

KATHMANDU UNIVERSITY SCHOOL OF LAW

**3rd TEJSHREE
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MOOT PROBLEM¹

¹ Drafted by Mr. Anuj Chand in his individual capacity. Any attempt to reach out and/or communicate with the problem framer by any participant, directly or indirectly, in connection with the competition or this Moot Problem will lead to immediate disqualification

SITUATION IN TEJSHREE

Prosecutor

v.

Jwalanta

**BEFORE THE PRE TRIAL CHAMBER
INTERNATIONAL CRIMINAL COURT
AT THE HAGUE, THE NETHERLANDS**

Situation in Tejshree

Prosecutor v. Jwalanta

1. The **Federal Tejshree Republic** (simply, *Tejshree*) is a landlocked country situated in the continent of **Abhimaan**. The country is surrounded by the **Union of Sauragya** (simply, *Sauragya*) in the west and south directions, and the **Great Republic of Titrawang** (simply, *Titrawang*) in the north and east directions.
2. Tejshree has a total land area of 987,654 sq. km. However, much of the land is uninhabitable due to its harsh topographical features. Therefore, its population was a meagre 750,000 in 2025. Sauragya and Titrawang, in contrast, are both densely populated. Sauragya is about thrice the size of Tejshree in terms of area, while its population is about 800 times more than that of Tejshree. Titrawang is even bigger – it is double the size of Sauragya (both in terms of area and population). Both Sauragya and Titrawang are global trading, manufacturing, and military powerhouses.
3. Like most regions in the world in the past, most of the continent of Abhimaan used to be a colony. The region, which is today the countries of Sauragya and Tejshree, was the colony of the Imperial Kingdom of Bhaskargadhi (simply, *Bhaskargadhi*). Bhaskargadhi ruled the region for over 200 years. Titrawang, on the other hand, was never colonized. Despite multiple attempts, Bhaskargadhi was never able to successfully invade Titrawang. For this reason, Titrawang has also been identified with the moniker, ‘the Graveyard of Empires’. Bhaskargadhi left the region in 1888. In the intervening months, there was a great, often violent, power struggle between, firstly, the proponents of creating two nations and, secondly, the advocates of a unified Sauragya (or, *ekrajya*). The former won the exchange and two countries were formed under the terms of the 1888 Nawa Rashtra Sutrapaat Treaty (NRS Treaty), which also delineated the boundaries of the new nations. Sauragya’s copy of the original NRS Treaty was destroyed in the great fire of 1901 that ravaged its capital, Sauragyabhumi. Later, Tejshree lost its copy of the original treaty in the great earthquake of 1913, which decimated most of the country. Following the earthquake, a new capital

was founded in Tejmandap, and a luxurious palace called Tej Mahal was built to house the royal court of the then-ruling oligarchy. Tej Mahal continued to be the seat of the government of Tejshree even after the fall of the oligarchy in 1999.

4. Given the historical developments, Tejshree and Sauragya have very close people-to-people economic, cultural, and religious ties, despite the obvious political tensions. A major point of disagreement between the two countries concerns the state boundaries. With the original NRS treaty destroyed, and subsequent efforts for a mutual understanding never coming to fruition, the two countries have consistently failed to see eye to eye regarding the limits of their sovereign jurisdictions. Tejshree has constantly complained that Sauragya has encroached on its boundaries in multiple places, including in *Simana*, which, according to Tejshree, is of great significance to Sauragya from both trade and defense perspectives. Sauragya has refuted the allegations by maintaining that Simana has always been a part of its territory. Titrawang has historically been untouched by the constant kerfuffle between its two neighbors. It is also culturally distant from the two countries, but there has always been a significant trade relationship between Titrawang and Sauragya, mostly through Tejshree. Sauragya and Titrawang have never had the best political relationship. They have even been embroiled in three different wars in the last 50 years, with the last of those ending in a stalemate in 1988.
5. Over the years, Sauragya has been accused of meddling in the internal affairs of Tejshree, especially through its Embassy in Tejshree, which is of great geo-political interest to Sauragya. As International Relations expert and political analyst Subijaya Kumar put it in the aftermath of the 2019 Tejshree general elections:

In the 1980s and particularly after their big psychological victory in the 1988 Sauragya-Titrawang war, Sauragya truly began its journey as a global superpower. Sauragya has done everything to keep Tejshree firmly within its sphere of influence and make sure that Titrawang does not get a firm grip over Tejshree's internal affairs. Basically, Sauragya creates governments in Tejshree, Sauragya keeps governments in power in Tejshree, and Sauragya removes governments from

power in Tejshree. The historical oligarchy fell because Sauragya wanted it to fall. Every head of the government in Tejshree has Sauragya's blessing. The moment the blessing hands are off, the government is off too. The Sauragya embassy is the kingmaker.

All of this was true until the rise of the populist leader Kabyaniti in 2019, who contested the elections, trying to capitalize on the anti-Sauragya narrative, and won comprehensively. Her party won more than 80% of the parliamentary seats, and she was sworn in as the prime minister on 13 January 2019. This is not a setback. This is a humiliating defeat for Sauragya in what it considers to be its own backyard. This is also a sign of the growing influence of Titrawang on Tejshree. I am sure Sauragya will not take the defeat lightly. Watch the space.

6. During her swearing-in ceremony on 13 January 2019, the newly elected Kabyaniti gave the following speech (excerpts only):

I promise my brothers and sisters that our days of servitude are over. We are no longer sacrificial lambs... mere pawns on the chessboard controlled by Sauragya. The unfettered powers of their embassy will be kept in check from today. We will no longer be bullied. Their incursions into our territory will no longer be tolerated. I hereby declare that we will approach the International Court of Justice to find a resolution, once and for all, to our century-old boundary conflict. I also announce right at this moment that I have asked my staff to commission a team of archaeologists to dig into the ruins of our old capital and find any and everything that will help our case. We will find the best team of lawyers from across the country to fight this case...the "CASE OF OUR DESTINY!"

And, we can win, we have to win, we will surely win.

I also acknowledge that we must compete financially and economically with both of our neighbors. My vision for a developed tomorrow lies in IT [Information Technology]. We are self-sufficient, our IT human resources are world-class, and we should act that way. We will have a new policy soon. The first order of business

is to shun the Sauragya-made software used across our government offices, particularly in confidential matters. Three months from today, every government office will have adopted a native, Tejshree-made software.

We cannot compromise on national security – neither on our physical territory nor in our virtual space. In this era, you cannot ensure your national security by relying on foreigners, be it the governments, be it the service providers.

Talking about the national security of our physical territory, I declare that we will no longer buy any weapons from Sauragya. For the time being, we will buy our weapons exclusively from Titrawang.

God bless Tejshree!!!

7. PM Kabyaniti's speech went viral on Tejshree's social media and received wide acclaim from the citizens. Most opposition leaders kept quiet. The only notable dissenting voice came from the account of a person named Jwalanta. He accused Kabyaniti of accepting Titrawang's donation and using the money to rig the election. One of his posts read:

The prime minister won not because of her leadership, but because she was able to sponsor tel, chiya, churot ... All that is needed to buy votes ... I cannot, as an honest citizen of Tejshree, accept such a person as my leader ... She is not my prime minister ... She is just a pompous, preposterous, pretentious populist ...

The post drew an overwhelming amount of ire from the people online. While some agreed with Jwalanta's take, most of the comments were abusive, calling him, among others, 'foreign dalal (agent)', 'traitor', 'rabblrouser', 'useless, jealous, good-for-nothing excuse for a human being'. The following post satirizing his apparent irrelevance was the most shared post of the year in Tejshree.

A: Knock, Knock.

B: Who's that?

A: Jwalanta.

B: Jwalanta, who?

A: Exactly!

Despite this, Jwalanta quickly started becoming a household name in Tejshree, manifesting the cliché, ‘no publicity is bad publicity.’

8. Kabyaniti’s initial six months were deemed a success by political pundits. Her government was able to source local software from IT companies in Tejshree and replace all the foreign software in government work. The government also commissioned a government-exclusive, highly secured cloud service to store all the government data, while also upgrading the cybersecurity policy. Furthermore, the excavation work at the old capital ruins was underway, and the team in charge maintained a positive outlook throughout. The initial optimism, however, was cut short by the COVID-19 pandemic. Tejshree was badly affected, which resulted in an on-again-off-again nationwide lockdown for over two years. The stringent lockdown measures began to loosen only in mid-2022. Even though the tough crackdown on the pandemic ensured no major loss of lives in the country, the economy suffered. The public approval of the government took a nosedive, too. The majority of the people, particularly the businesses and the daily wage workers, were dissatisfied with what was variously but related characterized as ‘whimsical/wanton/inconsiderate’ steps of the government.
9. In late 2022, Jwalanta, who by this time was the most followed person in Tejshree across all social media platforms, began delivering further blows to an already dwindling approval rating of the government. He began ‘exposing’ the government. He alleged that there was massive corruption in the foreign vaccination grant provided to the government during the pandemic. He further posted about the government’s alleged complicity with the businesses in hiking prices during the pandemic. The post that evoked the most ire of the public was a video which showed PM Kabyaniti hosting a party in Tej Mahal with what appeared to be more than 100 people in attendance, during the peak of the pandemic lockdown – no masks, no social distancing. The video was posted with the caption: “We removed the oligarchy for this? Tej Mahal is a symbol of tyranny, not democracy.

Kabyaniti is a tyrant, not a leader – kick her out. Burn the palace, burn the system, burn it down!” Independent news sources confirmed the video and the incident to be genuine. PM Kabyaniti took notice of Jwalanta and immediately sent out an email to all her senior staff members asking them, ‘Who the [redacted] does Jwalanta think he is? I need him gone. Get rid of him.’ The email was leaked and made the headlines on the news portals immediately. Consequently, PM Kabyaniti fired more than 40 of her senior staff members. This series of events drew more public condemnation, as voices asking for her resignation grew. At the same time, there were some calls for Jwalanta to be the new prime minister.

10. On 13 March 2023, the excavation team from the old capital issued a press release announcing that they had retrieved the original copy of the NRS Treaty. PM Kabyaniti hailed the news as perhaps the greatest victory in Tejshree history and commissioned a team of lawyers to draft a case against Sauragya at the International Court of Justice. This discovery suddenly brought Kabyaniti back into the good graces of the public. In the next few days, the government spokesperson clarified that the NRS Treaty was not in the best condition, and that the government is working with the best technicians to recreate digitally the text of the treaty and the accompanying maps and clarifications. The final output will be verified through the involvement of international independent experts, too. The spokesperson added that there will be no regular update on the matter, given its confidential nature.

11. On 2 December 2023, a national daily ran a front-page news story alleging Jwalanta to be a Sauragya agent. The news claimed that Jwalanta had forged his Tejshree citizenship and was trained in Sauragya to try to unsettle the domestic stability of the country. Jwalanta responded by refuting the claims, ‘Just because I went to a Sauragya university does not make me a foreign agent. Grow up, people. Kabyaniti, your plans will not work.’ In the subsequent weeks, the Office of the Government Attorney filed numerous cases against Jwalanta in multiple district courts across the country on charges including espionage, forged government documents, incitement to violence, etc. An arrest warrant was subsequently issued. However, Jwalanta was able to flee and secure asylum in the Sauragya Embassy in Tejshree. Jwalanta continued his online activities from within the embassy

premises. He asked his followers to take matters into their own hands and warned them, 'Today, it is me; tomorrow, it will be you.' His followers began discussing the possible course of action on online discussion forums.

12. In mid-March 2024, rumors started to circulate that the government had successfully recreated the NRS Treaty digitally. When journalists asked the government spokesperson about it, the official stated, 'I can neither confirm nor deny the rumors. At this stage, the only thing I can confirm is that we are working day and night to be able to file our claim at the ICJ against Sauragya within the next eight weeks.' Hours after the spokesperson's confession, Jwalanta released multiple documents that contained leaked emails and conversations involving PM Kabyaniti. The documents appeared to suggest her involvement beyond her authority in the award of many multi-million-dollar contracts, and in the filing and withdrawal of various high-profile court cases.
13. Jwalanta's document leaks led people online to denounce Kabyaniti as corrupt and to seek his resignation. An online group named "Jwalanta for PM (JPM)" announced protests scheduled beginning from 23 March 2024. Jwalanta shared the news and encouraged everyone repeatedly to join the cause, with his signature hashtag 'burn it down!' On 23 March, a large number of people gathered outside Tej Mahal seeking the resignation of the PM. The protests soon turned violent, however. It was reported that by midday, 43 protestors had lost their lives, while dozens of protesters were injured. The use of force made matters worse as the violence grew even more gruesome. Protestors were able to overwhelm security in many places, after which they started vandalizing public property. In the meantime, Jwalanta reminded everyone through his posts to "burn it down!". In the next two hours, many government buildings were set aflame and left ablaze. No sooner had Jwalanta posted, "Do not forget the symbol of tyranny, Tej Mahal... #Burnitdown!" at 3.30 pm then the protestors had taken control of the Tej Mahal premises and set it ablaze. The vandalism came under control only in the early hours of the next morning when the Tejshree military was deployed on the streets.

14. Many notable people, including PM Kabyaniti, had fled the country during the protests. A caretaker government was swiftly formed. It was reported that Tej Mahal was burnt to ashes, and along with it, the retrieved NRS Treaty, too. Many major government buildings were destroyed beyond use and repair. The central government server and associated backups were all destroyed. Dozens of major business houses were left ablaze. More than 400 civilians and 124 officials lost their lives. The police were able to retrieve hundreds of 2024 Sauragya-made weapons from the group involved in the attack. In subsequent days, based on further analysis of the nationwide damage, it was reported in all leading national dailies that every single court and associated offices with Jwalanta's case sub judice had been completely destroyed. It was also suspected that Jwalanta had fled the country. Furthermore, the legal team working on the ICJ petition confirmed that all their work and evidence had been wiped away, even from those servers that were still functioning. Their private law firm buildings were completely destroyed, and they had no physical or virtual documents at their disposal. They could confirm, following consultations with IT specialists, that a cyber-attack was successfully completed right at the time of the violent protests. The team also added that the attack likely originated from within the premises of the Sauragya embassy in Tejshree. Although not confirmed by either country, it was also reported by mainstream news in Tejshree that Sauragya tried to take advantage of the political uncertainty in Tejshree by attempting to occupy Simana. The reports added that Sauragya's effort on the night of 24 March 2024 fizzled out rather quickly as Tejshree forces were able to push them back into their own territory, with Sauragya's military suffering 4 casualties. No such reports appeared in Sauragya media.
15. On 1 April 2024, Jwalanta posted for the first time since the day of the violent protests. The post contained a photo with the caption, 'United Sauragya...and no, this is no April's fool post...burnt it down!'. The location showed him to be in Sauragya.
16. Following a nationwide investigation, the interim government of Tejshree decided to sever its diplomatic ties with Sauragya. On 14 April 2024, the interim government of Tejshree decided to submit a communication to the ICC, requesting the Court/Office of the Prosecutor to identify, investigate, and try the perpetrators and accomplices of acts

committed in the territory of Tejshree, particularly the criminal acts committed on and leading up to the protests of 23 March 2024.

17. On 17 April 2024, the Pre-Trial Chamber of the ICC issued a warrant of arrest against Jwalanta. On 13 September, a plane headed to Sauragyabhumi had to be diverted to the capital city of Titrawang due to technical issues. As the plane landed in the Titrawang Capital Airport, Jwalanta, who was one of the passengers, was arrested by the authorities along with his Sauragya passport and surrendered by Titrawang to the ICC.
18. The ICC Prosecutor submitted the “Document Containing the Charges against Jwalanta”.
19. Based on the document, the Pre-Trial Chamber of the ICC has set a hearing date of 25th January 2026.
20. Based on the foregoing facts, the counsel for the prosecution and the defense will argue on the following issues before the Pre-Trial Chamber.
 - a. With respect to ***the violent protests, including the burning down of several Tejshree government buildings and properties on 23 March 2024***, the war crime under Article 8(2)(b)(ii):

Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
 - b. With respect to ***cyber-attacks made on 23 March 2024 from within the premises of the Sauragya Embassy in Tejshree and the related acts leading up to the cyber-attacks***, the crime of aggression under Article 8 *bis*.

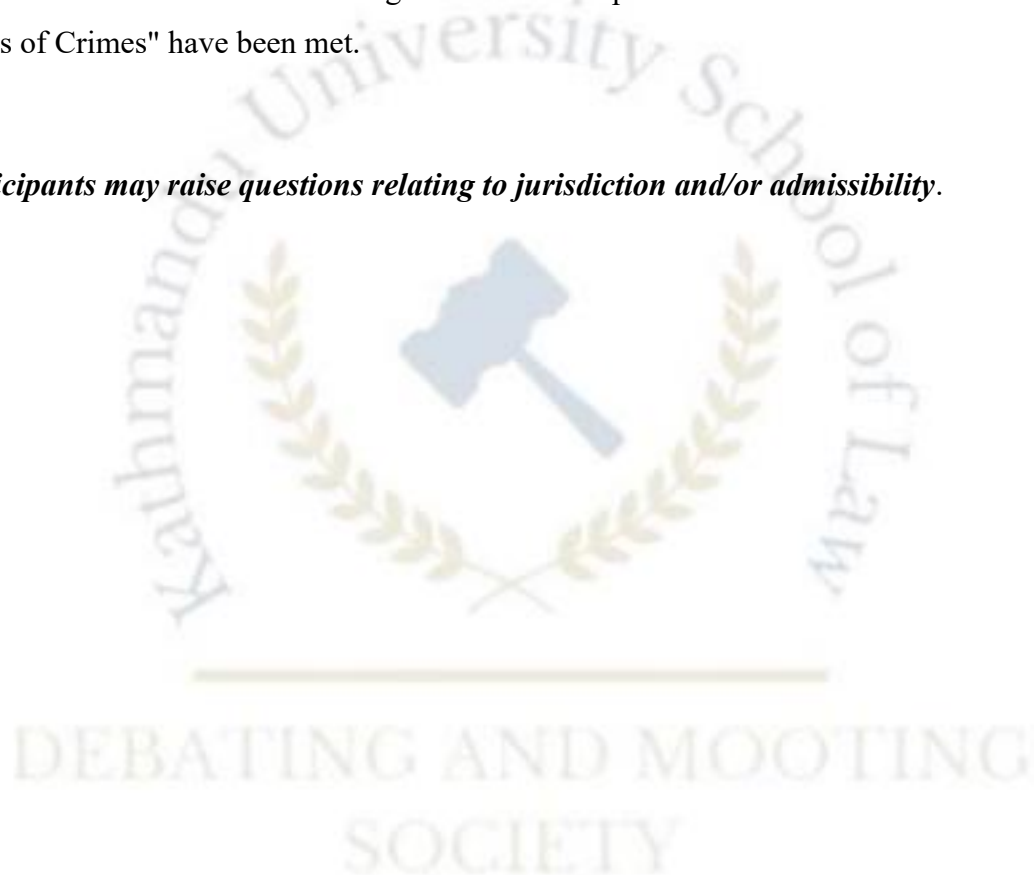
Tejshree and Sauragya are parties to the following:

- The Rome Statute of the International Criminal Court.
- The Four Geneva Conventions of 1949 and
- The three Protocols additional to the Four Geneva Conventions.

Written and oral arguments on behalf of the Prosecution and Defence are to be confined to these two issues.

Counsel for both sides are to make arguments with respect to the two issues and whether the "Elements of Crimes" have been met.

The participants may raise questions relating to jurisdiction and/or admissibility.



Elements of Crime:

Article 8 (2) (b) (ii)

War crime of attacking civilian objects

Elements

1. The perpetrator directed an attack.
2. The object of the attack was civilian objects, that is, objects which are not military objectives.
3. The perpetrator intended such civilian objects to be the object of the attack.
4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 bis

Crime of aggression

Introduction

1. It is understood that any of the acts referred to in Article 8 bis, paragraph 2, qualify as an act of aggression.
2. There is no requirement to prove that the perpetrator has made a legal evaluation as to whether the use of armed force was inconsistent with the Charter of the United Nations.
3. The term “manifest” is an objective qualification.
4. There is no requirement to prove that the perpetrator has made a legal evaluation as to the “manifest” nature of the violation of the Charter of the United Nations.

Elements

1. The perpetrator planned, prepared, initiated or executed an act of aggression.
2. The perpetrator was a person in a position effectively to exercise control over or to direct the political or military action of the State which committed the act of aggression.
3. The act of aggression – the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations – was committed.
4. The perpetrator was aware of the factual circumstances that established that such a use of armed force was inconsistent with the Charter of the United Nations.
5. The act of aggression, by its character, gravity and scale, constituted a manifest violation of the Charter of the United Nations.
6. The perpetrator was aware of the factual circumstances that established such a manifest violation of the Charter of the United Nations.

