



SYMBIOSIS INTERNATIONAL UNIVERSITY

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SYMBIOSIS LAW SCHOOL, PUNE

CARE | COURAGE | COMPETENCE | COLLABORATION

EIGHTH SYMBIOSIS LAW SCHOOL, PUNE INTERNATIONAL CRIMINAL TRIAL ADVOCACY COMPETITION, 2023 [SICTA]

April 20, 2023 – April 23, 2023

COMPROMIS¹

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DECISION OF THE PRE-TRIAL CHAMBER

DATED JANUARY 1, 2023

Cour **Pénale** Internationale **International** Criminal Court Original: English No: ICC-**/27-**/17 Date: January 1, 2023 PRE-TRIAL CHAMBER IV **BEFORE:** Judge_ , Presiding Judge Judge_ Judge Registrar:

The Prosecutor v. Paul Anderson

SITUATION IN THE SOVEREIGN REPUBLIC OF TITAN

In the case of









PUBLIC

WITH PUBLIC ANNEXURES

DECISION PURSUANT TO ARTICLE 61(7)(A) AND (B) OF THE ROME STATUTE ON

To be notified,	in accordance	with Regulation	31 of the	Regulations	of the	Court, to:

The office of the Prosecutor	Counsel for Paul Anderson
Legal Representatives of the Victims	Unrepresented Victims
The Office for Public Counsel for Victims	Unrepresented applicants for participation
State Representatives	Others
Registry	Detention Section









The **PRE-TRIAL CHAMBER I** of the International Criminal Court (respectively, the "Chamber" and the "Court"), in the case of the **Prosecutor v. Paul Anderson.**

HEREBY RENDERS THE FOLLOWING DECISION:

I. CONTEXT OF THE STATES INVOLVED IN THE SITUATION

1.1 The Republic

- (a) The Republic is one of the largest countries in the world in terms of its area and the land mass occupied. Due to its size, the Republic has a dynamic variety of geographical and topographical features including a coastline that covers the Atlantic, Pacific, and Arctic oceans. The Republican landmass varies from coastline to deserts, expansive mountain ranges to large tracts of marshy land sites and wide areas covered with pine trees. However, due to its geographical location, harsh cold conditions continue to dominate much of Republican geography and lifestyle.
- (b) As per some estimates, the Republic boasts of around one hundred and twenty ethnic groups who speak hundreds of different languages and dialects. These ethnic groups have given Republic a distinct identity in contemporary literature, culture, and art deliberations. Further, under the forces of globalization, Republic has been intrinsically linked to global trade and commerce, and major supply chains and has become a major manufacturing hub of pine-based products and certain categories of alcoholic beverages.
- (c) The state language of the Republic is "Xula", an ancient language developed since the time of the first human settlements in the region which is inherently linked to the cultural identity and nationalistic pride of Republicans. The Republican population speaks more or less in standard Xula.









- (d) Historically, Republic has faced multiple wars and aggregations by neighbouring states primarily based in the European continent. However, the end of the first world war saw Republic consolidating its strength and military prowess under the leadership of its founder Pierre Rostov who defeated the monarchy in 1924 and established a political system based on the principles of communism. Under the leadership of Pierre Rostov, the Republic was able to act as a political collective of fifteen different countries. This political collective was premised on the shared ancestry, values, culture and languages spoken in the vast expanse of the frigid region of the continent.
- (e) However, by the end of the second world war, many such countries became wary of the stronghold exercised by the Republican government over their resources and political will. As a result, and despite strenuous reservations of the Republican leadership, through years of diplomacy, battles and international intervention of external mediators, the political collective consolidated by Republic broke down with each constituent state deciding to form their own government and being governed by their own political system. In the year 1991, Titan, another constituent of this former pollical collective, declared its independence from the Republic and decided to form a democratic government of its own.
- (f) However, despite the collapse of the Republican stronghold over other countries, the Republic continued to grow and exercise its influence in international relations as a major world power. By some unofficial estimates, Republic has one of the largest armies and weapons cache (including the world's second-largest nuclear arsenal) in the world today and it dedicates billions of dollars to defence-related research and development every year. The Republic is also a permanent member of the United Nations Security Council.









1.2 Titan

- (a) Titan is located in the eastern region of Europe and is one of the largest countries in the continent with a total area of around 604,000 square kilometres. Titan's topography comprises of dense mountain ranges to the west and the south and it has access to the black sea. As of 2010, Titan had a population of forty-seven million people.
- (b) As a relatively young democracy, Titan undertook multiple measures to reform and improve its economy and position in the global market. Successive policy measures were undertaken by different governments to leave behind the influence of the Republic from its existence. Since 1993, Titan has held a cooperative position in favour of the European Union. As a result, by 2013, the European Union and Titan had successfully formulated diplomatic ties between them such that Titan could be considered for membership in the European Union. As per reports cited by the ICC Prosecutor, the EU and Titan had initiated efforts to formalize their relationship such that the EU would offer a lucrative economic package to Titan as part of the transaction which would have allowed major foreign investment in the country within seven years of the plan to induct Titan in EU. However, these developments were vociferously criticised by the leadership of the Republic, particularly under the leadership of its current president Mr David Wallace.
- c) Ethnically, Titan's population comprises of new age European settlers as well as individuals of Republican ancestry. However, the majority of the citizens of Titan believe in democracy and autonomy of the country distinct from Republic and its political system. Despite the majoritarian support, certain regions of Titan bordering Republic have raised concerns about the proposal to merge Titan with the European Union. These rural areas have continued to pledge support to the government of the Republic and the conservative policies brought forth by David Wallace. Subsequently, these regions became the









breeding ground of cross-border insurgency operating against Titan leading up to the formal declaration of war by the Republic.

1.3 Emerald City

- (a) Emerald City is located in the easternmost region of Titan and opens into the Republican territory. The local population of Emerald City are often trapped in the middle of tensions between Titan and the Republic. Since 2014, Emerald City saw a sharp rise in armed intruders and insurgents, who often claimed to be used as proxies by the Republican forces. The geography of Emerald City is such that it offers direct access to the centre of Titan's electricity grid and also houses a major air-force base on the outskirts of this township. However, despite the continuous threat to their life and property, Emerald City has continued to pledge support to Titan's government.
- (b) As per the domestic census conducted in the year 2015, the population of Emerald City comprises of approximately nine-hundred permanent natives (a majority of which speak Xula) and two-hundred temporary residents.

II. SITUATION

(a) On September 3, 2021, the European Union publicly announced that it was considering Titan's application for becoming a member of the Union and all associated matters incidental thereto ("Proposal"). Following due process, all stakeholders including the representatives of the North Atlantic Treaty Organization were informed of the proposal by Titan and the EU. On September 7, 2021, Republic released its first official response to the Proposal and categorically expressed its disapproval of the Proposal and any steps undertaken pursuant thereto. Titan's ambassador to Republic was summoned within the next few hours and a terse warning was issued to Titan through him against pursuing the Proposal.









- (b) On October 27, 2021, a coalition of countries led by the United States supported the Proposal and extended full co-operation in favour of Titan before the United Nations. In the wake of such announcements, several media channels reported that European investment banks were already preparing to launch foreign investment initiatives in Titan to commercialize its budding economy and resources. It was also reported that representatives of the North Atlantic Treaty Organization were on the brink of passing resolutions supporting the candidacy of Titan and holding joint military exercises with Titan's army as a customary show of unity and exchange of resources in good faith.
- (c) Within a month, the Republic has also reported to have held closed-door meetings with a coalition of central Asian countries to gather support against the Proposal. The Republic announced that it would use all means at its disposal to prevent Titan from joining the EU. Several economic restrictions and embargoes were placed by Republic against Titan's businesses, products and services. The countries supporting the Republic also issued statements against the Proposal and conveyed their displeasure at the attempt of the United States to interfere and influence the matter.
- (d) On February 5, 2022, the Republic publicly expelled the ambassador of Titan and announced the cessation of all diplomatic ties with Titan in the wake of steps taken by Titan towards the consummation of the Proposal.
- (e) Between the period of January 30, 2022, and February 19, 2022, international observers and intelligence agencies reported massive deployment of troops and battleships along with borders shared between Titan and the Republic.
- (f) On February 24, 2022, Mr David Wallace, in a much-publicised public rally, gave a speech claiming that Titan was and continues to remain an integral part of the Republic and that it was imperative to the interest of Xula speaking population of Titan that the "errors of the 1990s were rectified" such that the Republicans forced to accept the sovereignty of western ideals could regroup with their "motherland" in the Republic. Mr David Wallace also argued consummation of the Proposal would operate against Republic's interest in the









region and would pose a direct and severe threat to its integrity and national borders and that of its allies.

- (g) Based on the said justifications, Mr David Wallace announced a formal offensive against Titan till such time that Titan irrevocably withdraws the Proposal or terminates the same. With the said public announcement, Republican forces launched a full-frontal attack on Titan.
- (h) Titan's government, on its part, expelled the ambassador of the Republic and placed the entire country in a state of emergency. Between March 2022 and September 2022, heavy casualties were reported on both sides. Titan's armed forces were continuously replenished with funds and weapons by its allies in the west. However, despite assistance from the international community, the war in Titan is believed to have caused the death of at least ten thousand people and the biggest forced displacement of people since the second world war. The impact of the refugee crisis caused due to the said war continues to cause havoc in many countries.
- (i) It is also to be noted that through multiple televised events, the leadership of Titan requested their countrymen to act as the "eyes and ears" of their defence forces. Various international media networks had also run detailed stories on how social media updates and live feeds provided by civilians trapped in Titan allowed its military to neutralize the Republican advance. One specific event of relevance to be recorded in the present decision relates to air raids that took place on the night of October 14, 2022, when Titan's air force attacked a major base camp of Republican battalions stationed in Emerald City causing a loss of approximately one-hundred and twenty Republican soldiers and countless support staff and loss of military assets worth millions of dollars. Popularly known as the "Siege of Emerald", subsequent developments clarified that this attack was particularly designed using information published by the residents of Emerald City on their social media accounts on platforms such as Twitter, Instagram and Tik Tok.









- (j) The Siege of Emerald, allegedly, caused a major setback to Republic's narrative on its march against Titan. The Chief of Defence of the Republican army reportedly conveyed a huge blow to the morale of his troops stationed in Titan due to the said attack. David Wallace, in consultation with the country's Ministry of Defence, released directives to avenge the loss of Republican life in Emerald. The facts giving rise to the trial of the accused before the ICC in the present case also emerge from the said directives. The trial is premised on the nefarious attacks carried out by the accused against the civilian population of Emerald City in the aftermath of the said siege.
- (k) As of the date of this order, this Chamber notes that the Situation in Titan continues to operate as a war zone with Titan's defence forces continuing to push back against the Republican offensive through the aid and assistance of the international community. Further, the Chamber is cognizant of the fact that despite there being no end to the war in Titan, at the request of various intergovernmental organizations, multiple investigations, commissions, enquiries and trials have been launched against the crimes committed by captured members of the Republic's defence forces including the proposed trial of the accused before the International Criminal Court.

III. ACCUSED

- (a) The accused, Mr Paul Anderson, is a military commander working for the Republican forces with a service record of more than thirteen years.
- (b) Relevant to the present case, the accused was responsible for on-ground action to be undertaken by the battalion of one hundred and fifty men stationed to capture Emerald City. During the relevant period, during which time the crime alleged is believed to have been committed, the accused is believed to have personally used and coordinated attacks on the Titanian population hiding in Emerald City using vacuum bombs allegedly leading to the death of approximately six-hundred people as per estimates submitted by the ICC Prosecutor.









(c) The use of such weapons by the accused is also alleged to have caused widespread destruction and razing of all tangible assets of the residents of Emerald City and irreparable harm to the soil and surrounding environment of the targeted location. As per estimates submitted, within a period of three days from October 22, 2022, to October 25, 2022, the accused used these weapons on seven occasions and allegedly destroyed approximately seventy per cent of the habited areas of Emerald City including all major hospitals, medical stores, water reservoirs and shelters.

IV. PROCEDURAL HISTORY AND PRELIMINARY MATTERS

- (a) On November 1, 2022, the accused was captured along with four other Republican soldiers by Titan's military and all five of these men immediately surrendered before the military. As a prisoner, the accused objected to being tried by the legal system of Titan and levelled allegations of bias and prejudice against the judicial infrastructure of Titan.
- (b) On November 14, 2022, the government of Titan referred to the ICC Prosecutor ("Prosecutor"), the Situation in Titan and requested the Prosecutor to initiate a parallel investigation against crimes committed by the captured prisoners from the Republic on and against Titan's soil. The case of the accused was also shared with the Prosecutor along with his request to be tried by an independent, unbiased and autonomous institution. Through consultations held between public prosecutors based in Titan and the defence counsels of the accused, the accused also submitted to the jurisdiction of the ICC to be tried in accordance with the rules and procedure of the Rome Statute.
- (c) On November 29, 2022, the Prosecutor released a preliminary report with respect to the Situation referred to it on November 14, 2022. By virtue of this report, the Prosecutor's Office announced the conclusion that, in its opinion, the attacks referred to it, via the Situation in Titan, pass the legal standards governing the jurisdiction of the Court with reference to Article 17 of the Statute









and that investigations could be launched into the Situation despite the ongoing war.

- (d) Following the preliminary report dated November 29, 2022, and in accordance with the due process prescribed under the Statute, this Chamber granted leave to the Prosecutor to initiate its investigation in connection with the Situation and the actions of the accused in Emerald City between October 22, 2022, and October 25, 2022.
- (e) Following the conclusion of its investigation, this Chamber notes that an aggregate of five different cases has been brought forth by the Prosecutor against different individuals in connection with the Situation in Titan including the present case against the accused.
- Through the written statements presented before this Chamber, the ICC Prosecutor has also conveyed that his decision to press the charge confirmed against the accused in this decision and as described below is premised on the role played by the residents of Emerald City against the Republican forces. The ICC Prosecutor has come to the conclusion that these residents may have arguably lost their protected status under the international humanitarian law framework by acting as human drones in service of the Titanian defence forces through their use of social media platforms in reporting and actively publishing the movement, position and armaments carried by the Republican battalion stationed in Emerald City. However, the Prosecutor has clarified that his opinion should not be construed as a final determination or judgement on the issue since the same fell beyond the mandate and purview of his investigation in connection with the Situation in Titan.

V. CHARGE

Based on the investigations conducted and the role played by the residents of Emerald City as described in the aforesaid paragraphs, on December 24, 2022, the ICC Prosecutor filed before this Chamber, the document containing a charge









levelled against the accused for acts committed between October 22, 2022, and October 25, 2022. The charge on which the accused is sought to be prosecuted is the War Crime covered under Article 8(2)(b)(xx) of the Statute for use of vacuum bombs which cause superfluous injury and/or unnecessary suffering and/or which are inherently indiscriminate and prohibited in terms of Article 8(2)(b)(xx) of the Statute.

VI. ARGUMENTS OF THE PROSECUTOR

- (a) The Prosecutor, in a nutshell, has argued that by personally launching airborne drones equipped with vacuum bombs on the shelters and bunkers located in and around Emerald City between October 22, 2022, to October 25, 2022, the accused has committed the war-crime covered under the provision described in paragraph five above relating to the charge confirmed against the accused.
- (b) The Prosecutor has further argued that through testimonies and evidence to be presented before the trial chamber, his office will establish each element of the said charge.
- (c) The Prosecutor has further argued that the conduct of the accused cannot be justified using any of the defences mentioned under the Rome Statute.

VII. ARGUMENTS OF THE DEFENCE

- (a) The legal counsel representing the accused ("<u>Defence Counsel(s)</u>") has argued that it will establish how the charge confirmed against the accused is baseless and cannot be established on merit as per the settled standard of guilt under the Statute.
- (b) Further, the Defence Counsel has also argued that the conduct of the accused will fall under the justifications enumerated under the Rome Statute.









VIII. IDENTIFICATION OF THE VICTIMS

- (a) Further, this Chamber acknowledges the application dated December 22, 2022, submitted by the Association of Humanitarian Advocates ("AHO") which seeks the leave of this Chamber to participate in the trial of the accused in the capacity of the legal representatives of the victims. Prior to giving its ruling on the said application dated December 22, 2022, this Chamber has set forth the context in which AHO seeks to represent the victims.
- (b) AHO is a non-profit, non-governmental and apolitical social venture working under the aegis of the United Nations Human Rights Council. AHO has been riling support, aid and funds for the victim of this war in Titan since March 2022. This Association operates on an ad-hoc basis and is governed under a special instrument ratified between the United Nations and a coalition of countries affected by the Situation under investigation. AHO's headquarters were based in Emerald City and their offices were destroyed in the air raids carried out by the Republican forces. The Association now seeks to participate in the trial of the accused in the capacity of the Legal Representative of the Victims.
- During the course of the proceedings before this Chamber, AHO has made multiple submissions, both oral as well as written, arguing its status as a victim with respect to the Situation being investigated. An appropriate opportunity has been given to the Prosecutor as well as the Defence to make submissions regarding the application dated December 22, 2022. The Chamber, after due consideration of the relevant provisions, including, Articles 57(3)(c), 67(1), 68(1) and (3) of the Statute, Rules 85, 86, 89, 90, 91 and 103 of the Rules of Procedure and Evidence and Regulations 24(2), 80 and 81 of the Regulations of the Court, admits applicant AHO as the Legal Representative of the Victims to the proceedings in the case against Mr Paul Anderson.









IX. FINDINGS OF THE CHAMBER

For these reasons, the Chamber hereby:

- (a) **DECIDES** that it has jurisdiction over the present case and determines that the case is admissible;
- (b) **DECIDES** to confirm, pursuant to Article 61(7) of the Statute, the charges presented by the Prosecutor against the accused to the extent specified in paragraph five of the present decision and to **COMMIT** the accused to the Trial Chamber for trial on the charges as confirmed; and
- (c) **TRANSMITS** this decision and the record of the proceedings in the instant case to the Presidency pursuant to Rule 129 of the Rules.

Done in English and French, the English version being authoritative.

Judge	1
Presiding Indge	Pre-Trial Chamber 1

Judge	Judge	
Judge Pre-Trial Chamber IV	Judge Pre-Trial Chamber IV	

Dated this January 1, 2023

At The Hague

The Netherlands









ICC PROSECUTORS WITNESS-TESTIMONIALS











PW - 1 (PROFILE OF PROSECUTION WITNESS - 1)

Name: Mr Umberto Eco

Nationality: Italy

Occupation: Advisor (Former), The Special Tribunal for Lebanon

Age: 50

General Description:

Mr Umberto Eco has advised the judges of the Special Tribunal for Lebanon relating to the terrorist attacks that took place in Lebanon on February 14, 2005, and has an experience of thirty years in the field of high-stakes criminal prosecutions. In the present trial before the ICC, the witness intends to testify in favour of reading vacuum bombs as weapons prohibited under international law.

Communication:

"The text of any treaty has to be read in the context of the developments that predate its creation and enforcement. Every international legal instrument of importance, right after the second world war and the Nuremberg trials drew from the lessons of the great war. The use of mustard gas and the likes in concentration camps of the day inspired framers of these texts to leave enough flexibility in the body of the treaties to enable future arbitrators and jurists to update the scope of these treaties to new classes, types and categories of weapons – irrespective of their taxonomy.

The science behind fuel-air vacuum bombs is simple – they use chemicals to alter and modify the environment. The atmosphere, as reliably understood, has a certain identified composition of elementary gases. A fuel-air explosive will operate to modify that composition even before the detonating shot. In that sense, it is unlike most conventional weapons which instead use oxygen only in the context of the support required for any form of combustion to happen.









Moreover, these weapons cause a severe, widespread and long-lasting impact on their victims. They can impact all major organ systems of the human body. They destroy mines, caves, buildings and other spots traditionally considered safe havens. Secondly, the effect of these weapons travels way beyond human life – they can impact tangible properties, nature and the environment of an area and cover much wider radium than traditional explosives.

Thus, by their design and inherent nature, the use of these weapons during an international armed conflict falls foul of existing treaty-based prohibitions and should be judged as such – only then will we achieve the desired deterrent effect towards global disarmament of such harmful weapons."











PW - 2 (PROFILE OF PROSECUTION WITNESS - 2)

Name: Oliver Twist

Nationality: Titan

Occupation: Chief Detective, Emerald City

Age: 43

General Description:

Oliver Twist is a police officer stationed in Emerald City since February 2022. The witness has assisted the ICC Prosecutor in conducting an on-ground investigation relating to the situation in Titan. The witness is regarded as one of the senior-most investigators in Titan and has won numerous prestigious citations for his public service. The witness has also worked in close association with the Ministry of Defence, Titan in providing crucial information to NATO forces and international law enforcement agencies of the United States and Britain about the advancement of Republican forces in Titan, torture chambers operated by mercenaries working for Republic in Titan, and placement of arms and ammunitions across the country. He has been responsible for coordinating the capture of the accused and creating his profile for a subsequent trial. The witness has agreed to testify before the ICC and assist the ICC Prosecutor in providing the larger context of the war waged by the Republic against Titan.

Communication:

"David Wallace is a psychotic ruler who is convinced that his legacy in the history of the Republic will remain unsecure till such time that he recreates the former Republican empire through the annexation of all such territories as were lost after the second world war. The sole thrust of the Republic's foreign policy under his presidency has been to use brute force in regaining lost lands and their resources — no matter the human cost of such aspirations. His brilliance lies in selling the same dream to the lawmakers of the Republic and using them as pawns to suppress opposition, dissent and contrary perspectives. Thus, the war on Titan was









declared the moment he realized that Titan's democracy was about to merge their future into the collective that the European Union promises.

It is important to understand the strategic significance of Emerald City. This area lies between the Republic and the rest of Titan. It is a gateway to one of the largest power plants in Titan as well as the headquarters of the eastern air command of Titan. Thus, for Republican ambitions, capturing Emerald City allowed them to cut off the power supply to large areas of Titan and neutralize a huge portion of our defence resources. At the same time, for the Titanian government, Emerald City was a fortress they could not afford to lose. The residents in the area were staunch supporters of our central government and the first political demand of joining the EU had come from parliamentarians from Emerald City. We knew that the people of Emerald City would provide serious resistance and pushback to Republican advances.

Against this backdrop, the Republican government chose the accused to lead the attack on Emerald. This goes on to show that he acted as an extended arm of David's presidency. Why else would such a key geography be given to a person! On his part, the accused stood to gain direct access to the power portals of the Republic by bringing the city down to ashes. His exposure to and understanding of advanced ammunition was particularly helpful to him in destroying the soul and body of Emerald City. His motive and intent were aligned with that of the presidency and the use of vacuum bombs made the realization of those motives all the more easy for the accused."









DEFENCE WITNESS-TESTIMONIALS









<u>DW – 1 (PROFILE OF DEFENCE WITNESS – 1)</u>

Name: Dr Michael Sugrue

Nationality: United States of America

Occupation: Former Professor of Applied Mechanics, Virginia Military Institute

Age: 57

General Description:

Dr Michael Sugrue is a trained mechanical engineer and design expert who had been teaching and developing advanced weapons in Virginia for the US military for twenty years. Now retired, the witness has been called by the defence legal counsel to provide perspective on the legality of thermobaric weapons under the extant framework of international laws and customs.

Communication:

"Modern-day dual-stage explosives are a different breed of weapons, unique in their design and anatomy and thus, for better or for worse, these weapons elude all international treaties and foundational customs regulating methods of warfare. Please understand that I am not batting for indiscriminate or unchecked expansion in the production of such weapons along the fault lines of dated laws — quite to the contrary, we require the immediate attention of the world community towards plausible regulation of such weapons. But the fact of the matter is that so far nothing in international law is capable of covering such advanced weapons.

I am going to illustrate this issue with some examples: (a) thermobaric weapons are not incendiary weapons – they are not dependent or aimed at causing fire. Instead, they depend on chemistry to trigger adverse pressure reactions thus, inter alia, collapsing the human pulmonary system; (b) these weapons aren't even inherently indiscriminate – certainly if the









use of nuclear weapons can be upheld by the greatest of international courts, then any notion that thermobaric weapons are indiscriminate must also be rejected; (c) advanced countries have historically omitted any explicit prohibition on such weapons on the premise that such weapons are not calculated to cause disproportionate suffering – thus bringing them within the safe harbours of military necessity exceptions.

In the context of battles in places such as Afghanistan, where lengthy and expansive mountain ranges provide a unique geographical challenge to a foreign army and shelter to the participating local villagers as well as armed groups of militias, vacuum bombs were necessary to weed out the enemy and the collateral damage sustained by the farming community was justified in light of their conduct in leaking intel to the militia. I am confident that a case study of Titan and the attacks on Emerald City may lead to the same conclusion."











<u>DW - 2 (PROFILE OF DEFENCE WITNESS - 2)</u>

Name: Paul Anderson

Nationality: The Republic

Occupation: Former Commander, Delta Force V, Military of Republic

Age: 34

General Description:

The accused has been serving his country since the age of twenty and was the youngest member of the armed forces of the Republic to become a commander at the age of twenty-six. The accused is also a specialist operative in advanced military weapons including thermobaric weapons. The accused was one of the few survivors of the Siege of Emerald and had sustained serious injuries while defending his fellow military commanders during the attack on October 14, 2022, by the Titanian air force.

Communication:

"Pursuant to the Siege of Emerald and other similar ambush suffered by the Republican forces in Titan, the presidency was furious with the response and preparedness of the armed forces. A turbulent set of orders were being issued directly to the command centre from the Ministry of Defence — our mandate was re-defined — Titanian blood had to be drawn onto the streets in broad daylight and it was imperative that a spectacle be made immediately. These directives were necessary not only to save the reputation of our defence capabilities but also to maintain the morale and enthusiasm of the troops who were tired, disease-laden and sceptical about the whole validity of this war. Each commander was instructed to cause maximum loss of assets in Titan and use their battalion in the most effective way possible without loss of Republican life. The situation in the east of Titan including areas immediately next to Emerald City was worse because doubts or questions asked by fellow commanders against some of these directives were being labelled as disobedience and we all knew too well how the high command in Republic dealt with disobedience, especially during the times of war.









Desperate times called for desperate measures - I had half a week to plan, prepare and execute a response against the Siege of Emerald. My training in world-class aerosol bombs during my academy days allowed me to use a newly developed prototype of vacuum bombs in the Emerald City. We were certain that no international instrument governed the use or deployment of such weapons – particularly against hostiles parading as civilians in the town squares and the streets.

The Siege of Emerald had taught me an important lesson – that any and everything that moves in Titan was a military asset and could be the cause of your death, that a mobile phone and easy internet access in the hands of a fifty-four years' old grandmother could cause more casualties than a loaded rifle in the hands of a young, trained soldier. Each and every movement of my troops, day in and out, was being reported, published and projected for the war generals of Titan. Tweets, posts and other forms of uploads on popular networking platforms allowed Titanian forces to have greater visibility on my men than God. Months of planning, top-notch strategies and hard work were being laid to waste against the power of a thirty-second-long reel on Instagram. The collective weight of hatred captured in such social media reporting and the linked community objective of destroying our forces and causing maximum damage proved to be the ultimate and united defence force of Titan. Every resident, young or old, was a soldier and a source of critical intel on our position and assets. We could not separate the role played by these men and women from that of the drafted men in uniform. Our strategy had to be revisited – no amount of offence against enlisted soldiers could work unless such offence accounted for the role of these residents – they had to be neutralized with as much urgency as men with guns.

This is not an easy task — as soldiers, most of us have been conditioned to observe civilians as non-combatants and non-targets. Our training in IHL norms has bent our sense of judgement in a manner that automatically makes our fingers re-coil from the trigger when a civilian is in sight. However, we had to unlearn those training modules. The war in Titan was unlike all other wars found anywhere on the planet. Our men were getting trampled out in the open against the force of approaching winters in Titan whereas these residents could, sitting in the comfort and shelter of their homes, record and even live-project the positions of our men all over Facebook for the enemy to comfortably plan our execution."









VICTIM WITNESS-TESTIMONIALS











<u>VW – 1 (PROFILE OF VICTIM WITNESS – 1)</u>

Name: [REDACTED]

Nationality: Titan

Occupation: PhD scholar, Central University of Titan

Age: 47

General Description:

The witness is a researcher and consultant in the field of modern warfare, arms and ammunition with 25 years of experience and a vast background in weaponry-based technological processes, combustion and entropy, air defence systems etc. He has been a vocal advocate against the use of technology that alters or causes damage to the environment in modern weapons of war and has argued in favour of the de-militarisation of bio-hazardous explosives. He has agreed to be a victim witness and assist the Court by providing his testimony on the subject relating to the deployment of vacuum bombs in Emerald City by the Republic.

Communication:

"The following is a gist of my testimony before the International Criminal Court:

1. Single-cycle, fuel-rich explosive systems of any kind have a long-duration thermal pulse that shadows and supports the conventional shock output of the munition. Their intelligence lies in exploiting secondary combustion, based on curated chemical compounds, as a source of lethal energy complimentary to the primary mutation of air pressure caused by traditional weapons. Whether or not this extra energy enhances the lethality of a munition depends on several factors including the dynamics of exposure between the target and the relevant compounds.









- 2. These munitions can cause extreme pain, suffering and mutilations to human subjects, physical assets and entire ecosystems. My study of their use in the second World War, then in Vietnam and finally in Afghanistan at the beginning of the 21st century led me to believe that not only are these weapons capable of incapacitating bunkers, hide-out spots, caves, buildings et cetera but can completely neutralize the fertility of the soil around the targeted vicinity.
- 3. In order to understand these munitions, the chemical compound used by them needs to be appreciated. These fuels disperse throughout the targeted regime, create a plasma cloud, and invade minute spaces and cavities in the tangible targets such as cracks in a building, crevices of a cave or a bunker and even the soil. Once positioned in such cavities, this plasma cloud is a ticking time bomb, waiting for a detonating round. Once detonated, this fuel, together with the primary blast, can cause immense and irreparable fatal damage to pulmonary and cardiovascular systems of the body, bring down entire roof structures and collapse the safest of harbours.
- 4. Their selective use historically is an indication of a consolidated consensus in the international community that such weapons ought to be abandoned. Indeed, in my scholarship, I have witnessed countless socio-legal movements against such munitions from advanced countries as well as developing countries.
- 5. As I understand the situation, the munitions used in Emerald City by the accused person directly caused the loss of countless victims and was an attempt to erase an entire city from the map of Titan.
- 6. Based on the context narrated thus far, I have no qualms in concluding that vacuum bombs and other forms of thermobaric weapons are inherently indiscriminate and disproportionate and are without doubt banned under the existing peremptory norms of law."









<u>VW - 2 (PROFILE OF VICTIM WITNESS - 2)</u>

Name: Pavel Vlassov

Nationality: Titan

Occupation: Field Journalist

Age: 26

General Description:

This witness was a journalist working for the state-owned local network station of Emerald City during the period of conflict between the Republic and Titan and is one of the many residents of Emerald City who was categorized as a combatant by the Pre-Trial Chamber. The use of his social media handles by this witness lead to three successful air strikes by Titan's air force on Republic's territorial battalions operating in Emerald City. The witness seeks to provide his account and perspective on the use of social media by the residents of Emerald City during the period of conflict.

Communication:

"Apps like Tik Tok, Twitter and Instagram are the hottest trends in the global cycle of social media inventions. Like all social media, youngsters use them to subconsciously gain validation, and a dopamine rush by trading their personal and private data. My people were no different. The war was an event, one of far greater consequence than all other cumulative events worth tweeting about. No wonder people used their phones to capture the invasion of the Republic's army. That our intelligence agencies and defence forces used these posts to prepare and execute counter-offensive strategies against the enemy was at its best an indirect and unintended but welcome consequence of our actions.









However, let there be no confusion that at no point were the people acting as cohorts of the Titanian army. Contrary to propaganda floated by the Republic's state-run media channels, we were not the eyes and ears of our government, and we certainly did not act to participate in the war against our enemy.

We have suffered enough and the impact of this war will continue to haunt generations of the Titanian population. Not only should the world ensure that justice and reparations be given to our people, but that each civilian attacked by the enemy forces is counted as a civilian victim of this massacre. It was cold-blooded murder. Allegations that we were acting as combatants are a false narrative and a distraction built by the enemy to circumvent liability for his wrongdoings. My actions were undertaken in my capacity, motivated by my incentives and were divorced from any collective strategy or goal of Titanian defence forces against the enemy lines. To deny me and others like me the benefit of the law is a failure of the international legal order."









ANNEXURES



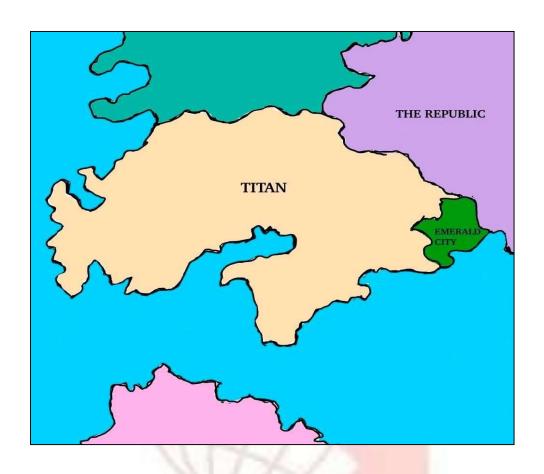








ANNEXURE 1 | TITAN: GEOGRAPHICAL LOCATION













ANNEXURE 02 | REPORT BY THE TRUTH COMMISSION

The following is an extract of a report prepared and published by a truth commission jointly established by war reporters from France, the United Kingdom, Germany and Canada. This report dealt with the excesses of the war in Titan and traced the historical context leading to the Situation in Titan.

THE CRISIS IN TITAN – A TALE OF MISCONCEIVED LEGACY, AND MISSED OPPORTUNITIES

October 21, 2022

[...] The reason why David Wallace will refuse to give up on Titan is because he stands in the shoes of a despot who is convinced that his legacy and stature in the annals of Republican history is someone linked to reconsolidation of the former undivided Republic. This single-minded focus of a ruler, aimed at rising to the greatness and impact of the likes of Marx and Stalin, is the most relevant motivation of the Republican might in the face of death and catastrophe.

Republic has been cornered by the international community – countless economic sanctions, embargos and socio-political measures undertaken by the west – have successfully punctured the Republican pride and all but crippled its economy and its future prospects, however, despite such a bleak future starring at the Republic, the high command under the iron fist of David Wallace has refused to reconsider their mandate in Titan. It is this dream of reuniting the Republic, and making Republic "great again", and bringing it back to its former glory that Wallace has been able to sell to each of the soldier operating for Republic on Titan's soil, and it is the promise of this misconceived legacy that may ultimately bring down what remains of this glory [....]

But it will be unfair to lay the blame of this war on Wallace's pride and greed alone. Blame must also be extended to the leadership of the European Union for allowing Republic to execute its design and ambitions in Titan by overlooking Titan's prospects of joining the EU for far too long. For a decade, Titan's application was kept in suspended abeyance, coiled in an endless loop of bureaucracy, "stakeholder consultation", and cheap political manoeuvring. Had the EU leadership in Brussels taken timely action of Titan's representations, today the NATO forces could have easily joined the fray alongside Titan's brave hearts in pushing back against Republican advances, or perhaps, this war would have never taken place. Despite the contrary perspectives on this topic, the referendum by the United Kingdom in favour of leaving EU and the war in Titan have left a left a major lesson for the world – that peace and unity (economic or political) cannot be taken for granted.









ANNEXURE 03 | SAMPLE SOCIAL MEDIA INPUTS

The defence team of the accused has submitted the following posts made on a popular microblogging website used globally to illustrate the nature and content of the postings made by civilians based in Emerald City in connection with the movement and conduct of the Titanian defence forces. These tweets were retweeted by several users within a matter of minutes, resulting in significant outreach and publishing.

3.1. Tweet made at 9:55 AM











3.2. TWEET MADE AT 10:03 AM











3.3. TWEET MADE AT 10:05 AM



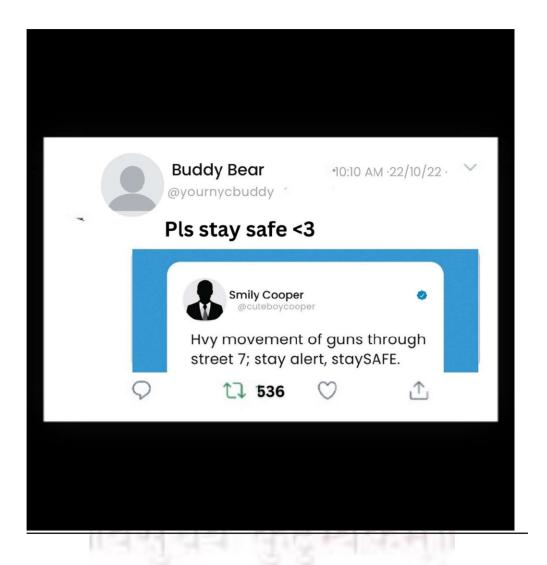








3.4. RETWEET MADE AT 10:10 AM











<u>3.5.</u>

RETWEET MADE AT 10:12 AM





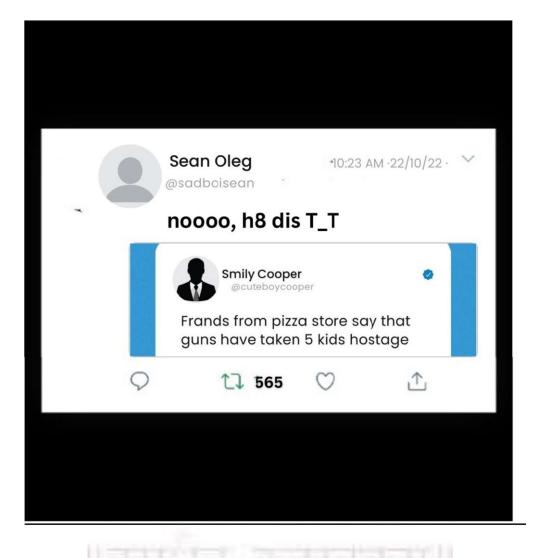






<u>3.6.</u>

RETWEET MADE AT 10:23 AM



Note: Participants are to note that several retweets of the same were made by users in a matter of minutes. The above retweets are only for illustrative purposes.









ANNEXURE 04 | SURVIVOR'S ACCOUNT

The following narrative has been shared by Ms Jean Thomas, a student studying post-graduate medicine at Yanukowich Medical School, a university near Emerald City at the time of the Republic's advance against Titan. Ms Thomas was present in Emerald City during the attacks carried out by the accused in the aftermath of the Siege of Emerald. Subsequently, through the efforts of humanitarian aid groups working in Titan, Ms Thomas was evacuated to Poland where she now resides as an undocumented migrant.

We were hidden inside a robust bunker – a second home to most of us. Months had passed since the beginning of the war and by now most of us were used to the wailing cry of the sirens followed by the howl of the bombs being dropped by Republican jets. It was as if the Gods were raining fire on us.

But nothing could prepare us for the evening of October 23, 2022. People hiding in another bunker located some 7 kilometres from our location had tipped us about the movement of their troops with heavy artillery. We were prepared to duck and remain voiceless and motionless in our position inside this bunker. In the usual course, shots would be heard by those hiding inside and the walls would shake due to the impact of the blast. But those of us inside it would remain safe with the occasional instance of cardiac arrest or anxiety attacks being triggered in people with prior medical histories.

But something was off about that evening. Hidden inside our safe zone, we could hear the shot as it was fired through the sound molecules vibrating from the mouth of the gun used. But there was no familiar reverberation of the walls around or the floor beneath us. At least not at first. Instead, some of us could hear a distinct hissing sound of gas releasing from a pressure chamber.

Then came the second round - and along with it - the most brutal hellfire any of us had experienced. The walls did not shudder this time. Instead, the very same reliable bunker, our second home, melted before our eyes and dissolved our bones and skin within it.









There was nothing else left to do but to wait for our turn for the flames to engulf us.

The destruction may have created a limited space in the enclosure of the bunker for me to feel an arm dragging my injured body out of the rubble. Through the panic and confusion, I opened my eyes and saw people running in all directions.

Later, while receiving medical aid, I learnt about the nature of injuries on the bodies of the dead and the wounded. As a medic, I was exposed to the trauma related wounds caused by military grade explosions. However, the nature of burn injuries I saw in the dispensary cannot be fathomed. Gunpowder and even crude bombs cannot raise the temperature during a combustion to such an extent. Indiscriminately hunting so many people and destroying a reliable bunker with a single weapon was beyond our comprehension. We were convinced that Republican army will not stop till each Titanian has been burnt down to his ashes [....]





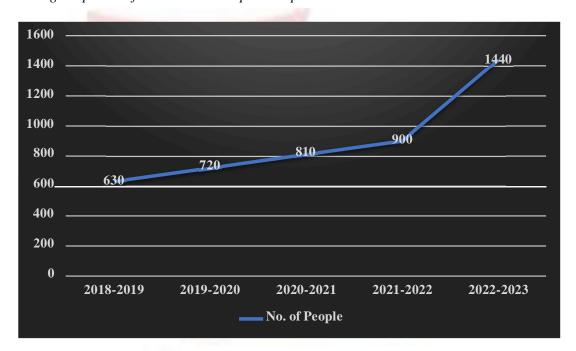




ANNEXURE 05 | STATISTICAL DATA

The following is an excerpt of a report prepared by Peace for All, a cyber security think tank based in Titan, offering perspectives on the social media usage patterns of users in Titan, between January 2020 and December 2022.

1. Mirroring the global trends observed by our sister concerns, PFA notes that the residents of Titan also spent a lot more time on social media and microblogging platforms both qualitatively and quantitatively, as represented by the following graph. Thus, there is a considerable increase in the number of people using social media during the period of the war than the pre-war period.



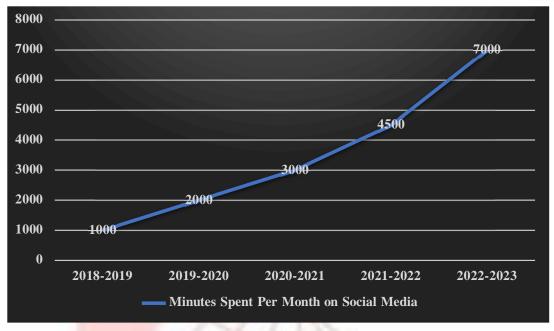
5.1. The chart represents the years and the number of residents.





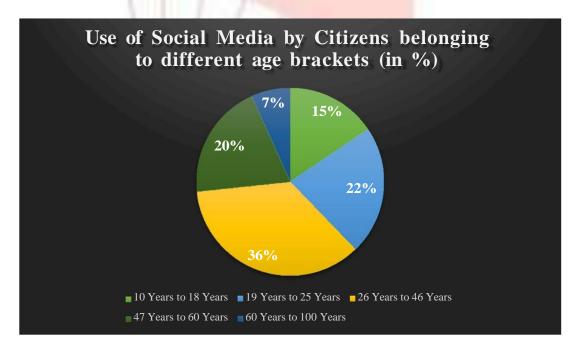






5.2. The chart represents years and time per month spent on these platforms.

2. Patrons will also note that when we ran tests to examine the categorization of a sample of users according to the age bracket represented, the results were surprising and contrary to popular beliefs. The following graph throws light on the results:



5.3. The chart represents the use of social media platforms by different age groups.









DECISION OF THE TRIAL CHAMBER II

DATED JANUARY 27th, 2023









DECISION OF THE TRIAL CHAMBER

DATED JANUARY 27th, 2023

Cour Pénale Internationale		
International Criminal Court		
Original: English		No: ICC-**/27-**/17
		Date: January 27 TH , 2023
	TRIAL CHAMBER	п
BEFORE:	Judge	, Presiding Judge
	Judge	, and
II TO	Judge	
Registrar:		









SITUATION IN THE SOVEREIGN REPUBLIC OF TITAN

In the case of

The Prosecutor v. Paul Anderson

PUBLIC

WITH PUBLIC ANNEXURES

DECISION GIVING NOTICE TO THE PARTIES AND PARTICIPANTS THAT THE LEGAL

To be notified, in accordance with **Regulation 31** of the Regulations of the Court, to:

The office of the Prosecutor	Counsel for Paul Anderson
Legal Representatives of the Victims	Unrepresented Victims
The Office for Public Counsel for	Unrepresented applicants for
Victims	participation







State Representatives Others Registry Detention Section		
	State Representatives	Others
	Registry	Detention Section
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Trial Chamber II ("Chamber") of the International Criminal Court in the case of The *Prosecutor v. Paul Anderson* issues the following decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court ("Regulations").

- 1. On January 1, 2023, the Pre-Trial Chamber I delivered its "Decision pursuant to Articles 61(7)(a) and (b) of the Rome Statute ("Statute") on the Charges of the Prosecutor against Paul Anderson" ("Decision on the Confirmation of Charges"), in which it found that there was sufficient evidence to establish substantial grounds to believe that Mr Paul Anderson was responsible for committing crimes covered under the jurisdiction of the Court between October 22, 2022, and October 25, 2022.
- 2. On this basis, the Pre-Trial Chamber II confirmed the charges against Mr Anderson for the war crime under Article 8(2)(b)(xx) for deploying and using vacuum bombs against the residents of Emerald City between October 22, 2022, and October 25, 2022.
- 3. On January 3, 2023, the Legal Representative of the Victims filed a request pursuant to Regulation 55 of the Regulations, requesting the Chamber to consider a legal recharacterization of the facts as war crime pursuant to Article 8(2)(b)(i) of the Statute. The Legal Representative of the Victim, in the said request dated January 3, 2023, has requested this Chamber to allow them to demonstrate how the Pre-Trial Chamber I, in connection with the conclusions given in the Decision on the Confirmation of Charges: (a) failed to appreciate the principles of customary law and treaty protection relating to civilians as non-combatants in the context of the motivations behind the use of social media by the residents of Emerald City; (b) failed to appreciate that there exists sufficient evidence to establish that despite the use of social media by such residents amounting to successful strikes against soldiers of the Republic, such residents did not lose their protected status of a non-combatant and a civilian in the international armed conflict between Titan and the Republic. In addition, the Legal Representatives requested that the Chamber accept oral and/or written observations on any issue(s) related to this aforementioned legal re-characterisation.







EIGHTH SYMBIOSIS LAW SCHOOL, PUNE - INTERNATIONAL CRIMINAL TRIAL ADVOCACY COMPETITION, 2023



4. The Chamber notes that under Regulation 55 of the Regulations, it may amend, in its decision under Article 74 of the Statute, the legal characterisation of the facts to accord with the crimes committed by the accused under Articles 6, 7 and 8 of the Statute without exceeding the facts and circumstances described in the charges and any amendment to the charges. Regulation 55 of the Regulations provides as follows:

"Regulation 55: Authority Of The Chamber To Modify The Legal Characterisation Of Facts:

- 1. In its decision under article 74, the Chamber may change the legal characterisation of facts to accord with the crimes under articles 6, 7 or 8, or to accord with the form of participation of the accused under articles 25 and 28, without exceeding the facts and circumstances described in the charges and any amendments to the charges.
- 2. If at any time during the trial, it appears to the Chamber that the legal characterisation of facts may be subject to change, the Chamber shall give notice to the participants of such a possibility and having heard the evidence, shall, at an appropriate stage of the proceedings, allow the participants to make oral or written submissions. The Chamber may suspend the hearing to ensure that the participants have adequate time and facilities for effective preparation or, if necessary, it may order a hearing to consider all matters relevant to the proposed change.
- 3. For the purposes of sub-regulation 2, the Chamber shall, in particular, ensure that the accused shall:
- (a) Have adequate time and facilities for the effective preparation of his or her defence in accordance with article 67, paragraph 1 (b); and









- (b) If necessary, be allowed to examine again, or have examined again, a previous witness, to call a new witness or to present other evidence admissible under the Statute in accordance with article 67, paragraph 1 (e)."
- 5. Therefore, the Chamber hereby gives notice to the parties and participants that pursuant to Regulation 55(2) of the Regulations, after having heard all the relevant evidence, the Chamber may modify the legal characterisation of the facts to include the relevant charge(s) under Article 8(2)(b)(i) of the Statute in and against the accused in the present Trial.
- 6. In light of this decision, the Chamber instructs the Office of the Prosecutor, the Legal Representative of the Victims and the Defence to file its submissions in response to the application made by the Legal Representative of the Victims together with the main submissions filed by the said parties pursuant to the official rulebook of the Eighth Symbiosis Law School, Pune International Criminal Trial Advocacy Competition, 2023 including any amendment/addendum thereto.
- 7. The Legal Representative of the Victims are directed to specify, in the main submissions referred to in paragraph 6 above, the relevant written submissions relating to the proposed charge under Article 8(2)(b)(i) of the Statute, the recharacterization of which they intend to demonstrate before the Chamber via the liberties mentioned in paragraph 8 below.
- 8. Further, the Chamber also grants the parties the liberty to make oral submissions, conduct examination(s)/cross-examination(s) of witnesses, and make closing arguments on the question of addition of the relevant charge(s) against the accused pursuant to this decision. The parties are expected to address the Court on the correctness of the intention to add the relevant charge based on the appreciation of the facts, evidence and testimonies presented during the Trial. However, these liberties will be subject to the official rulebook of the Eighth Symbiosis Law School, Pune International Criminal Trial Advocacy Competition, 2023, including any amendment/addendum thereto.







EIGHTH SYMBIOSIS LAW SCHOOL, PUNE - INTERNATIONAL CRIMINAL TRIAL ADVOCACY COMPETITION, 2023



Done in English and French, the English version being authoritative.

Judge _____

Presiding Judge, Trial Chamber II

Judge _____

Judge _____

Judge, Trial Chamber II

Judge, Trial Chamber II

Dated this January 27, 2023

At The Hague

The Netherlands









NOTES TO THE COMPROMIS

- 1) Any questions pertaining to the jurisdiction/authority of the ICC, including but not limited to jurisdiction over the charge approved, shall not be raised by the participants.
- 2) For purposes of these mentioned issues, participants shall solely rely on the facts given in the official Compromis under strict application of the principle "as is, there is...whatever where is."
- Without prejudice to the generality of the foregoing, it is hereby clarified that, for the purposes of SICTA, 2023, it will be assumed that the charge confirmed against the accused (including the weapons, projectiles and material and methods of warfare used, as applicable) has been duly included in the annexe to the Rome Statute by the assembly of state parties in strict compliance with the provisions of the Statute including that of Articles 121 and 123 and the participants are hereby informed that no questions or issues relating to the inclusion of Article 8(2)(b)(xx) under the Statute will be raised by the participants or entertained by the judges.
- 4) The participants are at the liberty to develop multiple strategies to be used in the different oral rounds of the trial, and the same is encouraged.
- Notwithstanding anything mentioned in Point (3) above, the memorials submitted by the participants shall cover all aspects of the law as applicable to the factual matrix in the backdrop of the charge confirmed against the accused.
- Paying due reverence to the spirit of SICTA, the participants are encouraged to understand and showcase the technical nuances of different events covered in the factual matrix.
- Through oral submissions, the participants in their respective roles are expected to appreciate the Rules of Procedure and Evidence used by the International Criminal Court. Additionally, the participants are also encouraged to appreciate and put into use the various principles of international criminal law and public international law explored in various parallel jurisdictions and justify the application of the same in an ICC-based trial with cogent reasons.









- The official Compromis, including all the annexures, is a work of fiction and has been framed with the sole intention of facilitating the advanced study of international criminal law and the development of professional advocacy skills of law students. The official Compromis has no connection, intentional or otherwise, to any historical/present political, sociological or cultural event and does not represent any ideology or affiliation to any political/non-political issue.
- 9) The participants will note that for the purposes of SICTA, 2023, it will be deemed that each of Titan and the Republic has executed and ratified the Rome Statute, the Geneva Conventions and each of the other relevant international instruments, as and to the extent applicable to the present case based on the factual matrix provided hereinabove.







