

**INTERNATIONAL COURT
OF JUSTICE**

CASE CONCERNING THE CONFLICT OF DEMETRIA

REPUBLIC OF ACANTHA (APPLICANT) v.
REPUBLIC OF NORTH RHODELIA (RESPONDENT)

2021

**COUR INTERNATIONALE DE
JUSTICE**

AFFAIRE CONCERNANT LE CONFLIT DE DÉMÉTRIE

REPUBLIQUE D'ACANTHA (APPLICANT) v.
REPUBLIC OF NORTH RHODELIA (RESPONDENT)

**JOINT NOTIFICATION
ADDRESSED TO THE REGISTRAR
OF THE COURT:**

The Hague, 10 March 2021

On behalf of the Republic of Acantha and the Republic of North Rhodelia, in accordance with Article 40(1) of the Statute of the International Court of Justice, we have the honour to transmit to you an original of the Special Agreement for Submission to the International Court of Justice of the Differences between the Republic of Acantha and the Republic of North Rhodelia Concerning the Conflict of Demetria.

Ambassador of the Republic of Acantha
to the Kingdom of The Netherlands

Ambassador of the Republic of North
Rhodelia
to the Kingdom of The Netherlands

**SPECIAL AGREEMENT
BETWEEN THE REPUBLIC OF ACANTHA AND THE
REPUBLIC OF NORTH RHODELIA FOR SUBMISSION
TO THE INTERNATIONAL COURT OF JUSTICE
OF THE DIFFERENCES BETWEEN
THEM CONCERNING THE THE
CONFLICT OF DEMETRIA**

Acantha and North Rhodelia,

Considering that differences have arisen between them concerning certain conduct vis-a-vis the Demetrian civil war and other matters;

Recognizing that the Parties concerned have been unable to settle these differences by negotiation;

Desiring further to define the issues to be submitted to the International Court of Justice;

Accepting the facts submitted in the Special Agreement as true and undisputed,

Recognizing the Judgment of the Court as final and binding upon them,

In furtherance thereof the Parties have concluded the following Special Agreement:

THE REPUBLIC OF ACANTHA V. THE REPUBLIC OF NORTH RHODELIA

CASE CONCERNING THE CONFLICT OF DEMETRIA

I. BACKGROUND

1. The dispute begins in the wake of a civil war that occurred in the now-defunct Kingdom of Demetria from approximately April 2009 through September 2012. The armed conflict resulted in the creation of two new states, the Republic of North Rhodelia (Respondent here) and the Republic of Cynthia, which is not a party to this case.
2. The Demetrian conflict represented the zenith of the rivalry between the two principal ethnic groups in the state: the Cynthians and the North Rhodelians. In 2008, King Proteus IV of Demetria died without an heir, and several claimants to the throne stepped forward. Throughout the race for the throne, some of the claimants died or resigned, since there were two claimants left: one Cynthian and one North Rhodelian. Supporters of each claimant quickly organized into armed militias, and small skirmishes escalated into full-scale civil war in April 2009.
3. In April 2010, War-Analysis International (WAI), a humanitarian NGO and a relief agency located in Geneva, which had field representatives in Demetria, reliably reported that members of the North Rhodelian militia were engaging in the systematic rape of ethnic Cynthian women. WAI interviewed hundreds of victims of these rapes and urged the international community to take "*any action possible, and exercise any influence available, to stop this unacceptable, criminal abuse of Cynthian women.*" Many other international human-rights and humanitarian organizations sent their own observers to the conflict, and all echoed WAI's conclusions, although there were differences of opinion among the organizations regarding the extent to which the practice was condoned by militia commanders.
4. The leader of the North Rhodelian militia, Captain Vasily Borgov, recalled in a March 2010 interview with the *WorldWide Times*, a global and well-respected newspaper, that he had heard that rapes were being committed, but declared that he was powerless to stop them. A fact-finding commission integrated in the United Nations Human Rights Commission concluded in early 2011 that "*hundreds of rapes of Cynthian women are being committed monthly by members of the North Rhodelian militia.*" It also observed that "*Borgov and his deputies have done nothing to stop the deliberate use of these rapes as a means of coercion, spreading intimidation and terror among*

the Cynthian population."

5. The Applicant, the Republic of Acantha, is an immediate neighbor of the former Demetria, today bordering the territories of both North Rhodelia and Cynthia. Acantha is a consolidated democracy and developed state with a declining birthrate. Acantha has become a significant foreign aid donor to recipient countries around the world, including North Rhodelia. Acantha is a party to most of the global human rights instruments and has expressed in numerous occasions a strong commitment towards the global promotion of human rights.
6. Acantha remained neutral during the civil war. Concerned about the growing number of refugees, Acantha's President, Elisabeth Harmon, urged leaders of both sides to cease hostilities, and offered her country's services in organizing a peace conference. In February 2012, leaders of the two militias agreed to a cease-fire. There were, in the ensuing months, numerous allegations of breaches of that agreement by both sides. After long negotiations, both sides agreed on September 19, 2012, to a partition of the territory of Demetria into two new states, North Rhodelia (composed primarily of ethnic North Rhodelian cities and territory) and Cynthia (composed primarily of ethnic Cynthian cities and territory).
7. On November 1, 2012, North Rhodelia held its first democratic elections since independence. More than 80% of the population voted. The former militia commander, Captain Borgov, ran for the presidency on a platform of "National Healing," *inter alia*, promising a full amnesty to persons accused of crimes committed during the Demetrian civil war. Borgov was elected president, by a wide margin. On his first day in office, as promised, he granted a full national amnesty to all persons within North Rhodelia, whether of North Rhodelian or Cynthian ethnicity, accused of what he called "*unfortunate and inappropriate conduct during the time of civil war.*"
8. North Rhodelia is a developing country whose largely agrarian economy was devastated by the civil war. North Rhodelia has an emerging free-market economy, and it is active in regional trade and political organizations. By contrast, the culture of Cynthia is socially and culturally conservative, and its government and its laws are based upon customs dating back to the 10th century kingdoms in the region.

II. REPARATIONS FOR VICTIMS OF WARTIME RAPES

9. On February 15, 2014, President Harmon delivered a televised address before Acantha's

parliament. She stated, *"At this time in world history, nations must understand that the abuse of women in war is not justified, proper or right. I am gravely concerned about the widespread and systematic rape of ethnic Cynthian women that occurred during the Demetrian civil war. I am committing the resources of our Justice Ministry and our Foreign Affairs Ministry to seeking justice for these women and punishment for those who harmed them."* In addition, she called upon the governments of Cynthia and North Rhodelia to *"punish the militiamen who raped these women, and to pay reparations to the women who were victims of these brutal crimes."*

10. On February 17, 2014, the Minister of Foreign Affairs of Cynthia replied in his weekly press conference, stating, *"The wounds of the civil war are too fresh, and we are still rebuilding our society and economy from the devastation of the civil war. Cynthia will not pursue this matter at this time."*
11. On the same day, North Rhodelian President Borgov released a written statement in response to President Harmon. The statement read, in part: *"I call your attention to the general amnesty which I declared on my first day in office. As in all wars, many of us did things during that war that we would rather forget. We cannot reopen old wounds. Now is a time for healing and moving past old problems. That is why we have declared the general amnesty and applied it to all citizens of North Rhodelia. We have already established counseling and crisis centers here in North Rhodelia for anyone who suffered as a result of the civil war. Besides, all available funds are being used to reconstruct our country's infrastructure and to improve the lives of North Rhodelian citizens."* President Borgov also categorically denied that his government owed any duty to pay reparations to victims who were no longer in North Rhodelia for the actions of North Rhodelian militias, on the grounds that those actions were taken before the Republic of North Rhodelia came into existence, and therefore did not entail the responsibility of the new Republic.
12. With relief in Cynthia and North Rhodelia effectively foreclosed, on April 20, 2014, President Harmon issued the following statement to the international media: *"If our neighbors will not pursue justice for these women, it is the moral duty of Acantha to take up their cause. My government will seek reparations for the Cynthian women raped during the Demetrian civil war."* A spokesperson for President Harmon declared that Acantha was *"very concerned about corruption and respect for human rights in North Rhodelia, which is after all a major recipient of Acanthasian humanitarian and economic aid."*

III. CYNTHIAN WOMEN IN ACANTHA

13. Within the conservative culture of Cynthia, women known to have been raped are ostracized and unwelcome in mainstream society. Many are cast aside by their families and friends, and typically have difficulty finding and keeping employment. In the case of the women raped by the North Rhodelian militia, these effects were compounded by the devastation to the Cynthia economy resulting from the civil war. The United Nations Human Rights Commission estimated in December 2012 that approximately 5,000-8,000 Cynthia women, claiming to have been the victims of sexual abuse, were living without family or the means to support themselves. These women were often called "*women on the fringe.*"
14. The Walther Company is a privately-owned domestic services and hospitality company incorporated in Acantha, with no formal ties to any government or public agency. According to the *WorldWide Times*, the company also operates a large number of brothels throughout Acantha. Although prostitution and solicitation of prostitutes are crimes in Acantha, the laws prohibiting such practices are rarely enforced.
15. According to numerous reports, the substantial accuracy of which is uncontested, representatives of the Walther Company traveled to Cynthia shortly after the peace treaty was signed in September 2012, and recruited hundreds of "*women on the fringe*" to work and find new lives in Acantha, primarily as nannies or domestic servants. The representatives promised the women jobs, shelter, and education in the Acanthasian language, as most women spoke only their native Cynthia tongue. They assisted the women in filing visa, travel, and work-permit applications and arranged for their travel from Cynthia. In exchange for this assistance, the Walther Company charged the women a flat fee of US\$15,000. As this was much more than they could afford, the company extended loans to each woman in the amount of the fee that she could not pay. Typically, the terms of the loans extended over ten years, at an interest rate of ten percent, compounded annually, meaning that the amount to be repaid was more than double the amount loaned. Such loan terms are consistent with the laws of Acantha, Cynthia and North Rhodelia.
16. By December 2013, the Walther Company had relocated over 2,500 Cynthia women from Cynthia to Acantha, which promptly granted them permanent resident status. Once the women were resettled in Acantha, the company put nearly all of them to work in its brothels. At no time were any of these women North Rhodelian citizens or entitled to North Rhodelian citizenship.

17. Mr. Norvak Walther, a citizen and resident of Acantha, is the founder and Chief Executive Officer of the Walther Company. According to numerous articles in the *WorldWide Times*, the basic facts of which have not been contested, Mr. Walther was responsible for organizing the recruiting and transportation of women from Cynthia to Acantha for employment in the brothels. Shortly after the Demetrian civil war, Mr. Walther traveled several times between Acantha and Cynthia, but has not left Acantha recently. According to the *WorldWide Times*, Mr. Walther enjoys considerable influence with local police and government officials in Acantha and is also rumored to have close ties to international organized crime groups.
18. On May 1, 2014, the Institute for Women and Gender Studies ("IWGS"), a well-respected, international non-governmental organization, published a report on the sex industry in Acantha. A large portion of the report focused upon *"the plight of foreign women working as prostitutes in Acantha's cities."* The report discussed issues common to all the Cynthian women working in brothels but focused in particular on the women working in brothels owned and controlled by the Walther Company.
19. The IWGS Report found that many Cynthian women working for the Walther Company were subject to restraints on their liberty and were frequently mentally and physically abused. Their appeals to Mr. Walther or to Acanthasian police officials were routinely dismissed or ignored. The IWGS Report noted in particular that, according to official records, the police, as well as at least three Acanthasian governmental agencies (the Department of Immigration, the Department for Children and Families, and the Department of Work and Labor Conditions) had received written complaints from women alleging the conduct described in the IWGS Report. No Acanthasian agency ever initiated a formal investigation based upon the allegations.
20. The IWGS Report cited as typical the case of "Christiane F." (not her real name), a Cynthian rape victim working for the Walther Company. The IWGS Report said that Christiane F. was housed in a dormitory with 24 other women, and was forced to pay her employers for food, clothing and housing at rates substantially above prevailing Acanthasian retail prices. The dormitory was insufficiently heated in the winter, and uncomfortably hot in the summer. Insects and other vermin were rampant. When Christiane F. complained to her supervisors, she was temporarily removed from the work schedule, and thus deprived of income and driven deeper into debt. On the occasions when she was unable to pay for her food or clothing, the amount was added to her debt to the company. She was generally not permitted to leave the dormitory unsupervised except to

meet customers, to jog in the brothel's exercise room, or for medical appointments. At one point, Christiane F. fled the dormitory. Shortly thereafter, the police contacted Mr. Walther, informing him that Christiane F. had broken her ankle, and was in the hospital. After the hospital treated her ankle, Mr. Walther paid the hospital for its services, and the police returned her to the brothel. She was immediately required to return to work, and the cost of her medical bills was added to her debt. The IWGS Report, which was full of details and testimonials consistent with Christiane F.'s experience, was widely publicized in the Acanthasian and international press.

21. At a routine press conference following the issuance of the IWGS Report, on May 17, 2014, Acanthasian President Harmon answered questions from members of the international media regarding the Report. She was quoted in generally reliable newspapers as having stated that she was "shocked and horrified." She announced that her government was putting together a blue-ribbon panel of criminal-law and women's-rights experts, including prosecutors from the Acanthasian Ministry of Justice, to examine the problem. One reporter asked her whether the Acanthasian government bore responsibility for allowing the Walther Company to operate in Acantha, to which President Harmon replied, *"Our committee will investigate this matter thoroughly. It is important to note that the government of Acantha has no independent knowledge of the facts underlying the IWGS Report. There is no reason to believe that the abuses alleged in this Report are widespread throughout the country."*
22. Asked whether Mr. Walther would be investigated or prosecuted, President Harmon replied, *"We are concerned about the welfare of all Cynthian women, and our hearts certainly go out to those women who were brutally raped by North Rhodelian militiamen during the Demetrian civil war. I respect IWGS, but it is too soon to determine whether criminal charges are warranted, based solely upon this Report."* She was pressed by several reporters for a comment on the IWGS Report's findings that government agencies had been aware of the mistreatment. President Harmon replied, *"Some complaints may have been filed. Of course, I regret the fact that some of our agencies may have overlooked individual cases. However, our government is a large organization, with many branches, many agencies, and thousands of employees. When a few agencies receive isolated complaints from a few individuals, this does not mean the government had knowledge of a widespread course of conduct, much less that it was involved in or responsible for it. Conduct of the kind alleged in the IWGS Report is reprehensible. We are very upset about these allegations, and there may be private parties whose actions will merit prosecution. We will see. But the*

government of Acantha has not abused a single Cynthian woman, and never will." The President would not comment on whether she had Mr. Walther in mind as someone who should be prosecuted.

23. After learning of this press conference, North Rhodelian President Borgov sent a memorandum to his Justice Minister, dated May 19, 2014. The memorandum was later leaked to the press, and the Office of the President has since acknowledged that the published version was accurate. President Borgov wrote, *"Acantha's President challenges the conduct of North Rhodelian militiamen during the civil war, but at the same time, it seems she fails to protect the human rights of women in her own country, where prostitution is presumably illegal, as it is here. Please have your Department investigate this."*
24. Later that day, the North Rhodelian Justice Ministry announced *"based upon the principle of universal jurisdiction, applicable in the case of crimes against humanity, it is the intention of this Ministry to prosecute Mr. Norvak Walther for the international crime of illegally trafficking women for the purpose of sexual slavery. If we can obtain jurisdiction over him, we will; if we cannot, we shall try him anyway in absentia."* Following the announcement, the North Rhodelian Foreign Ministry requested through ordinary diplomatic channels that Acantha make Mr. Walther available for trial. There is no bilateral extradition treaty in effect between Acantha and North Rhodelia.
25. The next day, President Harmon issued the following statement: *"President Borgov is attempting to distract the international community from the problems in his own country. No 'crime against humanity' is implicated here, nor do we concede that North Rhodelia has any right to exercise universal jurisdiction over Mr. Walther, an Acanthasian citizen. North Rhodelia has no right, given its past conduct, to set itself up as the world's judge and jury. It must respect Acantha's sovereignty."*
26. Later that day, in a widely criticized movement, President Harmon reorganized its government. Among many other changes, Harmon appointed Mr. Walther as Minister for Foreign Affairs.
27. The following week, President Borgov held his own press conference, at which he released copies of the previously unpublished background research that was used in the preparation of the IWGS Report. The documentation clearly indicated that the Walther Company operated dozens of brothels in the fashion described in the original report. During the press conference, President Borgov stated, *"We have already announced that we will try the international criminal, Mr. Norvak Walther, under the principal of universal jurisdiction. We are surprised and disappointed*

that Acantha has not already prosecuted Mr. Walther, and ever more astonished in respect of the fact that it has been appointed as Minister for Foreign Affairs. Perhaps we should not have been so surprised. We will pursue justice until the end, and we will allow no impunity. In any case, the only remaining question is who is the worse criminal: Walther, or the government of Acantha, for permitting sexual slavery in its territory?" The Acanthasian government did not reply, although the press spokesman for the Foreign Ministry denounced President Borgov's comments as "*an unfortunate choice of words.*"

IV. CONCLUSION

28. During the period 2019-2020, the governments of Acantha and North Rhodelia exchanged a series of heated diplomatic messages concerning the issues discussed in this *Compromis*. Following unsuccessful mediation by representatives of the United Nations Secretary General, the parties agreed to submit the issues discussed in this *Compromis* to the International Court of Justice. President Harmon has ordered Mr. Walther not to leave the country, pending the judgment of the Court.
29. Several states have raised the matters discussed in this *Compromis* before the United Nations Security Council and General Assembly, but no resolution or any other formal action has been proposed or adopted. After being presented with a draft of this *Compromis*, the Secretary-General and the President of the Security Council issued a joint statement declaring that they would take no position on the legal issues raised in this case, pending the decision of the Court.
30. Acantha was one of the original members of the United Nations, as was Demetria. North Rhodelia succeeded to Demetria's membership upon the conclusion of the September 2012 peace agreement. Both Acantha and North Rhodelia are parties to the Vienna Convention on the Law of Treaties, and both countries voted in favor of U.N. General Assembly Resolution 56/83, respecting the final draft of the International Law Commission's Articles on State Responsibility.
31. Acantha is a party to the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination Against Women; the Convention on the Rights of the Child. Demetria was not, and North Rhodelia is not, a party to any of these instruments, **except** to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which three

states were parties at all relevant times.

32. Acantha is also party to the "Regional Anti-Corruption Convention" (RACC), which is identical to the Council of Europe's Criminal Law Convention on Corruption. North Rhodelia has signed but not ratified the RACC. Neither state is a party to any other relevant treaty. Acantha has enacted the domestic implementing legislation required under the RACC, but to date there have been no prosecutions pursuant to this legislation. North Rhodelia has no specific anti-corruption laws.
33. Acantha and North Rhodelia agree that no other State is a necessary party for the resolution of any of the issues that are the subject of this *Compromis*.
34. Applicant Acantha requests that the Court adjudge and declare that:
 - I.** North Rhodelia has breached its international obligations and must pay damages to Acantha to be distributed as reparations to those victims of systematic rape during the Demetrian civil war who are now resident in Acantha; and
 - II.** North Rhodelia is not entitled to exercise universal jurisdiction over Mr. Norvak Walther.
35. Respondent North Rhodelia requests the Court to adjudge and declare that:
 - I.** North Rhodelia is not liable for reparations to the rape victims now resident in Acantha, and in any event Acantha has no standing to raise such claims; and
 - II.** North Rhodelia is entitled to exercise universal jurisdiction over Mr. Norvak Walther.