





MOOT PROBLEM

SITUATION IN MOMAAYO

IN THE CASE OF

THE PROSECUTOR

V. AZIZI GARBA

BEFORE THE INTERNATIONAL CRIMINAL COURT AT THE HAGUE

Instructions

" " " " " " " " "Article 61
 " "3 " " " " " " " " " " "
 " " " " harge with sufficient evidence to establish substantial grounds to
 " " " " " " " " " " "
 " " " " " " " " " "

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 or gravity. 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:

teams should expect to be asked for copies of the headnote and the portion of the transcript or judgment referred to in their argument.

7. *Participation to treaties*: at all material times, the treaties listed in Annex I were in force for the States of Momaayo and Kissaka.

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/Publications/Elements-of-Crimes.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 their 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: <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 Momaayo is a constitutional monarchy situated on the eastern coast of Solfia (see regional map, Annex II). It sits on 24,760 m² of land and has a native population of 150,000 people. These people live " " " " " " and several small villages. The villages of Dunanti and Appio are situated on the banks of the Nadawada River a small river that runs the length of the country. The water in the Nadawada River begins in the Great Mountain Range in the neighbouring Republic of Kissaka and flows across the border into Momaayo, ultimately pooling in the Nadawada Lake. The water is considered some of the most pristine on Earth and is credited with the longevity and overall health of the Momaayan people.
2. Momaayo houses a vast baobab tree region and takes great pride in preserving the unique and beautiful trees as part of its cultural heritage. In 2008, King Arno Abdu of Momaayo established the Momaayo Cultural Heritage Foundation a government-funded organisation with the sole purpose of maintaining the beautiful natural environment in the region and ensuring local wildlife enjoy the correct habitat to survive.
3. Momaayo is also considered a haven for many rare species of animals, including 3,890 rare species of insects which depend on the baobab tree and are found only in Momaayo. In response to international pressure " " " " , in 2010 the Momaayo Cultural Heritage Foundation created the Baobab Tree Sanctuary within the Momaayo National Park. If not for the Sanctuary, it is estimated that over 2,000 of those species would have died out. The country is also homernais also homernais also homernais

of the rebel faction that overthrew the sitting government in 2002. When the rebels seized power, Garba promised the people of Kissaka that their fortunes would change under his leadership. He

that oil from the wells would contaminate the river during the normal course of drilling.

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20. At 11:25 pm on 24 April 2021, President Garba gave Lt. Col. Diallo the order for troops from the 1st Commando Battalion to cross the border by stealth through the Momaayo National Park and infiltrate the quiet village of Dunanti near the border. There were two objectives:
- a. to secure the access point to the oil; and
 - b. to peacefully contain the villagers in their houses until the Kissakan oil miners were able to begin drilling for oil the next day.
21. Three Kissakan tanks were rolled slowly through the Momaayo National Park to create a direct path to the oil access point, and to evade Momaayan troops who were stationed along the existing roads. Doing so also allowed the Kissakan troops and miners direct on-foot access to the oil access point from the Kissakan border and allowed them to reach the access point in 1.3 km rather than the 3 km it would have otherwise taken using the existing roads. While creating a direct path to the oil access point, the Commando Battalion flattened and destroyed over 25,000 baobab tree saplings that had been planted 9 years earlier as part of the Baobab Tree Sanctuary.
22. Upon reaching the oil access point, half of the Battalion created a physical perimeter around the access point. They then buried 3 improvised explosive devices, made from ammonium nitrate fertiliser, at the entrance to the roads leading to the access point. The devices were placed within one metre of two of the five remaining 100-year-old baobab trees in the Momaayo National Park.
23. The other half of the Battalion entered Dunanti, setting up makeshift electric fences blocking the roads and pathways at the edges of the village to prevent villagers from disrupting their control of the oil access point.
24. Despite taking stealth measures, within a few hours, a few villagers had noticed the fences erected by the Kissakan armed forces and reported this to the Momaayo Police stationed in Appio. Being a small and peaceful country, Momaayan police do not carry firearms but instead carry tasers. Upon being advised of the Kissakan military operation, the two police officers on duty retreated north towards the capital, calling their regional command en route.
25. Hearing noises outside, some villagers living at the outskirts of Dunanti came out of their homes brandishing spears, machetes and rolling pins. A scuffle broke out between five soldiers and a dozen villagers. During the scuffle, three of the soldiers were injured and five of the villagers were killed. The remaining villagers were restrained with plastic flex cuffs and made to sit along the side of the road.
26. This altercation woke up the rest of the village. More villagers began exiting their homes to confront the Commando Battalion troops. Fearing his forces might become outnumbered, Lt. Col. Diallo yelled orders in local Kissakan dialect to his troops. The Kissakan forces began moving from house to house, entering homes and forcing all the men and boys into the street. They ordered all women and children to stay inside.

Once the men and boys were in the street, Lt. Col. Diallo shouted an order, after which the male villagers were lined up and shot in the back of their heads. From the reports of villagers, it was estimated that 170 Momaayan men and boys died.

27. Upon being alerted to the incursion, at dawn on 25 April the RMA sent a unit of heavily armed soldiers to Dunanti. Travelling in amphibious assault vehicles, the unit made it to the southern province by midday. Armed with high powered firearms, the RMA was able to force the enemy troops out of the village with minimal casualties to both armies.
28. The RMA remained in Dunanti and set up a base to ensure the ongoing safety of the village and to secure the access point. In accordance with the PMMA, the Pictopian military sent large supplies of Mk 17 Mod 0 battle rifles to arm the RMA. Two hundred and ten local police from the Northern and Eastern provinces of Momaayo were stationed in Dunanti and armed with Pictopian military-issue Berreta 92FS M9 pistols.
29. As public pressure on President Garba increased, on 10 July 2021 President Garba gave the order for Kissakan troops to weaken the Momaayo military by filtering existing stores of crude oil into the Nadawada River. This act meant that, although pristine drinking water remained available to the people of Kissaka, downstream the oil contaminated the water flowing into Momaayo and pooling at the Nadawada Lake, thus limiting the RMA " " remain in the border region and access clean water.
" " " " " " now there is nothing left to protect we
can work as one to make our region great0" " " " " " " ".
this order was costly to the government and depleted their already dwindling oil supply for military use.
30. The effect of the contaminated water was such that the drinking water available to Momaayan residents dropped by 60%. Within days, water toxicity poisoning began to appear in both the human and animal populations. Over half of the RMA soldiers stationed at the border region had to relocate to access fresh water, leaving their
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rhinoceros population had died due to crude oil poisoning.
31. The effects of the violence and environmental damage in Momaayo were felt in the wider region. Faced with resource scarcity and the risk of further violence, civilians were fleeing to the neighbouring Federal Republic of Durham and to Pictopia. There was a concern that, with no measures being taken to mark or monitor the use of weapons being supplied to Momaayo, they might later be sold to fighters in the growing Durham resistance movement.
32. After considerable lobbying by the Council of Solfian States, Durham and the Momaayo Cultural Heritage Foundation, the United Nations Security Council considered the situation in Momaayo. Adopting Resolution 3827 on 28 August 2021, the Security Council authorised a UN peace operation in Momaayo (see Annex III).

33. Among those deployed to Dunanti, United Nations Police helped to take the testimonies of the villagers. UN Police patrols were conducted in the area to demonstrate their presence, assess the situation, and protect civilians. UN Police were also sent to Dunanti to ensure the introduction of crude oil into the Nadawada River ceased, while experts from the United Nations Environment Programme (UNEP) were sent to investigate the overall impact on the natural environment due to:
- a) the destruction of the baobab saplings,
 - b) the introduction of oil to the water, and
 - c) the sickness appearing in wildlife populations.
34. The UN environmental workers determined that, if left untouched, the oil introduced into the Nadawada ecosystem would take 12 years to fully dissipate. As a result, they requested further investigation into alternative cleaning options given the reliance on the water by the white rhinoceros population and the striped hyena population. However, the officers were not hopeful that any alternative cleaning options could be employed due to the delicate ecosystem in the region.
35. Several States adopted sanctions against Kissaka, including to restrict the supply of weapons, oil and fertiliser to the country. It became increasingly difficult to quell dissent in Kissaka as agricultural production slowed and the cost of living rose sharply.
36. At 8:30 am on 5 October 2022, President Garba gave Lt. Col. Diallo the order to return to Dunanti to secure the oil access point. They were to use any lawful means necessary to secure the access.
37. Upon arriving in Dunanti, Lt. Col. Diallo led one group of Kissakan soldiers down the direct path to the oil access point. On the way, they encountered four UNEP workers who were surveying the damage to the baobab saplings. Just beyond them was a UN Police officer, who had accompanied the environmental workers. All five UN personnel wore blue berets clearly denoting the UN emblem and the police officer had a standard issue SIG Sauer M18 semi-automatic pistol secured to her hip. Upon seeing Lt. Col. Diallo and his troops, the UN Police officer reached for her weapon. In her panic, she discharged a round. It ricocheted off the ground and hit one of the UNEP workers in the right arm, causing her to scream in pain. Upon hearing the gunshot and the screaming, Lt. Col. Diallo retrieved his AK-47 assault rifle and killing three of the UN environmental workers and the UN Police officer. The remaining UN environmental worker was badly injured at the scene and died 5 hours later at the Dunanti medical assistance centre.
38. King Abdu was outraged by the latest violence against UN personnel. On 7 October, he referred the situation in Momaayo to the ICC.

39. On 20 November 2021, the ICC Prosecutor informed both King Abdu and President Garba that they found there to be sufficient evidence to open an investigation. In response, President Garba ordered his troops to retreat to the border.
40. On 12 February 2022, the ICC issued an arrest warrant against President Garba. Later that day, President Garba was arrested at an airport in Durham while in transit to Pictopia where he was scheduled to speak at the United Nations General Assembly. He was transferred to the ICC detention facility in The Hague, the Netherlands.

Charges

The Office of the Prosecution presents the following charges against the defendant, President Azizi Garba:

Count 1

With respect to the destruction of the Baobab Tree Sanctuary in Momaayo:

On the basis of individual criminal responsibility, for ordering, soliciting or inducing the commission of such a crime which in fact occurs or is attempted as per Article 25 of the Rome Statute,

The war crime of intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated in Article 8(2)(b)(iv) of the Rome Statute.

Count 2

With respect to the introduction of crude oil into the Nadawada River:

On the basis of individual criminal responsibility, for ordering, soliciting or inducing the commission of such a crime which in fact occurs or is attempted as per Article 25 of the Rome Statute,

The war crime of intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated in Article 8(2)(b)(iv) of the Rome Statute.

Count 3

With respect to the killing of five UN Personnel:

On the basis of the responsibility of commanders and other superiors as per Article 28 of the Rome Statute,

The war crime of intentionally directing attacks against personnel, installations, material, units or vehicles involved in humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict under Article 8(2)(b)(iii) of the Rome Statute.

Count 4

With respect to the killing of 170 men and boys in the town of Dunanti:

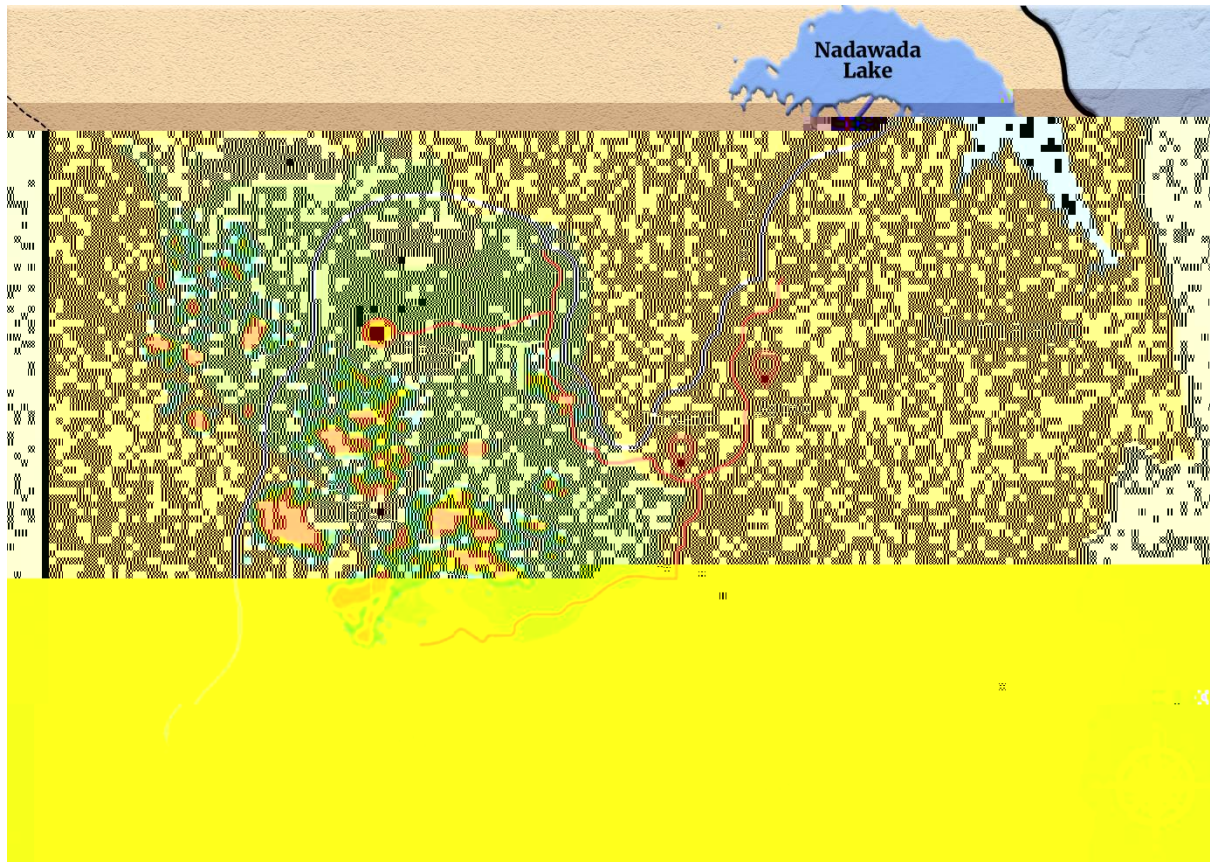
On the basis of the responsibility of commanders and other superiors as per Article 28 of the Rome Statute,

The war crime of intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities under Article 8(2)(b)(i) of the Rome Statute.

Annex I: Applicable Agreements

Convention	Kingdom of Momaayo	Republic of Kissaka
Charter of the United Nations 1945	✓	✓
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	✓	✓
Additional Protocol I to the Geneva Conventions 1977	✓	
Additional Protocol II to the Geneva Conventions 1977	✓	
Vienna Convention on the Law of Treaties 1969	✓	✓
Rome Statute of the International Criminal Court 1998	✓	✓
Convention concerning the Protection of the World Cultural and Natural Heritage 1972	✓	✓

Annex II: Regional Map



United Nations

S/RES/3827 (2021)



Security Council

Distr.: General

28 August 2021

Resolution 3827 (2021)

**Adopted by the Security Council at its 9894th meeting,
on 28 August 2021,**

The Security Council,

Reaffirming its strong commitment to the sovereignty and territorial integrity of the Kingdom of Momaayo,

Deploing the persistence of conflict and violence and its effect on civilians and civilian objects, including the natural environment,

Determining that the situation faced by Momaayo constitutes a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to establish the United Nations Mission in Momaayo (UNMM) for an initial period of 12 months and *further decides* that UNMM will comprise up to 1,800 military personnel, including reserve battalions capable of deploying rapidly as and when required, 730 police personnel, and an appropriate civilian component, including technical environmental expertise;

4. *Decides* that the mandate of UNMM shall be the following:

(b) Protection of civilians and United Nations personnel

- (i) To protect, without prejudice to the responsibility of the authorities of Momaayo, civilians under imminent threat of physical violence, within its capacities and areas of deployment;
- (ii) To protect the United Nations personnel, installations and equipment and ensure the security and freedom of movement of United Nations and associated personnel;

(c) Promotion and protection of human rights

- (i) To monitor, help investigate and report to the Council on any abuses or violations of human rights or violations of international humanitarian law committed throughout Momaayo and to contribute to efforts to prevent such violations and abuses;
- (ii) To monitor, help investigate and report to the Council specifically on environmental damage;
- (iii) To assist the authorities of Momaayo, as necessary and feasible, in protecting from attack areas of particular environmental importance or fragility in Momaayo, in collaboration with UNEP;

(f) Support for national and international justice

- (i) To support, as feasible and appropriate, the efforts of the authorities of Momaayo, without prejudice to their responsibilities, to bring to justice those responsible for war crimes in Momaayo;

5. *Authorizes* UNMM to use all necessary means, within the limits of its capacities and areas of deployment, to carry out its mandate as set out in paragraphs 4 (a) (i) and (ii), 4 (b), 4 (c)(iii) and 4 (f) and requests O O " civilian and military components to coordinate their work with the aim of supporting the tasks outlined in paragraph 4 above;