

The Minerva Center for Human Rights
The Hebrew University of Jerusalem

and

The International Committee of the Red Cross (ICRC)
Delegation in Israel and the Occupied Territories

in cooperation with

The Konrad-Adenauer-Stiftung

and

The Bruce W. Wayne Chair of International Law
The Phillip P. Mizock & Estelle Mizock Chair in Administrative and Criminal Law
Faculty of Law, Hebrew University of Jerusalem

Call for Papers

PROPORTIONALITY IN ARMED CONFLICTS

An International Conference
Jerusalem, 21-23 November 2010

Introduction:

The Minerva Center for Human Rights at the Hebrew University of Jerusalem and the Delegation of the International Committee of the Red Cross (ICRC) in Israel and the Occupied Territories are organizing an international conference that seeks to examine recent developments relating to the scope, meaning and application of the principle of proportionality in armed conflicts. The conference, the fifth in the series of Minerva/ICRC annual international conferences on international humanitarian law (IHL), is scheduled for 21-23 November 2010, and will take place in Jerusalem.

Recipients of this call for papers are invited to submit proposals to present a paper at the conference. Authors of the selected proposals will be offered flight expenses to Israel and accommodations for the duration of the conference.

Background:

It has become a truism that the “application of the principle of proportionality is more easily stated than applied in practice”,¹ both under *jus ad bellum* and *jus in bello*. While virtually all states and scholars remain committed, in principle, to proportionality as a *lex lata* constraint on the use of military force and other security measures, the list of factors to be weighed under a proportionality analysis, the relative weight assigned to each factor and the desirable ends against which the proportionality of the military force employed is examined all remain highly controversial. The application of the principle of proportionality to asymmetric conflicts raises an additional set of theoretical and practical problems.

Determining the scope, meaning and application of the principle of proportionality in armed conflicts has always generated controversy. In particular, recent events have sharpened questions of *jus ad bellum* proportionality relating to the permissibility of using massive force as a deterrent against future attacks (including numerous low-level attacks), or as a means of attaining the unconditional surrender of the adversary, and the relevance of comparisons drawn between the military capabilities and the numbers of victims on both side for proportionality analysis.

In IHL (*jus in bello*) the principle of proportionality in the conduct of hostilities is also increasingly becoming the focus of attention. During recent armed conflicts such as in Afghanistan, Sri Lanka, or Gaza, for instance, there was fierce legal debate over the degree in which force-protection measures can justify extensive collateral damage, the obligation to employ accurate but expensive weaponry, the impact of using voluntary and non-voluntary human shields, and the extent of the precautionary obligations imposed on the warring parties.

Applying the principle of proportionality in armed conflicts also gives rise to procedural and institutional challenges: To what extent is the concept of proportionality amenable to legal analysis and monitoring by national and international institutions? Who has the authority to determine the proportionality of specific or general measures? The application of criminal law concepts such as *actus reus*, *mens rea* and command responsibility to possible violations of the principle of proportionality raises another series of questions.

Ultimately, we are confronted with the question whether proportionality is a meaningful restraint on the belligerent parties (or occupying powers), or an open-ended vocabulary that can be equally used to challenge or justify politically controversial forms of violence.

¹ Final Report to the Prosecutor by the Committee Established to Review the NATO Bombing Campaign Against the Federal Republic of Yugoslavia (2000) at para. 19.

Purpose of the Conference:

The conference aims to critically examine the scope, meaning and application of the principle of proportionality in times of armed conflict under existing law and practice. It seeks both to improve our understanding of existing norms and identify areas of future normative development (and, if possible, institutional development).

By studying the contents of the principle of proportionality under both *jus ad bellum* and *jus in bello*, the conference hopes to contribute to the development of law and scholarship in this crucial field of international law.

Submission of Proposals:

Researchers interested in addressing these questions, *or other questions related to the topic of the conference*, are invited to respond to this call for papers with a one or two-page proposal for an article and presentation, along with a brief CV. **Proposals should be submitted no later than 10 April 2010**, by email, to the Minerva Center for Human Rights at the Hebrew University of Jerusalem (mchr@savion.huji.ac.il).

Applicants will receive notification of the committee's decision, by 10 May 2010. Short written contributions (of approx. 8-10 pages) based on the selected proposals will be expected by 1 November 2010. The organizers intend to publish in the *Israel Law Review* full-length papers based on selected presentations made at the conference.

Conference Academic Committee:

Prof. Mordechai Kremnitzer, Hebrew University of Jerusalem

Prof. Alon Harel, Hebrew University of Jerusalem

Prof. Yuval Shany, Hebrew University of Jerusalem

Dr. Tomer Broude, Hebrew University of Jerusalem

Mr. Charles Shamas, Mattin Group, Ramallah

Dr. Cordula Droege., ICRC, Israel and the Occupied Territories

Adv. Eitan Diamond, ICRC, Israel and the Occupied Territories

Dr. Yaël Ronen, Israel Law Review