

Description of the planned dissertation project – Jennifer Wirth

Considerations on „legal grey zones“ from the perspective of international law: the example of the exceptional space of refugee camps

In my PhD project, I focus on the particular space of the refugee camp which is a phenomenon of contradictions and exceptions. Thus, refugee camps are actually designed as emergency measures to enable a rapid response to crises and are therefore generally ascribed a humanitarian, civilian and temporary character. In recent decades, however, research has increasingly described these areas as exceptional regimes which are characterised by extraterritoriality and social and legal exclusion. One reason for the particular phenomenon of the refugee camp is the discrepancy between the general concept of the refugee camp and reality.

Refugee camps were originally set up to serve as temporary shelters until a permanent solution can be found. Due to the lack of political will on the part of states and lasting conflicts, finding and implementing permanent solutions is difficult. Hence, those situations are protracted in practice and the people concerned have to live in camps for years or even decades. Furthermore, the administration of refugee camps is separate, as it is *de facto* carried out by UNHCR and not by the host state. UNHCR acts in these camps as some kind of a "substitute state" and takes over state functions. As a consequence, refugee camps seem to have their own systems, which are often *de jure* or *de facto* separated from the society of the host state. Another defining characteristic is that people living in camps experience some degree of limitations of their rights and freedoms. Therefore the academic literature repeatedly addresses refugee camps as „legal grey zones“.

However, the term „legal grey zone“ is used mostly in the humanities. That is why **my research question** is about exploring the possibility whether refugee camps can also be defined and understood as „legal grey zones“ from a purely legal point of view and whether one can be categorised as a „particular space or zone“.

Therefore, I am going to look at „particular spaces or zones“ in international law and analyse their special features. Afterwards, general principles that appear relevant for the space of the refugee camp will be considered. Against this background, the specific agreements between UNHCR and the host state in which the establishment and regulation of refugee camps are agreed upon will be discussed. Of special interest are the particular arrangements for cooperation between the host state and UNHCR and the transfer of state functions to UNHCR. If possible, the example of one refugee camp shall be used to specifically examine how and which functions are transferred. In order to explore the space of the refugee camp, not only the "law in books" but also the "law in action" will be considered. One of the reasons for this is that in academia the *de facto* exercise of state functions by UNHCR is often mentioned. From a legal point of view, it may also be necessary to examine whether one can actually speak of a closed system that is strikingly different from the ruling legal system of the host state. In the final analysis, it will be clarified whether refugee camps - or certain types of refugee camps - are "legal grey zones" from the perspective of international law.

The **methodology** in general is to systematise the international law in respect of the space of refugee camps as it currently stands (*lex lata*). I then focus in particular on analysing the special agreements that are concluded between the host state and UNHCR. Due to the *de facto* exercise of state functions by UNHCR, as mentioned earlier, a field research might be conducted to gain a better understanding of the concrete situation in one chosen refugee camp.

The project, which I expect to complete by winter 2020, is being conducted within the Department of International Law, under the **supervision** of Prof. Andreas Müller.