



# Security and the formation and application of international law: A One Day Symposium in Honour of Marie Jacobsson

24 January, 2024

Bergsmannen, Aula Magna, Frescati, Stockholm

*In cooperation with the Swedish Branch of the International Law Association*

*Supported by the European Society of International Law*

*With financial support from the Edvard Cassel Foundation*

*Hybrid format -- zoom and live. The event will be recorded.*

## Programme

10.00-10.30 Registration and morning coffee

10.30-10.45 Introduction (the organisers)

10.45-12.15 Panel I – Prisoners of Geography: the Baltic Region, the High Seas and Outer Space

*Security is always related to geography. Even global (or galactic) issues are site-specific in the sense that they are considered from the position of each respective actor.*

- Rolf Einar Fife (International Law Commission)
- Niklas Hedman (Formerly United Nations Office for Outer Space Affairs)
- Max Mejia (World Maritime University)
- Moderator: Elinor Hammarskjöld (Swedish Ministry for Foreign Affairs)

12.15-13.45 Lunch

13.45-15.00 Panel II – When the Chips are down: the Use of Military Force

*International law as applied in armed conflict not only restrains violence, but also legitimises some forms of violence.*

- Helen Durham (RedR Australia), online
- Marja Lehto (Ministry of Foreign Affairs, Finland)
- Britta Sjöstedt (Lund University)
- Moderator: Said Mahmoudi (Stockholm University)

15.00-15.30 Coffee

15.30-16.45 Panel III – The armchair and the situation room: From concrete decisions to abstract codification and back

*Lawyers that codify (academics, diplomatic experts, etc) must make sense of state practice and also think about how the codified law can be applied in the situation room. Conversely, the legal interpretation made in a crisis must withhold the test of generalizability and be accepted by other states.*

- Nilufer Oral (International Law Commission, NU Singapore), online
- Michael Wood (Twenty Essex)
- Carl-Henrik Ehrenkrona (former Director-General for Legal Affairs, Swedish MFA)
- Moderator: Pål Wrane (Stockholm University)

16.45-17.00 Reflections by Marie

17.00-17.15 Closing remarks

## Registration

Write an email with the subject line “Registration 24 January” to [scilj@juridicum.su.se](mailto:scilj@juridicum.su.se) by 22 January at noon.

A link for online registration will be posted later.

## Theme

The purpose of this symposium is to explore the interplay between international law, policy and concrete decisions in the field of security.

International law influences (or should influence) policies as well as concrete decisions by states -- from the clear rule that the exercise of self-defence should be reported to the Security Council to broader principles like the principle of non-intervention. There are also values (or implicit policies) in the concept of law itself, for instance that like cases should be treated alike: If one state interprets a rule in a novel way or proposes a new rule, any other state may invoke that very rule under the same interpretation, and this forces governments to think beyond the particular situation at hand.

Conversely, political decisions influence the interpretation and application of international law. At each decision point, more than one interpretation of the applicable rule, principle or concept may seem theoretically plausible (though not necessarily equally appealing), and a choice has to be made by the applier. That choice, in its turn, contributes to the development of international law, in the form of state practice and *opinio juris* (if articulated) or as subsequent treaty practice. This is true not only for concrete decisions, where the abstract law should be interpreted and applied to an often foggy situation on the ground, but also in the tranquil situation of codification, where lawyers try to make sense of the various sources of international law, including state practice.

When national security or other vital interests are at risk, an existential element is added to the dialectic relation between law and politics. Considerations of legality may appear to be less important than the values at stake, and it may be tempting to violate the law as previously understood. But the result may also be an effort to forge a new conception of the law which fits with the situation at hand. For instance, perhaps an attack by a foreign non-state armed group may be considered an armed attack under Article 51 of the Charter?

Changes in the law may be the result of a reassessment of established balances between contradicting values, principles and rules. For instance, what about the need to respect sovereign immunity of a foreign leader when the need to sanction the supreme crime of aggression seems acute? Threats against security may also elicit discussions about the values that security is supposed to protect --- democracy, human rights etc. To what extent can one limit the exercise of human rights in order to protect the people that should benefit from that right?

The speakers at the symposium will be asked to reflect on these kinds of issues, and they are invited to draw on their personal experiences, be it from crisis management, codification or from scholarship.

## Biography of Ambassador Marie Jacobsson

Ambassador Marie Jacobsson's work focuses on matters of international peace and security. She has extensive experience of high-level multilateral and bilateral negotiations in the areas of international humanitarian law, the law of the sea, international environmental law, boundary delimitation and regional security. Jacobsson was a member of the UN International Law Commission 2007–2016 and Special Rapporteur for the topic Protection of the Environment in Relation to Armed Conflicts. She is a member of the Permanent Court of Arbitration, arbitrator under the UN Convention on the Law of the Sea, arbitrator under the Protocol on Environmental Protection to the Antarctic Treaty and Alternate Arbitrator of the Court of Conciliation and Arbitration within the OSCE, the Organization for Security and Cooperation in Europe. Jacobsson has also worked as a Security Policy Analyst at the Swedish Armed Forces.

## Biographies of the Panellists

**Helen Durham** is the AO CEO of the international humanitarian response agency RedR Australia. She has 30 years' experience in the humanitarian sector and high-level expertise in international humanitarian law, policy and diplomacy. Dr. Durham was the first woman and first Australian to be the Director of International Law and Policy for the International Committee of the Red Cross (ICRC) in Geneva. She has regularly addressed the Security Council on topics such as cyber warfare, counterterrorism and women and armed conflict, and has been the Director of International Law and Strategy at Australian Red Cross, Head of Office Australia ICRC, Legal Adviser to ICRC Pacific delegation and Director of Research at the Asia Pacific Centre of Military Law at Melbourne Law School. Dr. Durham is a Senior Fellow at Lieber Institute at Westpoint, an honorary Professorial Fellow at Melbourne Law School and a Board member of Geneva Call. She is widely published in areas of international humanitarian and criminal law and has significant experience with the media as well as an Officer of the Order AO.

**Rolf Einar Fife** is special adviser to the secretary-general of the Norwegian Ministry of Foreign Affairs. He is a member of the UN International Law Commission (2023-2027) and of the Institut de droit international. He served as ambassador of Norway to the European Union 2019-2023 and as ambassador to France 2014-2019. From 2002 to 2014 he was director general for legal affairs of the Foreign Ministry. He was chief negotiator for the maritime delimitation concluded in 2010 between Norway and the Russian Federation. He was elected chair of the Council of Europe Committee of Legal Advisers on international law (CAHDI) 2009-2010. He has been an arbitrator and is a member of the Permanent Court of Arbitration. After serving 1984-1985 in the polar administration of the Ministry of Justice he joined the Norwegian diplomatic service, with postings in the Middle East and at the UN in New York. He is a law graduate of the University of Oslo where he also studied the Arabic language. He has been a Visiting Fellow at the University of Cambridge.

**Niklas Hedman** is Vice-Chair of the Committee on Space Research (COSPAR) Panel on Planetary Protection. From March 2022 until September 2023 he was Acting Director of the United Nations Office for Outer Space Affairs (UNOOSA). He was Chief of the Committee, Policy and Legal Affairs Section of UNOOSA for 18 years, where he served as Secretary to the Committee on the Peaceful Uses of Outer Space (COPUOS) and its Scientific and Technical

Subcommittee and Legal Subcommittee. Before joining the United Nations in 2006 he served in the Swedish Ministry for Foreign Affairs, representing Sweden to COPUOS for 10 years, and working in the areas of ocean affairs and the law of the sea, space affairs and space law, as well as disarmament and arms control. He received the International Institute of Space Law (IISL) Distinguished Service Award in 2017.

**Marja Lehto** is Ambassador (International legal affairs) at the Ministry for Foreign Affairs of Finland. She is also Adjunct Professor of international law at the University of Helsinki. Dr Lehto is a member of the Council and Vice-President of the International Institute for Humanitarian Law (IIHL). From 2017 to 2022 she was a member of the UN International Law Commission and Special Rapporteur for the topic 'Protection of the environment in relation to armed conflicts. She has published on a wide range of legal topics from the law of the sea and environmental protection to the use of force, armed conflict, terrorism and cyber.

**Maximo Q. Mejia Jr.** is President of the World Maritime University (WMU), where he has been a member of faculty since 1998. He holds a BSc (US Naval Academy), MA Law and Diplomacy (Fletcher School), MSc (WMU), and PhD (Lund University). Before WMU, he saw duty on board naval and coast guard vessels as well as shore-based facilities in the Philippines. He went on leave from WMU from 2013 to 2016 to serve as Administrator (Director General) of the Philippine Maritime Industry Authority. In 2013, Lloyd's List included Prof. Mejia among the world's 100 Most Influential Persons in the Shipping Industry. Prof. Mejia's focus areas include maritime law and policy, human factors, safety, and security-related issues.

**Nilufer Oral** is the Director of the Centre of International Law at the National University of Singapore; member of the UN International Law Commission (ILC); Chairperson of the 74th session of the ILC; Co-chair of the Study Group on sea-level rise in relation to international law; Assoc. Member of the Institut de Droit International; Climate change negotiator for Turkish MFA (2009-2016); Appeared before the International Tribunal for the Law of the Sea; Distinguished Fellow of the Law of the Sea Institute, UC Berkeley Law; Member of the Committee of Legal Experts of the Commission of Small Island States on Climate Change and International Law (COSIS); Steering Committee of the IUCN World Commission on Environmental Law; Series Editor of the International Straits of the World series; member of board of editors of several academic journals.

**Britta Sjöstedt** is a senior lecturer at the Faculty of Law of Lund University, researching and teaching environmental law and public international law. Her research interests relate to legal issues in regard to environmental protection, sustainability, environmental peacebuilding and environmental security. She is involved and leads several research projects related to sustainability issues and environmental protection. Dr. Sjöstedt is one of the founding board directors of the Environmental Peacebuilding Association and has served as chair of its Law Interest Group.

Sir **Michael Wood** KCMG, KC is a barrister at Twenty Essex, London, where he practises in the field of public international law, including before international courts and tribunals. He was Legal Adviser to the UK's Foreign and Commonwealth Office between 1999 and 2006, having joined as an Assistant Legal Adviser in 1970. He was a member of the UN International Law Commission from 2008 to 2022, and is an Honorary Fellow of the Lauterpacht Centre for International Law, University of Cambridge.