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**Before: International Criminal Court Moot 2005
Pace Law School**

SITUATION IN THE STATE OF VINELAND

Defendants' Memorial

The Office of Defense Counsel

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Preface

1. A mob seized soldiers acting under UN peacekeeping authority, The soldiers were handed over to ANVA forces who, intent on disrupting the fledgling democracy in Vineland and hoarding oil revenues from that country's northern region, were determined to execute the soldiers without any evidence at all that they were involved in the unfortunate deaths of innocent civilians. Prob. paras. 3, 11, 12. These were the circumstances under which the defendants herein, Ridgeland and Katonia soldiers, were surrendered to the International Criminal Court. Given the disruptive and coercive influences surrounding their surrender, the defendants appearance in the ICC does not comport with the Rome Statute's guarantee that trials in the ICC be conducted "with full respect for the rights of the accused." Rome Statute of the International Criminal Court, U.N. Doc. No. A/CONF. 183/9 (July 17, 1998) (hereinafter "Rome Statute"), Art. 64(2). The Court should consider the impropriety of the defendants surrender in considering whether jurisdiction properly lies in this court or in a domestic court.

2. When the crimes herein were allegedly committed, the UNVINE troops were acting in concert with, and under direct orders as, UN peacekeepers. In doing so, they sought to root out ANVA, who was intent on disrupting democracy in the area. Because of unfortunate side effects, borne out of the retaliation against ANVA raids on UNVINE forces, a mob seized the defendants and turned them over to ANVA. Katonia and Ridgeland insisted that their troops be released immediately and threatened military action if they were held captive any longer. Their subsequent surrender, in order to prevent their own annihilation, was the result of coercion and is thus a mockery of ICC's guarantee of "enhancing international cooperation," through "effective prosecution." Rome Statute, Preamble. This Court should correct the injustice doen to these peacekeepers and decline jurisdiction here.

Statement of Facts

3. In January 2002, the UN Security council authorized the deployment of 500 military and 600 civilian personnel to the Vineland region. At the time, there had been more than four years of continuous fighting in the region. Vineland's central government and three ethnic groups had only recently signed a peace agreement and agreed to form a democratic coalition government whose power would be shared by all ethnic groups. The UN deployment's mission was to

“verify cessation of hostilities, to set up a security zone for civilians and refugees, and to make preparations for the forthcoming elections in the various regions.” Prob, para. 1.

4. The UN Security Council sought to renew peacekeeping efforts in July 2002. Such discussions were conducted along with countries’ consideration about whether to enter into the ICC’s jurisdiction. Some countries were concerned that “others might use the new Court for political reasons to investigate or prosecute its soldiers.” Prob, para. 3. As a result, the Security Council unanimously passed Resolution 1234 which granted a twelve-month exemption by the ICC to Vineland peacekeepers taking part in UN Peacekeeping operations. S.C. Res. 1234, 4046th Meeting, U.N. Doc. S/RES/1234 (2002). At the time, the only countries participating in these peacekeeping efforts were Ridgeland, Vineland and Katonia troops.

5. In June 2002, ANVA, an insurgent group from Vineland’s northern region, broke away from the coalition government because of dissatisfaction with the lack of ANVA seats in the new government as well as the shortage of its oil revenue shares from oil in the northern region. In attempts to ward off armed groups who attacked UNVINE forces July 10, 2002, Katonia and Ridgeland launched a 10-day bombing campaign in the area of the attacks. These were in response to insurgent groups attacking UNVINE troops in the northern region near Bridgetown. Press reports indicated that the attack was paid for by “foreign oil companies interested in keeping the UN peacekeepers out of the region.” Prob. para. 5. Paratroopers from both countries cordoned off the surrounding areas and conducted raids seeking to find insurgents who were connected to any group who attacked UNVINE. In this effort, they detained about 50 men and 20 boys to determine if insurgents were in their ranks. It was reported that four of them were tortured in another isolated area of the camp – one of them died of a heart attack. It is unknown who perpetrated this torture and the degree of injury to the victims. Several ANVA training camps were destroyed and many insurgents killed. Paratroopers, it is reported, stole personal property from houses during the searches.

6. On July 20, 2002, Katonia and Ridgeland ordered their paratroopers to bomb ANVA headquarters. In doing so, Katonia and Ridgeland acted on Vineland intelligence reports. It was reported that this bombing destroyed three villages, killing three hundred civilians and seriously injuring 550 more. This same day, ANVA captured three Katonia and two Ridgeland pilots

whose planes landed in a nearby marsh because of plane trouble. Without any evidence linking them, ANVA believed the pilots were engaged in the civilian bombing.

7. After the bombing ended, 100 people stormed the local police station where four Ridgeland military police were stationed as trainers and consultants to the local police. Four of the police were recognized by women in the mob as men who took their husbands and sons. Prob. para.11(a). These four were taken prisoner and handed over to ANVA insurgents who had just captured the five pilots accused of the aerial bombing raids.

Argument

I. DEFENDANTS CANNOT BE PROSECUTED FOR CRIMES WITHOUT EVIDENCE THAT THEY COMMITTED ANY CRIMES.

8. For there to be jurisdiction in the ICC, there must be at least some evidence that the defendants herein committed the crimes charged. Article 15 of Rome Statute states that a prosecutor may initiate investigations *proprio motu*. Here the prosecution either has not done so or has not produced evidence of it. If the prosecutor concludes there is a reasonable basis to proceed with an investigation, he shall submit this to the Pre-Trial Chamber for authorization of an investigation. Rome Statute of the International Criminal Court, U.N. Doc. No. A/CONF. 183/9 (July 17, 1998) (hereinafter “Rome Statute”), Art. 15(3); Clarification 8/12/05. In either case, we do not know who exactly is charged nor what they are charged with. Consequently, there is no evidence against defendants and jurisdiction in the ICC cannot follow.

9. No evidence suggests that the pilots were involved in the bombings that killed civilians. (In making this argument, defendants in no way concede that the charges involving the bombing of civilians are meritorious. Indeed, the raids in question were aimed at bombing ANVA headquarters, and civilian casualties unfortunately resulted from these bombings.) While there is evidence that some Katonian and Ridgeland paratroopers were in the area, there is no evidence that the defendants participated in the raids. The only relevant points are purely circumstantial – that three Katonia and four Ridgeland pilots landed in a nearby marsh the day of the bombings in question. Prob, para. 11. There is no indication that they were even flying in the area. There is no evidence that these pilots dropped any bombs on any civilians. Indeed, there is no evidence that these pilots dropped any bombs whatsoever. Even accepting all these facts in the Problem

as true, there are still many reasonable hypotheses of innocence. The pilots could have been bringing humanitarian aid to civilians. They could have been delivering supplies to UNVINE troops in the area. Since the evidence does not exclude such hypotheses of innocence, there can be no reason for a grant of jurisdiction in this case. There is no probable cause, reasonable suspicion or reliable evidence that these pilots were in fact implicated in any of the charged offenses.

10. The same is true of the Ridgeland military officers who were captured by a mob in a police station. This occurred because a few in the mob “recognized” these officers as having taken part in kidnapping their husbands and sons. Prob, para. 11a. Other than rumor, there was no credible reason for the mob to descend on the police station where the four were captured. There was only a rumor that “it was known” that these four officers who had taken part in the searches were stationed as consultants to the local police force. Prob, para. 11. Consequently, while the criminality of the searches will be explored further below, there is no indication that these four officers were (1) involved in the raids or, (2) had anything to do with the torturing of four people in a separate area of the camp cordoned off by paratroopers. For these reasons, and others cited herein, ICC jurisdiction cannot follow.

II. THE AGREEMENT BETWEEN VINELAND AND KATONIA AND A UNITED NATIONS SECURITY RESOLUTION PRECLUDE SURRENDER OF THE DEFENDANTS AND THEIR PROSECUTION IN THE ICC UNDER ARTICLE 98 OF THE ROME STATUTE AND INTERNATIONAL NORMS OF LAW.

11. Vineland and Katonia entered into an agreement that prevents the surrender of their troops to the ICC. In 2002, the UN Security Council expressly exempted Ridgeland and Katonia troops from prosecution in the ICC by UN Security Resolution 1234. The Resolution was intended to give immunity to UN peacekeepers in the region. Under these agreements, and given the circumstances of the defendants surrender, jurisdiction in this court would be offensive to international norms. Therefore, the defendants here should not be prosecuted in the ICC.

A. The UN Security Council expressly exempts Ridgeland and Katonia from prosecution under the Rome Statute.

12. The UN Security Council passed Resolution 1234 with respect to the UNVINE peacekeeping efforts and requested that the International Criminal Court,

If a case arises involving current or former officials or personnel from a contributing State not a Party to the Rome Statute over acts or omissions relating to a United Nations established or authorized operation, shall for a twelve-month period starting 1 July 2002 not commence or proceed with investigation or prosecution of any such case, unless the Security Council decide otherwise.

S.C. Res. 1234, 4046th Meeting, U.N. Doc. S/Res/1234 (2002) (hereinafter “Res. 1234”) (1). The Security Council further expressed its intention to extend this resolution “each July 1” for additional years “as long as may be necessary.” Res. 1234(2). Therefore, any UN forces within Vineland during this period are exempt from “investigation or prosecution” from acts occurring during this time period. Res. 1234(1). Ridgeland and Katonia forces who were participating in UN exercises to turn back forces such as ANVA fit squarely within this protection.

13. Immunizing UN forces from prosecution in circumstances such as these is consistent with a policy of providing UN forces leeway in dealing with rebel insurgent forces – like ANVA here. Such policy militates in favor of an inference that the Security Council intended to extend Res. 1234's effects past July 2003. The intention is expressed in the text of the resolution which reads: “[The Security Council] [*e*]xpresses the intention to renew the request in paragraph 1 under the same conditions each 1 July for further twelve-month periods for as long as may be necessary.” Res. 1234(2). This Court should bear in mind that the agreement arose in response to Katonia’s concern that “others might use the new Court for political reasons to investigate or prosecute its soldiers.” *Prob*, para. 3. As a result, the UN Security Council passed 1234 to grant soldiers immunity from prosecution in the ICC in order to prevent the fulfillment of Katonia’s threat “that it would not participate in this or other UN peacekeeping missions.” *Prob*, para. 3. Hence, this Court should recognize the intention expressed in the body of the Resolution and allow Resolution 1234 to bar prosecution of the Katonia and Ridgeland soldiers in this Court.

14. The Ridgeland and Katonian Defendants were acting under the auspices of the UN and therefore fit squarely within Resolution 1234 and are exempt for the ICC’s jurisdiction. The UN Security Council, in January 2002, authorized UNVINE to increase its deployment to Vineland to “verify cessation of hostilities, to set up a security zone for civilians and refugees, and to make preparations for the forthcoming elections in the various regions.” *Prob*, para. 1. To ensure the attainment of these goals, the UN requested member States “to contribute forces, civilian personnel and equipment to UNVINE in order to carry out the mandate.” *Prob*, para. 1. As a result, “Ridgeland and Katonia committed and deployed soldiers and paratroopers to the

UNVINE mission in Vineland.” *Prob, para. 1*. Hence, during the time in question here, Ridgeland troops were always acting in furtherance of a UN peacekeeping mission at the UN’s express invitation. Therefore, when armed groups attacked UNVINE forces outside Bridgetown on 10 July 2002, Ridgeland’s response of sending “an additional 200 paratroopers to assist their soldiers,” *Prob, para. 6*, was in concert and furtherance of effectuating a specific UN goal of “set[ing] up a security zone for civilians and refugees.” *Prob, para. 1*. Therefore, jurisdiction cannot follow.

B. The Three Katonia pilots fit squarely within the Vineland/Katonia Agreement.

15. Katonia and Vineland entered into an agreement that prevents the surrender of Katonia’s troops to the ICC for prosecution. It states:

When the Government of Vineland extradites, surrenders, or otherwise transfers a person of the other Party to a third country, Katonia will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, absent expressed consent of the Government of Katonia.

Agreement between the Government of Katonia and the Government of Vineland regarding the surrender of persons to the International Criminal Court, (1 August 2002), Art. 4. Katonia never gave any such consent. This agreement is consistent with Article 98 of the Rome Statute regulating such agreements. The first section of that article reads as follows:

The Court may not proceed with a request for surrender or assistance which would require the requested State to act inconsistently with its obligations under international law with respect to the State or diplomatic immunity of a person or property of a third State, unless the Court can first obtain the cooperation of that third State for the waiver of the immunity.

Rome Statute, Art. 98(1). Here, the surrender of Katonia’s troops would cause Vineland to “act inconsistently with its obligations under international law,” in that such surrender would violate the agreement between Vineland and Katonia. *Id.*

16. The ICC jurisdiction complements jurisdiction of the countries with which it is a signatory. Rome Statute, Preamble. The Rome Statute contemplates such agreements. *Id.* Furthermore, any country that is a party to the Rome Statute can refuse to surrender under such agreements if the ICC does not provide proper constitutional safeguards for criminal defendants. While a Party State to the Rome Statute has an obligation to not defeat the object and purpose of the Rome Statute by providing impunity to those accused of Rome Statute crimes, but the Party

State does not defeat that object and purpose by entering into non-surrender agreements in accordance with Article 98. *See*, Dietz, Jeffrey S., Protecting the Protectors: Can the United States Successfully Exempt U.S. Persons from the Internal Criminal Courts with U.S. Article 98 Agreements?, 27 Hous. J. Int'l L. 137, 156-157 (2004).

17. Given that surrender of the Katonia soldiers would violate the Rome Statute, prosecution after a surrender that was in violation of international law would compound the injury. Hence, to protect against an internationally violative surrender, this Court should not prosecute Katonian troops. The Rome Statute cannot be read to undermine the purpose of Art. 98 agreements, for which the Statute itself provides. One cannot read the Rome Statute, because of an omission of the word “prosecution,” as prohibiting illegal surrender but allowing prosecution that follows from an illegal surrender. Any such interpretation would be untenable and ICC jurisdiction cannot follow.

C. The Three Ridgeland Pilots and Four Military Officers are protected by the Article 98 agreement.

18. Art. 98 of the Rome Statute grants immunity to Ridgeland’s troops since it is an extension of the arguments occurring in the Security Council at the time of its passage concerning the immunity of UNVINE troops in general. *See* Prob, para. 3. Article 98(2) of Rome Statute reads:

The Court may not proceed with a request for surrender which would require the requested State to act inconsistently with its obligations under international agreements pursuant to which the consent of a sending State is required to surrender a person of that State to the Court, unless the Court can first obtain the cooperation of the sending State for the giving of consent for the surrender.

19. The Article 98 agreement reflects a developing international norm wherein States who send in troops as part of an UN peacekeeping mission do not become subject to ICC jurisdiction if they have not become signatories to the Rome Statute. Article 98 of the Rome Statute, UN Security Council Resolution 1234 and the Article 98 agreement between Katonia and Vineland reflect this international norm.

20. International norms are controlling on the ICC. Article 21 of the Rome Statute on Applicable Law says when a statute, the elements of a crime and its rule of Procedure are not available in a particular instance, “The court shall apply: . . . In the second place, where appropriate, applicable treaties and the principles and rules of international law, including the

established principles of the international law of armed conflict. Rome Statute, Article 21(b). This being the case, then the Article 98 agreement is binding on all states. International norms are laws according to the Geneva Convention. *Vienna Convention on the Law of Treaties*, (1969) 1155 U.N.T.S. 331, Art. 38 (“Nothing in articles 34 to 37 precludes a rule set forth in a treaty from becoming binding upon a third State as a customary rule of international law, recognized as such.”). *Cf.* Rome Statute, Art. 4(1) (“The Court shall have international legal personality. It shall have such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.”). Therefore, jurisdiction in this matter cannot stand.

III. DEFENDANTS DID NOT COMMIT CRIMES AGAINST HUMANITY UNDER THE ROME STATUTE.

21. Defendants’ actions, even cast in the worst possible light, do not fit the elements of Crimes Against Humanity as defined by Article 7 of the Rome Statute. Defendants’ crimes were not (1) directed against a civilian population, (2) were not “committed as part of or intended the conduct to be part of a widespread or systematic attack against a civilian population,” and (3) were not committed with knowledge of the attack. *Elements of Crimes*, ICC-ASP/1/3(B) (2002) (hereinafter “Elements”), Art.7(1)(a). Hence, the crimes against humanity charges cannot stand and jurisdiction in this Court cannot follow.

A. The aerial bombing attacks by Defendants paratroopers were not directed against a civilian population.

22. Pursuant to a UN objective, defendants, on 20 July 2002, sought to bomb the headquarters of ANVA, “an insurgent group from the northern region” of Vineland. Prob, para. 1. The bombing was developed with intelligence reports and aimed to weaken ANVA forces who were destabilizing Vineland and any attempts made towards democracy in the country. *See* Prob, paras. 1, 2. The bombings were also begun amid the overriding aim to fulfilling the January 2002 objectives of the UN Security Council and to limit the ability of foreign oil companies to discourage the UN from maintaining peace in the region. *See* Prob, para. 5; Elements, Art.7(1)(a)(2).

23. This bombing was directed to an area of haven to insurgents who were attacking UNVINE forces, not to a civilian target. Unfortunately, civilians deaths will always be a part of violent conflict. Defendants were attempting to “verify cessation of hostilities” and stop ANVA

from disrupting the peace pursuant to a UN peacekeeping mission. Prob, para 1. The UNVINE bombing was not directed against a civilian population but at ANVA headquarters. The focus of the bombing exculpates the defendants herein since UNVINE targeted an insurgent group and not civilians.

B. The Aerial Bombing Attacks by Defendants Paratroopers were Neither Widespread nor Systematic.

24. Bombings raids conducted by Katonia and Ridgeland were done to discourage insurgent forces from the rampant killing of soldiers who were trying to effectuate UN mandates. Such bombings were directed in response to the killing of UNVINE peacekeeping forces stationed outside Bridgetown. These unmitigated attacks resulted in the deaths of ten Katonia and fifteen Ridgeland soldiers. To prevent any future attacks of this kind and to effectuate UN peacekeeping mandates, UN bombing raids conducted by Katonia and Ridgeland forces were aimed at specifically preventing any further violence that might discourage such random attacks. Defendants concede that civilians deaths are a tragedy. However, blame for such horror rests solely on the backs of those who do not want peace in the region, not UN peacekeepers aimed at fulfilling stabilizing objectives.

C. Defendants Did Not Have Knowledge That They were Bombing Civilians.

25. Defendants bombed ANVA headquarters based on “Vineland government intelligence reports,” Prob. para. 10. The target was chosen because the insurgent group ANVA was located there and not because innocent civilians lived there. Defendants therefore did not “mean to engage in the conduct,” as alleged. Rome Statute, Art. 30(2)(a), nor were they “aware that [civilians would be killed] in the ordinary course of events.” Rome Statute, Art. 30(2)(b). Even assuming *arguendo* that the intelligence reports were incorrect or unreliable, it is important the Defendants chose the bombing targets based on those reports. We can infer they planned the bombing to maximize ANVA casualties and damage to their headquarters. Such premeditation does meet Article 30's requirement that one have “awareness that a circumstance exists or a consequence will occur in the ordinary course of events.” Rome Statute, Art. 30(3). Therefore, defendants did not know nor did they intend to bomb civilians.

IV. AERIAL ATTACKS BY DEFENDANT PARATROOPERS DO NOT SATISFY THE ELEMENTS OF WAR CRIMES.

26. Defendants' actions in furthering the peacekeeping efforts of the UN do not constitute war crimes. Even viewed in the worst light, the defendants' actions did not occur during an international armed conflict. Consequently, their actions cannot fit the elements of war crimes. *See* Elements, Art. 8(2)(a), *et seq.* Therefore, ICC Jurisdiction should not follow.

A. The bombings did not occur during an international armed conflict.

27. The conflict in question was between a UN peacekeeping group and an insurgent group from the northern region of Vineland. The International Tribunal for the Former Yugoslavia ruled that an armed conflict exists "whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State." *Prosecutor v. Tadic, Judgment, IT-94-1-T, May 7, 1997*, at para. 70. That Ridgeland and Katonia troops were involved does not equate with Ridgeland and Katonia being involved as states. Katonia and Ridgeland each lent large numbers of troops to a UN peacekeeping effort and, as such, their forces were under the control and direction of the UN during the times in question. Here the "conflict" was between those who want peace in Vineland and those who have an interest in having conflict in the region. Katonia and Ridgeland forces were present to effectuate UN mandates to "verify cessation of hostilities, to set up a security zone for civilians and refugees, and to make preparations for the forthcoming elections in the various regions." *Prob*, para. 1. In doing so, Katonia and Ridgeland forces were arms of UN peacekeeping forces and not, as such, under direction of the sovereign's military commanders. Therefore, this was not an "international conflict" in the common or the international meaning of the term. When the fighting began between Katonia and Ridgeland and the unidentified armed groups, the conflict did not become an international conflict but remained a conflict between UN forces and a common insurgent group. Hence, given that the conflict was not between states or governmental authorities, there is no international conflict in existence here.

B. The charges against defendants involving the impairment of liberty of any kind do not withstand any scrutiny.

28. Detaining 70 people while searching for insurgents does not fit the elements of deportation and forcible transfer of population 7(1)(d), imprisonment or other severe deprivation of physical liberty, 7(1)(e), unlawful deportation and transfer 8(2)(a)(vii)-1, and unlawful confinement 8(2)(a)(vii)-2. There is neither a forcible transfer nor an unlawful transfer since the conduct was not “committed as part of a widespread or systematic attack directed against a civilian population,” nor did the perpetrator know “that the conduct was part of or intended . . . to be a part of a widespread or systematic attack directed against a civilian population.” *See* Elements, Art.7(1)(d)(5), 7(1)(e)(5). Also, the crimes of unlawful deportation and transfer as well as the crime of unlawful confinement cannot stand since, as outlined above, the defendants alleged conduct did not take “place in the context of [nor] associated with an international armed conflict.” *See* Elements, Art.8(2)(a)(vii)-1, 8(2)(a)(vii)-2. Detainees here were temporarily detained as part of a UN peacekeeping effort. Specific to the instances alleged here, the detainees were searched in order to determine if insurgents were among the 70 detainees. As such, defendants’ actions, as alleged, do not fit the elements of Article 7(1)(e) which states that the perpetrator imprisons persons or otherwise severely deprives persons of their liberty. These detentions were temporary and, as such, cannot fit the war crime definition of unlawful confinement.

29. Assuming, *arguendo*, that defendants detained the complainants herein, such detention was in furtherance of a UN mission to weed out insurgents in a very unstable area of the world. The search and detention was in response to a surreptitious attack by armed forces believed to be supported by “foreign oil companies interested in keeping the UN peacekeepers out of the region.” Prob, para. 5.

30. Given that defendants’ were acting under a UN sanctioned peacekeeping effort, any investigation which arose out of it, was in furtherance of such. There can be no charge of imprisonment or unlawful detention against law enforcement officers, acting under UN authority. Policy dictates that UN peacekeepers should have every opportunity to impose security on the area. Conversely, any insurgent groups should not be able to seek recourse against those whose mission it is to “verify cessation of hostilities, to set up a security zone for

civilians and refugees, and to make preparations for the forthcoming elections in the various regions.” Prob, para. 1. Therefore, the charges alleging impairment of liberty cannot stand.

C. Defendants did not torture any of the alleged detainees.

31. There is not evidence here that those who were tortured were civilians. Also, as outlined above, the perpetrator did not know “that the conduct was part of or intended . . . to be a part of a widespread or systematic attack directed against a civilian population.” See Elements, Art. 7(1)(f)(5). Indeed, the alleged torture occurred during a UNVINE offensive to counter ANVA efforts, in concert with foreign oil companies, to keep “the UN peacekeepers out of the region.” Prob, para 5. The alleged torture came during a raid, the purpose of which was to find insurgents in the region. Furthermore, we are only told that the victims herein were “tortured.” Prob, para. 6, and not whether they were “in the custody or under the control of the perpetrator.” Elements, Art.7(1)(f)(2). Nor can it be assumed that the “pain and suffering did not arise only from, and was not inherent in or incidental, to lawful sanctions.” Elements, Art.7(1)(f)(3). Hence, these charges cannot stand.

D. Defendants did not pillage, destroy nor target civilian property.

32. It cannot be said that the defendant paratroopers were acting under direct UN order and any of their actions should be viewed in furtherance of UN directives. The prosecutor may allege that “personal property had been stolen by the paratroopers while conducting the house-to-house searches.” Prob, para. 6. However, there is no indication that the property confiscated, at the time, could have led to the capture of ANVA troops. Nor is there any evidence that troopers had reason to believe that various property taken in the raids could have been used as a weapon or some device used to harm UNVINE forces. It should be reiterated here that just prior to these raids, unidentified armed groups attacked UNVINE forces. Prob, para. 5. Given this context, the paratroopers must take all efforts to protect themselves and other civilians from attacks at the hands of any other unidentified forces, ANVA, or otherwise. Therefore, any expropriation that was involved was not within the contemplated of the Rome Statutes which do not limit “existing or developing rules of international law.” Rome Statute, Art. 10. It must be added again, as stated above, that the alleged pillaging did not take “place in the context of and was [not] associated with an international armed conflict.” Elements, Art. 8(2)(b)(xvi)(4). Therefore, jurisdiction for prosecution of this crime cannot stand.

33. With regard to the destruction of property allegations, the Prosecution cannot prove that this was the result of a “widespread and systematic effort.” Elements, Art. 7(1)(f)(5). Furthermore, the prosecution has no evidence that the defendants are the perpetrators of the crime. We are only told that the “personal property had been stolen.” Prob. para. 6.

Conclusion

International Treaties and Agreements, as well as a UN Security Council Resolution itself, bar the ICC from exercising jurisdiction in this matter. The evidence, even viewed in its most damning light for the defendants, does not establish any reliable foundation for prosecution. Therefore, jurisdiction in the ICC cannot stand. This court should refrain from prosecuting the defendants in this Court and return them to their homes in Katonia and Ridgeland.

Certification of Team Members

We hereby certify that the memorial for ----, is the product solely of the under signed and that the undersigned have not received any faculty or other assistance, other than that allowed for in the Rules, in connection with the preparation of this memorial.

/s/ team