

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: **International Criminal Law**  
Semester- II (Batch: 2020-21)

**End Semester Online Examination: June 2021 (LLM)**

**Date: 28<sup>th</sup> June, 2021**

**Duration: 8 hours**

**Max. Marks: 50**

**Instructions:**

- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- The facts of the questions are with the fictitious names but bear resemblance to actual cases in International criminal law.
- Word Limit: 10 Marks: 450-500 Words, 5 Marks: 250-300 Words.

**Answer Any Five**

**Marks**

- Q.1 An Army officer who took the words of the nation Commander in Chief to heart and went off on his own in search of human-rights violations against Comboland penitentiary inmates faced a court-martial with his career. A panel of five officers sat in judgment of the odd, passionate case of Capt. John R Seasalt, a fourth-generation military man who walked his way alone into the national penitentiary in Port-au-Prince during the multinational Comboland incursion in a zealous and unauthorized search for abused political prisoners. He was found guilty of not following the orders of superiors. The only outcome of the court-martial is his career gone and time in prison. He took a plea of the defences available at internal criminal law. But the panel did not consider his plea as an acceptable one. (10)

Discuss citing suitable case laws in support of your answer, whether Capt. John R Seasalt should or should not be able to prevail on the defence of refusing to obey an unlawful order.

Write what the acceptable and non-acceptable defences in cases for prosecution in International Criminal law.

- Q.2 The Asian country of Tobias has a population of four million people, comprised of two main ethnic groups, the Tobii (45 percent of the population) and the Motamii (55 percent of the population). Its main export is the rare mineral cobalt, which is mined throughout the country. From March 2008 through May 2013, Tobias was ruled by a democratically elected President, Giba Hatimi, who was a member of the minority Tobii tribe. During his last few months in office, Hatimi was under investigation on charges of embezzlement of Government funds by the Tobias Peoples' Congress. On May 1, 2013, President Hatimi died of a heart attack. Hatimi's Vice President, Madame Kelly Mert (also a member of the (Tobii tribe), was attending a meeting of the UN Human Rights Commission in Geneva at that time. Under the Tobias Constitution, the Vice President is (10)

to automatically assume the Presidency upon the death of the President. A few hours after Hatimi's death, a military faction seized power in a bloodless coup. The military regime is led by General Kaplan George (a member of the majority Motamii tribe), who was the former Chief of staff of the army in the Hatimi's administration. General Kaplan has vowed to turn the Government back over to a democratically elected President after he has cleansed the Executive Branch of corrupt officials. General Kaplan's subordinates immediately rounded up the members of the Hatimi's administration and subjected them to extraordinary interrogation methods, including "waterboarding," in order to induce them to confess to their acts of corruption. General Kaplan then convened a special emergency tribunal to rapidly try such officials. Two thirds of the former officials of the Hatimi's Executive Branch have been summarily tried and executed for corruption by the Special Tribunal, which Human Rights Watch has characterized as "a political weapon, not a real court." The day after he seized power, General Kaplan publicly warned Madame Kelly Mert that if she returned to Tobias she would be charged, convicted, and executed for being an accomplice to Hatimi's illegal schemes.

Madame Kelly rendered support from the international community against the inhumane torture to her people at Tobias. As a result of her efforts the UN intervened and warned General Kaplan to surrender and give the authority to Madame Kelly. People at Tobias also demanded the same from the Government by organizing peaceful and armed agitations across the country.

On May 25, 2013, General Kaplan agreed to participate in peace negotiations with Madame Kelly at the capital of the neighbouring Country. The negotiations are being mediated by the UN Under-Secretary General for Legal Affairs. According to press reports, General Kaplan may be willing to relinquish power to Madame Kelly if the UN revokes its sanctions, unfreezes his assets, and promises not to authorize an invasion, and if he and the other military leaders are given asylum in Geneva and/or a complete amnesty in Tobias.

Based on the facts mentioned above, write the different types of the international crimes committed by General Kaplan. What are the defences available to both, General as well Madame Kelly (considering that a large number of people in Tobias are unhappy with the role of Madame Kelly being authorising peace talk for Kaplan).

- Q.3 For three decades, the United Nations has been trying to negotiate a consensus definition of 'terrorism'. Assuming that the United Nations has convened a conference to adopt a universal definition of terrorism, and you are a representative to it. The working draft provides: "Terrorism is the intentional use of, or threat to use violence against civilians or against civilian targets, in order to attain political aims." Write the best understanding of the term 'terrorism' as per the international criminal law norms and the conditions in India. (10)
- Q.4 Discuss the importance of Nuremberg principles in International Criminal Law. (10)

Q.5 Discuss the formation and importance of ICC, ICTR and ICTY. (10)

Q.6 Write short notes on: (5x2=10)

- a) Maritime piracy
- b) Ant torture treatises

OR

- a) Interpol
- b) Convention on Cyber Crime

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