



Photo: picture alliance/ASSOCIATED PRESS/Ariel Schalit

Friedrich Merz and Benjamin Netanyahu at a joint press conference in Jerusalem in December 2025.

ISRAEL/PALESTINE

A distorted idea of the “reason of state”

When justifying its support for Israel, Germany's Federal Government often speaks of our country's “special responsibility”. As a new book by law professor Kai Ambos points out, it misunderstands this responsibility.

BY HANS DEMBOWSKI

Is Israel committing genocide in Gaza? South Africa brought this question before the International Court of Justice (ICJ) in The Hague in late 2023. The matter has a bearing on Germany, because the ICJ also launched a second trial a little later, when Nicaragua accused the Federal Republic of supporting that genocide by shipping weapons to Israel. So far, the ICJ has not passed a judgment in either case.

Amnesty International, Human Rights Watch and Omer Bartov, the Israeli Holocaust scholar, have nonetheless argued that Israel is indeed guilty. By contrast, Ambos, who teaches international criminal law at Göttingen University, refuses to make such a judgment himself. He states that doing so would require proving genocidal intent, which is very difficult. At the same time, he spells out clearly that Israel's excessive use of force is incompatible with international law. The scholar in-

sists that neither the war crimes of Hamas nor the Nazi genocide put Israel above international law in a way that might permit it to commit war crimes itself.

WHY GERMANY IS BOUND BY INTERNATIONAL LAW

The Federal Republic is bound by international law, as Ambos argues, because Germany's Basic Law explicitly endorses international law. The implication, according to him, is that unconditional support for Israel is only constitutional as long as Israel adheres to international law. It does not, and Ambos' book lists the various ways in which Israel is violating international norms. For example, it has denied people food, water and medical supplies. Disproportionate destruction of civil infrastructure is similarly illegal. Moreover, it is a war crime to build permanent settlements on occupied land.

The title of Ambos' new book is "Staatsräson nach Gaza" (Reason of state after Gaza). In 2008, Angela Merkel, then serving as chancellor, stated in the Knesset during a state visit that Israel's security had become part of Germany's "reason of state". Ever since, this term has been used to justify Germany's unconditional solidarity with Israel.

In Ambos' eyes, the choice of words was unfortunate. As a political term, "reason of state" predates democracy. It has authoritarian connotations and, according to the law professor, is incompatible with the rule of law. Its core meaning, after all, is that a sovereign power may do whatever serves to protect its state, regardless of whether such action is compatible with ethical and legal norms.

By definition, the term "reason of state" is therefore self-serving. Ambos warns that applying it to the protection of a country which is far away and not even a particularly close ally twists its meaning quite radically. Germans have indeed become used to an altruistic reading of this inherently selfish term, even though, as Ambos insists, Israel's security is not linked to any core requirements of German statehood.

Ambos emphasises that neither German legislation nor international law acknowledge something like a state's right to exist. What they safeguard is borders. Making an exception by protecting Israel's right to exist as a state, leads to legal confusion, the jurist warns. After all, the law must apply equally to every party.

The top principle in Germany's Basic Law is human dignity, as Ambos reiterates, not the dignity of the state. He therefore considers any reference to the reason of state to be unconstitutional unless it complies with the overarching constitutional principles which put democracy above state power. In his eyes, a constitutionally valid interpretation of the term "reason of state" is possible. For example, it can be

used to explain Germany's membership in the EU or NATO, two organisations which strengthen the Federal Republic but do not infringe upon its constitutional principles.

MISUNDERSTANDING THE REASON OF STATE

As Ambos sees it, the misguided notion of Germany's reason of state has harmful repercussions at international and domestic levels. Germany's credibility is being diminished, according to him, because the Federal Government is turning a blind eye to Israeli war crimes or – even worse – declaring such illegal action to be legitimate. It is thus not living up to its official commitment to international law and human rights. Ambos adds that German support for Israel looks like complicity to many people around the world.

Ambos reckons that some leaders of German businesses and government institutions may indeed be guilty of illegally supporting criminal action. After all, they facilitated the delivery of arms to Israel in spite of that country breaching international norms. Only law courts can pass valid judgments in these matters, the professor points out again.

In regard to domestic affairs, Ambos cautions that distorted reason-of-state thinking is leading to the restriction of the freedoms of expression and assembly. He rejects the argument that any pro-Palestinian slogan that includes the phrase "from the river to the sea" must obviously be genocidal hate speech, stating that those words can be compatible with a two-state solution, which is what German governments have been endorsing for decades. Legal measures that restrict people's right to express their views, including in public rallies, are unacceptable, the law professor insists. People must be free to express their views on Israel's history and founding without fear of repression.

In Ambos' eyes, there is indeed a special responsibility that Germany must bear due to our history of genocide and war crimes. It is to respect international law and to defend human rights. "The lesson of Auschwitz is universal protection of human rights," he writes. According to him, the Federal Government should change its course in a way that serves the security – and the rights – of everybody in Israel and Palestine.

REFERENCE

Ambos, K., 2026: Staatsräson nach Gaza (Reason of state after Gaza – only available in German). Frankfurt a. M., Campus.



HANS DEMBOWSKI

was the editor-in-chief of D+C from 2004 to 2024.

dembowski@posteo.de