



International Association of Universities

Course Manual
Joint Master's Programme in
International Humanitarian Action

INTERNATIONAL LAW

University College Dublin
Academic Year: 2016-2017, Semester 1



RDEV40140 International Humanitarian Law

5 ECTS

Lecturers: Dr Rónán McDermott; Dr Heike Spieker

Contact: Dr Rónán McDermott (ronan.mcdermott@ucd.ie)

1. **Module Overview & Learning Outcomes**

This module introduces students to the key concepts and principles of international Law as they relate to humanitarian action. The module is an element of the second component (Core Course, 25 ECTS) of the NOHA Joint Master's Degree in International Humanitarian Action to be completed during the first semester. It is a compulsory part of the curriculum and is a requirement for obtaining the MSc in Humanitarian Action.

The overall objective of the module is to familiarise students with the key legal instruments, concepts and issues of international law as they relate to humanitarian action and to enable them to apply this learning to concrete cases. Relevant bodies of international law addressed by the module include international humanitarian law, international human rights law, refugee law and disaster law. The module envisages the following overall learning outcomes:

- A good understanding of the basic concepts of International Law.
- An ability to identify different aspects of International Law and their implications for humanitarian action.
- An ability to apply key legal instruments.
- The principal skills for applying mechanisms of dispute settlement.
- The ability to convince as far as legal argumentation in HA is concerned.
- A clear understanding of the possibilities and limits to the applicability and enforcement of International Law.
- The capacity to introduce personal responsibility.

2. **Module Delivery**

The module will employ a combination of lectures and problem-based learning to achieve the learning outcomes identified. Students are expected to attend each lecture/seminar having read the advance reading assigned. This will enable students to work collaboratively to address the

questions posed by case studies provided in class. Students are encouraged to engage in classroom exercises.

3. Assessment

This module is assessed on the basis of a two hour unseen written examination.

4. Lecture Schedule & Lesson Plan

1. Topic: Introduction to Legal Methodology and International Law			
Date: 9 th January 2017	Venue E1.17/1.18 Science East	Time: 14.00 - 17.00	Lecturer: Dr Ronan McDermott
<i>Expected learning outcome:</i>			
<ul style="list-style-type: none"> • A good understanding of the basic concepts and principles of public international law. 			
<i>Readings:</i>			
<ul style="list-style-type: none"> • Advance Reading: <ul style="list-style-type: none"> ○ Shaw, M. (2014) <i>International Law</i>, Cambridge, UK: CUP [Chapters 2, 3 & 5] • Optional Reading: <ul style="list-style-type: none"> ○ Shaw, M. (2014) <i>International Law</i>, Cambridge, UK: CUP [esp. Chapters 1 and 4] ○ Cassese, A. (2005) <i>International Law</i>, Oxford: OUP 			
2. Topic: International Human Rights Law I			
Date: 10 th January 2017	Venue 232 Science North	Time: 14.00 - 17.00	Lecturer: Dr Ronan McDermott
<i>Expected learning outcome:</i>			
<ul style="list-style-type: none"> • A good understanding of the basic concepts and principles of international human rights law, especially those elements of most relevance to humanitarian action. 			
<i>Readings:</i>			
<ul style="list-style-type: none"> • Advance Reading: <ul style="list-style-type: none"> ○ Badar, M. (2003) 'Basic principles governing limitations on individual rights and freedoms in human rights instruments', <i>The International Journal of Human Rights</i>, Vol. 7, Issue 4, 63-92 ○ Hesselman, M., & Cubie, D. (2015) 'Accountability for the Human Rights Implications of Natural Disasters: A Proposal for Systemic International Oversight' <i>Netherlands Quarterly of Human Rights</i>, Vol. 33: 1, 9-41. • Optional Readings: <ul style="list-style-type: none"> ○ Alston, P. & R. Goodman (2013) <i>International Human Rights</i>, Oxford: OUP [Chapters 1 & 2] ○ Cassese, A. (2005) <i>International Law</i>, Oxford: OUP [Chapter 19] 			
3. Topic: International Human Rights Law II			
Date: 11 th January 2017	Venue: 1.47 Agriculture Building	Time: 10.00 - 13.00	Lecturer: Dr Ronan McDermott
<i>Expected learning outcome:</i>			
<ul style="list-style-type: none"> • The capacity to determine the duties of states in international human rights law during emergencies. 			
<i>Readings:</i>			

- Advance Reading:
 - McGoldrick, D. (2004) 'The interface between public emergency powers and international law', *International Journal of Constitutional Law*, Vol. 2, 380-429
 - General Comment No. 29, CCPR/C/21/Rev.1/Add.11. [Issued by the UN Human Rights Committee and available online]
- Optional Reading:
 - Shaw, M. (2014) *International Law*, Cambridge, UK: CUP [Chapter 6]
 - P. Alston & R. Goodman, *International Human Rights* (OUP, 2013), pp. 889-901, 978-992, 1003-1009, 1025-1044

4. Topic: International Humanitarian Law I			
Date: 11 th January 2017	Venue: 1.47 Agriculture Building	Time: 14.00 - 17.00	Lecturer: Dr Heike Spieker
<i>Expected learning outcomes:</i>			
<ul style="list-style-type: none"> • The capacity to determine what constitutes an armed conflict from the perspective of international humanitarian law and to distinguish between international and non-international armed conflicts. • A good understanding of the core substantive concepts and key principles of international humanitarian law 			
<i>Readings:</i>			
<ul style="list-style-type: none"> • Advance Reading: <ul style="list-style-type: none"> ○ Shaw, M. (2014) <i>International Law</i>, Cambridge, UK: CUP, Chapter 21 • Optional Reading: <ul style="list-style-type: none"> ○ Cassese, A. (2005) <i>International Law</i>, Oxford: OUP, Chapter 20 ○ D. Fleck (ed.) <i>The Handbook of International Humanitarian Law</i>, Oxford: OUP ○ Kalshoven, F. & L. Zegveld (2011) <i>Constraints on the Waging of War; An Introduction to International Humanitarian Law</i>, 4th edition, Geneva: ICRC [3rd edition available to download on ICRC website] ○ ICRC, <i>International Humanitarian Law: Answers to your Questions</i>, Geneva: ICRC [available on ICRC website] • Additional Resources: <ul style="list-style-type: none"> ○ Harvard Humanitarian Initiative, <i>Core Concepts of International Humanitarian Law</i>: http://hhi.harvard.edu/elearning/core-concepts-international-humanitarian-law ○ Harvard Humanitarian Initiative, <i>Key Principles of International Humanitarian Law</i>: http://hhi.harvard.edu/elearning/key-principles-international-humanitarian-law ○ Harvard Humanitarian Initiative, <i>The Role of Humanitarian Professionals in Promoting Respect for IHL</i>: http://www.atha.se/webcast/role-humanitarian-professionals-promoting-respect-ihl?utm_source=ATHA+Roundup&utm_campaign=ATHA_Podcast_EP52&utm_medium=email 			

5. Topic: International Humanitarian Law II			
Date: 12 th January 2017	Venue: 1.47 Agriculture Building	Time: 14.00 - 17.00	Lecturer: Dr Heike Spieker
<i>Expected learning outcomes:</i>			
<ul style="list-style-type: none"> • The capacity to determine what constitutes an armed conflict from the perspective of international humanitarian law and to distinguish between international and non-international armed conflicts. 			

- A good understanding of the core substantive concepts and key principles of international humanitarian law

Readings: Please see readings for International Humanitarian Law I

6. Topic: Legal Regime of Humanitarian Action in Armed Conflict

Date 13 th January 2017	Venue 1.47 Agriculture Building	Time 14.00 - 17.00	Lecturer: Dr Heike Spieker
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Expected learning outcome:

- A good understanding of how international law protects and constrains humanitarian operations in armed conflict settings.

Readings:

- Advance Reading:
 - Spieker, H. (2011) 'The right to give and receive humanitarian assistance', in H.-J. Heintze and A. Zwitter (eds.) *International Law and Humanitarian Assistance*, Heidelberg: Springer [available online in PDF form]
 - Barber, R. (2009) 'Facilitating assistance in international humanitarian and human rights law', *International Review of the Red Cross*, Vol. 91, 371-387
- Follow up Readings:
 - Gillard, E. (2013) The law regulating cross-border disaster relief, *International Review of the Red Cross*, Vol. 95: 890, 351–382.
 - Brooks, J. (2015) 'Humanitarians Under Attack: Tensions, Disparities, and Legal Gaps in Protection', ATHA Paper [available at: <http://www.atha.se/thematicbrief/humanitarians-under-attack-tensions-disparities-and-legal-gaps-protection>]
- Additional Resources:
 - *Humanitarian Access in Situations of Armed Conflict: Handbook on the Normative Framework*, Swiss Government: Federal Department of Foreign Affairs, Version 2, December 2014
 - ATHA Webcast: *The Protection of Humanitarian Aid Workers Under International Law*, [available at http://www.atha.se/webcast/protection-humanitarian-aid-workers-under-international-law?utm_source=In+Focus%3A+Protection+of+Humanitarian+Aid+Workers+Under+International+Law&utm_campaign=ATHA_Newsletter_Protection+of+Aid+Workers&utm_medium=email].
 - Health Care in Danger, ICRC e-learning module: <http://www.icrcproject.org/elearning/health-care-in-danger2/home.html>

7. Topic: Forced Displacement and International Law

Date: 16 th January 2016	Venue E1.17/1.18 Science East	Time 14.00 - 17.00	Lecturer: Dr Ronan McDermott
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Expected learning outcome:

- A capacity to determine the legal status in international law of forcibly displaced persons.

Readings:

- Advance Reading:
 - Worster, W. (2012) 'The Evolving Definition of the Refugee in Contemporary

International Law', *Berkeley Journal of International Law*, 94-160 [available on the UCD Connect EBSCO Library Database].

- UN Economic and Social Council (ECOSOC), *Guiding Principles on Internal Displacement*, 22 July 1998, E/CN.4/1998/53/Add.2 [available at: <http://www.refworld.org/docid/3c3da07f7.html>]
- Additional Resources:
 - Goodwin-Gill, G. & J. McAdam (2007) *The Refugee in International Law*, Oxford: OUP [especially Chapter 3]
 - Jacobsen, K. (2006) 'Refugees and Asylum Seekers in Urban Areas: A Livelihoods Perspective', *Journal of Refugee Studies*, Vol. 19: 273
 - ATHA Webcast: Climate Change and Displacement: Addressing Protection Gaps, [available at <http://www.atha.se/webcast/climate-change-and-displacement-addressing-protection-gaps>]
 - Commission on Human Rights of the Philippines (2015) *Human Rights Standards on Internally Displaced Persons (IDPs) in the Zamboanga Crisis*, Human Rights Advisory CHR 2014-004
 - Jacques, M. (2012) *Armed Conflict and Displacement: The Protection of Refugees and Displaced Persons under IHL*, Cambridge, UK: Cambridge University Press.
 - Cantor, D. (2013) 'Does IHL Prohibit the Forced Displacement of Civilians during War?', *International Journal of Refugee Law*, Vol. 24: 1, 840 - 846

8. Topic: **Legal Regime of Humanitarian Action in Natural/Technological Disaster Settings**

Date: 17 th January 2016	Venue 232 Science North	Time 14.00 - 17.00	Lecturer: Dr Ronan McDermott
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Expected learning outcomes:

- An awareness of the common legal and regulatory obstacles that can hamper an international relief effort in the aftermath of natural and technological disasters
- A capacity to identify the relevant legal and policy instruments designed to address such legal and regulatory obstacles.

Readings:

- Advance Reading:
 - Fisher, D. (2007) 'International Disaster Relief: A Growing Regulatory Dilemma', *Proceedings of the Annual Meeting (American Society of International Law)*, Vol. 101, pp. 114-118
 - Venturini, G. (2012) 'International Disaster Response Law in Relation to Other Branches of International Law', in de Guttery, A., M. Gestri, G. Venturini (eds) *International Disaster Response Law*, The Hague: T.M.C. Asser Press, 45-64. [Book chapter available online.]
- Optional Reading:
 - Cubie, D. (2011) 'An Analysis of Soft Law Applicable to Humanitarian Assistance: Relative Normativity in Action?', *International Humanitarian Legal Studies*, Vol. 2: 177-215
 - Fidler, D. (2005) 'Disaster relief and governance after the Indian Ocean tsunami: what role for international law?', *Melbourne Journal of International Law*, Vol. 6: 458-473
 - Fisher, D. (2007) *Law and Legal Issues in International Disaster Response*, IFRC: Geneva
 - Hoffman, M. (2003) 'What is the scope of international disaster response law?', *International disaster response laws, principles and practice: reflections, prospects*

and challenges, IFRC: Geneva, 13-20

9. Simulation Exercise and Examination Preparation Seminar

Date: 19 th January 2017	Venue G-01	Time 14.00 - 17.00	Lecturer: Dr Ronan McDermott
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Expected learning outcomes:

- The ability to apply substantive learning concerning different bodies of international law to a concrete case study.