

**5TH
INTERNATIONAL
LAW
MOOT COURT
COMPETITION
2018**



**12TH-14TH
OCTOBER
2018**

Vivekananda Institute of Professional Studies
(Affiliated to GGSIP University & Approved by BCI & AICTE)
NAAC Accredited 'A' Grade
ISO 9001:2008 Certified Institution



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— ADVOCATES LEGION —

MESSAGE FROM THE CHAIRMAN

The World today does not comprise of nations and states working and progressing in solitude.



With the advent of technology, boundaries have become in effect meaningless, with solidarity be-coming a prime agenda for all pioneers and incidents in one part of the globe affecting all. We, VIPS, Delhi strive to create legal professionals that understand these developments as well as answer the legal dilemma they pose and who can meet the demands of our great nation. We believe in developing holistic skill sets in all our students so that they are effectively prepared to take on any practical challenge posed to them. VIPS is now one of India's leading educational institutions guaranteeing excellence in education to students from across India for more than seventeen years.

VIPS was established with the objective of being the global leader of excellence in legal education through a combination of passion and compassion and molding students into lawyers capable of affecting social, economic and political development by fortifying the legal system. This goal continues has become extremely pertinent to today's scenario, given the pace at which the law is evolving.

I take this opportunity to invite your esteemed institution to be part of our Moot Court Competition and take away the same values and skills that transform lawyers into agents of social change.

- Dr. S.C Vats

MESSAGE FROM PRINCIPAL DIRECTOR



Vivekananda Institute of Professional Studies (VIPS) was established in the year 2000 with the sole objective of not only imparting quality education, but also shaping our students into good professionals, besides making them responsible citizens of the country. The management at VIPS has been inspired by the vision of Swami Vivekananda, which lays sufficient emphasis on "man making, character building, and nation building". His philosophy has been followed at this institute over all these years

in letter and spirit.

The last academic year can be noted as a "year of excellence" for the institute as it has achieved tremendous advancement in terms of academic development and new initiatives. During the years of institute has been accredited with CGPA of 3.10 on a four point scale at "A" grade by National Assessment and Accreditation Council (NAAC). Also the institute has cooperation of the highly competent and motivating teaching and non-teaching staff that has elevated VIPS to its present stature. It is our endeavour to provide the students with an excellent learning environment, with an opportunity to develop and grow holistically, beyond the barriers of class room through its innovative activities and programmes.

- Prof.(Dr.) Rattan Sharma

— ADVOCATES LEGION —

MESSAGE FROM DEAN



Vivekananda Law School (VLS), VIPS follows Swami Vivekananda's policy of "Man making, Character building, and Nation building". It recognises that India needs to staff its legal services with the goal of making it efficient and fully equipped to deliver in the changing scenario and increased expectations. VLS delves upon its expertise of the faculty members who have expertise in various areas of national and international law: trade, intellectual property, corporate, family, constitution and civil and criminal procedure to achieve this. The faculty strives to develop the conceptual clarity and insisting upon creation of research aptitude and critical approach amongst students to prepare them for challenges. VLS ensures all round development by organising activities such as moot courts, alternative dispute resolutions mechanisms, research, legal aid, debates. VLS also has collaborations with University of New Hampshire- Franklin Pierce Center, Concord, United States and National Law India University Bangalore to provide exposure to students at international and national levels. Thus, VLS is progressing and marching towards perfection consistently.

- Prof. (Dr.) Rashmi Salpekar
Dean, Vivekananda Law School

— ADVOCATES LEGION —

MESSAGE FROM THE ORGANISING COMMITTEE



Mooting is an art and every advocate is an artist. It is an exercise of applying theory into practice. It requires the skill of logically deriving the conclusion from a given problem, which in turn drives the arguments towards perfection. Advocates' Legion Moot Court Society VIPS, stands for honing the mooting skills of its students. The society organizes various mooting competitions at Intra and International level.

The society takes pride in announcing the 5th edition of VIPS International Law Moot Court Competition, commencing from 12th– 14th October 2018. We would be receiving teams from India and abroad. We invite your esteemed University/Institute/College to participate in our competition. We would be obliged with your graceful presence in our institute.

Faculty Convenor

Dr. Deepti Kohli

Associate Professor (VIPS)

— ADVOCATES LEGION —



VIPS INTERNATIONAL LAW MOOT

A moot court is an extracurricular activity at many law schools in which participants take part in simulated court proceedings, which usually involves drafting briefs (or memorials) and participating in oral argument. The event particularly involves 2 phases wherein the first phase the student research and the second where, they present the research orally in front of the simulated courts and judges.

A domestic moot court competition tends to focus on municipal law i.e. domestic laws of the nation, regional and international moot competitions tend to focus on subjects such as public international law, international human rights law, international humanitarian law, international trade law, international maritime law, and international commercial arbitration.

The moot court aims to make the participants research, deliberate and discuss upon a topic of imminent international importance which not only broadens the scope of their horizon but works as an endeavor to make students realize the happenings of the real world and how the same are to be dealt.

This year, we are pleased to announce our knowledge partner **The Indian Society of International Law (ISIL)**, a premier national institution for teaching, research and promotion of international law which was established in 1959, primarily due to the efforts of the late V.K. Krishna Menon. It has indeed been a long and fulfilling journey for the ISIL that it has earned a pride of place among the community of international lawyers throughout the world. The ISIL gave their valuable opinion in drafting the moot preposition and we hope for the huge success of the event.

VIVEKANANDA INSTITUTE OF PROFESSIONAL STUDIES

INVITATION LETTER

To,

The Vice Chancellor/ Dean/Registrar/ Head of the Department

Subject- Invitation for the 5th VIPS International Law Moot Court Competition 2018

Vivekananda Institute of Professional Studies, Law School, proudly announces its paramount annual event, 5th VIPS International Law Moot Court Competition, (herein after referred as 5th VIPS IMC 2018) from 12th-14th October, 2018. The moot court problem is based on contemporary issues in the context of Public International Law and International Humanitarian Law.

Advocates' Legion Moot Court Society of Vivekananda Law School, has been organizing various events of national and international significance, to provide a platform to the students to imbibe the pragmatic aspects of law and this moot court is one of such attempt to create a simulated atmosphere for the law students to accustomize them with the intricacies and expediencies of law.

The previous progressions of the VIPS IMC held, in 2013, 2014, 2016 and 2017 respectively; were a great success and experienced massive participation of more than 34 national and international teams. The competitions were sanctified by the presence of distinguished personalities from bench, bar and academics.

Following the same league, for the 5th VIPS IMC 2018, we take pride in inviting your esteemed University/Institute to participate in the competition. We would be glad to receive positive response about your participation to the Email ID: internationalmoot@vips.edu, so that together we can give our students a platform to hone their mooting skills. A copy of detailed rules and regulations is attached herewith. The last date for registration is 15th August, 2018. We would also like to inform that *The Indian Society of International Law (ISIL)* is our knowledge partner this year and they have helped in drafting the moot preposition and have given their valuable opinion regarding the same.

It would be an honour to have participation from your esteemed college/institution. Please find enclosed the copy of moot problem, rules, official schedule and travel form.

We look forward to your involvement.

Thanking You

With Warm regards,

Prof. (Dr.) Rashmi Salpekar,
Dean,
Vivekananda Law School,
Vivekananda Institute of Professional Studies

Dr. Deepti Kohli,
Associate Professor,
Faculty Convenor
Contact - +91-9899710439

E-mail- internationalmoot@vips.edu /deepti.kohli@vips.edu

Chirag Alagh- +91-9911444800
Student Convener

Advocates' Legion
Vivekananda Law School,
Vivekananda Institute of Professional Studies

— ADVOCATES LEGION —

5th VIPS INTERNATIONAL LAW MOOT COURT COMPETITION, 2018



RULES AND REGULATIONS

1. DEFINITIONS

- 1.1. “Administrators” means the Advocates’ Legion or any other person(s) appointed to administer the competition by the Advocates’ Legion.
- 1.2. “*Advocates’ Legion*” means, Vivekananda Law School Moot Court Society (VLSMCS) of Vivekananda Institute of Professional Studies (VIPS, Delhi)
- 1.3. “Competition” means, the 5th Vivekananda Institute of Professional Studies International Law Moot Court Competition, 2018 (hereinafter 5th VIPS IMC 2018).
- 1.4. “Competition Problem” means the official problem of the competition includes all clarifications or corrections notified by Advocates’ Legion.
- 1.5. “Judge” means, any person appointed to evaluate a participant’s oral pleadings.
- 1.6. “Written submission” means, the written pleadings of each participating team, written and submitted in accordance with the rules of 5th VIPS IMC 2018.
- 1.7. “Problem Clarifications” means, the clarifications of the competition problem as published by the Administrators on the official website.
- 1.8. “Competition Rules” means, all the rules contained herein and any other supplementary rules officially notified by the administrators.
- 1.9. “Participants” means, student representatives from eligible colleges recognized by the Administrators which compete in the competition, pursuant to Rule 3 and 4.

2. INTERPRETATION

The decision of the Administrators regarding the application and interpretation of Competition Rules shall be conclusive and final for the purposes of solving any discrepancies or disputed before, during or after the Competition.

3. PARTICIPATION AND ELIGIBILITY

- 3.1. The Competition is open to all bona fide regular students enrolled in any undergraduate law course or its equivalent in any University or Institute within or outside India recognized by the Bar Council or State Government or Central Government as the case may be.
- 3.2. Each team shall comprise three members i.e. two speakers and one researcher. A team may also be comprised of two members i.e. two speakers only. The composition of the team shall not be changed once a team has registered under any circumstances whatsoever.
- 3.3. The members of the team must be designated as either 'Speaker' or 'Researcher' and such designation shall be conveyed to the Administrators at the time of registration. No researcher under any circumstances shall be allowed to present any arguments during the Oral Rounds.
- 3.4. Changes in the aforementioned designations shall not be made without a request by the responsible Faculty in Charge or Head of the Institution or Department of the Team seeking such change, as the case may be.
- 3.5. The discretion to allow or disallow such change shall solely rest with the administrators depending upon the reasonability of the cause shown, stage of the Competition and compliance with the aforementioned rules.
- 3.6. No additional member or team coach besides the three or two members, as the case may be, as referred to in Rule 3.2 shall be recognized as a participant and be allowed to attend the Oral Rounds.

4. REGISTRATION

- 4.1. Interested teams are required to register by sending the following information latest by 15th August, 2018 through e-mail with the subject "**Registration- 5th VIPS IMC 2018**" at **internationalmoot@vips.edu**:
 - i. Name of the Institution or University
 - ii. Correspondence of Institution or University
 - iii. Details of Participants:

Speaker 1: Full Name, Contact, E-mail

Speaker 2: Full Name, Contact, E-mail

Researcher (If any): Full Name, Contact, E-mail

iv. Duly filed Registration Form

- 4.2. **Registration Fee:** Rs 5000/- for each participating team consisting of 3 or 2 members, to be submitted through Demand Draft or Cheque.
- 4.3. The teams for registration are required to send a scanned copy of the Registration Form (PDF Format only) duly signed and sealed by the Head of the Institution or Department along with the scanned copy of Demand Draft or Cheque drawn in favour of “Vivekananda Institute of Professional Studies Law School” latest by 15th August, 2018 on internationalmoot@vips.edu
- 4.4. The teams are required to send the hard copies of the registration form along payment by way of Demand Draft/Cheque via post or by hand to the Administrators latest by 20th August, 2018 on the following correspondence:

**The Dean,
5th VIPS IMC 2018
Advocates' Legion**

**Vivekananda Law School
Vivekananda Institute of Professional Studies,
AU Block, Pitampura, New Delhi, India – 110034.**

Phone: +91 (11) 27343401, 27343402, 27343403

Phone: Dr. Deepti Kohli (Faculty Convenor): +91- 9899710439

- 4.5. The receipt of hard copies of Registration Form along with the payment to the aforementioned address **only** shall confirm the participation of a team in the competition. An acknowledgment of the receipt of required documents as per Rule 4.3 shall be mailed to the respective Team Members and concerned Faculty along with Team Code Number.
- 4.6. Communication with any one of the Team Members shall be deemed to be communication to the entire team for the purposes of this Competition. The administrators shall not be responsible for any error or discrepancies in the details provided under Rule 4.1 and the Registration Form, in which case the details given in the latter shall prevail.

5. ACCOMMODATION AND TRANSPORT

- 5.1. Accommodation shall be provided to maximum three members per team for three days and two nights only i.e. from 12th October, 2018. It shall be extended to additional members in case of special request and no expenses shall be paid by the administrator for any such additional member.
- 5.2. Teams shall be responsible for all damages (if any) caused by the team during their stay.
- 5.3. Transportation shall be provided only to/from accommodation.
- 5.4. The teams from Delhi/NCR Region shall NOT be provided with accommodation or travel assistance.

6. CLARIFICATIONS TO THE COMPETITION PROBLEM

- 6.1. Teams may request for clarifications in the Competition Problem via e-mail with the subject “Clarifications- 5th VIPS IMC 2018” to internationalmoot@vips.edu, latest by 10th September, 2018 after which no clarifications shall be entertained. The clarifications shall be published on the official website soon thereafter.
- 6.2. No clarifications relating to the Competition Problem shall be entertained after the aforementioned date.

7. WRITTEN SUBMISSION

- 7.1. Each team is required to prepare a Written Submission for both the Petitioner/Appellant (as the case may be) and Respondent. The Written submission shall consist of the following mandatory contents:
 1. Cover Page (**Blue** for Petitioner/Appellant, **Red** for Respondent)
 - i. Name of the Court
 - ii. Petition/Appeal Number (if any)
 - iii. Name of both the Parties
 - iv. Cause Title
 - v. Written Submission for Petitioner/Appellant or Respondent
 - vi. Team Code in **bold** on **top right corner**
 2. Table of Contents
 3. Index of Authorities
 4. Statement of Jurisdiction
 5. Statement of Facts
 6. Statement of Issues

7. Legal Pleadings

8. Prayer

- 7.2. The Written Submission should not exceed the maximum limit of **25 Pages** (excluding Cover Page and Table of Contents) and should conform to the following specifications-

Font type: Times New Roman

Font size: 12

Line spacing: 1.5

Body of text: Justified

Margin: at least 1 inch from all sides

- 7.3. Teams shall follow a uniform style of citation (preferably the Bluebook Method of Citation- 19th edition) throughout their Written Submissions. Footnotes must conform to the following specifications-

Font type: Times New Roman

Font size: 10

Line spacing: 1

Body of text: Justified

- 7.4. **Submission Guidelines:**

- 7.4.1. All teams shall send the soft copy of the Written Submission for each side in PDF format via electronic mail with the file name "TC No.____ Petitioner/Respondent", on or before 15th September, 2018 to internationalmoot@vips.edu
- 7.4.2. Each day of delay shall be penalised with a deduction of 3 marks, with the first reduction being made at 16th September, 2018 at 00:00 A.M. IST.
- 7.4.3. Teams shall send **6 hard copies each** of the Written Submissions for each side (6 for the Petitioner and 6 for Respondent; **printed back to back**) latest by 20th September, 2018 to the following address:

The Dean,

5th VIPS IMC 2018

Advocates' Legion

Vivekananda Law School

Vivekananda Institute of Professional Studies,

AU Block, Pitampura, New Delhi, India – 110034.

Phone: +91 (11) 27343401, 27343402, 27343403

Phone: Dr. Deepti Kohli (Faculty Convenor): +91- 9899710439

7.4.4. The teams are required to carry hard copies of their Written Submission for personal use, which are excluded from the copies already submitted.

7.4.5. The hard copies submitted must be on A-4 size sheets, **both sides printed** and neatly spiral bound without any plastic dividers.

7.5. Evaluation Criteria:

S. No.	Criteria	Marks Allotted (100)
1.	Legal Reasoning and Argumentation	30
2.	Articulation of Facts	25
3.	Use of Authorities	25
4.	Presentation	15
5.	Compliance with Rules and Specifications	5

8. ORAL ROUNDS

8.1. The Competition shall consist of the following Rounds:

- I. The Preliminary Rounds;
- II. The Quarter Finals;
- III. The Semi Finals; and
- IV. The Final

8.2. Before the beginning of the oral rounds of any team, the Speakers of the team shall inform the court marshal regarding the allocation of time between themselves and the time reserved for rebuttal. Once informed, the timings shall not be changed.

- 8.3. If any speaker speaks for more than the time reserved for him/her, the extra time used by such speaker shall be deducted from the time allotted to the second speaker of that team. If the second speaker exceeds the time allotted to him/her, such time exceeded shall be deducted from the time reserved for rebuttals.
- 8.4. In case any opponent team fails to appear in an oral round, the round shall be conducted *ex-parte* and the scoring shall be done as if the defaulter team had been presenting and arguing.
- 8.5. **Preliminary Rounds:**
- 8.5.1. Each team shall argue once from each side on the same day according to the Draw of Lots which shall be notified to the teams shortly after the Opening Ceremony along with Exchange of Memorials.
- 8.5.2. There shall be two slots for the Preliminary Rounds. Each team shall argue once in each slot from different sides as per the draw of lots.
- 8.5.3. Each team shall strictly get a total time of **30 minutes** to argue subject to a minimum of 10 minutes per speaker and maximum 3 minutes for the Rebuttals and 1 minute of sur-rebuttal is permitted.
- 8.6. **Quarter Finals:**
- 8.6.1. 8 teams with two-wins shall proceed to the Quarter-Finals.
- 8.6.2. In case more than 8 teams qualify by way of two-wins, the top 8 teams with highest cumulative scores in both the slots of Preliminary Round combined (out of all the teams with two wins), shall proceed to this round.
- 8.6.3. In case less than 8 teams qualify by way of two-wins, the remaining teams shall be chosen on the basis of their cumulative scores in both the slots of the Preliminary Round combined.
- 8.6.4. In case of a tie in scores calculated as per Rules 8.3.2 or 8.3.3, the team with higher score in the Written Submission (Memorials) shall proceed to this round.
- 8.6.5. Each team shall strictly get a total time of **30 minutes** to argue subject to a minimum of 10 minutes per speaker including maximum 5 minutes for the Rebuttals if permitted.
- 8.6.6. Rebuttals shall only be permitted to the Petitioner/Appellant and in no circumstance whatsoever, shall the Respondent be allowed to spare any separate time for Rebuttal.
- 8.6.7. A time-extension for a maximum of 2 minutes may be granted to each team at the discretion of the Judge which shall include sur-rebuttal in the case of Respondent if sought for.

8.7. Semi-Finals:

- 8.7.1. The winning team of each round shall proceed to the Semi-Finals. In case of a tie, the team with a higher score in Written Submission shall qualify.
- 8.7.2. Each team shall get a total time of **40 minutes** to argue subject to a minimum of 15 minutes per speaker including maximum 5 minutes for the Rebuttals, if permitted.
- 8.7.3. Rebuttals shall only be permitted to the Petitioner/Appellant and in no circumstance whatsoever, shall the Respondent be allowed to spare any separate time for Rebuttal.
- 8.7.4. A time-extension for a maximum of 2 minutes may be granted to each team at the discretion of the Judge which shall include sur-rebuttal in the case of Respondent if sought for.

8.8. Finals:

- 8.8.1. The winning team of each round shall proceed to the Finals. In case of a tie, the team with a higher score in Written Submission shall qualify.
- 8.8.2. Each team shall get a total time of **50 minutes** to argue subject to a minimum of 20 minutes per speaker including maximum 5 minutes for the Rebuttals, if permitted.
- 8.8.3. Rebuttals shall only be permitted to the Petitioner/Appellant and in no circumstance whatsoever, shall the Respondent be allowed to spare any separate time for Rebuttal
- 8.8.4. A time-extension for a maximum of 5 minutes may be granted to each team at the discretion of the Judge which shall include sur-rebuttal in the case of Respondent if sought for.

8.9. Evaluation Criteria:

S. No.	Criteria	Marks Allotted (100)
1.	Legal Reasoning and Argumentation	25
2.	Advocacy Skills and Responsiveness	25
3.	Interpretation and Articulation of Facts	20
4.	Use of Authorities	20

5.	Time Management and Court Demeanour	10
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9. AWARDS

1. Best Team – Rs. 25,000/- along with Certificates and Trophy
2. Runner up- Rs. 15,000/- along with Certificates and Trophy
3. Best Speaker - Rs. 10,000/- along with Certificates and Trophy
4. Best Memorial – Rs. 10,000/- along with Certificates and Trophy

10. MISCELLANEOUS

10.1. The teams may contact the following regarding any query related to the event:

Dr. Deepti Kohli,
Faculty Convenor

Contact - +919899710439

E-mail- internationalmoot@vips.edu / deepti.kohli@vips.edu

Chirag Alagh
Student Convener

Contact- +91-9911444800

Official Website:- <https://advocateslegion.wordpress.com/>

- 10.2. The dress code for the competition as well as during other related ceremonies shall be professional business attire and strictly black and white.
- 10.3. Any compiled Research Material (Compendium) or other supplementary documents may be submitted to the court marshal prior to the oral rounds which will be submitted to the judges at their discretion.
- 10.4. During the oral rounds, teams shall not be allowed to use any electronic devices such as laptops, LCD projectors, video camera etc. and any use thereof shall lead to an immediate disqualification or any other penal action as the administrators may deem fit.

- 10.5. Teams must not reveal their University or country of origin or names of the Participants anywhere in the Written Submission or in the course of the Oral arguments. Each team must be identified only by the unique team code once it has been allotted as per Rule 4.4 and all communications with the administrators or Judges thereafter shall be done through the Team Code only. Violation of anonymity or scouting at any point shall lead to immediate disqualification
- 10.6. The Administrators reserve the right to amend, modify, change or repeal any of the Competition Rules at any point of time. The Administrators shall communicate any changes made in the Competition Rules to the teams.
- 10.7. The Administrator(s) reserve the right to take decisions on any matter not mentioned in the Competition Rules. Any such decision taken by the Administrators shall be final and binding.
- 10.8. No audio or videotaping of oral pleadings is permitted without the permission of the Administrators.
- 10.9. If a team believes that violation of any of the Competition Rules has taken place at any stage of the competition, the teams within half an hour after the completion of the round wherein a violation has allegedly occurred shall register a complaint with the Faculty/Student Convener of the Advocates' Legion and under no circumstances the teams are allowed to approach the Judges for any complaints.
- 10.10. The Administrators reserve all rights to audio and videotaping, or any other form of audio or visual reproduction, of any oral round or part thereof.

—ADVOCATES LEGION—

5th VIVEKANANDA INSTITUTE OF PROFESSIONAL STUDIES INTERNATIONAL
LAW MOOT COURT COMPETITION, 2018



MOOT PROBLEM

INTERNATIONAL COURT OF JUSTICE

SPECIAL AGREEMENT

BETWEEN

THE STATE OF BARTOVIA (APPLICANT)

AND

THE STATE OF IDRIS (RESPONDENT)

TO SUBMIT TO THE INTERNATIONAL COURT OF JUSTICE THE DISPUTE BETWEEN
THE PARTIES

CONCERNING IDRIS-BARTOVIA INTERNATIONAL INVESTMENT AGREEMENT,
2017& OBLIGATION OF BOTH NATIONS REGARDING MARKOVIAN RAGAANS

Jointly notified to the Court on 10th October 2018

Moot preposition authored by: - **Ms. Bhavya Gupta**, Faculty, VSLLS, VIPS under the support and guidance of **Prof. (Dr.) Rashmi Salpekar**, Dean, VSLLS, VIPS with special thanks to **Shri Pravin. H. Parekh**, Senior Advocate, President, *The Indian Society of International Law (ISIL)*, New Delhi, for consenting to be the Knowledge Partner and **Shri Vinai Kumar Singh**, Deputy Director, ISIL for giving their valuable opinion on moot problem.

Note: Any attempt to contact the author of moot preposition or the knowledge partner shall directly lead to disqualification and the organizers shall forfeit any amount submitted by the participants.

JOINT NOTIFICATION ADDRESSED TO THE REGISTRAR OF THE COURT

The Hague, 10th October 2018

On behalf of the State of Bartovia (“ the Applicant”) and the State of Idris (“ the Respondent”), in accordance with Article 40 (1) of the Statute of International Court of Justice, we have the honour to present before you the original Special Agreement for submission to the International Court of Justice of the dispute between the Applicant and the Respondent concerning Idris-Bartovia International Investment Agreement, 2017 and obligation of both nations regarding Markovian Ragaans, signed in the Hague, The Netherlands, on 10th October, 2018.

Ambassador of the State of Bartovia

To the Republic of Netherlands

Ambassador of the State of Idris

To the Republic of Netherlands

— ADVOCATES LEGION —

SPECIAL AGREEMENT

SUBMITTED TO THE INTERNATIONAL COURT OF JUSTICE BY THE STATE OF BARTOVIA AND THE STATE OF IDRIS ON THE DISPUTE CONCERNING IDRIS-BARTOVIA INTERNATIONAL INVESTMENT AGREEMENT, 2017 AND OBLIGATION OF BOTH NATIONS REGARDING MARKOVIAN RAGAANS

The State of Bartovia and the State of Idris,

Considering that differences have arisen between them, concerning state responsibility to implement Idris-Bartovia International Investment Agreement, 2017 and obligation of both nations regarding Markovian Ragaans;

Recognizing that the Parties concerned have been unable to settle the dispute by negotiation;

Desiring further to define the issues to be submitted to the International Court of Justice (hereinafter “the Court”) for settling this dispute;

In furtherance thereof the Parties have concluded the following Special Agreement:

Article 1

The Parties submit the questions contained in the Special Agreement (together with Corrections and Clarifications to follow) to the Court pursuant to Article 40(1) of the Court’s Statute.

Article 2

It is agreed by the Parties that State of Bartovia shall act as Applicant and the State of Idris as Respondent, but such agreement is without prejudice to any question of the burden of proof.

Article 3

(a) The Court is requested to decide the Case on the basis of the rules and principles of international law, including any applicable treaties.

(b) The Court is also requested to determine the legal consequences, including the rights and obligations of the Parties, arising from its Judgment on the questions presented in the Case.

Article 4

(a) Procedures shall be regulated in accordance with the applicable provisions of the Official Rules of the Fifth VIPS International Moot Court Competition.

(b) The Parties request the Court to order that the written proceedings should consist of Memorials presented by each of the Parties not later than the date set forth in the Official Schedule of the Fifth VIPS International Moot Court Competition.

Article 5

(a) The Parties shall accept the Judgment of the Court as final and binding and shall execute it in its entirety and in good faith.

(b) Immediately after the transmission of any Judgment, the Parties shall enter into negotiations on the modalities for its execution.

In witness whereof, the undersigned, being duly authorized, have signed the present Special Agreement and have affixed thereto their respective seals of office.

Done in The Hague, The Netherlands, this day of October 10th in the year 2018, in triplicate in the English language.

Ambassador of the State of Bartovia

To the Republic of Netherlands

Ambassador of the State of Idris

To the Republic of Netherlands

BARTOVIA v. IDRIS

1. Bartovia and Idris, both member states of United Nations, are sovereign nations. Both states respect International Law and its obligations. Bartovia and Idris are neighboring countries. Bartovia is a low lying riverine country located between the foothills of the Mount Sapo and the Indriana Ocean. It is bound by Idris to the north, east and west, Markovia to the southeast and by the Bay of Benegal to the south. The country is characterized by alluvial plains which are dissected by numerous connecting rivers as well as streams and the country is vulnerable to both flood and drought. The land is devoted mainly to agriculture due to its fertile alluvial soils.

Background: Bartovia- Markovia refugee crisis

2. Markovia is an under developed nation. The Aldovia region of Markovia, like the Kolechia state, the Krakozhia state, and the special division of the Cordonias, has witnessed insurgency since Markovia's independence in 1948. The Ragaans are descendants of Arab and Persian traders who settled in the Aldovia region, and there has been intermarriage with the indigenous population over several hundred years. The population of the Ragaan in this region is about 3 million. The region has a common boundary with Bartovia, separated by the Naphtalia River and interspersed with forests and hills. The Aldovia province has been traditionally under the influence of Bartovian culture because of its proximity to Bartovia.
3. There had been several displacements of the Ragaans, the major one being in 1998, when the Markovia government announced that there was an alarming increase in the number of illegal migrants from Bartovia, in the Aldovia region. A campaign disguised as a search for illegal immigrants produced a wave of refugees to Bartovia. At least 130,000 Ragaans had deserted their homes and went over to Bartovia. The Markovia authorities maintained that those who had fled across the border were Bartovia nationals who had illegally entered Markovia.

4. In Markovia, during general elections in 2005, the Ragaans supported the National Liberation Front for Democracy (NLD), whose focus was termination of military rule in Markovia. The military regime, under the State Law and Order Restoration Council, negated the results of the general election and intensified its campaign against the ethnic minorities who supported the NLD. The Markovia authorities alleged that the Ragaans in general were aiding, abetting, and hiding the insurgents who were supporting an independent state of Aldovia. The authorities issued arrest warrants against 10,000 students for an alleged insurgency plot against the State. Subsequently the army terrorized the entire Ragaan population, who started deserting their homes.
5. Under International pressure and to maintain good relations with Bartovia, Markovia authorities agreed to accept the Ragaan refugees in Bartovia on basis of some evidence of prior residence in Markovia and an international agreement was signed in May 2010 by the foreign ministers of both the countries for “safe and voluntary repatriation” of Ragaan refugees. However, majority of Ragaans were against it and refused to go back as they feared being persecuted in Markovia.
6. In 2011, devastating cyclones struck Bartovia in which 200 nationals died, many injured, 86 refugees died and 12 out of 19 camps were completely razed to the ground. Since Bartovian economy is majorly based on cash crops, flooding and high winds destroyed the crops and a situation of famine and malnutrition began to surface. There was less income from exports and Bartovia experienced a general economic slowdown. Additionally, it faced cost of creating new infrastructure. Businesses were closed down and unemployment increased. The economy of Bartovia took a serious hit and marked the beginning of recession. Certain political factions in Bartovia blamed the influx of Ragaan refugees in the country as a cause of rising unemployment in the country. The general mood of the Bartovian public was hostile towards the refugees.
7. The repatriation came to a virtual halt in 2012 when Markovian authorities demanded re-verification of individual refugees who had earlier been cleared for repatriation. There were also fresh cases of Ragaans from Markovia returning to Bartovia during this period

due to sustained persecution of Ragaans in Markovia. This led to an increased unrest between Bartovian nationals and widespread protests throughout the country against Ragaans started.

8. In 2013, Bartovian Armed Forces started pushing back groups of Ragaans coming from Markovia at Bartovian Borders. They were apprehended while crossing the border and were formally handed over to the Markovia Border Security Force. Bartovia announced that it would not allow Ragaans to settle in the country permanently and since Bartovia is itself a developing nation, it should be the responsibility of developed neighboring nations like Idris to settle them. Bartovia, with its limited resources, cannot and should not bear the additional burden of allowing Ragaans to stay in Bartovia permanently. Markovian authorities, in the meantime, had set a deadline for repatriation stating that the repatriation of remaining refugees must be completed by December 2017.
9. Tension, chaos and confusion began to mount inside refugee camps. Incidents of bloody clashes between Bartovian security forces and armed refugee militants who were opposing the process of repatriation became rampant. Large contingents of Bartovian forces raided the camps, apprehended refugees and made number of arrests.
10. In search of better life, Ragaans started to flee from Bartovia to the neighboring area Mizo in Idris where cheap and fast labour was becoming popular in manufacturing of Solar Panels by SMEs.

Idris National Solar Program

11. In 2010, Idris launched National Solar Program aiming to establish Idris as a global leader in solar energy by creating the policy conditions for its diffusion across the country as quickly as possible. To incentivize the production of solar energy within the country, the government under the program agrees to enter into long-term power purchase agreements with solar power producers, effectively guaranteeing the sale of the energy produced and the price that such a solar power producer could obtain. Thereafter, it would sell such energy through distribution utilities to the ultimate consumer. However, a

solar power producer, to be eligible to participate under the program, is required compulsorily to use certain domestically sourced inputs, namely solar cells and modules for certain types of solar projects. In other words, unless a solar power producer satisfies this domestic content requirement, the government will not guarantee the purchase of the energy produced.

12. In late 2017, the WTO Panel for Dispute settlement, upon receiving complaint, ruled that Idris's National Solar Program is in violation of the global trading rules. Specifically, it said, Idris has violated its "national treatment" obligation by unfavourably discriminating against imported solar cells and modules. In other words, Idris was discriminating between solar cells and modules which were otherwise identical on the basis of the national 'origin' of the cells and modules, a clear violation of its trade commitment under WTO Agreement as well as TRIMs. However, Idris has gone for appeal against such ruling principally relying on the 'government procurement' justification, which permitted countries to derogate from their national treatment obligation provided that the measure was related to "the procurement by governmental agencies of products purchased for governmental purposes and not with a view to commercial resale or use in production of goods for commercial sale". Idris also argued that the measure was justified under the general exceptions since it was necessary to secure compliance with its domestic and international law obligations relating to ecologically sustainable development and climate change.

13. As a result of this ruling, the domestic small and medium scale producers of solar cells and modules for solar plants suffered huge losses and were closed down as the Foreign Investors began to use solar cells and modules from third states which were of better compliance with International standards. Abrupt closure of SMEs in Idris rendered the Ragaans in Mizoas also other indigenous population at a loss of livelihood. This further strengthened the feeling of hatred amongst the residents of Mizo against Ragaans with whom they were already competing for livelihood. State-wide violent protests targeting Ragaans erupted and abuses including forced evictions, destruction of property, arbitrary arrests, torture, and killings started in Mizo. Ragaans, who have already been at the

receiving end of such hatred since as long as they could remember, vowed not to be suppressed this time. They formed allegiance with extremists groups and formed an organized armed group for actively establishing their control over Mizo.

14. In early 2017, Idris had entered into an International Investment Agreement with Bartovia whereby Investors from Bartovia agreed to invest in production of solar energy in Idris subject to the domestic content requirement for initially a period of five years w.e.f 2018. Many bids were made and were accepted by the Government of Idris. However, after the ruling of WTO and closure of units manufacturing Solar cells due to losses and unavailability of cheap labour, Idris communicated to all the solar power producers of its inability to provide Solar cells and waived the Domestic Content Requirement (“DCR”) for Solar cells. However, DCR for modules was retained but at higher rate as the same began to be assembled in Idris after buying solar cells and metal from other States. Government of Bartovia, in interest of its investors, called upon the Government of Idris to comply with its treaty obligation and to fulfil its contractual obligations with Investors as per proposals (bids) accepted as Bartovia does not have any solar cell manufacturing units.
15. The Government of Idris reacted by announcing its intention to deport Ragaans, being undocumented migrants in Idris, back to Bartovia, from where they entered into Idris as their continued stay has resulted into serious national security ramifications for Idris. The government also alleged having security inputs indicating links of Ragaans with certain extremists groups that want to spread communal and sectarian violence in Idris. However, many migrants were charge-sheeted and sent to central jails to be prosecuted instead of deportation. This led to a mass scale separation of families especially of children from their parents who were forced to leave the country without their guardians.
16. Realising the unfortunate fate of Ragaans and in their own economic interests of being beneficiaries of the solar power production by Idris, major powers of the world intervened and mediated between Idris and Bartovia and were successful in encouraging them to refer their dispute to ICJ.

17. A special agreement to submit the dispute to the ICJ was signed by the ambassadors of both Idris and Bartovia in New York in the presence of their prime ministers, when they visited the UN headquarters for Annual UN General Assembly session during October 2018.
18. Along with the Universal Declaration of Human Rights, both the States have signed and ratified International Covenant on Civil and Political Rights, 1966, International Covenant on Economic, Social and Cultural Rights, 1966, Geneva Conventions, 1949 and its Additional Protocols, 1977, Marrakesh Agreement establishing WTO 1994, International Convention on elimination of all forms of Racial Discrimination, International Convention on Protection of the Rights of All Migrant Workers and Members of their Families 2003; 1985 GA Res. No. 40/144 “Declaration on Human Rights of Individuals who are not nationals of the country in which they live”, United Nations Declaration on Territorial Asylum , 1967 and Bangkok Principles, 1966.
19. Bartovia has signed and ratified the International Convention relating to the Status of the Refugees, 1951 and United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
20. Idris has signed but not ratified United National Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and Convention for protection of all persons from Enforced Disappearance, 2006.

Issues:

21. Bartovia requests the Court to adjudge and declare:
- a) That Idris cannot withdraw from its obligation incurred under Idris-Bartovia International Investment Agreement, 2017 by altering terms of contract entered into with Investors of Bartovia. That Idris, by such untimely withdrawal has caused damages to Investors in Bartovia and should pay compensation for the same in addition to continuation of contract on original terms.

- b) That Bartovia is not under any obligation to accept return of Ragaans as they left voluntarily and that Idris is bound by the customary international law principle of non-refoulement and cannot forcibly repatriate Ragaan refugees to Bartovia.
- c) That Idris has violated its obligation under International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families and in particular Article 22 of the convention by expelling them collectively and forcibly and that the arbitrary arrests and detentions of Ragaans in Idris is against the Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live [GA Res. No. 40/144 (1985)]
- d) That breakdown of families by separation of children from parents due to forceful deportation amounts to gross human rights violation by the State of Idris and is also violative of its obligation under International Human Rights Instruments including Convention on the Rights of the Child.

22. Idris requests the Court to adjudge and declare:

- a) That Idrish has not withdrawn from its obligation under the Idris-Bartovia International Investment Agreement, 2017 and is still performing the contracts with investors. That the change in terms of the contract is due to decision of World Trade Organisation and as such Idris cannot be made liable for change in circumstances that occurs due to external factors.
- b) That Bartovia has an obligation to accept Ragaans because by subjecting its refugees to torture, violence and forced repatriation (refoulement) to their country of origin, due to which they illegally entered into Idris, Bartovia has violated its obligation under the Refugee Convention 1951 and such flight cannot be termed as 'voluntary'. Further, Idris is not bound by the principle of non-refoulement as Ragaans are undocumented migrants and not refugees in Idris. Idris is also not bound by the customary international law principle of non-refoulement or under any other similar international obligation as there exists reasonable grounds for considering Ragaans as a danger to its national security and integrity.
- c) That the collective expulsion of undocumented persons is justified in wake of threat to peace and security of Idris and that arrests were not arbitrary as Ragaans

were found to be actively engaged in acts of hostilities against the nationals of Idris.

- d) That in fulfilment of its international human rights obligation, Idris has refrained from detaining children with their parents and have safely deported them to Bartovian Borders.



— ADVOCATES LEGION —

INTERNATIONAL INVESTMENT AGREEMENT

APPENDIX A – EXCERPTS FROM IDRIS-BARTOVIA INTERNATIONAL INVESTMENT AGREEMENT FOR SUPPLY & INSTALLATION OF SOLAR POWER SYSTEMS 2017

CONTRACT PERIOD: 1 June 2018 to 31 May 2023 (plus 1 optional extension of up to 12 months)

BILATERAL INVESTMENT TREATY

BETWEEN

THE GOVERNMENT OF IDRIS

AND

GOVERNMENT OF BARTOVIA

Preamble

The Government of the Republic of India and the Government of Bartovia (hereinafter referred to as the “Party” individually or the “Parties” collectively);

Desiring to promote bilateral cooperation between the Parties with respect to foreign investments; and

Recognising that the promotion and the protection of investments of investors of one Party in the territory of the other Party will be conducive to the stimulation of mutually beneficial business activity, to the development of economic cooperation between them and to the promotion of sustainable development,

Reaffirming the right of Parties to regulate investments in their territory in accordance with their law and policy objectives.

Recognising the important contribution investment can make to the sustainable development of the State Parties, including the reduction of poverty, increase of productive capacity, economic growth, the transfer of technology, and the furtherance of human rights and human development;

Understanding that sustainable development requires the fulfilment of the economic, social and environmental pillars that are embedded within the concept;

Seeking an overall balance of the rights and obligations among the State Parties, the investors, and the investments under this Agreement;

Have agreed as follows:

Article 1: Objective

The main objective of this Agreement is to encourage and increase investments between investors of one State Party into the territory of the other State Party that support the sustainable development of each Party, and in particular the Host State where an investment is to be located.

Article 2 : Definitions

Home State means, in relation to -

1. a natural person, the State Party of nationality or predominant residence of the investor in accordance with the laws of that State Party ;
2. a legal or juridical person, the State Party of incorporation or registration of the investor in accordance with the laws of that State Party, and declared as the Home State at the time of registration where required under the law of the Host State.

Host State means the State Party where the investment is located.

Investor means a natural person or a juridical person of the Home State Party making an investment into the territory of the Host State Party, provided that:

1. the natural person, if a dual citizen, is predominantly a resident of the Home State and in any event is not a national of the Host State Party as well.
2. for a juridical person, it is a legally incorporated enterprise under the laws of the Home State and is effectively owned or controlled by a natural or juridical person of the Home State Party.

Article 4: Non discrimination

Subject to Article 5, each State Party shall accord to Investors and their Investments treatment no less favourable than the treatment it accords, in like circumstances, to its own investors and their investments with respect to the management, operation and disposition of Investments in its territory.

Article 5: Domestic Content requirement

All investors engaged as Solar Power Developers are required to procure their project components *inter alia* solar cells and solar modules from domestic manufacturers in the Host State



— ADVOCATES LEGION —

APPENDIX B – EXCERPTS FROM BARTOVIA- MARKOVIAARRANGEMENT ON SAFE AND VOLUNTARY REPATRIATION OF RAGAANS DISPLACED FROM ALDOVIA 2010

The Government of Bartovia and The Government of Markovia:

Reiterating their firm conviction to resolve their problems amicably and peacefully through bilateral negotiations on the basis of mutual understanding, trust, accommodation and goodwill and maintain peace and tranquility on their borders , and in particular the multifarious challenges that both countries face for outflow of displaced people from Aldovian region;

Mindful of the fact that significant numbers of Ragaans from aldovia state and other communities who were residents of Markovia, have taken shelter in Bartovia. This arrangement concerns the repatriation of the residents of Aldovia state who have crossed over to Bartovia;

In *Recognition* of the need for sustainable and durable solutions, Markovia and Bartovia have agreed to start the process of voluntary return in safety, security and dignity with options for recommencing livelihood, after verification that returnees have been residents of Markovia; and

Considering all relevant documents, facts and requirement for sustainable return of displaced Markovia residents,

Have agreed to this arrangement that outline general principle, policy aspects and modalities needed to be agreed upon to ensure smooth conduct of return of displaced Markovia residents from Aldovia state expeditiously and their integration into Markovian society :

1. The process of return will commence at the earliest and shall be completed in a time bound manner agreed by both the parties.
2. Markovia has agreed to take necessary measures to halt the outflow of Markovia residents to Bartovia, to restore normalcy in Aldovia and to encourage those who have left Markovia to return voluntarily and safely to their own households and original places of residence or to a safe and secure place nearest to it of their choice. Markovia will take all possible measures to see that the returnees will not be settled in temporary places for a long period of time and their freedom of movement in the Aldovia state will be allowed

in conformity with the existing laws and regulations. Their access to basic services and livelihood will be further promoted. Markovia will issue the returnees an identity card for national verification immediately on their return.

3. Verification for return, being essentially different from the ongoing national verification process for those who are residing in Aldovia towards their citizenship, will be based on evidence of past residence in Markovia.
4. The two governments would duly associate with the UNHCR, as and when needed, to assist them in the process of safe and voluntary repatriation.
5. Markovia will not criminalise (i.e. prosecute or penalise) returnees for illegal exit and return unless there are specific cases of their involvement in terrorist or criminal activities.
6. There shall be no restriction on the number of persons to be repatriated so long as they can establish bona-fide evidence of their residence in Markovia.
7. In cases of dispute on eligibility for return to Markovia, the two sides shall sit with all documents and information to resolve such cases. The final decision regarding verification will be made by the Government of Markovia. Government of Markovia will try to resolve cases of dispute on eligibility as soon as possible, preferably within 6 months.
8. After completion of return, the two government shall cooperate for the prevention of the illegal crossing of the border by persons from either side. Both governments shall refrain from granting residence or citizenship to such illegal migrants. Such persons crossing borders in an unauthorized manner shall be returned following the agreed provisions in the 1980 agreement on border arrangement and cooperation.
9. The two governments agree to work for a comprehensive and durable solution of the issue so as to prevent its recurrence in the future.
10. Both parties reaffirmed their desire to maintain and promote the existing friendly and good neighbourly relations.

On behalf of the Government of Bartovia

On Behalf of Government of Markovia

5th VIPS INTERNATIONAL LAW MOOT COURT COMPETITION, 2018



OFFICIAL SCHEDULE

Dates	Events
1 st July, 2018	Release of Moot Problem and Commencement of Registration
15 th August, 2018	Last date for Registration of Teams and Team Details (Soft Copy submission of Registration Form along with Demand Draft/Cheque).
20 th August, 2018	Last date for submission of Hard Copy of Registration Form along with Demand Draft/Cheque.
2 nd September, 2018	Last date for allotment of codes for participating teams.
10 th September, 2018	Last date to apply for Clarifications regarding the Case (11:59 P.M. IST).
15 th September, 2018	Last date for submitting the soft copy of the Written Submission and Travel Form (11:59 P.M. IST).
20 th September, 2018	Last date for submitting the hard copy of the Written Submission (11:59 P.M. IST).
12 th October, 2018	5 th Vivekananda Institute of Professional Studies International Law Moot Court Competition, 2018 - Inaugural Ceremony and Draw of Lots for Preliminary Rounds.
13 th October 2018	Preliminary Rounds and Quarter-final Rounds.
14 th October 2018	Semi-final Rounds and Final Round followed by Valedictory session.

5th VIPS INTERNATIONAL LAW MOOT COURT COMPETITION, 2018

REGISTRATION FORM



NAME OF /Institute/College/ University:

Speaker 1:

Name: _____

Year and Course: _____

Email: _____

Contact No.: _____

Self
Attested
Photograph

Speaker 2:

Name: _____

Year, Course: _____

Email: _____

Contact No.: _____

Self
Attested
Photograph

Researcher:

Name: _____

Year, Course: _____

Email: _____

Contact No.: _____

Self
Attested
Photograph

THE SPEAKERS AND THE RESEARCHER ARE THE *BONAFIDE* STUDENTS OF THE COLLEGE.

Signature & Seal of the Head of the Institution

5th VIPS INTERNATIONAL LAW MOOT COURT COMPETITION, 2018



TRAVEL PLAN

Kindly email the Travel Plan to the Administrator(s) on or before 15th September 2018.

Name of the Institution: _____

ARRIVAL

Date of Arrival: _____

Mode (Train/Airways/Bus): _____

Number (Train/Airways/Bus): _____

Time of arrival of Train/Airways/Bus: _____

Other Details (like name of railway station/bus stop/airport etc.): _____

Signature and seal of the University/College/Institute

— ADVOCATES LEGION —