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The Gaza Conflict: Legal Implications of the Hamas Attacks on October 7th and Israel's Response

The heinous attack known as Operation Al-Aqsa-Flood, launched by Hamas on Israel on October 7th, marked the largest assault by Hamas against Israel until then, with tragic consequences. The attack included not only the invasion by Hamas fighters on Israeli soil, such as the Nova festival massacre, depicted globally in distressing images, but also massive and ongoing rocket attacks covering large parts of Israel, as well as numerous hostage takings. In response, Israel initiated a comprehensive military operation named "Iron Swords", invoking its right to self-defense. Extensive bombardments, the encirclement of the Gaza Strip, and the subsequent ground offensive are central to Israel's goal of permanently ousting Hamas as the ruler of Gaza and ending hostilities. At the same time, this military operation in the Gaza Strip, one of the most densely populated areas globally, is causing widespread suffering. This led to worldwide controversy on the legality of Israel's military actions and even to accusations of Israel committing genocide.

Despite – and also because – of the sensitivity and political charge of this issue, a sound legal analysis of the events is crucial to assess the situation. We will start with addressing the initial situation before October 7th 2023 in order to map legal implications for the present conflict. Questions we aim to answer are, *inter alia*: Can Gaza still be considered as occupied by Israel, and how can we define Hamas – as fighters, terrorists or even a National Liberation Movement? And how do these categorizations influence the analysis of the conflict? Hereinafter, two issues of *ius ad bellum* will be addressed, such as whether Hamas might be legally allowed to use force against Israel and whether Israel can invoke its right to self-defense. Subsequently, *ius in bello* will be considered, including whether the encirclement of Gaza by Israel can be justified. Further questions include: Can rocket attacks against civilian infrastructure such as hospitals be classified as legal if they are used for military purposes? Which obligations exist for Hamas and Israel to establish humanitarian corridors, and can those be prohibited or impeded? To what extent must the parties to the conflict ensure that people receive humanitarian relief, and what role do third parties like Egypt play in this context?

Finally, we will focus on specific areas of international law and *ius post bellum* prospects. For example: are the genocide allegations towards Israel tenable under

international law? What role does the international community play if *erga omnes* obligations are violated? How should Gaza be administered after defeat of Hamas?

The seminar is open to all interested students who are willing to thoroughly engage with the topics and actively participate in the discussions. Prior knowledge of international humanitarian law, international criminal law and international human rights law is recommended but not required.

Note: The seminar will take place on July 19-21. A **preliminary meeting** (via zoom: [https://tu-dresden-zoom-join.com/j/63837935689?pwd=eEx1TVFSbDNjQUJITks4dzFvY0sydz09](https://tu-dresden.zoom-join.com/j/63837935689?pwd=eEx1TVFSbDNjQUJITks4dzFvY0sydz09)) will take place on **April 9 from 1.15 to 2.30 p.m.** Only after the meeting will it be possible to choose your topic. The seminar will be held in English.

Seminar Topics:

- I. **Introduction – Legal Analysis of the Initial Situation Prior to 7th October 23**
 1. **(Pre-)Conflict in Gaza: Mapping Legal Implications before Al-Aqsa Flood**
 2. **Still Occupied? Legal Situation of Gaza Prior to Al-Aqsa Flood and Iron Swords and Why Does It Matter?**
 3. **The Al-Bassiouni Judgment: Positive Humans Rights Obligations by Israel?**
 4. **The Legal Status of Hamas and Its Consequences: State(-like) Entity, National Liberation Movement, or Just Terrorism?**
- II. ***Ius ad Bellum* – The Lawful Conduct of Hostilities**
 5. **Operation Al-Aqsa Flood: Hamas and a Right to Use Force?**
 6. **Operation Iron Swords: Israel´s Response and the Right to Self-Defense**
- III. ***Ius in Bello* – A Complicated and Multifaceted Matter**
 7. **The Relationship of Human Rights Law and Humanitarian Law and where it matters : Parallel Application or a Legal Maxim Threatening Human Rights?**
 8. **Encirclement and Starvation as a Method of Warfare: The Principle of Distinction and the Incidental Killing of Civilians**
 9. **Urban Warfare and the Bombardments of Gaza Strip: Dual-Use Objects and the Problem of Human Shields**
 10. **Siege Warfare: Act of Armed Reprisal, Collective Punishment, Terrorizing Civilians, or Legally Justified?**
 11. **Humanitarian Corridors: Obligations of Hamas and Israel**
 12. **Humanitarian Relief Actions: Consent of the Parties as a Prerequisite and What is an Essential Good?**
 13. **Hostage Rescue Actions: Legality under International Law**
 14. **Prisoners of War–Status: Israels Obligations Toward Hamas Fighters**

15. **Rafah Border–Crossing:** Egypt’s Role and Obligations in Humanitarian Relief Actions
 16. **Psychological Warfare:** Legal Implications of Hamas Propaganda and Its Effects
- IV. Specific Areas: Genocide, Criminal Law, and the International Community**
17. **Genocide Allegations:** Is Israel Committing Genocide?
 18. **ICJ’s Order on Provisional Measures:** Significance and Legal Implications
 19. **Jurisdiction of the ICC:** Admissibility and Merits of the Prosecution of Crimes in Gaza and Israel since 7th October 23
 20. **Criminal Accountability of Hamas:** The Nova-Festival and Sexual/Gender-Based Violence
 21. **Violations of Obligations *Erga Omnes*:** The International Community’s Options and Obligations
- V. *Ius post bellum* – Options for Sustainable Peace**
22. **(Re–)Occupation of Gaza:** Lawful or Unlawful Conduct by Israel?
 23. **Transitional Administration:** Legal Perspectives of an UN-Mission in Gaza