

PUBLIC INTERNATIONAL LAW MOOT PROPOSITION

Office of the Prosecutor

v.

Mr. Bagoda

v.

Mr. S-Goza

1. The country of XYZ is a diverse nation with various ethnicities residing peacefully for over a century. However, XYZ does not have a great economy and has fallen short of keeping pace with the globalizing world. To bring the country up to speed with the fast pacing and evolving world, Prime Minister of XYZ, Mr. Bagoda, has decided to open the economy and utilize the huge mineral resources of XYZ. Country XYZ has an abundance of mineral ores and mines bearing precious elements; most of those are government owned and controlled.
2. In 2011, XYZ started exporting these precious elements and mineral ores to other countries. The government had built well equipped office areas and protected mining zones with on-the-spot medical facilities for all the employed workers. Most of these mines were near forest areas which were inhabited by multiple tribes dependent on natural resources and who adopted a simple lifestyle. These tribes were peace-loving people who mostly kept to themselves and had no issues with the mine workers as the mine work was neither hampering their connection with nature nor harming their homes or livelihoods, as claimed by the Government of XYZ.
3. Mr. Y-Goza has been a leader of one of these tribes for the last 35 years. It has already been announced that when Mr. Y-Goza steps down, his son Mr. S-Goza will become the leader of the tribe. Mr. S-Goza is strong headed man with knowledge of business and an abundant interest in politics. He is well read and is considered by most of the tribe members to become a great leader. However, Mr. S-Goza is unhappy with the Government of XYZ for using the forests and lands of the tribes to set up their camps and medical facilities for the mine workers.

(See Annexure #1) He was also unsatisfied with the fact that the extracted resources go directly to the government which reaps all the monetary and political benefits. Mr. S-Goza, well aware of his inheritance, has a group of councils and followers who not only support him but consent to the fact the Government of XYZ is not sharing the rightful part of the heavily drawn benefits from the excavation with their Tribe.

4. On the other hand, the Government of XYZ is getting in economic shape with their mining export. Many Western and developed nations are engaged in export business with XYZ. Among these countries, Prime Minister Bagoda has built strong ties with another country called LMN, who has become the biggest buyer of mine export from XYZ. Due to these strong political and economic ties with XYZ, the nation of LMN is heading towards becoming the largest manufacturer of Jewelry made from extremely rare Red Stones which are mostly found in the mines of XYZ. This has led to strong economic and political tension between LMN and ABC.
5. ABC is a developed western nation which believes in the ideology of democracy. Prior to 2014, ABC was the leading manufacturer and exporter of Jewelry made from Red Stones. However, after the collaboration between XYZ and LMN, the country of LMN is not only giving intense competition to ABC but is also heading towards the top spot of becoming the global manufacturer and exporter of Jewelry made from red Stones. Nation of ABC is not happy with this change in the economic dynamics.
6. Despite the extremely profound economic growth, the Government of XYZ has been called upon by many Human Rights Groups for not providing enough compensation to the mine workers. These reports were brought to the notice of the public of the entire world and at the United Nations General Assembly. Multiple countries have brought up the issue of long working hours, less compensation, and medical facilities not being up to date. These reports also bring up the photos of the tribal families depicting the depletion of their water resources primarily because of the mine work, one of these tribes also included the tribe led by Mr. Y-Goza. However, it is Mr. S-Goza who made collaborations with the Human Rights Groups and

called them for a visit where he led them to the river closest to the mine to show the environmental harm. The Human Rights Groups did talk to other tribes, but the other nearby tribes were not interested in refuting the contention of Mr. S-Goza, nor did they support the Government of XYZ. These tribes were not as big and powerful as the tribe of Mr. S-Goza, and they refrained from going against Mr. S-Goza. Mr. S-Goza, despite being so well read, was considered to have a dictatorial attitude. He was feared by the other small tribes, and nobody wanted to oppose him.

7. In 2015, right after the United Nations General Assembly Meeting where the above-mentioned Human Rights Groups' report was released, Mr. S-Goza reached out to the Government of XYZ claiming the rightful compensation and share in the profit that was reaped from the mining industry. This claim was shot down in a meeting that transpired between Mr. S-Goza and Prime Minister Bagoda. It was reported that Mr. S-Goza specifically addressed the Prime Minister and said,

S-Goza: *“You cannot believe that you can reap everything that this country has to offer and keep it for yourself. This is not how this works. The profits and interests must be shared with me and my tribe because you are mining our land. Those are our mines. We have protected them for generations and now you come to milk the cow without sharing. I will not let this happen.”*

Prime Minister: *“You cannot come here, to my office, and speak to me in this manner. I am the appointed ruler, I have brought this country together, I am the one making sure that XYZ grows economically and become one of the developed nations of our beautiful, but miserable continent; and I will do whatever it takes.”*

S-Goza: *“When the profits come it must be shared between the rightful owners. It cannot simply be kept for your personal use. The economic growth you talk about is nothing but the development of your personal relationships with nations like LMN. You are doing it because of your own personal benefit and not for this country. However, you have forgotten*

that we are the sons of XYZ, and we will not let you take away what is rightfully ours and destroy our nations. Also, understand that we are not the ones to back out or shy out from a fight. If necessary, we know how to fight for our rights. Irrespective of the consequences. We will take our Right at any cost.”

Prime Minister: *“I understand, and I welcome any fight that you are going to bring to me. Remember that I am the ruler here and I hold power here. Respectfully, if push comes to shove, I will use force, and those forces will not be illegal but will be within the boundaries of law. I call these forces military, navy, and air force. So, Good Luck!”*

S-Goza: *“Mr. Prime Minister, you do not believe that my tribe or I will fear your hollow threats. You should understand that our traditions and values including our method of practicing our religion, maintaining our customs, and preserving our language is our right. It is right that has been recognized by International Law itself. Do not push us to go that route. And most importantly, do not underestimate our intentions to choose that route if need be. In the end a well-read educated man as yourself must have heard of Kosovo, or haven’t you?”*

8. After this conversation between the Prime Minister and Mr. S-Goza, Mr. S-Goza went to give an interview where he declared that he would take what is rightfully his and by any means as required or needed.
9. In December 2015, Mr. S-Goza build a force of his followers and tribe members. They attacked the mines that were closer to their tribal area and captured 2 mines by January 5th, 2016. The Prime Minister ordered his military to go to the mining areas to stop this capture and regain control. However, due to the unknown territory of the woods and the mining areas the first two deployments failed, which led to the capturing of 3 more mines by Mr. S-Goza.
10. By March 2016, Mr. S-Goza had captured 5 mines including one of the largest mines that produced the precious and rare Red Stones. In the meantime, the tribal people and the workers of the mine lost many lives, and they wanted to stop these ongoing attacks. They protested and

stopped working in the mines believing that without the workers the attacks would fail and Mr. S-Goza along with the Prime Minister would work towards a peaceful solution that would save innocent lives and livelihoods. Due to this protest the exports dropped significantly which heavily impacted on the economy of XYZ. In the meantime, the Prime Minister made sure that mines which remained under his control worked in double shifts to increase production. This led to less compensation and more work hours which resulted in many workers being neglected and succumbing to various diseases.

- 11.** By this time, an international Human Rights NGO called the IHR started developing interest and concern for the workers and public in the XYZ. Their latest report showcases the brutality of working conditions resulting in severe health hazards; the dictatorship of the Prime Minister; and the sheer disregard of the welfare of the people in the name of economic development.
- 12.** On the other hand, the IHR also reports that the captured mines under the control of Mr. S-Goza lack workers and there is no production, they are laying as a waste, and this seems like a failure on part of Mr. S-Goza resulting only in troubles for the workers, public, and for XYZ. This report caught international attention. In the meantime, Mr. S-Goza, who was controlling 5 mines, was ready to take any measures to start the excavation as he was lacking resources to control and maintain his army. This led to him ordering his councilors to, “...to do whatever is necessary and start the excavation. We need finances to support our mission. People must sacrifice their lives to gain freedom and rights for the tribe and future generations. They will not be collateral damages but martyrs who fought valiantly as soldiers; or worked selflessly as an individual for the growth and betterment of their people.”
- 13.** After this command from Mr. S-Goza, one of his councilors used brute force and captured the tribals to work in the mines. The fighters under the said councilor kidnapped, beat, and forcefully made the innocent tribals to work in the mines. This led to the detainment of around 200 innocent people including males, females, elderly, and children to work in the mines. Based on this event, many other councilors also adopted the same methodology and by August

2016 the 5 mines under Mr. S-Goza were not only running but producing a substantial number of minerals ready to be sold.

- 14.** Mr. S-Goza was satisfied with the production and started looking at the market to find a buyer. County ABC made a deal with Mr. S-Goza to buy his produce. This deal was made on the condition that Mr. S-Goza establishes a legal company and only then will the country of ABC buy the produce from him. Mr. S-Goza knew that this was not possible for him, he could not have established a company in a country where he was against the Prime Minister. This led to Mr. S-Goza establishing an entire army, capturing more mines, and occupying many tribal grounds, most of which were located towards the border of XYZ, which later he declared as the ‘*Real XYZ*’. This act made Mr. S-Goza the sole ruler of Real XYZ, and he then established the company called ‘*Inherits*’. Mr. S-Goza then gave a press release where he declared that real XYZ is an independent nation, and it is land of his and his tribe’s ancestor:

Today, I declare that Real XYZ is a nation that was dreamt by his ancestors. It is a nation where the tribe members find solace in practicing their religion, rejoice in maintaining their customs, and live peace peacefully by sharing everything equally. Real XYZ has an adequate geographical area, population, governance, and political relations which can be established by the exporting we do with Nations like ABC. It is the Real XYZ, where people not only live peacefully but share everything equally.

- 15.** Country ABC was satisfied with the paperwork; and, with the establishment of ‘*Inherits*’ they started working with Mr. S-Goza. This established a lawful business for Mr. S-Goza that brought in massive amounts of money. However, this development did not stop the miserable conditions of the workers and occupation of tribal lands by Mr. S-Goza. In January 2017, Prime Minister Bagoda declared the Army of Mr. S-Goza as the Non-State Actor which indulged in organized crimes and perpetrated fear among the general population to establish their control.

- 16.** In a press release Prime Minister Bagoda specifically stated,

Today, I declare Mr. S-Goza and his militia as non-state actors perpetrating fear among the general population to establish their illegal control. Their campaign of violence, forced labor, and destruction targets the heart of our nation. They threaten our sovereignty, peace, and the well-being of our citizens. Our forces will act with full authority to dismantle this threat and restore justice. The world must see their acts for what they are. We will not rest until our lands and our people are safe once more. Real XYZ is nothing but a fiction of imagination of a derailed, troublesome, and a violent man. It is not a State and is still a part of XYZ. It is a piece of land that has been occupied illegally and forcefully by the Non-State Actor.

- 17.** Further, in the same Press Release Prime Minister Bagoda also condemned State ABC 's role in recognising and funding the activities of Mr. S-Goza and alleged its participation and support to the Non-State Actor,

I am committed to protecting my people and State XYZ unequivocally condemns the involvement of ABC in funding Mr. S-Goza and the Inherits. These actions have directly led to civilian casualties and widespread fear. Such actions are a direct threat to our sovereignty and peace under Article 2 of the United Nations Charter. We call for international intervention to stop the flow of funds to these destabilizing activities in the interest of global peace and security.

- 18.** In response, Country ABC denied these allegations through a Press Release stating that:

Country ABC is working with Inherits, a legal company based in the country 'Real XYZ', of which Mr. S-Goza is the head. The business transaction has no bearing on the sovereignty or the prevailing unrest in XYZ.

19. Subsequently, in April 2017, the United Nations sought a clarification of the situation in XYZ from Prime Minister Bagoda, where he announced that he has declared a lawful war against the Non-State Actor in his country and that he will use any amount of force to rid his country of these demons.
20. In June 2017, a full-fledged war transpired between the army of Mr. S-Goza and the country of XYZ. There were incidents of destruction of cultural heritage by the army of Mr. S-Goza as they established them as military bases; the fighters under the councilors of Mr. S-Goza were indulging in mass murders and rapes whenever they faced retaliation by the public from their occupation; there were also instances of elimination of entire tribes who refused to join them.
21. In the meantime, Prime Minister Bagoda released all sorts of military power that he held. He ordered his military head to do whatever they had to do to get the occupied land back from Mr. S-Goza. In response, the air military commander ordered open fire from the fighter jets on the locations that appeared to be a military base for Mr. S-Goza. The army was called in at odd times and was instructed to eliminate anyone who shows retaliation. This led to the destruction of one of the tribal villages which was supposed to be a military base of Mr. S-Goza, but it turned out not to be. The act was also covered by the Human Rights Group as mentioned above in a press release which depicted the harsh scenario. Following is an excerpt from the Press Release:

The International Human Rights Watch along with the Human Rights Group condemn Prime Minister Bagoda's branding of Mr. S-Goza and his militia as terrorists. Our investigations reveal deep-seated exploitation and human rights abuses by the government. The recent accidental airstrike killing 100 innocent civilians highlights the dire need for a humanitarian approach. Forced labor and environmental destruction are fuelling this conflict. We urge the international community to demand accountability, address the root causes, and protect the rights and dignity of all citizens involved, and to hold all responsible parties accountable!

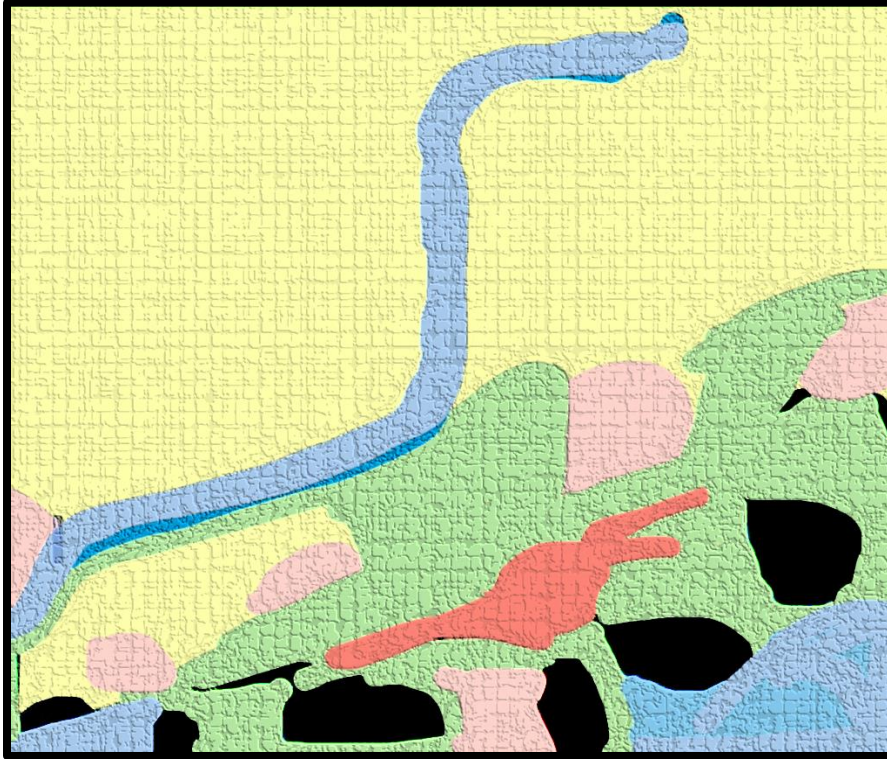
22. These conditions transpired till August 2017 when a ceasefire (Annexure #2) was imposed by the United Nations Security Council Resolution the matter was then referred to the Office of the Prosecutor, International Criminal Court (ICC) by the United Nations Security Council. Country ABC is a party to the Rome Statute and all four Geneva Conventions. Country LMN is a party to the Rome Statute and all four Geneva Conventions. Country XYZ is not a party to the Rome Statute; and sought Complementarity; however, Country XYZ is a Party to all four Geneva Conventions.

The following issues have been raised before the International Criminal Court:

1. Whether the ICC has jurisdiction over the matter as Country XYZ is not a party to the Rome Statute and other grounds.
2. Whether Mr. S-Goza is responsible under Article 8 of the ICC Rome Statute.
3. Whether Mr. S-Goza is responsible under Article 7 of the ICC Rome Statute.
4. Whether Prime Minister Bagoda is responsible under Article 7 of the ICC Rome Statute.
5. Whether Prime Minister Bagoda is responsible under Article 8 of the ICC Rome Statute.

ANNEXURES

ANNEXURE #1



Map Key

- Yellow: XYZ
- Light Pink: Tribal area
- Blue Patches: Water Bodies
- Mauve: Mine that yields Red Stones
- Black: Mines occupied by S-Goza
- South of the Major River Body: Real XYZ

ANNEXURE #2

UNITED NATIONS

S/RES/275 (2017)



SECURITY COUNCIL

DISTT: GENERAL

27TH AUGUST, 2017

Resolution 275 (2017)

Adopted by the Security Council at its 9650th meeting, on 27th August 2017

The Security Council,

Reaffirming the purposes and principles of the Charter of the United Nations,

Recalling all its relevant resolutions on the situation in XYZ,

Underscoring the importance of the ongoing diplomatic efforts by LMN, and Security Council Members aimed at reaching a comprehensive ceasefire deal, consisting of three phases,

1. *Welcomes* the new ceasefire proposal announced on August 11, which XYZ accepted, calls upon alleged Real XYZ aka the Inherits to also accept it, and urges both parties to fully implement its terms without delay and without condition.

2. *Notes* that the implementation of this proposal would enable the following outcomes to spread over three phases:

- (a) *Phase 1:* an immediate, full, and complete ceasefire with the release of hostages including women, the elderly and the wounded, the return of the remains of some hostages who have been killed, the exchange of YXZ prisoners, withdrawal of XYZ forces from the populated areas in Real XYZ, the return of Real XYZ civilians to their homes and neighborhoods, including in the north, as well as the safe and effective distribution of humanitarian assistance at scale throughout Real XYZ to all, including housing units delivered by the international community;

- (b) *Phase 2*: upon agreement of the parties, a permanent end to hostilities, in exchange for the release of all other hostages still in Real XYZ, and a full withdrawal of XYZ forces from Real XYZ; and,
- (c) *Phase 3*: the start of a major multi-year reconstruction plan for Real XYZ and the return of the remains of any deceased hostages still in Real XYZ to their families;
3. *Underlines* that the proposal says if the negotiations take longer than six weeks for phase one, the ceasefire will continue as long as negotiations continue, and welcomes the readiness of the LMN and the permanent Security Council Members to work to ensure negotiations keep going until all the agreements are reached and phase two is able to begin;
4. *Stresses* the importance of the parties adhering to the terms of this proposal once agreed and calls upon all Member States and the United Nations to support its implementation.
5. *Rejects* any attempt at demographic or territorial change in the XYZ, including any actions that reduce the territory of XYZ;
6. *Reiterates* its unwavering commitment to the vision of peaceful community of the world where individuals and States, live side by side in peace within secure and recognized borders, consistent with international law and relevant UN resolutions, and in this regard stresses the importance of unifying the distorted or occupied countries.
7. *Decides* to remain seized of the matter.
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APPRECIATION FOR OUR DRAFTERS :

The Moot Court Committee, RGNUL extends a warm gratitude to the drafters of the case record for the '7th SURANA & SURANA AND RGNUL, INTERNATIONAL LAW MOOT COURT COMPETITION 2024' Dr. Garima Tiwari, Associate Professor, National Law University, Delhi & Ms. Swarnim Swasti, SJD Candidate, Seattle University, USA.