

Application of the international law of occupation in situations of a long-term occupation

Abstract

The topic of the master thesis is an analysis of the application of the international law of occupation in a situation of a long-term occupation, i.e. an occupation which spreads over years or decades. The aim of the thesis is to critically assess whether the current legal framework, i.e. the law of occupation as a part of the international humanitarian law, corresponds to the specific conditions of a long-term occupation, with regard to fulfilling the objectives of international humanitarian law and international human rights law, or not.

The first part anchors the law of occupation within the legal framework, i.e. within international humanitarian law, introduces the concept of occupation and long-term occupation and outlines the responsibilities of the occupation power under the law of occupation. One chapter focuses specifically on the role of international human rights law in the armed conflicts.

The core of the thesis identifies the challenges the international law of occupation is currently facing. The assessment shows that the occupation law does not reflect the specific circumstances and conditions of a long-term occupation, especially with respect to the needs of occupied population, and does not satisfyingly meet the fundamental goals of international humanitarian law and international human rights law. Among the most significant challenges is a discrepancy between requirement to adhere to the principle of preservation of *status quo ante* and a crucial interest in ensuring satisfactory life conditions for the civilian inhabitants in the occupied territory, including providing space for healthy economic and social development in the territory.

Finally, the thesis identifies and analyzes different solutions to the presented situation where the law of occupation does not adequately reflect the reality of the prolonged occupation. A modification of the law of occupation is not widely supported, more suitable solutions would include a wider role of international law of human rights, flexible interpretation of the legal provisions or, most importantly, engaging local authorities and local population in carrying out and sharing responsibilities in the occupied territory.

However, the breakdown of the presented solutions also shows that a long-term occupation intrinsically does not and cannot satisfyingly fulfil the goals and values of the international

humanitarian law (and international human rights law), does not provide satisfactory protection of inhabitants affected by an armed conflict, and also fails to fulfil the core characteristic of occupation in international law – being short-term and temporary. The thesis thus concludes with a question, and that is if a long-term occupation should be allowed by international law at all

Key words

law of occupation, international humanitarian law, long-term occupation