

# ALL-EUROPEAN INTERNATIONAL HUMANITARIAN AND REFUGEE LAW MOOT COURT COMPETITION



## CASE STUDY

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1. The State of Abercrombia (“Abercrombia”) and the Federation of Ruritania (“Ruritania”) are neighbouring States that occupy the Midlands region, which is bounded to the west by the Green Sea and by the Great Mountains Range to the south. Abercrombia lies on the north of the region, while Ruritania lies on the south. Both are littoral States, adjacent to one another.
2. Abercrombia is a developing State that stretches over 150,000 km<sup>2</sup>. It has a population of approximately 10 million. Executive authority to command Abercrombia’s armed forces is vested with the President (incumbent President is Mr Kemp). The predominant part of Abercrombia’s gross domestic product (GDP) is based on mining of various minerals, especially gold, as Abercrombia has one of the largest deposits of gold in the world. The capital city is Abergrad, located in the central Abercrombia, with a population of 2 million, while the city of Topport is the commercial hub of the State since it is the place of Abercrombia’s one and only port. The most important industrial city is Aurumburg, located in the southern Abercrombia, with a population of 1.5 million.
3. Ruritania is likewise a developing State, which covers more than 1,000,000 km<sup>2</sup>. It has a population of just over 90 million. The incumbent President is Ms Malawski who is the Commander-in-Chief of Ruritania’s armed forces. Ruritania’s major industry comprises extraction and exportation of oil. The capital city of Ruritania is Rustok, located in the northern Ruritania, with a population of 8 million.
4. Throughout history, the two nations, which are of different ethnicities, but have the same religion, maintained good friendly and neighbourly relations. At the turn of the 19<sup>th</sup> century, many Ruritarians migrated to the southern regions of Abercrombia as a result of gold rush and settled down. They have remained there until the present times and nowadays form the sole ethnic minority within Abercrombia – they represent roughly 20 percent of the entire population and are particularly known for their gold trade. Although the Ruritarians in Abercrombia (“ethnic Ruritarians”) have relatively quickly integrated into otherwise homogeneous Abercrombian society, they have preserved strong ties with their kin State – Ruritania.

5. In the wake of big political changes that took place in Abercrombia in 2010, Mr Kemp was elected as the new President, succeeding Mr Lakai who was labelled as “a flunkey of Ruritania” since his policy towards Ruritania was considered as “being too indulgent, keeping Abercrombia under Ruritania’s long-lasting tutelage that has enabled Ruritania to exert ever greater influence over Abercrombia’s essentially domestic affairs”. After the elections, the relations between the two States began to deteriorate, and in 2013, both States have cut their diplomatic ties with each other. All these tensions resulted in a shift in public opinion about ethnic Ruritarians, which became unrelentingly negative. They were no longer perceived as “the old fellows”, but as unfriendly foreign settlers who are stealing Abercrombia’s most precious natural resource.
6. In January 2014, Abercrombia enacted a legislation which imposed restrictions on gold trade for the purposes of State regulation. Only those who obtain a special permit (issued after a very rigorous selection process) are eligible to sell or buy larger amounts of gold. Many ethnic Ruritarians were not issued the permits and complained that they are in fact prevented from engaging in their traditionally principal economic activity. As of 1 April 2014, 70 percent of the Ruritarians no longer traded with gold, while Abercrombia’s total gold trade shrank for 50 percent.
7. In August 2014, 20,000 ethnic Ruritarians demonstrated in Aurumburg against “unfair and discriminative legislation”. The demonstrators were summarily dispersed and many of them arrested for disrupting public order. This provoked even bigger outcry among ethnic Ruritarians, and in October 2014, they organized huge demonstrations both in Aurumburg and Abergrad. As many as 400,000 ethnic Ruritarians demonstrated in both cities for weeks, causing roadblocks and impeding normal functions of State institutions. In certain instances, the demonstrators seriously clashed with the police which used force against them as some groups of demonstrators were throwing Molotov cocktails and fired shots from machine guns. As a result, 13 policemen and 37 demonstrators died, while several thousand demonstrators were arrested. In light of those chaotic events in both cities, President Kemp deployed 2,000 soldiers to each city to help the police to disband the rest of the demonstrators. Later on, it was reported that those arrested were ill-treated and had no access to a lawyer. Hundreds of them were then sentenced to prison terms of 50 years for committing acts of terrorism and transferred to a specially designated prison, known as “the Dark Dungeon”, located at Abercrombia’s isolated island in the Green Sea, run by the army.

8. Shocked by Abercrombia's response to demonstrations, various politicians of Ruritanian ethnicity publicly expressed their outrage and stated that those events are indicative of growing oppression of ethnic Ruritanians. They also demanded a resignation of President Kemp, "the founding father of cruel and hostile policy towards ethnic Ruritanians". In her keynote speech in the National Assembly of Ruritania, President Malawski stated that "Abercrombia has employed a regrettable course of action aimed to suppress the voice of a considerable group of its own citizens" and offered assistance "to protect the lives and freedom of our brethren abroad". President Kemp quickly responded by underscoring that Abercrombia shall not succumb to any political pressure coming from Ruritania. As the image of ethnic Ruritanians was rapidly worsening, they became subject to a widespread harassment which the authorities did not address.
9. In February 2015, a new political movement was created, named "The Ruritanian Party of Freedom" (RPF), with the sole task of "fighting against the Abercrombian oppression in order to ensure better future of ethnic Ruritanians". One of its leading proponents and founders was the most visible Ruritanian politician in Abercrombia, Mr Rampart, who has become its leader. Shortly after its foundation, the RPF has been officially banned by Abercrombia's authorities.
10. Within two months, 75 percent of ethnic Ruritanians became members of the RPF. With the aim to "preserve the law and order", the Government established the "Abercrombian Detailed Surveillance Programme" (ADSP), targeting areas most densely populated by ethnic Ruritanians, like Aurumburg where ethnic Ruritanians represent 85 percent of the population.
11. The RPF began to work underground and started to plan radical activities involving the use of force. To that end, a special military branch of the RPF has been created. It is hierarchically organized, led by Commander Sharf, and consists of only those members who are willing and able to fight, which corresponds to around 25,000 fighters.
12. On the account of the ADSP, Abercrombia's authorities found out that the RPF attempts to overthrow the regime of President Kemp. They became particularly alert and additional 5,000 soldiers were deployed to all major cities in order to prevent any kind of rebellion. Despite all efforts, on 5 May 2015, the RPF carried out two terrorist attacks in Aurumburg and Abergrad,

killing almost 100 civilians, mostly Abercrombians. Afterwards, the RPF made a statement that the attacks were “made on behalf of all suffering brothers and sisters” and that “we will fight until we ensure freedom for ethnic Ruritanians”. President Kemp immediately declared “the war on terror” and vouched that “the RPF, a terrorist organization, will be eradicated and all its members, or sympathizers, brought to justice”.

13. In the ensuing days, sporadic armed clashes between the Government forces and the RPF broke out. The ADSP then provided more information on the RPF and its fighters, and Abercrombia’s armed forces commenced the Operation Purge in order to “neutralize the terrorists”. The operation was carried out in all three major cities, but in the following weeks, armed violence between the Government forces and the RPF further intensified, resulting in casualties on both sides, as well as among civilians. In the course of the operation, thousands of ethnic Ruritanians were arrested, including those who are not members of the RPF or part of its military branch. They were forthwith transferred to the Dark Dungeon prison to await trial for committing, or aiding and abetting, the crime of terrorism. Hundreds of them complain that they are being ill-treated and have no access to a lawyer.
14. The Operation Purge also had a special task, namely to hunt down Mr Rampart, who was purportedly in Aurumburg. When the unit of soldiers approached the building, in which Mr Rampart was believed to be hiding, they were attacked by the RPF fighters using flame throwers. Five soldiers died, but the unit managed to capture Mr Rampart and to kill all the rest, as it was ordered. He was then taken to the Dark Dungeon prison.
15. In the aftermath of the Operation Purge, the RPF immediately launched several counter-attacks in Aurumburg. The Government forces responded vigorously and retained control over the city. In areas densely populated by ethnic Ruritanians, Abercrombia introduced various restrictive measures, for instance, random check-ups and restriction of movement. In Aurumburg, nobody could move freely and leave the city without permission. Contrary to what was intended, Abercrombia’s actions sparked even stronger resistance among ethnic Ruritanians and armed confrontations between the Government forces and the RPF increased.
16. With the new presidential elections getting near, President Kemp was determined to make a concrete impact in eradication of the RPF, which would help him strengthen his position in

running for the second 5-year term as the President. To that end, he ordered the military to maintain control of all major cities “at all costs”, and demanded from the interrogators in the Dark Dungeon prison to obtain the crucial information “by any means necessary”, especially from Mr Rampart who leads the RPF. In doing so, the interrogators made use of various techniques of torture, such as waterboarding, but to no avail.

17. In the meanwhile, Abercrombia’s intelligence sources uncovered that Commander Sharf, who took the wheel of the RPF in Mr Rampart’s absence, met with President Malawski in Rustok just a day before the Office of the President of Ruritania issued a press release that condemned the terrorist attacks in Abercrombia, but expressed “deep concern over the dreadful situation, in which ethnic Ruritarians found themselves” and that “Ruritania will not sit by and do nothing”. Soon thereafter, the RPF received a substantial supply of weaponry, reportedly from Ruritania, and the fighting between the Government forces and the RPF continued, but the RPF could not make any real progress.
18. In July 2015, a special group of fighters, self-proclaimed as the “Ruritanian Brotherhood” (RB), was created in Ruritania in order to “assist our fellow Ruritarians in Abercrombia to overthrow the oppressive regime”. Abercrombia’s intelligence reported that the RB is well-structured, equipped and advised by Ruritania’s army, and funded by wealthy people close to President Malawski, but she tersely denied any such connection. Subsequently, President Kemp reaffirmed that “the terrorists who are part of paramilitary forces coming from Ruritania will be captured and tried in accordance with our laws as they are nothing but unlawful combatants”.
19. President Kemp became the only presidential candidate in the forthcoming elections and even the slightest possibility for a cessation of hostilities has failed. The RB joined forces with the RPF and they started to plan the strategy which would bring them a significant military advantage and put them in a position to actually overthrow President Kemp. It was decided by Commander Sharf and Commander Ramby, also the leader of the RB and former lieutenant in Ruritania’s army, to first take control over the areas of Aurumburg and Topport. As they were helped by a substantial number of new RB fighters and heavy artillery from Ruritania, they managed to achieve their military objectives by the end of August 2015. In a decisive battle for Aurumburg, Commander Sharf ordered to destroy Abercrombia’s last military outpost standing on their way, notwithstanding that it was located in the immediate vicinity of an elementary school. Although

a warning was given to evacuate the school, 49 children and 11 teachers were killed as a consequence of the attack.

20. Determined to regain control over the two cities “occupied by the terrorists” and to finally end “the armed revolt”, Abercrombia employed all armed forces at its disposal. Intense hostilities followed, but they ended in a stalemate as the RPF was receiving new supplies of weaponry from Ruritania, while the RB was providing more and more fighters. There were many casualties on both sides, including among civilians living in those cities since numerous schools, hospitals, and other public buildings were severely damaged. Those who fell into the hands of the Government forces were immediately transferred to the super-maximum security units of the Dark Dungeon prison with no trial dates being set, whereas those who fell into the hands of the RPF or RB were executed.
  
21. In October 2015, Abercrombia’s intelligence intercepted an information that the RPF and the RB are planning to advance towards Abergrad to “fulfil their primary goal”. President Kemp’s counsellors advised him to invite foreign troops of other friendly neighbours to intervene, but he refused to rely on others and ordered that “any kind of weapons shall be used to prevent the terrorists from progressing any further”. Abercrombia’s generals then decided for a sudden and overwhelming military offensive giving no chance to recruit. They ordered an attack on four central bases of the RPF and the RB in Aurumburg with highly efficient chemical agents. At midnight on 4 November 2015, all main bases of the RPF and the RB in Aurumburg were first struck by the rockets containing sarin and then bombed from the air. This caused a huge damage to the RPF and the RB and enabled the Government forces to regain control over Aurumburg and the surrounding localities. The operation claimed lives of more than 1,000 civilians, while more than 2,000 civilians have been permanently injured.
  
22. In light of those events, the situation in Abercrombia was brought to the attention of the UN Security Council which unanimously adopted a resolution condemning the chemical attack and urging all parties to the conflict to respect the basic tenets of international law with a view to settling the dispute by peaceful means. The UN Secretary-General Ban Ki-moon offered good offices.

23. On the Christmas Day that year, President Kemp and Commander Sharf met for the very first time and discussed the ongoing problems, but the talks did not produce any result. Commander Sharf said that “the meeting was worthless” and that they “shall continue to fight for our goals”. The fighting persisted for the next six months, even though the RPF and the RB forces began to weaken to the level of desperation. They decided to take a drastic measure and forcibly recruited several thousand men and young boys from the localities under their control. They were not trained to fight and therefore did not prove as a useful asset. Majority of them were captured by the Government forces which showed no mercy and forced them to work in the weapons factories. In the meantime, the RPF and the RB desperately tried to defend Topport and border regions south of Aurumburg.
24. In the summer of 2016, the hostilities continued, notwithstanding that both sides to the conflict have been crippled. As a result of a protracted violence, with no signs of coming to an end, a couple of million civilians were trapped in the cities and small towns. The whole situation in Abercrombia has become unbearable. The access to food and water has been severely hampered, public sewerage system has broken down, and various illnesses have begun to spread, particularly among children and elderly.
25. In July 2016, President Kemp has granted the International Committee of the Red Cross (ICRC), upon official request, an access to all areas where living conditions of civilians are the most appalling, except to the city of Aurumburg as President Kemp did not allow that “the Ruritanian traitors receive any support with assistance of Abercrombia”.
26. During the night-time on 18 July 2016, eight fighters of the RPF in Abergrad managed to sneak in the ICRC’s duty station, kill five ICRC staff members, and steal some of their vehicles and personal weapons. The next day, they used those vehicles as a pretext to come in a proximity of the Government forces’ outpost with intent to destroy it and undermine their authority in the city. They fired several rockets from bazookas and killed 25 soldiers and 10 bystanders, but did not manage to destroy the outpost completely.
27. The next month, the UN Security Council decided to create, with Abercrombia’s consent, a robust peacekeeping mission that established buffer zones so as to keep civilians as safe as possible. They were then able to leave the warzones and massively started to flee from

Abercrombia. It has been reported that by the end of 2016 more than 2 million people have left. 1.2 million Abercrombians fled to friendly neighbouring States, while 800,000 thousand ethnic Ruritanians took advantage of the fact that the forces of the RPF and the RB are controlling Topport and fled across the Green Sea to find a refuge in financially prosperous States with strong Ruritanian diasporas.

28. As the unsustainable situation in Abercrombia persisted, people continued to flee to the same destinations. Abercrombia's neighbour, the State of Udana, has a population of 3.5 million and hosts the highest number of Abercrombian asylum-seekers, that is 750,000. In mid-January 2017, its President warned that Udana will stop accepting people fleeing from Abercrombia if other States from the region will not try to help it because "our State simply does not have enough resources to accommodate so many people". Udana built three refugee camps in cooperation with the United Nations High Commissioner for Refugees (UNHCR), but the conditions in those camps were extremely poor since the number of asylum-seekers grossly exceeded the capacity of the camps. Shortages of food, water, and medication, insufficiency of public lavatories, growth of petty crime, etc., have become a regular feature. There have also been many reports of ethnic violence which has not been addressed by the authorities.
29. There was no positive response from other States and Udana began to build a 3-metre high barbed wire fence over the entire 100-kilometre long border with Abercrombia. By April 2017, the construction of the fence was completed. Udana then decided to close its border with Abercrombia in order to physically prevent any Abercrombian from entering in its territory. As a result, more than 500,000 Abercrombians were left in a total despair since they had no access to the basic necessities of life. The situation has quickly evolved into an unprecedented humanitarian catastrophe, albeit the ICRC, as well as the UNHCR, have been working hard to ameliorate the situation.
30. States from the region across the Green Sea jointly declared that they will likewise stop accepting people from Abercrombia since "they are not refugees within the meaning of the 1951 Refugee Convention". One of those States, the Kingdom of Borginia, stated that "a refugee status is intended only for persons individually persecuted and not for groups fleeing war, especially if it is apparent that they seek better economic opportunities and not a refuge". As of

1 May 2017, those States embarked on a campaign of intercepting boats headed to their ports in order to turn them away before they manage to reach their territorial waters.

31. In the first two months of the campaign, military vessels were intercepting boats on a daily basis and almost all such boats were forced to turn back. Numerous boats then sank as they were often in a bad condition and overcrowded. The death toll at sea was rapidly rising, and by July 2017, it claimed 10,000 lives.
32. The current situation of the conflict in Abercrombia has not improved. Hostilities between the Government forces on one side, and the RPF and the RB on the other, continue and there is no solution in sight. Dire humanitarian conditions persist as well, regardless of the presence of the UN peacekeeping mission which saved lives of many civilians. The latter still extensively embark on perilous journeys to either neighbouring States or across the Green Sea. It was reported that between June and September 2017 additional 250,000 civilians fled their homes.
33. On 1 September 2017, the UN General Assembly adopted a resolution on the crisis in Abercrombia that called upon all parties to the conflict to re-engage in talks to resolve the conflict peacefully. It also urged States affected by the conflict to stay true to their moral and legal obligations owed to those most in need.
34. Abercrombia and Ruritania are both members of the UN, and are parties to all relevant treaties on international humanitarian law, with the exception of the 1993 Chemical Weapons Convention, to which only Ruritania is a party. Both States are also parties to all relevant human rights treaties, as well as the 1998 Rome Statute of the International Criminal Court.