

THE OPEN UNIVERSITY OF SRI LANKA

FACULTY OF HUMANITIES AND SOCIAL SCIENCES

DEPARTMENT OF LEGAL STUDIES

LL.M IN CRIMINAL JUSTICE ADMINISTRATION

SECOND YEAR- FINAL EXAMINATION - 2022/2023

LLPA 411- INTERNATIONAL HUMANITARIAN LAW

DURATION: 03 HOURS



Date: 05. 11. 2023

Time: 09.30 a.m.-12.30 p.m.

Total No. of Questions: 07

Answer FOUR (04) questions only.

Each question carries 25 marks.

Candidates will be penalized for illegible handwriting.

1. 'It is erroneous to perceive international humanitarian law as a relatively contemporary construct, emerging only in response to the evolving civility and diminished barbarism in State interactions. On the contrary, it is evident that the notion of regulating the conduct of warfare and mitigating its destructive consequences is a venerable and enduring concept, discernible across diverse historical periods, encompassing the cultural, religious, and ethnic diversities of nations.'

Critically examine the above proposition with special reference to the concepts, nature, and development of International Humanitarian Law.

2. In the context of an ongoing territorial dispute involving the ownership of an island shared by the States of Sena and Kalu, the Army Commander of Sena, Mr. Sansun has begun preparations

for an invasion. Given his long-standing hatred with Kalu, Commander Sansun has issued explicit orders to his army "to show no mercy" to opposing forces and to exterminate them along with their whole infrastructure. To carry out this command, Sansun has assembled large numbers of chemical weapons, deadly ammunition, and a variety of destructive armaments, ensuring that these armaments will completely destroy Kalu.

Assume that you have been appointed as the advisor to the Ministry of Defense of Sena. You are required to write an opinion paper on the legality of Mr. Sansun's order and his activities, with reference to relevant principles, provisions, and contemporary jurisprudence of International Humanitarian Law.

3. The State of Wilania, a sovereign nation located in a geopolitically susceptible location, has long had internal problems between its central government and an ethnic minority group, the Ivasuwa, who live in the country's northwestern part. The Ivasuwa People's Movement has long demanded more autonomy as well as recognition of its ethnic and cultural rights. Over the last decade, their demands have sparked protests, clashes with government forces, and isolated acts of violence. The situation deteriorated in recent months when Ivasuwa leaders proclaimed independence for their province, which they now refer to as "Ivasuwaland." Wilania's central authority condemned the action as illegitimate independence. Wilania's government launched an offensive to regain Ivasuwaland. They sent a large number of troops and massive weapons to the region. Several neighbouring countries voiced worry about the rising violence and launched diplomatic measures to resolve the crisis. Their efforts, however, did not result in a cease-fire agreement.

Discuss the above scenario in the light of applicable provisions of International Humanitarian Law with special relevance to relevant provisions of the Geneva Conventions of 1949 and their Additional Protocols of 1977.

4. 'International Humanitarian Law (IHL) endeavors to regulate the conduct of hostilities and protect individuals affected by armed conflicts, while International Human Rights Law (IHRL), with its overarching emphasis on the inherent dignity and inalienable rights of all human beings, seeks to safeguard these rights irrespective of the circumstances. This nexus, where the exigencies of armed conflict intersect with the universality of human rights, gives rise to a dynamic synergy that necessitates a nuanced examination of the complementary and at times, potentially conflicting, nature of these two branches of international law.'

Critically analyze the above statement with reference to the interplay between IHL and IHRL. Substantiate your answer with appropriate case law jurisprudence and practical examples.

5. 'Transitional justice, rooted in its core principles, embodies a collective endeavor to confront historical injustices and advance reconciliation within the framework of the rule of law.'

Comment critically on the above statement, emphasizing the applicability of International Humanitarian Law to uphold the rights and dignity of those who have suffered heinous abuses in post-armed conflict societies.

6. Assume that you are planning to write a research paper on any TWO of the following International Humanitarian Law (IHL) themes. Critically discuss the processes and procedures available under IHL for preventing violations and monitoring behaviour of parties to armed conflicts under the chosen TWO themes. Your answer should focus on the constraints if any and include examples and case studies to support your arguments.

- a) The need to communicate IHL norms and principles among armed forces and non-State armed organizations as a preventative strategy against IHL violations.
- b) The idea of State Responsibility for IHL violations and the constraints put on States in their conduct during armed conflicts to prevent IHL violations.

- c) The International Factfinding Commission's tasks and powers under IHL, as well as its role in investigating alleged violations of IHL.
 - d) The International Committee of the Red Cross (ICRC)'s involvement in conducting monitoring missions during armed situations, and how the ICRC's presence and actions help to avoid IHL breaches.
 - e) Various United Nations (UN) organs, such as the Security Council and the General Assembly, supplement IHL's efforts in avoiding violations and overseeing the behaviour of parties involved in armed conflicts.
7. Write notes on any **TWO (02)** of the following:
- (a) Principle of Humanity and Military Necessity;
 - (b) General and Special Protection of Women and Children in Armed Conflict;
 - (c) Command Responsibility and Individual Criminal Liability;
 - (d) The Geneva Conventions Act No. 04 of 2006 of Sri Lanka.