

Roll No.....

**NATIONAL LAW UNIVERSITY, DELHI**

**LL.M. Degree Programme, II-Semester (Batch of 2018)**

**End-Semester Examinations, April - 2019**

**Paper: International Humanitarian Law**

Time: 3:00 Hours

Total Marks: 50

Instructions:

1. Read the questions carefully and answer.
  2. Attempt All Questions.
  3. No clarification shall be sought on the question paper.
  4. Do not write anything on the question paper except your roll no.
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**Q1.** Secessionists belonging to state X1, which is presently a part of the country X have resorted to arms to liberate the state X1 from the country X in exercise of its right of self-determination under the international law. The brief legal history of the relationship between State X1 and countries X is as follows-

State X1 was a princely state which had initially agreed to become a part of the country X under a situation of contingency, with a Deed of Accession in 1947. However, there was no legal merger for want of any Deed of Merger executed between the two. Accordingly, the late Prime Minister of the country X had been promising the people of state X1 till his last breath that there will be a referendum in state X1 whereby the people of state X1 would decide their collective destiny. However, no referendum ever took place and the promise remained un-kept. The right to revoke the accession, according to the Deed of Accession was reserved to the Constituent Assembly of state X1 which was dissolved soon after the accession. After the secessionists took up arms for the liberation, the country X deployed half a million military forces to deal with the secessionists in state X1. It is significant to note that the secessionists are also supported (financially and logistically) by the neighbouring country Y. There is an ongoing conflict between the parties for almost last 30 years in which more than 100,000 people (secessionists, military personnel and civilians) have been killed.

The dispute was taken to the ICJ by the secessionists, where the country X makes the following arguments-

- (a) That State X1 is an integral part of the country X as the state X1 had voluntarily agreed to become a part of the country X through the Deed of Accession
- (b) That the armed conflict in question is of *non-international* character while the right of self-determination under the International law is available only in an *international armed conflict*. According to country X, this is a conflict of non-international character for two reasons- (i) that there is only a *low intensity armed conflict* between the secessionists and the armed forces and there is no military to military armed conflict between two more nations; (ii) that the right of self-determination exists only in the context of colonialism while country X has not colonised the people of state

X1, rather there was a legal accession and hence, this is a conflict of non-international character. For the above mentioned reasons, the conflict is a subject matter of the Additional Protocol II and the Common Article 3 of Geneva Conventions, country X argued.

- (c) That the right to succession was reserved only to the Constituent Assembly of the State X1 which has ceased to exist now. Hence, the question of revocation of the accession does not arise.

While on the other hand the secessionists make the following arguments-

- (a) That state X1 was never an integral part of the country X as there was no Deed of Merger between the parties and the said accession too was only a temporary arrangement.
- (b) That this is an armed conflict of international character and the country Y which provides financial and logistic support to the secessionists is also a stake holder in the liberation of the state X1.
- (c) That it is true that the country X had not colonised the state X1 initially. However, it has now turned into an illegal occupation. Country X's occupation over state X1 is illegal as the people of state X1 do not want to live with the country X anymore. The country X holds the state X1 at gun point, hence, it is a fit case of colonialism and therefore, the state X1 can legitimately exercise its right to self-determination against the country X.
- (d) That the present State Legislative Assembly has stepped into the shoes of the erstwhile Constituent Assembly of state X1 and hence, it can accordingly decide the destiny of state X1.
- (e) That the armed conflict cannot be treated as a *low intensity armed conflict* having regard to the facts that the conflict has protracted for almost 30 long year, more than half a million military forces are deployed into the conflict zone and more than 100,000 people have been killed.

If you are a member of the judicial bench of the ICJ, in view of the above arguments and counter- arguments, how would you decide this case applying the correct law?

**(15 Marks)**

**Q2.** Discuss the fundamental principles of International Humanitarian Law.

**(10 Marks)**

**Q3.** Discuss the significance and legal consequences of the distinction between a Combatant and a Non-Combatant in the International Humanitarian Law.

**(10 Marks)**

**Q4.** Discuss the legal protection, rights and immunities available to Prisoners of War (PoW) under the International Humanitarian Law regime.

**(10 Marks)**

**Q5.** Discuss 'Martens Clause' and its legal significance in the International Humanitarian Law.

**(5 Marks)**