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**INTERNATIONAL COURT OF JUSTICE**

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**CASE CONCERNING THE BORDER SKIRMISH BETWEEN MARSHAL AND  
ARYAN**

**MARSHAL v. ARYAN**

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**MEMORIAL ON BEHALF OF THE APPLICANT**

**THE APPLICANT**

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LIST OF ABBREVIATIONS

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1. A.B.A.J- American Bar Association Journal
2. AJIL. – American Journal of International Law
3. Art. – Article
4. CJIL- Chinese Journal of International law
5. Comp.- Comparative
6. Ed. – edition
7. G.A Res.- General Assembly Resolution
8. I.C.J – International Court of Justice
9. ICCPR- International Covenant on Civil and Political Rights
10. ICESCR- International Covenant on Economic, Social and Cultural Rights
11. ICTY- The International Criminal Tribunal for the Former Yugoslavia
12. IHL- International Humanitarian Laws
13. ILSA- International Law Student Association
14. Int. – International
15. IRRC- International Review of the Red Cross
16. J.- Journal
17. L. – Law
18. L.J- Law Journal
19. No. – Number
20. para.- Paragraph
21. PCIJ- Permanent Court of International Justice
22. Pg. –page
23. POW- Prisoners of War
24. Rep. – Report
25. Rev.- Review

- 26. U. Chi.L.Rev. – University of Chicago Law Review
- 27. U. Pitt. L. Rev.- University of Pittsburg Law Review
- 28. UDHR- Universal Declaration of Human Rights
- 29. UN Doc.- United Nations Document
- 30. UN- United Nations
- 31. Va. L. Rev. – Virginia Law Review
- 32. VCCR- Vienna Convention on Consular Relations
- 33. VCLT- Vienna Convention on the Law of treatise.
- 34. Vol. –Volume

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## STATEMENT OF JURISDICTION

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It is hereinafter most respectfully submitted that the Applicant has invoked the jurisdiction of the International Court of Justice under Art. 36(1) of the International Court of Justice Statute by virtue of Art.4 of The Bortex Agreement,1998.

Art. 36(1) of the ICJ Statute states-

“The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.”

QUESTIONS PRESENTED

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I- WHETHER ICJ HAS JURISDICTION IN THE PRESENT MATTER OR NOT.

II- WHETHER TREATMENT METED OUT TO MAJOR DMITRI GODMAN IS CONTRARY TO THE PRINCIPLES OF INTERNATIONAL LAW, ESPECIALLY INTERNATIONAL HUMANITARIAN LAWS AND TREATY AND CONVENTIONS TO WHICH BOTH STATES ARE A PARTY TO.

III- WHETHER UNPROVOKED ATTACK ON THE LOC DEMANDED A STRICT ACTION TO BE TAKEN AND THERE EXISTS ANY LEGAL BOUNDATION ON THE MARSHAL'S TO RETURN THE PRISONERS OF WAR.

IV- WHETHER MARSHAL IS ENTITLED TO APPROPRIATE DAMAGES WHICH ARE TO BE CALCUTED BASED ON SETTLED CONVENTIONS UNDER INTERNATIONAL LAW.

V- WHETHER MARSHAL IS RIGHT IN THE EYES OF INTERNATIONAL LAW TO DENY ARYAN CONSULAR ACCESS TO MR.ALEX.

## FACT HIGHLIGHTS

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- Geographical Background

Marshal is a landlocked country located in the African continent ruled by a dictator, General Vadim. Assura is the capital of Marshal. Marshal is bordered by Aryan, Castle and Lager, and all these three neighbouring countries have democratically elected governments and have never seen or witnessed a military coup.

- Prevailing Circumstances

As a country, Marshal has been perceived as a despotic state by its neighboring states. However, internationally it is well received as a country with a high level of growth, development, prosperity and a high standard of living. General Vadim assumed power in 1975, after Marshal became independent from British rule in 1972. General Vadim who formed part of British army had succeeded to become the dictator of Marshal after suspending the newly formulated constitution of independent Marshal. Since independence, Marshal has fought four wars with its neighboring countries, primarily on the basis of religion as Marshal is a Christian dominated country whereas its three neighbours are all Islamic countries. Despite sustained efforts of its neighbours to establish supremacy over Marshal, Marshal has always fended off attacks on its territory through military tactics and expertise, and with support from the Republic of Dominia, which happens to be another Christian majority superpower located in the African continent.

- The Bortex Agreement

Marshal has even gone ahead to annex certain territories of Aryan, which culminated in the Bortex Agreement of 1998 demarcating a new border line between Aryan and Marshal known as the Line of Control (LOC). Additionally, this Agreement also made it mandatory to make the LOC a demilitarized zone.

- Incidences that led to war

On the 15<sup>th</sup> of October 2017, the Aryan army started conducting patrolling operations in the LOC. These operations were not sanctioned and largely condemned by the International community. The operations were discovered by Major Dmitri Godman who was in charge of the Alpha unit manning one of the Marshal border outposts. Major Godman went on to ward off the infiltration attempt by the Aryan army along with five other soldiers, and all of them were eventually caught as a result of being overpowered by the Aryan army after they ran out of ammunition. The activities of the Aryan army led the Marshal army to conduct large scale military operations in the LOC resulting in a full fledged war within the territory known as the Marshal Aryan border skirmish which lasted from 20<sup>th</sup> October 2017 to 25<sup>th</sup> December 2017.

Marshal emerged victorious in this war by brutally crushing the Aryan aggression. The result of the war was that first, Marshal annexed the LOC as part of its territory; second, Marshal captured close to 47000 Prisoners of War (POW) as well close to 100 civilians. The Aryan government requested Marshal to hand over the Prisoners of War (POW) as well as the civilians captured by them, in exchange for Major Godman, along with his five soldiers, who happened to be the only POWs captured by Aryan. The offer was refused by Marshal.

However, Marshal agreed to release the civilians except one namely Mr. Alex, whom they claimed was being detained on charges of espionage as he belonged to the Aryan Secret Service. Repeated requests from Aryan to Marshal to have consular access to Mr. Alex were denied. On the 02<sup>nd</sup> of February 2018, the Marshal border outpost received a sealed parcel from the Aryan army with an enclosed letter. The parcel contained mutilated body parts of all the soldiers captured by Aryan, with Major Godman's name tag appearing on top of all the chopped up body pieces along with a letter. There was evidence of gruesome torture on the soldiers including mutilation, permanently disabling or removing an organ and endangering mental and physical health. The soldiers were firstly shot dead, and then these acts were

committed. Aryans consequently made a declaration to invoke Article 4 of the Bortex Agreement which gives rise to jurisdiction of the ICJ (International Court of Justice) for acts committed during war time. A notice was accordingly sent to Aryan for the brutalities committed on Major Dmitri Godman, for bringing ICJ jurisdiction into the foray. Even after Aryans firm opposition of the ICJ'S jurisdiction to the matter at hand the ICJ registry has admitted Marshal's applications to institute written proceedings under Article 36(1) of the ICJ statute based on Article 4 of the Bortex Agreement based on which both countries are bound to approach ICJ for settlement of their dispute.

Hence the instant matter presented before this court.

## SUMMARY OF PLEADINGS

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### I- THAT ICJ HAS JURISDICTION IN THE PRESENT MATTER.

It is submitted that ICJ has jurisdiction over the present matter as both the State of Marshal and Aryan are a member of the UN Charter , ICJ Statute , UDHR, ICCPR, ICESR, all the Geneva Conventions and the Vienna Convention on the law of treatise . Both the states have entered into a special agreement termed as Bortex agreement. This special agreement entered into by both states have conferred jurisdiction to the state parties in respect of all actions, activities and disputes which arise in relation to the LOC (i.e the new border line). It is pertinent to note that the present matter itself is concerned with the border skirmish between the state of Marshal and Aryan and thus there is no room of doubt that ICJ has jurisdiction in the matter of Marshal/Aryan.

### II- THAT TREATMENT METED OUT TO MAJOR DMITRI GODMAN IS CONTRARY TO THE PRINCIPLES OF INTERNATIONAL LAW, ESPECIALLY INTERNATIONAL HUMANITARIAN LAWS AND THE TREATY AND CONVENTIONS TO WHICH BOTH STATES ARE A PARTY TO.

The inhumane treatment meted out to Major Dmitri Godman along with the soldiers which included gruesome torture, disablement and removal of body organs and mutilation of dead bodies of the soldiers, without any shred of doubt contravenes the provisions of customary international humanitarian law, common article 3 of Geneva convention and various provisions of all the four Geneva Conventions. This inhumane treatment is also against the international treaties and covenants (Universal Declaration on Human Rights and International Covenant on Civil and Political rights) which states are parties to.

### III- THAT UNPROVOKED ATTACK ON THE LOC DEMANDED A STRICT ACTION TO BE TAKEN AND THERE EXISTS NO LEGAL BOUNDATION ON THE MARSHAL'S TO RETURN THE PRISONERS OF WAR.

It s submitted that the Aryan Army has tried to extend their military activities to the demilitarized zone through the patrolling activity and has thus violated the principle of Demilitarization. This in turn demanded a strict action to be taken at the end of Marshals. Hence, Major Godman and his five solders went to ward off the infiltration attempts and were captured as result of being overpowered by the Aryans after they ran out of ammunitions. The activities of Aryan army led the Marshal army to conduct large scale military operation in



LOC which was completely a military necessity. There existing a threat to the national security Marshals are not bound to return the Prisoners of War.

IV- THAT MARSHAL IS ENTITLED TO APPROPRIATE DAMAGES WHICH ARE TO BE CALCUTED BASED ON SETTLED CONVENTIONS UNDER INTERNATIONAL LAW.

It is humbly submitted before this Hon'ble Court that the acts of the state of Aryan have caused irreparable loss and injury to the State of Marshal. Reparation would be an indispensable step forward in the direction of protecting the victim state of Marshal , so that they do not continue to suffer at the hands of the abusive government of Aryan. In order to eliminate the consequences of the illegal acts and violations committed by the State of Aryan and to restore the situation that would have existed if state of Aryan had not committed the enumerated violations; the State of Marshal will be entitled to damages.

V- MARSHAL WAS ABSOLUTELY RIGHT IN ITS PLACE AS PER INTERNATIONAL LAW TO DENY CONSULAR ACCESS TO MR. ALEX.

Mr. Alex was a member of Aryan Secret service and was detained on the charges of espionage, which is a threat to national security of the State. Espionage is a matter of internal and territorial jurisdiction of a state, taking into account the sovereignty of the state. Consular access could not be provided to a person involved in espionage against the state, as it would possess serious threat to the state of Marshall and would further endanger the nation and worsen the situation.

## ARGUMENTS ADVANCED

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### **I- THAT ICJ HAS JURISDICTION IN THE PRESENT MATTER.**

It is humbly submitted before this Hon'ble Court that the UN Charter has established the ICJ as a principle vehicle for the settlement of disputes and the international community has endorsed it's use.<sup>1</sup> ICJ has jurisdiction to decide, in accordance with international law, disputes of a legal nature that are submitted to it by States (jurisdiction in contentious cases).<sup>2</sup>

#### **1.1 That the State of Aryan has given consent to the jurisdiction of ICJ under The Bortex agreement.**

The jurisdiction of the Court in contentious proceedings is based on the consent of the States. The state parties Marshal and Aryan have given consent to ICJ's jurisdiction in these two steps:

- i) Becoming a member of the ICJ Statute.<sup>3</sup>
- ii) Executing a special agreement for actions, activities and disputes in relation to the new border line (i.e LOC) created under the Agreement,1998.<sup>4</sup>

It is germane to note that both States having fulfilled the above two steps have given valid consent.<sup>5</sup> The Bortex Agreement entered between the State of Marshal and Aryan convey a valid consent which is attributable to both State parties.<sup>6</sup>

#### **1.2 That the present matter falls within the scope of the compromissory clause of the Bortex agreement.**

International agreements contain compromissory clauses in which the parties agree to submit disputes to the ICJ or other forums for third-party dispute settlements. <sup>7</sup>The most common compromissory clauses apply to "disputes" concerning the "application or interpretation" of

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<sup>1</sup> UN Charter Art. 33(1);UN Charter Art.36(3);UN Charter 92-96.

<sup>2</sup> International Court Of Justice Statute, Art. 36(1).

<sup>3</sup> Moot Proposition ,para 20.

<sup>4</sup> Moot Proposition, para.6.

<sup>5</sup>Alexandrov Stanimir A. *The Coumpulsary Jurisdiction of the International Court of Justice: How compulsory is it?*, 5 CJIL ,29,29-30(2006).

<sup>6</sup> Vienna Conventions on Law of Treaties, Art. 11.

<sup>7</sup> Jonathan I. Charney , *Compromissory Clauses and the Jurisdiction of the International Court of Justice* ,81 AJIL,855,855&856(1987).

the bilateral or multilateral agreement in which they are found.<sup>8</sup> There exists a lower threshold to establish jurisdiction in case of compromissory clauses.<sup>9</sup>

By evaluating the scope of the consent for jurisdiction and virtue of Art. 4 of the Bortex agreement the jurisdiction of ICJ can be established as the border skirmish between Marshal and Aryan involves acts resulting into the violation of International Humanitarian laws, the conventions and treatise, all of which took place on the disputed border of these states in the demilitarized zone.<sup>10</sup> The subject of the dispute between the Marshal and Aryan being the act of patrolling operations and infiltration in the LOC and subsequent actions taken on Major Dmitri Godman and other 5 men of the Marshal captured in the demilitarized zone i.e (LOC) is without any discrepancy one that is in relation with the LOC. Therefore, the present matter perfectly and squarely fits in the subject matter of the special agreement.<sup>11</sup>

**II- THAT TREATMENT METED OUT TO MAJOR DMITRI GODMAN IS CONTRARY TO THE PRINCIPLES OF INTERNATIONAL LAW, ESPECIALLY INTERNATIONAL HUMANITARIAN LAWS AND THE TREATY AND CONVENTIONS TO WHICH BOTH STATES ARE A PARTY TO.**

It is humbly submitted before this Hon'ble court that that treatment meted out to Major Dmitri Godman and his five men is a violation of all international laws and the treaties and conventions to which both the States are members. Detaining Major Godman and his five men who were persons hors de combat and making them a subject of cruel treatment and inhumane conditions<sup>12</sup> is condemned by all laws in all places. Under IHL<sup>13</sup> and Four Geneva Conventions<sup>14</sup> prohibition against targeting the persons hors de combat is absolute.<sup>15</sup>

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<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> Colombia v Peru [1950] ICJ Rep 266; France v United Kingdom, [1953] ICJ Rep 47; Benin v Niger General List No. 125 (Jul. 12, 2005).

<sup>11</sup> International Court Of Justice Statute Art. 40(1); International Court Of Justice Rules Art. 39.

<sup>12</sup> Moot Proposition, para no. 15

<sup>13</sup> International Humanitarian Law Rule 89.

<sup>14</sup> Geneva Convention, Common Art.3; First Geneva Convention, Art. 50; Second Geneva Convention, Art.51, Third Geneva Convention, Art.130, Fourth Geneva Convention, Art. 147.

<sup>15</sup> Prosecutor v Tihomir Blaskic, IT-95-14-A; Prosecutor v Milan Martić IT-95-11-T; JEAN-MARIE HENCKARTS, STUDY ON CUSTOMARY HUMANITARIAN LAW, PROCEEDING OF THE ANNUAL SOCIETY, 423-428 (3<sup>rd</sup> ed., 2005).

**2.1 That such inhumane treatment is contrary to the principles of customary international humanitarian law and has been highly condemned at international platform.**

The soldiers of the state of Marshall were gruesomely tortured; their body organs were disabled and removed, endangering their physical and mental health. Later, the dead bodies of the soldiers were mutilated and chopped into pieces.<sup>16</sup> The above mentioned heinous and morbid acts, without any shred of doubt, contravenes the provisions of IHL. Civilians and persons hors de combat must be treated humanely<sup>17</sup> and the prohibition against torture and cruel, inhuman, or degrading treatment is a norm of customary international law.<sup>18</sup> The prohibition against torture and other ill treatment qualifies as a matter of jus cogens, that is, a peremptory norm of international law that trumps even treaty obligations<sup>19</sup> has been affirmed by courts in the United States, as well as by international courts.<sup>20</sup> Allegations of torture, cruel or inhuman treatment, whether in international or non-international armed conflicts, have invariably been condemned by the UN Security Council, UN General Assembly and UN Commission on Human Rights, as well as by regional organizations and International Conferences of the Red Cross and Red Crescent.<sup>21</sup> The International Criminal Tribunal for the former Yugoslavia has used a wider definition determining that inhuman treatment is that which “causes serious mental or physical suffering or injury or constitutes a serious attack on human dignity.”<sup>22</sup> Even corporal punishment is prohibited under international law.<sup>23</sup> The conduct of the State of Aryan to shoot the soldiers of Marshall dead is prohibited under

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<sup>16</sup> Moot proposition, para no. 15.

<sup>17</sup> Customary International Humanitarian Law, Rule 87.

<sup>18</sup> David Weissbrodt, *Defining, Torture and Cruel, Inhuman, and Degrading Treatment* University of Minnesota Law School (Aug 5, 2015, 2:11PM) weiss001@umn.edu Cheryl Heilman.

<sup>19</sup> Vienna Convention on Law of Treaties, Art. 53; Customary International Humanitarian Law, Rule 90; JEAN-MARIE HENCKAERTS & LOUISE DOSWALD-BECK, *CUSTOMARY INTERNATIONAL HUMANITARIAN LAW* Vol. II, 2147-47 (3<sup>rd</sup> ed., 2009).

<sup>20</sup> *Siderman de Blake v. Argentina*, 965 F.2d 699, 717 (9th Cir. 1992); *Urritia v. Guatemala*, Series C No. 103 (Nov. 27, 2003); *Al-Adsani v. United Kingdom*, Application no 35763/97; *Prosecutor v. Furundzija*, Case No. IT-95-17/I-T; BETH STEPHENS, *INTERNATIONAL HUMAN RIGHTS LITIGATION IN U.S. COURTS*, 91(2<sup>nd</sup> ed., 2008).

<sup>21</sup> UN Security Council, Res. 674; UN General Assembly, Res. 2547.

<sup>22</sup> *Prosecutor v Delalić*, IT-96-21-A; *Prosecutor v Kordić and Čerkez*, IT-95-14/2.

<sup>23</sup> Customary International Humanitarian Law.

customary IHL.<sup>24</sup> The treatment with the dead bodies of Major Dmitri Godman and the other soldiers is furthermore prohibited by Rule 113.<sup>25</sup>

**2.2 That such inhumane treatment, furthermore results into violation of the various provisions of all the Conventions and the treatise to which both States are a member of.**

The requirement of humane treatment for civilians and persons *hors de combat* as set forth in common Article 3 of the Geneva Conventions, as well as in specific provisions of all four Conventions<sup>26</sup> is recognized as a fundamental guarantee.<sup>27</sup> This requirement along with prohibition of torture and outrages upon personal dignity<sup>28</sup> and prohibition of murder<sup>29</sup> is recognized as a fundamental guarantee and especially with respect to soldiers of Marshal who were deprived of liberty is to be non-derogable and therefore applicable at all times.<sup>30</sup> The prohibition of torture and cruel, inhuman or degrading treatment or punishment<sup>31</sup> and the “arbitrary deprivation of the right to life”<sup>32</sup> is to be found in general human rights treaties. All four Geneva Conventions list “wilful killing” of protected persons as a grave breach.<sup>33</sup> Also, the prohibition of corporal punishment is recognized as a fundamental guarantee for civilians and persons *hors de combat*.<sup>34</sup> Also, Additional Protocol I makes it a crime to willfully attack

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<sup>24</sup> Moot Proposition, para no. 15; Customary International Humanitarian Law, Rule 89.

<sup>25</sup> Customary International Humanitarian Law Rule 113- ‘Each party to the conflict must take all possible measures to prevent the dead from being despoiled. Mutilation of dead bodies is prohibited.’

<sup>26</sup> Geneva Conventions, Common Art. 3; First Geneva Convention, Art. 12.; Second Geneva Convention, Art.12; Third Geneva Convention, Art. 13; Fourth Geneva Convention, Art. 5; Fourth Geneva Convention, Art. 27.

<sup>27</sup> Additional Protocol I, Art. 75(1) ;Additional Protocol II, Art. 4(1).

<sup>28</sup> Third Geneva Convention, Art. 17.

<sup>29</sup> Additional Protocol I to the Geneva Convention, Art. 75(2)(a); Additional Protocol II to the Geneva Convention, Art. 4(2)(a).

<sup>30</sup> UN Human Rights Committee, General Comment No. 29 (Article 4 of the International Covenant on Civil and Political Rights); Universal Declaration of Human Rights, Art.5.

<sup>31</sup> International Covenant on Civil and Political Rights, Art.7.

<sup>32</sup> International Covenant on Civil and Political Rights, Art. 6(1).

<sup>33</sup> First Geneva Convention, Art. 50 ;Second Geneva Convention, Art. 51; Third Geneva Convention, Art.130; Fourth Geneva Convention, Art. 147.

<sup>34</sup> Third Geneva Convention, Art. 87, Fourth Geneva Convention, Article 32; JEAN-MARIE HENCKAERTS & LOUISE DOSWALD-BECK , CUSTOMARY INTERNATIONAL HUMANITARIAN LAW , Vol. II, 1353 (3<sup>rd</sup> ed., 2009). Additional Protocol I to the Geneva Convention, Art.75(2)(iii); Additional Protocol II to the Geneva Convention, Art. 4(2)(a).

a person in the knowledge that he is hors de combat under Article 85(3)(e)<sup>35</sup>.Arbitrary arrest, detention or exile, is also prohibited under international treaties.<sup>36</sup>

Mutilation of dead bodies is the most barbarous act that could have been committed and especially the manner of commission of this gruesome crime in the instant matter<sup>37</sup> is an extreme example of human cruelty and depravity. The obligation to take all possible measures to prevent the dead from being despoiled (or pillaged) is now also codified in the Geneva Conventions<sup>38</sup> and is also contained in Additional Protocol I<sup>39</sup>, albeit in more general terms of “respecting” the dead, which includes the notion of preventing the remains from being despoiled.<sup>40</sup>

Therefore it is beyond doubt that the facts of the case when read well with law, together with additional evidences presented, satisfies the essential fact to prove the crime charged and that there are no viable affirmative defenses.

### **III- THAT UNPROVOKED ATTACK ON THE LOC DEMANDED A STRICT ACTION TO BE TAKEN AND THERE EXISTS NO LEGAL FOUNDATION ON THE MARSHAL’S TO RETURN THE PRISONERS OF WAR.**

It is humbly submitted before this Hon’ble Court that Additional Protocol to the Geneva Convention forms the core of the International humanitarian law, which regulate the conduct of the armed conflict and seeks to limits its effect.<sup>41</sup>The protocol supplements provision dealing with demilitarized zone<sup>42</sup> to prevent adverse armed force from being in contact.<sup>43</sup>The Aryans by extending their military operations have tried to violate this provision.<sup>44</sup>

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<sup>35</sup>Additional Protocol I to the Geneva Conventions of 1949.

<sup>36</sup>Universal Declaration of Human Rights, Art. 9; Intenational Covenant on Civil and Political Rights, Art. 9.

<sup>37</sup>Moot Proposition, para no. 15.

<sup>38</sup>First Geneva Convention, Art. 15; Second Geneva Convention, Art. 18; Fourth Geneva Convention, Art. 16; Customary International Law, Rule 113; 1 JEAN-MARIE HENCKAERTS et.al, CUSTOMARY INTERNATIONAL HUMANITARIAN LAW, 409(3<sup>rd</sup> ed, 2007).

<sup>39</sup>Additional Protocol Ito the Geneva Convention, Art. 34(1).

<sup>40</sup>1 JEAN-MARIE HENCKAERTS et. al , CUSTOMARY INTERNATIONAL HUMANITARIAN LAW, 409(3<sup>RD</sup> ed, 2007)., Customary International Humanitarian Law, Rule 113, Proposal for a Statement of International legal obligation of States, Office of the United Nations High Commissioner for Human Rights(May 2017), [https://www.ohchr.org/Documents/Issues/Migration/36\\_42/TheLastRightsProject.pdf](https://www.ohchr.org/Documents/Issues/Migration/36_42/TheLastRightsProject.pdf)

<sup>41</sup>*Commentary on Additional Protocol*, International Humanitarian Law, (Apr. 9,2018,1:00PM) <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/INTRO/470?OpenDocument>

<sup>42</sup> *Ibid*.

### 3.1 That there was an unprovoked attack on LOC by Aryans.

The Aryan army has tried to extend their military activities to the demilitarized zone. Military operation should be understood as all movements and activities related to hostilities, carried out by armed forces.<sup>45</sup> According to Article 60 of the I Additional Protocol to the Geneva Convention it is prohibited for both the parties to extend their military activities to the demilitarized zone.<sup>46</sup> Prohibition on Aryans to extend the military operation to demilitarized zone<sup>47</sup> included prohibition on attacking them, bringing in troops or military installations<sup>48</sup> into such zone by the belligerent controlling the territory nor are such troops allowed to go through the zone.<sup>49</sup> Aryans were bound to refrain from any military presence within the demilitarized zone.<sup>50</sup> Activities related to such efforts should have been ceased.<sup>51</sup> No activity in support of military operations should have been undertaken<sup>52</sup> however, much to the contrary the Aryan army started conducting patrolling operations.<sup>53</sup> They were trained military personnel and trained soldiers and therefore their introduction into the demilitarized

<sup>43</sup>Costa Rica v Nicaragua, [2013] ICJ Rep 354; HANS-PETER GASSER et al., COMMENTARY ON ADDITIONAL PROTOCOL OF JUNE 8 1977 TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, 707 (2<sup>nd</sup> ed, 1987).

<sup>44</sup>HANS-PETER GASSER et al., COMMENTARY ON ADDITIONAL PROTOCOL OF JUNE 8 1977 TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, 707 (2<sup>nd</sup> ed, 1987.).

<sup>45</sup>HANS-PETER GASSER et al., COMMENTARY ON ADDITIONAL PROTOCOL OF JUNE 8 1977 TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, 707 (2<sup>nd</sup> ed, 1987)

<sup>46</sup> *Ibid*

<sup>47</sup>Kutiz & Eian , *Between Here and there :Buffer zones in International Law* 84 U. Chi.L.Rev. 1379,1390(2017); PHILIPPE COUVREUR, INTERNATIONAL COURT OF JUSTICE AND THE EFFECTIVENESS OF INTERNATIONAL LAW , 132(9<sup>th</sup> ,2016).

<sup>48</sup>Situation between Iraq and Kuwait [comments], U.S Department Dispatch, Vol 4 pt1 , No3, 33-34( Jan. 18, 1993).

<sup>49</sup>HANS-PETER GASSER et al., COMMENTARY ON ADDITIONAL PROTOCOL OF JUNE 8 1977 TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, 707 (2<sup>nd</sup> ed, 1987),Bailey and Sydney ,*Cease Fires, Truces and Armistices in Practice of the UN Security Council* ,71 AJIL.461, 470(1977).

<sup>50</sup>Comodia v Thailand, [1961] ICGJ 159 (ICJ 1961).

<sup>51</sup>Combodia v Thiland [1961] ICGJ 159 (ICJ 1961), HANS-PETER GASSER et al., COMMENTARY ON ADDITIONAL PROTOCOL OF JUNE 8 1977 TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, 707 (2<sup>nd</sup> ed, 1987).

<sup>52</sup>HANS-PETER GASSER et al., COMMENTARY ON ADDITIONAL PROTOCOL OF JUNE 8 1977 TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, 707 (2<sup>nd</sup> ed, 1987), Costa Rica v Nicaragua, [2013] ICJ Rep 354, ICGJ 475 (ICJ 2013).

<sup>53</sup>Moot Proposition, para no. 6



zone was essentially a violation of demilitarized principle.<sup>54</sup> At the most, the agreements for demilitarized zones have provided for civilian police<sup>55</sup> not military patrolling<sup>56</sup> and in absolute absence of any of these in the Bortex agreement, 1998 the conduct of Aryan has broken faith.<sup>57</sup> This oversight illustrates the misalignment of the purpose of demilitarized zone with Aryan's practice.<sup>58</sup>

Attack being an act of violence against the adversary whether in offence or defense holds military patrolling conducted by the Aryans as an act of attacking<sup>59</sup> waged in flagrant violation of International law without any direct provocation.<sup>60</sup> An unprovoked attack, like that of Aryan is one that is condemned by UN Security Council and is considered as an act of aggression, violative of territorial integrity and national sovereignty.<sup>61</sup>

### **3.2 That Marshals had to take strict action to protect territorial integrity and national sovereignty.**

The Aryans by bringing in the military personnel within the demilitarized zone has caused the material breach of the agreement which lead to the end to demilitarized zone.<sup>62</sup> This had caused threat to the territorial integrity. Therefore Marshals had to take requisite precautionary measure<sup>63</sup> hence Major Dmitri Godman who was in charge of the Alpha unit manning one of the Marshals outposts along with five soldiers had went to ward off the infiltration attempts and were caught as a result of being overpowered by Aryans after they

<sup>54</sup> *Commentary of 1987 Demilitarized zones*, International Committee of the red cross, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/INTRO/470?OpenDocument>; Kutiz & Eian, *Between Here and there :Buffer zones in International Law* 84 U. Chi.L.rev. 1379,1388(2017).

<sup>55</sup> *Ibid*

<sup>56</sup> Sydney D. Balie, *Nonmilitary Area in UN practice*, 71 AJIL 499,532(1980).

<sup>57</sup> *Ibid*

<sup>58</sup> Kutiz & Eian , *Between Here and there :Buffer zones in International Law* 84 U. Chi.L.rev. 1379,1388(2017).

<sup>59</sup> Additional Protocol I to the Geneva Convention, Art. 49.

<sup>60</sup> Black's law dictionary.

<sup>61</sup> UN Security Council resolution no 568 (1985), Counter Memorial of Republic of Botswana.

<sup>62</sup> HANS-PETER GASSER et al., COMMENTARY ON ADDITIONAL PROTOCOL OF JUNE 8 1977 TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, 707 (2<sup>nd</sup> ed, 1987).

<sup>63</sup> Art. 51, UN Charter ;W. Michael Reisman & Andrew Armstrong, *The past and future of the claim of pre-emptive selfdefense* ,100 Am. J.Int'l L. 525,526(2006); Mohammed Saif-Alden Wattad, *RESURRECTING "ROMANTICS AT WAR": INTERNATIONAL SELF-DEFENSE IN THE SHADOW OF THE LAW OF WARWHERE ARE THE BORDERS?*, 13 ILSA J.Int and Comp. Law 205,206(2006).



ran out of ammunitions.<sup>64</sup>The conduct of this warding-off operation was a military necessity therefore only the amount and kind of force which was right and necessary was used which is lawful in accordance with law and custom of war<sup>65</sup>Conducting this military operation was an urgent need, admitting no delay, hence Major Dimitri took strict measures which was indispensable for forcing out the infiltrates.<sup>66</sup>The intentions were very clear as only a regulated amount of force of five soldiers along with a unit in-charge<sup>67</sup> was used to protect the national integrity.<sup>68</sup>

### 3.3 Marshals are not bound to return the Prisoners of war

The activities of the Aryan army led the Marshal army to conduct large scale military operation in the LOC resulting into full-fledged war within the territory. The result of war was that first, Marshal captured close to 47000 Prisoners of war. The logical consequence is that the prisoners of war are in the power of those who have captured them, and there is no room of doubt regarding the “power” of the state over prisoners.<sup>69</sup> These prisoners of war exemplify the most traditional national security threat. Marshal whose national security is under threat and under international law is entitled to resort to all legitimate options.<sup>70</sup>Security detention is one of such measures.<sup>71</sup>Therefore Marshals can also adopt measures that have effect of restricting the rights and freedom of individuals.<sup>72</sup>The rules of IHL envision various forms of restriction to the liberty of the persons existing in armed

<sup>64</sup> Moot proposition, para no.8.

<sup>65</sup>HANS-PETER GASSER et al., COMMENTARY ON ADDITIONAL PROTOCOL OF JUNE 8 1977 TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, 707 (2<sup>nd</sup> ed, 1987).

<sup>66</sup> *Ibid.*

<sup>67</sup> Moot Proposition, para no.8.

<sup>68</sup>HANS-PETER GASSER et al., COMMENTARY ON ADDITIONAL PROTOCOL OF JUNE 8 1977 TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, 707 (2<sup>nd</sup> ed, 1987).

<sup>69</sup>Curts F.Doebbler, *How can be really protect national security*, 9 ILSA J. In 399,399-400 (2002). HANS-PETER GASSER et al., COMMENTARY ON ADDITIONAL PROTOCOL OF JUNE 8 1977 TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, 707 (2<sup>nd</sup> ed, 1987).

<sup>70</sup> Zelalem Mogessie Teferra, *National security and the right to liberty in armed conflict: The legality and limits of security detention in international humanitarian law*,98 IRRC 961,966 (2016).

<sup>71</sup> Zelalem Mogessie Teferra, *National security and the right to liberty in armed conflict: The legality and limits of security detention in international humanitarian law*,98 IRRC 961,966 (2016), J.AC Cutteridge, *The Repatriation of Prisoner of War*, 2 Int.& Comp.L.Q ,207,207(1953)

<sup>72</sup>Zelalem Mogessie Teferra, *National security and the right to liberty in armed conflict: The legality and limits of security detention in international humanitarian law*,98 IRRC 961,966 (2016).

conflict situations including security detention.<sup>73</sup> The Fourth Geneva Convention has gone to the extent to hold that even a civilian may be detained if the security of the Detaining Power makes it absolutely necessary” or, for “imperative reasons of security.”<sup>74</sup> If there are “serious and legitimate reasons” to think that the persons detained may seriously prejudice the security of the detaining power by means such as sabotage or espionage then such detention is permissible and can be made for reasons of public security<sup>75</sup>. The Marshals have detained the Prisoners of war so as to prevent them from rejoining the military<sup>76</sup> of the Aryans on which they depend and take part in any other hostilities against the Marshals and threatening the territorial integrity.<sup>77</sup> It is essential to do so in the interest of national security which means “full spectrum dominance”.<sup>78</sup> Marshals is not required to show necessity to detain Prisoners of War as necessity is presumed and no judicial review is required.<sup>79</sup> It is thus evident from the convention that the law of International armed conflict duly acknowledges the traditional power of the State to detain persons endangering their national security.<sup>80</sup> Authority to detain, including for security reasons, is an implicit argue<sup>81</sup>.

<sup>73</sup> *Ibid*; ICRC, Rule 99 Summary, Customary International Humanitarian Law, [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule99#refFn\\_B4BD78D1\\_00007](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule99#refFn_B4BD78D1_00007).

<sup>74</sup> Fourth Geneva Convention, Art. 42 ; Fourth Geneva Convention, Art. 78.

<sup>75</sup> Prosecutor v Delalić case, IT-96-21-A; International Detention Coalition ,Draft General Comment No. 35 on Article 9 of the International Covenant on Civil and Political Rights , Pg. no.11.

<sup>76</sup> RAIN LIIVOJA & TIM MCCORMACK, ROUTLEDGE HANDBOOK OF THE LAW OF ARMED CONFLICTS,301-303(3<sup>rd</sup> ed., 2016)

<sup>77</sup> Zelalem Mogessie Teferra, *National security and the right to liberty in armed conflict: The legality and limits of security detention in international humanitarian law*,98 IRRC 961,966 (2016).

<sup>78</sup> Curtis F.Doebbler, *How can we really protect national security*, 9 ILSA J. 399,399(2002).

<sup>79</sup> Zelalem Mogessie Teferra, *National security and the right to liberty in armed conflict: The legality and limits of security detention in international humanitarian law*,98 IRRC 961,966 (2016).

<sup>80</sup> Patrick Kelly, *Pre-emptive Self Defense, Customary International law and the Congolese War*, (Sep.3, 2016: 6:56PM)<https://www.e-ir.info/2016/09/03/preemptive-self-defense-customary-international-law-and-the-congolese-wars/>; Democratic Republic of Congo v Uganda, General List No. 116(Jul. 1,2000); Zelalem Mogessie Teferra, *National security and the right to liberty in armed conflict: The legality and limits of security detention in international humanitarian law*,98 IRRC 961,966(2016)

<sup>81</sup> *Contemporary challenges to IHL – security detention: overview*, International Committee of Red Cross(Oct 29,2010,6:23PM)<https://www.icrc.org/eng/war-and-law/contemporary-challenges-for-ihl/security-detention/overview-security-detention.htm>; Zelalem Mogessie Teferra, *National security and the right to liberty in armed conflict: The legality and limits of security detention in international humanitarian law*,98 IRRC 961,966 (2016).

#### **IV- THAT MARSHAL IS ENTITLED TO APPROPRIATE DAMAGES WHICH ARE TO BE CALCUTED BASED ON SETTLED CONVENTIONS UNDER INTERNATIONAL LAW.**

The fourth submission requests the Court to award to Marshal a sum which constitutes the minimum valuation of the direct damages caused by the State of Aryan. The Respondent has, by its activities in relation to the Applicant, violated a number of principles of customary international law. Reparations which in its variable forms have featured in the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation.<sup>82</sup> holds significance in the practice of International courts.<sup>83</sup>

##### **4.1 That the State of Aryan has responsibility towards State of Marshal for breach of International conventions.**

State responsibility<sup>84</sup> is an old aged principle of international law that was developed to protect the rights of aliens.<sup>85</sup> "Every internationally wrongful act of a State entails the international responsibility of that State."<sup>86</sup> A State Party to the conflict which violates the provisions of the Conventions shall be responsible for all acts committed by persons forming part of its armed forces.<sup>87</sup> In the instant matter the doctrine of state responsibility will plunge into action as the State of Aryan has committed international wrongs against State of Marshal. There is an internationally wrongful act of State of Aryan as their conduct, consisting of the infiltration attempt made by them in the demilitarized zone , the capture and detention of Major Godman and his five men which was followed by the inhumane treatment meted out to them and the mutilation of their dead bodies :

(a) Is attributable to the State of Aryan under international law; and

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<sup>82</sup>General Assembly Resolution 60/147(*Basic principle and guidelines on the right to remedy and repatriation for victims of gross violation of International Human Law and serious violation of International humanitarian Law*) UN Doc. A/RES/60/147.

<sup>83</sup>United Kingdom v. Albania, [1949] ICJ Rep 4; Portugal v. Australia, ICJ Report 1970; Democratic Republic of the Congo v. Uganda, ICJ Report 2005.

<sup>84</sup> International Humanitarian Law, Rule 150.

<sup>85</sup> Ian Brownlie, *System of the Law of Nations: State Responsibility*, 79 AJIL. 471, 473 (1983).

<sup>86</sup> International Law Commission Report, Art. 1, A/56/10 August 2001.

<sup>87</sup> Additional Protocol I to the Geneva Convention, Art. 91.

(b) Constitutes a breach of an international obligation of the State of Aryan.<sup>88</sup>

It results from the general legal personality of every State under international law, and from the fact that States are the principal bearers of international obligations.

**4.2 That the State of Aryan is liable to pay damages under the doctrine of State responsibility.**

"The fundamental concept of 'damages' is satisfaction, reparation for a loss suffered; a judicially ascertained compensation for wrong. The remedy should be commensurate with the loss, so that the injured party may be made whole."<sup>89</sup> A state is responsible, when it has a duty to make reparation to another state for the injury sustained by the latter state as a consequence of an injury to its national.<sup>90</sup>In *Chorzów Factory (Germany v Poland)*<sup>91</sup> the Permanent Court of International Justice defined it not only as a principle of international law but also as 'a greater conception of law' involving an obligation to make reparation for any breach of an engagement.<sup>92</sup> Reparation is the indispensable complement of a failure to apply a convention, and there is no necessity for this to be stated in the convention itself.<sup>93</sup> An interpretation that would confine the Court to simply recording that the Convention had been correctly applied or that it had not been applied, without being able to lay down the conditions for re-establishment of Treaty rights affected, would be contrary to what would have been the prima-facie natural object of the clause; for a jurisdiction of this kind, instead of settling the dispute once and for all., would leave open the possibility for further disputes. Between States the principle that every violation of international obligations gives rise to a duty to make reparation is well established in law<sup>94</sup> and functions reasonably well in practice.<sup>95</sup>

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<sup>88</sup> International Law Commission Report, Art. 2, UN Doc. A/56/10 August 2001.

<sup>89</sup> Clyde Eagleton, Measures of Damages in International Law, 39 Yale L.J. 52, 54 (1929).

<sup>90</sup> State Responsibility, *Responsibility of the State for injuries caused in its territory to the person or property of aliens Part I: Acts and omission*, UN/ DOCUMENT A/CN.4/106.

<sup>91</sup> *Germany v Poland*, [1928] PCIJ. Series No. 17.

<sup>92</sup> *United Kingdom v Albania*, [1949] ICJ Rep 4, 23.

<sup>93</sup> *Germany v Poland*, [1928] P.C.I.J. Series No. 17.

<sup>94</sup> First Geneva Convention, Art 51; Second Geneva Convention, Art. 52; Third Geneva Convention, Art 151, Fourth Geneva Convention, 1949 Art. 148.

<sup>95</sup> Emanuela Chiara Gillard, *Reparation for violations of international humanitarian law*, 429, 530 (2003).

Thus, State of Aryan shall not be allowed to absolve itself of any liability incurred by itself in respect of grave breaches of these Conventions.<sup>96</sup>

**V: MARSHAL WAS ABSOLUTELY RIGHT AS PER INTERNATIONAL LAW TO DENY CONSULAR ACCESS TO MR. ALEX.**

It is humbly submitted before this Hon'ble Court that the State of Marshal was absolutely right in its place to deny the consular access to Mr. Alex. Mr. Alex belonged to Aryan Secret Service and was involved in espionage.<sup>97</sup> The blanket mandate of immunity encompasses the most serious crime against a government- espionage<sup>98</sup> and hence consular access could not be provided as it would be a threat to national security<sup>99</sup> and would endanger the State of Marshal.

**5.1 That espionage violates international law and is the matter of national jurisdiction.**

Espionage violates international law because there is a duty "to respect the territorial integrity and political independence of other states."<sup>100</sup> Two seminal principles in CIL are the obligations of states to respect the (a) sovereignty and (b) territorial integrity of other states.<sup>101</sup> Respect for sovereignty requires that states not interfere with the internal affairs of other states.<sup>102</sup> Mr. Alex has been detained on the charges of espionage based on the territorial principle as the State has a right to try those who can be a threat to its sovereignty within its border.<sup>103</sup> The non-intervention doctrine, under international law is based on Article 2 of the U.N. Charter,<sup>104</sup> which declares "sovereign equality for all its Members,"<sup>105</sup>

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<sup>96</sup> Riccardo Pisillo Mazzeschi, *Reparation Claims by Individuals for State Breaches of Humanitarian Law and Human Rights: An Overview*, 1 JICJ 339,341(2003) XIV, BENEDETTO CONFORTI, THE ITALIAN YEARBOOK OF INTERNATIONAL LAW,45(2<sup>nd</sup> ed., 2004).

<sup>97</sup> Moot Proposition, para no 12.

<sup>98</sup> Nathaniel P. Ward Source, *Espionage and the Forfeiture of Diplomatic immunity*, 11 A.B.A.J. 657,671(1977).

<sup>99</sup> *Ibid*.

<sup>100</sup> Quincy Wright et.al, *Espionage and the Doctrine of Non-Intervention in Internal Affairs*, Scribd(May 2, 2016) <https://www.scribd.com/document/324768004/Espionage-and-non-intervention>.

<sup>101</sup> *Nicaragu. v. U.S*, 1986 I.C.J. 14.

<sup>102</sup> G.A. Res. 2625 (XXV),Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations, UN Charter, Art.2.

<sup>103</sup> Diane Marie Amann „Jurisdictional, Preliminary, and Procedural Concerns,” ASIL (Jul 11, 2017,10:00AM) [www.asil.org/benchbook/jurisdiction.pdf](http://www.asil.org/benchbook/jurisdiction.pdf).

<sup>104</sup> Quincy Wright et.al , *Espionage and the Doctrine of Non-Intervention in Internal Affairs*, Scribd(May2, 2016,5:01PM) <https://www.scribd.com/document/324768004/Espionage-and-non-intervention>.

and prohibits the “threat or use of force against the territorial integrity or political independence to any state,”<sup>106</sup> and the restriction of international “intervention in matters which are essentially within the domestic jurisdiction of any state.”<sup>107</sup> The non-intervention principle was later upheld by the International Court of Justice in *Nicaragua v. United States* as “forbidding all States or groups of States to intervene directly or indirectly in internal or external affairs of other States.”<sup>108</sup> This finds further support from the language in the *S.S. Lotus* case when the Permanent Court of International Justice declared “the first and foremost restriction imposed by international law upon a State is that—failing the existence of a permissive rule to the contrary—it may not exercise its power in any form in the territory of another State.”<sup>109</sup> The International Court of Justice has also recently held that the sovereignty violation argument is plausible regarding interference with communication by a state.<sup>110</sup>

## **5.2 That consular access could not be provided to a person involved in espionage.**

Espionage, which is a threat to national security is defined as a "clandestine activity by a person commissioned by a foreign government for the purpose of obtaining secret information regarding another State's national defense"<sup>111</sup> and is prohibited by law.<sup>112</sup> Espionage, or suspicion of espionage hung over consulates, renders the position of the consular officers precarious.<sup>113</sup> Consular activity for many sending States has been impeded in recent years by security considerations.<sup>114</sup> When the sending State invokes immunity for espionage, an act outside of official functions, it is taking unique advantage of its diplomatic

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<sup>105</sup> U.N. Charter Art. 2(1).

<sup>106</sup> U.N. Charter Art. 2(4).

<sup>107</sup> U.N. Charter Art. 2(7).

<sup>108</sup> *Nicaragua v. U.S.*, 1986 I.C.J. 14.

<sup>109</sup> *France v. Turkey*, 1927 P.C.I.J.

<sup>110</sup> Ashley S. Deeks, *Confronting and Adapting: Intelligence Agencies and International Law*, 102 Va. L. Rev. 599, 600 (2016); *Timor-Leste v. Austl.*, 2014 I.C.J. 147.

<sup>111</sup> *Jarcia-Mora, Treason, sedition and Espionage as Political offenses Under the Law of Extradition*, 26 U. Pitt. L. Rev. 65, 79(1964).

<sup>112</sup> Nathaniel P. Ward, *Espionage and the Forfeiture of Diplomatic immunity*, 11 A.B.A.J. 657, 658 (1977).

<sup>113</sup> LUKE T. LEE & JOHN QUIGLEY, *CONSULAR LAW & PRACTICE*, 86(3<sup>rd</sup> ed., 2008).

<sup>114</sup> LUKE T. LEE & JOHN QUIGLEY, *CONSULAR LAW & PRACTICE*, 366(3<sup>rd</sup> ed., 2008).

protection. It has abused the privileges and immunities recognized by the law of nations and the receiving State, with attendant repercussions on the international plane.<sup>115</sup>

Further there are qualifications within the Vienna Convention on Consular Relation, 1963. Article 55 makes it clear that nationals whose consular rights are in question must not be interfering with the internal affairs of the receiving state.<sup>116</sup> Moreover, VCCR was adopted to develop friendly relations between States and, therefore, protection to Mr. Alex who has allegedly committed acts of espionage cannot be the intention of the Convention.<sup>117</sup>

As per the provisions of Article 5 of Geneva Convention IV of 1949 , when such a non-combatant is detained as a spy he forfeits his rights of communication under the convention.<sup>118</sup> In *Medellin v. Texas* the accused was a Mexican national tried and sentenced to death by the courts of Texas, despite Mexico being denied consular access to him. Even if a treaty constitutes an international obligation it is not binding under domestic law unless the treaty is self-executing or the legislature enacts the necessary implementing legislation.<sup>119</sup>

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<sup>115</sup> Nathaniel P. Ward, *Espionage and the Forfeiture of Diplomatic immunity*, 11 A.B.A.J. 657, 659(1977).

<sup>116</sup> Vienna Convention on Consular Relation, Art 55.

<sup>117</sup> *India v. Pakistan*, 2017 I.C.J. 168 verbatim record (May 15, 2017, 3 p.m.), <http://www.icj-cij.org/files/case-related/168/168-20170515-ORA-02-00-BI.pdf>.

<sup>118</sup> Fourth Geneva Convention, Art 5.

<sup>119</sup> *Medellin v. Texas*, 552 U.S. 491 (2008).

FINAL SUBMISSIONS TO THE COURT

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It is prayed that the court may adjudge State of Aryan guilty for:

- a) Violation of the Bortex Agreement
- b) Violation of the UN Charter, Geneva Conventions and the International instruments to which it is a member of.
- c) Violation of International Humanitarian Laws

And therefore liable to pay damages to the State of Marshal.

Respectfully Submitted

The Applicant.

(Agent for the State of Marshal)