



2nd PRAVIN GANDHI COLLEGE OF LAW SAARC INTERNATIONAL MOOT COURT COMPETITION, 2022



MOOT PROPOSITION



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CASE BEFORE THE INTERNATIONAL CRIMINAL COURT, PRE-TRIAL CHAMBER – II

PROSECUTOR V. TIBMAS WOLF OF JANAKLAND

1. Janakland is a democratic, non-secular country with a population of 5,00,000 people. 70% people in Janakland professed the Andal religion, 27% people professed the Vejan religion, and 3% people professed Christianity.
2. The Constitution of Janakland declares the “Andal” to be the national religion. Consequently, the Constitution of Janakland affords various protections and safeguards towards Andalian gods, practices and cultures. These protections and safeguards were only to the extent of the preservation of the Andal religion. The Constitution, however, did not distinguish or discriminate between its citizens on the basis of their religion, and people of all religions enjoyed freedom of opportunity, occupation and speech. In fact, Janakland had always performed well in the Global Freedom and Happiness Indices.
3. Janakland became independent in 1973, and it joined the United Nations [“UN”] in 1981. It acceded to the Rome Statute in 2007. From the very beginning of its independence, Janakland was extremely inter-connected with countries around the globe. A resource-rich country, 70% of Janakland’s GDP comprised of the revenue it generated through global trade. The per capita income in Janakland was very high, and a spirit of entrepreneurship and industrialism propelled the country forward at a tremendous rate.



4. Janakland's progress was surprising because it fell in a region which was torn apart by war, famine and instability. Janakland's neighboring nations found it difficult to maintain democratic facades, and coups were a common and a frequent occurrence. Janakland's immediate neighbor, Rainbowland was perhaps the worst hit in the area by famines. The famines caused great hardship to the people, and the same resulted in the military of Rainbowland gaining a stronghold over the political machinery in Rainbowland.
5. At the time of its independence, Janakland's Vejan population comprised less than 5% of their total population. Vejans were the majority people in Rainbowland, with them comprising over 50% of Rainbowland's population. Over the years, due to the excesses being committed by Rainbowland's military in the country, and due to immense food shortages, a large part of Vejans living in Rainbowland began migrating to Janakland for search of better opportunities. Janakland, too, opened its doors to these refugees who were displaced from Rainbowland for all sorts of reasons. As a consequence, by 1990, Janakland's Vejan population comprised 27% of its total population.
6. By 2002, Janakland began facing some stagnation in its development and growth. Over three decades of growth and development was finally coming to a seeming end; with land utilization hitting a glass ceiling, with some areas experiencing severe depletion of resources in the land and groundwater, leading to a fall in crop yield. The availability of cheaper labour in other developing nations put a halt on the ever-increasing industrial sector of Janakland. The effect of this was directly felt by the GDP since these factors lead to a reduction in the output of the Janakland, and consequentially the quantum of goods it had for export purposes after domestic use. The inflow of migrants from neighboring states, and specifically Rainbowland made the situation all the worse.
7. By 2012, the situation had become a bit dire. Several parts of the country were facing food and water shortages due to depletion in groundwater levels and degradation of land quality. 45% of Janakland's industries either shut down due to foreign entities moving their production processes to other countries or due to the unavailability of raw materials. Employment rates had shot up to 18% as compared to the meagre 3% in the pre-2002 years.



8. 2012 also marked the beginning of the run-up to the general elections to be held in Janakland in the year 2014. Unemployment, food and water shortages and the general dwindling state of affairs of the country formed the major part of the election campaign of Mr. Tibmas Wolf, the Prime Ministerial candidate of the opposition party, The National Andal Party [“NAP”]. Mr. Wolf travelled across the country extensively, meeting people from all walks of life, and provoking their deep dissatisfaction with the ruling party, The All Janakland Workers Party [“AJWP”].
9. The AJWP had been in power since 1999, after three and a half terms of incumbency, the party’s popularity was at an all-time low. During this time, the AJWP had seen three different Prime Ministers. The current Prime Minister, Mrs. Shamsundar Black had been in office since 2009. Coming from a generationally rich family, she was Harvard educated and had trouble relating to the common folk of Janakland. However, she was handed the Prime Ministership precisely for this reason. An experienced economist and politician, she had the capacity to draw foreign investment, and her extensive knowledge of economics and policy held the trust of the market.
10. However, in her second term, she lost the faith of the people in spite of her telling qualities which helped keep the economy of Janakland together. These were matters which the majority of the people were seemingly uninterested in. Naturally so, they were blindsided by their more immediate needs. Amidst this chaos, emerged Mr. Wolf, a devout Andalian, the son of a common factory worker, educated in the public schools of Janakland; a man who spoke the language of the populace. The public went crazy about him.
11. Mr. Wolf’s foray into politics coincided with a turning point in the modern history of Janakland, and it catapulted him to wide popularity in spite of his lack of experience and vision. The 2019 general elections saw him translate this popularity into votes as NAP came to power, winning 257 out of the 505 seats in the Janakland Parliament. All news channels flashed Mr. Wolf’s photos, all streets of Janakland had his posters, and every lip in the country muttered his name in approval. Prime Minister Wolf became the first Janakland Prime Minister to enjoy such an unbridled mandate of the people.



12. Things went well in Prime Minister Wolf's first year in power. The optimism brought about by his election as Prime Minister had helped people forget about their pressing needs momentarily. The optimism died soon, but the hunger did not and things started getting a little turbulent. In January 2020, some local newspapers in the Nanji region of Janakland started reporting an extreme shortage of water leading to famines. The Nanji region was home to 22% of Janakland's Vejans. The news soon caught national attention and urgent call for action was demanded from the incumbent NAP Government and Mr. Wolf. However, the NAP Government maintained that no famines had taken place and that the issue was exaggerated by the newspapers for gaining traction.
13. By March 2020, national newspapers and media outlets began broadcasting imagery from Nanji, reporting that over 15,000 people had died of malnourishment since the time Mr. Wolf assumed power. Of these 12,000 were Vejans. On 13th March, 2020, Mr. Wolf held a press conference wherein he admitted that certain parts of the Nanji region were experiencing mini-scale famines. He was quoted saying,

“Yes, it is true that the shortage of food and potable water in certain parts of Nanji are below optimal levels. Yes, it is also true that these sub-optimal levels of food and water have caused a few deaths. We don't have the exact figures yet, but it is safe to say that the media reports are not exaggerated and quite possibly represent an accurate figure, but official enquiry into the matter is underway. The Government is taking all necessary measures to bring the situation under control, and it is important to appreciate that the problem is a deep rooted one, and it would not be correct to blame the present Government for these deaths. In fact, we are doing everything to ensure that the problem does not spread to other parts of Janakland.”



14. By June 2020, the situation in Janakland had gone from bad to worse. The media reported that over 60,000 people had died due to food shortage in the Nanji region, of which 50,000 were Vejans. Reports also suggested that other parts of Janakland, the Andal dominated regions were also facing acute food shortage and close to 5,000 people had died in these regions. In a Press Conference held on 12th June 2020, after the publication of these media reports, Mr. Wolf was quoted saying,

“The situation is dire. This is the biggest challenge our population has ever faced, and it threatens our very existence. But we will face this problem, and if need be, we will take difficult measures. We are going to put an embargo on all exports, and the Government will acquire food grains domestically and globally and redistribute the same to the worst affected regions to bring the situation under control. I want to assure everyone that we will prevail!”

15. In the months which followed, Mr. Wolf’s government did precisely as he had promised, buying food grains off the market and redistributing it across the country. As a consequence, the famines in most regions of Janakland were controlled. However, local newspapers still reported deaths from the Nanji region, predominantly from the Vujan community. In these years of famine, their population had been almost reduced by half. On 13th August, 2020 Mr. Wolf’s office released a press release which stated,

“...although famines have been controlled in most regions, the situation still prevails in some areas of the Nanji region. Although the Government is engaged in relief operations, the Governmental stores are running at an all-time low, with us having purchased all that we could. We are trying all other alternatives, but the situation looks grim.”

16. At a media event held on 20th August, 2020, Mr. Wolf was confronted with images of Government storages overflowing with food grains. He was asked how was it possible that on the one hand his office was claiming that the Government stores were running at an all-time low, while on the other there were images of Government storages



overflowing with food grains. Rubbishing these reports, Mr. Wolf claimed that the images were old and the media was trying to push its own fake agenda.

17. By 1st September, 2020 all major media outlets in the country were running the story of two Janaklands. One where Janakland citizens, most of whom were of the Vejan religion were dying in famines, while in the Andalian parts of Janakland, Government warehouses were stocked full. The opposition, led by Mr. Black laid a scathing attack on Mr. Wolf's discriminatory policies, calling for an investigation into the matter and seeking the intervention of the United Nations in the Nanji region.

18. The situation in Nanji region of Janakland had become dire, and on 10th September 2020, the Office of the Prosecutor, ICC issued the following statement,

"We have received credible information that the certain officials in the Government of Janakland have been perpetrating policies aimed towards the Genocide of the Vejan people in Janakland. Reports of crimes against humanity have also surfaced. Accordingly, after conducting a preliminary enquiry by the Office of the Prosecutor, the Pre-Trial Chamber – II has been pleased to authorize investigation into the Situation of Intentional Famine in Janakland."

19. On 12th September 2020, the Government of Janakland launched an official enquiry into the matter. Mr. Wolf gave the following statement,

"These are rubbish allegations being made against the Government of Janakland. It is aimed at tarnishing our international reputation and destabilizing the country. But in any case, to satisfy the western interests, we will conduct an enquiry into the matter. Rest assured that the same will reveal no wrongdoing, and will exonerate the Government, this country, and its people."

20. As predicted by Mr. Wolf, on 29th September 2020, the quasi-judicial committee set-up to investigate the matter released its report discarding the statements of the Office of the Prosecutor, ICC. However, in spite of this investigation, on 3rd October, 2020, the Office of the Prosecutor confirmed that there was a reasonable basis to proceed against Mr. Wolf for crimes under Article 6(c) and Article 7(k) of the Rome Statute. The case against Mr. Wolf was that he deliberately and intentionally cut off food supply to the Nanji region and directed the same towards other regions of Janakland.
21. According to certain WhatsApp chats in the possession of the Office of the Prosecutor revealed that Mr. Wolf had directed senior government officers to ensure that there were no food shortages for the Andal people, and to this end he had instructed them to divert the food supply from the Nanji region, specifically from the Vejan people towards other parts of Janakland. According to the Office of the Prosecutor, this was adequate to constitute crimes under Article 6(c) and Article 7(k).
22. On 5th October 2020, the Pre-Trial Chamber – II issued a summons to Mr. Wolf to appear before it starting from 10th February, 2022 for the purposes of framing of charges. Responding to the summons, Mr. Wolf addressed a letter to the Pre-Trial Chamber stating the following,

“I have deep respect for the work which the International Criminal Court does. However, in the instant case the Court has erroneously invoked its jurisdiction because Janakland has already conducted an investigation and exonerated the government, including me. In any case, the conduct alleged by the Prosecutor cannot be considered to be a crime under the Rome Statute since it was not any active conduct on my part. Instead, I was only reacting to a calamity in a manner envisaged by the Constitution of Janakland. In any case, I will ensure that my lawyers are present before the Hon’ble Court to guide it through the relevant authorities in this regard to help correct its mistake”



23. Accordingly, a hearing has been set before the Pre-Trial Chamber – II on the following preliminary issues,

- (i) Is the ICC barred from exercising its jurisdiction over the situation in Janakland in light of Article 17 of the Rome Statute?
- (ii) Whether Mr. Wolf had specific intent as required by Article 6 of the Rome Statute?
- (iii) Whether Mr. Wolf’s conduct can be considered to be a “widespread and systematic” attack against the Vejan Population?

