



INTERNATIONAL
NUREMBERG
PRINCIPLES
ACADEMY



Nuremberg Moot Court 2023

Case



Introduction

This is a fictional case before the International Criminal Court (ICC). Pursuant to the Rules of the Nuremberg Moot Court 2023, participating teams will represent both (1) the Office of the Prosecutor (OTP) and (2) the Defence.

Participating teams shall prepare two written memoranda and plead before the ICC Pre-Trial Chamber I (PTC). The written submissions and respective pleadings shall follow the agenda for the PTC hearing and address all the issues relevant to the case below.

Written memoranda must be submitted by 12 April 2023, 11.59 pm CEST. The oral rounds will be held on site in Nuremberg, Germany between 19 and 22 July 2023.

The Prosecutor v. Lieutenant Adelaide

- Procedural History**
1. On 10 May 2020, the OTP of the ICC opened a *proprio motu* Preliminary Examination into the Situation in the Republic of Merty, following multiple communications from international and local civil society organisations (CSOs). On 5 December 2020, Pre-Trial Chamber I of the ICC authorised an investigation into the Situation in the Republic of Merty.
 2. On 9 September 2022, Pre-Trial Chamber I issued a warrant of arrest and subsequent surrender against Lieutenant Adelaide of the army of the Republic of Merty for war crimes related to the destruction of historical and cultural sites allegedly committed in the Republic of Merty between January 2020 and March 2020.
 3. On 20 February 2023, Lieutenant Adelaide was transferred to the Court and appeared before Pre-Trial Chamber I on 27 February 2023.
 4. On 16 May 2023, the Defence submitted its application challenging the jurisdiction of the Court and the admissibility of the case, pursuant to article 17 of the Rome Statute.
- Facts**
5. Lieutenant Adelaide is a lieutenant in the 4th division of the Army of the Republic of Merty, a State Party to the Rome Statute.
 6. The Republic of Merty is a coastal country with a population of 23 million. It shares its borders with the kingdom of Galactica in the north, and the Republic of Tirunami in the west. Majority of the population is divided between two main ethnic groups: the Merones and the Typhons. The Merones make up 52% of the population and the Typhons make up 45%. The Merones live mostly in the north of the country and the Typhons live mainly in the south. The two main ethnic groups practice different religions with the Merones practicing Aesloqir and the Typhons practicing Tylusni. All ethnic groups in Merty speak Meritorious and English. Meritorious is the original language of the country.
 7. The emerging economy of the Republic of Merty is dependant mainly on its flourishing tourism industry due to its wide blue shores and beautiful weather for most of the year. In addition, tourists rush to visit because of several historic sites that are thousands of years old. The south of the country where the Typhons mostly live has the most abundant beaches and historical sites and, therefore, brings in the most tourism money.
 8. Because of this discrepancy in the tourism revenue in the two regions, the central government of the Republic of Merty, which is run by Merones, adopted a regionally differentiated tax policy where businesses in the south of the country are taxed at a higher rate than those in the north. This tax money is used to subsidise services in the north of the country where the residents generally suffer from a depressed economy compared to the flourishing economy in the south. This policy heightened ethnic tensions and led to mass protests in March 2018 from Typhon business leaders living in the south who claimed that the policy was ethnically and regionally discriminatory.
 9. An additional source of these protests was the sense amongst the Typhon population that the appointment of government officials was corrupt and based solely on family and ethnic ties to the ruling party. Lieutenant Adelaide herself benefitted from this system as she has family ties to the Merone President of the Republic. Although the country is nominally



democratic and holds regular elections, these elections frequently only have government-supported candidates on the ballot with accusations of government intimidation of potential opposition leaders. Other members of the Typhon community joined the business leaders to protest a lack of democratic rights and further perceived ethnic discrimination.

10. In April 2019, the government began an armed crackdown on the protests. On 20 April 2019, Lieutenant Adelaide, at the order of her commanding officer, led her platoon of armed soldiers into a crowd of protesters to disperse them from blocking a major highway connecting two major coastal cities. About two hundred protestors responded by peacefully occupying several central government buildings in three major cities in the south the next day. After a stand-off, Mertian government forces entered the buildings and forcibly removed the protestors. As a result, thirty protestors were killed.
11. In response to the death of their fellow protestors, a group of protestors began to discuss the need to bear arms to protect themselves. They formed an armed wing of the protest group called the Typhon People's Defence Force (TPDF). At first, the TPDF limited itself to standing guard around protestors. However, it soon began to engage in direct exchanges of gunfire with armed government forces. Over the course of the month of May 2019, twelve government soldiers died as a result of these exchanges of gunfire.
12. The government of the Republic of Merty responded by instituting a "law enforcement" operation in which government troops stormed the houses of those suspected of being involved in the TPDF and executed individuals suspected of having been involved in the deaths of government soldiers.
13. The TPDF responded by setting up armed roadblocks blocking streets where their members lived. Clashes between the TPDF and government forces frequently broke out at these roadblocks. Between 1 June 2019 and 31 December 2019, 3,000 government soldiers and 2,000 members of the TPDF were killed in these clashes. The clashes continued at the same intensity throughout the year 2020.
14. Over this time period, the TPDF became increasingly organised. The fifteen founders of the TPDF gave orders that were generally followed by other members of the group. Additionally, the senior leaders began to distribute their responsibilities on a geographic basis. Each senior member oversaw roadblocks in his or her neighbouring area. There was, however, no formally written-down structure.
- Mestia** 15. On 30 January 2020, a platoon of Mertian government troops under the command of Lieutenant Adelaide gathered in the town of Mestia. Unable to break through a TPDF roadblock and accomplish their mission of capturing suspected TPDF members, the soldiers became increasingly disgruntled. Lieutenant Adelaide attempted to motivate her troops by giving a rousing speech. Her words were as follows:

"We cannot let these Typhon terrorists continue to destroy our country and prevent us from doing our law enforcement duties. We must do something to show them that we take violations of the law seriously. We cannot allow them to continue to make all the money off of heretical 'religious' sites like the Mestian temple over there [pointing to a famous temple on the other side of the square] while we in the north suffer. Their heretic culture and violent ways are destroying this country. It's about time someone tore down this heretic culture of theirs and show them that they are not better than us just because they have more money than we do."
16. When Lieutenant Adelaide stopped speaking, a soldier in the crowd shouted "Yeah! Let's destroy their temple!" The soldiers then proceeded to take shots at it from across the square. When the shots only did minimal damage to the temple, a group of soldiers planted anti-tank mines at all four corners of the temple. The explosion of these mines reduced the temple to rubble. Lieutenant Adelaide did not participate in the attack herself. However, she did nothing to stop it and congratulated her soldiers afterwards.



- Tykus** 17. On 12 February 2020, Lieutenant Adelaide's troops found themselves in Tykus, the most historic and frequently-touristed city in the region. They once again failed to break through a TPDF roadblock. This time, two soldiers' lives had been lost in the attempt. Enraged and sorrowed at the loss of her soldiers, Lieutenant Adelaide once again gave a speech to her troops. She said:
- “Apparently, the destruction of their precious Temple of Mestia was not enough to persuade these heretic terrorists to obey our laws. Here we stand in their most historic city, and they continue to prevent us from enforcing our laws and taking care of those who put the lives of average Mertian citizens at risk. We will not stop until we have ensured that all Typhons understand that the law applies to them as well and that they cannot continue to get away with having all the money, having all of their heretic monuments still standing and refusing to obey the laws of the nation that allows them such freedoms.”
18. After this speech, Lieutenant Adelaide and her soldiers continued to occupy the town as they discussed the best method for getting through the roadblock. A spontaneous protest arose in the city at the continued presence of government troops in an otherwise peaceful city. Protestors gathered in the main square surrounded by the historic Museum of Typhonian History, the historic Museum of Typhonian Art and Culture, the historic City Hall and the Temple of Tykus (a popular pilgrimage spot for all followers of the Tylusni religion).
19. Lieutenant Adelaide ordered her troops to break up the protests “by any means necessary”. While dispersing the protestors, a soldier under Lieutenant Adelaide's command apparently accidentally hit the Temple with a warning shot that knocked an ancient clay statue off the top of the doorway. Upon hearing the crash of the statue on the ground, another soldier shouted “That's right! Let's destroy their precious buildings! We need to teach them a lesson!” The soldiers then proceeded to attack the Temple as well as the Museum of Typhonian History, the Museum of Typhonian Art and Culture and the City Hall. Several soldiers placed anti-tank mines at strategic locations and others fired mortars at the buildings. Lieutenant Adelaide made no effort to intervene and began quietly removing the most valuable moveable property from the museums to add to her personal collection. Very little remained of the buildings when the soldiers were finished.
20. Despite pressure from local and international CSOs, the government of the Republic of Merty has taken no action to investigate or prosecute any crimes committed in the context of the unrest in the south of the country between April 2019 and December 2020. The same government remains in power.

- Agenda for Pre-Trial Chamber I** 21. As a result of the current challenge, the established agenda for Pre-Trial Chamber I's hearing on the Defence motion challenging the Court's jurisdiction to hear the case against Lieutenant Adelaide is to discuss:
- i. Whether there are reasonable grounds to believe that the case against Lieutenant Adelaide concerning the war crime of “intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives” falls within the jurisdiction of the Court pursuant to article 19 of the Rome Statute.
 - ii. Whether there are reasonable grounds to believe the case against Lieutenant Adelaide concerning the war crime of “intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives” is admissible pursuant to article 17(1)(d) of the Rome Statute.
 - iii. Whether there are reasonable grounds to believe that Lieutenant Adelaide is criminally responsible for the war crime of “intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives” under article 25(3)(b) and/or article 25(3)(d) of the Rome Statute.



Exhibit I:
**Open-Source Material from
National Channel of Unity**

Evidence Exhibits

The National Channel of Unity (NCU) is a government-run news organisation in the Republic of Merty. On 12 February 2020, the NCU posted the following story on its website:

12 February 2020 (Tykus): Today, an unfortunate riot broke out in the historic city of Tykus that resulted in the destruction of several important historical and religious monuments. The riot began as an extreme response to attempts by our Republic's brave soldiers to peacefully disperse an illegal gathering in the city's famous Market Square. The riots resulted in the complete ransacking, looting and near demolition of the Museum of Typhonian History, the Museum of Typhonian Art and Culture, the City Hall and the Temple of Tykus. There was very little standing of these buildings after the riots.

According to the brave soldier leading the platoon that was in Tykus at the time, Lieutenant Adelaide, "There was nothing that could be done. Once the Typhon terrorists got it in their heads to riot, there was no controlling anyone at the scene. If only these Typhons hadn't chosen an area surrounded by so many of their precious buildings to hold their 'protest', those buildings would still be standing today."

The nation thanks Lieutenant Adelaide for her service and for ensuring that no lives were lost in the riots.

Exhibit II
Testimony of Sergeant X

Sergeant X, a member of Lieutenant Adelaide's platoon was interviewed by an international CSO, International Human Rights Defenders, on 12 April 2020. Here is a partial transcript of his conversation with the interviewer:

Interviewer: What was your relationship with Lieutenant Adelaide?

Sergeant X: I was a Sergeant in her platoon of the Army of the Republic of Merty.

Interviewer: Where were you on 12 February 2020?

Sergeant X: I was in Tykus with the rest of the platoon.

Interviewer: Describe to me in your own words what happened in Tykus on that day.

Sergeant X: It was complete chaos. We failed to cross the terrorists' roadblock and lost two good men in the attempt. Then the heretic Typhons decided for absolutely no reason to start protesting our very presence in the city. Of course, they had to choose the main square of the city that was surrounded by their most precious historical sites. Lieutenant Adelaide sensibly ordered us to disperse the protesters to ensure that no violence would break out. You never know with these Typhons. And she was absolutely right this time because the second we peacefully asked them to disperse they began to shout nasty things at us and throw stones ...

Interviewer: But what happened? Why did it escalate quickly?

Sergeant X: As I was saying, they started to attack us. Even after we warned them when we first arrived.

Interviewer: With stones, right?

Sergeant X: Yes! They were persistent on resisting us and you never know what weapons these terrorists hide. The security of the nation depends on us, and we always need to be ready!

Interviewer: My apologies for the interruption, but if you knew that, for sure, there was a possibility of violence due to protests at Lieutenant Adelaide's dispersal order, why didn't you give the protestors space and look out for any potential violence as they dispersed?

Sergeant X: We will not wait for them to threaten the security of our homeland and our people! We had no choice but to display our force through warning shots. One of them unfortunately and entirely accidentally hit the temple. This set off the protestors to riot and in the chaos that followed, many buildings were destroyed. It was unfortunate but absolutely the result of the Typhons' stupid decision to have their protest right next to their most treasured buildings.

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