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Nuremberg Moot Court Case 2021



Introduction

This is a fictional case before the International Criminal Court (ICC). Pursuant to the Rules of the Nuremberg Moot Court 2021, participating teams will represent both (1) the Office of the Prosecutor, and (2) the Defense.

Participating teams shall prepare two written Memoranda and plead before the ICC Pre-Trial Chamber II. The written submissions and respective pleadings shall follow the agenda for the PTC's hearing and address all the issues relevant to the case below.

Written Memoranda must be submitted by **18 March 2021, 23:59:00 CET**. The oral rounds will be held online between 5 and 30 July 2021.

The Prosecutor v. Lord Blaze

- Facts**
1. Lord Blaze is the president of the Fire Republic, having been elected in December 2014. Fire Republic has a population of 100 million inhabitants, spanning an area of 852,864 km². Its economy is based on coal mining and metalwork.
 2. The Fire Republic recognizes 25 ethnic groups. Its largest group, the Ding, a non-religious community, represents 76% of the population. The Fire Republic is also home to 10 million Earthbowers, who follow a religion called Earthbowerism, the third largest religion in the world. The Earthbowers have a unique culture and speak a different language than the rest of the Republic. The Fire Republic ratified the Rome Statute in 2004.
 3. Following an armed conflict with its neighboring country Earth Nation in 1927, Fire Republic took control of the Earth Nation province of Black Mound. Since 1927, Black Mound has had the status of a semi-autonomous province of Fire Republic. Earth Nation has been a State party to the Rome Statute since 2006.
 4. In 2015, the Fire Republic government, in an attempt to gain control over Black Mound and end its semi-autonomous status, appointed a Ding to lead the province. Under Ding leadership, all public Earthbowerist ceremonies and rituals were forbidden. Earthbower children were prohibited from speaking the Earth Nation language at school. In response to the government crackdown on the Earthbower community, a separatist movement called the "Association for an Autonomous National Government" (AANG) emerged to fight for the rights of the Earthbowers, including the right to self-determination. Between 2015 and 2018, the AANG organized and held several peaceful demonstrations in Black Mound.
 5. During Summer 2018, the government crackdown intensified throughout Black Mound. The Earthbowerist priests, called the Badgermoles, were repeatedly arrested and detained. The Fire police regularly searched Earthbowers' houses. All public gatherings were violently disbanded. The Ding leader cancelled the "Cloudreading" festival, held every year on 30 June, for security reasons. All AANG leaders were listed as terrorists and a large number of AANG loyalists were detained without due process until 2019.
 6. The Fire Republic's increased efforts to exert control over Black Mound resulted in more frequent and violent clashes between the Fire police and AANG loyalists. In early September 2018, the Fire Republic's army was ordered to assist the Fire police forces in its efforts to quell the resistance of the AANG. After a few major armed clashes, the conflict stabilized and, on 17 September, a cease-fire between the AANG and the Fire Republic was reached. During the clashes, 1,450 Earthbowers lost their lives. The Fire Republic reported no casualties. Fifty-four AANG loyalists fled to the neighboring country of Water Kingdom.



7. On 21 September 2018, Lord Blaze signed an anti-extremism executive order requesting the government to monitor the situation and re-establish peace in Black Mound. According to the order:
 - a. The Bureau of National Security (BNS) under the leadership of Ursa Azila, Minister of Interior, was tasked with monitoring the situation and using the necessary means to end the potential threats to national security; and
 - b. The Ministry of Interior will report directly to the president, every six months, in the form of a report.
 8. According to a press release of the Ministry of Interior dated 23 September 2018, Ursa Azila oversaw the opening of 40 education centers throughout the country, where terrorists arrested by BNS agents were automatically sent for a period of fifteen months. No more information on the centers was made public.
 9. On 27 September 2018, Ursa Azila visited one of the centers. Later that day, during a press interview, she proudly described the success of the centers in offering a second chance to terrorists. She explained that the Ministry of Interior put in place free educational programs during which Earthbowers are taught mechanics and other trades, thus ensuring their successful and efficient reintegration into society. She mentioned that the individuals joined the program voluntarily and vowed to amend their criminal past and become good citizens; and in exchange, their detention was reduced by two months. She stressed that the individuals she met during her visit were grateful for her help to the Earthbower community. She also explained that those who declined to participate in the program were held like normal prisoners until the end of their sentence. Released detainees systematically declined to comment on or even speak about their experience.
- Center Rig**
10. Between 12 and 14 December 2018, BNS agents arrested and detained 40,000 Earthbower men and women for commemorating the 1,450 Earthbowers killed during Summer 2018 protests.
 11. Journalists for Human Rights (JHR), an international NGO, managed to interview two family members of detainees and one of AANG's leaders, Haru Rock, who escaped detention and reached the Water Kingdom in January 2019. He explained that he and approximately 30,000 men and women were sent to Center Rig in mid-December 2018. Center Rig was one of the biggest detention centers in Fire Republic. Haru Rock explained Center Rig was surrounded by water and new detainees were brought by ferry. Haru Rock managed to escape in early January 2019, when AANG fighters infiltrated the center and took control a ferry to help AANG leaders to escape. He is the only survivor as all others were killed during the escape.
 12. Haru Rock described Center Rig as a labor camp that housed about 100,000 prisoners, most who had been there since the camp opened in September 2018. He further mentioned that the detainees are forced to work 12 hours a day, every day of the week, with a 30 min lunch break only. The detainees built and repaired cars for an automobile company. Haru Rock was unable to identify the company, as there were no visible signs or branding at the workplace. If detainees were too weak or refused to work, they were forced to stand outside in the snow all day in front of a picture of Lord Blaze, without food and water, while BNS officers watched.
 13. Haru Rock said that authorities told the detainees that their detention would be only as long as necessary. Entire families were detained. The Earthbowers were prohibited from exercising their Earthbowist rituals and speaking their own language. According to the family members of detained Earthbowers, detainees were neither informed of the reason for their detention, nor its length. They said that the detainees' passports were confiscated on arrival at the detention centers and not returned on their release.



14. Aerial footage, obtained by JHR from an anonymous source, shows that Center Rig is a heavily guarded island fortress, surrounded by security walls with surveillance towers. One of the images shows a truck within the facility with the logo of Snowflake Automobile, one of the biggest automobile companies in the Water Kingdom. The footage shows unidentified prisoners loading equipment into a truck.
15. After being contacted by JHR for an interview on 5 February 2019, Joe Snowflake, owner of Snowflake Automobile, declined due to time constraints. In a written letter, he stated that Snowflake Automobile had no links with Center Rig and that his company, like the Water Kingdom, condemns Fire Republic's treatment of the Earthbowers. He explained that his company conducted a human rights-based assessment required by Water Kingdom's strict human rights legislation and found no links between the Fire Republic detention centers and Snowflake Automobile's supply chain. He also mentioned that its delivery schedule did not mention Center Rig and concluded that the picture must be a fake or that the truck in the picture was counterfeit.
16. At the end of March 2019, AANG managed to smuggle a cargo of assault rifles and ammunition into Black Mound. Violent confrontations between AANG and the BNS ensued and almost spread into the neighboring provinces.
17. In April 2019, Lord Blaze decided to put an end to the conflict and ordered the BNS to start peace negotiations with AANG. On 24 July 2019, Ursa Azila and Kata Ra, AANG's leader, signed a peace agreement ending the conflict. The peace agreement provided that Black Mound would remain semi-autonomous and that amnesties would be granted to anyone who took part in the hostilities in Black Mound, including AANG members and Fire Republic state officials or agents. Based on AANG's request, a Truth and Reconciliation Commission was created to ensure the establishment of the truth. It was tasked with publishing a report before the end of 2020.

- Amnesty Law**
18. On 25 July 2019, the Fire Republic's parliament adopted Law No.14 on National Reconciliation, which was later confirmed by the Constitutional Court.
 19. Article 1 established the scope of application of the law. It reads as follows:
Anyone who took part in the hostilities in Black Mound shall be granted amnesty for the period between June 2018 and the adoption of the present law. All ongoing investigations and prosecutions will be terminated, and any criminal sanctions will be revoked, provided that the conditions set out in article 3 are met.
 20. Article 3 contains a set of conditions for granting amnesties.
In order for any individual to receive an amnesty, the following conditions shall be met:
 - *Disarmament: AANG members shall surrender all their weapons at the closest police stations.*
 - *Public apology to the victims: the public apology shall be conducted during sessions organized by the BNS for that purpose.*
 - *Judicial control: the individual shall then appear before a judge who will assess whether the pre-conditions have been met and decide whether an amnesty shall be granted.**Individuals failing to comply with any of the requirements will be prosecuted before Fire Republic courts for the alleged crimes they have committed.*
 21. Following the signing of the peace agreement, all detention centers were closed and the detained Earthbowers including AANG members were released.
 22. The liberation of tens of thousands of Earthbowers created an international outrage. Several of the former detainees had managed to flee to the Water Kingdom and started telling their stories. Aside from Haru Rock, to date, no other former detainees of Center Rig could be interviewed.



23. Lord Blaze, who was originally seen as a hero for re-habilitating Earthbowers, was condemned as the mastermind behind the slave labor camps. To protect himself against any potential criminal prosecution, he decided to seek the amnesty protection provided under Law No.14. On 23 August 2019, Lord Blaze apologized to the victims for the atrocities committed by Ursa Azila and the BNS and explained that he wished he had known about the labor camps and had been able to react earlier. He explained that he only knew about the educational program, as reported by Ursa Azila. A judge confirmed his amnesty on 27 August 2019.

Proceeding at the ICC

24. On 21 November 2019, the Earth Nation referred the situation in Black Mound since June 2018 to the ICC. On 15 December 2019, the Prosecutor announced the opening of a preliminary examination into the situation concerning the Fire Republic for alleged crimes against humanity of enslavement (article 7(1)(c)) of at least 30,000 Earthbowers in Center Rig.

25. On 14 September 2020, the ICC Prosecutor requested Pre-Trial Chamber II (PTC II) to issue a summons to appear before the Court for Lord Blaze on the basis that there existed reasonable grounds to believe that he was responsible for crimes against humanity, referring, among others, to Exhibits 1 and 2. On 16 December 2020, PTC II issued its decision on the application submitted by the Prosecutor and summoned Lord Blaze to appear before the Court.

26. On 28 January 2021, the Defense Counsel of Lord Blaze filed an application:

- challenging the jurisdiction of the Court;
- requesting the PTC II to declare the case inadmissible, in light of the Law No.14 adopted by the parliament and the judgement confirming Lord Blaze's amnesty;
- arguing that the case was not serving the interests of justice as it would destabilize the peace process; and
- submitting that Lord Blaze cannot be criminally responsible within the meaning of article 28(b) of the Statute.

27. PTC II requested the Prosecutor and the Defense to submit written observations on the request presented no later than 18 March 2021. PTC II decided to hold a separate hearing on the question of admissibility and jurisdiction pursuant to Rule 58 (2) RPE ICC before proceeding to the confirmation stage.

28. As a result of the current challenge, the established agenda for the PTC's hearing is the following:

- Whether the case against Lord Blaze concerning crimes against humanity of enslavement falls within the jurisdiction of the Court pursuant to article 19 of the Statute?
- Whether the case against Lord Blaze concerning crimes against humanity of enslavement is admissible pursuant to article 17(1)(c) of the Statute, particularly whether the amnesty can be invoked before the Court?
- Whether the case against Lord Blaze concerning crimes against humanity of enslavement would serve the interests of justice? and
- Whether there are reasonable grounds to believe that Lord Blaze is criminally responsible for crimes against humanity of enslavement under article 28(b) of the Rome Statute?



Exhibit 1 Intercept: BLAZE Lord and AZILA Ursa

A telephone conversation between Lord Blaze and Ursa Azila on 14 December 2018 was intercepted by the Water Kingdom intelligence. They provided an excerpt of the transcript to the OTP.

- 1 **Azila Ursa:** Good Morning, Mr. President.
- 2 **Blaze Lord:** Good Morning, Ursa. Is everything under control?
- 3 **Azila Ursa:** Yes, everything is under control. We sent the terrorists to Center Rig.
- 4 **Blaze Lord:** All of them? How many?
- 5 **Azila Ursa:** Yes, all of them – 40,000.
- 6 **Blaze Lord:** It is too much, how will the BNS handle them? We already have
- 7 70,000 people there. You are opening yourself to a mutiny. Send 10,000
- 8 to Center (*Lotus/Lotis?*). I just ordered the release of some of the
- 9 detainees there.
- 10 **Azila Ursa:** Yes, sir. I will send you my first report about the center before the end of
- 11 the year. The detainees are working on – *ineligible sound*.
- 12 **Blaze Lord:** Ursa? Are you still there?
- 13 **Azila Ursa:** Yes, sorry the connection is not very good here – *ineligible sound* –
- 14 We might need more men and supply.
- 15 **Blaze Lord:** I will see what I can do.
- 16 **Azila Ursa:** Thank you, Mr. President.

Exhibit 2 Order No. 1265-12/MB dated 2 January 2019

Fire Republic

Office of the President

Strictly confidential No. 1265-12/MB

2 January 2019

Following request No. 16789-78/MB from the Ministry of Interior dated 20 December 2018,

Authorization to send the requested materials to Center Rig:

STEEL

RUBBER

GLASS

ENGINE

Head of the Office of the President

Feu Inferno

/Signed and stamped/

International Nuremberg Principles Academy

Bärenschanzstrasse 72, 90429 Nuremberg, Germany

Tel +49 (0) 911 14 89 77-0

info@nurembergacademy.org

www.nurembergacademy.org

Friedrich-Alexander University, Erlangen-Nuremberg

International Criminal Law Research Unit

Schillerstraße 1, 91054 Erlangen, Germany

Tel +49 (0)9131 85-22250, Fax +49 (0)9131 85-26948

str1@fau.de, www.iclu.rw.fau.de
