

DIRECTORATE OF DISTANCE EDUCATION
NALSAR UNIVERSITY OF LAW, HYDERABAD

Post-Graduate Diploma in International Humanitarian Law (Batch 2020 – 2021)

Take Home – Annual Examination (June, 2021)

**Paper IV – 1.4. Implementation of International
Humanitarian Law**

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 words and for the 5 marks question about 400 words / 10 marks question 800 words.*
 - 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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1. In 2014, Spain adopted a piece of legislation (LO1/2014) which restricted the scope of the exercise of universal jurisdiction by Spain. The law excluded the possibility of conducting trials *in absentia*, thus limiting the exercise of universal jurisdiction to the circumstance that the suspect is present in the territory of Spain. The Spanish Supreme Court held that the legislation was not unconstitutional. It argued that, although a State is free to start criminal proceedings against individuals who do not find themselves on its territory, no international instrument obliges the State to do so. In the case of grave breaches of the Geneva Conventions, the Court notes that IHL obliges States to prosecute individuals only if they are present in the territory of the State.

Based on this situation, explain whether or not Universal Jurisdiction provides an opportunity to the states to repress and prosecute the grave breaches of the Geneva Conventions.

2. The Government of Colombia and the Revolutionary Armed Forces of Colombia (FARC-EP) (an armed group) signed a Peace Agreement, concluded as a special agreement under Article 3 common to the four Geneva Conventions. As part of the Agreement, an Amnesty Law was adopted. The Constitutional Court of Colombia ruled on the legality of the plebiscite that determined the rejection of the first proposed text of the Peace Agreement, upholding it with a number of conditions. However, at the end the Peace Agreement was signed between the Government of Colombia and FARC-EP. This agreement declares amnesty to some of the military commanders who have committed the war crimes.

In the light of this situation, discuss how IHL addresses the responsibility of commanders and other superiors for war crimes committed by their subordinates. Further explain, are amnesties allowed for war crimes, if so, are they in line with the implementation of IHL effectively by the state and non-state actors.

3. **Write analytical notes on the role of Military Advisors and the role of National Courts in the implementation of International Humanitarian Law. While writing your answers, cite prominent case laws.**

4. **Write a Brief Notes:**

- a) Role of Protecting Powers **(5 Marks)**
- b) International Fact Finding Commission **(5 Marks)**
- c) Role of ICRC in the Implementation of IHL **(10 Marks)**
- d) Dissemination of IHL **(5 Marks)**