

<b>Name:</b>	
<b>Enrolment No:</b>	

**UNIVERSITY OF PETROLEUM AND ENERGY STUDIES**  
**End Semester Examination, December 2018**

<b>Course: Public International Law</b>	<b>Course Code: LLBL434</b>
<b>Semester: IX</b>	
<b>Programme: BTechLLB (Cyber/IPR Law)</b>	
<b>Time: 03 hrs.</b>	<b>Max. Marks: 100</b>
<b>Instructions:</b>	

**SECTION A**

S. No.	Question	Marks	CO
Q 1	Where can we find the definition of the word Refugee ?	2	CO1
Q 2	Has India ratified the UNCLOS ?	2	CO1
Q 3	Does India has power of Veto in United Nation ?	2	CO1
Q 4	States are not knowingly to allow their territory to be used for acts contrary to the rights of other states and from this can be deduced a duty to inform other states of known environmental hazards. This principle is established in which case?	2	CO2
Q 5	Enrica Lexie is a case between which two country ?	2	CO1

**SECTION B**

Q 6	What is the importance of Customs as a source of law?	10	CO3
Q 7	What are the various agencies of UN. Describe them in brief.	10	CO3

**SECTION-C**

Q 8	Is there any consistency required while interpreting Treaties? Discuss in the light of Article 31 of the VCLT, 1969	10	CO2
Q 9	How do you see the demand of India to have the right to Veto in United Nation? What would be the changes if India get the right ?	10	CO3

**SECTION-D**

Q 10	<p><b>Please read the facts and answer the questions referring to the relevant instruments, cases, and theory.</b></p> <p><b>Background Facts:</b></p> <p>In August 2017, over 620,000 Rohingya Muslims from Rakhine State in western Myanmar fled their homes to Bangladesh after being subject to military clearance</p>		<b>CO4</b>
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operations responding to attacks by Rohingya militants on security posts. Over 60% are children, many of whom have been separated from their parents. Human Rights Watch reports that the Rohingya have been subjected to massacres, gang rape and arson by soldiers and local Buddhist mobs.

There is a history of inter-communal violence, in 2012, there were Rohingya-Buddhist clashes, triggered by the rape and murder of a Rakhine Buddhist woman, allegedly by two Rohingya men. Human Rights Watch released satellite pictures of entire Rohingya villages burning. 86% of the destroyed homes belonged to Muslims. 95% of the internally displaced were Muslim.

Thousands fled to Bangladesh and to camps set up under UN supervision in Rakhine. Some 140,000 people still live in the camps. The International Crisis Group said it was in the camps that ARSA insurgent group took shape.

Since inter-communal violence in 2012, the Government has pursued segregation of the Buddhist and Muslim communities, placing the Rohingya in camps. The Rohingya have been effectively denied citizenship in Myanmar, and subjected to discrimination, repression, and internal displacement for decades.

They have been subject to restrictions on freedom of movement, denial of access to the economy, limited access to jobs, restriction of access to education (primary to higher level) and health care, resulting in high levels of poverty. A Chinese led consortium announced investment in the region to create a Special Economic Zone, following the construction of an oil and gas pipeline which resulted in land seizures, internal displacement, environmental degradation, and an influx of foreign workers. The local population felt marginalized and disempowered.

On October 9, 2016, nine Myanmar policemen were killed in armed attacks on border posts on Myanmar's border with Bangladesh in the Rakhine province, which were claimed by ARSA, then known as Harraka al Yakin/Aqa Mul Mujahideen. Eight of the attackers were also killed. This was one of the largest attacks on Government forces. They have committed dozens of attacks on security forces.

The government of Myanmar has warned that the Rohingya militants are terrorists who threaten peace, security, and human rights of the Buddhist, Hindu, and Catholic people of Myanmar.

Bangladesh stated that Myanmar acted disproportionately towards the Rohingya and has radicalized them. Because of security concerns, Bangladesh placed the Rohingya in temporary camps. Bangladesh considers the Rohingya to be illegal migrants who lacked documentation and should be deported back to Myanmar.

Myanmar noted that it was important to screen the Rohingya for links to the ARSA insurgent group and combat extremism. As many had suffered the burning of their homes, they will be placed in temporary camps upon return.

According to an article The Indian Express:

The Rohingya trace their origins in Rakhine to the 15th century or earlier. But the official name for them today is “Bengali”, intended to underline that they came to Rakhine as part of the British East India Company’s expansion into Burma after it defeated the Burmese king in 1826. The Burman, Chinese, Malay and Thai Muslims have a different, better relationship with the Myanmar state. The Rohingya are also racially different.

From May 1961 to October 1965, the Burma Broadcasting Service in Yangon broadcast a Rohingya language programme three times a week, and the Rangoon University Rohingya Students Association was among the many ethnic student associations that functioned from 1959 to 1961. Even after the military takeover in 1962, the junta continued to use the Rohingya expediently. They voted in every election from 1948 until 2010, each time after being issued “temporary scrutiny cards” that clearly mentioned that the cards did not entitle them to citizenship.

Under Myanmar’s discriminatory 1982 citizenship law, only those who trace their residence in the country to before 1823, or those belonging to the majority Burman, or Kachin, Kayah, Karen, Chin, Mon, Rakhine and Shan ethnic groups, qualify for full citizenship. A list of another 135 ethnic groups, drawn up in 1982 and made public in 1990, did not include the Rohingya. Other categories of citizenship are technically open to Rohingya, but in practical terms, make their acceptance impossible.

“[A] new National Scrutiny Card was introduced in 1989 and Rohingya were not entitled to receive them as they became non-citizen under the 1982 Citizenship Act. However, the authorities issued Temporary Scrutiny Card to all and promised twice in 2008 constitution referendum and 2010 election that National Scrutiny Card will soon be issued to all the Rohingyas. But the promises made to Rohingya were never honoured,” wrote Nay San Lwin, a Rohingya activist and blogger based in Europe.

In the 2010 election, the last under the junta, Rohingya parties took part, and while none of their candidates won, the military’s Union Solidarity Development Party (USDP) sent three Rohingya MPs to Parliament. But the Rohingya were disenfranchised for the 2015 election, heralded as the first full democratic election in Myanmar.

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Over the past year, there have been allegations of grave human rights violations by the Myanmar military against the Rohingya. A UN Human Rights Council-appointed Fact Finding Committee has been denied permission to enter the country to investigate these allegations. On August 25, ARSA claimed responsibility for

coordinated attacks on police posts and an attempted raid on an army base. The response by the Myanmar security forces has sent over 250,000 fleeing into Bangladesh.

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The ARSA attack, oddly, came a day after the Myanmar government-appointed, Kofi Annan-led Advisory Commission on Rakhine State submitted its report to the State Counsellor and de facto Foreign Minister Aung San Suu Kyi. The Commission, appointed last September, strongly recommended a review of the 1982 citizenship laws and specifically pointed to the slow and sporadic process of citizenship verification, which has covered only 10,000 Rohingya since 2014.

Suu Kyi has been criticised internationally for her attitude towards the Rohingya, and there have been calls for withdrawing the Nobel Peace Prize awarded to her for her fight for the restoration of democracy in Myanmar. But it was also at Suu Kyi's instance that the Annan Commission was appointed, and she has welcomed the report. Her office has said the report's recommendations would have a positive impact on the process of reconciliation and development. While a large majority of the recommendations "will be implemented promptly", a few "will be contingent upon the situation on the ground but we believe there will be speedy progress". The powerful military has, however, more or less rejected the report.

In November 2017, Myanmar and Bangladesh signed an agreement to promote repatriation of the displaced Rohingya. Win Myat Aye, the minister for social welfare, relief and resettlement who heads a Myanmar government panel on rehabilitation in Rakhine, said India and China had offered to provide "modular houses" for returnees, as many had no means of livelihood or access to services upon return since the farms had been burned down. Pope Francis announced a visit from to Myanmar and Bangladesh from Nov. 26 to Dec. 2 that is aimed at promoting "reconciliation, forgiveness and peace".

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**Question: You are a lawyer for a law firm that has been requested to provide a legal analysis for the Pope who is pursuing mediation between Myanmar and Bangladesh and wishes to refer to public international issues as well as de lege ferenda conceptions of the right to peace, contained in the UN Declaration on the Right to Peace . The issues you are asked to address are:**

- 1) Whether Myanmar's actions towards the Rohingya amount a violation of international law?**
- 2) Whether Bangladesh can request compensation from Myanmar on**

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**account of the mass influx?**

- 3) Can the Pope suggest that there has been a violation of the right to peace?**
- 4) The Pope would like to send the UN Secretary General recommendations as to what the UN can do to help resolve the situation and restore peace and security. Please make recommendations addressing the potential role of UN institutions and the States.**

**Sources:**

The UN Charter,

The UN Declaration on Human Rights,

The ILC Draft Articles on Responsibility of States for Internationally Wrongful Acts,

The UN Convention on the Rights of the Child (ratified by Myanmar and Bangladesh),

The UN Declaration on the Right to Peace .

Bangladesh has ratified the International Covenant on Civil and Political Rights, the Convention on the Elimination of Racial Discrimination, and the Convention Against Torture

Myanmar has ratified the International Covenant on Economic, Social, and Cultural Rights.

You may refer to additional instruments that you find relevant.

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**Max. Marks: 100**

**Instructions:**

**SECTION A**

S. No.		Marks	CO
Q 1	Vienna Convention on Law of Treaties, 1969 is only applicable inter-State. True / False	2	CO1
Q 2	Kishanganga Hydro Electric Power project resulted in inter – State river water dispute between which countries	2	CO1
Q 3	Rann of Kuch was once a disputed area between which two countries	2	CO2
Q 4	Air India flights are flying across the world under sovereign functions. True / False	2	CO2
Q 5	Is India a signatory to UNHCR , 1951 Convention ?	2	CO1

**SECTION B**

Q 6	Explain the various sources of International Law	10	CO3
Q 7	Write about the history and evolution of United Nations.	10	CO2

**SECTION-C**

Q 8	What is the importance of Section 3 of the Vienna Convention on Law of Treaties, 1969?	10	CO3
Q 9	Should India enact a legislation to deal with the situation of refugee? Support your answer with reasons	10	CO3

**SECTION-D**

Q 10	In a dispute between State ‘A’ and State ‘B’ over an Island ‘C’, State ‘A’ claims the title to it on the basis that State ‘X’ had discovered that Island first and it sold the same to State ‘A’. But State ‘B’ argues that the Island is in its continuous peaceful possession for more than 70 years and hence it had right over it. Decide.	25	CO4
Q 11	The diplomat of State ‘A’ was supplying weapons to a banned out fit in violation of local laws, in State ‘B’. When he was caught, he claims diplomatic immunity. Can he succeed ?	25	CO4

