

**Fifth Inter-American Moot Court Competition
2000 Hypothetical Case Problem**

Victoria Riel Guevara et al. v. Alboria

Historical Background

Prior to 1900, the region currently constituting the state of Alboria was comprised of two contiguous territories, New Albertia and North Bonaria, which were colonized by, respectively, the Kingdom of Albertia and the State of Bonaria. At that time, the population of New Albertia was approximately twice that of North Bonaria.

The Kingdom of Albertia and the State of Bonaria fought for control over the territory of New Albertia and South Bonaria. On April 29, 1900, Albertia ultimately defeated Bonaria, seized control of both territories, and re-named the entire region Alboria. For the next 25 years, the region was administered directly from Albertia. Subsequently, in 1925, Albertia established a local administrative authority, and appointed Albertian residents of Alboria as members of the administrative authority and the judiciary, and as leaders of local industries.

Over the next 25 years, ties between Albertia and Alboria weakened, the local administrative authority gained more power, and the resident population began electing representatives. Finally, on October 17, 1950, Albertia granted Alboria its independence with the signing of the Constitution of Alboria.

Between 1950 and 1990, the Albertian population continued to dominate the political and economic life of Alboria, including the judiciary and the military. In addition, the governing and opposition parties in Alboria were divided principally between, respectively, Albertians and Bonarians. One of the notable legacies of this Albertian-dominated period of rule in Alboria was the creation by the Executive in 1970 of the "Templars", a special division of the Security Forces. The Templars were formed partly in response to an increase in international incidents of terrorism, and were charged with carrying out intelligence and other special missions pertaining to the protection of the national integrity and security of Alboria.

Also following Alboria's independence, the Bonarian population steadily increased, and in 1990, the opposition party, controlled by Bonarians, won the presidential election and became the majority in Congress. As part of its agenda, the new Government enacted legislation which sought to rectify what it regarded as unjust political, economic and social disadvantages suffered by the Bonarians at the hands of the Albertian population. This included legislation that expropriated key Albertian industries, and affirmative action legislation favoring Bonarian participation in public and private sector employment. In addition, out of concern for the strong ties between the Templars and previous Albertian administrations, the Bonarian government passed legislation, the *State Security Act*, which dissolved the Templars. This occurred despite efforts to impugn the legality of the new law before the Albertian-dominated courts.

Notwithstanding their legal dissolution as a State entity, the Templars continued to carry on activities outside the official sphere of the State, with the self-proclaimed mandate to prevent whatever the Templar leadership considered to constitute a threat to the survival of Alboria. In order to further this mandate, in 1992, the Templars developed a military branch and a political branch. The political branch, or "Sage Templars", met as a Masonic society and was joined by some Albertian intellectuals. The military branch, or "Templar Warriors", organized local armed

squads to fight common crime, which the Templars attributed primarily to members of the lower class Bonarian population.

Subsequently, in 1994, the Inter-American Commission on Human Rights began receiving complaints alleging killings, torture and other atrocities perpetrated by the Templars against members of Alboria's Bonarian population. In 1995, Alboria invited the Commission to conduct an *in loco* visit in its territory. During the visit, the Commission met some members of the Sage Templars and examined the effects of the Templar Warrior's local squads in light of the rights and freedoms protected under the American Convention on Human Rights. In its report on the visit, the Commission concluded that the Templar's activities amounted to paramilitarism, and recommended that the State investigate, prosecute and punish those involved in atrocities committed against members of Alboria's Bonarian population.

Consequently, in 1996 Parliament amended the *State Security Act* to outlaw any activities by the Templar Warriors and the Masonic Society created by the Sage Templars. The constitutionality of the amended legislation was successfully challenged before the Albertian-dominated courts, however, and the amendments were struck down. In response, some political Bonarian forces conducted demonstrations and strikes in order to show discontent with the continuation of the Templar's "police" activities. The Bonarian-controlled Government decided to employ the Police, and later the Armed Forces, to suppress the Templar's activities. The Templar Warriors reacted with sporadic attacks against members of the Government and the Armed Forces.

Late in 1996, the Sage Templars approached the Government to negotiate a solution to the conflict. When the Government refused to hold talks, the Templar Warriors decided to adopt a radical agenda, which advocated the use of violence to further the Templar's primary objective, namely to be recognized as the guardian of Alboria's security. Terrorist incidents, including bombings and kidnappings of Government officials and industrial leaders, escalated as the Templar Warrior's military organization and strength grew. The Government in turn militarized its reactions to the Templar Warrior's activities.

In 1997, the state of hostilities between the Alborian Government and the Templars was generally recognized by the international community as one of internal armed conflict.

Background to the Current Problem

the killing of the unarmed students; and the detention, trial, conviction and sentencing of Professor Riel Guevara, the surviving Templar Warriors and the armed students. The Commission also concluded that Alboria was responsible for violations of:

1. Articles 2, 4, 5, 7, 8, 13 and 25 of the American Convention on Human Rights and Articles 1 and 6 of the Inter-American Convention to Prevent and Punish Torture, in relation to the arrest and detention of Professor Riel Guevara and her subsequent trial, conviction and sentencing;
2. Articles 4 and 5 of the American Convention on Human Rights, Articles 1 and 6 of the Inter-American Convention to Prevent and Punish Torture, and Articles 6, 37 and

