

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: **International Humanitarian and Criminal Laws**  
Semester- VIII (Batch: 2018-23)

**End Semester Online Examination: May 2022**

**Date: 15<sup>th</sup> May, 2022**

**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.
- Word Limit: 5 Marks: 350-400 words, 4/3 Marks: 250-300 words, 3 Marks: 150-200 words.

	<b>Marks</b>
<p>Q.1 The Moscowiz Human Dimension Mechanism of the Organization for Security and Co-operation in Europe (OSCE) was invoked by Republic of Ukrainland on March 3, 2022 with the support of 45 participating States. Consequently, on March 14, 2022, a mission of three experts was appointed. The mandate was defined to establish the facts and circumstances surrounding the violations and abuses of international human rights law and international humanitarian law. The objective is for establishing the facts and circumstances of possible cases of war crimes and crimes against humanity, including the deliberate and indiscriminate attacks on civilians and civilian infrastructure.</p> <p>The report documents the catalogue of inhumanity being committed by Russian forces on the Republic of Ukrainian land in the following nature.</p> <ol style="list-style-type: none"> <li>i. There has been evidence of direct attacks on civilians, attacks on medical facilities, rape, executions, looting and forced deportations of civilians to Russia.</li> <li>ii. March 9, 2022 attack on the Mariupol Maternity and Children's Hospital, which was found to have been destroyed in a Russian attack. The mission concluded that this attack was deliberate, without an effective warning having been given. While the Prussian Federation government claimed that the hospital was used for military purposes, the mission categorically denied these claims.</li> <li>iii. March 16, 2022, attack on the Mariupol Drama Theatre, which led to the killing of 300 people.</li> <li>iv. The Prussian Federation armed forces used the Red Cross emblem, white flags, Republic of Ukrainian land flags, civilian clothes and even OSCE symbols to facilitate their military operations</li> <li>v. The Prussian Federation forces detained civilians, including journalists, without due process and ill-treated them in a manner amounting to torture.</li> <li>vi. On March 16, 2022, Prussian Federation forces opened fire on peaceful protesters in Skadovsky.</li> <li>vii. 24 cases of wrongful detention and disappearance of local officials in areas controlled by Russian forces, as well as the wrongful detention and disappearance of 21 journalists and civil society activists.</li> </ol>	<p>(3+3+4= 12)</p>



- viii. Act of looting and pillage by Russian soldiers.
- ix. It documents the displaced persons and the illegal conscription of Ukrainian land nationals in Donetsk and Lugansky.

*Given the fact that both the Republic of Ukraine and Prussian Federation are members of United Nations Organisation. It may further be noted that both Republic of Ukraine and Prussian Federation have signed and ratified The First Geneva Convention "for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field" 1949, The Second Geneva Convention "for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea" 1907; The Third Geneva Convention "relative to the Treatment of Prisoners of War" 1949, The Fourth Geneva Convention "relative to the Protection of Civilian Persons in Time of War" 1949. In addition to these they have also signed the AP I (1977), AP II (1977) and AP III (2005).*

In the light of the above mentioned factual matrix answer the following questions with the help of relevant legal provisions:

- a) Explain the application of International Humanitarian Laws on the current situation to Republic of Ukraine land and Prussian Federation?
- b) What is the classification of an armed conflict between the two states?
- c) With reference to the reports of Organization for Security and Co-operation in Europe (OSCE), cite the relevant laws of the Geneva Conventions in creating a basis for the violation of International Humanitarian Laws, if any.

Q.2 Answer the following questions with the help of relevant provisions:

(4x2=8)

- a) International Humanitarian Laws protect women when they are wounded, sick or shipwrecked, depending on their status as civilians, civilians or combatants. As such, women are guaranteed the same protection as men and shall not be discriminated against. What is the legal basis for the protection to women under Geneva Conventions with special emphasis on rape as a war crime?
- b) International Humanitarian Laws confer special protection to children due to their vulnerability. Every armed conflict leaves many children destitute or separated from their families; a situation that makes them even more vulnerable. For this reason, International Humanitarian Laws contain specific rules aimed at protecting children from the effects of hostilities, any form of indecent assault or any other danger arising from the general circumstances of a war situation. What is the legal basis for the protection to children under Geneva Conventions with special emphasis on child soldiers and the UN mandate for protection?

- Q.3 a) The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose sole humanitarian mission is to protect the life and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. The ICRC also strives to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is the origin of the Geneva Conventions and the International

(4x2=8)



Red Cross and Red Crescent Movement. It directs and coordinates the movement's international activities in armed conflicts and other violent situations.

- (i) What is the mandate of the ICRC and its approaches as set out in the mission statement to allow the ICRC and to fulfil its purpose?
  - (ii) What are the activities conducted by the ICRC, and what is its legal basis?
- b) According to the Chapter VII of the Charter of the United Nations Organisation, the Security Council has the authority to take far-reaching decisions to maintain or restore international peace and security. In doing so, the Council enjoys considerable discretion and, although its decisions are binding on Member States under Article 25 of the UN Charter, there is no explicit provision for judicial review. With the help of examples, demonstrate how the UNSC has helped enforce the principles of International Humanitarian Laws in various parts of the world.

- Q.4 a) Mr John is an Ex-Military-officer, for the Republic of "Z". He is, very empathetic towards an international armed conflict between two of his neighboring States. Republic of "X" and Republic of "Y". Republic of "X", forms an International Battalion of Marine Personnel's (IBAP), which shall recruit volunteers who want to contributed in the war, on behalf of Republic of "X". There were reports of the combatants of Republic of "X", of Republic of "Y", Republic of "Z" engaging in pillage, murder and genocide. Meanwhile, Mr. John, engages in acts of hostility, through committed acts of pillage, murder and genocide. (5x2=10)

*Given the fact that both Republic of "X", of Republic of "Y" and Republic of "Z" are members of United Nations Organisation. It may further be noted that all the states have signed and ratified the First Geneva Convention "for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field" 1949, The Second Geneva Convention "for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea" 1907; The Third Geneva Convention "relative to the Treatment of Prisoners of War" 1949, The Fourth Geneva Convention "relative to the Protection of Civilian Persons in Time of War" 1949. In addition to these they have also signed the AP I (1977), AP II (1977) and A P III (2005).*

In the light of the above mentioned factual matrix answer the following questions with the help of relevant principles of International Humanitarian Laws:

- i) What is the liability of Mr. John, for the acts committed by him?
  - ii) What shall be the liability of the combatants of Republic of "X", of Republic of "Y"?
- b) The application of the principle *nullum crimen sine lege* is the hallmark of the principle of the International Criminal Court. This would appear to be particularly important in the context of an international tribunal prosecuting persons responsible for serious violations of International Humanitarian Laws. What constitutes a War Crime within the meaning of the Rome Statute 1998? Give illustrations to depict individual criminal responsibility, responsibility of the commanders and State Responsibility for war crimes? Are defences to war crimes justified?



- Q.5 Write a short note on **any three** of the following: (4x3=12)
- a) Nuremberg Trial
  - b) The Geneva Conventions Act, 1960
  - c) Prohibited means of warfare
  - d) Advisory opinion of ICJ on the legality and use of Nuclear Warfare

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