

## **An overview of the sessions, topics covered by the course and the corresponding curriculum**

Having passed the exam, the student should have acquired advanced knowledge (AK) of the central aspects of jus ad bellum and jus in bello, good knowledge (GK) of other important aspects of these, and knowledge (K) of some of the other aspects of them.

The course consists of 15 sessions of 2 x 45 minutes length. The first session is however of 45 minutes length, and one later session not numbered below (film seminar) will equally be of 45 minutes length. The sessions are indicated below in brackets and bold text. The curriculum for the individual sessions is indicated in the corresponding footnotes.

In places where a chapter or similar is used as curriculum in different parts of the course, a circa indication of where on the page the relevant material starts (as opposed to the top of the page) is given by the term “mid”. It signifies here that not the whole of the page is curriculum for that part, but typically only from or to the mid part of the page.

### **(1) General introduction**

- The sources of international law and its methodology are considered (AK)<sup>1</sup>

### **(2) Jus ad bellum**

- The history of jus ad bellum (K)
  - o Provides a general overview of its development from the seemingly free use of armed force in the 1800s to the establishment of restrictions which started around 1900 (like the League of Nations and the Briand-Kellogg treaty). An overview of the current state of affairs is also given.<sup>2</sup>

### **(3) ...**

- The prohibition of the use of force
  - o United Nations Charter (UNC) Art. 2(4) and the corresponding international customary law rule are considered. (AK) Also covered are the disputed legality of humanitarian intervention and the question whether authorization to use armed force may be granted by others than the United Nations Security Council (UNSC) (K)<sup>3</sup>

### **(4) and (5) ...**

- Exceptions

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<sup>1</sup> J. B. Bellinger III & W. J. Haynes II, 'A US Government Response to the International Committee of the Red Cross Study on Customary International Humanitarian Law' Vol. 89 International Review of the Red Cross 2007, pp. 443-471, and Jean-Marie Henckaerts, History and Sources, in Ben Saul and Dapo Akande (eds), The Oxford Guide to International Humanitarian Law (Oxford University Press 2020), pp. 1-27, pp. mid 12-27.

<sup>2</sup> Yoram Dinstein, War, Aggression and Self-defence, 6<sup>th</sup> ed. (Cambridge University Press 2017), pp. 3-21, 32-64, 67-mid 72 and mid 77-mid 89, and Christine Gray, International Law and the Use of Force, 4<sup>th</sup> ed. (Oxford University Press, 2018), Ch. 1 Law and force, pp. 1-31.

<sup>3</sup> Yoram Dinstein, War, Aggression and Self-defence, 6<sup>th</sup> ed. (Cambridge University Press 2017), pp. mid 72-mid 77, 89-125, 186-194 and mid 365-358-mid 368.

- To the extent that use of armed force by invitation is not excluded from the prohibition, it nevertheless constitutes under customary international law one of the accepted exceptions to the prohibition (GK)<sup>4</sup>
- Self-defense is a well-established exception and will be assessed in relation to i.a. cyber-attacks, protection of a state's own citizens located abroad, preemptive self-defense and terrorism. Also covered is collective self-defense under UNC Art. 51 and customary international law (AK)<sup>5</sup>

(6) ...

- UNSC authorizations require assessment of i.a. the threshold for the activation of these powers and how far these powers go. Included is a limited coverage of UN peace support operations. The primary focus is here on UNC Art. 39 and the authorization of the use of force (AK)<sup>6</sup>

(7) Moot-case I and Q&A

(8) **Jus in bello**

- The history of jus in bello (K)
  - Provides a general overview of its development focusing primarily on the post 1850 period. An overview of the current domains of warfare is also given.<sup>7</sup>
- General principles (AK)
  - The following principles constitute the foundation of jus in bello ~~and even though they are considered closely below they are nevertheless introduced here~~: Distinction, proportionality, military necessity and the prohibition against means of warfare that may lead to unnecessary suffering and superfluous injury<sup>8</sup>

(9) ...

- The scope of application of jus in bello (international humanitarian law) (GK)
  - The issue of armed conflict, international and non-international, is considered and the different categories of conflicts are described with a short reference to the legal rights and obligations pertaining to each of them. The legal regime for non-international armed conflicts is thus described. Also covered is the termination of an armed conflict<sup>9</sup>

<sup>4</sup> Yoram Dinstein, *War, Aggression and Self-defence*, 6<sup>th</sup> ed. (Cambridge University Press 2017), pp. mid 125-130.

<sup>5</sup> Yoram Dinstein, *War, Aggression and Self-defence*, 6<sup>th</sup> ed. (Cambridge University Press 2017), pp. 197-327.

<sup>6</sup> Yoram Dinstein, *War, Aggression and Self-defence*, 6<sup>th</sup> ed. (Cambridge University Press 2017), pp. 328-378 (minus pp. mid 365-mid 368-which are covered by session 3).

<sup>7</sup> Jean-Marie Henckaerts, *History and Sources*, in Ben Saul and Dapo Akande (eds), *The Oxford Guide to International Humanitarian Law* (Oxford University Press 2020), pp. 1-27, pp. 1-mid 12, and Sarah McCosker, *Domains of Warfare*, in Ben Saul and Dapo Akande (eds), *The Oxford Guide to International Humanitarian Law* (Oxford University Press 2020), pp. 77-98 Dieter Fleck (ed.), *The Handbook of International Humanitarian Law*, 3<sup>rd</sup> ed. (Oxford University Press, 2014), pp. 11-34.

<sup>8</sup> Michael N. Schmitt, *International Humanitarian Law and the Conduct of Hostilities*, in Ben Saul and Dapo Akande (eds), *The Oxford Guide to International Humanitarian Law* (Oxford University Press 2020), pp. 147-174 (minus pp. mid 157 – mid 161) Yoram Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict*, 3<sup>rd</sup> ed. (Cambridge University Press, 2016), pp. 1-20 and 149-164.

<sup>9</sup> Dapo Akande, *Classification of Armed Conflicts*, in Ben Saul and Dapo Akande (eds), *The Oxford Guide to International Humanitarian Law* (Oxford University Press 2020), pp. 29-56 (minus pp. mid 49-mid 52), and Dieter Fleck (ed.), *The Handbook of International Humanitarian Law*, 3<sup>rd</sup> ed. (Oxford University Press, 2014), pp. 43-56, 60-70 and 580- 610.

**Commented [MF1]:** Dieter Fleck (ed.), *The Handbook of International Humanitarian Law*, 4<sup>th</sup> ed. (Oxford University Press, 2021) Ch. 19 The Law of Non-International Armed Conflict. Bokens omfang er utvidet med 100 sider fra forrige utgave, men det er per nå uvisst hvor mange sider kap. 19 er utvidet med

- The geographical area where military operations may be undertaken is considered<sup>10</sup>

(10) ...

- Combatant status (AK)

- The requirements for participation in hostilities and the corresponding protection against most kinds of prosecution for acts and omissions in conformity with jus in bello are addressed<sup>11</sup>

(11) ...

- Protection of persons (AK)

- The rules regarding the protection of enemy personnel who are ship-wrecked and incapacitated by illness or wounds, or taken prisoners of war are considered. Likewise are the status of both non-combatants and civilians addressed. Special attention is given to the treatment of prisoners of war and to the question of when civilians have participated sufficiently in hostilities to lose their protection against direct attacks<sup>12</sup>

(12) ...

- Protection of property

- The definition of military objective and the treatment of civilian property – public or private – are considered (AK)<sup>13</sup>
- Addressed are certain kinds of civilian property enjoying enhanced protection (cultural property, ~~places of worship~~, medical units and works and installations containing dangerous forces) (AK)<sup>14</sup>

<sup>10</sup> [Emily Crawford, The Temporal and Geographic Reach of International Humanitarian Law, in Ben Saul and Dapo Akande \(eds\), The Oxford Guide to International Humanitarian Law \(Oxford University Press 2020\), pp. 57-75](#)[Dieter Fleck \(ed.\), The Handbook of International Humanitarian Law, 3<sup>rd</sup> ed. \(Oxford University Press, 2014\), pp. 56-59, and Yoram Dinstein, The Conduct of Hostilities under the Law of International Armed Conflict, 3<sup>rd</sup> ed. \(Cambridge University Press, 2016\), pp. 262-264.](#)

<sup>11</sup> [Lawrence Hill-Cawthorne, Persons Covered by International Humanitarian Law: Main Categories, in Ben Saul and Dapo Akande \(eds\), The Oxford Guide to International Humanitarian Law \(Oxford University Press 2020\), pp. 99-123, pp. 99-mid 106](#)[Yoram Dinstein, The Conduct of Hostilities under the Law of International Armed Conflict, 3<sup>rd</sup> ed. \(Cambridge University Press, 2016\), pp. 41-71.](#)

<sup>12</sup> [Lawrence Hill-Cawthorne, Persons Covered by International Humanitarian Law: Main Categories, in Ben Saul and Dapo Akande \(eds\), The Oxford Guide to International Humanitarian Law \(Oxford University Press 2020\), pp. 99-123, pp. mid 106-123 \(minus most of p. 122\), Michael N. Schmitt, International Humanitarian Law and the Conduct of Hostilities, in Ben Saul and Dapo Akande \(eds\), The Oxford Guide to International Humanitarian Law \(Oxford University Press 2020\), pp. 147-174, pp. mid 157-mid 161, Robin Geiß and Christophe Paulussen, Specifically Protected Persons and Objects, in Ben Saul and Dapo Akande \(eds\), The Oxford Guide to International Humanitarian Law \(Oxford University Press 2020\), pp. 175-203, pp. 175-191, and Jelena Pejic, Detention in Armed Conflict, in Ben Saul and Dapo Akande \(eds\), The Oxford Guide to International Humanitarian Law \(Oxford University Press 2020\), pp. 277-297](#)[Dieter Fleck \(ed.\), The Handbook of International Humanitarian Law, 3<sup>rd</sup> ed. \(Oxford University Press, 2014\), pp. 392-404 and Yoram Dinstein, The Conduct of Hostilities under the Law of International Armed Conflict, 3<sup>rd</sup> ed. \(Cambridge University Press, 2016\), pp. 139-149 and 164-203.](#)

<sup>13</sup> [Gary D. Solis, The Law of Armed Conflict, 2<sup>nd</sup> ed. \(Cambridge University Press, 2016\), Ch 13 Targeting Objects, pp. 505-534, pp. 505-514](#)[Yoram Dinstein, The Conduct of Hostilities under the Law of International Armed Conflict, 3<sup>rd</sup> ed. \(Cambridge University Press, 2016\), pp. 102-138.](#)

<sup>14</sup> [Robin Geiß and Christophe Paulussen, Specifically Protected Persons and Objects, in Ben Saul and Dapo Akande \(eds\), The Oxford Guide to International Humanitarian Law \(Oxford University Press 2020\), pp. 175-203, pp. 192-203](#)[Yoram Dinstein, The Conduct of Hostilities under the Law of International Armed Conflict, 3<sup>rd</sup> ed. \(Cambridge University Press, 2016\), pp. 203-229.](#)

(13) ...

- Protection of the environment (K)
  - o Some of the central aspects regarding the protection of the environment are addressed<sup>15</sup>
- Methods and means of combat (AK)
  - o The methods of perfidy, ruses and espionage are addressed<sup>16</sup>

(14) ...

- Application to international peace support operations (K)
  - o The application of jus in bello to UN troops and the troops of regional organizations/coalitions of the willing acting under mandate from the UN Security Council is considered<sup>17</sup>
- Relationship to international human rights law (AK)
  - o The possible ways of regulating the relationship between jus in bello and human rights are addressed through an assessment of the applicability of human rights to armed conflicts, the possibility to derogate and the principle of lex specialis<sup>18</sup>
- Enforcement of jus in bello (K)
  - o Addressed here are national implementation of jus in bello, international criminal law and some other ways of enforcing jus in bello<sup>19</sup>

(15) Moot-case II and Q&A

**Commented [MF2]:** To be expanded during next revision by rephrasing the knowledge requirement to “Knowledge of the enforcement of international law in relation to use of force and international humanitarian law”. The new curriculum may then be Natalino Ronzitti, Reparation and compensations, in Nigel D. White and Christian Henderson (eds.), *Research Handbook on International Conflict and Security Law* (Edward Elgar Publishing, 2013) pp. 638-659. Currently, the job part of this is somewhat covered by Dinstein pp. 116-12 in session (3)

<sup>15</sup> Cymie R. Payne, *Protection of the Natural Environment*, in Ben Saul and Dapo Akande (eds), *The Oxford Guide to International Humanitarian Law* (Oxford University Press 2020), pp. 205-233; Yoram Dinstejn, *The Conduct of Hostilities under the Law of International Armed Conflict*, 3<sup>rd</sup> ed. (Cambridge University Press, 2016), pp. 230-250.

<sup>16</sup> Lawrence Hill-Cawthorne, *Persons Covered by International Humanitarian Law: Main Categories*, in Ben Saul and Dapo Akande (eds), *The Oxford Guide to International Humanitarian Law* (Oxford University Press 2020), pp. 99-123, most of p. 122, Gloria Gaggioli and Nils Melzer, *Methods of Warfare*, in Ben Saul and Dapo Akande (eds), *The Oxford Guide to International Humanitarian Law* (Oxford University Press 2020), pp. 235-259, and Stuart Casey-Maslen, *Weapons*, in Ben Saul and Dapo Akande (eds), *The Oxford Guide to International Humanitarian Law* (Oxford University Press 2020), pp. 261-276; Yoram Dinstejn, *The Conduct of Hostilities under the Law of International Armed Conflict*, 3<sup>rd</sup> ed. (Cambridge University Press, 2016), pp. 72-101, 251-262 and 264-297.

<sup>17</sup> Dapo Akande, *Classification of Armed Conflicts*, in Ben Saul and Dapo Akande (eds), *The Oxford Guide to International Humanitarian Law* (Oxford University Press 2020), pp. 29-56, pp. mid 49-mid 52; Dieter Fleck (ed.), *The Handbook of International Humanitarian Law*, 3<sup>rd</sup> ed. (Oxford University Press, 2014), pp. 611-646.

<sup>18</sup> Marco Sassóli, *International Humanitarian Law and International Human Rights Law*, in Ben Saul and Dapo Akande (eds), *The Oxford Guide to International Humanitarian Law* (Oxford University Press 2020), pp. 381-402; Yoram Dinstejn, *The Conduct of Hostilities under the Law of International Armed Conflict*, 3<sup>rd</sup> ed. (Cambridge University Press, 2016), pp. 27-35.

<sup>19</sup> David Turns, *Implementation of International Humanitarian Law*, in Ben Saul and Dapo Akande (eds), *The Oxford Guide to International Humanitarian Law* (Oxford University Press 2020), pp. 359-380; Yoram Dinstejn, *The Conduct of Hostilities under the Law of International Armed Conflict*, 3<sup>rd</sup> ed. (Cambridge University Press, 2016), pp. 298-332.