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CABLES "AMINTLAW"

THE 1982 PHILIP C. JESSUP INTERNATIONAL LAW MOOT COURT COMPETITION

KINGDOM OF SEPTENTRION

v.

PEOPLE'S DEMOCRATIC REPUBLIC OF MERIDION

THE PROBLEM

The Governments of the Kingdom of Septentrion and the People's Democratic Republic of Meridion have submitted the following matter to the International Court of Justice. The Applicant is the Kingdom of Septentrion. The Respondent is the People's Democratic Republic of Meridion. The parties have stipulated that the information in the Statement of Facts is true.

This is a hypothetical problem drafted exclusively for use in the 1982 Jessup Competition. The Statement of Facts is not necessarily intended to portray actual situations.

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KINGDOM OF SEPTENTRION

v.

PEOPLE'S DEMOCRATIC REPUBLIC OF MERIDION

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STATEMENT OF FACTS

(Prepared exclusively for use in the
1982 Philip C. Jessup International Law Moot Court Competition)

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In 1902, the Benefactors International Society, Ltd. ("BIS"), a charitable organization incorporated under the laws of the Kingdom of Septentrion, built a hospital in a remote section of New Hibernia, then a colony of Septentrion. Over the course of the next sixty years, BIS continued to construct and to operate schools, hospitals, clinics, and rural community centers throughout New Hibernia. The articles of incorporation of BIS, drafted in 1890, state that one of its goals is "to bring the gift of civilization to the world's backward people." The employees and volunteers working at the various BIS New Hibernia projects (except for local laborers, assistants, and servants) have invariably been citizens of Septentrion. Over the years, and especially since the Second World War, there were occasional allegations of illegal political activity by Septentrionese BIS personnel.

On January 1, 1964, New Hibernia peacefully became an independent nation, taking the name of the Republic of Meridion. The new Republic retained friendly relations with its former colonial power, and joined the Septentrionese Confederation of States. Meridion expressly reaffirmed all treaty commitments made on its behalf by

Septentrion, and was granted membership in the United Nations. (Septentrion has been a member since 1945.) There was no official change in the relationship of BIS to the new government, except that all Septentrionese BIS employees and volunteers in Meridion were issued special residence permits, which read in part as follows: "The holder of this permit is accorded the right of residence for a period of _____ years on the express understanding that he or she will engage in no actions of a political nature. Violators of this provision will, upon conviction, be punished by imprisonment followed by expulsion from Meridion."

The Government of Meridion, in due course, became a party to the following treaties: the Geneva Conventions of 1949, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Protocol Relating to the Status of Refugees. Septentrion is a party to the Geneva Conventions and the Refugee Protocol, but has only signed and has not ratified the other two agreements.

Throughout the twelve years following independence, the Republic of Meridion was troubled by a series of uprisings, mostly in remote parts of the country, led by the Meridionese Liberation Army (MLA). In 1970, by a presidential proclamation which has never been rescinded, a state of emergency was declared and civil liberties in the entire nation were suspended.

By 1976, the central government had virtually lost control of the Southeast Province to MLA rebels. MLA forces issued orders concerning village administration in the Province, collected taxes, conscripted people to serve with its military forces, and caused its flag and pictures of its leaders to be displayed in all public areas under its control.

On January 15, 1976, the leader of the Southeast Province MLA issued Decree No. 181, concerning the two BIS hospitals and four BIS schools in the Province. The Decree ordered:

- (1) that BIS personnel wear the insignia of the revolutionary forces, and that the MLA flag be displayed outside BIS premises;
- (2) that MLA militia have priority access to BIS medical facilities over all other persons;
- (3) that BIS cease publication of newsletters at its rural community centers, which have been "slanderous to the cause of the Meridionese revolution"; and
- (4) that BIS staff refrain from "speaking in the Septentrionese language, encouraging the conversion of Meridionese nationals to the Septentrionese religion, and generally performing any act inconsistent with the liberation of the great Meridionese people."

At a meeting of top BIS management in Septentrion, it was resolved that BIS would allow the MLA flag to be flown, that BIS personnel would be "encouraged" to speak Meridionese and to avoid religious proselytizing, but that BIS would explicitly disregard the other sections of Decree No. 181.

In September 1976, reports began to reach Septentrion of a massacre at a BIS hospital by persons wearing MLA uniforms. According to these reports, thirty-five patients, alleged to be soldiers

of the Republic, were killed, and twenty BIS employees and volunteers seized and forcibly detained. Those taken were allegedly held incommunicado by MLA forces.

The Septentrionese Ambassador delivered to the Meridionese Foreign Office the following note: "His Majesty's Government most strongly deplures the massacre at the BIS hospital, and the capture and detention of Septentrionese citizens in Meridion, and demands that those responsible for this illegal act be apprehended and punished immediately." To which the Foreign Office responded: "The Republic of Meridion declares that those alleged to have carried out the massacre or to have detained Septentrionese citizens in the Southeast Province are outlaws who do not act by authority of the Republican Government."

Early in 1977, rebel forces began to advance on the capital of Meridion. Some 10,000 persons fled the capital on commercial airlines bound for Septentrion. Another 30,000 boarded makeshift boats and headed to the open seas in the direction of Septentrion.

As the MLA moved toward the capital, they captured all of the BIS facilities. Many deaths and injuries were reported. At Polis, in Central Province, an MLA division overran a BIS school and took its director prisoner. After a severe beating by uniformed militia, the director admitted that the school had been used as a hiding place for local officials of the central government. The director and three of his staff, all of whom were Septentrionese nationals, were convicted by a "People's Court" of violating Decree No. 181. They were not permitted to testify in their own behalf, or to be represented by counsel. Three were summarily shot by an MLA firing squad; the fourth had died in custody of injuries resulting from electric shock.

By June 18, 1977, 5,000 more persons had set sail from Meridion in small vessels bound for Septentrion. At midnight on June 18, the capital fell to rebel forces, and the MLA flag was raised over the presidential palace. The next day, the new Government issued Revolutionary Order No. 1, which read as follows:

Glory to the Meridionese Revolution!
The people are victorious, the oppressors
defeated!
In the name of the Revolution, it is
hereby ordered:

(1) The name of our beloved nation is
the People's Democratic Republic of
Meridion.

(2) We hereby renounce all ties to the
Septentrionese oppressor, and resign
from the Confederation of States.

(3) The People's Democratic Republic
congratulates and thanks the courageous
Meridionese Liberation Army for carrying
our Revolution to victory.

(4) The Revolutionary Government shall
now begin to investigate and to bring
to justice the perpetrators of all
antirevolutionary acts committed by
foreigners and their lackeys, and
especially by those posing as benefactors
of our people.

(5) A state of emergency is hereby declared,
and the People's Democratic Republic shall
be under a regime of martial law until every
enemy of the Revolution is eliminated.

(6) All counter-revolutionary elements
fleeing from the shores of our nation are
hereby declared enemies of the people and
may be stripped of citizenship in our Democratic
Republic.

By June 30, 1977, 27,000 of those who had fled Meridion by
boat in early 1977 reached Septentrion; 3,000 had been lost at

sea. These, as well as the 10,000 who had flown out of the capital, were placed in "temporary resettlement camps." Those who were nationals of countries other than Meridion were allowed to proceed directly out of the camps to their nations. While food and medical facilities were adequate, the camp "inmates" lived in cramped quarters, the men housed separate from the women and children. They were not afforded access to legal services. Pursuant to Septentrion's immigration law, only those with special skills or close relatives in Septentrion were allowed to leave the camps. Under that law, no administrative or judicial remedies are available to those in continuing detention in "temporary resettlement camps."

On June 30, the Septentrionese Coastal Service intercepted the vessels of the 5,000 persons still on the high seas. Those vessels deemed strong enough to endure the return voyage were escorted back into Meridionese waters. The 1,000 persons in boats deemed incapable of making the trip were taken on board by the Coastal Service and delivered to the camps in Septentrion.

Representatives chosen by the Meridionese people in the camps sought to meet with the Septentrionese Interior Ministry to demand that all of them be accorded refugee status and admitted to permanent residence in Septentrion. Their statement asserted that the camp inmates fell into three categories:

- (1) those against whom orders had been placed demanding that they appear at police stations in Meridion to give account of whether or not they had engaged in counter-revolutionary acts;

- (2) those against whom no such orders had been placed but against whom, once their flight had been discovered, notices of revocation of Meridionese citizenship had been issued; and
- (3) those not in the above two categories but who, as a result of the deterioration of their economic situation, felt compelled to leave the country.

The Interior Ministry refused to enter into discussions with any of these persons, calling them "troublemakers."

On September 30, 1977, the newly established People's Revolutionary Court convicted all of the senior Septentrionese BIS officials in Meridion of all charges against them, including:

- (1) violations of Decree No. 181;
- (2) cultural genocide of the Meridionese people;
- (3) publication of seditious material; and
- (4) violations of the terms of their residence permits.

At the trial, the defendants selected counsel, but were not permitted to retain the attorneys selected, who were held by the judge to be "security risks." Substitute counsel were appointed by the judge. The defendants were allowed to present evidence and to cross-examine oral witnesses, but certain witnesses' testimony was presented only in writing in order to "protect the identities of confidential sources." The testimony of these witnesses was not subject to cross-examination. The defendants, several of whom were over sixty-five years of age, were sentenced to terms ranging from ten to thirty years at hard labor. Their

appointed counsel did not file timely appeals, as was permitted by law, from the convictions or the sentences.

The Government of the Kingdom of Septentrion and of the People's Democratic Republic of Meridion, responding to pleas by the United Nations Secretary-General, have agreed to submit the disputes arising from the foregoing facts to the International Court of Justice.

Septentrion, the Applicant, requests that the Court adjudge and declare as follows:

- (1) that the treatment of BIS personnel of Septentrionese as well as Meridionese citizenship, both by the Meridionese Liberation Army and by the Revolutionary Government, was in violation of international law;
- (2) that the Government of the People's Democratic Republic of Meridion violated its international legal obligations in causing the mass migration of people from Meridion to Septentrion; and
- (3) that Septentrion's actions in detaining Meridionese persons in Septentrion, in declining to resettle detainees into Septentrionese society, and in forcibly returning others to Meridion, were consistent with international law.

Septentrion further requests that the Court grant it relief as follows:

- (1) a determination by the Court that Meridion shall immediately repatriate all BIS prisoners; and
- (2) a determination by the Court that Septentrion is entitled to an award of compensatory damages for the injuries suffered by BIS personnel and their families, and for the costs of housing and feeding Meridionese refugees.

Meridion, the Respondent, requests that the Court adjudge and declare that its actions were in full conformity with its international legal obligations. Meridion also requests that the Court deny the relief sought by the Applicant.

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