



UNIVERSITY OF NAIROBI

SCHOOL OF LAW

Course Title: International Criminal Law

Course Code: GPR 6126

How to answer an International Criminal Law Question

International Criminal Law at Masters level seeks to enable the learners to apply the doctrines, legal rules and general principles of international law to contemporary issues in international criminal law. It should also trigger the learners to develop new intellectual and practical perspectives of the doctrines, legal rules and general principles of international criminal law. Therefore, questions in International Criminal Law will seek to establish the ability of the learners to apply or develop existing legal doctrines, rules and general principles of international law to contemporary issues in international criminal law or test their understanding and ability to apply the legal definitions of international crimes to given contexts. A question in international criminal law can take either of these two forms.

When a problem question concerns a discussion of the doctrines, rules and principles of international Criminal Law, a student must be able to identify and clearly discuss the legal principles being examined and also, to apply them to given facts.

A general approach would be as follows:

- 1. Start by identifying the principles being examined**

A good answer must begin by identifying the legal principles being tested. This can be highlighted in the introductory part of the answer

- 2. State the sources of these principles**

Using your knowledge on sources of international law, you must be able to state the sources of your principles. For example, whether a certain principle has an international customary law origin or it originates from a treaty et cetera. Depending on the principle being tested, you may go further and explain the legal implications of a given source on the application of the principle to international criminal law.

- 3. Define the principles**

Give a legal definition of the principle. Ensure to clearly bring out all the constituent parts of the principle as defined under the law and also how it has been nuanced practice.

4. Cite authorities for these principles

It is impossible to define the principle without citing authorities, especially when discussing how the legal principles have been defined in practice

5. Test whether the facts in the question satisfy the constituent elements of the principles

Use your comprehensive definition of the principle to test whether it satisfies the facts in a given question.

6. Draw your opinion, explaining why

When a question concerns a discussion on international crimes, a student must be able to identify and clearly discuss the elements of a crime and also, to apply this definition to a given set of facts.

A general approach would be as follows:

1. Start by identifying the crimes being examined

Point out the crimes that are being tested. This can be highlighted in the introductory part of the answer. Specify the names of the offences in the introduction and proceed to discuss one after the other.

2. Define the crime: *actus reus* and *mens rea*

Give a legal definition of the offence. For purposes of learning, it is helpful for you to separate the *actus reus* and the *mens rea* elements. Ensure to clearly bring out all the constituent parts of these elements as defined under the law and also how it has been nuanced in the practice of *ad hoc* tribunals as well as national courts exercising jurisdiction over international crimes.

3. Cite authorities for your definitions

It is impossible to define an offence without citing authorities, especially when discussing how the legal principles have been defined in practice

4. Test whether the facts in the question satisfy the constituent elements of the offence

Use your comprehensive definition of the crime to test whether it satisfies the facts in a given question. You can also cite authorities where related facts were used to define the crime in question.

5. Draw your opinion, explaining why