



XXII TecMUN Jr.

International Court of Justice

ICJ

“I am enough of an artist to draw freely upon my imagination. Imagination is more important than knowledge. Knowledge is limited. Imagination encircles the world.”

— Albert Einstein

Delegate:

All roads will take you somewhere. Even if it doesn't look like you have the opportunity to choose where to go, you always have it. At this point of your life you still have time to think, to imagine, and to do. The only possible obstacle in your way is you. You can go as far as you can imagine. The important thing is not to forget where you are trying to go to. We have to be grateful because we have the possibilities, while in other places of the world, these are limited.

How we can reach our goals? And not only ours. Because the most of the time we only seek for our dreams and objectives. Why don't help the others? If we can help us and then the others the world would rise up with peace and no one would be left behind. Try to do your best. Do it always for you and for the others. There's always someone who wants to pull you down, here you have to prove of what you are made of. But never taking revenge against persons whom tried to stop you.

Now is your time. You have the chances. You have the tools. Make it happen. Imagine; look for those impossible things which people think no one can do. Fight for your dreams, so they become a reality. You have the knowledge. You have the opportunity. You have the entrepreneurial sight. Make the change. What are you waiting for?

Adolfo Tapia Quiterio

President for the XXII TecMUN Jr. International Court of Justice

Affair A: Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russia)

Introduction:

On 2008 the Republic Georgia justifying itself with the International Convention on the Elimination of all forms of Racial Discrimination ("CERD") brings to the court to the Russian Federation to take responsibility of its actions on Georgia Territories. With this, Georgia looks for the application of the CERD in every habitant of its territory.

With its organs, agents and persons in government positions and with separatist forces of South Ossetia and Abkhazia, Russia acted against ethnic Georgians groups with racial discrimination. Started massive expulsion in South Ossetia and Abkhazia of them. Russia, by undermining Georgia's jurisdiction, displaced Georgian citizens of these two regions just to provide the unlawful independence from Georgia, violating the CERD during its intervention which is divided in three phases.

Case Details:

In accordance with the Article 19 of the UN Charter the international Convention on the Elimination of All Forms of Racial Discrimination (will hereby referred to as CERD) entry into force on 1969 looking for, as its name says, the eradication of racial discrimination.

The CERD defines "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 of exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life”.

Russia violated inter alia several articles of the CERD, the rights and the jurisdiction of Georgia.

The participation of Russia in this case is determined in three different phases between 1990 and 2008.

The first phase between 1990 and 1994 through separatist forces supported the “ethnic cleansing” that consisted in the killing over 300,000 Georgians. Supporting with weapons and supplies. Russia tried to change the ethnic composition in these regions.

The second phase initiated with the direct intervention of Russia in South Ossetia. The January 24, 1992 in South Ossetia and May 14, 1994 in Abkhazia, separatist forces tried to drive to the independence of Georgia. Russia gave non-ethnic Georgians habitants the Russian citizenship to justify its intervention in Georgia. Russia, taking control of Georgia's territories, didn't allow to apply its duties under the CERD.

The third phase occurs in 2008 when Georgia's possible membership on NATO is discussed. Russia started full-scale invasions with heavy artillery, warships and planes so separatists' authorities could establish provinces as independent territories.

Background:

First phase:

Since 1922 South Ossetia and Abkhazia were recognized as a district of Georgia. In 1990 South Ossetia presented the “Sovereignty of South Ossetia” where it was declared its partition from Georgia. In the same year Abkhazia presented “On the State Sovereignty of the Abkhazia Republic” which with help of Russian authorities, could be granted the Abkhazia independence. In 1992 Georgia was

admitted in the United Nations with an international recognition with these regions.

Separatist forces from Abkhazia killed and expelled thousands of Georgians in 1992 with the substantial support from the Russian Federation. He declared itself as a in a neutral position officially.

In 1989 the Regional Public Council of the South Ossetian Autonomous district formally asked to the Georgian Supreme Soviet its recognition as an autonomous district but it was denied. They changed its name to the Soviet Republic of South Ossetia. Thus, it started the conflict. With the excuse of “maintaining order” Russia sent troops to Georgia. The Georgian Supreme Soviet objected demanding troops withdraw. During this period 1,000 Georgians were killed and over 20,000 were expelled from their territories.

The conflict calmed down for a few years with the help of the Joint Peace keepings Forces Groups (JPFK) which were mostly formed by Russian peace keepers with the objective to prevent fire and conflicts. But as they were Russian and the Russian CIS peace keepers supported separatist forces, they didn't provide safety to Georgians in South Ossetia.

In Abkhazia the 45.7% of its population were Georgians. this represented the bigger group in this region. Others minorities without the support of Russia, wouldn't have been successful on the expulsion of Georgians, trying change the demographic compositions of this region. In 1992 Abkhazia auto-proclaims its sovereignty allowing the intervention in its territory as a support in an offensive against Georgian ethnic groups and Georgia itself.

Georgia deployed guards to restore law and order causing a civil war. Abkhazia separatist forces were armed and with Russia defeated easily Georgian forces. Many Georgian towns were bombarded by Russian Air force and battleships. They arrived to Gagra district (border with Russia) and tried negotiate a ceasefire. Russia let the Georgian forces retire and then took the city. Over 20,000 of

Georgian fled to Gagra. The demographic population changed from 28% ethnic Georgians to only 3%.

In 1993 hostilities started again. They started bombing against civilians killing men, women and kids starting a new reign of terror.

Second Phase:

Georgia had to accept Russia's demands in order to put an end to the conflict. Georgia was forced to become a member of the CIS (Commonwealth Independent States). Between 1992 and 1994 Georgia became a member of the CIS and sign several agreements with Russia, Abkhazia and South Ossetia to end up with hostilities. Russia sent CIS peacekeepers to Georgia.

The conflict was paused from 1992 to 2004. In 1993 Russia recognizes the independence of South Ossetia.

Russia gave to the 90% of South Ossetia population the Russian citizenship and over 100,000 Abkhazians too. Russia started looking for the annexation of these regions to its country. With the justification of protecting its citizens Russia launched an invasion to Georgia in 2008. "The Russian Federation will not leave its citizens and peacekeepers in South Ossetia to the mercy of fate and will take all necessary measures to protect them".

In 2004 Georgia looking of shutting down contraband and drugs selling networks, ended with the Ergneti Market which was the main source supplies source for the separatist forces. They responded with attacks against Georgia bombarding Georgian villages and blocking highways to South Ossetia.

The president of Georgia, Mikheil Saakashvili, stated that this wasn't a conflict between South Ossetia and Georgia. It was between Russia and Georgia. Quite a lot of military officials and part of the military forces of South Ossetia were Russians. And all South Ossetia military forces were in an intensive training by the Russian Federation.

Elections started in South Ossetia and a new president was voted. Sanakoev, the new South Ossetia President, addressed to the Georgia's Parliament seeking for a solution for their conflict. But he was threat by separatist forces. They attempted a murder but they failed.

Third phase:

In 2008 Georgia expressed an intention to get NATO membership while Kosovo tried to get international recognition. Russia took provocative and hostiles measures which increased tensions in Abkhazia and South Ossetia. At this point Russia considered Abkhazia and South Ossetia as independent states. Russia claimed that if Kosovo could be an independent state, why in Abkhazia and South Ossetia couldn't be granted with this status?

Russia sent a letter to separatist forces of in Abkhazia and South Ossetia stating that they would support them and any threat from Georgia would be responded. Russia released a decree in which they could interact with separatist forces looking for the protection of the rights of people living there including Russian citizens.

The United Nations with the concern of the demographic situation in Georgia made a resolution which recognizes the return of refugees to Abkhazia with the victims of the “ethnic cleansing”. Then, the membership of Georgia to NATO was discussed. The Russian foreign minister stated “We will do everything not to allow Georgia’s (...) accession to NATO”

Russia started a military intervention in Georgia. Russia carried combat troops and heavy artillery. This was also accompanied from discrimination against ethnic Georgians. Russia sent thousands of Russian troops, killing civilians and destroying infrastructure bombing several parts of Georgia. The European Parliament forced Russia to withdraw its troops.

The claims of the Republic of Georgia:

On the non-complying to the CERD, Russia violated articles 2,3,4,5, and 6. Georgia, through its organs and entities exercising governmental authorities asks for:

- a) Cease all military interventions on its territory and the withdrawn of all Russians troops
- b) Ensure the return of the Internally Displaced Persons (IDP) to regions invaded with safety and security and the refund of appropriated properties of them.
- c) Take measures so the ethnic Georgian population of in Abkhazia and South Ossetia could be free from all type of discrimination and without the pursuit of Russian citizenship.
- d) The payment of compensations for the “ethnic cleaning” damages.

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Affair B: Anglo-Iran Oil Company (United Kingdom of Great Britain and Northern Ireland v. Islamic Republic of Iran)

Introduction:

The Government of the United Kingdom of Great Britain and Northern Ireland made an application instituting proceedings against the Imperial Government of Iran, regarding the Convention concluded between the Imperial Government of Iran and the Anglo-Persian Oil Company. It was granted to the company in the Article I of the Convention made by the Imperial Government that it was given the exclusive right in the territory of the Convention to search and extract the oil from the established territory.

In 1933, a convention was signed between the Imperial Government of Persia and the Anglo-Persian Oil Company that was in the United Kingdom. Persia, gave the right to search, extract, transport and commerce Persian oil with safe methods as the convention states. The convention gives concession to use its oil deliberately for 60 years, which that means they have the permission until 1993. The only cases which the convention would not be taken on consideration in this are:

- If no money is intended to Persian government after a month from the date when the convention came into force.
- If the liquidation of the company is decided.

And the convention states that; “This concession will not be canceled by the government and the provisions contained therein shall not be altered either by general or special legislation future or not administrative measures or any other arbitrary acts of the executive authorities.”

Case Details:

In 1951 the Iranian Majlis (name of the lower house of the Iranian Legislature) with the Iranian Senate sought for the nationalization of oil industry in Iran. A resolution was made and approved on April 30th for its purpose. On May 1st of the current year the Anglo-Iran Oil Co. claimed for the actions made by the

government of Iran without any prior warning. One of the delimitations of this new bill was to dispossess this company from United Kingdom. The Anglo-Iran Oil Co. asked for arbitration as in the convention was set. In case that a problem or a misunderstanding has occurred, Iran is forced to accept this inquiry, but the government disapprove it.

"The nationalization of the oil industry (...) is not subject to arbitration, and no international authority is qualified to investigate this matter" the minister of finance said in a letter to the oil company. Making clear Iran's point of view in which the only thing could proceed is the nationalization of its oil.

Anglo-Iran oil company take this to the court so it can be arbitrated and solve the conflict of the Company.

But first, United Kingdom tried to send an ambassador to Tehran to negotiate and discuss a new agreement. This attempt to try to solve problems was not well received in Iran. The Iran government just asked to see the company's representatives; otherwise they would start with the nationalization law.

With it's intend of negotiation this case pass from the Anglo-Iran Oil Company to United Kingdom who submitted the case to the court claiming that:

- a) Iran is not allowing to submit the arbitration as in the convention of 1933 is stated, in which article 22 states that in a situation like that, it has to exist. Having the rejection of the arbitration is a failure in the convention.
- b) Iran has attempted to effect a unilateral annulment, or alteration of the terms which goes against articles 21 and 26 of the convention.
- c) Iran has treated United Kingdom against the accordance of the principles of the international law and committing against the government of United Kingdom.

UK argues that the way Iran treated the Anglo Iran Oil Company was against principles of international law. Despite the situations in Iran when the agreement of the concession was granted where this accord was stated, there is no way that it can't apply. Several treaties are against the treatment Iran gave to the UK. Like the Friendship and Establishment treaty of 1928 which demands the protection and the security of people rights and interest in a common international way. Stating the United Kingdom deserves to be treated with the principles of international law.

The United States intervention:

The United States shared the point of view with United Kingdom (hereby referred to as U.K.). With the cold war where United States (hereby referred to as U.S.) was through, Iran got nervous about a Soviet influence in its country. U.K. and U.S. started the operation Ajax that consisted in overthrowing the Majlis from its power. Through the Central Intelligence Agency, they secretly coordinated plans to make a failure in the Majlis system led by the Prime Minister Zahedi. He tried to replace the Majlis but he apparently failed. But Zahedi forces beat the Majlis.

Nature of the Claim:

Following the article 40 of the statute of the Court, United Kingdom asked for:

a) To the Imperial Government of Iran recognizes that as the convention they have signed on the 29th April, 1933 they must accept and arbitration to resolve this issue.

b) Alternatively:

- i) The nationalization of the oil in Iran is a total violation of the terms specified in the convention on the 29th April, 1933 between Anglo-Iran Oil Company and the Imperial government of Persia, where the government of Iran is fully responsible.

- ii) To accept the continuing validation of the convention allowing the Anglo-Iran Oil Company still has its concession. The convention it cannot lawfully be annulled neither altered.
- iii) The Imperial government of Iran give full indemnity for its actions taken against the Anglo-Iran Oil Company.

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