The Minerva Center for Human Rights
Faculty of Law, The Hebrew University of Jerusalem

and

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

Conference Call for Papers

The 7th Annual Minerva/ICRC Conference on International Humanitarian Law

CONDUCT OF HOSTILITIES AND LAW ENFORCEMENT: A CONTRADICTION IN TERMS?

Jerusalem, 3-4 December 2012

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 the normative relationship and fundamental differences between International Humanitarian Law (IHL) rules on the conduct of hostilities and the rules applicable to law enforcement operations. The conference, the seventh in the series of Minerva/ICRC annual international conferences on IHL, with the cooperation of the Konrad Adenauer Foundation, is scheduled for 3-4 December 2012 in Jerusalem.

Recipients of this call for papers are invited to submit proposals to present a paper at the conference. Authors of selected proposals will be offered full or partial flight and accommodation expenses.

Submission deadline: 1 June 2012

Background:

The 7th Annual Minerva/ICRC Conference on International Humanitarian Law, on 3-4 December 2012, will address the complex and increasingly significant topic of the interplay between two distinct legal regimes: the conduct of hostilities regime, derived from IHL and the law enforcement regime, derived mainly from human rights law.

The conduct of hostilities regime has been traditionally framed as the field regulating the use of force between belligerent parties in situations of armed conflict; in contrast, law enforcement has been conventionally perceived as the field governing the use of force by the state against individual actors, including rioters and violent demonstrators. However, recent years have witnessed a blurring of these lines. Situations involving the use of force by armed forces and law enforcement officials increasingly lie in a grey zone between military operations, subject to the conduct of hostilities regime, and police action, subject to the law enforcement regime.

Sometimes this occurs because it is not clear whether a given situation of violence constitutes an armed conflict to which conduct of hostilities rules apply. This is the case, for example, when there is doubt whether clashes between State forces and non-State actors have passed the threshold of violence that brings the law of armed conflict into play. In other instances, it is clear that a situation of armed conflict exists, and the difficulty is in determining which of the two regimes regulates a given activity involving the use of force. Indeed, in contemporary armed conflict situations – particularly in non-international armed conflicts and in occupied territories – armed forces are regularly expected to conduct not only combat operations against the adversary, but also law enforcement operations in order to maintain or restore public security, law and order. For example, situations of civilian unrest (such as riots) may arise while combat operations against the adversary are taking place. In such situations enemy fighters might hide among the rioting civilians or demonstrators, making it extremely difficult to distinguish rioting civilians from fighters and to determine which legal regime to apply.

In these and other cases, the scope of permissible action can be quite different when the same or similar security challenges are analyzed under either the law enforcement or conduct of hostilities regime. Notably, the conduct of hostilities regime allows for the killing of legitimate targets, whereas the law enforcement regime strives to protect life demanding to "capture rather than kill" suspected persons, unless they pose an immediate threat to life. Moreover, the conduct of hostilities regime tolerates more incidental loss of life than the law enforcement regime. Determining which regime applies can therefore have crucial implications for the humanitarian consequences of an operation.

The legal ambiguities as to the relations between the two regimes is of both universal and local concern. In several violent situations, including in the Israeli-Palestinian context, conflicting understandings of 'targeted killings' as either belligerent acts or law enforcement measures have emerged. Similarly, there has recently been considerable debate about the interplay between law enforcement and rules governing the conduct of hostilities in military operations taking place in occupied territories and elsewhere, in situations where there is a need to simultaneously use force to enforce the law against civilians and to respond to military threats. Coalition forces operating in Afghanistan and Iraq similarly encounter the challenge of shifting between legal paradigms when they fulfill the dual role of law enforcers and fighters in hostilities.

In addition to the challenges presented by concurrent combat and law enforcement campaigns, the question of tackling violent criminality through armed forces applying rules of engagement informed by the conduct of hostilities regime is increasingly being considered - for example, in Latin American countries where the so-called 'wars' against organized crime have led to large scale clashes between state forces and heavily armed criminal groups, and in operations by naval forces against modern-age maritime pirates operating from East Africa.

Because of the dramatic humanitarian implications and significant practical and legal ramifications at stake, it is crucial at this juncture to hold an academic debate over the blurring of boundaries between hostilities and law enforcement operations and to try to clarify, where possible, the relations between the legal regimes regulating them. Such a debate could promote a pragmatic accommodation of competing bodies of law; it could also highlight the theoretical and practical challenges of applying the law in increasingly complex forms of armed violence.

Submissions:

Researchers interested in addressing these and other questions related to the conference topic are invited to respond to this call for papers with a 1-2 page proposal for an article and presentation, along with a brief CV. Proposals should be submitted by email to the Minerva Center for Human Rights at the Hebrew University of Jerusalem (mchr@mail.huji.ac.il) no later than **1 June 2012**.

Applicants should expect notification of the committee's decision by 30 June 2012. Written contributions (of approx. 10-25 pages) based on the selected proposals will be expected by 1 November 2012. The *Israel Law Review* (a Cambridge University Press publication) has expressed interest in publishing selected full length papers based on conference presentations, subject to its standard review and editing procedures.

Conference Academic Committee:

Dr. Tomer Broude, Hebrew University of Jerusalem
Mr. Anton Camen, ICRC, Israel and the Occupied Territories
Adv. Eitan Diamond, ICRC, Israel and the Occupied Territories
Dr. Yaël Ronen, *Israel Law Review*
Mr. Charles Shamas, Mattin Group, Ramallah
Prof. Yuval Shany, Hebrew University of Jerusalem (Chair)