

UNIVERSITY OF COLOMBO, SRI LANKA

FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION, YEAR III – 2017

INTERNATIONAL HUMANITARIAN LAW

(Three Hours)

Total Number of Questions: 07

Answer any **FOUR** questions.

(Candidates will be penalized for illegible handwriting.)

1. "It was just a few years ago that International Humanitarian Law seemed to be an innovative and vital area of Public International Law, but it has already become rather outdated as it is unable to cope with issues such as the rapid changes in the nature of conflicts in the world today, the advances in technology or the structures of international cooperation which are needed to limit the suffering from war and easy availability of destructive weapons."

Critically discuss the above statement, with reference to the developments in International Humanitarian Law in the 20th Century and paying special attention to the 21st Century challenges mentioned in the statement, using relevant examples to illustrate your answer.

2. Discuss, giving reasoned arguments, what you think the classifications of the following situations are, and whether or not they come within the scope of the Geneva Conventions and / or the Protocols:

A. The State of Saharia has a long history of internal racial tensions between the Azur and Oker peoples. The government and administration of Saharia are predominantly filled with Azur officials. An organization called 'Oker Freedom' is established in the Western region in 2017, to defend the interests of the Oker people in the face of increasing civil unrest over racial discrimination. It appears that there are armed groups causing violence, looting and burning of property, which begins in the Western region of Saharia and starts spreading across the country. National authorities say Oker Freedom is responsible and send in troops of the Saharia army, with tanks and helicopters, to the Western region to control the situation. The international community expresses concern regarding the application of International Humanitarian Law (IHL), but Saharia states that this is an internal matter that does not require the application of IHL.

B. Ayrola and Dianland are neighbouring countries. Civil war has recently broken out in Dianland between two ethnic groups. Citizens of Dianland suddenly find one morning that Ayrola has sent troops to Dianland, apparently to assist the government in the civil war. Most Dianland citizens are enraged by what they see as Ayrola's interference, and regardless of which side of the civil war they are fighting on, attacks are launched by civilians against the Ayrola army.

C. The State of Shintan has invaded the State of Tasin, claiming that Tasin had earlier sent armed groups to Shintan on a bombing attack targeted against their civilians in a shopping center and railway station. The citizens of Tasin have armed themselves and are assisting their government in fighting the invading troops, using all means including suicide attacks. General Dee of the Shintan army makes a statement that the protections of the Geneva Conventions and Protocols do not apply to any citizen of Tasin who attack them, since they are terrorists who use unlawful tactics.

3. "In International Humanitarian Law, the prohibition of certain weapons or control of weapons use or production concerns only the prevention of unnecessary suffering to human beings. The natural environment is important in International Humanitarian law only in relation to human beings, and not for its own sake. Protection of the natural environment is covered directly by environmental law and it is not an objective of International Humanitarian Law".

Critically evaluate the above statement in light of the legal restrictions on various types of weapons under International Humanitarian Law.

4. The State of Sali has an ancient sacred city called Tao, full of temples of the Yaana religion and a famous library which is over a thousand years old, which contains thousands of sacred manuscripts. Sali is very proud of Tao, and they have taken all the relevant international legal measures to recognize its value and to protect the city. During the course of the armed conflict with the neighbouring State of Hillyland, Tao was occupied by Hillyland. Mr. Elody, a Hillyland official, was appointed as the administrator of Tao. The Chief Priest of Hillyland states that the Yaana religion is spreading wrongful thinking in the region and has to be stopped. Later, the Sali armed forces won back the territory from Hillyland, and captured Mr. Elody and some Hillyland soldiers. Subsequently it was found that there was severe damage to the temples and the library by the occupiers.

The local Tao people say that Mr. Elody is the person most responsible for the damage, although it was Hillyland soldiers who actually carried out the actions. They also say that Mr. Elody had personally taken some of the sacred manuscripts and sold them to foreign collectors to collect funds for Hillyland to buy weapons. Mr Elody's response is that he has not injured or killed any of the local people, he is a civilian and

did not give orders to the soldiers and that the property he sold belonged to Hillyland at the time and that he therefore has not committed any crime.

The government of Sali wants Mr. Elody to be punished under international law for the damage to the sacred city. Advise Sali on the relevant law on the issue, citing relevant case law and provisions of treaty law where necessary.

5. Oros and Nula are two States that share a border. In 2016 Oros launched an air strike against what was identified as a weapon storage facility of Nula. It was subsequently revealed that the intelligence report was erroneous and what has in fact been attacked was a book store. In retaliation, Nula launched an attack against the Central Electricity Distribution Board (CEDB) of Oros. Nula justified this attack by stating that the electricity supplied by the CEDB is used by the Oros armed forces. Nevertheless, the day following the attack, newspapers of Oros reported that the daily lives of citizens have been affected due to power failures.

In 2017 July, Oros launched an attack which was expected to result in the death of Peter, the Commander in Chief of the Nula army. The attack was launched on Peter while he was attending a military conference in 'Hotel Hope' which was simultaneously hosting an annual party of a company. Peter escaped with minor injuries although the attack resulted in the deaths of five (05) senior commanders of Nula army as well as thirty (30) civilians. Oros has released an official statement justifying the attack citing military advantage.

Assuming that both States are parties to the Geneva Conventions and Additional Protocols analyse the legal implications of the given facts. Your answer should be supported with authorities.

6. State of Tropica has been ravaged by an armed conflict over the past few years. The power struggle between the majority community Alpos and minority community Biscos has led to the latter launching armed strikes against the armed forces of Tropica with the intention of establishing a separate State for Biscos.

In 2015, Biscos appointed Rob as the Leader of the "Bisco Force" (BF). Rob has successfully introduced uniforms and more advanced weapons to the BF and appointed five deputy leaders in charge of various aspects of the BF. Due to the success of the propaganda campaigns led by BF, they have also been able to mobilize young men and women to fight alongside BF against the Tropica Forces. Three months ago, some of these individuals were attacked by Tropica forces while they were working in their farms. Ten such individuals were arrested and detained in the "Special Facilities" where several members of the BF have also been detained for over one year. Neither these individuals nor the detainees belonging to BF have been allowed to communicate with their families, lawyers, or the officers of the ICRC.

“International Rights Watch” (IRW) has reported that some of the detained individuals are compelled to engage in rigorous physical labour.

Tropica is a State party to all four Geneva Conventions and the Additional Protocols. Assuming that you are a legal researcher attached to the University of Tropica who has been requested to provide a legal analysis of the described incidents, write a report citing relevant legal provisions and cases.

7. Saumya and Ramya are two neighbouring States having border disputes intensified by the release of radioactive waste by Ramyan high-tech weapon research laboratory into Soumyan territory which has led to a full-fledged armed conflict. The acts of violence of belligerent parties include the following:
 - a) Toxic and chemical weapons are used by Ramyan forces to completely destroy Saumyan botanical gardens considered as a national treasure.
 - b) In retaliation, Saumya targets the hi-tech laboratories situated in densely populated Ramyan village ‘Lepo’ using unmanned aerial vehicles (UAV) and heavy artillery killing civilian workers employed at the facility.
 - c) Ramyan intelligence deploys a group of skilled personnel to launch an attack on Saumyan territory with instructions to either carry out suicidal attacks on capture or to impersonate humanitarian workers upon capture.

Assuming that both Saumya and Ramya are parties to the Geneva Conventions of 1949 and Additional Protocol I of 1977, discuss the rights and liabilities of the parties.

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