

TABLE OF CONTENTS

STATEMENT OF FACTS.....	Error! Bookmark not defined.
QUESTIONS PRESENTED	iv
STATEMENT OF JURISDICTION.....	v
INDEX OF AUTHORITIES.....	vi
SUMMARY OF ARGUMENT	Error! Bookmark not defined.
ARGUMENT.....	Error! Bookmark not defined.
I. THE UNITED STATES VIOLATED INTERNATIONAL LAW WHEN IT EXECUTED MAX AZIZ, A CANADIAN NATIONAL SUSPECTED OF INDIRECT INVOLVEMENT IN ACTS OF TERRORISM WHO WAS IN THE CUSTODY OF THE UNITED STATES WHEN HE WAS KILLED.....	2
A. <i>The United States violated international law by conducting the targeted killing of Max Aziz because both United States treaty obligations and customary international law prohibit targeted killing.....</i>	<i>4</i>
B. <i>The United States violated international law when it conducted the targeted killing of Max Aziz because he was not a legitimate target.....</i>	<i>4</i>
C. <i>Even if targeted killing were consonant with international law and Max Aziz had been a legitimate target, the United States violated international law by killing him after taking him into custody.....</i>	<i>5</i>
II. THE UNITED STATES VIOLATED THE LAW OF THE SEA WHEN IT BOARDED, SEARCHED, AND SEIZED THE MAPLE PRINCESS WITHOUT FIRST OBTAINING APPROVAL FROM CANADA, THE FLAG STATE.....	7
A. <i>The United States violated the Law of the Sea when its Navy boarded and searched the Maple Princess on the high seas without obtaining Canada’s consent.....</i>	<i>8</i>
B. <i>The United States violated the Law of the Sea when its Coast Guard boarded, searched, and seized the Maple Princess on the high seas without obtaining Canada’s consent.....</i>	<i>9</i>
III. THE UNITED STATES VIOLATED INTERNATIONAL LAW BECAUSE IT COULD NOT EXERCISE UNIVERSAL JURISDICTION OVER MAX AZIZ OR THE MAPLE PRINCESS.....	11
A. <i>The United States could not exercise universal jurisdiction because no jus cogens crime had been committed on The Maple Princess.....</i>	<i>13</i>
i. <i>Terrorism is not a jus cogens crime subject to universal jurisdiction.....</i>	<i>13</i>
ii. <i>Drug trafficking is not a jus cogens crime subject to universal jurisdiction.....</i>	<i>15</i>
B. <i>No treaty allowed the United States to exercise universal jurisdiction over The Maple Princess.....</i>	<i>16</i>
IV. THE UNITED STATES MUST RETURN THE MAPLE PRINCESS TO PRIME MINISTER SHARPER BECAUSE HIS PROPERTY IS PROTECTED BY “HEAD OF STATE IMMUNITY” FROM ANY FOREIGN PROSECUTION.....	17

STATEMENT OF FACTS

Stephen Sharper (P.M. Sharper) is a citizen and resident of Canada. He was elected Prime Minister of Canada in 2006. Since 2003, P.M. Sharper has owned an 85-foot luxury sail catamaran with a maximum speed of 20 knots named *The Maple Princess*. It is a registered Canadian flag ship. The ship flies a Canadian flag and has a giant, emblazoned red maple leaf spinnaker with the words, “Thinking new boat? Think Canadian!”

In April of 2006, P.M. Sharper leased the vessel for the months of June and July to his half-brother, Flan Tomigan (Tomigan). Tomigan intended to sail the boat roundtrip from Canada to Galway, Ireland. He invited his long time friend, Max Aziz, to join him on the trip from Galway to Canada. Both men and their wives would make the journey.

Aziz had run an extremely profitable import-export business since 1994. Yet, the CIA had suspected Aziz to be a primary financial supporter of the terrorist group, al-Qaeda. Because of intelligence gathered by the United States’ intelligence community, the President of the United States issued a Top Secret Presidential Decision Directive (PDD 2006-08) to authorize the targeted killing of Max Aziz. In furtherance of PDD 2006-08, the U.S. Navy followed *The Maple Princess* during its leg from Galway to Canada.

On July 16, 2006, the U.S. Navy SEALs (SEALs) boarded *The Maple Princess* without the consent of Canadian authorities 260 nautical miles east of Nova Scotia. The team of six SEALs found all four Canadian citizens asleep. The SEALs stunned each of the passengers unconscious with Taser M-18 stun guns. Once Aziz was identified, the SEALs shot him in the head. After Aziz was shot and killed, the SEALs took his body and threw it overboard.

During the operation, The SEALs discovered a large suitcase that contained a white powdery substance believed to be heroin. The SEALs left the vessel on autopilot because the three remaining Canadian citizens were left unconscious. Upon departing the vessel, the SEALs contacted U.S. Coast guard to investigate the suitcase on *The Maple*

Princess. By helicopter, the Coast Guard promptly found *The Maple Princess* and boarded the Canadian vessel, again without the consent of the Canadian authorities.

The Coast Guard took the alleged heroin and the three remaining Canadian passengers into custody. The passengers were only released when the Coast Guard learned that Tomigan was PM Sharper's half-brother. However, the United States retained control of *The Maple Princess*. The United States retained the vessel based on its forfeiture statute and consequently instituted forfeiture proceedings.

Canada has challenged the retention of *The Maple Princess* by making special appearances before the U.S. District Court. They proceeded to argue that the case should be dismissed. However, the District Court rejected Canada's arguments.

In a separate case, Max Aziz's widow brought a claim under the Alien Torts Act in the federal court of the United States for the extrajudicial execution of her husband. The U.S. District Court dismissed the case citing the U.S. Supreme Court's decision in *Sosa v. Alvarez*. The opinion was affirmed on appeal.

Both the government of Canada and Max Aziz's widow each petitioned the U.S. Supreme Court for *writs of certiori*. Both petition were denied. In response to the U.S. decisions and their unwillingness to return the vessel to Canada, P.M. Sharper closed the Peace Bridge. The Peace Bridge is one of the busiest border crossings between Canada and the United States. The closing of the bridge was conditioned on the United States submitting to the jurisdiction of the International Court of Justice (ICJ) in order to resolve the dispute concerning both, the forfeiture of *The Maple Princess* and the execution of Max Aziz. Within a few hours, the United States submitted to the jurisdiction of the ICJ pursuant to Articles 40(1) and 36(1) of the Statute of the ICJ.

QUESTIONS PRESENTED

1. Whether the United States violated international law when it executed Max Aziz by conducting a targeted killing.
2. Whether the United States violated the Law of the Sea when it boarded, searched, and seized *The Maple Princess* without first obtaining approval from Canada, the flag state.
3. Whether the United States violated international law by exercising jurisdiction over Max Aziz and *The Maple Princess* in the high seas.
4. Whether the United States must return *The Maple Princess* to Prime Minister Stephen Harper because he is protected from prosecution under the head of state immunity.

STATEMENT OF JURISDICTION

Canada and the United States decided pursuant to Articles 40(1) and 36(1) of the International Court of Justice (ICJ) Statute to submit this dispute to a Chamber of three judges of the International Court of Justice. The propriety of the ICJ's jurisdiction, and admissibility of the case generally, is stipulated by the parties in the *Compromis* (*Compromis* para. 16(e)).

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