

## A CASE BEFORE THE INTERNATIONAL CRIMINAL COURT

### FACTS

1. In August 1999, the European nation of Albilion signed and ratified the Rome Statute, becoming a State Party to the ICC. Albilionese Prime Minister, Nathaniel Essex, had been a long-standing proponent of the International Criminal Court and strongly endorsed Albilion's involvement in the ICC.

2. In November 2002, elections were held for Prime Minister in Albilion and the Commerce Secretary, William Eiling, defeated Prime Minister Essex. Eiling had long opposed Albilion's involvement in the ICC.

3. In January 2003, days after he had taken office, Prime Minister Eiling had announced that he

te any Albilionese citizen or citizen of an Albilionese

waiver clause that allowed the Prime Minister to waive any of these provisions for reasons of national security.

5. In April 2003, Albilion began seeking agreements with other countries not to transfer Albilionese nationals to the ICC and threatened to withdraw militarily from the ICC. Under pressure from the Albilionese government, the United Nations Security Council passed resolution 2214, which exempted peacekeepers from prosecution. Critics of the resolution described it as "unlawful" because they felt the resolution undermined the ICC. The resolution was argued as an international treaty. On April 21, 2003, Amnesty World Watch, an international organization that monitors international human rights abuses, released a statement condemning resolution 2214.

6. On March 17, 2005, Albilion was a victim of a devastating terrorist attack. Several underground railway stations were bombed in the nation's capital of St. R. The bombers were members of the Tiernan Republican Army (TRA). Tierna, a small nation on the border of Albilion, had been occupied by Albilion since the end of World War I. The Tiernans have been fighting for their independence from the Albilionese government. The attack, known as "Bloody Thursday" by the international media, the terrorist attack on Albi



nationals to the ICC.

11. In May 2006, free elections were held in Tierna for the first time in over eighty-five years, resulting in the election of former TRA leader Eamon Pat Coogan as Prime Minister.

12. On August 28, 2006, three Tiernan nationals and confirmed TRA members, Henry Lynch, Thomas Dane, and Jackson Cray were arrested in St. Rache by the Albilionese Constabulary for suspicion of involvement in the Bloody Thursday bombings. After six days of interrogation Lynch, Dane, and Cray confessed to being the masterminds of Bloody Thursday. na0(S)-2(e)p1(t)-2(e)bomer

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consequently, the Court lacked jurisdiction.

19. Immediately after this, advocates for the surviving family members of the 6666 victims of Bloody Thursday appeared before the ICC challenging the Prime Minister Coogan's petition. The advocates argued that because of the history between the Albilionese and Tiernan peoples, it would be impossible for Lynch, Dane, and Cray to be brought to justice in a Tiernan court. They requested that the case remain under the jurisdiction of the ICC. Advocates for the victims also argued that there was no way the victims could be compensated for their losses by any court other than the ICC as Tierna was itself still recovering from eighty years occupation and would not be able to adequately try Lynch, Dane, and Cray.

20. In late March 2007, Prime Minister Coogan, in an effort to aide Albilion in its recovery, ordered the immediate release and return of all interred Albilionese military personnel in Tierna.

## **THE EXERCISE**

Arguments before an ICC hearing under Article 19 of the Rome Statute

The Prosecutor is challenging Tierna's petition seeking to have the ICC reverse its original decision to investigate and prosecute the case and relinquish the matter to the national courts of Tierna.

1. The defendants and victims and families of victims have all invoked their right to participate in the proceedings and to be represented by counsel.
2. The central issues are:
  - (i) Issues of admissibility under Article 17
  - (ii) Preliminary rulings of admissibility under Article 18;
  - (iii) Challenges to the jurisdiction of the Court or the admissibility of a case under Article 19.

## **BRIEFING MATERIALS:**

1. The Rome Statute, Rules of Procedure and Evidence.

### **Security Council**

#### **Resolution 2214 (2003)**

**Adopted by the Security Council at its 6666 meeting, on 14 April 2003**

The Security Council,

Taking note of the entry into force on 1 July 2002, of the Statute of the International Criminal

that seeks to exempt peacekeepers from prosecution. The Council acted on proposals initially introduced by Albilion, which opposes the ICC.

What the Security Council has done is to attempt to amend a treaty agreed between state parties, a power in this case only given to the Assembly of States Parties. Moreover, the Council is exceeding its powers by seeking to amend a treaty which is fully consistent with the UN Charter. In addition, by invoking Chapter VII of the UN Charter, the Security Council has wrongly characterized the US threat to veto peacekeeping operations as either a threat to peace, a breach of peace, or an act of aggression. None of those terms apply to a court created to establish accountability for the worst possible crimes under international law.

The nation of Albilion put much pressure on the other members of the Security Council to do what the majority of UN member states unequivocally oppose. Investigations and prosecutions for the gravest crimes should never be obstructed, nor should double standards ever be created for peacekeepers or anyone else.

Security Council Resolution 2214 seeks to undermine the Rome Statute. Although the resolution's text uses words close to those in Article 16 of the Rome Statute, they are nothing but a smokescreen. The resolution still contravenes the letter, the spirit and the drafting history of

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government has committed scores of human rights abuses in the nation of Albilion. Systematic human rights abuses have occurred, including killing, torture, rape, looting and destroying of property by Albilionese military personnel stationed in Tierna. Tens of thousands of Tiernan citizens have been imprisoned without trial based on the belief that they may have knowledge that could lead to the capture of the masterminds of the March 17, 2005, terrorist attack on Albilion. Additionally, since the deployment of additional Albilionese troops in Tierna, food is scarce and sanitary conditions poor.

The Albilionese government has placed impediments and restrictions on access for humanitarian aid agencies in both Albilion and Tierna as well. Aid providers are subject to untenable visa restrictions, organizations are limited in what materials they may use, and all aid providers are subject to arbitrary rule making by the Albilionese government. Aid organization's face their biggest challenge in attempting to operate in the insecurity in both Albilion and Tierna. Aid providers have had food, equipment, and other materials seized by Albilionese military personnel. These aid organizations are struggling to operate in these conditions with frequent temporary suspension of activities. The result is a humanitarian crisis, with some vulnerable populations completely cut-off from aid, and others subject to interruptions of vital support.

The Albilionese government is unwilling to address the human rights abuses in Tierna and has not taken the steps necessary to curtail the activities of its soldiers stationed there. The International Criminal Court should take the first step in ending impunity in Tierna by launching investigations into human rights violations against Albilionese soldiers stationed in Tierna. The Albilionese government has refused to cooperate with the investigations, and international support for ICC activities in Tierna is necessary if impunity is to be addressed.