

EFIL Research Programme

Annual Report 2022



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Rechtsgeleerdheid

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Welcome



Dear colleagues,

We are happy to share our 2022 research report. Our output has stayed on course with previous years. We count an impressive number of professional publications. We are delighted to see Eric, Cecily, and Letizia published their books at top publishers. This year, we also witnessed a steady number of book chapters and journal articles, as well as an increasing number of web publications. We are also delighted to see that Leiden University won the World Finals of the Manfred Lachs Space Law Moot Court Competition 2022 and that the Institute of Air and Space Law (IIASL) continued to contribute to the development of aerospace law by actively engaging with researchers and policymakers both within the Netherlands and from abroad.

We are grateful to all EFIL members for their impressive work and their contribution to a vibrant research culture despite the obstacles we have faced. This provides an inspiration for the future. Many thanks to our colleague Ocean Lam for putting together some of the highlights of 2022 in this report, and Laura Pereira for the helpful editing.

Professor Carsten Stahn

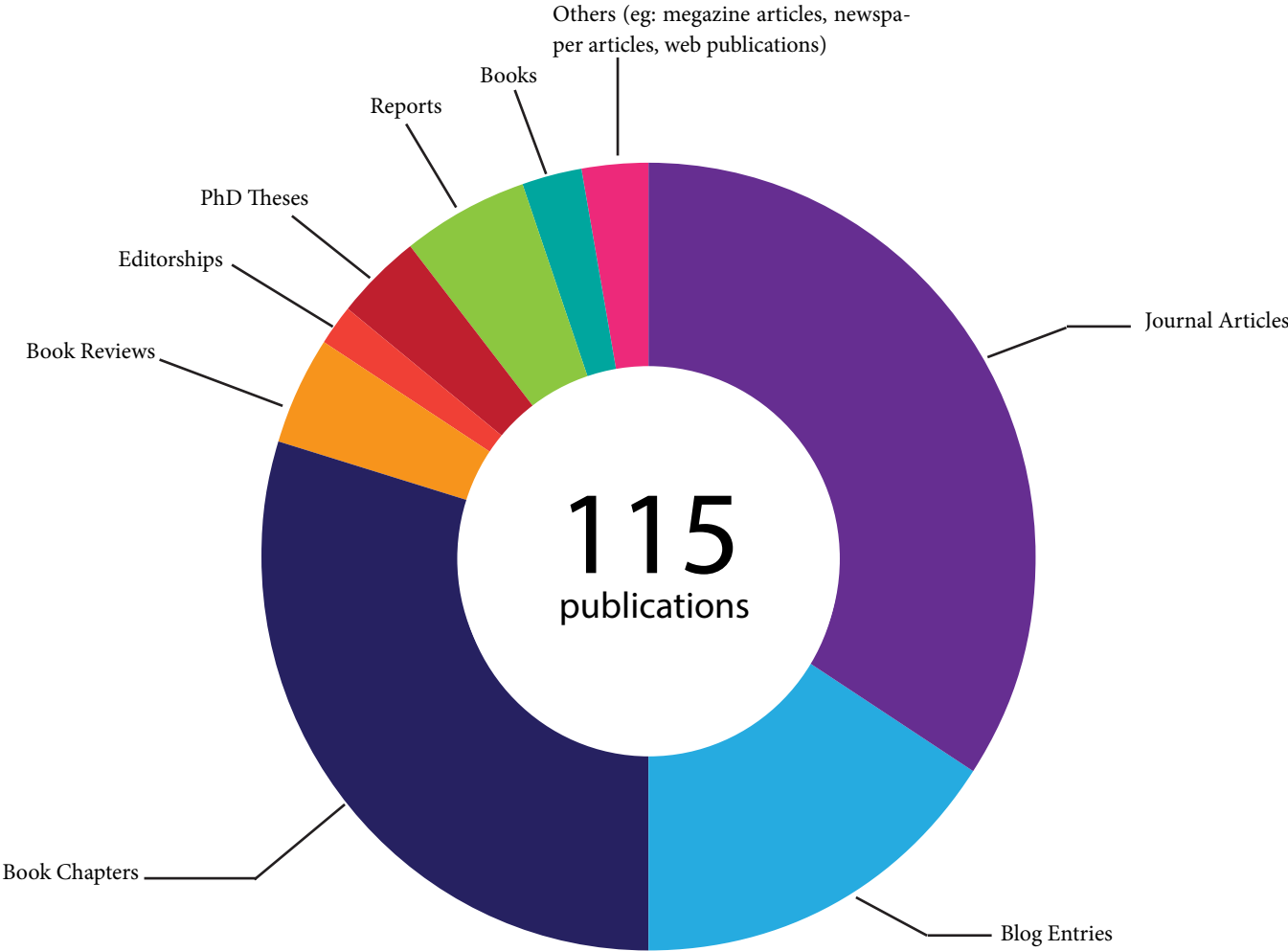
Coordinator, Exploring the Frontiers of International Law Research Programme

Contents

Output Statistics	4
Highlights on Selected Events 2022	8
Grotius Achievements	12
Kalshoven-Gieskes Forum on International Humanitarian Law	14
International Institute of Air and Space Law (IIASL)	16
Grotius Dialogues	19
PhD Defences	20
Book Showcase	22
Grotius Centre Working Papers	27
Publications from 2022	28

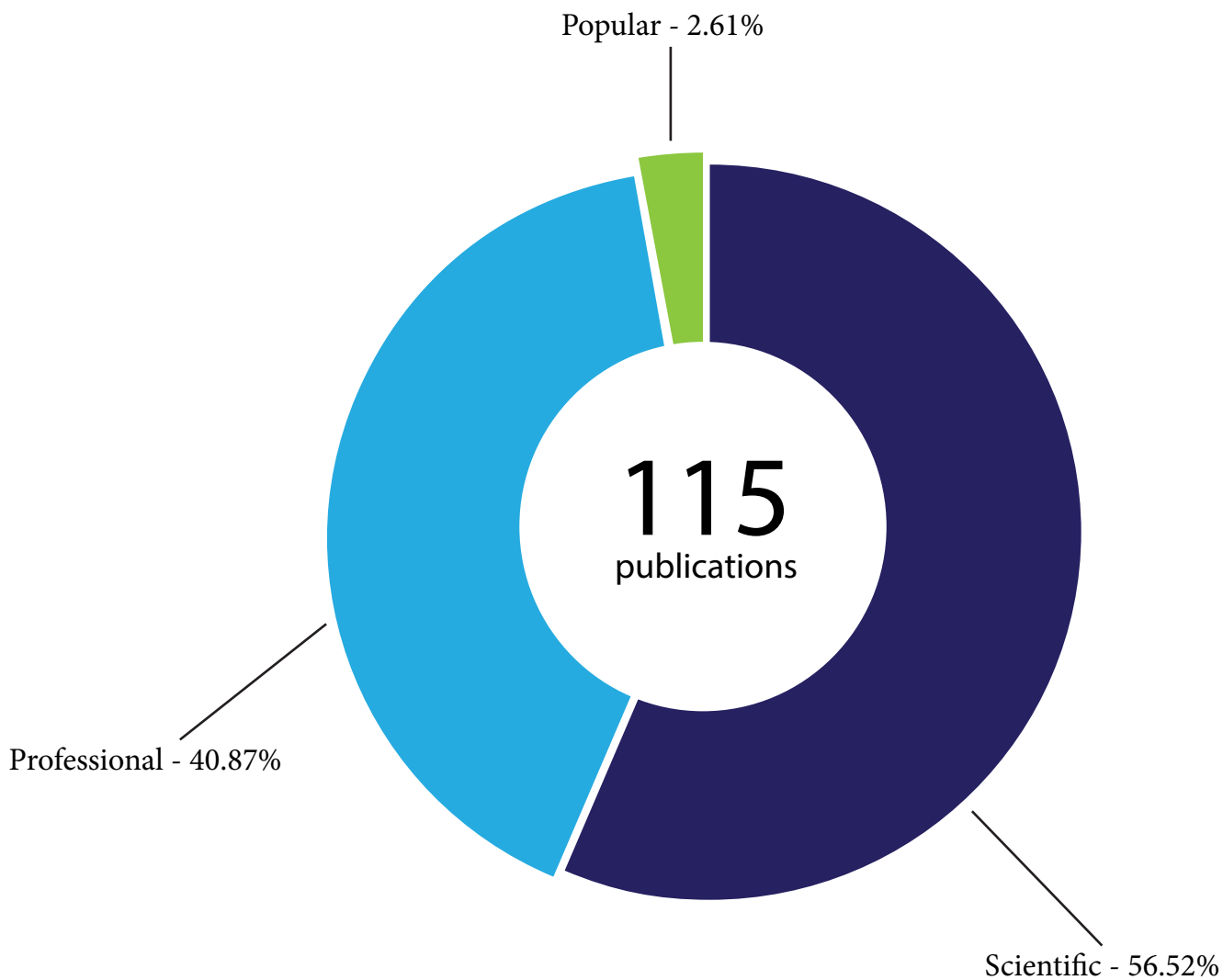
Representation of publication types, 2022

Excluding research activities, such as interviews, lectures, and podcast episodes



Representation of VSNU publication types, 2022

Excluding research activities such as interviews, lectures, and podcast episodes



Percentages of VSNU publication types, historical

Excluding research activities such as interviews, lectures, and podcast episodes

2018



2019



2020

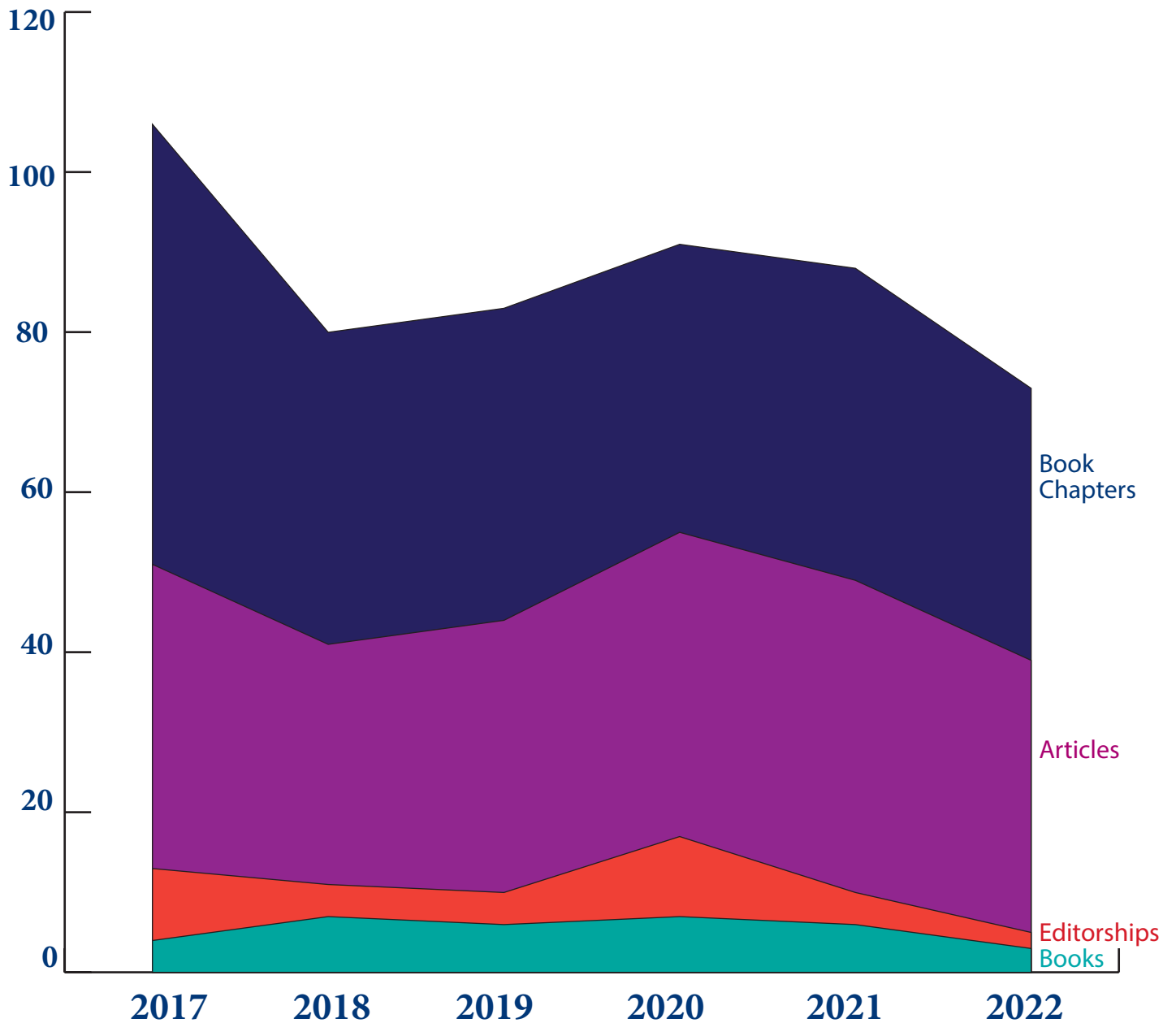
2021



- Scientific
- Professional
- Others
- Popular

Instances of selected publication types

Book Chapters, Articles, Editorships, Books





Highlights on Selected Events 2022

Photo from the conference on 'Filing an Accountability Gap', 06/12/2022

In 2022, the Grotius Centre continued to collaborate with several partners in holding conferences and lectures to instigate the debate addressing contemporary issues of international law, including the war in Ukraine, the challenges posed by global climate change, and the fight against impunity. Here are some highlights from the selected events.

Valedictory lecture by Emeritus Professor Nico Schrijver “Re-Uniting for Peace Through International Law”

On the occasion of his retirement as emeritus Professor of Public International Law, Professor Nico Schrijver delivered his valedictory address, titled ‘Re-Uniting for Peace Through International Law’ on 1 July 2022. In the valedictory lecture, Professor Schrijver strongly called for a more engaging United Nations General Assembly in the situations of Ukraine, Yemen, and Syria to uphold



international law, global values, and collective security.

Filing an Accountability Gap? How a Standing UN Investigative Mechanism Would Further International Criminal Justice

On 6 December 2022, Grotius Centre hosted a conference which discussed the prospects and potential benefits of the creation of a new standing, independent investigative mechanism in the UN system, includ-



ing options for its establishment, competences, and functioning. The panel had brought together distinguished experts to examine the prospects and added value of a standing UN investigative mechanism. The panelists discussed inter alia the lessons and innovations of the existing investigative mechanisms and their broader contribution to the exercise of universal jurisdiction and accountability; the benefits and potential challenges of a standing UN investigative mechanisms, including its relationship to other justice mechanisms (e.g., ICC, domestic jurisdictions) and its benefits for victims; and existing proposals for the creation of a standing UN investigative mechanism and their reception.

The conference was moderated by Professor Carsten Stahn. The panelists included Catherine Marchi-Uhel (Head, International, Impartial and Independent Mechanism for Syria), Stephen Rapp (Senior Fellow, US Holocaust Museum and Oxford ELAC; Former US Ambassador-at-Large for Global Criminal Justice), Federica D'Alessandra (Deputy Director, Oxford Institute for Ethics, Law, and Armed Conflict), Kingsley Abbott (Director for Global Accountability, International Commission of Jurists), and Rayhan Asat (Uyghur Human Rights Advocate; Senior Fellow, Wallenberg Centre for Human Rights). Many students from the Advanced and Regular LL.M. also participated and contributed to the discussion.

Conference 'Justice and Reparation for Victims and Survivors of Genocide'

On 13 May 2022, the Grotius Centre held a high-level event with the French Embassy on 'Obtaining justice and reparations for genocide survivors'. The European Day Against Impunity is an initiative that raises awareness about and promotes actions taken against genocide, crimes against humanity, and war crimes. In recognition of this date, a half-day conference was organized to outline the current issues related to the quest for justice and reparations for survivors of genocide. The Day Against Impunity reminds us that the international community must continue working towards strengthening the system of national and international justice and protection for survivors of genocide, war crimes, and crimes against humanity by ensuring accountability, ending impunity, and assisting survivors in their recovery.

Speakers of this conference included Peace Nobel Prize Winner Nadia Murad, Eamon Gilmore, European Union Special Representative for Human Rights, Alice Wairimu Nderitu,

Special Adviser to the UN Secretary General on the Prevention of Genocide, and Gilbert Guillaume, Former President of the International Court of Justice. The event was closed by Prime Minister Mark Rutte. Professor Stahn and Professor van den Herik served as panel chairs.



the conference hosted with the French Embassy.

Discussion about Promoting Accountability for Atrocity Crimes with US Ambassador-At-Large for Global Criminal Justice

On 24 May 2022, the Grotius Centre hosted a discussion about Promoting Accountability for Atrocity Crimes with Beth van Schaack, US Ambassador-At-Large for Global Criminal Justice and Professor Stahn.



ICC at 20: GRULAC Conference

On 27 June 2022, the Grotius Centre held a conference with the Embassy of Ecuador, and the regional coordinator of GRULAC, to commemorate the 20th anniversary of the entry into force of the Rome Statute.

In 1998, on the occasion of the adoption of the Statute, the Secretary General of the United Nations, Kofi Annan, expressed that the creation of the Court is an offering for future generations and a great step towards a broader recognition of universal human rights and of the international 'rule of law'. The experiences of each region have contributed relevant legal precedents to the institution. Specifically, the ICC has used jurisprudence from regional human rights courts, including the Inter-American Court. The contribution of civil law has been significant, from the preparatory work for the drafting of the Rome Statute to present day. The conferences explored what contributions can the region make to the current challenges of the ICC. During the conferences, regional perspectives were provided by Latin American Judges of the ICC and the President of the Assembly of States Parties. Opening remarks were provided by Professor van den Herik.



Global Transformations and Governance Challenges (GTGC) Conference 2022

Global Transformations and Governance Challenges (GTGC) Conference 2022

On 8 June 2022, the Grotius Centre co-organised the Opening Panel on ICC at 20 at the Global Transformations and Governance Challenges (GTGC) Conference 2022. The panel included ICC Judge de Brichambaut, Professor van Sliedregt, Eveleyn Ankumah, journalist Janet Anderson and former ICC Deputy Prosecutor James Stewart. The panel was moderated by Professor Stahn.

The GTGC Conference aimed to present the wealth of innovative interdisciplinary, cross-faculty research ongoing at Leiden and partner universities concerning governance responses to key global developments of our day. Conference proceedings included high-level roundtables regarding the International Criminal

Court (including opening remarks by the ICC President). Topics included women, peace and security programmes; financing climate change policies; border technologies and migration; regulating algorithms and cryptocurrencies in a global digital society; rethinking human rights in global ecological crisis; grassroots solidarity in the global COVID pandemic; eroding legitimacy of security institutions; and citizen connections to global governance.

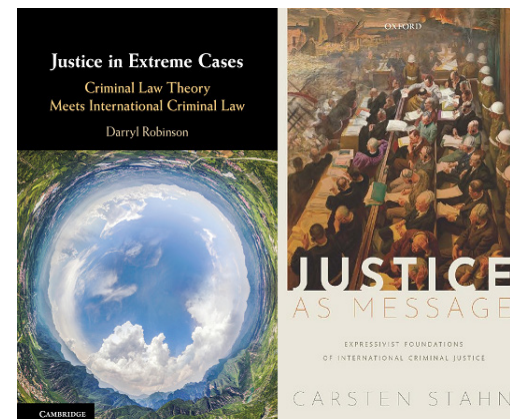
ICC at 20 Conference at World Forum

On 1 July 2022, Professor Carsten Stahn and Leiden students participated in the Conference marking the 20th anniversary of the entry into force of the Rome Statute of the International Criminal Court at the World Forum: International Criminal Court at 20: Reflections on the Past, Present and the Future. Prof Stahn

acted as Conference Rapporteur and will edit the ICC at 20 volume. The conference started with a keynote speech by the Chair of Rome Conference and first ICC President, H.E. Mr. Philippe Kirsch, followed by three substantive panels on various aspects on the Court's work. Speakers included the President, Prosecutor and Registrar of the ICC, the President of the Assembly of States Parties to the Rome Statute, the Chairperson of the Board of Directors of the ICC's Trust Fund for Victims, the President of the International Criminal Court Bar Association, as well leading academics, civil society experts and practitioners.

Book Launch 'Justice as Message' and 'Justice in Extreme Cases' at ICC ASP

On 9 December 2022, Professors Stahn and Robinson held a joint book launch on International Criminal Law as Justice: Foundations and Future Direction at the ICC Assembly of States Parties. The two books were discussed by Judge Luz del Carmen Ibáñez Carranza, Vice President ICC, and Professor Elies van Sliedregt.



Climate Change and International Law: a Joint Initiative of Blue Ocean Law & Grotius Centre

On 20 and 21 June, Blue Ocean Law and the Grotius Centre for International Legal Studies at Leiden University organized a conference on Climate Change and International Law, with an aim to bring together international legal scholars, practitioners, and advocates to explore the role of international law in addressing the climate crisis. The focus of the conference was Vanuatu's ground-breaking initiative to seek an Advisory Opinion on climate change and human rights from the International Court of Justice – including the initiative's rationale, progress to date, and promise for a more just and sustainable future. More broadly, the conference fostered discussion around the various ways in which international law is being brought to bear on climate change, as well as provide strategic and normative guidance for ongoing and future legal initiatives aimed at achieving climate justice.



ICC President Piotr Hofmański, Professor Carsten Stahn and Leiden students at the Conference marking the 20th anniversary of the ICC and the Rome Statute

The Grotius Centre was highly involved in the organization of the conference held in the Peace Palace in the Hague. Eric de Brabandere gave an opening of the conference, followed by an introduction given by Margaretha Wewerinke-Singh. Daniëlla Dam-de Jong chaired the first panel on the Urgenda case and the 'human rights turn' in climate litigation. The second panel, 'Bringing climate change before international courts and tribunals', was chaired by Mamadou Hébié. Other keynote speakers included Freerk Vermeulen, Jennifer Robinson from the Doughty Street Chambers, Jorge Viñuales from the University of Cambridge, H.E. Ambassador Odo Tevi, Vanuatu's Special Envoy on Climate Change and Permanent Representative to the UN, Cristelle Pratt of the Organisation of African, Caribbean and Pacific States, and Laurence Boisson de Chazournes from the University of Geneva.



Photo from the Joint Book Launch on International Criminal Justice at the ICC ASP



Grotius Achievements 2022

Photo from ICC at 20: GRULAC Conference, 27/06/2022

In 2022, our colleagues remained active in research and teaching: Brian McGarry shared his experience moderating the event on third party intervention in the ICJ case of *Ukraine v Russia*; Professor Larissa van den Herik’s research on targeted sanctions had impact on the UN sanction regime; PhD researcher Sophie Starrenburg presented her research on cultural heritage abroad. This year, Daniel Peat was also elected to the Board of the European Society of International Law (ESIL).

Intervening in International Justice: Third States and *Ukraine v Russia*

On 17 August, Brian McGarry moderated the event: “Intervening in International Justice: Third States and *Ukraine v. Russia*.”



When Brian pitched the idea of this webinar a couple weeks prior, his collaborators were skeptical that they would attract much interest in a “procedural’ debate during the dog days of our first post-Covid summer”. “But I had just reached the final

stages of my monograph, *Intervening in International Justice: Third States before Courts and Tribunals*, and had my eyes glued since late July to the trickle of third States which had begun to pour into the International Court of Justice, seeking a voice in *Ukraine’s 2022* case against *Russia*.” Brian got the sense that all kinds of people were suddenly intrigued by the possibilities of procedural law.

There were over 400 people in attendance, including diplomats, counsel, professors, and students. The Grotius Centre achieved this in partnership with the University of Geneva Faculty of Law, and with the endorsement of

the Max Planck Institute Luxembourg for Procedural Law, the European Society of International Law, the African Society of International Law, and Cambridge University Press. The event was co-chaired by Prof. Makane Moïse Mbengue (University of Geneva) and our director Eric de Brabandere.

“Our invited roundtable speakers — Profs. Pierre d’Argent, Beatrice Bonafé, and Hélène Ruiz Fabri — were candid and extremely gracious in accommodating my plans for a lively debate.” Brian gave them a list of 20 prompts beforehand, but did not indicate which ones he would ask, or to whom they would be di-

rected. He wanted an organic discussion that they could push into intriguing places based on unexpected responses — and for this topic and this opportunity, he was eager to put in the preparation required to pull that off. “I’m grateful to have had the confidence of the Grotius Centre, and the trust of our collaborators in this unique and timely event. That was my favorite two hours of work this year!”

Daniel Peat elected to the Board of ESIL

At its 2022 annual meeting in Utrecht, the European Society of International Law elected seven members to the Board of the Society for a term of four years, including Daniel Peat of the Grotius Centre.



As a member of the Board, Daniel will take part in the management of the Society, including, in the first instance, the coordination of ESIL Interest Groups and the ‘greening’ of ESIL activities. More information about the Board and the initiatives that Daniel would like to pursue during his tenure are available here: <https://esil-sedi.eu/intro-to-the-new-esil-board/>, and here: https://esil-sedi.eu/wp-content/uploads/2022/07/Board-candidates-2022_final.pdf.

Professor Larissa van den Herik’s research on targeted sanctions

Professor Larissa van den Herik remained active in presenting her research on UN targeted sanctions at various academic and professional fora.



From 27 to 28 April 2022, Professor van den Herik participated in the organisation of the Greentree retreat on “Enhancing Due Process in UN Security Council Targeted Sanctions Regimes: Ongoing Challenges, New Approaches”, convened by the Graduate Institute, Geneva and Ireland, Norway and Switzerland. The research looks at how an institutional mechanism could be created for either a single sanctions regime or a cluster of related sanctions regimes, building on the foundations established in the Fairly Clear Risks report of 2019. The main aim was to justify the choice of one or a cluster of sanctions regimes for which a context-sensitive review mechanism is designed as a basis for a new proposal to the UN Security Council for enhancing due process in UN targeted sanctions.

On 24 May 2022, Professor van den Herik, together with Professor Peter van Bergeijk from the International Institute of Social Studies (ISS), delivered a keynote lecture: ‘Sanctions as the go-to-tool: do they work and what role for international law?’ at the spring meeting of the Royal Netherlands Society of International Law. Even before the Russian aggression against Ukraine, the stalemate in the UN Security Council increasingly led to a wave of unilateral sanctions. Economic sanctions may seem to have become the instrument of choice to deal with international crises, but the role of the UN Security Council has diminished. Against this background, the lecture discussed the following issues: Do sanctions work at all? What drives their success and failure? Why is coordination of sanctions so difficult? Should international law have a more prominent role in governing sanctions? Importantly, although targeted sanctions remain very present on the sanctions’ menu, there is a trend towards the re-comprehension of sanctions again, and a return to the more comprehensive sanctions of before. What is the future of the sanction

instrument? The lecture took place at the Humanity Hub in The Hague and online via Zoom.

To further her contribution on the related research subjects, Professor van den Herik provided independent advice on public international law to the Dutch Standing Advisory Committee (CAVV) in 2023.

Sophie Starrenburg is active abroad!

From March to June 2022, our Ph.D candidate Sophie Starrenburg was a visiting researcher at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg, Germany. While in Heidelberg, Sophie continued work on her PhD research on balancing between local and global interests within international heritage law. Her visit was funded by an Institute Grant awarded by the Max Planck Institute.



In 2022, Sophie also presented at several conferences in Oxford and Utrecht. She also travelled to Santiago de Chile in December 2022, where she presented at the 2022 Biennial Conference of the Association of Critical Heritage Studies, which took place at Pontificia Universidad Católica de Chile. Her presentation was entitled: ‘Participation as Panacea? Addressing Forced Displacement in International Cultural Heritage Law’.



Kalshoven-Gieskes Forum on International Humanitarian Law

Leiden IHL Clinic students and their supervisors participate in a student exchange conference in Germany

The Kalshoven-Gieskes Forum (“KGF”) on International Humanitarian Law (IHL) and its IHL Clinic are part of the Grotius Centre for International Legal Studies at Leiden Law School. In 2022, the KGF won the Erasmus+ grant to advance clinical teaching through cooperation with several partners!

KGF wins Erasmus+ grant

Associate Professor Dr. Robert Heinsch and his team of IHL Clinic researchers at the KGF have won a prestigious Erasmus+ grant for cooperation partnerships in higher education with the IHL Clinics at Ruhr-University Bochum (Germany) and Roma Tre University (Italy). The successful grant proposal aims at bringing together cutting-edge Research, Education, and Dissemination (“RED”) in the field of International Humanitarian Law (IHL). As such, the con-



sortium has designated itself the IHL RED cooperation.

Objective of the IHL RED cooperation

Through practical legal research in the framework of IHL Clinics, students gain valuable insights into the functioning and needs of international and humanitarian organisations, international courts and tribunals, government institutions, civil society and other actors that work in conflict areas or with victims of armed conflict. In empowering students to acquire new, practically relevant competences, the IHL Clinics shape the new generation of IHL practitioners and offer them better career

prospects, training them as qualified recruits ready to respond to the needs of their professional partners.

The IHL RED cooperation also involves activities to advance the clinical legal teaching method and further disseminate the values of IHL. This includes the organization of conferences dedicated specifically to the advancement of clinical legal teaching and training the trainers, as well as annual student exchange conferences. As one of the first steps of this three-year cooperation, the consortium partners organized their first IHL Clinic Exchange Conference from 26 to 29 June 2022 at Ruhr-University Bochum. Following the theme ‘IHL in Despair? IHL in Action? Perspec-

tives and answers from military, politics, civil society and academia, ten Leiden IHL Clinic students from the adv. LL.M. in Public International Law were able to travel to Germany and have an intensive and stimulating exchange with IHL practitioners and their peers from the two partner universities.

The Kalshoven-Gieskes Forum hosted the IHL Clinic Exchange Conference in Spring 2023, as well as a dedicated IHL Clinic Advancement Conference shortly thereafter to raise awareness among European universities and humanitarian actors of the value of establishing and cooperating with IHL Clinics.

Leiden IHL Clinic Research Projects in 2022

In the spring term of 2022, the Leiden IHL Clinic engaged in two projects, for which students conducted legal research, analysis and legal writing in cooperation with a partner organization.

One IHL Clinic project considered business and human rights law, and was conducted in collaboration with the partner organisation Global Rights Compliance, a Foundation based in the Hague and a global legal partnership of human rights and IHL advisors. The project culminated in the production of the toolkit, 'Remedy in Conflict: A Victim-Centred Approach to Reme-

dy for Business-Related Human Rights Abuses by Extractive Industry Companies.'

The second project conducted by the Leiden IHL Clinic in Spring 2022 dealt with current dialogue among states on the manner in which IHL applies in cyberspace, entitled 'Mapping State Opinions on the Application of International Humanitarian Law to Cyberspace'. The team worked in cooperation with the United Nations Institute for Disarmament Research (UNIDIR) to conduct a thorough mapping of states' opinions on the application of international humanitarian law to cyber space.

In March 2022, the KGF concluded the research project on "Digitally Derived Evidence" ("DDE"), which examines the different legal standards of evidence applicable at various international accountability fora, by the launch of the DDE Database. The DDE database includes the 'Leiden Guidelines on the Use of DDE in International Criminal Courts and Tribunals'. A useful and practical resource for ICL practitioners, the DDE Database is the culmination of the KGF and Leiden IHL Clinic's three-year DDE Project, funded by the Swiss Federal Department of Foreign Affairs and finalized in the 2021-2022 Winter term by a dedicated team of IHL Clinic student researchers.

The DDE research project makes use of the expertise and infrastructure of both the Kalshoven-Gieskes Forum on International Humanitarian Law as well as the Grotius Centre for International Legal Studies at Leiden University. This research project is funded by the Federal Department of Foreign Affairs (FDFA), Switzerland. The database is available here: <https://leiden-guidelines.com>.



The 2022 IHL Clinic Exchange Conference was hosted in Germany and brought together practitioners, academics and students from Bochum University, Roma Tre University, and Leiden University.



International Institute of Air and Space Law

Leiden University Wins the World Finals of the Manfred Lachs Space Law Moot Court Competition 2022

The International Institute of Air and Space Law (IIASL) is one of the leading international academic research and teaching institute specialising in legal and policy issues regarding aviation and space activities. In 2022, the IIASL remained active in hosting moot court competitions, holding conferences and lectures to disseminate knowledge, and promoting research and teaching on aero-space law.

Leiden University wins the World Finals of the Manfred Lachs Space Law Moot Court Competition

The Leiden University team won the World Finals of the Manfred Lachs Space Law Moot Court Competition, which took place in Paris, France, in September 2022 in conjunction with the International Astronautical Congress (IAC). The team also received the Eilene M. Galloway Best Memorial Award. The team was composed of Gabriella Mifsud and Michael Gould, students of the Advanced LL.M. in Air and Space Law, and they were coached by Dimitra Stefoudi, IIASL PhD candidate and Mira Kazlouskaya, IIASL alumna and member

of the previous year's team. The Competition is organised annually by the International Institute of Space Law (IISL). Teams from North America, Latin America, Europe, Africa, and the Asian-Pacific compete in their respective regional rounds. The five regional winners then compete in the World Finals, judged by sitting members of the International Court of Justice. The case involved questions of international space law and international law. The team's participation in the World Finals and the IAC was supported by the European Space Agency (ESA), which sponsors the winner of the European regional round each year.

13th Leiden-Sarin International Air Law Moot Court Competition

The International Air Law Moot Court Competition is co-organized annually since 2010 by IIASL and the Sarin Memorial Legal Aid Foundation in India. The 2022 competition was held online with forty teams worldwide competing, and sixteen teams reaching the semi-finals. Leiden's team consisted of LLM students Shubhamay Dutta, Hao Zhou and Filip Draba and was coached by IIASL PhD candidate Tuvana Aras and IIASL alumnus Ayberk Dülgeroğlu.

Study for DG Defence Industry and Space of the European Commission

Tanja Masson-Zwaan and Dimitra Stefoudi undertook a study on the national space regulatory framework of the US and France for the European Commission's Directorate-General Defence Industry and Space (DG DEFIS). In this context, they identified and analysed the laws and policies of the US and France in the field of licensing national space activities. They performed a comparative analysis of the two regimes and presented conclusions on their impact on space traffic management (STM) and space situational awareness (SSA).



International Astronautical Congress in Paris, 2022

Tanja Masson-Zwaan and Dimitra Stefoudi attended meetings, chaired sessions and presented papers at the annual International Astronautical Congress in Paris, France. Several alumni also attended.



Final conference of the EU Spaceways project

In June, the EU H2020 project "Spaceways" on space traffic management, in which IIASL was a partner, was concluded with a conference in Brussels. After presenting the project's rationale, the final recommendations related to (a) the European policy and regulatory framework for STM, (b) the building of SSA/SST capabilities, products and services for future STM needs, and (c) the way forward for STM

were summarised. This successfully concluded the three-year project in which Tanja Masson-Zwaan and Dimitra Stefoudi participated on behalf of IIASL.

Nordic Space Authority Network meeting

Tanja Masson-Zwaan and Dimitra Stefoudi were invited to present the results of the analysis of how the LTS guidelines relate to the Dutch Space Act, which they carried out for Agentschap Telecom, to the annual meeting of the Nordic Space Authority Network, hosted this year by the Netherlands. This network unites representatives from Sweden, Norway, Denmark, Finland and the Netherlands and serves to exchange ideas and experiences in regulating national space activities.

Study trip to the Committee on the Peaceful Uses of Outer Space (COPUOS)

The Adv. LL.M. students travelled to the UN in Vienna to attend part of the session of the COPUOS Legal Subcommittee in Vienna. **Brussels study trip.** The Adv. LL.M. students travelled to Brussels for a study trip and were hosted by the European Commission (DG MOVE), the European Parliament, EUROCONTROL and ACI EUROPE. Representatives from CANSO, A4E and SESAR JU also gave presentations. On this occasion, IIASL PhD candidate Yuran Shi presented his PhD research on 'Labour Protection for Airline Pilots' to the European Commission.

ECAC Forum of Directors General, Paris

Professor Steven Truxal addressed the 15th European Civil Aviation Conference (ECAC) Forum of Directors General in Paris on "The 'new' new normal: blueprint for world aviation". He also gave a keynote speech on 'Avia-

tion labour – law and reality' at the Lufthansa Group HQ in Frankfurt.

LDE NL Space Campus Summer School

The LDE NL Space Campus Summer School is hosted and funded by the LDE Universities and Stichting NL Space Campus. During the one-week programme, the participants visit the law school, where a lecture on space law is given.



ISU Space Studies Program, Portugal

Tanja Masson-Zwaan gave several 'Core Lectures' on space law at the Space Studies Program of International Space University in Oeiras, Portugal.

Tanja Masson-Zwaan was elected to the Bureau of the International Astronautical Federation (IAF)

Tanja Masson-Zwaan was elected for a three-year term on the IAF Vice-President for Science and Academic Relations.

LDE Space visit to Indonesia

Tanja Masson-Zwaan joined the LDE Space for Science and Society delegation led by LDE Dean Prof Wim van den Doel for a visit to Indonesia, hosted by BRIN, to discuss possible cooperation and PhD projects in the fields covered by the ~LDE universities. On this occasion, she also gave a guest lecture at Universitas Indonesia at the invitation of IIASL alumnus Alif Nurfakhri.

Paris Peace Forum 2022

Tanja Masson-Zwaan attended the 5th Paris Peace Forum and moderated a roundtable discussion titled 'Towards interoperable norms to protect Earth's orbital environment'. Panellists included representatives from NorthStar Earth & Space, Viasat, Amazon, Planet and the US National Space Council.

VSV Symposium – Changing the Course: Broadening Space Exploration Consciously, Delft

Tanja Masson-Zwaan. Spoke about 'Legal and policy aspects of the environmental context of space exploration' at this symposium organised by the student association VSV of TU Delft.

IATA Legal Symposium, Paris

IIASL attended the IATA Legal Symposium in Paris as Academic Supporter and joined ACI Europe as an Educational Establishment Member. Several students and alumni joined.



In 2022, the IIASL attended the IATA Legal Symposium in Paris as Academic Supporter and joined ACI Europe as an Educational Establishment Member



The Leiden University team with judges from the International Court of Justice that judged the World Finals and the President of the International Institute of Space Law that organizes the Manfred Lachs Space Law Moot Court Competition.

Grotius Dialogues 2022



Photo from the Grotius dialogue on 'Ideology and Mass Killing', 21/2/2023

The Grotius Dialogues provide a forum for Grotius Centre-affiliated researchers and researchers from other institutions to present their current research and obtain feedback from academic colleagues. In 2022, the Grotius Centre is proud to host the following dialogues:

- > 20 Jan 2022, **Jason Rudall** - Altruism in International Law
- > 17 Feb 2022, **Ginevra Le Moli** - Human Dignity in International Law
- > 21 April 2022, **Cecily Rose** - Asset Recovery
- > 24 May 2022, **David Takacs** - Biodiversity as Mitadaptation çè Mitadaptation as Biodiversity Conservation
- > 9 June 2022, **Katalin Sulyok** - Science and Judicial Reasoning
- > 7 July 2022, **Eliana Cusato** - The Ecology of War and Peace
- > 3 Nov 2022, **Letizia Lo Giacco** - Framing 'Public Interest' in Public International Law
- > 17 Nov 2022, **Caroline Henckels** - The Metaphor of Dialogue and Investor-State Dispute Settlement
- > 13 Dec 2022, **Massimo Lando** - Deducing Customary International Law



Photo after the PhD Defence of Dr. Ezequiel Heffes, 26/04/2022

In 2022, the Grotius Centre witnessed four PhD researchers receive their doctorates. We would like to express our sincere congratulations to Cale Davis, Floris Tan, Ezequiel Heffes, and Ciara Laverty!

Cale Davis

Prosecutorial Discretion in International Criminal Justice

On 23 February 2022, Cale Davis defended the thesis ‘Prosecutorial Discretion in International Criminal Justice’. The doctoral research was supervised by Carsten Stahn and Joe Powderly.



International prosecutors are the gatekeepers to international criminal justice. They have the sole authority to prosecute people for the most serious crimes at international courts: genocide, war crimes, and crimes against humanity. Every day, they need to decide which situations to investigate; which crimes to charge;

which witnesses to call; whether to negotiate pleas; and whether to appeal. These decisions, and countless others, breathe life into law by translating it from ideas into action. Cale’s research studies the considerations in the decision making of the international prosecutors. They shape what international criminal justice is, how it develops, and what it does. But what do prosecutors consider when making these decisions, and why?

For the first time, Cale Davis’s thesis cracks open the ‘black box’ of prosecutorial decision-making. By drawing upon first-hand interviews with current and former senior prosecutors at the highest levels of international courts, Davis shines a light on the motivations and assumptions that drive the practice of prosecuting in international criminal justice. In particular, Cale demonstrates that prose-

cutors adopt different roles towards the institutions, people, and concepts they encounter in their work. He shows that three role-identities have shaped prosecutorial decision-making: prosecutors have been norm performers, builders, and guardians. Cale argues that by paying greater attention to the role-identities individual prosecutors adopt, it becomes possible to understand why they make the decisions they do.

Doing this research was a lot of fun, said Cale. ‘I was very fortunate that I got to spend a lot of time “in the field” interviewing senior prosecutors about their decision-making. That allowed me to get a lot of very interesting, first-hand insights into how discretion worked from the people that actually exercised it.’

Floris Tan

The duty to investigate in situations of armed conflict: an examination under international humanitarian law, international human rights law, and their interplay

Floris' study explores the duty to investigate potential violations of the law during armed conflict, and does so under international humanitarian law (IHL), international human rights law (IHRL), and their interplay. Through a meticulous comparative legal analysis, it maps out the scope and contents of investigative obligations. On the basis of general international law, it also develops and applies a step-by-step methodology for resolving issues of interplay between both legal regimes. In doing so, this study clarifies the scope of application and contents of investigative obligations under both legal regimes, as well as for situations to which both apply. The study finds that the oft-heard narrative to require States to conduct human rights investigations during armed conflict would impose inordinate burdens on them, and would be wholly unrealistic in light of the realities of hostilities, is unfounded and in need of revision. Floris was supervised by Titia Loenen and Helen Duffy.



A Functional Approach to Non-State Armed Groups, co-supervised by Dr Robert Heinsch and Professor Stahn, and published by Cambridge University Press. The jury included inter alia Professors Andrew Clapham, Thilo Marauhn and Helen Duffy.

During armed conflict, non-State armed groups (NSAGs) deprive individuals of their liberty on a regular basis. Examples can be found in Colombia, Afghanistan, Libya, Syria, Mali and the Democratic Republic of the Congo (DRC), among many others. Yet, examining these activities goes beyond its mere acknowledgment. Heffes' thesis explores the legal regulation of NSAGs' detention activities in non-international armed conflicts (NIACs). It does so by concentrating on NSAGs' practices in this field, presenting and testing the hypothesis that certain rules of international law oblige these actors not to arbitrarily deprive individuals of their liberty. Furthermore, it argues that NSAGs must have a legal basis in order to undertake these activities. In addition, and by relying on a "legal pluralistic" approach of international law, that basis is to be found in those "laws" and regulations established by the groups themselves. Other options are also possible, such as the adaption of the State's domestic law or an agreement concluded with a third party. Indeed, these "laws" and regulations could allow NSAGs to potentially respect their obligations in the field of detention, including the principle of legality.

Ezequiel Heffes

To Detain, or Not to Detain: A Functional Approach to Non-State Armed Groups' Activities in Non-International Armed Conflicts

On 26 April 2022, Ezequiel Heffes defended his PhD on To Detain, or Not to Detain:



Ciara Laverty

Making Crimes Mean

On 14 December 2022, Ciara Laverty successfully defended her thesis on Making Crimes Mean, which examines



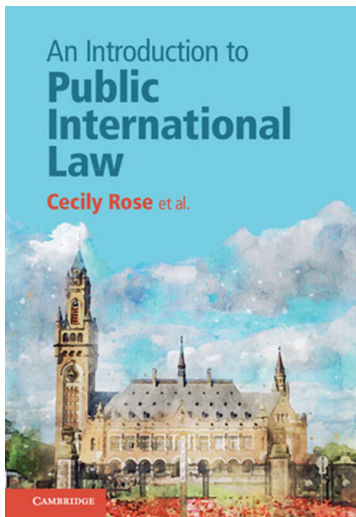
the interests protected by international criminal acts and how they relate to the communicative function of the law.

Using the crimes of attacks on cultural property, pillage, sexual violence and reproductive violence as case studies for analysis, Ciara's thesis develops an interdisciplinary methodological approach which centralises the narratives and discourses that emerge around particular crimes as central to how they are given normative content in practice. This analysis reveals a diverse, flexible and dynamic normative picture of these crimes, which demonstrates how their normative meanings are not natural or given, but are instead produced through an ongoing process of meaning making that takes place throughout the legal process in a continuum of cases. Understanding the normative dimensions of the acts that constitute international crimes in these terms not only exposes a diversity of interests that transcends their dominant characterisations as violations of basic security rights, but also uncovers the processes through which their normative foundations are constructed and transformed internally through practice. This thesis ultimately offers a dynamic, pluralist and socially constructed account of wrong in international criminal law, which recognises the relationship between criminal wrong and transformations in the wider social and political order, and contributes to developing a more granular understanding of the nature of the representational work that international criminal justice does in the world.

Ciara was co-supervised by Professor Stahn and Dr. Joe Powderly. The Committee included inter alia Professor Drumbl, Dr. Kiran Grewal and Dr. Barrie Sander.



Book Showcase



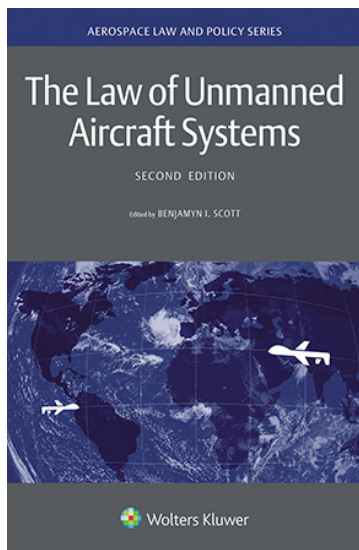
Cecily Rose et al (eds)

An Introduction to Public International Law

A number of current and former staff members of the Grotius Centre for International Legal Studies contributed chapters, namely Cecily Rose, Niels Blokker, Daniëlla Dam-de Jong, Simone van den Driest (Dutch Council of State), Robert Heinsch, Erik Koppe (Pels Rijcken), and Nico Schrijver (Dutch Council of State).

The textbook published by Cambridge University Press, begins with a foreword written by Sir Christopher Greenwood. At present, this textbook represents the only English-language textbook on the general field public international law that has been authored by academics at a Dutch university. It also represents the first textbook in the general field of public international law from Leiden University since Pieter Kooijmans' *Internationaal publiekrecht in vogelvucht* and Nico Schrijver's *Internationaal Publiekrecht als Wereldrecht*.

The book is written for students working in a range of disciplines, and provides an accessible, balanced and nuanced introduction to the field of public international law. It explains the basic concepts and legal frameworks of public international law while acknowledging the field's inherent complexities and controversies. Featuring numerous carefully chosen and clearly explained examples, it demonstrates how the law applies in practice, and public international law's pervasive influence on world affairs, both past and present. Aiming not to over-emphasize any particular domestic jurisdiction or research interest, this textbook offers a global overview of public international law that will be highly valuable to any student new to the study of this very significant field.

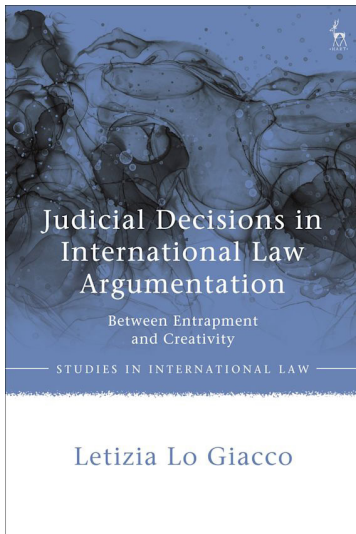


Benjamyn I. Scott

The Law of Unmanned Aircraft Systems (2nd edn)

This book is a definitive survey and guide, reflecting the expansion of Unmanned Aircraft Systems (UAS) and the importance placed on it by a diverse range of stakeholders, as well as the enlarged regulatory and policy landscape. Over the past years, this sector has grown phenomenally, propelling the dire need for national, regional, and international law and policy.

In addition to the updating of the original chapters, the second edition elucidates new topics to become a more expansive and critical compendium. Authorship, which originally centred around those affiliated with Leiden University's Institute of Air and Space Law, has been extended beyond the original scope and now includes additional experts from across the globe, each of whom explores already existing rules and proposals coming from national, regional and international levels. Over and above the broadened discussions on fundamental legal issues such as insurance, financing, liability, accidents investigation, privacy, cyber security, stakeholder organisations and industry standards, the second edition takes cognisance of major recent developments in the following areas: applicability and relevance of international regulatory instruments; coming into force of the European Union UAS-related laws; evolution of different States' national laws; public safety (e.g., design, production, operation and maintenance); development of unmanned traffic management systems; commercial operations, including urban air mobility (e.g., flying taxis, cargo delivery, high-altitude activities); and developments in defence and security (e.g., dual-use, counter-UAS industry to combat illegal use). Similar to the first edition, the second one includes a representative cross-section of national laws covering twenty-one different jurisdictions.

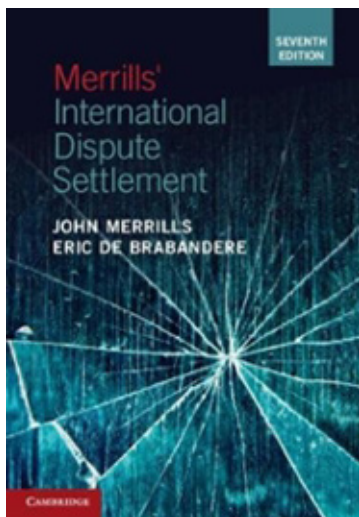


Letizia Lo Giacco

Judicial Decisions in International Law Argumentation: Between Entrapment and Creativity

This book explores the question of how the multiplication of judicial decisions on international law has influenced the way in which legal findings in international law adjudication are justified. International law practitioners frequently cite judicial decisions to persuade. Courts interpreting international law are no exception to this practice. However, judicial decisions do much more than persuading: they enable and constrain interpretive discretion.

Instead of taking the road of the sources of international law, this book turns to the somewhat uncharted terrain of legal argumentation. Using international criminal law as a case study, it shows how the growing number of judicial decisions has normalised courts' resort to them in legal justification and enabled some argumentative practices to become constitutive of international law. In so doing, it critically revisits the implications of an iterative use of judicial decisions, and reassesses the influence of the 'judicialisation turn' on the ways in which the meaning of international law is formed, shaped and reshaped by reference to judicial decisions.



John Merrills, Eric de Brabandere

Merrills' International Dispute Settlement (7th edn)

Eric De Brabandere of the Grotius Centre for International Legal Studies published the 7th edition of the handbook *Merrills' International Dispute Settlement*. The previous editions of this seminal handbook were authored by the late Professor John G. Merrills, who was Emeritus Professor at the University of Sheffield and sadly passed away in 2018. Professor Merrills had last updated this important textbook in 2016, and Eric De Brabandere was asked by Cambridge University Press to take charge of a new edition.

Merrills' International Dispute Settlement is one of the few existing handbooks on international dispute settlement. The fully revised 7th edition of this handbook, as the previous versions, explains the legal and diplomatic methods and organisations used to solve international disputes, how they work and when they are used. It looks at diplomatic (negotiation, mediation, inquiry and conciliation) and legal methods (arbitration, judicial settlement). The new edition has been fully updated throughout, and includes two new chapters: an introductory chapter, the common principles of settlement, and a chapter on investor–state arbitration. Recommended further readings at the end of each chapter have also been added, in addition to a general revision of the text and the references.

Grotius Centre Working Paper Series

In 2022, the following publications were published in the Grotius Centre Working Paper Series:

- **Grotius Centre Working Paper 2022/097-IEL:** Eric de Brabandere and David Holloway, 'The 2019 Dutch Model Bilateral Investment Treaty Navigating the Turbulent Ocean of Investment Treaty Reform'
- **Grotius Centre Working Paper 2022/098-IEL:** Eric de Brabandere and David Holloway, 'Overriding Mandatory Provisions and Arbitrability in International Arbitration: the Case of Multilateral and Unilateral Sanctions'
- **Grotius Centre Working Paper 2022/099-IEL:** Eric de Brabandere, 'International Investment Law and Human Rights'
- **Grotius Centre Working Paper 2022/100-PIL:** Brian McGarry, 'Achieving Greater Access to Justice through Cost-Efficiency: A Comparative Assessment Across State to-State Dispute Settlement Institutions'
- **Grotius Centre Working Paper 2022/101-PIL:** Brian McGarry, 'Norms, Standards, and the Elusive Nomenclature of the Gabčíkovo-Nagymaros Judgment'

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The book covers and blurbs contained in this report are taken from the websites of the respective publishers and authors.

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