Proportionality in international humanitarian law

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This study examines the principle of proportionality as it applies in international humanitarian law (IHL). The study first examines international law to determine the category of legal norms in which the IHL principle of proportionality must be placed. Subsequently, the notion of proportionality is analysed in a number of branches of international law. The interrelationship of these notions is clarified in light of the theory concerning principles of international law. The study then turns to an in-depth analysis of the IHL proportionality rule and how this rule must be applied in practice and on different levels of decision-making.

The final conclusion of this study is that in IHL, proportionality is understood both as a general principle permeating the interpretation and application of all IHL rules, as well as an important rule of IHL. In its practical application, the IHL proportionality rule is an inherently imprecise and flexible yardstick that nonetheless helps in protecting the civilian population. This study suggests that the balance of the proportionality assessment should in close cases tilt more towards protecting the civilian population than the wording of the rule may suggest.

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Proportionality in International Humanitarian Law

Principle, Rule and Practice

Jeroen van den Boogaard
Proportionality in International Humanitarian Law

Principle, Rule and Practice

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Table of contents
# Table of contents

## Acknowledgements

## Table of contents

## Part I: Introduction

### Chapter 1: Introduction

1.1 Introducing the Study
1.2 International Humanitarian Law
1.3 Principles of IHL
1.4 Proportionality in IHL
1.5 Structure and Methodology of the Study

## Part II: Principles

### Chapter 2: Principles as a Source of Public International Law

2.1 Introduction
2.2 Principles of International Law
2.3 Principles as a Source of International Law
2.4 Three Roles for Principles of International Law
2.5 Conclusion

### Chapter 3: Characteristics of IHL Principles

3.1 Introduction
3.2 A Method to Determine Principles of IHL
3.3 The Principles of IHL
3.3.1 IHL Principles Identified by States
3.3.2 IHL Principles Identified by International Courts
3.3.3 IHL Principles Identified by Doctrine
3.3.4 Other Practice
3.3.5 Sub-Conclusion
3.4 The Applicability of the Principles of IHL
3.5 Three Roles for the Principles of IHL
3.6 Conclusion

## Part III: Proportionality

### Chapter 4: Proportionality in International Law

4.1 Introduction
4.2 Origins and Functions of Proportionality in International Law
4.2.1 Proportionality as a Limit on the Functional Powers of an Entity
4.2.2 Proportionality as a Means to Resolve Conflicts between Competing Interests... 80
4.3 Proportionality, Equity and Reasonableness ........................................................ 82
4.4 Conclusion ...............................................................................................................84

Chapter 5: Proportionality and the Use of Force.........................................................89
5.1 Introduction .............................................................................................................89
5.2.1 Introduction ..........................................................................................................90
5.2.2 From Morality to International Law .................................................................90
5.2.3 Proportionality in Just War Theory .................................................................... 92
5.2.3.1 The ius ad Bellum Proportionality in Just War Theory ..................................92
5.2.3.2 The ius in Bello Proportionality in Just War Theory ...................................... 93
5.2.4 Sub-Conclusion ................................................................................................. 95
5.3 The Concept of Proportionality in the ius ad Bellum ........................................... 95
5.3.1 Introduction ......................................................................................................... 95
5.3.2 Proportionality in the Use of Force in Self-Defence ......................................... 97
5.3.2.1 Components of the ius ad Bellum Proportionality .........................................98
5.3.2.2 The Temporal Component .......................................................................... 100
5.3.2.3 Necessity and Proportionality in the ius ad Bellum ...................................... 101
5.3.3 Other Proportionality Equations in the ius ad Bellum ..................................... 102
5.3.4 Sub-Conclusion ................................................................................................ 104
5.4 The Concept of Proportionality in International Human Rights Law ..................105
5.4.1 Introduction .........................................................................................................105
5.4.2 Applicability of International Human Rights Law during Armed Conflict ......107
5.4.3 Proportionality Restraining the Use of Force in International Human Rights Law...........................................................................................................109
5.4.4 Sub-Conclusion .................................................................................................114
5.5 Conclusion ..............................................................................................................115

Chapter 6: The Concept of Proportionality in International Humanitarian Law .... 117
6.1 Introduction ............................................................................................................ 117
6.2 Proportionality, Distinction and Precautions ...................................................... 118
6.3 The Development of International Humanitarian Law Proportionality ..............120
6.3.1 The First Codifications of International Humanitarian Law ............................ 120
6.3.2 Legal Doctrine before World War II ................................................................. 123
6.3.3 After World War II: the Red Cross Draft Rules .............................................. 125
6.3.4 Additional Protocol I ....................................................................................... 126
6.3.4.1 Draft Article 46 (the present article 51 API) .............................................. 127
6.3.4.2 Draft Article 50 (the present article 57 API) .............................................. 129
6.3.5 The Rome Statute of the International Criminal Court ................................ 131
6.4 IHL Proportionality in International Customary Law ....................................... 132
6.4.1 Challenges in Establishing a Customary IHL Proportionality Rule ................... 133  
6.4.2 The ICRC Customary Law Study ................................................................. 136  
6.4.3 Case Law on the IHL Rule on Proportionality ........................................ 137  
6.4.3.1 The Shimoda Case (1963) ................................................................. 138  
6.4.3.2 The Nuclear Weapons Advisory Opinion (1996) ................................ 139  
6.4.3.3 ICTY Case Law (1995–present) ......................................................... 140  
6.4.3.4 The Eritrea-Ethiopian Claims Commission (2000 – 2005) ............. 141  
6.4.3.5 The Supreme Court of Israel Sitting as the High Court of Justice (2005) .... 143  
6.4.3.6 Sub-Conclusion on Case Law ............................................................... 144  
6.4.4 Other Indicators ......................................................................................... 144  
6.4.5 Customary Law both in IAC and NIAC? ................................................. 147  
6.4.6 Sub-Conclusion: the Customary Character of the IHL Rule on Proportionality ................................................................. 148  
6.5 Conclusion .................................................................................................. 149

Chapter 7: Other Standards of Moderation in International Humanitarian Law ...... 151  
7.1 Introduction .................................................................................................. 151  
7.2 Combatants as Human Beings ..................................................................... 151  
7.2.1 Methods of Warfare .............................................................................. 153  
7.2.2 Means of Warfare .................................................................................. 155  
7.3 The Destruction of Enemy Property .......................................................... 156  
7.4 Blockades .................................................................................................... 157  
7.5 Belligerent Reprisals .................................................................................. 159  
7.6 Security Measures during Occupation ......................................................... 161  
7.7 Conclusion .................................................................................................. 162

Chapter 8: Interrelationship of Proportionality in Armed Conflict ..................... 165  
8.1 Introduction .................................................................................................. 165  
8.2 Proportionality in IHL and the Ius ad Bellum ............................................. 165  
8.2.1 The Strict Separation between IHL and the Ius ad Bellum ...................... 165  
8.2.2 Possible Relationships between the Ius ad Bellum and IHL Proportionality ... 169  
8.2.3 Proportionality in the Ius ad Bellum Influencing IHL Proportionality in Operations to Protect Civilians ................................................................. 171  
8.2.4 The IHL Proportionality Rule Influencing the Ius ad Bellum Proportionality in Terms of the Magnitude of the Permissive Collateral Damage ................. 173  
8.2.5 Sub-Conclusion ...................................................................................... 176  
8.3 IHRL and IHL Proportionality .................................................................... 176  
8.3.1 The General Relationship between IHL and IHRL ................................. 177  
8.3.2 Lex Specialis and Complementarity ...................................................... 178  
8.3.3 Proportionality Relationship between IHL and IHRL ......................... 181
8.3.3.1 Continued Applicability of IHRL Proportionality during Armed Conflict......183
8.3.3.2 Concurrent Applicability of IHRL and IHL Proportionality ........................... 190
8.3.3.3 Sub-Conclusion ............................................................................................... 194
8.4 Conclusion ..............................................................................................................195

Chapter 9: Conclusion of Part III ................................................................................... 197
9.1 Introduction ............................................................................................................197
9.2 Proportionality as a General Principle in International Law Applicable during Armed Conflict ..................................................................................................................................................197
9.3 Proportionality as a General Principle in IHL ...................................................... 200

Part IV: Proportionality in Practice
Chapter 10: Proportionality in Context ........................................................................207
10.1 Introduction ......................................................................................................... 207
10.2 Targeting and Proportionality ............................................................................ 207
10.2.1 Introduction ...................................................................................................... 208
10.2.2 Specifics of Targeting by Less Sophisticated Armed Forces ............................210
10.2.3 Specifics of Targeting by Sophisticated Armed Forces .................................... 212
10.2.4 Targeting and Collateral Damage Estimate Methodology .............................. 215
10.2.5 Sub-Conclusion .................................................................................................218
10.3 Indiscriminate Attacks and Proportionality ........................................................ 218
10.4 Precautions in Attack and Proportionality ......................................................... 221
10.4.1 Introduction .......................................................................................................221
10.4.2 ‘Feasible’ Precautions ..................................................................................... 224
10.4.3 Personal Scope .................................................................................................226
10.4.4 Collecting Information .....................................................................................227
10.4.5 The Obligation of Constant Care ..................................................................... 229
10.4.6 Specific Precautionary Obligations ................................................................ 230
10.4.7 Sub-Conclusion ................................................................................................ 234
10.5 Proportionality in Context ................................................................................. 234

Chapter 11: Components of the Equation ..................................................................... 237
11.1 Introduction .......................................................................................................... 237
11.2 The Personal Scope .............................................................................................. 238
11.2.1 Who Conducts the Proportionality Equation? ................................................. 239
11.2.2 Levels of Authority ..........................................................................................241
11.2.3 Proportionality on a Strategic Level ................................................................. 247
11.3 What is an “Attack”? .......................................................................................... 249
11.4 “Incidental” Damage: Expectation and Anticipation ..........................................251
11.5 Temporal Scope, Directness and Foreseeability ..................................................257
11.6 The Civilian Side ...................................................................................................260
11.6.1 Civilian Immunity ...........................................................................................261
11.6.2 Human Shields ...............................................................................................264
11.6.3 Physical Injury, Sickness and Mental Harm .....................................................267
11.6.4 Civilians inside a Military Objective ..................................................................268
11.7 What are Civilian Objects? ...................................................................................270
11.7.1 Civilian Objects and Military Objectives ..........................................................270
11.7.2 The Natural Environment as Part of the Proportionality Equation .................272
11.7.3 Dual-use Objects and Proportionality ..............................................................275
11.8 Combatants Hors De Combat and Other Protected Persons and Objects .............277
11.9 How to Evaluate a ‘Combination’ of Incidental Loss of Civilian Life, Injury to Civilians and Damage to Civilian Objects? .........................................................281
11.10 The Military Advantage Side ............................................................................282
11.10.1 Concrete and Direct Military Advantage .........................................................283
11.10.2 The “Overall” Military Advantage ...................................................................285
11.10.3 Military Advantage and Force Preservation ...................................................285
11.11 Conclusion .........................................................................................................288

Chapter 12: Proportionality in Practice .................................................................291
12.1 Introduction ........................................................................................................291
12.2 The Strategic and Operational Level .................................................................292
12.2.1 Kosovo 1999: the NATO Bombing Campaign ...............................................293
12.2.2 The 2003 UK Intervention in Iraq ....................................................................294
12.2.3 The 2010 Artillery Attack on South Korea .......................................................296
12.3 The Tactical Level ...............................................................................................301
12.3.1 The Destruction of Mostar’s Old Bridge .........................................................302
12.3.2 The Attack on Milan Martic .............................................................................305
12.3.3 Kosovo 1999: the NATO Bombing Campaign ...............................................308
12.3.4 The Killing of Salah Shehadeh .........................................................................310
12.3.5 The Attack on General ‘Chemical’ Ali Hasan Al-Majid .................................313
12.3.6 The Attack on the Kunduz Fuel Trucks .........................................................315
12.3.7 Firefight along the Baghlan River .................................................................318
12.4 Conclusion .........................................................................................................320

Chapter 13: Assessing Proportionality ....................................................................325
13.1 Introduction ........................................................................................................325
13.2 Are the Components of the IHL Proportionality Rule Comparable? ..................325
13.3 The Search for an Objective IHL Proportionality Rule ........................................327
13.3.1 The Passive and Active Protection Rationales for an Objective Proportionality Rule ..................................................................................................................328
13.3.2 Are the Factors in the IHL Proportionality Rule Objective or Subjective?...... 330
13.3.4 Measures to Limit the Subjective Application of the IHL Proportionality
Rule ............................................................................................................................. 332
13.4 The ‘Reasonable Military Commander’ .............................................................. 336
13.4.1 The Objectivity of the Concept of the ‘Reasonable Military Commander’ ..... 336
13.4.2 Remaining Subjective Factors for ‘Reasonable Military Commanders’ ....... 338
13.4.3 Sub-Conclusion ................................................................................................. 340
13.5 What is ‘Excessive’? ............................................................................................. 342
13.5.1 Extensive or Excessive? ..................................................................................... 343
13.5.2 Excessive or Clearly Excessive? ........................................................................ 345
13.6 Conclusion ............................................................................................................ 347

Chapter 14: Determining Excessiveness and a Plea for Tilting the Balance Towards
Humanity .......................................................................................................................349
14.1 Determining Excessiveness ................................................................................. 349
14.2 Probability of Success as a Factor Determining Excessiveness ......................... 354
14.3 Tilting the Balance of Excessiveness Towards Humanity .................................... 356
14.4 Policy or Operational Factors that Affect the Excessiveness of Collateral............
Damage ....................................................................................................................... 359
14.5 Different Factors for Different Levels of Decision-making ................................. 361
14.6 Is There a Need to Clarify or Change the IHL Proportionality Rule? ................. 363
14.7 Empirical Analysis as a Possible Way Ahead ...................................................... 367
14.8 Final remarks ....................................................................................................... 368

Chapter 15: General Conclusions .................................................................................. 371
15.1 Principles ............................................................................................................... 371
15.2 Proportionality .................................................................................................... 372
15.3 The IHL Proportionality Rule in Practice ............................................................. 376
15.4 Guidance on Applying the Principle of Proportionality for the Military ........... 379
15.5 Final Remarks ....................................................................................................... 384

Summary ....................................................................................................................... 387

Bibliography .................................................................................................................. 399

Table of cases .............................................................................................................. 449

Table of treaties ............................................................................................................ 457

Samenvatting ................................................................................................................. 461