

Forum:	International Court of Justice (ICJ)
Issue:	Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates)
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Introduction

In 2018, Qatar filed a lawsuit against the United Arab Emirates (UAE) claiming the alleged violation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) by deporting all Qatari people residing in the UAE, as well as enacting alleged punishment measures toward Qataris. Qatar deemed that this action was directed against Qataris solely for their national origin, a direct violation of the aforementioned CERD, and filed a request for the indication of provisional measures to protect the Qataris' rights.

The roots of conflict trace back to issues including Qatar's relations with the Taliban and similar organizations despite the interests of other Arab nations, the withdrawal of Arabic ambassadors from Qatar, and other events that led to the eventual submission of Qatar's case to the International Court of Justice (ICJ). The ICJ will hence be debating whether the court should be in favor of Qatar or the UAE in this case regarding racial discrimination. As a first step, both sides are recommended to interpret if the measures the UAE took were based on nationality or racially motivated.

Definition of Key Terms

International Court of Justice (ICJ)

Established in 1945, the ICJ is the United Nations' principal judicial organ. The ICJ's main role is to settle legal disputes between states, although they can also give advisory opinions on questions raised by United Nations committees. There are two major roles in the ICJ: judges and parties. Traditionally, there are 15 judges, each from a different nation. Judges are independent of their nations' stance; instead, they use their logical reasoning and moral compass to conclude. In each Court case, there are two parties, with two advocates composing a party. Through speeches, presentation of

evidence, and witness questioning, advocates represent their parties' side of the facts to the best of their ability.

Jurisdiction/Admissibility

Jurisdiction refers to the official power or extent of power to make legal decisions and judgments. Admissibility refers to the quality of being accepted/valid, typically within a court of law. The distinction between jurisdiction and admissibility comes down to jurisdiction as a reference to the "power of the tribunal to hear a case" while admissibility means "whether it is appropriate for the tribunal to hear it." In reliance on the ICJ, jurisdiction is established on the consent of the States to which it is open. The form in which consent is established determines how a case may be brought before the Court.

International Convention on the Elimination of All Forms of Racial Discrimination (CERD) (1965)

The CERD is a United Nations convention that serves as a human rights instrument aiming to eliminate racial discrimination. Qatar invoked Article 22 of the CERD regarding the interpretation of the treaty to address the alleged violations made by the UAE dubbed by Qatar as "discriminatory measures" against Qataris.

Riyadh Agreement (2013)

The Riyadh Agreement was an agreement made between the Gulf Cooperation Council (GCC) states: Saudi Arabia, Bahrain, Qatar, Kuwait, Oman, and the UAE, promising not to interfere with the politics of member states of the GCC including not supporting "deviant groups" and "antagonistic media" that oppose their state.

Provisional measures

Provisional measures are temporary measures given by a court under special circumstances pending the decision on the case to ensure the protection of all relevant parties involved. Qatar requested provisional measures to protect the rights of Qatari nationals in the UAE, which was approved by the ICJ. The UAE also requested provisional measures asking Qatar to stop exacerbating the situation, which was denied by the ICJ.

National origin

The interpretation of the term national origin was heavily debated as it dictated whether the ICJ had jurisdiction over the alleged violations of Article 22 of the CERD. Both parties disputed whether or not racial discrimination in the CERD could be applied to national origin, and whether current nationality constitutes a part of national origin.

Anti-sympathy laws

The anti-sympathy laws are a set of laws the UAE publicly announced on June 7th, 2017 that criminalized sympathizing with Qatar: “The Attorney General of the State warns that any participation... in expression of any sympathy for the State of Qatar... shall be subject to 3 to 15 years and a fine of not less than 500 thousand dirhams.” The first instance of this law being enforced was on July 6th, 2017; the UAE arrested Ghanem Abdullah Mattar for posting videos expressing his opinion that Emiratis should stop villainizing Qatar. The most notable instance of this law being put into action was when Ali Issa Ahmad, a British national wearing a Qatari football shirt at the Qatar-Iraq match on January 22nd during the 2019 Asian Cup hosted by the UAE was “forced... into the back of his car, handcuffed... [his shirt was cut] inflicting several knife wounds to his arm and chest, [and] punched... in the face.”

Absolute/modified travel ban

Qatar argues that the UAE allegedly violated Articles 5, 2, and 6 of the CERD through its abrupt expulsion notice and absolute travel ban restricting Qatari nationals from entering the country and expelling Qatari nationals already in the UAE.

Background Information

Application of the International Convention on the Elimination of All Forms of Racial Discrimination (*Qatar v. United Arab Emirates*)

On June 11th, 2018, Qatar accused the UAE of violating the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965 (CERD) through the UAE’s alleged discriminatory measures thrust upon Qataris residing in the emirates. Prior to this, conflict between Qatar and the UAE stemmed from Qatar’s support of groups acknowledged by Saudi Arabia, Bahrain, the UAE, and Egypt as “terrorist organizations” such as the Muslim Brotherhood, Islamic State, Al Qaeda, Hezbollah, and Fateh Al Sham.

Further conflict arose between Qatar and the UAE (and other GCC states) due to Qatar’s failure to abide by the Riyadh Agreement of 5 November 2019, which aimed to create a unified Arab front and shared political interests. Qatar supported the Muslim Brotherhood in Egypt in direct opposition to the UAE’s support for Abdel Fattah el-Sisi going as far as having the Emir of Qatar, Tamim bin Hamad Al Thani, making a public statement denouncing Sisi’s election and referring to it as a military coup. Another instance of a proxy conflict between the two was during the Second Libyan Civil War, with the UAE in support of the Tobruk Government and Qatar backing the National Salvation Army.

Overview of the case

On June 5th, 2017, the UAE's Ministry of Foreign Affairs severed all ties with Qatar. The 5 June Directive announced an expulsion order for all Qataris in the UAE, including diplomats, as well as enacting a series of alleged "collective punishment measures" directed towards the Qatari people. Through the propagation of anti-Qatari propaganda and efforts to promote hate and reduce sympathy such as the Anti-Qatari Incitement Campaign, blocks on Qatari media, Anti-Sympathy Laws (such as cybercrime laws, and the Asian Cup incident), and the Absolute Travel Ban-Modified Travel Ban, Qatar deemed such actions as "discriminatory measures" in direct violation of the CERD accusing the UAE of racial discrimination, and reasserting the failure on behalf of the UAE to uphold international law combatting discrimination.

Qatar requested for an indication on provisional measures in an attempt to protect the rights of Qatari nationals residing in the UAE. On July 23rd, 2018, the ICJ entertained Qatar's aforementioned indication on provisional measures; *prima facie* "falling within the scope of CERD *ratione materiae*." Contrary to the claims made by Qatar that the UAE vehemently denied, and in accordance with Qatar's concerns and accusations against the UAE, the ICJ concluded that "(i) families that include a Qatari, separated by the measures... on 5 June 2017, are reunited; (ii) Qatari students affected by... [said] measures... are given the opportunity to complete their education in the [UAE]... (iii) Qataris affected by... [said] measures... are allowed access to tribunals and other judicial organs of the [UAE]."

Diallo Case and interpretation of treaties

The Diallo case began on December 28th, 1998, when the Republic of Guinea filed proceedings against the Democratic Republic of Congo (DRC) regarding the unlawful imprisonment and seizing of assets of Mr. Ahmadou Sadio Diallo. Prior to Mr. Diallo's arrest, the DRC and other Congolese oil companies owed substantial debts to Mr Diallo's companies (Africom-Zaire, Africontainer-Zaire).

In the Application of the International Convention on the Elimination of All Forms of Racial Discrimination (*Qatar v. United Arab Emirates*), the ICJ recalled that in the Diallo case: "Although the court is in no way obliged, in the exercise of its judicial functions, to model its own interpretation of the [ICCPR] on that of the Committee, it believes that it should ascribe great weight to the interpretation adopted by this independent body that was established specifically to supervise the application of that treaty." This could be seen as one possible way to interpret certain clauses of the CERD such as determining the definition of national-origin and whether or not discrimination against national origin constitutes as racial discrimination in the CERD. Another

way to determine national origin would be adhering to the definition of national origin dictated by regional jurisprudence or municipal law.

Major Countries and Organizations Involved

Qatar

A peninsula that shares its only land border with Saudi Arabia, the largely Sunni Islam Qatar enjoys relatively high standards of living and status as an international mediator due to the enormous wealth and influence gained from having one of the largest oil and gas reserves in the world. Border and territory disputes with Bahrain and Saudi Arabia were resolved only in 2001.

Qatar established a reputation for cultural and political openness in the twenty-first century. The government sponsors the news outlet *Al Jazeera* (lit. “The Peninsula”), which claims to be the first Arab news network free from national agendas and often criticizes authoritarianism and foreign policy against Arab countries. The network does not criticize Qatar but is otherwise hailed as an incredibly independent and impartial news outlet, leading to the UAE’s determination to label *Al Jazeera* as hate speech and the work of terrorists.

Qatar’s status as a supposedly impartial mediator in the Middle East is a double-edged sword. On one hand, Qatar has proven successful in settling disputes—through negotiation or backing one side of the conflict—between Arab states with vastly different religions, agendas, and values that few can overcome. On the other, having to balance diplomatic relations with national rivals as well as secular versus religious groups and governments often leads to accusations of harboring terrorists and acting as an obstacle to progress in the Middle East.

United Arab Emirates (UAE)

A nation ruled by Sunni Islam families, the UAE is composed of seven emirates, or territories ruled by emirs (lit. “chief, governor”). It shares its southwestern border with Saudi Arabia and its eastern border with Oman. Disputes over exact borders and jurisdiction over certain territories are ongoing. Only about 11% of the UAE’s residents are its citizens; the rest are workers from foreign countries and their families, leading to an incredibly diverse population whose balance requires great diplomacy to maintain. The UAE’s economy is built mostly on the oil reserves of Abu Dhabi and the businesses of Dubai, two of its emirates.

The UAE has a history of suppressing political dissent and labeling influential groups with interests differing from that of the government as terrorists, although some of the groups in question are considered terrorists by not only the UAE but the entirety of the Middle East. In alignment with its history

of crackdowns on terrorist groups, the UAE—as a member of the Arab Quartet (alongside Bahrain, Egypt, and Saudi Arabia)—blockaded Qatar on June 5, 2017, to dissuade them from continuing relations with the Muslim Brotherhood and to curb Iranian influence in the region. This blockade, along with claims of discrimination against Qataris, led to today's ICJ case.

The UAE needs a solid indication of change in the status quo to back down on its stance. The UAE's current—and only, despite ongoing negotiation and mediation attempts from all but the UAE—proposal is for Qatar to follow all of its demands, detailed in previous sections.

Saudi Arabia

Tapping into its incredible wealth from oil reserves, Islamic Saudi Arabia covers most of the Arabian Peninsula. The country, rich in cultural and historical wealth, shares and previously disputed its borders with Iraq, Jordan, Kuwait, Oman, Qatar, the UAE, and Yemen. Its government often receives criticism for its restrictions on freedom of religion and other human rights.

As Qatar's only land neighbor, Saudi Arabia was able to put pressure on Qatar by joining with the UAE in a *de facto* blockade of Qatar's transportation and supply chains in 2017. Saudi Arabia claims that the blockade is part of every nation's right to sovereignty and protecting its own citizens. The country shares many interests and stances with the UAE on this issue; its demands and desires should be taken into consideration during negotiations.

Kuwait

Bordered by Saudi Arabia, Iraq, and the Persian Gulf, the desert that makes up Kuwait has resulted in the country's dependence on foreign commerce, which requires maintaining good relations with as many nations as possible, and oil and gas reserves. Its general political and religious hegemony—conservative (with a ban on political parties) and Islamic, respectively—have made Kuwait a relative haven of stability in the Middle East.

Kuwait is the most prominent among other third parties to have expressed and acted on its willingness to act as a mediator between Qatar and the UAE, most likely recognizing the need for good relations to maintain its standard of living and regional stability while preventing human rights violations. The UAE supports Kuwait's efforts in name alone, insisting that Qatar fulfill its demands, while Qatar is eager to participate in dialogue. Alongside Qatar, Kuwait has repeatedly and unsuccessfully attempted to involve the UAE in any sort of communication.

Arab League

With its roots in the Pan-Arab movement stemming from the end of the Ottoman Empire, the Arab League was established in May 1945. The League consists of founding states Egypt, Iraq, Lebanon,

Saudi Arabia, Syria, and Yemen, as well as Algeria, Bahrain, Comoros, Djibouti, Kuwait, Libya, (the Islamic Republic of) Mauritania, Morocco, Oman, the representatives of the Palestinian peoples, Qatar, Somalia, Sudan, Tunisia, and the UAE.

The League provides Arab states with the power to coordinate national systems, resolve disputes, and defend in the shared interest of preserving the Arab peoples and their cultures. However, despite its ambition and Pan-Arab ideology, the League's insistence on unanimous decision-making and the reluctance of its member states to hand any jurisdiction to transnational organizations hold it back from its full potential. In particular, Saudi Arabia and the UAE are intent on the members of the GCC aligning with their foreign policy and interests. This goal tends to cause rifts with the more independently-inclined countries, such as Qatar.

In 2017, the Arab League severed diplomatic relations with Qatar. By 2021, the UAE, Saudi Arabia, and Qatar had held successful negotiations that greatly decreased regional tensions.

Gulf Cooperation Council (GCC), or the Cooperation Council for the Arab States of the Gulf

Established in May 1981 to strengthen international relationships between member states and citizens, the GCC is a Middle Eastern political alliance based on shared identities and political views composed of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the UAE. The Council features, among other bodies, a Commission for the Settlement of Dispute and a Military Committee.

After several failed attempts at Pan-Arab security, the GCC was established as a sub-regional alliance composed of a rough geographical quarter of the Arab League under the hope that more closely aligned political interests, particularly those differing from that of Iran and Iraq in the mid-1970s, would lead to more results. There have been several historical rifts, but as a whole, the GCC has led to cooperation.

Timeline of Events

Date	Description of event
2002–2008	Saudi Arabia withdraws ambassador from Doha, Qatar to protest Qatar's individualistic policy decisions
June 2013	Longstanding relations between Qatar and the Taliban become public
November 2013	GCC agrees to not back "anyone threatening the security and stability of the GCC... and not to support hostile media"

March 5, 2014	Qatar refuses requests to uphold GCC agreement, leading to rest of Arab Quarter (Bahrain, Egypt, UAE) withdrawing ambassadors from Doha, Qatar
April 2017	Qatar angers Saudi Arabia and the UAE by paying \$900 million to multiple militia organizations to secure hostage and humanitarian aid deals
May 23, 2017	Pro-cooperation with Iran statements from the Qatar News Agency (QNA), which Qatar claims were the result of hacking (backed by US intelligence sources), lead to UAE and Saudi Arabia blocking new sources from Qatar
May 2017	Members of the Riyadh Summit support Saudi Arabia's anti-Qatar goals of fighting against groups allied with Iran, potentially encouraging other Sunni Islam states to follow suit
June 2017	Qatari Prime Minister and Foreign Minister reject claims of supporting terrorists
June 5, 2017	Arab Quartet (Bahrain, Egypt, Saudi Arabia, UAE) officially sever diplomatic relations with, blockade, and sanction Qatar
June 19, 2017	Blockading countries remove their citizens from Qatar with force
June 23, 2017	Blockading countries release list of demands (see previous sections)
July 1, 2017	Qatar rejects all demands by blockading countries
June 11, 2018	Qatar submits a case against the UAE before the ICJ
December 19, 2017	Qatar Central Bank investigates currency and security manipulation by blockading countries

Relevant UN Resolutions and Treaties

- International Convention on the Elimination of All Forms of Racial Discrimination (CERD), 21 December 1965 (A/RES/2106(XX))
- Statute of the International Court of Justice, 26 June 1945, (United Nations Charter, Chapter XIV)
- Riyadh Agreement, 23-24 November 2013 (United Nations Treaty Collection (UNTC), No. 55378)

Possible Solutions

The ICJ has no task force with which to enforce its rulings. Using sanctions or other means that affect the people more than the government could potentially lead to resentment and fuel for future

disputes. ICJ members must carefully navigate the political consequences of their arguments. That being said, possible solutions include:

Negotiate a list of individuals and organizations recommended for all Gulf and Arab states to not grant citizenship to or financially or diplomatically back. Seeing as Qatar's choice of allies played a significant role in the current state of events, resolving this dispute will decrease the chance of repeated incidents. There are virtually no disadvantages to resolving the deep-rooted seat of the issue; however, it is possibly the most difficult part of the path to peace, even when emphasizing the importance of a united Arab front to the region's stability. Delegates are reminded to take appropriate measures to ensure that negotiations are successful.

Provide the Qataris in the UAE with access to legal outlets. In addition to addressing restrictions that bar Qataris from judicial processes based on the Qatari government's decisions, the UAE should implement new laws that make banning any group from any part of the judicial system or treating them with bias illegal. This action would directly resolve part of Qatar's claim of discrimination, as all human beings have the right to a fair trial and transparency in law proceedings while keeping the focus on judicial progress as a whole and not the Qataris. However, the UAE could claim this infringes on their sovereignty, increasing tensions.

Permanently reunite Qatari-Emirati families. The only humanitarian choice is to acknowledge and address the actions that separated said families to send a promising diplomatic message that the UAE is willing to cooperate. However, it is a difficult and potentially long-term process with logistical and legal challenges. If the ICJ rules that the UAE will reunite these families, it follows that the UAE should also provide reparations for causing obstacles to health, education, work, or living plans as a result of the separations. To stave off repeats of this costly situation, the UAE should also take measures to ensure that public infrastructure such as immigration laws, protective services, custody courts, and the criminal justice system does not discriminate against Qataris or their families.

Provide compensation to the affected Qataris and allow them to return to their educational institutions, workplaces, and other necessary commitments. Allowing Qataris who built their lives in the UAE to return without addressing the consequences of their forced leave only builds resentment, potentially creating or worsening a social dynamic where Qataris and their associates are second-class. The UAE would have to set up adequate measures to ensure that universities and other institutions, public or private, do not discriminate against the Qatari.

Delegates must recognize that these solutions address the symptoms of the issue, not the root cause. Moreover, this is not a comprehensive nor fully neutral list; delegates must take this opportunity to build upon and add ideas, considering how they affect all parties involved.

Questions for Further Research

- What challenges do Qatar and the UAE face in their efforts to resolve the case?
- How do Qatar and the UAE interpret and apply the relevant articles from the International Convention on the Elimination of All Forms of Racial Discrimination to justify their positions? Is there a difference between the interpretations of the two countries? What common ground can the members of the ICJ find between the two countries?
- Are there any similar cases in the history of international law and relations? How were they resolved? What factors did the mediators consider?
- What international organizations could help verify or refute Qatar's accusations?
- What impact would the ruling have on the everyday lives and rights of Qataris and Emiratis?
- How would the ruling impact Arab states and individuals and their relations with non-Arab countries?
- How can the ICJ enforce its decision?

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