

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Human Rights and International Humanitarian Law
Semester-VI (Batch: 2014-19)

End Semester Examination: April-May 2017

Date: 2nd May, 2017

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.

Q.1 Situation: Truce and Perfidy

Marks
(10)

The State of 'Antigua and Barbuda', party to the Geneva Conventions, has not recognized the existence of a state of war between itself and another State namely, 'Republic of Cabo Verde', against which it claims be conducting mere police operations. After fierce armed conflict, region commanders agree on a '*truce*' to care for the wounded. The ICRC and the Red Cross unit goes to the said region and an armed soldier is ordered to protect them. The Red Cross auxiliaries at first give care for a wounded enemy soldier who later, as they are looking after other wounded, fires from behind on soldier escorting them, but fire misses him. The soldier prepares to fire back at the *sniper*, who puts up his hands in a token of surrender. Comment and answer the following questions.

- (a) Whether "Non-recognition" has any significance in the International Humanitarian Law?
- (b) Where can the legal provisions for such a *truce* be found?
- (c) Is the Red Cross unit an integral part of the military medical service?
- (d) What do you think of the wounded man's conduct and the soldier's reaction?
- (e) Does Protocol I contain anything (whether old or new) in this context of the issue?

For your reference:

GC I-IV, Art. 1 (Respect for the Convention) and Art. 2 (Application of the Convention),

AP I, Art. 3 (Beginning and end of application)

GC I, Art. 26 (Personnel of aid societies)

AP I, Art. 8 (Civil Defence)

GC I, Art. 40 (Identification of medical and religious personnel)

Q.2 Situation: Duty to work

(10)

There has been an armed conflict between two States namely, Republic of Guinea-Bissau and Republic of Macedonia, parties to the Geneva Conventions of 1949. In a prisoner-of-war camp, volunteers are employed to work for a day to evacuate a munitions depot captured from the enemy. Volunteers are promised for better facilities to be provided and be given priority to release.

At the end of hostilities, one of the family members of the victim consults you for a legal

advise to know whether such work can be extracted.

Comment and answer the following questions:

- (a) Do prisoners who volunteer for such work renounce certain rights under the Conventions?
- (b) Are the Detaining Power's promises of better conditions for volunteers an unacceptable form of pressure?

For your reference:

- GC I-IV, Art. 2 (Application of the Convention)
 AP I, Art. 1 (General principles and scope of application)
 GC III, Art. 5 (Beginning and end of application)
 GC III, Art. 52 (Dangerous and humiliating labour)

Q.3 Situation: Combatant and Non-Combatant (10)

An armed conflict is in progress between a colonial government namely, Botswana in Africa and a "Azanian National Liberation Front" (ANLF) representing part of the local population. The obligation to distinguish between combatants and non-combatants is ignored. Combatant civilians including women and children as well as non-combatant civilians are being murdered, ill-treated, families dispersed, inhabitants driven from their villages, houses set on fire and children deported. Comment on the situation in context to the Geneva conventions and Additional Protocols and answer the following questions.

- (a) Which Conventions and provisions contain rules for the protection of non-combatants?
- (b) How is this obligation to be respected and applied in practice?

For your reference:

- GC IV, Art. 147 (Grave Breaches)
 AP I, Art. 85 (Repression of breaches of this Protocol)
 AP I, Art. 48 (Basic rule) - In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.

Q.4 Write note on any two of the following: (2x5=10)

- (a) Command Responsibilities and Individual Criminal Responsibility
- (b) Non-International Armed Conflicts (NIAC)
- (c) New technologies of warfare

Q.5 Answer the following: (2x5=10)

- (a) The Inter-American system is a combination of human rights norms and supervisory institutions within the Americas. The applicable rules consist primarily of the American Declaration on the Rights and Duties of Man, 1948 ("American Declaration") and the American Convention on Human Rights, 1969 ("American Convention"). Analysing mass and gross violations of human rights involving forced disappearances in the context of authoritarianism and dictatorships, the court has given landmark judgement in the case of *Velásquez Rodríguez v. Honduras* in 1988. Discuss.
- (b) United Nations mechanisms for the protection and promotion of human rights.