Southern Regional Model United Nations XX
Enhancing Global Commitments to Human Rights and Equality
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Atlanta, GA
Email: icj@srmun.org

Dear Delegates,

I would like to welcome you to the Southern Regional United Nations Conference (SRMUN) XX and the International Court of Justice. My name is Lee Boswell, and I will be serving as your Director along with Jacques Pape, who will serve as Assistant Director. We consider it is a great honor for us to serve on the ICJ committee of SRMUN.

The International Court of Justice (ICJ) was created in 1945 by the United Nations to serve as the official forum for dispute resolution between Member States. The ICJ addresses a wide variety of cases on such topics as international treaties and conventions as well as advisory questions requested by the UN General Assembly and its committees and agencies. Many of these cases echo this year's conference theme, "Enhancing Global Commitments to Human Rights and Equality." This year, the docket for the ICJ is as follows:

Case I: Evaluating the Legality of Chinese Content Filtering Practices *(International Telecommunications Union [Represented by Japan] v. China)*

Case II: International Whaling Moratorium *(United Kingdom v. Norway)*

Case III: Jurisdictional Immunity as a Sovereign State *(Germany v. Italy)*

Case IV: Provisional Institutions of Self-Government of Kosovo *(GA Plenary [Represented by Austria] v. Serbia)*

Case V: Political Status of Cabinda *(GA Plenary [Represented by France] v. Angola)*

Case VI: International Convention on the Elimination of All Forms of Racial Discrimination *(GA Plenary [Represented by Algeria] v. Israel)*

Unlike the other committees at SRMUN, Justices will be writing Memorials (in the case of Applicants) and Counter-Memorials (in the case of Respondents) instead of position papers. These documents are absolutely ESSENTIAL for the operation of the Court and must illustrate a strong understanding of both the facts of the case as well as the general sources of international law that apply. Justices are encouraged to begin working as soon as possible to prepare these briefs. More detailed information about how to write Memorials and Counter-Memorials can be found at the SRMUN website (www.srmun.org) in the International Court of Justice Addendum to the Rules of Procedure. **All Memorials MUST be submitted by October 2nd, 11:59pm EST through the online submission system on the SRMUN website. All Count-Memorials MUST be submitted by Friday, October 23rd, 11:59 EST through the same online submission system.**

I look forward to the opportunity to serve as the director for the International Court of Justice during the 2009 Southern Regional Model United Nations. I wish you all the best of luck and look forward to working with each of you. Please feel free to contact either myself, Jacques or Charles if you have any questions.

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History of the International Court of Justice

History and Purpose

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was created in June of 1945 to serve as a method of dispute resolution between Member States.[1] The ICJ is considered the successor court to the Permanent Court of International Justice, which was founded under the League of Nations.[2] The Court is the only primary UN organ not based in the city of New York. Instead, its hearings and meetings are located at the Peace Palace in The Hague, Netherlands, but the ICJ may meet at other locations with the approval of the Court.[3] The ICJ sends a yearly report to the UN General Assembly on its activities.[4] Additionally, its decisions are enforced by the UN Security Council in accordance with the UN Charter.[5] The organizational and operational guidelines of the ICJ are found in the Statute of the Court, which is annexed to the UN Charter and may only be changed through an amendment put forward in the UN General Assembly in a manner similar to an amendment to the Charter.[6] In addition, the ICJ also operates under the Rules of the Court which were devised by the Court itself. These define the general order of the Court's sessions.[7]

The ICJ is unique in the UN system, as it both resolves disputes and interprets treaties and other international legal agreements. The ICJ drafts its opinions and decisions with regard to several sources of law. According to Article 38 of the Statute, the ICJ applies the following to determine cases:

- *"International conventions, whether general or particular, establishing rules expressly recognized by the contesting states;*
- *International custom, as evidence of a general practice accepted as law;*
- *The general principles of law recognized by civilized nations;*
- *Judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law according to provisions in Article 59 of the Statute of the Court."*[8]

ICJ Case Formats

The ICJ may consider two types of cases: contentious cases and advisory cases. Contentious cases are brought before the ICJ by individual states against another state. For a case to be considered contentious, both states must agree to follow the decision of the ICJ. States not party to the ICJ may also appear if they are party to a treaty that falls under ICJ jurisdiction and agree to appear under the rules set forth by the UN Security Council in enforcing that treaty.[9] International organizations and UN agencies are not allowed to bring this type of case. Contentious cases

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[1] Statute of the International Court of Justice." International Court of Justice. http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0

[2] History." International Court of Justice. http://www.icj-cij.org/court/index.php?p1=1&p2=1.

[3] The Court." International Court of Justice. http://www.icj-cij.org/court/index.php? p1=1&PHPSESSID=14104c2dfec5738d9a3acff35dc92f03

[4] "Annual Reports." International Court of Justice. http://www.icj-cij.org/court/index.php?p1=1&p2=8

[5] "UN Charter: Chapter XVI." United Nations. http://www.un.org/aboutun/charter/chapter14.shtml

[6] "The Court." International Court of Justice. http://www.icj-cij.org/court/index.php?p1=1&PHPSESSID=14104c2dfec5738d9a3acff35dc92f03

[7] "Rules of the Court." International Court of Justice. http://www.icj-cij.org/documents/index.php?p1=4&p2=3&p3=0

[8] "Statute of the International Court of Justice." International Court of Justice. http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0

[9] Ibid.

normally deal with issues of territorial disputes or conflicts of interests and rights.[10] There are two avenues in which a contentious case is brought before the ICJ. One way this is achieved is through a special agreement between two states. These two states must agree to hold the ICJ's decision as binding. The second avenue through which contentious cases reach the ICJ involves treaties and conventions which declare the ICJ to be the formal place of dispute resolution. In this example, a state may bring a case accusing another of a breach of the statutes in a signed treaty or convention.[11] Further cases may involve interpretation and revisions of past judgments.[12] Important contentious cases decided by the ICJ include the 1979 United States Diplomatic and Consular Staff in Tehran (United States of America *v.* Iran), a case based on the US Embassy Hostage Crisis, and the 1993 Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina *v.* Serbia and Montenegro), which dealt with the issue of genocide during the Yugoslav Civil War.[13]

Advisory opinions are the second type of case that may be brought before the ICJ. These cases are brought by the five organs of the UN General Assembly and the sixteen specialized agencies of the United Nations. [14] Advisory opinions are non-binding but carry great legal weight. They are normally requested to clarify an aspect of international law or provide an answer to a legal question. Landmark advisory opinions include the 2006 "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory" case which determined the Wall being built in the West Bank and Israel to be a violation of international law and the 2003 case "Legality of the Threat or Use of Nuclear Weapons"[15]

ICJ Composition and Terms

The Court is composed of fifteen justices that are elected to nine-year terms by the UN General Assembly and Security Council. They may be from any nationality, but no two justices can come from the same Member State. There are elections every three years for one-third of the justiceships. After their appointment, they no longer represent their individual state, but represent the ICJ both "impartially" and "conscientiously."[16]

Unlike UN committees, there are no Member States that have seats on the ICJ. Instead, individual Justices are elected and are expected to serve the Court and uphold the law rather than following the interests of their state governments.

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[10] "Contentious Jurisdiction." International Court of Justice. http://www.icj-cij.org/jurisdiction/index.php?p1=5&p2=1

[11] "Statute of the International Court of Justice." International Court of Justice. http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0

[12] Ibid.

[13] "List of Contentious Cases." International Court of Justice. http://www.icj-cij.org/docket/index.php?p1=3&p2=3

[14] "Organs and Agencies of the United Nations Authorized to Request Advisory Opinions." International Court of Justice. http://www.icj-cij.org/jurisdiction/index.php?p1=5&p2=2&p3=1

[15] "List of Advisory Proceedings." International Court of Justice. http://www.icj-cij.org/docket/index.php?p1=3&p2=4

[16] "Members of the Court." International Court of Justice. http://www.icj-cij.org/court/index.php?p1=1&p2=2

Case I: Advisory Opinion on Alleged Violations of the Universal Declaration of Human Rights

(International Telecommunications Union (Represented by Japan) v. People's Republic of China)

Introduction

The International Telecommunications Union (ITU) has filed an Application requesting an advisory opinion against the People's Republic of China (China) claiming that certain telecommunications and legal practices in the state of China violate three Articles of the Universal Declaration of Human Rights (UDHR).[17] In the filing, the ITU alleges that China, in filtering digital telecommunications traffic, violates Article 12 (Interference with Correspondence), Article 18 (Freedom of Religion), and Article 19 (Freedom of Expression) of the UDHR. The ITU claims that such filtering of Internet and other digital traffic serves no legitimate purpose for the national defense or other rights reserved to a state. The ITU will be represented by Japan in this matter.

This case requests an advisory opinion; it was brought by a United Nations body, and carries no enforcement capability.[18] The findings of this case are only intended to aid in policy setting for the International Telecommunications Union, the United Nations, and individual Member States. It also represents a formal interpretation of International Law by the International Court of Justice.[19]

Jurisdiction

The International Court of Justice will only accept non-compulsory cases brought by specialized agencies of the United Nations "on legal questions arising within the scope of their activities."[20] As the mandate of the ITU requires it to promote access to telecommunications networks, this allows the initial filing of an application with the Court. Further proceedings may be evaluated based on the jurisdiction of the ICJ to assert claims of damages in specific alleged violations of International Law. Specifically, the ITU is involved in the provisioning of Internet network address space, as explained in the background section of this guide, and in the evaluation of specific issues pertaining to Internet stability and connectivity.[21] It is assisted in these goals by sister non-governmental organizations (NGOs) such as the Internet Assigned Numbers Authority,[22] whose Regional Internet Registry for the area is the Asia-Pacific Network Information Center (APNIC).[23]

Background

Internet filtering is made possible because all communications traffic over the Internet goes between a client and a server, and, along the way, travels through a number of devices called routers.[24] These routers allow for the

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[17] Universal Declaration of Human Rights. United Nations General Assembly. 10 December 1948. http://www.un.org/en/documents/udhr/index.shtml

[18] "About the International Court of Justice: Advisory Opinions." United Nations International Court of Justice. http://www.icj-cij.org/court/index.php?p1=1&p2=6#advisory

[19] Ibid.

[20] United Nations Charter, Chapter XIV, Article 96.

[21] "Next Generation Networks Global Standards Initiative." International Telecommunications Union. http://www.itu.int/ITU-T/ngn/index.html

[22] Internet Assigned Numbers Authority. http://www.iana.org/numbers/

[23] "APNIC: About." Asia-Pacific Network Information Center, Internet Assigned Numbers Authority. http://www.apnic.net/info/about.html

[24] "Client/Server Software Architectures – An Overview." Carnegie Mellon Software Engineering Institute. http://www.sei.cmu.edu/str/descriptions/clientserver_body.html

redirection of traffic at various points, and act similarly to traffic interchanges in their ability to direct traffic to and from different locations.[25] This allows states to filter content by blocking particular paths in their routers, or by manipulating the systems that translate web addresses that a computer user types into the numerical network addresses used by the routers.[26,27] These services collectively make up the Internet backbone – the core of the Internet which is required for any communication between points to be successful.[28]

Internet content filtering is done for a variety of reasons - even at the state level. Some filtering measures are taken to restrict access to content that is classified or otherwise prohibited – e.g., national security data. Normally, this filtering may be done on the end of the web server or to an entire region or state. Other filtering, however, may target specific communication channels or mechanisms, or may target specific people for the filtering. In some cases, certain ethnic or religious groups may be discriminated against.[29]

Internet filtering is monitored by a variety of NGOs, including the OpenNet Initiative (ONI),[30] the Electronic Frontier Foundation (EFF)[31], and Reporters Without Borders (RSF)[32]. These NGOs are driven by humanitarian interests in showing the individual rights that are enhanced through the use of the Internet, including freedom of speech, expression, and religion - rights which are ensured by the Universal Declaration of Human Rights.[33] These NGOs serve as observers on many ITU committees, and they provide both technical and advisory input to ITU committees, working groups, and Member States. Information revealed by these NGOs has brought to light key areas of Internet censorship and content filtering.[34]

The People's Republic of China

Several independent studies have reported results indicating that the People's Republic of China is filtering Internet communications.[35,36,37] These studies have been prepared by a variety of NGOs, with various levels of government affiliations, and educational institutions. Organizations that monitor Internet filtering do so in a number of ways; one common way used by the ONI to test Internet filtering to a destination is to place a client application on a number of computers within a state.[38] These test programs then attempt to establish a connection to the destination site and report back whether or not they were successful, and, if not, where along the route the connection was lost.

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[25] "How Stuff Works: How Routers Work." http://www.howstuffworks.com/router.htm
[26] "RFC 1034: Domain Names – Concepts and Facilities." Internet Engineering Task Force. http://www.ietf.org/rfc/rfc1034.txt
[27] "RFC 1035: Domain Names – Implementation and Specification." Internet Engineering Task Force. http://www.ietf.org/rfc/rfc1035.txt
[28] "What is the Internet Backbone?" TechFAQ. http://www.tech-faq.com/Internet-backbone.shtml
[29] "CECC: Freedom of Expression." Congressional Executive Commission on China. http://www.cecc.gov/pages/virtualAcad/exp/explaws.php
[30] About OpenNet Initiative. OpenNet Initiative. http://opennnet.net/about
[31] About the Electronic Frontier Foundation. Electronic Frontier Foundation. http://www.eff.org/about
[32] Introduction. Reporters without Borders. http://www.rsf.org/Introduction.html
[33] Universal Declaration of Human Rights. United Nations General Assembly. 10 December 1948.
[34] "Establishing Relationships between NGOs and the International Telecommunications Union." Comunica. http://comunica.org/itu_ngo/
[35] "Empirical Analysis of Internet Filtering in China." Jonathan Zittrain and Benjamin Edelmann. 20 March 2003. http://cyber.law.harvard.edu/filtering/china/
[36] China. OpenNet Initiative. 15 June 2009. http://opennet.net/research/profiles/china
[37] "China Annual Report 2008." Reporters without Borders. http://www.rsf.org/article.php3?id_article=25650&Valider=OK
[38] "About Filtering." OpenNet Initiative. http://opennet.net/about-filtering

In this way, they can determine not only whether or not a site is filtered, but also at what level, or layer, of the connection the site is filtered. [39]

Reported filtering in China is focused on a number of avenues. Predominantly, the alleged filtering is designed to suppress the ability of those who oppose the government to communicate or organize.[40] This includes the people of Tibet, who are in dispute with the Chinese government over the issue of self-determination.[41] The issue of Internet filtering in China became a popular topic in March of 2008 when it was widely reported that China had blocked access to a number of sites, including YouTube, Yahoo! News, and a number of other news sources covering the violence in Lhasa.[42]

During the 2008 Beijing Olympics, China allegedly blocked access to a number of websites relating to the issue in Tibet, allegations of human rights violations in China, and other issues that are sensitive to the government of the People's Republic of China.[43] Additionally, many sites pertaining to the Republic of China, freedom of expression, and other hot topics were blocked. This includes the Chinese homepage of the RSF.[44]

Alleged Violations of International Law

According to the filing from the ITU, the People's Republic of China is alleged to have violated Articles 12, 18, and 19, of the Universal Declaration of Human Rights. The ITU argues that national security interests and national sovereignty can be preserved while still ensuring that this human rights violation is dealt with, and that the interests of human rights and the UDHR outweigh a perceived violation of China's rights. Article 12 reads:

> *"No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."*[45]

It is alleged that China's filtering violates this Article by interfering with electronic correspondence in filtering access to websites, and the ability to send and receive electronic mail and other communications. This would thereby violate Article 12 of the UDHR. Articles 18 and 19 are as follows:

> *Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.*

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[39] Ronald Deibert, John Palfrey, Rafal Rohozinski, Jonathan Zittrain, eds., Access Denied: The Practice and Policy of Global Internet Filtering, (Cambridge: MIT Press) 2008.
[40] "Empirical Analysis of Internet Filtering in China." Jonathan Zittrain and Benjamin Edelmann. 20 March 2003. http://cyber.law.harvard.edu/filtering/china/
[41] Ibid.
[42] "China blocks YouTube, Yahoo! Over Tibet." The Times Online. 17 March 2008. http://technology.timesonline.co.uk/tol/news/tech_and_web/article3568040.ece
[43] "ONI analysis of Internet filtering during Beijing Olympic Games: Week 1" OpenNet Initiative. http://opennet.net/blog/2008/08/oni-analysis-Internet-filtering-during-beijing-olympic-games-week-1
[44] Ibid.
[45] Universal Declaration of Human Rights. United Nations General Assembly. 10 December 1948.

> *Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.* [46]

China's alleged filtering would violate this by interfering with the ability to teach and observe religion, and specifically to "receive and impart information and ideas through any media." Additionally, China is alleged to have violated Article 19, Clause 2, of the International Covenant on Civil and Political Rights, to which China became a signatory in 1997[47]:

> *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*[48]

This further shows how freedom of expression, regardless of media, must be upheld and forms the basis for many freedoms under international law. China's membership in the United Nations, and its signing of the ICCPR, require that it work to both support and promote the human rights protected by the UDHR and the ICCPR. China, however, claims that it only filters Internet content that violates State or international law, and as such, it does not violate these treaties.[49]

Conclusion

China's filtering has been documented by a number of sources and appears to have significant issues with some sections of the Universal Declaration of Human Rights. The Chinese government asserts that such restrictions on Internet usage are necessary for maintenance of the peace and national security issues. China maintains that no filtering performed infringes upon the civil liberties of its citizens, and that freedom of expression and communication are still guaranteed, pursuant to Chinese law.[50,51] It is the mandate of the Court to observe all relevant international law and determine, to the best of its ability, the balance of issues in this case, and to establish a doctrine with respect to the filtering of Internet content.

Committee Directive

Justices and Advocates alike are encouraged to thoroughly research precedents for content filtering cases in courts throughout the world. Even court cases in UN Member States not directly mentioned in this case will provide background for Justices as they work to form an opinion on the case at hand. For Justices, this case is especially unique in that there is virtually no international precedent directly related to this topic. The Internet and content filtering are such relatively new phenomenons that the UN and the international legal community have not yet caught up to the technology. This case will establish legal precedent that would have resounding ramifications in

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[46] Ibid.
[47] "Human Rights Brief: China's Crackdown on the Falun Gong." Washington College of Law. http://www.wcl.american.edu/hrbrief/09/1china.cfm
[48] International Covenant on Civil and Political Rights. United Nations General Assembly. 23 March 1976.
[49] "China: We don't censor the Internet. Really." Cnet News. 31 October 2006. http://www.news.com/2100-1028_3-6130970.html
[50] Ibid.
[51] Article 35, Constitution of the People's Republic of China. 4 February 1982.

the international community for all Member States and core principles of the UN such as national sovereignty and human rights. Justices must ask themselves which of these two ideas is the overriding interest of the Court to uphold, or find a way to preserve both. Justices are encouraged to consider national sovereignty cases from throughout the current ICJ docket, and to consider previous UN resolutions related to the issue. If Justices and Advocates carefully apply themselves, this will be an exciting case that could have significant consequences throughout the United Nations.

Case II: The Legality of Norway's Withdrawal from the International Whaling Commission's Moratorium on Whaling and Resumption of its Commercial Whaling Industry

(United Kingdom v. Norway)

Introduction

The International Whaling Commission (IWC) was established in 1946 as the main body for the implementation of the International Convention for the Regulation of Whaling (ICRW).[52] The main purpose of the IWC is to review and make necessary changes to the Schedule of the Convention, which enumerates regulations placed on the whaling industry. In 1986, the IWC instituted a moratorium on all commercial whaling due to concerns of low stocks of cetacean species throughout the world's oceans. [53] Included within this provision was the guarantee that a "comprehensive assessment of the effects of this decision on whale stocks and consider modification of this provision and the establishment of other catch limits" would be carried out by 1990.[54] Scientific research was still allowed under certain restrictions - the most notable of which was that harvesting was limited only to minke whales, one of the least threatened species of cetaceans. It was passed by the necessary three-fourths majority to make the resolution binding, but several Member States lodged objections to it - including the Kingdom of Norway. Norway resumed commercial whaling in 1993 with a specific quota of minke whales determined yearly by the Norwegian government.[55] In 2006, this catch totaled 1, 062 whales.[56] This was seen as a drastic increase in both number and scope of the Norwegian program. Norway determined that all whaling was taking place inside of the Exclusive Economic Zone of Norway, as articulated in the United Nations Convention of the Law of the Sea (UNCLOS).[57] In response to this drastic increase and other environmental concerns, the United Kingdom, among other European states, sent a formal letter demanding the cessation of Norway's commercial whaling program.[58] The European Union Environmental Council also voted to respect the IWC's moratorium in all EU country's waters in 2008.[59]

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[52] "History and Purpose." International Whaling Commission. http://www.iwcoffice.org/commission/iwcmain.htm

[53] "International Convention for the Regulation of Whaling, 1946, Schedule." International Whaling Commission. http://www.iwcoffice.org/_documents/commission/schedule.pdf

[54] Ibid.

[55] "Norwegian Minke Whaling." Norway: the Official Site in the UK. http://www.norway.org.uk/policy/environment/whaling/whaling.htm

[56] Ibid.

[57] "Norwegian Exclusive Economic Zone." Fisheries: the Official Norwegian Site. http://www.fisheries.no/management_control/economic_zones/economic_zone.htm.

[58] "Norway keeps whaling quota, draws ire." Reuters News. February 8, 2008 http://www.reuters.com/article/environmentNews/idUSL0850903520080209

[59] "Strong EU Support for Protection of Whales." European Union. http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/896&format=HTML&aged=0&language=EN&guiLanguage=en

This declaration affected both Member States in the case and attempted to address many of the concerns that the UK is bringing before the Court.

The IWC and Recent Whaling Resolutions

After the 1986 moratorium, the IWC also responded to recent whaling concerns with several resolutions. The first, known as the St. Kitts Declaration, noted: "that the moratorium which was clearly intended as a temporary measure is no longer necessary, that the Commission adopted a robust and risk-averse procedure (RMP) for calculating quotas for abundant stocks of baleen whales in 1994 and that the IWC's own Scientific Committee has agreed that many species and stocks of whales are abundant and sustainable whaling is possible."[60] However, the following meeting of the IWC reconfirmed the need for more time and research stating that "the moratorium on commercial whaling remains in place and that the reasons for the moratorium are still relevant."[61]

United Nations and Relevant Environmental Wildlife Organizations

The United Nations also has strong connections with several organizations associated with the IWC, whaling, and wildlife conservation. The first of these governing bodies is the International Union for Conservation of Nature (IUCN). The IUCN was sponsored by the UN Educational, Scientific and Cultural Organization (UNESCO) in 1948.[62] Its goals include expanding scientific research and cooperation with Member States, non-governmental organizations (NGOs) and UN agencies.[63] As a result, the IUCN maintains a Permanent Observer Mission in New York that provides the UN General Assembly with "expertise in issues concerning the environment, specifically biodiversity, nature conservation and sustainable natural resource use."[64] It is the only international observer that fills that role.[65] Among the projects of the IUCN is the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES was formed through the efforts of a 1963 IUCN resolution and became effective in 1975.[6667] Its main purpose is to regulate the international trade in threatened animal and plant species.[68] According to CITES regulations, all species of whale that are listed under Appendix I, "are threatened with extinction and CITES prohibits international trade in specimens of these species except when the purpose of the import is not commercial, for instance for scientific research," and those listed under Appendix II are, "species that are not necessarily now threatened with extinction but that may become so unless trade is closely controlled."[69] The common minke whale, which is the species this case is concerned with, is classified under Appendix I over most of its range.[70] CITES has a direct connection to the United Nations through the UN Environmental Programme

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[60] "Resolution 2006-1 St. Kitts Declaration." International Whaling Commission. http://www.iwcoffice.org/meetings/resolutions/resolution2006.htm.
[61] "Resolution 2007-4. Resolution on CITES." International Whaling Commission. http://www.iwcoffice.org/meetings/resolutions/resolution2007.htm#res4.
[62] Leif E. Christoffersen, "IUCN: A Bridge-Builder for Nature Conservation." Fridtjof Nansen Institute. May 2001. http://www.fni.no/YBICED/97_04_christoffersen.pdf
[63] "What is the IUCN?" International Union for Conservation of Nature. http://www.iucn.org/about/
[64] "UN Permanent Observer Mission." International Union for Conservation of Nature. http://www.iucn.org/about/work/programmes/global_policy/gpu_un_observer/
[65] Ibid.
[66] "What is CITES?" Convention on International Trade in Endangered Species of Wild Fauna and Flora. http://www.cites.org/eng/disc/what.shtml
[67] "IUCN Resolutions." International Union for Conservation of Nature. http://cmsdata.iucn.org/downloads/resolutions_recommendation_en.pdf
[68] Ibid.
[69] "CITES Appendices." Convention on International Trade in Endangered Species of Wild Fauna and Flora. http://www.cites.org/eng/app/index.shtml
[70] "CITES Species Database: Balaenoptera acutorostrata." Convention on International Trade in Endangered Species of Wild

(UNEP), which administers the CITES Secretariat.[71] Through these two organizations, the United Nations has worked to identify conservation needs of whales and other wildlife. Both the IUCN and CITES have worked closely with the UN on several occasions including the recent adoption of the IUCN Red List within the Millennium Development Goals.[72] The UNEP monitors CITES trade database and the species database along with the CITES Checklist of Species.[73]

The IWC and Relevant Environmental Wildlife Organizations

The IWC has also worked closely with these same UN-associated organizations. At its 2000 summit in Gigiri, Kenya, CITES passed Resolution 11.4 in order to address the IWC and the current whaling situation. This resolution confirmed the work of the IWC and noted, "that any commercial utilization of species and stocks protected by the IWC jeopardizes their continued existence, and that trade in specimens of these species and stocks must be subject to particularly strict regulation in order not to endanger further their survival."[74] It also noted that Article XV, paragraph 2b, of the CITES Convention, "requires the Secretariat to consult inter-governmental bodies having a function in relation to those species," which allowed the IWC and CITES to have observer status at one other's conferences.[75] As a result, the IWC now has closer contacts with the UN as well as operating under the guidelines stated in Article 65 of the UNCLOS. This article specifically encourages states and international organizations to cooperate for the conservation of marine mammals.[76]

Current Situation and Case Merits

Despite concerns over its program, Norway has continued its commercial whaling as of 2009, although the quota was lowered to 885.[77] The Norwegian government has stated that whaling is sustainable and helps control the population from over-consuming fish in the area.[78] A Ministry of Fisheries official for Norway stated, "We look upon the harvesting of whales as we look upon the harvesting of other living marine resources which should and could be undertaken as long as it is being done on a scientifically based sustainable basis."[79] In response to the continued commercial catch of minke whales, the United Kingdom is seeking redress from the Court on the issue of the legality of Norway's whaling program based on environmental concerns. They cite Article 287 of the UNCLOS as the proof of standing before the Court. Article 287 states, "When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means for the settlement of disputes concerning the interpretation or application of this

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Fauna and Flora. http://www.cites.org/eng/resources/species.html

[71] "CITES Secretariat." Convention on International Trade in Endangered Species of Wild Fauna and Flora.. http://www.cites.org/eng/disc/sec/index.shtml

[72] "UN Uses IUCN Red List to measure success of Millennium Development Goals." United Nations Environmental Programme. http://www.unep-wcmc.org/I/news/MD/Official%20Press%20Release.pdf

[73] "Species Program." United Nations Environmental Programme: World Conservation Monitoring Centre. http://www.unep-wcmc.org/species/sca/scs.htm

[74] "Resolution 11.4: Conservation of cetaceans, trade in cetacean specimens and the relationship with the International Whaling Commission." Convention on International Trade in Endangered Species of Wild Fauna and Flora. http://www.cites.org/eng/res/11/11-04.shtml

[75] Ibid.

[76] United Nations Convention of the Law of the Sea: Part V: Article 65." United Nations. http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm

[77] "Norway Announces Sharply Lower Whaling Quota in 2009." AFP. http://www.google.com/hostednews/afp/article/ALeqM5jW_PhC_PNFdG1iyy3fY-4QpqJ-4Q

[78] "Norway Opens Whale-Hunting Season." BBC News. http://news.bbc.co.uk/2/hi/europe/3701805.stm

[79] "Norwegian Whalers' Determined Position." BBC News. http://news.bbc.co.uk/2/hi/science/nature/2326461.stm

Convention," of which one of the principal means is the International Court of Justice.[80] The United Kingdom does not agree with the Norwegian premise that it is now safe to carry limited commercial whaling and the UK disagrees with Norway's rejection of the IWC's arguments in favor of the moratorium. As such, the United Kingdom has requested the Court enforce the moratorium according to UNCLOS guidelines concerning marine mammals. The United Kingdom cites UNCLOS Articles 55-59, 61-63, 64-65, and 116-120 as germane to the debate on commercial whaling and its environmental effects. The question for the Court remains whether the IWC's moratorium falls within the language of the UNCLOS and provides a vehicle for resolution on the matter. Second, the Court must decide whether Norway violated the UNCLOS by continuing commercial whaling despite the concerns of international organizations recognized by the UN.

UNCLOS in regards to Whaling

The United Nations' primary source of maritime policy is found in the UNCLOS. This document was composed over a nine year period ending in 1982 and established laws concerning issues such as a state's Exclusive Economic Zone (EEZ) and protection of the environment and the sea bed. [81] Both of the Member States involved in this case are party to the UNCLOS.[82] There are several articles that directly relate to whaling and the case at hand. The first set is Articles 55-59 and the guidelines surrounding the Exclusive Economic Zone and Norway's rights and responsibilities.[83] Important aspects in these articles include the 200 mile EEZ as determined in Article 57, and Article 56, which details the "Rights, jurisdiction and duties of the coastal State in the exclusive economic zone," which includes "the protection and preservation of the marine environment."[84]

The second set of articles pertinent to this case is Articles 61-63. These Articles elaborate on the position of individual Member States and the conservation of living resources. Within the 200 mile nautical zone, states have the sovereign right over the resources of their own EEZ.[85] Additionally, Article 61, section 5 states, "Available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through competent international organizations, whether sub-regional, regional or global, where appropriate and with participation by all States concerned, including States whose nationals are allowed to fish in the exclusive economic zone."[86] This pertains to the responsibility that CITES and the IWC provides in gathering relevant information on whaling stocks and conservation.

The third set of germane articles is Articles 64-65. These Articles directly include cetaceans in the UNCLOS and ensure their protection. Article 64 affirms the rights of states to harvest migratory species, but they also, "shall cooperate directly or through appropriate international organizations with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout the region, both within and beyond the exclusive economic zone."[87] All migratory species of sea life are confirmed in Annex I, which covers most

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[80] "United Nations Convention of the Law of the Sea: Part XV: Article 287." United Nations. http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm
[81] "The United Nations Convention on the Law of the Sea (a historical perspective)." United Nations. http://www.un.org/Depts/los/convention_agreements/convention_historical_perspective.htm
[82] "Declarations and Statements." United Nations. http://www.un.org/Depts/los/convention_agreements/convention_declarations.htm
[83] "United Nations Convention of the Law of the Sea: Part V: Articles 55-59." United Nations. http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm
[84] Ibid.
[85] "United Nations Convention of the Law of the Sea: Part V: Articles 61-63." United Nations. http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm
[86] Ibid.
[87] "United Nations Convention of the Law of the Sea: Part V: Articles 64-65." United Nations. http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm

cetaceans including minke whales.[88] Lastly, Article 65 directly addresses cetaceans under the UNLOS. It does not restrict the rights of states to strengthen laws concerning whaling, but instead declares that "States shall cooperate with a view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organizations for their conservation, management and study."[89]

Articles 116-120 also directly relate to the case at hand. These articles provide the same regulations applicable to the High Seas as those in an EEZ of a sovereign state.[90] In Article 119, states are also required to, "take measures which are designed, on the best scientific evidence available to the States concerned, to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether sub-regional, regional or global."[91] Article 120 expands the mandates of Article 119 to include marine mammals.[92]

Committee Directive

When reviewing this case, Justices should focus on the issue of whether the Kingdom of Norway violated the UNCLOS by withdrawing from the IWC's moratorium. The focus of the case should be based on the environmental effects that commercial whaling could bring to the North Atlantic Ocean and the North Sea as well as the connection between the UNCLOS and commercial whaling. At the same time, Justices must consider the relationship between international organizations and their role within the UNCLOS. Finally, the Justices should also consider whether the legality of commercial whaling would be different if it is carried out on the High Seas or exclusively within Norway's EEZ.

Case III: Jurisdictional Immunity of the Sovereign State

(Germany v. Italy)

Introduction

In late December 2008, the Federal Republic of Germany instituted proceedings against the Italian Republic before the International Court of Justice claiming that "through its judicial practice… Italy has infringed and continues to infringe its obligations towards Germany under international law."[93] Germany alleges that in recent years, Italian judicial bodies have repeatedly disregarded the jurisdictional immunity of Germany as a sovereign State.[94] The critical stage of that development was reached by the judgment of the Corti di Cassazione of 11 March 2004 in the *Ferrini* case, where the Corte di Cassazione declared that Italy held jurisdiction with regard to a claim brought by a person who during World War II had been deported to Germany to perform forced labor in the armaments

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[88] "United Nations Convention of the Law of the Sea: Annex I." United Nations. http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm
[89] "United Nations Convention of the Law of the Sea: Part V: Articles 64-65." United Nations. http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm
[90] "United Nations Convention of the Law of the Sea: Part VII, Section 2: Articles 116-120." United Nations. http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm
[91] Ibid.
[92] Ibid.
[93] Germany institutes proceedings against Italy for failing to respect its jurisdictional immunity as a sovereign State. The Hague: ICJ. 2008. http://www.icj-cij.org/docket/files/143/14925.pdf
[94] Zimmermann, Dominik. International Law Observer. 3 January 2009. http://internationallawobserver.eu/2009/01/03/germany-v-italy-before-the-icj-over-wwii-claims/

industry.[95] During the late 1990s, Germany was faced with a growing number of disputes brought before Italian courts by individuals who had suffered during Germany's occupation of Italy and who sought compensation for the harm they had endured.[96] In many cases, the claimants were the heirs of the actual victims, which according to Germany's application to the ICJ total roughly 250 individuals.[97] Germany addressed the ICJ with fears that hundreds of additional cases may be brought against it in the future, depending on how the early cases are being decided by the Italian courts.[98] Germany has already paid tens of billions of dollars since the 1950s to victims of Nazi atrocities and their families, and pursuant to the latest compensation program, between 2001 and 2007, Germany awarded almost 6 billion US dollars to 1.6 million people or their relatives due to the harm from slave labor during the war. Italy responded by stating that it "respects" the German decision to submit a dispute for final determination to the ICJ. Additionally, Italy is of the view that a decision by the Court on state immunity will be helpful for clarifying this complex issue.[99] Although Germany and Italy are both Member States of the European Union, Germany claimed that the Court of Justice of the European Communities in Luxembourg has no jurisdiction over the case, which does not involve any of the jurisdictional clauses in the treaties on European integration. To establish jurisdiction before the International Court of Justice, Germany invoked Article 1 of the European Convention for the Peaceful Settlement of Disputes.[100]

European Convention for the Peaceful Settlement of Disputes

Brought forward under the terms of the European Convention for the Peaceful Settlement of Disputes of 29 April 1957[101], Germany claims that the dispute concerns in particular the existence, under customary international law, of the rule that protects sovereign states from being sued before the civil courts of another state. As stated by Article 1 of the European Convention, "The High Contracting Parties shall submit to the judgment of the International Court of Justice all international legal disputes which may arise between them including, in particular, those concerning, a) the interpretation of the treaty, b) any question of international law, c) the existence of any fact which, if established, would constitute a breach of an international obligation, d) the nature or extent of the reparation to be made for the breach of an international obligation."[102] Thus, the claim falls within the scope of application of the European Convention.[103]

The applicability of the European Convention is not excluded by the provisions of Article 27, which enunciates certain time limits, in particular to disputes relating to facts or situations prior to the entry into force of this Convention as between parties to the dispute. This specific article is one of Germany's main points as the case brought forth relates to events prior to 1957, which in theory do not fall under the purview of the Courts. Germany's only objective is to obtain a finding from the Court that to declare claims based on those occurrences as falling with the domestic jurisdiction of Italian courts constitutes a breach of international law.

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[95] Case Concerning Jurisdictional Immunities. International Court of Justice. The Hague: ICJ. 2008.
[96] Research Center for International Criminal Law and International Humanitarian Law. 2008. http://www.rcicl.org/english/list_more.asp?infoid=376&classid=43
[97] Hibbitts, Bernard. JURIST Legal News & Research. 20008. http://jurist.law.pitt.edu/forumy/2009/01/compensation-and-immunity-germany-v.php
[98] International Law Prof Blog. 24 May 2009. http://lawprofessors.typepad.com/international_law/2009/05/jurisdictional-immunities-of-the-state-germany-v-italy.html
[99] International Court of Justice. 2 November 1992. http://www.icj-cij.org/docket/index.php?p1=3&p2=3&k=0a&case=90&code=op&p3=0&PHPSESSID=6666871d3c3918b79adead66919aa6e4
[100] Deutscher Bundestag. 23 December 2008. http://www.bundestag.de/aktuell/hib/2008/2008_352/12.html
[101] Council of Europe. European Convention for the Peaceful Settlement of Disputes. 30 April 1958. http://conventions.coe.int/treaty/en/Treaties/Html/023.htm
[102] Rights, Human Constitutional. European Convention on Human Rights. 1 February 1989. http://www.hrcr.org/docs/Eur_Convention/euroconv3.html
[103] The South African Labour Guide. http://www.labourguide.co.za/dictionery.htm

Case Standing Before the ICJ

Article 33 of the UN charter does not require states to find solutions to an actual dispute by all the methods listed therein before turning to the Court. In the *Oil Platforms* case (2 November 1992), this proposition was recently confirmed.[104][105] Additionally, Germany states that there is no need for prior exhaustion of diplomatic negotiations.[106] Here Germany suggests that the Italian government's hands are tied because even if the government is willing to solve compensation issues by diplomatic means, it cannot influence how national courts decide in cases where individuals bring claims against Germany.

According to Article 10 (1) of the Italian Constitution, Italy's Courts have the right to adjudicate matters that possibly involve other sovereign states. Furthermore, as in all the countries parties to the European Convention on Human Rights, Italian judges are independent and are not subject to any instruction imparted to them by their government.

Article 4 (1) of the Articles on Responsibility of States for Internationally Wrongful Acts, elaborated by the International Law Commission and taken note of by General Assembly Resolution 56/83 of December 2001, states unequivocally that conduct capable of emanate from any organ that "exercises legislative, executive, judicial or any other functions."[107] This, it is left to every state to organize its entire machinery in such a way that violations of international law to the detriment of other states do not occur.[108]

Judicial Proceedings

Germany is currently faced with a growing number of disputes before Italian courts where claimants who suffered injury during World War II, when Italy was under German occupation after it had terminated its alliance with Germany on 9 September 1943 and joined Allied Powers, have instituted proceedings seeking financial compensation for that harm. For these proceedings, three main groups of claimants may be distinguished.

First and foremost, there are claimants, mostly young men at the time, who were arrested on Italian soil and sent to Germany to perform forced labor. The second group is constituted by members of the Italian armed forces who, after the events of September 1943, were taken prisoner by the German armed forces and were soon thereafter factually deprived by the Nazi authorities of their status as prisoners of war and also pushed into forced labor. The third group includes victims of massacres perpetrated by German forces during the last months of World War II. Using barbarous strategies in order to deter resistance fighters, those units on some occasions assassinated hundreds of civilians, including women and children, after attacks had been launched by such fighters against members of the occupation forces. Germany additionally claims that in most cases, there was a gross quantitative disproportionality between the numbers of the German and the Italian victims.

Since the relevant events go back more than 60 years, in many instances the claimants are the heirs of the victims proper, either the children of the widows. On many occasions, Germany has already made additional symbolic gestures to commemorate Italian citizens who became victims of barbarous strategies in an aggressive war, and is claiming to be prepared to do so in the future. On behalf of the German Government, Foreign Minister Frank-Walter

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[104] International Court of Justice. 2 November 1992. http://www.icj-cij.org/docket/index.php?p1=3&p2=3&k=0a&case=90&code=op&p3=0&PHPSESSID=6666871d3c3918b79adead66919aa6e4

[105] ICJ Reports 2003, p. 161, 210, para. 107.

[106] Zimmermann, Dominik. International Law Observer. 3 January 2009. http://internationallawobserver.eu/2009/01/03/germany-v-italy-before-the-icj-over-wwii-claims/

[107] GA, UN. United Nations General Assembly. 28 January 2002. 05 July 2009 http://www.undemocracy.com/A-RES-56-83.pdf

[108] James Crawford. The International Law Commission's Articles on State Responsibility (Cambridge 2002). p3 95, para. 6.

Steinmeier recently confirmed that Germany fully acknowledges the untold suffering inflicted on Italian men and women, in particular during massacres and on former Italian military internees, when he visited, together with his Italian colleague Franco Frattini, the memorial site "La Risiera di San Sabba" close to Trieste, which served as a concentration camp during German occupation.[109]

Jurisdiction of the Court of Justice of the European Communities

The present dispute is not covered by any of the jurisdictional clauses of the Treaty of Nice (Article 227 EC). Although disturbances of the proper functioning of the internal market under the Treaty of Nice—and later of the Treaty of Lisbon— may result from the contested practice of the Italian courts, it has no direct link with the operation of the European market regime. The general relationship between the European states continues to be governed by general international law as no consensus proved otherwise. Every Member State of the European Community/European Union is obligated to respect the general rules of international law vis-à-vis the other members unless specific derogations from that regime have been stipulated.

With respect to this case, however, no such derogation has been agreed upon. Jurisdictional immunity belongs to the core elements of the relationship between sovereign states. Outside the specific framework established by the treaties on European integration, the 27 European states concerned continue to live with one another under the regime of general international law. It should be added, in this connection, that the special framework of judicial cooperation that enables individuals to obtain the execution of judgments rendered in one Member State of the European Union in other member States of the Union does not comprise legal actions claiming compensation for loss or damage suffered as a consequence of acts of warfare.[110]

Universal Jurisdiction

The principle of universal jurisdiction theoretically allows national courts to try cases of the gravest crimes against humanity, even if these crimes are not committed in the national territory and even if they are committed by government leaders of other states.[111] The concept of universal jurisdiction is therefore closely linked to the idea that certain international norms are *erga omnes* – or owed to the entire world community— as well as the concept of *jus cogens* – or that certain international law obligations are binding on all states and cannot be modified by treaty.[112][113]

Although not a new concept, universal jurisdiction plays a central role in this case as it would allow Italy to prosecute Germany in the context of Italian laws—not international laws. Such implications would be enormous and could have ripple effects in many other international cases, including the international notion of state sovereignty.

Committee Directive

When reviewing this case, Justices should focus on the issue of whether the Republic of Italy violated international by failing to respect Germany's jurisdictional immunity as a sovereign state. Justices also have the option to refer this case to the jurisdiction of the Court of Justice of the European Communities if the ICJ decides the case does not have standing before the Court. Additionally, the concept of universal jurisdiction—which would allow Italy to try Germans using Italian laws, not international laws— should be understood and examined.

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[109] DPA News Agency. Merkel and Berlusconi Back Alitalia-Lufthansa Deal . 18 November 2008. http://www.dw-world.de/dw/article/0,,3804063,00.html
[110] Court of Justice of the European Communities, Lechouritou, case C-292/05, 15 February 2007, para. 46.
[111] Global Policy Forum. 2009. http://www.globalpolicy.org/international-justice/universal-jurisdiction-6-31.html
[112] NOLO. 2009. http://www.nolo.com/definition.cfm/Term/13FB4261-D05C-44FE-A8554A5F5134FC55/alpha/J/
[113] Babylon. 2009. http://www.babylon.com/definition/erga_omnes/English

Case IV: Advisory Opinion on the Provisional Institutions of Self-Government of Kosovo

(GA Plenary represented by Austria v. Serbia)

"The task before the international community is to help the people in Kosovo to rebuild their lives and heal the wounds of conflict."[114] *-Kofi Annan*

Introduction

The self-declared Republic of Kosovo is located in the Balkans, a region of Southeastern Europe, which has experienced wide-spread conflict since the break-up of Yugoslavia in 1991.[115] Kosovo is approximately 4,200 square miles in size and has an estimated population of 2.1 million people.[116] Originally part of the vast Ottoman Empire, Kosovo was majority Serb and is still considered by some Serbs to be "Old Serbia."[117] Conquered by the Ottomans in 1489, Kosovo's demographics shifted over time until the 17th century when Albanians moved into the region to replace Serbs fleeing the Ottoman successes in war.[118] Today, Kosovo is 90% Albanian with an important Serbian minority.[119] Administered along with other Balkan possessions, Kosovo saw a significant change around the time before the First World War. In 1912, Serbia occupied Kosovo during the First Balkan War, seizing it from independent Albania.[120] This arrangement would continue during the creation of the Kingdom of Yugoslavia after the World War I. Politics in Kosovo were constantly changing as the Albanian population was discriminated against by Yugoslav leaders until the leadership of Marshal Tito.[121] He allowed many Albanian customs to return and the resulting nationalist spirit created the underlying causes of the current conflict. Greater autonomy was granted and the Albanian population which made up three-quarters of the population at the time began a widespread discrimination policy against the Serbs. The Serbian government in Belgrade attempted to control the problem but the nationalist pressures continued.[122] Nevertheless, Kosovo remained firmly within the autonomy of Serbia until the collapse of the Yugoslav state.

In response to the nationalist fervor of the majority Albanian population, the Greater Serb authorities in Yugoslavia revoked the special autonomous status that Kosovo had been afforded.[123] In response, Albanian Kosovar leaders met in 1990 to declare the sovereign status of Kosovo. Only the Republic of Albania recognized the state and the declaration did little on the ground to help the Albanian majority.[124] These continued calls for Kosovar independence were met with strong resistance from Serbia and the increased tensions escalated into open conflict in 1998. Fighting between Serb troops and the Kosovo Liberation Army produced atrocities on both sides with large numbers of Albanian refugees fleeing the war zone.[125] The North Atlantic Treaty Organization (NATO) called for a ceasefire and specifically targeted what they saw as aggression on the part of the Serbs.[126] Serb President Slobodan

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[114] UN Secretary-General Kofi Annan. 1999. http://www.unmikonline.org/intro.htm
[115] "Albanians and Serbs in Kosovo: An Abbreviated History An Opening for the The Islamic Jihad in Europe." Colorado State University. http://lamar.colostate.edu/~grjan/kosovohistory.html
[116] "Kosovo Facts." World Travel Guide. http://www.worldtravelguide.net/country/326/general_information/Europe/Kosovo.html
[117] "Albanians and Serbs in Kosovo: An Abbreviated History An Opening for the The Islamic Jihad in Europe." Colorado State University. http://lamar.colostate.edu/~grjan/kosovohistory.html
[118] Ibid
[119] Ibid
[120] Ibid.
[121] Ibid.
[122] Ibid.
[123] "Kosovo: History, Bloody History." BBC News. http://news.bbc.co.uk/2/hi/special_report/1998/kosovo/110492.stm
[124] "Albanians and Serbs in Kosovo: An Abbreviated History An Opening for the The Islamic Jihad in Europe." Colorado State University. http://lamar.colostate.edu/~grjan/kosovohistory.html
[125] "About UNMIK." United Nations. http://www.unmikonline.org/intro.htm
[126] "NATO's Role in Relation to the Conflict in Kosovo." North Atlantic Treaty Organization. http://www.nato.int/kosovo/history.htm

Milosevic refused and NATO responded with a bombing campaign which lasted nearly three months.[127] The Serbian Army retreated from Kosovo and the United Nations established the United Nations Mission in Kosovo (UNMIK) with the mandate to set up a, "transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo."[128] Among its most important accomplishments was the creation of the Provisional Institutions of Self-Government (PISG), which would lead to one of two outcomes, an independent Kosovo or a largely autonomous Kosovo within a Serbian state.[129]. The UN went further in the year 2007with the Ahtisaari Plan.[130] The plan was designed to provide a final solution to the long-term status of Kosovo but was ultimately rejected by both the Kosovar independence supporters and the Serbian government.[131] On 17 February 2008, the Kosovar parliament declared the Republic of Kosovo independent from Serbia and Montenegro.[132] About forty Member States recognized the declaration including France, United Kingdom, and the United States. The People's Republic of China and the Russian Federation were among those who did not acknowledge Kosovo.[133] The Serbian government quickly denounced the declaration, with Serbian Foreign Minister Vuk Geramic speaking before the Security Council in an effort to reverse international opinion. He declared: "Kosovo shall remain a part of Serbia forever," and "The Republic of Serbia will not accept the imposition of an outcome that fundamentally violates our legitimate national interests."[134] The situation remains volatile with the international community divided over the acceptance of Kosovo's move towards independence. Therefore, the UN General Assembly has requested that the Court look at the legality of Kosovo's declaration under international law. The Court must therefore consider whether Kosovo has violated international law and whether their unique circumstances under UNMIK and PISG allow them to move toward independence from Serbia.

Self-Determination and International Law

One of the first aspects of this case is the legal status of a "state" which requests the right to self-determination. The United Nations has long supported the cause of self-determination as laid out in Article I of the UN Charter, which states, "To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples."[135] Likewise, the UN Covenant on Economic, Social, and Cultural Rights declares, "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.", and "All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law."[136] Nevertheless, the UN acknowledges the importance of territorial sovereignty in Article 2, "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."[137] Kosovo has claimed to either be

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[127] Ibid.
[128] "About UNMIK." United Nations. http://www.unmikonline.org/intro.htm
[129] "Kosovo." Global Policy Forum. http://www.globalpolicy.org/security-council/index-of-countries-on-the-security-council-agenda/kosovo.html
[130] Ibid.
[131] Ibid.
[132] "Kosovo's MPs Declare Independence." BBC News. http://news.bbc.co.uk/2/hi/europe/7249034.stm
[133] "Kosovo Marks 'Independence Day'" BBC News. http://news.bbc.co.uk/2/hi/europe/7894209.stm
[134] "'Kosovo Shall Remain Part of Serbia Forever' Says Serbia's Foreign Minister." United Nations. http://www.un.org/News/Press/docs/2008/sc9273.doc.htm
[135] "UN Charter: Chapter I: Article 1." United Nations. http://www.un.org/aboutun/charter/chapter1.shtml
[136] "UN Covenant on Economic, Social, and Cultural Rights." United Nations. http://www.hrweb.org/legal/escr.html
[137] "UN Charter: Chapter I: Article 2." United Nations. http://www.un.org/aboutun/charter/chapter1.shtml

independent or a part of Greater Albania.[138] At the same time, Serbia holds to the fact that they have a long history of control in the region and that Serbs still consider Kosovo an integral part of Serbia.[139] [140] Justices must evaluate whether Kosovo has a right to self-determination which supersedes the right to a territorial sovereign Serbia.

Relevant UN Documents on Kosovo

There are several important UN documents that pertain to this case. The first is UN Security Council Resolution 1060. This resolution was the first in a series passed at the outbreak in hostilities in 1998. Resolution 1060 declared that "the way to defeat violence and terrorism in Kosovo is for the authorities in Belgrade to offer the Kosovar Albanian community a genuine political process."[141] The resolution at the same time affirms the rights of the Serbian government stating, "The commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia."[142]

The second UN resolution is Security Council Resolution 1199, which acts under Chapter VII of the UN Charter to intervene in the conflict. Although it focuses more on the humanitarian aspect of the situation, Resolution 1199 does affirm the need for a more autonomous Kosovo, stating that the UN is, "Reaffirming the objectives of resolution 1160 (1998), in which the Council expressed support for a peaceful resolution of the Kosovo problem which would include an enhanced status for Kosovo, a substantially greater degree of autonomy, and meaningful self-administration."[143]

The third important document is Security Council Resolution 1244, which is arguably the most important resolution passed on the subject of Kosovo. It declared that all Serbian military personnel were to leave Kosovo to be replaced by an international security force.[144] The KLA would also be disarmed as part of the agreement. In order to address the concerns on the ground, Resolution 1224 "Authorizes the Secretary-General, with the assistance of relevant international organizations, to establish an international civil presence in Kosovo in order to provide an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, and which will provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo."[145] As a result of this resolution, UNMIK and PISG were formed to implement the United Nations' plan.

The final important UN document is the Ahtisaari Plan. Originally devised by Finnish President Marrti Ahtisaari, it provided Kosovo with its most concrete definition of autonomy. It allowed Kosovo its own constitution, flag and anthem. It also provided that "Except as otherwise provided in this settlement, Kosovo shall have authority over law enforcement, security, justice, public safety, intelligence, civil emergency response and border control on its territory."[146] However, the most controversial addition was the decentralization of the Kosovar state, which would allow for greater freedom for the small Serb minority. In the plan, "Municipalities in Kosovo shall have the right to inter-municipal and cross-border cooperation on matters of mutual interest in the exercise of their

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[138] Albanians and Serbs in Kosovo: An Abbreviated History An Opening for the The Islamic Jihad in Europe." Colorado State University. http://lamar.colostate.edu/~grjan/kosovohistory.html

[139] Ibid.

[140] "'Kosovo Shall Remain Part of Serbia Forever' Says Serbia's Foreign Minister." United Nations. http://www.un.org/News/Press/docs/2008/sc9273.doc.htm

[141] S/RES/1160 (1998). Security Council. http://www.un.org/peace/kosovo/98sc1160.htm

[142] Ibid.

[143] S/RES/1199 (1998). Security Council. http://www.un.org/peace/kosovo/98sc1199.htm

[144] S/RES/1244(1999). Security Council. http://daccessdds.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement

[145] Ibid.

[146] "Main Points of Ahtisaari Plan Revealed." Balkan Investigative Reporting Network. http://kosovo.birn.eu.com/en/1/70/2193/

responsibilities."[147] Ultimately, this plan was never accepted, but it illustrates the conclusions that the PISG had been working towards for Kosovo.

Committee Directive

When evaluating this case, Justices should examine whether international law supports the Kosovar position of self-determination or the alternative position that territorial sovereignty is more important in determining the legal status of disputed regions and territories. Justices must realize that this decision by the Court would set a precedent for what standard should be used when acknowledging the right to self-determination that could apply to similar cases in the future. At the same time, Justices must evaluate the long-term sustainability of a Kosovar state and the implications that its independence would have on the international system at large when making their determination.

Case V: Advisory Opinion on the Political Status of Cabinda

(GA Plenary represented by France v. Angola)

Introduction

The territory of Cabinda is a small enclave controlled by the Republic of Angola. It is only separated from Angola by a 60 kilometer strip of land controlled by the Democratic Republic of the Congo.[148] Originally composed of three African kingdoms, this territory was colonized by Portugal in the 1880s. At that time, Cabinda was a separate protectorate from Angola proper as established by the Treaty of Simulanbuco, which was signed in 1885.[149] This later changed as Cabinda was incorporated within the colony of Angola in 1956.[150] The people of Cabinda claimed independence shortly afterwards, forming groups like the Movement for the Liberation of the Enclave of Cabinda (MLEC). Other political associations in Cabinda joined MLEC to form the Front for the Liberation of the Enclave of Cabinda (FLEC).[151] Independence was achieved in 1975 from Portugal and Cabinda remained a part of Angola despite demands from FLEC. Cabinda was also involved in the long Angolan Civil War which began after independence from Portugal. Before the war broke out in Angola proper, the three main independence forces signed a formal agreement with the Portuguese known as the Alvor Agreement.[152] This agreement was not attended by any FLEC members or any other Cabindan group, but had the support of the Popular Movement for the Liberation of Angola (MPLA), National Union for the Total Independence of Angola (UNITA), and the National Front for the Liberation of Angola (FNLA).[153] These groups would be the three main political groups in Angola. The agreement stated that Cabinda was "an integral and inalienable part of Angola."[154] Civil war raged for more than 30 years in Cabinda with FLEC or splinter groups of FLEC controlling much of the interior area.[155] Following peace talks in Luanda regarding the resolution of Angola's conflict, military operations have continued in Cabinda.[156] The UN Special Representative for Human Rights Defenders, Hina Jiliani made a visit to the territory in 2003 and noted several issues, most notably, "It is very apparent to anybody who is in Cabinda that the presence of the military does present several problems. Human rights violations continue to occur because of the close proximity of the military to

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[147] Ibid.
[148] "Cabinda's Year of War: 2002." Institute for Security Studies. August 2003. http://www.iss.co.za/pubs/papers/77/Paper77.html
[149] "In-Depth: Cabinda." UN Office for the Coordination of Humanitarian Affairs. October 2003. http://www.irinnews.org/InDepthMain.aspx?InDepthId=25&ReportId=67501
[150] Ibid.
[151] Ibid.
[152] Ibid.
[153] Ibid.
[154] Ibid.
[155] Ibid.
[156] Ibid.

civilian populations, and these are of concern."[157] Finally, recent attempts have been made to bring all parties to the conflict together for peace talks, but these have broken down due to allegations some members of the Cabindan independence groups have been left out of negotiations.[158] These concerns have created a continued distrust among Cabindans and the government in Angola proper. The case before the Court surrounds three aspects of Cabinda's status: the various treaties involving Cabinda, claims by Cabinda for self-determination, and the claims of human rights violations and economic exploitation by Angola.

Self-Determination and United Nations Classification

According to Article 1 of the United Nations Charter, one of the goals of the UN is "To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples."[159] Within this context, the UN has established guidelines for Non-Self-Governing Territories (NSGTs) under Chapter XI of the Charter.[160] Additionally, the General Assembly Fourth Committee has also stressed the resolution of all NSGTs through implementation of the Declaration on Granting Independence to Colonial Countries and Peoples.[161] Nevertheless, it is also important to note that the United Nations respects the sovereignty of all Member States equally, and the UN is determined not to disregard Angolan concerns and policies in regard to the status of Cabinda[162] The issue then before the Court is whether the International Court of Justice believes that Cabinda should be considered separate in some capacity from Angola, and, if so, what classification it should be given.

Treaties and Agreements Relevant for Discussion on Cabinda

There are several documents that directly apply to an evaluation of the political status of Cabinda. The first of these is the Treaty of Simulanbuco, which was drafted in 1885. No entire copy of the document has been preserved in English, but the Cabindan authorities cite Articles 1-4 as basis for the independent nature of the Cabinda territory. Article 1 states: "The Princes and all others Chiefs of State and their successors avow to recognize voluntarily the sovereignty of Portugal and places itself under the Protectorate of this nation, with all the territories Governed by them."[163] UN sources have confirmed this to be in the true nature of the treaty.[164] Additionally, in Article 2, "Portugal is obliged to maintain the integrity of the territories placed under its protection."[165] This was the original intent of the Portuguese government, which kept Angola and Cabinda distinct under its 1933 constitution.[166] The important language in Article 1 is the term, "protectorate." According to the Columbia University Encyclopedia, a protectorate implies: "in international law, a relationship in which one state surrenders part of its sovereignty to

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[157] "Angola: Urgent Work Needed to Improve Human Rights." UN Office for the Coordination of Humanitarian Affairs. http://www.irinnews.org/Report.aspx?ReportId=51115

[158] "Angola: Chairs Stay Empty Around the Cabindan Negotiating Table." UN Office for the Coordination of Humanitarian Affairs. http://www.irinnews.org/Report.aspx?ReportId=58424

[159] "UN Charter: Chapter I: Article 1." United Nations. http://www.un.org/aboutun/charter/chapter1.shtml

[160] "UN Charter: Chapter XI: Articles 73-74." United Nations. http://www.un.org/aboutun/charter/chapter11.shtml

[161] A/C.4/63/L.10. Proposed programme of work and timetable of the SpecialPolitical and Decolonization Committee (Fourth Committee) for the sixty-fourth session of the General Assembly. General Assembly Fourth Committee. 3 November 2008.

[162] "UN Charter: Chapter I: Article 1." United Nations. http://www.un.org/aboutun/charter/chapter1.shtml

[163] "Extract of the Treaty of Simulambuco from February 1, 1885." Republic of Cabinda http://www.cabinda.net/

[164] "Observatory for the Protection of Human Rights Defenders Annual Report 2006 – Angola" International Federation of Human Rights, UN Refugee Agency. http://www.unhcr.org/refworld/country,,IFHR,,AGO,456d621e2,48747ccda4,0.html

[165] "Cabinda's Year of War: 2002." Institute for Security Studies. August 2003. http://www.iss.co.za/pubs/papers/77/Paper77.html

[166] "Cabinda." GlobalSecurity.org. http://www.globalsecurity.org/military/world/war/cabinda.htm

another. The subordinate state is called a protectorate."[167] The Court must therefore decide if this treaty provides some validity to Cabinda's claim of independent status from Angola.

The other major document related to Cabinda's status is the Alvor Agreement, which was drafted in 1975 at the time of Angolan independence. This document declared Cabinda to officially be part of Angola proper. It was signed by the three major insurrection groups within Angola along with the Portuguese government. [168] FLEC was not included within the negotiations or agreement.[169] This agreement represents the official Portuguese disengagement from its Angola colony, although they did not guarantee oversight and implementation of the Agreement.[170] Like the Treaty of Simulambuco, the Court must evaluate Cabinda's status according to the Alvor Agreement.

Human Rights Violations and Cabinda

The situation in Cabinda has also been one of concern for international organizations. Several recent reports have hinted at widespread abuses of human rights during the civil war which has been going on for thirty years.[171] These include unfair trials and detention without trial.[172] At the same time, there have also been reports of torture and military trials of civilians in Cabinda.[173] Freedom of expression and assembly is also restricted against members of FLEC or critics of the Angolan government in Cabinda.[174] Many Cabindan groups cite economic exploitation, especially concerning the oil industry, to illustrate the unjust position of the Angolan government. Cabinda provides an estimated 60% of Angola's oil production, but many Cabindans do not see the money return to help the area.[175] In addition, NGOs have stated that conditions in Cabinda are considerably worse than in other areas of Angola with little infrastructure to deal with Cabinda's unique position as an enclave.[176] The Court must evaluate whether these allegations prove that Cabinda cannot remain a viable and intact part of Angola or if these play no part in determining the political status of a territory.

Previous UN and ICJ Action in regards to Disputed NGSTs

In addition to this case, the UN has already decided several political status disputes which may assist in the resolution of the Cabindan question. The first of these is the case for the territory known as Western Sahara. This area was originally known as Spanish Sahara and became disputed after the withdrawal of the Spanish in 1976.[177] Mauritania and Morocco claimed the territory and independence factions also operated within the country.[178] The

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[167] "Protectorate in International Law." Questia. http://www.questia.com/PM.qst;jsessionid=LflNGDWgpTn6LJWlfKs7kprvPTrmZJWy6GJNpyR55sKv61Tv323G!243734?a=o&d=112881038

[168] Thomas Ohlson, et al. The New is Not Yet Born: Conflict Resolution in Southern Africa. Washington: Brookings Institution Press, 1994, 80-81.

[169] "In-Depth: Cabinda." UN Office for the Coordination of Humanitarian Affairs. October 2003. http://www.irinnews.org/InDepthMain.aspx?InDepthId=25&ReportId=67501

[170] Thomas Ohlson, et al. The New is Not Yet Born: Conflict Resolution in Southern Africa. Washington: Brookings Institution Press, 1994, 82.

[171] "Angola: Front for the Liberation of the Enclave of Cabinda - Armed Forces of Cabinda (FLEC-FAC), including human rights abuses committed by and against this organization (2006 - January 2007)." Immigration and Refugee Board of Canada, UN Refugee Agency. http://www.unhcr.org/cgibin/texis/vtx/refworld/rwmain?page=search&docid=469cd6ac5&skip=0&query=cabinda

[172] "Angola: End Torture and Unfair Trials in Cabinda." Human Rights Watch, UN Refugee Agency. http://www.unhcr.org/refworld/country,,,,AGO,456d621e2,49422f2f17,0.html

[173] Ibid.

[174] Ibid.

[175] "Cabinda's Year of War: 2002." Institute for Security Studies. August 2003. http://www.iss.co.za/pubs/papers/77/Paper77.html

[176] "Cabinda's Year of War: 2002." Institute for Security Studies. August 2003. http://www.iss.co.za/pubs/papers/77/Paper77.html

[177] "Western Sahara: MINURSO: Background." United Nations. http://www.un.org/Depts/dpko/missions/minurso/background.html

[178] Ibid.

question of the political status of Western Sahara was addressed by the ICJ in 1974. The Court answered several questions in the 1974 decision relevant to a discussion of political status and NSGTs. The first question was whether or not the territory belonged to any legal authority at the end of colonial control. The second was whether any of the appealing states had a legitimate connection to the disputed territory.[179] The Court determined that Western Sahara was associated with Morocco at the end of Spanish colonial control and did not constitute what the Court determined to be a "terra nullius" or territory without a legal power presiding over it. Nevertheless, the Court found that Western Sahara has no clear legal ties with either Morocco or Mauritania and thus refused to endorse the annexation to either state.[180] The opinion would later lead to a UN mission in Western Sahara whose goal remains a popular referendum on the status of the territory.[181]

The United Nations itself has also dealt with many other NSGTs without a recommendation from the Court. The most notable is New Caledonia. A French colonial island in the South Pacific, New Caledonia has long remained one of the largest NSGTs that have yet to receive independence or annexation. Like in the case of Western Sahara, the UN decided with French support to hold a referendum on the political status of the territory.[182] New Caledonia has also been the focus of numerous General Assembly resolutions which focus the attention on its rights to self-determination.[183] In both of these examples, attention has been shown to UN General Assembly Resolution 1514, which stresses that, "all peoples have an inalienable right to complete freedom, the exercise of their sovereignty, and the integrity of their national territory."[184]

Committee Directive

When reviewing the case, Justices must take into account several factors. The political status of Cabinda must be analyzed through UN definitions such as those found in UN General Assembly Resolutions 1514 and 1541 concerning the identity of NSGTs. Justices must also decide if Cabinda is inherently distinct from Angola proper and if so, what status does that require Cabinda to have. This includes evaluating Cabinda's status before and after the Portuguese departure in 1975 as well as an examination of the previous agreements and what weight they have on the current situation. At the same time, Justices must consider the effect that the alleged human rights violations have on the long term stability of any Court decision. Lastly, Justices must remember that the ultimate goal should not harm the inherent sovereignty of Angola, while respecting cultural and ethnic distinctions that are strong throughout the state.

Case VI: Advisory Opinion on the International Convention on the Elimination of All Forms of Racial Discrimination

(GA Plenary represented by Algeria v. Israel)

"The only viable solution to the Israeli-Palestinian conflict is one that ends the occupation that began in 1967 and fulfils the aspirations of both parties for independent homelands through two States for two peoples."-Middle East Quartet[185]

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[179] "Western Sahara: Advisory Opinion of 16 October 1975." International Court of Justice. http://www.icj-cij.org/docket/files/61/6197.pdf

[180] Ibid.

[181] "United Nations Mission for the Referendum in Western Sahara." United Nations. http://www.un.org/Depts/dpko/missions/minurso/index.html

[182] "UN General Assembly." UN Refugee Agency. http://www.unhcr.org/refworld/publisher,UNGA,,NCL,,0.html

[183] Ibid.

[184] A/RES/15/1514. Declaration on the Granting of Independence to Colonial Peoples and Countries. United Nations General Assembly. 14 December 1960.

[185] "News Focus: Middle East." UN News Agency http://www.un.org/apps/news/infocusRel.asp?infocusID=70&Body=Palestin&Body1=

Introduction

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) was adopted by the UN General Assembly on December 21, 1965 through UN Resolution 2106.[186] [187] Its primary goal was, "the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion."[188] ICERD was a result of two separate UN resolutions, General Assembly 1514 (Declaration on the Granting of Independence to Colonial Countries and Peoples) and Resolution 1901 (Declaration on the Elimination of All Forms of Racial Discrimination).[189] These resolutions emphasized the need for international action against racial discrimination as well as a place to evaluate concerns by Member States. Currently, there are 173 Member States who have ratified ICERD including both states involved in this case, Algeria in 1972 and Israel in 1979.[190] The case at hand concerns the issue of Israeli treatment toward Palestinians both within their internationally recognized borders and in the Occupied Territories. The Court must evaluate whether the Israeli government has violated ICERD by their policies toward the Palestinian population under their jurisdiction, and, if so, determine the best method of resolution.

Background on Israel-Palestine Conflict

The history of the Israel-Palestine conflict is the basis for many of the claims of discrimination against the Palestinians. The break-up of the Ottoman Empire at the end of the First World War brought the territory now known as Israel-Palestine under the control of the United Kingdom through the mandate system.[191] Large scale Jewish immigration followed as a result of favorable polices on the ground, most notably after the genocide committed throughout Europe by Nazi Germany.[192] This immigration would continue long after the independence of the State of Israel in 1948.[193] During the war in 1948, large numbers of Palestinians were displaced from areas in central Israel-Palestine.[194] Further concerns began after the occupation of the Gaza Strip and the West Bank in 1967 after a short war.[195] In both wars, the widespread dislocation of the Palestinians was never rectified. Instead, many ended up in refugee camps throughout the region.[196] The dislocation of the Palestinian population created deep seated animosities on both sides of the conflict, but the failure to find a durable solution to the "Palestinian Question" proved to exacerbate the existing conditions. The Palestinian Liberation Organization (PLO) was created in 1964 to establish Palestinian control over the region and reassert their rights.[197] At the same time, the Israeli government continued to put pressure on Palestinian organizations, including an invasion into Lebanon in 1982.[198]

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[186] "International Convention on the Elimination of All Forms of Racial Discrimination." Office of the High Commissioner on Human Rights. http://www.unhchr.ch/html/menu3/b/d_icerd.htm
[187] A/RES/20/2106. International Convention on the Elimination of All Forms of Racial Discrimination. United Nations General Assembly. 21 December 1965.
[188] Ibid.
[189] "International Convention on the Elimination of All Forms of Racial Discrimination." Office of the High Commissioner on Human Rights. http://www.unhchr.ch/html/menu3/b/d_icerd.htm
[190] "Status of Ratifications of the Principal International Human Rights Treaties." Office of the High Commissioner on Human Rights. http://www.unhchr.ch/pdf/report.pdf
[191] "Question of Palestine: History." United Nations. http://www.un.org/Depts/dpa/qpal/history.html
[192] Ibid.
[193] Ibid.
[194] James L. Gelvin. The Israel-Palestine Conflict: One Hundred Years of War. Cambridge: Cambridge University, 2005, 126-127.
[195] Question of Palestine: History." United Nations. http://www.un.org/Depts/dpa/qpal/history.html
[196] James L. Gelvin. The Israel-Palestine Conflict: One Hundred Years of War. Cambridge: Cambridge University, 2005, 137-142.
[197] Ibid, 198-199.
[198] Question of Palestine: History." United Nations.

Additional problems were caused by new government policies in the Occupied Territories. The most divisive of these developments were the creation of settlements within the West Bank and Gaza for Jewish citizens of Israel.[199] Additionally, security measures in these areas were heightened and the ensuing pressure led to the First Intifada by the Palestinians.[200] This uprising included large scale attacks throughout Israel by Palestinian fighters as well as peaceful civil disobedience such as strikes and boycotts.[201] It ultimately lasted five years with little progress on the ground by either side. At the same time, Israeli tactics during the Intifada were criticized. One UN source mentions, "Methods used by the Israeli forces during the uprising resulted in mass injuries and heavy loss of life among the civilian Palestinian population."[202]

Following the end of the immediate fighting, a peace agreement known as the Oslo Accords was negotiated in 1991. The goal of these talks was established in the Declaration on Principles of Interim Self-Government Arrangements, which stated that, "The aim of the Israeli-Palestinian negotiations within the current Middle East peace process is, among other things, to establish a Palestinian Interim Self-Government Authority, the elected Council (the "Council"), for the Palestinian people in the West Bank and the Gaza Strip, for a transitional period not exceeding five years, leading to a permanent settlement based on Security Council Resolutions 242 and 338."[203] Nevertheless, the ultimate goals of the Oslo Accords fell through and further tension led to the Second Intifada, which reversed many of the advances made in the previous decade.[204] Although the fighting calmed down in 2005, the conflict still remains very heated. [205] More recently, the Israeli construction of a separation barrier (condemned in a 2004 ICJ opinion) and the 2008 invasion of the Gaza Strip have continued the belief that widespread discrimination toward the Palestinians has continued despite international concerns.[206] [207]

Relevant ICERD Articles

When evaluating the claims of racial discrimination against the Palestinians, Justices must consider several important ICERD articles germane to the case at hand. First is Article 1, which defines the term "Racial Discrimination" as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."[208] It also notes that these restrictions do "not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens."[209]

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http://www.un.org/Depts/dpa/qpal/history.html

[199] James L. Gelvin. The Israel-Palestine Conflict: One Hundred Years of War. Cambridge: Cambridge University, 2005, 214-216.

[200] Ibid.

[201] Ibid, 216-219.

[202] Question of Palestine: History." United Nations. http://www.un.org/Depts/dpa/qpal/history.html

[203] "Declaration on Principles of Interim Self-Government Arrangements." UN Refugee Agency. http://www.unhcr.org/refworld/publisher,ARAB,,,3de5e96e4,0.html

[204] Question of Palestine: History." United Nations. http://www.un.org/Depts/dpa/qpal/history.html

[205] "Second Intifada Timeline." MidEast Web. http://www.mideastweb.org/second_intifada_timeline.htm

[206] "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory." International Court of Justice. http://www.icj-cij.org/docket/index.php?p1=3&p2=4&code=mwp&case=131&k=5a

[207] "UN Report Condemns Israel over Gaza War." The Times Online. http://www.timesonline.co.uk/tol/news/world/middle_east/article6229545.ece

[208] "International Convention on the Elimination of All Forms of Racial Discrimination." Office of the High Commissioner on Human Rights. http://www.unhchr.ch/html/menu3/b/d_icerd.htm

[209] Ibid.

The second germane article is Article 3, which states, "States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction."[210] This article is important due to concerns of racial separation by the barrier between the West Bank and Israel itself. It also applies to the growing concerns of separation and inequality in the West Bank created by the settlements and the security network to protect them.

The third and final section is Article 5, which details the rights of people that are to be protected by all Member States regardless of citizenship status. They include "The right to equal treatment before the tribunals and all other organs administering justice," "The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution"[211] Other civil rights which must be protected are "The right to freedom of movement and residence within the border of the State," "The right to leave any country, including one's own, and to return to one's country," "The right to nationality," "The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration," and "The right to public health, medical care, social security and social services."[212]

Claims of Racial Discrimination against Palestinians

The racial discrimination claims by Palestinians cover almost all aspects of their lives, but there are three crucial areas that are relevant for this case. They are claims of prejudice against Palestinians in the Occupied Territories, abridgment of important and unalienable rights, and unnecessary security arrangements. The first of these concerns the issue of Israeli settlements. The construction of these sites has had negative effects on the surrounding Palestinian population.[213] A recent report conducted by the UN noted that settlements have been built on private Palestinian land and the destruction of property including agricultural lands has occurred.[214] Additionally, reports also highlight the existence of restricted roads which are limited to settlers only.[215] In these examples, the rights of Palestinians have been severely abridged in place of those of the Israeli settlers who make up a much smaller percentage of the population.[216]

The second area of racial discrimination focuses on the rights laid out in Article 5 of the ICERD. The Israeli government has been criticized for building restrictions and the demolition of Palestinian housing.[217] Additionally, curfews and other employment restrictions have raised concerns of racial discrimination against non-Israelis.[218] Finally, the Israeli government has been criticized for failing to provide sufficient mobility in and out of the Occupied Territories as well safe and unhindered travel throughout Palestinian areas. [219] [220]

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[210] Ibid.
[211] Ibid.
[212] Ibid.
[213] "UN report highlights 'shrinking space' for Palestinians in Bethlehem" UN News Centre http://www.un.org/apps/news/story.asp?NewsID=30731&Cr=palestin&Cr1=
[214] "Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories." UN General Assembly. http://daccessdds.un.org/doc/UNDOC/GEN/N08/587/97/PDF/N0858797.pdf?OpenElement
[215] Ibid.
[216] Ibid.
[217] "Thousands of Palestinian Children denied access to schools-UNICEF." UN News Centre. http://www.un.org/apps/news/story.asp?NewsID=4906&Cr=palestin&Cr1=
[218] "The Impact of Closure and Other Mobility Restrictions on Palestinian Productive Activities." Office of the United Nations Special Co-ordinator. http://www.un.org/News/dh/mideast/econ-report-final.pdf
[219] "Denying Palestinians Free Movement in the West Bank." Center for Research on Globalization.

The third and final area includes the security arrangements that have been condemned for being racially discriminatory. This includes the separation barrier that has been constructed along the border of Israel and the West Bank. It was ruled illegal by an earlier ICJ Advisory Opinion, but its existence continues to restrict Palestinian movements. The Israeli government remains determined to continue the wall claiming it has helped end suicide attacks in Israel and benefit security overall.[221] Other concerns include the widespread use of security checkpoints that Palestinians view as discriminatory against them.[222] One UN report did note that these checkpoints are actually constructed to allow for greater access for settlers in and out of Israel rather than strictly for security reasons.[223]

Previous UN and ICJ Action

The UN has already been heavily involved in the Israel-Palestine conflict since the end of the British Mandate. Although the main focus has been devoted to the political situation, the UN has also addressed the Palestinian people and their needs. The earliest UN resolution related to the Israel-Palestine issue was UN Resolution 194, which stated, "Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible."[224] Although this resolution was never carried out, it set the tone for future resolutions concerning the rights of the Palestinians in this region. One of the first resolutions to address the problems in the region was UN General Assembly Resolution 605, which was passed during the early period of the First Intifada.[225] It stated that "Strongly deplores those policies and practices of Israel, the occupying Power, which violate the human rights of the Palestinian people in the occupied territories, and in particular the opening of fire by the Israeli army, resulting in the killing and wounding of defenceless Palestinian civilians."[226]

Additionally, any effort to change the demographics of the Occupied Territories has been condemned in Security Council Resolutions 446 (1979) and 465 (1980). Resolution 465 states, "that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof, have no legal validity and that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East."[227]

The ICJ has also taken a direct role in the Israel-Palestine conflict through the 2003 opinion in the advisory case, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. The Court determined that the separation barrier was illegal on several grounds. First, the Court noted that negatively impacted the Palestinian

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http://www.globalresearch.ca/index.php?context=va&aid=8860

[220] "Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories." UN General Assembly. http://daccessdds.un.org/doc/UNDOC/GEN/N08/587/97/PDF/N0858797.pdf?OpenElement

[221] "International report examines affect of West Bank 'wall' on Palestinians." UN News Centre http://www.un.org/apps/news/storyAr.asp?NewsID=6947&Cr=palestin&Cr1=

[222] "Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories." UN General Assembly. http://daccessdds.un.org/doc/UNDOC/GEN/N08/587/97/PDF/N0858797.pdf?OpenElement

[223] Ibid.

[224] A/RES/III/194. Palestine-Progress Raport of the United Nations Mediator. UN General Assembly. 11 December 1948.

[225] 1987/605. Territories Occupied by Israel. UN Security Council. 22 December 1987.

[226] Ibid.

[227] 1980/465. Territories Occupied by Israel. UN Security Council. 1 March 1980

right to self-determination by enveloping areas currently part of the West Bank.[228] Additionally, the separation barrier prevented many Palestinians from being able to seek housing where they desired. It also decided that the barrier constituted a violation of the Fourth Geneva Convention while also hindering the rights laid out in International Covenant on Economic, Social and Cultural Rights and in the United Nations Convention on the Rights of the Child.[229] They also considered the claims by the Israeli government which stated that the barrier was a self-defensive mechanism. The Court found that evidence was not sufficient to warrant such a measure and that Article 51 of the UN Charter does not justify the creation of a separation barrier against non-citizens of an occupied territory.[230]

Committee Directive

When considering this case, justices must evaluate whether the Israeli government violated ICERD by their actions towards the Palestinians within the Occupied Territories as well as within the State of Israel. Additionally, justices must consider the recent claims made by Palestinians during the recent conflict in Gaza. Justices must also regard the security needs of Israel when making their judgment. They must also consider what weight the previous ICJ decision has on the present situation. Finally, justices must make a recommendation regarding what action, if any, should be ordered to address the situation.

[228] "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory: Summary of the Advisory Opinion 9 July 2004." International Court of Justice. http://www.icj-cij.org/docket/files/131/1677.pdf

[229] Ibid.

[230] Ibid.

Case I: Advisory Opinion on Alleged Violations of the Universal Declaration of Human Rights

Electronic Filtering Australia. http://www.efa.org.au/Issues/Censor/cens3.html

> *Although providing some country specific insights, this website provide key inputs on the gaps between the technical and legal aspects of internet censorship. Preferably, both should be understood as this case will require judges to understand the technical barriers posed by this topic. Also, this website provides useful links to other internet censorship related websites, and how they contribute to human rights issues.*

United Nations Human Rights. http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx

> *As a central hub for international human rights law, this website should be scrutinized as it provides key insights into the concept of international human rights v. universal jurisdiction. Human rights should be understood in all its ramifications as universal jurisdiction and state sovereignty have proven over and over to be a highly debated topic. Additionally, this website can prove to be a useful tool when researching into country specific human rights issues.*

Center for Technology and Democracy. http://www.cdt.org/speech/cda/

> *As the title suggests, this website provides a specific U.S. example on communication censorship. The Communication Dependency Act (CDA) was a case ruled by the U.S. Supreme court in 1997 which declared the internet as a "unique medium entitled to the highest protection under the free speech protections of the First Amendment to the US Constitution." Although a very specific example, such rulings provide insights on how different national governments deal with the issue of free speech and international human rights.*

International Law Observer. http://internationallawobserver.eu/

> *International law observer is a search tool for international law events, and provides insight on how they help shape our societies. These issues range from environmental law to human rights cases, and the main thing that sets this search engine apart from others is that it looks for links between arguments. This becomes very useful if one is trying to get a better sense of the relevance of each case.*

International Court of Justice. http://www.icj-cij.org/court/index.php?p1=1&p2=6

> *In brief, this should be set as the homepage for anyone interested in international law. This website plays a key role as it not only provides an historical background into cases and how the ICJ works, but also contains useful research links for anyone willing to learn more on a specific topic. This website should be viewed regularly as it provides unmatched support for both novices and experts in international law.*

Global Policy Forum. "International Justice." http://www.globalpolicy.org/international-justice.html

> *The global policy forum serves as a tool to any judge with a passion for current global events. Providing a wide range of topics, this forum addresses many international issues, but also goes in depth about key international law concepts such as universal jurisdiction. This concept should be grappled with carefully as judges will have to weigh it against international human rights. Apart from the ICJ's website, this forum should be viewed regularly as it is updated and facts about each case can prove to be very important.*

Case II: The Legality of Norway's Withdrawal from the International Whaling Commission's Moratorium on Whaling and Resumption of its Commercial Whaling Industry

International Whaling Commission, International Convention on the Regulation of Whaling, 1946. http://www.iwcoffice.org/_documents/commission/schedule.pdf

The IWC's schedule is one of the most important documents to surround this case. It is technical guide to all of the regulations and recommendations that the IWC has put forward so far. Additionally, the Schedule includes the commercial whaling ban that is the center to this case. It also lists the requirements needed for scientific harvests and the strict monitoring the IWC enforces. Justices are highly encouraged to read the full schedule and gain an understanding of the purposes of the IWC and how best to address the role that these organizations play within the UN system.

United Nations Environmental Program. CITES: Convention on the International Trade in Endangered Species of Wild Fauna and Flora. http://www.cites.org/

The CITES website is one of the most informative and important sites for the conservation of wildlife. It specifies all the species that qualify for the restrictions listed on Appendix I and II. Important sections of the site include Resolutions, Species Database, and the Animal Committee. Justices should evaluate the role that CITES and IWC have within the UN system. Additionally, Justices should evaluate the CITES site for more information of CITES restrictions.

United Nations. Oceans and Law of the Sea: Division for Ocean Affairs and the Law of the Sea. http://www.un.org/Depts/los/index.htm

Outside of the actual Convention published by the UN, there is an entire site designed around the issue ocean affairs. This website includes resolutions and other documents published by the UN General Assembly which affect the implementation of the Convention. Sections on marine diversity outside of national jurisdiction and ecosystem approaches also directly affect whales. Justices are encouraged to read the entire UNCLOS before attending the conference as to familiarize oneself with the general workings of the document and not just sections highlighted in the BGG.

International Union for the Conservation of Nature. Homepage. http://www.iucn.org/

The IUCN is a valuable institution for world conservation. Its website should also provide Justices with more detailed information on the Red Lists as well as its relationship between the UN and the UNCLOS. Numerous committees' work can provide information for this case including the Committee on Environmental Law, as well as the one for Ecosystem Management. Justices should also examine their Species and Marine programs to gain a more thorough knowledge of the IUCN which will help address the question of what role should these organizations play in whaling conservation and the IWC.

Case III: Jurisdictional Immunity of the Sovereign State

UN Observer and International Observer. "International Law" http://www.unobserver.com/index.php?folder=item3&pagina=intlaw.php

UN Observer and International Observer is an international journal of broad implications but overall serves a good starting point to anyone trying to get a good since of ongoing international law disputes, and possible solutions. Further, this site has important documents to help understand the key concepts behind this case such as global jurisdiction. This resource may be helpful to understand other relevant international cases and other facts behind Germany and Italy's arguments.

International Law Prof Blog. http://lawprofessors.typepad.com/international_law/

To get a scholar's perspective on international law cases, this blog is a great resource and even contains a section for law enthusiasts, where terms become very technical. This blog also provides some insight into the various impacts of global jurisdiction, but overall should be looked at as a source to better understand the subject, regardless of background.

International Law Observer. http://internationallawobserver.eu/

International law observer is a search tool for international law events, and provides insight on how they help shape our societies. These issues range from environmental law to human rights cases, and the main thing that sets this search engine apart from others is that it looks for links between arguments. This becomes very useful if one is trying to get a better sense of the relevance of each case.

International Court of Justice. http://www.icj-cij.org/court/index.php?p1=1&p2=6

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Global Policy Forum. "International Justice." http://www.globalpolicy.org/international-justice.html

The global policy forum serves as a tool to any judge with a passion for current global events. Providing a wide range of topics, this forum addresses many international issues, but also goes in depth about key international law concepts such as universal jurisdiction. Apart from the ICJ's website, this forum should be viewed regularly as it is updated and facts about each case can prove to be very important.

Case IV: Advisory Opinion on the Provisional Institutions of Self-Government of Kosovo

United Nations. UNMIK Online. http://www.unmikonline.org/index.html

The UNMIK official site will provide Justices with important information on the history of the UN mission there but also important facts about the slow push towards independence. Additionally, this website includes useful maps on the ethnic makeup of Kosovo and an unbiased news archive. Justices are encouraged to examine the accomplishments of UNMIK and see whether the UN mission must change its tactics in order to bring peace to Kosovo. First, the situation must be evaluated to determine the ultimate status of the region.

North Atlantic Treaty Organization. NATO's Role in Kosovo. http://www.nato.int/cps/en/natolive/topics_48818.htm

NATO has been instrumental in the peace process in Kosovo. With thousands of NATO troops still deployed there, Justices should evaluate their goals and accomplishments in the same way UNMIK's should be. This website also has a good news archive and includes important documents dating from intervention in 1999 all the way until the present.

Global Policy Forum. Kosovo.
http://www.globalpolicy.org/security-council/index-of-countries-on-the-security-council-agenda/kosovo.html

This website is a collection of news articles, opinions, and UN documents on the issue of Kosovo. It should provide important history as well as differing views on the role of international and regional organizations

in Kosovo. Finally, several articles touch on the ethnic question which is at the forefront of the issue of whether Kosovo can be independent from Serbia.

United Nations Development Programme. Kosovo. http://www.ks.undp.org/

This UN agency is included as a result of its long-standing work in Kosovo and its website provides important links concerning the situation on the ground. Although its goal is loess political, the UNDP has worked with the Provisional Authority as well as UNMIK and therefore provides an important link to the human aspect of this case. Justices are encouraged to examine whether these methods have supported Kosovo's independence and determine whether that provides a form of international recognition of independence.

Office of the High Commissioner of Human Rights, 1996. General Recommendation 21: Right to Self-Determination. http://www.unhchr.ch/tbs/doc.nsf/0/dc598941c9e68a1a8025651e004d31d0?Opendocument

This recommendation by the OHCHR provides a recent evaluation by a UN body on the debate between the established right of self-determination and the destructive tendencies that widespread secession can cause in a region or state. The document separates the two aspects of self-determination, the internal aspect of economic and social development and the external aspect of political rights and standing in the international community. Additionally, General Recommendation 21 addresses the human rights problem associated with this debate and references the International Convention on the Elimination of All Forms of Racial Discrimination. (also cited in Cabinda case)

Case V: Advisory Opinion on the Political Status of Cabinda

IRIN: Humanitarian News and Analysis, 2009. Angola: Cabinda, one of Africa Longest, Least Reported Conflicts. UN Office for the Coordination of Humanitarian Affairs. http://www.irinnews.org/IndepthMain.aspx?IndepthId=25&ReportId=66282

The IRIN website devoted to Cabinda provides important background information on the situation in Cabinda from reliable UN sources, a difficulty in this conflict. It includes in-depth interviews of many important figures between the two sides and the IRIN article database is extremely valuable for searching for recent updates on the Cabinda. Additionally, the IRIN site connects the conflict to many of the Human Rights concerns that exist in the debate. This news site also gives helpful timelines and excellent links for more information.

João Gomes Porto. 2003. Cabinda: Notes on a Soon-to-be Forgotten War. Institute for Security Studies. http://www.iss.co.za/pubs/papers/77/Paper77.html

Porto's article published for the Institute of Security Studies provides one of the most detailed backgrounds to the conflict in Cabinda. It discusses the current situation of Cabinda as well as providing a detailed history of the conflict. Most importantly, he examines the importance that self-determination plays in a debate such as Cabinda. These include the primacy that ethnicity and territorial unity occupy when discussing how best to evaluate the calls for independence. Porto also addresses the reasons for previous failures during the peace process and how Cabinda relates to the greater problem of African fragmentation.

Republic of Cabinda. Cabinda: The Official site of the Cabindese Government in Exile of the FLEC. http://www.cabinda.org/anglais.htm

This website represents the un-recognized Republic of Cabinda. Although a biased opinion on Cabindan politics, it proves useful in illustrating the Cabindan arguments for self-determination. It provides a partially translated work of some important documents such as the Treaty of Simulanbuco. The site also provides useful timelines and other information on the Cabindan claims of ethnic and political indpendence from those tribes and clams from Angola proper.

Office of the High Commissioner of Human Rights, 1996. General Recommendation 21: Right to Self-Determination. http://www.unhchr.ch/tbs/doc.nsf/0/dc598941c9e68a1a8025651e004d31d0?Opendocument

This recommendation by the OHCHR provides a recent evaluation by a UN body on the debate between the established right of self-determination and the destructive tendencies that widespread secession can cause in a region or state. The document separates the two aspects of self-determination, the internal aspect of economic and social development and the external aspect of political rights and standing in the international community. Additionally, General Recommendation 21 addresses the human rights problem associated with this debate and references the International Convention on the Elimination of All Forms of Racial Discrimination.

Case VI: Advisory Opinion on the International Convention on the Elimination of All Forms of Racial Discrimination

James L. Gelvin. *The Israel-Palestine Conflict: One Hundred Years of War.* Cambridge: Cambridge University, 2005.

James Gelvin's book provides one of the most thorough and fair introductions to the Israeli-Palestine conflict published so far. Among the important discussions include the rise of Zionism, the problems associated with the Jewish immigration, as well as more recent developments surrounding the Intifadas and the Israeli settlements since the 1967 War. Justices should be able to access this book through a local library or Google Books.

United Nations, 2008. Question of Palestine. http://www.un.org/Depts/dpa/qpal/index.html

This website is monitored by the UN and provides a good understanding on the questions that challenge the international community concerning the Israel-Palestine conflict. Additionally, it highlights many of the important UN resolutions on Palestine. Helpful links include the UN Information System on the Question of Palestine (UNISPAL) as well as Security Council briefings. Justices are encouraged to monitor this site for news on the conflict as the conference approaches.

International Court of Justice. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory.* http://www.icj-cij.org/docket/index.php?p1=3&p2=4&code=mwp&case=131&k=5a

The ICJ's previous case concerning the rights of Palestinians is essential to understand what the Court has done before on this debate. Justices may find all aspects of the case here including all advisory opinions issued by the Court. Additionally, summaries of many of these are available that condense the material to better present the important facts of the case. Finally, this website may be used to further review the way in which ICJ cases are deliberated and argued.

Office of the High Commissioner of Human Rights. 2007. Committee on the Elimination of Racial Discrimination. http://www2.ohchr.org/english/bodies/cerd/

The Committee on the Elimination of Racial Discrimination (CERD) is the tangible result of ICERD. CERD's website provides information on the Convention itself as well as the sessions of the committee itself. As independent experts, the committee serves as an important implementer and interpreter of ICERD. Justices are encouraged to research CERD and evaluate what role if any this body serves in this case.