

**ASIA-PACIFIC
MOOT
COURT**



**NATIONAL
ROUNDS
2020**

ICRC

MOOT PROBLEM



SITUATION IN THE KINGDOM OF RAVIS

IN THE CASE OF

THE PROSECUTOR

v. LIET KYNES

BEFORE THE INTERNATIONAL CRIMINAL COURT AT THE HAGUE

Contents

Instructions	1
Indicative Authorities and Research Material	2
Statement of Agreed Facts	3
Charges	9
Annex I: Regional Map	10
Annex II: List of State parties to Treaties	11

Instructions

1. *Proceedings*: The hearing takes place in the jurisdiction of the International Criminal Court ('ICC') at the "confirmation of charges" stage pursuant to Article 61 of the *1998 Rome Statute of the ICC* ('Rome Statute'). At this stage, the Prosecutor must "support each charge with sufficient evidence to establish substantial grounds to believe that the person committed the crime charged." The Accused may "object to the charges" and "challenge the evidence presented by the Prosecutor".
2. *Facts and evidence*: The case is entirely fictional. The Statement of Agreed Facts includes all the facts supported by evidence that have been transmitted to the Defence, as well as facts and evidence presented by the Defence. Teams should confine themselves to the facts supplied. Neither the Prosecutor nor the Defence may introduce new evidence or facts at the hearing (Article 61(6)(c) of the Rome Statute is not applicable). Teams may nonetheless draw reasonable inferences from the facts. They may also question the credibility or weight of the evidence.
3. *Procedure*: The problem is not intended to raise questions of procedure other than the rights of the accused pursuant to Articles 66 and 67 of the Rome Statute. Any other procedural questions should be ignored.
4. *Jurisdiction and admissibility*: Counsel may, if relevant, address issues of conflict classification. Any other issues of jurisdiction and admissibility should be ignored.
5. *Applicable law*: In accordance with Article 21 of the Rome Statute:
 1. *The Court shall apply*:
 - (a) *In the first place, this Statute, Elements of Crimes and its Rules of Procedure and Evidence;*
 - (b) *In the second place, where appropriate, applicable treaties and the principles and rules of international law, including the established principles of the international law of armed conflict;*
 - (c) *Failing that, general principles of law derived by the Court from national laws of legal systems of the world including, as appropriate, the national laws of States that would normally exercise jurisdiction over the crime, provided that those principles are not inconsistent with this Statute and with international law and internationally recognised norms and standards.*
 2. *The Court may apply principles and rules of law as interpreted in its previous decisions.*
6. Teams are encouraged to look at the case law of international and national courts. If teams rely on decisions of national courts, these should be leading decisions and teams should expect to be asked for copies of the head note and the portion of the transcript or judgment referred to in their argument.
7. *Participation to treaties*: at all material times, the treaties listed at Annex II were in force for the Kingdom of Ravis and the Sultanate of Caladan.

Indicative Authorities and Research Material

International Criminal Court

- a) Rome Statute of the International Criminal Court (1998): [http://legal.un.org/icc/statute/english/rome_statute\(e\).pdf](http://legal.un.org/icc/statute/english/rome_statute(e).pdf)
- b) Elements of Crimes under the Rome Statute: <https://www.icc-cpi.int/nr/rdonlyres/336923d8-a6ad-40ec-ad7b-45bf9de73d56/0/elementsofcrimeseng.pdf>

Basic IHL Documents

- a) IHL Treaties: <https://ihl-databases.icrc.org/ihl>
- b) Customary IHL: <https://ihl-databases.icrc.org/customary-ihl/>
- c) ICRC Commentaries to the Geneva Conventions and its Additional Protocols: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp>

Cases

- a) International Criminal Tribunal for the Former Yugoslavia: <http://www.icty.org/en/cases/judgement-list>
- b) International Criminal Tribunal for Rwanda cases: <http://unictr.unmict.org/en/cases>
- c) International Criminal Court: <https://www.icc-cpi.int/cases>
- d) International Court of Justice: <https://www.icj-cij.org/en/decisions>

Statement of Agreed Facts

1. The Kingdom of Ravis has an area of 703,763 km² and a population of approximately 43 million. Roughly one third of the Raveen population lives on the coastline, with 10 million inhabitants concentrated in the capital of Arravis. The rest of the population is composed mainly of the traditionally nomadic groups which are difficult to count in the census and occupy the inland territory. These Freman tribes have historically specialised in hunting, training the majestic indigenous Raveen Eagle (the largest species in the world) to hunt flocks of migratory goats and other small mammals. Although Ravis has a harsh climate, it is home to many unique species of flora and fauna which, like the Freman, rely on natural aquifers that provide oases amongst the arid Raveen hills and desert dunes.
2. Large reserves of natural mineral resources were discovered in the Raveen interior several decades ago and mining now forms 35% of the country's Gross Domestic Product. Mining for cobalt, a mineral which is used in the manufacture of many new technologies, including mobile phones and lithium batteries, forms the majority of these mining operations. Over the last 30 years, permanent settlements of Freman – generally those displaced by the industry - have begun to form around the poorly regulated, open-cut mining operations where they are employed, often excavating cobalt by hand.
3. The modern-day capital of Arravis is a port city, seat of His Excellency Shaddam II and home to many business people from the neighbouring Sultanate of Caladan, who send raw Raveen materials for refinement and global export to Caladan and several other industrialised States. Ravis shares the majority of its land borders with its wealthy neighbour Caladan, and the rest with the Republic of Tleilax, which cultivates a smaller, competing cobalt mining and refining industry. (See Annex I: Regional Map).
4. Since the early 1990s, increasingly harsh weather conditions and more frequent and severe drought conditions have displaced Freman tribes from their traditional lands in the harsher interior and created increasing tensions over the destruction of remaining grazing and hunting grounds for mining operations. The True Freman movement was a political movement formed from a group of loosely aligned tribes and displaced Freman, who opposed the mining operations and sought an alternative to the conditions in the mining communities. With the assistance of NGOs, the True Freman lobbied domestically and internationally for World Heritage listing of the unique Raveen aquifers and a moratorium expansion of mining operations - without success. The 1995 “Silent Spring Declaration” was a ten-point plan for the protection of the Raveen wilderness and the Freman way of life, presented to His Excellency Shaddam II by True Freman leaders.
5. In 2009, a team of researchers led by Professor Corrino from Secundus University found that the levels of cobalt and chemical toxins in the urine and blood of Freman living in close proximity to the cobalt mines was many times the levels of people living in Arravis. The researchers claimed that the trace minerals were responsible for the sharp rise in birth defects amongst the Freman population and the apparent rise in chronic health conditions and cancers. Levels of biodiversity, plant growth and numbers of indigenous goats sharply

declined around aquifers polluted by industrial waste from the mines. The researchers also observed a break down in traditional community structures and a rise in criminality among young men and unaccompanied children, who were the main demographic of shanty towns known as “*salusa*” on the fringe of mining communities. Five of the world’s top technology companies, including Macrofirm and Pear (headquartered in Caladan), were named in a lawsuit filed by human rights lawyers on behalf of a dozen Freman children and their parents, alleging the use of child labour in cobalt mines on Ravis.

6. In 2010, some of the True Freman groups, frustrated with the lack of progress, formed a militia calling itself the True Freman Resistance Army (TFRA). The TFRA was composed of “Units” generally derived from tribal groups and commanded by a tribal leader. The TFRA lacked central leadership, with the Units coordinating but acting autonomously within their traditional tribal lands and with the shared aim of compelling Shaddam II to accept the Silent Spring Declaration. The Red Eagles was the largest TFRA Unit. It was composed of multiple armed bands and operated in the central western region of Ravis – an area particularly affected by mining. The leader of the Red Eagles, Liet Kynes, was formerly an outspoken and well-respected leader of the True Freman movement.
7. The TFRA soon began conducting raids on overland shipments of raw Raveen minerals. Caladan and Ravis imposed trade sanctions on the neighbouring Republic of Tleilax, for allegedly supplying the TFRA with small and light weapons. Firefights and mortar attacks on mine security posts and transportation refuelling stations resulted in significant casualties among security personnel, who were subsequently reinforced by the Raveen Imperial Forces (RIF). The TFRA claimed responsibility for an attack on a petrol tanker at a refuelling depot on 4 April 2011. The explosion killed more than 50 people (workers, security personnel and RIF) and destroyed mine vehicles. 40 truck drivers and personnel of the state-owned Shaddam Mining, and more than 300 Raveen police and RIF members providing security for mining cargo were killed or injured over the course of the rest of that year.
8. As well as attracting volunteers from the *salusa*, the TFRA was joined by a number of international “foreign fighters” from a collection of at least 25 countries. The foreign fighters often fought with the TFRA during the warmer months, returning to their home countries before the onset of the harsh Raveen winter. A whole band of the Red Eagles Unit was composed of the visiting fighters. Foreign fighters posted on various social media accounts, often under “eco_warrior” hashtags and typically posing in ripped jeans with Kalashnikovs or mortars next to TFRA members. In the posts, TFRA members wore traditional brown Freman robes for protection from the elements, with a sleeve or chest partly bared to display a large stylised Raveen Eagle tattoo. They often wore a traditional Freman hunting blade through their belts.
9. Although violence reduced dramatically each year during winter, remotely detonated improvised explosive devices used by the TFRA continued to be damaging during these lulls in clashes. The raids, combined with the frequent sand storms and very poor road conditions in the Raveen interior made cross-border overland transportation unfeasible and the majority of cobalt and other mineral shipments were diverted to Caladan and other processing hubs via the Arravis port from late 2013.

Operation Desert Tempest

10. Profits from the sale of Raveen cobalt suffered a significant downturn in 2014, with heavy disruption to raw supply by TFRA activities. Several mines in the interior were forced to close. On 1 May 2014, Shaddam II announced “Operation Desert Tempest” on national television, “an official ground and air operation by the Raveen Imperial Forces to put down these terrorists.” On 4 June 2014, His Excellency Shaddam II signed a contract with Caladan for the purchase of 30 light surveillance drones to support the Raveen Imperial Airforce. The drones were dispatched within months.
11. Owing to the frequency of sand storms and strong weather conditions in the Raveen interior, the drones’ fuel consumption was significant as they navigated Raveen airspace. Caladan tanker aircraft, crewed with pilots from the Caladan Airforce, provided air-to-air refuelling of the drones to keep them in almost constant circulation. The Raveen Imperial Airforce made significant progress supporting ground operations against the TFRA, as the drones helped to track the elusive armed bands in the Raveen wilderness and to better avoid the unpredictable, fast moving sand storms.
12. On 2 August 2014, Kynes sent a WhosApp picture message to the Red Eagles Unit WhosApp group, showing himself with his foot on a downed Ravis drone, with a Raveen Eagle perched on his forearm. The message was captioned “Go forth and blind the Earth destroyers’ eyes in the sky”. The message was forwarded and widely shared amongst different TFRA Units.
13. By January 2015, the TFRA had damaged or downed a third of the drone fleet. On 15 January 2015, foreign fighter *ecowarrior99* posted footage on Tweeter¹ of several Raveen Eagles pursuing drones which were approaching two Caladan tankers mid-air. Soon after the eagles made contact with the docking drones, explosions were seen on the fuselage of the Caladan tankers and both planes were downed, killing all 14 crew members. The footage was tagged #RedEagles #naturefightsback.
14. The Sultan of Caladan responded by issuing a strong statement, condemning the “act of terrorism” on 15 January, and calling it “another brutal attack on civilians. This time, on citizens of a foreign country.”
15. Another post by foreign fighter *ecowarrior99* three days earlier had shown her next to TFRA Commander Kynes, standing over two dead men in Raveen Imperial Forces uniforms. She was wearing an armband depicting the classic black TFRA eagle – hers was additionally outlined in red matching the red outline on Kynes’s eagle tattoo. The post was captioned "Summer break among friends" and was tagged #justice #RedEagles #TFRA #bleedgreen #TrueFreman. Her profile picture shows her with a group of foreign fighters in the Raveen dunes drinking a toast with a popular Tleilaxan whiskey and tagged #cheers2justice #fight4good.

¹ Public access social media platform.

16. During Operation Desert Tempest, RIF infantry platoons were also sent into the interior to fight the TFRA. The platoons were required to operate remotely for up to a fortnight at a time. During sustained operations navigating in the rough Raveen terrain and engaging in combat, the troops became quickly fatigued. Shaddam II approved the use of “pharmacological fatigue countermeasures” to enhance the performance of his troops under these conditions.
17. So-called “go-pills” were issued to the medical officer assigned to each remote platoon. The newly developed go-pills were a trial drug which was highly effective at reducing fatigue, allowing soldiers to function at a high cognitive level without sleep for around 36 hours. Confirming trial results from the Raveen Pharmacological Association, cognitive function and reaction time was noticeably improved in non-fatigued personnel beyond normal abilities.
18. Medical officers were required to carry ID cards which identified them as RIF medical personnel. The Red Crystal emblem on a white background was sewn onto both upper arms of their uniforms.
19. Unfortunately, the go-pills had a tendency to cause an unpredictable anaphylactic reaction in around 5% of recipients within the first half hour of dosing. Some soldiers reacted to the go-pills without having had any adverse reaction to previous doses. RIF protocol therefore required the medical officer to dispense the go-pills to soldiers in the field and to clinically supervise them for adverse reactions, particularly within the first half-hour. They rapidly administered adrenaline and treatment for anaphylaxis as necessary, allowing affected soldiers to continue performing their duties in the majority of cases. The medical officers also maintained a log of adverse reactions and individual reports of performance for the drug trial. These logs were submitted to the chief medical officer of the RIF, who used them to refine the go-pill in collaboration with the Raveen Pharmacological Association.
20. On 11 November 2015, the whistle-blower website WikiDrips published leaked documents on the drug trials and copies of some RIF medical officer log books from a source within the Raveen Pharmacological Association.
21. Several True Freman leaders denounced on social media the use of “unnatural” substances to aid the oppression of the Freman and called on the TFRA to defend Ravis from this new chemical scourge. One True Freman leader, Chani Irulan, wrote that the strict Freman taboo on the use of any alcohol or mind-altering drugs extended to the use of “go-pills”; “all traditional Freman believe that imbibing such toxins is an insult to the Mother Earth. We forbid it on Freman land”. In a phone interview broadcast on Al-Jazeera on 17 November 2015, TFRA Commander Kynes expressed disgust that doctors and pharmacists were collaborating with the RIF on “an unnatural chemical weapon”. He warned that “you are no longer healers, repent and give up these unnatural practices or you will pay.” A link to Kynes’s interview was widely shared in the RedEaglesUnit and other TFRA WhosApp groups by other members of the groups.

22. On 4 January 2016, the TFRA claimed responsibility on social media for the killing of an RIF medical officer in the east of Ravis and posted a photo alleged to depict go-pills in a pool of blood. Over the next 6 months the TFRA killed 25 RIF medical officers attached to RIF patrols across the country. In five cases, the medical officer was the only fatality in the attack.
23. His Excellency Shaddam II and the Sultan of Caladan both issued statements condemning the deliberate targeting of protected medical personnel by the TFRA.

Arravis Accord

24. On 27 April 2017, several True Freman and TFRA leaders (including Liet Kynes) signed the Arravis Accord with Shaddam II. The Accord provided for “a total ceasefire” from the date of signing, with the undertaking to consider the designation of some of the aquifers in the interior of Ravis as World Heritage sites. Combat between the two sides dramatically decreased to occasional incidents around mining transport from this date onwards. His Excellency Shaddam II told the people of Ravis in a special broadcast that he welcomed the return peace and prosperity to the Kingdom of Ravis.
25. The aquifers supplying large mining operations and communities closer to the coast were excluded from consideration as World Heritage under the Arravis Accord. The permanent settlements of Freman that had been established around the cobalt mines were very isolated and generally lacked basic public facilities and services. Life was extremely difficult for the inhabitants, as they regularly faced food shortages and the work in the mines was strenuous and hazardous. These communities had traditionally been a fertile recruitment ground for the TRFA and continued to discreetly support the roaming Units with food and shelter after the Arravis Accord.
26. On 3 June 2017, the New York Times published an article by Professor Corrino highlighting the hazardous working conditions in the mines, and the widespread use of child labour. Her article noted that although children were often expected to do the same work as adult labourers, they were generally paid far less. As a result, there was a widespread practice of falsifying identification documents (which were extremely basic and easy to forge) in order to claim that a person was over 16 years of age and so should be entitled to a higher level of remuneration.
27. Professor Corrino's article cited workers who spoke of labouring for 12 hours a day with no protective clothing, with many experiencing significant health problems as a result. When asked about how he saw his future, one worker was quoted as saying: "I'm not going to waste my life here. I'm going to join the TFRA soon. My cousin signed up last year with his friend, they're small so apparently they just get to look after the eagles."
28. Reflecting on the mines and the conditions in the *salusa* in the concluding paragraphs of her article, Professor Corrino expressed concern that the only other option for many children was crime or the TFRA. She wrote that the TFRA were “liberating children from one terrible situation, to entice them into a more violent and precarious one: that of child soldiers”.

29. On 12 June 2018, a TFRA member published a video to his Faceblog² page called “training day” showing a group of uniformed TFRA members, armed with Kalashnikovs and traditional Freman hunting knives swinging in sheaths against their thighs, and bearing red outlined tattoos of eagles. The TFRA members were feeding Raveen Eagles and issuing various commands to which the eagles would respond by picking up large objects before dropping them on nearby marked targets, before returning to perch on a soldier’s arm. In the background was a group of boys who appeared to be young teenagers. The boys were not in TFRA uniform, but all wore red armbands bearing an image of a Raveen Eagle. Using Freman hunting knives drawn from sheathes on their belts which dangled to below the knee on some, the boys were busily chopping up the meat which was being fed to the eagles by the uniformed TFRA members. At the end of the video, the large birds were away taken away on perches held by two boys on each side. The video was taken next to an aquifer, with the sprawling shantytown of a *salusa* visible in the background.
30. The Faceblog video was picked up and shared by a number of human rights groups, who claimed it provided evidence of the use of child soldiers by the TFRA. That week, Kynes responded to the allegations with a Tweeter post: "The TFRA don't use child soldiers to fight their battles. I make all my commanders check everyone's documentation when they sign up." He announced he would conduct an internal inquiry where he would visit the various bands to check their records. He said that the relevant local commanders would be cautioned or punished where there were not records kept.

Arrest Warrant

31. On 2 December 2018, the Prosecutor of the International Criminal Court filed a warrant for the arrest of Mr Liet Kynes, in relation to war crimes committed during the Raveen conflict.
32. On 4 April 2019, Kynes visited the small Republic of Tleilax to undergo a minor medical procedure. Following his discharge from hospital, the Tleilax authorities arrested Kynes on 6 April and delivered him into the custody of the International Criminal Court. Ravis and Caladan announced the lifting of trade sanctions imposed on Tleilax.

² Social media platform with private and public personal pages and groups.

Charges

Mr Liet Kynes is charged with:

Count 1

With respect to the downing of an aircraft belonging to the Sultanate of Caladan by “foreign fighters” on 15 January 2015,

on the basis of individual criminal responsibility for ordering the commission of (Article 25(3)(b) of the Rome Statute):

- The war crime of intentionally directing attacks against individual civilians not taking part in hostilities under **Article 8(2)(e)(i)** of the Rome Statute;

Count 2

With respect to the attacks on medical personnel of the Raveen Imperial Forces,

on the basis of individual criminal responsibility for inducing or soliciting (Article 25(3)(b) of the Rome Statute):

- The war crime of intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law under **Article 8(2)(e)(ii)** of the Rome Statute;

Count 3

With respect to the recruitment or use of children by the Red Eagles between 3 June 2017 and 12 June 2018,

on the basis of command responsibility (Article 28(a) of the Rome Statute):

- The war crime of conscripting or enlisting children under the age of fifteen years into armed forces or groups using them to participate actively in hostilities under **Article 8(2)(e)(vii)** of the Rome Statute.

Annex I: Regional Map



Annex II: List of State parties to Treaties

Treaty	Kingdom of Ravis	Sultanate of Caladan
Geneva Convention (I) on Wounded and Sick in Armed Forces in the Field, 1949	✓	✓
Geneva Convention (II) on Wounded, Sick and Shipwrecked of Armed Forces at Sea, 1949	✓	✓
Geneva Convention (III) on Prisoners of War, 1949	✓	✓
Geneva Convention (IV) on Civilians, 1949	✓	✓
Biological Weapons Convention, 1972	✓	✗
Additional Protocol (I) to the Geneva Conventions, 1977	✓	✓
Additional Protocol (II) to the Geneva Conventions, 1977	✓	✗
Chemical Weapons Convention, 1993	✓	✓
Additional Protocol (III) to the Geneva Conventions, 2005	✗	✗
Statute of the International Criminal Court, 1998	✓	✓
Amendment to the Rome Statute of the International Criminal Court on the Crime of Aggression, articles 8bis, 15bis and 15ter, 11 June 2010	✓	✗

Montreux Document on Private Military and Security Companies, 2011	✓	✓
Arms Trade Treaty, 2013	✓	✗