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International Moot Court Competition

Problem 2010-2011

The Blue Bayou Case

Atania v. Randora

1. Carlos Bluebeard ("Bluebeard"), a citizen of the state of Millennium, is the leader of a religious group, established in the early 1990s, which calls itself "The Werewolves." In 2000, Bluebeard's faithful totaled about one hundred individuals from at least ten different countries. This number, however, increased daily, and, by October 2009, the religious community had approximately 5,000 followers. The group resides in the state of Atania, a territory open to all fugitives from justice from any country throughout the world.
2. The central tenet of the Werewolves' faith is their belief in the supreme sanctity of the Moon.

Every weekend, the Werewolves cross a seven-mile bridge connecting Atania and the neighboring democratic country of Randora to perform their most sacred ritual: howling at the Moon every Saturday night at midnight from the Blue Bayou Cliffs of Randora. The Werewolves consider the Blue Bayou Cliffs, the surrounding Blue Bayou Bay, and the Blue Bayou Beaches to be the most hallowed places on Earth.

3. The Blue Bayou Bay and Blue Bayou Cliffs are known worldwide for the deep shades of blue that are reflected from the Bay's water onto the cliffs, making the entire capital city and coastal area turn the color of indigo at sunrise and sunset. The largest industry in Randora is the indigo industry, from which high-end fashion designers are known to purchase the world-renowned "Blue Gold."

4. The Randoran government's major problem is the corruption of both the local government entities, such as the Blue Bayou City Commission, and the federal government known in the media as the "Blue Bayou Bureaucracy." This high level of corruption at both the federal and local government levels is largely due to competing corporations involved in the indigo industry vying for business from the high-end fashion designers. Randora is not only a rich country measured by its GDP and GNP, but it also features extremely wealthy government officials essentially funded by the titans of the indigo industry. Indigo industry leaders reportedly bribe both Blue Bayou City Commission leaders and Blue Bayou Bureaucracy heads in exchange for favorable treatment. Most recently, the Blue Bayou City Commission and Blue Bayou Bureaucracy have been accused of accepting bribes to keep the country's minimum wage from rising, a legislative strategy that allowed the indigo industry's leaders to capitalize on cheap labor and vague labor standards and national laws.

5. Blue Bayou is also the capital city of Randora where most of the population of the state is located. While some of the world's richest people live on the coast of the Blue Bayou Bay, most of the impoverished villagers, who produce the indigo, live in the surrounding hillside. The Werewolves' howling on Saturday nights caused the owners of the mansions surrounding the Blue Bayou Bay to complain to the Blue Bayou City Commission. These elite residents gave an ultimatum to the City Commission and requested that either the howling stop or the residents leave the area and take their residence and wealth elsewhere. The indigo industry leaders also threatened to close down plants in the area and to no longer provide financial incentives to the Blue Bayou City Commission if the City did not ban the Werewolves. In response, the City Commission prohibited access to the Blue Bayou Cliffs from the hours of 10 p.m. to 2 a.m. on Saturday nights. In addition, the government of Randora denied the Werewolves access to the country and to the seven-mile bridge connecting Randora to Atania. The government of Randora also requested that Atania take all measures to prevent the Werewolves from sneaking across the border.

6. Bluebeard and the Werewolves believe their core religious beliefs have been shattered, and they have no confidence in any redress through the Randora court system, due to the pervasive control of the government by the indigo industry. As a consequence, the Werewolves established a website advocating the independence of the Blue Bayou Cliffs, Blue Bayou Bay, and Blue Bayou Beaches and the formation of the "State of Bayou."

7. Bluebeard also created an underground effort to collect weapons in an attempt to regain control over the Werewolves' most sacred areas. In order to convince the Blue Bayou citizens to leave their homes, the Werewolves threatened the residents with bombing their homes, kidnapping their children and stealing their women. The Werewolves also destroyed a great number of the plants from which the indigo was extracted.

8. On 30 October 2009, Fred Karamazov, a member of the Werewolves and follower of Bluebeard, detonated a bomb affixed to his person during a Blue Bayou City Commission meeting. Five commissioners and ten members of the audience were killed during this first explosion. On the same day, two more members of the Werewolves also detonated bombs in two other cities in Randora, Basilicani and Barbiranti Bay. On 31 October 2009, the casualty count from the violence caused by the Werewolves totaled 102 people, 30 of which were children who were returning home on a school bus.

9. Due to the violence, Randora declared war against Bluebeard and the Werewolves. According to Article 4 of the 1966 International Covenant on Civil and Political Rights (ICCPR), Randora declared a state of emergency, citing the threat to the life of the nation posed by the Werewolf terrorists. Randora notified the United Nations of this declaration.

10. Randoran President Regina Indigiozi ("President Indigiozi") provided copies of raw intelligence data, which remains highly classified under Randoran law, to the Secretary-General of the United Nations. Her stated objective was to initiate the presence of an international force in Atania until order was restored, the protection of human rights was guaranteed and the situation between Atania, Randora and the Werewolves ceased to pose a threat to international peace and security. President Indigiozi remarked to the United Nations that:

In this day and age, leaders must sometimes act in ways that may not have been acceptable a generation ago. Old notions of sovereignty remain important to the international regime, but they are dynamic and not of utmost importance to us at this time. The most important value is shielding our citizens from terrorist attacks. I hereby declare to the world that if the United Nations Security Council will not authorize the international intervention that we are proposing, Randora will protect the good, valiant, and innocent people living in the Blue Bayou Cliffs, Atania and my own Randoran citizens. I call for help from the international community, but I will do what is necessary to protect the areas affected by the Werewolves until the international community wakes up to the reality of the tragedy.

11. Randora deployed military troops at its border with Atania and established continuous surveillance of the airspace above the border, including flying several miles inside Atania's airspace. The Randoran military arrested one hundred individuals trying to enter Randora from Atania and arrested some individuals inside Atania. The detainees were then sent to Bayou Cave Island, an isolated island 100 miles off the coast of Randora. Once detained, fifty of the one hundred detainees admitted to being members of the Werewolves; their identities were not released to the public. Randora issued international arrest warrants for Bluebeard and fifteen named associates.

12. Days after President Indigiozi's remarks to the United Nations, the new Prime Minister of Atania, Karl Hughes, sent this letter to his Randoran counterpart:

The Randoran armed invasion of my country is without justification and without recent precedent among civilized nations. It violates the sovereignty of Atania and threatens the entire international legal order. It is inconsistent with every principle that keeps the international community from not falling apart and descending into complete anarchy. It is also an act of war. We never expected such treatment. We invite the nations of the world to join in what we fully hope will be universal condemnation of this assault on our native soil.

13. The Werewolves and Bluebeard are thought to be hiding within the mountainous terrain of Atania. From 2001 to 2005, the Atanian Government had supported the cultural activities of the Werewolves with generous grants of \$100,000 per year. Up to the present day, it has never investigated the group, and it has allowed them to roam freely within the country.

14. One of the fifteen associates sought by the international arrest warrant, George Coleman, an Atanian citizen, was captured during a shootout as he was trying to buy food in a small Randoran town.

15. Millennium arrested Nursultan Borat, another named associate, on the basis of the outstanding Randoran arrest warrant. Immediately upon his arrest, Borat proclaimed that he was a citizen of Zarakstan, but admitted to have lived in Randora for the last five years while designing the Werewolves' website. Since Millennium had no interest in Borat, it surrendered Borat to Randora pursuant to the warrant.

16. Following the arrests, both Coleman and Borat were interrogated by Randoran officials to determine the Werewolves' present and future plans. Borat was unwilling to cooperate during the preliminary interrogation sessions, and therefore, Randoran officials felt they had no choice other than to use enhanced interrogation techniques such as waterboarding to compel Borat to speak. In addition, Coleman did not cooperate, and as a consequence, the Randoran officials subjected both Coleman and Borat to continuous light in a barren cell and the sound of steadily dripping water for four days. Despite Coleman and Borat's repeated requests to speak to representatives of their respective governments, the Randoran interrogators refused to allow any communications until the suspects confessed to committing terrorist attacks against the Randoran people. Half a year after their arrest, the detainees were charged with materially supporting terrorism and partaking in terrorist acts.

17. Atania demanded that Atanian officials and delegates from the International Committee of the Red Cross ("Red Cross") be allowed access to the detainees. The Red Cross was to ensure that detainees were properly treated and that the conditions of their detention were in compliance with international law, given Randora's continuous violations of sovereignty, unlawful arrests on Atanian territory and persistent human rights violations against Atanian citizens. Randora refused and declared that its actions were justified by the derogation of its obligations under Article 4 of the ICCPR.

18. Within a month of being detained, the fifty detainees on Bayou Cave Island, who did not initially admit to belonging to the Werewolves, banded together and began howling at the Moon as part of the Werewolves' rituals. The detained Werewolves continued to howl at the Moon at an increasing decibel level. Coleman was particularly defiant, openly inciting the other detainees to resist their captors and rise up against them. In order to gain control of the situation and set an example for the other detainees, Coleman was put in solitary confinement and deprived of food and water for three weeks. As a result, he suffered from severe dehydration, and although he was eventually given medical attention, his condition had worsened to a point of near death.

19. After this development, the detainment of these individuals began to make worldwide news and the Blue Bayou Bureaucracy ordered the Blue Bayou City Commission to close the detention review proceedings of the one hundred individuals and withhold the release of the names of the detainees to the Atanian government and public. Although physically closed to the public, the proceedings were streamed in real time over the internet through a Randoran government website. The proceedings were conducted by five Randoran judges who were members of the Blue Bayou Commission. Three of the judges had majority shares in the top three indigo companies headquartered in Randora.

20. In addition to the above-mentioned charges, Randora also charged Coleman and Borat with conspiracy to commit terrorism and brought them to adjudication before the Randoran military commission, an institution created specifically for the Werewolves. In response, Atania reacted by requesting immediate removal of Randoran air patrol from its airspace and the immediate release of all detainees held in Randora. Randora rejected such a request and claimed its actions were necessary for self-defense.

21. Atania, Millennium, Randora and Zarakstan are members of the United Nations and have ratified, without reservation, the 1966 International Covenant on Civil and Political Rights and the 1984 United Nations Convention against Torture. In 1990, Atania had subjected itself for all future disputes with other nations to the jurisdiction of the International Court of Justice (ICJ), excluding, however, disputes over actions essential for its self-defense. In 2003, Randora had accepted the jurisdiction of the ICJ without any limitation.

22. On 18 January 2010, Atania initiated a claim against Randora before the International Court of Justice, claiming violation of its sovereignty and territorial integrity by Randora's illegal use of military forces and the invasion of its territory and airspace, as well as a plethora of human rights treaty violations and violations of customary international humanitarian law. Randora has continuously asserted that all its actions are justified by the necessities of self-defense, and thus the ICJ lacked jurisdiction and the allegations by Atania lacked merit. It also accused Atania of violation of its duties under international law by harboring and supporting terrorists on its territory. It agreed with Atania, though, on stipulating the facts as stated in this compromise.

23. Atania, the Applicant, asks the Court to adjudge and declare that:

- (1) The International Court of Justice has jurisdiction to adjudicate this dispute.
- (2) The case is admissible.
- (3) Randora's use of military forces in invading Atania's territory and airspace violates Atania's sovereignty.

(4) The treatment of the detainees, including Coleman and Borat, violated various human rights standards under treaty and customary international law, and it was not justified by a lawful emergency regime.

(5) Under international law, Atania is not responsible for the actions of the Werewolves.

24. Randora, the Respondent, asks the Court to adjudge and declare that:

(1) The International Court of Justice does not have jurisdiction to adjudicate this dispute.

(2) The case is inadmissible.

(3) In any event, Randora's use of military forces to invade Atania's territory and airspace is justified under international law.

(4) The treatment of the detainees including Coleman and Borat was legal under international law or at least justified to address an internal emergency.

(5) Atania violated its duties under international law by harboring and supporting the Werewolves and allowing them to attack Randora from Atania's territory.