

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
LL.M. IN CRIMINAL JUSTICE ADMINISTRATION - LEVEL 7
FINAL EXAMINATION – 2015/2016
LWP 2210 – INTERNATIONAL CRIMINAL LAW
DURATION – 03 HOURS



Date: 03.06.2017

Time: 09.30 a.m. – 12.30 p.m.

Total number of questions 6

Answer FOUR (04) questions only. Each question carries 25 marks

Candidates will be penalized for illegible handwriting.

1. "Crimes against international law are committed by men, not abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced. . . individuals have international duties which transcend the national obligations of obedience imposed by the individual State."
(Nuremberg Judgment IMT, p. 221)

Critically assess the above dictum in light of the evolutionary development of international criminal law.

2. (a) Describe the generally accepted principles of international law based on which States attempt to exercise jurisdiction and relate them to the obligations of States under international criminal law.
- (b) Explain the rationale behind distinguishing the offences falling under universal jurisdiction from those considered as international crimes. Give examples.

3. (a) "The interests protected by the law against genocide are narrower than for crimes against humanity."

Compare and contrast the *key elements* constituting both the crimes. Support your answer with relevant authorities

- (b) 'In the *Tadic* case, the Appeals Chamber of the ICTY has given guidance on how to identify the content of war crimes law. This guidance has very much influenced the drafters of the Rome Statute as well.'

Do you agree? Give reasons for your answer.

4. (a) 'The concept of superior responsibility is an original creation of international criminal law for which there are no paradigms in national legal systems.'

Discuss.

- (b) 'The dilemma is that illegal orders will be issued and, given the overbearing influence of a military force's hierarchical structure, particularly felt in the lower ranks and in combat, those illegal orders will be obeyed.'

Explain how principles of international criminal law could be effectively applied to overcome this paradoxical situation.

5. (a) " ... (T)he direct perpetrators *on the ground* do not have to be a part of the enterprise, so long as the crimes can be imputed to one member of the enterprise, who is acting pursuant to the common plan when he or she uses those direct perpetrators to commit crimes."

Comment briefly on the above statement in relation to liability, under international criminal law, for all acts performed by any person in execution of a common plan.

- (b) Briefly describe the defenses available under the Rome Statute for an individual charged with the commission of international crimes.

6. "The question of primacy of jurisdiction continuous to hound the international community. Inconsistent practice in the past prevents the adoption of a single approach to the issue. Even the latest attempt by the Rome Statute in this regard is also led to certain degree of misapprehension. "

Discuss in light of jurisdictional issues relating to international crimes. Support your answer with authorities.

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