

7 NOV 2024

NATIONAL LAW UNIVERSITY, JODHPUR  
End Term Examination November -2024  
Semester: UG IX Semester  
Subject: International Criminal Law (Criminal Law Hons.)

Time: Three Hours

Marks:100

**Instructions:**

1. Attempt any five questions out of six.

Q.1). There are many “hidden histories” in international criminal justice. The record and practice of the United Nations War Crimes Commission (UNWCC) is one of the “best kept secrets” in the field. Explain the contributions made by the UNWCC in the making of modern international criminal law.  
(Marks 20)

Q.2). The state of Mandore is a sovereign independent state. In the year 2023, there was change in government in state. However, this change was not a peaceful transition. Series of international crimes were committed on which the International Criminal Court (ICC) could exercise the jurisdiction. Mandore is also a party to the Rome Statute. Mandore has also criminalised the international crimes under its domestic criminal law. You are legal adviser to the state of Mandore, your advice on referring the accused of international crimes to the ICC have been sought from the state. The state is of opinion that whenever any international crime takes place, there is always a dilemma as to options of exercising national or international criminal jurisdiction over the same. Which criminal jurisdiction is better suitable for investigation and prosecution of such crime? Present your legal advice. Also suggest if the Rome Statute has been successful in addressing this dilemma.  
(Marks 20)

Q.3). After Russia invaded Ukraine on 24 February 2022, some states were quick to label this as an act of aggression in their immediate reactions. On 2 March 2022 the UN General Assembly passed a Resolution titled “Aggression against Ukraine”. Among other statements, it said that the General Assembly “Deplores in the strongest terms the aggression by the Russian Federation against Ukraine in violation of Article 2 (4) of the Charter.”  
Prosecuting the crime of aggression as an international crime provides a clear opportunity to punish the architects of the Russian war of aggression. However, since the crime of aggression is highly contentious, it would be challenging to prosecute the Russian leaders. Do you agree? Discuss the developments of the crime of aggression as a core crime under the Rome Statute.  
(Marks 20)

Q.4). In one of the trials before the ICC Trial Chamber in October 2024, the accused, James Hawk (aged-nineteen years) who was abducted and conscripted in the militia group at the age of twelve years, explained the following about the crimes that took place in September 2023:

“At 19:00 our commander gave the order to attack the village. According to an intelligence report, a group of enemy soldiers were hiding there, preparing an attack on a vital supply convoy that we were expecting the next day. The attack lasted for around 40 minutes. When



we entered the village, we were shocked to learn that all the casualties, as well as the survivors, were civilians. Our commander now seemed rather desperate and ordered the execution of the remaining civilian men. I first refused to participate in the execution but was told: "If you prefer, you can give your rifle to one of your fellow soldiers and join the villagers instead." So I joined the firing squad. I am absolutely convinced that had I not carried out the order, I would have ended my life in that ditch."

Five days earlier I had witnessed another soldier being shot after he refused to obey a similar order. And the villagers would have been killed anyway, you know."

Assuming that James Hawk is honest in his description of the events, discuss whether superior orders or duress can be raised as a defence before the Trial Chamber. (Marks 20)

Q.5). India is not a state party to the Rome Statute. Critically evaluate reasons for India's objections to the ICC. (Marks 20)

Q.6). Write short notes on **any two**:

- a. Sources of International criminal law
- b. Torture as discrete crime
- c. Individual Criminal Responsibility

(Marks 10+10)