

6th MANIPAL RANKA INTERNATIONAL MOOT COURT COMPETITION 2020

MOOT PROPOSITION

1. Mr. Daniel Dunzo (“**Mr. Dunzo**”), a national of the Republic of Conza (“**Conza**”) is an ex-marine officer. He retired in 2013 and thereafter set up a business of cotton ginning in Tsiziki. His family resided in Conza and he travelled regularly to Tsiziki for business.
2. On 1 March, 2015, he was apprehended and found himself in the custody of the security forces of the Republic of Shabasha (“**Shabasha**”). Shabasha and Conza are neighboring countries and the conditions in which he was apprehended remain in dispute. According to Conza, Mr. Dunzo was kidnapped from Tsiziki (which shares an international border with Shabasha to the East), where he was traveling and carrying out business activities after retiring from the Conzan marine services. The circumstances surrounding his presence in Shabasha are not clear. Mr. Dunzo was detained for interrogation and subsequently transferred to the prisons of Shabasha. On the other hand, Shabasha contends that Mr. Dunzo was arrested by the military forces in Blakast (a province of Shabasha) near the border of Tsiziki, while he was illegally and clandestinely entering into the territory of Shabasha. At the moment of his arrest, Mr. Dunzo was found in possession of a Conzan passport bearing the name “Mike Cressy Plasto” and alleged that Mr. Dunzo was doing some intelligence gathering for Conzan cover/agencies and performing acts of espionage and terrorism in order to destabilize Shabasha. Conza has denied these allegations.
3. On 23 March, 2015, Conza was informed of this ‘arrest’, when the Foreign Secretary raised the matter with the High Commissioner of Conza in Shabasha. Shabasha issued a statement making allegations of an illegal entry of a secret agent officer and his alleged involvement in subversive activities. It also publicly aired a video recording of the confession by Mr. Dunzo, wherein he confessed to his involvement in the facilitation and commission of acts of espionage and terrorism in Shabasha at the behest of Conza’s Secret Intelligence Wing (“**SIW**”) (the primary foreign intelligence agency of Conza).
4. On that very day, Conza sought consular access to Mr. Dunzo so that they could consult him. However, Conza’s request for access to Mr. Dunzo did not evoke any response from Shabasha.

5. Shabasha also notified the G5 States (*the G5 refers to the five permanent members involving the top 5 nations in the world but excludes Conza and Shabasha*) of his arrest on that very day and created a 15-page statement making allegations against Conza.
6. On 28 March, 2015, Conza reminded (*the first reminder*) Shabasha of its request for consular access; however, they received no reply to this communication.
7. Subsequently, on 6 April, 2015, a First Information Report (“**FIR**”) under the Shabasha Code of Criminal Procedure, 1868 was registered.
8. On 12 April, 2015, a public announcement was made by the adviser to the President of Shabasha in relation to Mr. Dunzo’s alleged arrest and trial before the ‘military court’ of Shabasha.
9. On 4 May, 2015, Conza sent second reminder for consular access. Third reminder was made on 8 June, 2015 and the fourth reminder was made on 9 July, 2015.
10. On 10 July, 2015, a “joint investigation team” was constituted by the Shabasha. In the meanwhile, Conza continued its fifth reminder to Shabasha of its request for consular access and sent the sixth reminder on 24 July, 2015 and the seventh reminder on 20 August, 2015. None of the reminders evinced a response from Shabasha.
11. On 6 September, 2016, a supplementary FIR was registered substantially based on the supposed confessional statement of Mr. Dunzo. The supplementary FIR named high functionaries in Conza, along with other persons connected to smuggling syndicates and alleged that these were Mr. Dunzo’s “handlers’ organization / person / accomplices and facilitators”.
12. The trial of Mr. Dunzo started on 19 September, 2015 and was conducted before a Field Court Martial (“**FCM**”). On 22 September, 2015, the summary of evidence was recorded. On 17 October, 2015, Mr. Dunzo was provided with access to representation in the form of a qualified Defending Officer of Shabasha, who was appointed to advance Mr. Dunzo's defence before the FCM.

13. Conza sent Shabasha an eighth reminder for consular access on 1 November, 2015 but this still received no reply. On 17 December, 2015, Conza sent yet another ninth reminder to Shabasha for consular access, but in vain.
14. On 2 January, 2016, the Adviser to the President of Shabasha wrote to the President of the Global Countries Council ("**GCC**") (*being the council created unitedly by all the top economies of the world for the betterment of the society at large and for maintaining peace and harmony amongst nations*) stating that the law enforcement agencies had "apprehended an agent of secret services of the Conza intelligence", and that Mr. Dunzo had made a confessional statement admitting his involvement in "activities aimed at destabilising Shabasha". It went on to add that "the arrest of Mr. Dunzo and his confessional statement has vindicated Shabasha's long-standing position that Conza is involved in activities at destabilising Shabasha". It invited the GCC and its bodies to "play their role in restraining Conza from these activities".
15. On 21 January, 2016, Shabasha sent a request for Mutual Assistance ("**MA Request**") seeking the assistance of the Government of Conza in obtaining evidence, material and record for the criminal investigation of Mr. Dunzo's activities. The letter of assistance that was attached stated that during the process of investigation and interrogation, Mr. Dunzo had revealed the names of his so-called handlers and it sought Conza's assistance in obtaining statements of high functionaries and other named officials of the Conza marine services. It sought assistance in coercive steps such as searching Mr. Dunzo's house, obtaining a certified record of his cell phone for the last 15 years and certified copies of his bank accounts in his and his family's name. It attached a number of documents such as the FIRs, etc.
16. On 1 February, 2016, Conza reminded Shabasha for the tenth time, of its request to provide immediate consular access to Mr. Dunzo. It expressed deep concern over the continued denial of consular access and about Mr. Dunzo's treatment in Shabasha's custody, especially his coerced purported confession and the circumstances of his presence in Shabasha, which remained unexplained. With continued failure, Conza sent an eleventh reminder on 1 March, 2016 for consular access.

17. On 19 March, 2016, Shabasha replied to the communication of 1 March, 2016, stating that the case for the consular access to the Conza national Mr. Dunzo shall be considered in light of Conza's response to Shabasha's MA request in the investigation process for early dispensation of justice.
18. On 29 March, 2016, Conza replied to Shabasha's communication of 19 March, 2016 pointing out that consular access would be an essential prerequisite to verify the facts and understand the circumstances of Mr. Dunzo's presence in Shabasha and for the twelfth time, requested immediate consular access.
19. On 8 April, 2016, a press release was issued by the "National Public Relations of Shabasha" which announced that Mr. Daniel Dunzo had been tried under section 59 of The Shabasha Army Act, 1950^V and section 3 of The Secrets Act of 1921^{VI}, by the FCM and has been awarded death sentence. It stated that "the accused was provided with a defending officer as per legal provisions". His sentence for espionage was endorsed on the same day.
20. On 8 April, 2016, Shabasha also replied to Conza's request for consular access of 29 March, 2016, reiterating that the case for consular access "shall be considered" in the light of Conza's response to Shabasha's MA request in the investigation process which was pending with Conza.
21. Conza responded on the same date protesting that despite repeated requests, access had not been permitted and pointed out that in any event the offer of consular access after his death sentence had been awarded and confirmed, appeared ludicrous.
22. On 9 April, 2016, a statement was made in the parliament by the Foreign Affairs Minister of Conza, setting out the position of the Government of Conza. The statement described Mr. Dunzo as a "kidnapped citizen of Conza" and a "victim of a plan that sought to cast aspersions on Conza to deflect international attention from Shabasha's well-known record of sponsoring and supporting terrorism".
23. On 12 April, 2016, Conza sought consular access for the thirteenth time, and also sought certified copies of the charge sheet and the judgment of the FCM.

24. On 17 April, 2016, Conza again requested Shabasha and sought access to the records of the trial to enable Mr. Dunzo's mother to file an appeal, but her attempts were in vain. They were also requested to share the procedure for appeal to the relevant court, to facilitate the appointment of a defence lawyer, to facilitate the contacts with the High Commission of Conza in Shabasha and to issue appropriate visas to family members of Mr. Dunzo to travel to Shabasha.
25. On 24 April, 2016, Mr. Dunzo's mother filed an appeal, and sought a visa to travel to Shabasha to pursue her appeal, and to meet her son, who was on death row. Applications for grant of visa were submitted but no visa has been granted. For the fourteenth time, Shabasha was again requested to provide consular access.
26. On 28 April, 2016, a spokesperson for Shabasha held a press briefing in which he mentioned that "regarding consular access we have said this earlier also that we have a **bilateral agreement on consular access 2010 between Conza and Shabasha^{III}** and according to Article vi, in all such cases, as the one of Mr. Daniel Dunzo, the request of this nature would be decided on the basis of merits".

Proceedings before the World Justice Court at Xelium:

27. On 6 May, 2016, Conza filed a **Request for the Indication of Provisional Measures** before the World Justice Court ("WJC"), stating the following:

"In view of the extreme gravity and immediacy of the threat that authorities in Shabasha will execute a Conza citizen in violation of obligations Shabasha owes to Conza, Conza respectfully urges the Court to treat this Request as a matter of the greatest urgency and pass an order immediately on provisional measures *suo motu* without waiting for an oral hearing. The President of WJC is requested to exercise his power under Article 74, paragraph 4, of the Rules of WJC^{VIII}, pending the meeting of the Court, to direct the Parties to act in such a way as will enable any order the Court may make on the Request for provisional measures to have its appropriate effects."
28. Conza sought the following provisional measures:

- "(a) That the Government of the Republic of Shabasha take all measures necessary to ensure that Mr. Daniel Dunzo is not executed;
- (b) That the Government of the Republic of Shabasha reports to the Court the action it has taken in pursuance of sub-paragraph (a) above; and
- (c) That the Government of the Republic of Shabasha ensures that no action is taken that might prejudice the rights of the Republic of Conza or Mr. Daniel Dunzo with respect to any decision this Court may render on the merits of the case".
29. On the same day, Conza also filed an Application instituting proceedings before the WJC seeking redress in relation to egregious violations of the Gracious Convention on Consular Relations, 1971 (**Gracious Convention**)ⁱⁱ by Shabasha in the matter of arrest, detention and trial of Mr. Daniel Dunzo, a Conza national.
30. In its Application, Conza sought the following reliefs:
- "(1) A relief by way of immediate suspension of the sentence of death awarded to Mr. Daniel Dunzo.
- (2) A relief by way of restitution in interregnum by declaring that the sentence of the FCM arrived at, in brazen defiance of the Gracious Convention rights under Article 36, and in defiance of elementary human rights of an accused which are also to be given effect as mandated under Article 14 of the International Treaty on Civil Rights, 1976 ("**ITCR**"), is violative of international law and the provisions of the Gracious Convention.
- (3) Restraining Shabasha from giving effect to the sentence awarded by the FCM, and directing it to take steps to annul the decision of the FCM as may be available to it under the law in Shabasha.
- (4) If Shabasha is unable to annul the decision, then this Court to declare the decision illegal being violative of international law and treaty rights and restrain Shabasha from acting in violation of the Gracious Convention and international law by giving effect to the sentence or the conviction in any manner, and directing it to release the convicted Conza National forthwith".
31. On 7 May, 2016, the President of the WJC wrote a letter to the President of Shabasha in the exercise of the power under Article 74(4) of the Rules of WJC

calling upon the Government of Shabasha, pending the Court's decision on Conza's Request for the Indication of Provisional Measures, "to act in such a way as will enable any order the Court may make on this Request to have its appropriate effects".

32. On 15 May, 2016, Shabasha issued a notice of international arbitration to the Conza under Article V of the Gracious Convention stating that the initiation of proceedings by Conza before the WJC is unwarranted in light of the Gracious Convention and should be annulled.
33. Shabasha filed their Reply to the Request for the Indication of Provisional Measures by Conza and raised various objections *inter-alia* jurisdictional issues and objections to the admissibility of Conza's Application. These objections are based on abuse of process, abuse of rights and unlawful conduct by Conza.
34. The following issues were raised by the parties:
 - Whether the WJC has jurisdiction under Article I of the Elective Protocol concerning the Compulsory Settlement of Disputes 1971 ("**Elective Protocol**")^I to entertain Conza's claims based on alleged violations of the Gracious Convention.
 - Whether the Request made by Conza for indication of provisional measures is admissible.
 - Whether Article 36 of the Gracious Convention on Consular Relations, 1971^{II} would be applicable on charges of espionage.
 - Whether Shabasha acted in breach of its obligations under Article 36 of the Gracious Convention (i) by not informing Conza, without delay, of the detention of Mr. Dunzo; (ii) by not informing Mr. Dunzo of his rights under Article 36; and (iii) by denying consular officers of Conza access to Mr. Dunzo, contrary to their right to visit him, to converse and correspond with him, and to arrange for his legal representation.
 - Assuming there is a breach, what is the appropriate remedy?
 - Whether a person can be sentenced to death on evidence substantially based on confession by the accused.
35. The broad issues that arise in this case:
 - i. The construction of the Gracious Convention on consular relations, and particularly Article 36 of the Convention, and its application to the facts of the

- case. Whether Shabasha is in egregious breach of the Gracious Convention in view of the refusal to grant consular access to Conza.
- ii. The relief to be granted in this case. Whether the principle of *restitutio in integrum* is now the settled basis for relief for wrongs done for the internationally wrongful act of a state. Whether the WJC would have to decide whether this principle can be applied to military courts like the FCM?
 - iii. Relevance of the Bilateral Treaty on Consular Access between Conza and Shabasha. In view of the provisions of the Gracious Convention on the law of Treaties, whether the Bilateral Treaty between Conza and Shabasha would override the provisions of the Gracious Convention to which both the nations are a party.
 - iv. Whether there has been a violation of human rights and the application of the Universal Declaration of the rights of a Human being to the case.
 - v. Whether the dispute of criminal nature and involving claims of espionage and terrorism can be submitted to international arbitration.

Pending the final order of the WJC:

36. Meanwhile, on 17 June, 2016, Conza declined to the MA request of Shabasha in view of the denial of consular access.
37. On 20 June, 2016, a press release was issued by the Shabasha National Public Relations stating that the Appellate FMC had rejected Mr. Dunzo's appeal, and that Mr. Dunzo had made a mercy petition to the Chief of Army, and if rejected, he could appeal to the President of Shabasha for clemency.
38. Yet another confessional video (purportedly made in April 2016) was made public by Shabasha.
39. On 28 August, 2016, Shabasha responded to the communication of 17 June, 2016 by which the MA request of Shabasha had been declined. Being faced with no mutual assistance treaty, Shabasha now claimed that the GCC resolution imposed overriding obligations on member countries to afford one another the greatest measures of assistance in connection with criminal investigations.
40. Conza continued to request for consular access by its letters of 18 September, 2016 and 7 October, 2016.

41. On 24 October, 2016, Shabasha wrote to Conza reiterating its stand which it had taken in the communication of 28 August, 2016 but added that “Without prejudice to the proceedings so far, the Government of Shabasha is prepared to consider any request for extradition that the Government of Conza may make in the event that Mr. Dunzo is considered to be a criminal under the law of Conza.”
42. Conza responded to Shabasha’s offer for extradition. It pointed out by its communication of 9 December, 2016, that Shabasha’s communications of 28 August, 2016 and 24 October, 2016 were yet again attempted propaganda, and Conza was not possessed of any material which would give them reason to suspect that Mr. Dunzo had committed any crime for which he could be tried in Conza.
43. On 10 December, 2016, the International Human Rights Commission on humanitarian grounds, initiated suo motu proceedings against the Republic of Shabasha for not allowing access to the family of Mr. Daniel Dunzo, and has scheduled the matter for hearing before itself.
44. Taking into account the factual background, the World Justice Court seated at Xelium has clubbed all the matters of dispute between the Republic of Conza and Republic of Shabasha before itself to decide *inter alia* on the issues highlighted in para 35 and 36 above, the suo moto proceedings before the International Human Rights Commission and the proposed initiation of the international arbitration. The matter is now listed for final hearing and is scheduled to take place on _____.

Notes:

- 1) The laws and conventions referred in the Moot Proposition are reproduced herein below under Annexure I for your reference.
- 2) The participants are not expected to argue on procedural aspects, such as transferring and clubbing of matters.
- 3) The participants arguing the FOR side would be representing the Petitioner / Appellant (i.e. the Republic of Conza) and the participants arguing the AGAINST side would be representing the Respondent (i.e. the Republic of Shabasha).

ANNEXURE I

Laws and Conventions referred to in the Moot Proposition

I. ELECTIVE PROTOCOL CONCERNING THE COMPULSORY SETTLEMENT OF DISPUTES, 1971

The States Parties to the present Protocol and to the Gracious Convention on Consular Relations, hereinafter referred to as “the Convention”, held from 14 March to 21 April 1971, expressing their wish to resort in all matters concerning them in respect of any dispute arising out of the interpretation or application of the Convention to the compulsory jurisdiction of the World Justice Court, unless some other form of settlement has been agreed upon by the parties within a reasonable period.

Have agreed as follows:

“Article I

Disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the World Justice Court and may accordingly be brought before the Court by an application made by any party to the dispute being a Party to the present Protocol.

Article II

The parties may agree, within a period of two months after one party has notified its opinion to the other that a dispute exists, to resort not to the World Justice Court but to an arbitral tribunal. After the expiry of the said period, either party may bring the dispute before the Court by an application.

Article III

1. Within the same period of two months, the parties may agree to adopt a conciliation procedure before resorting to the World Justice Court.
2. The conciliation commission shall make its recommendations within five months after its appointment. If its recommendations are not accepted by the parties to the dispute within two months after they have been delivered, either party may bring the dispute before the Court by an application.”

II. GRACIOUS CONVENTION ON CONSULAR RELATIONS, 1971

Article 36: Communication and contact with nationals of the sending State

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

- (a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;
- (b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph;
- (c) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgement. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.
2. The rights referred to in paragraph 1 of this article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this article are intended.

III. BILATERAL TREATY BETWEEN CONZA & SHABASHA 2010

AGREEMENT ON CONSULAR ACCESS

The Government of Shabasha and The Government of Conza, desirous of furthering the objective of humane treatment of nationals of either country arrested, detained or imprisoned in the other country have agreed to reciprocal consular facilities as follows:

- i. Each Government shall maintain a comprehensive list of the nationals of the other country under its arrest, detention or imprisonment. The lists shall be exchanged on 1st January and 1st July each year.
- ii. Immediate notification of any arrest, detention, or imprisonment of any person of the other country shall be provided to the respective High Commission.
- iii. Each Government undertakes to expeditiously inform the other of the sentences awarded to the convicted nationals of the other country.
- iv. Each Government shall provide consular access within three months to nationals of one country under arrest, detention, imprisonment in the other country.
- v. Both Governments agree to release and repatriate persons within one month of confirmation of their national status and completion of sentences.

- vi. In case of arrest, detention or sentence made on political or security grounds, each side may examine the case on merits.
- vii. In special cases, which call for or require compassionate and humanitarian considerations, each side may exercise its discretion subject to its laws and regulation to allow early release under repatriation of persons.

IV. INTERNATIONAL TREATY ON CIVIL RIGHTS, 1976

Article 14. 1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) Not to be compelled to testify against himself or to confess guilt.

4. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

V. SHABASHA ARMY ACT, 1950

SECTION 59: Civil offences

(1) Subject to the provisions of sub-section (2), any person subject to this Act who at any place in or beyond Shabasha commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section, shall be liable to

be dealt with under this Act, and, on conviction, to be punished as follows, that is to say,

(a) if the offence is one which would be punishable under any law in force in Shabasha with death or with imprisonment for life, he shall be liable to suffer any punishment assigned for the offence by the aforesaid law or such less punishment as is in this Act mentioned; and

(b) In any other case, he shall be liable to suffer any punishment assigned for the offence by the law in force in Shabasha, or rigorous imprisonment for a term which may extend to 5 years or such less punishment as is in this Act mentioned.

Provided that, where the offence of which any such person is found guilty is an offence liable to under any other law in force, the sentence awarded to him shall be that provided for the offence in that law.

VI. THE SECRETS ACT, 1921

Section 3 in The Secrets Act, 1921

3. Penalties for spying –

- 1) If any person for any purpose prejudicial to the safety or interests of the State –
 - a. approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or
 - b. makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or
 - c. obtains, collects, records or publishes or communicates to any other person any secret official code or password, or any sketch, plan, model, article or note or other document or information which might be useful to an enemy, he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of Government or in relation to any secret official code, to 14 years and in other cases to 3 years.
- 2) a prosecution for an offence punishable under this section it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State.

VII. STATUTE OF THE WORLD JUSTICE COURT

Article 36

1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the treaties and conventions in force.
2. The states parties to the present Statute may at any time declare that they recognize as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:
 - a. the interpretation of a treaty;
 - b. any question of international law;
 - c. the existence of any fact which, if established, would constitute a breach of an international obligation;
3. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

VIII. GRACIOUS CONVENTION ON THE LAW OF TREATIES

The States Parties to the present Convention, considering the fundamental role of treaties in the history of international relations, believing that the codification and progressive development of the law of treaties achieved in the present Convention will promote maintenance of international peace and security, the development of friendly relations and the achievement of co-operation among nations, have agreed as follows:

Application of successive treaties relating to the same subject-matter

1. The rights and obligations of States parties to successive treaties relating to same subject matter shall be determined in accordance with following paras.
2. When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier / later treaty, provisions of that other treaty prevail.
3. When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended, the earlier treaty applies only to the extent that its provisions are compatible with those of the latter treaty.
4. When the parties to the later treaty do not include all parties to the earlier one:
 - (a) as between States parties to both treaties the same rule applies as in paragraph 3;
 - (b) as between a State party to both treaties and a State party to only one of the treaties, the treaty to which both States are parties governs their mutual rights and obligations.
5. Any question of the termination or suspension of the operation of a treaty or to any question of responsibility which may arise for a State from the conclusion or application

of a treaty, the provisions of which are incompatible with its obligations towards another State under another treaty.

SECTION 1. INTERPRETATION OF TREATIES

General rule of interpretation

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:

(a) any agreement relating to the treaty which was made between all the parties in connexion with the conclusion of the treaty; (b) any instrument which was made by one or more parties in connexion with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.

3. There shall be taken into account, together with the context:

(a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions; (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation; (c) any relevant rules of international law applicable in the relations between the parties.

4. A special meaning shall be given to a term if it is established that the parties so intended.

IX. THE UNIVERSAL DECLARATION OF THE RIGHTS OF A HUMAN BEING

Article 5.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 9.

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.