

Hypothetical international law questions



**ASSIGN
BUSTER**

1. Set forth at least one jurisdictional theory under which each of the three nations may properly prosecute the terrorists under international law.

Answer. There are several international conventions against unlawful interference with civil aviation. Among them the following are most important :

1. Tokyo Convention(1963)
2. Hague Convention (1970)
3. Montreal Convention(1971)
4. Protocol for the Suppression of Unlawful Act of Violence at Airports Serving International Civil Aviation, 1988

Principle of universal jurisdiction in respect of the crime of the hijacking :

The principle of universal jurisdiction is recognized in respect of the crime of piracy and war crimes. Since hijacking is generally described as aerial piracy, the principle of universal hijacking applies in respect of the crime of hijacking. By universal jurisdiction in respect of a crime, it is meant that the crime is against the international community and in order to suppress such a crime, all states can exercise jurisdiction in respect of the crime. " The Hague Convention, 1970, and the Montreal Convention, 1971 on hijacking have gone a long way to confer universal jurisdiction, to a great extent, on all states" (Bin Cheng R. H. F. Austin," Air Law, in The Present State of International Law and other Essays" 1973).

2. Assuming a common crime has been committed, and that Libya complied with the international minimum standard of state behavior, did the treatment of any passenger violate International Law

Answer: As per the UN Charter of human rights, human rights of all the

<https://assignbuster.com/hypothetical-international-law-questions/>

passengers are violated in this case. According to the International Convention Against Taking of Hostages(1979) the passengers can seek damages for the violation of their human rights.

3. How might the terrorists argue against extradition

Answer: The Terrorists can take the following defence to argue against their extradition :

1. There should be a specific extradition treaty between the two countries and the conditions and terms mentioned should be generally fulfilled.
2. They can argue that they are political criminals fighting for a just cause and are not terrorists, and it is very important principle of the International law that extradition for political crimes is not allowed.
3. The Crime for which extradition is claimed should be a crime in both the countries.(Principle of Double Criminality)
4. There should be sufficient evidence and it should appear to be a crime prima facie(Tarashov Extradition Case, 1963)
5. Generally States do not allow the extradition of their own citizens.(Regina vs. Wilson.(1878)3Q. B. D. 42: 37L. T. 354

4. How did USA violate international law in at least two instances

Answer: USA violated international law in the following instances :

1. The act of USA's military forces gathering just outside Libya's twelve-mile territorial sea, but within plain view of the Libya coastal defense forces is a hostile act and can be considered as an act of war against Libya. USA can not resort to such tactics without clear cut evidence of the participation of the Libyan State in the crime of hijacking, otherwise it has to be considered as a terrorist act committed by some individuals. Even if USA was convinced that the some Libyan Political leaders are clandestinely involved in this

<https://assignbuster.com/hypothetical-international-law-questions/>

crime, in that case USA should have approached the UN security council first to take a collective action for protecting the interests of the passengers on board the aircraft.

2. By urging the community of nations to boycott the Libyan airport the USA has sought Blockade against Libya without first having clear evidence about the complicity of the Libyan state in the crime. It is again a hostile act and blockade is resorted to by men of war. It is an act of war.

5. What are the relevant elements of the Law of the Sea regime for this situation

Answer. Under the Article 111 of the UN Convention on the Law of the Sea, 1982 the right of Hot Pursuit is available to the USA. It is however necessary to note that the right of Hot Pursuit can be exercised only by war ships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

WORKS CITED

1. Kapoor S. K(2008): Central Law Agency.