


| Name: | |  | |
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| Enrolment No: | | | |
| UPES End Semester Examination, May 2023 | | | |
| Course: International Criminal Law Program: BA LLB (Criminal Law) Course Code: CLCL 4003 | | Semester: VIII Time: 03 hrs. Max. Marks: 100 | |
| Instructions: 1. All Questions are compulsory. 2. Read the questions carefully and keep the answers to the point. | | | |
| SECTION A (5Qx2M=10Marks) | | | |
| S. No. | | Marks | CO |
| Q 1 | Which international criminal court was established to prosecute crimes committed during the 1994 genocide in Rwanda? A) International Criminal Court B) International Criminal Tribunal for Rwanda C) International Criminal Tribunal for the Former Yugoslavia D) None of the above | 2 | CO1 |
| Q 2 | Which of the following is a principle of international criminal law that prohibits a person from being tried twice for the same crime? A) Nullum crimen sine lege B) Ne bis in idem C) Mens rea D) Actus reus | 2 | CO1 |
| Q 3 | Which of the following acts is considered a genocidal act? A) Killing members of a particular ethnic group B) Forcibly transferring children of a particular ethnic group to another group C) Causing serious bodily or mental harm to members of a particular ethnic group D) All the above | 2 | CO1 |
| Q 4 | The national criminal justice systems of States Parties have, in principle, jurisdictional primacy vis-a`-vis the International Criminal Court, which represents a reversal of the system of the ICTY and ICTR. A) The statement is true. B) The statement is false. | 2 | CO1 |
| Q 5 | Define Individual Criminal Liability in International Criminal Law. | 2 | CO1 |

| SECTION B (4Qx5M= 20 Marks) | | | |
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| Q 6 | Write a note on General Principles of International Criminal Law. | 5 | CO2 |
| Q 7 | What do you understand by <i>dolus specialis</i> required for genocide? | 5 | CO2 |
| Q 8 | Examine the evolution of Law against Genocide with reference to ICTY, ICTR and ICC. | 5 | CO2 |
| Q 9 | Discuss the role of Nuremberg and Tokyo Tribunals in the development of International Criminal Law | 5 | CO2 |
| SECTION-C (2Qx10M=20 Marks) | | | |
| Q 10 | Analyze the various mechanisms of jurisdiction mentioned under Rome Statute 1998 for International Criminal Court. Whether ICC can have jurisdiction over non-member states? | 10 | CO3 |
| Q 11 | Critically analyze the defences available within the Rome Statute 1998 to the accused in the International criminal court? | 10 | CO3 |
| SECTION-D (2Qx25M=50 Marks) | | | |
| Q 12 | <p>The following is an excerpt of a testimony of a soldier giving evidence in alleged war crimes trial against his general:</p> <p><i>“It was at 21:00 hours, our commander issued the order to attack the civilian establishment of Kuru. It was informed to the platoon that an intelligence report revealed that a group of enemy soldiers were using it as a hideout and planning an attack against their supplies convoy which was expected to be executed the very next day. The attack lasted from 21:15 to 21:55 and to his surprise post the attack the casualties and survivors were civilians and there was no sign of enemy soldiers to be found. However, few barracks were found within the establishment which was the remnants of enemy soldiers. Maps and a few military strategies documents were recovered from the barracks. Post the search the commander orders the execution of remaining civilians. When I refused to obey it, the commander responded that “do I wish to join the villagers”. So, I joined the firing squad. I am absolutely convinced that had I not carried out the order, I would have ended my life in that ditch where the remainder of the survivors were buried. Five days earlier I had witnessed another soldier being shot after he refused to obey a similar order. And the villagers would have been killed anyway, you know.”</i></p> <p>Whether the attack and the post attack killing amounts to war crimes or crimes against humanity. Substantiate your argument with elements of crimes as Per Rome Statute 1998?</p> | 25 | CO4 |
| Q 13 | In the state of Hell’s Kitchen, the two major ethnic groups were autobots and decepticons. The autobots and decepticons were in perpetual conflict. In the year 2015, The decepticons systematically attacked, raped, killed, and displaced autobots. They were forced to leave Hell’s | 10+15 = 25 | |

Kitchen. The crimes had the elements of crimes against humanity. The Chief Prosecutor of the International Criminal Court (ICC) wanted to investigate and possibly prosecute. Hell's kitchen had not ratified the Rome Statute. Hell's Kitchen did not submit to the ICC jurisdiction regarding the situation.

i. Analyse the referral power of United Nations Security Council? Whether office of the prosecutor can initiate action *proprio motu*.

In 2016, the Security Council referred the situation to the ICC Prosecutor acting under Chapter VII of the Charter of the United Nations.

The investigation of the Prosecutor indicated that the President of the Hell's Kitchen is responsible for the atrocities. The Prosecutor was, however, warned by International Non-State actors working in maintenance that going after the president "*could hurl the country back into civil war, and that it might spur retaliation by the president's loyalists and other forces against civilians, United Nations peacekeepers or international aid workers. Justice without peace would be a hollow victory*". The only way to achieve a long-lasting peace was to bring the most responsible to justice, it was argued.

In May 2017, the ICC issued a warrant for the arrest of the president. The ICC Prosecutor contacted authorities and requested that they arrest the president and surrender to the ICC. The Hell's Kitchen authorities replied that they would not comply with the request because:

(a) Being a non-state party, under no obligation to comply with requests from the ICC.

(b) the Constitution did not allow such arrest and surrender; and

(c) the president was, according to customary international law, immune to prosecution before the ICC.

ii. Whether threat to disturbance of internal peace and security of a territory/nation can be a ground for ICC to not open an investigation? Write your arguments substantiating it with legal reasoning and provisions.

Source: University of Oslo,

https://www.uio.no/studier/emner/jus/jus/JUS5570/previous-exam-papers/2009/jur5570_s09.pdf