

2017 International Criminal Court Moot Court Competition Problem

Case before the International Criminal Court (ICC):

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**Confirmation of Charges against
Defendant Tarion Bannister of Valaria**

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Para 1. With the cooperation of the interim government, International Rights Watch has investigated the crisis in Valaria, which was marked by the massacre of 5,000 Verdache people from December 2015-January 2016. This report is based on interviews with survivors and eye-witnesses, inspection of hospital and morgue records, and forensic examination of mass grave sites.

Para. 2. The State of Valaria has a population of approximately 1 million people. The country is demographically divided into two ethnic groups, which emerged from separate tribes that had immigrated to the region centuries ago -- the

Lorash (currently about 510,000 members) and the Steelborn (about 490,000 members). Most of the Lorash ethnic group live in urban cities in the industrial northern part of Valaria, while most of the Steelborn group live in the southern part in rural farms, cattle ranches, and small villages. Through democratic elections, the Lorash-dominated political party controlled the parliament and executive branch of Valaria from 1964-2015. The Capital of Valaria, “New Town,” which is the headquarters of the 50,000-strong national army and all national government institutions, is located in the center of Valaria. Until recently, Valaria had a sizeable, distinct “third-gender” population of about 7,000 members (known as “Verdache”), which come from both the Lorash and Steelborn ethnic groups.

Para. 3. While biology determines whether a human’s anatomy is male or female, the concept of “third gender people” recognizes individuals who, notwithstanding their anatomy, are self-identified or identified by society as belonging to neither the male nor female genders. They may represent an intermediate state between man and woman, a state of being both, a state of being neither, or the ability to cross or swap genders. The term has been used to describe Hijras of India, Bangladesh and Pakistan who have gained legal identity, the Fa’afafine of Polynesia, the Sworn Virgins of the Balkans, the Berdache among native American tribes, and the Verdache in Valaria.

Para. 4. The Verdache have been socially (though not legally) recognized as a unique gender in Valaria for hundreds of years. By tradition, when a child is determined to be third-gendered (usually at the time of puberty), the child is often sent to live with the local Verdache community. The Verdache largely live outside of cities and villages in temporary camps, similar to the Roma or Travelers in Europe. Over the years, the Verdache have developed a heavily accented dialect of the Valarian language, as well as many unique customs and distinctive clothing. While the Lorash have always been tolerant of the Verdache in the north, the Steelborn in the south have historically expressed animosity towards them, viewing them as untrustworthy and unclean and subjecting them to periodic pogroms.

Para. 5. In the 1990s, when extensive iron ore deposits were discovered in the southern region of Valaria, the national government of Valaria began forcibly taking land from rural Steelborn farmers for strip mining mineral extraction. Iron ore became Valaria’s chief export and the national government’s primary source of revenue. Around 1997, the Dothrocky Riders, a paramilitary group composed of several thousand Steelborn farmers and herdsmen, was formed by a charismatic Steelborn leader named John Sleet (born 1963), under the promise to retake and return the confiscated land of Steelborn farmers. In order to grow its ranks, the Dothrocky Riders began to kidnap hundreds of children from local villages in the southern part of the country to use as child soldiers. None of the children taken were Verdache. While the national army was able to protect most of the major iron ore mining sites from Dothrocky attack, the Dothrocky

campaign had success with respect to liberating some of the smaller mining operations in the deep south of Valaria.

Para. 6. During the past five years, the world price of iron ore has plummeted, forcing the Valarian national government to cut back dramatically on provision of public services and maintenance of infrastructure throughout the country. In the November 2015 national election, the Steelborn-dominated political party ran on a slogan blaming the Verdache for the country's economic ills. By a thin margin, the Steelborn-dominated political party captured a majority of seats in Parliament and won the Presidency, which appoints all executive branch department heads. The newly elected President, Leon Redjoy, immediately began implementing a series of executive measures against third-gender people, including disenfranchising them, confiscating their property, and banning them from access to public services. On December 4, 2015, the Verdache began organizing unarmed protests in New Town. In response, President Redjoy, ordered the 1,500 members of the national police to forcibly quash the protests. Dozens of Verdache protesters were killed. In the ensuing days, third-gender people across Valaria began arming themselves for self-defense.

Para. 7. The Dothrocky Riders seized the opportunity to align with the new Steelborn government leaders and began launching attacks against the Verdache throughout Valaria. Based on inspection of hospital and morgue records, and forensic examination of mass grave sites, International Rights Watch has determined that between 4 December 2015 and 25 January 2016, nearly five thousand Verdache were killed across the State of Valaria in a series of attacks planned and coordinated by John Sleet. Based on interviews with eye witnesses, International Rights Watch has determined that an 18-year-old former child soldier named Tarion Bannister led one of the most brutal Dothrocky raiding parties which committed dozens of massacres, resulting in hundreds of deaths, during that six-week period.

Para. 8. Despite public reports of the widespread massacres, the Steelborn-dominated central government took no action against the Dothrocky Riders, consistent with the Steelborn's longstanding hostility towards third-gender people. In late December 2015, the national army, composed largely of Lorash troops and dominated by Lorash officers, began taking unauthorized action against the Dothrocky Riders to stop the killing of the Verdache. When President Redjoy ordered the national army to halt its actions against the Dothrocky, the leaders of the national army demanded that President Redjoy and his cabinet resign. With no military support to protect them, the President and the members of his cabinet fled the country for neighboring Quirth, which has a large population of Steelborn. The national police immediately declared their allegiance to the military regime and on 25 December 2016 the national army suspended the parliament and declared itself the interim government of Valaria until new national elections could be held.

Para. 9. By 25 January 2016, the Dothrocky Riders were finally vanquished by the national army, with many of the militant group's ranks, including John Sleet, killed in intense fighting. A small group of surviving Dothrocky Riders, including Tarion Bannister, fled across the border and sought refuge in Quirth, which is not a Party to the Rome Statute.

Para. 10. The military regime that has taken over the government of Valaria has to date shown no signs of preparation for a national election. While Valaria continues to have diplomatic and economic relations with over 40 States, thirty of its former trading partners, including Quirth, have denounced the coup d'etat and cut off trade with Valaria until the former democratically elected government is reinstated. In some UN bodies there have been challenges to the credentials of the Valarian interim government representatives but since there have been no competing delegations from the former government, the UN Secretariat has decided to provisionally seat the Valarian representatives and "take no action" on their credentials at this time.

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I confirm receipt of your 29 January 2016 Declaration Accepting the Jurisdiction of the International Criminal Court over crimes committed in Valaria against the Verdache people. I hereby accept the declaration and I have transmitted it to the Prosecutor and Judges of the Court. This acceptance is without prejudice to any prosecutorial or judicial determinations on this matter.

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**Decision on the Defense Request for
leave to appeal the Decision on
the Confirmation of Charges against
Tarion Bannister of Valaria**

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