



## 1<sup>st</sup> PGCL SAARC International Moot Court Competition 2021

*In the loving memory of Late Dr. L.R Dwivedi*

### MOOT PROPOSITION

1. Sundarland is a democratic country, with a population of 500 million people. More than 50% of its population comprises of people between the age of 16 – 28. The manufacturing sector is the primary employment provider in the country, with Sundarland's revenue accruing from its export of finished products. However, Sundarland has almost negligible arable land, and therefore has to rely on its imports to meet the food grain demands of its citizens.
2. Sundarland is also plagued with blatant drug abuse. According to surveys done by non-governmental organizations, one member in every Sundarlandean household is addicted to some kind of drug or the other. Drugs related deaths are 40% of all deaths in Sundarland. Opium, heroine, and cannabis are the three major drugs preferred by the people of Sundarland. For some time now the Sundarlandean Government has been trying to curb the rising use of drugs, especially within the youth. Stringent laws, with even more stringent punishments, have been introduced which penalizes the sale, consumption, possession, manufacture, distribution, etc. of drugs. Although studies have depicted that cannabis do not lead to any deaths, the Sundarlandean Government has kept the punishment for its sale, consumption, possession, manufacture, distribution at par with other drugs since it is believed to be a “gateway drug”.
3. Sundarland is surrounded by Bunkoostan from three sides and has the Shrute sea lying to its south (refer to Appendix A for a detailed map). Bunkoostan is one of the leading

economies in the world, with an advanced military. All three sectors of its economy, viz. agriculture, manufacturing, and service sectors are highly developed, with some of Bunkoostan's industries being the world leaders in their respective fields. Bunkoostan is the largest exporter of food grains to Sundarland. It also imports large volumes of semi-finished goods from Sundarland, finishing them within its territory and selling them for much higher prices. The trade links between the two countries go as far back as the 1950s and they have several trade agreements.

4. Bunkoostan legalized cannabis for medical and recreational use in the year 2017, and since then it has become a major source of revenue for the Bunkoostani Government. From 2018 onwards, several neighbouring states of Bunkoostan, which *inter-alia* include Sundarland, Tehlanistan, Annapirgo, and Kajuland, began reporting a spike in cannabis consumption within their countries. Cannabis is illegal in all of these countries, and the possession, consumption, sale and manufacture of cannabis is heavily penalised. They also reported a significant increase in the volume of confiscations of cannabis and other drugs. As per official government reports, the areas where the maximum number of seizures have taken places for all of these countries were in areas bordering Bunkoostan.
5. In May 2018, Bunkoostan held its elections, and a new President, Ms. JhunJhun Rodriguez was elected into power. JhunJhun Rodriguez was the daughter of a famous cannabis manufacturer, Mr. Vakeel Rodriguez. Prior to her election, the media in Bunkoostan claimed and reported that her father had close ties to the Kali Cartel, a drug cartel responsible for the manufacture, distribution and sale of 90% of drugs in the region. They were also infamous for the bloodshed they caused in the region. It was

stated that they operated from the neighbouring Kajuland and had funded Ms. JhunJhun's election campaign. However, no conclusive evidence ever surfaced substantiating these claims. After she was elected, Ms. JhunJhun brushed aside these allegations as "dirty politics" by the erstwhile ruling party to malign her name. She pledged that neither her nor her father had anything to do with the Kali Cartel and that they carried out all their businesses in a legal and moral way.

6. In the next few months, JhunJhun Rodriguez made policies which facilitated the export of cannabis from Bunkoostan to countries where cannabis was legal. However, being a landlocked nation, a lot of this cannabis had to be transported through countries where cannabis was illegal. Owing to this, relationship between Ms. JhunJhun Rodriguez and the heads of state of neighbouring countries began deteriorating. The leaders of Tehlanistan, Annapirgo and Sundarland publicly condemned the drugs which were flowing into their territories from Bunkoostan. Mr. Aman Chandal, the Home Minister of Sundarland, issued the following statement to the press:

*"Ms. Rodriguez and her father, with their ties to the drug cartel, are now using State Machinery of Bunkoostan to perpetrate their crimes. Blinded by their profit motive, they are ruining our families, our children, our society. We shall not tolerate this!"*

Chandal's party, the TJP, had made several promises to make Sundarland a drug free state in their election manifesto. However, Sundarland only registered an increase in the drug consumption because of which the TJP came under a lot of criticism from opposition parties.

7. On 5<sup>th</sup> January 2020, a convoy travelling from the city of Winterhell in the south of Bunkoostan to the port city of Qarth in Sundarland was stopped by customs officials in Sundarland. The said convoy was part of one of the many agreements between the two countries wherein Bunkoostan transported food grains essential for Sundarland, in exchange for the right to use its port for exporting other commodities worldwide. Upon closer inspection, it was found by the Sundarlandean Customs that the convoy, apart from carrying food grains, was also carrying over 20,000 kilograms of marijuana. The consignment was immediately seized.
8. The said convoy belonged to a company called “SafestXpress” and registered in Bunkoostan. SafestXpress was contracted by the Government of Bunkoostan for transporting food grains and other commodities to be exported. However, it was found that 5 drivers driving the trucks that were seized were not on the roster and register of SafestXpress, and were private individuals having Bunkoostani citizenship. They were subsequently arrested by the Sundarlandean Customs.
9. On 6<sup>th</sup> January 2020, the Prime Minister of Sundarland, Mr. Ganesh issued the following statement:

*“We have confiscated copious amounts of drugs coming into Sundarland from the neighbouring Bunkoostan. However, our diligent efforts thwarted their attempt to destroy our families and youth. Rest assured, as long as we are in power, we will keep making these efforts until the evil of drugs is completely weeded out. So far as the five drugs dealers arrested, the same*

*will be dealt with firmly, and we shall endeavour to give them the strictest of punishments.”*

10. On the same day, the President of Bunkoostan, Ms. Rodriguez issued a statement to the press wherein she stated:

*“Bunkoostan has nothing to do with the convoy which was stopped in Sundarland, nor does it has anything to do with the drugs the convoys were allegedly carrying. I understand that drugs are legal in Bunkoostan, however, I respect the law of the neighbours’ land. Bunkoostan has always helped its neighbours and have treated them with respect. These insinuations being made by the Government of Sundarland seems to be an eyewash to hide their own shortcomings. I reiterate that Bunkoostan had nothing to do with those drugs, and that we are keen on continuing with the regional cooperation to the mutual benefit of all.”*

11. In the weeks that followed, Sundarlandean media vilified the five individuals who had been arrested. It was reported across all media platforms that those arrested had ties to the Kali Cartel. A fast track court was set by the Government of Sundarland, and a judge was personally appointed by the Prime Minister and his cabinet. This fast track court convicted all five men of possession with intent to distribute and sentenced them to 20 years in prison. The trial was completed in five weeks’ time.

12. On 13<sup>th</sup> February 2020 the Government of Bunkoostan sent a verbale note to the Government of Sundarland, stating the following:

*“It has been brought to the attention of the Government of Bunkoostan that five men having Bunkoostani citizenship had been arrested and stood trial in Sundarland. However, much to our dismay, the trial was neither free nor fair. There was palpable bias in the trial, and the five men were denied proper legal representation. For these reasons, we request you to set aside the said trial and extradite these men to Bunkoostan where they may be tried as per the law of the land, while respecting the principals of natural justice as well as internationally recognized norms.”*

13. The Government of Sundarland responded to this note verbale with one of its own on 15<sup>th</sup> February 2020, stating the following,

*“We deny the allegations raised in your note verbale dated 13<sup>th</sup> February 2020. It is incorrect that these five men did not stand a fair trial. It is further incorrect to state that they did not have adequate legal representation. Notwithstanding these facts, the Government of Sundarland does not have the powers to disregard an order passed by a court of law in Sundarland. Moreover, it will not be expedient to extradite these men to Bunkoostan since Bunkoostani laws do not criminalize the possession of drugs, the charge for which they have been convicted.”*

14. Aggrieved by this refusal, Bunkoostan approached the International Court of Justice [“ICJ”], raising allegations that Sundarland has violated the internationally recognized fundamental rights of free and fair trial to Bunkoostani citizens.

15. In response to this, Sundarland approached the ICJ, raising the ground that since SafestXpress was contracted by the Government of Bunkoostan, and they were found with 20,000 kilograms of cannabis, Bunkoostan was in violation of the rights and obligations incumbent upon it under the Single Convention on Drugs of 1961, the Convention of Psychotropic Substances of 1971, and the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 [collectively “**the Drug Conventions**”].

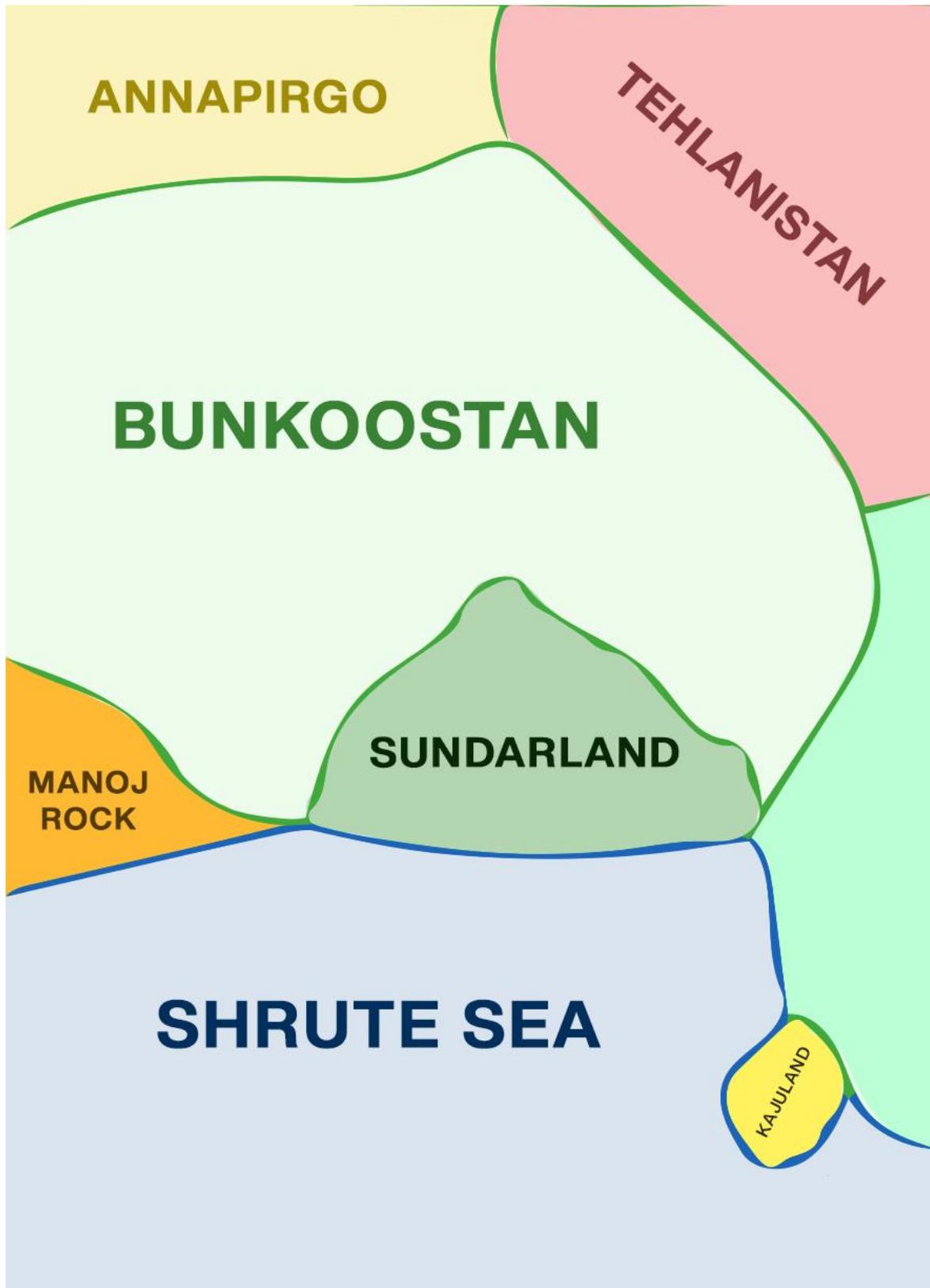
16. Accordingly, the ICJ framed the following issues for consideration and set the date for hearing on 11<sup>th</sup> February 2020 to 14<sup>th</sup> February 2020.

- (i) Whether the conduct of SafestXpress is attributable to the Government of Bunkoostan and as a consequence, are they in violation of its obligations under the Drug Conventions?
- (ii) Whether the Government of Bunkoostan was in violation of its obligations under the Drug Conventions by allowing for the sale and manufacture of medicinal and recreational cannabis in their territory?
- (iii) Whether the Government of Sundarland has violated internationally recognized fundamental rights to free and fair trial of the five Bunkoostani men arrested?
- (iv) Whether the Government of Sundarland was right in refusing the extradition of the five Bunkoostani men?

**NOTE**

- A. Both Sundarland and Bunkoostan are parties to the following conventions,
- (i) UN Charter,
  - (ii) Vienna Convention on the Law of Treaties,
  - (iii) Vienna Convention on Consular Relations,
  - (iv) Single Convention on Drugs, 1961,
  - (v) The Convention of Psychotropic Substances, 1971,
  - (vi) The Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988
- B. Sundarland and Bunkoostan have not made extradition contingent on a specific treaty between them.
- C. Participants are not required to argue on maintainability.
- D. Participants are expected to use applicable norms of public international law as well as customary international law wherever applicable.
- E. Participants are expected to argue the issues as framed in paragraph 16 of the proposition.

APPENDIX A



- Moot proposition drafted by MZM Legal LLP



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