

**ZIMBABWE EZEKIEL GUTI UNIVERSITY**

**Department of Public Law**

**International Humanitarian Law**

**LLB211**

**EXAMINATION**

**15 JUNE 2018**

**3 hours**

**Instructions**

1. Answer **FOUR** questions. Two questions from Section A and two questions from Section B.
2. Each question carries 25 marks.
3. Students may bring into the exam un-annotated and clean texts of the Charter of the United Nations and Statute of the International Court of Justice, Rome Statute of the International Criminal Court, and the Universal Declaration of Human Rights. Copies with notes inside shall not be allowed and may be confiscated. No student can share his/her copy with another.
4. Number your answers accordingly

**Section A**

**Answer Two Questions**

**Question 1**

“Humanitarian law covers any dispute between two states involving the use of their armed forces. Neither the duration of the conflict nor its intensity plays a role; the law must be applied to the fullest extent required by the situation of the persons and objects protected by it.” Explain and discuss the above statement in the light of state practice. (25 marks)

### Question 2

Identify and analyse the main features of any one of the following conflicts, illustrating the involvement of the various actors in defining the conflict and the international humanitarian law issues which arise from such actions:

- (a) The Libyan conflict of 2011.
- (b) The Syrian conflict of 2011
- (c) The conflict in Yemen, 2011. (25 marks)

### Question 3

Write notes on any **three** of the following:

- (i) The principle of distinction.
- (ii) The principle of proportionality.
- (iii) Military necessity.
- (iv) The principle of prevention of unnecessary suffering.
- (v) Persons *hors de combat*. (25 marks)

### Section B Answer two questions

#### Question 4

The Republic of Roparia got its independence from Britain in 1975. Since then it has known only one leader, President Regasi, who is its head of State and

Government and Commander-in-Chief of the Armed Forces. His name is known to be very repressive and ruthless in dealing with any form of opposition or dissent. Between 1975 and 1985 President Regasi used his specially trained crack unit to ruthlessly crush a dissident group of disgruntled former combatants of a rival political party who operated under the name Rally for the Total Liberation of Roparia (RTLRL). Some of the leaders of that group left the country and are scattered in different countries from which they sometimes issue political statements criticizing the government of President Regasi. In November 2016 students from the country's two local universities engaged in demonstrations over delays in disbursement of their students payouts by government. Police tried to ruthlessly suppress the demonstrations, but the situation worsened as the demonstrations became violent following the death of three students at the hands of the police. President Regasi sent in members of the Regasi Peoples' Army to try to suppress the violence and in two days of the army's involvement another five students died as the army used live ammunition to suppress the demonstrations. Workers under the leadership of the Roparian Congress of Workers (ROKOWO) joined in the demonstrations. There was chaos in the major towns. The army and police became even more vicious, resulting in the death of about two hundred workers and ten more students. Two police officers also died during the unrest. Some armed groups operating under the RTLRL joined in the fight and launched armed attacks on government institutions such as police stations, military barracks, e.t.c. As the situation intensified the United Nations Security Council passed a Resolution authorizing its members to intervene to stop the "unnecessary targeting of the civilian population" by the Roparian uniformed forces. Acting on the basis of the UN Security Council resolution, five countries from the regional group of which Roparia was a member launched air strikes on "targeted" military targets. At some point the regional force's warplanes bombed a high school and killed five hundred students and staff members because they believed that some ten government forces had taken shelter at the school. On the other hand, RTLRL forces surrounded and executed two hundred members of the Nhamo ethnic group to which President Regasi belonged after accusing them of sympathizing with the government forces. The conflict only stopped following the intervention by the United Nations Special Force on Roparia (UNSFORO) in November 2017.

(a) What are the international humanitarian law issues which arise from the above conflict? (15 marks)

(b) What, in your view, are the best ways to redress the injustices which occurred during that conflict? (10 marks)

(25 marks)

### Question 5

The Federal Republic of Geefortia is made up of ten states. Seven of those states are mainly made up of the majority Toro ethnic group, while one state is made up of mainly descendants of the former colonial power. Two northern states are dominated by the minority Jinja ethnic group which has its own religion which resents western influence. In the seven southern provinces the majority of the people are Christians while a few still subscribe to their traditional religion. Since its independence from Britain in 1960 there have been conflicts between the government of the Federal Republic of Geefortia and a rebel armed group with its base in the northern provinces. The armed group accuses the government of plundering resources in the North and seeking to "recolonize" the Jinja people by destroying their culture and replacing it with "imperialist" culture. The group operates under the name Bhunu Madhaka (BM) which, when translated, means "White is Filth". In January 2018 BM rebels raided a multi-racial school in the central region of the country and kidnapped about three hundred female students and twenty female teachers. A video which was published on the social media showed two female teachers being executed in a public place for "keeping long hair". Twenty of the girls were "married" to the leader of the armed group, Field Marshall Tororo, while the others were given to his fighters as "wives". There was evidence of rampant cases of rape of the victims. Government forces with the assistance of forces from two neighbouring countries stormed the headquarters of the BM and managed to rescue most of the girls and staff members. In the battle Tororo and two of his deputy commanders were captured. While the battle was ongoing, some BM forces went and attacked a Church building belonging to the Christian Church

of Pentecostal Miracles. The building was reduced to rubble and about four hundred worshippers perished in that attack. Twenty of the attackers were captured.

(a) Identify the nature of the conflict involved and the key actors in that conflict. (8 marks).

(b) How, if at all, should those who violated international humanitarian law in that conflict be held to account? In your answer identify the offences committed and estimate the prospects of success of any prosecution which may be instituted against the perpetrators. (17 marks).

### Question 6

The People's Socialist Republic of Hondoia got independence from the former colonial power in 1969. The two former liberation movements in the fight for independence had fundamental ideological differences. These were the National Democracy Convention (RDC), which had support from the Western countries and advocated for a democratic government which would pursue policies to establish a market economy. The Revolutionary Nationalist Party (RNP) preferred a one-party state based on Marxist-Leninist principles. It won the first election and proceeded to nationalize most major corporations soon after the election in accordance with its election manifesto. The RDC which controlled about a third of the country retreated into the Hideberg Mountains where it re-established its old base. It set up the local government structures in the territories under its control and attacked any government vehicles, including police and army vehicles, which entered its "liberated zone". The area which the RDC controlled was affected by a severe drought. In order to survive, its armed forces would attack the other areas under government control and steal cattle, goats and grains to feed its population. Four weeks ago the RDC group attacked a government hospital and looted medicines and other medical supplies which it took to its area. In that attack one hundred patients were killed and dozens of others were seriously injured. Ten soldiers who guarded the hospital were also killed. When the RDC group attacked the hospital they came in four ambulances in order to mislead the soldiers who were guarding the hospital. Behind the ambulances were forty armoured trucks. After the attack they also took away some five ambulances which they used to carry their soldiers and drove into

the provincial headquarters of a police station. They attacked the police station and killed all the officers present. They took with them five police trucks which, together with three ambulances and drove directly into a camp where families of government soldiers resided. Although the camp was guarded by about ten soldiers, the group easily subdued them as they were mistaken for police officers. They killed about fifty persons who were resident in the camp. They also took the ten soldiers hostage and tied them to trees under heavy guard in their Hideberg base. They demanded that the soldiers give them information pertaining to the strategic places controlled by the government army. The captured soldiers were denied food most of the time in order to force them to disclose the wanted information. At times they were made to climb up trees and imitate baboons or bark like dogs. Two weeks later the government forces launched an attack at the Hideberg base and captured the rebel leader, General Gango, and many of his commanders. The International Criminal Court (ICC) to which the Government of Hondoia had referred the situation in the country asked for the Gango and his commanders to be surrendered to the Prosecutor. Hondoia has ratified the Rome Statute of the International Criminal Court.

Advise the Prosecutor of the ICC as to the possible charges to be preferred against General Gango and his commanders, and the prospects of success of any prosecution for such charges. (25 marks)

**END OF QUESTION PAPER**