politics and Law*
- > **2018/076-HRL:** Helen Duffy and Kate Pitcher, *Inciting Terrorism? Crimes of Expression and the Limits of the Law*
- > **2018/075-HRL:** Eric de Brabandere, *Human Rights and International Investment Law*
- > **2018/074-ICL:** Carsten Stahn, *Liberals vs. Romantics: Challenges of an Emerging Corporate International Criminal Law*
- > **2018/073-ICL:** Daniëlla Dam-de Jong, *Ignorantia Facti Excusat? The Viability of Due Diligence as a Model to Establish International Criminal Accountability for Corporate Actors Purchasing Natural Resources from Conflict Zones*
- > **2018/072-PSL:** Jens Iverson, *War Aims Matter: Keeping Jus Contra Bellum Restrictive While Requiring the Articulation of the Goals of the Use of Force*
- > **2018/071-PIL:** Ramses A Wessel, *Studying International and European Law: Confronting Perspectives and Combining Interests*



PhD Defences

The EFIL Programme had 4 PhD candidates graduate in 2018 from the International Institute for Air and Space Law and the Grotius Centre for International Legal Studies. Congratulations to all!

Catherine Harwood:

Navigating between principle and pragmatism: The roles and functions of atrocity-related United Nations Commissions of Inquiry in the international legal order

The United Nations has established at least thirty international commissions of inquiry to examine situations of mass atrocities. These bodies resemble legal processes in some ways, while remaining non-legal in others. This research explores UN atrocity inquiries' turn to international law and their navigation of considerations of principle and pragmatism to discern their identity in the international legal order. The thesis traces the inquiry pro-

cess from establishment and interpretation of the mandate to legal analysis, production of findings and recommendations. The research finds that the turn to international law fundamentally shapes the roles and functions of UN atrocity inquiries. Commissions seeking to promote accountability and the rule of law are linked to truth-seeking, giving a voice to victims, condemning violations, raising alert and provoking corrective action. Yet, commissions' interpretations of their mandates, legal analysis, findings and recommendations reveal an awareness of their liminal position between international law and politics. Their informality renders commissions well-placed to propose innovative legal interpretations, draw atten-

tion to violations and catalyse follow-up, while space is retained for diplomatic approaches and discretion in implementing recommendations. In short, UN atrocity inquiries continuously navigate between realms of law and politics, with the equilibrium shifting in different moments and contexts.

Matthew Gillett:

Prosecuting environmental harm before the International Criminal Court

This thesis explores the feasibility of prosecuting environmental harm before the International Criminal Court. It examines the Court's substantive and procedural framework to determine its applicability to instances of serious

destruction of the environment. It analyses the rules concerning victim participation and compensation arising from environmental harm. Key provisions and jurisprudence governing the Court's work are assessed, along with relevant international law conventions, principles, cases and commentary. Fundamentally, the study questions the extent of the Court's anthropocentric orientation and impact thereof on any prospective eco-centric proceedings.

Linlin Sun:

International environmental obligations and liabilities in deep seabed mining

This research addresses two major legal questions faced by all participants in Deep Seabed Mining (DSM) – the contractor, sponsoring State and International Seabed Authority (ISA). Namely, what are their international environmental obligations? What are the conditions for establishing, the contents and implementation of their international environmental liabilities? It is argued that, although playing different roles, participants in DSM are imposed with the substantively same international environmental obligations. Most prominently, they should comply with the principle of prevention, the precautionary approach and conduct or review environmental impact assessments, the purpose of which is to avoid or prevent the occurrence of environmental damage. In case of the occurrence of environmental damage, liability would arise if wrongful acts of the participants and causal link between their acts and the environmental damage can be proved. Yet, in practice, both establishing and implementing environmental liability would encounter formidable difficulties. Due to the great gaps in marine scientific knowledge, the environmental damage would be hard to be identified and evaluated, the wrongful act

and causation would also be difficult to prove. For these reasons, she suggests that alternative regimes such as administrative liability of the contractor and environmental compensation fund might be the future directions.

Dejian Kong:

Civil liability for damage caused by global navigation satellite system

On 17 December 2018, Dejian Kong (China) defended his thesis on 'Civil Liability for Damage caused by Global Navigation Satellite System'. He was supervised by Professor Pablo Mendes de Leon (Leiden University) and Professor Dr. Anna Masutti (University of Bologna, Italy). The research asks who is responsible or liable when damage is caused by Global Navigation Satellite Systems (GNSS). Is it fair to force a GNSS provider to bear the burden of compensation, given that GNSS open signals are provided free of charge? And are current international laws adequate to deal with such issues?

Benefits generated by GNSS have penetrated every corner of the earth. Systems such as GPS are used in car navigation and new technologies often present opportunities for increased safety, security and efficiency. Nevertheless, this is only one side of the coin. The more humanity depends on GNSS, the more risks it has to face. For example, in a case where a modern aircraft is equipped with a GNSS-based autopilot system, a defect in, or loss of GNSS signals could endanger hundreds of lives onboard that aircraft. If an air crash was caused by defective GNSS signals, who is responsible or liable for damage caused to passengers or any third parties on the ground? Could a GNSS provider be released from its civil liability by the doctrine of State Immunity if the provider is a public authority?

The research explores whether current international law can ensure that parties suf-

fering damage get fair, prompt and adequate compensation while balancing the interests of GNSS industry to maintain its sustainable development. If so, how does international law apply in cases related to GNSS civil liability? If not, where is the legal gap, and how should we move forward?

Kong concludes that the issue of GNSS civil liability is not in a legal vacuum, but neither international air law nor international space law presents much success on the adequacy of victims' compensation and fairness in the allocation and channel of civil liability. To deal with such international civil liability, only an international legal framework can ensure equitable and uniform compensation for all persons affected, irrespective of the State to which they belong. Therefore, the parallel cooperation of all relevant international organizations such as the International Civil Aviation Organization (ICAO) and the International Maritime Organization (IMO) is required. The research offers a feasible roadmap to achieve an international solution for the issue of GNSS civil liability, and this roadmap can be adapted by relevant international organizations and States.



The Hague Space Resources Governance Working Group

The International Institute of Air and Space Law continues to host The Hague International Space Resources Governance Working Group, established in 2015 with support from the Dutch government. The objective of the Working Group is to assess the need for a regulatory framework for space resource activities, as well as, in case of need, to lay the groundwork for the development of such a regulatory framework. The current 2nd phase ends in December 2019.

The Working Group is hosted by a consortium of organizations representing all continents. It has approximately 35 members and more than 40 observers. They represent governments, international organizations, space agencies, industry, and academics from various disciplines. So far, 5 bi-annual face-to-face meetings were held in Leiden and 1 in Luxembourg. The Working Group is recognized as a valuable informal international multi-stakeholder forum to discuss space resource governance issues and reports are submitted each year to the UN Committee on the Peaceful Uses of Outer Space by the delegate of The Netherlands. In 2017, the Working Group agreed on the 'Draft Building Blocks for the Development of an International Framework on Space Resource Activities' and these were opened for comments for one year. They will be finalised during 2019, the last year of operations. A Commentary about the Building Blocks will also be prepared and published. See [here](#) for more information.



Photos: Moon by Flickr user amesuke. Used under the Creative Commons Licence 2.0.

Kalshoven-Gieskes Forum on International Humanitarian Law

Lecture to commemorate both the work and life of Prof. Frits Kalshoven

The Kalshoven-Gieskes Forum on International Humanitarian Law (KGF), together with the T.M.C. Asser Instituut's International Humanitarian and Criminal Law (IHCL) Platform, and The Hague Initiative for Law and Armed Conflict (HILAC) organized a lecture on 16 January 2018 to commemorate both the work and life of Prof. Frits Kalshoven, who passed away on 6 September 2017 at the age of 93. Frits Kalshoven was Professor Emeritus of Public International Law and of International Humanitarian Law at Leiden University and he was instrumental in the development of the field of IHL. KGF Director Dr Robert Heinsch provided an overview of the work of Prof. Kalshoven, and of his life as a wonderful, humble, friendly, and knowledgeable person.

Annual Symposium on IHL of the Netherlands Red Cross Student's Desk Leiden

On 7 February 2018, Ms Sofia Pouloupoulou (LL.M.), PhD fellow at the Kalshoven-Gieskes Forum, opened the annual Symposium on International Humanitarian Law of the Netherlands Red Cross Student's Desk Leiden. Sofia gave an introduction to International Humanitarian Law, and spoke on the origins of this field of law, its most important principles, and the applicability of IHL to certain situations.

Anniversary of the Prof. mr B.M. Telders International Law Society

KGF Director Dr Robert Heinsch gave a lecture on contemporary challenges in the field

of International Humanitarian Law during the anniversary of the Prof. mr B.M. Telders International Law Society ('Volkenrechtelijk Dispuut Prof. mr B.M. Telders') in February 2018. The Telders Society commemorated its former honorary chair Professor Frits Kalshoven, who passed away in 2017.

Frits Kalshoven Competition on IHL 2018

During the 2018 Frits Kalshoven Moot Court Competition on International Humanitarian Law, Leiden University's team won the second place, and received the award for best role play. The pleadings focused on naval warfare, and the team was coached by Mr André Nwadike, LL.M., guest researcher at the Kalshoven-Gieskes Forum.

International Humanitarian Law Clinic at the Institute for the Law of the Peace and Armed Conflict (IFHV) at Bochum University, Germany

KGF Director Dr Robert Heinsch initiated a new International Humanitarian Law Clinic at the Institute for the Law of the Peace and Armed Conflict (IFHV) at Bochum University, Germany, as of April 2018. Like the IHL Clinic in Leiden, the Bochum IHL Clinic enables selected students to learn through experience by applying legal theory to real-world situations. Students conduct research on projects for real-life cooperation partners in the humanitarian field, such as the International Committee of the Red Cross, the German Red Cross, and other humanitarian organisations.

Grotius Dialogue: "Human Rights Fact Finding in the Digital Age: Beyond 'Opportunities and Challenges'"

Dr Emma Irving presented her research on "Human Rights Fact Finding in the Digital Age: Beyond 'Opportunities and Challenges'" during a Grotius Dialogue on 24 April 2018. The research focuses on the intersection between technology and international accountability. One strand of this research examines how the increased use of digital tools in human rights fact finding and international criminal justice will lead to a greater privatisation of evidence, which will produce difficult legal challenges. Another strand of the research looks at how data protection regimes will affect the work of fact-finding and criminal justice actors. A team of students of the Leiden IHL Clinic has simultaneously been conducting research on human rights fact-finding and technology, under the supervision of Dr Irving.

Panel discussion on "Righting the Balance Defence Perspectives on International Criminal Justice"

On 29 May 2018, Mr André, former guest researcher and project coordinator with the KGF, and Mr Nicholas Ortiz, who fulfilled this position at the Forum in spring 2018, organized a panel discussion on "Righting the Balance Defence Perspectives on International Criminal Justice". As part of the Supranational Criminal Law Lecture Series, the focus of this panel was to draw from the experiences of leading international criminal law practitioners and scholars, and explore the under-examined defence perspective on international criminal justice.

Grotius Dialogue: "A Bull in a China Shop: The Impact of the ICC Decisions on Jurisdiction on the Disputes over State Sovereignty and Borders"

Dr Luigi Prosperi, former senior guest researcher and project coordinator of the KGF

presented his research on “A Bull in a China Shop: The Impact of the ICC Decisions on Jurisdiction on the Disputes over State Sovereignty and Borders” during a Grotius Dialogue on 29 May 2018. Dr Prosperi’s research focuses on the under-explored risks related to the exercise of International Criminal Court’s Kompetenz-Kompetenz (or jurisdiction over its own jurisdiction) in relation to ad hoc declarations involving non-Party States. He paid particular attention to the reactions of the non-Party States affected by the assessments provided by the first two Prosecutors in relation to Palestinian statehood and Ukrainian territorial boundaries testify of the sensitiveness of this matter.

Monthly inspirational working session organised by The Spindle and Humanity X

On 26 June 2018, as part of monthly inspirational working session organised by The Spindle and Humanity X (Centre for Innovation, Leiden University), one of the Leiden IHL Clinic Teams launched their report, titled “Towards a Responsible Approach to Data”. The KGF’s IHL Clinic team discussed their findings and how the report they prepared for our cooperation partner OAM Consult can serve as a platform for organisations to understand better what a responsible approach to data entails. The launch will be part of a larger discussion on the future of data literacy. The audience engaged with the team and presented several questions on their findings. KGF guest researcher Mr. Nicholas Ortiz, LL.M., Dr Emma Irving as well as KGF Director Dr Robert Heinsch undertook the supervision of the report.

IHL in Theory & Practice Summer School 2018

In July 2018, the annual IHL in Theory &

Practice Summer School took place in The Hague. The participants were welcomed by the hosts for the week, Ms. Mirjam de Bruin (Representative of the Netherlands Red Cross) and Dr Robert Heinsch (Director KGF Leiden). Keynote speaker Judge Fausto Pocar spoke on the past, the present and the future of IHL, followed by a lecture on the classification of conflicts within the framework of IHL by Ms Sofia Pouloupoulou, LL.M., Ph.D. candidate with the KGF.

Prof. Horst Fischer (Leiden University) gave a lecture on the protection of the civilian population during armed conflict, and Mr Jeroen van den Boogaard (Assistant Professor Military Law at the Netherlands Defence Academy) spoke on combatants and prisoners of war. Ms. Julie Tenenbaum, Regional Legal Adviser to the ICRC delegation in Paris, discussed the role of the ICRC in the dissemination of IHL. The Summer School participants heard lectures on the conduct of hostilities by Prof. Terry Gill (UvA), and on targeting by Prof. Paul Ducheine (Netherlands Defence Academy). Ms. Wieteke Theeuwes (Ministry of Foreign Affairs of The Netherlands) discussed the law of non-international armed conflict, followed by Dr Giulio Bartolini (Roma Tre University), who gave a lecture on humanitarian assistance and disaster response law, and Prof. Helen Duffy (Leiden University), who taught the participants on the interplay between IHL and human rights law. Ms. Mirjam de Bruin (Representative of the Netherlands Red Cross) gave a lecture on the enforcement and implementation of IHL, followed by a lecture by Dr. Robert Heinsch (KGF) on the interplay between IHL and international criminal law. The Summer School participants visited the headquarters of the Netherlands Red Cross in The Hague, the International Criminal Court, and engaged in a lively paintball simulation of armed conflict, during which they had to apply

IHL in practice. The Summer School concluded with a moot court on issues of IHL and international criminal law.

IHL Clinic presentation to the European Center for Constitutional and Human Rights (ECCHR)

On 2 July 2018, four LL.M. students of one of our IHL Clinic teams, along with their supervisor, travelled to Berlin for the purpose of presenting their research and report on a particular project to a KGF cooperation partner – the European Centre for Constitutional and Human Rights (ECCHR). The team had diligently collaborated over several months to carry out this research in the fields of IHL and international criminal law under the supervision of KGF guest researcher Ms. Kaetlin Gale LL.M., and Dr Joseph Powderly, as well as by Dr Robert Heinsch.

Round table of University Professors of IHL from Central and South-Eastern Europe

On 19-20 November, KGF PhD fellow Ms. Sofia Pouloupoulou, LL.M., participated in the round table of University Professors of IHL from Central and South-Eastern Europe. The round table took place in Ljubljana, Slovenia and was organized in the framework of the All-European International Humanitarian and Refugee Law Moot Court Competition. Sofia presented the value of clinical legal education as a tool to teach and disseminate IHL with examples from the practice and experience of the Forum’s IHL Clinic.

Winter term IHL Clinic: IHL in Action project

After the “IHL in action: Respect for the law on the battlefield” database launched a series of new case studies that have been prepared by former KGF clinic students, the winter

term IHL Clinic in 2018 continued its work on finding new case studies for the database. The database (<https://ihl-in-action.icrc.org/>) is hosted by the International Committee of the Red Cross, and it compiles real life instances of compliance with IHL. In the winter term 2018-19, the research was conducted by the Leiden IHL Clinic in cooperation with several other clinics, under the supervision of KGF PhD fellow Ms. Sofia Pouloupoulou, LL.M., former KGF guest researcher Mr. Daniel Møgster, as well as KGF Director Dr. Robert Heinsch.

IHL Clinic Exchange Conference in Rome

The Kalshoven-Gieskes Forum's IHL Clinic students, their supervisors, and the Clinic's director Dr. Robert Heinsch attended the annual IHL Clinic Exchange Conference in Rome, to meet with students from the KGF's partner IHL Clinics, Emory Law School (USA), IDC Herzliya (Israel), and Roma Tre University (Italy). This year, the Conference was hosted by the Roma Tre IHL Clinic and its Clinic Director, Dr. Giulio Bartolini. Between 16 and 20 December 2018, the four Clinic delegations discussed and presented their current Clinic projects, and engaged in discussions on IHL among themselves and with invited speakers during panel discussions. The students were able to hear a key note speech by Judge Fausto Pocar on an assessment of the ICC at 20 years of its existence and other international criminal justice experiences. They visited the World Food Programme, where they learned about challenges to humanitarian assistance in armed conflicts. Furthermore, the conference participants engaged in panel discussions on contemporary challenges to IHL, such as the classification of non-international armed conflicts, the legal qualification of counter-terrorism operations, and the applicability of IHL for the conduct of unidentified armed groups.

Further discussions focused on emotive language and the affective regulation of armed conflict, and reconstructing the discourse of IHL from a comparative approach, focusing on Islamic Law. The Italian Air Force gave an introduction of its activities with a special focus on the role of legal advisors, and conducted a targeting exercise with the Clinic students. Further stakeholder perspectives were presented by representatives of NATO, the Italian Navy and the UN Department for Peacekeeping Operations, as well as by Amnesty International and the Holy See. During the visit of the Rome Military Court of Appeal, students heard perspectives on international and domestic criminal prosecution for violations of IHL, and were hosted by the Swiss Embassy for a reception. The conference was furthermore attended by IHL lecturers from all over the world, who travelled to Rome in order to get insights and learn best practices on how to set up an IHL Clinic by engaging with the four Clinic Directors from Leiden University, Emory Law School, IDC Herzliya and Roma Tre.

Massive Open Online Course (MOOC): IHL in Theory and Practice

In November 2018, The Kalshoven-Gieskes Forum, together with Leiden University's Centre for Innovation, launched its first Massive Open Online Course (MOOC) on "International Humanitarian Law in Theory and Practice", which is hosted on the online learning platform Coursera. The production of the MOOC was initiated by KGF Director Dr. Robert Heinsch, and it seeks to share the KGF's experience in teaching and disseminating IHL to a broader audience, and hereby responding to the demand for high-quality teaching courses in IHL. The targeted audience are not only learners who are interested in humanitarian law but do not have the chance to enroll in one of our courses at Leiden Law School, but

also practitioners like journalists, soldiers or humanitarian aid workers who want to refresh their knowledge of IHL, or want to get further detailed information. Through this MOOC, the KGF seeks to contribute to the further dissemination of IHL on a global scale, and help to ensure that IHL is respected, implemented and enforced wherever armed conflict situations are encountered.

The IHL online course consists of five modules which cover (a) an introduction into the history and basic principles of IHL, (b) the scope of application of IHL, (c) the rules governing the conduct of hostilities, (d) the rules protecting the persons not actively participating in hostilities, and (e) the implementation and enforcement of IHL. The MOOC offers a unique combination of high-quality video lectures by Dr. Robert Heinsch, Dr. Emma Irving, and Dr. Giulia Pinzauti, expert contributions from leading academics and practitioners, practical exercises, insights into current conflict situations, and the possibility to easily learn the rules governing the law of armed conflict in a very short time at learners' own learning pace. Learners can engage in discussions with other students, and can solve the fictitious Arfula case study, applying their theoretical knowledge directly. The format of the MOOC seeks to stimulate the participants on various levels and ensure that the learning process is as active as possible.

The MOOC joins the Grotius Centre's collection of three other MOOCs on international arbitration, international criminal law, and international courts and tribunals in The Hague. It is taught in English, and free of charge – although a paid certificate option is available. During the first 3.5 months since it has been launched, the MOOC has attracted 26.000 visitors and almost 6.000 enrolled learners from all over the world.

Robert Heinsch and Johanna Trittenbach

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