

1 MAY 2025

NATIONAL LAW UNIVERSITY, JODHPUR
End Term Examination April-May 2025
Semester: UG VIII Semester
Subject: International Humanitarian and Refugee Law (Optional)

Time: 3 Hours

Marks: 100

Instructions:

1. Attempt any five questions.
2. Each question is of 20 marks.

Q.1) The fictional state of Sardarpura has been involved in armed confrontations with an insurgent group, the Mandaar Liberation Front (MLF). Recently, neighboring state Bikano began providing logistical support and intelligence to MLF, significantly impacting the conflict dynamics. Evaluate whether the conflict remains non-international or transforms into an international armed conflict, providing a legal analysis referencing relevant jurisprudence.

(Marks 20)

Q.2) On September 11, 2001, four domestic commercial passenger aircraft were hijacked by 19 men from three east coast of the USA. Two of the aeroplanes were deliberately flown into the two World Trade Center towers in Manhattan, New York. As a result, both towers collapsed due to structural weakening and the extreme heat of the aviation fuel essentially melting the metal support struts in the towers. The hijackers were later identified as affiliated with the organization al-Qaeda. Following attacks, the then President, George W Bush stated that America was engaged in 'war on terrorism'. Both abroad and its own territory, the US also instituted a policy of detention for persons arrested in connection with the 'war on terror'. The US asserted that the al-Qaeda fighters were 'unlawful combatants' and therefore not entitled to any form of Geneva protection. The scholars of international humanitarian law also argued on similar position stating that 'A person is not allowed to wear simultaneously two caps: the hat of a civilian and the helmet of a soldier'. This position on 'unlawful combatants' deny them of the combatant's privilege.

In the above backdrop, discuss the combatant's privileged position under the relevant Geneva Conventions. Also analyse legal issues related to unlawful combatant, one who is neither a civilian nor a combatant.

(Marks 20)

Q.3) Pitbullah Khan is the military commander of State of Rockstones. Rockstones is involved a fierce battle with state of Gemstones. The armed forces under the command of Mr. Khan has managed to surround the enemy soldiers. Three enemy soldiers, including a top military commander, drop their weapons and declare that they are surrendering. Another soldier who is



badly wounded also surrenders. The commander Khan has reliable information that this unit in particular was directly responsible for carrying out a massacre on civilians only a few days ago. He however is deep into enemy lines and knows that other enemy units that have listened to the exchange of fire are quickly approaching. He radios his superior commander, who says, "You need to get your unit safely back to our lines now! We do not have time or resources to deal with prisoners. Get rid of them." How do you think Mr. Khan should understand this order? What should be his next steps, as commander of this unit, and how should he justify them under international humanitarian law? Is there place for individual criminal responsibility for anyone involved in this scenario, under the Statute of the International Criminal Court?

Note: For purposes of this scenario, the warring parties are bound by all relevant international humanitarian law treaties and the Statute of the International Criminal Court.

(Marks 20)

Q.4) The legitimacy of the use of nuclear weapons in armed conflicts has long been controversial. The ICJ Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons* (1996) has not produced any definite outcome on the legality of nuclear weapons. However, a strong case can be made that the use of nuclear weapons in warfare is prohibited under international humanitarian law (IHL). This conclusion is derived from the fundamental principles of IHL. Critically analyse these fundamental principles in the light of the Advisory Opinion.

(Marks 20)

Q.5) Amidst intense conflict in the state of SDL, thousands of civilians have fled across the border to neighbouring state Countryside. Countryside which is not a party to the 1951 UN Refugee Convention, faces domestic pressure to return these refugees due to limited resources and security concerns. SDL insists it is safe for civilians to return, though credible international reports indicate the ongoing armed hostilities and widespread human rights violations in the state. Critically evaluate Countryside's legal obligations under international refugee law and customary international law principles, specifically addressing the principle of *non-refoulement*.

(Marks 20)

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

- a. Protection of Women during Armed conflicts
- b. Refugee Status Determination
- c. Martens Clause

(Marks 20=10*2)