1.Question 1

International Criminal Court

Trial Chamber VISituation in the Stoker Republic***Prosecutor v. Renfeld, Murray, Ratray, and Impaler***

Judges Javier (Mexico), Robertson (UK), and Kim (Japan), Presiding.

**I. Jurisdiction**

1. This case arises out of a situation involving three small countries located next to each other in central Europe: the State of Shelly to the north, the Stoker Republic in the center, and the Republic of Jabba in the south. See Map above. Each country has a population of about 1 million. In 2005, the Stoker Republic and the Republic of Jabba ratified the Rome Statute establishing the ICC. The State of Shelly, on the other hand, is not a party to the International Criminal Court.

2. The ICC Prosecutor brought this case against several citizens of the Stoker Republic (**Renfeld**, **Murray**, and **Ratray**) and a citizen of the State of Shelly (**Impaler)** who were charged with committing war crimes and crimes against humanity in the territory of the Stoker Republic. The Stoker Republic has not challenged the jurisdiction of the ICC on grounds of admissibility/complimentarity, and pursuant to the ICC’s indictments and request for surrender, the Stoker Republic promptly transferred the four individuals to the ICC for trial. The trial commenced before Trial Chamber IV on January 1, 2012, and concluded on March 1, 2013. The Court now renders its judgment, based on the following findings of fact and conclusions of law:

**II. Background**

3. Each of the three countries is composed of two ethnic groups – Lykins and Vampires. The Lykins make up 40 percent of the population of the State of Shelly, 70 percent of the population of the Stoker Republic, and 60 percent of the population of the Republic of Jabba.

4. The Lykins of the Stoker Republic are very prosperous, dominate national politics, and live mostly in the large cities of the southern portion of the country. The Vampires of the Stoker Republic, in contrast, are mostly bat guano miners, who live in poor villages in the northern mountainous region known as Carpathia, which borders the State of Shelly.

5. Because the Stoker Legislative, Executive, and Judicial Branches are dominated by Lykins, nearly all public spending projects (such as construction of schools, roads, power plants, and water treatment plants) occur in the southern portion of the country, and the Vampires of Stoker are treated as second-class citizens, subject to discriminatory treatment, and generally excluded from employment in the public sector. An opinion poll taken in Carpathia in May 2009 by Amnesty International indicated that most of the Vampires of the region favored the formation of an independent Carpathian state. Fearing a Vampire rebellion, in September 2009, the government of the Stoker Republic established Camp Garlic, a well-fortified military base in Carpathia, manned by over 1,500 armed soldiers, all of whom were of Lykin ethnicity

6. In January 2010, the Vampires of Carpathia formed the Vampire Liberation Organization (VLO), whose purpose was to pursue the achievement of independence for the Carpathian region. The State of Shelly was sympathetic to the VLO cause, and has provided weapons and financial assistance to the Organization, and sanctuary to its members.

7. Several thousand Carpathian Vampires volunteered to serve in the VLO militia, a paramilitary force created to pursue independence by force of arms. VLO militia personnel are known to wear a dark-colored hooded sweatshirt to distinguish them from the civilian population. During the month of March 2010, the VLO militia launched a series of attacks against government convoys going to or from Camp Garlic in an effort to attract world-wide media attention to the plight of the Carpathian Vampires. Twelve Lykin soldiers and seventy-five VLO militia members were killed in the fighting.

**III. The Criminal Liability of Defendants Renfeld, Murray, and Ratry**

8. In response to the Vampire attacks, on April 1, 2010, the President of Stoker (who serves as Commander and Chief of the Stoker army) ordered the commander of Camp Garlic, Col. Renfeld, to “take whatever action is necessary to quash the Vampire insurgency in Carpathia.” Col. Renfeld, in turn, met on April 2, 2010, with his senior aide, Lt. Col. Murray, and Murray’s assistant, Lt. Ratray, to formulate a plan “for vanquishing the VLO.” During the meeting, the three officers agreed that troops under their command would round up all Carpathian Vampires of any age or gender in the possession of sweatshirts of any color and imprison them indefinitely at the detention facility at Camp Garlic. Because their plan failed to rationally discriminate between innocent civilians and actual members of the VLO militia, the trial Chamber finds that Defendants Renfeld, Murray, and Ratray were involved in a Joint Criminal Enterprise to commit a crime against humanity.

True or False?

**The Trial Chamber was correct that the arrest and detention of the suspected rebels is a crime against humanity because they were not provided a hearing to determine their status.**



True



False

Because of :

The trial chamber was correct that the widespread and systematic arrest and detention of Carpathian Vampires in possession of sweatshirts constitutes a crime against humanity.

A crime against humanity is a widespread and systematic attack against a civilian population. Because mere possession of a sweatshirt is an arbitrary means of determining who is a suspected rebel, the round-up and lengthy detention of such persons would qualify as a crime against humanity.

2.Question 2

9. During the month of April 2010, the troops of Camp Garlic rounded up over 5,000 Vampire men, women, and children in a series of raids on the villages of Carpathia, all of whom were wearing or had in their possession a gray, dark blue, or black hooded sweatshirt. Pursuant to **Lt. Col. Murray**’s explicit orders, those Vampires who tried to resist arrest in any way were shot on the spot. **Lt. Ratray** admitted at trial that he and the soldiers in his unit shot and killed some two hundred resisting or fleeing Vampires during the roundup; most of them were unarmed, a dozen were children under the age of 15. **Col. Renfeld** testified that he had not authorized and did not condone these killings, but admitted that he did not subsequently subject **Lt. Col. Murray** to any disciplinary proceedings after learning of his order “because it was not clear to me that it constituted an unlawful order.” **Lt. Ratray**, in turn, testified that he was not comfortable carrying out **Lt. Col. Murray**’s order, especially with respect to children, but that he reluctantly did so after **Murray** admonished him in front of other soldiers that “anyone who questions my order is to be summarily shot along with the Vampires.” The Trial Chamber rejects **Lt.** **Ratray’s**obedience to orders defense because the order was manifestly unlawful. Further the Trial Chamber rejects **Lt. Ratray’s** duress defense because duress cannot be used as a defense to Crimes against Humanity. The Trial Chamber finds the killing of the 200 Vampires to be a crime against humanity, and holds that **Renfeld, Murray**, and **Ratray** are all guilty of its commission under the principles of direct participation and command responsibility.

True or False?

**The Trial Chamber was correct in holding Col. Renfeld criminally liable for Lt. Col. Murray’s unlawful order for his men to kill 100 unarmed Vampires, including children, under the doctrine of command responsibility.**



True



False

Because of:

Col. Murray's order to kill 100 unarmed men, women, and children constitutes a war crime. Col. Renfeld and Lt. Col. Murray are in a commander-subordinate relationship. Under the doctrine of command responsibility Renfold is criminally liable for war crimes that he knew were being committed by his subordinate where Renfeld failed to prevent or punish them.

.Question 3

True or False?

**The Trial Chamber was correct in rejecting Lt. Ratray’s obedience to orders defense.**



True



False

4.Question 4

True or False?

**The Trial Chamber was correct in rejecting Lt. Ratray’s duress defense on the ground that duress can never be a defense to crimes against humanity.**



True



False

**Because of:**

The ICC Statute provides that orders to commit genocide or crimes against humanity are to be considered manifestly unlawful, and therefore the obedience to orders defense cannot be used for such crimes. But the duress defense does not have a similar limitation, and can be asserted in cases of crimes against humanity as well as war crimes.

5.Question 5

10. During the roundup of the Vampires, several different scouts told **Lt. Ratray** that they had observed a large number of armed VLO militia men entering the 1,000 year-old historic Carpathian Cathedral, suggesting that the VLO was using it as a military headquarters. Upon receiving this information, **Ratray**said “we’ve got a chance to end the Vampire uprising here and now” and ordered his men to “fire mortars at the Cathedral to demolish the VLO’s base of operations.” Because the Cathedral is a protected site under the Geneva Conventions, we find **Lt.** **Ratray** guilty of the war crime of destroying a historic cultural and religious site.

True or False?

**The Trial Chamber was correct in holding Lt. Ratray criminally liable for ordering the destruction of the Carpathian Cathedral despite the fact that it was being used as a base of operations by the enemy.**



True



False

**Because of:**

Ordinarily, a Cathedral would be a protected object, and attacking it would be a war crime. But such objects lose their protected status when they are used by the enemy as a base of operations. Under such circumstances, attacking the Cathedral would not be a war crime.

6.Question 6

11. A week after the Vampires were imprisoned at Camp Garlic, the POWs orchestrated a mass hunger strike to protest their incarceration. **Lt. Ratray** immediately ordered his subordinates to force feed the hunger-striking POWs. They accomplished this by tying the prisoners to their bed and feeding them through tubes pushed down their nasal passages into their stomachs. After enduring this extraordinarily unpleasant procedure for a few days, the prisoners called off their hunger strike. Based on these facts, the Trial Chamber concludes that **Lt. Ratray** is guilty of a war crime.

True or False?

**The Trial Chamber was correct in holding Lt. Ratray criminally liable for a war crime based on his order to force feed the hunger-striking POWs.**



True



False

**Because of:**

Under the Geneva Conventions, Prisoners of War are to be treated humanely. Sticking a tube down their nasal passage to force feed them IMMEDIATELY upon learning of their hungar strike would violate this requirement and constitute a war crime. This would be a different case if force feeding prisoners after a prolonged hungar strike was necessary to prevent their deaths from starvation.

7.Question 7

**IV. The Abduction of Vladimir Impaler and the Admission of Evidence Provided by Jonathan Harker.**

12. After talking to some of the detainees at Camp Garlic, **Col. Renfeld** learned that the leaders of the VLO were two mysterious figures known only by the *nom de guerre* "Nosferatu" and "Dracula." **Nosferatu**reportedly served as the VLO militia's military commander, and Dracula headed the VLO's political activities.

13. On May 1, 2010, **Nosferatu** released a tape recorded audio message, broadcast by radio stations across the Stoker Republic, in which he announced that the VLO had stolen plutonium from the breeder reactor in Jabba and had used it to construct a so-called "dirty bomb" (conventional explosives that would disburse the plutonium). The message further stated that the VLO planned to explode the dirty bomb somewhere in Stoker City, the Capitol of the Stoker Republic, in one week unless the Stoker Republic closed down Camp Garlic, pulled all of its troops out of Carpathia, and released all of the detained Vampires by that time. Later that day, the Republic of Jabba publicly confirmed that two canisters containing about three pounds of plutonium were missing from its breeder reactor plutonium storage facility. According to the Jabba nuclear scientists, with that much plutonium, the VLO could easily detonate a dirty bomb in Stoker City, killing tens of thousands of people.

14. As part of its investigation into the theft of the plutonium canisters, on May 2, 2010, the Jabba police rounded up a dozen Vampires in Jabba suspected of association with the VLO. They were taken to a facility known as the Van Helsing Institute, where they were interrogated using repeated “waterboarding” (holding the person’s head under water until he breathes in water, and then resuscitating him) in an effort to get them to disclose the true identities of “Nosferatu” and “Dracula” and the location of the “dirty bomb.” Authorities of the Stoker Republic and the International Criminal Court were in no way involved in these interrogations.

15. After being subjected to a dozen instances of waterboarding, one of the Vampires, a State of Shelly National University Political Science Professor named Jonathan Harker, admitted that he was "Dracula," the political leader of the VLO. He confessed that he was in Jabba to fundraise from Jabba Vampires interested in supporting the VLO. He provided detailed information about the VLO, including disclosing that Nosferatu's true identity was **Vladimir Impaler**, a citizen of the State of Shelly who was employed as a Professor at the State of Shelly National University Department of Engineering. Harker said that Vladimir Impaler had come up with the plan to steal the plutonium and to explode a "dirty bomb." Harker also disclosed that the plan was that the "dirty bomb" would be hidden beneath the large trash bins next to the Stoker City Football Stadium, and the bomb would be set to detonate at exactly 7:00 pm on May 7, 2010, during the World Cup Qualifying game. Harker's statement was audio recorded. The Republic of Jabba has instituted criminal proceedings against Harker, who remains in their custody.

16. The Jabba police immediately informed their counterparts in the Stoker Republic of the true identity of Nosferatu and the details about the dirty bomb which they had uncovered during their interrogation of Jonathan Harker. They also emailed their counterparts a copy of the audio recording of Harker's statement. The next day (May 4, 2010), the President of the Stoker Republic ordered **Col. Renfeld** to dispatch a small elite unit from Camp Garlic into the State of Shelly to capture **Vladimir Impaler** as he was arriving at the Shelly National University on the morning of May 5, 2010. Dressed as ordinary delivery men, the Stoker personnel grabbed **Vladimir Impaler** just outside the Engineering Building, forced him at gunpoint into the back of an unmarked van, and transported him over the border to Stoker. **Impaler**suffered no physical injuries during the abduction. The Stoker Republic never sought consent from the State of Shelly for **Impaler**’s arrest, and the government of Shelly has protested that this action constitutes an unwarranted violation of its sovereignty and has demanded the repatriation of its national.

17. At about the same time as **Impaler** was being captured, the Stoker Republic bomb squad found the "dirty bomb" hidden beneath the trash bins at the Stadium and successfully de-activated it. The plutonium was promptly returned to Jabba.

18. **Vladimir Impaler** was subsequently charged with attempt to commit a crime against humanity by the International Criminal Court. The Stoker Republic surrendered him and the audio recording of Jonathan Harker’s statement to the ICC for joint trial along with **Renfeld**, **Murray,** and **Ratray**. Based on the Yugoslavia Tribunal’s *Nicolic* case, we hold that the kidnapping of **Impaler** does not require dismissal of his case.

True or False?

**Following the Nicolic holding, the Trial Chamber was correct in holding that the kidnapping of Impaler does not require dismissal of his case.**



True



False

**Because of:**

In Prosecutor v. Nicolic, the Appeals Chamber of the ICTY recognized that the abduction of Nicolic violated Serbia's territorial soveriegnty and Nicolic's human rights, but held that dismissal was not an appropriate remedy where Nicolic was charged with crimes against humanity and had not claimed to have been tortured or severely beaten during his abduction.

8.Question 8

19. During the trial, **Vladimir Impaler** asserted his right to self-representation, but then forfeited the right by launching into a political diatribe instead of asking questions on cross-examination of the prosecution’s witness. After this disruption, the Trial Chamber removed **Impaler** from the Courtroom and assigned stand-by counsel to represent **Impaler** for the remainder of the trial. Stand-by counsel did not object to the admission of the audio recording. Based on the incriminating statements in the recording, we find **Vladimir Impaler** guilty as charged.

True or False?

**The Trial Chamber was correct in revoking Impaler’s right of self-representation and removing him from the Courtroom when he launched into a political diatribe instead of asking questions during his cross-examination of a prosecution witness.**



True



False

9.Question 9

True or False?

**The Trial Chamber was correct in admitting the incriminating audio recording that was obtained when the authorities of Jaba repeatedly water-boarded Jonathan Harker.**



True



False

**Because of:**

The audio recording should have been excluded under the Torture Evidence Exclusionary Rule (Art. 15 of the Torture Convention). The British High Court has ruled that the "silver platter doctrine" cannot be used to justify the admission of torture evidence.

10.Question 10

19. For their crimes, we sentence **Col. Renfeld** to fifteen years imprisonment, **Lt. Col. Murray**to twelve years**, Lt. Ratray**to 10 years, and **Vladimir Impaler** to 20 years. **Lt. Col. Murray’s** sentence, however, is reduced to five years pursuant to the plea-agreement entered into between **Murray** and the Prosecutor under which **Murray** agreed to (and did) testify against Defendant **Ratray**.

So ordered, this 22 day of April 2013.

True or False?

**Based on the precedent of the Yugoslavia Tribunal, the Trial Court was correct in upholding Lt. Col. Murray’s plea-agreement.**



True



False

**Because of:**

In its early years, the ICTY did not utilize plea-bargaining but in more recent years the Tribunal has permitted plea agreements where defendants receive a reduced sentence for pleading guilty and provided testimony against another defendant.