

AFRICAN UNION  
الاتحاد الأفريقي



UNION AFRICAINE  
UNIÃO AFRICANA

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS  
COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES  
P.O Box 6274 Arusha, Tanzania Telephone: +255 732 979 509 Fax. +255 732 979 503

---

## **MOOT COURT COMPETITION**

**30 November – 3 December 2015**  
**Arusha, Tanzania**

### **Fictional Scenario**

In March 2012, nation-wide protests broke out in the Republic of Lupatoland following attempts by Lupatoland's president Oscar Baldo to run for a third term in violation of the country's constitution. In response to the protests, president Baldo ordered the military to suppress all demonstrations. Between March and June 2012, some 3,416 protesters died as a result of the military suppressing the protests. Due to the unrest, the president Baldo also ordered the suspension of the constitution.

In July 2012, a regional human rights NGO based in the neighboring Fusafoland, Rights Watch Action (RWA), conducted a fact finding mission that estimated the deaths from the protests to be in excess of 6,800 individuals. The fact finding mission also found that many of the protesters who died belonged to the Amboni tribe who were outspoken about the rule of president Baldo and had suffered systematic oppression by the government. The RWA fact finding report found that the government had employed excessive force in suppressing the demonstrations, which it noted were largely peaceful in nature. RWA also found that the military intervention had led to

ethnic cleansing of the Amboni from some regions and that some acts may have amounted to genocide.

On 23 July 2012, RWA and several other NGOs seized the Constitutional and Human Rights Court in a case filed against the government alleging violation of the constitution. On 30 July 2012, the Constitutional and Human Rights Court ruled that due to the suspension of the constitution by the executive, the Court had no powers to rule on their application.

On 8 August 2012, president Baldo in a public address to the nation stated that due to the nationwide protests, the national elections slated for 10 September 2012 would be indefinitely postponed to allow for the return of calm and order. President Baldo also stated that the constitution would continue to be suspended until the situation normalized. He ordered the military to arrest and detain any individual violating the order. President Baldo specifically ordered the arrest and detention of Chairperson and Vice-Chairperson of the National Independent Electoral Commission (NIEC) for inciting unrest. The two leaders of NIEC had made some comments in the media stating that according to the constitution, president Baldo was ineligible to run for a third term and that any determination to postpone the elections had to be by vote of the parliament on the recommendation of NIEC.

The statement and orders of president Baldo drew widespread criticism from various international bodies and groups. The United Nations ordered sanctions against the country and on president Baldo and his close allies and family members. On 13 August 2012, the Peace and Security Council of the African Union suspended Lupatoland for what it stated were "...gross violations of human rights and manipulation of the legal and constitutional order of the country." On 17 August 2012, the Prosecutor of the International Criminal Court announced that he was conducting a preliminary analysis of the situation in Lupatoland.

On 18 August 2012, RWA filed a case at the African Commission on Human and Peoples' Rights alleging that the government of Lupatoland violated articles 2, 3, 4, 5, 11 and 20 of the African Charter on Human and Peoples' Rights.

On 6 December 2012, protesters stormed the presidential palace demanding the resignation of president Baldo and his allies. Due to widespread criticism and increasing political and diplomatic pressure, president Baldo fled Lupatoland to Francoland where he lives in exile to date.

In March 2013, after a return to normalcy, Adu Wolf was elected as the new president of Lupatoland. President Wolf who was widely popular with Lupatonians promised to unify the country and restore democratic order.

In its decision on the merits delivered on 19 September 2013, the African Commission on Human and Peoples' Rights found in favor of RWA. The African Commission submitted its recommendations to the African Union Assembly in January 2014 where they were adopted. Reacting to the decision of the African Commission, President Wolf stated that Lupatoland was keen to focus on economic development and that examining the decision of the African Commission would unnecessarily open up old wounds. In the months that followed, the government of Lupatoland did not implement the recommendations of the African Commission. President Wolf in an address to the nation mentioned that plans were underway to develop a law to grant amnesty to individuals including military officers involved in past wrongs. This he argued would assist in the process of national reconciliation and healing.

Following the developments, on 30 March 2015, RWA filed a request for an Advisory Opinion at the African Court on Human and Peoples' Rights. It sought determination from the Court on the following questions;

1. Whether Lupatoland had any obligation to implement the recommendations of the African Commission;
2. Whether the African Commission or non-governmental organizations could file applications before the African Court challenging non-implementation of decision of the African Commission, and if so the procedure thereto;
3. The applicable process for the enforcement of the decisions of the Court.

## **Instructions**

1. Draft RWA's Request and Written Submissions in support of the Request.
2. Draft the Written Submissions of Lupatoland.
3. Draft the Written Submissions of the African Commission on Human and Peoples' Rights.

## **Competition Format**

Three teams will participate in each moot round. Teams will represent RWA, the Republic of Lupatoland and the African Commission.

The competition will be comprised of two stages. Stage one will assess written advocacy skills. It will require teams to submit written memorials. Each team will be required to submit three separate memorials in support of RWA, the Republic of Lupatoland and the African Commission.

Stage two will test oral advocacy skills. Lots will be drawn to determine which party each team will represent. Teams will be required to present their arguments, respond to arguments of other parties and respond to questions from the judges.

Depending on the number of teams, several rounds may be conducted.

Teams will be scored on the basis of both their written and oral submissions.