



**The Winchester School Jebel Ali
International Court of Justice
Nicaragua v. United States (1986)**

Letter from the Chairs

Dear Delegates,

As your chairs, we are pleased to welcome you to WINMUN 2024 and your committee, the International Court of Justice. We are excited to see how the conference will apply your intelligence and critical thinking as we work hard to make this an entertaining and educational event by debating important issues and coming to thoughtful conclusions. We hope that each of you will collaborate with the other delegates to present a truthful argument and decision pertinent to our agendas, "Nicaragua v. United States (1986)" and "Georgia v. Russia (2008)".

The International Court of Justice is one that is particularly notable. It's more like a moot court than the "traditional" committees. In other words, the ICJ will function as a makeshift courthouse where a case will be brought before the judges by the representatives of both sides, who will then appropriately discuss and debate it. Our background guide (found on the WINMUN website) has all the material you require to be fully prepared for the committee sessions, but we strongly encourage you to do further research for extensive knowledge on the case.

It is our sincere desire that, as your chairs, we will not only meet but also exceed your expectations. I'm looking forward to hearing from each and every one of you and witnessing the fruitful debates that come up. Do not hesitate to get in touch with us if you have any questions or need help. With your help, we hope to make WINMUN 2024 an unforgettable event, and we can't wait to have you here. All the best for your research!

Your Chairs,

Jamila, Shams and Haya

Introduction

Committee Overview

The International Court of Justice (ICJ) is the principal court system of the United Nations (UN), sometimes known as the World Court. The International Court of Justice (ICJ), which has its headquarters in The Hague, Netherlands, was established in 1945 primarily to settle legal disputes between states and to offer advisory opinions on cases that the UN Security Council, General Assembly, or other specialized organizations and organs of the UN brought before it.

The International Court of Justice (ICJ) provides advisory opinions on legal issues brought before it by specialized agencies and United Nations bodies in addition to settling disputes between governments. These opinions carry a considerable deal of legal weight and contribute to the shaping and clarification of international law, despite not being legally binding. Delegates will experience the intricacies of international law by taking on the roles of judges and advocates in this committee.

Upholding the rule of law internationally and encouraging the peaceful settlement of international disputes are important tasks for the ICJ. Its rulings and viewpoints influence the growth of international law and the changing face of global government.

Committee Structure

1. **Roll Call-** All delegates present in the committee declare themselves as 'Present and Voting' (there is no abstaining from voting in ICJ) and those not who are not present will be counted as 'Absent.'
2. **Presentation of Stipulations-** A stipulation is a document agreed upon by both sides of advocates. It contains the facts of the case such as why the case was brought to the ICJ. All the 6 advocates involved in the case are supposed to work together prior to the conference and form this document which will then be presented to the judges by the advocates during the committee session.
3. **Opening Speeches-** A 5 minute speech divided by 3 advocates of the same side. During this time, they set the basic ground for the case and use persuasive language to get the judges to empathize with them from the beginning onwards.

4. **Presentation of Evidence-** An evidence document is to be made by the collaborative effort of all 3 advocates on one side of the case prior to the conference. It is supposed to contain FACTS that weigh in your favor. A bibliography is required and all judges will be going over the sources provided by the advocates to deem it factual or not, if the evidence will not be seen as valid by the judges, it will be stricken off.
5. **Weighing of Evidence (Judges Only)-** During this time, the judges deliberate over how reliable the evidence provided is. Judges ask POIs to the advocates based on the evidence that was provided. E.g. “Is it not hypocritical for the XYZ government to provide ABC as evidence when their own country has done PQR?”. Motions to strike evidence are entertained during this time.
6. **Witness Examinations-** Witness testimonies are 100% fictional. Advocates are supposed to make these characters up themselves and cannot find these on the internet. One side can have up to 3 witnesses, however, 2 are preferred. Direct and Cross examination will take place during this segment. Direct examination is when advocates who have presented the witness ask questions to their own witness whereas Cross examination is when the advocates of the opposite side ask the witness questions. Objections are only entertained during Cross examination and by the advocates of the opposite side. Judges are not allowed to make objections and objections cannot be made to the Judges’ questions to the witness.
7. **Closing Statements-** A 5 minute speech divided by 3 advocates of the same side. During this time, advocates conclude the case and approach the judges for the last time.
8. **Deliberation Judgment/Final Verdict-** All judges vote on which side they think has won the case and give a 1 line explanation on why they think the same.

Note- Prosecution always goes first then the defense during any presentations.

Note- Prior to the conference, the advocates need to submit a Stipulation, Evidence pack and Witness testimony. The judges do not need to submit any documents, however need to have detailed research on the case prior to the conference.

Points and Motions

Point of Personal Privilege: A point that is raised when a delegate experiences a personal and mostly individual impediment that severely undercuts their individual ability to holistically participate in the committee.

Point of Parliamentary Enquiry: A point raised in order to approach the dias (or judges) when a delegate has a question or concern that needs to be addressed.

Motion to Extend: Only made by Judges in order to extend POIs in case someone wants to be added to the POI list.

Point of Information: Questions asked by the judges to either the advocates or the witnesses.

Motion to strike: These are entertained during the Weighing of Evidences and only made by the judges. If the judges do not see a part of the evidence to be valid or reliable, it will be stricken off based on voting by all judges.

Objections

During the presentation of evidence-

The Judges can strike evidence on the grounds of:

- **Authenticity,** Ex We are not sure if this is the whole article
- **Reliability,** Ex This document is from an unknown author
- **Relevance,** Ex It is not relevant to our case

During the testimony of the witnesses-

The Advocates can object on the grounds of:

- **Hearsay:** When the witness says something that someone else has stated.
- **Relevance:** When someone during the Cross Examination asks the witness something that has not been brought up by the advocates during the Direct Examination.
- **Leading Question:** Questions in which the answer is implied within the question itself; for example, "he did this, didn't he?"
- **Immaterial:** The inquiry concerns information that is irrelevant to the case and may be posed for manipulative objectives, making it undesirable.
- **Speculation:** A speculative inquiry or response is a remark with no basis in fact. When a witness is given a question for which they do not have a definitive and factual response, advocates may object.
- **Argumentative:** An advocate may not debate or refute what a witness has said.

- **Misleading:** If the question is unclear, complex, or unanswerable.
- **Narrative:** The witness must only be questioned by the facts, and not ask witnesses to provide stories with regard to the matter.
- **Inflammatory:** When a statement is made to generate a reaction in the jury.
- **Prejudicial:** Whenever a statement jeopardizes the panel's or the witness's integrity.
- **Badgering:** When a question is intimidating a witness.
- **Incompetent:** When a question that the witness isn't qualified to answer is asked.

Vocabulary

Countermeasures : Refers to actions taken by a state in response to an internationally wrongful act committed by another state.

Self-Defense : "Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security." -Article 51 of the United Nations Charter

Sandinista (FSLN) Movement : Is a revolutionary movement that overthrew the Somoza dictatorship in Nicaragua in 1979.

FDN (Fuerza Democrática Nicaragüense) : Was a prominent anti-Sandinista rebel group that operated during the Contra War in Nicaragua and its primary goal was to overthrow the Sandinista government, which had come to power in 1979 after the overthrow of the Somoza dictatorship.

ARDE (Alianza Revolucionaria Democrática) : Was a leftist political and military organization in Nicaragua. It emerged as part of the broader movement against the Somoza dictatorship, led by the ruling Somoza family.

Revolutionary forces : Refers to groups or entities that are involved in, support, or lead a revolution. A revolution is a fundamental and often rapid change in political, social, or economic structures within a society.

Paramilitary forces : Refers to organized armed groups that operate alongside, or in support of, a country's regular military forces. These groups often have a semi-military structure and may perform a variety of functions, including internal security, border control, and counterinsurgency operations.

Background Information and Overview

Military and Paramilitary Activities in and Against Nicaragua

In 1909, the United States of America's military and marine rule deposed the President of Nicaragua and established their rule by occupying the territory of Nicaragua. A pro-US administration was established, and this resulted in the two States creating a number of treaties. These agreements granted Nicaragua special rights and advantages in trade, transportation, commerce, and access to the US. Due to the uprising that erupted in Nicaragua from 1927 to 1934, the US was forced to evacuate the country and remove its marines.

The United States installed Somoza, the commander of the Nicaraguan National Guard, as the head of state. Later on, he came to rule Nicaragua as its dictator. Nicaragua suffered significant damage after an earthquake struck the nation in 1972. Following the 1972 earthquake, there was a noticeable rise in the Sandinista (FSLN) Movement. Supporting those impacted, irrespective of their social standing, was the aim of this initiative. Later on, this movement evolved into a rebellion against the nation's Somoza-ruled government.

This put American dominance over Nicaragua in jeopardy. As a result, the US withdrew its help to Nicaragua in April of 1981. Later, in September of the same year, Nicaragua asserted that the US had decided to organize and carry out actions intended to harm the nation.

Armed actions were then carried out against the newly established Nicaraguan government. FDN (Fuerza Democrática Nicaragüense) and ARDE (Alianza Revolucionaria Democrática) were the principal organizations involved in these operations. The former operated along the Honduran border, while the latter did so along the Costa Rican border. Subsequently, they turned to creating Contras. The Contras were a rebel organization that was established with the intention of upholding authoritarian control and putting an end to the Sandinista (FSLN) Movement.

Yet the Contras were defeated, and because of the US's support for the group, Nicaragua's sovereignty was violated. As a result, the Nicaraguan government filed a lawsuit against the US in the International Court of Justice. Nicaragua claimed that by attacking oil pipelines, port and storage facilities, and its airspace, as well as by arming, supplying, training, and financing counter revolutionary forces aiming to topple the country's government, the United States had violated both customary international law and Article 2, paragraph 4 of the UN Charter.

The United States stated that its actions against Nicaragua were motivated by a desire to offer El Salvador and other Central American nations that Nicaragua was purportedly threatening with collective self-defense. In defense of its activities, the United States claimed it had the right to cite customary international law's "collective self-defense" concept, which allows a State to intervene in this way on behalf of other States that have been the target of an armed attack.

Key Issues and Challenges

1. **Article 2(4) of the United Nations Charter:** The fundamental question was whether the US had broken international law by aiding and arming the Contras in Nicaragua, notably Article 2(4) of the UN Charter, which forbids the use of force against the territorial integrity or political independence of any state. Nicaragua claimed that the United States participated in illegal military and paramilitary actions on Nicaraguan soil.

The Court must evaluate the information offered by both parties to assess the nature and extent of the United States' involvement in military and paramilitary actions in Nicaragua. It must evaluate the relevant articles of the UN Charter, notably Article 2(4), and determine whether the United States' acts constituted a violation of Nicaragua's sovereignty.

2. **Nicaragua's claim of war crimes against Nicaraguans and the United States funding of the Contra's:** Nicaragua claimed that the US supplied financial and military support to the Contras, a rebel group opposed to the Nicaraguan government. The question was whether this backing violated the principle of non-intervention and if the United States could be held globally liable for the Contras' activities.

The Court should analyze the concepts of state responsibility, determining whether the United States can be held liable for the Contras' activities. This entails determining the extent of control or direction the US has over the Contras, as well as the predictability of their conduct.

3. **United States Questioning the ICJ's Jurisdiction:** The United States contested the ICJ's jurisdiction to hear the case, arguing that Nicaragua's claims were outside the Court's purview. The U.S. also claimed that Nicaragua failed to meet certain procedural requirements. The Court had to determine its jurisdiction and assess the admissibility of Nicaragua's claims, addressing fundamental issues of access to international legal remedies. The Court should analyze whether Nicaragua fulfilled procedural requirements and whether the claims fall within the jurisdiction of the ICJ. This involves an examination of the compromissory clause and any reservations or objections raised by the parties during the proceedings.

Relevant Stakeholders

Nicaragua: The applicant in this case was the Republic of Nicaragua, which is headed by the Sandinista government. Nicaragua claimed that by arming and supplying the Contra rebels and conducting military and paramilitary operations on its soil, the United States was breaking international law.

United States: As the respondent, the United States defended its actions in Nicaragua, claiming that its backing of the Contras was lawful and did not violate any international agreements.

The European Union (EU): Have demonstrated a greater willingness to integrate labor and environmental issues into their trading frameworks. However, regional trade regimes' enforcement mechanisms are still deficient, with the notable exception of the EU.

the North Atlantic Treaty Organization (NATO): Concerns about human rights have also been a major driving force behind NATO's military intervention in Kosovo. Slobodan Milosevic, a current head of state, was indicted by the ICTY last year, which was a startling declaration of how far international human rights enforcement mechanisms have come.

Research Questions

1. What were the key arguments presented by Nicaragua regarding the legality of the United States' use of force?
2. How did the ICJ define and evaluate the concept of "paramilitary activities" in the case?
3. In what ways did the Court examine the question of armed intervention in Nicaragua by the United States?
4. How did the concept of countermeasures factor into the legal arguments presented by the parties?
5. What role did paramilitary forces play in the case, and how did the ICJ address the legality of their actions under international law?
6. How did the ICJ address the issue of state responsibility in the case, particularly in relation to the actions of the United States?
7. Did the ICJ establish any precedents regarding state accountability for military and paramilitary activities during armed conflicts?



Georgia v. Russia (2008)

Vocabulary

ICRED : 'International Convention on the Elimination of All Forms of Racial Discrimination' is a United Nations convention. A third-generation human rights instrument, the Convention commits its members to the elimination of racial discrimination and the promotion of understanding among all races.

Genocide : According to Article II of the Genocide Convention, genocide is defined as any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group:

1. Killing members of the group.
2. Causing serious bodily or mental harm to members of the group.
3. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.
4. Imposing measures intended to prevent births within the group.
5. Forcibly transferring children of the group to another group.

Mercenaries : Refers to individuals who are motivated primarily by personal gain and are hired to participate in armed conflicts on behalf of a party to the conflict.

Sparatist forces : Refer to groups or entities that seek to establish their own independent political entity or sovereign state by breaking away from an existing political entity, often a nation or a larger political organization.

Ethnic cleansing : Refers to the deliberate and systematic removal or extermination of an ethnic, religious, or cultural group from a specific geographic area with the intent to establish a homogeneous population.

Background Information and Overview

Application of the International Convention on the Elimination of All Forms of Racial Discrimination

Russia began a full-scale military campaign in Georgia on August 8, 2008, supposedly to defend its peacekeepers and citizens who were being attacked and persecuted in Abkhazia and South Ossetia, two separatist republics of Georgia. Even though the invasion served as the direct catalyst for the current legal issue, the controversy has a lengthy history that dates back to the early 1990s and the events that followed the fall of the Soviet Union and Georgia's independence.

Despite having enjoyed independence as autonomous oblasts or districts of Georgia under the Soviet Union, both South Ossetia and Abkhazia failed in their attempts to unilaterally secede from Georgia in the early 1990s, and the international recognition of Georgia that came with its Declaration of Independence encompassed the entire territory, including the two provinces.

Violence has also marked the time following Georgia's independence, with a great deal of animosity directed at ethnic Georgians residing in the two republics who were regularly the targets of forcible expulsion and property destruction. A truce brokered by the Commonwealth of Independent States (CIS) and the deployment of Russian-led CIS peacekeepers marked the end of the hostilities, despite persistent doubts about their impartiality in the fight.

It has been suggested that Russia was eager to establish client states in South Ossetia and Abkhazia that would be ethnically homogeneous, dependent on it in terms of politics, economy, and society, and serve as a barrier against NATO's eastward advance.

Georgia filed a case against the Russian Federation in the International Court of Justice on August 12, 2008. Many people believed that the conflict sprang from international legal rules that forbade the use of force. Georgia claimed in its application that Cossack and Chechen mercenaries, acting under the command and supervision of Russian authorities, coordinated with separatist forces to carry out the attack on its nationals. Georgia also asserted that the rebels in South Ossetia, working with combined Russian forces, had carried out an ethnic cleansing campaign that included the killing and forcible eviction of ethnic Georgians.

The military operations in the days that followed the first attacks went beyond the borders of the two separatist republics and into territory that Georgia's government controlled. It was widely reported that the invasion caused widespread property destruction, the deaths of hundreds of civilians, and the wholesale relocation of ethnic Georgians, despite differing versions of the casualties. The Russian Federation claimed that Georgia had perpetrated acts of genocide against South Ossetians and other Russian nationals in order to justify its invasion.

Key Issues and Challenges

1. **Russia's Assault and Intervention in Georgia :** The South Ossetia region was the focal point of the 2008 conflict between Russia and Georgia. Russia intervened militarily in the region in response to Georgia's military efforts. The key question is whether Russia's use of force and military action violates international law, specifically Article 2(4) of the UN Charter's prohibition on the use of force. Russia claimed that its actions were justifiable in order to defend Russian citizens and keep the region peaceful, while Georgia said that Russia's intervention was an unlawful use of force.
2. **Alleged Human Rights Violations:** Georgia accuses Russia of severe human rights violations during and after the conflict in South Ossetia. The allegations encompassed ethnic cleansing, targeting of civilians, discrimination against ethnic Georgians, and violations of property rights. Georgia contended that Russian forces, in collaboration with local authorities, engaged in forced displacement, indiscriminate shelling of civilian areas, and the deliberate destruction of Georgian property. The accusations also highlighted a lack of accountability and impunity for individuals responsible for the alleged abuses. These multifaceted claims formed the basis of Georgia's human rights case, presenting a complex and challenging legal terrain for the International Court of Justice.
3. **The Law on Genocide:** Russia accused Georgia of committing genocide in South Ossetia. Russian authorities initially claimed that up to 2,000 ethnic Ossetian civilians of Tskhinvali were killed by Georgian forces; according to Russia, the reason for the Russian involvement in the conflict in Georgia was this large number of fatalities. The International Court of Justice (ICJ) must determine whether actions in Georgia meet the legal definition of "genocide" under the 1948 Genocide Convention. This involves proving specific acts, such as killing members of a national, ethnic, racial, or religious group, with the intent to destroy the group in whole or in part.

Relevant Stakeholders

Georgia: Under the leadership of President Mikheil Saakashvili at the time, Georgia attempted to impose its will over the breakaway regions of Abkhazia and South Ossetia. The Georgian government sought to stop these areas from seceding because it saw them as essential components of its sovereign territory. Georgia's response to the conflict was significantly shaped by its strategic alignment with the West, specifically with the United States and the European Union.

Russia: President Vladimir Putin and Prime Minister Mikhail Mishustin led Russia, which played a significant role in the conflict. Moscow backed the breakaway regions' independence movement because of their historical ties to the area. In response to what it saw as a threat to the Russian-speaking populations in these regions, Russia launched a military intervention in South Ossetia and Abkhazia as part of a larger effort to assert its influence in the post-Soviet sphere.

South Ossetia: In the early 1990s, South Ossetia, a separatist region of Georgia, proclaimed its independence. It fought for recognition as an independent nation from Russia. Most South Ossetians were Russian citizens, and before hostilities broke out, Moscow had placed peacekeeping troops in the area.

Abkhazia: In the early 1990s, Abkhazia, like South Ossetia, proclaimed its independence from Georgia. Russia provided military assistance to Abkhazia as it sought independence during the 2008 conflict. The leadership of Abkhazia sought to firmly establish its de facto independence from Georgia.

Research Questions

1. What evidence and legal arguments were presented by Georgia to substantiate its claim that Russia's actions in South Ossetia and Abkhazia constituted racial discrimination under the ICERD, and how did Russia counter these allegations?
2. To what extent did the military actions of Russia in the South Caucasus conflict of 2008 result in discriminatory practices against ethnic Georgians, as alleged by Georgia in the application of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)?
3. How did the International Court of Justice (ICJ) interpret and apply the provisions of the ICERD in the context of the Georgia v. Russia 2008 case, particularly in relation to the definition of racial discrimination and the obligations of state parties during armed conflicts?
4. What key legal principles and precedents have emerged from cases brought before international bodies under ICERD?
5. How has the ICERD jurisprudence evolved over time, and what implications does this have for addressing racial discrimination?
6. Are there gaps in ICERD's framework regarding specific forms of intersectional discrimination?

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