

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 2211 – INTERNATIONAL HUMANITARIAN LAW

DURATION – 03 HOURS



Date : 18.06.2017

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. 'Consideration of the manner in which human rights complement humanitarian law may help to find a solution for some of the difficulties encountered when applying human rights in non-international armed conflicts, particularly to non-state actors.'

Critically evaluate the complimentary nature of these two branches of international law in light of the above statement. Support your answer citing authorities with special reference to the recent case law jurisprudence.

2. Abiru and Bheeshana are two neighboring states which are fighting over the ownership of an un-demarcated territorial area called Nidahas which borders to both the states. Both the States are trying to establish historical, ethnic, religious and cultural ties with the inhabitants of Nidahas. While 52 percent of Nidahas people are belonged to Abirus ethnic group, 34 percent of the population are of Bheeshanan ethnicity. The rest are a mixed population. Nidahas is now partly occupied by Bheeshana armed forces. When the hostilities reach to the peak, many Nidahas people became displaced. Some managed to cross the borders and to reach either Abiru or Bheeshana based on their ethnic ties for protection. But due to the heavy focus on the protracted armed conflict these people are not properly looked after by relevant authorities of the both States.

The Commander of Abiru army is popular among the Abirus youth and children in Nidahas as a result of the propaganda campaign launched by the Abiru army publicizing

about their new weapons and the stories about their past belligerent activities. Exploiting this situation, the Commander of Abiru Army has recruited thousands of children between the ages of 12 to 18 years to his army in order to intensify the attacks against Bheeshana army. The Commander of Bheeshana army orders his soldiers to kidnap the mothers and sisters of these child soldiers and to inflict sexual harassment on them for allowing their sons and brothers to be recruited to Abhiru army.

Both States have ratified the Geneva Conventions of 1949, their First Additional Protocol of 1977, the Rome Statute of the International Criminal Court and the Convention on the Rights of Child (CRC). The State of Bheeshana has ratified the Optional Protocol to the CRC on the involvement of children in armed conflicts.

Discuss the above situation in light of the relevant principles of international humanitarian law, and the rights and obligations of the parties involved under the same.

3. States of Mars and Venus are eternal enemies and fighting with each other for more than a decade. During an ambush Mars captured 15 Venus soldiers and are now detained them in a camp called 'Black Hole' in the territory of Mars. Venus media report that they are kept under inhumane conditions and are subject to torture and other inhumane treatment and cruel punishments. It further reports that they are being used for de-mining activities and building a bastion for Mars. Mr. Osaka is a freelance journalist and engages in a mission with the help of a humanitarian organization to find the actual status of the captives and wishes to seek the assistance of a humanitarian law expert to prepare a report based on relevant international humanitarian law principles on the protection of captured and surrendered persons in times of an armed conflict similar to the ongoing hostilities between Mars and Venus.

Assume that you are the expert who assists Mr. Osaka to write the report. You are expected to give him a detailed account of relevant contemporary international humanitarian law principles.

4. Discuss the legal implications of the following situations and the liabilities of the parties by providing accounts for your arguments citing relevant authorities:

The State of Revera is having a protracted armed conflict with a rebel group called Marayyas in the Southern Province of the country. Revera leader plans for an all-out assault on the rebels. Marayyas attempts to retaliate by sending suicide bombers to the

peaceful parts of the country. As a result, many people were killed and properties got severely damaged. Kapatiraja, a neighboring State, sends a regiment of soldiers armed with modern weaponry in support of Marayas group. Both parties to the hostilities heavily employ prohibited methods and means of warfare and thereby cause injury and damage to men and materials without any concern of the devastation caused to the civilians and the environment.

Kapatiraja's Commander orders his troops 'to give no quarter' and to assassinate all severely injured belonged to the enemy fraction. As the last resort, Revera soldiers use bacteriological weapons and lethal gases and destroy an irrigation project, a bridge, a historical monument and a power plant situated in the area occupied by the enemy power.

5. 'It is generally believed that the contemporary humanitarian law has well developed and contains rules for the regulation of armed conflicts. However, the same is not true when it comes to implementation of these rules.'

Do you agree with the above statement? Support your answer highlighting the main difficulties confronting in ensuring effective enforcement of international humanitarian law in armed conflict situations.

6. Societies crippled by the ravages of armed conflicts in the past are looking forward to see smooth transition from war to peace. Sri Lanka too is in such a transition move now after the recently ended internal armed conflict. Discuss the applicable provisions of international humanitarian law that can be used in achieving transitional justice to any society ravaged by armed conflicts with special reference to Sri Lanka.

You are expected to critically evaluate the strengths and weaknesses of popular mechanisms in practice.

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