

# International Criminal Law

**Elective  
Past  
Papers**

LL.B. IV





# **GHAQDA STUDENTI TAL-LIĠI**

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2020/2021

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## ABOUT GhSL

Għaqda Studenti Tal-Ligi (The Malta Law Students' Society) is a faculty-based, non-profit organisation at the University of Malta that represents all law students within the Faculty of Laws.

The organisation plays a pivotal role in law students' academic and social life at the University of Malta. The organisation has also been responsible for publishing the prestigious *Id-Dritt*, and the *GhSL Online Law Journal*.

Moreover, GhSL boasts its own Thesis Library, located at the GhSL office in the Faculty of Laws. Additionally, GhSL is the only law organisation responsible for the distribution of authoritative law notes and past papers.

For further queries on this set of notes, as well as any other, please feel free to contact our **Resources Officer** at [resources@ghsl.org](mailto:resources@ghsl.org).





## Advice from an Alumna

By Dr Priscilla Mifsud Parker

The law course is a long journey, but one that, if well-travelled, will lead to beautiful destinations. In an industry which is today attracting many young individuals looking to develop their career in law, it is important to stay ON the beaten track and remain focused. It may go without saying that it is of great importance for all students to attain good academic grades, to be dedicated to their work, as well as to be determined in this highly-competitive industry in order to fulfil their dream of becoming lawyers one day. However what is crucial is that as students and later on as professionals we are innovative by being sensitive to the changes around us. These changes might be political, economic, environmental, socio-cultural or others; what is for sure is that they all have an impact on the profession of a lawyer. We are members of a dynamic profession which is very sensitive to its surroundings. The type and 'genre' of advice which is required from us is all affected by what is being experienced by the receivers of this advice.

Work experience is considered as a vital part of the staple diet of any prospective lawyer in order to put into practice and refine the knowledge gained from the theoretical reality of the lecture halls and lawbooks into the skills required for a successful career in law. An internship will not only show future recruiters that you have a genuine interest in pursuing a career in this sector, but that you have the practical knowledge and skills to succeed in your role.

Here are some personal suggestions that I feel helped me during my journey:

### 1. *Being Ambitious*

A powerful trait in any competitive industry, ambition will help you in your law course, in your career as a lawyer, as well as in your life. Whilst the law course can be quite intimidating and challenging, an ambitious individual who is dedicated to learning new things has the potential to understand and realize long-term goals. Do not view the journey as one whole insurmountable mountain but focus on the next small goal and once achieved move on to the next and goal by goal you will reach your final target point.

In this respect, gaining valuable work experience through an internship is an important step taken by an ambitious young lawyer who wants to attain certain skillsets, and remain a step ahead of his/her peers. By being inquisitive, analytical and humble enough to accept guidance and mentoring one is guaranteed a fruitful experience in a law firm. It is also not only a means to start focusing on the direction of your career and to build upon your chosen path, but will undoubtedly expose you to the international world. This is crucial, as most of the traditional legal sectors have been intertwined with new areas of legislation and all these together now present much more opportunity for intra-jurisdictional work.

### 2. *Networking*

By engaging with counterparty students abroad and in international fora one gains an insight into another reality and is exposed to different cultures, ways of communicating and is able to bridge



the differences between parties to a mundane discussion which will eventually become a transaction or a major project in professional life.

### *3. Organisational Skills*

Organisation is key in any industry. Good organisation skills always stand out to a recruiter when considering potential applicants. Such skills can be obtained by gaining experience either through organising one's own work, study plan, student events or cultural/philanthropic events.

Going hand-in-hand with this, is having a study plan. By planning your studies ahead, one will have a sufficient amount of time to meet all the demands, while also being able to participate in productive outside activities. Reviewing notes or case briefs before class can also help you follow and participate in class discussions better, whilst following case-law allows you to apply them for specific situations. In view of the amount of material involved summarising and carving out the most crucial points is essential to then build your argument in papers.

### *4. Taking your own class notes*

It is always important to take down your own notes as laws are always evolving and passed-down notes would provide the context but are not ideally used for the detail. Researching the particular topic and comparing Malta's law with that of other jurisdiction gives one a completely different outlook and commenting on these variances in an exam paper, dissertation or assignment would distinguish one student from another. Not to be overlooked are also the consultation papers, commentaries and other official public documents that are issued by local authorities from time to time on different areas of law and industry. Being abreast of what is happening in industry will help putting the particular law or regulation in context.

### *5. Participation*

Participation is a main element of the learning process. Being actively involved during seminars and lectures and participating in legal debate sessions, mock trial competitions and moot courts are essential in order to improve your persuasive and presentation skills. If you find this very difficult (all of us have different characters and traits), then try to focus on participation in other events which will expose you to public speaking starting off in smaller groups in a more familiar environment and trying out new experiences and larger audiences as you go along.

### *6. Practice is the key to success*

This leads us to our next point – practice. Attaining good grades is undoubtedly an important part of the law course, however, in themselves, they are not enough to show that you have substantial material to succeed. Working within a law firm introduces you to the world of work, and allows you to gain specific industry-related skills which one will only ever be able to learn in a workplace setting.

Work experience can provide you with valuable insight which will help you decide what your career aspirations are and in which areas you would like to further delve into.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LLD I YEAR (2009/0)  
MAY/JUNE 2010 EXAMINATIONS

INL5002 – INTERNATIONAL CRIMINAL LAW

THURSDAY 10<sup>TH</sup> JUNE 2010

9.15 AM – 11.15 AM

STUDENTS ARE TO ANSWER **TWO** QUESTIONS IN TOTAL. STUDENTS MUST ANSWER ONE QUESTION FROM SECTION A AND ONE QUESTION FROM SECTION B.

SECTION A

1. What conditions must be satisfied [which ingredients must be fulfilled] for an accused to successfully plead ;
  - (I) self-defence,
  - (II) duress,
  - (III) superior orders,
  - (IV) mental disease or defect and
  - (V) intoxicationbefore the International Criminal Court ? [50 marks]
  
2. [5 marks each totalling 50 marks] [answers may be in point form, not necessarily full sentences]
  - (i) What is the *dolus specialis* required for genocide to subsist ?
  - (ii) Enlist 5 sources of International Criminal Law which are of a conventional nature [treaty law]
  - (iii) To what extent, if at all, does the *corpus juris* of international criminal law converge features of the accusatorial {adversarial} and inquisitorial criminal justice systems ?
  - (iv) Enlist 5 characteristics of crimes under International Law
  - (v) Briefly explain the Nuremberg Principles
  - (vi) In the light of the International Criminal Court's jurisdiction to try core crimes, write brief notes on complementarity
  - (vii) Write brief notes either on the Special Court for Sierra Leone or on the Extraordinary Chambers of Cambodia
  - (viii) Write brief notes on the so-called 'trigger mechanisms'

- (ix) Write brief notes on the effect of the presumption of innocence of persons accused of having committed a crime falling within the International Criminal Court's jurisdiction
- (x) What are the minimum standards required to ensure that the fundamental human rights of prisoners [either awaiting trial and/or convicted of core crime/s before the International Criminal Court] be respected ?
3. Today's conception and understanding of the *mens rea* required for genocide to subsist is, in part, derivative of a judicial law-making [teleological] approach of international criminal tribunals, such as those of Former Yugoslavia and Rwanda. Discuss.[50 marks]
4. With the exception of the right to a fair trial, the Nuremberg Principles, which constitute the foundation of international criminal law, may be said to embody and reflect, if considered cumulatively, the doctrine of Individual Criminal Responsibility. Elaborate with reference to case-law [50 marks]

## SECTION B

1. With reference to case-law, discuss both the objective and subjective elements of crimes against humanity [50 marks]
  
2. [5 marks each, totalling 50 marks] [answers may be in point form ; not necessarily full sentences]
  - (i) Enlist 5 forms of conduct [*actus reus*] amounting to genocide
  - (ii) What constitutes torture within the parameters/purview of crimes against humanity?
  - (iii) Outline the correlation, if any, between *jus cogens* norms and *erga omnes* obligations, and its relevance, if any, to the *aud dedere aut judicare* principle
  - (iv) Enlist the elements of the crime against humanity of persecution
  - (v) Enlist 5 acts which constitute grave breaches of the Geneva Conventions of the 12<sup>th</sup> August 1949 in terms of Article 8 sub-article 2 paragraph (a) of the Rome Statute of the International Criminal Court which relates to war crimes
  - (vi) To what extent, if at all, may amnesties be considered compliant with contemporary international criminal law ?
  - (vii) Enlist 5 mitigating and 5 aggravating factors which have been considered by international criminal tribunals for the purposes of inflicting punishment
  - (viii) What role, if any, have NGOs played within the context of the adoption of the Rome Statute of the International Criminal Court ?
  - (ix) Why, in your opinion, does the International Criminal Court not have jurisdiction over drug crimes, particularly the illicit traffic in drugs and psychotropic substances ?
  - (x) In what way and by which means, if at all, may the International Criminal Court exercise jurisdiction over nationals of States which are not parties to the Rome Statute of the International Criminal Court [such as, for example, Sudan, Israel and the United States of America] without the consent of these States ?



3. You have been engaged as a legal expert to draft a report [which you are to present and defend within the Review Conference of the Rome Statute of the International Criminal Court, which is currently being held in Kampala, Uganda] intended to make a case for the inclusion of terrorism as a core crime falling within the International Criminal Court's jurisdiction. Draft the report. [50 marks]
  
4. The Rome Statute of the International Criminal Court, together with the Rules of Procedure and Evidence, give priority to the protection of victims and witnesses. Elaborate with reference to the setting-up of units/entities and relevant case-law. [50 marks]

End.

LL.D. Year I

INL 5002

INTERNATIONAL CRIMINAL LAW [re-sit exam paper]

Candidate to answer 1 question from each section

Thursday 9<sup>th</sup> September 2010

9.15am - 11.15am

SECTION A

1. To what extent, if at all, may the Nuremberg Principles be considered to reflect and/or embody the concept/doctrine of Individual Criminal Responsibility ?  
[50 marks]
2. Evaluate the contribution that international criminal tribunals, such as those of Former Yugoslavia and Rwanda, have made in relation to the understanding of the crime of genocide. [50 marks]
3. What conditions must be satisfied [which ingredients must be fulfilled] for an accused to successfully plead ;
  - (I) self-defence,
  - (II) duress,
  - (III) superior orders,
  - (IV) mental disease or defect, and
  - (V) intoxicationbefore the International Criminal Court ? [50 marks]
4. [5 marks each totalling 50 marks] [answers may be in point form, not necessarily full sentences]
  - (i) What is the *dolus specialis* required for genocide to subsist ?
  - (ii) Enlist 5 sources of International Criminal Law which are of a conventional nature [treaty law]
  - (iii) To what extent, if at all, does the *corpus juris* of international criminal law



converge features of the accusatorial {adversarial} and inquisitorial criminal justice systems ?

- (iv) Enlist 5 characteristics of crimes under International Law
- (v) Briefly explain the Nuremberg Principles
- (vi) In the light of the International Criminal Court's jurisdiction to try core crimes, write brief notes on complementarity
- (vii) Write brief notes either on the Special Court for Sierra Leone or on the Extraordinary Chambers of Cambodia
- (viii) Write brief notes on the so-called 'trigger mechanisms'
- (ix) Write brief notes on the effect of the presumption of innocence of persons accused of having committed a crime falling within the International Criminal Court's jurisdiction
- (xvi) What are the minimum standards required to ensure that the fundamental human rights of prisoners [either awaiting trial and/or convicted of core crime/s before the International Criminal Court] be respected ?

#### SECTION B

1. Are victims and witnesses adequately protected/safeguarded within the Rome Statute of the International Criminal Court and within its Rules of Procedure and Evidence ? [50 marks]
2. You have been engaged as a legal expert to draft a report intended to make a case for the inclusion of drug crimes, particularly the illicit traffic in drugs and psychotropic substances, as core crimes falling within the International Criminal Court's jurisdiction. Draft the report. [50 marks]
3. With reference to case-law, examine the *actus reus* and *mens rea* required for crimes against humanity to subsist. [50 marks]

4. [5 marks each, totalling 50 marks] [answers may be in point form ; not necessarily full sentences]

- (i) Enlist 5 forms of conduct [*actus reus*] amounting to genocide
- (ii) What constitutes torture within the parameters/purview of crimes against humanity?
- (iii) Outline the correlation, if any, between *jus cogens* norms and *erga omnes* obligations, and its relevance, if any, to the *aut dedere aut judicare* principle
- (iv) Enlist the elements of the crime against humanity of persecution
- (v) Enlist 5 acts which constitute grave breaches of the Geneva Conventions of the 12<sup>th</sup> August 1949 in terms of Article 8 sub-article 2 paragraph (a) of the Rome Statute of the International Criminal Court which relates to war crimes
- (vi) To what extent, if at all, may amnesties be considered compliant with contemporary international criminal law ?
- (vii) Write brief notes on mitigating and aggravating factors in the light of the relevant legal provisions dealing with punishment within the Rome Statute of the International Criminal Court
- (viii) What role, if any, have NGOs played within the context of the adoption of the Rome Statute of the International Criminal Court ?
- (ix) Why, in your opinion, does the International Criminal Court not have jurisdiction over terrorist acts/activities ?
- (x) In what way and by which means, if at all, may the International Criminal Court exercise jurisdiction over nationals of States which are not parties to the Rome Statute of the International Criminal Court [such as, for example, Sudan, Israel and the United States of America] without the consent of these States ?



UNIVERSITY OF NAIROBI  
FACULTY OF LAWS  
LLD I (2010/11)  
JUNE 2011 SESSION OF EXAMINATION

INLS002 – INTERNATIONAL CRIMINAL LAW

THURSDAY 2<sup>ND</sup> JUNE 2011

1:00 – 3:00PM

CANDIDATES TO ANSWER 1 QUESTION FROM EACH SECTION

SECTION A

1. To what extent, if at all, has the International Criminal Court contributed to a better understanding of the constitutive elements of core crimes? [50 marks]
2. Evaluate the contribution that international criminal tribunals, such as those of Former Yugoslavia and Rwanda, have made in relation to the development of the prohibition of genocide. [50 marks]
3. To what extent, if at all, is mutual legal assistance necessary to combat cross-border crime effectively? [50 marks]

4. [5 marks each totalling 50 marks]

[answers may be in point form, not necessarily full sentences]

- i. Differentiate between, on the one hand, extradition proceedings, and on the other hand, proceedings further to a European Arrest Warrant
- ii. To what extent, if at all, does the *corpus juris* of international criminal law converge features of the accusatorial {adversarial} and inquisitorial criminal justice systems?
- iii. Write brief notes either on the Special Court for Sierra Leone or on the Special Tribunal for Lebanon
- iv. Briefly examine the conditions/elements a person indicted must satisfy/prove in order to successfully plead the defence of superior orders before the International Criminal Court
- v. What is the *dolus specialis* required for genocide to subsist?

- vi. Write brief notes on the so-called 'trigger mechanisms'
- vii. Briefly compare and contrast 2 penological national/domestic systems within Europe
- viii. What are the minimum standards required to ensure that the fundamental human rights of prisoners [either awaiting trial and/or convicted of core crime/s before the International Criminal Court] be respected?
- ix. In the light of the International Criminal Court's jurisdiction to try core crimes, write brief notes on complementarity
- x. Write brief notes on the effect of the presumption of innocence of persons accused of having committed a crime falling within the International Criminal Court's jurisdiction.

#### SECTION B

1. In the Siracusa Impunity Conference, Professor Mahmoud Cherif Bassiouni held that *"the establishment of a permanent international criminal court having inherent jurisdiction over these crimes would be the convincing argument that such crimes as genocide, crimes against humanity and war crimes are part of jus cogens and that obligations erga omnes to prosecute or extradite flow from them."* (Joyner C.C., 1998, Reining in Impunity for International Crimes and Serious Violations of Fundamental Human Rights : Proceedings of the Siracusa Conference, 17th-21st September 1998, *Association Internationale de Droit Penale*, page 148). Critically analyse Bassiouni's opinion with reference to relevant legal instruments and case-law. [50 marks]
2. Are victims and witnesses adequately protected/safeguarded within the Rome Statute of the International Criminal Court and within its Rules of Procedure and Evidence? [50 marks]
3. You have been engaged as a legal expert to draft a report intended to make a case for the inclusion of drug crimes, particularly the illicit traffic in drugs and psychotropic substances, as core crimes falling within the International Criminal Court's jurisdiction. Draft the report. [50 marks]



4. [5 marks each totalling 50 marks]

[answers may be in point form, not necessarily full sentences]

- i. Outline the correlation, if any, between customary crimes and universal jurisdiction, and its consequential impact on international criminal law .
- ii. To what extent, if at all, may amnesties be considered compliant with contemporary international criminal law?
- iii. In what way and by which means, if at all, may the International Criminal Court exercise jurisdiction over nationals of States which are not parties to the Rome Statute of the International Criminal Court [such as, for example, Sudan, Israel, Libya and the United States of America] without the consent of these States?
- iv. Write brief notes on mitigating and aggravating factors in the light of the relevant legal provisions dealing with punishment within the Rome Statute of the International Criminal Court
- v. Enlist 5 modes of conduct [*actus reus*] amounting to genocide
- vi. What role, if any, have NGOs played within the context of the adoption of the Rome Statute of the International Criminal Court?
- vii. Enlist the elements of the crime against humanity of 'extermination'
- viii. In what way, if at all, may the International Criminal Court assume jurisdiction over the crime of aggression?
- ix. Enlist 5 acts constituting serious violations of the laws and customs applicable in international armed conflict in terms of Article 8 sub-article 2 paragraph (b) of the Rome Statute of the International Criminal Court which relates to war crimes
- x. Was the killing of al-Qaeda founder Osama bin Laden [which took place at the hands of the United States Navy, Sea, Air and Land Teams on the 2<sup>nd</sup> May 2011 in a secured private residential compound in Abbottabad, Pakistan] permissible under international criminal law ? Briefly motivate/substantiate your reply.

End.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LLD I (2011/12)  
JUNE 2012 EXAMINATIONS

EXAMINATION: INL502 – INTERNATIONAL CRIMINAL LAW  
DATE: MONDAY 4<sup>TH</sup> JUNE 2012  
TIME: 1:00PM – 3:00PM

ANSWER ONE QUESTION FROM EACH SECTION

Section A

1. Compare and contrast the vertical and horizontal enforcement systems of international criminal law [50 marks]
2. With the exception of the right to a fair trial, the Nuremberg Principles, which constitute the foundation of international criminal law, may be said to embody and reflect, if considered cumulatively, the doctrine of Individual Criminal Responsibility. Elaborate with reference to case-law [50 marks]
3. In what way, by which means and to what extent, if at all, does the Rome Statute of the International Criminal Court make use of diverse criminal justice systems? [50 marks]
4. [5 marks each totalling 50 marks] [answers may be in point form, not necessarily full sentences]
  - (i) What role, if any, have NGOs played within the context of the adoption of the Rome Statute of the International Criminal Court?
  - (ii) Enlist 5 sources of International Criminal Law which are of a conventional nature [treaty law]
  - (iii) To what extent, if at all, does the *corpus juris* of international criminal law converge features of the accusatorial {adversarial} and inquisitorial criminal justice systems?
  - (iv) Enlist 5 features/characteristics of crimes under International Law
  - (v) Briefly explain the Nuremberg Principles
  - (vi) In the light of the International Criminal Court's jurisdiction to try core crimes, write brief notes on complementarity
  - (vii) Write brief notes either on the Special Tribunal for Lebanon or on the Iraqi High Tribunal
  - (viii) Write brief notes on the so-called 'trigger mechanisms'
  - (ix) Write brief notes on the effect of the presumption of innocence of persons accused of having committed a crime falling within the International Criminal Court's jurisdiction
  - (x) What are the minimum standards required to ensure that the fundamental human rights of prisoners [either awaiting trial and/or convicted of core crime/s before the International Criminal Court] be respected?



Section B

1. Is the Rome Statute of the International Criminal Court a codification of customary international law or is it new treaty law? [50 marks]
2. Are victims and witnesses adequately protected/safeguarded within the Rome Statute of the International Criminal Court and within its Rules of Procedure and Evidence ? [50 marks]
3. With reference to case-law, examine the *actus reus* and *mens rea* required for genocide to subsist. [50 marks]
4. [5 marks each, totalling 50 marks] [answers may be in point form ; not necessarily full sentences]
  - (i) Enlist 5 forms of conduct [*actus reus*] amounting to genocide.
  - (ii) What constitutes torture within the parameters of crimes against humanity?
  - (iii) Outline the correlation, if any, between *jus cogens* norms and *erga omnes* obligations, and its relevance, if any, to the *aud dedere aut judicare* rule.
  - (iv) Enlist the elements of the crime against humanity of extermination
  - (v) Enlist 5 acts which constitute grave breaches of the Geneva Conventions of the 12<sup>th</sup> August 1949 in terms of Article 8 sub-article 2 paragraph (a) of the Rome Statute of the International Criminal Court which relates to war crimes.
  - (vi) To what extent, if at all, may amnesties be considered compliant with contemporary international criminal law ?
  - (vii) Write brief notes on mitigating and aggravating factors in the light of the relevant legal provisions dealing with punishment within the Rome Statute of the International Criminal Court.
  - (viii) Why is terrorism not tantamount to a fully-fledged core crime?
  - (ix) Enlist five defences which an accused may plead before the International Criminal Court?
  - (x) In what way and by which means, if at all, may the International Criminal Court exercise jurisdiction over nationals of States which are not parties to the Rome Statute of the International Criminal Court [such as, for example, Sudan, Israel and the United States of America] without the consent of these States?

End.

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LLD I Year (2012-2013)  
JUNE 2013 EXAMINATIONS

EXAMINATION: INL 5002 - INTERNATIONAL CRIMINAL LAW  
DATE: WEDNESDAY 26<sup>TH</sup> JUNE 2013  
TIME: 9:15AM-11:15AM

Candidate to answer 1 question from each section

SECTION A

1. [5 marks each totalling 50 marks]  
[answers to question 1 may be in point form; not necessarily full sentences]
- (I) How, if at all, can a United Nations Security Council resolution have an effect on International Criminal Law?
  - (II) Differentiate between, on the one hand, mutual legal assistance, and on the other hand, mutual recognition.
  - (III) Enlist 5 grave breaches of the Geneva Conventions of the 12<sup>th</sup> August 1949 in terms of Article 8(2)(a) of the Rome Statute of the International Criminal Court which relates to war crimes.
  - (IV) When and how, if at all, can an internal armed conflict become an international armed conflict, for all intents and purposes of the international law on war crimes?
  - (V) Distinguish between, on the one hand, extradition, and on the other hand, surrender.
  - (VI) Enlist 5 acts [*actus reus*] which constitute genocide.
  - (VII) What differentiates a core crime from a transnational organized crime?
  - (VIII) What are the minimum standards required to ensure that the fundamental human rights of prisoners [either awaiting trial and/or convicted of core crime/s before the International Criminal Court] be respected?
  - (IX) Write brief notes on factors (criteria) which the International Criminal Court takes into account in order to determine the inadmissibility or otherwise of a case before the International Criminal Court.
  - (X) Write brief notes on the effect of the presumption of innocence of persons accused of having committed a crime falling within the International Criminal Court's jurisdiction.
2. To what extent, if at all, has International Criminal Law contributed to the internationalization of the rule of law? [50 marks]
3. What conditions must be satisfied [which ingredients must be fulfilled] for an accused to successfully plead:
- (I) self-defence
  - (II) amnesia
  - (III) superior orders
  - (IV) mental disease or defect and
  - (V) intoxication
- before the International Criminal Court? [10 marks each totalling 50 marks]



4. To what extent, if at all, has the ICC Statute contributed towards the protection of fundamental human rights of suspects (in pre-trial detention) and accused persons under international law? [50 marks]

## SECTION B

1. [5 marks each totalling 50 marks]

[answers to question 1 may be in point form, not necessarily full sentences]

- (I) Identify and briefly explain the common clauses [legal provisions] within international conventions [treaties] which are intended to suppress terrorism, drug trafficking and other transnational organized crimes.
- (II) Can amnesties be compatible with International Criminal Law?
- (III) Identify the salient features of the European Arrest Warrant.
- (IV) Write brief notes on the so-called 'trigger mechanisms'.
- (V) In which circumstances, if at all, may the *dolus specialis* be relevant for the purposes of proving a core crime which falls within the jurisdiction of the International Criminal Court?
- (VI) Enlist 3 sources of International Criminal Law which are of a conventional nature [treaty law].
- (VII) Briefly explain the methods used by domestic criminal justice systems when they incorporate International Criminal Law?
- (VIII) To what extent and in what circumstances, if at all, may human trafficking constitute a core crime?
- (IX) Write brief notes on the Trust Fund established in terms of Article 79 of the Rome Statute of the International Criminal Court.
- (X) Which offences of a sexual nature [so-called 'sexual offences' and/or 'gender-based crimes'] are punishable as a core crime by the Rome Statute of the International Criminal Court?
2. Distinguish between, on the one hand, the responsibility of the State for failing to prevent and punish core crimes, and, on the other hand, individual criminal responsibility for the commission of core crimes. [50 marks]
3. To what extent, if at all, can one detect a  *nexus* [link] between International Criminal Law, International Human Rights Law and International Humanitarian Law? [50 marks]
4. Analyse the characteristic features and the constitutive elements of crimes against humanity. [50 marks]

End



**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LL.D. I Year (2012-2013)**  
**SEPTEMBER 2013 EXAMINATIONS**  
**EXAMINATION: INL 5002 – INTERNATIONAL CRIMINAL LAW**  
**DATE: WEDNESDAY 11<sup>TH</sup> SEPTEMBER 2013**  
**TIME: 10:30AM-12:30PM**

**Candidate to answer 1 question from each section**

**SECTION A**

1. [5 marks each totalling 50 marks]

[answers to question 1 may be in point form, not necessarily full sentences]

- (I) How, if at all, can the *dolus specialis* be relevant for the purposes of the suppression of a crime against humanity?
- (II) Write brief notes on the Victims and Witnesses Unit established in terms of Rome Statute of the International Criminal Court.
- (III) Briefly explain the *aut dedere aut iudicare* rule of customary international law.
- (IV) Distinguish between *jus cogens* norms and *obligatio erga omnes*.
- (V) Enlist five (5) aggravating factors which are considered by international criminal tribunals for the purposes of punishment.
- (VI) What differentiates a core crime from a transnational organized crime?
- (VII) Identify the salient features of the European Arrest Warrant.
- (VIII) When and how, if at all, can an internal armed conflict become an international armed conflict for all intents and purpose of the international law on war crimes?
- (IX) Distinguish between, on the one hand, extradition, and on the other hand, surrender.
- (X) Enlist five (5) defences which can be pleaded before the International Criminal Court.

2. To what extent, if at all, has International Criminal Law been domesticated?

[50 marks]

3. How may International Criminal Law be incorporated into national criminal law?

[50 marks]

4. The principle of complementarity is the cornerstone of the establishment of the International Criminal Court. Discuss and elaborate.

[50 marks]



## SECTION B

1. [5 marks each totalling 50 marks]  
[answers to question 1 may be in point form, not necessarily full sentences]
- (I) Enlist five mitigating factors which may be considered by international criminal tribunals for the purposes of punishment.
  - (II) Write brief notes on the effect of the presumption of innocence of persons accused of having committed a crime falling within the jurisdiction of the International Criminal Court.
  - (III) Identify and briefly explain the common clauses [legal provisions] within international conventions [treaties] which are intended to suppress terrorism, drug trafficking and other transnational organized crimes.
  - (IV) Can amnesties be compatible with International Criminal Law?
  - (V) Enlist 5 grave breaches of the Geneva Conventions of the 12<sup>th</sup> August 1949 in terms of Article 8(2)(a) of the Rome Statute of the International Criminal Court which relates to war crimes.
  - (VI) Write brief notes on the so-called trigger mechanisms.
  - (VII) Enlist five cases wherein former Heads of States were accused of core crimes before international criminal tribunals.
  - (VIII) Enlist 5 sources of International Criminal Law which are of a conventional nature [treaty law].
  - (IX) Distinguish between mistake of fact and mistake of law in the light of the provisions of the Rome Statute of the International Criminal Court.
  - (X) Write notes either on the Special Tribunal for Lebanon or on the Iraqi High Tribunal.
2. To what extent, if at all, have the Nuremberg Principles forged what is nowadays the *corpus juris* called International Criminal Law?  
[50 marks]
3. To what extent, if at all, can one detect a  *nexus*  [link] between the United Nations and the International Criminal Court?  
[50 marks]
4. Analyse the characteristics, features and the constitutive elements of genocide.  
[50 marks]



UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.D. I Year (2013-2014)  
JUNE 2014 EXAMINATIONS  
EXAMINATION: INL 5002 – INTERNATIONAL CRIMINAL LAW  
DATE: FRIDAY 13<sup>TH</sup> JUNE 2014  
TIME: 10:30AM – 12:30PM

Candidate to answer 1 question from each section

SECTION A

1. What contribution, if any, has the International Criminal Court made, so far, to the development of the constitutive elements of core crimes? [50 marks]
2. Mutual legal assistance is indispensable to curb transnational crimes. Discuss and elaborate. [50 marks]
3. Examine the prevailing legal consequences when a criminal case is triggered by means of a resolution of the United Nations Security Council (using its Chapter VII powers emanating from the United Nations Charter) in terms of Article 13(b) of the Rome Statute of the International Criminal Court. [50 marks]
4. Write notes on the following [5 marks each totalling 50 marks]  
[Answer to question 4 may be in point form, not necessarily full sentences]
  - i. The complete incorporation of International Criminal Law within domestic criminal justice systems;
  - ii. The correlation, if any, between universal jurisdiction and *aut dedere aut iudicare*;
  - iii. The correlation, if any, between *jus cogens* norms and *erga omnes obligations*;
  - iv. The trigger mechanisms;
  - v. The requisites to successfully plead the defence of duress under the Rome Statute of the International Criminal Court;
  - vi. The constitutive elements of the crime against humanity of enforced disappearance of persons;
  - vii. The definition of 'persons protected', in the light of the 4th Geneva Convention of 12th August 1949, for the purposes of Article 8, paragraph 2(a) of the Rome Statute of the International Criminal Court dealing with war crimes;
  - viii. The 'gravity threshold' required for the purposes of the admissibility of a case in terms of Article 17(1)(d) of the Rome Statute of the International Criminal Court;
  - ix. The Tadic precedent (seminal decision);
  - x. The compatibility, or otherwise, of blanket amnesties with International Criminal Law.

## SECTION 1

1. The principle of complementarity underpins the framework of international criminal justice. Discuss and elaborate. [50 marks]
2. Is the Rome Statute of the International Criminal Court a codification of customary international law or is it new treaty (conventional) law? [50 marks]
3. Examine the characteristics, features and constitutive elements of the crime of genocide. [50 marks]
4. Write notes on the following [5 marks each totalling 50 marks]  
[Answer to question 4 may be in point form, not necessarily full sentences]
  - i. The Victims and Witnesses Unit of the International Criminal Court;
  - ii. The presumption of innocence;
  - iii. The Nuremberg Principles;
  - iv. The *doctus specialis* required for the purpose of proving genocide;
  - v. The requisites to successfully plead the defence of intoxication under the Rome Statute of the International Criminal Court;
  - vi. The correlation, if any, between *ne bis in idem* and the admissibility test;
  - vii. Hybrid (semi-internationalized) criminal courts and/or tribunals;
  - viii. The International Criminal Court's *kompetenz-kompetenz*;
  - ix. The sources of International Criminal Law which are of a conventional nature;
  - x. The constitutive elements of the crime against humanity of extermination.

**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LL.D. 1<sup>ST</sup> YEAR & LL.B. HONS. 4<sup>TH</sup> YEAR**  
**SEPTEMBER 2016 EXAMINATIONS**

**EXAMINATION: INL 4002 – INTERNATIONAL CRIMINAL LAW**

**DATE: THURSDAY 1<sup>ST</sup> SEPTEMBER 2016**

**READING TIME: 8:30AM – 8:35AM**

**DURATION OF EXAMINATION: 8:35AM – 10:35AM**

**INSTRUCTIONS TO STUDENTS: Candidate to answer 1 QUESTION FROM EACH SECTION**

**SECTION A**

1. Write brief notes in point/bullet form on each of the following [*5 marks each, totalling 50 marks*]
  - i. The contextual elements of crimes against humanity;
  - ii. Enlist the constitutive elements of the war crime of taking hostages in terms of Article 8(2)(a)(viii) of the Rome Statute of the International Criminal Court;
  - iii. The United Nations Security Council Resolution when it constitutes a ‘trigger mechanism’;
  - iv. The extent to which the Special Court for Sierra Leone may be considered as an international criminal court [*Prosecutor v Charles Gankay Taylor, Appeals Chamber Judgment, Case No. SCSL-2003-01-I, 31st May 2004, para. 41(d)*];
  - v. *Male captus bene detentus*;
  - vi. The salient features of the opinions of the Law Lords in *R v Bartle and Commissioner of Police for the Metropolis and Others ex parte Pinochet*, *R v Evans and another and Commissioner of Police for the Metropolis and others ex parte Pinochet Ugarte 2000* [*Pinochet No.3*];
  - vii. The requirements (conditions) which have been imposed by International Criminal Tribunal for the Former Yugoslavia to allow witness anonymity before international criminal tribunals;
  - viii. The requisites to successfully plead the defence of intoxication under the Rome Statute of the International Criminal Court;
  - ix. The legacy, if any, of the *Lockerbie* trial;
  - x. The effect of the presumption of innocence of persons accused of having committed a crime falling within the International Criminal Court’s jurisdiction.
  
2. Critically analyse the salient provisions of the *Convention for the Prevention and Punishment of the Crime of Genocide*. [*50 marks*]



3. In so far as the Rome Statute of the International Criminal Court is concerned, the concepts of '*ne bis in idem*' and 'fair trial' are multifunctional. Discuss and elaborate. [50 marks]
4. The admissibility test, which comprises the complementarity principle and the gravity threshold, is crucial for a determination of the jurisdiction (or otherwise) of the International Criminal Court. Discuss and elaborate. [50 marks]

## **SECTION B**

1. Write brief notes in point/bullet form on each of the following: [5 marks each totalling 50 marks]
  - i. The *kompetenz-kompetenz* (*compétence de la compétence*) of the International Criminal Court;
  - ii. Enlist 5 sources of International Criminal Law which are of a conventional nature [treaty law];
  - iii. To what extent, if at all, does the *corpus juris* of international criminal law converge features of the accusatorial {adversarial} and inquisitorial criminal justice systems?;
  - iv. When is the *dolus specialis* required for a crime against humanity to subsist?;
  - v. In the light of the legal authority of the International Criminal Court, explain jurisdiction:
    - *Rationae materiae*; and
    - *Rationae temporis*; and
    - *Rationae loci*;
  - vi. To what extent, if at all, may amnesties be considered compliant with contemporary International Criminal Law?;
  - vii. The Special Tribunal for Lebanon or on the Iraqi High Tribunal;
  - viii. Enlist the elements of the crime against humanity of extermination;
  - ix. Define 'persons protected' in the light of the forth Geneva Convention of 12<sup>th</sup> August 1949 for the purposes of Article 8 para 2(a) of the Rome Statute of the International Criminal Court dealing with war crimes;
  - x. What are the minimum standards required to ensure that the fundamental human rights of prisoners [either awaiting trial and/or convicted of core crime/s before the International Criminal Court] be respected?
2. In what way, by which means and to what extent, if at all, does the Rome Statute of the International Criminal Court make use of diverse criminal justice systems? [50 marks]
3. Are victims and witnesses adequately protected/safeguarded within the Rome Statute of the International Criminal Court and within its rules of procedure and evidence? [50 marks]
4. With reference to case-law/jurisprudence, analyse the grounds for refusal of extradition by a requested State under the horizontal system of enforcement of International Criminal Law. [50 marks]

End.

UNIVERSITY OF MALTA

FACULTY OF LAWS

LL.B. (HONS.) 3<sup>rd</sup> YEAR & LL.B. (HONS.) 4<sup>th</sup> Year

JUNE 2017 EXAMINATIONS

EXAMINATION: INL4002 – INTERNATIONAL CRIMINAL LAW

Date: Wednesday 28<sup>th</sup> June 2017

Time of Examination: (10:00am to 12:05pm)

Instructions to Students: Candidate to answer 1 QUESTION FROM EACH SECTION

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Section A

1. Write brief notes in point/bullet form on each of the following: [5 marks each, totalling 50 marks]
  - i. the 'State or organizational policy' requirement for the purposes of crimes against humanity;
  - ii. the extent to which amnesties may be considered compliant with international criminal law;
  - iii. the limitations to the *proprio motu* powers of the Prosecutor of the International Criminal Court;
  - iv. the effect of presumption of innocence under the Rome Statute of the International Criminal Court;
  - v. the requirements (conditions) which have been imposed by the International Criminal Tribunal for the Former Yugoslavia to allow witness anonymity before international criminal tribunals;
  - vi. the salient differences between international criminal law on one hand and national/domestic criminal law on the other hand;
  - vii. enlist five aggravating factors which have been taken into account by international criminal tribunals for the purposes of punishment (the criminal sanction);
  - viii. the Trust Fund established in terms of Article 79 of the Rome Statute of the International Criminal Court;
  - ix. the Special Court for Sierra Leone;
  - x. the United Nations Security Council Resolution when it constitutes a 'trigger mechanism'.
  
2. Prevention, prosecution and punishment are pivotal for an effective international criminal law. Discuss and elaborate. [50 marks]

3. Analyse the two-pronged International Criminal Court admissibility test. [50 marks]
4. Compile a report substantiating arguments in favour of the incorporation of the crime of terrorism as a core crime, i.e. a crime falling within the International Criminal Court's subject-matter jurisdiction. [50 marks]

### **Section B**

5. Write brief notes in point/bullet form on each of the following: [5 marks each, totalling 50 marks]
    - i. the distinction between surrender and extradition;
    - ii. the salient features of the crime of aggression;
    - iii. the constitutive elements of the crime against humanity of extermination;
    - iv. the constitutive elements of the war crime of the taking of hostages;
    - v. the concept of 'shielding' in international criminal law;
    - vi. the jurisdiction of the International Criminal Court:
      - a) *rationae materiae*; and
      - b) *rationae temporis*; and
      - c) *rationae loci*;
    - vii. the requisites to successfully plead the defence of 'superior orders' under the Rome Statute of the International Criminal Court;
    - viii. hybrid (semi-internationalized) criminal tribunals;
    - ix. the multifunctional role of *ne bis in idem* under the Rome Statute of the International Criminal Court;
    - x. enlist the five acts (*actus reus*) which constitute genocide.
  6. Critically analyse the salient provisions of the *Convention for the Prevention and Punishment of the Crime of Genocide*. [50 marks]
  7. To what extent, if at all, are the words 'unable' and 'unwilling' relevant for the purposes of the enforcement of international criminal law? [50 marks]
  8. How does international criminal law curb sexual and gender-based violence? [50 marks]
- End.

Choose ONE question from Section A and ONE question from Section B

Section A:

1. Write brief notes in point/bullet form on each of the following: [5 marks each totalling 50 marks]
  - a. The *kompetenz-kompetenz* (*compétence de la compétence*) of the International Criminal Court;
  - b. Enlist 5 sources of International Criminal Law which are of a conventional nature [treaty law];
  - c. What *locus standi*, if any, do victims have before the International Criminal Court?;
  - d. When is the *dolus specialis* required for a crime against humanity to subsist?;
  - e. In the light of the legal authority of the International Criminal Court, explain jurisdiction:
    - *Rationae materiae*; and
    - *Rationae temporis*; and
    - *Rationae loci*;
  - f. To what extent, if at all, may amnesties be considered compliant with contemporary International Criminal Law?;
  - g. The Special Tribunal for Lebanon or on the Iraqi High Tribunal;
  - h. Enlist the elements of the crime against humanity of extermination;
  - i. Define 'persons protected' in the light of the fourth Geneva Convention of 12<sup>th</sup> August 1949 for the purposes of Article 8 para 2(a) of the Rome Statute of the International Criminal Court dealing with war crimes;
  - j. What are the minimum standards required to ensure that the fundamental human rights of prisoners [either awaiting trial and/or convicted of core crime/s before the International Criminal Court] be respected?
2. Analyse the two-pronged International Criminal Court admissibility test. [50 marks]



3. Are victims and witnesses adequately protected/safeguarded within the Rome Statute of the International Criminal Court and within its rules of procedure and evidence? [50 marks]
4. Compile a report substantiating arguments in favour of the incorporation of the crime of trafficking in human beings as a core crime, i.e. a crime falling within the International Criminal Court's subject-matter jurisdiction. [50 marks]

**Section B:**

5. Write brief notes in point/bullet form on each of the following: [5 marks each totalling 50 marks]
  - a. The contextual elements of crimes against humanity;
  - b. Enlist the constitutive elements of the war crime of taking hostages in terms of Article 8(2)(a)(viii) of the Rome Statute of the International Criminal Court;
  - c. The United Nations Security Council Resolution when it constitutes a 'trigger mechanism';
  - d. Enlist five grounds which States may invoke to refuse an extradition request by another State;
  - e. The Victims and Witnesses Unit of the International Criminal Court;
  - f. In terms of the case-law (jurisprudence) of the International Criminal Court, in which circumstances may an internal armed conflict become an international armed conflict?;
  - g. The requirements (conditions) which have been imposed by the International Criminal Tribunal for the Former Yugoslavia to allow witness anonymity before international criminal tribunals;
  - h. The requisites to successfully plead the defence of intoxication under the Rome Statute of the International Criminal Court;
  - i. The Special Court for Sierra Leone;

- j. The effect of the presumption of innocence of persons accused of having committed a crime falling within the International Criminal Court's jurisdiction.
6. Prevention, prosecution and punishment are pivotal for an effective international criminal law. Discuss and elaborate. [50 marks]
7. Critically analyse the salient provisions of the *Convention for the Prevention and Punishment of the Crime of Genocide*. [50 marks]
8. Which conditions must be satisfied (which ingredients must be fulfilled) for an accused to successfully plead;
- a. self-defence;
  - b. duress;
  - c. superior orders;
  - d. mental disease or defect; and
  - e. intoxication
- before the International Criminal Court? [10 marks each totalling 50 marks]

University of Malta  
Faculty of Laws

June 2019 Examination Session

**INL4002 INTERNATIONAL CRIMINAL LAW**

Date: Wednesday 26th June 2019      Duration of Examination: 10:00AM ~ 12:05PM

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**INSTRUCTIONS TO STUDENTS:**

Candidates are to answer **ONE (1)** question from each section.

Each question carries fifty (50) marks.

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**SECTION A**

1. Write brief notes in point/bullet form on each of the following: [5 marks each]
  - (a) Enlist five (5) different types of misconduct of a sexual nature which constitute war crimes in so far as they are tantamount to violations of fundamental human rights in armed conflict.
  - (b) How, if at all, can the *dolus specialis* be relevant for the purposes of the punishment of a crime against humanity?
  - (c) Enlist the constitutive elements of the crime against humanity of enforced disappearance of persons.
  - (d) What factor, if any, distinguishes on the one hand torture under international human rights law, and on the other hand torture under international humanitarian law?
  - (e) Enlist five (5) acts [*actus reus*] which constitute genocide.
  - (f) Enlist five (5) salient features of the United Nations Convention Against Transnational Organized Crime [UNCATOC].
  - (g) Enlist five (5) features (characteristics) which could be used to categorise acts or omissions of non-State actors (non-State entities) as core crimes, as opposed to transnational organized crimes.
  - (h) In terms of the case-law (jurisprudence) of the International Criminal Court, in what circumstances may an internal armed conflict become an international armed conflict?
  - (i) When and how, if at all, could terrorism constitute a crime against humanity?
  - (j) When and how, if at all, could the execution of the death penalty contravene international law?



2. With reference to case-law (jurisprudence), examine genocidal rape?
3. You have been engaged to draft a legal opinion titled '*the case for a Convention for the Prevention, Prosecution and Punishment of Crimes Against Humanity*'. Draft the legal opinion.
4. To what extent, if at all, has the 'Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction' in the case *Prosecutor v Duško Tadić*, delivered on 2 October 1995 by the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia, contributed to the progressive development of international criminal law?

## SECTION B

5. Write brief notes in point/bullet form on each of the following: [5 marks each]
  - (a) To what extent, if at all, may *jus cogens* norms and *erga omnes* obligations be considered as two sides of the same coin?
  - (b) Enlist five (5) due process (fair trial) minimum guarantees.
  - (c) The United Nations Security Council Resolution, when it constitutes a 'trigger mechanism'.
  - (d) i. Distinguish between surrender and extradition; and  
ii. Distinguish between, on the one hand, the jurisdiction of the International Criminal Court, and on the other hand, the admissibility of a case before the International Criminal Court.
  - (e) Enlist five (5) features (characteristics) of hybrid (semi-internationalized) criminal tribunals.
  - (f) When and how, if at all, can victims enjoy a *locus standi* before the International Criminal Court?
  - (g) Why has it been easier for the *ad hoc* international criminal tribunals (the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia) to elicit State cooperation than it is for the International Criminal Court?
  - (h) Enlist the general defences (the grounds for excluding criminal responsibility) stipulated within the Rome Statute of the International Criminal Court.
  - (i) Enlist the requirements (conditions) which have been imposed by International Criminal Tribunal for the Former Yugoslavia to allow witness anonymity before international criminal tribunals.
  - (j) From a reading of the Preamble of the Rome Statute of the International Criminal Court, which objective of punishment (the criminal sanction) is emphasized, and why do you conclude so?

6. To what extent, if at all, may the Rome Statute of the International Criminal Court be considered as a human rights instrument?
7. In so far as the Rome Statute of the International Criminal Court is concerned, the concepts of '*ne bis in idem*' and 'fair trial' are multifunctional. Discuss and elaborate.
8. The principle of complementarity underpins the framework of international criminal justice. Discuss and elaborate.