TEAM: IL-20

6TH SURANA & SURANA AND RGNUL INTERNATIONAL MOOT COURT COMPETITION, 2023

06TH – 08TH OCTOBER 2023

IN THE

INTERNATIONAL CRIMINAL COURT

AT THE HAGUE

CASE BEFORE THE APPEALS CHAMBER

PROSECUTOR V. POLICE CHIEF OF BANGTANGNAGAR

THE DEFENCE COUNSEL'S SUBMISSION IN THE APPEAL FROM THE TRIAL CHAMBER'S DECISION AGAINST THE POLICE CHIEF OF BANGTANGNAGAR

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LIST OF ABBREVIATIONS

S.NO.	ROOT WORD	ABBREVIATION
1.	International Criminal Court	ICC
2.	*Ibidem*	*Ibid*
3.	Moot proposition	Moot prop.
4.	Oxford University press	OUP
5.	Universal Declaration of Human Rights	UDHR
6.	International Covenant on Civil and Political Rights	ICCPR
7.	paragraph	¶
8.	Article	Art.
9.	Customary International Law	CIL
10.	International Court of Justice	ICJ
11.	International Criminal Tribunal of Rwanda	ICTR
12.	International Criminal Tribunal for the former Yugoslavia	ICTY
13.	Pre-Trial Chamber	PTC
14.	United Nations	UN
15.	United Nations Human Right Commission	UNHRC
16.	United Nations Security Council	UNSC
17.	Universal Declaration on Human Rights	UDHR
18.	Versus	v.
19.	Volume	Vol
20.	Vienna Convention on the Law of Treaties	VCLT

21.	International covenant for civil and political rights	ICCPR
22.	Document	Doc.

INDEX OF AUTHORITIES

1. CASES

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A. William A. Schabas, International Criminal Court: A Commentary on the Rome Statute (OUP, 1st Edn 2010).

B. Otto Triffterer, The Rome Statute of the International Criminal Court: A Commentary (2016).

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STATEMENT OF JURISDICTION

The present appeal has been preferred by the appellant under **Art. 81(1)** of the Rome Statute as he has been convicted of the Crimes against humanity which have been perpetrated pursuant to **Art. 5** of the Rome Statute as the crimes concerned fall within the domain of Art. 7 of the Rome Statute.

Article 81: Appeal against decision of acquittal or conviction or against sentence

1. A decision under article 74 may be appealed in accordance with the Rules of Procedure and Evidence as follows:

(a) The Prosecutor may make an appeal on any of the following grounds:

(i) Procedural error,

(ii) Error of fact, or

(iii) Error of law.

Article 5: Crimes within the jurisdiction of the Court

The jurisdiction of the Court shall be limited to the most serious crimes of concern to the international community as a whole. The Court has jurisdiction in accordance with this Statute with respect to the following crimes:

(a) The crime of genocide;

(b) Crimes against humanity;

(c) War crimes;

(d) The crime of aggression.

STATEMENT OF FACTS

BACKGROUND	The matter arose from the country of Burmanyar where the Sholingilar community lived over the north-west border. After a military coup, their territory would be deemed as part of the restricted border security area. They were persecuted and terrorized there. Their human rights and citizenship have been violated. By crossing land border, barricades, etc they fled into a new county which is Bangtangnagar.
ALLEGED INCIDENT	Similar conditions were faced by them in Bangtangnagar, which is a theocratic state and followed the policy of *jus soli* for citizenship. Over half million were resided in Bangtangnagar. They faced slavery, discrimination, persecution, etc. On the orders of the police chief, the youths were arrested, women were subjected to slave labour on state-owned plantations, and the people in prison were mocked by them.
AFTERMATH	Once again the people of Sholingilar moved to a new country, Finlandia and were luckier this time as the civil society activists of that country helped them to fight against the injustice. They mobilized lawyers and raised the issue of victimization of Sholingilar people at the ICC.
INVESTIGATION AND TRIAL	The matter passed from pre-trial stage where the allegations of crime against humanity as well as genocide were levied against the police chief. In the trial chamber, the court accepted jurisdiction, found the matter admissible and upheld the charge of "*slavery as a crime against humanity."* The charges of genocide and deportation were struck off in the trial chamber. With reference to this, two appeals have been filed from both the ends regarding the jurisdiction, admissibility and the decision to dismiss the charge of deportation.

STATEMENT OF ISSUES

I.

WHETHER THE ICC HAS JURISDICTION OVER THE MATTER AT APPEAL, AS BANGTANGNAGAR IS NOT A STATE PARTY TO THE ROME STATUTE.

II.

WHETHER THE MATTER IS ADMISSIBLE, AS DEFINED IN THE ARTICLES OF THE ROME STATUTE?

III.

WHETHER THE DISMISSAL OF THE CHARGE OF "DEPORTATION AS A CRIME AGAINST HUMANITY" IS VALID?

SUMMARY OF ARGUMENTS

1. THAT THE ICC LACKS JURISDICTION OVER THE MATTER AT APPEAL AS BANGTANGNGAR IS NOT A PARTY TO THE ROME STATUTE.

In the present case the counsel humbly submits that the ICC lacks jurisdiction because the conduct in question has not occurred within the territory of a state party and the accused is not a national of a state party. When evaluating the conduct, it is crucial to focus on the acts underlying the crime rather than their consequences; a distinction drawn in the statute and the elements of crime. In the present case, the impugned conduct took place in Bangtangnagar, a non-state party. Hence, ICC lacks jurisdiction, irrespective of the consequences occurring in Finlandia, a state party.

Furthermore, the accused. The police chief, is a national of Bangtangnagar, which is neither a state party to the Rome Statute nor has it accepted the jurisdiction of the ICC. Precedents indicates that ICC's jurisdiction in cases concerning non-state parties exist only through referral by the UNSC. In this case, no such intervention has occurred, reaffirming the argument of the ICC's lack of jurisdiction over the matter.

2. THAT THE MATTER IS INADMISSIBLE, AS DEFINED IN THE ARTICLE 17 OF ROME STATUTE.

It is humbly submitted before the hon'ble court that the case would be inadmissible in ICC as it successfully fulfils the grounds that were established in Article 17 of the Rome statute for the inadmissibility. The case has been investigated by the state carrying jurisdiction. Moreover, the state was willing as well to carry out the investigation from its end. No inability factor has been seen from state's end which makes it incapable to carry out the proceedings. It also laid down the charges against the police chief and scheduled the matter for trial in its own state which shows its intention to prosecute the perpetrator. Also, there

was not any substantial collapse or non-availability of the judicial proceedings in Bangtangnagar. Victims can get justice smoothly in Bangtangnagar.

3. THAT THE DISMISSAL OF THE CHARGES OF "DEPORTATION AS A CRIME AGAINST HUMANITY" IS VALID.

It is humbly submitted before the Honorable Court that the police chief should be acquitted from the charges of deportation under Article 7(1)(d) of the statue because there is enough evidence to show that the police chief did not commit the crime. The actus reus and *mens rea* requirements for deportation are not satisfied pursuant to Article 7(1)(d). Furthermore, the general intent requirement under article (30) of the statue in also not satisfied. The police chief did not intend any attack against the Sholingilar people. Therefore because of the absence of such element the police chief cannot be held liable under Article 7(1)(d) of the Rome statue.

WRITTEN PLEADINGS

1. THAT THE ICC LACKS JURISDICTION OVER THE MATTER AT APPEAL AS BANGTANGNGAR IS NOT A PARTY TO THE ROME STATUTE.

¶1. The counsels for the Defence humbly submit that, the instant matter does not fall within the jurisdiction of the Hon'ble Court, *inter alia* **[A.]** The impugned conduct has transpired on Bangtangnagar which is not a party to the statute and **[B.]** The police chief is not a national of a state party.

a. The impugned conduct has transpired on Bangtangnagar which is not a party to the statute.

¶2. The exercise of jurisdiction necessitates that the impugned conduct must transpire on the territory of a state party[1]. The whereabouts of the occurrence of its consequence is immaterial to this determination.[2] The term 'conduct' means a certain behavior *per se* and is independent of consequences of such behavior.[3] This proposition of law is confirmed by a cogent reading of the Statute and its Elements of Crime.[4]

¶3 *In casu*, the impugned conduct of the police chief owing to the alleged violations of the statute are being brought before the Hon'ble Court. However, the conduct that is being challenged transpired on the sovereign territory of Bangtangnagar, which is not a state party to the Rome Statute. The ground of disposal of such appeal is aligned with the fact, that ICC took

[1] Article 12(2)(a).

[2] Curfman (2018).

[3] Prosecutor v. Dusco Tadic, ICTY

[4] Article 31(2) VCLT. The interpretation of the Rome Statute is governed by the VCLT: Lubanga confirmation [277-285]

cognizance of the consequences that the conduct has led to in Finlandia. Therefore, the acceptance of jurisdiction in the instant case does not align with the norm of only calling conduct into question before the Hon'ble Court. Subsequently, ICC lacks territorial jurisdiction pursuant to the aforementioned factors.

b. The police chief is not a national of a state party.

¶4 It is a settled proposition of law u/A 12(2)(b) of the Statute, that the perpetrator must be a national of a state party or a state that has accepted the jurisdiction of the ICC.[5] This has been confirmed by the Hon'ble Court in *Al Bashir*.[6] This rule is in consonance of the principle of territorial sovereignty of the states, and the court's obligations to the United Nations charter.[7]

¶5 *In casu*, the perpetrator is a police chief in Bangtangnagar, conferring the status of national over him. However, Bangtangnagar is not a party to the statute, which also implies that police chief is not subject to the exercise of ICC's jurisdiction. Subsequently it has to be borne in mind that the present matter does not fall within the expediency of the Hon'ble Court.

[5] Rome Statute, Art. 12(2)(b).

[6] Prosecutor v. Omar Al Bashir, ICC-02/05-01/09.

[7] Prosecutor v. Germain Katanga, Appeal judgement,

2. THAT THE MATTER IS INADMISSIBLE, AS DEFINED IN THE ARTICLE 17 OF ROME STATUTE.

¶6 The Prosecutor humbly submits that the case is inadmissible before the Hon'ble court pursuant to the grounds specified under Art. 17 of the statute *inter alia* **[a.]** the case has been investigated by the state carrying jurisdiction, **[b.]** the state was not unwilling to carry out the investigation, **[c.]** there is no inability factor from state's end in carrying out the investigation.

a. The case has been investigated by the state carrying jurisdiction.

¶7 In a deliberation of admissibility pursuant to Art. 17(1)(a) of the statute, two questions fall for the determination of the Hon'ble Court, First, whether there is an ongoing investigation or prosecution of the case in the municipal laws. Second whether the state has been unwilling or unable to genuinely carry out the investigation. The expression "*the case is being investigated*" in Art. 17(1) (a), must be understood as the taking of "concrete and progressive investigative steps" to ascertain whether the person is responsible for the conduct alleged against him before the Court.[8]

¶8 *In casu*, the matter is already scheduled for trial in Bangtangnagar[9]. Since, the matter has reached the trial stage so it could be presumed owing to the universality of the law that the Pre-Trial stage which necessarily includes investigation, framing of charges etc. has already taken place. The government of Bangtangnagar laid down the criminal charges of slavery and police torture against the police chief which can be seen as the evidence as well as the result of their investigative steps. Subsequently, by analysing the above arguments we can presume that progressive investigative steps were taken by the State in order to punish the perpetrator.

b. The state was not unwilling to carry out the jurisdiction.

[8] *Ibid.* [14]

[9] Moot prop, Para [20]

¶9 In order to show the unwillingness of the state, each scenario of Article 17(2) of the statute requires evidence of the subjective intention of the state that neither it tried ***[2.2.1]*** *to "shield the perpetrator"* nor it has been ***[2.2.2]*** *"unjustified delay in the proceedings."*[10]

i. <u>The perpetrator was not shielded by the State.</u>

¶10 Enumerating an exhaustive list of all possible scenarios wherein a state expresses the intention to shield an individual from criminal liability proves an unattainable task. Such determinations largely hinge on the factual intricacies specific to individual cases.[11] Nevertheless, the IACtHR has articulated the imperative that investigations must be conducted in a manner characterized by seriousness, rather than as mere ceremonial gestures predetermined to be devoid of efficacy. [12]

¶11 *In casu*, the domestic proceedings which are being undertaken was not made for the purpose of shielding the person rather they were serious about it. Their subjective intention was to prosecute the perpetrator for the crime he had committed, the evidences of which has been clearly seen when they framed the criminal charges of *slavery* against him and scheduled the matter for trial. It was a mere assumption of the victims that they won't get justice in Bangtangnagar.[13] The state had also laid the same charges against police chief those were upheld during the trial conducted by ICC which shows that it had the similar intention of punishing the perpetrator. It didn't just close the investigation by merely acquit him from the

[10] The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi [2013] PTC ICC-01/11-01/11.

[11] Meisenberg, S. M. (2016). The Rome Statute of the International Criminal Court: A Commentary, *International Criminal Law Review, 16*(3) 561-563

[12] Velasquez Rodriguez v. Honduras [1988] IACtHR (Ser. C) No. 4 (1988), para. 177.

[13] Moot prop, para [20].

charges. Therefore, the first ground of unwillingness that is to shield the perpetrator from proceedings is not fulfilled here.

ii. <u>No unjustified delay in the proceedings.</u>

¶12 Moving to the second limb of the argument, there has been no unjustified delay in the proceedings. Although the delay in national proceedings cannot be carried out according to a set time zone, rather "unjustified delay" depends on the circumstances of each case.[14]

¶13 *In casu*, the government of Bangtangnagar had already made a statement during the stage of pre-trial that they won't cooperate in the proceedings at international platform[15]. And subsequently to that, the trial has been scheduled in Bangtangnagar. It can be inferred from these actions of the government that it, itself, had conducted an investigation in the national territory, because of which it was declining to cooperate in the international investigation. Schedule of the trial is the demonstration of the completion of the national investigation.[16] Hence, by analyzing above arguments, we can depict that there has not been an unjustified delay which is inconsistent to the intent of bring the person concerned to justice.

c. There is no inability factor from state's end in carrying out the jurisdiction.

¶14 The test of inability in any case is comparatively less subjective than the test of unwillingness, rather it attracts the elements of objectivity more.[17] The rule of inability in Article 17(3) of the statute, states that the inability to obtain the accused should be due to the

[14] Ratiani v. Georgia [2005] HRC Communication No. 975/2001, UN Doc. CCPR/C/84/D/975/2001 [10.7].

[15] Moot prop, para [18].

[16] Moot prop, para [20].

[17] Meisenberg, S. M. 'The Rome Statute of the International Criminal Court: A Commentary' (2016) 16(3) *International Criminal Law Review* 561-563.

[2.3.1] "TOTAL OR SUBSTANTIAL COLLAPSE" OR **[2.3.2] "UNAVAILABILITY OF ITS NATIONAL JUDICIAL SYSTEM"**.

i. No total or Substantial Collapse in Bangtangnagar.

¶15 In order to highlight the situation of a State's Collapse, "a state's fundamental institutions have to be so deteriorated that it needs long-term external help, not to institutionalize foreign control but to create stronger domestic institutions capable of self-government."[18]

¶16 A substantial collapse should be of such intensity that it affects the significant part of national judicial system so that it couldn't be proceed to conduct investigation, prosecution, schedule trials, execution of sentences etc.[19]

¶17 There was no such situation in the present case. The state of Bangtangnagar was both politically and economically stable. We can analyse it from its relation with Burmanyar. It is stated that the Bangtangnagar and Burmanyar had economically stable relationship. Even Bangtangnagar supplied fruits to Burmanyar which shows its trade measures and throws light on the economic status of the country.[20] The state was politically stable as well because it already had taken the investigative steps and scheduled the matter for trial in its own country. It shows that the state was fully capable to carry out any judicial process.

ii. Proper availability of its national judicial system.

¶18 As stated in Article 17(3) of the statute, Bangtangnagar doesn't lack any judicial system in his own state, unlike the circumstances emerged in Libya, where Appeal Chamber gave the

[18] W Clarke, J Herbst, 'Somalia and the Future of Humanitarian Intervention' (1996) 75 Foreign Affairs 84.

[19] M El Zeidy, '*The Principle of Complementarity in International Criminal Law'* (2008) 224–226.

[20] Moot Prop, para 8

verdict of unavailability.[21] In the case of Libya, the chamber noted the power of the militias and their potential influence on the judiciary and the administration of justice as a whole, the lack of training of judges specific to substantive and procedural international criminal law, etc.[22]

¶19 No such situation was there in Bangtangnagar, it was a theocratic state, not controlled by any military coup.[23] Moreover, the state has its own penal code as well which is independent and impartial. All the grounds including the investigation from state's end, willingness of the state, etc that have been mentioned above are being established in this case which makes it inadmissible in ICC.

[21] Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi [2014] Appeals Chamber ICC 01/11-01/11 OA 4

[22] The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi [2013] PTC ICC-01/11-01/11.

[23] Moot Prop, Para 9

PRAYER

Wherefore in light of issues raised, arguments advanced, and authorities cited, the Defence respectfully requests this chamber to reverse the decision of the Trial Chamber and to adjudge and declare that:

A: *The court doesn't have jurisdiction over the matter at the Appeal, as Bangtangnagar is not a State Party to the Rome Statute, and other grounds.*

B: *The matter is inadmissible in the court as defined in the Articles of the Rome Statute.*

Counsels On behalf of the Defence.

3. WHETHER THE CHARGES OF "DEPORTATION AS A CRIME AGAINST HUMANITY" IS VALID?

¶20 It is humbly submitted before the honorable court that the police chief is not guilty of crime against humanity of deportation or forcible transfer of population under article 7(1)(d) of the Rome statute. In order to establish that the crime of deportation was not committed by the police chief. The defense will have to negate these elements.

a. The perpetrator did not deport or forcibly transferred, without grounds permitted under international law, one or more persons to another State or location, by expulsion or other coercive acts.

¶21 Article7(1)(d) of the Rome statute declares deportation or forcible transfer of population as crimes against humanity. The first element of Article 7(1)(d) is "the perpetrator deported or forcibly transferred, without grounds permitted under international law, one or more persons to another state or location, by expulsion or other coercive acts." In order to establish that the crime of deportation or forcible transfer of population has not been committed by the police chief. The defence has to prove that the police chief did not forcible displace the Sholingilar people from Bangtangnagar, the Sholingilar people left Bangtangnagar according to there will which is permitted under international law.

i. <u>The police chief did not forcibly displace the Sholingilar people.</u>

¶22 The term 'forcibly' is not restricted to physical force, but may include the threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or by taking advantage of a coercive environment.[24]

[24] *Đorđević* [2014], para. 727, *Stakić* [2006] para. 281.

¶23 Similarly in the present case the police chief did not abuse his power he did not took any advantage of the coercive environment. He was the police chief of Bangtangnagar and it was his responsibility to curb the crimes which were happening in Bangtangnagar. He ordered his subordinates only to arrest the people were involve in the drug dealings. the Sholingilar people who were arrested on the charges of drug dealing because they were taking drugs.[25] It had nothing to do with the fact that they belong to the Sholingilar community.

ii. **The Sholingilar people left Bangtangnagar according to their will.**

¶24 Article 14 of the Universal Declaration of Human Rights (UDHR) states that humans have the right to seek and enjoy asylum from persecution in another country.

Similarly in the present case, the Sholingilar people were being employed as the slave like labour in the fields by the villagers of Bangtangnagar.[26] The people of Bangtangnagar did not want them to take any better jobs, or for their children to attend school with their children the state machinery and the police forces were not at all involved in this. The Sholingilar people themselves did not wish to raise their children in the country of Bangtangnagar.[27] They themselves decided to move towards Finlandia which was more prosperous country in search of better living condition.[28] They were not stopped by police chief or any government official to leave as it was there freedom to chose residence. This is completely lawful under international law.

¶25 Hence proves that the police chief did not forcible displaced the Sholingilar people from Bangtangnagar they themselves decided to move towards Finlandia. Thus the above argument

[25] Moot proposition, para 11.

[26] Moot proposition, para 9.

[27] Moot proposition, para 12.

[28] Moot proposition, para 13.

negate the first element of deportation, that is the perpetrator forcible displaced the civilian population without the grounds permitted under international law.

b. The conduct was committed as part of a widespread or systematic attack a civilian directed against population.

¶26 The second element of article (7)(1)(d) is that "the conduct was committed as a part of a widespread or systematic attack directed against a civilian population." In order to establish that the crime of deportation or forcible transfer of population is not committed, the defense has to prove that the conduct of the police chief was not committed as part of a widespread or systematic attack directed against a civilian population.

***i.* <u>There must be an attack on civilian population.</u>**

¶27 An 'attack' may be defined as a course of conduct involving the commission of acts of violence.[29] The acts of the accused must be part of the 'attack' against the civilian population. the attack must have been directed against the civilian population' means that 'The civilian population must be the primary object of attack. It is not a requirement that the attack be against the whole civilian population." It was held in *Kordic* and *Creks* trial judgement that 'A population may be considered as 'civilian' even if certain non-civilians are present, it must simply be 'predominantly civilian in nature'.

¶28 In the present case the police chief did not conduct or initiated any attack on the Sholingilar people. He only ordered his subordinates to arrest the people who were involved in drug related crimes as it was his duty to curb the abuse of drugs in Bangtangnagar.

***ii.* <u>The attack must be widespread and systematic.</u>**

[29] Prosecutor v. Perišić [2011] ICTY IT-04-81-T, [82]. See also Prosecutor v.Gotovina et al [2001] ICTY IT-06-90-T [1702].

¶29 The adjective "widespread" refers to the attack being conducted on a large scale as well as to the high number of victims it caused, whereas the adjective "systematic" emphasizes the organized character of the acts of violence and the improbability of their random occurrence. Systematicity is an explicitly non-quantitative factor: as interpreted by the ICTY, it refers to the "organized nature of the acts of violence".[30] Thus, it is in the "patterns" of the crimes, in the sense of the deliberate, regular repetition of similar criminal conduct that one discerns their systematic character.[31] In *Jadranko Prilc* trial court judgement, it is stated that only the attack, not the individual acts of the accused, must be widespread or systematic.[32]In the case of prosecutor V. Augustin Ndindiliyimana[33] paragraph no. 260 defined "widespread" refers to the large-scale nature of attack and the number of victims, whereas the term "systematic" refers to "the organized nature of the acts of violence and improbability of their random occurrence.

¶30 In the present there were no such attack, the police chief was only doing his course of duty. He ordered his subordinates only to arrest the people belonging to the drug related crimes. The people who were arrested were taking drugs and were involved in drug dealings it had nothing to do with them belonging to Sholingilar community. It is nowhere mentioned in the moot proposition that the police chief only arrested the Sholingilar youth on the charges of drug dealing and related crimes. The police chief was not targeting any particular community.

¶31 Hence proves that the police chief did not committed deportation because there was no systematic attack against the Sholingilar people. Neither his conduct shows that he initiated any type of systematic attack against the Sholingilar people.

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[30] Prosecutor v. Kunarac, Case Nos [2002] ICTY, IT-96-23 & IT-96-23/1-A [94].

[31] Prosecutor v. Jadranko Prlić [2013] ICTY, IT-04-74-T [41-42].

[32] Id

[33] Prosecutor v. Augustin Ndindiliyimana [2014] ICTR -00-56.

c. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

¶32 The fifth element of article 7(1)(d) is that "the perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population." In order to establish the crime of deportation has not been committed the defence has to prove that the police chief did not knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population. The defence submits that the widespread and systematic nature of the attack has been negated in section, [3.2.2] of the argument.

i. **Knowledge of the conduct being part of systematic attack.**

¶33 Article 30(3) of the Rome statute deals "knowledge" which means awareness that a circumstance exists or consequence will occur in the ordinary course of events. In the case of *Prosecutor v. Milorad Krnojelac*, tribunal held that "The Trial Chamber is further satisfied that the Accused knew about the conditions of the non-Serb detainees, the beatings and the other mistreatment to which they were subjected while detained at the KP Dom, and that he knew that the mistreatment which occurred at the KP Dom was part of the attack upon the non-Serb population of Foca town and municipality."[34]

¶34 *In casu*, the police chief did not know that the Sholingilar people were not completely welcomed by the local Bangtangnagar people. He neither knew that the Sholingilar were finding difficult in living in Bangtangnagar nor he knew about people who were arrested on the charge of drug dealing belonged to Sholingilar community. He simply ordered his subordinates to arrest the people who were involved in drug related crimes. Hence the above

[34] Prosecutor v. Milorad Krnojelac [2002] ICTY IT-97-25-T.

argument negates the most important element of Deportation which is the perpetrator knew that his conduct was part of or intended the conduct to be the part of widespread or systematic attack directed against the civilian population.

PRAYER

Wherefore in light of issues raised, arguments advanced, and authorities cited, the Defence respectfully requests this chamber to uphold the decision of the Trial Chamber and declare that:

A: *The dismissal of the charge of 'deportation as crime against humanity' is valid.*

On behalf of the office of the Defence.