

**BLSAC Julius Alexander Isaac Diversity Moot
Official Problem 2016**

You will be preparing arguments for a judicial review of the decision of the Law Society of Upper Canada in the fictional case of *A.B. v. Law Society of Upper Canada*

You may rely on the following findings in the preparation of your argument:

A.B. is a citizen of the Central African Republic, born in 1980. She was and admits to having been a member of the Lords Resistance Army (LRA). She was recruited at the age of 13. She states that, in addition to her military activities, she was a victim of repeated sexual and other violence. She remained a member of the LRA until the age of 22. She admits that she rose within the insurgency ranks where she frequently lead raids on communities or chased down escapees from 1997 onwards.

A.B. came to Canada in August 2002 and filed a claim for refugee protection claiming fear for her life from both the LRA and retribution from persons she had harmed while a child soldier.

The LRA's conduct has been the subject of numerous international reports including their practice of recruitment and exploitation of child soldiers. Their presence in the Central African Republic is also well documented.

The Immigration Division and Refugee Board of Canada (ID) found that A.B. was inadmissible under paragraph 34(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] for being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in terrorism, and also inadmissible under paragraph 35(1)(a) of IRPA for being complicit in the commission of crimes against humanity. In their decision, the ID emphasized her actions committed while a member of the LRA between the ages of 18 and 22.

The ID decision was upheld on judicial review, by both the Federal Court trial and appeal divisions. A Leave to Appeal application to the Supreme Court of Canada was filed on October 13, 2015. A.B.'s immigration status in Canada is currently not resolved.

A.B. has acknowledged being party to numerous acts of violence. She testified before the Law Society hearing panel that she deeply regrets her past actions. She did not choose to lead any expert or medical evidence in this regard in the Law Society proceedings.

Since arriving in Canada, A.B. obtained a B.A. in sociology. She was admitted to the University of Ontario, Faculty of Law in September 2011. She completed and submitted an application to be admitted to the Law Society of Upper Canada as a

lawyer (L1 licensee) in November 2013 in anticipation of the receipt of her JD in June 2014.

A.B. has not been charged or convicted of any offenses since arriving in Canada in 2002. She obtained an offer of articles for June 2014 with a very reputable immigration law firm, whose senior partner testified on her behalf at the hearing panel.

Letters of reference were received and put before the hearing panel from a number of colleagues and professors. All stated that they had been provided with complete details of A.B.'s past behavior including details of the matter before the ID. They all insisted that they viewed A.B. as a person of good character in whom they would have the utmost confidence.

In the "good character" part of her application, A.B. admitted that she had been a member of the LRA, an illegal organization in the Central African Republic. She admitted being convicted in absentia as a group of persons deemed to be responsible for four (4) raids on identified communities.

The Law Society issued a Notice of Hearing pursuant to Section 27(2) & (4) of the Law Society Act, R.S.O. 1990, c L.8. In September 2014, the hearing panel found that A.B. was not of good character. The matter was before the appeal panel in January 2015. They upheld the hearing panel decision.

The appeal panel upheld the findings of the Hearing Division based on the following:

- (a) The appeal panel supported the concerns raised by the hearing panel that the LRA was a terrorist organization. They expressed concern that by 1997, A.B. was an active participant in harms caused to innocent parties.
- (b) The ID decision, referred to by both the hearing and appeal panels made reference to several witnesses, now resident in Canada, who gave evidence of four (4) distinct occasions when A.B. fired upon them, wounded and/or killed their family members, burned their property to the ground and stood by while others assaulted them or their loved ones. Witnesses to each of these occasions gave evidence that A.B. appeared to be the leader of the group that attacked them and was giving orders to her colleagues.
- (c) The facts of the specific raids in which A.B. participated between 1997 and 2002 were found to be particularly heinous by the ID. The ID found that the witness statements were confirmed by independent UN observer reports from that time period.
- (d) The appeal panel recognized the achievement of A.B. in obtaining both a B.A. and J.D. given the early challenges in her life.
- (e) The appeal panel recognized the strength of the character endorsements of persons who had studied and worked with A.B. since her arrival in Canada.
- (f) The appeal panel expressed concern that the members of the public, particularly those now resident in Canada who had suffered at A.B.'s hands, were entitled to a clearer demonstration of remorse and supporting evidence

that the violence that permeated her life prior to her arrival in Canada has been overcome.

The Diversity Moot Court has granted A.B. leave to appeal on the following questions:

1. Did the Law Society appeal panel err in the admissibility and weight given to the ID finding that A.B. was a member of a terrorist organization?
2. Did the Law Society appeal panel err in its assessment of A.B.'s conduct upon applying to Canada as indicative of her lacking good character at the time of her application to the Law Society?

The Diversity Moot Court does not wish to hear arguments related to:

1. Standards of Review

All participants should note that the Diversity Moot is about advancing critical race litigation and should shape their facts accordingly.