



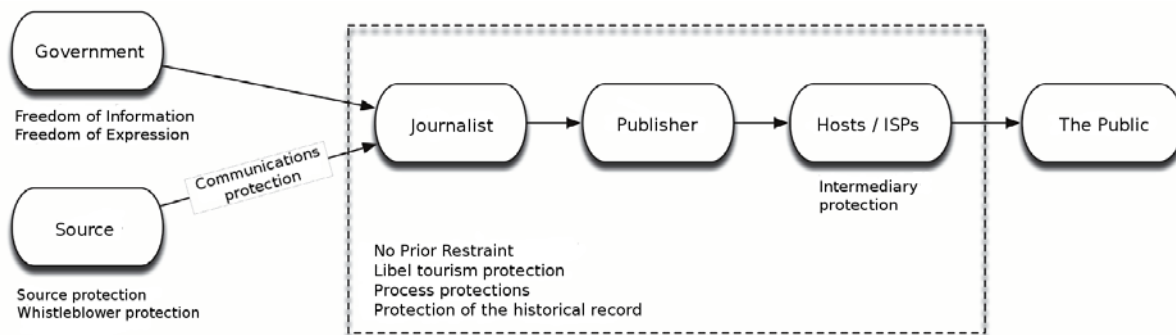
Monroe E Price International Moot Court Competition 2011

STATEMENT OF FACTS

1. The Republic of Garunesia is an idyllic tropical island situated in the Indian Ocean. The island's economy is dependent on tourism and the export of by-products of coconut trees.
2. The Republic has to contend with a deep ethnic divide in its population: 70% of the population claims to be indigenous to the island and 30% of the population settled on the island as indentured labour over 100 years ago. In recent years, the ethnic politics on the island have taken a violent turn. Small bands of armed vigilante settler groups have sought to build up a violent resistance to the perceived oppression by the majority indigenous population.
3. On 5 July 2010, a group of 10 heavily armed men and women forced their way into the Windflower, Garunesia's premier tourist resort. They quickly established themselves at strategic locations and sealed off all entry and exit points to the hotel. Gunshots rang out as the insurgents' encountered minor resistance from the hotel's security staff, who were outgunned and overpowered within a few minutes.
4. As soon as the first gunshots were heard, the guests at the hotel were hustled into various rooms by the staff to avoid risking their lives. A few intrepid guests hid at various hidden vantage points and recorded the insurgents storming into the hotel and overpowering the hotel's security staff. They quickly uploaded these clips to the micro-blogging site mo.tv and vigorously engaged in various conversations with a global audience.
5. The insurgents established a command post in the main lobby of the hotel, where they set up a communications centre with video cameras and broadcasting and internet facilities.
6. Within the first hour of the siege, the insurgents broadcast a video message using a satellite uplinking facility and uploaded the video to a website called opensecrets.org. They proclaimed that:

'This is an act of self-determination by the settler people of Garunesia who have been oppressed for over 5 decades. We will stay in this hotel until our demands for effective representation in our national parliament are met. No-one will be harmed unless an attempt is made to break this siege.'
7. The Government of Garunesia was shocked by these developments but was initially clueless about how to respond to the siege and the media reporting of it. It then mobilised troops from within the country and from friendly neighbours to develop a military strategy to respond to the siege. Simultaneously, a negotiation team established contact with the insurgents and began a formal negotiation with the representative of the group.
8. The insurgent group broadcast and webcast live the negotiations with the Government team. It did not help the negotiation that details of the troop mobilisation and leaks about military strategy were beamed on satellite TV and the internet by Garunesian media. The negotiations broke down as this news filtered into the insurgent communications centre. The Government was forced to stop all further mobilisation of troops to avoid the insurgent group's hurting or killing the hostages in the hotel.

9. The Government then sought to act strongly against the media exposure of the hostage crisis. Invoking the Maintenance of Internal Security Act, 1975, the Government:
 - a. established a safe zone within a 5 km radius around the Windflower hotel; and
 - b. ordered all satellite broadcasting TV channels to stop uplinking from the territory of Garunesia; and
 - c. ordered all mobile phone operators to cease operations in within the safe zone; and
 - d. ordered mo.tv and opensecrets.org to remove all materials related to the siege at the Windflower from their websites.
10. Satellite mobile phone operators who were not registered in the State of Garunesia did not comply with order (c). Both mo.tv and opensecrets.org refused to comply with order (d), stating that they were hosted in Iceland and not subject to the law of Garunesia.
11. The law of Iceland envisages a new age of freedom of expression for the media which includes wide ranging legislative protection as set out in the diagram below:



12. Frustrated by these reactions, the Government of Garunesia promulgated an executive order which provided that:
 - a. all websites, wherever hosted, must secure an Internet Content Provider Licence before making available any information or content within the State of Garunesia over the internet; and
 - b. any information or content made available within the State of Garunesia over the internet without a licence or in contravention of a licence is a criminal offence; and
 - c. all mobile phone providers and all internet service providers must filter any information that might prejudicially affect the national security of the State of Garunesia, its friendly relations with other nation states or incite hatred among the communities of Garunesia; and
 - d. all telecommunications service providers must locate their servers within the territory of Garunesia and provide the Government with the encryption code to access all communications.
13. The Government used its powers under the executive ordinance to order that mo.tv and opensecrets.org should be filtered or banned by all internet service providers in Garunesia.
14. With the media lockdown in place, the negotiation proceeded under wraps. The Government had, however, authorised Ms. Salma Ali, News Garunesia's popular journalist, to embed herself with the government troops. News Garunesia is an extremely popular news website and there were no restrictions imposed on Ms. Ali in the authorisation issued. As the siege entered the third day, Government troops stormed the Windflower and killed all 10 members of the insurgent group. In the fire fight, 18 soldiers and 20 occupants of the hotel lost their lives. Ms. Ali filmed corpses of the members of the insurgent group and 10 of the dead occupants, including that of Obi Oko, Garunesia's 3-time Oscar winning actor and a prominent member of the settler group. The Government then banned Ms. Ali and News Garunesia from disseminating images of any of the corpses. The relatives of the 10 occupants whose corpses were filmed obtained an injunction against the dissemination of Ms. Ali's footage of the dead guests from District Court XII of Garunesia.
15. The Government sought to learn from the lessons of the siege and, in August 2010, enacted a law to make the executive order permanent. The law was named the 'Digital Media and Protection of Public Safety Act, 2010'. Pursuant to the new law, the Government prescribed an Application Form (Appendix 1) for all those seeking an Internet Content Licence.

16. Mobile phone providers, internet service providers and broadcasters in Garunesia were agitated by the law's broad scope and the threat of criminal prosecution. As the State of Garunesia had no written constitution or charter of rights with domestic remedies, they were compelled to challenge the law at the Universal Court of Human Rights, on the grounds that the law violates their right to freedom of expression guaranteed under Article 19 of the Universal Declaration of Human Rights in so far as:
 - a. the law (both the executive order and the Digital Media Act 2010) imposes a requirement that all internet content providers secure a licence prior to making content available in Garunesia; and
 - b. the application form for securing an internet content provider licence is an administrative device that allows the Government to institute prior restraint ; and
 - c. the law imposes a requirement that all telecommunication providers and internet service providers locate their physical hardware in Garunesia and provide the Government with encryption codes they use to secure the data.
17. In addition, News Garunesia is challenging the Government's ban and the injunction issued by District Court XII against the dissemination of images recorded by Ms. Salma Ali. All cases have been brought before the Universal Court of Human Rights through the Digital Media Association of Garunesia against the State of Garunesia.
18. The issues stated above are meant to provide a framework for arguments and the parties are free to develop contentions within that framework.
19. The Internet Content License Form is enclosed.

Appendix 1

Internet Content Licence Application Form	
Website Information	
Website name:	
Website homepage:	
Website domain name:	
Type of website: <i>e.g. blog, company profile, etc.</i>	
Description of website content:	
Contact Information	
Contact person's name: <i>NB May be an individual or a company (please indicate)</i>	
Contact person's proof of identification <i>e.g. passport number, ID card, registered business ID</i>	
Contact person's address: <i>NB Must be an address in Garonesia</i>	
Contact person's daytime telephone number:	
Contact person's mobile telephone number:	
Contact person's email address:	
Owner (Licensee) Information	
Owner's (Licensee's) name: <i>NB May be an individual or a company (please indicate)</i>	
Owner's (Licensee's) proof of identification <i>e.g. passport number, ID card, registered business ID</i>	
Owner's (Licensee's) address: <i>NB Must be an address in Garonesia</i>	
Owner's (Licensee's) principal business activities:	
Investor Information	
Primary investor's name: <i>NB May be an individual or a company (please indicate)</i>	
Primary investor's proof of identification <i>e.g. passport number, ID card, registered business ID</i>	
Primary investor's address: <i>NB Must be an address in Garonesia</i>	
Primary investor's principal business activities:	