

# The principle of distinction and its implications for the conflict between Israel and the terrorist groups operating in the Gaza Strip

## Abstract

In this thesis the main implications of the changed nature of armed conflicts on the principle of distinction are being discussed. The thesis opens with a look into the changed nature of armed conflicts and the implications of thereof. Further it concentrates on the parties involved in asymmetrical conflicts. With the raise of asymmetrical conflicts and appearance of terrorist groups as significant non-state actors, a discussion about the status of their members needed to be opened and – possibly – their rights and obligations reassessed. Regardless of their asymmetrical nature, these conflicts are still to be governed by international law treaties that have been adopted in a time, where more classical state vs. state wars were the norm. The effective international law therefore does not sufficiently reflect the nature of today's conflicts. On this account, the principle of distinction is being closely explored in this thesis in order to provide an understanding, whether it is indeed able to encompass the nature of terrorists. The thesis discusses that the distinction under the effective LoAC is vastly black and white and assessing a situation basely on the provided dichotomy can lead to great imbalances and inequity. The last part of the thesis is paying attention to Israel and its legislation and tactics used in an armed conflict. It explores Israel's tactics both in the legal sphere (Incarceration Law) and on the battlefield (roof knock tactic). In the described case of Israel one can see the efforts that need to be taken and the ingenuity that a state needs to bring forward in order to, first, effectively combat terrorism, and second, try to comply with requirement of international law. It can be seen that the balance in between effectivity and legality is very fragile and many factors in the overall consideration come into play.