

**ASSER**  
INSTITUTE



*Centre for International & European Law*



Annual report 2018

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The Peace Palace as seen from the third floor of the T.M.C. Asser Instituut building

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# “Courage to pursue ideals in international law”

## Foreword

“In these times of growing international tensions, rising populism and attempts to reverse the embrace of multilateralism in international relations, the team at the Asser Institute continues to focus on our mission to develop trustworthy international institutions and legal regimes through our research and education. Human rights, individual liberty, equality and the rule of law are too important not to nurture.

One of the reasons we feel deeply connected with the theme of ‘trust’, is that Tobias Asser (1838-1913), professor of law at the University of Amsterdam, as well as the man after whom our institute is named, dedicated his life to foster peace through international law.

Tobias Asser was an expert in both private and public international law; he was a practitioner and a scholar, a peace activist and a diplomat. The cosmopolitan Asser was greatly appreciated: he became Dutch Minister of State (1904) and he received the Nobel Peace Prize in 1911, being the only Dutch person to ever receive it.

By devoting his life to the international cause, Asser swam against the tide, joining forces with other open-minded personalities in public life. He lived in the heyday of nationalism, when the Netherlands, nestled between the new superpower Germany and the imperialist states of Great Britain and France, went through an introspective period. Being rooted in practice, Asser saw

the significance of international gatherings (and the institutes that might arise from them) for both the Netherlands and The Hague. The international conferences on private international law that Tobias Asser organised, and later the Peace Conferences of 1899 and 1907, would lay the foundation for The Hague to become one of the legal capitals of the world.

Without a doubt, Asser’s vision on international relations as an instrument for peaceful development was – in the words of international legal scholar Martti Koskenniemi – ‘enchanting’. However, as Koskenniemi acknowledges too: both the vision and the mission of Tobias Asser and his contemporaries, had their implicit limitations. Inevitably, great minds are children of their time. Asser and his fellow international legal scholars focused on the West and did not yet put the rights and interests of other peoples and nations on an equal footing.

Knowing this, and relating to the current backlash against multilateralism and globalism, we, as international scholars, should ask ourselves how we can connect the development of the international legal order with the interests of the vulnerable and those of future generations. Could we achieve this while improving living conditions, sustainable development and keeping peoples’ rights and interests in sight?

### **Timely, critical and relevant research**

As you will read in this annual report, our



team at the Asser Institute contributes to address these challenges through timely, critical and relevant independent research. In December 2018, for example, following a series of raised concerns by several EU member states about the possible future implications of the *Global Compact for Safe, Orderly and Regular Migration*, the Asser team produced well-timed legal information that contributed to finding solid ground in the debate on the legal nature and possible future implications of the compact.

### **Much valued partner**

The Asser Institute is a much-valued partner for (inter)national collaborations with universities and with national and international networks of scholars, legal practitioners and professional societies. To highlight some special collaborations:

- In 2018, T.M.C. Asser Instituut and the *University of Amsterdam (UvA)* signed an interim covenant, which further enhances our long-standing close relation. The agreement contributes to Asser's financial stability and confirms the close ties between the institute and the UvA. Our collaboration with the *Amsterdam Center for International Law (ACIL)* will continue and, where possible, be extended to other research centres of the *Law Faculty of the University of Amsterdam*.
- At the same time, we remain committed to our inter-university tasks on behalf of the Dutch law schools, including the *Netherlands Network for Human Rights Research (NNHRR)*.
- Asser researchers forged further

relationships with Geneva-based institutes, like the *Graduate Institute for International and Development Studies (IHEID)* and the *Geneva Academy*. Our researchers taught courses and collaborated on a project on individual criminal responsibility for Lethal Autonomous Weapons – a topic joining the research fields of Geneva (international humanitarian law) and The Hague (international criminal law). We launched a new cooperation with the Law Faculty of the *University of Basel* with an event addressing the '*Human Dimension of the Law of the Sea*', at which Prof. Dr Liesbeth Lijnzaad, Judge at the *International Tribunal for the Law of the Sea (ITLOS)* spoke.

### **Improving stability, safety and security**

The Asser Institute also became a member of the *Common Effort Community*, a platform of over fifty German and Dutch organisations coming from government, civil society, police, military and the private sector. All share the idea of 'comprehensive consultation, cooperation and preparation' and work towards improving stability, safety and security. Together we will continue to contribute to a safe and secure world that protects universal human rights.

I would like to thank everybody who has contributed to our success in 2018. We are very grateful to the staff of the T.M.C. Asser Instituut, to our partner organisations and to all the eminent researchers and legal experts who joined us for inspiring research collaborations, discussions, teaching and our events."

The Hague, May 2019

Prof. Dr Ernst Hirsch Ballin,  
President of the Board of T.M.C. Asser  
Instituut

# About T.M.C. Asser Instituut



The T.M.C. Asser Instituut, an internationally renowned centre for international and European law, is named after Tobias M.C. Asser (1838-1913). Asser was an expert in private international law and active in many fields of public international law, as well as in the peaceful settlement of international conflicts. He founded the *Hague Conference on Private International Law* and played a significant role in bringing the *Peace Conference*

to The Hague in 1899. Tobias Asser received the Nobel Peace Prize in 1911 for his devotion to the *Hague Conference on Private International Law*. He was the first, and until today the only, Dutch citizen ever to be honoured with this prestigious prize.

Located in The Hague, the 'International City of Peace and Justice', the T.M.C. Asser Instituut is the established location where critical and constructive reflection on international and European legal developments takes place. In the vicinity of the many Hague international institutions, diplomatic missions and government ministries, the institute exercises strong convening power and attracts legal scholars from around the world to present and test innovative ideas in their respective fields of expertise. This continually strengthens our research expertise, academic profile and sharpens our fundamental and independent policy-oriented research. In doing so, the Asser Institute fulfils the following roles:

- A facilitator for all Dutch Law Schools that wish to collaborate with the T.M.C. Asser Instituut in research networks, projects and/or in knowledge dissemination activities. The institute actively promotes the collaboration with- and between Dutch Law Schools; and
- A vanguard institute for the University of Amsterdam (UvA) in The Hague (for the UvA Law School in general and the *Amsterdam Center for International Law* (ACIL) in particular).



# “Bringing critical thinking to power”

## Academic director’s report

“2018 was marked by U.S. border control controversies, a hugely chaotic Brexit process and the online manipulation of electoral processes and voter data in both the U.S. and the UK. In November 2018, during the Annual Asser Institute Lecture, international law scholar Martti Koskenniemi spoke on *‘International Law and the Far Right: Reflections on Law and Cynicism’*. In a packed Peace Palace in The Hague, Koskenniemi urged the audience to consider the cultural anxiety and alienation underlying the current ‘backlash’ against globalism and multilateralism. Ignoring this, or to focus solely on economic factors to explain the backlash, would only strengthen the far right, Koskenniemi said.

As international lawyers – in their role of experts – could be seen as the handmaidens of economic and cultural globalisation, he called upon them to reflect on their own role in this sphere of cynicism and resistance against international human rights and cultural globalisation. The lecture was a signature Koskenniemi performance, featuring critical reflection on the question of who wins and who loses in the current international legal order.

### Who is served, and who is not?

When I introduced Martti Koskenniemi at the Annual Lecture, I summarised the work of the Asser Institute as *‘Bringing critical thinking to power’*. I am convinced that we need law to help us confront the many 21<sup>st</sup> century challenges facing us, such as climate change, terrorism, corporate crime and misconduct, and gender and LGBTQI discrimination. However, the question of *which* role international and European law should play in these challenges, requires critical assessment. We should be highly aware of the fact that law both consolidates and contests the (power) structures and biases that contribute to these challenges.

As a knowledge institute based in The Hague, where, on a daily basis, international and European law is developed, contested and discussed, our team at the Asser Institute considers it its academic and social responsibility to analyse and discuss these issues and to generate foresights. We do so with an acute awareness of the question ‘who is served?’ by an (anticipated) legal measure or judgement, and: ‘who is not?’ Hence our motto: *“Bringing critical thinking to power.”*

From that position, as you can read in this annual report, we seek a constructive dialogue with a wide range of partners and stakeholders, making sure that our findings reach fellow academics, policymakers, legal practitioners and the public at large. Examining how law has been used in our profoundly unjust world, and how it could be used for the better, helps us remain a reliable partner for all our stakeholders. The constructive dialogue we have – through the feedback we receive on our writing, presentations, blog posts, in meetings and in surveys – helps us to critically engage with the many facets of- and points of view in this globalised world. It contributes to the development of our thinking and generates a virtuous cycle for progressive change for international and European law.

A practical example of our institute bringing critical thinking to power in 2018, was the first summer programme *International Lawyering in a public interest*, which we co-organised with the *Amsterdam Center for International Law (ACIL)* of the UvA. In this training, which brought together advocates from major firms and pro bono start-ups with people from NGOs, the diplomatic community and academia, we explored what it takes to practice international law for public interests through strategic litigation (read more on page 27).

#### **Top journals and influential blogs**

Our work on the Asser Strategic Research Agenda, which is called '*International and European Law as a Source of Trust in a Hyper-connected World*', is divided in three research strands: *Human dignity and human security*; *Advancing public interests*; and *Dispute settlement and adjudication*. Starting on page 12 of this annual report, the strands' academic coordinators, Christophe

“ In 2018 we firmly consolidated our research with the highest number of A(+) journal and volume publications by Asser researchers to date.

Paulussen, Antoine Duval, and Geoff Gordon respectively, will tell you about our academic accomplishments in 2018. They will also further introduce the three excellent young researchers that joined us in 2018: Rumyana van Ark (née Grozdanova), León Castellanos-Jankiewicz and Dimitri van den Meerssche.

2018 was a highly productive year for the Asser Institute, in which we firmly consolidated our research, achieving a very strong research performance with the highest ever number of A(+) journal and volume publications by Asser researchers to date. We published articles in, to mention a few, the *European Journal of International Law*, the *London Review of International Law*, the *International Organisations Law Review*, the *Journal of the Oxford Centre for Socio-Legal Studies* and the *Journal of Law and Society*. We further published edited volumes with *Cambridge University Press*, *Hart Publishers*, and *Oxford University Press* (see further in Annex 1).

In addition to delivering excellent research and publications, we also published relevant policy briefs, timely blog posts and op-eds, and organised roundtables, seminars and



many well visited public events. Asser researchers were active in online discussions at the *European Law blog*, *ESIL IO-IG*, *Verfassungsblog*, *Opinio Juris* and *180 Meridian*. We also stepped up our efforts to provide our expertise to both domestic and foreign media. Asser researchers were interviewed about a wide variety of topical international law developments at the courts and tribunals of The Hague, on sports law and on terrorism and counter-terrorism related topics.

Our impact is steadily growing, as our research continues to find its way into reports and policy discussions in the European Parliament in Brussels, in the UNHCR headquarters in Geneva, in the *United Nations General Assembly* and UNCTED in New York, at the OSCE in Vienna, and in organisations such as GCTF, OPCW, and UNICRI in The Hague.

### Hyper-connectivity

A theme that increasingly cuts across our three research strands is what we, in the Asser Strategic Research Agenda called growing 'hyper-connectivity'. Enabled by rapidly developing technologies, hyper-connectivity is reshaping our lives and the way we do things. So how are new technologies challenging existing law and regulations, their underlying assumptions and effectiveness?

Artificial Intelligence (AI), for instance, exhibits levels of autonomy unknown to us before. It is already being used for profiling people and to operate autonomous weapons systems. AI has the potential of providing for cognitive abilities going beyond human capacities, which could lead to significant scientific and societal progress. Complex algorithms can compile and analyse large

data sets that could contribute to more accurate and precise policy-making.

However, technologies with increasing degrees of autonomy bring significant ethical, legal, and policy challenges as well. AI is disruptive to fundamental legal norms and concepts, as well as to systems of international governance. It challenges us to rethink a number of legal notions, and to develop analytical frameworks that fully grasp AI.

### 'Law and tech'

We therefore started some exciting new research projects in the sphere of 'Law and tech' in 2018. In cooperation with UNICRI, we organised a meeting on '*AI and Blockchain for Good: Harnessing Technological Developments to Foster Trust*'. Asser researcher Berenice Boutin worked on *Artificial Intelligence & International Law*, in collaboration with *Delft University of Technology* and *King's College London*. Boutin further received a grant to start research on the project *Conceptual and Policy Implications of Increasingly Autonomous Military*.

During the '*Hackathon for Peace, Justice and Security*' in The Hague in November 2018, 27 teams with over 125 participants competed in finding innovative data solutions for various challenges. The Asser Institute

“ Technologies with increasing degrees of autonomy bring significant ethical, legal, and policy challenges.

organised a challenge on land grabbing, in which we asked participants to build a tool that identifies patterns of past land grabs to mark areas that are vulnerable to future land grabs and provide them with a risk rating. Team *Monkey Code* won the first prize with an open source solution that combines satellite data with social media data in order to map out vulnerable areas for land grabbing.

### Global Europe

In his 2018 State of the Union Address '*The Hour of European Sovereignty*', president of the European Commission Jean Claude Juncker, spoke about Europe's 'global responsibility' and how the EU will have to become a stronger, more united 'global player' that will stand up for its shared values and interests.

But what exactly are these European values and interests? Do they include human dignity, democracy and the rule of law, liberty, solidarity and transparency? Are these values truly guiding the EU's internal and external policies and regulations? And how consistent are we in implementing them when concluding global and bilateral trade agreements or combatting crime across the EU?

These questions seem highly relevant for studying and understanding the apparent backlash against European law and governance. In fact, throughout the year we have dealt with questions of trust and distrust directly and indirectly. Together with the *Amsterdam Center for European Law and Governance* (ACELG), we organised two workshops on '*Trust and deference*' as crucial mechanisms of interaction and cooperation between legal authorities in Europe and the world. In May, we co-organised a meeting on '*The future of multilateralism - beyond*

“ We will step up our work in investigating new law and legal approaches to deal with new technologies and how they affect crucial judgments and decision-making in the areas of military operations, border surveillance, digital security or global infrastructures.

*current distrust*' with H.E. Heidemaria Gürer, ambassador of Austria to the Netherlands and permanent representative to the *Organisation for the Prohibition of Chemical Weapons* (OPCW).

### Landmark ruling

These kind of questions also came to our mind when, in March 2018, the *European Court of Justice* landed a momentous judgment in the *Achmea case*. In this decision, the court found an arbitration clause in an international investment agreement between two EU member states to be incompatible with EU law. After the landmark ruling, the Asser Institute organised a lively roundtable with experts and policymakers to debate the possible futures for public policy and arbitration practices in the Netherlands, the EU, and beyond.

CLEER, the Centre for the Law of EU External Relations, that we host and coordinate, celebrated its 10th Anniversary with a two-day academic conference on *EU External Relations: Tackling global challenges?* The conference brought together world-leading academics, practitioners and policymakers who took stock of the EU external action instruments in areas such as migration, trade, and neighbouring policies. We are grateful to The Hague-based ambassadors of EU member states for the open discussion of their country's global leadership during their EU presidency, its contributions and challenges. The *CLEER Presidency Lectures* have become an excellent space to discuss the EU as global player here in The Hague, a tradition that we cherish.

In 2018, the president of the Asser Institute Ernst Hirsch Ballin co-authored a report by the *Netherlands Scientific Council for Government Policy* (WRR) called '*Europese Variaties*' [European variations-ed]. It dealt with questions of how the EU can better address the needs of its citizens in terms of security, stability, prosperity and social protection. The conclusion of the report is that it would be wise to consider European diversity and accept variation as a way to accommodate diversity within unity. The Dutch government called the report a 'valuable contribution to the discussion'. In 2019,

we will organise a seminar, in cooperation with the *Amsterdam Centre for European Studies* (ACES) and the WRR to discuss the report.

### Looking ahead

For the future of Europe and the EU, 2019 will be an important year. While waiting for the next phases in the Brexit saga, we will launch our '*Global Europe*' project and bring the EU's relations with China and Africa into the scope of our work. Building on its experience with the General Data Protection Regulation (GDPR), the EU will have to find its own approach to the rise of Artificial Intelligence and Big Data. We will step up our work in investigating new law and legal approaches to deal with new technologies and how they affect crucial judgments and decision-making in the areas of military operations, border surveillance, digital security or global infrastructures. Any assessment of international and European law has to take into account how new technologies are reshaping our (legal) world."

I hope you will enjoy reading this year's report,

Prof. Dr Janne E. Nijman, Member of the Board and Academic Director of T.M.C. Asser Instituut



## Research strand

# Human dignity & human security in international and European law

If law cannot provide a sense of dignity and security, it falls short of cultivating trust. This research strand adopts a human rights approach to contemporary global challenges, such as international criminal justice, terrorism, Artificial Intelligence and memory laws.



# “People still turn to international institutions to find justice”

“With the rise of nationalism and populism in 2018, the international legal order finds itself in heavy weather”, says strand coordinator Christophe Paulussen. “In 2018, the U.S. announced its withdrawal from the *Iranian Nuclear Agreement* and from the *Human Rights Council*. The war in Syria also continued to challenge the legal fabric, with a sarin attack in Douma, killing at least seventy people and IS attacking the city of As-Suwayda, leading to 255 deaths, including 142 civilians.”

Paulussen: “Fortunately, on a more positive note for international law, we see that people still turn to international institutions to find justice for their problems. In 2018, the situation in Palestine, for instance, was referred to the *International Criminal Court* (ICC). Another positive development was the adoption of the *Global Compact on Migration*, which covers international migration in a holistic and comprehensive manner.

After much controversy about it arose in various EU member states, my fellow-strand member Narin Idriz wrote a timely and well-received blog post, called: *‘Why EU member states should not hesitate to vote for the Global Compact for Migration.’*”

## Unique moment in history

One hundred years after WW1, 2018 also saw a unique moment in history, with the ICC becoming able to prosecute leaders responsible for waging aggressive war.

Paulussen: “A boost for the permanent court, which is going through a bit of a rough time.



Academic coordinator Dr Christophe Paulussen.

For example, in June, after almost eight years of proceedings, the ICC's *Appeals Chamber* acquitted Jean-Pierre Bemba (Democratic Republic of the Congo) from the charges of war crimes and crimes against humanity, a development that triggered international media to interview my fellow researcher Marta Bo on her expertise on the ICC and the case.”

## New colleagues

“We are very happy with two new colleagues joining our strand in 2018”, says Paulussen. “Rumyana van Ark (née Grozdanova – ed)

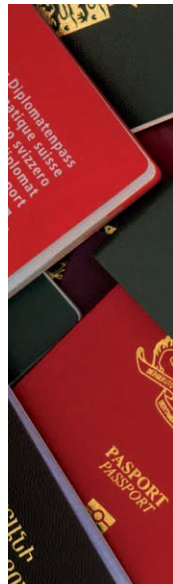
is a Post-Doctoral researcher in terrorism, counter-terrorism and international law. She will focus on the impact of counter-terrorism measures on the individual terror suspect and on the long-term implications for the rule of law. Dr León Castellanos-Jankiewicz will strengthen our MELA project, headed by Dr Ulad Belavusau. This project focuses on so-called memory laws: the legal regulation of how we remember the past, a subject often fiercely debated.

In November 2018, León won the David D. Caron Prize for ‘Best Paper’ by the *American Society of International Law* (ASIL), a well-deserved recognition of León’s excellent research qualities and a great start for his work at the Asser Institute.”

### Autonomous weapons & international law

“In 2018, we started some exciting new research projects in the sphere of law and technology. Berenice Boutin started research on the project *Conceptual and Policy Implications of Increasingly Autonomous Military Technologies for State Responsibility under International Law* funded by the *Gerda Henkel Stiftung*. She will explore the conceptual and policy implications of the increasing autonomy of military technologies for state responsibility under international law.”

Paulussen: “This project will lead to an in-depth analysis of the theoretical underpinnings of responsibility for autonomous military technologies, while identifying on which grounds states could be held



In 2018, the Asser Institute started new research projects on the policy implications of autonomous weapons and state responsibility. A related project focuses on the individual criminal responsibility for autonomous weapon systems and war crimes.

accountable for the use of autonomous weapons. Focusing on a different level of responsibility for autonomous weapons, Dr Marta Bo started a related project on the individual criminal responsibility for autonomous weapon systems and war crimes. Marta will combine her research at the Asser Institute with a four-year post doc at the *Graduate Institute of International and Development Studies in Geneva*.”

### Very relevant topic

For many years, the Asser Institute has worked on policy- or practice oriented research. In 2018, citizenship stripping, or revoking someone's nationality, became a very relevant topic as many countries are stripping citizenships of their nationals as a

shway to fight terrorism. “Research shows that citizenship stripping is not only ineffective, says Paulussen, but it can actually increase problems”.

Paulussen, who regularly appeared in the (inter)national media on this topic, also co-organised an expert round-table on the subject. The event, co-organised by the *Institute on Statelessness and Inclusion*, *Open Society Foundations* and *Ashurst*, brought together a diverse group of some 30 international experts, both scholars and practitioners, in the field of both counter-terrorism and human rights and nationality law. The discussions focused on the rule of law, discrimination, the position of children and statelessness, among other things.

### What's next?

“For 2019, we have planned the first edition of a new winter academy on Artificial Intelligence (AI) and international law. It will provide insights into the current and future issues raised by AI from the perspective of international law. The training is structured along five themes: *Understanding AI*, *AI for good*, *AI and armed conflict*, *AI and responsibility*, and *AI governance*. In close cooperation with the *International Nuremberg Principles Academy* and the *Antonio Casesse Initiative*, we are working on a high-level seminar entitled “Strengthening Domestic Capacity to Prosecute International and Transnational Crimes in Africa”. This is a course, taught in French, for judges and prosecutors from countries under ICC investigation or neighbouring countries, including Burkina Faso, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Mali and Niger. We will provide international law lectures



Citizenship stripping, or the revoking of nationality, is an ineffective counter-terrorism strategy, thinks strand coordinator Paulussen.



Janne Nijman opening the seminar AI & Blockchain for Good, which was co-organised with the Centre for Artificial Intelligence and Robotics of the United Nations Interregional Crime and Justice Research Institute (UNICRI) and The Hague Convention Bureau (THCB) in July 2018.

and training in the fields of international criminal law (ICL), transnational criminal law (TCL) and international humanitarian law (IHL), combined with practical sessions. The seminar will cover topics such as human

smuggling and trafficking, the correlation between IHL and counter-terrorism, the use of open source evidence and vertical and horizontal cooperation in the prosecution of international crimes.”

## Researchers

Dr Christophe Paulussen (coordinator)



Marina Bán, MA



Dr Uladzislau Belavusau



Dr Marta Bo



Dr Berenice Boutin



Dr León Castellanos-Jankiewicz



Dr Romyana van Ark (née Grozdanova)



Dr Narin Idriz

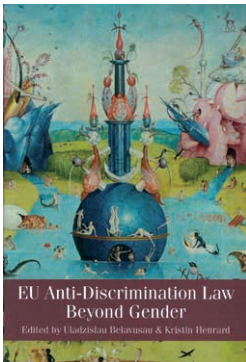


Kilian Roithmaier, LL.M.



## Research highlights

- **Ban, M.** – Eastern Europe as a Current Hub of Memory Laws and Memory War, presentation at the Legal Governance of Historical Memory in Comparative Perspective Workshop, Center for the Study of Law and Society, University of California, Berkeley (U.S.)
- **Belavusau, U.** – Dilemmas in Legal Governance of History in European Law, presentation at the Conference Circulating across Europe? Transgressive Narratives about the Past, Harvard University, Cambridge (USA)
- **Belavusau, U. & Henrard, K. (Eds)** – EU Anti-Discrimination Law Beyond Gender, Hart Publishing (volume)



- **Bo, M.** – Who is Criminally Responsible for the Commission of War Crimes when Lethal Autonomous Weapon Systems are Deployed in Armed Conflicts?, blog post for the Graduate Institute Geneva website
- **Boutin, B.** – Administrative Measures in Counter-Terrorism: In Search of Limits and Safeguards, presentation at the Criminal Justice and Rule of Law Working Group Plenary Meeting of the Global Counterterrorism Forum
- **Boutin, B.** – Responsibility in Connection with the Conduct of Military Partners, 56(1) The Military Law and the Law of War Review (2017-2018): 2-19
- **Castellanos-Jankiewicz, L.** – Nationality Alienage and Early International Rights, presentation of a paper at the Seminar On the Origins of International Legal Thought, Lauterpacht Centre for International Law, University of Cambridge.
- **Grozdanova, R.** – The Value of Mutual Legal Assistance in Counter-Terrorism Context,

presentation at the Working Group on (Chemical) Terrorism of the Organisation for the Prohibition of Chemical Weapons (OPCW)


- **Idriz, N.** – The EU-Turkey Statement or the ‘Refugee Deal’: The Extra-Legal Deal of Extraordinary Times? in the book The Migration Crisis?: Criminalization, Security and Survival, by Eleven Publishing (chapter)
- **Paulussen, C.** – Appointment as Editor-in-Chief of the Security and Human Rights journal and its more general Security and Human Rights Monitor (SHRM)

Please see Annex 1 to this annual report for the complete research output ([www.asser.nl](http://www.asser.nl)).



## Research strand

# Advancing public interests in international and European law

How can law further the protection of public interests in a globalising (and privatising) world? With his flagship project *Doing Business Right*, strand coordinator Antoine Duval aims to 'shift the focus from simply 'doing business' towards 'doing business *Right*'. In 2018, the strand's researchers engaged with various questions centred on the intersection between public interests and private actors. For instance, they looked at: the legality of economic activities in occupied territories; the role of transnational private regulation in the aftermath of the Rana Plaza disaster; and the operation and legitimacy of the *Lex Sportiva* (or transnational sports regulations). 

# “Actively weighing in on societal developments”

“2018 was rich in societal developments that touched the core of our strand’s work, says strand coordinator Antoine Duval. Duval: “The *United Nations*, for example, published the much-expected draft of a binding treaty for transnational corporations (see textbox on page 21).”

This treaty aims to make transnational corporations comply with human rights standards and to provide victims with better access to remedy. Then, the *European Court of Human Rights* ruled in the *Pechstein/Mutu* case on the compatibility of the *Court of Arbitration for Sport (CAS)* with the European Convention on Human Rights. Duval: “We actively weighed in on these developments by writing blog posts, giving expert statements in national and international media, and by organising events to debate the results.”

## Intense week of courses

Antoine Duval: “2018 saw our first *Doing Business Right* winter academy. The training is designed to help academics and practitioners develop an understanding of various soft and hard, legal and non-legal accountability mechanisms. The winter academy was a success, bringing together students, policy-makers, corporate officers and people working for NGOs, for an intense week of courses, interactive sessions and social gatherings.”

In April 2018, Antoine Duval and Enrico Partiti further delivered a *Capita Selecta* course on ‘Transnational corporations and human rights’ to LL.M students at *Utrecht University*. The course focused on the various ways (criminal law, civil liability law, soft



Academic coordinator Dr Antoine Duval.

mechanisms) in which transnational corporations can be held accountable for human rights violations connected to their activities.

## Highlights

Of the many *Doing Business Right* events that the team organised in 2018, two stood out for Duval: “In April we organised, in partnership with the *Bangladeshi Embassy*, a day of discussions between academics and practitioners on the Rana Plaza disaster that took place in 2013. Rana Plaza was an eight-story commercial building full of clothing factories that collapsed, killing over 1,100 people and injuring 2,500. It is considered the deadliest structural failure accident in modern human history, as well

as the deadliest garment-factory accident in history. Our conference was an occasion to reflect on the initiatives taken to ensure that never again such a tragedy reoccurs, and to discuss with policy-makers concrete ways to entrench these improvements in the future.”

### Occupied territories

The other highlight for Duval was an academic conference on the international legality of economic activities in occupied territories that was held in October 2018. Duval: “The conference was supported by the *Hague Academic Coalition* and co-organised with Dr Eva Kassoti of *The Hague*

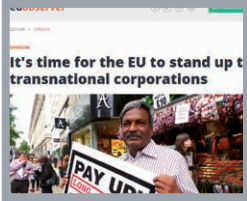
*University of Applied Science*. It brought together fifteen academics from across the world for a day of rich exchanges and it will result in the first edited volume published on the subject.”

October also saw the highly successful *ISLJ Annual International Sports Law Conference*, which brought around one hundred people from 37 countries to the Asser Institute to discuss many of the burning issues in international sports law and governance. The team members further worked with the Leiden Asia Centre on a research project on corporate social responsibility in Asia, commissioned by the *Dutch Union FNV*.

A day of discussions between academics and practitioners on how to ensure that tragedies like the Rana Plaza disaster of 2013 will never occur again. The conference was co-organised with the Bangladeshi Embassy in The Hague,



## Making transnational corporations comply with human rights standards



On October 15, Asser strand coordinator Antoine Duval published an op-ed in the EU Observer, synchronised with an op-ed by Asser Academic director Janne E. Nijman in

the Dutch newspaper *de Volkskrant*. Both op-eds focused on the much-expected draft of a binding UN treaty for transnational corporations. The treaty aims to make transnational corporations comply with human rights standards and to provide victims with better access to remedy. Nijman and Duval called for the EU and its individual member states, and the Netherlands in particular, to actively engage in the negotiations, to stand by their commitment to human rights, and to finally start regulating the worst consequences of globalisation.

## What's next?

Duval: "For 2019, we are collaborating with the *International Institute of Social Studies* and the *Erasmus School of Law* to organise a workshop around *OECD National Contact Points (NCPs)* as a potential route to remedy in business and human rights cases. Furthermore, in cooperation with the *Netherlands Network for Human Rights Research (NNHRR)* we're planning for a conference on the *Fédération Internationale de Football Association (FIFA)* and human rights." Duval further joined a European consortium that was granted funding by the European Commission to study European sport diplomacy. Duval: "I very much look forward to exploring how human rights could be advanced in the context of mega-sporting events, and to connect that knowledge to the research conducted at the Asser Institute on international sports law and business and human rights."

## Researchers



Dr Antoine Duval (coordinator)



Dr Enrico Partiti

## Sports law at the Asser Institute

Transnational sports law is a fast developing area of law: the private rules of the national and international sports governing bodies forming its back bone. The Asser Institute has been at the forefront of this field of law for years, aiming to advance the study and practice of sports law through high-quality scholarship, research, education and policy advice. Its research is interdisciplinary and comparative, covering private international

law, public international law (including the law of international organisations), international commercial arbitration and the law of the European Union. Through its events and publications – *the International Sports Law Journal and the International Sports Law Book Series* published by Asser Press –, the Asser Institute has become the go-to academic forum for international sports lawyers and researchers.

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### “Pechstein ruling by the European Court of Human Rights is a game-changer”



The 2018 ruling of the *European Court of Human Rights* (ECtHR) in the joint cases of ice skater Claudia Pechstein and football player Adrian Mutu will lead to profound changes in international sports arbitration, says Asser coordinator Antoine Duval. Claudia Pechstein and Adrian Mutu were both challenging the compatibility of the *Court of Arbitration for Sport* (CAS) with the *European Convention of Human Rights* at the ECtHR. While the ECtHR considered that the CAS is an independent and impartial

court, it sided with Claudia Pechstein in finding that it should have held a public hearing. In a blog post, Asser researcher Antoine Duval argued that the decision should trigger profound institutional changes in the way transnational sporting justice operates.

#### ‘Radical change’

Duval: “The ECtHRs decision in the Pechstein case is a game-changer because it finds that the CAS has to comply with the right to a fair trial, as enshrined in Article 6 §1 of the European Convention of Human Rights. This has immediate consequences for the transparency of proceedings at the CAS. It is a first important step towards imposing more transparency at the CAS, because so far, CAS’ operations have been notoriously opaque. ECtHRs ruling will put this secrecy on notice and will force the Court to undergo a radical change.”

## Football Leaks: 'Transnational governance of football in dire need of transparency'

Coordinator Antoine Duval was quoted in several European newspapers about shocking revelations on the governance of international football. The 'football leaks', published by fifteen European news organisations, offer insights into the world of football governance and the clubs' controversial business practices. Duval commented on the transfer practices of Manchester City involving young talented players from West Africa and a Danish club. He was further interviewed on the discretionary and lenient enforcement by UEFA of its financial fair play rules against PSG and Manchester City, and on the intervention of the current FIFA President in the work of the FIFA Ethics Committee. Duval: "The Football Leaks did a great public service by highlighting, once again, that the transnational governance of football is in dire need of more transparency, separation of powers and public control".



## Research highlights

- **Duval, A.** – The Olympic Charter: A Transnational Constitution Without a State?, in the Journal of Law and Society
- **Duval, A.** – Publish (blogs and tweets) or Perish? Legal Academia in Times of Social Media, Tilburg Law Review
- **Duval, A.** – Yearbook of International Sports Arbitration, Asser Press
- **Duval, A & Partiti, E.** – The UN Guiding Principles on Business and Human Rights in (National) Action: The Dutch Agreement on Sustainable Garment and Textile, Netherlands Yearbook of International Law 2017
- **Partiti, E.** – Orchestration as a form of public action: the EU engagement with voluntary sustainability standards, in the European Law Journal



## Research strand

# Dispute settlement adjudication in international and European law

In today's global world, international conflicts involve an increasingly diverse range of public and private interests. International courts and tribunals in The Hague work to settle these conflicts. What kind of fairness and predictability do they provide? And how do they generate and maintain public trust? This research strand further explores new, alternative and interdisciplinary methods for analysing fundamental changes in international institutions and in international law.





# “International institutions are changing their operating models”

“In 2018, there were several important cases proceeding at the *International Court of Justice* (ICJ) in The Hague, says dispute settlement strand coordinator Geoff Gordon. “There was the *Chagos Archipelago Request for an Advisory Opinion*, a case in which Mauritius was challenging the UK’s continued possession of the Chagos Archipelago as an illegitimate and illegal legacy of its colonial past. In the *Iran-U.S. Case*, Iran was challenging the United States sanctions regime targeting Iran and its nuclear energy programme. In the *Bolivia-Chile case*, Bolivia challenged Chile’s possession of territories gained as during hostilities over a century ago. The ICJ decided against Bolivia. In all of these ICJ cases, Asser researchers were interviewed by national and international media such as Trouw, NRC, CBS News Radio in Australia, German public television and international news agencies such as Reuters and Agence France Presse.”

## Fundamental changes

In 2018, Geoff Gordon and his team members have started work on investigating changes occurring in international institutions and in international law. “Although international institutions are an ubiquitous feature of global life,” says Gordon, “little is known about their trajectories of change. We see a trend in international institutions changing their operating models. They seem to shift away from responsibility for hard rules and standards towards more risk-based models and market-oriented practices. Examples of these changes include, for



Academic coordinator Dr Geoff Gordon.

instance, the World Bank providing guidelines for entrepreneurial possibilities at the World Bank and branding exercises at the international courts. Developments like these do not only change these institutions themselves, but also the way in which international law is practiced and perceived. So, we have started to explore new, alternative and interdisciplinary methods for analysing these changes. In February, for instance, we organised a masterclass, co-sponsored by the *Dutch Socio-Legal Society*, exploring heterodox methods for researching institutions of international law.”

### Pioneering research

Geoff Gordon: “In 2018, we were joined by researcher Dimitri van den Meerssche, who brings his expertise in the law and practice of international organisations and of technologies of global governance. Dimitri’s work is inspired by insights from Science and Technology studies, and he brings us a track record of methodological experimentation at the highest level, complementing our pioneering research into international institutions and dispute settlement under international law. After starting at the Asser Institute, Dimitri published an article on ‘International Organizations and the Performativity of Measuring States’ in the *International Organizations Law Review*.” Geoff Gordon and his team also explore the ‘blurring line between public and private international law’. Geoff Gordon: “We see

that private international law continues to develop and change along with the changing dynamics within the European Union. This includes changes in the rules governing EU jurisdiction, where member states argue about which courts or institutions within the EU will hear controversies when there are multiple national points of interest. In 2018, senior researcher Prof. Dr Vesna Lazić won a grant by the European Commission to look into this. In the coming years Vesna will lead a research project on the rules governing the determination of jurisdiction when multiple national interests are implicated.” (for more information, see textbox below).

### Hague Courts Dialogue Series

Geoff Gordon: “One of the many highlights of 2018 for me, was the launch of the *Hague Courts Dialogue Series*, which builds on- and

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## Roundtable on momentous decision by the European Court of Justice in the Achmea case

In March 2018, the *European Court of Justice* landed a momentous judgement in the *Achmea case*, in which it, for the first time ever, ruled on the validity, in light of EU law, of an international agreement between EU member states.

In the landmark decision, the court found an arbitration clause in an international investment agreement between two EU member states to be incompatible with EU law. The case concerned a dispute between Achmea, a Dutch insurer, and the Slovak Republic, in which Achmea claimed damages arising out of the Slovak Republic’s decision to reverse the liberalisation of the sickness insurance market. The ruling will have major consequences for investment arbitration clauses in investment treaties, as it throws doubt on the controversial practices associated with bilateral investment treaties (so called ‘BITs’), and the special means of arbitration that they establish for private investors against the states in which they invest. After the ruling, the Asser Institute organised a roundtable to debate the possible futures for public policy and arbitration practices in the Netherlands, the EU and beyond. The roundtable featured policymakers and experts in international dispute settlement, European Union law, and international private law. NGO *Milieudefensie*, which in 2018 critically assessed Dutch BIT practices, also joined in.

## Enhancing consistency in applying EU private international law

Senior Asser researcher Vesna Lazic was awarded a grant by the *European Commission* to identify best practices and provide guidelines in the interpretation and application of the EU Regulation 1215/2012, usually referred to as regulation Bla or Brussels Ibis. This regulation deals with the jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. The two-year project aims to improve the conditions for a more uniform interpretation and application of the regulation, promoting mutual trust and efficiency of cross-border resolution of civil and commercial disputes. The project will provide suggestions on how to reach a greater degree of consistency in unifying private international law rules on the EU level. It will promote coherence between various legal sources, which affect everyday lives of EU citizens and daily business practices. The research will be conducted by the T.M.C. Asser Instituut in cooperation with *Universität Hamburg, University of Antwerp* and *Internationaal Juridisch Instituut (IJI)*.



This project is funded by the *Justice Programme* of the European Union (2014-2020)

expands the scope of the well-known *ICJ Series* that focused on the work of the World Court. With the Hague Courts Dialogue Series, we will hold regular events at the Asser Institute, organised in consultation with colleagues from The Hague courts community, and in coordination with *Le Club de Droit International*. In November, we kicked off with a fantastic night featuring Sir Christopher Greenwood and Dr Gérardine Goh Escolar, who discussed the power of rhetoric and other techniques of persuasion before international courts and tribunals.”

### Summer programme International lawyering in a public interest

“Another highlight for the strand in 2018, says Geoff Gordon, was the summer programme on *International Lawyering in a Public Interest* that we launched in cooperation with the Amsterdam Center for International Law (ACIL). During the training, we explored what it takes to practice international law for public interests. Topics ranged from the

challenges of public interest advocacy in international law, to very practical questions, like: how to find or start a firm, identify causes for advocacy and find funding. We had a great group of lecturers and students, including leaders in practice, advocates from major firms and pro-bono start-ups, as well as people from the NGOs, the diplomatic community, and academia.”

### What's next?

Geoff Gordon: “For 2019, we are looking forward to developing our work on new technologies. As our strand has begun exploring the interconnection of new technologies and international institutions, we will continue looking into media communications and international courts, biometric technologies and international organisations, and the digital infrastructures that affect international legal practice generally. We will also increase our collaboration with

## Land grabbing challenge at the Hackathon for Peace, Justice and Security

The team “Monkey Code” won the first prize for the Asser Institute’s land grabbing challenge at the ‘*Hackathon for Peace, Justice and Security*’ in The Hague. The group developed an open source solution that combines satellite data with social media data in order to map out vulnerable areas for land grabbing.

During the ‘Hackathon’ in November 2018, 27 teams with over 125 participants competed in finding innovative data solutions for various challenges. The Asser Institute organised a challenge on land grabbing, in which participants were invited to build a tool that identifies patterns of past land grabs to mark areas that are vulnerable to future land grabs and provide them with a risk rating.



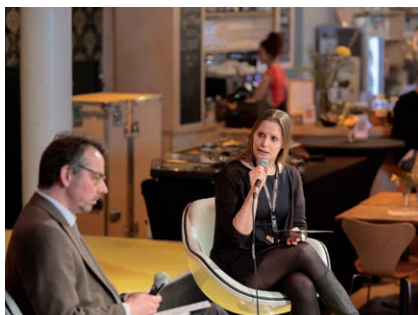
Risk rating tool for land grabbing.

## Movies that matter

Justice, violence, dignity, corruption, punishment, forgiveness, evidence and truth: Big themes that we constantly need to research, discuss and visualise in order to grasp them. In 2018, the Asser Institute joined forces with the Hague-based Movies that Matter Festival – one of Europe’s largest human rights film festivals – as both organisations believe in the power of making connections and in reaching beyond one’s own circle to meet others.

### Films on international law

The Asser Institute sponsored the Camera Justitia programme, with films and debates that focus on international law and justice. Asser researcher Sofia Stolk gave the Camera Justitia Masterclass, in which she interviewed Andreas Kleiser, director for Policy and Cooperation of the International Commission on Missing Persons (ICMP) about his work, illustrated by excerpts from this year’s film selection.



Asser researcher Sofia Stolk interviews Andreas Kleiser. Sophia Stolk: “At the Movies that Matter Festival we want to create a space where filmmakers can meet lawyers, politicians can meet artists, activists can meet academics, and where students can meet judges: unexpected encounters that can help us gain new insights and mutual understanding.”

the international *Movies that Matter Film Festival* by organising a workshop on film and International law, in which we will explore how justice and law is portrayed on screen. We are planning for a masterclass with international lawyer Colleen Rohan who will talk about her work as defence counsel before different international criminal tribunals.

Apart from that, we are working on another summer programme on International Lawyering in the Public Interest, and we will focus on new research into questions of international law and knowledge production in international institutions and dispute settlement.”

## Researchers



Dr Geoff Gordon  
(coordinator)



Prof. Dr Vesna  
Lazic



Dimitri van den  
Meerssche,  
LL.M.



Michiel de Rooij,  
LL.M.



Dr Sofia Stolk

## Research Highlights

- **Gordon, G.** – Imperial Standard Time, article in European Journal of International Law
- **Gordon, G.** – Railway Clocks, chapter in International Law’s Objects, Oxford University Press
- **van den Meerssche, D.** – European perspectives on constitutional pluralism(s): an ontological roadmap, article in Transnational Legal Theory
- **van den Meerssche, D.** – International Organizations and the Performativity of Measuring States: Discipline through Diagnosis, article in International Organizations Law Review
- **Lazić, Vesna, Stuij, Steven (Eds.)** – International Dispute Resolution – Selected Issues in International Litigation and Arbitration, Asser Press, Springer
- **de Rooij, M.** – De cautio en de fundamentele rechten van de buitenlandse eiser onder VWEU en EVRM – verschil in benadering tussen Duitsland, het Verenigd Koninkrijk en Nederland, Nederlands Internationaal Privaatrecht (NIPR)
- **Stolk, S.** – A Sophisticated Beast? On the Construction of an ‘Ideal’ Perpetrator in the Opening Statements of International Criminal Trials, article in European Journal of International Law
- **Stolk, S.** – Cruel Men Can Do Kind Things and Kind Men Can Do Cruel Things, article in Netherlands Journal of Legal Philosophy

# Research projects (selection)

## EU Trade and investment policy (EUTIP)

This project will foster interdisciplinary research into the evolving international trade policy of the European Union. The goal is to create an increased European knowledge base and research capacity on EU law and policy on free trade agreements (FTAs) with third countries. The Asser Institute is a partner organisation and will host several researchers in 2018 and 2019. The project is funded by the *European Commission*.

## Cross-border proceedings in family law matters before national courts and CJEU

This project identifies the best practices and provides for guidelines in the application of Regulation (EC) 2201/2003 (BIIaReg) concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility. Additionally, it will provide suggestions on how to overcome these shortcomings and what role party

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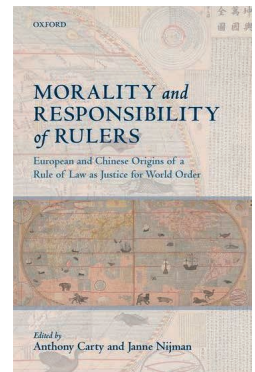
## Morality and responsibility of rulers: European and Chinese origins of a rule of law as justice for world order

How to organise a humanist dialogue between the European and Chinese traditions of thought on world order? That is the theme of the edited volume *"Morality and Responsibility of Rulers: European and Chinese Origins of a Rule of Law as Justice for World Order"* (Oxford University Press), that Janne E. Nijman, Asser's academic director, and Anthony Carty, *Beijing Institute of Technology School of Law* published in 2018.

The book, extremely relevant to the organisation of a EU-China dialogue on a peaceful world order, is a comparative study of both Eastern and Western traditions of thought on world order. In an interview with the *Bulletin de la Recherche of the Graduate Institute* in Geneva, Nijman said: "Prof. Carty and I hope that (the book-ed) could serve as a basis for what we understand to be a much-needed trans-cultural humanist dialogue on international law and international relations."

The book first 'carves out' histories of international thought that show how diverse the Chinese and Western traditions are (...), and then zooms in on 'rule of law as justice' conceptions alternative to the positivist conceptions of the liberal internationalist rule of law today.

In 2019, Carty and Nijman will organise a seminar in Beijing to continue the dialogue.



autonomy can play within that framework. This research is conducted by Asser senior researcher Vesna Lazic (project leader) in cooperation with researchers at *Utrecht University*, *International Legal Institute*, *Ghent University*, and the *University of Valencia*. The project is funded by the European Commission, DG Justice.

### International crimes database (ICD)

The Asser Institute's ICD website offers a comprehensive database on international crimes adjudicated by national, international and internationalised courts. In addition to case law, the ICD website also incorporates general background information about international crimes, scholarly as well as news articles, working papers (ICD Briefs) and relevant links to other useful databases/websites. The ICD website provides access to a range of information for scholars and practitioners (such as judges, prosecutors and defence counsel), as well as for students, journalists, families and communities of victims of crimes. The *Municipality of The Hague* financially contributes to the project. In 2018, Christophe Paulussen and the communications department started work on updating the website and a relaunch planned for 2019.

### Asser Visiting Research Fellow programme

The T.M.C. Asser Instituut welcomes visiting researchers and legal practitioners by providing a place for research in The Hague for a period from one to six months to pursue their own research project. Visiting researchers are encouraged to meet with The Hague based community of scholars and practitioners working at the many international organisations. In 2018, the Asser Institute welcomed five visiting researchers.



The T.M.C. Asser Instituut welcomes visiting researchers and legal practitioners

### Asser PhD programme

The T.M.C. Asser Instituut's PhD programme is a dynamic platform in an intimate research environment. We train researchers to work at the cutting edge of international law, in connection with other Dutch universities. Our programme is interdisciplinary, designed to foster greater insight in the practice of international law in times of change. In 2018, the five PhD researchers who started in September 2016, continued their research on various projects at the institute.

### Shelter City Fellowship programme

Shelter City Fellowship programme is a project by *Justice and Peace Netherlands* that provides temporary relocation and training to legal practitioners who fight against human rights violations in their home countries. The T.M.C. Asser Instituut hosts one Shelter City fellow per year for three to six months. In 2018, Shelter City Fellow Mohan Kumar Karna from Nepal finalised his stay at the Asser Institute with the publication of an op-ed in the *Kathmandu Post* calling for judicial independence.

## The Global City: Challenges, Trust and the Role of Law

This project explores the global city as the crucial place where citizenship and fundamental rights have been debated in the past and in the present. It also questions the role and position of the global city on the international stage. The project consists of four individual PhD studies, conducted by Asser researchers Julia van der Krieke, Yehonatan Elazar-DeMota, Miha Marcenko and Lisa Roodenburg. Together, they address a number of related themes: diversity, migration and trade (including the slave trade); political participation and citizenship; the role of law, fundamental rights and duties as a possible source of trust in the global city of the past and present; and the role and position of the global city in the international (legal) order of the past and present.

Project leader Janne E. Nijman, who received a grant from the *Gieskes-Strijbis Fonds* for this research project, says: “The topic ‘*Cities and international law*’, in which we play a vanguard role, is becoming a growing field of interest in international law. 2018 was a productive year for our Global City team. Apart from advancing their thesis, the PhDs have been very active blogging and presenting their research. In Middelburg, we co-organised a workshop with Prof. Dr Barbara Oomen (*University College Roosevelt*) on ‘International law and local government: Urban dimensions of human rights law’. In early 2019 we will host the conference ‘*Cities and International Law in an Urban Age*’, co-organised with Prof. Dr Helmut Aust (*Freie Universität Berlin*) and the authors of the Research Handbook on International Law and Cities to be published by *Edward Elgar Publishers*.



The Global City PhD team: Julia van der Krieke, Lisa Roodenburg, Miha Marcenko and Yehonatan Elazar-DeMota.



# Cooperation & inter-university activities

The institute actively promotes the creation of research networks in the domains of the institute, both on a permanent and an ad hoc basis. We value the following collaborations and outcomes:

## Amsterdam Center for International Law (ACIL)

The *Amsterdam Center for International Law* (ACIL) of the University of Amsterdam is an internationally leading center for cutting-edge research on questions of international law. In 2018, our partnership with ACIL was further consolidated by a jointly organised and inspiring new summer programme on 'International Lawyering in a Public Interest'. Janne E. Nijman and Geoff Gordon participated in the 'Contingency in the Course of International Law' conference organised by ACIL at the University of Amsterdam. Christophe Paulussen held a presentation on 'Emergency Responses to ISIS Inspired Terrorism', at the Conference 'Rise and Fall of ISIS' organised and hosted by the *Research Group 'Law of Armed Conflict and Military Operations (LACMO)*, which is part of (ACIL), and by the *Faculty of Military Sciences of the Netherlands Defence Academy*.

## International Centre for Counter-Terrorism (ICCT)

ICCT is an independent knowledge centre that focuses on information creation, collation and dissemination pertaining to the preventative and international legal aspects of counter-terrorism. It is supported and nurtured by a unique partnership comprising, in addition to the Asser Institute, the *Netherlands Institute of International Relations*

## Stakeholder universities

- University of Amsterdam
- VU Amsterdam
- University of Groningen
- Leiden University
- Maastricht University
- Radboud University of Nijmegen
- Erasmus University Rotterdam
- Utrecht University
- Tilburg University

*'Clingendael'* and the *Institute of Security and Global Affairs/Leiden University*.

In 2018, Asser researchers Christophe Paulussen and Rумыana van Ark (née Grozdanova), published two ICCT perspectives on terrorism and counter-terrorism, and one ICCT research paper. In August, the Asser Institute and ICCT further co-organised the very successful 8th *Advanced summer programme countering terrorism and the rule of law*, offering an in-depth look at the challenges that come with adopting and implementing counter-terrorism measures while ensuring respect for human rights, fundamental freedoms and the rule of law. Part of the summer programme was a high-level panel on *The Use of Terrorist Watch Lists*, which featured speakers Prof. Dr Edwin Bakker (ICCT/Leiden University), Judge Kimberly Prost (ICC and former Ombudsperson of the *Al-Qaida Sanctions Committee of the United Nations Security Council*), Olivier Burgersdijk (Europol) and Prof. Dr Marieke de Goede (University of Amsterdam).



In 2018, CLEER celebrated its 10th Anniversary with a two-day academic conference on EU External Relations, which brought together world-leading academics

### **HILAC Lecture Series**

The *Hague Initiative for Law and Armed Conflict (HILAC) Lecture Series* is an occasional lecture series on the subject of law and armed conflict, co-organised by the Asser Institute, the *Netherlands Red Cross* and the *Amsterdam Center for International Law (ACIL)*. In 2018, we co-organised a HILAC-lecture on humanitarian relief operations in armed conflict, and one on the demise of Prof. Frits Kalshoven (see page 44).

### **Centre for the Law of EU External Relations (CLEER)**

CLEER, hosted by the Asser Institute, aims at providing the tools to understand the multi-faceted and intra-disciplinary reality of the law and policy of EU external action. CLEER is a unique repository of legal expertise

bridging practitioners with academia, and merging practice with theory. As a network, CLEER is an academic platform for research coordination and cooperation between its members in view of joint events, joint publications, and funding opportunities. In 2018, CLEER celebrated its 10th Anniversary with a two-day academic conference on EU External Relations: Tackling global challenges? The conference brought together world-leading academics, such as Prof. M. Cremona, Prof. C. Hillion and Prof. E. Cannizzaro, practitioners and policymakers, taking stock of EU actions (and reactions). CLEER coordinator and Asser researcher Dr Eva Kassoti: "The 10th anniversary CLEER conference offered stimulating insights into a number of current issues from Brexit to trade and global

challenges. The combination of senior and junior scholars along with practitioners and policymakers fostered thought-provoking exchanges, thereby attesting to the continuing relevance of the ever-broadening field of EU external relations law”.

### **Netherlands Network for Human Rights Research (NNHRR)**

The NNHRR research network associates junior and senior human rights researchers in the Netherlands and aims to connect human rights research and practice. The Asser Institute is one of its initiators and is entrusted with its coordination and administration. The coordinator is Dr Marta Bo, researcher at the Asser Institute. In 2018 she co-organised the annual Toogdag, entitled ‘The Future of Human Rights – Human Rights of the Future’, which brought together 75 participants.

The event, organised at Tilburg Law School, concentrated on challenges to human dignity as well as the role of human rights and human rights law in the world nowadays. A keynote lecture was given by Prof. Morten Kjaerum, director of the *Raoul Wallenberg Institute* in Sweden. A debate was held on the future of human rights with four members of the Advisory Board of the Network: Jos Silvis (procurator general, *Supreme Court of the Netherlands*); Morten Kjaerum; Eduard Nazarski (director of *Amnesty International*, the Netherlands); and Farah Karimi (director of *Oxfam Novib*, the Netherlands).

### **Bringing together The Hague and Geneva: two key cities in international law**

In 2018, the Asser Institute further forged relationships between Geneva-based institutes and similar institutions in The Hague. T.M.C. Asser Instituut’s board member and academic director Prof. Dr Janne E. Nijman taught the 14 week course ‘History of



Geneva, key city in international law. In 2018, the Asser Institute further forged relationships between Geneva-based institutes and similar institutions in The Hague.

the Idea of International Law’, as a visiting professor at the *Graduate Institute for International and Development Studies (IHEID)* in Geneva (spring semester 2018).

The Asser Institute has excellent relations with the *Geneva Academy of International Humanitarian Law and Human Rights*, the *International Committee of the Red Cross (ICRC)*, and the *Antonio Cassese Initiative for Justice, Peace and Humanity*, working with the course in international criminal law and transnational criminal law.

### **Le Club de Droit International**

In 2018, the Asser Institute successfully collaborated with *Le Club de Droit International* (a network of diplomats in charge of legal affairs in The Hague) on a new series of events, organised in consultation with colleagues from The Hague courts community and *Le Club de Droit* called *The Hague Courts Dialogue Series*. (see more on page 26)

# A global network

In all of our activities, we work in close cooperation with our international Asser alumni, with Dutch and foreign universities, and with local, national and international networks of scholars and practitioners. A snapshot of some the organisations we worked with this year.

## The Hague

- International Court of Justice
- Iran-United States Claims Tribunal
- International Criminal Court
- Permanent Court of Arbitration
- Le Club de Droit
- OPCW
- Netherlands Ministry of Foreign Affairs
- Internationaal Juridisch Instituut
- International Institute for Social Sciences
- Royal Academy of Art The Hague
- Stroom Den Haag
- NNHRR
- Social and Economic Council
- European Commission NL
- Groene Brein
- The Hague Academic Coalition
- The Hague University of Applied Sciences
- Coalition for the ICC
- Rode Kruis Nederland
- Special Tribunal for Lebanon
- International Centre for Counter-Terrorism
- Cassese Initiative
- Eurojust
- Netherlands Ministry of Justice and Security
- Netherlands Ministry of Defence
- District Court of The Hague
- Court of Appeal of The Hague
- Europol
- International Residual Mechanism for Criminal Tribunals
- 510 Global
- European Association of History Educators The Hague
- Geoffrey Nice Foundation
- Network of Concerned Historians
- OSCE High Commissioner for National Minorities
- Hague Conference for International Private Law
- Global Counterterrorism Forum
- Embassy of Bangladesh
- Embassy of Bulgaria
- Embassy of Austria
- Netherlands Scientific Council for Government Policy
- House of Representatives Netherlands
- Municipality of The Hague

## North America

- American Society for International Law, Washington, USA
- Washington College of Law, USA
- Dutch Embassy in Washington, USA
- United Nations Counter-Terrorism Committee, New York, USA
- Harvard University, Cambridge MA, USA
- Emory University, Atlanta, USA
- University of California, Berkeley, USA
- Center for the Study of Law & Society at the University of California, Berkeley, USA

## South America

- Universidad Nacional de San Martin, Buenos Aires, Argentina

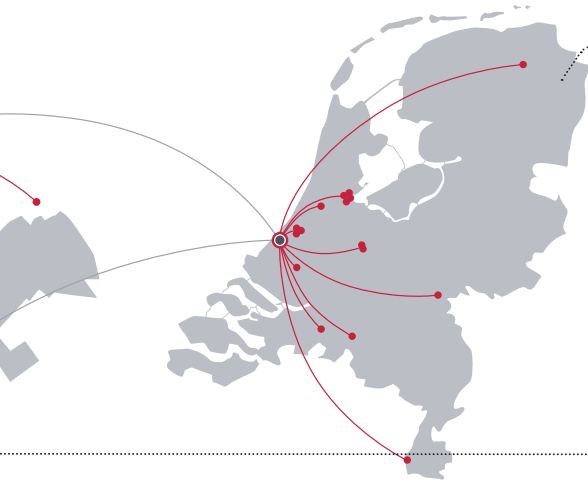
## Africa

- International Committee of the Red Cross Mali, Bamako, Mali
- African Institute for International Law, Abidjan, Côte d'Ivoire

## Asia

- Kyung Hee University, College of International Studies, Seoul, South Korea
- Korea University Legal Research Institute, Seoul, South Korea
- Korean Society of International Law, Seoul, South Korea
- Osaka University Faculty of Law, Japan
- Shizuoka University, Japan





## the Netherlands

- University of Amsterdam
- Amsterdam Center for International Law
- Amsterdam Centre for European Law and Governance
- Amsterdam Law Hub (UvA)
- VU Amsterdam
- Amnesty International, Amsterdam
- The Law of Armed Conflict & Military Operations, Amsterdam
- AKD, Amsterdam
- Leiden Asia Centre
- Milieudefensie, Amsterdam
- Centre for the Politics of Transnational Law (VU), Amsterdam
- Movies that Matter Foundation, Amsterdam
- ABN Amro Amsterdam
- Clean Clothes Campaign, Amsterdam
- FNV, Amsterdam
- FIFPro, Hoofddorp
- District Court of Rotterdam
- Leiden University
- Grotius Centre for International Legal Studies, Leiden
- Royal Netherlands Society of International Law, Leiden
- PAX voor Vrede, Utrecht
- Universiteit van Utrecht
- Groningen University
- Tilburg University
- Netherlands Defence Academy, Breda
- Maastricht University

## Europe

- Institute for International Law of the KU Leuven Belgium
- EUObserver, Brussels, Belgium
- Société Internationale de Droit Militaire et de Droit de la Guerre, Brussels, Belgium
- Universiteit Antwerpen, Belgium
- University of Ghent, Belgium
- University of Kent – Brussels School of International Studies, Belgium
- European Parliamentary Research Service, Brussels, Belgium
- Catholic University Leuven, Belgium
- European Commission, Luxembourg City
- Max Planck Institute Luxembourg for International, European and Regulatory Procedural Law, Luxembourg
- FIDH, Paris, France
- Paris Sorbonne University, Paris, France
- Paris Diderot University, Paris, France
- Gerda Henkel Stiftung, Düsseldorf, Germany
- Universität Hamburg Hamburg, Germany
- Nuremberg Principles Academy, Germany
- Center for East European and International Studies, Berlin, Germany
- Verfassungsblog, Germany
- International Committee of the Red Cross, Geneva, Switzerland
- Graduate Institute of International and Development Studies, Genève, Switzerland
- Geneva Academy of International Humanitarian Law and Human Rights, Genève, Switzerland
- Law in Sport online, Centre for Sport and Human Rights Geneva, Switzerland
- WISLAW, Lausanne, Switzerland
- World PLAYers Union – UNI Global Union, Nyon, Switzerland
- University of Geneva, Geneva, Switzerland
- Digital Science Initiative, Zurich, Switzerland
- United Nations Interregional Crime and Justice Research Institute (UNICRI), Turin, Italy
- International Institute of Humanitarian Law, San Remo, Italy
- University of Bologna, Italy
- Criminal Justice Network, Milano, Italy
- Istituto Storico Italo-Germanico Bruno Kessler, Trento, Italy
- Istituto Storico Parri, Bologna, Italy
- LUISS University, Rome, Italy
- EJJL: talk!, Florence, Italy
- European Observatory on Memories, Barcelona, Spain
- Foro de Asociaciones de Educación en Derechos Humanos y por la Paz, Bilbao, Spain
- The Global Pro Bono Bar Association, Dover, UK
- The Global Legal Action Network, Black London, UK and Galway Ireland
- OpinioJuris, London, UK
- Business and Human Rights Centre, London, UK
- Queen Mary University, London, School of Law, UK
- Stockholm University, Sweden
- Polish Academy of Sciences, Warsaw, Poland
- Hungarian Academy of Sciences, Budapest, Hungary
- University of Central Lancashire, Cyprus



## Middle East

- American University of Beirut (AUB), Lebanon
- American University of Science and Technology (AUST), Lebanon
- Beirut Arab University (BAU), Lebanon
- Notre Dame University (NDU), Lebanon
- Université La Sagesse (ULS), Lebanon
- Université Libanaise (UL), Lebanon
- Museum of Beirut, Lebanon
- Université Saint-Esprit de Kaslik (USEK), Lebanon
- Lebanese American University (LAU), Lebanon
- University of Balamand (UoB), Lebanon
- Islamic University of Lebanon (IUL), Lebanon
- Academic University College for Non-violence and Human Rights (AUNOHR), Lebanon
- Tel Aviv University, Israel

## Oceania

- Melbourne School of Law, Australia

- Beijing Institute of Technology, China

# Education & capacity building (selection)



The T.M.C. Asser Instituut is a leading and authoritative provider of executive and post-graduate education. By utilising our collective knowledge and skills and the power of partnership, we create unique and highly relevant programmes on a variety of subjects and levels for a diverse range of individuals (including judges, prosecutors, legislators, civil servants, diplomats, lawyers and MA and PhD students) operating in the judicial sector.

## **Corporate social responsibility in transnational law and practice – 8-12 January 2018**

In 2018, the Asser Institute organised its first five-day winter academy *Doing Business Right*, for professionals and academics with a keen interest in the various modes of regulation of transnational business activity and corporate social responsibility. The training included advanced theory of the various legal fields and debates relevant to corporate social responsibility and how these mechanisms work in practice. The training brought together speakers from the corporate world, international organisations, law firms and NGOs. Speakers included,

amongst others, Prof. Liesbeth Enneking (Erasmus University Rotterdam) and Prof. Jan Eijssbouts (Maastricht University).

## **Strengthening domestic capacity to prosecute international and transnational crimes in Africa – 5-9 February 2018**

This week-long course, taught in French, offered a high-quality training on the prosecution and adjudication of international and transnational crimes. Participants were prosecutors and judges from Mali, Cote d'Ivoire, Congo, Burkina Faso, Niger and the Democratic Republic of the Congo. The programme delved into topics of international and transnational criminal law (ICL

and TCL) including the elements of crimes; the implementation of customary law and treaty law in national contexts; international standards of due process; and cooperation with international courts and tribunals managing complex cases.

The course featured top speakers from international courts and tribunals in The Hague, including honoured guests such as Judge Abdulqawi A. Yusuf, the recently elected president of the *International Court of Justice*, and Judge Guénaél Mettraux from the *Kosovo Specialist Chambers*. The judges and prosecutors all attested that the training course had increased their knowledge and strengthened their competences in these fields. They were convinced that the tools acquired during the training course would prove very useful in their domestic judicial systems, hence strengthening the complementarity principle. The follow-up training programme is planned for March 2019.

### **International lawyering in a public interest – 9-13 July 2018**

2018 also marked the launch of a new summer programme exploring the challenges of public interest advocacy in international law, from questions of practice to starting a firm, and from finding funding to identifying causes for advocacy. Prof. Dr Helen Duffy (Leiden University) provided the keynote lecture. It was organised in cooperation with the *Amsterdam Center for International Law (ACIL)*, *University of Amsterdam* and *AKD law firm*.

### **Countering terrorism within a rule of law framework – 27-31 August 2018**

The advanced summer programme on countering terrorism within a rule of law framework is co-organised by the Asser Institute and the *International Centre for Counter-Terrorism – The Hague (ICCT)*. The



Participants of the high quality training on the prosecution and adjudication of international and transnational crimes.



Keynote speaker Prof. Dr Helen Duffy (Leiden University) at the International lawyering in a public interest summer school.



The Advanced programme on counter-terrorism looks at the challenges that come with implementing counter-terrorism measures with respect for human rights, fundamental freedoms and the rule of law.

week long programme provides a comprehensive understanding of legal aspects of counter-terrorism. It offers an in-depth look at the challenges that come with adopting and implementing counter-terrorism measures while ensuring respect for human rights, fundamental freedoms and the rule of law. In 2018, during an intensive week, experts from academia and practice explored (international) legal aspects of counter-terrorism and provided key insights into current issues and best practices.

### **International criminal law & international legal and comparative approaches to counter-terrorism – 28 May-21 June 2018**

This annual summer law programme is the product of a unique collaboration between the *War Crimes Research Office of American University's Washington College of Law* and the Asser Institute. Each year, forty selected students from top U.S. law colleges and universities travel to The Hague to learn from



The Disarmament and non-proliferation of weapons of mass destruction programme is delivered by a group of experienced and internationally renowned experts and diplomats in the fields of international law, security and related disciplines.

international legal practitioners and scholars and to see their knowledge being put to practice through visits to (inter)national courts and institutions.

Keynote speakers in 2018 included: Benjamin Ferencz (the last Nuremberg war crimes prosecutor still alive today), Judge Alphons Orie (*United Nations Mechanism for International Criminal Tribunals*), Judge Christine Van Den Wyngaert (*Kosovo Specialist Chambers & Specialist Prosecutor's Office*) and Judge Kimberly Prost (*International Criminal Court*). The annual summer law programme is organised by Christophe Paulussen (Asser Institute) in cooperation with Washington College of Law.

### **Disarmament and non-proliferation of weapons of mass destruction – 1-5 October 2018**

In August 2010, the T.M.C Asser Instituut and the OPCW launched the first training programme on Disarmament and



Non-Proliferation of Weapons of Mass Destruction (“WMD Training Programme”). By now, the week long programme is a well established and highly regarded educational resource for advanced graduate students and early- to mid-career professionals with interests in WMD diplomacy and treaty implementation.

The programme is delivered by a group of experienced and internationally renowned experts and diplomats in the fields of international law, security and related disciplines. The interactive sessions are complemented with a simulation exercise and field visits to a nuclear reactor and a chemical weapons research laboratory. In 2018, the *Netherlands Ministry of Foreign Affairs* generously funded four scholarships. After communicating the new programme, former participant and PhD student Biejan Poor Toolabi tweeted: “From one former participant to the potential next ones: this comes highly recommended!”

#### **Lebanon Lecture Series – Inter-university programme on international criminal law and procedure – October 2018-May 2019**

2018 saw a new season of a special lecture series on international criminal law and procedure, organised since 2011 by the Asser Institute and the *Outreach and Legacy Section of the Special Tribunal for Lebanon (STL)*. The training is unique in its scope and results, as it enables law students from eleven Lebanese universities to follow seventeen lectures on international criminal law and procedure.

Streamed from the Asser Institute in The Hague, the programme features lectures by prominent practitioners and academics. The lectures are delivered in English with simultaneous interpretation into Arabic. More than 800 students have graduated from the programme, and international criminal law has become an integral part

of their legal vocabulary. Importantly, the course also brings together different Lebanese universities, transforming the Lebanese academic and legal landscape in general. Prof. Georges Masse of the *American University of Science and Technology* in Beirut described the programme as ‘*the best attempt towards reconciliation in Lebanon, because it brings together universities and students from different backgrounds*’.

In 2018, Daryl Mundis (Registrar at the STL) kicked off the new academic year with his lecture *History of the law of the international tribunals and sources of international criminal (procedural) law*.

#### **SHIRAKA: training course on Administration of Justice – 2-11 September 2018 (The Hague) & 9-12 December 2018 (Marrakesh, Morocco).**

Over a period of four years (2015-2018), the Asser Institute organised training courses on ‘administration of justice’ as part of the SHIRAKA programme by the *Netherlands Ministry of Foreign Affairs*. The programme



Participants of the 2018 SHIRAKA training on administration of justice.

aimed to support sustainable democratic transition in the Middle East and North Africa (MENA) region. The training brought together judges, prosecutors and civil servants working in the justice sector in the countries of the MENA region. The aim of the course was to deepen participants' knowledge and skills, and to equip them to lead and inspire the modernisation of judiciary and prosecution services in their countries.

Asser researcher Narin Idriz was responsible for the project management.

**Twinning Georgia: Strengthening the administrative capacities of the Ministry of Environment – Jul 1, 2017-Mar 31, 2018**

In collaboration with InfoMil (Netherlands Ministry of Infrastructure and Water

Management), the T.M.C. Asser Instituut provided expertise for this Twinning project in Georgia. The objective of this project was to assist and strengthen the administrative capacities of the *Ministry of Environment and Natural Resources Protection of Georgia (MENRP)*. The project's specific purpose was to assist the MENRP in the transposition and implementation of the EU environmental acquis in the fields of industrial pollution and industrial hazards. MENRP will be able to introduce, in cooperation with other relevant stakeholders, a system of integrated pollution prevention and control through the development of legal, institutional, administrative and procedural frameworks for integrated permitting and inspection.



The Twinning Georgia project: strengthening the administrative capacities of the Georgian Ministry of Environment.

# Public events 2018 (selection)

## Fourth Annual T.M.C. Asser Lecture 'International Law and the Far Right: Reflections on Law and Cynicism'

In November 2018, distinguished international law scholar Prof. Martti Koskenniemi delivered the Fourth Annual T.M.C. Asser Lecture at the Peace Palace in The Hague. In his lecture, Prof. Koskenniemi critically reflected on the general state of international law, as well as its role in the rise of the far right. He described how international law in the 20th century transformed into an expert discipline, and how the rise of the anti-globalist far right is linked to that development. Prof. Koskenniemi provided an alternative interpretation for the 'backlash' against globalisation, tying it to cultural anxiety and the loss of white male privilege. Two days before the Annual Lecture, an interview with Prof. Koskenniemi appeared in Dutch newspaper NRC, 'Hoogleraar internationaal recht: heb begrip voor de boze onderklasse die de elite hekel't; 27 November 2018.

The day after the Annual Lecture, Prof. Koskenniemi gave a Masterclass at the Asser Institute in which he and PhDs from several universities had an animated and in-depth discussion of critical research methods. Early December, researcher Dimitri van der Meerse published an exclusive and trending interview with Koskenniemi on international law blog *Opinio Juris*. In the interview, headlined '*I am just a person who cracks the mirror. It is for other people to see the light*', Koskenniemi critically reflects on the general state of international law and its role in the rise of the far right, on the backlash against globalism, fake expertise and the smoking gun in Koskenniemi's historical work: "Economic reforms are of no concern



T.M.C. Asser Annual Lecture 2018: A signature Martti Koskenniemi performance in a packed Peace Palace.

to these protesters. And the more you try to reform, the more you will appear like a hopeless idiot."

## Four Freedom Awards event: Roosevelt in The Hague 2018

The Four Freedoms Awards from the *Roosevelt Foundation* recognise the contributions of civil society leaders who embody the vision for a better world that U.S. President Franklin Roosevelt articulated in his famous 1941 'Four Freedoms' speech. In 2018, as a follow-up to the award ceremony in Middelburg, the laureates came together and shared their experiences with students and young professionals at the premises of *Nieuwspoord* in The Hague. The event was a collaboration between the Roosevelt Foundation, the Asser Institute, *Pro-Demos* and *Leiden University College* (The Hague Campus). Asser president Ernst Hirsch Ballin provided the opening remarks and the event



Asser president Ernst Hirsch Ballin and the Roosevelt Foundation's Four Freedoms award laureates in The Hague.

was moderated by international affairs expert Willem Post.

### AI and Blockchain for Good: Harnessing Technological Developments to Foster Trust

At this seminar, keynote speakers and panelists discussed how artificial intelligence (AI) and blockchain technologies (BT), two of the most promising, complex and fast advancing current technological developments, can be harnessed in order to foster trust in the legal and political institutions. The event was organised together with the Centre for Artificial Intelligence and Robotics of the United Nations Interregional Crime and Justice Research Institute (UNICRI) and The Hague Convention Bureau (THCB).

### Contemporary constraints on the waging of war: A tribute to Prof. Frits Kalshoven

This evening event commemorated the work and life of late 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. Kalshoven was part of the international humanitarian law's 'hall of fame', as he was instrumental in the development of this important field of law. The event was co-organised by the Asser Institute's International Humanitarian and Criminal Law (IHCL) Platform and the *Kalshoven-Gieskes Forum on International Humanitarian Law* (KGF Leiden). Speakers included Dr Robert Heinsch (Associate Professor of Public International Law at Leiden University and Director of the *Kalshoven-Gieskes Forum on International Humanitarian Law*), Prof. Liesbeth Zegveld (Professor of War Reparations at the *University of Amsterdam*) and Prof. Christopher Greenwood (Judge at the *International Court of Justice*).

### Controversial targets: Does contemporary practice stretch the concept of military objectives under international humanitarian law?

In times of armed conflict, only military objectives may be targeted. Recent conflicts, such as the fight against ISIS however, show an expansion of the type of objects that are



Irakli Beridze, Head of the Centre for Artificial Intelligence & Robotics of the United Nations Interregional Crime and Justice Research Institute (UNICRI) at the AI and Blockchain for Good seminar.

targeted. Western forces have, for instance, attacked oil trucks and banks to bring down this armed group. At this HILAC lecture, co-organised by the *Amsterdam Center for International Law* (ACIL) and *The Netherlands Red Cross*, Dr Agnieszka Jachec-Neale from the *University of Exeter* (UK) discussed the concept of military objectives and contemporary targeting practice to analyse whether such objects constitute legitimate military targets.

### Improving the sustainability of EU Free Trade Agreements

For nearly a decade, the European Union has included so-called trade and sustainability chapters (FTAs) in its free trade agreements. These chapters must ensure that trade and investment liberalisation does not lead to a deterioration in environmental and labour conditions. A lecture by legal expert Dr Wybe Douma, organised by Asser Institute and CLEER, addressed the question: do these chapters really work in practice? And how could we improve them?

### The future of multilateralism – beyond current distrust

This panel discussion focused on the importance of effective multilateralism, the international system built up since the end of WW II to ensure global peace and security. In the past years, the system has been under attack with distrust and confrontation replacing cooperation and partnership. This event, held at The Hague based Austrian Residence, focused on the Netherlands and Austria – important promoters of multilateralism – to counter this worrying trend. Austrian Ambassador to the Netherlands Heidemaria Gürer kicked off the event with an introduction. Panellists included Janne E. Nijman (Asser Institute), Alexander Kmentt (Austrian Ambassador to the EU-Political



Asser Press publisher Frank Bakker and author Dr Nienke van der Have at the launch of her book on the Prevention of gross human rights violations under international human rights law.

and Security Committee), Peter van der Vliet (Director *Multilateral Organisations and Human Rights*, Netherlands Ministry of Foreign Affairs) and Cecilia Balteanu (Head of External Relations and State Cooperation Unit/Registry, ICC). Christophe Paulussen (Asser Institute) moderated the event, which was organised in cooperation with the Embassy of Austria.

### The prevention of gross human rights violations under international human rights law

At this event, the book *The Prevention of Gross Human Rights Violations under International Human Rights Law* (2018), by Dr Nienke van der Have was launched. The publication contains a systematic assessment of the content and scope of obligations to prevent gross human rights violations. The panel discussion addressed the role of states and its obligations in the field of prevention, categorised in three types of violations (torture, arbitrary deaths, and genocide) both within a state's territory



## Closing plenary of the American Society of International Law

2018, the Asser Institute conveyed the closing plenary of the *Annual Meeting of the American Society of International Law (ASIL)* in Washington D.C., which was sponsored by The Municipality of The Hague. This year we discussed '*The Future of Multilateralism*', bringing together leading experts\* to address the effectiveness and fairness of multilateral institutions and approaches, and the prospects for their renewal.

and extraterritorially. Speakers were: Dr Nienke van der Have (Senior Legal Specialist at the *Ministry of the Interior and Kingdom Relations of the Netherlands*, and author of the book), Audrey Fino (International lawyer and former staff member at the *Office of the UN High Commissioner for Human Rights* and the *ICTY*) and Dr Emma Irving (Assistant Professor *Grotius Centre for International Legal Studies at Leiden University*). The event was co-organised and moderated by Christophe Paulussen (Asser Institute).

### The European Union: A case of over-constitutionalisation?

In this keynote lecture, Prof. Dieter Grimm (Professor of *Law Humboldt University*, author and a former Supreme Court Justice) questioned whether the EU's successive waves of treaty reforms can cope with today's economic and political challenges. He identified this issue as one of 'over-constitutionalisation' and brought forward a number of concrete proposals for reforming the EU's institutional structure, as well as its decision-making processes.

### Global cities

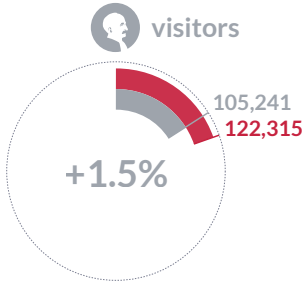
In May 2018, the *Cities of Refuge Project* (project leader Prof. Dr Barbara Oomen, *University College Roosevelt*) and the *Global City Project* (led by Janne Nijman) co-organised a workshop and a public panel debate on Global Cities. The workshop in Middelburg included presentations by Phds Miha Marcenko and Lisa Roodenburg and Janne Nijman gave an introduction on 'The Global City from an International Law Perspective'. The panel debate focused on 'The Reception and Integration of Refugees: A Task for Local Authorities?' and was chaired by Barbara Oomen. It included contributions by Prof. James Hathaway, *University of Michigan*, Ann Arbor (USA), Prof. Martha Davis, *Northeastern University*, Boston (USA) and Janne Nijman. In October, the two parties organised a second event on 'International law, local government: Urban dimensions of International Human Rights Law'. Prof. Dr Maarten Prak concluded the event with a talk on his book '*Citizens Without Nations: Urban Citizenship in Europe and the World, C.1000-1789*'.

\* Speakers at the round table included: Jutta Brunnée, Metcalf Chair in Environmental Law at the University of Toronto and recipient of the ASIL Certificate of Merit for her recent book (with Daniel Bodansky and Lavanya Rajamani) on International Climate Change Law; Edward Kwakwa, Senior Director, Department for Traditional Knowledge and Global Challenges, World Intellectual Property Organization (WIPO); Steven Hill, Legal Advisor and Director of the Office of Legal Affairs at NATO; and Gabriela Ramos, OECD Chief of Staff and Sherpa to the G20.

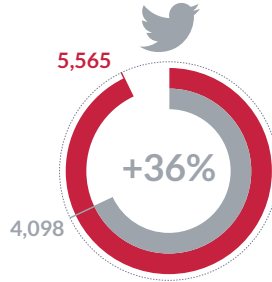
# Communications

■ 2017  
■ 2018

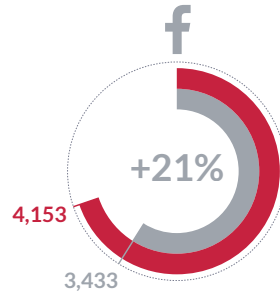
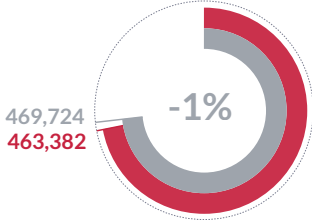
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## Social media followers

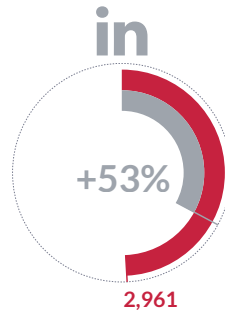


## page views

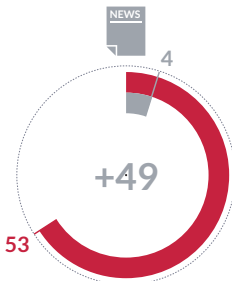


Average per month in 2018

10,192 visitors 38,615 page views



## Asser in the media



## 'Asser Today' newsletter

3,800 followers in 2018

## Asser in the media (selection)

### For a Humanist Dialogue between Chinese and Western Thoughts on World Order

How to organise a humanist dialogue between the European and Chinese traditions of thought on world order? An interview with Asser Institute's academic director Prof. Dr Janne Nijman on her new book *"Morality and Responsibility of Rulers: European and Chinese Origins of a Rule of Law as Justice for World Order"*, Oxford University Press. Bulletin de la Recherche of the Graduate Institute in Geneva (February 1, 2018).



### UEFA discredited, football at risk

Interview with senior researcher Dr Antoine Duval on a Football leaks case, Media Part (November 8, 2018).



### Memory laws

Poland announces the demise of its liberal democracy with its new Memory law. The new legislation goes much further than the ban on 'Polish extermination camps', argues Dr Uladzislau Belavusau in an op-ed in de Volkskrant (February 20, 2018).

## de Volkskrant

### Repatriate children of IS fighters before it's too late

The Repatriation of children of IS fighters will serve us in the long term, argue senior Asser researcher Dr Christophe Paulussen, together with Willem van Genugten (KNVIR) and Bibi van Ginkel (Clingendael) in an op-ed in de Volkskrant (June 26, 2018).

## de Volkskrant

### In search of judicial independence

T.M.C. Asser Instituut Shelter City Fellow Mohan Kumar Karna calls for reform of the Nepalese judicial council in an op-ed in the Kathmandu Post (December 17, 2018).

## kathmandupost

### It's time for the EU to stand up to transnational corporations

The UN negotiates a treaty that seeks to hold transnational corporations accountable for human rights violations. The EU should actively endorse it and demonstrate its commitment to human rights standards, urges Dr Antoine Duval in an op-ed for the EU Observer (October 15, 2018).

## euobserver

### In a global economy, national governments cannot regulate on their own

The preventive effect of a binding UN convention is crucial to counter human rights violations and environmental damage by companies. The Netherlands could play a pioneering role in the realisation of it, writes Prof. Dr Janne E. Nijman, in an op-ed headlined *'Een verdrag tegen ongebreideld kapitalisme'* in de Volkskrant (October 15, 2018).

## de Volkskrant



### Professor of International Law: Understand the angry underclass that denounces the elite

“The law is an instrument of those in power,” says Finnish international law expert who will hold the annual Asser lecture in the Peace Palace in The Hague on Thursday. Martti Koskeniemi shows understanding for the angry underclass that denounces the elite. “It is time for us to start taking care of them again.” NRC Handelsblad (November 27, 2018).

NRC  HANDELSBLAD

### Activists: Bahrain continues to eevoke citizenship of dissidents

The Bahraini government targets political opponents by using terrorism allegations to strip them of their citizenship. Analyst and senior researcher at The Hague-based Asser Institute Dr Christophe Paulussen says citizenship stripping is counterproductive, in the Voice of America (November 6, 2018).



### Iran, U.S. in tense wait for world court sanctions ruling

The Iran-U.S. case is an important opportunity for the ICJ to rule on the issue of “economic warfare” – not currently designated as a use of force. “International law, for reasons to do with power politics, has never formally recognised economic warfare to be a use of force as prohibited by the UN Charter, though economic sanctions can have the same effects and worse as guns and bombs”, says Asser senior researcher Dr Geoff Gordon in the Israeli Times (October 1, 2018).

 THE TIMES OF ISRAEL

### World Court weighs Britain's claim to Chagos Islands in Indian Ocean

The legality of Britain's claim to the Chagos Islands in the Indian Ocean, which house a major U.S. military base, will be considered by the International Court of Justice. “A combination of historical accident and intense political and popular interest in questions of colonial legacy,” says international law expert Dr Geoff Gordon of the Asser Institute in The Hague (Reuters, September 3, 2018).

 THOMSON REUTERS

# T.M.C. Asser Press

The institute's publishing house T.M.C. Asser Press promotes and disseminates some of the best legal thinking in the fields of international and European Law from across the world. Asser Press, together with members of the Law Faculties of Dutch and foreign universities and staff members of international organisations based in The Hague and abroad, offers a platform for academic cooperation through the publication of books, e-books and journals.

The T.M.C. Asser Press English book titles are distributed by its publishing partner SpringerNature and available worldwide via *SpringerLink*. The books are published in three formats: as hardbacks, paperbacks, and as e-books.

Through the availability of their titles via thousands of universities and libraries, T.M.C. Asser Press ensures a wide international distribution, visibility and readership. Information on the books can be found in *Bookmetrix*, a comprehensive web-based overview of the reach, usage and readership of the book or individual chapters.

T.M.C. Asser Press performed well in 2018, publishing twenty new book titles and five journals numbering a total of seventeen issues. Especially deserving mention:

- The fourth volume in the Series on *Nuclear Non-Proliferation in International Law*, edited by Jonathan Black-Branch and Dieter Fleck, focusses on 'Human Perspectives on the Development and Use of Nuclear Energy'.
- T.M.C. Asser Press Yearbook Series: The main theme of Volume 20 of the *Yearbook of International Humanitarian Law* is the development and interpretation of international humanitarian law, while Volume 48

of the *Netherlands Yearbook of International Law* focusses on 'Shifting Forms and Levels of Cooperation in International Economic Law: Structural Developments in Trade, Investment and Financial Regulation'. In 2018, T.M.C. Asser Press also published the second *Yearbook of International Sports Arbitration*, edited by the institute's senior researcher Dr Antoine Duval and Swiss sports lawyer Antonio Rigozzi.

- Nienke van der Have's book *The Prevention of Gross Human Rights Violations under International Human Rights Law* was presented during a well-attended book launch



at the T.M.C. Asser Instituut and *The Duty of Care of International Organizations Towards Their Civilian Personnel*, a contributed volume edited by Andrea de Guttry et al, was launched in Vienna during a conference on the same topic.

- In the *International Criminal Justice Series* four new volumes were published, of which ‘*Memory and Punishment*’, the book by Italian scholar Emanuela Fronza on ‘historical denialism, free speech and the limits of criminal law’, drew a great deal of attention.
- The richly illustrated and full-colour book *Een geschenk aan de wereld* [‘A gift to

the world’]) on the history and future of the *Internationaal Juridisch Instituut* was published and presented on the occasion of the 100<sup>th</sup> anniversary of the *Internationaal Juridisch Instituut* (IJJ). The IJJ is a knowledge centre on private international law and is based in The Hague.

### Furthermore

- The *Netherlands International Law Review* celebrated its 65th anniversary as a leading journal on *International Law and Conflict of Laws* with the special issue on ‘*Nationality and International Law*’ (NILR, Volume 65, number 3, 2018).
- The *International Sports Law Journal* celebrated the *First Annual International Sports Law Journal Conference* (organised by the Asser International Sports Law Centre) with a special issue (ISLJ, Volume 17, numbers 3-4, 2018).
- The first issue of *Nederlands Internationaal Privaatrecht* in 2018 was a special issue on ‘*Private international law and finance*’ (NIPR, Volume 36, number 1, 2018).
- Articles to be published in Asser Press journals are made available on *SpringerLink* as soon as they are finalised (‘Online First’) thereby immediately disseminating the latest research.

A detailed list containing all T.M.C. Asser Press publications that appeared in 2018 can be found in Annex 2 ([www.asser.nl](http://www.asser.nl)).



# Financial overview

The T.M.C. Asser Instituut is partially funded by public resources. In 2018, the core funding by the University of Amsterdam accounted for 35% of the total revenues. The additional 65% was generated through externally funded activities for national and international stakeholders, such as the *Netherlands Ministry of Foreign Affairs* (tendered projects, trainings and conferences), the *European Commission* (tendered projects and grants), the *U.S. Department of State* (management of the Administrative Unit of the *Global Counterterrorism Forum*, implementing projects), *The Hague Municipality* (facilitating lectures and research programmes) and *the Gieskes Strijbis Fonds* (research projects).

A summary of the institute's financial statement 2018 is presented in the table below. The external auditor (Dubois & co) has given an unqualified opinion to the financial statement.

In 2018, the financial result is € 58,000 positive. This result is strongly affected by the establishment of a provision for future unemployment benefits (€ 238,000)\*

The adjusted result before this provision and some smaller incidental items is € 340,000 positive and a continuation of the good operational results of the past two years.

The institute's equity totalled € 2,734,000 at the end of the year, which is 44% of both the total revenues (€ 6,153,000) and the balance sheet total (€ 6,203,000). This shows a healthy financial solvency.

	2018	2017
<b>Revenues</b>		
Core funding	2,163	2,163
Additional income	3,990	3,734
Total revenues	6,153	5,897
Direct costs of commissioned projects	-2,950	-2,448
Gross margin	3,203	3,449
<b>Expenses</b>		
Personnel costs	2,478	2,815
Material costs	627	964
Total expenses	3,145	3,779
Result	58	-330
Added to designated reserve		-308
Added to general reserve	58	-22
<b>Total equity</b>		
On 1 January	2,676	3,006
On 31 December	2,734	2,676

! All amounts in Euros x 1,000

\* In 2018, the institute established a provision for future unemployment benefits. T.M.C. Asser Instituut is the risk-bearer within the meaning of the Unemployment Act (WW); if an Asser employee becomes unemployed, the unemployment benefit is borne by T.M.C. Asser Instituut for a period of between three months and 38 months, depending on the employee's employment history.

# Organisation & governance

The T.M.C. Asser Instituut is a foundation established in 1965 as an inter-university institute for international law in The Hague. It has a modern governance structure.

The University of Amsterdam (UvA) is the governing body, and the dean of the law faculty is its mandated regulator, responsible for mediating the institute's affairs with the executive board of the UvA. Since 1 January 2017, all advising and administrative human resources tasks have been transferred to the UvA.

The T.M.C. Asser Instituut has a one-tier board, comprising three executive members and two non-executive members. The executive members are Prof. Ernst Hirsch

Ballin (president of the board), Prof. Janne Nijman (academic director) and Gert Grift MSc (managing director). The non-executive members are Prof. André Nollkaemper (dean, faculty of law, UvA) and Prof. Suzan Stoter (dean, Erasmus school of law). The board is responsible for the governance and overall management of the institute.

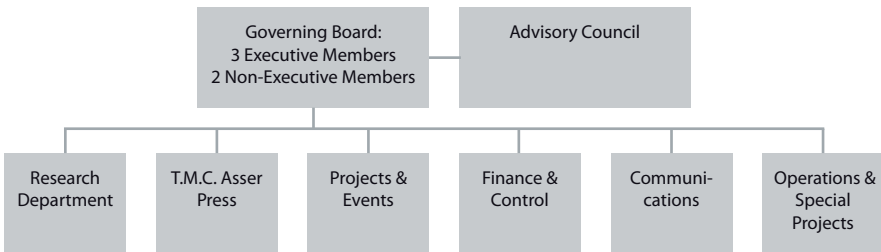
## Staff

On 31 December 2018, a total of 51 persons were employed by the T.M.C. Asser Instituut, including temporary and project related staff. In addition, the institute accommodated five visiting researchers and 25 interns for various periods in 2018.



**ASSER**  
INSTITUTE

*Centre for International & European Law*



**Asser staff 2018 (in Fte)**

	2018	2017
Directors	1.8	1.8
Research Department	13.9	11.2
PhDs	5.0	5.0
Projects & Events	5.3	4.3
Communications	2.6	2.7
Operations & Special Projects	4.0	4.0
Finance & Control	1.0	1.0
Secretariat of the Board	1.3	1.4
T.M.C. Asser Press	2.7	2.7
GCTF Admin Unit	7.6	5.5
<b>Total</b>	<b>45.2</b>	<b>39.6</b>
Visiting Research Fellows	5	6
Interns*	25	19

\* Total number for the entire year

**Gender equality**

Gender equality is an integral part of our institute's strategy. We have a good record in gender equality in both our staff and panel compositions.

In 2018, the gender balance in our organisation was 53% women, 47% men. This is similar to the staffing composition of 2017. In the future, we will continue to ensure that women remain represented at all levels within our organisation. We are strongly committed to gender balanced panels at all of the events organised by our research staff. In 2018, we organised more than 48 events, of which most panels were gender balanced. In some panels, there was a lack of gender representation with two all-male and three all-female panels.

We will continue to focus on gender representation in all panels and meetings held at the institute. If and when a call for

papers yields a response of predominantly male scholars, the organisers will actively invite female scholars in the relevant field to apply. In case a panel turns out not to be gender balanced, the meeting organiser(s) are asked to highlight this point at the beginning of the meeting, and to encourage participation by audience members from the opposite sex.

**Sustainability**

The Asser Institute has a longstanding commitment to sustainability.

We actively reduced the use of paper with printing policies, the introduction of e-readers and tablets, digital-only publications and the use of eco-friendly paper. To further reduce our environmental footprint, we are serving ecological tea and coffee in eco-friendly paper cups to our staff and guests. During our training programmes and events, we serve vegetarian and vegan food and ecological wine.

During the refurbishment of our headquarters in 2016-2018, we used recycled and eco-friendly building materials, FSC labelled wood and we switched to LED lighting. We added a new isolated roof and installed solar panels. We further replaced the windows with double-glazed windows and isolated the exterior walls of our building to reduce our use of energy.

For 2019, we are replanting the garden of our institute to help increase biodiversity. We are looking into the possibilities of replacing our use of natural gas for heating our offices with other energy sources.



During the refurbishment of our headquarters in 2016-2018, we used recycled and eco-friendly building materials.



After a speech by Ernst Hirsch Ballin, Janne Nijman and Gert Grift (managing director Asser Institute) symbolically opened the refurbished head quarters. In 2019, the building will formally be opened.



We added a new isolated roof and installed solar panels. For 2019, we are replanting the garden of our institute to help increase biodiversity.

Stichting T.M.C. Asser Instituut

Instituut voor Internationaal Privaat- en Publiekrecht,  
Internationale Handelsarbitrage en Europees Recht

Institute for Private and Public International Law,  
International Commercial Arbitration and European Law

**ASSER**  
INSTITUTE



*Centre for International & European Law*

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