



***LEX CLIMATICA* MOOT COURT COMPETITION**

2nd edition – 2024-2025

Case study

The Prosecutor

v.

Martin Camilo and Maxime Hardy

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- * The facts presented in this case study are fictitious. Any resemblance with a real event is purely coincidental. To help the reader understand the text, the following expressions refer to the same entity: State of Kali, Republic of Kali, The Kalian Republic, Kali.

1. The Republic of Kali, located in West Africa, has been an independent state since 17 November 1960. With a population of 46 million, its capital is Alexville. Kali is a state known for its emblematic 900,000-hectare forest called the Tana Forest. Kali's independence was proclaimed after more than 100 (one hundred) years of colonisation by the Kabanga Union (KU). From the 1800s onwards, the KU administered the current territory of Kali, breaking away from the traditional political and social institutions that had previously been in place. Close to the Kali settlement at the time was the Kalahani settlement administered by the Kingdom of Brouss. Before the arrival of the settlers, four ethnic groups (the Wari, the Sahi, the Bamari and the Zaouli) lived together on the "island of three shores" that forms the present-day territories of Kali and Kalahani. The Wari occupied mainly the western and northern shores. The Sahi and Bamari live on the north shore, on the edge of the Three Shores Lake, occupying the Tana Forest. The Zahouli live mainly on the east bank. The four ethnic groups formed a single pre-colonial entity, organised and led by a Zaouli emperor. The Wari are a nomadic group who make their living from cattle rearing and trading. The Sahi are foresters deeply rooted in ancestral rites, living by hunting, gathering and producing their own food in the forest. They form a strong traditional fraternal alliance with the Wari. The Wari and Sahi consider themselves to be brothers and sisters with very close ties. The Bamari are a group of pygmies who, for centuries, maintained conflictual relations with the Sahi, but these were relatively pacified around 1740, although mistrust remains between the two groups. The Bamari occupy the northern part of the Tana Forest, the southern part of which (the largest, around 75%) is occupied by the Sahi. The Zahouli live from agriculture, fishing and the gold trade. Despite differences in culture and way of life, the four groups managed to trade with each other.
2. Around 1800, the arrival of settlers from the KU and the Kingdom of Brouss, and the sudden and aggressive occupation of the area where the four ethnic groups had settled, had a major impact on the pre-existing organisation. To the detriment of the ethnic groups, the territory was split into two large parts, which became colonies. On the one hand, a colonial entity comprising only the Wari; and on the other, another colonial entity comprising the Sahi, the Bamari and the Zahouli. The Kingdom of Brouss and the KU, colonisers of the two newly formed territories, named them Kalahani and Kali respectively. At the end of colonisation and at the dawn of independence, the newly independent states of Kalahani and Kali inherited the borders of colonisation in application of the principle of *uti possidetis iuris*. As a result, the Wari have Kalahani nationality, while the Sahi, Bamari and Zahouli have Kalahani nationality.
3. As the years went by, the two states each integrated the Western culture promoted during colonisation (customs, religion, etc.). However, the Sahi foresters and the Bamari pygmies on both sides continued to preserve their cultures, rites and traditions. Both groups are considered to be "Indigenous people and Communities residing in the Tana Forest" by the African Commission on Human and Peoples' Rights.
4. One particular Sahi tradition is religious in nature. According to that Sahi religious belief, women who suffer a miscarriage are called witches and then, in a sacred ritual before the great Sahi chief, they are subject to fire ordeals until death. The Sahi consider this practice to be part of their culture. Deeply rooted in tradition, the Sahi people also refuse to allow their children to attend schools near the forest. The Kalian authorities have on several occasions attempted talks with the Sahi chiefs to build schools in the forest. Each time, the Sahi have categorically refused, demonstrating their attachment to their sacred values.

The Sahi were the only group whose relations with the colonists had always been conflictual during colonisation. Moreover, they still have not accepted the abrupt separation from their Wari “brothers” imposed by colonisation and its consequences. Their Bamari forest rivals are less conservative. The Bamari chiefs have long accepted the colonial rule. In the current administrative organisation, there are primary schools and a college in the northern part of the Tana Forest occupied by the Bamaris. Thanks to talks between the State and the Bamari chiefs in particular, a high school dedicated exclusively to the Bamari people has been under construction in the northern part of the forest since May 2023. Construction work on the school is due to be completed by the end of May 2025.

5. Despite the hostility of the Sahi, fuelled by a strong need to protect their tradition and “their forest”, the State has customarily paid particular attention to them. The State employs 180 contractual agents to protect the Tana Forest, particularly the southern part where the Sahi live. While some observers believe that this is just a matter of protecting the flora and fauna, in 2016 the Kali Prime Minister said: “This practice of protecting the forest, to which the State has been faithful since independence, is a form of recognition of the legal personality of nature. The protection also applies to the Sahi people, who co-own the forest with the Bamari. The Sahi are kalians in the same way as all other kalians. We have a responsibility to protect them.”
6. In June 2022, presidential elections were held in the Republic of Kali. The main opposition party until then, led by its charismatic leader Martin Camilo, of Zahouli ethnicity, won the election. Martin Camilo was sworn in before the Constitutional Court on 27 June 2022 in accordance with the Kali Constitution. As soon as he was elected, the new President of the Kalian Republic introduced numerous administrative reforms. These reforms were accompanied by the accession and ratification of numerous human rights protection instruments. In August 2022, Kali became a party to the Protocol to the African Charter on Human and Peoples’ Rights establishing an African Court on Human and Peoples’ Rights, and to the Rome Statute establishing the International Criminal Court. At the same time, Kali ratified several other African treaties, including the Maputo Protocol on the Rights of Women in Africa. Martin Camilo thus intends to keep his election promises, namely, to give a predominant place to the women of Kali. The new President of the Republic of Kali is in fact the former head of a well-known non-governmental organisation (NGO) in Kali, which has long called on the State to put an end to the failure to send young girls to school and to the torture of women who suffer miscarriages in the Sahi community. Now head of the Kalian administration, Martin Camilo sent an emissary to the Tana Forest to demand that the Sahi chiefs take all necessary steps to put an end to the harmful practices that Sahi women are victims of. President Camilo’s action continued between August and September 2022, but met with fierce opposition and invective from the Sahi chiefs, who were determined to protect Sahi culture come what may.
7. The Republic of Kali will not be spared by the fragile global economy in 2022. The newly formed Kali government under Martin Camilo has put in place a scheme to make it easier for foreign companies to set up in Kali in order to revive the ailing economy. Global company *Get-Weapons*, which specialises in the sale of conventional and chemical weapons, is coveting the Tana Forest as the site for its new West African subsidiary. The construction of the subsidiary in the coveted Tana area should enable *Get-Weapons* to send a strong signal to its competitors in West Africa. *Get-Weapons* has a branch

dedicated to the sale of arms, and another branch operating in the field of private security. Its CEO, Maxime Hardy, is a former Kabang mercenary who made his fortune through dubious activities. The Kabangese press attributes his success to the illegal sale of minerals in Central Africa and human trafficking in South America. Martin Camilo welcomed the proposal to build the *Get-Weapons* subsidiary in the Tana forest, seeing it as a triple opportunity: to boost the Kalian economy, to scare off the terrorist groups that have been operating in West Africa for several years, and to dislodge the Sahi from most of the Tana forest, relocating them to the area where the Bamari live or to urban areas “for those who wish to do so”. On 1 October 2022, in a State of the Nation address, Martin Camilo declared: “We are going to burn the 75% of the Tana Forest currently occupied by the Sahi. The aim is to raze the area to the ground in order to build a subsidiary of a large and powerful company that will enable our country to restore its image (...) and make a name for itself in the sub-region. Of course, I haven’t forgotten the Sahi people. Some of them will be rehoused in the forest area occupied by the Bamari, in agreement with the Bamari, while others will be relocated to urban areas. It’s high time the Sahi women and girls got out of the machismo hell of the Sahi chiefs. I promised you development through the inclusive participation of women, and this development will take place with Sahi women and girls. The authority of the State must be applied throughout the territory. It should be said that the Tana Forest belongs to the Kali, who are free to use it as they see fit, according to the economic needs of the moment.”

8. The next day, President Camilo’s statement provoked a major demonstration by 180 forest rangers. They denounced the construction project for the *Get-Weapons* subsidiary, which would cause “an enormous destruction of flora and fauna, with damage to the environment and the climate”. The demonstration was violently repressed by the police on the grounds that it had not been authorised by the relevant authorities. On 16 October 2022, a contingent of Kalian soldiers, on the orders of the President of the Republic, entered the Tana Forest (in the southern part) after violating the forest guards present in the vicinity. The contingent encountered strong resistance from Sahi men armed with arrows, machetes and homemade rifles. On the orders of the President of the Republic, Head of the Armed Forces under the Kalian Constitution, the Kalian soldiers retaliated with machine guns and grenade launchers. More powerful and better equipped, the Kalian army gained the military advantage after six hours of fighting. The hostilities resulted in the deaths of 46 members of the Kalian armed forces, approximately 12,000 Sahi men (out of a total community of 12,115) and the arrest of the Sahi Grand Chief, who was immediately charged with “murder and attempted murder of girls and women” under Kalian law. He is in custody awaiting trial. The 114 young boys from the Sahi community who did not take part in the hostilities and who were lucky enough to be spared the collateral damage of the clashes were transferred to an orphanage for those under 15, and to a military camp for those over 15. The 12,700 Sahi girls and women in the community, all of whom were spared, have been transferred, some to the Bamari, and others to a former prison in Alexville that has been rehabilitated to house women in distress.
9. At the end of October 2022, a vast bushfire operation was carried out in three quarters of the Tana Forest previously inhabited by the Sahi. The operation caused the disappearance of 12,000 of the 18,000 animal species that lived in the southern part of the forest before 16 October 2022. This was followed by the start of construction work for the *Get-Weapons* subsidiary. The 180 contractual forest rangers who had been guarding the area of the Tana Forest occupied by the Sahi are now unemployed. Most of the forest guards

are Kalahanians living in Kali and are members of the Wari ethnic group. Their numerous protest demonstrations in the capital have been violently repressed by the police on each occasion. For several months they were subjected to threats at home by police officers, on the orders of their superiors and with the knowledge of the highest state authorities.

10. On 2 January 2023, a group of 230 heavily armed Kalahanians attacked 12 police stations in Alexville. The men then regrouped and stormed a police district where police families were staying. The group was led by Arnaud Faucher, a former Tana Forest ranger. The attack on the police stations and police headquarters left 82 policemen dead. The Kalian reaction was imminent. Elements of the army were sent to the police district to “liberate” it from the enemy. Despite the large numbers of Kalian soldiers, they were unable to gain a military advantage. After three days of intense fighting in favour of the armed group of Kalahanians, the Kali state called in the armed section of *Get-Weapons*. A State-private military company agreement was signed by Martin Camilo on behalf of Kali and Maxime Hardy on behalf of *Get-Weapons*. On 7 January 2023, around a hundred *Get-Weapons* men, assisted by a few Kalian soldiers, attacked the armed Kalahanian group based in the police district. The attack mainly targeted two large strategic buildings where it was known, thanks to intelligence services, that the armed group’s military arsenal was stored. The *Get-Weapons* team used *Tallboy-type* seismic bombs and *MHD* generators. The effect of the bombs effectively ruined the two buildings. After just two hours of fighting, the armed Kalahan group was neutralised. However, all 22 police families who had been taken hostage perished in the attack.
11. On 8 January 2024, one year after the unfortunate events in the Alexville police district, an earthquake measuring 7.2 on the Richter scale struck the Kalian capital, killing 8,000 people and injuring 7,000 others. Such an incident had never before occurred in Kali. An opposition leader in Kali, who is also a Member of Parliament, believes that the earthquake was caused by the seismic weapons used a year earlier. He added that since mid-2023, several Western countries had recalled their ambassadors from Alexville and issued a travel ban against Kali for no specific reason. The doctrine of the opponent and Kali MP is followed by a dozen environmental and climate protection NGOs.
12. On 2 February 2024, at the request of the Office of the Prosecutor, Pre-Trial Chamber XXI of the International Criminal Court issued an arrest warrant for Martin Camilo, current President of Kali, and Maxime Hardy, CEO of *Get-Weapons*, for crimes of genocide, crimes against humanity and war crimes allegedly committed in Kali between October 2022 and January 2023.
13. Despite the absence of the accused, the International Criminal Court Pre-Trial Chamber XXI intends to hold its confirmation of charges hearings in May 2025. Pursuant to Rule 100(1) of the ICC Rules of Procedure and Evidence, the Chamber will exceptionally hold its hearings in a city in West Africa. In its decision to convene the hearing, the Chamber requests the Victims’ Representative (pursuant to Article 68(3) of the Statute) and the defence of Martin Camilo and Maxime Hardy to submit written observations on the charges brought by the Prosecutor:
 - a) **Crimes of genocide:** Murder of members of the Sahi group (article 6-a of the Statute); Serious bodily harm to members of the Sahi group (article 6-b of the Statute); Intentional infliction on the Sahi group of conditions of life calculated to bring about its physical destruction in whole or in part (article 6-c of the Statute); Measures intended to prevent births within the Sahi group (article 6-d of the Statute);

Forced transfer of children of the Sahi group to another group (article 6-e of the Statute).

- b) **Crimes against humanity:** Persecution of the 180 Tana Forest rangers who were deprived of their jobs (articles 7-1-h and 7-2-g of the Statute); Other inhuman acts caused by the destruction of 75% of the Tana Forest (article 7-1-k of the Statute).
- c) **War crime:** Intentionally directing attacks causing widespread, long-term and severe damage to the natural environment in the use of seismic bombs during combat in police headquarters (article 8-2-b-iv of the Statute).

14. In relation to the above, the respective written observations of the Victims' Representative and the Defence must take account of the Prosecutor's observations:

Primarily:

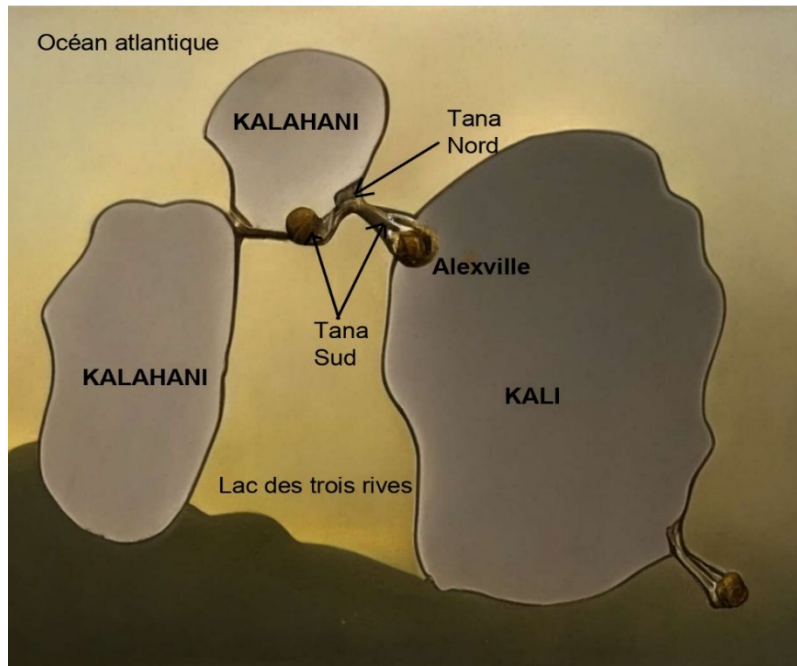
- a) **“The Court has jurisdiction”.**

Then:

- b) **“For the crimes of genocide and crimes against humanity, Martin Camilo is an author and Maxime Hardy an accomplice”.**
- c) **“For the war crime, Martin Camilo and Maxime Hardy are co-authors”.**

15. The written observations must be submitted to the Chamber no later than 10 February 2025. On the eve of the hearings, Martin Camilo was President of the Kalia Republic and refused to attend the Court. Maxime Hardy was in the KU, a signatory to the Statute (since 12 July 2005, signature not followed by ratification until the eve of the hearings), which refused to hand him over to the Court. In August 2022, Martin Camilo allowed the Kali to ratify the following treaties: The four Geneva Conventions of 1949, the Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, the Treaty on the Non-Proliferation of Nuclear Weapons, the Treaty on the Limitation of Anti-Ballistic Missile Systems, the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (ENMOD), the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, the Treaty of Pelindaba for the Establishment of a Nuclear-Weapon-Free Zone in Africa, the Arms Trade Treaty with a reservation to Article 6, and the Treaty on the Prohibition of Nuclear Weapons. Under the Kalia Constitution, the State has a presidential system, with the President of the Republic being omnipotent and having extensive powers. His ministers support him in his decision-making.

ANNEX: Map¹



¹ This map, drawn by an amateur, shows the approximative geographical display of the two countries.