

Inaugural Edition of the NHRC-USLLS National Moot Court Competition

Moot Proposition

Before the Hon'ble Supreme Court of Orion

Ethan

v.

Republic of Aquila

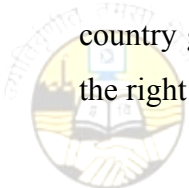
1. The Federal Republic of Orion (FRO) has a population of over 60,000,000 inhabitants. The population of FRO is mainly divided among three composed of 3 ethnic groups: Caelum, Lupus, and Octans. Its capital and largest city is Tucuna. The Caelum people form about 70% of the total population and mostly live in the North, while the Lupus people comprise roughly 20% and reside in the West. The Octans are a small population 7% and are concentrated in the Western region of FRO while the remaining population belongs to other minor ethnic groups including the Volans, who reside in the Southern region of FRO.
2. The Volans, a minor ethnic group, are denied citizenship under the FRO nationality law and there are also restrictions on their freedom of movement, access to state education and other rights unlike those available to other ethnic groups of FRO.
3. The FRO government considers the Volans as migrants from neighbouring countries. Despite living in FRO for many generations, the Volans are not recognised as an official ethnic group and have been denied citizenship since 1990, making them one of the world's largest stateless population.
4. The community has suffered decades of violence, discrimination and persecution in FRO. As a stateless population, the Volans families are denied basic rights and protection and are extremely vulnerable to exploitation and abuse.
5. Various armed insurrections by the Volans have taken place since the 1950s and the population has faced several military crackdowns in 1970, 1989-1992, 2015, and more particularly in 2018, when most of the Volans population of FRO was forced to leave the country. This was their largest exodus after a massive wave of violence

broke out in FRO's city of Tucuna, forcing around 800,000 people to seek refuge in other countries. Even the International Court has taken note of the genocide of the Volans in FRO and that the lives of these refugees are in serious danger, if they are deported.

6. After the exodus, a part of the displaced Volans entered the neighbouring country, Republic of Aquila (ROA) through various routes. They avoided staying near FRO's borders and the Volans spread over a large area across various states of ROA. As per records of ROA, around 40,000 displaced Volans are living illegally in ROA including about 10,000 Volans residing in and around the northern state of Dorado, ROA.
7. In a major crackdown by the government of ROA, a lot of Volans refugees have been detained in Holding Centres or jailed and face deportation back to FRO. Moreover, the government of ROA issued letters to the Chief Secretary of all the state governments advising them to sensitize all the law enforcement and intelligence agencies to take appropriate steps and initiate deportation processes.
8. In 2019, Ethan, a member of the Volans community residing in camps for Internally Displaced Persons near the borders of FRO, filed a petition before the Court of ROA praying for the issue of an appropriate writ directing the government of ROA to provide basic human rights and amenities to the members of the Volans community, who have taken refuge in ROA. The petitioner claimed to have registered themselves as refugees with the United Nations High Commission for refugees, and sought release of the detained Volans refugees and direction to the ROA not to deport the Volans refugees who have been detained in the jails of Dorado, ROA.
9. The contention of the petitioner is (i) that the principle of non-refoulement is part of the right guaranteed under Article 21 of the Constitution of ROA; (ii) that the rights guaranteed under Articles 14 and 21 are available even to noncitizens; and (iii) that though ROA is not a signatory to the United Nations Convention on the Status of Refugees 1951, it is a party to the Universal Declaration of Human Rights 1948, International Covenant on Civil and Political Rights, 1966 and the Convention on the Rights of the Child 1992 and that therefore non-refoulement is a binding obligation. The petitioners also contend that ROA is a signatory to the Protection of All Persons against Enforced Disappearances, Convention against Torture and Other Cruel and Inhuman or Degrading Treatment or Punishment.

10. The main opposition of the government of ROA are: (i) that intelligence agencies have raised serious concerns about the threat to the internal security of the country; (ii) that persons for whose protection against deportation, the present application has been filed, are foreigners within the meaning of Section 2(a) of the Foreigners Act, 1946; (iii) that ROA is not a signatory either to the United Nations Convention on the Status of Refugees 1951 or to the Protocol of the year 1967; (iv) that the principle of non-refoulement is applicable only to “contracting States”; (v) that since ROA has open/porous land borders with many countries, there is a continuous threat of influx of illegal immigrants; (vi) that such influx has posed serious national security ramifications; (vii) that there is organized and well-orchestrated influx of illegal immigrants through various agents and touts for monetary considerations; (viii) that Section 3 of the Foreigners Act empowers the Central Government to issue orders for prohibiting, regulating or restricting the entries of foreigners into ROA or their departure therefrom; (ix) that though the rights guaranteed under Articles 14 and 21 may be available to noncitizens, the fundamental right to reside and settle in this country guaranteed under Article 19(1)(e) is available only to the citizens; and (x) that the right of the Government to expel a foreigner is unlimited and absolute.

** All the laws of Orion are Pari Materia to that of law of India.*



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