

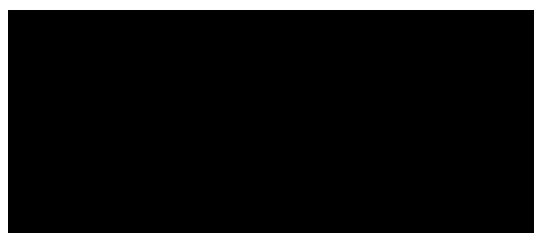
Course manual
Joint Master's Programme in
International Humanitarian Action

University of
Groningen

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International Law in Humanitarian Action

**semester 1, block 2, 2015-
2016**



**Module
coordinator:**

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can also approach the office during office hours (9:00 – 18:00)

Lecturers:

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office location: Office room nr. 1314-0312
office hours: Appointments with students by e-mail. Students
can also approach the office during office hours (9:00 – 18:00)

Credits awarded: 5 ECTS, equivalent to 140 work hours (1 ECTS = 28 hours)

Period: First semester, block 2 (November 2015 – January 2016).

Venue & hours: **A902** 10:00-13:00, unless indicated otherwise

1. Introduction

International law provides the guidelines for states and other non-state actors to operate on the international arena. Although international law is mainly aimed at regulating the conduct of states in a consensual way, it has developed in the last 60 years an impressive amount of rules that recognize the growing role for organizations, groups and individuals operating in the humanitarian sphere. New rules guiding the way states should behave, and protecting individuals and vulnerable groups have been adopted, shaping international law further into a legal framework that, albeit different from the national legal order, enables actors in humanitarian action to provide assistance in situations of conflict or disaster.

2. Learning outcomes

The course aims at providing a general overview of international law with a particular emphasis on human rights law and international humanitarian law.

Learning outcomes of the NOHA network for International Law in HA:

- Acquire a good understanding of the basic concepts of International Law.
- To be able to identify different aspects of International Law and its implications for humanitarian action.
- To develop the ability to apply key legal instruments.
- To develop the principal skills for applying mechanisms of dispute settlement.
- To be able to convince as far as legal argumentation in HA is concerned.
- To obtain a clear understanding of the limits in applicability of International Law.
- To develop the capacity to introduce personal responsibility.

3. Course material

Jan Klabbers, International Law (Cambridge University Press 2013, or most recent edition)
Elementary International Law (Asser Press, 2015).

Recommended (non-mandatory books) are:

Malcolm Shaw, *International Law* (Cambridge University Press, 2014 (the 2009 edition is also fine)),

Hans-Joachim Heintze and Andrej Zwitter [eds.], *International Law and Humanitarian Assistance* (Springer, 2011).

Additional reading material is available through Nestor. The lecturer will indicate which reading material available through the electronic learning environment is compulsory and could be covered by the exam.

4. Teaching and learning methodology

The teaching will be carried out through lectures, and will have an interactive nature wherever possible. There are no individual assignments for this course.

5. Programme and training activities

Week 1

Thursday 19 November 2015 10:00 – 13:00, Room A902

Introduction to International Law

The lecture will focus on the historical background of international law, its relevance on humanitarian assistance and the relevant fields of international law that are of particular importance for the course. The lecture will provide a glance at the relevant sources of international law and some of the most important principles that ensue from them.

Reading material:

Klabbers, Chapters 1 – 3 and Chapter 16 (p. 287 – 297 and 299 – 303); if you wish you may also read Chapters 17 and 18.

Cases:

- ICJ - North Sea Continental Shelf cases (p. 413 2013 Asser's Elementary International Law)
- ICJ - Case Concerning the Military and Paramilitary Activities (Nicaragua v. US) (p. 431 2013 Asser's Elementary International Law)
- ICJ - Case Concerning Delimitation and Territorial Questions between Qatar and Bahrain (p. 440 2013 Asser's Elementary International Law)
- ICJ – Advisory opinion on Legality of the Threat or use of Nuclear Weapons (p. 562 2013 Asser's Elementary International Law)

Week 2

Thursday 26 November 2015 10:00 – 13:00 Room A902 + Guest lecture (to be confirmed)

Subjects of International law + jurisdiction and immunities

States, international organizations, multinational companies, NGOs and individuals are all actors whose actions have an impact in international law. However, only few of these actors are considered to be real subjects of international law. The lecture will address the issue of legal personality under international law, the creation of states, the concept of jurisdiction, and the issues of immunity and sovereignty. In addition, attention will be paid to the status of non-state actors under international law. Finally, the lecture will address the issue of jurisdiction and immunities dealing with questions such as can a state apply its own law when it acts abroad, and to what extent are state officials and representatives immune from prosecution for eventual

illegal acts they commit.

Reading material:

Klabbers, Chapters 4 and 5

Cases:

- ICJ - Advisory opinion on Reparation for Injuries Suffered in the Service of the United Nations (p. 552 2013 Asser's Elementary International Law)
- ICJ – Advisory opinion on Legality of the Use by a State of Nuclear Weapons in Armed Conflict (WHO/Nuclear Weapons Case) (p. 575 2013 Asser's Elementary International Law)
- ICJ - Case concerning the Arrest Warrant of 11 April 2000 (DRC v. Belgium) (p. 460 2013 Asser's Elementary International Law)
- ICJ – Case on the Jurisdictional Immunities of the State (Germany v. Italy; Greece intervening) (p. 535 2013 Asser's Elementary International Law)

Week 3

Thursday 3 December 2015 14:00 – 17:00 Room A902 (To be confirmed)

International Law enforcement in case of violations by states

During this lecture, attention will be paid to the mechanisms available to states in order to respond to violations of international law norms by other states. The concept of state responsibility for international wrongdoing will be discussed. This will be followed by a discussion of the resort to the use of force to settle disputes as well as the peaceful means (diplomatic and judicial means) of settling disputes among states.

Reading material:

Klabbers, Chapters 7, 8, 9 and 10.

Cases:

- ICJ - Case Concerning United States Diplomatic and Consular Staff in Tehran (USA v. Iran) (p. 418 2013 Asser's Elementary International Law)
- ICJ - Case Concerning the Military and Paramilitary Activities (Nicaragua v. USA) (p. 431 2013 Asser's Elementary International Law)
- ICJ - Case Concerning Oil Platforms (Islamic Republic of Iran v. USA) (p. 484 2013 Asser's Elementary International Law)
- ICJ - Case Concerning Armed Activities on the Territory of the Congo (p. 495 2013 Asser's Elementary International Law)
- ICJ – Case on the Application of the Convention on the Prevention of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro) (p.515 2013 Asser's Elementary International Law)

Week 4

Thursday 10 December 2015 10:00 – 13:00 Room A902

General intervention in crisis and emergency situations under International Law

Under international law States are obliged to respect the sovereignty and the territorial and political integrity of other States. When internal conflicts arise, such as the crises in Libya and Syria, world opinion is always divided as to whether it would be legally possible or mandatory to use force and intervene in those conflicts in order to protect the human rights of the populations and provide humanitarian assistance. A number of justifications for intervention have been provided under international law: intervention with consent of State involved, intervention for democratic purposes or to rescue foreigners abroad, humanitarian intervention, and intervention based on the Responsibility to Protect (R2P) concept.

Reading material:

Klabbers, Chaptr 10.

Cases:

- ICJ - Case Concerning United States Diplomatic and Consular Staff in Tehran (USA v. Iran) (p. 418 2013 Asser's Elementary International Law)
- ICJ - Case Concerning Armed Activities on the Territory of the Congo (p. 495 2013 Asser's Elementary International Law)

Other reading material to be made available through NESTOR.

Week 5

Thursday 17 December 2015 10:00 – 13:00 Room A902

Human Rights in Peace and War

The rise of human rights in the second half of the twentieth century has been quite astounding. Before World War II the individual had barely any form of protection against abuses by states. However, since the adoption of the Universal Declaration of Human Rights in 1948, the world has witnessed the increase in protection for the rights of individuals and groups. Mechanisms at the international and regional levels have been adopted to providing protection and avenues of redress for alleged violations of human rights. The lecture will discuss the various types of human rights (civil and political rights, and economic, social and cultural ones), the bodies entrusted with monitoring their implementation by states and the procedures available for their protection.

Reading material:

Klabbers, Chapter 6 and additional material to be provided through NESTOR

Cases:

- ICJ – Advisory opinion on Legality of the Threat or use of Nuclear Weapons (p. 562 2013 Asser's Elementary International Law)
- ICJ - Advisory opinion on Legal Consequences of the Construction of a Wall in Occupied Palestinian Territory, (p. 578 2011 Asser's Elementary International Law)
- ECtHR – Loizidou v. Turkey (p. 634 2013 Asser's Elementary International Law)
- ECtHR – Al-Skeini v. UK (NESTOR)

Other legal materials in NESTOR:

- UN Human Rights Committee – General Comment No. 31 on the Nature of the Legal Obligations imposed on States Parties to the Covenant
- UN Committee on Economic, Social and Cultural Rights – General Comment No. 3 on the Nature of the Legal Obligations imposed on States Parties to the Covenant
- UN Committee on Economic, Social and Cultural Rights – General Comment No. 12 on the right to food (Art. 11 ICESCR)
- UN Committee on Economic, Social and Cultural Rights – General Comment No. 14 on the right to the highest attainable standard of health (Article 12 ICESCR)
- UN Committee on Economic, Social and Cultural Rights – General Comment No. 15 on the right to food (Art. 11 and 12 ICESCR)

Week 6

Thursday 7 January 2016 10:00 – 13:00 Room A902

International Humanitarian Law (IHL)

Although it seems difficult to fathom, the way states conduct their activities during armed

conflict is subjected to stringent rules. The applicability of IHL, its purpose and the general principles governing it will be discussed. States have adopted rules that protect combatants from needless suffering and rules that protect those who have been captured during combat. IHL has also devised rules that protect civilians during an armed conflict. The different rules pertaining to combat activities and the concept of armed conflict will be reviewed as well as the different actors who are allowed to participate in situations of armed conflict.

Reading material:

Klabbers, Chapter 11 and Chapter 12 (in particular p. 219 – 227)

Academic papers:

- Fenrick, W., "ICRC Guidance on Direct Participation in Hostilities," Yearbook of International Humanitarian Law, Vol. 12 (2009), p. 287 - 300 available online at: <http://dx.doi.org/10.1017/S1389135909000105> (only accessible from within Groningen University network) ;
- Sassòli, M. "The Implementation of International Humanitarian Law: Current and Inherent Challenges," Yearbook of International Humanitarian Law, Vol. 10 (2007), p. 45 – 73 available online at: <http://dx.doi.org/10.1017/S1389135907000451> (only accessible from within Groningen University network);
- and additional material to be provided through NESTOR

Week 7

Thursday 14 January 2015 10:00 – 13:00 Room A902

International Law for Humanitarian Assistance

This lecture will discuss the various scenarios and rules under international law applying to the humanitarian assistance on the ground. The relevant rules protecting humanitarian relief personnel will be reviewed together with a discussion of the role of the ICRC.

Reading material:

- Mackintosh - "The politics of principle- the principles of humanitarian action in practice" available in NESTOR (Additional Materials ->Literature->Humanitarianism->Humanitarian Action Generally);
- Stoffels - "Legal regulation of humanitarian assistance in armed conflict - achievements and gaps" (ICCR Review) available in NESTOR (Additional Materials ->Literature->Humanitarianism->Humanitarian Action in Armed Conflict);
- Dinstein - "The Right to humanitarian assistance" available in NESTOR (Additional Materials ->Literature->Humanitarianism->Humanitarian Action in Armed Conflict)
- Additional material will be provided through NESTOR

Exam week

Thursday 21 January 2015, 10:00 – 13:00 Room TBA.

6. Workload

[Please provide over here a calculation of the student's workload for this module. The total workload should not be higher than the amount of ECTS awarded (1 ECTS = 25 hours). The calculation also gives an indication to the student on how much time he or she should dedicate to the different parts of the module in order to prevent mistakes in time management. Although there aren't strict guidelines on how to calculate the workload of a module, the following might be of help to get an approximation of a realistic workload calculation (N.B.: it is ultimately the

lecturers' decision how the workload should be calculated):

- *For a Master student, the reading and study velocity can be considered 6-7 pages per hour, depending on the difficulty of the material.*
- *For one hour of class, two workload hours should be considered in order to include preparation, studying and processing its content.*
- *To write 1200 words for a thesis, paper or assignment (including collecting and processing data), approximately 1 ECTS of workload could be calculated, depending on its degree of difficulty.]*

7. Assessment methods

The exam will consist of a number of essay questions based on the various topics discussed during the course. Please be aware that in order to be able to do a second chance exam if you need to, you should come to the first chance exam and attempt to answer the exam questions. In the event you are not able to attend the first chance exam you need to demonstrate a valid reason for non-attendance, such as a certificate from a medical doctor. No-shows without a valid reason forfeit the possibility of doing the second chance exam and you will have to redo the course again.

8. Assessment criteria

The exam will try to assess the passive knowledge of the contents of the course, and also the applicability of this knowledge to a case type of situation. More specific, the criteria of assessment entail the degree of knowledge international law in general (including the concepts of sources of international law, subjects of international law, state responsibility and jurisdiction, the use of force under international law, human rights law, the rules about non-intervention under international law and those pertaining to international humanitarian law), as it is relevant to humanitarian action in particular, and the degree of skill in applying this to a concrete situation.

Grading of the exam will take place based on the following criteria:

- Correct understanding of the relevant concepts of the branches of international law discussed during the lectures (f.e. statehood, state responsibility, immunity of state, international legal personality, self-defence, vertical/horizontal effect of human rights, positive and negative obligations, proportionality and necessity, precaution, combatant, etc.): this entails explaining the concepts, providing examples, and where necessary referring to relevant treaty articles and case law
- Correctly applying these concepts to concrete situations

9. Appendices

Not applicable