

2017 IHL Moot Problem: Clarification

NOTE: ALL CLARIFICATIONS and **CORRECTIONS** will become part of the moot problem.

1. Are all principles established in cases heard in ICTY/ICTR of persuasive or binding nature for the purposes?

Decisions sets in ICTY and ICTR can be used as a case law precedence based on Teams' own inference.

2. If the pre-requisite to bringing a case to the ICTY is that the conflict has to be of an international nature, does this also apply to the ICC? If so, how does NIAC fulfils this criteria?

This should be apparent from your study of IHL. Also, have a look at the ICTY, ICTR and ICC Statutes. You may also wish to have a look at the Tadic case (first ICTY case) and at the following article:

<https://www.icrc.org/eng/resources/documents/publication/p0-521-81852-4.htm>

3. Why does the ICC not have capital punishment in their sentencing?

This should be apparent from your study of the principles of IHL and there are several reasons. For one of these: have a look at art. 1 of the Second Optional Protocol to the ICCPR and art. 21 of the ICC statute:

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/2ndOPCCPR.aspx>

http://legal.un.org/icc/statute/99_corr/cstatute.htm

4. Why does the ICRC not provide certain essentials like clothing?

See e.g. art. 125 GC III. This should also be apparent from your study of IHL.

5. Why is AP II not referred to in relation to detention in NIAC?

This should be apparent from your study of IHL and look at this publication:

<https://www.ejiltalk.org/does-ihl-provide-a-legal-basis-for-detention-in-non-international-armed-conflicts/>

6. How does one clarify between IAC/NIAC/Internationalized Armed Conflict? What about drone strikes or attacks on terrorist groups in a sovereign nation that isn't at war?

This should be apparent from your study of IHL. Read the following publication:

<https://www.ejiltalk.org/the-united-states-is-at-war-with-syria-according-to-the-icrcs-new-geneva-convention-commentary/>

Pp 21 and ff of the book M. Sassoli, A. Bouvier and A. Quintin, "How Does Law Protect in War": <https://www.icrc.org/eng/assets/files/publications/icrc-0739-part-i.pdf>

7. What is the role of the Boubha Guards in Operation Blanc?
Refer to paragraphs 20 and 21.
8. Does the constitution of the Republic of Hakova recognizes unilateral proclamation of independence?
Teams must make inferences based on the facts given.
9. How many trucks in Para.16 line1 were set off to Biro?
Referring to paragraph 16, the facts mention three truck drivers from Lannister Enterprises were killed.
10. Who fired the shots at the convoy from the middle of the crowd in Para.16 line 9?
Local Ombrians. Refer to paragraph 16 line 6.
11. The "local media" in Para.16 line.14 is referring to which media?
Irrelevant.
12. How many unarmed Ombrians to be exact in the wording "some unarmed Ombrians" in Para 16.line.7
Teams must make inferences based on the facts provided.
13. What is the credibility of the sources from the "local media" as had been mentioned in the last line of Para16?
Teams must make inferences based on the facts provided. However, remember not to add new facts to the case.
14. In reference to the last sentence in Paragraph 16, "local media" refers to whom? For example, local media in Toukanov or Hakova?
Teams must make inferences based on the facts provided.
15. Should the prosecutors and the defendants address the issue of whether Kouka is the territory of Hakova or Toukanov?
Teams must make inferences based on the facts provided.
16. What is the exact date the Guardian questioned General Vande on the alleged sex abuses in the military?
Teams must make inferences based on the facts provided.

17. Is it possible for the Secretariat to release a map of the Republic of Hakova and Toukanov? Pg 6, paragraph 18, line 5.

Teams are encouraged to draw their own maps for the Moot Problem and make inferences based on the facts provided.

18. When did Guardian question General Vande on other large scale of sexual abuse? Was it during March 2014-December 2015, or after the period? Pg 2, paragraph 3, line 6.

Incorrect question and reference.

19. Since Hakova has its own Parliament, is the Parliament a state assembly? Pg 4, paragraph 12, line 4 & 5.

This should be apparent from your own study.

20. General Vande declared a statement in front of the cameras, was it broadcasted on televisions or newspaper? Pg 5, Paragraph 16, Line 14 & 15.

Teams must make inferences based on the facts provided.

21. Is the “local media” reporting 110 Ombrian civilian deaths and 30 injuries in the attack from the convoy based in Kouka or Toukanov as a whole? Pg 7, Paragraph 27, Line 4.

Refer to paragraph 16 and make inferences based on the facts provided.

22. How involved were the allegedly seconded Hakovan officers in the planning and carrying out of FKA ground operations according to the Nessuno leaks?

Teams must make inferences based on the facts provided.

23. Is Federal Republic of Toukanov and Hakova a country with broad internet access?

Teams are free to argue on the relevance or otherwise of internet access.

24. Under paragraph 1, Atlanpik is a region. Furthermore, under paragraph 2, it is stated that “...Federal Republic of Toukanov and Hakova was established as a single State...”

a. We seek clarification:

i. How many states under Atlanpik region?

For the purpose of the moot problem, the Atlanpik region consists of the Federal Republic of Toukanov and Hakova. Refer to paragraph 2 line 1.

- ii. Whether Federal Republic of Toukanov and Hakova were 2 different states prior to 2nd World War?

Teams can make alternative inferences based on the facts.

25. Who is the parent state of Federal Republic of Toukanov and Hakova?

The Federal Republic of Toukanov and Hakova was established as a single State. Refer to paragraph 2 line 1 and 2. Teams are free to make alternative inferences based on the facts.

26. In relation to the rape incident under paragraph 18, were there any witnesses who see or hear or have knowledge about the event.

Teams must make inferences based on the facts provided.

27. Under paragraph 7, what are the result or outcome of the referendum to decide the future of Kouka?

The referendum never occurred. Read paragraph 7.