

## HYPOTHETICAL CASE

### **BLANCO and others v. Republic of Belor** **(The New Atria Embassy Bombings Case)**

#### **I. Historical Background**

1. New Atria is a vast developing country on the eastern coast of Africa and is a former colony of the Republic of Belor, a prosperous nation situated in the Americas. Belor is one of the founding Member States of the Organization of American States (OAS) and a member of the United Nations. New Atria, which is also a Member State of the United Nations, has been granted Permanent Observer status with the OAS but is not a Member State of the Organization, nor is it a Member State of the African Union.

2. New Atria gained its independence from Belor in 1980 through peaceful negotiations. Since then, the two countries have maintained strong diplomatic, economic, and trade relations. New Atria is a major manufacturer, technological as well as military goods. New Atrian nationals have also continued to comprise a significant segment of Belor's population, constituting approximately 15% of Belor's total population of 30 million, because of the countries' shared history and liberal immigration policies.

3. New Atria's population of 12 million inhabitants is

composed of several distinct ethnic groups whose connections with the region can be traced back centuries. These include the Drones, the majority group based primarily in the densely-populated central region of the country, who have controlled the executive and legislative branches of government since New Atria's independence in 1980. The Corpions, the second-largest ethnic group, are based primarily in the isolated province of Roveen in the mountainous northwestern region of New Atria. Owing largely to their sizeable population and central location, the Drones played a dominant role in the administration of New Atria during its time as a colony, and as a consequence many of the Drones' traditional cultural and religious practices evolved as its members became more exposed to international influences. In contrast, the Corpions remained largely isolated throughout New Atria's colonial history and therefore retained many of the long-established beliefs and traditions associated with the Corpion religion. However, as the prospects for New Atria's independence grew in the 1970s, the Corpion's political leadership recognized the need to develop stronger relations with the Drones, and consequently, contact between the two groups increased. This resulted in enhanced collaboration and understanding between the Corpions and the Drones, and also gave rise to strong disagreements in certain fundamental areas, including the terms of New Atria's independence.

4. The Drones were the leading force behind negotiations for New Atria's independence and adopted a highly conciliatory approach to negotiations with Belor. The Corpions favored a less compromising strategy in achieving New Atria's sovereignty and its political leaders have remained dissatisfied with the conditions upon which New Atria gained independence from





located in a barren desert in New Atria's southern territory. New Atria and Belor entered into a bilateral agreement, according to which New Atria permitted Belor's armed forces to continue to operate in its territory and provi



18. The Defense of Freedom Act was subsequently approved by Belor's Parliament on June 10, 2001 and included the following provisions:

13. (1) Nationals of the countries listed in Schedule I to this Act seeking to enter the Republic of Belor are required to provide the following information upon their arrival to a port of entry:

(a) official travel and visa documents issued in accordance with the provisions of the Immigration Act 2000;

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discretion, require the person concerned to be brought before the Court prior to his or her deportation.

(3) No appeal lies from an order issued pursuant to subsection (2).

[. . .]

32. (1) In circumstances in which there are reasonable grounds to believe that an individual,





Security and Immigration obtained arrest and deportation orders against Ms. Gray and Mr. Suarez from the General Court pursuant to section 17 of the Defense of Freedom Act. The judge who issued the orders did not require Ms. Gray and Mr. Suarez to be brought before the Court prior to their deportation, explaining in his reasons that both individuals had been in the country for over one year, had voluntarily overstayed their visas, and were therefore clearly ineligible to remain in the country. On November 16, 2001, immigration officers arrested Ms. Gray and Mr. Suarez who, upon learning of their pending deportations, claimed that the criminal proceedings against them in New Atria were politically motivated. Ms. Gray and Mr. Suarez were then escorted to the national airport and placed on a flight to New Atria. Both individuals were arrested upon their arrival at the national airport in Kawori and transferred to the Citadel to await their trials.

26. On December 1, 2001, Belor, in response to inquiries by the ICRC and several non-governmental organizations, announced that it considered Mr. Blanco, like the other detainees, to be an unprivileged combatant captured and detained in connection with an ongoing armed conflict with the Scorpions and therefore that his apprehension and detention were authorized under applicable international humanitarian law. Belor also announced that the special tribunal in New Atria had commenced an investigation into Mr. Blanco's role in the embassy bombings, with a view to determining whether he should be charged with war crimes, crimes against humanity or terrorism in connection with the attacks.

### **III. Proceedings before the Domestic Courts**

27. "Rights International", a leading human rights group in Belor, filed a habeas corpus petition with the courts in Belor on December 2, 2001 on behalf of Mr. Blanco as well as other unnamed Citadel detainees pursuant to the human rights provisions of Belor's Constitution,<sup>1</sup> requesting that the detainees be brought before Belor's domestic courts to determine the legality of their detention and the conditions of their imprisonment. ST.00peronnedud

his petition based upon the fact that Mr. Blanco was a dual national of Belor and New Atria and had initially been apprehended in Belor, but deferred to the military's determination that Mr. Blanco was an unprivileged combatant captured in the course of an armed conflict and therefore that his detention was authorized under the laws of war. The General Court also declined to address the treatment of Mr. Blanco and the other detainees, on the ground that these issues were more appropriately dealt with by applicable mechanisms under international humanitarian law, including supervision by the ICRC, rather than the domestic courts of Belor. Finally, the General Court declined to address the question of the fairness of Mr. Blanco's legal proceedings, on the ground that the claim was premature and that, if convicted, he would have the right to appeal his conviction and sentence to the High Court of Belor. The High Court of Belor dismissed the final appeal from the habeas corpus petition on September 20, 2002.

29. On December 10, 2001, Rights International also filed two constitutional actions with the General Court of Belor. One action was lodged on behalf of all New Atrian members of the Gir Temple of New Atrian nationality, challenging the application of sections 13 and 14 of the Defense of Freedom Act to their circumstances under the provisions of Belor's Constitution governing the right to privacy, the right to religious belief and observance, and the right to equality before the law. The first action also challenged the application of section 32 of the Defense of Freedom Act to the congregation members and the closure of the Temple under the provisions of Belor's Constitution governing the right to privacy, the right to property, the right to religious belief and observance, and the rights to freedom of assembly and association. The second action challenged the arrest and deportation of Laura Gray and Robert Suarez pursuant to their constitutional rights to liberty and security of the person and the right to due process of law, as well as their right to seek and receive asylum under the U.N. Convention relating to the Status of Refugees.

30. In judgments issued on March 13, 2002, the General Court dismissed both actions. Concerning the first proceeding, the Court concluded that the plaintiffs' rights to freedom of assembly and association were not violated because it was open to them to find alternative locations in which to meet and worship. The Court also rejected the claims relating to the right to property, the right to privacy, and the right to religious belief and observance because the restrictions imposed by the State constituted justifiable limitations under the Constitution of Belor on grounds of national security and public order. In dismissing the second action, the General Court concluded that the arrest and deportation of Laura Gray and Robert Suarez were authorized by law and executed pursuant to an order of the General Court. The Court also found that there were reasonable grounds to believe that Ms. Gray and Mr. Suarez were associated with a terrorist organizac 0.202fw 3S-19r2m limrori(e c)6(r)- d 10.16 0 Td( I9 0.18 Tw 14.425 0 Tdm0.0008 Tc 0.T



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International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997, ratified in 1998.

International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on December 9, 1999, ratified in 2000.

38. New Atria is a party to the following treaties, without pertinent reservations:

International Covenant on Civil and Political Rights and its first Optional Protocol, ratified in 1981.

Rome Statute of the International Criminal Court, ratified in 2001.

The four Geneva Conventions of 1949 and their two additional Protocols of 1977, ratified in 1981.

Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971, ratified in 1982

International Convention against the taking of Hostages, adopted by the General Assembly of the United Nations on December 14, 1973, ratified in 1982.

Convention on the Prosecution and Punishment of Crimes against Internationally-Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973, ratified in 1974.

International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997, ratified in 1998.

International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on December 9, 1999, ratified in 2000.