

## **FIAE IHL MOOT PROBLEM 2024**

### **THE SITUATION IN AZANIA**

#### **(Prosecutor v. General Rahama)**

#### **Pre-Trial Chamber IV**

1. Azania is a state in the continent of Lazima. Azania follows a federated system of government where it is composed of 24 states, each with ‘devolved’ responsibility for issues such as employment, internal military affairs, finance and education within their territory. To unite the decentralized states, 24 Regional Representatives elected by the citizens serve in the Azanian Federal Government and vote for a president out of the 24 Regional Representatives. Some issues are ‘reserved’ to the Azanian Federal Government, meaning the States are not able to legislate in those areas, such as constitutional affairs and foreign policy.
2. The Bantu region of Azania takes pride in its history, the ancient Kingdom of Bantu, that existed independently for several centuries. A century ago, the Kingdom was occupied by the former Kingdom of Azania, which eventually transferred to the contemporary democratic model under a federated system. Nevertheless, the Bantu region is fiercely proud of its unique language, history and culture.
3. Of the 24 federal regions, Bantu contributes the most to Azania's development and economic prosperity due to the discovery of diamonds in 1994. This injected substantial revenues into Bantu, allowing for significant advances in technology and military capabilities. General Rahama, the State Governor of Bantu, has a reputation for heavily investing in new weapons utilizing artificial intelligence. Bantu's closest trading ally is the neighbouring, militarily powerful State of Changamire led by General Zuwa.
4. The relationship between Bantu and Changamire dates back to when General Rahama attended the military academy in Changamire through an exchange program between the two nations of Azania and Changamire. The ties strengthened further once General Zuwa seized control of Changamire from President Lamu in a coup in 1984. There are unverified accounts suggesting General Zuwa assisted General Rahama’s rise to governor of Bantu by financially contributing \$150,000 to her political campaign.

5. Both Azania and Changamire are UN Member States and Permanent Members of the UN Security Council, members of the African Union (AU), and State Parties to the **Four** Geneva Conventions of 12<sup>th</sup> August 1949. Azania ratified the First Additional Protocol to the Geneva Conventions of 8<sup>th</sup> June 1977 on 22<sup>nd</sup> October 2020, while Changamire ratified it on 10<sup>th</sup> January 1997. Azania is also a State Party to the Second Additional Protocol to the Geneva Conventions of 8<sup>th</sup> June 1977 and to the Convention on Cluster Munitions, both of which it ratified in 2010. Azania has also signed and ratified the Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human & Peoples' Rights (the Malabo Protocol), as amended, along with sixteen other AU Member States.
6. During Azania's 2020 national elections, Bantu put forth its representative to run for the presidency. A fiercely contested campaign ensued with Bantu's primary opponent being the candidate from the region of Daura. Unlike the developed Bantu, Daura had invested its limited resources mainly into education, believing that was the path out of poverty. As a consequence, Daura took pride in producing many intellectuals across Azania. Daura is also home to the Azanian federal nuclear facility, Midona.
7. Daura's candidate, Fahari, worked as a doctor. After becoming an orphan at a young age, he struggled to obtain an education. However, due to his strong academic abilities, he received a state scholarship to study at a top international university. Upon completing his education abroad, Fahari returned to Daura to serve his community as a doctor – an act that was well-received. This popularity led the people of Daura to elect Fahari as their state representative in the central government, and later support his run for the presidency.
8. In contrast, Bantu's state representative in the central government, Xanugu, was a career military officer who touted his role in ensuring the region's protection. Xanugu had risen through the ranks to become a high-ranking commander under Governor Rahama. Pre-election polls by a monitoring group found most regions preferred Fahari as presidential candidate. They viewed Xanugu as little more than a proxy for General Rahama's authority. After an intense month-long campaign, election day arrived. In a vote by the state representatives, Fahari obtained a two-thirds majority. Dissatisfied with the outcome, Bantu disputed the results and alleged voter manipulation through bribery and the hacking of voting machines.

9. In a sternly worded communiqué on 24<sup>th</sup> August 2020, General Rahama registered Bantu’s rejection of the electoral verdict with the Federal Election Commission. The next day, a crackling burst disrupted Azania’s social media networks. It was Professor Kikuyu, the well-respected doyenne of cybersecurity and ethical hacking at Bantu University, broadcasting her findings. After poring over terabytes of polling data with her brilliant students, Professor Kikuyu produced evidence that the voting system had been hacked to boost Fahari’s presidency. She emphasized that her analysis was independently conducted without endorsement or assistance from the Bantu administration. Following Professor Kikuyu’s thunderous announcement, a social-media storm exploded, with the hashtag #stolenvictory trending on social media platforms across Azania.
10. Two hours after Professor Kikuyu’s social media post, General Rahama gave an angry televised address:

*“I am extremely frustrated with the election commission’s failure to protect and secure the election system. Reports have proven the system was hacked, as evidenced by Professor Kikuyu’s post. Bantu contributes far more than any other region to the central government. Unless this issue is resolved within a week, we will have no choice but to secede from Azania and become an independent state,”*
11. The Federal Election Commission called for calm as they thoroughly examined the voting system. Two days later, they released a report finding no unauthorized access. All foreign election observers, except those from Changamire, confirmed this evaluation. The Changamire observers reported evidence of intrusion. Following the Commission’s conclusion, Fahari was inaugurated as president seven days later. In his maiden speech, President Fahari made it categorically clear that the central government of Azania would not allow any region to secede from Azania and that anyone who tried would face the full weight of the government of Azania.
12. As an act of defiance, General Rahama wrote on X (formerly Twitter) on the 3<sup>rd</sup> of September 2020, that from that point forward, Bantu would no longer be known solely as Bantu, but instead as the Republic of Bantu, demonstrating a shift toward more autonomous rule. He cited Bantu’s history, having historically been occupied by Azania, and claimed that the Bantu people were being denied meaningful access to governmental autonomy in

order to pursue their political, economic, social and cultural development. In an effort to accelerate Bantu's autonomy, on the 10<sup>th</sup> of September 2020, General Rahama gave an order for starting the formal process of recognition of Bantu as a state. One week later, Bantu University conducted a 'border poll' asking residents if Bantu should become independent. Turnout in the poll was high – about 75% of Bantu residents – with 82% of the participants agreeing with secession. Legislation was passed in the Bantu State Parliament, unanimously approving legislation declaring Bantu a constitutionally independent republic, citing Article 1 of the UN Charter and paragraph 2 of UN General Assembly Resolution 1514 of December 1960. This was followed by a statement from the foreign relations office of Bantu that it had sent a letter to the UN Secretary General on the 30<sup>th</sup> of September 2020 informing him of the independence of Bantu.

13. Azania strongly condemned Bantu's unilateral declaration of independence as unconstitutional. Additionally, Azania's allies at the UN rejected the legitimacy of the declaration. However, Changamire, a long-standing partner to Bantu, issued its own statement recognizing Bantu as a sovereign state. In its statement, Changamire noted this recognition had the stated support of 14 UN member states, with three of the five permanent members of the Security Council voicing their opinion in support, and one yet to make a statement.
14. Tensions drastically increased between Bantu and Azania. In response, General Rahama ordered the Bantu military to take control of the border with the neighboring Daura region. Troops established border checkpoints and denied crossing into Bantu unless a special online visa was obtained through Bantu's foreign affairs office. This assertive action tightened Bantu's control over movement in and out of its territory. Upon learning of Bantu's border control actions, President Fahari immediately convened an emergency meeting of Azania's Federal Army generals. A resolution was passed authorizing the deployment of Azanian federal troops to the Daura-Bantu border, including to Daura's own border posts, to counter Bantu's measures.
15. On December 23, 2020, Bantu forces launched an aerial bombing raid in Daura close to the established border checkpoint installation along the Daura-Bantu border, using Kinzhal hypersonic air-launched ballistic missiles. The aim was to destroy alleged Azania military installations that were said to be preparing to launch a ground invasion into Bantu. Bantu's

intelligence assessments at the time indicated the installations housed Azania special forces, but also noted that the installation was 500 metres from grazing lands that Dauran farmers habitually grazed their flocks. **At the time of the attack drone footage from the intelligence had confirmed the non-existence of any farmers within the area.** While no Azanian military personnel were killed or injured during the strike, several Dauran farmers were killed as a result of the attack on the military installation and the subsequent effects of the attack. In the aftermath, General Rahama declared that President Fahari was posing a grave threat, it was crucial to remove him from power by any means necessary.

16. On February 5, 2021, General Rahama approved “Operation Sogoli”, a Bantu military initiative. Clashes broke out between Azanian and Bantuan forces within the Daura region. The clashes in Daura forced about 300,000 local residents to flee the combat zone. In response, President Fahari surged additional Azanian military personnel to the frontlines in Daura. This shift in troop numbers allowed Azania’s forces to gain significant tactical advantage over Bantu’s military within the region. The fighting subsequently spilled over into Bantu’s own borders as Azania pressed its momentum. Facing setbacks on the battlefield, General Rahama sought outside assistance to help repel the Azanian forces now encroaching on Bantuan soil.
17. On June 19, 2021, General Rahama reached out to General Zuwa requesting military assistance against Azania. However, General Zuwa redirected her to contact his brother-in-law, General Vuta, who leads Tahadhari – a prominent private military company. General Vuta is a top Changamirian military officer who established Tahadhari in 2012. Headquartered in Changamire’s capital city, Tahadhari employs 10,000 troops divided into four regiments, each commanded by a veteran leader.
18. While Tahadhari Group has no official affiliation with Changamire’s armed forces, the country is by far its largest client for security and defence services, with Changamire placing heavy reliance on Tahadhari. As such, Tahadhari personnel routinely access Changamire’s military training facilities and occasionally receive confidential intelligence from Changamire’s intelligence agency. Changamire also serves as the primary source of weapons, equipment and supplies for Tahadhari Group’s forces. Beyond establishing and leading the company as President, General Vuta maintains the supreme military command authority over all Tahadhari soldiers. He receives direct reports from the four regiment

heads and personally directs operations on the field. Additionally, both General Vuta and the rest of Tahadhari Group's staff and forces hold citizenship of Changamire.

19. On August 17, 2021, General Rahama signed a contract on behalf of Bantu's government to hire two regiments (approximately 5,000 troops) from Tahadhari Group to support fighting against Azania's armed forces. According to the agreement, the Tahadhari soldiers would not serve under General Rahama's formal command within Bantu's military structure. Instead, General Vuta traveled to Bantu personally direct Tahadhari Group forces on the ground. The Bantu military committed substantial financial backing for operations and agreed to assist with combat planning and strategy for operations while sharing tactical and intelligence data as needed. New weapons, ammunition, vehicles and supplies would also be provided by Changamire. Tahadhari forces were granted access to nearby Bantu bases along the Azania border for lodging. Additionally, Tahadhari Group retained responsibility for organizing and executing specific missions and updating General Rahama regularly. Bantu military officials avoided involvement in Tahadhari's day-to-day decisions despite General Vuta's briefings. Both parties fulfilled their obligations under the lucrative deal.
20. On October 3, 2021, Tahadhari Group launched its offensive against Azania's military. Seeking to gain a major advantage, General Rahama supplied cluster munitions for Tahadhari to deploy against Azanian forces. Cluster munitions disperse many small bomblets across wide areas from projectiles. To minimize civilian harm, General Rahama issued to Tahadhari a military Standard Operating Procedure (SOP) outlining appropriate cluster munition use. It instructed deploying the weapons only in areas clear of civilians and civilian objects. Additionally, the SOP mandated providing 48 hours advance notice for any civilians to evacuate targeted zones.
21. On October 29, 2021, graphic images went viral on social media platforms, showing the deaths of several children aged approximately 14/15 and a destroyed mosque. Reports surfaced that Tahadhari Group had used cluster munitions in Daura, resulting in **the deaths of 5 children and destruction of a mosque**. This prompted strong condemnation from the African Union Peace and Security Council. Additionally, an emergency session was called by the UN Security Council to address the matter. However, no UNSC resolution could be

passed because Changamire, as a permanent member, vetoed all proposed actions targeting Bantu.

22. General Vuta dismissed the disturbing photos as “fake news” unreliable in today’s social media landscape. He claimed cluster munitions could only be deployed via an AI system developed by Bantu to autonomously operate based on guidelines provided in the SOP. However, that evening President Fahari presented verified drone footage on live TV displaying the missile launch dispersing bomblets that killed the children. President Fahari pointed out because of Tahadhari Group offensive the children had obtained rocket launchers at the mosque to defend themselves against Tahadhari forces. He condemned the use of autonomous weapons that seem not to differentiate between children and combatants.
23. On November 2, 2021, leveraging its cyber capabilities, the Bantu army conducted hacks targeting Azania’s critical infrastructure to weaken their offensive abilities. One such operation targeted a huge computer server cluster located in Daura. The cluster was operated under contract by Francisco Integrated Services (FIS), an Azanian private company, on behalf of the Azanian Federal government. The cluster hosted the computing networks for the Midona nuclear facility, an Azanian federal facility also located in Daura which manufactured tactical nuclear warheads for the Azanian military’s use. The FIS server cluster also hosted patient medical data for all of Daura’s medical facilities, and processed all digital financial transactions carried out in Daura on behalf of the Daura State Bank.
24. The cyber operation against the FIS cluster took the form of a ‘ransomware’ operation. It required IT software in the cluster to be replaced but did not cause a permanent loss of functionality to the computing systems or data storage. However, the operation did temporarily disable all operations at Midona for a period of weeks. Following the cyber operation, radioactive ‘heavy water’ was found to have flowed from the Midona facility into local drinking water supplies, leading to around 4,000 deaths in Daura, both civilians and Azanian service personnel, from people consuming the poisoned water.
25. The ransomware operation against the FIS clusters also impacted on Daura’s hospitals and banking system. Although patient medical data was not stolen or destroyed, it was rendered unavailable for several weeks, leading to significant delays in patient treatment and, it is

thought, several deaths **occured**. The operation also blocked transmission of transaction data of Daura's citizens, meaning the majority of commerce in the state was rendered impossible for several weeks, with dramatic negative effects on the local economy and businesses.

26. In response to these events, President Fahari brought the matter before the African Union Assembly of Heads of State **as Azania was not in a position to investigate or prosecute**. They passed a resolution on March 29, 2022, directing the case to the prosecution team at the African Court of Justice and Human and Peoples' Rights (ACJHPR). The ACJHPR subsequently issued arrest warrants on January 15, 2023, for General Rahama, citing war crimes committed in Daura. On February 5, 2024, while returning from a holiday in the neighbouring state of Mwari (a State Party to the Malabo Protocol), General Rahama was intercepted at the airport in Mwari. She was taken into custody and transferred to the ACJHPR to face charges related to the lethal attack.

The matter is coming up as a confirmation of charges hearing. The Pretrial Chamber IV has scheduled the agenda for the confirmation of charges as follows:

1. Whether the ACJHPR has jurisdiction, and the case against General Rahama is admissible.
2. Whether there are substantial grounds to believe that the following war crimes pursuant to Article 28D of the Malabo Protocol were committed in Azania.
  - a. In regard to the attack on Azania Military Installation on December 23, 2020, in Daura that Killed Dauran farmers:  
War Crime of Intentionally Directing an Attack in the knowledge that such an attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated Contrary to Article 28D of Malabo Protocol.
  - b. In regard to the use of cluster munition that caused the death of the children and the destruction of the mosque:  
War Crime of Employing Weapons, projectiles and materials and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering, or which are inherently indiscriminate Contrary to Article 28D of Malabo Protocol.



- c. In regard to the cyber-attack made on Francisco Integrated Services (FIS) Servers:  
War Crime of Intentionally directing attacks against civilian objects, that is, objects which are not military objectives Contrary to Article 28D of Malabo Protocol.
3. Whether there are substantial grounds to believe that General Rahama is individually criminally responsible under Article 46B of the Malabo Protocol with regards to the above offences.