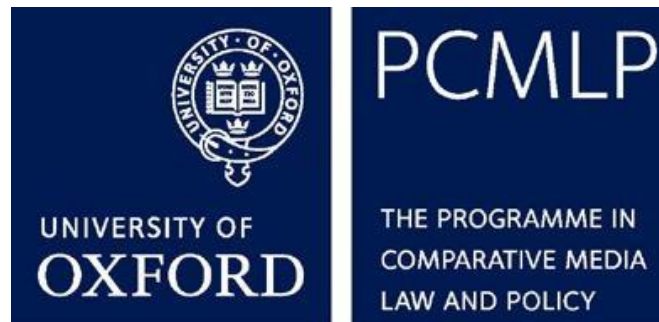


PRICE MEDIA LAW MOOT COURT COMPETITION CASE

2015/2016 COMPETITION YEAR



*Official case of the 2016 International Rounds and the
2015/2016 Regional Rounds in South Asia, Asia Pacific,
South-East Europe, the Americas and the Middle East*

Regional History and Current Tensions

1. Omeria is a country of 25 million inhabitants. It gained its status as an independent state in 1952 after a war with its neighbor, Brinnah, of which it was once a province. An armistice brokered by world powers resulted in the partitioning of the two countries.
2. After the 1952 War, many inhabitants of the former unified Brinnah migrated to live within the country containing the ethnic group that they historically identified with. That meant that many ethnic Brinnans emigrated from the province of Omeria, and many ethnic Omerians left the country of Brinnah for the newly established Omerian state.
3. To this day, particularly along the border of the countries, there are enclaves of ethnic Omerians living in Brinnah, and ethnic Brinnans living in Omeria. Tensions remain high between the two nations and particularly regarding these settlements. From time to time there continue to be incidents of violence, typically perpetrated by radical militias seeking to rid their country of the settlers from their cross-border rival. The Omerian militia is known as The Night Watch, and has been designated an extremist and terrorist group by both Omeria's and Brinnah's government. These violent flare-ups often occur around the June 1 anniversary of the 1952 Armistice. Both countries' governments have committed to trying to keep the peace and are swift to condemn such acts, but struggle with controlling radicalized citizens.

Omeria's Anti-Terrorism & Extremism Law of 2012

4. In response to increasingly frequent violent acts of terrorism near the border region, principally perpetrated by The Night Watch, Omeria enacted the Anti-Terrorism & Extremism Law of 2012, which provides in relevant part:
 - a. **Section 1:** "Extremism" is defined as the vocal or active opposition to fundamental Omerian values, including democracy, the rule of law, individual liberty and the mutual respect and tolerance of different faiths and beliefs. We also regard calls for the death of individuals living within Omeria's borders as extremist.
 - b. **Section 2:** Anyone providing material support or resources to designated terrorist organizations, or aiding or abetting or attempting to provide such support, shall be guilty of an offense.
 - i. "Material support or resources" means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, and transportation.

- c. **Section 3:** A person commits an offence if—
 - i. he or she publishes or causes or permits another to publish a statement likely to be understood by some or all of the members of the public to whom it is published as
 - 1. a direct or indirect encouragement or other inducement to them to the commission, preparation, or instigation of acts of terrorism; *or*
 - 2. a statement of extremism, as defined under the Act.
 - ii. **and** at the time he or she publishes it or causes it to be published, he or she—
 - 1. intends members of the public to be directly or indirectly encouraged or otherwise induced by the statement to commit, prepare or instigate acts of terrorism; *or*
 - 2. is reckless as to whether members of the public will be directly or indirectly encouraged or otherwise induced by the statement to commit, prepare or instigate such acts or offences.
- d. **Section 4:** Sections 1 and 2 apply to statements published or caused to be published in the course of, or in connection with, the provision or use of a service provided electronically, including via an internet service provider (ISP) or social media platform.
- e. **Section 5:** Anyone guilty of an offense under the Act shall be liable to criminal or civil punishment as determined by the judging body.
- f. **Section 6:** Upon application and sufficient showing, a court may issue an emergency order to provisionally remedy violations of the Act, and may impose civil or criminal penalties for failures to comply with or for violations of any such court order or for any offenses under the Act.

Omeria's Internet Revolution

- 5. In 2010, the Prime Minister of Omeria announced a campaign to bring free high-speed Internet access to the public, and Omeria has since become one of heaviest users of Internet bandwidth per capita in the world. The use of social media is particularly popular.
- 6. The most popular social platform for communication is Chatter. Chatter is a web-based and mobile application which allows users to broadcast messages of no more than 150 characters per post. Chatter does not create content of its own, other than by posting announcements via its official Chatter account (@Chatter).

7. Chatter users can interact with and respond to other users' posts by "chatting @" another user and commenting on their messages.
8. Many media organizations use Chatter as a forum to promote their news stories and editorial content by posting short excerpts via their Chatter accounts.

No Hate Act of 2011

9. The No Hate Act of 2011 was passed in large part due to the growing problem of "trolls" on Chatter and other social media sites who would anonymously bully other users and make shocking and offensive statements meant to cause distress to their targets. There were several highly publicized cases of individuals committing suicide after being targeted by bullies in campaigns of online harassment and hateful speech.
10. The No Hate Act of 2011 states:
 - a. **Section A:** A person who publicly through any means of online communication disseminates to a wide group of people any statement or imparts other information threatening, insulting or degrading a group of persons on account of their race, color, national or ethnic origin, belief or sexual orientation, shall be liable to a punishment determined by the judging body, but in no event shall exceed 10 years of imprisonment.
 - b. **Section B:** When handing down the punishment, it is to be considered an aggravating circumstance that the statement is in the nature of propaganda; and it may be considered a mitigating circumstance where the statement is made by a person for whom making such statements is part of his or her profession.
 - c. **Section C:** This section does not apply to words or behavior used, or written material displayed, solely for purposes of artistic or journalistic expression.
 - d. **Section D:** A person or entity responsible for facilitating another's statement prohibited under the Act may be held liable for monetary penalty only.

Umani's Chatter Accounts

11. Umani is 38 years old, and is Deputy Justice Minister of Omeria. Umani was appointed to his post by his longtime boss, Honorable Twyla Tavarini, who is the first woman elected as Justice Minister of Omeria. She is well-known for taking a hard line against settlements of ethnic Brinnans living in Omeria.
12. Umani is very active on Chatter, as are many politicians and their aides. He uses Chatter to advocate for policy positions, to post links to official press releases, and to interact with his followers. He has been recognized in Omeria's leading periodicals as one of the country's most influential young politicians, and a rising star. His social media presence and advocacy for Omeria's poor has garnered him much praise and goodwill. As of July 2015, he had 262,744 followers on Chatter. By contrast, at that

time, Omeria's Prime Minister had 2,894,012 followers, and Tavarini had 508,995 followers.

13. Umani also maintains a very popular anonymous Chatter account under the name @TheVigilantInsider, which had 844,056 followers as of July 2015. As @TheVigilantInsider, Umani spreads gossip about political figures and cracks jokes and writes witty poems at many public figures' expense. The bio on his Chatter account states: "Political poet telling the truth from the corridors of power." It is widely suspected that the person behind the account is a high-level government insider, but Umani was not known to be behind the account.
14. In addition to satirical jokes, Umani has posted a number of controversial statements as @TheVigilantInsider. These included many diatribes against citizens of Brinnah. Among the anonymous controversial posts Umani made on Chatter are the following:
 - a. **Post #1:** "News Flash! Brinnah's economy on brink of collapse due to rampant godlessness."
@TheVigilantInsider, December 3, 2009, 18:49
 - b. **Post #2:** "We fried the Brinnans in the war of '74, Fly their shameful flag, we'll burn you some more."
@TheVigilantInsider, May 21, 2010, 15:21
 - i. Umani's anonymous account was suspended by Chatter for 1 day in response to complaints about this post.
 - c. **Post #3:** "Roses are red, violets are blue, and Brinnans are child killers. Heh, see not all poetry has to rhyme! ;-)"
@TheVigilantInsider, November 5, 2013, 00:45
 - i. This post was deleted 4 minutes after it was posted, but not after several thousand Chatter users had "re-chatted" it to their own followers.
 - d. **Post #4:** "Another Armistice anniversary approaches... would be a shame if those brutes within our borders magically disappeared... kaboom! I mean, poof!" @TheVigilantInsider, April 19, 2014, 23:06
 - i. This post was re-chatted 3,500 times by other Chatter users.
 - e. **Post #5:** "Do your part to purify Omeria—your country will thank and pardon you—our leaders can't say what they're thinking, but I can..."
@TheVigilantInsider, May 22, 2014, 15:55
 - i. A Chatter user named @Nightwatcher00 replied to this message, writing, "@TheVigilantInsider -- hearing you loud and clear!"

ii. **Post #6:** @TheVigilantInsider wrote back, "@Nightwatcher00 ... God willing."

15. Many commentators took Umani's May 21, 2010 post (Post #2) to refer to Omeria's rumoured use of chemical weapons during a one-month-long war with Brinnah in 1974, and his November 5, 2013 post (Post #3) to refer to the widespread but disproven belief in Omeria that Brinnan forces had retaliated by bombing an ethnic Omerian refugee camp. Despite the controversy over many of Umani's anonymous posts, the account was only suspended once, in response to Umani's May 21, 2010 post (Post #2).
16. While Umani's controversial posts had always prompted complaints to Chatter, the outcry in response to Posts #4, 5, and 6 was particularly strong. Omeria's leading newspaper published an editorial which questioned whether the anti-Brinnan stance of high-ranking officials in Omeria's government was slowing state response to such provocation, and suggested that the government and Chatter would have blood on their hands if violence did occur.
17. Following this outcry, the Omerian Government sought and obtained a court order pursuant to the Anti-Terrorism & Extremism Law of 2012 to force Chatter to delete Posts #4-6 and to reveal the identity of @TheVigilantInsider. In response, Chatter deleted these posts, but initially resisted identifying the user, and the court imposed a fine of the equivalent of US\$ 10,000 per day until it complied. After 7 days, on May 30, 2014, Chatter relented and delivered to the Government the email address Umani used to set up the account (which was also anonymous), and IP addresses from which the posts were made, which included Umani's smartphone, his official work computer, and his 16-year-old daughter's home computer from which he sent Posts #3 and #4. Using these IP addresses, the Government quickly identified Umani as the user and informed media outlets on May 31, 2014.
18. No violence occurred on the border region on the June 1, 2014 anniversary of the armistice.
19. Charges were brought against Umani for Posts #1-3 under the No Hate Act of 2011 and for Posts #4-6 under the Anti-Terrorism & Extremism Law of 2012. As to the No Hate Act of 2011, Umani claimed in defense that his posts were artistic. As to the Anti-Terrorism & Extremism Law of 2012, Umani claimed in defense that his posts were not extremism and were not intended to encourage or induce the commission of any act of terrorism. However, Umani was convicted on all counts and sentenced to 2 years in prison.
20. Charges were brought against Chatter under for posts #1-3 under the No Hate Act of 2011 for facilitating Umani's speech. Charges were brought for Posts #4-6 under the Anti-Terrorism & Extremism Law of 2012 for Chatter's recklessness in its monitoring and control of Umani's anonymous messages which might directly or indirectly encourage terror acts. Chatter was found liable for all posts except Post #2 over which it had temporarily suspended Umani's anonymous account. Chatter's

liability was assessed at the equivalent of US\$ 5 million in addition to the seven days' worth of fines imposed previously.

21. Both Umani's sentence and Chatter's fine were upheld on appeal to Omeria's Supreme Court, exhausting their domestic appeals.

22. Umani and Chatter have challenged these verdicts in the Universal Court of Free Expression, and the Court has certified Umani's and Chatter's appeals on four discrete issues:

Issue 1A: Whether Omeria's prosecution under the No Hate Act of 2011 of Umani for Posts #1-3 violates international principles, including Articles 12 and 19 of the UDHR and Articles 17 and 19 of the ICCPR.

Issue 1B: Whether Omeria's prosecution under the No Hate Act of 2011 of Chatter for hosting Posts #1 and #3 violates these same international principles.

Issue 2A: Whether Omeria's prosecution under the Anti-Terrorism & Extremism Law of 2012 of Umani for Posts #4-6 violates international principles, including Articles 12 and 19 of the UDHR and Articles 17 and 19 of the ICCPR

Issue 2B: Whether Omeria's prosecution under the Anti-Terrorism & Extremism Law of 2012 of Chatter for hosting Posts #4-6 violates these same international principles.