

## Moot Problem for 2013 ICCTC Recruitment

Armis vs. Recho

*A Case concerning the evacuation of a foreigner  
during an outbreak of a malignant influenza<sup>1</sup>*

1. Countries Armis and Recho are members of the United Nations. They are parties to the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the Vienna Convention on Law of Treaties.
2. Armis does not border Recho and Megoose, but Recho borders Megoose. In March 2010, a malignant influenza was going around Megoose, but there were not enough vaccines for the entire population. The Government of Megoose issued an instruction to inhabitants living within a 30-kilometer radius from the area where the spread of influenza was the most serious to not move, in principle, in and out of the area.
3. The Government of Armis instructed all nationals of Armis living in Recho as well as in Megoose to evacuate each country at once by the use of chartered flights arranged by the Government. About 30 percent of the nationals of Armis living in Recho left to return to Armis.<sup>2</sup>
4. In April 2010, the Government of Megoose revoked the restriction placed on movement, recognizing that the influenza epidemic was waning.

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<sup>1</sup> This case is adapted from the moot problem of International Law Moot Court Competition “Asia Cup 2012” and the copyright belongs to the organizer thereof.

<sup>2</sup> Recho borders Megoose at a 50-kilometer distance from where the spread of influenza was the most serious.

5. In June 2010, the Government of Armis lifted the order not to visit Recho, after assessing that the epidemic of influenza in Megoose had almost waned.
6. Ms. Shunzette, a national of Armis, had worked as a researcher in the National Research Institute of Recho (situated at a distance of 60 kilometer from the area where the spread of influenza was the most serious) since March 2009, under a three-year employment contract. She was accompanied by her 5 year old daughter. After the influenza outbreak, she returned home on board the chartered flight, following the instruction of the Government of Armis.<sup>3</sup>
7. Following the lifting of the order not to visit Recho, Ms. Shunzette went back to Recho to resume her work at the Institute, but found that she had been dismissed as a punishment<sup>4</sup> and that her contract on a rental lodge in the campus had been cancelled.
8. Ms. Shunzette had no choice but to leave Recho for Armis, and brought a suit against the Government of Recho in the competent district court of Recho which had jurisdiction over the matter, demanding the revocation of her dismissal.<sup>5</sup> The court supported the Government of Recho's contention that she was justly punished for absence from work without the permission required under the employment contract. Ms. Shunzette lost the suit.<sup>6</sup>

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<sup>3</sup> The researchers from Armis, except Ms. Shunzette, all of whom were men, lived in Recho apart from their family. They continued their work in the Institute, in spite of the instruction of the Government of Armis.

<sup>4</sup> According to the employment contract, an employee dismissed for punishment gets no dismissal payment, and is disqualified for reemployment.

<sup>5</sup> National Research Institute of Recho is financed out of the budget of the Government, and employee matters are under the control of the Government.

<sup>6</sup> In the district court, Ms. Shunzette invoked domestic laws and regulations related to human rights as well as the conventions on human rights themselves, but the court did not fully discuss her legal arguments.

9. Ms. Shunzette asked the Government of Armis to exercise its right of diplomatic protection against the Government of Recho. The Government of Armis accepted her request and sought the revocation of her dismissal from the National Institute, which was rebuffed immediately.
10. The two countries engaged in further negotiations. In the course of the negotiations, Armis held that Recho violated international law by punishing a national of Armis, Ms. Shunzette, for the following reasons: Ms. Shunzette suffered a disadvantage (a dismissal as punishment) as the result of departing from Recho. It was a violation of her freedom to leave any country. Her right to work under safe conditions, which all women shall enjoy, was injured by being dismissed for disobeying the employment contract, or for leaving Recho at the peak of the malignant influenza outbreak. If Ms. Shunzette remained in Recho, the right of her five year old daughter to enjoy the highest standard of protection against epidemics, which all children have, would be injured. Recho refuted as follows: The engagement contract consented to by Ms. Shunzette was based on laws and regulations enacted to be consonant with the treaties to which Recho is a party. As a matter of fact, Recho neither prevented any departure, nor discriminated against anyone, including Ms. Shunzette and her daughter.
11. The negotiation reached an impasse. Eventually, the two countries agreed to refer the dispute to the International Court of Justice (ICJ).
12. The applicant, Armis, requested that ICJ adjudge and declare as follows:

*The Government of Recho breached the ICCPR, CEDAW and CRC, to which Armis and Recho are parties in relation to the spread of the malignant influenza in Megoose in March 2010.*

13. You are now required, as a counsel either for the applicant Armis or for the respondent Recho, to choose one of the three abovementioned international treaties and submit why or why not it has been breached.