Amity Law School Delhi

Moot Proposition

1. The State of Wahalios is country situated on the Asan continent. Wahalios shares boundaries on the eastern side with the State of Sangualon, on the western side with the State of Dewan and on the northern side with the State of Lagoon. The southern side is surrounded by sea which has long coast line that touches in the west with Dewan and in the east with Sangualon. The economy of Wahalios is flourishing efficiently because of recent implementation of liberalization, privatization and globalization (LPG) policies. The result of these LPG policies is lot of foreign direct investment in the country.

2. Sangualon is a country on the eastern side of Wahalios. Sangualon’s society is divided into various factional ideologies. Due to ideological conflicts Sangualon has not had a stable government for long. Most of the population is poor and almost 70% population is living on less than $1.25 per day. The poverty and differences of interest have led the country towards violent conflicts and a major part of the country is riven by civil strife.

3. Some of the poor and starving people of Sangualon resort to sea piracy and account for a substantial number of sea pirates across the world. The Piluara village of Sangualon is known as the pirate capital of the world as out of its total population 30% engage in fishing and rest of them in piracy. UNSC has passed several resolutions relating to piracy. (Similar to Somalia resolution)

4. The two important factions of Sangualon are Blues and Reds. And most of the population is divided into these groups, though Reds have more followers than Blues and are in dominant power. But due to the civil strife, Blues who are more educated, take over the country and form transition government and establish diplomatic relations with other countries of their own accord.

5. In the common waters of Wahalios and Sangualon, there is an island called Bingo which is full of natural resources. But because of jurisdictional dispute between the two countries, no country was able to use this island. The main reason behind the jurisdictional dispute is unstable government of Sangualon that did not have the capacity to explore the area and solve the dispute with Wahalios.

6. In the sequence of maintaining foreign relations, the transition government of Sangualon started negotiation on Economic Cooperation Agreement for Exploration of Natural Resources of Bingo Island (hereinafter mention as ECA). Sangualon is a poor country having no capacity to explore the Bingo island and also in need of financial resources. The country was not able to spare more money for the international disputes. Therefore,
as per the settlement under ECA, it gives rights to Wahalios to explore natural resources of Bingo Island and in consideration of this the Wahalios government has to pay a certain amount as fee to Sangualon for surrendering its rights and a substantial share of profit out of the economic activities. Further the ECA also concludes that no such activity shall be carried on or supported or financed or allowed to carry on by any of the governments on Bingo Island or mainland Wahalios or mainland Sangualon so as to hamper the interests and breach the territorial integrity of any of the countries which are signatories to the ECA. The Wahalios government launched the Bingo Project aimed at exploring and exploiting resources in the waters around Bingo Island.

7. Later, the Reds overthrow the Blues and again get control of the governing system of Sangualon. The Reds government claims Bingo Island as their heritage island where a religious place of Reds community is located and which is a famous pilgrimage for the people of Sangualon. For these historic and religious reasons, the Reds government announces its decision not to abide by the ECA and any of its provisions.

8. Pilaroz Liberation Army (hereinafter mentioned as PLA) is a military group that is working from a country named Pilaroz. The main aim and objective of the PLA are to get freedom for Pilaroz from foreign invaders and get equality for the different social groups. In pursuance of that objective the PLA has various military camps on the border areas of Pilaroz which are not very far from Sangualon’s Piluara village. In the mean time an international NGO has highlighted in a report that the there is a nexus between pirates of Sangualon and terrorist groups operating in the area specially Pilaroz Liberation Army (PLA). Pirates are training terrorists in how to operate in the maritime realm and give effect to their attacks. Another important aspect of the said report is that ransoms received by pirates are being used to finance/fund terrorist activities.

9. One day, the pirates hijack an oil vessel on the high seas and demand ransom from its owners. Before the hijack of oil vessel takes place, another merchant ship reports to International Maritime Bureau that they have spotted a medium size boat where the men on the deck were armed and it was flying reddish looking flag.

10. The naval forces of the State of Franco patrolling on the high seas on an anti-terrorist mission spotted the hijacked boat, but they considered it as an act of piracy and could not use force against them as they could only do so if it was an act of terrorism. In order to do something they fired some warning shots at the oil vessel which created a fear in the minds of the hijackers who started sailing away from the naval ship at a high speed. After some distance the naval ship stops chasing them and abandons the operation. The hijackers threaten the ship owner company that either they pay the ransom or they will explode the ship on the high seas.
11. The next day, at midnight an intelligence report was given to the President of Wahalios which stated that some terrorists from Sangualon have collided an oil vessel with Bingo Island. As a result of the collision the island was devastated and 400 men involved in the oil exploration project died including 10 internationally acclaimed Wahalian engineers. The whole oil station has been destroyed and the heritage temple has suffered irreparable damages. The President after a few minutes was informed that terrorists have hijacked a similar oil tanker near the coast of Sangualon which they intend to collide with the Chiamura, the biggest port of Wahalios. The President through diplomatic means sent a request letter to Sangualon asking them to act immediately and destroy any such vessel which poses a threat to the security of Wahalios, failing which he will be constrained to use force.

12. The Sangualon did not respond to the letter and the President of Wahalios ordered naval forces to destroy or eliminate every threat to their national security even if it lies inside Sangualon. Thus pursuant to the order the navy launched “Operation Safe Waters” where it deployed its 30 warships which were equipped with latest weaponry and a special marine commando team the “L-Team” which if required was capable of carrying out its on-land operations. The warships chased several pirate ships and destroyed them. After several hours of the operation a warship located the mother ship of the pirates, which opened fire at the warship. The commander of the warship reported to the headquarters that they were facing heavy firing from the mother ship and the several missile attacks have severely damaged the warship. He further stated that it was not any ill-equipped pirate ship rather they possessed latest technologically advanced weaponry capable of causing substantial damage. The ship lost contact with the naval headquarters and was reported to have been sunk by the pirates.

13. A joint fleet of 10 warships chased the mother ship towards the coast of Sangualon. The mother ship was drowned near the coast but several pirates managed to escape from the mother ship to the coast. The warships then opened fire at several fishing vessels in the coastal waters which they suspected of being pirate ships. The “L-Team” now took the lead and chased the pirates into the Piluara village. The L team commandos targeted some of the caves in Piluara specially the “Garoa Cave” known as headquarter of pirates and they also killed many pirates inside their houses in the village. The commandos attacked the Garoa Cave where the pirates were taken by a surprise and started firing at the commandos indiscriminately as a result of which the “L-Team” commandos had to fall back and the firing continued between them for several hours. The Sangualian Military also retaliated with full force against the attack of the “L-Team”.

14. L-Team reported that Mr. Bimbo the leader of pirates was hiding in the village and provided them with his location. The Air Force launched an air attack on the village where Mr. Bimbo was killed and many villagers were also killed.
15. An international NGO called “Human Watch” prepared a report regarding the incidents and found that during the attack both pirates and civilians were killed. And there were no efforts from the side of L-Team to differentiate between civilians and pirates. The Reds Chief released a white paper on these attacks wherein all the details of the attack and damage caused was elaborately explained. The document stated that the warships destroyed 36 fishermen boats and in several cases the crew onboard was also killed. The L-Team without any reason attacked the houses of unarmed civilians and killed 45 villagers indiscriminately. The air attacks claimed the life of 1200 civilians out of which none was a pirate. It was stated in the paper that Mr. Bimbo was reported to be missing since the attacks and his death is not confirmed The Reds Chief declared the attack as a breach of their territorial sovereignty and an unlawful use of force. He further stated that Sangualon would answer back with all its strength and is prepared for a war.

16. The UNSC intervened and passed a resolution asking both the countries to amicably and peacefully settle the matter. As a result of international pressure both country started peaceful negotiations where Sangualon vehemently stated that the destruction on Bingo Island was an act of pirates and Wahalios is responsible for its unjustified attacks.

17. In a separate event the Reds government in Sangualon approached the ICJ to solve the dispute between Sangualon and Wahalios. Their main contention is that Wahalios has breached the territorial integrity of Sangualon by attacking the civilian population and coastal areas and in this attack innocent civilians were killed and violation of human rights occurred.

18. The Wahalios’s main contention is that as per ECA, Sangualon was not allowed to operate, allowed to operate, finance, or support any activities which shall affect the interest of Wahalios and there should not be any threat to Wahalios from Sangualon, hence there has been a violation of ECA.

19. The jurisdiction of ICJ is undisputable as both the states are members of the United Nations Organization and parties to the Statute of International Court of Justice. Both the parties have already given their consent for the jurisdiction of ICJ.

Following are the main issues involved in the present dispute before the Hon’ble International Court of Justice:

From the side of Wahalios:

   a. By allowing the pirates and terrorists activities on its territory, Sangualon has violated the terms and condition of ECA and the basic principles of international law.
   b. By denouncing unilaterally the ECA, Reds government has violated the popular and internationally accepted rules of government succession.
c. By not taking action in the response of the letter send by President of Wahalios, the Sangualon has violated the international peace and security, hence has not fulfilled its obligations under the United Nations Charter

From the side of Sangualon:

a. The ECA was concluded by the Blues government which was not the popular government of Sangualon, hence it was not the valid agreement.
b. The Sangualon has not violated ECA, because it was not a valid agreement.
c. The Wahalios has breached the territorial integrity of Sangualon by entering into its territory for wrongful purpose by use of force, hence violation basic principle of Use of Force under article 2 of the United Nations Charter.
d. By killing civilian population, the Wahalios has committed serious international crimes and hence violated the humanitarian rights of civilian people.

Participants are free to extend their own issues before the Hon’ble International Court of Justice.