



## **2009 - 2010 Model Arab League**

### **CASE FACTS**

#### **Arab Court of Justice**

#### **National Model Arab Leagues**

(i.e., the National University or National High School MAL, Spring '10, in Washington, DC)

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National  
Council  
on US-  
Arab  
Relations



# PANEL A

(Presiding Judge: Michael Khalil)

## **Eritrea v. Saudi Arabia – on the rights of foreign nationals living and working in Saudi Arabia**

Ms. Xanti is a young Eritrean woman who was recruited by an employment service in Eritrea to work as a domestic housekeeper and childcare giver in Saudi Arabia. She was promised a weekly salary, one half-day off per week, a room of her own with bath and cooking facilities, and one week home in Eritrea for each year she worked. The employment agency would connect her with a family in Saudi Arabia that would legally sponsor her entry into the country, pay her salary, and be responsible for her during the period of her employment.

When she arrived in Saudi Arabia, Ms. Xanti's passport was confiscated by the employment agency that hired her. She was subsequently assigned to a family with four children and two grandparents in the home. She was given a small room just behind the family's home without bath facilities and with only a charcoal burner. She worked for the family for more than two years; received only a meager living allowance, not her promised salary; was allowed only one half-day off per month; and was never allowed to travel home to see her family in Eritrea. Ms. Xanti also alleges that she was repeatedly required to engage in non-consensual sexual activities with the family's eighteen year-old son.

At a time when she was able to briefly leave the house, she told her story to a Saudi police officer directing traffic near her home for assistance. The officer took her to a police station where she was arrested and held on charges of false accusation and breach of contract. Before the case could come to trial word of Ms Xanti's arrest leaked out from the quiet but tight-knit community of foreign household workers to international media outlets in Saudi Arabia. Acting on Ms. Xanti's behalf Human Rights Watch International releases her story and declares that Ms. Xanti has been subject to false imprisonment, sexual exploitation, and involuntary servitude. They also insist that Ms. Xanti should receive the back salary to which she is entitled, should have her travel papers returned immediately, and should be allowed to leave Saudi Arabia. At trial the court ruled that Ms. Xanti's case had no standing because she was an illegal immigrant who had signed a contract under false premises. Nevertheless, because she had violated Saudi law regarding work regulations and outraged the public decency by her accusations, she would be held in a Saudi prison for a period of not less than five years.

Eritrea has chosen to take up the case of Ms. Xanti believing that her fundamental human rights have been violated. Moreover, Eritrea asks the Arab Court of Justice to accept and adjudicate the case in the belief that Ms. Xanti cannot receive justice in Saudi Arabia.

## **Algeria v. Morocco – on the status of Saharawi refugees living in camps in southern Algeria**

The Saharawi people are the displaced people resulting from the decades long struggle between Morocco, Mauritania, and the Algerian-sheltered Polisario Front over the control of Western Sahara. Though the International Court of Justice ruled in 1975 that neither Morocco nor Mauritania had “ties of sovereignty with Western Sahara” the judgment was over-riden by an agreement with Spain that Western Sahara would be ceded to both countries. Western Sahara was subsequently formally partitioned with two-thirds of the territory going to Morocco and one-third going to Mauritania. Polisario refused to accept this partition, insisted that full independence must be granted to Western Sahara, and in 1976 proclaimed the creation of an independent Western Saharan state, the Saharan Arab Democratic Republic (RASD). Refugees began to leave the disputed territory and were allowed to establish refugee camps in southern Algeria. These camps quickly became populated almost exclusively by women, children, and the elderly as men left to join Polisario’s Saharawi Peoples Liberation Army (SPLA). Following a military coup in Mauritania in 1978, that country relinquished all claims to Western Saharan territory, and Morocco quickly moved to take control of more than 80 percent of Western Sahara and maintained a military garrison of more than 140,000 troops there.

The dispute between Morocco and the Polisario Front over control of Western Sahara has continued for more than thirty years. In the late 1990s mediation efforts managed to reach agreements on the release of prisoners of war and the possibility of a referendum, following a transition period, to decide Western Sahara’s future. That referendum has never been held. Talks were resumed under United Nations auspices in 2007 when the Security Council passed Resolution 1754 calling for the two parties to hold unconditional talks to achieve “a mutually-acceptable political solution providing for the self-determination of the people of Western Sahara.”

**This case does NOT seek to determine the current or the future international status of Western Sahara.** Instead, Algeria seeks financial support from Morocco to help defray the costs to Algeria of caring for an entire generation of Saharawi refugees. Estimates are that of a Saharawi population of approximately 250,000 more than 160,000 remain in refugee camps in southern Algeria. Some estimates run as high as 200,000 refugees living in semi-permanent camps in southern Algeria.

International financial assistance has aided the Saharawi in the past, but these amounts have begun to dwindle. The Saharawi have established semi-autonomous local governments, including schools and other facilities, to provide basic services to the refugees. The economy, however, exists only at a minimal level, and Algeria bears an increasing responsibility for sustaining the Saharawi. These costs will dramatically increase as the camps become more permanent communities. To meet these costs Algeria asks that Morocco be required to provide reparations to the Algerian government in the amount of \$50 million annually to be used solely for the purpose of promoting the stability of the Saharawi communities and establishing functioning local economies that will allow the Saharawi to support themselves.

## **Kuwait v. Iraq – regarding war reparations still owed to Kuwait**

[NOTE: For purposes of this exercise both parties to the case and the United Nations Security Council, including the United Nations Compensation Commission that administers reparations payments, have agreed that the Arab Court of Justice may hear, deliberate, and make an authoritative ruling in this case.]

Following the 1990-91 Iraq-Kuwait War the United Nations Security Council, acting under its Chapter Seven authority, ordered Iraq to set aside 5% of its oil revenues for reparations payments, the bulk of which were awarded to Kuwait. Kuwait is still owed more than \$20 million in such payments.

Iraq now wishes to turn its full attention to rebuilding its own economy and has repeatedly approached the United Nations with proposals to have its reparations payments resulting from the Iraqi invasion and occupation of Kuwait 1990-91 forgiven and its Chapter 7 obligations under the United Nations Charter annulled. These funds, the government of Iraq has insisted, would be better spent on projects in Iraq than on payments to the government of Kuwait.

Kuwait insists that full payment of the ordered reparations must be made in order to see justice done and the terms of the United Nations Charter fulfilled. Iraq wishes the court to cancel its financial obligation to Kuwait arguing that the continuing reparations payments are an unfair burden on the post-Saddam Hussein government of Iraq and severely hinder efforts at economic reconstruction and development.

## **Sudan v. Tunisia – regarding granting political asylum or granting a request for extradition**

A Sudanese journalist, Mr. Alif (not his real name) sought to leave Sudan following a series of broadcasts of his reports, which were perceived by some listeners to be anti-government. Following the broadcast of the initial reports, Mr. Alif began to receive a wide variety of negative and vituperative responses to his reporting and his truthfulness, including death threats. When the radio station that broadcast his original reports was banned from airing any of his work, a series of unauthorized, printed broadsides began to appear at tea stands and in the streets. Though these reports were unsigned, there was widespread belief that they represented the critical work of Mr. Alif. While he was not arrested, Mr. Alif was detained for questioning, was held in police custody for several days, and was required to surrender his personal identity documents as a condition of his release.

Though the precise circumstances are unclear, Mr. Alif was able to leave Sudan and fly to Tunisia. However, upon arrival, he was detained by the Tunisian authorities because of improper travel documents. Informed of Mr. Alif's detention by the Tunisian authorities, the Sudanese government requests that he be deported from Tunisia and extradited to Sudan, where he will be charged with improperly exiting the country and violating the conditions of his release by Sudanese authorities.

Currently detained by the Tunisian authorities, Mr. Alif has requested political asylum in Tunisia, alleging that he faces "grave and imminent" danger to his life or serious deprivation of liberty should he return to Sudan. [NOTE: In recent months several media outlets in Sudan have been closed by order of the government. Several journalists have been detained and three have been imprisoned under a Sudanese journalistic fairness law that permits censorship of statements deemed critical of the government. At least two journalists known to have been detained for questioning have simply disappeared in the last six months.]

## **Qatar v. Libya – regarding questions of cyber-crime and whether “hacking” into secure data banks is a violation of international law**

A major bank in Qatar, partially owned by the State of Qatar, discovered that its records of transactions have been severely “hacked” and its extensive security systems breached.

Upon further investigation it was revealed that the largest data breach included the accounts of the *Al Jazeera* news network, which had recently carried a series of stories critical of the Libyan government, including interviews with carefully disguised members of an underground opposition movement. Other accounts breached included those of major international companies doing business in Qatar as well as the transactions of several Qatari government ministries, including the ministries of defense and international trade. Continuing probes established that the cyber-attack on the Qatari bank records appeared to originate from the headquarters of an organization operating under the title of the Libyan Security Institute supported by the Ministry of the Interior.

The case brought by Qatar charges that the Libyan Security Institute has violated fundamental rights to privacy by promoting and supporting the theft of critical bank information belonging to companies, government agencies, and individuals to whom the knowledge of this information by outsiders could be very damaging. Moreover, since the Libyan Security Institute is known to have close ties to the Libyan Ministry of the Interior, Qatar also alleges that Libya has engaged in an act of espionage against the State of Qatar aimed at compromising Qatar’s national security.

Libya refuses either to confirm or deny the alleged actions. However, the Libyan government notes that states generally have very wide latitude in dealing with international terrorism and internal rebellion.

# PANEL B

(Presiding Judge: Ken W. Lewis)

## **Oman v. Yemen – regarding the environmental protection of sea turtles and their spawning grounds**

Oman provides a home for major nesting areas where several species of “endangered” and “highly endangered” sea turtles come ashore to shape their nests and lay their eggs. The sea turtle population is deemed an “important natural resource” by the government of Oman and nesting areas are protected under Omani law as well as international law.

Recently sea turtle nests have been found destroyed with many, if not all, their eggs missing. Oman alleges that nearby Yemeni fishing boats are coming ashore to poach sea turtle eggs by night in order to sell them in Yemen where there is an active black market in the sale of sea turtle eggs as a culinary delicacy and for medicinal purposes.

Oman has repeatedly requested that the government of Yemen break-up the black market in sea turtle eggs and police the activities of the Yemeni fishing boats coming into Omani waters. Though the Yemeni government has enacted its own endangered species laws designed to protect the sea turtles from being killed, requiring immediate return to the sea if they are caught in Yemeni nets, the Yemeni government has taken no action to stop any illegal nighttime activities by Yemeni fishing boats along the Omani coastline.

In response to Yemen’s apparent inability to deal with the situation allegedly caused by its citizens, Oman has instituted an embargo on all sea food products coming from Yemen and has closed its borders to Yemeni travelers.

Yemen maintains that Oman is imposing an illegal “selective boycott” of its goods, while Oman maintains that its actions represent a legal retorsion against Yemeni violations of its environmental protection laws designed to assure species survival of the sea turtles and biodiversity in the coastal waters ecosystem.

## **Palestine v. Egypt – regarding Egypt’s blocking of border passages between Egypt and the Gaza and challenging the legality of Egypt’s underground border barrier**

In recent months Egypt has not only further restricted the passage of supplies and people in and out of the Gaza at the Rafah crossing, it has also begun construction of an underground steel wall designed to block the hundreds of tunnels that supply many critical goods to Gaza’s 1.5 million residents. According to a recent report by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), "though posing high risks to their lives, the population of Gaza remain forced to use poorly-constructed tunnels as a substitute for transporting goods, which is otherwise restricted through commercial crossings."

The Palestinian Authority, with the approval of Hamas, seeks to challenge the legality of the Egyptian underground wall now under construction as well as the limitations that are constantly placed on the Rafah surface crossing. [Note: This case does not involve the wall Israel is currently building from Eilat at the Red Sea to the Gaza Strip along the Egyptian-Israeli border.] Palestine insists that the impact of the Egyptian wall is to impose an undeclared blockade on the Gaza and represents an unlawful form of collective punishment on the people of Gaza. In human terms, Palestine asserts, the crossing limitations represent an interference with the freedom of movement of the Palestinian people and effectively serve to block their ability to travel freely for such basic opportunities as education and medical care.

Egypt, on the other hand, sees the border barrier as a matter of national security and the act of a sovereign state. The barrier, they say, serves to stop smuggling across the border and makes it more difficult for extremists and subversive elements to enter Egypt illegally.

## **Somalia v. Djibouti – regarding the presence of foreign bases (the United States, the European Union, and Japan as examples) in Djibouti and violations of basic principles of freedom of the seas**

Somalia and Djibouti are located on the Horn of Africa on the Bab al-Mandeb Strait at the point where the Red Sea and the Gulf of Aden come together. Just across the strait is and north of Somalia is Yemen on the Arab Peninsula. The Red Sea is of growing economic and strategic importance not only because of the Suez Canal but because industrial development activity is increasing dramatically in western Saudi Arabia. Increasingly, this region of the world has become a focus of attention for the problems resulting from so-called “failed” or “failing” states as well as for piracy at sea, illicit arms trade, and increased influence of extremist elements.

Djibouti, historically a French colony, has elected to allow its territory to be used for foreign military bases and a variety of military activities involving use of facilities by naval and air forces. France maintains one of its largest military bases outside of France in Djibouti. The United States maintains a base there. The European Union bases its “Atalanta” naval task force in Djibouti and Japan maintains a naval group there. Critics have argued that this foreign military presence in Djibouti opens the entire region to a new version of neo-colonialism and encourages the kind of foreign military adventurism that undermines the sovereignty of nation-states in Africa and in the Arabian Peninsula.

Somalia asserts that Djibouti is violating its commitments to neighboring Arab and African states by inviting these foreign military facilities into the country. Such bases should be closed immediately. Far beyond any psychological impact of neo-colonialism and the resulting threat to national independence, Somalia expresses the very real concern that such bases might be actively used to support military operations against member states of the League of Arab States. Additionally, Somalia suggests that international anti-piracy operations in the region represent a threat to traditional principles of freedom of navigation.

Djibouti maintains that these foreign military bases are there at the invitation of the government and represent no threat to neighboring states. To the contrary, such bases actually contribute to regional stability in the face of multiple threats – foreign and domestic. Piracy represents a particular case in point where threats to international shipping routes and hostage taking represent both a violation of law and a serious impediment to future economic development in the region.

## **Comoros v. UAE – alleging the production of counterfeit perfume essences that displace Comoros-produced “ylang-ylang” essence in the international market**

Comoros is the world’s largest producer of “ylang-ylang” essence, rumored to be the essential oil at the heart of Chanel No.5 perfume and its imitators. Though it is native to Southern India, Java, Malaysia, the Philippines, the Comoros, and other Pacific islands the Comoros represent the world’s leading supplier of high-grade commercially used “ylang-ylang” oil. In recent years the Commercial Marketing Board of the Comoros, sponsored jointly by the Ministry of International Trade and the Comoros Chambers of Commerce have marketed the oil exclusively and have trade-marked the name “Comoran Ylang-Ylang Essence” under terms of the World Trade Organization (WTO), the World Intellectual Property Organization (WIPO).

In recent months the Commercial Marketing Board of the Comoros has noticed that sales of “ylang-ylang” essence into the world market have begun to drop significantly. Investigation showed that significant numbers of perfume manufacturers had begun to buy a less expensive version of “ylang-ylang” scent through a dealer in the United Arab Emirates. Detailed chemical analysis of the product being marketed as “Ylang-Ylang Essence” from the UAE, however, showed a significant percentage of coconut oil was being added to “Comoran Ylang-Ylang Essence” in the UAE in order to produce a less expensive and more competitive product in world perfume markets.

Comoros seeks damages for lost income and alleges violation of its trademark. It further alleges that UAE has failed in its international obligation to honor and enforce the Comoran trademark on “Ylang-Ylang Essence.” UAE insists that it cannot practically enforce the Comoran trademark and is not bound by it.

## **Bahrain v. Syria (and Jordan) – alleging lack of enforcement action against child trafficking networks operating in Syria and Jordan**

While not confined to an Iraqi refugee population, there is substantial evidence that Iraqi boy and girl-children are being sold – often by a parent – into the operations of child trafficking rings in Syria and Jordan. These children are often then transported to secondary markets in various countries in the region, many of them members of the Cooperation Council for the Arab States of the Gulf (also known as the GCC – Gulf Cooperation Council). Children are being discovered working as domestic laborers, in the food service and sex trades, in manufacturing operations, and working as day laborers in construction industries. As it has strengthened its own laws regarding child labor, Bahrain has uncovered several instances in which Iraqi children have been trafficked into Syria or Jordan or arrived there as refugees and then have been “sold” to illicit labor markets in Bahrain.

International law defines trafficking in this way.

Trafficking in human beings, with the entrapment of its victims, is the modern form of the old worldwide slave trade. It treats human beings as a commodity to be bought and sold, and to be put to forced labor, usually in the sex industry but also, for example, in the agricultural sector, declared or undeclared sweatshops, for a pittance or nothing at all. Most identified victims of trafficking are women but men also are sometimes victims of trafficking in human beings. Furthermore, many of the victims are young, sometimes children. All are desperate to make a meager living, only to have their lives ruined by exploitation and rapacity.

Bahrain now seeks to discourage this “trafficking” into the country by disrupting the existing patterns of trade in human life. Specifically, this case asks the Arab Court of Justice to find that Syria and Jordan are failing in their international responsibilities to prevent trafficking and to order Syria and Jordan to enforce existing international agreements designed to halt trafficking in women and children.

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***PLEASE NOTE that the Arab Court of Justice is a moot court created as an exercise in international law and designed to be part of the National Council on U.S.-Arab Relations’ Model Arab League program. No such court exists within the structure of the League of Arab States, though there were early discussions among the member states about creating such a court.***

***In the same manner, all of the cases presented here are hypothetical cases.***

***The facts of the cases are designed to be similar to the real world and are meant to evoke core principles of international law. These cases, however, have never been presented before a court of law. They are hypothetical in two senses: (1) the states involved are assigned for purposes of this simulation exercise and are not actually parties to cases of the sort drawn here; (2) where individual persons or companies are named, these characters and the events that unfold around them are fictional.***