



2009 - 2010 Model Arab League

CASE FACTS

Arab Court of Justice

ALL Regional Model Arab Leagues

(i.e., not the National University or National High School MAL, Spring '10, in Washington, DC)

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National
Council
on US-
Arab
Relations



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.

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.