

**DIRECTORATE OF DISTANCE EDUCATION
NALSAR UNIVERSITY OF LAW, HYDERABAD**

Post-Graduate Diploma in International Humanitarian Law (Batch 2019 – 2020)

Take Home – Supplementary Examination (January, 2021)

**Paper II – 1.2. Protection of Victims of War and Armed
Conflicts**

TOTAL MARKS: 100

INSTRUCTIONS TO CANDIDATES

- a) Read the instructions for Take Home Examination carefully and adhere to the same.
 - b) *Please mention your name, ID No., subject name and total number of pages on the Answer Sheet.*
 - c) *Clearly indicate the question numbers while answering them.*
 - d) *Answer all the four questions and each question carries 25 marks.*
 - e) *The answer for the 25 marks question should be written in 1200 – 1500.*
 - f) *Only Handwritten answer scripts should be uploaded. Use only Black ball pen to write the answers. Handwriting if not legible, paper will not be examined.*
 - g) *Since this is a take home exam, we expect your answers to be analytical rather than straight answers.*
 - h) Copying from any source including from other students is strictly prohibited. Plagiarism is considered as a serious academic mis-conduct and the University will take action as it deems fit.
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Answer the following questions:

Marks : 4 x 25 marks each

1. International humanitarian law is “strong in protecting the *status quo ante*, but weak in responding to any new needs experienced by the population in the occupied territory. The longer the occupation lasts, the more shortcomings IHL tends to reveal.” Examine in the light of this statement what restrictions are placed upon the Occupying Power when it comes to protection of civilian persons, or people defined as ‘protected persons’ under the Fourth Geneva Convention and the Hague Regulations on the subject.

2. Principles of fundamental distinction are not only crucial but central to the very existence of international humanitarian laws. However, the challenge of drawing such distinctions between a civilian and the combatants is all the more difficult in the case of non-international armed conflicts, say for example, the Naxalite movement in India which has men women from the civilian population. Explain how international humanitarian law responds to such complex situations.

3. The International Criminal Tribunal for Rwanda (ICTR), Trial Chamber, observed:

With respect to rape and sexual violence, the Chamber wishes to underscore the fact that in its opinion, they constitute genocide in the same way as any other act as long as they were committed with the specific intent to destroy, in whole or in part, a particular group, targeted as such. Indeed, rape and sexual violence

certainly constitute infliction of serious bodily and mental harm on the victims and are even . . . one of the worst ways of inflicting harm on the victim as he or she suffers both bodily and mental harm. (Jean Paul Akayesu case).

Is rape and sexual violence against women a crime against humanity under international humanitarian law? Are there specific provisions to that effect? Examine the position of a woman, if she is a combatant or a civilian, and how well is she protected from the rival armed forces, both during and in the aftermath of an armed conflict in international laws.

4. Sahela is a small ethnic minority group living in the north-western part of Eastland which is bordering the State of Westland, where they are a majority. Because of their separatist activities to join Westland, Eastland has pursued oppressive and discriminatory policies against them, which over a period of time have led to severe deprivation and gross violations of their fundamental human rights. Having lived with fear for their lives and existence, members of the Sahela minority, which is supported by Westland, adopted a Declaration of Independence from the oppressive regime. This prompted the government of Eastland to send its troops who soon began to indulge in excessive violence, selective killing, pillage, and later systematic ethnic cleansing of individual members of the minority group.

As a result of these brutal atrocities, many members of the Sahela minority have fled to the neighbouring counties across the border. While only a few of them have been accepted as refugees, most of them are left to fend for themselves. With no food and shelter and being exposed to harsh winter, many of them, including children and infants are facing a serious threat to their lives.

The International Humanitarian Aid and Relief Agencies, working along with the regional International Red Cross Society, is finding it hard to deliver food and medicine, under a minimal assistance programme undertaken by them which operates during an emergency situation to save the lives of the people stranded there. Eastland, which is a powerful nation having an enormous political influence in the region, attempts to obstruct and impede all the efforts undertaken by these humanitarian relief agencies from reaching out to them or delivering even the essential things, such as Baby food and medicine for the children. Under these circumstances, what would be your advice to the States denying access to the Humanitarian Aid Agencies and also to the members of the Sahela minority group? Discuss, referring to appropriate legal provisions, identifying clearly the contemporary challenges faced by the International Humanitarian Aid and Relief Agencies across the globe when they confront a similar situation?