

The 16th Red Cross International Humanitarian Law Moot (2018)
(An Inter-University Competition for Asia-Pacific Region)

Clarification

Question 1	According to paragraph 2 of the facts of the case, for the past twenty-five (25) years the ruling party in Highland has been the Government Party; while based on paragraph 3, Admiral Francis Gum has governed Highland for over seven (7) years after a successful coup in 2010. Does this mean that he was Admiral Gum did not reach the power through a democratic way, unless the statements of the facts in paragraph 1 and 2?
Clarification	Mooters will need to determine the answer from the available facts.
Question 2	In paragraph 3 of the facts, what kind of luxury was Admiral Gum linked to?
Clarification	Mooters will need to determine the answer from the available facts.
Question 3	In paragraph 3 of the facts, what is the proportion of rural workers within Highland?
Clarification	A considerable part of the population of Highland.
Question 4	In paragraph 3, does Admiral Francis Gum belong to Government Party which has ruled the Highland for the past twenty-five years? If the answer is “yes”, does it mean that the 25 years governed by the Government Party including 7 years govern by Admiral Francis Gum?
Clarification	Mooters will need to determine the answer from the available facts. Mooters are referred to the answer to question 1 above.
Question 5	In paragraph 3, the fact states that “news media has reported a growing dissatisfaction amongst members of the House of Representatives with decisions of Admiral Gum.” What’s the nature of the news media? Is it the Highland official media?
Clarification	Sufficient information has been provided in the Problem.
Question 6	In paragraph 5 of the facts, how serious was the saltwater contamination caused to the river Orb?
Clarification	Sufficient information has been provided in the Problem.
Question 7	Regarding all the counts, was the peninsula in the treaty, as alleged by Lowland, divided into left and right, or up and bottom? Further, which state owns which section of the peninsula? It is unclear what “from north to south” means (paragraph 7).
Clarification	Mooters will need to determine the answer from the available facts but the words north to south mean what they say.
Question 8	In paragraph 7 of the facts, is the copy which Lowland held the same as the annex of the facts, or the annex is the version which Highland hold?
Clarification	Mooters will need to determine the answer from the available facts. However, the map annexed to the moot problem is only a guide to the present situation and reflects the de facto control of the territory on the peninsula.

Question 9	In paragraph 7, does the 50 years of intermittent frictions include the 30 years of territorial dispute? Which country does “all other copies” belong to? And is it an official copy?
Clarification	Historically frictions between the two States preceded the mapping mistake but the territorial dispute crystallised these disputes. The “intermittent frictions” involved disputes over access to fishing grounds, the location of the border, etc. The other copies of the map include the one in the authentic version of the treaty which was deposited with the United Nations Secretary-General.
Question 10	At paragraph 7, what did the “intermittent frictions” for 50 years entail? Was armed conflict part of the “intermittent frictions”?
Clarification	Please refer to the answer to question 9 above.
Question 11	In paragraph 10, it is stated that “With the increasing number of displaced persons, population pressures on the remaining arable land in Lowland was reaching a breaking point.” Where is “the remaining arable land”? Is it “the Orb Delta” or “Largo”? If it is not “Largo”, why was there population pressures?
Clarification	Land north of the Orb Delta. Note that Largo is a town.
Question 12	In paragraph 11, according to the laws of Highland, is it legal for foreigners to bring side arms across the border into Highland?
Clarification	No additional information is available.
Question 13	In paragraph 11 of the facts, what kind of weapon did the members of LAF carried along?
Clarification	Mooters will need to determine the answer from the available facts. However, side arms generally mean revolvers or similar weapons.
Question 14	In paragraph 12, we note that “remotely controlled drones and human observers using high resolution binoculars” were used together with the PDS. Please advise the following: (1) what function do the drones and the human observers serve respectively; and (2) how precise is the PDS system.
Clarification	Mooters will need to determine the answer from the available facts.
Question 15	In paragraph 12 of the facts, were the human observers consisted of experts or soldiers?
Clarification	Mooters will need to determine the answer from the available facts, however, military forces tend to use their own personnel as observers.
Question 16	In paragraph 12, does the “army battalion” mean the size of army force?
Clarification	Yes.
Question 17	In paragraph 13, can you clarify more about PDS Type1? Is it also used of

	<p>sound wave? If so, how can it impact bodily fluid below the skin?</p> <p>Explanation: to measure the severance of the injury caused by this weapon</p>
Clarification	Sufficient information has been provided in the Problem.
Question 18	<p>In paragraph 13, we note that the PDS equipment would cause non-fatal severe burning sensation and sound waves. Please advise if the “additional specialist army battalion” had knowledge of:</p> <p>(1) the said effects of the PDS;</p> <p>(2) the findings of the preliminary testing; and</p> <p>(3) the content of the unofficial reports leaked.</p>
Clarification	Mooters will need to determine the answer from the available facts but this is a ‘specialised army battalion’.
Question 19	In paragraph 13, who produced the unofficial report and were they the undisclosed parts of the preliminary testing?
Clarification	Mooters will need to determine the answer from the available facts.
Question 20	At paragraph 13, does the PDS create an area of effect around the weapon or does it have a targeted directional beam?
Clarification	When operated, the PDS ejects a beam towards a targeted area from a certain distance.
Question 21	At paragraph 13, where did the unofficial reports purport to come from? When were the unofficial reports made and when were they leaked?
Clarification	The unofficial reports were leaked onto the Internet on 31 October 2015.
Question 22	<p>Before Admiral Gum ordered Colonel Power to deploy and use the PDS on 18 November (paragraph 14 of the Facts), was tear gas employed by the HAF or Highland’s police on that same day?</p> <p>Justification: To determine whether Admiral Gum or the HAF had resorted to less extreme riot control measures (e.g. tear gas) first before employing the PDS.</p>
Clarification	Mooters will need to determine the answer from the available facts.
Question 23	<p>How far away was the crowd from the PDS when the PDS was activated (paragraph 14 of the Facts)?</p> <p>Justification: To determine the impact of the usage of the PDS since the distance will affect the severity of the injuries (if any).</p>
Clarification	Mooters will need to determine the answer from the available facts.
Question 24	<p>In paragraph 14, the question is whether the Highland observer is from HAF or is just the public normal observer?</p> <p>Explanation: in order to know the status of witness</p>
Clarification	The HAF.

<p>Question 25</p>	<p>In paragraph 14, it is stated that “Admiral Gum ordered Colonel Power to deploy and use the PDS”. Please advise the following: (1) did Admiral Gum order Colonel Power to deploy and use the PDS against <u>all</u> Lowlanders who advanced towards the border gates, regardless of whether they are those “<i>lightly armed LAF personnel</i>”; and (2) what was the exact time at which Admiral Gum made that order; and (3) what was the exact time at which the storming of the border take place.</p> <p>Significance: To determine the scope of the perpetrator’s knowledge as to the likelihood of a crime being committed.</p>
<p>Clarification</p>	<p>The sentence in question. i.e. “Admiral Gum ordered Colonel Power to deploy and use the PDS.” is removed from paragraph 14.</p>
<p>Question 26</p>	<p>We note that in paragraph 14 the PDS was activated when the crowd stormed the border gates. Please advise whether Type 1, Type 2 or both types of PDS were actually used against the crowd on 18 November 2015.</p> <p>Significance: To determine the link between the attack and the injuries suffered.</p>
<p>Clarification</p>	<p>Mooters could assume both types were used.</p>
<p>Question 27</p>	<p>We note that in paragraph 14 “[n]ews media” was referred to in relation to casualties following the PDS attack. Please advise the following: (1) how many news media agencies reported the incident; (2) are those agencies Highland’s or Lowland’s; (3) whether they are state or privately owned; and (4) what sources did the agencies use (e.g. field report, etc.).</p> <p>Significance: To determine the weight and/or probative value of the media reports.</p>
<p>Clarification</p>	<p>Mooters could assume that several news media agencies including international ones have reported on the incident.</p>
<p>Question 28</p>	<p>We note that in paragraph 14 the “[n]ews media” reported that some of the two hundred people running away from the border were “injured, some seriously”. Please advise the following: (1) what types of injuries were suffered; and (2) were those injuries, in broad terms, permanent or temporary.</p>
<p>Clarification</p>	<p>Mooters will need to determine the answer from the available facts.</p>
<p>Question 29</p>	<p>We note that in paragraph 14 “[s]ubsequent medical reports” were referred to. Please advise the following: (1) who and when were the medical reports produced; (2) were the “ten (10) people” and the “another five (5)” part of the crowd who stormed the border gates and suffered the PDS attack on 18 November 2015; (3) were the injured referred to in (2) civilians or LAF personnel; (4) was the observation that the “ten (10) people” who “seemed to have suffered permanent hearing loss” made conclusively by qualified doctors or</p>

	<p>were merely symptoms identified; (5) was the claim made by the “another five (5)” that they have suffered blindness verified by qualified doctors or were merely symptoms identified.</p> <p>Significance: To determine the weight and/or probative value of the medical reports.</p>
Clarification	Mooters will need to determine the answer from the available facts.
Question 30	In paragraph 14 of the facts, were the ‘news media’ and ‘subsequent media’ governmental media, international media, or independent media?
Clarification	Mooters will need to determine the answer from the available facts. Mooters are also referred to question 27 above.
Question 31	In paragraph 14, the fact states that “News media later reported that about two hundred (200) people were injured, some seriously, in the resulting panic to escape the effects of the weapons pointed in their direction.”What is the nature of news media in paragraph14? Is the news media same as the one referred in para 3? And is it an official news media?
Clarification	Mooters will need to determine the answer from the available facts and above answers.
Question 32	In relation to Charge 1, we have noticed that the imputation of the crime was on the basis of command responsibility notwithstanding the fact that it was explicitly mentioned in the problem that there was a direct order from the defendant himself for the deployment of the PDS (Par 14 of the problem).
Clarification	Mooters are referred to the answer to question 25.
Question 33	Paragraph 14 line 2 mentions 'Highland observers'. We would like you to clarify the status of these Observers.
Clarification	Mooters are directed to question 24 above.
Question 34	At paragraph 14, on 18 November did any LAF troops physically enter Highland territory?
Clarification	Mooters will need to determine the answer from the available facts.
Question 35	At paragraph 14, on 18 November was the PDS fired into Lowland territory?
Clarification	Mooters will need to determine the answer from the available facts but the PDS was pointed towards the border.
Question 36	At paragraph 14, it reads “Highland observers identified small numbers of lightly armed LAF personnel, dressed in civilian clothing”. If the LAF personnel were dressed in civilian clothing, how did Highland observers identify them?
Clarification	Mooters will need to determine the answer from the available facts. Please note that identification can be carried out by a number of means.
Question 37	At paragraph 14, what was the extent of the hearing loss and blindness? Was it permanent? Were there people who suffered both hearing loss and blindness?
Clarification	Mooters will need to determine the answer from the available facts.

Question 38	At paragraph 14, what type of people were part of the crowd affected by the PDS? Were children among those blinded or made deaf?
Clarification	Mooters will need to determine the answer from the available facts.
Question 39	In paragraph 15, were there mines planted along the maritime boundary between Highland and Lowland, stretching from the rocks to the outer edge of contiguous zone? If affirmative, how did the cargo ship and fishing vessels arrive at Highland’s territorial sea?
Clarification	Mooters will need to determine the answer from the available facts.
Question 40	In paragraph 15, it says that “one hundred (100) moored contact mines and two hundred (200) remotely controlled, free-floating mines on the outer edge of its contiguous zone” since some mines can float. Since some mines can float, can the mine float in contiguous zone or the high sea?
Clarification	Mooters will need to determine the answer from the available facts.
Question 41	What was the cargo ship carrying in paragraph 17 of the mooting problem?
Clarification	Mooters will need to determine the answer from the available facts.
Question 42	What is the purpose of using the cargo ship in paragraph 17 of the mooting problem?
Clarification	Mooters will need to determine the answer from the available facts.
Question 43	With regard to the facts in paragraph 17, was there any evidence indicating whether the civilians on the fishing vessels were migrants or fishermen? Significance: To clarify the identity of “civilian migrants” as referred to in Count 2.
Clarification	Mooters will need to determine the answer from the available facts.
Question 44	In paragraph 17 of the facts, were all people in the cargo ship civilians? Or there’re some combatant in the ship?
Clarification	Mooters will need to determine the answer from the available facts.
Question 45	In paragraph 17, it mentioned that “ <u>the cargo ship</u> was painted light grey (hull) with a white (superstructure). There were Red Cross emblems (10m x 10m) brightly embossed amidships on the port and starboard sides of its hull.” Does the Red Cross emblems paint like that the white pattern is on the gray background? What’s in the cargo ship? Does the cargo ship have medical supplies in it?
Clarification	Mooters will need to determine the answer from the available facts.
Question 46	At paragraph 17, how long was the time period between the flotilla heading to Highland and Highland being aware of the flotilla?
Clarification	Mooters will need to determine the answer from the available facts.
Question 47	Does the Highland advancing fleet which fired the salvos (paragraph 20 of

	<p>the Facts) refer to Admiral Gum’s flagship and frigates (paragraph 18 of the Facts)?</p> <p>Justification: To determine if there is a possibility that the fleet acted independently from Admiral Gum</p>
Clarification	Yes.
Question 48	<p>Regarding paragraph 19, we would like to make clear that it means the Lowland authorities knew the flotilla of fishing boats was at sea or they did not know the existence of boats and got surprise as the boats was being attacked.</p> <p>Explanation: concerning with the knowledge of Lowland</p>
Clarification	Mooters will need to determine the answer from the available facts.
Question 49	<p>Paragraph 20 of the Facts mentions that the firing of several more salvos resulted in several boats capsizing. Did these subsequent salvos also land in front of the flotilla? Or did they directly hit the boats?</p> <p>Justification: To understand the nature of this particular attack.</p>
Clarification	Mooters will need to determine the answer from the available facts.
Question 50	<p>Were there any deaths resulting from the boats capsizing (paragraph 20 and 21 of the Facts)? If so, how many?</p> <p>Justification: The charge by the Prosecution under Count 2 mentions that there were deaths of civilian migrants resulting from the attack on the fishing vessels. However, such deaths were not mentioned in the Facts.</p>
Clarification	Mooters can assume that a number of deaths resulted from the capsizing of the fishing boats.
Question 51	<p>Regarding Count 2, whether the “advancing fleet” which fired salvos towards the flotilla acted in accordance with Admiral Gum’s express/implied orders (paragraph 20)? Alternatively, whether the “advancing fleet” was part of the Highland patrol ships which were ordered by Admiral Gum to intercept the fishing boats (paragraph 20).</p> <p>Significance: this is relevant to whether the defendant directed an attack under Count Two. There is no clarity whether the “advancing fleet” and “Highland patrol ships” are same or different.</p>
Clarification	Mooters will need to determine the answer from the available facts.
Question 52	<p>In paragraph 20, it is stated that “The Highland patrol ships were ordered by Admiral Gum to intercept...” (line 1, paragraph 20) Did he direct this order at “two Highland naval patrol vessels and a frigate” (line 1, paragraph 18) or did it also cover “several more Highland patrol vessels en route” (line 3, paragraph 18)?</p>

	Significance: To clarify the identity of the alleged perpetrators
Clarification	Mooters will need to determine the answer from the available facts.
Question 53	In paragraph 20, it is stated that “[w]hile the Highland patrol ships withdrew, the Highland advancing fleet fire [sic] a salvo...” (line 4, paragraph 20) Is the “Highland advancing fleet” the same as “several more Highland patrol vessels en route” (line 3, paragraph 18)? Significance: To clarify the identity of the alleged perpetrators
Clarification	Mooters will need to determine the answer from the available facts.
Question 54	Regarding the boats that “attempted to turn back” (line 4, paragraph 20): (1) Did any of them succeed; and (2) Were any of them part of the “several boats” capsized (line 6, paragraph 20)? Significance: To clarify the identity of the victims
Clarification	Mooters will need to determine the answer from the available facts.
Question 55	In paragraph 20, did any of the salvos fired actually hit any of the boats? Significance: To clarify the nature of the incident
Clarification	Mooters will need to determine the answer from the available facts.
Question 56	In paragraph 20, how did the Highland patrol ships intercept the fishing vessels as part of their ‘intervention’? In particular, was there any physical contact between the vessels? This is material as it is only the patrol ships that are ordered by Admiral Gum to ‘intercept the fishing boats’, and thus may be relevant to establishing Admiral Gum’s individual criminal responsibility for Count 2 if the intervention by the patrol ships could be characterised as an ‘attack’.
Clarification	Mooters will need to determine the answer from the available facts.
Question 57	In paragraph 20, were any patrol ships included in the ‘advancing fleet’? This is material given (as noted previously) it is only the patrol ships that are ordered by Admiral Gum to ‘intercept the fishing boats’, and thus may be relevant to establishing Admiral Gum’s individual criminal responsibility for Count 2.
Clarification	As a general rule, patrol ships are not part of an ‘advancing fleet’.
Question 58	In paragraph 20, did any of the salvos fired by the Highland advancing fleet directly hit any of the boats such that they capsized, or was the capsizing caused by some other effect of the fleet firing <i>in front of</i> the boats? This is material with regards to the nature of the alleged attack in Count 2.
Clarification	Mooters will need to determine the answer from the available facts.
Question 59	In paragraph 20, where did the intervention by the Highland patrol ship happen? In the high sea or territorial waters of Highland or other places?

Clarification	Mooters will need to determine the answer from the available facts.
Question 60	In paragraph 20, it is mentioned that “While the Highland patrol ships withdrew, the Highland advancing fleet fire a salvo to land in front of the advancing flotilla. The question is whether both ‘Highland’ words are used correctly or one of them should have been ‘lowland’?”
Clarification	Highland is used correctly. Mooters are referred to the answer to question 57.
Question 61	At paragraph 20, did any of the shots from the HAF vessels against LAF or the cargo vessels cross into Lowland's territorial sea?
Clarification	Mooters will need to determine the answer from the available facts.
Question 62	At paragraph 20, did the Lowland patrol vessels enter Highland’s territorial sea?
Clarification	Mooters will need to determine the answer from the available facts.
Question 63	Paragraph 21 of the Facts mentions that Highland vessels picked up signals that numerous underwater objects were starting to spread out from beneath the cargo vessel. Were these underwater objects part of the cargo ship? Justification: To understand the nature of the cargo ship.
Clarification	Mooters will need to determine the answer from the available facts. Mooters are also referred to paragraph 9 of the facts.
Question 64	Paragraph 21 of the Facts mentioned that Highland vessels picked up signals that numerous underwater objects were starting to spread out from beneath the cargo vessel. Were these underwater objects heading towards the Highland vessels? Justification: To better understand the nature of these underwater objects.
Clarification	Mooters will need to determine the answer from the available facts. Note previous answer.
Question 65	Did the capsizing of boats in paragraph result in any loss of lives to the people on the water before the cargo ship came into rescue? (paragraph 21) Explanation: To confirm the cause of death of the Lowland migrants with respect to count 2.
Clarification	Mooters will need to determine the answer from the available facts.
Question 66	Regarding Count 2, whether there was any death or injury of civilian migrants as a result of the firing of salvos? Paragraph 21 only stated “several hundred men, women and children were thrown into the sea”, but Count Two mentioned “the deaths of civil migrants”. Significance: this is relevant to whether the firing of salvos amounted to an attack and whether the charge was of sufficient gravity.
Clarification	Mooters are referred to the answer to question 50.
Question 67	In paragraph 21, what happened to the “several hundred men, women and children” (line 1, para 21) after the capsizing?

	Significance: To clarify the result of the incident
Clarification	Mooters will need to determine the answer from the available facts.
Question 68	In paragraph 21 of the facts, the form of 'message' sent by Gum?
Clarification	Traditional or modern military communication.
Question 69	In paragraph 21, are the people in civilian clothes on the ship observed to have the armlets 'bearing the distinctive emblem' of the Red Cross?
Clarification	No additional information is available.
Question 70	Only crew members and soldiers are explicitly described as reaching the peninsula. Did the civilian migrants mentioned in paragraph 21 also reach the peninsula or did they remain in and die in the water?
Clarification	Some civilians made it ashore.
Question 71	At paragraphs 21 to 23, other than the warning shots, did the frigates fire on the cargo ship and did Admiral Gum order this?
Clarification	Mooters will need to determine the answer from the available facts.
Question 72	At paragraph 21, did Admiral Gum know that Commander Gonzalez ordered the cargo ship to rescue the people in the water?
Clarification	Mooters will need to determine the answer from the available facts.
Question 73	Who were the wounded and the dead in the fire of the cargo ship? By the time the cargo ship caught fire, had the migrants been rescued? (paragraph 22)
	Explanation: To confirm the cause of death of the Lowland migrants with respect to count 2.
Clarification	Mooters will need to determine the answer from the available facts. However, the facts do not indicate any refugees were aboard the ship.
Question 74	Count Two reads "With respect to the attack on the fishing vessels on 23 November 2015, and the death of civilian migrants....."Does the "death of civilian migrants" refer to the people on the cargo (as mentioned in paragraph 22, last line) or should it be presumed that these were the civilians on the flotilla of fishing boats, which had capsized due to the firing of salvos (as it is not mentioned that the capsized boats had resulted into the deaths of civilians)?
Clarification	The latter.
Question 75	How many deaths and injuries resulted from the fire and crashed drone at paragraph 22?
Clarification	This was never exactly determined due to the nature of the conflict in general and the resultant fire on the cargo ship.
Question 76	With regards to the engagement by gunfire on the cargo ship at paragraph 23: 1) Does this refer to the warning shots ordered by Admiral Gum? 2) When did the Highland frigates open fire? 3) Did the cargo ship return fire?

	Significance: To clarify the nature of the incident
Clarification	Mooters will need to determine the answer from the available facts. In regard to 3) above there is no evidence the cargo ship returned 'fire'.
Question 77	In paragraph 23, were the lightly armed soldiers boarding the life rafts originally on the cargo ship at the beginning of the altercation? This may be material as it may support the cargo ship losing such protection afforded to it under the second Geneva Convention as per articles 34 and 35.
Clarification	Mooters will need to determine the answer from the available facts.
Question 78	Does "strafing", used in paragraph 23, mean firing or does it just mean flying low?
Clarification	The former.
Question 79	At paragraph 24, were the crew members and lightly armed soldiers boarding life rafts from the cargo ship?
Clarification	Yes.
Question 80	In paragraph 25 of the facts, when was the UNSC Resolution adopted?
Clarification	The resolution was adopted on 1 December 2015.
Question 81	With regards to paragraph 26 of the Moot Problem, does Admiral Gum's confinement is imposed by a court marital proceeding or any other relevant authorities for such matter?
Clarification	He was confined in accordance with an order of the coup leaders.
Question 82	In paragraph 27, it mentioned that "Lowland's goal was not only to rectify what it perceived as an historical wrong, but to secure lands that would not be greatly impacted by sea level change." What does "secure lands" mean? Orb Delta or the Peninsula?
Clarification	'Secure lands' has its everyday meaning.
Question 83	In paragraph 28 of the facts, when did the negotiation start?
Clarification	The negotiation started in January 2016 after the new Highland leaders came into power.
Question 84	In paragraph 28 of the facts, when was Gum arrested?
Clarification	On 29 April 2017.
Question 85	Regarding Count 1, can PDS be aimed precisely to take effect on specific individuals or does it cause area damage?
Clarification	Mooters are referred to the answer of question 20.
Question 86	Regarding Count 3, was the Cargo Ship equipped with any medical personnel or equipment on 23 November 2015? Significance: this is relevant to whether the Cargo ship was entitled to use the distinctive emblem.
Clarification	No additional information of the cargo ship is available.
Question 87	Regarding Count 3, was the Cargo Ship owned by the Lowland Armed Force, private entity or a relief society (e.g. Red Cross)? Significance: this is relevant to whether the Cargo Ship was entitled to use the distinctive emblem.

Clarification	No additional information of the cargo ship is available.
Question 88	Can we get the map which Lowland considered is the correct one?
Clarification	No additional information is available.
Question 89	In the annexed map, an army camp is located in the peninsula, but was not mentioned in the Facts. What is purpose of the Army Camp? And who built Army Camp? And when did it build?
Clarification	The army camp serves as a military observation post with a telecommunication station as mentioned in paragraph 7 of the Facts.
Question 90	With regard to the first charge, does the Prosecutor have to consider both alternatives (war crime and crime against humanity) in its memorial and oral arguments or the Prosecutor has the freedom to choose one of the alternatives only?
Clarification	Both sides need to take account of both counts.
Question 91	What does the Lowland flag look like? Does it bear any resemblance to the Red Cross emblem?
Clarification	It has a blue river delta against a green background with a capital 'L' in the top right-hand corner, and it does not resemble the Red Cross emblem in any way

[END]