

# PRICE MEDIA LAW MOOT COURT COMPETITION CASE

*2012/2013 COMPETITION YEAR*



*Official Case of the 2013 International Rounds and the 2012/2013  
Regional Rounds in South Asia, the Balkans, the Americas and the  
Middle East*

1. Malamba is a coastal country with a worldwide reputation for its picturesque seaside villages and its rich literary tradition. It has a population of about ten million, about four million of whom live in or near its capital city, Langar. UNESCO has designated Langar's historic central district, which is dotted with cafes, open-air markets, and elegant early 20th-century architecture, as a World Heritage Site. It is a mid-income country whose three most economically significant industries are tourism, commercial fishing, and light manufacturing for domestic use.
2. Malamba, which has been independent since the 19th century, is a parliamentary democracy. For much of the last 50 years, control of the Malamban Parliament has alternated between the Democratic Social Party, whose support is strongest in Langar, and the Federal Alliance, whose support comes primarily from the rest of the country.
3. From 1970 to 1972 and from 1988 to 1992, Malamba fought extended low-level wars with the neighboring Bregalian Republic. Both wars began as disputes over fishing rights in the Bay of Langar, which both countries abut. Both countries

considered the wars primarily a matter of national honor. The fighting, which was confined to the mountainous border region separating the countries, was inconclusive. Many Malambans still have substantial lingering resentment of the Bregalian Republic, and there is widespread suspicion that Bregalian agents are attempting to infiltrate the Malamban government and undermine national unity.

4. In the late 1990s, the Federal Alliance responded to rising inflation and a high national debt by enacting an austerity budget containing major cuts in government spending on construction projects, government employment, and social welfare programs. All of these cuts fell hardest among urban workers in Langar. Protests against the budget in 1998 turned violent, and led to weeks of riots and looting. Numerous buildings in Langar's historic central district were seriously damaged. Tourism to Malamba dropped off by nearly 80%, and did not reach its former level until 2006. The crisis abated when the Democratic Social Party took power in the 1999 elections and eased some of the austerity measures. The Federal Alliance regained a majority in Parliament in 2005.
5. G8-Way (pronounced "gateway") is a social networking website whose headquarters are in Langar. It is designed to allow easy access from a mobile phone. All of its major features, including sending messages to other users and browsing other users' profiles, can be accessed by sending SMS messages to a G8-Way telephone number. Since a majority of Malambans have SMS-capable phones which allow them to send unlimited numbers of messages for a flat rate, but comparably few Malambans have Internet-capable smartphones, G8-Way has become a popular way to communicate. It currently has approximately 150,000 active users.
6. G8-Way allows users to create and join groups that it calls "G8s." The members of a G8 can send messages that will be forwarded to all the other members of the G8. In order to limit the overall load on the phone system, G8-Way restricts each G8 to a maximum of 8 members, although a user can belong to multiple G8s. Because of this, users will frequently receive a message from one G8, and then immediately forward it to their friends in another G8.
7. Forwarded messages are so common that G8-Way has created a service it calls Flood-G8s ("floodgates"). Once a day, G8-Way selects five of the previous day's most common messages, which it sends to all users who have signed up for Flood-G8s. The specific messages to be included are chosen by a computer program that selects messages that were forwarded frequently and quickly. The details of the program are a closely guarded secret; G8-Way says only that the program runs automatically without human intervention or oversight, and that it

does not simply select the most popular messages, but it rather attempts to select the messages that are likely to become popular in the next day.

8. The wealthy businessman Kogar Derechem is the president of the Bank of Langar. In addition to his majority ownership of the Bank, he owns major seafood processing plants, and the country's largest trucking company. He is a longtime supporter of the Federal Alliance and has been a close friend of the current Prime Minister for many years.
9. The Bregalian Times is a daily newspaper owned by a Bregalian company and published in the Bregalian Republic. On January 17, 2012, it ran a detailed article on allegations that Derechem had diverted Bank of Langar assets for his personal use, and that he had made loans on extremely generous terms to several Federal Alliance politicians. The article quoted numerous Malambans and drew extensively on Malamban governmental documents, some of them confidential. The crucial allegations of corruption were spelled out in quotations from an unnamed source whom the article described as "a person who is employed by the Bank of Langar and is familiar with the matter." It was published in print in the Bregalian Republic and on the Bregalian Times's website, which is accessible worldwide. It was written by Torsom Bega, a Bregalian citizen who lives in Langar and is employed by the Bregalian Times.
10. Within hours of the initial report, numerous G8-Way users had begun sending each other messages about the Bregalian Times article. Some of them merely repeated statements from the article, such as its description of Derechem's lavish mansions and quotations from the bank vice-president who claimed to have carried out the illegal transactions at Derechem's request. Others were rumors about other illegal conduct, including that Derechem had used his personal wealth to help the Federal Alliance bribe election officials in the 2005 election and that he had a blackmail file on the Prime Minister with detailed evidence of sexual misconduct. Still other messages were jokes about Derechem, such as "Why doesn't KD have the prime minister in his pocket? Because it's already full of the bank's money."
11. Under Malamban law, defamatory statements are actionable whenever they are false and harmful to the subject's reputation. However, there is an exception for "communications media that make available without modification messages supplied to them by the public." Such media are immune from liability unless "the subject of such a communication gives actual notice of the communication that is alleged to be defamatory, and the medium fails to promptly disable further access to the communication." Under Bregalian law, defamatory statements about public figures on issues of public concern are not actionable if

there was a "reasonable basis" for the publisher to believe that they were true at the time they were made.

12. Kogar Derechem appeared on multiple Malamban television and radio stations in the evening of January 17 to rebut the charges against him, which he described as "completely baseless." His attorney hand-delivered a notice to G8-Way alleging that the article in the Bregalian Times was false and defamatory, and demanding that G8-Way take all necessary actions to prevent "any further falsehoods about Derechem from being communicated via G8-Way in any fashion." In a response delivered shortly before midnight, G8-Way stated that Derechem's demand was infeasible to comply with unless Derechem identified the specific text of the G8-Way messages to which he objected.
13. The next day, January 18, 2012, three of the five daily Flood-G8s concerned Derechem:
  - a. A quotation from the Bregalian Times containing a truthful description of his gemstone-encrusted bathtub.
  - b. A false rumor that he had run over and killed a beggar with one of his exotic sports cars.
  - c. A piece of crude wordplay on the similarity between "Kogar" and a Malamban slang term for the act of defecation.
14. By late morning, G8-Way users were sending to the other members of their G8s thousands of messages about Derechem and the Bank of Langar. The messages became increasingly angry, including "Take Back the Bank," "Drive Derechem out by any means necessary," and "SMASH THE BANK!" Some of these messages were sent by members of the Democratic Social Party with the intent of promoting dissatisfaction with the Federal Alliance by linking it to Derechem.
15. In mid-afternoon, a large and angry crowd gathered at the Bank's main branch in Langar. Members of the crowd sent to their G8s messages such as "Join me at the bank NOW." Within fifteen minutes, the crowd had become violent and stormed into the bank. Employees ran out the back as the crowd smashed windows, destroyed furniture, and tore apart a portrait of Derechem. Unknown members of the crowd stole the cash on the premises, along with computers and anything else of obvious value. By the time the police arrived in force, the bank's interior had been reduced to wreckage. Members of the crowd dispersed down multiple side streets.
16. Upon being informed of these events, the Prime Minister issued a declaration of a state of emergency in Langar and authorized the Langar Chief of Police to take any necessary measures to restore order. The Chief of Police immediately dispatched police to guard other branches of the Bank of Langar. In addition, the

Chief of Police ordered MalamTel, the national mobile phone company, to deactivate completely all mobile phone towers within one kilometer of a Bank of Langar location. Users in these service areas were unable to send or receive SMS messages, or to send or receive telephone calls. Although restless crowds gathered outside some of the other branches, there was no further violence and the rest of the day passed without incident. The Prime Minister suspended the state of emergency the next day.

17. The following week, the Malamban Parliament enacted a new law authorizing the officers of any "financial institution" to request the immediate deactivation of any mobile phone tower within one kilometer. The request must contain a signed statement from the officer that there is an imminent threat to the financial institution from unlawful mob action. Upon receipt of such a request, MalamTel is required to deactivate the tower within ten minutes. The tower is to be reactivated after six hours unless an officer of the financial institution appears before a judge and provides "good reason to believe that such deactivation should continue."
18. The Malamban government ordered G8-Way to turn over its complete records of all messages sent on January 18, and the complete lists of the members in all G8s. The government then pored through the lists and identified fifteen G8s which were especially influential in spreading messages about the Bank of Langar. These G8s were the ones whose messages were seen (after being forwarded by other users) by the largest number of G8-Way users on that day. These fifteen G8s had a total of eighty-seven members. The government prosecuted the thirty-six members of these G8s who sent or forwarded the messages "SMASH THE BANK!" and "Join me at the bank NOW!" for the crime of incitement to riot; it prosecuted all eighty-seven members with the crime of knowing membership in a terrorist organization.
19. Kogar Derechem filed a lawsuit for defamation against G8-Way and Torsom Bega in the domestic courts of Malamba. One claim in the lawsuit sought to hold Bega liable for the Bregalian Times article. A second claim sought to hold G8-Way liable for individual messages sent by users to their G8s on January 17 and 18. A third claim sought to hold it liable for the three January 18 Flood-G8s that refer to Derechem. Derechem prevailed on all three claims in the courts of Malamba.
20. Torsom Bega and G8-Way, on its behalf and on behalf of its users, have challenged all of the following under, but not limited to, Articles 12, 19, and 20 of the Universal Declaration of Human Rights:
  - a. The January 18 deactivation of the mobile phone towers and the threat of future deactivations.
  - b. The requirement to disclose the messages sent by G8-Way users and the membership lists of the G8s.

- c. The prosecutions of G8-Way users for incitement to riot and knowing membership in a terrorist organization.
  - d. The defamation lawsuit against G8-Way and Bega for the transmission of injurious falsehoods about Derechem.
21. No law, domestic or international, restricts Bega's and G8-Way's standing to bring these challenges. Bega's and G8-Way's claims have been rejected on the merits in the domestic courts of Malamba, and all appeals or other remedies within the Malamban court system have been exhausted.