

8 MAY 2024

NATIONAL LAW UNIVERSITY, JODHPUR

End-Term Examination April-May 2024

Semester: UG VIII Semester

Subject: International Humanitarian and Refugee Law

Time: 3 Hours

Marks: 100

Instructions:

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

1. The state of Gemstones has violated the territorial integrity of the neighbouring state, Rolling Stones. There is a declared state of war between two states. The battlefield is in Rolling Stones. Grammia is the military cantonment town of Rolling Stones with almost 1 lakh inhabitants. In a densely populated area of Grammia, a military tank belonging to Gemstones has been spotted by the military commander of Rolling Stones, Mogambo. At 250 meters on the western side of Grammia, is a civilian hospital, and almost 500 meters to the east there is a primary school. The street is also connected by a railway bridge. Attacking the enemy tank would mean the destruction of both the hospital and the school. The attack will also destroy a few residential buildings. You are a legal adviser to the military commander, Mr. Mogambo, who is considering the attack and destruction of the tank using anti-tank artillery from a safe distance. Render the advice on the international legal obligations incumbent upon parties to an armed conflict to comply with this fundamental principle of IHL.

(20 Marks)

2. Defining non-international armed conflict has been a historically difficult task. This is further complicated due to blurring lines between types of armed conflict. In such circumstances, do you think that the protective scope of Common Article 3 is legally adequate? Substantiate your answer with the help of relevant state practice and case laws.

(20 Marks)

3. You are a legal adviser to the ICRC. Render your advice in the following situations:
a. An armed conflict is in progress between a colonial government and a "Patriotic Liberation Front" representing part of the local population. The obligation to



distinguish between combatants and non-combatants is ignored by both parties. Non-combatant civilians are being murdered and ill-treated, families dispersed, inhabitants driven from their villages, houses set on fire and children deported.

- b. War breaks out between state A and state B. A places part of B under military occupation, since it claims the territory so occupied as its own. It evacuates the population of that territory and refuses the ICRC permission to visit the members of that population whom it has imprisoned. Are the inhabitants of the occupied territory "protected persons"? How do the Geneva Conventions protect "protected persons"?

(10*2=20 Marks)

4. IHL protects both civilians and combatants. Does IHL recognize the third category of unlawful combatants? Yes/No. Substantiate your arguments with the help of treaty law and state practice.

(20 Marks)

5. India is yet to become a party to the Refugee Convention of 1951. However, even in the absence of international treaty obligations, the Indian judiciary has played a pivotal role in protecting refugees. Do you think India should become a party to the Convention? Examine India's stance towards the Convention.

(20 Marks)

6. Write a short note on the following (any two):

- a. Relationship between International Human Rights Law and International Humanitarian Law
- b. Principle of non-refoulement as Customary International Law
- c. Grave Breaches as War Crime

(10*2=20 Marks)