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8th AMITY INTERNATIONAL MOOT COURT

COMPETITION 2018

INTERNATIONAL COURT OF JUSTICE

THE PEACE PALACE

THE HAGUE, THE NETHERLANDS

CASE CONCERNING THE ORUKAIN REFUGEES

THE STATE OF ANTOLIA (APPLICANT)

v.

THE STATE OF VARYS (RESPONDENT)

MEMORANDUM ON BEHALF OF THE APPLICANT

2018

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LIST OF ABBREVIATIONS

Serial Number	Abbreviation(s)	Full Form(s)
1.	¶	Paragraph
2.	¶¶	Paragraphs
3.	&	And
4.	$	Dollar
5.	Annex.	Annexure
6.	Antolia	The Republic of Antolia
7.	Art.	Article
8.	Arts.	Articles
9.	Bangladesh	People's Republic of Bangladesh
10.	BIA	Board of Immigration Appeals
11.	CEDAW	Convention on the Elimination of all forms of Discrimination against Women, 1981
12.	eg.	*exempli gratia*
13.	et al	And others
14.	etc.	*et cetera*
15.	GDP	Gross Domestic Product
16.	GNI	Gross National Income
17.	HDI	Human Development Index
18.	Hon'ble	Honourable
19.	HRC	Human Rights Committee
20.	ICCPR	International Covenant on Civil and Political Rights, 1976
21.	ICESCR	International Covenant on Economic, Social and Cultural Rights, 1976
22.	ICJ	International Court of Justice
23.	Id.	*Ibidem*

24.	i.e.	That is
25.	INA	Immigration and Nationality Act(s)
26.	India	The Republic of India
27.	INS	Immigration and Naturalization Service
28.	Int'l	International
29.	MEA	Minister/Ministry of External Affairs
30.	Nat'l	National
31.	NGO(s)	Non – Governmental Organization(s)
32.	No.	Number
33.	Pg.	Page
34.	PUCL	People's Union for Civil Liberties
35.	r/w	Read with
36.	Tahoma	The State of Tahoma
37.	u/s	Under section
38.	UDHR	Universal Declaration of Human Rights, 1948
39.	U.K.	The United Kingdom
40.	UN	United Nations
41.	UNCRC	United Nations Convention on Rights of Child, 1989
42.	UNDP	United Nations Development Programme
43.	UNGA	United Nations General Assembly
44.	UNHCR	United Nation High Commission for Refugees
45.	UOI	Union of India
46.	U.S.	The United States of America
47.	USD	United States Dollar
48.	v.	*versus*
49.	Varys	The State of Varys
50.	VCLT	Vienna Convention on Law of Treaties, 1969
51.	Vol.	Volume

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STATEMENT OF JURISDICTION

Both the parties, namely the State of Antolia and the State of Varys, have consensually transmitted to the Hon'ble International Court of Justice an original copy of the Special Agreement for the '***Case concerning the Orukain Refugees***,' under Article 40 Paragraph 1 of the Statute of the International Court of Justice, signed in The Hague, The Netherlands; which states that "*Cases are brought before the Court, as the case may be, either by the notification of the* ***special agreement*** *or by a written application addressed to the Registrar. In either case the subject of the dispute and the parties shall be indicated*." Both parties shall accept the Court's decision to the word.

QUESTIONS PRESENTED

I.

WHETHER THE NOTIFICATION DATED JUNE 6, 2018 ISSUED BY THE STATE OF VARYS IS IN CONFIRMITY WITH THE PRINCIPLES OF INTERNATIONAL LAW?

II.

WHETHER THE STATE OF VARYS IS OBLIGED TO COME TOGETHER WITH THE REPUBLIC OF ANTOLIA BY CONTRIBUTING A HELPING HAND IN THE REHABILITATION AND RE-SETTLEMENT OF THE TAHOMIAN ORUKAINS?

III.

WHETHER THE STATE OF VARYS IS OBLIGED TO GIVE CITIZENSHIP TO THE CHILDREN BORN WITHIN ITS TERRITORY IN ADHERANCE TO THE UNITED NATIONS CONVENTION ON RIGHTS OF THE CHILD, 1989?

IV.

WHETHER THE STATE OF VARYS IS OBLIGED TO COME UP WITH A LEGISLATION WITH REGARD TO THE MIGRANTS WHEREIN IT IS TOLERANT OF MIGRATION UP TO A CERTAIN LIMIT?

STATEMENT OF FACTS

BACKGROUND

In the continent of Laasa, there are three countries adjacent to each other – The State of Tahoma, the Republic of Antolia and the State of Varys. The State of Tahoma shares its western border with the Republic of Antolia and the latter shares its western border with the State of Varys. The State of Antolia is an underdeveloped country with HDI Rank 151. The State of Varys is a rapidly developing nation which is also the world's most populous country at the same time. Tahoma, Antolia and Varys, all three of them, have a considerable percentage of their total population following Orukai and Phikam, which are two ideologically opposite beliefs. The former believes in the conventional methodologies of form of living whereas the latter is a believer of modernity. The dispute arose at the ideological difference.

TURN OF EVENTS

The situation turned violent on the 5th of February, 2018 in Woka, the capital of Tahoma, wherein the Orukains and the Phikams had a clash over a vitriolic social media post with regard to the development of Tahoma. The Orukains were in favour of preserving the natural ways of living whereas the Phikams wanted to develop into a tourist attraction. Then one thing led to another and the result was conviction of only Orukains to the levels of death penalty. Although the Orukains consisted of more than half of the Tahomian population, they perished. Tahoma has a total population of 5 million people and half of the people were Orukains. Phikams consisted of half a million. Mathematically, Orukains were five times the Phikams in Tahoma.

GENESIS OF DISPUTE

The discord arose when the Orukains were convicted by death sentence in the case of riots in Woka. Phikams were not arrested or held liable. The Orukains feared persecution from Tahoma

and hence, fled to Antolia. Antolia, being an underdeveloped nation, was not able to sustain 2.5 million Orukains. Antolia itself is living off the grants being provided by the State of Varys. It does not have the requisite resources to make both ends meet of their own population; that is evident from their HDI rank. Antolia obviously cannot support a quarter of ten million more people. So, the Orukains, because of multiple reasons, shifted to Varys. Varys is the most populated country in the world and *prima facie*, it does not have the requisite space to accommodate two and a half million more people into its territory. The resources are fast depleting and there is an acute shortage of everything. Therefore, Varys issued a notification to deport the undocumented immigrants back to Antolia, the place where they came from.

CURRENT STATUS

After several sessions of discussions and negotiations, neither of the two countries are ready to leave their grounds. The ground from the side of Varys being that of deportation of the undocumented immigrants back to Antolia *in lien* with the notification dated June 6, 2018. The stand of Antolia here is with the fact that the notification is in violation of the General Principles of International Law.

Both the countries, namely – the Republic of Antolia and the State of Varys, have amicably and mutually consented to submit the matters of dispute to the Hon'ble International Court of Justice under a special agreement. Hereinafter, the State of Antolia is presented as the 'Applicant' and the State of Varys as the 'Respondent.'

SUMMARY OF PLEADINGS

[1.] THE NOTIFICATION DATED JUNE 6, 2018 ISSUED BY THE VARYSIAN GOVERNMENT IS IN VIOLATION OF THE INTERNATIONAL LAW AND THUS, UNSUSTAINABLE.

This notification in discussion stands invalid as it interferes with the fundamental rights and freedom of refugees. On top of that there has been a violation of the rights of women and children which have been granted to them by international law. Also, proper care hasn't been taken by the tribunal in differentiating the refugees from the native tribes of Varys.

Varys amended its Citizenship Act and as per the new rules it was stated that women had to let go of their rights, as a citizen of Varys, to pass on the same to their offspring. Also, the exclusive right to pass on citizenship hereditarily was only enjoyed by men. This is a clear discrimination done by the Government of Varys on the basis of gender.

Children born on the territory of Varys were deprived of their right of citizenship and turned stateless since birth. Their only fault was that they took birth from a refugee's womb. This deprivation would act as a serious impediment to their all-round development because they wouldn't receive any basic amenities that are necessary for a child's growth.

It becomes the duty of the government of a nation to reach out to each and every individual and make sure that they receive the benefits of government policies. Varys has failed at this point, instead, it is trying move its own citizens out of the nation.

[2.] THE ORUKAINS, IF ANY, WHO ENTERED VARYS FROM ANTOLIA ARE REFUGEES UNDER INTERNATIONAL LAW, IRRESPECTIVE OF THEIR NATIONALITY, AND VARYS OUGHT TO HAVE GRANTED ASYLUM TO THEM.

The Orukains, if any, who entered Varys from Antolia are refugees under International Law as they fulfill all the pre-requisites mentioned in Article 1 of the Refugee Convention of 1951. They feared persecution in Tahoma where despite of being the majority population they were forced to leave their own country and flee to Antolia. When they came to Antolia they faced several problems,

which went to the extent of lack of food, shelter and clothing and they were again forced to leave Antolia and seek refuge in their neighboring country, the State of Varys, making them refugees under International law.

Further, since they are refugees, they should be granted asylum in the state of Varys, on whose door they came knocking on. This right of refugees to be granted asylum is protected under International Law by dint of Article 14 of the Universal Declaration of Human Rights and other international conventions in this regard.

[3.] ANTOLIA IS NOT LIABLE TO ACCEPT THE ORUKAINS BEING DEPORTED BY VARYS.

There looms an impending danger to the lives of the Orukains in the Republic of Antolia with regard to their rights to food and shelter as the country does not have sufficient resources to sustain them. The Orukains have already suffered a lot in Antolia and deportation by Varys back to Antolia would only bring forth the bad experiences. Orukains suffered physical persecution in Antolia and that should not be repeated at any costs whatsoever.

Also, there looms a cloud of communal violence as the ideological clashes between the Orukains and the Phikams is not unprecedented and unique. The entire issue arose in the first place due to their ideological difference in Tahoma. Hence, in a country like Antolia where there is a sizeable number of Phikams present, it is risqué to give refuge to two and a half million more Orukains.

The Republic of Antolia ranks 151 in the Human Development Index which is a proof sufficient enough to render its position as an underdeveloped nation. Also, it receives grants from the State of Varys. A country which itself needs help will definitely not stand a chance of helping more than a million more people whilst it cannot feel its own population.

For these reasons, Antolia wouldn’t be liable to accept the deported Orukains by the State of Varys.

PLEADINGS

[1.] THE NOTIFICATION DATED JUNE 6, 2018 ISSUED BY THE VARYSIAN GOVERNMENT IS IN VIOLATION OF THE INTERNATIONAL LAW AND THUS, UNSUSTAINABLE.

1. The notification issued by the Government of Varys on June 6, 2018 is in violation of its obligations under the United Nations Convention on Rights of Child, 1989; United Nations Convention on Refugees, 1951 and its Protocol of 1967; customary International Law and other subsidiary sources of law.

2. The argument behind this contention is threefold: **[1.1]** *firstly, Violation of Human Rights and Fundamental Freedom of Women,* **[1.2**] *secondly, Violation of the Rights of Children born to Refugees,* **[1.3]** *thirdly, Deportation of Various Undocumented Persons to be Invalid.*

[1.1] Violation of Human Rights and Fundamental Freedom of Women

3. Article 9 (2) provided under Part II of the Convention on the Elimination of All Forms of Discrimination against Women, 1979[1] states that States shall grant women equal rights with men with respect to the nationality of their children. This convention plays as the guiding light to every member state of the UN.

4. In ***The Mauritian Women Case***[2] where women used the first Optional Protocol to the ICCPR[3] to complain about the discriminatory law to the Human Rights Committee. The

[1] Convention on the Elimination of All Forms of Discrimination against Women, 1979, General Assembly Resolution 34/180. Entry into force on 3 September 1981.
[2] The Mauritian Woman Case, Communication No. 35/1978 (Sept. 23, 2018, 12:05 PM), http://www.un.org/womenwatch/daw/cedaw/protocol/cases.htm.
[3] International Covenant on Civil and Political Rights, 1976, General Assembly resolution 2200A (XXI). Entry into force 23 March 1976.

HRC[4] adopted the view that *"the law made an adverse distinction on the grounds of sex on the right to be free from arbitrary and unlawful interference with family and was in breach of the ICCPR."*

5. In the instant case, the State of Varys amended its Citizenship Act, 1980.[5] The new rules stated that women had to let go of their rights, as a citizen of Varys, to pass on the same to their offspring. Also, the exclusive right to pass on citizenship hereditarily was only enjoyed by men. Thus, children born in Varys' territory will not be granted citizenship unless their biological father is a citizen of Varys and that the parents are married.[6] This orthodox law discriminates on the basis of gender, and women are not kept at an equal standing with men.

6. In ***Broeks v. Netherlands***[7] case the Human Rights Committee[8] held that *"the law differentiated on the ground of sex placing married women at a disadvantage compared with married men and noted that this differentiation was not reasonable. The Committee found that Mrs. Broeks was a victim of a violation, based on sex, of Article 26 of the ICCPR."*

7. In ***Avellanal v. Peru***[9] case the HRC[10] expressed the view that *"Peru was under an obligation to take effective measures to remedy the violations of the ICCPR suffered by Mrs. Avellanal."*

8. A number of cases regarding discrimination on the basis of sex have been presented before the United Nations Human Rights Committee. The aforementioned case had a similar

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[4] The Human Rights Committee (Communication No. 2155/2012. Established under Resolution CCPR/C/110/D/2155/2012) is the body of independent experts that monitors implementation of the International Covenant on Civil and Political Rights by its State parties. Came into effect from 12 September 2011, CCPR/C/GC/34.
[5] Moot Proposition. ¶ 11.
[6] id.
[7] Broeks v. Netherlands, Communication No. 172/1984 (Sept. 23, 2018, 12:05 PM), http://www.un.org/womenwatch/daw/cedaw/protocol/cases.htm.
[8] Supra 4.
[9] Avellanal v. Peru, Communication No. 202/1986 (Sept. 23, 2018, 12:05 PM), http://www.un.org/womenwatch/daw/cedaw/protocol/cases.htm.
[10] Supra 4.

situation with the present incident, but if we take in account other cases that have been presented before the Human Rights Committee, which are based on laws that have discriminated on the grounds of sex, in most of them the committee was against such discrimination.

9. It can therefore be derived that there have been certain laws implemented by many nations that discriminated on the basis of gender, and such discrimination is not at all acceptable in present time which was made quite obvious by the opinions and views of the UNHRC in the aforementioned cases.

[1.2] Violation of the Rights of Children born to Refugees

10. As per Article 2 (1) the Convention on the Rights of the Child, 1989; which the State of Varys is a signatory to; *"States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion,* ***national****, ethnic or social origin, property, disability,* ***birth*** *or other status."*[11]

11. The term 'nationality' has no universal definition but the judicial definition quoted by the ICJ in its 1955 ***Nottebohm judgment***,[12] can be taken into account, according to which nationality '*is a legal bond having as its basis a social fact of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties. It may be said to constitute the juridical expression of the fact that the individual upon whom it is conferred, is in fact more closely connected with the population of the State conferring nationality than with that of any other State'*.

[11] Convention on the Rights of the Child, 1989, General Assembly Resolution 44/25. Entry into force on 20 November 1989.
[12] Nottebohm judgement (Sept. 17, 2018, 12:27 PM), https://www.icj-cij.org/files/case-related/18/2676.pdf.

12. Article 7 (1) of the UNCRC[13] holds the view that every child shall be registered immediately after birth and shall have a right to acquire nationality. Here again, the Government of the State of Varys has violated its obligations under the UNCRC since it has taken away the right to acquire nationality from these children.

13. Furthermore, Article 7 (2) of the UNCRC mandates that a state shall ensure the implementation of these rights, in particular where the child would otherwise be stateless.[14] In the instant case, it is likewise wherein the children of the refugee women are being declared stateless because they were born in the Varysian territory.[15]

14. The UNHCR mandates that '*it follows from Articles 3 and 7 of the CRC that a child must not be left stateless for an extended period of time: a child must acquire a nationality at birth or as soon as possible after birth. The obligations imposed on States by the CRC are not only directed to the State of birth of a child, but to all countries with which a child has a relevant link, such as through parentage or residence'*.[16]

15. Thus, it can be derived that Varys infringed upon the basic right of those children to gain citizenship of the state and thereby, declining any other amenities that are necessary for their all-round development and well-being. Hence, in the present case, children born in the State of Varys should not be rendered stateless and the provision of the aforesaid should be given effect by the state.

[1.3] Deportation of Various Undocumented Persons to be Invalid

16. The notification dated June 6, 2018 which was issued by the Varysian Government would turn the people concerned stateless and as per Article 8 (1) of the Convention on the

[13] Convention on the Rights of the Child, 1989, General Assembly Resolution 44/25. Entry into force on 20 November 1989.
[14] id.
[15] Moot Proposition. ¶ 19.
[16] United Nations High Commission for Refugees, Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1 - 4 of the 1961 Convention on the Reduction of Statelessness (Sept. 18, 2018, 12:35 PM), http://bit.ly/23wTx2X.

Reduction of Statelessness, 1961; a state shall not deprive any person of its nationality if it would render him stateless.[17]

17. It becomes the duty of the Government of the State of Varys to outreach and take care of the documentation of such people. If they have been living in the forests of Varys for decades and didn't get any government identity cards issued, then the government and not the people are at fault.

18. Taking into account the provision of Article 1 (1) of the Convention on the Reduction of Statelessness, 1961; it is clear that a state shall grant its nationality to a person born in its territory who would otherwise be stateless. [18] In the instant case, whether the aforementioned people are documented or not, as per their claim they have been living in Varys for decades and hence were born on the Varysian territory. Ergo, ideally, they should be considered the nationals of Varys and not be deported out of its territory.

19. It cannot be considered as a mere coincidence that almost all the people, who were detected by the tribunal, are the followers of the same religious sect. The Varysian Government has directly passed the orders for their deportation although Article 9 of the Convention on the Reduction of Statelessness, 1961 clearly stipulates that a state shall not deprive a person or group of persons of their nationality on racial, ethnic, religious or political grounds.[19]

20. In the present scenario, there is no reason to not believe that a discrimination in deprivation of nationality has taken place on few of the above grounds.

21. Thereafter, it can be stipulated on the note that the State of Varys has an obligation to not deprive any person or a group of persons, of their nationality and the basic rights that come along with it; without any specific reason for doing the same.

[17] Convention on the Reduction of Statelessness, 1961, United Nations, Treaty Series, Vol. 989, P. 175.
[18] id.
[19] id.

[2.] THE ORUKAINS, IF ANY, WHO ENTERED VARYS FROM ANTOLIA ARE REFUGEES UNDER INTERNATIONAL LAW, IRRESPECTIVE OF THEIR NATIONALITY, AND VARYS OUGHT TO HAVE GRANTED ASYLUM TO THEM.

22. The Orukains in the present case should be treated as refugees under International Law and should be granted asylum in Varys. The argument behind this contention is twofold: **[2.1]** *firstly, granting refugee status according to Article 1 (A) (2) of the United Nations Convention on Refugees, 1951*; **[2.2]** *secondly, there lies a duty on the part of Varys to grant asylum to refugees by dint of Article 14 of the Universal Declaration of Human Rights, Article 2 of ICCPR, and Article 46 of the Vienna Convention on Law of Treaties.*

[2.1] Granting of Refugee Status

23. A refugee, according to Article 1 of the 1951 Convention, is someone who is unable or unwilling to return to their country of origin owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.[20]

24. In ***United States v. Geiser***[21] it was stated that "*We refer to standard reference works such as legal and general dictionaries in order to ascertain the ordinary meaning of words*." Also, the Court noted that Black's Law Dictionary[22] defines 'persecution' as "*violent, cruel, oppressive treatment directed towards a person or a group of persons because of their race, religion, sexual orientation, politics or other beliefs*."

25. The Orukains in the present case are refugees under International Law as they fulfill the pre-requisites for availing the refugee status as mentioned in the UN Refugee Convention, 1951.

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[20] United Nations Convention Relating to the Status of Refugees, 1951, United Nations, Treaty Series, Vol. 189, P. 137.
[21] United States v. Geiser, 527 F.3d 288, 294-95 (3d Cir. Pa. 2008).
[22] Black's Law Dictionary, 8th ed. (St. Paul, MN: Thomson West, 2004), 1178.

26. Furthermore, in the case at hand the agent for the applicant contends that the Orukains were refugees in the Republic of Antolia **[2.1.1]** and in the State of Varys **[2.1.2]**.

[2.1.1] Reasons for seeking refugee status in the Republic of Antolia

27. The evidence that they were refugees can be further proven with the help of the following three limbs: **[i]** Religion, **[ii]** Membership of a particular social group, **[iii]** Political opinion.

[i] Religion

28. The Universal Declaration of Human Rights states, in Article 18,[23] that *"everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public of private, to manifest his religion or belief in teaching, practice, worship and observance."*

29. In ***Syndicat Northcrest v. Amselem***[24] it was stated that, *"religion typically involves a particular and comprehensive system of faith and worship. Religion also tends to involve the belief in a divine, superhuman or controlling power. In essence, religion is about freely and deeply held personal convictions or beliefs connected to an individual's spiritual faith and integrally linked to one's definition and spiritual fulfillment, the practices of which allow individuals to foster a connection with the divine or with the subject or object of that spiritual faith."*

30. In the instant case, the refugees were the followers of Orukai, an ancient fire-worshipping religion,[25] and the bone of contention here was the ideological differences between the Orukains and the non-Orukains in making Tahoma a center for tourist attraction.[26] After

[23] Universal Declaration of Human Rights, 1948, 217 A (III).
[24] Syndicat Northcrest v. Amselem, 2 S.C.R. 551, 2004 SCC 47.
[25] Moot Proposition. ¶ 1.
[26] Moot Proposition. ¶ 3.

the riot in Woka,[27] the government arrested several Orukains and charged them with several non-bailable offences.[28]

31. The point to be emphasized upon here is that only one individual belonging to Phikam religion was arrested and was later on released, which shows the prejudiced nature of the Government of Tahoma against the Orukains. Moreover, the media reports also confirmed that several Phikam government officials wanted to portray Orukains as anti-nationals. Further, the government of Tahoma arrested several Orukains punishing them to the extent of granting death sentence.

32. The Orukains were not even given the right to defend themselves which is one of the basic rights and has also been enshrined in Article 7 of the UDHR[29] as *"All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination."*

33. Therefore, they feared persecution because of religion in the present case as their right to manifest their belief was not recognized in Tahoma and the government was biased towards them.

[ii] Membership of a particular social group

34. *"Persecution on account of membership in a particular social group refers to persecution that is directed toward an individual who is a member of a group of persons, all of whom share a common, immutable characteristic, i.e., a characteristic that either is beyond the power of the individual members of the group to change or is so fundamental to their identities or consciences that it ought not be required to be changed."*[30]

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[27] Moot Proposition. ¶ 4.
[28] Moot Proposition. ¶ 6.
[29] Universal Declaration of Human Rights, 1948, 217 A (III).
[30] Matter of Acosta, A-24159781, 1 March 1985 (US Board of Immigration Appeals).
See also: Chan v. Canada (Minister of Employment and Immigration), 3 F.C 675, 20 IMM. L.R. (2d) 181 (C.A.) (1993).
See also: Chen Yu Jing v. M.C.I., F.C., no. IMM- 3627-09), Mosley, FC 258 (2005).
See also: Cheung v. Canada (Minister of Employment and Immigration), 2 F.C. 314 (C.A.) (1993).

35. In the case at hand, the Orukains believed in one fire worshipping God with austerity and non-acquisition their central tenets.[31] They also chose professions like agriculture, animal husbandry, teaching etc.[32] Moreover, they felt that Tahoma's uniqueness lay in its spirituality and making it a tourist attraction would destroy the essence of Tahomian living.[33] All these qualities were particular only to the Orukains and they were the only ones who feared persecution from the government unlike others in that area.

[iii] Political Opinion

36. A broad and general interpretation of political opinion is *"any opinion on any matter in which the machinery of state, government, and policy may be engaged."*[34]

37. The claimant does not have to belong to a political party[35] nor does the claimant have to belong to a group that has an official title, office or status[36] nor does the claimant have to have a high-profile within a political party[37] in order for there to be a determination that the claimant's fear of persecution is by reason of political opinion.

38. In the present case, the apple of discord was that the government was trying to make Tahoma a centre for commercial and tourist activities and Orukains were not in favor of this move. On the other hand, non-Orukains considered this move of the government in best interest of the nation.[38] This was a political opinion because it was one of the policies of the government on which the people living in Tahoma had different opinions about.

39. Also, inclusively as per Article 1 of the ICCPR[39] *"All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely*

[31] Moot Proposition. ¶ 1.
[32] Moot Proposition. ¶ 2.
[33] Moot Proposition. ¶ 3.
[34] Klinko v. Canada (Minister of Citizenship and Immigration), 3 F.C. 327 (C.A.) (2000).
[35] Armson v. Canada (Minister of Employment and Immigration), 9 IMM. L.R. (2d) 150 (F.C.A.), at 153 (1989).
[36] Hilo, Hamdi v. M.E.I., F.C.A., no. A-260-90 (1991).
[37] Surajnarain Doodhnauth v. M.C.I., F.C., no. IMM – 1309 – 08 (2008).
[38] Moot Proposition. ¶ 3.
[39] International Covenant on Civil and Political Rights, 1976, General Assembly Resolution 2200A (XXI). Entry into force 23 March 1976.

pursue their economic, social and cultural development;" it is evident that these three are the vital pillars of refugee status.

40. Thus, on the basis of the aforementioned points it is well established in this case that the Orukains were refugees under International law from the nation of Tahoma, who feared persecution from the government of Tahoma owing to different aforementioned reasons.

[2.1.2] Reasons for seeking refugee status in the State of Varys

41. As has been already mentioned previously in the issue, persecution is defined as "*violent, cruel, oppressive treatment directed towards a person or a group of persons because of their race, religion, sexual orientation, politics or other beliefs*."[40]

42. In the case of ***R v. Secretary of State for the Home Department, Ex parte Adan, Ex parte Aitseguer,***[41] it was stated that, *"For the purpose of the 1951 Convention, persecution may be by bodies other than the state. Persecution is not limited to cases where a state carried out or tolerated the persecution; it encompasses instances where a state is unable to afford the necessary protection to its citizens."*

43. In the present case, owing to the underdeveloped nature of the country, Antolia was not able to protect the Orukains and they faced forms of persecution in ways unsaid.

44. In the instant case, according to a 2018 report by International Society of Refugees, an International NGO engaged in rehabilitation of the Orukains, the Orukain refugees did not have access to basic rights to life, food and shelter[42] which is one among the very basic rights and also enshrined in Article 11 of the ICESCR.[43]

[40] Supra 22.
[41] R v. Secretary of State for the Home Department, Ex parte Adan, Ex parte Aitseguer, 2 WLR 143 (2001).
[42] Moot Proposition. ¶ 18.
[43] International Covenant on Economic, Social and Cultural Rights Adopted, 1976, General Assembly Resolution 2200A (XXI). Entry into force 3 January 1976.

45. Further, Antolia lacked job opportunities and owing to resource scarcity they were forced to leave Antolia and flee to Varys for better opportunities. Antolia is an underdeveloped nation, which ranks 151 in the Human Development Index and takes substantial amount of help from its neighbouring country, Varys which is a developing nation.[44]

46. Antolia tried its best in helping the refugees by setting up relief camps in the country[45] for the Tahomian refugees but for a country as poor as Antolia it is not possible to accommodate 2.5 million Orukains when it does not have resources for the subsistence of its own people.

47. Therefore, the Orukains were refugees in the Republic of Antolia because of the conditions prevailing there and should be granted protection accordingly.

[2.2] Obligation of Varys to Grant Asylum

48. Article 14 (1) of the UDHR[46] states that *"Everyone has the right to seek and to enjoy in other countries asylum from persecution."*

49. Asylum is defined as *"the protection which a State grants on its territory or some other place under the control of certain of its organs, to a person who comes to seek it".*[47]

50. However, even though refugees are foreigners in the asylum country, by virtue of Article 2 of ICCPR[48] they enjoy the same fundamental rights and freedoms as nationals. The right to equality before the law, equal protection of the law and non-discrimination which form a cornerstone of international human rights law appear to ban discrimination against refugees based on their status as such.

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[44] Moot Proposition. ¶ 8.
[45] Supra 42.
[46] Universal Declaration of Human Rights, 1948, 217 A (III).
[47] Article 1 of the Resolution adopted by the Institute of International Law in Sept. 1950, American Journal of International Law, Vol. 50, Supplement (1951), P. 15.
[48] International Covenant on Civil and Political Rights, 1976, General Assembly Resolution 2200A (XXI). Entry into force 23 March 1976.

51. The seminal judgement of the U.S. Supreme Court in the case of ***INS v. Elias-Zacarias***[49] laid down the phrase 'well-founded fear' as the cornerstone for asylum seekers. Relating this to the status of the Tahomian Orukains, they were being deprived of their human rights as basic as the right to defend oneself which qualifies as a well-founded fear of being persecuted.

52. In ***Immigration & Naturalization Service v. Cardoza-Fonseca***,[50] The Supreme Court of the United States of America determined that an applicant need not show that persecution is a probability, but only that it is a reasonable possibility.

53. The Court refused to apply the "more likely than not" standard to an alien seeking asylum.[51] A petitioner for asylum need only show that persecution is a "reasonable possibility."[52] It further stated, however, that, "one can certainly have a well-founded fear of an event happening when there is a minor chance of the occurrence taking place."[53] Cardoza-Fonseca also implied that a one in ten of chances would be sufficient to create a reasonable possibility.[54]

54. In the instant case, the fear of persecution taking place was quite possible, as the refugees did not have basic rights to life, food and shelter[55] because of the underdeveloped country status of Antolia. Further, due to lack of employment opportunities and resource scarcity they couldn't even earn their livelihood and such conditions would lead to starvation and slow-death which is a kind of persecution in itself.

55. Article 46 (1) of the Vienna Convention on the Law of Treaties[56] to which Varys is a party, states that *"A State may not invoke the fact that its consent to be bound by a treaty has*

[49] INS v. Elias-Zacarias, 502 U.S. 478 (1992).
[50] INS v. Cardoza-Fonseca, 480 U.S. 421 (1987).
[51] Gregory S. Porter, Persecution Based on Political Opinion: Interpretation of the Refugee Act of 1980, Cornell International Law Journal, Vol. 25 Issue 1. Winter 1992 by Article 6 (Sept. 11, 2018, 13:41 PM), https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1280&context=cilj.
[52] id.
[53] id.
[54] Supra 51.
[55] Supra 41.
[56] Vienna Convention on Law of Treaties, 1969, United Nations, Treaty Series, Vol. 1155, P. 331.

been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance."

56. For the greater good of the humanity a country cannot brush under the carpet its international obligations and hide cowardly behind a shield citing a national problem, which our western neighbor is blatantly doing.

57. Denial of asylum to genuine refugees is also against UNHCR policies. In this context, it may be noted that the underlying principle for the UNHCR is that "In cases of large scale influx, persons seeking asylum should always receive at least temporary refuge."[57]

58. In the case at hand, Varys is citing its problem of increasing population as a reason for not granting asylum to the refugees. It has gone to the extent of making a legislation in this regard to make one child policy a norm.[58]

59. Further, after the influx of refugees the process of acquiring citizenship was made stringent to a level where children born on Varysian territory will not be getting citizenship unless their biological father is a citizen of Varys and the parents are married.[59].

60. This move was made to prevent children of refugees from automatically getting citizenship, which shows the mala fide intention of Varys towards the refugees.

61. Therefore, in the instant case the Orukains are genuine refugees under International law who sought refuge from Varys and Varys has a legal obligation in this regard to grant them the same.

[57] Michell Moussalli, Who is a Refugee?, Refugee Magazine, Pg. 42 (1982).
[58] Moot Proposition. ¶ 10.
[59] Moot Proposition. ¶ 11.

[3.] ANTOLIA IS NOT LIABLE TO ACCEPT THE ORUKAINS BEING DEPORTED BY VARYS.

62. The reason with regard as to the why the Republic of Antolia is not liable to accept the Orukains being deported by Varys is threefold. **[3.1]** *firstly, impending danger of physical persecution being suffered by the Orukains all over again;* **[3.2]** *secondly, there is an impending danger and threat to the communal harmony of the Republic of Antolia; and* **[3.3]** *thirdly, the Republic of Antolia is presently faced with the problem of insufficiency of resources.*

[3.1] Physical Persecution which the Tahomian Orukains had to go through.

63. The refugees stationed in the Republic of Antolia were deprived of their basic rights to life, food and shelter.[60] The basic human rights to live freely, eat and reside were snatched away from them by Antolia. These rights are guaranteed to any human being whatsoever be his or her status, i.e., a citizen, or a tourist, or a refugee, or a migrant. Hereinafter, the concerns have been categorised into the deprivation of 'Right to Life' **[3.1.1]**, and how economic persecution is a form of physical persecution **[3.1.2]**. They have been discussed respectively.

[3.1.1] Deprivation of 'Right to Life'

64. As per Article 3 of the Universal Declaration of Human Rights which rightfully states that each and every person has the right to life, liberty and security of person.[61] The right to life is a basic human right which is promised to each and every human being born on this planet.

[60] Supra 42.
[61] Universal Declaration of Human Rights, 1948, 217 A (III).

65. Furthermore, as per the celebrated International Covenant on Civil and Political Rights, Article 6 (1) states that the inherent right to life of every human being is protected by law. Not a single person could be unreasonably deprived of his or her life.[62]

66. Article 6 (1) of The United Nations Convention on the Rights of the Child, 1989 states with regard to the children that the state parties recognize the inherent right to life of each and every child. Likewise, Article 6 (2) mentions that it is duty of the state to maximize the possible extent of survival and development of the child.[63]

67. Also, the General Assembly, United Nations held on 13th of December, 1985 passed a Resolution heading '***Declaration on the human rights of individuals who are not nationals of the country in which they live***.'[64] Further stating that, '*The General Assembly, Having considered the question of the human rights of individuals who are not nationals of the country in which they live; decides to adopts the declaration on the Human Rights of Individuals who are not nationals of the country in which they live, which is annexed to the present resolution.*'[65]

68. Article 5 (1) (a) of General Assembly Resolution A/RES/40/144 states that *'The right to life and security of person; no alien shall be subjected to arbitrary arrest or detention; no alien shall be deprived of his or her liberty except on such grounds and in accordance with such procedures established by law*.'[66]

69. Likewise, in the instant case, the United Nations High Commissioner for Refugees, popularly known as UNHCR, has set up relief camps in the Republic of Antolia for

[62] International Covenant on Civil and Political Rights, 1976, General Assembly resolution 2200A (XXI). Entry into force 23 March 1976.
[63] Convention on the Rights of the Child, 1989, General Assembly Resolution 44/25. Entry into force on 20 November 1989.
[64] The 116th Plenary Meeting of the General Assembly, United Nations held on 13th of December, 1985 passed a resolution named United Nations General Assembly Resolution 40/144 of 13 December 1985 stating the Declaration on the Human Rights of Individuals who are not nationals of the country in which they live.
[65] id.
[66] id.

safeguarding people's right to life which has been violated.[67] Also, 'Right to Life' incorporates a person's 'Right to Food' **[3.1.1.1]** and 'Right to Shelter' as well **[3.1.1.2]**.

[3.1.1.1] Deprivation of 'Right to Food'

70. Article 25 (1) of the Universal Declaration of Human Rights states with utmost clarity that each and every person is born with the right to a basic standard of living which is sufficient to maintain the health and wellbeing of any human being and his or her family. Also, it further states that health and well – being include food, clothing, housing and medical facilities along with social services. The rights stand safeguarded if at all the situation of unemployment arise as well. As per the UDHR, the human being has a right to security in the events of sickness, disability, widowhood, old age or any other event which leads to the lack of livelihood per se.[68]

71. In the Constitution of the Republic of India, Article 21 was interpreted in the inclusive sense of adding 'Right to food' within the ambit of right to life in the case of ***People's Union for Civil Liberties ('PUCL')*** **v.** ***Union of India.***[69] The Apex Court of India was petitioned by PUCL, one of the leading Non-Government Organizations of the Republic of India, compelling the government to respond to a situation of 'Hunger Emergency' in one of the draught hit federal states of the country.[70]

72. The Apex Court of India, in response, held that the right to food was already enshrined in Article 47 of the Constitution of the Republic of India which mentions that the state is to undertake measures to improve the nutritional state of population.[71] Also, the Court set a number of resolutions commencing in 2001 which required the State Governments of India to implement programmes like food distribution for the most disadvantaged. The Apex

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[67] Supra 42.
[68] Universal Declaration of Human Rights, 1948, 217 A (III).
[69] People's Union for Civil Liberties ('PUCL') v. Union of India, Writ Petition 196 of 2001.
[70] UNGA. Human Rights Council. 28th session. Agenda item number 3. A/HRC/28/65.
See also: Hilal Elver. Access to justice and right to food: the way forward, Report of the special rapporteur on the right to food.
[71] India Const. art. 47.

Court of India has a huge impact on the realization of right to food as a right to life in India.[72]

73. In the instant case, the Orukain refugees were denied food which is the basic cornerstone of life. The Orukain refugees suffered to the zenith of injustice by being denied their right to food which is a human right.[73] Also, as stated above, right to food is a part of right to life which is a human right as per the Universal Declaration of Human Rights.[74]

[3.1.1.2] Deprivation of 'Right to Shelter'

74. Article 25 (1) of UDHR[75] states that housing is a necessary social service which is promised to a human being for maintenance of a decent or even a bare minimum standard of living. The well-being of a person can only be guaranteed if they have a roof over their head to come back to at the end of the day. This is what Article 25 (1) of the UDHR, which is the Magna Carta of Human Rights across the globe, holds.

75. Article 11 (1) of ICESCR[76] is the most comprehensive of all the conventions. It mentions that every person has a right to adequate standard of living and a continuous improvement in the standard of living. Also, it states further that the state will take appropriate steps to ensure and realize this right.

76. Article 27 (3) of UNCRC[77] clearly states that all the state parties will take all the requisite and appropriate measures to protect the rights of children and provide them with material assistance and programmes which support them in respect to nutrition, clothing and housing.

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[72] Christophe Golay, The Right to Food and Access to Justice: Examples at the National, Regional and International Levels, P. 57 (FAO 2009).
[73] Supra 41.
[74] Universal Declaration of Human Rights, 1948, 217 A (III).
[75] Universal Declaration of Human Rights, 1948, 217 A (III).
[76] International Covenant on Economic, Social and Cultural Rights Adopted, 1976, General Assembly Resolution 2200A (XXI). Entry into force 3 January 1976.
[77] International Covenant on Civil and Political Rights, 1976, General Assembly resolution 2200A (XXI). Entry into force 23 March 1976.

77. In the present case, the Orukains of Tahoma have suffered because of deprivation of shelter, which also happens to be a subset of right to life. Exposing a person to the harsh climatic conditions also impends to hampering a person's right to life.

78. If these issues are closely pondered upon, then it comes to notice that this is a form of physical persecution which is happening. Deprivation of right to food and shelter is a form of physical persecution which the Orukains had to suffer in Antolia because of the country's saddening state of affairs.

[3.1.2] Economic persecution equating physical persecution

79. Antolia is an underdeveloped state which is unable to provide for even its very own citizens. It holds a rank of 151 in the Human Development Index which is a proof enough of the conditions prevailing in the Republic of Antolia. The situation is not as rosy as it seems.[78]

80. Antolia itself is surviving on the grants provided to her by her neighbouring state – Varys. Varys has the resources to sustain its own population and also grant financial help to the Republic of Antolia at the same time. It is a developing nation with requisite resources which are being utilized with optimum carefulness.[79]

81. As per the words of the Varysian Minister of External Affairs, she said, "*These people may have entered Varys due to the lack of employment in Antolia; however, economic persecution is not recognized in International Law*."[80] Assuming but not conceding to her words, economic persecution is also a form of physical persecution.

82. In the landmark case of ***Dunat v. Hurney***[81] the Court held that "*Economic proscription so severe as to deprive a person of all means of earning a livelihood may amount to physical*

[78] Moot Proposition. ¶ 07.
[79] id.
[80] Moot Proposition. ¶ 17.
[81] Dunat v. Hurney, 297 F.2d at 746 (3d Cir. 1961).

persecution." The Court herein also validated that the denial of an opportunity to earn a livelihood as equivalent of a sentence to death by means of slow and gradual starvation.[82]

83. Also, purely economic persecution is non-physical in sense that the government which is persecuting is not making any kind of physical contact with the victims.[83] The Board of Immigration Appeals of the US Government (BIA) and the U.S. Courts of Appeals have applied at least three entirely different standards for determination of refugee status which is based on the allegations of economic persecution.[84]

84. The most recent standard set forth by BIA in the case of ***Mirzoyan v. Gonzales***[85] was a new formulation with reference to ***The Re: T – Z - Standard***,[86] it was stated that the correct standard would be, "*deliberate imposition of severe economic disadvantage or deprivation of liberty, food, housing, employment or other essentials of life*."

85. The standard set forth by the BIA is in lieu with the language of the Kovac test[87] but it has expanded and elevated the threshold from '*substantial'* to '*severe*.' Further, it incorporates the version of the Acosta standard stating '*threat to life or freedom*.'

86. As per the ***Re: T – Z-***,[88] it must be demonstrated by the asylum seeker that he or she has suffered more than just economic discrimination. But, BIA negated the fact that the display of "*total deprivation of livelihood or a total withdrawal of all economic opportunity*" was necessary.[89]

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[82] Lauren Michelle Ramos, A New Standard for Evaluating Claims of Economic Persecution under the 1951 Convention relating to the Status of Refugees, 44 Vand. J. Transnat'l L. 499. 507-08 (2011).
[83] id.
[84] Falkler, Jonathan L., Economic Mistreatment as Persecution in Asylum Claims: Towards a Consistent Standard, University of Chicago Legal Forum: Vol. 2007: Iss. 1, Article 15, 479 – 481 (Sept. 13, 2018, 02:12 PM), http://chicagounbound.uchicago.edu/uclf/vol2007/iss1/15.
[85] Mirzoyan v. Gonzales, 457, F.3d 217, 220-21 (2d Cir. 2006).
[86] The Re: T – Z – Standard, 24 I. & N. Dec. 163, 170 – 71 (B.I.A. 2007).
[87] Djordje Kovac v. Immigration and Naturalization Service, John P. Boyd, District Director, Seattle, Washington, 407 F2d at 106.
[88] The Re: T – Z – Standard, 24 I. & N. Dec. 163, 170 – 71 (B.I.A. 2007).
[89] Lauren Michelle Ramos. J.D. Candidate, A New Standard for Evaluating Claims of Economic Persecution Under the 1951 Convention Relating to the Status of Refugees, Vanderbilt University Law School. Vanderbilt Journal of Transnational Law, Vol. 44:499, Page 509-11 (2011) (Sept. 07, 2018 11:16 AM), https://wp0.vanderbilt.edu/wp-content/uploads/sites/78/ramos-cr.pdf.

87. BIA was creative and prudent enough to use illustrative examples of hypothetical situations that could possibly amount to persecution even though they did not threaten the freedom and life of a person. Situations like those of imposition of unreasonable fines, confiscation of property, or denial to continue the set profession might also lead to persecution.

88. None of the said standards comply with the actual situation faced by the Orukains in Antolia. The Orukains were not denied any opportunity of employment nor were they unreasonably fined, nor their property was confiscated, nor there was any kind of denial to continue any profession. There was no economic persecution at all.

89. Hence, the statement of the Varysian Minister for External Affairs that the Orukains were economically persecuted stands defied. The Orukains suffered physical persecution in ways unsaid and if at all, the State of Varys stands adamant on deporting them back to Antolia, they would go through the trauma all over again.

[3.2] Impending Danger and Threat to Communal Harmony of the Republic of Antolia

90. The problem of communal violence due to the refugees is not unheard of. The communal divide in Rakhine, Myanmar was due to the Rohingya refugees who were Muslims and their ideological counterparts, i.e., the Hindus. It was because of the belief that the Rohingya militants had with regard to the collaboration of the Hindus with the rulers of Myanmar. It was due to this belief that the armed Rohingyas captured around hundred Hindus, early in the morning in Fakir Bazaar, and marched them along the forest path. They were tied together like cattle and herded.[90]

91. Likewise, even Bangladesh decided to move around fifteen thousand refugees from a Buddhist locality. The Rohingyas are basically Muslim refugees who had settled in the Bandarban district of Chittagong Hill Tracts. Bangladesh had opened its borders to the

[90] Praveen Swami, Myanmar Tapped into Communal Divide, The Indian Express (Sept. 12, 2018 at 08:30 PM), https://indianexpress.com/article/india/myanmar-tapped-into-communal-divide-fear-paved-way-for-violence-in-rakhine-rohingya-muslims-4855350/.

Rohingyas who were rendered stateless when their native country Myanmar denied them citizenship. To "*ensure peace in the hill district*" was the main aim of re-settling them in the refugee camps. The Buddhists' and the Muslims' ideological clashes could turn violent in the future, as was the case in the past.[91]

92. The problem of communal disharmony is not just limited to the Rohingyas. It is being faced by a country like Germany as well. As soon as Germany opened its doors to the Syrian refugees, there was a steep rise in the rates of hate crimes against the Muslim Syrian refugees seeking asylum in Germany. Although the German public has been welcoming the refugees with open arms, there have still been as many as six 'Anti-Refugee Protests' weekly in the year 2015.[92] An average of ten attacks per day took place in the year 2016 as per Germany's interior ministry. There were reported incidents of over thirty - five hundred attacks on the asylum hostels and the refugees.[93]

93. Furthermore, the huge influx of around five million refugees in India from Bangladesh has seen communal violence since partition days of the country.[94] The Bangladeshi Muslim refugees have always had to face closed doors and cold attitude from the Indian Hindus. There has always been a profound tension between the two communities and a mere tip off could start a violent agitation at the drop of hat.

94. There is no reason whatsoever to believe that the Orukain refugees will live in harmony with the Antolian citizens. Lest the citizens start an uprising, the government does not have enough resources to defend the refugees. And if the is an armed conflict between the two distinct communities, the government will be rendered powerless due to insufficiency and inability to protect either of the communities.

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[91] Rohingya Crisis, First Post (Sept. 12, 2018 08:36 PM), https://www.firstpost.com/world/rohingya-crisis-fearing-revival-of-communal-violence-bangladesh-to-move-15000-refugees-from-buddhist-locality-4100147.html.

[92] Germany's Failure to tackle Hate Crime, Amnesty International (Sept. 12, 2018 08:44 PM), https://www.amnesty.org/en/latest/news/2016/06/germany-failing-to-tackle-rise-in-hate-crime/.

[93] Harriet Agerholm, Refugees Attack Germany, Independent U.K. (Sept. 12, 2018 09:47PM), https://www.independent.co.uk/news/world/europe/refugee-attacks-germany-ten-angela-merkel-hate-crime-a7600616.html.

[94] Nilanjana Chatterjee, Interrogating Victimhood: East Bengal narratives of communal violence, University of Carolina – Chapel Hill (Sept. 12, 2018 06:45PM), https://swadhinata.org.uk/wp-content/uploads/2017/08/chatterjeeEastBengal-Refugee.pdf.

[3.3] The Problem of Insufficiency of Resources in the Republic of Antolia

95. Antolia is an underdeveloped nation which ranks 151 in the Human Development Index (HDI).[95] The rank itself is a proof which is sufficient enough to render the state at a very deprived section of third world countries. The Republic of Antolia stands at a very disadvantaged position because of its rank in the Human Development Index.

96. Comparing the HDI report of Antolia in the year 2017 with that of its HDI report counterpart in the year 2015, Tanzania (United Republic of)'s was at the same position. The HDI value for the year 2015 of Tanzania (United Republic of)'s was 0.531 – which puts the country in the category of low human development category as per UNDP, as it was positioned at a rank of 151 out of 188 countries and territories.

97. The life expectancy at birth for Tanzania was 65.5 years and expected years of schooling stood at 8.9 years. But the mean years of schooling was as low as 5.8 years. The Gross National Income (GNI) per capita (PPP US $) stood at $2,467.[96]

98. The Gross Domestic Product (GDP) in the year 2016 was 4,562.82 crores USD with a per capita income (GDP) of 879.19 USD in the same year witnessing a GDP growth rate of 7.0% annually. The GNI per capita income stood at 2,610 USD.[97] Also, the population was calculated at 5.56 billion.

99. Comparing the statistics of Tanzania to that of Antolia on the basis of their respective HDI ranks would not be a far - fetched concern. The statistics of Antolia in the year 2017 would be equivalent to that of Tanzania. The situation, per se, is not as good as it seems. Hence, there is evidentiary proof of insufficiency of resources.

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[95] Moot Proposition. ¶ 7.

[96] Human Development report 2016 by UNDP, Human development for everyone: Briefing note for countries on the 2016 Human Development Report (Sept. 12, 2018 05:34 PM), http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/TZA.pdf.

[97] World Bank, Data on GDP (Sept. 21, 2018 01:26 PM) https://data.worldbank.org/indicator/NY.GNP.PCAP.PP.CD See also: https://data.worldbank.org/indicator/NY.GNP.PCAP.PP.CD?locations=TZ.

100. Keeping in view these three concerns it becomes pertinent as to why Antolia would not be liable to accept the Orukains being deported by Varys. Also, an influx of all the more two and a half million Orukain would only worsen the conditions prevailing in Antolia. It would add to the woes of the Government as providing asylum leads to a lot of obligations and grants on the part of the government. And if denied of those rights, the international checks and balances are ready to always question the country as to why it denied the same.

101. In the present scenario, Antolia is not in a state to help the Orukains. Antolia itself is being helped by a neighbouring sovereign and obviously, it cannot take the place of a helper here when she herself needs help. The situation of Antolia being able to accommodate 2.5 million more Orukains is a utopian concept as of now for the government. Antolia definitely wishes that it had the resources to sustain the refugees but sadly, it doesn't and everybody must bear the brunt of the harsh truths and realities.

PRAYER FOR RELIEF

Wherefore in light of the issues raised, arguments advanced and authorities cited, the agent on behalf of the Applicant respectfully requests this Panel to adjudge and declare that:

I. The notification issued by the State of Varys dated June 6, 2018 be quashed and declared not in lien with the principles of International Law.

II. The State of Varys come together with the Republic of Antolia by contributing a helping hand in the rehabilitation and re-settlement of the Tahomian Orukains.

III. The State of Varys give citizenship to the children born within its territory in adherence to the United Nations Convention on Rights of the Child, 1989.

IV. The State of Varys come up with a legislation with regard to the migrants wherein it is tolerant of migration up to a certain limit.

-ON BEHALF OF THE STATE OF ANTOLIA

AGENT[S] FOR THE APPLICANT