

**N.B. As per the [disclaimer](#), neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents.** Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

## News 1

### □ THE NATIONAL DAILY NEWSPAPER MONDAY, 17 MAY 2010

#### War breaks out in the Gama region

From our special correspondent in Ruri

Just after dawn this morning, Xenian armed forces crossed the border and entered Ruritania. At the same time, half a dozen Xenian air force jets launched an attack against the city of Ro, bombing the main military buildings. Ro is the first big town across the border, and home to a large military compound. The extent of the damages to the buildings and the number of civilian casualties are currently unknown. Ambulances and medical personnel have been dispatched to the vicinity.

Immediately after the attack, Mr Cyl Rator, Ruritania's president, announced publicly that the attack was "an act of aggression against the territorial sovereignty of Ruritania".

#### A history of violence

The Gama region has a long history of tension and violence. In 1986, the kingdom of Gama, weary after a decade of civil strife, was partitioned into three newly independent countries: Xenia, Ruritania and Zanadu. While Zanadu rapidly prospered, Xenia and Ruritania remained conflicted by internal tension, chiefly because, at independence, the region of Pafny was attributed to Xenia, where most of the inhabitants are ethnic Telman. The inhabitants of Pafny, however, are Yelmandan in origin and wanted to be part of the new Ruritania, where Yelmandans constitute the majority.

Immediately after partition, tensions erupted in Xenia between the Yelmandans and the Telmans. Most important decision-making and government posts were occupied by Telmans, and the Yelmandans had scant representation in political circles.

The Yelmandans have been struggling for independence ever since, essentially through non-violent means, and the past two decades had been marred by only a few tragic demonstrations.

A few months ago, however, the Yelmandan Liberation Front (YLF), a fanatical group claiming to represent the interests of the Yelmandan community in Pafny, began planting bombs in various cities in Xenia. Groups of YLF fighters engaged in increasingly frequent skirmishes with Xenian police forces, but the YLF had recently embarked on a vast recruitment campaign, and the police soon found themselves overtaken by an armed branch of hundreds of men with de facto control of a part of the territory and under strict YLF command. The Xenian army was sent to Pafny to break up the rebel organization and restore order.

Last week, a special edition of the Xenian Gazette revealed that Ruritania has ties to the rebel group, claiming not only that the YLF is secretly importing weapons and explosives from Ruritania, but also that Ruritania is supporting the YLF's political ambitions by financing operations and providing military training for YLF members. Ruritania immediately denied the allegations, but its president refused to comply with Xenia's request that the YLF members who have taken refuge in Ruritania be extradited to Xenia for prosecution.

Colonel Abu Xutor, Xenia's head of State and an acknowledged dictator, issued an ultimatum ordering that Ruritania give evidence of its good faith before 17 May. The fact that President Rator did not reply is very likely at the origin of this morning's attack.

#### Pafny declares independence

Shortly after the attack, the YLF declared Pafny's independence from "Xenia's racist regime". Colonel Xutor immediately responded that the secession was illegal and that Xenian armed forces, already present in Pafny, would soon restore peace and order.

In an official press release, ICRC President stressed that both Xenia and Ruritania were party to the Geneva Conventions and to

the two Additional Protocols of 1977. He reminded all parties to the conflict of their obligation to comply with international humanitarian law in all circumstances, and warned that they must take immediate action to prevent civilian casualties.

## News 2

### THE NATIONAL DAILY NEWSPAPER TUESDAY, 18 MAY 2010

#### Hostilities intensify in Ruritania

*From our special correspondent in Ruri*

Following the surprise bombing of Ro by the Xenian air force, Xenian ground troops have quickly gained control over the city. A few units remain in the area to assert Xenian authority, but the bulk of the troops has moved on towards Ruri, Ruritania's capital.

Until this morning, the Ruritanian government was probably confident that it could win a war against Xenia. Ruritania is known for its military strength, which prevented Xenia from attacking the country for years, but it may not have the capacity to resist on two fronts – Zanadu, Xenia's longstanding ally, declared war on Ruritania at 6 a.m. this morning.

#### Trapped between two fronts

Ruritania swiftly deployed its air force to the western front, to prevent Zanaduan ships from reaching shore. Many of the ships have been severely damaged and very few have managed to reach shore. Shipwrecked soldiers trying to get out of the water were hit by direct fire from Ruritanian ground troops backed by local villagers throwing hand grenades at the shipwrecked.

At the same time, Ruritanian troops are finding it difficult to stem the Xenian advance and are now resorting to more extreme measures. They have managed to make incursions into Xenian territory, and a few indiscriminate Ruritanian attacks have caused significant military and civilian casualties on the Xenian side, most recently when a dam was destroyed, killing hundreds of civilians. There are also indications that Ruritania is about to deploy chemical weapons against its neighbour.

The Former Combatants Militia (FCM), which is made up of former Ruritanian soldiers who fought during the war of independence that led to the partition of the kingdom of Gama, has turned out in support of the government troops, "to defend once again [their] country against the Xenian oppressor". The FCM is directly affiliated to the Ruritanian Army, but under independent command. Its fighters do not wear uniforms but are easily identified by the green and yellow berets that formed part of their uniforms during the war of independence.

In the meantime, Xenian forces have advanced into the territory of Ruritania and are now approaching the capital, Ruri. They have been aided by the Zanaduan armed forces, which surrounded the city after landing. This morning Xenian and Zanaduan forces made a major break-through, occupying the hills overlooking the city.

*"An attack against Ruri could be disastrous"*

Peter Happy, the president of Utopia, stressed his concern this morning about a potential full-scale attack on Ruri.

Ruri is a major town with a large civilian population. It is home to Ruritania's main military garrison, important political and cultural buildings, a range of heavy industries (including a nuclear power station and armaments factories) and, in the surrounding countryside, the villas of military and political leaders.

Much of the town is within reach of Xenian and Zanaduan heavy artillery, which may be inaccurate at this distance. The military experts questioned by The Utopian Tribune say that Xenian forces also have one unit of special forces, two highly accurate "smart" missiles and a squadron of aircraft. These can be as accurate as the smart missiles but cloud cover means that they have to fly low at considerable risk to the pilots; otherwise they have the same accuracy as artillery. Zanadu also has some large antiquated mortars, which are highly destructive but cannot be targeted with any accuracy.

From his part, the ICRC president reminded all parties of their obligations under IHL, as parties to the Conventions and Protocol I.

## CIVIL WAR IN PAFNY

## Hostilities continue in Pafny

While Ruritania encounters difficulties, the rebels of the Yelmandan Liberation Front (YLF) continue to resist the Xenian forces. Zanadu has sent an attack squadron to help fight the insurgents. This morning, Xenian and Zanaduan aircraft attacked the YLF headquarters in Pafnya, which are located at a busy commercial centre in a densely populated area. The YLF military leaders had got wind of the airstrike and fled the city over night. Only two low-ranking YLF members were killed during the attack, which resulted in dozens of civilian deaths.

The YLF, widely supported by the Pafnyan population, recently declared that it was engaged in a war of secession with Xenia and that it was willing to respect the laws of armed conflict. Colonel Xutor immediately responded by rejecting all talk of secession and reaffirming his determination to quell the insurgency.

## Shooting of wounded YLF rebels

This morning, an amateur video was posted on youtube.xe showing a Zanaduan soldier shooting dead an unarmed, wounded YLF insurgent during the fighting in Pafnya. The video shows that the insurgent was shot at close range while he was lying among a group of dead men. The soldier in the video, who was immediately removed from his unit, explained that a few hours earlier, other Zanaduan soldiers had been killed by a booby-trapped body they had found in a nearby house after a shootout with insurgents. "I was scared that this man was another trap, so I wanted to make sure he was dead", said the soldier during an interview with URTN<sup>[1]</sup> News.

## INTERVIEW

With Jan Tree, spokesperson of the Gaman Human Rights Association

*The Gaman Human Rights Association (GHRA) acts for the dissemination of and respect for human rights norms throughout the Gama region.*

**The Utopian Tribune:** What is the humanitarian situation in Pafnya today?

**Jan Tree:** It is not our organization's role to blame the parties to the conflict, but I dare say that we will very likely face a humanitarian catastrophe if Xenia keeps on disregarding the laws of armed conflict. The past few days have been trying for the civilian population of Pafny, especially in the city of Pafnya, which has been the object of several attacks.

**UT:** The GHRA recently reported on the lack of drinking water in Pafnya.

**JT:** Since the beginning of the conflict, Pafnya has been cut off from normal supply routes because of the bombing, and it is now running short of essential water and food supplies. The situation was recently aggravated by the bombing of an electricity generator providing power to a small water purification plant.

**UT:** What are the immediate consequences of the bombing for the civilian population of Pafnya?

**JT:** Very simply, the purified water coming out of the plant was used as drinking water by the surrounding villages, which are now limited to collecting rain water. However, as you know, rain water is in very short supply at this time of the year. The situation is therefore extremely worrying there.

**UT:** The YLF has called for external help for the inhabitants of Pafnya, to which Ruritania has responded by sending water and food to the region. However, we just learnt that yesterday afternoon, the Ruritanian convoys were attacked.

**JT:** Ruritania was appalled by the humanitarian situation in the Pafny region, and indeed decided to organize convoys of water and cooked rice to be transported by the voluntary members of the Ruritanian Association<sup>[2]</sup> to the area. They were bombed by Xenian planes just after they crossed the border. The planes bombed a bridge right when the trucks were crossing. All the drivers were killed.

**UT:** Was the attack lawful? Did Xenian planes directly target the humanitarian convoys?

**JT:** The attack provoked a strong public outcry in Ruritania and in Pafny. A Xenian official stated shortly after the attack that the bridge was often used by the YLF to transport weapons from Ruritania to Pafny, and that the pilots thought the trucks were carrying ammunition. They had orders to shoot at suspicious convoys organized by the YLF. As the convoys were not identified by any signs, the pilots thought they belonged to the YLF and just bombed them. We know that the bridge was frequently used

by the YLF to convey weapons to Pafny, so it is difficult to say whether the pilots acted in good faith or not.

## Footnotes

- [1] Utopian Radio and Television Network
- [2] The Ruritanian Association is composed of Ruritanian nationals who are ethnic Yelmandans and are sympathetic to the YLF cause but have no implication in the rebel movement.

## News 3

### THE NATIONAL DAILY NEWSPAPER SATURDAY, 22 MAY 2010

#### *Special edition* Conflict in Gama

#### Xenian occupation of Ro

*From our special correspondent in Ruri*

Confounding all expectations, the battle for Ruri ended yesterday with Ruritania regaining control of the entire city. Xenian and Zanaduan forces were pushed back to the countryside, where they have now settled. Both sides suffered great losses.

According to an official report, Xenia has decided for now to concentrate on Ro in order to strengthen its authority there and consolidate the newly established provisional government.

#### Mass arrests of suspected YLF supporters

Following acts of resistance carried out in the past few days by the local population, which is largely in agreement with the YLF's cause, the occupying administration passed a new law providing that "*[i]n order to ensure the good administration of the Ruritanian territory, as well as Xenian authorities' security, persons suspected of carrying out acts of resistance, or of having ties with the YLF, may be arrested and prosecuted by a Special Military Court*".

A Xenian official explained that this measure would enable the occupying forces to arrest any person suspected of being sympathetic to the YLF cause. "However", he added, "NGOs and human rights advocates can rest easy: it is very likely that most of them will be released after interrogation if they can prove that they do not support the rebel organization. But proven supporters will be considered a threat to Xenian security and will be sent to a special court created by Colonel Xutor by presidential decree". The ICRC has requested that its delegation in Ruritania be allowed access to the detention centres as soon as they open, but Colonel Xutor has stated that he himself is guaranteeing the prisoners' welfare, and that the ICRC's services are therefore not necessary.

Simultaneously, the occupying administration decided to remove local judges from their posts. Xenian law has been declared the law of the land and replaces Ruritanian law throughout the occupied territory. Xenian lawyers and administrators, as well as their families, have begun to settle in and around Ro in order to ensure the new law is enforced and to spread the Telman ideology.

#### Pillage and destruction

Many residents of Ro are trying to flee the city in order to escape from the authoritative rule of the Xenian administration and to reach non-occupied Ruritania. Some of them have managed to pass through Xenian posts in the countryside and reach Ruri. There, they have been interviewed by journalists and explained the situation in Ro. They report that Xenian soldiers have begun breaking into houses and taking private belongings.

"On Wednesday, I was home alone when three Xenian soldiers burst into my house", we were told by one inhabitant of Ro who has fled the occupied zone. "They broke down the door and one of them held a weapon to my face; the two others ran upstairs looking for something. They broke all the doors and turned everything upside down, asking for weapons and rifles. They were shouting that I was supporting the YLF and were asking where the weapons were. I did not have any and could not give them any. They got very mad and instead took carpets and my television." The man added, "The next day they came back and took my car, saying that they needed it for military purposes. I thought that they would come back again until there was nothing valuable left in the house so I decided to pack and leave the zone".

Other persons have reported attacks on cultural buildings in Ro by Xenian soldiers. The Ro Art Gallery has been damaged and many famous paintings and sculptures reported missing by the museum's manager.

At the same time, monuments dedicated to Yelmandan religion have been destroyed; a Xenian unit is also said to have vandalized a Yelmandan temple yesterday, breaking religious items and leaving behind garbage and other waste.

## **Forced recruitment**

NGOs are reporting that Xenia is forcibly integrating Ruritanian men in its armed forces, mostly to be sent to the Pafny region to fight the YLF. Reports say that even children and young men are being forcibly recruited. Most of them are between 15 and 18 years of age and are being forced to participate in the hostilities against the YLF, while children below 15 are reported to be used for other activities away from the combat zone, such as cooking, delivering messages and carrying ammunition.

## **Civilians of Telman origin placed in detention camps**

According to the Gaman Human Rights Association (GHRA), several people have been arrested by the Ruritanian authorities and placed in camps for "security reasons".

"The Ruritanian authorities told us that people of Telman origin were all supporting Xenia and were therefore potential security threats", reported Jan Tree, GHRA spokesperson. "Women, men and children have been gathered on the outskirts of the major Ruritanian cities. We have not had access to them yet, but they seem to be well treated and to have sufficient food and access to clear water. However, the camps are packed, so some of the men have been transferred to the local city prisons. Our greatest concern is that, according to one of our sources, these people have been forbidden to practise their Telman rituals, while only ethnic Yelmandan ministers are admitted inside the camps and teaching children."

## **CRACKING DOWN ON THE YLF**

As the fighting in Pafny between the YLF and Zanaduan-backed Xenian armed and police forces spreads, Colonel Xutor has announced a series of measures aimed at making it easier to fight secessionist groups. In keeping with the Prevention of Terrorism Act (see our editorial in the edition of Wednesday, 26 May), he has recalled, for example, that any civilians suspected of supporting the YLF will be arrested and prosecuted for association with a terrorist enterprise. In an arguable reaction to the YLF's statement that it was willing to respect the law of armed conflict, Colonel Xutor said, "If they are willing to abide by the law of armed conflict, we will do so too. But they will not be able to choose only the provisions that best suit them. For example, according to the law, all YLF members are enemies and as such, they can be shot at any time. And this is what we will do."

Colonel Xutor then declared that Xenian police forces and Xenian and Zanaduan armed forces would be given the right to shoot any YLF member on sight, without a preliminary warning, and at any time. "This will not be limited to members of the YLF who are armed and participating in hostilities. Any member caught either committing terrorist acts or plotting against Xenia will be treated as an active member of the terrorist organization and will be considered a legitimate target." Anti-terrorist squads have been deployed in Pafny and ordered to use any means necessary to quash the YLF. This includes tear gas and poison gas, both of which may be lawfully used in Xenia. The GHRA, which has been very active since the beginning of the conflict, has expressed deep concern that Xenia may be using unlawful means and methods of warfare.

## **News 4**

### **THE NATIONAL DAILY NEWSPAPER SUNDAY, 23 MAY 2010**

#### **Xenia uses dubious methods in Pafny**

Local NGOs have denounced Xenia's use in Pafny of what they allege are unlawful methods of war, and have appealed to the international community to condemn the violations.

#### **Xenia's Trojan horse**

Xenian ground forces have been trying unsuccessfully for days to enter Pafnya, encountering stronger-than-anticipated resistance from the YLF. This morning, a YLF leader announced that the city had almost been lost because of "Xenia's outrageous use of perfidious methods". Unable to turn the tide of the battle, the Xenian armed forces allegedly requisitioned three medical trucks marked with large red crosses that were stationed nearby and entered Pafnya, feigning to be medical personnel attached to the local Red Cross. The YLF was not long in realizing it had been duped and managed to drive the Xenian soldiers out of the city.

#### **Abuses of women and children**

A representative of the Gaman Human Rights Association (GHRA) reported yesterday that organized, premeditated sexual attacks were being used as a weapon by Xenian soldiers in Pafny. He added that the Xenian government was resisting international efforts to intervene and suppressing evidence of the violence. "Although we repeatedly condemn such violence, it persists virtually unchallenged", the GHRA official said. "More and more women are being attacked, and ever younger children

are victims of these atrocities”.

Other NGOs have also claimed that Xenia is waging a campaign of genocide against Yelmandans in Pafny. When asked about this, the GHRA said that it was too early to say whether the allegations were well-founded, but that it was investigating the matter and would soon release a report with its conclusions.

## **UN Resolution passed**

Last night, the United Nations Security Council finally came to an agreement on the terms of the resolution and the powers granted to the peacekeeping mission. Resolution 1927 (2009) states, inter alia, that:

*The Security Council,*

*Expressing* its utmost concern at the continuing escalation of hostilities in the Gama region;

*Emphasizing* the need for an immediate end of violence, based on the complete withdrawal of Xenian armed forces from the territory of Ruritania;

*Determined* to act for this withdrawal to happen at the earliest;

*Also determining* that the situation in Gama constitutes a threat to international peace and security,

1. *Calls for* a full cessation of hostilities based upon, in particular, the immediate cessation by Xenia of all attacks against the territory of Ruritania;
2. *Decides* to establish under its authority a United Nations Operation in Gama (UNOG);
3. *Authorizes* the deployment of UNOG and the use of all necessary means by UNOG in order to restore peace and security.
4. *Authorizes* UNOG to work with all parties to restore and establish national and local institutions for representative governance, promote the protection of human rights, and encourage international efforts to promote legal and judicial reform; and
5. *Requests*, consistent with the provisions of Article 16 of the Rome Statute, that the ICC, if a case arises involving current or former officials or personnel from a contributing State not a Party to the Rome Statute over acts or omissions relating to UNOG, shall for a 12-month period starting 4 July 2009 not commence or proceed with investigation or prosecution of any such case, unless the Security Council decides otherwise.

## **MASSIVE INFLUX OF REFUGEES IN UTOPIA**

As a consequence of the conflict raging in Xenia and Ruritania, Utopia has been overrun for days by dozens and even hundreds of migrants seeking asylum. The migrants are arriving by sea in Kallipolis, the main port on Utopia's east coast. Most are Xenians of Yelmandan origin living in the Pafny region, which has been hard hit by the conflict. Others are Ruritanian, often of Yelmandan origin as well, escaping Xenian occupation.

### **Debate over immigration reopened**

Utopia has the highest standard of living in the region and as a result is a magnet for migrants from Gama and the rest of the world.

As the economic crisis tightens its grip on the country, however, voices have been raised denouncing Peter Happy's lax immigration policies. The Prime Minister, desperate to maintain his high popularity with voters, has recently taken a harder line on immigration, moving away from the ideas advocated by his party. During a speech on the question of asylum-seekers from Xenia and Ruritania, Happy declared that each case should be reviewed individually. "The Geneva Convention of 1951, to which Utopia has been a party since its inception, stipulates that to be granted refugee status, all claimants have to prove they face a real threat of persecution. We must therefore consider each claim individually. This is why we cannot accept every newcomer on the sole basis that he or she is fleeing an armed conflict, as tragic as this may be." At the moment, migrants are being received at tightly packed premises on the Kallipolis Peninsula, where they await determination of their status.

### **Pacifist soldiers in danger of death**

Massive influxes of asylum-seekers are an unfortunate but common consequence of armed conflicts. People coming from Xenia and Ruritania are typical examples of migrants fleeing unacceptable living conditions. However, among the mass of refugees running from the war, there are some whose cases have generated sympathy among Utopians. Yesterday's newcomers included two Xenian reserve soldiers. They had been called up but decided to desert on learning about the crimes committed by the Xenian army. In Xenia, desertion is a crime of high treason punishable by death. The soldiers decided to walk to Ruritania, then to take the first boat to Kallipolis and ask for political asylum in Utopia. Utopia's people are known for their commitment to a neutral and pacifist tradition, and they applauded the bravery of the soldiers, who refused to become accomplices to the crimes committed by their country.

## **SETTLEMENT OF AN IDP CAMP IN RABOUNE**

*From our special correspondent in Ruri*

For days, the footpaths around Ro have been invaded by Yelmandan people trying to escape Xenian occupation. The laws recently voted by the Xenian army on the spot (see our article published on Saturday, 22 May 2010), and the occupying forces' aggressive behaviour towards people of Yelmandan origin, have forced numerous inhabitants of Ro to leave the city and seek refuge in a safer region.

As the presence of Xenian ground forces on the major roads to Ruri prevented them from heading to the capital, the inhabitants of Ro chose to head for the country's southern coast instead, leaving the door open to a possible escape by boat to Utopia if needed.

Hundreds of Yelmandans have been flocking every day to the old port of Raboune, which has become a reception centre for migrants. Most cannot afford the journey to Utopia and end up staying in Raboune, where conditions are rudimentary.

They are not the only people to have settled in Raboune, however. Pafnyans who have managed to cross the border have also rushed to the camp. The humanitarian associations that are on the scene and doing their best to meet the migrant population's essential needs are now worried because YLF members who fled Pafny have also arrived at the camp. They fear that, if the camp shelters armed rebels, it might become a target for Xenian attacks. Since the Ruritanian government is not able to meet the basic needs of the displaced population because of the ongoing war, it has called for assistance in Raboune camp from the United Nations High Commissioner for Refugees.

## **Three YLF members killed by a drone**

Yesterday morning, three members of the rebel YLF organization were found dead in Zanadu. According to the local police, fragments of what appears to be a small radio-controlled aircraft were found near the bodies, indicating that the rebels were killed by a drone. The three YLF members were camping in a remote region of Zanadu. According to our sources, Xenia is the only State in the region to possess drones. At the moment, the Xenian government has refused to answer questions on the matter.

## **News 5**

### **THE NATIONAL DAILY NEWSPAPER WEDNESDAY, 26 MAY 2010**

#### **Breaking news:**

Zanadu announces its withdrawal from Ruritania as this edition goes to print. The events of the past few days have sparked a huge public outcry in Zanadu. Following the revelations of the violations committed by Xenia in Ruritania and in Pafny, people have taken to the streets throughout Zanadu to protest against the State's involvement in the conflict. The population is calling for the immediate withdrawal of Zanaduan troops from Ruritania and an official explanation of the acts committed by Zanaduan soldiers. With the approaching general elections, the Zanaduan government has considered it prudent to bow to the population's will and announced its withdrawal from Ruritania. Xenia has refused to comment.

#### **Alarming situation in Pafny**

*From our special correspondent in Ruri*

**State of emergency still in force, Colonel Xutor says** Xenia is slowly regaining control over Pafny. The Xenian police, backed by the national army, have taken command of Pafnya and are restoring order in the city. Colonel Xutor, in an official statement, declared yesterday that Xenian domestic law still applies in that part of the territory and that YLF members will be treated accordingly. He added that the state of emergency was still in force in spite of the armed conflict and that he had given orders to the police to implement the measures it comprises.

#### **Prevention of Terrorism Act**

When the YLF bombing campaign started in March this year, Colonel Xutor declared a state of public emergency and derogated from the right to liberty. In the days following the declaration, the Xenian Parliament adopted the Prevention of Terrorism Act, intended to stem the increase in YLF violent acts. The Act provides, for example, that anyone can be held in a police station for questioning for up to 7 days before being brought before a judicial officer, if the Chief of Police considers this necessary to collect essential evidence. The Act also states that the family may be informed of the detention but that the detained person cannot make contact with anyone during this period. Finally, the Act stipulates that, if considered necessary in order to protect judges and sources of evidence, trials can be held in camera, with unidentified witnesses and hooded judges. It must be remembered that those found guilty of terrorist acts will incur the most serious penalties, including death.

When the state of emergency was declared three months ago, NGOs reacted and reminded Xenia that it is a party to the International Covenant on Civil and Political Rights. Immediately after Colonel Xutor's statement yesterday, human rights organizations again denounced Xenia's policy, arguing that the ongoing armed conflict in the region means that the laws of war apply as well as the human rights rules that are binding upon Xenia. YLF members should be treated accordingly, and not according to Xenian domestic law.

#### **Police raids against YLF houses**

Following yesterday's statement, the police stationed in Pafnya proceeded to arrest several YLF members. Overnight, law enforcement officials bearing firearms broke into various suspected YLF houses and forcibly arrested a dozen people, who were then taken to a detention centre in Xenia. The Chief of Police in Pafny said that this was a law enforcement operation not to be assimilated with the armed conflict going on in the region. The relevant measures of the Prevention of Terrorism Act would therefore be applied to the YLF detainees.

#### **YLF leader killed while picnicking with family**

The Xenian Ministry of Defence has just made public the killing of an alleged YLF leader yesterday afternoon. The Xenian Army is reported to have located him and shot him dead while he was picnicking in a park near Pafnya with his family. Witnesses said they saw other members of the rebel organization in the park that day. The reasons for their presence in the park are unknown at this stage.

#### **Is torture justified to save human lives?**

Pursuant to the Prevention of Terrorism Act "the main purpose of which is to give Xenian police forces the capacity to arrest any suspected YLF members or supporters" Colonel Xutor has declared that in a situation as extreme as the fight against terrorism, police forces are now allowed to use any method they deem necessary to save innocent lives.

This declaration is meant to be an answer "and a clear threat to the YLF" to yesterday afternoon's suicide attacks, which killed dozens of people in the Xenian city of Xubano.

We interviewed Raoul Xorak, Minister of the Interior and Colonel Xutor's right-hand-man, about this statement.

#### **The Utopian Tribune: Why did the government take this measure?**

**Raoul Xorak:** The government cannot allow innocent people to die just because some terrorists decide to blow themselves up on the marketplace. We are determined to take any action in our power to protect the Xenian population. As the Minister of the Interior, and above all as a human being, it was my duty to act.

**UT:** The Prevention of Terrorism Act already allows police forces to arrest anyone suspected of belonging to or supporting the YLF. What is the idea behind the additional measure?

**RX:** The Prevention of Terrorism Act enables us to arrest and detain YLF members and anyone else suspected of planning, ordering or committing terrorist acts. But the law is silent as to the methods of investigation. Don't get me wrong: this does not mean that everything and anything is allowed. As Colonel Xutor has said, the aim is simply to give the police every means to



stop a terrorist attack before it is too late.

**UT:** Doesn't this allow interrogators to resort to more brutal methods of interrogation, even torture?

**RX:** I am telling you, the objective here is to save innocent lives. Let's imagine the following situation: you know that a bomb is about to explode somewhere within the next three hours, and you have arrested the terrorist who planted the bomb. The thing is, you do not know where the bomb is going to explode, and your mother, your sister or brother, may be one of the victims. What would you do in that situation? You'd do your utmost to prevent that bomb from exploding and killing dozens of people. Besides, the Xenian population has understood that it is all about saving lives, and they are in favour of the decision.

## **UNOG already facing difficulties in Ruritania**

### **Xenian attacks on UNOG**

While UNOG positions have been notified to both countries, we have recorded at least two direct attacks by Xenian forces on UNOG in the first days following the deployment of the peacekeeping mission. These attacks resulted in the deaths of four unarmed peacekeepers, and another 10 UNOG staff were wounded.

UNOG reported about artillery bombardments within 100 metres of the base, some of which hit the base directly. While Ruritania had a base about 200 metres away, a UNOG official said there was no Ruritanian firing taking place within the immediate vicinity of the base that day.

Xenia officially apologised for these attacks, which it justified by the fact that "Ruritania has been firing rockets and artillery attacks from UNOG bases towards Xenian positions". We indeed received information that Ruritanian troops were using the vicinity of the UNOG positions as shields for launching their rockets. Such behaviour has been condemned by the international community as it puts the United Nations forces in great danger and constitutes an obvious violation of international humanitarian law. This being said, if Ruritanian attacks were indeed launched nearby UNOG positions, none were fired from within the bases themselves. Therefore, the direct targeting by Xenia, while the country claims to possess modern precision weapons, seems difficult to justify.

### **UNOG detains seven following skirmishes**

Owing to violence in and around Ro, UNOG units were deployed in the occupied area. However, it seems that the Xenian forces were ordered not to leave the occupied territory, and hostilities erupted between UNOG soldiers and Xenian forces, which some local civilians joined to protest against the occupation. The incident resulted in no deaths, but the UNOG unit involved in the fight captured 5 Xenian soldiers and 2 local Ruritanians who were said to be generating tensions. A UNOG official declared that such persons would for the moment be held in one of the UNOG bases in Ruritania, until their situation is clarified. They would then either be released or kept in detention for purposes of prosecution.

## **News 6**

### **THE NATIONAL DAILY NEWSPAPER SATURDAY, 29 MAY 2010**

#### **The end of the war**

*From our special correspondent in Ruri*

After Zanadu's announcement three days ago that it was withdrawing its troops from Ruritania, the face of the war has changed dramatically. Left with only one open front, Ruritania has been able to concentrate its military strength against one enemy. In just a few days, Ruritanian troops have managed to push the Xenian army back and liberate Ro from Xenian occupation. Yesterday, Ruritanian troops reached Pafny and began to expel Xenian forces from the area. The YLF political leader, Anto Pony, took the opportunity to reassert Pafny's independence and formed a provisional government.

On Friday, the opposition took advantage of Colonel Xutor's momentary weakness following losses in the Xenian army and overthrew him and his government in a coup d'État. The opposition forces, led by Mota Xandu, quickly seized the State Palace, Colonel Xutor's quarters and the seat of the government. A few hours later, when it became clear that Colonel Xutor's fifteen-year dictatorship was over, the opposition proclaimed itself the transitional government and announced that elections would soon be organized. At the same time, it declared that the time had come to end this deadly war and announced Xenia's surrender.

## **First disagreements over POW issues**

Following the announcement that the war was over, Xenian newspapers, which had previously been heavily censored, began reporting on the situation in the prisoner-of-war and internment camps. A few newspapers revealed that Xenia captured hundreds of Ruritanian soldiers and YLF rebels during the conflict.

Ruritania has already asked for the immediate release of all detained soldiers. In response, Mota Xandu, Xenia's new president, has said they will be freed on condition that Ruritania provides evidence that all Xenian soldiers have also been released. He suggests that Ruritania release 50 prisoners; once they have reached Xenian soil, Xenia will release 50 Ruritanian soldiers. The operation would be repeated until all the prisoners are free. NGOs have already denounced such an agreement, as it would take months for all the prisoners to be released.

### **Controversy over YLF status**

Another issue concerns the YLF rebels held in detention in a Xenian internment camp. Some of them were captured during combat operations, while others were captured during raids on their homes. All of them have been taken to the Enemy Combatant Internment Centre (ECIC), a makeshift camp set up by Xenia in the countryside. The newly established Government of Pafny has requested that all YLF members be handed over to Pafny; President Xandu has said that they should be prosecuted for the crimes they committed during the war, starting with their illegal resistance against Xenia. Anto Pony, Pafny's President, has declared that the YLF members detained by Xenia should be considered prisoners of war and treated as such. According to him, Pafny was engaged in a war of national liberation against Colonel Xutor's racist regime, and therefore their participation in the hostilities cannot be regarded as a crime.

### **Ruritanian prisoners refuse to go back to their country**

Zanadu, for its part, has already declared that it will release, within the next few days and without conditions, all prisoners of war detained by its forces on its territory. This decision may come back to haunt the government, which is determined to show its readiness to respect the Geneva Conventions, as several prisoners of war have declared that they do not want to be repatriated to Ruritania. If they are not repatriated, they will require an authorization to stay in Zanadu or to leave for Xenia or Utopia.

## **“Prisoners of Hell: Detainee Accounts”**

### **The GHRA's disturbing report on treatment of detainees**

The Gaman Human Rights Association (GHRA) has published a report claiming that Xenia did not respect the laws of war regarding the conditions of detention of Ruritanian soldiers and YLF members.

The GHRA starts by denouncing the status determination process established by the Xenian commander of the ECIC, which according to the GHRA's legal advisers does not respect the laws of war.

“We believe that the YLF members captured by Xenia during the conflict should be treated as prisoners of war”, says one legal adviser. “But in the ECIC, status determination was made by the ECIC's commander on visual assessment of each person and no one was determined to be a POW. Xenia has claimed until now that YLF members are unlawful combatants who therefore cannot be granted POW status. It argues that the YLF does not fulfil the conditions to be considered a militia under the Geneva Conventions: most members wear a uniform with a very recognizable black beret, but not all members were issued berets. Therefore Xenia has concluded that the rebel group as a whole cannot be regarded as combatants”.

The new transitional government today declared that captured YLF members will be detained pending prosecution by a Xenian tribunal.

After the declaration of independence, Pafny requested that YLF members be released and handed over to the Pafnyan government, otherwise the Xenian soldiers detained by the YLF would not be released either.

## DETAINEE ACCOUNTS

We reproduce here a few excerpts from the second part of the GHRA report, relating to captured Ruritanian soldiers who were sent to a camp in Zanadu. Many prisoners were transferred to Zanadu towards the end of the conflict, when it became clear that Xenia did not have the technical means to house the enormous number of soldiers it had captured.

Sergeant X<sup>[3]</sup> :

“The first day, I was taken to a small room with a table and two chairs in it. They sat me down and tied me to the chair so that I could not move. [â€] Then they began asking me questions about my identity, to which I responded, but soon they turned to operational questions and asked me where my unit was supposed to attack next. I knew that I was allowed not to answer such questions: we had had training on the laws of armed conflicts and they told us what we were obliged to say in such conditions and what we were allowed not to reveal. [â€] But then the soldier interrogating me started to beat me and said that he would beat me until I answered his questions.”

Prisoner X:

“My fellow soldiers and I were captured by Xenian forces on May 21 and then taken to a camp in Xenia. But we only stayed there for the night. [â€] The morning after, the Xenian commander told us that we would be taken to the POW camp in Zanadu. He added that Xenia could not waste money on vehicles to transport us to Zanadu, and that we had to walk to the camp. Some of us protested and said that it was a violation of the law. The commander then ordered that their shoes be taken away from them. They had to walk barefoot the whole time. [â€] The camp was located about a hundred kilometres away and therefore it took us days to get there. The Xenian soldiers had cars and motorbikes so they were fine, but it was the most awful days of my life. The weather was hot and sunny and we were only given water and food twice a day. Some of the prisoners died on the way, and the Xenian soldiers just left them there.”

### UNOG soldiers mistreating Ruritanian prisoner

Immediately after the announcement on Wednesday that UNOG had captured members of the Xenian army, together with two local Ruritanians, the Gaman Human Rights Association dispatched a lawyer to the UNOG base, arguing that the captured Ruritanians had a right to legal counsel.

Yesterday, the lawyer mandated by the GHRA publicly announced that one of the Ruritanian prisoners he has visited has been subject to mistreatments by UNOG soldiers. The prisoner reported about being beaten up by UNOG personnel during his first night at the base and being deprived of sleep. The GHRA immediately requested that the United Nations open an investigation about the prisoner’s allegations.Â

#### Footnotes

- <sup>[3]</sup> The names of the detainees are not revealed.

## News 7

### ▫ THE NATIONAL DAILY NEWSPAPER THURSDAY, 1 JULY 2010

#### Establishment of a special tribunal in Xenia

*From our special correspondent in Xen*

#### A hybrid tribunal for Gama

After the general elections in Xenia, which resulted in a landslide victory for Xandu’s party, the new government of Xenia, together with the government of newly independent Pafny and the United Nations, decided to establish a hybrid tribunal to investigate and prosecute violations committed during the conflict in Gama. Those drafting the statute of the tribunal, known as the Special Court for Xenia, based it on the Rome Statute of the International Criminal Court in The Hague.

Several persons have already been arrested and are being detained in Xen State Prison until their trial. The Xenian police have officially released the names of the first defendants to be tried by the Special Tribunal. Two categories of persons are currently being detained: Xenian nationals accused of having committed or ordered to commit war crimes, and former YLF members involved in so-called terrorist acts.

#### **The accused**

The Office of the Prosecutor is already working on a substantial number of cases. Bowing to pressure from human rights associations, the Special Court for Xenia, unlike most international tribunals, will not be limited to high-ranking criminals, but is supposed to prosecute all Xenian nationals suspected of having committed crimes falling under its jurisdiction.

The accused therefore include high-ranking Xenian army officers, such as A. Tux, who as a sergeant is said to have ordered that the Red Cross trucks be taken and used to enter Pafnya, and E. Xonck, a Xenian commander at a prisoner-of-war camp at which Ruritania prisoners were allegedly mistreated. They also include a number of regular troops who will be prosecuted on charges that they committed wrongful acts. Three Xenian soldiers who worked in the same prisoner-of-war camp have been arrested and indicted on charges that they ill-treated the prisoners under their control. Similarly, another four Xenian soldiers who fought in the conflict against Pafnya have also been arrested and charged with rape and other forms of sexual abuse.

The second category of accused is made up of former suspected YLF members who actively participated in the war. For the time being, only three members have been arrested; all are charged with crimes related to the manufacture of the explosive devices used in terrorist attacks against Xenian cities. F. Yala is accused of having manufactured the bombs and his accomplice, G. Ulym, of obtaining the explosive material they contained. The last YLF case is interesting, in that it is not proved that the accused was a member of the terrorist group. K. Nuyhe owns a chemist shop in Pafny and is only suspected of having sold the material in the bombs. The Office of the Prosecutor has had him arrested on the grounds that he can be tried merely because he knew what the explosive material would be used for.

#### **Colonel Xutor's indictment**

However, the trial that will attract everyone's attention is that of Colonel Xutor, who has yet to be arrested. The former Xenian dictator faces charges of genocide: it is reported that he intended to destroy the Yelmandan ethnic group in Pafny and ordered that the Xenian troops in Pafny leave no Yelmandan Pafnyan alive behind. His defence team has already announced that it will deny all charges of genocide. Many scholars have made public statements about the case, which can be expected to go down in history.

The Special Court may still issue arrest warrants for certain other members of the former Xenian Army, such as Lieutenant Ralf Xoumea, who is accused of ordering the massacre of the civilian population during the siege and attacks on Pafnya and who is said to have sought refuge in Utopia.

## **Exercise 1 - Scope of application of IHL**

### **News 1**

1. What is the nature of the armed conflict between Xenia and Ruritania? What is the applicable law?
2.
  - a. What is the nature of the armed conflict between Xenia and the YLF? At what point can one say that an armed conflict has broken out between Xenia and the YLF? What further elements, if any, would you need to answer this question?
  - b. Does the fact that Ruritania is allegedly providing assistance to the YLF in any way affect the nature of the conflict? What elements should be considered here?
  - c. Does the fact that Pafny declared independence have any effect on the classification of the conflict between Xenia and the YLF? Is it relevant for IHL whether a declaration of independence is successful or not? What is the applicable law in this case?

### **News 2**

1. What are the implications, if any, of Zanadu's involvement in the armed conflict on the latter's legal classification?

## **Exercise 2 - Wounded and sick**

### **News 2**

1. Was the shooting of the shipwrecked soldiers legal under IHL? What provisions apply to the situation?

2. Was the throwing of hand grenades lawful under IHL? Are the rules relating to the protection of the wounded, sick and shipwrecked also binding on civilians? In an international armed conflict, in what, if any, circumstances can the civilian population take up arms to defend its territory against an invading enemy?
3. Was the shooting of the wounded YLF member justified under IHL in the light of the Xenian soldier's explanation?

#### News 4

1. Was the requisition of the Red Cross trucks by the Xenian ground forces lawful under IHL? What considerations might prompt you to respond differently?

## Exercise 3 - Prisoners of war

#### News 6

1. a. Should POW status be accorded to the groups of people below? What other information might you need to assess their status?
  - a.
    - **N.B.:** Please do not discuss issues related to "unlawful combatants". This will be dealt with in a later session.

#### In the hands of Xenia:

- Ruritanian soldiers captured during the hostilities
- suspected YLF members captured during the hostilities
- suspected YLF members captured during house raids
- Former Combatants Militia (FCM) members captured during the hostilities, half of whom were not wearing green and yellow berets on capture

#### In the hands of the YLF:

- Xenian soldiers captured during the hostilities
- b. To what rights, if any, are those to whom you would accord POW status entitled? To what rights, if any, are those to whom you would not accord POW status entitled?
  - c. Do you agree with Xenia that YLF members should be prosecuted for their participation in the hostilities?
2. What do you think of the deal Mota Xandu wishes to make with Ruritania for the POWs' repatriation? Does Xenia have the right to hold some POWs while waiting for Ruritania to release Xenian POWs?
  3. News 6: "Prisoners of Hell: Detainee Accounts" Do you agree with Sergeant X that POWs have the right to withhold certain information from the Detaining Powers? If so, what information are POWs obliged to transmit? What information are they allowed not to reveal? What do you think of the conditions in which POWs were transferred to Zanadu, as described by Prisoner X? Did Xenian soldiers violate IHL by abandoning dead POWs on the way? If so, what should they have done?

## Exercise 4 - Civilians

#### News 3

1. After the publication of the daily news (see Xenian occupation of Ro), the NGO Gaman Human Rights Association (GHRA) wishes to issue an immediate press release. Your group works for the GHRA's legal division, which is composed of IHL specialists.
  - a. The head of the legal division has asked you to list all the events to which IHL might apply and to analyse them accordingly. This will be used for the press release.
  - b. Before you can get to work, the GHRA President, who is not specialized in IHL but likes to share his views, suggests that your team take into consideration the points below. You also have to check whether these points are relevant and explain diplomatically to your boss why "or why not."
    - Does Xenia intend to annex Ro for good, or only to occupy it for the duration of the war?
    - Do the Special Military Courts established by Xenia sit in occupied territory?
    - Are the local laws being modified for reasons of military necessity or to maintain public order?
    - Does Xenia consider that Ruritanian law discriminates against the country's Telman people and thus breaches their human rights?
    - Have the cultural buildings pillaged and damaged by Xenian forces been registered on the UNESCO World Heritage List?

#### News 3 & 4

1. Your boss also tells you that the GHRA will be holding a press conference on the methods used by Xenia in general. You should therefore also be ready to answer questions on the detention of people of Telman origin arrested on Ruritanian

territory (News 3) and on the treatment of women and children in Pafny (News 4).

## Exercise 5 - Refugees, internally displaced persons and IHL

Your group is working for the Office of the United Nations High Commissioner for Refugees (UNHCR). Following the conflict in Gama, several countries from the region have contacted you with questions about refugees and IDPs.

1. The UBA (Utopian Border Agency) needs your help with several tricky asylum claims. The UBA is a Utopian public institution. One of its tasks is to determine the status of asylum-seekers entering Utopian territory and to grant or deny such status in accordance with the 1951 Refugee Convention. You have to review the claims of the following persons and determine their status. At the same time, the UBA has asked your opinion of the Prime Minister's declaration (see News 4) and its relevance with regard to refugee law.
  - **Situation 1** (see News 4, "Massive influx of refugees in Utopia") The first person you see is a Xenian national of Yelmandan origin who used to live in Pafny. He tells you that he decided to flee Pafny because of the armed conflict. His main reason for fleeing is not the fighting between the YLF and the Xenian armed forces, but the repeated attacks by the army and the Xenian population against Yelmandan people in general. "Even my neighbours, who are also Xenian of Yelmandan origin, were attacked a few days ago; their house was burnt as well as all their possessions, and their eldest daughter killed. The day after the attack, I decided to leave."
  - **Situation 2** (see News 4, "Massive influx of refugees in Utopia") In front of you stand the two reserve soldiers whose story was related in the press. Following crimes committed by the Xenian army in Ruritania and Pafny, the two men refused to join the army when they were called up and decided to desert. "We are both pacifists, but we would be ready to take up arms to defend our country should it be in a just cause. But at present, Xenia is violating the law of war and committing atrocities against the civilian population. Our conscience prohibits us from taking part in that. This is why we have decided to desert." They both face the death penalty if they are sent back to Xenia, where desertion is considered a crime of high treason.
  - **Situation 3** (see News 7, "Establishment of a Special Court for Xenia") Lieutenant Ralf Xoumea, who is wanted by the Special Court for war crimes, has managed to cross the border into Utopia. He now claims political asylum. He asserts that he has received several death threats in letters he believes may have been written by Yelmandans seeking revenge for the crimes he is accused of. He refuses to go back home, as his house is located in a region near Pafny where the majority is Yelmandan. He also denies the charges against him.
2. The Zanaduan government has also called on your help regarding the status of prisoners of war who refuse to be repatriated to Ruritania.
  - **Situation 4** (see News 6, "First disagreements over POW issues") Several Ruritanian POWs, detained in Zanadu during the hostilities, have declared that they do not want to be sent back to their country on release. They fear persecution from the Ruritanian population, which believes that the prisoners should have died for their country instead of being captured. Several sick and wounded POWs who were released during the conflict suffered the wrath of their fellow citizens. Some were found dead, burnt with their houses. Zanadu asks you whether it has the right not to send these POWs to Ruritania, even though repatriation at the end of hostilities is an obligation under IHL. Zanadu also asks you whether these POWs are entitled to refugee status. The government, which is not used to dealing with questions related to refugee law, wonders whether refugee status is contingent on persecution by the State as opposed to persecution by other parties.
3. The Ruritanian government also appeals to you about the Raboune camp, located in the south of the country. Situation 5 (see News 4, "Settlement of an IDP camp in Raboune") Ruritania would like UNHCR to take charge of the IDPs arriving in Raboune, as the government is not in a position to do so because of the war. The Ruritanian government asks you what kind of assistance you can provide to the IDPs.
  - **Situation 6** (see News 4, "Settlement of an IDP camp in Raboune") The Ruritanian government is worried about information provided by local associations that fleeing YLF members have allegedly sought refuge in the Raboune camp. Since those members are believed to be armed, the government fears for the safety of other displaced persons. It asks you what the status of these YLF members is, knowing that they are Xenian nationals. It would like to deport them to Pafny, but is not sure it has the right to do so.

## Exercise 6 - Conduct of Hostilities

### News 2

It is 10.00 on Thursday May 20th 2010.

Your group is Xenia's War Cabinet. You have been summoned at 11.00 to present to Colonel Xutor, the Xenian President, with your plan of operations regarding the attack on Ruri. The situation is urgent – advancing Ruritanian forces are likely to recapture the hills by midday tomorrow.

Your group is divided as follow:

- One of your group should be nominated as the Chair and spokesman

- Half of the remaining group should be appointed as the Military Chief of Staff – your principal concern is to ensure that maximum military advantage is taken from the situation while minimising the risks to your own forces
- The other half represent the Foreign Ministry – you are concerned to ensure that there is strict compliance with IHL and the need to maintain Xenia’s international reputation as strict adherent to international law. Everyone is alert to the real costs of a continuing conflict.

Discuss whether the targets identified in the list are legitimate military targets according to IHL (you should also use the list of available weapons/forces mentioned in News 2 “An attack against Ruri could be disastrous”, to discuss issues of choice of weapons). In discussing the legitimacy of the targets, you should consider the list of concerns communicated by the Foreign Ministry in the attached Memorandum.

#### MILITARY INTELLIGENCE REPORT

The possible targets/operations which have been identified include:

- A. **Military garrison.** Covers a wide area. Predominantly military personnel. Some civilian suppliers live on site.
- B. **Nuclear power station.** Outskirts of city. Exclusively supplies military barracks and armaments factory. Defended by artillery unit.
- C. **Military officers’ club.** Located in civilian residential district. Bar also used by journalists reporting on conflict and off-duty civilian suppliers.
- D. **Armaments factory.** Located in industrial zone. Staffed by civilians.
- E. **Ruritania TV station.** Regularly broadcasts propaganda essential for on-going support for regime.
- F. **Downtown shopping centre.** Used by families of senior political figures. Will help to break morale.
- G. **Ruritania radio station.** Encourages attacks on Xenian civilians. May also send coded instructions to Ruritanian forces.
- H. **Coal-fuelled power station.** Supplies both barracks and civilian city. Located in industrial zone.
  - I. **Military control and command centre.** Located outside town but in centre of region’s only water purification, supply and pumping station.
  - J. **Headquarters of security police.** Adjacent to barracks.
- K. **Ruri National Art Gallery.** Listed as being under enhanced protection. Military Intelligence HQ has been housed in same building.
- L. **Ruri Cathedral.** Anti-aircraft unit has been installed in bell tower.
- M. **Bridges across river traversing city.** Used by both military and civilians.
- N. **Area Z.** Agreed demilitarized zone. Used for housing refugees from fighting. Reports that missile launcher has been located in zone.

*[The stop-press should be handed out to students during the exercise, in order to underline the difficulties of quick decision-making and bring out issues of proportionality.]*

**STOP PRESS !** Reports suggest that the President of Ruritania, as ceremonial Commander in Chief, is meeting with Ruritania Military High Command in his country villa at 17.30. Servants and family members will also be present.

#### FOREIGN MINISTRY MEMORANDUM TO REPRESENTATIVES IN WAR CABINET

Your Excellencies,

I have the honour to refer to your participation in today’s War Cabinet.

Xenia, Zanadu and Ruritania are all parties to the Geneva Conventions, the 1977 Additional Protocols, the Rome Statute and 1954 Hague Convention (including its 2nd Protocol).

In discussions in the War Cabinet it is respectfully suggested that you may wish to draw attention to the following issues:

- What are the relevant rules under international humanitarian law ?
- Are we satisfied that any strikes are solely against the military and military objectives ?
- Is any risk of harm to civilians and civilian objects proportionate ?
- Have the appropriate weapons/means of attack been selected ?
- Does the timing of attack make any difference ?
- Have any necessary precautions or warnings been provided ?
- What are the risks to Xenian forces of prosecution before the ICC ?
- In view of possible representations to the Protecting Power and at the international level, is there evidence that Ruritanian forces have committed violations of IHL in their conduct or location of military/civilian sites ?
- If so, does this affect the action that might be undertaken by our own forces ?

I have the honour to remain your obedient servant etc. etc. Chief Legal Adviser to the Xenian Ministry of Foreign Affairs

## Exercise 7 – Non-international armed conflicts (role plays)

### ROLE PLAY No. 1

#### GROUP 1

**Role: Ministry of the Interior, State of Xenia**

It is the end of April 2010 (see News 1). The Xenian armed forces are fighting the YLF. The violence has escalated to the point that the situation can be qualified as a non-international armed conflict.

The ICRC delegation in Xen has asked to meet with you (Ministry of the Interior) in order to discuss the following points:

- access to the Pafny region in order to provide assistance to the civilian population there;
- access to Xenian detention facilities in order to visit members of the YLF and other persons detained in connection with the conflict;
- the use of the Red Cross emblem by Xenian forces, as reported in

News 3, "Xenia's Trojan horse". Since the publication of the news, it has been revealed that the entire purpose of the operation was for Xenian forces to free a hostage held by the YLF and that two YLF members were killed in the course of the operation.

You agree to meet the ICRC delegation. Prepare your arguments for the meeting in accordance with your position.

#### Your position

- the ICRC may have access to the civilian population in Pafny but none of the food items, shelter materials or other forms of assistance are to be given to YLF members;
- the ICRC has no right to have access to Xenian detention facilities;
- the use of the emblem by the Xenian forces was unintended. You intend to apologize for any confusion this may have created in the eyes of the public. As far as you are concerned, there are no legal implications to this incident, except a confirmation that the YLF is engaging in hostage-taking, a crime under Xenian domestic law.

Your main objective is to show the public that you are working with the ICRC, but you do not want the ICRC to meddle in the prisoners' conditions of detention.

#### GROUP 2

**Role: ICRC**

It is the end of April 2010 (See News 1). The Xenian armed forces are fighting the YLF. The violence has escalated to the point that the situation can be qualified as a non-international armed conflict.

As representatives of the ICRC delegation in Xen, you have asked for a meeting with the Ministry of the Interior of Xenia in order to discuss the following points:

- access to the Pafny region in order to provide assistance to the civilian population there;
- access to Xenian detention facilities in order to visit members of the YLF and other persons detained in connection with the conflict;
- the use of the Red Cross emblem by Xenian forces, as reported in

News 3, "Xenia's Trojan horse". Since the publication of the news, it has been revealed that the entire purpose of the operation was for Xenian forces to free a hostage held by the YLF and that two YLF members were killed in the course of the operation.

The Ministry of the Interior has agreed to meet you. Prepare your arguments for the meeting in accordance with your position.

#### Your position

You consider that the situation in Xenia is a non-international armed conflict and that you have a legal basis for gaining access to the victims.

The humanitarian consequences of the conflict in the Pafny region are not being addressed by the Xenian government, which should therefore allow the ICRC to provide assistance to the civilian population.



There are numerous persons detained by Xenia because of their involvement in the conflict. You wish to have the right to verify their conditions of detention and provide them with the possibility of receiving news from their families.

You are alarmed by the use made of the emblem by Xenian forces in Pafny and wish to inform the government of the legal implications of the incident.

Your priority is to be granted access to the civilian population and detained persons.

## **ROLE PLAY No. 2**

### **GROUP 3**

**Role: Leader of the YLF**

It is the end of April 2010 (see News 1). The Xenian armed forces are fighting the YLF. The violence has escalated to the point that the situation can be qualified as a non-international armed conflict, even though Xenia denies this is the case.

The XBC (Xenian Broadcasting Corporation) has released a video in which a member of the YLF is seen mistreating a young Xenian soldier who is hors de combat. The video has shaken Xenian public opinion. Xenia has then demanded that the accused be transferred to the capital Xen for purposes of prosecution. As the leader of the YLF, you refuse to comply with this demand, arguing that the YLF is willing and able to investigate the alleged facts and act accordingly, including by imposing criminal sanctions if needed.

You have agreed to meet the Ministry of the Interior. Prepare your arguments for the meeting in accordance with your position.

#### **Your position**

- You want to be recognized as a party to the conflict and prove your willingness and capacity to respect and implement IHL.
- You are strongly opposed to the Prevention of Terrorism Act, the aim of which, in your view, is to kill and/or illegally arrest Yelmandan people, in violation of IHL (see News 3, "Cracking down on the YLF", and News 5, "Alarming situation in Pafny"). You want the Act to be abrogated.
- You are afraid that Xenia will not respect the fundamental rights of the accused or grant him a fair trial.

### **GROUP 4**

**Role: Ministry of the Interior, State of Xenia**

It is the end of April 2010 (see News 1). The Xenian armed forces are fighting the YLF. The violence has escalated to the point that the situation can be qualified as a non-international armed conflict, even though Xenia denies this is the case.

The XBC (Xenian Broadcasting Corporation) has released a video in which a member of the YLF is seen mistreating a young Xenian soldier who is hors de combat. The video has shaken Xenian public opinion. As Xenia's Ministry of the Interior, you have demanded that the accused be transferred to the capital, Xen, for prosecution. The leader of the YLF refuses to comply with your demand, arguing that the YLF is willing and able to investigate the alleged facts and act accordingly, including by imposing criminal sanctions if needed. You agree to meet the leader of the YLF. Prepare your arguments for the meeting in accordance with your position.

#### **Your position**

- You are being impelled by Xenian public opinion to prosecute the YLF member responsible for mistreating the soldier. Since Xenia's population is becoming more and more critical of the government's management of the conflict, you are desperate to prosecute the YLF member and satisfy public opinion.
- You consider that the YLF is a terrorist organization under the terms of the Prevention of Terrorism Act and that it does not respect IHL.
- So far, you have refused to consider that the violence has reached the threshold of an armed conflict, especially because you do not want to give legitimacy to the YLF by recognizing it as a party to the conflict.

Your main objective is to satisfy public opinion.

## **Exercise 8 – Implementation of IHL**

The war has ended, and Mota Xandu, the new Xenian President, has promised that he will take steps to ensure that IHL is correctly implemented and known to the entire population if an armed conflict ever breaks out again. To that end, he has established a commission charged with reviewing the main legal mechanisms relating to IHL.

**The Commission is divided into five Working Groups, as detailed in the Overview. Each Working Group will focus on a different legal instrument and will subsequently present its conclusions to the Commission.**

## **Working Groups – Overview**

### **Working group 1**

#### **Implementation of the 1954 Hague Convention on the Protection of Cultural Property and its 1999 Second Protocol**

1. What are the key points for implementation?
2. What are the main problems encountered? On the national / international level?
3. What would you recommend be done to improve the situation?

### **Working group 2**

#### **International Fact-Finding Commission established under P I, Art. 90**

1. What are the legal characteristics of the Commission according to P I, Art. 90?
2. If the Commission were to be deployed in Xenia today, what would be its terms of reference?
3. What are the Commission's chances of success and its shortcomings, given the way in which Art. 90 is phrased and with regard to IHL?

### **Working group 3**

#### **Legal advisers in armed forces**

1. What are the tasks of legal advisers in the armed forces?
2. What, in practice, are their chances of success and what obstacles / challenges do they encounter?
3. Do you see any potential for improvement? What would you recommend?

### **Working group 4**

#### **National committees on IHL**

1. What are the mandate and composition of national committees?
2. What, in practice, are their chances of success and what obstacles / challenges do they encounter?
3. What would you recommend? To governments? To National Societies?

### **Working group 5**

#### **GC I-IV, common Art. 1**

1. How do you interpret the provision in Art. 1 that the High Contracting Parties "undertake to respect and to ensure respect for the present Convention in all circumstances"? What is the legal quality of this provision?
2. To whom is common Art. 1 addressed?
3. What innovative measures and instruments might be adopted?