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The Interplay Between International Humanitarian and Human Rights Law

Traditionally, International Humanitarian Law (IHL) and International Human Rights Law (IHRL) were two distinct legal regimes, governing the conduct of hostilities by the parties to an armed conflict, on the one hand, and protecting individuals against arbitrary state actions during peacetime, on the other hand. Although certain fundamental principles underlying the two bodies of law reflect a common spirit, such as the principle of humanity in IHL, or human dignity in IHRL, the two regimes were applied separately and without any interaction over decades.

This gradually changed during the second half of the twentieth century. One of the most significant milestones in advocating for the interaction between IHL and IHRL was the *Nuclear Weapons Advisory Opinion* of the International Court of Justice (ICJ) in 1996. In this opinion, the Court not only affirmed the simultaneous application of both legal regimes in armed conflicts, but also identified the *lex specialis*-rule as a central mechanism for determining how the two bodies of law should interact: IHL, as the more specific law, would generally take precedence over the corresponding provisions of IHRL. Although the ICJ maintained this view in its *Israeli Wall Advisory Opinion* in 2004, it neglected this approach one year later in the *Armed Activities Case*, where it applied both areas of law concurrently without establishing a hierarchy between them. In the meantime, regional courts have also addressed this question, *inter alia*, the European Court of Human Rights and the Inter-American Court of Human Rights. While both recognise that the two bodies of law apply during armed conflict, they have at times adopted different approaches to their interaction. Therefore, it is now rather undisputed that, alongside the application of IHL during armed conflict, human rights law also applies. What remains less clear, is what this development entails in practice: are IHL and IHRL to be regarded as complementary legal regimes?

In this seminar, we will examine the interplay between IHL and IHRL. We begin with an introduction to the historical development of, and theoretical approaches to, the interaction between the two bodies of law. We will also take a closer look at certain IHL and IHRL

treaties, and address specific questions: Is targeted killing permissible in light of the right to life? How can the IHL prohibition of the intentional starvation of civilians as a method of warfare be reconciled with the human right to food? And can the protection of property under IHL and IHRL be meaningfully interpreted comparatively?

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 law, specifically in international humanitarian law and international human rights law is highly recommended.

Note: The seminar will take place on **January 22-24, 2027**. A preliminary meeting will take place on the **October 16, from 9.20 to 12.40** (2. and 3. DS) in **ABS/105**. Attending this meeting is mandatory if you want to attend the seminar. The seminar will be held in English.

Only after the meeting will it be possible to choose your topic. After the topic assignment, you can schedule a consultation with your supervisor. Consultation meetings will be held during the week of November 16-20. There will only be one consultation meeting where you can ask questions and discuss the seminar topic. The consultation last between 30 and 45 minutes. Please submit your expose, including a preliminary outline, to your supervisor no later than November 9.

Seminar Topics

Introduction: Setting the Scene of the Converging Legal Regimes of IHL and IHRL

1. **The Growing Interrelation of Human Rights Law and Humanitarian Law:** A Legal-Historical Perspective
2. **From Theory Towards Practice:** Theoretical Approaches Between Convergence and Separation
3. ***Lex Specialis* and Its Limitations:** A Rule of Interrelation, Interpretation or Separation?
4. **Extraterritorial Application of Human Rights:** A Deadlock of Human Rights Protection in Situations of Armed Conflict?

Cross-Cutting Treaties & the Interaction of Law

5. **Armed Conflict as a Subject of Human Rights Treaties:** Are Human Rights Provisions Overriding Humanitarian Law?
6. **Limited Applicability of Human Rights in Public Emergencies:** The Derogation Clauses Applied to Situations of Armed Conflicts
7. **The Torture Convention and its Universal Significance:** A Paragon of Two Merging Legal Regimes?
8. **The Convention of the Rights of the Child:** New Positive Obligations of States in Armed Conflicts?
9. **Woman, Peace and Security Framework:** Legal Implications of the Security Council's Fusion of IHL and IHRL Regulations

Specific Issues of the Interaction Between IHL and IHRL

10. **The U.S. Targeted Killing Program:** The Right to Life as a Preclusion of Lawfulness in IHL?
11. **Proportionality in Attacks:** Lawful Targeting and the Right to Life
12. **Starvation in Armed Conflicts and the Right to Food:** Legal Perspectives on the War in Gaza after October 7, 2023
13. **Military Safety Zones:** A Contradiction to the Freedom of Movement?
14. **The “Dust” of War and Environmental Damage:** Two Different Approaches to Health and Survival of Human Beings under IHL and IHRL?
15. **Security Detention in Armed Conflicts:** Security Concerns in Situations of Armed Conflict and the Right to Liberty
16. **Access to Justice in Armed Conflicts:** Prisoners of War and the Right to a Fair Trial
17. **Destruction as a Key Element of War:** The Right to Property During Military Operations
18. **The Fog of War:** The Protection of Journalists in IHL and IHRL
19. **Human Rights under Occupation:** The Interplay Between IHL and IHRL in Addressing Security Concerns
20. **Religion Under Occupation:** The Right to Freedom of Religion under the Adversaries’ Surveillance
21. **Sexual and Reproductive Violence as a Method of Warfare:** Different Protections under IHL and IHRL
22. **Non-State Armed Groups in Armed Conflict:** Specific Human Rights Obligations in Civil Wars?