

Queries & Clarifications:

We have recently received queries from teams, who have sought a clarification on the Moot Problem as under:

Q1. In paragraph 26 it is mentioned that the Halbachian Government, the convicted militia and Jupiter Hestia preferred appeal before the Federal Court and all these appeals were clubbed together.

Hence, query is that if the government is itself an Appellant in this case along with others, then who would be the Respondent in this case? As the criminal law states that the government/state will itself be a party in criminal cases. But as the government is the Appellant then it could not be the Respondent as well.

A1. There is no explanation needed and the participants are encouraged to think through the problem and the existing mooting format.

Q2. Regarding issue No. 3:

1. Who are included in the "accused persons" alleged for theft?
2. Is contesting against Jupiter Hestia's prosecution on behalf of the accused and simultaneously contesting for Dr. Ares' prosecution on behalf of the public prosecutor a conflict of interest?

A2. No explanation needed. Please rely on the fact sheet.

Q3. In the statement of facts, paragraph 26 states that both the Halbachian Government and the convicted militia preferred appeals.

Does that mean that there are two Groups of Appellants in this case and does that mean we have to make memorials for the Halbachian government and the militia members including Hestia separately as memorials for appellants?

so Four Memorials in total?

One for the Halbachian Government in the capacity of an appellant and another in the position of the respondent

One for the Militias and Hestia as appellants and another as respondents?

A3. In a given round, the militia and Hestia will be represented in by one team and the other team will represent the government. Mooting teams are encouraged to think through their queries before they send them.

Q4. What happened when the militia attacked the Museum, did Dr. Ares had agreed to hand over the covefe in exchange of his life and the remaining jewels?

A4. No response is necessary. Please rely on the fact sheet.

- Q5. Was the militia aware of the fact that covefefe is placed at the museum?
- A5. No response is necessary. Please rely on the fact sheet.
- Q6. Did Ares know of the militia's plans to attack the museum? if yes, did he arrange for any special security for the museum?
- A6. No response is necessary. Please rely on the fact sheet.
- Q7. Whether the parties are signatories to international law conventions such as the UN Charter and Vienna Convention on Diplomatic Relations?
- A7. Both countries are signatories to the UN Charter and the Vienna Convention.
- Q8. Whether the applicability of common law principles is required to be proved?
- A8. No response is necessary. Please rely on the fact sheet and the accompanying rules.
- Q9. What was the investigation procedure followed by the police officials after the decision of the federal court?
- A9. No explanation needed. Please rely on the fact sheet.
- Q10. Whether any evidences were collected by the police officials during the investigation process? if yes, then please elaborate it with the procedure followed during the collection of such evidences?
- A10. No explanation needed. Please rely on the fact sheet.
- Q11. Whether any notification was released by the central government to the federal court conferring the power of setting up the special court in terrorist attacks?
- A11. No explanation needed. Please rely on the fact sheet.
- Q12. As the proposition is silent on the investigation and trial aspect of the SIT and Special Court respectively. Whether we can assume that all the procedures of trial and investigation have been followed?
- A12. The participants are expected to rely upon the moot problem and no clarification is required.
- Q13. Please clarify what is the Hated Secret Police, Hoko National Guard mentioned in the Para 7.
- A13. The participants are expected to rely upon the moot problem and no clarification is required.

- Q14. The history after the exile and death of king Nicolas VI till 1975 is blank. Secondly, during the weer war whether hallbach had annexed whole of territory of HOKO.
- A14. The participants are expected to rely upon the moot problem and no clarification is required.
- Q15. Was the Special court Act, 2010 passed before or after the order of Hallbach Special Court dated 01 August, 2010.
- A15. The participants are expected to rely upon the moot problem and no clarification is required.
- Q16. Whether Hoko and Hallbach are parties to the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property?
- A16. The participants are expected to rely upon the moot problem and no clarification is required.
- Q17. At para 23, it is stated that Jupiter Hestia was arrested for the charge of theft, but at para 25(b), she was acquitted of the charge of conspiracy to commit theft. Please clear the ambiguity whether she was arrested for the charge of conspiracy to commit theft or she was acquitted of the charges of theft.
- A17. The participants are expected to rely upon the moot problem and no clarification is required.
- Q18. Para 20 says, “The Hoko government disavowed these individuals”. Whereas para 25a says, “Seventeen militia members, **all Hoko nationals**, were convicted...”. So is it established that the arrested militia was Hokian or are we supposed to first argue as to the identity of the militia? Because it has been clearly written in para 20, “In their counterattack on X and Y, the Hallbachian forces had arrested a number of militia members, many of whom were **found to be members of the Hoko special forces.**”
- A18. No response is necessary. Please rely on the moot problem.
- Q19. Para 23 says, “The authorities were verifying her credentials and if found to be in order, **would ensure that she reaches her rightful historical home.**” However, after alleged verification by the Hallbachian authorities, she was not returned to *her rightful historical home* but rather tried and convicted by the Hallbachian Special court.
- A19. No response is necessary. Please rely on the moot problem.
- Q20. Are we supposed to argue on the obligations of a state under International law to try a foreign national?

- A20. No response is necessary. Please rely on the moot problem.
- Q21. Do any other international treaties such as the Universal Declaration of Human Rights and the general principles of International Law apply for the purposes of the moot problem?
- A21. All international treaties apply.
- Q22. Do we have to prepare three memorials for the Halbachian Government, convicted Hoko militants and Jupiter Hestia respectively?
- A22. In a given round, the militia and Hestia will be represented in by one team and the other team will represent the government. Mooting teams are encouraged to think through their queries before they send them.
- Q23. Whether the Hallbach constitution allows direct application of international law like the US? US is also a Common Law country.
- A23. Hallbach does not allow direct application of international law.
- Q24. In Para 24, 1st line of the moot problem where the Federal Court directs that a special court be set up, to whom that direction is being given? Whether to the Hallbach Government or someone else?
- A24. The participants are expected to rely upon the moot problem.
- Q25. In the moot problem, only the order of the Federal Court of Hallback has been provided but whether the case followed the usual hierarchy of the criminal courts or the Hallbach's Federal Court took suo moto cognizance of the case and transferred it to itself?
- A25. The participants are expected to rely upon the moot problem.
- Q26. Are Hallbach and Hoko parties to the Rome Statute and Geneva Convention, 1949?
- A26. Yes. Hallbach and Hoko have signed and ratified all international treaties and conventions that India has, as on the date of the release of the moot problem.
- Q27. Has the Hallbachian govt. appealed against Ares for acquittal for theft? If yes, should he be a party along with Jupiter Hestia and the militia as Appellants (since Hestia and militia appealed) and the govt. as Respondent.
- A27. The participants are expected to rely upon the moot problem.
- Q28. What will be applicable in the statement of jurisdiction as there is no constitution provided in the problem?
- A28. The participants are expected to rely upon the moot problem.

- Q29. Are laws of Hallbach Pari material to those of India? IF NOT, then how should we go about for the Offences which are not given in the Hallbach Penal code?
- A29. The laws of Hallbach, insofar as they are not in conflict, are in pari materia with Indian law. Indian law and precedent, however, is merely persuasive.
- Q30. In para no. 1, it is explicitly stated that 'the Criminal justice system of Hallbach is similar to that of India', does this indicate that we can follow IPC and Crpc as well?
- A30. The participants are expected to rely upon the moot problem.
- Q31. Whether Hallbach comes within the 'Schengen Area' of the Europe?
- A31. The participants are expected to rely upon the moot problem.
- Q32. Whether both the countries of Halbach and Hoko are signatories to the Rome Statute and are they parties to international criminal court?
- A32. Yes. Hallbach and Hoko have signed and ratified all international treaties and conventions that India has, as on the date of the release of the moot problem.
- Q33. What is supposed to be the Foreigners Act mentioned in the moot proposition again and again?
- A33. The Foreigners Act is not material for the adjudication of any of the issues involved.
- Q34. In light of the use of the phrase 'noted war criminal, Hestia' by Hallbach in para 22, whether there was a formal declaration of war by either of the nations?
- A34. No response is necessary. Teams are expected to rely on the moot problem.
- Q35. It has been stated in para 23 that the authorities were verifying her credentials and if found in order, she would be sent to her rightful historical home. Which 'authority' of Hallbach issued such statement?
- A35. No response is necessary. Teams are expected to rely on the moot problem.
- Q36. Does Dr. Ares continue to be a member of Armed forces?
- A36. No response is necessary. Teams are expected to rely on the moot problem.
- Q37. Whether Dr. Ares was the curator of the museum by virtue of being a member of armed forces?
- A37. No response is necessary. Teams are expected to rely on the moot problem.

Q38. Whether an official statement has been made by either Hoko or United Kingdom?

A38. No response is necessary. Teams are expected to rely on the moot problem.

Q39. Whether a sanction from the government was obtained before the prosecution of Jupiter Hestia?

A39. No response is necessary. Teams are expected to rely on the moot problem.

Q40. Whether Hallbachian commentators includes Dr. Ares?

A40. No response is necessary. Teams are expected to rely on the moot problem.

Q41. If Jupiter Hestia was arrested for the charge of “theft”, how was she acquitted for the charge of “conspiracy to commit theft” by the Special Court?

A41. No response is necessary. Teams are expected to rely on the moot problem.

Q42. Does the third issue also include within it, the charge of “conspiracy to commit theft”, apart from “theft”?

A42. No response is necessary. Teams are expected to rely on the moot problem.

Q43. The order given by the Federal Court in *In Re X & Y* was in pursuance of *suo motu* cognizance of the case or a PIL?

A43. No response is necessary. Teams are expected to rely on the moot problem.

Q44. In Paragraph 20, the Hallbach Government demanded that Hoko should cooperate with the prosecution of its accused nationals under the Common law Procedure of Hallbach. What was Hoko’s response to this prosecution, that is, if there was any?

A44. No response is necessary. Teams are expected to rely on the moot problem.

Q45. In Paragraph 21, Jupiter Hestia had given the emerald she received to the authorities. Which authorities are these, Hokian, Hallbachian or any other?

A45. No response is necessary. Teams are expected to rely on the moot problem.

Q46. Jupiter Hestia presented her credentials in London on 28 May 2010. Were the credentials duly acknowledged and accepted by the United Kingdom?

A46. No response is necessary. Teams are expected to rely on the moot problem.

Q47. Whether there was any extradition treaty or formal extradition process in place between a) United Kingdom and Hallbach and b) Hoko and Hallbach?

- A47. No response is necessary. Teams are expected to rely on the moot problem.
- Q48. Did the person who abducted Jupiter Hestia in London give any authority or pretext of authority under which he was so abducting her? If yes, what was it?
- A48. No response is necessary. Teams are expected to rely on the moot problem.
- Q49. When the Hallbachian Central Police was in control of Jupiter Hestia in the country of Hallbach, did they notify her of the *fact* or *grounds* of her arrest?
- A49. No response is necessary. Teams are expected to rely on the moot problem.
- Q50. What were the provisions of Hallbachian Foreigners' Act, which the Seventeen militia members were in violation of?
- A50. No response is necessary. Teams are expected to rely on the moot problem.
- Q51. What are the credentials of the Special Prosecutor appointed by the Court? Was he on the government panel?
- A51. No response is necessary. Teams are expected to rely on the moot problem.
- Q52. Whether a team can make submissions for just two out of three issues in its written memorial and make submissions for that third issue in its oral rounds
- For example, the team has challenged only questions 2 and 3 of the three questions put forth before the Court of Hallbach in its written submissions but has not included anything regarding issue one in its written submissions.
- A52. Failing to present written submissions / arguments in respect of an issue raised in the Moot Problem will entail a lower marking in memorials.
- Participants may submit oral arguments on an issue not raised in their written memorials with prior permission of the bench.
- Q53. Whether Arez will be represented in a separate round or a separate memorial has to be made in regard to him because your reply mentions that "in a given round, the militia and Hestia will be represented in by one team and the other team will represent the government."
- A53. No response is necessary.
- Q54. Whether Halbach and Hoko are members of the European Union?
- A54. No response is necessary.

Q55. We wanted to know if Hoko is also a country in Europe?

A55. No response is necessary.

Q56. Another query that we have is regarding the clarification given to the Question

"if both the countries of Halbach and Hoko are signatories to the Rome Statute and are they parties to international criminal court?" The answer provided was Yes. Halbach and Hoko have signed and ratified all international treaties and conventions that India has, as on the date of the release of the moot problem. We need a clarification with this answer. India is not a party to International criminal court. But your answer says Yes. It's contradictory.

Kindly clarify.

A56. Halbach and Hoko have signed the Rome Statute. They have also signed and ratified all international treaties and conventions that India has, as on the date of the release of the moot problem.

Q57. The order passed by the Federal Court in *In Re X & Y*, which read as "*any prayer for stay or impeding the progress in the investigation / trial can be made only before the Federal Court and no other Court could entertain the same*" was covered by the provisions of The Special Court Act, 2010 or not? In other words, did any provisions of the Act also stipulate this order?

A57. No response is necessary.

Q58. Who were the parties in the case of *In Re X& Y* before the Federal Court?

A58. No response is necessary. Please rely on the moot problem.

Q59. Were the arrested members of local militia, Jupiter Hestia and Dr. Ares party to the directions given by the Federal Court in *In Re X&Y* ? Were they heard in that matter?

A59. No response is necessary. Please rely on the moot problem.

Q60. Were the crimes for which charges were levied against the local militia defined in the Special Courts Act, 1979?

A60. No response is necessary. Please rely on the moot problem.

Q61. Was Jupiter Hestia charged for *waging war* against Halbach or for *conspiracy to wage war* against Halbach?

A61. No response is necessary. Please rely on the moot problem.

Q62. As the fact sheet is silent on many points, can we take the liberty of presumption?

A.62. No response is necessary. Please rely on the moot problem.

Q63. Can provisions of the Indian Constitution be used, since India is a common law country.

A63. No response is necessary. Please rely on the moot problem.

Q64. Para 24 states, “Hallbach Federal Court passed an order in ‘Re: X and Y,’ directing that a Special Court be set up for the trial...” Can we correctly infer from this that the court directed the Hallbachian Govt. to setup these Special Courts?

A64. No clarification is required. Participants are requested to rely upon the moot problem.

Q65. What was the strength of the bench of the Hallbachian Federal Court that passed the order in ‘Re: X&Y’?

A65. No clarification is required. Participants are requested to rely upon the moot problem.

Q66. What is the strength of the bench of the Hallbachian Federal Court that will be dealing with the appeal in Jupiter Hestia & Ors. v. Union of Hallbach?

A66. No clarification is required. Participants are requested to rely upon the moot problem.

Q67. Was Jupiter Hestia given consular access after her arrest?

A67. No clarification is required. Participants are requested to rely upon the moot problem.

Q68. Was extension for detention of Jupiter Hestia beyond 15 days of her initial arrest sought by the Hallbachian Central Police?

A68. No clarification is required. Participants are requested to rely upon the moot problem.

Q69. Did Jupiter Hestia ever apply for bail during the entire period of her detention?

A69. No clarification is required. Participants are requested to rely upon the moot problem.

Q70. Where did Covfefe finally end up after Jupiter Hestia gave it up to the authorities?

A70. No clarification is required. Participants are requested to rely upon the moot problem.

Q71. Did Jupiter Hestia continue to be detained after the period of 15 days police custody got over?

A71. No clarification is required. Participants are requested to rely upon the moot problem.

Q72. In para 22, which authority of Hallbach makes the statement '*noted war criminal, Hestia*'?

A72. No clarification is required. Participants are requested to rely upon the moot problem.

Q73. Whether Jupiter Hestia has gained the status of a Diplomatic Agent after submitting her credentials on 28th May, 2010?

A73. No clarification is necessary.

Q74. What was the outcome of the verification of credentials of Jupiter Hestia given by unknown donor in para 23?

A74. No clarification is necessary.
