

Course manual
Joint Master's Programme in
International Humanitarian Action

University of
Warsaw

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Legal dimensions of humanitarian action

Semester 1

**Module
coordinator:****Dr. Elżbieta Mikos-Skuza**e-mail: e.mikos-skuza@uw.edu.pl

office location: Main UW Campus, NOHA Office, CIUW, room 6

office hours: Mondays, 15.00 – 16.00

Lecturers:**Prof. William Chad Austin**e-mail: wcaustin1@gmail.comoffice location: Main UW Campus, Collegium Iuridicum III,
ul. Oboźna 6, room 3.06

office hours: Mondays, 14.00 – 15.00

Prof. Katarzyna Myszone-Kostrzewae-mail: k.myszona_kostrzewa@wpia.uw.edu.ploffice location: Grey Villa, ul. Wybrzeże Kościuszkowskie 47,
room 109

office hours: Thursday, 11.30 – 12.30

Credits awarded: 5 ECTS, equivalent to 125 work hours (1 ECTS = 25 hours)**Period:** First semester, block 1.**Venue & hours:** Collegium Iuridicum II, ul. Lipowa 4, Monday 11.30 – 13.00,
room 3.4, Wednesday 13.15 – 14.45, room 3.6

1. Introduction

The module is a requirement for obtaining the NOHA Master's degree.

The overall objective of the module is to introduce the students to key legal instruments, principles and underlying concepts of International Law relating to humanitarian action and to enable them to apply this knowledge to practical cases. Special attention will be brought to International Human Rights Law and International Humanitarian Law.

2. Learning outcomes

In conformity with the learning outcomes set out by the NOHA network, students should achieve the following learning outcomes by the end of this module:

- A good understanding of the basic concepts of International Law.
- The ability to identify different aspects of International Law and their implications for humanitarian action.
- The ability to apply key legal instruments in practice.
- Principal skills in applying mechanisms of dispute settlement.
- The ability to present legal argumentation in the field of HA.
- A clear understanding of the limits in applicability of International Law.
- The capacity to introduce personal responsibility.

3. Course material

[Provide over here a bibliography of the books/reader used in the course with price estimates and (if necessary) advice where to buy it, as well as a listing of all other types of material that will be used in the module. Please specify explicitly which readings are obligatory and which should be considered suggested readings. Alternatively, you can keep the information general over here and specify the obligatory and suggested readings by page numbers in the programme schedule. If you put obligatory or suggested course material on NOHA Blackboard (e.g. videos), alert the students on this over here.]

- ✓ M. Shaw, International Law, Cambridge University Press, 2014 (the 2009 edition is also fine)
- ✓ M. Dixon, International Law, 7th Edition, Oxford University Press, 2014, Chapters 1, 2, 5, 9, 10, 11, 12.
- ✓ J. Klabbers, International Law, Cambridge University Press, 2013
- ✓ J. Crawford, Brownlie's Principles of Public International Law, Oxford University Press, 2012
- ✓ H. Hans-Joachim, A. Zwitter [eds.], International Law and Humanitarian Assistance, Springer, 2011.

4. Teaching and learning methodology

The module will employ a combination of lectures and classroom-based group work to achieve the learning outcomes mentioned above.

5. Programme and training activities

Classes 1 - 3

General outline of Public International Law

- a) The notion of PIL
- b) Special features of PIL
- c) Relations between PIL and domestic law

Class 4

Sources of Public International Law I:

- a) Special features of norms of PIL
- b) Introduction to the notion of sources of PIL
- c) Introduction to the law of international treaties
- d) The Vienna Convention on the Law of Treaties of 1969

Class 5

Sources of Public International Law II

- a) International treaties - continued
- b) International custom

Class 6

Sources of Public International Law III and subjects of Public International Law

- a) Law of international organisations
- b) “Soft law”
- c) Introduction to subjects of PIL

Class 7

Subjects of Public International Law

- a) States as subjects of PIL
- b) General introduction to legal personality of:
 - (i) International organisations
 - (ii) Other entities (including International Committee of the Red Cross)
 - (iii) Individuals

Class 8

The System of the United Nations

- a) Goals of the UN
- b) Structure of the UN
- c) The UN Family

Class 9

Law of regional organisations

- a) The European Union
- a) The Organization of American States
- a) The African Union
- b) Other organisations

Class 10

International Human Rights Law

- a) History and development of International Human Rights Law
- b) Categories of rights
- c) Derogations from Human Rights Law
- d) Human Rights Law in the context of natural disasters

Class 11

International Human Rights Law: implementation mechanisms I

Universal Procedures based on treaties

- a) Regular procedures
- b) Special Procedures,
- c) Universal Periodic Review

Class 12

International Human Rights Law: implementation mechanisms II

Regional Human Rights Systems

- a) The European System
- b) The Inter-American System
- c) The African System

Class 13

International Framework for Refugee Protection

- a) The notions of “asylum” ,“refugee” and “internally displaced person”
- b) Convention Relating to the Status of Refugees of 1951
- c) The principle of “non-refoulement”
- d) Rights of refugees
- e) Protection of refugees under other human rights treaties

Class 14

Introduction to International Humanitarian Law (IHL):

- a) Classification of conflicts
- b) Protected persons
- c) Principles of IHL

Classes 15 - 16

Anniversary conference of NOHA and PHA on specific challenges to International Humanitarian Action including the perspective of International Humanitarian Law (IHL):

- a) Rules, principles and standards
- b) Humanitarian access and assistance
- c) Protection of humanitarian workers

Classes 17 - 18

Protection of civilians in armed conflicts:

- a) Protection of civilians in the enemy hands
- b) Protection of civilians against the effects of hostilities – interpretation of principles of:
 - (i) distinction
 - (ii) proportionality
 - (iii) precaution

Class 19

Implementation of IHL:

- a) Means and methods of implementation before an armed conflict breaks out
- b) Means and methods of implementation during an ongoing armed conflicts

Class 20

Implementation of IHL – fact-finding workshop

Class 21

International Criminal Law

- a) International Crimes
- b) Principles of individual criminal responsibility
- c) Prosecution of International Crimes (domestic prosecution of international crimes and the international criminal justice system)

d) International Criminal Court

Class 22

Responsibility and enforcement of Public International Law by States

- a) The concept of State responsibility in PIL
 - (i) attribution of a wrongful act to a State
 - (ii) circumstances precluding wrongfulness
 - (iii) forms of reparations
 - (iv) consequences of *ius cogens*' violations
- b) Mechanisms available to States in order to address violations of PIL by other States

Class 23

Dispute settlement under Public International Law

- a) Diplomatic methods of dispute resolution
 - (i) negotiations
 - (ii) good offices
 - (iii) mediation
 - (iv) fact-finding and conciliation
- b) International courts and tribunals with a special focus on the International Court of Justice

Classes 24 – 25

The use of force in International Law

- a) *ius contra bellum* – the illegality of the use of force, particularly of aggression; difficulties with defining aggression
- b) *ius ad bellum* – the legality of the use of force:
 - (i) the right to self-defence
 - (ii) collective security
 - (iii) intervention based on the Responsibility to Protect (R2P) concept
 - (iv) special case : NIACs

Class 26

International Disaster Response Law

- a) The notion of “disaster”
- b) Sources of law
- c) Protection of personnel

Class 27

Joint preparation to the exam

Class 28 : Exam – 8.01.2018

Exam

Joint assessment of the exam; concluding remarks

6. Workload

The module will involve 58 hours (1st November is a public holiday) of lectures, discussions and workshops. Students are expected to also learn individually. Attendance at each of the classes is highly recommended.

7. Assessment methods

50 % - Essay submitted before 15th December 2017 on “The relevance of ‘soft law’ in the field of humanitarian action”.

50 % - Written exam – the exam will consist of a number of open questions based on various topics discussed during the course.

Please be aware that in order to be able to take 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-show without a valid reason forfeits the possibility of taking the second chance exam and you will have to redo the course.

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 in a practical situation. More specifically, the criteria of assessment entail the degree of knowledge of 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.

9. Appendices

[Any supporting documents to explain parts of the module more in detail.]

