

2010 MOOT PROBLEM

PROSECUTOR v. COLONEL RAMSEY POTTER

Before the Special International Criminal Tribunal at The Hague

in accordance with Security Council Resolution 5080 of 25 August 2009

1. The Background

1. Arkadia and Stovia are two neighbouring countries in the continent of Pandora. They share a common border of 800 km consisting largely of mountainous terrain. Both Arkadia and Stovia were colonised in 1850 by Cascadia, a country in the neighbouring continent of Alagon. Stovia gained independence from Cascadia in 1980 and has since emerged as an economically developed and prosperous country. Arkadia remained a colony of Cascadia until 2001.
2. The population in Arkadia is divided among the Arkonians, which makes up 48% of the population, and the Stovikans, which represent 45% of the population. The remaining 7% consists of the Dumian ethnicity. Due to the unequal distribution of wealth and discriminatory policies of the Cascadian government, the vast majority of Arkonians are economically marginalised. The Stovikans, on the other hand, are better off as the economy in Arkadia was largely controlled and dominated by Stovikans. Historically, the Stovikans in Arkadia feel culturally and linguistically close to the people in Stovia who are largely of Stovikan ethnicity.
3. The economic and social disparities between Arkonians and Stovikans have created a lot of animosity and distrust among both ethnic groups in Arkadia. For years, there was also an ongoing debate about whether Arkadia should eventually join Stovia upon independence from Cascadia. Most Arkonians, who are fiercely nationalist, are opposed to a union with Stovia. On the other hand, Stovikans, due to their cultural and ethnic affinity with Stovia, are in favour of such a union. They also see the benefits of uniting with an economically developed and prosperous Stovia.
4. In this backdrop, Mr Robert Penna, an Arkonian professor of law at the University of Arkadia established a political party known as the Arkadia Revolutionary Front (ARF) in 1990. He was elected as its president and remained in that position until 2001. The primary objective the ARF is to seek independence from Cascadia. However, the ARF, through the voice of its president, as stated repeatedly its opposition to a union of Arkadia with Stovia. A year later, Mr Jonathan Kingston, a Stovikan human rights activist, established the Stovikan Peoples' Liberation Front (SPLF) and was elected as its chairman. The SPLF's objective as a political movement is to seek independence from Cascadia by all possible means. The SPLF also wants Arkadia to join Stovia. Although the ARF and SPLF shared the common objective of Arkadia's independence from Cascadia, both refrained to conclude any form of alliance.
5. Over the years, the call for self-determination and independence in Arkadia intensified both among Arkonians and Stovikans. With the increasing pressure from the international community, the Cascadian government eventually agreed to hold a referendum in Arkadia in January 2000. The referendum was conducted under the auspices of the United Nations. A majority of both Arkonians and Stovikans voted for independence. In January 2001, Cascadia formally granted independence to Arkadia. The new Arkadian constitution established Arkadia as a republic and presidential elections were held in August 2001. Both Mr Penna and Mr Kingston contested the presidential elections which

were closely monitored by the European Union (EU) election observers. Mr Penna won the elections and was later sworn in as the President of Arkadia. The ARF was transformed into the government's ruling party.

6. Mr Kingston disputed the presidential election results. During a press conference, he claimed that the election results were "null and void" due to widespread corruption and vote rigging. The local media reported extensively on these allegations. A preliminary report by the EU election observers also stated that vote rigging was rampant in certain parts of Arkadia. Mr Kingston and several other SPLF leaders demanded the resignation of Mr Penna and fresh elections.
7. Meanwhile, there were demonstrations in Berkon, the capital of Arkadia, by SPLF supporters protesting the election results. SPLF leaders also organized a mass rally in Berkon and made fiery speeches urging SPLF supporters and the Stovikan community in Arkadia to protest against the "illegal" election results as well as to demand the resignation of President Penna and new elections. Violence broke out and later intensified when ARF and SPLF supporters were involved in several clashes in Berkon.
8. The allegations of fraud were strongly refuted by President Penna who stated in a press conference that the elections were freely and fairly conducted. He urged all parties concerned to respect the election results and warned that action would be taken against anyone who tried to cause trouble and posed a threat to Arkadia's peace and security.
9. For the past three months, the ARF supporters waged deadly attacks against the SPLF supporters. The local media reported that hundreds of SPLF supporters had been killed or injured as a result of targeted attacks against Stovikan communities in Berkon and other cities in Arkadia where ARF supporters went on a rampage and set fire to schools, businesses and places of worship belonging to the Stovikan community.
10. Due to the increasingly violent and volatile situation in Arkadia, President Penna declared a state of emergency throughout Arkadia on 3 November 2001. On 10 November, the Arkadian government launched a nationwide crackdown on SPLF leaders and supporters. Several SPLF leaders and hundreds of SPLF supporters in Arkadia were arrested and detained by security forces. On 20 November 2001, President Penna issued a presidential decree outlawing the SPLF on the ground that it constituted a threat to the country's peace and security. A warrant of arrest was issued on the following day against Mr Kingston and a nationwide manhunt was launched throughout Arkadia to find him. The Arkadian police searched his home but could not find him.
11. On 25 November 2001, Mr Kingston managed to evade Arkadian border patrols and eventually crossed the border over to Stovia. In Stovia, Mr Kingston and other SPLF leaders that accompanied him arranged a meeting with the staff of Stovia's Prime Minister in order to garner support and solidarity from the Stovian government and people to SPLF's cause.
12. In a meeting on 27 November 2001, Mr Kingston met privately with Stovia's Prime Minister and appealed to him and the Stovian government to pressure the "illegitimate government" of President Penna to resign and to hold fresh elections to elect a legitimate president and government in Arkadia. Mr Kingston also stated SPLF's aspirations for a union of Arkadia and Stovia in the spirit of solidarity with the Stovikan people in Arkadia and Stovia. The Prime Minister expressed his strong support for Mr Kingston and the political struggle of the outlawed SPLF.
13. During a press conference, The Prime Minister declared: "The Stovian government strongly condemns the crackdown and violence against political opponents in Arkadia, as

well as the targeted attacks against the Stovikan community. The government and people of Stovia who are united in a spirit of solidarity will extend their support by all possible means to the SPLF and our Stovikan brethren across the border. In response, President Penna, in a press statement stated that the Prime Minister and the government of Stovia should not interfere in the internal affairs of Arkadia.

14. After living in exile for one year, Mr Kingston decided to return to Arkadia on 30 November 2002 despite the risk of being arrested. He contacted Fred Rencon, a SPLF supporter, who told him that SPLF supporters had regrouped to form a SPLF armed militia with their base in Luga, an Arkadian town located at the border of Arkadia and Stovia. Mr Kingston later arranged to meet Fred Rencon in Luga on December 1 December 2002. On the way to Luga, Mr Kingston was arrested and charged with high treason. On 20 December 2002, he was summarily tried under the Emergency Decree and sentenced to thirty years imprisonment.
15. Fred Rencon was chosen as the leader *ad interim* of the SPLF and took command of the SPLF militia on 22 December 2002. Angered by Mr Kingston's sentence, he vowed to continue with Mr Kingston's struggle against President Penna and its government. Meanwhile, the Arkadian government received information that the Stovian government was providing military training to the SPLF militia. Instructors from the Stovian Armed Forces (SAF) were thought to be present in Luga. Although the information was not corroborated, the relations between Arkadia and Stovia were more and more strained as a result.
16. Another contentious matter between Arkadia and Stovia was the unresolved issue of Stovia's access to Port Yukon which lies in the south-eastern end of Arkadia's territory. During the colonial period, both Arkadia and Stovia had relied on Port Yukon as the main port for imports and exports of commodities, food and oil. Even after the independence of Arkadia, access to Port Yukon remained crucial for Stovia because of its strategic location. Cascadia had agreed to allow free access to the port for Stovia's commercial trade – excluding trade in military goods and equipment – when it granted independence to Stovia, but since, Arkadia had disavowed the agreement and wished to renegotiate its terms.
17. Given the importance of Port Yukon to Stovia's economy, the Stovian Prime Minister met President Penna at Berkon on 5 January 2003 to resolve the issue of Stovia's access to Port Yukon. As a result of the meeting, a bilateral treaty of friendship and trade was negotiated in an effort to restore relations between the two countries. The treaty was signed and, shortly afterwards, ratified by both governments. According to its terms, Arkadia grants Stovia full access by land and sea to Port Yukon and no duties or taxes were to be levied on goods transiting through Port Yukon.
18. Over the years, there were several incidents where Stovian cargo ships and fishing vessels were refused access to Port Yukon or their cargo seized. In view of this, the Stovian government sent a note of protest to the Arkadian government in October 2007 stating that Arkadia's refusal to grant access to Stovian ships and fishing vessels constituted a breach of the treaty of friendship. On their side, Arkadian authorities claimed that stocks of weapons has been discovered in containers arriving at Port Yukon and bound for Stovia.
19. From October 2008 onwards, there was growing tensions between both countries. There were several incidents of cross border skirmishes. Media reported at least ten incidents where border guards from both sides shot at each other across the border, while both sides alleging unprovoked firing from the other side. The skirmishes mostly occurred near the Arkadian border town of Luga bordering Port Yukon to the north. Despite fear of

escalation and war-like rhetoric from both sides, neither Arkadia nor Stovia characterized explicitly the incidents as part of an armed conflict.

20. In January 2009, the cross border skirmishes around Luga intensified, with reports of cross border artillery fire from the Arkadian side which damaged a Stovian defence headquarters building and a public radio station killing several civilians on the Stovian side of the border. The Stovian government immediately responded by stating it would "use force if necessary" to protect its border from attack. The Arkadian government in turn asserted its sovereign right to defend itself from threats to its territorial integrity. Due to the increasingly tense and volatile situation in the border, the Arkadian government decided to increase its military presence in the border area. In March 2009, artillery fire from the Arkadian side in Luga into Stovia – although the source was never clarified – eventually led to open hostilities between Arkadia and Stovia. The Stovian government decided to pre-empt any further attacks by taking control of Luga.

2. The Case

21. On 1 April 2009, Colonel Ramsey Potter from the Stovian Armed Forces (SAF) was charged by the Commander-in-chief of the SAF to lead Stovia's military offensive in Luga. Colonel Potter is an experienced military commander with basic knowledge of International Humanitarian Law (IHL) having previously attended an introductory course on IHL in San Remo, Italy. Lieutenant Rees was appointed as his deputy.

22. On 3 April 2009, Colonel Potter and his staff met at the Stovian military headquarters for a meeting to discuss the details of the military offensive against the Arkadian forces in Luga. Fred Rencon, the leader of the SPLF militia was invited to attend. During the meeting, Colonel Potter explained that the purpose of Stovia's offensive in Luga was to neutralise the threat posed by the Arkadian forces and to search, neutralize or destroy all military installations and assets in the region that posed a direct threat to Stovia.

23. Colonel Potter and his staff admitted that they did not have much knowledge on Luga's terrain and defensibility. They would have to rely on the intelligence that could be provided by the SPLF militia. Fred Rencon said that the SPLF militia would be more than happy to provide the information about the local conditions in Luga essential to support the military offensive. Rencon's objective was to take revenge over the violence perpetrated against Stovikans under the rule of President Penna in Arkadia, as well as champion the SPLF cause. Based on the information provided by the SPLF militia, the SAF was able to identify and locate most of the military assets in the town and its surroundings.

24. Luga is a densely populated town with a population of around 80,000 inhabitants. It is surrounded by mountains to the east and north-east. The Mundo River flows through the town from the northwest into the sea. Port Yukon is located at the mouth of the river. The "Old Town" and the town centre are on the river's west bank, while the industrial district and its adjoining residential areas are on the east bank of the river.

25. Around 5,000 residents live in the Old Town. The Old Town is near the port in the southern part of the town. It is known for its rich cultural heritage, in particular its huge and famous 15th century religious shrine, the Navista. The Navista is adjoined with three ancient temples built in the 14th century. Since 2003, the Navista and the ancient temples have been designated as a world heritage site by UNESCO and have been registered on the list of cultural property under enhanced Protection of the Second Protocol to the 1954 Convention for the Protection of Cultural Property during Armed Conflict. The town's commercial and financial centre gradually expanded to the northwest (the "New Town")

into a residential area called the "Mundo Valley", mostly populated by the Stovikan community. The most well-to-do Luga residents are living in Mundo Valley.

26. A military base is located further west on the Mundo River in Targus. Some one thousand troops are stationed there. An airfield, mostly used as a local airport for commercial freight adjoins the base. The base and the airfield are at less than five kilometres from the Mundo Valley residential area.
27. On the eastern side of the town, on the east bank of the river, there is the industrial district which harbours several industrial plants, among which a large oil refinery, two chemical plants, two large fish processing factories and an old ammunition factory. One of the chemical plants produces fertilizers. It also has a small unit that produces explosives that are sold in part to the ammunition factory located some three kilometres away towards the southwest tip of the area. The production of explosives represents about 15 % of its total production. The other chemical plant produces a whole range of chemical products for industrial use. The industrial district is bordered to the south by a residential area mostly populated by the Arkadian and Dumian communities called Verdon. Many of the Verdon residents are industrial workers.

The military offensive

28. According to the plan devised by Colonel Potter and his deputy, Colonel Potter would lead the offensive by advancing towards Luga from the north, attacking the industrial area with long range artillery from the mountains, while Lieutenant Rees and his unit, together with Fred Rencon and his SPLF militia would attack from the south-east using the main road that follows the sea shore and leads to Verdon. He would then head west towards the Old Town and the port. They would join to take over the Mundo Valley and the military base in Targus. When asked about the probability of high civilian casualties if attacks were carried out in Luga, Colonel Potter said that civilian casualties could not be avoided during a conflict.
29. At 8 am on 9 April 2009, SAF units under the command of Colonel Potter entered the mountainous border area around Luga. Just after crossing the border into Arkadia, Colonel Potter and his unit captured an Arkadian border control post. Ten of the twelve border guards manning the post were killed after they opened fire on the invading troops. None were taken as prisoners.
30. On the same day, Colonel Potter's units moved towards Luga from the northwest and approached a small village of 500 inhabitants perched in the mountains hanging over Luga. An old stone fortress tower stood erected at the entrance of the village. The fortress walls had disappeared over the years. All that remain was the old tower, which served as an observing post for the AAF since the recent military build up in the region. An AAF unit was stationed nearby in the village. Warned by a border guard who had managed to escape, the AAF unit opened fire from their position in the old stone tower on the approaching troops without warning. The SAF immediately took cover and returned fire. As night fell the fighting intensified, with AAF forces firing artillery from the village. Over the next few hours, Colonel Potter troops continued to shell the tower and its surrounding area. Finally, under the cover of nightfall, Colonel Potter's units advanced towards the tower and succeeded in overrunning the AAF defence line. The next morning, Colonel Potter's units had taken control of the village. No AAF prisoners were allegedly taken. Later reports would indicate that more than 100 civilians were killed and injured during the assault. This would include around 20 persons who were reportedly killed whilst trying to flee from the village. Official statements issued by the SAF pointed to the fact that several villagers had provided support to the AAF, some of them even taking up arms. It added that most of those alleged to have been killed whilst trying to flee

had been identified as AAF soldiers out of their uniform and trying to escape. Among them, there some local villagers who were helping them to flee.

31. The village and the fortress tower, overlooking Luga, were strategically located. On 11 April, Colonel Potter's units took position there and started to shell the industrial area down below early in the afternoon. The oil refinery and the chemical plants were hit several times. There were burning flames high into the sky from the oil refinery. It was reported by the local Arkadian media that large number of people living near were killed, among which a large number of factory workers. On the following day, the Arkadian Minister of Oil Resources issued a statement blaming the SAF *inter alia* for deliberately targeting and shelling industrial facilities that presented high risk of causing excessive damage to the population and to the environment, as well as depriving the town from its water supply.
32. The fires continued for two days among growing fear that chemical substances had been released in the river which could contaminate the town water system. Later, the environmental experts from the United Nations Environment Programme (UNEP) came out with preliminary reports predicting a long-term impact of the spills of chemical substances on the environment and on the water supply. The UNEP established a committee of experts to investigate the effects of the spills but its final report has yet to be released.
33. Because of the difficult terrain and intense fighting, Colonel Potter initially was unable to maintain communication with Lieutenant Rees. It was not until the evening of 13 April that Colonel Potter managed to contact Lieutenant Rees, who had started his offensive in the south western areas of Luga.
34. With the support of SPLF sympathizers in Verdon, Lieutenant Rees and his units rapidly took control of the area south of the industrial district. On 14 April, Lieutenant Rees' units together with the SPLF militia began their offensive to take control of the Old Town after having received instructions from Colonel Potter. According to unconfirmed intelligence reports provided by SPLF informants, the Old Town's ancient temples were used to store weapons and ammunitions since the beginning of the military reinforcement of the town.
35. At around 6 pm on 14 April, Lieutenant Rees's units while approaching the centre of the Old Town started firing towards the front side of the Navista in response to fire coming from the shrine, while the SPLF militia swept through the Old Town to take to take control and secure their position. There was intermittent firing from the areas surrounding the shrine and the SPLF militias responded with machine gun fire. Later, Lieutenant Rees and his unit responded with artillery fire to machine gun fire and mortar shells being fired from the area surrounding the temples. This exchange continued for several hours.
36. The next day, national and international news reported that more than sixty percent of the shrine, mainly on the front side had been destroyed. The temples were also badly damaged which caused an uproar among the rest of the country and the international community. It was also reported that some 50 AAF soldiers had been killed or injured. The number of those taken prisoners was not known. Some had been able to escape and had allegedly rejoined the Mundo Valley still under the control of the AAF. The civilian population had also suffered heavy casualties with scores of dead and injured. Media would later report a number of incidents where civilians had been directly attacked by SPLF militiamen while combing the area. An unknown number of civilians were arrested and held in unknown locations. It would later come out that at least fifteen of them were still unaccounted for as of today.

37. Lieutenant Rees later issued a statement saying that their main targets were the Arkadian forces and not the shrine nor the temples. He also gave assurances that peaceful civilians were not harmed, as long as they did not support the AAF operations or attacked its soldiers.
38. On 18 April, Colonel Potter, satisfied with the taking over of the Old Town, ordered Lieutenant Rees to continue the offensive against the AAF in the Mundo Valley, the western area of Luga. From the Old Town, Lieutenant Rees units also moved towards the Mundo Valley where they encountered strong resistance. According to information provided by the SPLF informants, the AAF units in the Mundo Valley were getting reinforcements from the nearby Targus military base.
39. On April 20 April, under intense and continuous AAF artillery fire from their defensive positions, Lieutenant Rees tried to contact Colonel Potter to request reinforcements and also air-strikes against Arkadian ground forces in Mundo Valley. Two days later, after incurring heavy losses due to the intense fighting, Lieutenant Rees managed to convince Colonel Potter to request urgently air-strikes against the AAF forces in Mundo. The air strikes were carried out by the Stovian air force at 5 pm on 23 April. Lieutenant Rees continuous and intense artillery firing neutralized the Arkadian artillery positions. This paved the way for his troops and the SPLF militia to advance in the Mundo Valley towards the airfield and the military base. The last strikes completely destroyed the airfield and its warehouses.
40. It was reported that the air strikes deliberately targeted the nearby residential areas resulting in at least 500 civilian casualties and hundreds seriously injured. There were also reports on the use of the cluster munitions during the air strikes. A few surviving civilians said that they saw large quantities of unexploded bomblets in some residential areas. Similarly, there were also allegations of the use of white phosphorus as some of the civilians who were seriously injured had burn marks on their bodies. The Stovian Headquarters denied that cluster munitions had been used in residential areas and stated that white phosphorus was used only to shield advancing troops from artillery fire. Regarding the use of cluster bombs, Colonel Potter later denied that the Stovian air force used such weapons against civilians during the air-strikes in Mundo.
41. At 1pm on 27 April 2009, Colonel Potter's staff gave a final briefing on the state of the offensive in the presence of Colonel Potter at his field headquarters. The SAF had taken control of the Old Town and the adjoining town centre. Lieutenant Rees units and the SPLF were gaining ground in the Mundo Valley. Colonel Potter ordered the units under his direct command to reinforce Rees troops and planned the final offensive to take control of the Mundo Valley area and neutralize the Targus base. During the briefing, Colonel Potter reminded his staff to take reasonable measures to minimise civilian casualties, in particular he reminded them that the Mundo Valley was mostly populated by Stovikans.
42. After a week of fierce battle, Colonel Potter and the SAF forces finally took control of the Mundo Valley and neutralized the Targus military base. The final offensive attracted huge coverage by the international media which reported various alleged violations of IHL including, among others, indiscriminate attacks by Stovian forces which resulted in huge civilian casualties. Other issues which were prominently highlighted by the international media included the alleged use of cluster bombs and of white phosphorus against civilians in Luga.
43. Throughout the course of the hostilities in Luga, there were numerous news reports from local media and Arkadian NGOs. The local media reported that the Stovian offensive, especially in the Mundo Valley area, had resulted in heavy civilian casualties and

extensive damage to the town. Local NGOs also reported destruction and pillage of residential areas in the Mundo Valley, especially in the areas under the control of the SPLF militia. Colonel Potter in a press conference strongly refuted all the allegations by stating that the military operations by the armed forces under his command were justified on the grounds of military necessity and proportionality in accordance with the rules of IHL. He also stated that the number of civilian casualties was exaggerated by the media. He further claimed that most civilian casualties had been caused by the fact that the AAF had used the Mundo Valley residential area to shield their operations, and it was the duty of the AAF to avoid military confrontations in civilian areas if civilian casualties were to be minimized. He finally claimed that the Arkadian media reports in particular were biased in their coverage of the conflict. Most newspapers in Stovia praised the courage of Colonel Potter and his men.

44. According to Amnesty International in its preliminary report in May 2009, there was no clear evidence on the use of cluster bombs and white phosphorus against civilians in Luga. The report stated that the only evidence available is based on the testimony of victims and witnesses and some local NGO staff as to the use of these weapons. The Amnesty report also added that the exact number of civilian casualties as well as the extent of the destruction and damage to civilian objects in Luga will not be known in the absence of any independent inquiry. It however highlighted the fact that a large number of individuals were still unaccounted for, comprising both civilians and members of the AAF. It urged Stovian authorities to provide all the information in its possession on the whereabouts of those missing persons.

3. The end of the hostilities

45. The town of Luga has remained under the control of the SAF until now. Arkadia and Stovia accepted a ceasefire arrangement until the status of Luga could be finally solved.

46. In view of the international community's concern over the ongoing conflict between Arkadia and Stovia and its impact on the maintenance of international peace and security, the United Nations Security Council convened an emergency meeting on 2 August 2009 and adopted Resolution 5079 calling upon all parties to the conflict to put an end to the hostilities immediately. It also called on Stovia to withdraw its Armed Forces from the town of Luga.

47. By 15 August 2009, after a series of negotiations under the auspices of Cascadia, Arkadia and Stovia had not been able to solve the issue regarding the status of Luga or Stovia's access to Port Yukon. They also failed to resolve the issues concerning the release of detainees and the reparations for the damages caused in Luga claimed by Arkadia.

48. Under the pressure of foreign governments threatening the adoption of economic sanctions against the country, Stovia however agreed that the allegations of violations of international humanitarian law be referred to a Special International Criminal Tribunal (SICT). On 25 August, the Security Council adopted Resolution 5080 which established the SICT.

49. Under the Statute of the SICT, the Tribunal has jurisdiction over

- a) any person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of the following crimes:
 - o grave breaches of the Geneva Conventions of 12 August 1949; or
 - o other serious violations of the laws and customs applicable in international or non international armed conflicts.

- b) any superior or person effectively acting as a superior for the crimes mentioned in a) committed by subordinates under his or her effective authority and control, as a result of his failure to exercise control properly over such subordinates, where he either knew or should have known that the subordinates were committing or about to commit such crimes; and he failed to take all necessary and reasonable measures within his power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

THE CHARGES AGAINST COLONEL POTTER

50. After investigation, the Prosecutor of the SICT decided to bring an indictment against Colonel Potter, in relation to the following allegations:

- the unlawful death of the border guards on 9 April 2009;
- the unlawful death or disappearance of an unknown number of civilians or other persons no longer participating in the hostilities in the mountain village (including those trying to escape);
- the damage caused unlawfully to the civilian population, civilian objects and the environment in the industrial district of Luga;
- the damage caused unlawfully to the civilian population, civilian objects and cultural property in the Old Town;
- the death and injury caused unlawfully to civilians and to other persons no longer participating in the hostilities in the Mundo Valley area;
- the unlawful use cluster munitions and white phosphorous.

The indictment against Colonel Potter includes the following charges:

From 1 April 2009 to 30 July 2009, Colonel Potter, as commanding officer of the Stovia Armed Forces is responsible for following acts that he committed or ordered to be committed, or that were committed by persons under his authority and control:

- 1)** Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- 2)** Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects;
- 3)** Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict.

PREPARATION OF THE BRIEF

You have been nominated to act either the prosecution or defence for Colonel Potter in relation to the **THREE (3)** above charges.

In preparing the brief, the counsels for both Prosecution and Defence are expected to establish the following issues:

- The type of armed conflict that is applicable to the present case

- The Elements of Crimes for each of the 3 charges against Colonel Potter based on the United Nations Doc. PCNICC/2000/1/Add.2 (2000)

- Other relevant issues and jurisprudence that are applicable to the present case

The following information are to be noted:

- Both Arkadia and Stovia have acceded to
 - the 1949 Geneva Conventions and their 1977 Additional Protocols I & II;
 - the 1954 Hague Convention on the protection of cultural property in the event of armed conflicts and its two Protocols;
- Both Arkadia and Stovia have signed and ratified the 2008 Convention on Cluster Munitions, but the Convention has not yet entered into force.
- The issues relating to the Security Council referral to the SICT and the jurisdiction of the SICT **need not** be raised in the memorials.