

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES



LL.M IN CRIMINAL JUSTICE ADMINISTRATION DEGREE PROGRAMME

FINAL EXAMINATION (SECOND YEAR) - 2023/2024

LLPA411- INTERNATIONAL HUMANITARIAN LAW

DURATION: 03 HOURS

Date: 23.11. 2024

Time: 01.30 p.m. - 04.30 p.m.

Total Number of Questions: 07

Answer FOUR (04) questions only.

Each question carries 25 marks.

Candidates will be penalized for illegible handwriting.

1. 'International humanitarian law and international human rights law, while maintaining their specific identities as distinct branches, share a complementary goal of safeguarding human dignity, specifically during armed conflicts.'

Critically evaluate the above statement. Your answer should be supported by examples from ongoing armed conflicts in Palestine, Ukraine, Myanmar, and Yemen, highlighting the interplay between these bodies of law and differences.

(25 Marks)

2. 'There is a view that international treaties form the cornerstone of international law. However, some scholars argue that customary international law predates treaties and provides foundational principles underpinning international law.'

Answer both (a) and (b):

- (a) Comment on the above statement in the context of international humanitarian law, often regarded as an ancient form of international law. Discuss your answer with examples from customary laws applicable during non-international armed conflicts.

(15 Marks)

- (b) Evaluate the significance of the International Committee of the Red Cross (ICRC) study on customary international law of 2005 and other relevant developments concerning cyber warfare and its applicability in contemporary armed conflicts.

(10 Marks)

3. There is an armed conflict between two neighbouring States, Vasuda and Meraki. Both States are accused of committing violations of the laws and customs of war. The Prime Minister of Vasuda instructs his forces to detain young and able Meraki citizens within Vasuda's territory. In retaliation, Meraki's President orders the invasion of Vasuda's border villages and detains many Vasuda women, subjecting them to forced labour. Vasuda, in turn, recruits children between the ages of 13-16 to join its military to bolster its numbers.

Both States have ratified the Geneva Conventions of 1949, their First Additional Protocol of 1977, and the Convention on the Rights of the Child (CRC). Only Meraki has ratified the Optional Protocol to the CRC on the involvement of children in armed conflict of 2000.

Answer both (a) and (b):

- (a) What are the liabilities of Vasuda and Meraki under international humanitarian law and international law principles relating to children in armed conflicts?

(15 Marks)

- (b) Would your answer be different if this conflict were an intra-state conflict between two political factions within Vasuda's territory?

(10 Marks)

4. A prolonged armed conflict exists between the colonial administration of the State of Arcadia and the National Independence Movement (NIM), which represents the local Arcadian population.

- (a) The colonial military authorities received intelligence that a countryside building is being used as a headquarters by NIM, and nearby are schools, hospitals, residential areas, and cultural sites. Despite this, the colonial forces decide to use drone strikes to destroy the building.

- (b) NIM retaliates by using biological agents, causing significant health and environmental damage to both military personnel and civilians.

- (c) The colonial authorities learn that a convoy of NIM troops is moving towards the southern border. The colonial army is ordered to plant anti-tank and anti-personnel mines along key routes to block their progress.
- (d) In an attempt to evade colonial forces, NIM members disguise themselves as medical personnel from an international humanitarian mission, using marked vehicles and uniforms.

Discuss the above factual situations in light of relevant international humanitarian law principles and the obligations of both State and non-state actors.

(25 Marks)

5. The State of Niroda engages in an armed conflict with the State of Tiroda. Captain Z of the Niroda Armed Forces is tasked with transporting reinforcements to the frontline. In transit, they are ambushed, resulting in casualties and injuries. Ten enemy combatants are captured, and Captain Z orders them to be taken to the frontline for interrogation, placing them in unsecured conditions. During a second attack, some of the prisoners are wounded, while others are taken for questioning by the reinforcement unit without receiving medical treatment and are subjected to degrading conditions.

Analyze these actions based on the relevant principles of International Humanitarian Law regarding the treatment of prisoners of war.

(25 Marks)

6. During an armed conflict between the State of Gana and the State of Felona, several violations against civilians and civilian objects are reported:

- (a) Gana forces unlawfully detain humanitarian aid workers.
- (b) An aerial attack by Felona targets a military base in Gana, resulting in damage to a nearby mosque and historical museum.
- (c) Gana forces launch a missile attack on an oil refinery in Felona, which subsequently causes a wildfire, devastating a protected forest reserve.
- (d) Felona forces use Gana civilians for forced labour and unauthorized medical experimentation.

Note that both States are parties to the Geneva Conventions of 1949 and their Additional Protocol I of 1977.

Answer **either** (i) or (ii):

- (i) Discuss the above violations in light of the grave breaches outlined in the four Geneva Conventions of 1949 and Additional Protocol I and explain the obligations of Gana and Felona.

(25 Marks)

OR

- (ii) Assume Gana has enacted legislation similar to the Geneva Conventions Act of Sri Lanka to incorporate the Conventions into its legal system. Assess how effective this legislation could be for prosecuting the perpetrators of these violations.

(25 Marks)

7. 'The proliferation of international criminal justice mechanisms has been especially evident in recent times, despite the establishment of the International Criminal Court (ICC). The necessity of addressing specific situations has led to the creation of various *ad hoc* criminal tribunals and hybrid courts.'

Evaluate the above statement in light of recent developments, including the establishment of hybrid tribunals, and the challenges faced by the ICC in addressing global accountability.

(25 Marks)

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