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CONFERENCE

INTERNATIONAL COURT
OF JUSTICE (ICJ)
CHAIR: AARON SOBEL
DIRECTOR: TBA

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LETTER FROM THE CHAIR

Dear delegates,

Welcome to PMUNC 2018. I'm Aaron X. Sobel, and I will be the pioneering chair of the International Court of Justice. I'm a senior in the Woodrow Wilson School of Public and International Affairs, specializing in political institutions and comparative politics, with minors in History and the Practice of Diplomacy and Values and Public Life (Political Philosophy). I was last year's Chargé D'Affaires and previously an Under-Secretary General for PMUNC. Outside of MUN, I'm a Team Captain on Princeton Mock Trial, Peer Representative to the Honor Committee (kind of like a defense attorney), and a former Student Government chair. Both Mock Trial and MUN were essential to my intellectual development – so it feels pretty nice to be able to combine those two things into this activity.

Now I'm not going to lie: this committee will be hard. It's not for the faint of heart. We're discussing problems that give legal theorists, top attorneys and diplomats migraines. We're diving deep into the realm of international law, and a type of public speaking that is particularly demanding. But remember: it's okay to not get every single word right. You don't need to be silver-tongued and absent of all "ums" and "uhs." This is a learning experience first – and by putting yourself through this tough process, you will come out a far superior public speaker, with sharper intuitions not just about international law, or war, or regional politics – you will come out with a stronger ability to reason logically, and appreciate, recognize and conceive good arguments. I hope you find this experience not only helpful, but fascinating. I sincerely look forward to seeing what you all produce.

The topics we are discussing represent perennial problems in international law, on two of the world's most politically interesting and economically rising regions in the world: Southeast Asia and

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the Arab Peninsula. Case A is about the legality of war, in the case of Vietnam's invasion of Cambodia in 1979. Petitioners on one side, representing Vietnam, will have to craft arguments explaining why Vietnam's war is legal, thus engaging with some of the key provisions of international law governing justice in war; these questions on legality in war, though about a historical case, persist to this day. Case B is on the very contemporary topic of the "Blockade of Qatar" – where you will engage with famous statutes and case law to determine whether Saudi Arabia has committed any wrong-doing. In both cases, attorneys, witnesses and judges will grapple with the same ageless, core tenets of international law in different contexts: the sovereign right countries have to non-intervention. In both cases, everyone will have to pay close attention to the law and to the fact patterns to devise pointed, specific and logical arguments. In exploring these concepts through rigorous analysis and exciting witness testimony, you will all have the opportunity to participate as judges, lawyers and witnesses in one of the most consequential institutions of international law: The International Court of Justice.

I can't wait to see what you all produce. Counting down the days to PMUNC.

Sincerely,

Aaron

COMMITTEE DESCRIPTION

BRIEFER ON THE INTERNATIONAL COURT OF JUSTICE

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations (UN). Beyond issuing advisory opinions to the UN, the ICJ settles legal disputes between countries.

In the U.S. judiciary, we have trial courts – where prosecutors (or plaintiffs) try to prove someone is guilty of committing a crime. If the defendant or prosecutors are unsatisfied with the trial court’s decision, and see something wrong with the procedure (or outcome) of trial, they may “appeal” the decision to a higher court – a Court of Appeals. If unsatisfied with the decision of the Court of Appeals, that decision can be appealed to the Supreme Court – the “Court of Final Appeal” for the United States.

While the International Criminal Court functions more like a trial court whose primary function is to determine whether a defendant is guilty, the International Court of Justice functions as the world’s “Court of Final Appeal” – the Supreme Court of the World.

As part of the ICJ, you will have the opportunity to shape precedent on a global scale.

HOW COMMITTEE WILL RUN

Everyone will have the opportunity to play an Attorney, and either a Judge or a Witness. As an attorney, you will argue one of the two cases: below, you are provided a baseline set of facts on each. Make sure to know the facts thoroughly – you may be tapped to represent either side, and either issue. Don’t worry – we’ll give you plenty of prep time before the first arguments.

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There will be 3-4 Attorneys on each side, 4 judges, and 4 people playing multiple witnesses. Attorneys may split-up speaking time however they wish. The most aggressive attorneys, vying to be the sole speaker for their team, will *not* be rewarded.

Using the baseline set of facts, you and your team will make your Opening Statements (your first speech of the trial). Opening Statements have no minimum time (at least 10 minutes is recommended), and will last up to 20 minutes. First, the Petitioner will deliver their Opening, followed by the Respondent. The Respondent will then rebut the Petitioner's Opening Statement, and the Petitioner will rebut the Respondent's Opening Statement right after. During all statements, the Judges will be allowed to interrupt attorneys and ask questions – to which the attorneys must respond before proceeding with their oral argument.

After Opening Statements and rebuttals conclude, witnesses will be called. The baseline fact set contains just information about dates and sequences of events – the witnesses will contain pertinent information and critical evidence for both sides.

The witness will testify to their involvement in the case. Then, Judges will spearhead questioning of the witness. Next, Petitioner and Respondent will both get the chance to question the witness. Once the witness leaves the stand, Judges will ask each side how the testimony of the witness fits in with their arguments, or how their arguments have changed in light of the testimony. Judges will be able to ask attorneys follow-up questions in light of apparently contradictory interpretations of the evidence, or to clarify the nuances of attorneys' arguments.

More witnesses will be asked to testify, and the same procedure occurs until all witnesses have been called. After a break to prepare, attorneys will deliver Closing Statements (Summations). These are the final speeches of the trial, taking into account all evidence – from the baseline facts to

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the new evidence. After each side delivers their Closing Statements, Petitioners will rebut Respondent's Closing, Respondents will rebut Petitioner's Closing. Then, each side will rebut the others' Rebuttal (e.g., Petitioners will get to deliver a rebuttal to the Respondent's Rebuttal). Judges will have the opportunity to interrupt attorneys for questioning during all speeches but the final rebuttal. Then, judges will deliberate to determine which side is right.

Then, all judges and witnesses will become attorneys, and all attorneys will become judges and witnesses for the next trial.

Finally, this is a "closed universe" – you may not use facts you learn from outside this packet and witness testimony, unless you ask for my permission beforehand.

IN THE
INTERNATIONAL COURT OF JUSTICE

No. 581-2018

SOCIALIST REPUBLIC OF VIETNAM,
PETITIONER,

v.

UNITED NATIONS SECURITY COUNCIL,
RESPONDENT.

Justice in War during the Cambodian Genocide

CASE FILING – Vietnam v. United Nations Security Council

On 7 January 1979, Pol Pot – the Dictator of Cambodia, leader of the Khmer Rouge, and orchestrator of the genocide of 1-2 million Cambodians – was pushed out of the capital by Vietnamese troops. Vietnam had invaded Cambodia just three weeks earlier, steamrolling its way to the capital until they drove out the Khmer Rouge.¹

In retaliation, Pol Pot voiced his grievances to the UN Security Council (UNSC), alleging that Vietnam has waged an illegal war, and thus, illegally forced Pol Pot out of the country. Vietnam gave a public defense of its actions, claiming the war entirely legal. The UNSC deemed the war illegal and sanctioned Vietnam for invading Cambodia.²

Vietnam has now formally appealed that decision to the ICJ. Vietnam claims that the UNSC was wrong to sanction Vietnam for waging an illegal war against Cambodia.

RELEVANT LAW

The Law of War is broadly divided into two categories: *jus ad bellum* (Justice before War) and *jus in bello* (Justice in the conduct of War).³ That means a war is just if the purpose in going to war is legal, and if the military tactics used are also legal. Synthesizing the Just War Doctrine, UN Charters and Geneva Conventions, we arrive at the legal code we will use for the purposes of trial.

A war is permissible only if it:

1. Entails a just cause
 2. Has the right intention
 3. Uses proportional means
 4. Is the last resort, and
 5. Has a reasonable probability of success.
-

¹ Grant Evans, *Red Brotherhood at War* (London, 1984).

² *Ibid.*

³ Nicholas Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford, 2010).

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Regarding 1: A war must have a just cause to be permissible. The Petitioners (representing Vietnam) may argue that that Vietnam's invasion of Cambodia does entail a just cause. They may argue either that the war was intended as self-defense against Cambodian aggression, or that it was intended as humanitarian intervention – to end human suffering.

Regarding 2: For a country to have the right intention means the war intended to fulfill the just cause. In this case, Petitioners will argue the war was meant either to save the Khmer people as part of humanitarian intervention, or was intended in self-defense of Vietnam and nothing more. Respondents will argue that self-defense and humanitarian intervention are mere fronts for their true purpose (e.g., gaining control of Southeast Asia) – and thus, that there was no such just cause.

Regarding 3: For Vietnam's war to be legal means it must have used proportional means. Using "proportional means" means Vietnam must not have used "disproportionate methods to achieve their goals." Disproportionate methods are defined in two ways. First, a method, tactic or weapon in war is disproportionate if it causes more suffering and death than necessary to achieve the goals (for example, using torture to kill someone). Methods are also disproportionate if the military gains reaped are far smaller than the suffering and death suffered by the other side (so, even if using a method allowed you to kill a single terrorist, it would be disproportionate if killing that terrorist required killing 1000 civilians). Note: An important facet of "proportional means" is that military tactics must attempt to distinguish between civilians and military targets. As outlined in the Geneva Convention, only military are permissible targets; it is illegal to deliberately target civilians

Regarding 4: Vietnam's war must have been its last resort in pursuing its just cause. That means for a war to be legal, other options have already been exhausted, or clearly were not available options. If a country has a just cause, the right intention and uses proportional means, it is still illegal

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if war wasn't the last resort – for if the country could have reasonably achieved its goals through diplomatic ventures and methods other than all-out warfare, the whole war itself is unnecessary.

Regarding 5: A war must have a reasonable probability of success to be just. For if there is no chance the country would win, lives would be wasted needlessly.

Petitioners must argue that Vietnam's war against the Khmer Rouge meets all 5 of these prongs. Point 1 is already accepted by both sides: the causes Vietnam claims it pursued are either self-defense or humanitarian intervention, and both of these are just causes. Point 5 warrants brief discussion but probably not much: Vietnam's troops and capacity far surpassed Cambodia's. Points 2, 3 and 4 will be where the argument should focus on.

Opening and Closing Statements, as well as all intermittent responses to Judge's questions, should address these prongs. Advice: petitioners and respondents should really think what each of these prongs mean depending on if the petitioners go for the humanitarian intervention or self-defense argument. If arguing it was humanitarian intervention, then prong 4 means that war had to be the only way Vietnam realistically could have saved Cambodian lives. However, if arguing self-defense, the prong 4 requires that war was the only Vietnam could have reasonably defended itself. Think closely about what these mean.

To add, while both sides should think about how Vietnam's actions prove their case, both should think hard about what Vietnam *failed* to even try to do, and what the consequences would have resulted if one of Vietnam's failed ventures actually succeeded. Some of the most potent arguments lie in considering counterfactuals and hypotheticals. Finally, match key events to each other by looking at the dates and the timeline.

THE MATERIAL FACTS

Pol Pot, the Khmer Rouge and the Genocide

The Khmer Rouge was the communist party that ruled Cambodia from 1975 to 1979. At its helm was the brutal General Secretary Pol Pot. The Khmer Rouge reclaimed power in Cambodia, with help from the Vietnamese Communists after defeating the U.S.-backed Nationalists in 1975. The Khmer Rouge established “Democratic Kampuchea.”⁴

Pol Pot’s communist ideology was an extreme form of Maoism. Pol Pot spouted that peasants were the ideal class, and in the *Black Book*, a propagandized history of the Khmer Rouge authored by Pol Pot, Pol Pot calls for the submission of all Cambodia to its agrarian roots.⁵

Pol Pot’s extreme vision for Cambodia was soon recognized through the “Year Zero” campaign. Pol Pot tried to turn the clock on Cambodian development back to year zero – by transforming it into a strictly agrarian society. Thus, the Khmer Rouge engaged in the wholesale slaughter of the non-peasant class: anyone who looked like anything other than a Cambodian peasant was targeted. Exhibiting any features of the intellectual class and the bourgeoisie was a death warrant; included on kill target lists were professors, Buddhist monks, those who could speak foreign languages, and even people who wore eyeglasses were slaughtered. The Khmer Rouge furthermore destroyed innumerable cultural buildings, and forced its entire population out of the cities and into the countryside. The regime was furthermore known for unusually brutal executions: many were castrated and otherwise amputated, then left to bleed to death; others, the Khmer Rouge troops cut in the stomach, and shoved dirt into. someone with whom I (the Chief Judge – yours

⁴ Evans, *Red Brotherhood* (London 1984).

⁵ *Ibid.*

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truly) came into contact was forced to strip naked, and swim in the river until 50 leeches were on her body. Soldiers then left her, believing she would soon die. All in all, the Khmer Rouge executed at least 1.3 million people (at least a quarter of the population) – a number that excludes the hundreds of thousands (potentially millions) that fell prey to starvation and disease.⁶

While millions had already perished at Pol Pot's hands, Year Zero was not complete. According to the *Black Book*, the KR would not rest until it turned Cambodia agrarian, and until it fully eliminated “dissidents.”⁷ Had Pol Pot stayed in power, Year Zero would have carried on, and millions more might have fallen to disease, starvation or execution at KR hands. The UN, U.S. and the rest of the outside world remained silent – but the slaughter was cut short by the Vietnamese.

The Invasion

On 25 December 1978, Vietnam invaded Cambodia, steamrolling its way through to Phnom Penh. Vietnamese General Van Tien Dung led 120,000 troops that decimated Khmer Rouge forces; by 7 January 1979, Vietnamese forces pushed Pol Pot and the Khmer Rouge out of the capital, installing a new government, the People's Republic of Kampuchea (PRK), in its wake. The mass killings terminated thanks to the Vietnamese intervention. In hundreds of Cambodian villages, the Vietnamese invasion was “greeted with joy and disbelief.” Some villagers reported “it was as if salvation had come,” while others noted that “if the Vietnamese hadn't come, we'd all be dead.”⁸

Vietnam's invasion clearly ended the depraved Khmer Rouge regime: the question remains, however, whether this invasion was truly intended as either a war of self-defense or humanitarian

⁶ Ben Kiernan, *Pol Pot Regime* (1996), 79; Yale University Genocide Studies Program. “Chronology of Cambodian Events Since 1950.”

⁷ Evans, *Red Brotherhood* (London 1984).

⁸ Nayan Chanda, *Brother Enemy: The war after the war* (1993).

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intervention, whether Vietnam used proportional means to achieve these ends, and whether invasion was truly the last resort to pursue these intentions. Understanding Vietnamese-Khmer relations in the lead-up to the invasion is critical to understanding these points.

Vietnamese-Khmer Relations, Tensions and History

Vietnamese-Khmer Rouge relations are marred by a complicated history despite sharing the communist ideology. As early as 1954, some ethnically Vietnamese leaders were purged from the Khmer Rouge, as leadership was passed into the hands of the Paris-educated ultranationalist Cambodians.⁹

In the 1950s, Cambodia won independence from colonial France, with King Sihanouk running the country. As the insurgent Khmer Rouge rose, Sihanouk's forces pushed back; by the 1960s, Sihanouk had eliminated 90% of Khmer Rouge forces. Vietnam pursued a policy of conciliation toward Sihanouk, actively supporting Sihanouk against the communist Khmer Rouge in the early to late 1960s.¹⁰

Then, U.S.-backed Nationalists overthrew King Sihanouk, with General Lon Nol taking charge of the country. The U.S. backed Lon Nol's Nationalists, as they gave permission to bomb Communist Vietnamese supply lines in Cambodia. Vietnam quickly allied itself with the Khmer Rouge in 1970. Thereafter, Hanoi openly supported the communist insurgency in Cambodia: it fought with the Khmer Rouge in their early battles, and later provided supplies and advisors. An estimated 60,000 North Vietnamese and Viet Cong troops were stationed in Cambodia at the time

⁹ Tai, "Turmoil in Indochina," *Asian Affairs* (1978).

¹⁰ Evans, *Red Brotherhood* (London 1984).

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of the second Vietnamese ceasefire of January 27, 1973, supporting 25,000 to 30,000 Khmer Rouge insurgents.¹¹

It was not all sunshine and roses, though. In 1973, the Khmer Rouge attacked North Vietnamese units protecting a wartime supply line through the so called Parrot's Beak, where Cambodian territory juts into Vietnam. The Cambodians suspected (justifiably, as it turned out) that the Vietnamese were holding onto Chinese weapons meant for the Khmer guerrillas. To add, Cambodia purged all 5,000 “Hanoi Khmers” – Khmer soldiers trained in Vietnam – from their ranks in 1973. To add, there were minor border skirmishes during this “Three Star Alliance” between Vietnam and Cambodia.¹²

The alliance came to an end in 1973, when Vietnamese communists signed the Paris Peace Agreements with the U.S. Hanoi pressured the Khmer Rouge into peace talks with the Nationalists, which the Khmer Rouge rejected; Pol Pot accused Vietnam of collaborating with the Americans, and claimed the negotiations with the Nationalists were part of a Vietnamese ploy to “swallow Cambodia.” The U.S. then launched a bombing campaign that dropped more than 250 thousand tons of bombs on Cambodia. Pol Pot blamed the attacks on Vietnamese “selfish egoism” while Hanoi restricted arms sales and movement into Cambodia.¹³

In 1974, Cambodia tried to evict Vietnamese residents and communist troops from the Cambodian territory of Mekong Delta.¹⁴

¹¹ Tai, “Turmoil in Indochina,” Asian Affairs.

¹² Ibid.

¹³ Evans, *Red Brotherhood*.

¹⁴ Nicholas Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford, 2010).

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Serious clashes over the Gulf of Thailand ensued in 1975. Khmer Rouge forces based on Poulo Wai forcibly seized Phu Quoc and Tho Chu islands from Vietnam. Two weeks later, Vietnam recaptured the islands and pursued Khmer Rouge back to Poulo Wai, and occupied Poulo Wai.¹⁵

Following this were some peacemaking efforts: in mid-1975 Pol Pot led a Cambodian delegation to Hanoi, where they discussed the border issue with Vietnamese General Secretary Le Duan. Cambodian Vietnamese mouthpiece newspaper Nhan Dan announced a “complete identity of views” had been achieved. Pol Pot blamed fighting on geographical ignorance of local commanders. Le Duan agreed to return control of Poulo Wai to Cambodia. Border liaison committees were established to settle local disputes, and both countries agreed to high level meeting in June 1976 to work out border treaty. However, these diplomatic ventures failed: the June meetings were never held, as preparatory talks held in Cambodia in May 1976 broke down: the Khmer Rouge rejected the Vietnamese proposal that borders drawn by colonial powers should be maintained.¹⁶

The Khmer Rouge approach “differed radically” to Vietnam’s – Vietnam adopted post-colonial norms: borders adopted at independence can be changed only through mutual consent. The Khmer Rouge, in keeping with Year Zero, believed Mekong Delta and area around Saigon were “lost territories” that the Vietnamese had taken forcibly from the Khmer Empire, expecting to be compensated for these losses.¹⁷

When Vietnam presented a proposal concerning the maritime border, Cambodians walked out altogether, and refused to join the talks. Cambodian leader Son Sen said the “Vietnamese threat”

¹⁵ Ibid.

¹⁶ Stephen Morris, *Why Vietnam Invaded Cambodia* (1999).

¹⁷ Ibid.

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was like a cancer eating away at Cambodia's body – the survival of the Khmer people depends on its total eradication.” After this big blow-up, though, tensions were apparently resolved (temporarily).¹⁸

Around this time, Cambodia began being aggressive to its other neighbors – like Thailand. Clashes occurred in May-June 1975, due to confusion over poorly demarcated borders resulting from Khmer attempts to seal the border and prevent the flight of refugees.¹⁹

After a brief period of quiet between 1975 and 1977, Vietnam and Cambodia erupted into conflict yet again; a border war occurred in 1977 (one year before Vietnam's invasion of Cambodia).

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Vietnam-Cambodia Border War

Note: This border war is NOT the same border war for which the UNSC sanctioned Vietnam. The legality of this war is not being questioned; rather, it serves as evidence that either side can use to justify the legality of the war that would follow one year after this border war.

In the first three weeks of January 1977, Cambodian forces launched armed attacks on civilian settlements in six out of Vietnam's seven border provinces, with the worst attacks taking place in Kien Giang and An Giang. Hanoi denounced the Khmer Rouge as a “brutal and infantile peasant egalitarianism.” Prior to April, Vietnam refused to withdraw from Cambodian sanctuary areas. This led to conflicts in such sanctuaries, which spread into Cambodian raids of the border provinces of Vietnam.²¹

¹⁸ Evans, *Red Brotherhood*.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Sung An Tai, “Turmoil in Indochina” (1978), *Asian Affairs*.

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60,000 Cambodian refugees had fled into Vietnam. In April, Phnom Penh alleged that Vietnam tried to overthrow the regime with an integrated Vietnamese-Cambodian exile militia.²²

Raids by the Cambodians intensified in April 1977, along border regions of the capital of An Giang province (Chau Doc) and the coastal town of Ha Tien. Vietnamese militia guarding the area were forced to withdraw once the two areas were shelled by Cambodian mortars and heavy artillery – attacking areas with over 30,000 civilians. Vietnamese boat people reported heavy fighting and widespread Khmer Rouge atrocities, confirmed by Khmer Rouge refugees.²³

Cambodian raids pushed 10 kilometers deep into Vietnamese territory, before retreating.²⁴

All through the first half of 1977, Vietnam did not launch any counterattacks. Instead, on June 7, Vietnam sent a conciliatory letter to Phnom Penh, proposing a high-level meeting to resolve the border problem as soon as possible. Pol Pot rejected this proposal on June 18.²⁵

All throughout this time period, “atrocities” against all minorities were reported in Cambodia. 40% of ethnic Lao, Thai and Cham minorities residing in Cambodia were exterminated. Just about 100% of ethnic Vietnamese were exterminated – the population of ethnically Vietnamese Cambodians was 218,000 in 1962, and 8,197 in 1981 (two years after the Khmer Rouge was overthrown).²⁶

On 24 September, the Khmer Rouge launched an attack on Vietnam’s Tay Ninh province, slaughtering hundreds of civilians. A series of raids along the 150-kilometer front in Tay Ninh provinces penetrated deep into Vietnam, killing and wounding thousands of soldiers and civilians.

²² Ibid.

²³ Wheeler, *Saving Strangers*.

²⁴ Morris, *Why Vietnam Invaded Cambodia*.

²⁵ Ibid.

²⁶ Ibid.

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Other thousands of civilians had to be evacuated from the Vietnamese border areas to safer places in the interior of the country.²⁷

Vietnam's reaction to these border raids at first were minimally aggressive, as Vietnamese Defense Ministry Giap was sent with a task force simply to examine these areas – to signal to the Cambodians to cease raids. When they continued into November, Giap led a retaliatory campaign in December 1977.²⁸

Minister Giap launched a major assault into Parrot's Beak with 60,000 troops, tanks, artillery and warplanes, shattering the 25,000 Cambodians in the border region. While the Cambodians penetrated 15 kilometers deep in their raids, the Vietnamese penetrated 105 kilometers deep into Cambodia, stopping just 50 kilometers away from Phnom Penh. Vietnamese troops pulled back at this point, retaining just a few troops inside the country.²⁹

Vietnam offered a 3-point peace plan, which called for 1) an immediate cease-fire and the establishment of a 10-kilometer demilitarized zone, 2) the negotiation of a border agreement, and 3) the creation of an international supervisory body, perhaps under UN authority. Cambodia broke-off ties with Vietnam on 31 December 1977, rejecting this deal, saying they would accept only if Vietnam retracted all troops in Cambodia. However, Cambodia's government said it was willing to negotiate over the border conflict "in a spirit of friendship." Vietnam called for both sides to "meet as early as possible, at whatever level, so as to solve together the border issue...in a spirit of brotherly friendship."³⁰

²⁷ Ibid.

²⁸ Evans, *Red Brotherhood*.

²⁹ Ibid.

³⁰ Ibid.

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In January 1978, the two powers met. Cambodian officials released a statement on 3 January 1978, that Vietnam would have to first “create an atmosphere of friendship and mutual confidence” before the Khmer Rouge would consent to negotiate with them. On 12 January 1978, Vietnamese Foreign Minister Vo Dong Giang indicated that Vietnam would not move from its present occupation of various border areas in Cambodia until the Khmer Rouge agreed to negotiate. However, on 5 February 1978, Vietnam withdrew all its troops and offered negotiations yet again. Deputy Foreign minister Nguyen Co Thach essentially re-proposed the peace plan: he called for an immediate end to all hostilities on the border, a withdrawal of armed forces of both sides to 5 kilometers from the border, and a conference to draw up a treaty on the basis of “respect for each other’s territorial sovereignty within the existing border” and reach agreement on “an appropriate form of international guarantee and supervision.” Cambodia refused to discuss proposals on the grounds they had not been transmitted to Phnom Penh via official channels – i.e., through an embassy. This was hardly possible at the time, since Cambodia ending formal diplomatic relations meant the closure of the Vietnamese embassy.³¹

Vietnam then sent a letter describing these proposals to Pol Pot’s Khmer Rouge co-founder and right-hand man, Ieng Sary, via the Lao ambassador to Phnom Penh. Sary refused to accept the note.³²

Pol Pot then went on Phnom Penh radio April 12 to reiterate the Democratic Kampuchea’s refusal to negotiate, proclaiming Cambodia’s right to resettle the border issue and change demarcations in the land and sea borders. Cambodia refused to withdraw to five kilometers from the

³¹ Wheeler, *Saving Strangers*.

³² Ibid.

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border, claiming that Vietnam would “annex a belt of Cambodia’s territory five kilometers wide.” Every Vietnamese settlement was blocked or refused.³³

On 10 May, Phnom Penh radio claimed January of that year as a Khmer “Victory.” All in all, Cambodia, in two years, had destroyed 25 townships, 96 villages, rendered 257,000 Vietnamese people homeless and caused 100,000 hectares of farmland to be abandoned. However, Vietnam’s first counter-invasion decimated 25,000 Cambodian troops, leaving them with a total of 58,000 troops; Vietnam, by contrast, had 680,000, and much more advanced weaponry.³⁴

Post-border war into the Invasion

Backtracking to February 1978, the Vietnamese politburo held an emergency high-level meeting to discuss threats to national security. That meeting was private.

After that meeting, Vietnam stopped offering peace settlements. In April, Hanoi radio began denouncing the murderous policies of the Pol Pot regime for the first time, and Hanoi radio began issuing calls for the Cambodian people to overthrow the regime. Hanoi encouraged organization of an anti-Pol Pot resistance movement among the Cambodian refugee population.³⁵

Smaller raids occurred throughout March until the invasion. Reports of Cambodian mutinies were reported, consisting of 10-20,000 guerilla Cambodian refugees trained by Vietnamese troops.³⁶ These reports are, as far as you know, only speculation.

³³ Evans, *Red Brotherhood*.

³⁴ Ibid.

³⁵ Sung An Tai, “Turmoil in Indochina,” *Asian Affairs*.

³⁶ Ibid.

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The next major border clash occurred in early December 1978, when Cambodians attacked Vietnam's border provinces again, attempting to drive deep into Vietnam. Vietnam launched a second counter-invasion. Led by General Van Tien Dung, the Vietnamese put together 120,000 troops and launched an invasion on Christmas Day, 1978. Cambodia (somehow) patched together 100,000 troops, including untrained child soldiers. By 4 January – not two weeks after the launching of the invasion – Vietnam had taken over most of Cambodia east of the Mekong. This created the security buffer Vietnam wanted in its 3-point plan. However, Vietnam pushed forward until 7 January, when they successfully pushed Pol Pot out of the capital.³⁷

At the end of January, Pol Pot's forces regrouped in the forests of Thailand, preparing to strike back – Vietnam waged campaigns in the west to eliminate the Khmer Rouge once and for all.

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Vietnam then established a new government in Cambodia (see below “People's Republic of Kampuchea). Khmer forces would fall to 35,000 by mid-1979.³⁹

People's Republic of Kampuchea

Vietnam, after liberating Cambodia from the Khmer Rouge, established the “People's Republic of Kampuchea.” Vietnam kept most of its 100,000 troops stationed in Cambodia, with Hanoi-trained Khmers leading the government and Vietnamese politicians constantly trickling in and out of Cambodia.⁴⁰

³⁷ Evans, *Red Brotherhood*.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Wheeler, *Saving Strangers*.

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Vietnam contends that it stayed, for the Khmer Rouge remained extant. If Vietnam left, Hanoi argues, the Republic would be in danger of falling to the powerful Khmer Rouge once again. The Khmer Rouge was indeed still active.⁴¹

It took Vietnam a decade to begin to withdraw from Cambodia.

Cambodians at first welcomed the Vietnamese as “liberators.” One civilian even told the BBC that “it was as if salvation had come...if the Vietnamese hadn’t come, we’d all be dead.” However, after the Vietnamese had not left after one year, then two, then three, Cambodian sentiments turned on the Vietnamese, claiming Vietnam had fulfilled Pol Pot’s prophecy of “swallowing” Cambodia.⁴²

Vietnam’s Initial Public Justification

After Pol Pot was pushed out of the capital on 7 January, he filed an official complaint with the UNSC. When the UNSC met on 11 January to determine if Vietnam should be sanctioned, Vietnam did not defend itself by arguing it was protecting the Cambodian people. The Vietnamese Foreign Minister stated that “Vietnam [was] primarily concerned with its security and...human rights [were] the concern of the Cambodian people.”⁴³

The Minister claimed that there were “two wars”: the “border war” along Tay Ninh and the “revolutionary war of the Cambodian people.” The border war, he contended, was fought in self-defense: however, he denied that Vietnam ever pushed itself into Phnom Penh and removed Pol Pot. He said the border war was restricted just to the border regions, and that the Vietnamese had

⁴¹ Morris, *Why Vietnam Invaded Cambodia*.

⁴² Nayan Chanda, *Brother Enemy: The war after the war* (1993).

⁴³ Wheeler, *Saving Strangers*.

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not fought past these boundaries. He then drew attention to the “revolutionary war.” He pointed out the terrible suffering of the Cambodian people, to convince the UNSC that Pol Pot was ousted not by the Vietnamese, but the Cambodians: he contended that because the Cambodian people were battered so badly, they rose-up and deposed Pol Pot themselves.⁴⁴

However, this failed to explain why there were 100,000 Vietnamese troops in Cambodia at the time of Pol Pot’s overthrow. Vietnam later claimed the troops were necessary to prevent the Khmer Rouge from returning.

Rebind to 1975: Vietnam, China, the USSR and Democratic Kampuchea (Khmer Rouge)

The role of the two major communist powers also greatly influenced the course of Vietnamese-Cambodian relations.

Though Vietnam and Cambodia were communist brethren in theory, Vietnam followed the Soviet Union and Cambodia followed China. Cambodia was bankrolled almost entirely by China. Vietnam, meanwhile, was allied with the Soviets, and derived 70% of its aid from the USSR. Cambodia’s communism was a radicalized version of Maoism; Vietnam’s governance style, meanwhile, took after the bureaucratic Soviet-style of administration. Cambodia’s communism was much more inward-facing and focused on internal development, somewhat like Maoism, while Vietnam’s socialists were concerned more about the international communist revolution. So, when the Sino-Soviet split occurred, it ushered-in a deep split between Cambodia and Vietnam.⁴⁵

⁴⁴ Ibid.

⁴⁵ Morris, *Why Vietnam Invaded Cambodia*.

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Chinese paramount leader Deng Xiaoping declared that the USSR replaced the U.S. as the “main threat to peace and security in Southeast Asia,” at a time when Vietnam was most closely allied with the soviets. Vietnamese General-Secretary Le Duan visited Beijing in September 1975, followed by Moscow. An aid agreement between the USSR and SRV was signed, while a communiqué was jointly issued by Vietnamese and Soviet delegates expressing “agreement on all substantive issues.” No similar statement was issued jointly by Vietnamese and Chinese delegates. Tensions between the Vietnamese and Chinese escalated over competing territorial claims between Vietnam and China with respect to the South China Sea. Beyond territorial issues, the Chinese bankrolled Pol Pot’s aggressive anti-Vietnamese regime, and held influence over it. China, furthermore, was no stranger to Vietnam prior to its alliance with the Khmer Rouge: Chinese paramount leaders have previously explicitly stated their desire to not allow Vietnamese “imperialism” to dominate South-east Asia. To add, China had historically pushed-back on Vietnamese meddling in Southeast Asia in the late 1800s – both countries became cautious of each other from that point on.⁴⁶

From 1977 to much of 1978, China bankrolled and had formal defensive pacts with Cambodia. Vietnam, meanwhile, had no such defensive agreement with the Soviets. However, by 3 November 1978, the USSR and Vietnam signed a Treaty of Friendship, whereby Russia agreed that if China declared war on Vietnam, it would declare war on China. The next major border clash occurred in December and Vietnam invaded Cambodia.⁴⁷

⁴⁶ Ibid.

⁴⁷ Ibid.

Vietnam: the “Vanguard” of Southeast Asia

Vietnam has viewed itself as the protector of Southeast Asia for a while. Since before it was imperialized by France (i.e., prior to the 1850s), Vietnamese dynasties were always the most active proponents of forming an Indo-China (Southeast Asia) federation, and most willing to be involved in the armed conflicts of nearby empires and states. Some dynasties touted the need for a united Southeast Asia. For that reason, the other insular Southeast Asian nations remained cautious of Vietnam, believing it to be an imperialist that shared their ethnicity.⁴⁸

When Vietnam transformed into the Socialist Republic of Vietnam under leader Ho Chi Minh, traits of its old view of itself – the “protector” of Southeast Asia meant to unite it – melded with communist ideology. According to Soviet-Leninist tradition (as opposed to Chinese-Marxist tradition), the most politically advanced class of peasants – the “revolutionary vanguard” – should form organizations in order to draw larger sections of the working class towards revolutionary politics and serve as manifestations of proletarian political power against its class enemies. Vietnam followed in this Soviet-Leninist tradition, proclaiming itself the “Vanguard” of Southeast Asia. As a communist internationalist, Vietnam pushed strongly for Indo-Chinese solidarity. Vietnam wanted to be the uniting figure of Southeast Asia, and create coalition that could stand up to different superpowers.⁴⁹

⁴⁸ Ibid.

⁴⁹ Ibid.

CONCLUDING REMARKS

I recommend that, now you've read through this guide once, re-read the law, draw timelines and re-read the material facts. I understand this is dense reading on a very specialized topic – in fact, many political scientists know very little about this topic. I guarantee you that by the end of this process, you will not only have a far superior command of some of the historical issues that plague Southeast Asia, Vietnam and Cambodia – you will come out with a much improved ability to grapple with hard facts and formulate compelling, cogent arguments. Above all, I hope you learn from this experience, are challenged by the task, and enjoy yourselves thoroughly along the way. I can't wait to hear your oral arguments.

If you'd like to clarify anything, email me at axsobel@princeton.edu. This is a tough case, so I'll be more than happy to talk you through some of the confusing details, and even talk to you about some of the arguments you might have.

Witness Sneak-Peek:

-
- Vietnamese Front-line Fighter
 - Vietnamese Cabinet Member
 - Cambodian Refugee Freedom Fighter
 - Democratic Kampuchea Parliamentarian
 - Khmer Rouge Chief Propagandist
 - Australian Anthropologist studying Cambodians just before the Genocide
 - Hanoi Khmer Survivor
-

IN THE
INTERNATIONAL COURT OF JUSTICE

No. 581-2018

STATE OF QATAR,
PETITIONER,

v.

SAUDI ARABIA,
RESPONDENT.

The Legality of the Blockade of Qatar

CASE FILING – Qatar v. Saudi Arabia

In June 2017, Saudi Arabia led the charge among many Arabian Peninsula nations to sever all ties with Qatar. Along with the UAE and Bahrain, Saudi Arabia halted all land, air and sea traffic, and evicted Qatari diplomats and citizens. Saudi Arabia instituted targeted sanctions against Qatari organizations and citizens, citing Qatar’s state-funded terrorism as justification.

Qatar has filed a case with the International Court of Justice, alleging Saudi Arabia’s actions breached international law by violating treaty obligations and non-intervention – it believes Saudi Arabia is attempting to undermine Qatari sovereignty. The question to be debated is whether the Saudi-led “Blockade of Qatar” is legal international action.

RELEVANT LAW

Several relevant questions must be addressed:

First, are Saudi Arabia’s actions *prima facie* illegal (illegal “at first glance” – i.e., seemingly illegal under normal circumstances)? In other words, is Saudi Arabia violating the international standard of non-interventionism in its aggressive actions toward Qatar, and violating any other international law? Did Saudi Arabia’s actions constitute a form of “intervention”?

Second, if Saudi Arabia *is* violating non-interventionism, does Saudi Arabia have just cause to intervene? In other words, if Saudi Arabia is in fact intervening in the internal affairs of Qatar to a significant degree, are its actions justified by self-defense?

Counsel for Qatar must argue that Saudi Arabia’s actions constitute violation of the principle of non-intervention in the internal affairs of another country, or violation of another principle of

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international law. Counsel for Qatar must also argue that the grounds upon which Saudi Arabia can justify its actions – self-defense (broadly conceived) – do not apply in this case.

Counsel for Saudi Arabia may choose whether to argue its actions do not constitute non-intervention, or to concede that Saudi Arabia is intervening in the internal affairs of Qatar. Either way, Saudi Arabia must argue that even if its actions constitute a violation of non-intervention, the actions are legally justified on the basis of self-defense.

Law on Non-Intervention

According to Article 2.4 of the United Nations Charter, the principle of non-intervention includes, but is not limited to, the prohibition of the threat or use of force against the territorial integrity or political independence of any state. The principle of non-intervention in the internal affairs of States also signifies that a State should not otherwise intervene in a dictatorial way in the internal affairs of other States.

Another source of Law on non-intervention is derived from UN General Assembly Resolution 2625, the “Friendly Relations Declaration,” where it is stated “No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are in violation of international law...intervention can be done by various means, e.g. military, subversive, economic, or diplomatic.”

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Exceptions to Non-Intervention: when intervention is permissible

There are several justifications possible for intervention. If *prima facie* illegal intervention occurs, then for it to be legal, the action must:

-
1. Have a just cause;
 2. Be intended to serve that just cause; and
 3. Be a proportionate, reasonable action in pursuit of that just cause.
-

Regarding 1: An intervention, military or otherwise, must have a just cause to be permissible.

The Petitioners (representing Qatar) must argue that not only were Saudi Arabia's actions a form of intervention, but that the intervention cannot be justified. The Respondents (representing Saudi Arabia) must argue that there was a just cause: self-defense (discussed more below).

Regarding 2: For a country to have the right intention means the war was intended to fulfill the just cause. In this case, Petitioners may argue actions taken by Saudi Arabia are not intended truly to ensure self-defense; they may argue it is a politically expedient facade for Saudi Arabia's real motives. Saudi Arabia, meanwhile, must establish that its actions are intended for the limited purposes of self-defense.

Regarding 3: For Saudi Arabia's actions, presuming they are intervention, to be legal, they must be proportional. Using "proportional means" means Saudi Arabia must not use "disproportionate methods to achieve their goals." Disproportionate methods are defined in three ways. In a self-defensive war, a method, tactic or weapon in war is disproportionate if it causes more suffering and death than necessary to achieve the goals (for example, using torture to kill someone). Even if that suffering is necessary to achieving goals, methods can also be disproportionate if the military gains reaped are far smaller than the suffering and death suffered by the other side (so, even

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if using a method allowed you to kill a single terrorist, it would be disproportionate if killing that terrorist required killing 1000 civilians). Finally, an action in general can be a proportional or disproportionate response to the threat posed. So in this case, Saudi Arabia must argue that its intervention is a proportional response to the threat posed by Qatar.

Law on Self-Defense and Preventive Actions

Enshrined in Article 51 of the UN Charter, countries have the right to self-defense. However, the right to self-defense is not a blanket right: not all methods are appropriate to defending one's self – for example, even if a country has a right to defend itself against minor attacks by another country, that does not necessarily mean the defending country has a right to launch an all-out war that decimates the opponent.

As mentioned previously, actions must be proportional to the threat posed. The *Caroline Test* establishes the circumstances in which a *preventive* war is permissible.⁵⁰

A preventive war is a war of self-defense, only that a country wages the war *before* an attack by the other side happens: for example, if Country X sees that Country Y is mobilizing troops along the border, and has an established history as an aggressor nation, Country X can declare war and attack Country Y before Country Y has the opportunity to attack – because, presumably, Country Y's mobilization indicates that it will attack Country X. For a country to lawfully conduct a preventive war, there must be “a necessity of self-defense, instant, overwhelming, leaving no choice of means, and no moment of deliberation” and that any action taken must be proportional, “since

⁵⁰ Anthony Clark Arend, “International Law and the Preemptive Use of Military Force,” *Washington Quarterly*.

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the act justified by the necessity of self-defense, must be limited by that necessity, and kept clearly within it.”⁵¹

So, a preventive self-defensive war requires ample evidence of a serious, existential threat. Other preventive actions taken in self-defense less serious than a war of self-defense require a less serious threat.

Law on Territorial Integrity

Territorial integrity is necessary for the preservation of non-intervention: occupying the territory of another sovereign nation is the most literal violation of non-intervention. Questions of territorial integrity usually revolve around resolving border disputes – figuring out exactly which country owns what territory. The convention is that territory upon independence is sovereign land.

Occupying and altering the landscape of another country is prohibited.

Case Law: Nicaragua v. United States

The most prominent case law on intervention in International Law comes from *Nicaragua v. United States (1986)*. Clearly, statutes on intervention and permissibility is somewhat vague; looking to this case, and drawing parallels and identifying differences between this case and the one between Saudi Arabia and Qatar might point to an answer as to the legality of Saudi Arabia’s actions.

Nicaragua v. United States represents a watershed moment in the history of the Court. The International Court found the U.S. guilty of violating international law by intervening, pointing to

⁵¹ Ibid.

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the United States' "element of coercion, which defines, and indeed forms the very essence of, prohibited intervention." According to the judgment, for intervention to be illegal, interference must be forcible or dictatorial, or otherwise coercive, in effect depriving the state intervened against of control over the matter in question. Interference pure and simple is not intervention. "The principle of non-intervention involves the right of every sovereign State to conduct its affairs without outside interference."

So the element that must be proven is whether the Saudi-led coalition's actions can be defined as "coercive" in influencing the state of internal affairs of Qatar.

In this case, Nicaragua charged the U.S. with "recruiting, training, arming, equipping, financing, supplying and otherwise encouraging, supporting, aiding, and directing military and paramilitary actions in and against Nicaragua" and the Sandinista government, thus violating its treaty obligations:

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- Article 2 (4) of the United Nations Charter;
 - Articles 18 and 20 of the Charter of the Organization of American States (signed by Nicaragua and the U.S.);
 - Article 8 of the Convention on Rights and Duties of States (signed by the U.S.); and
 - Article I, Third, of the Convention concerning the Duties and Rights of States in the Event of Civil Strife (Organization of American States).
-

Nicaragua further contended the U.S. violated international law, by:

-
1. Violating the sovereignty of Nicaragua by:
 - a. armed attacks against Nicaragua by air, land and sea;
 - b. incursions into Nicaraguan territorial waters;
 - c. aerial trespass into Nicaraguan airspace;
 - d. efforts by direct and indirect means to coerce and intimidate the Government of Nicaragua.
 2. Using force and the threat of force against Nicaragua.
 3. Intervening in the internal affairs of Nicaragua.
 4. Infringing upon the freedom of the high seas and interrupting peaceful maritime commerce.
 5. Killing, wounding and kidnapping citizens of Nicaragua.
-

The U.S. defended its actions by invoking the right of collective self-defense. In practice, that means that one country, say Country X, that might be considerably weaker than another country, Country Y, may ask a third party country, Country Z, to intervene in Country X to defend against Country Y. Thus, actions taken by Country Z are in “collective self-defense” – effectively, Z is defending X in the absence of X’s ability to defend itself.

Hence, the U.S. defended its actions by saying it was in its right of collective self-defense, and that any intervention was to protect its ally, El Salvador, from the encroachment and intervention of Nicaragua. The U.S. intervention was then counter-intervention, which is permissible. El Salvador was an ally of the U.S., which asked for the U.S. to intervene.

The U.S. cited evidence that arms flowed Nicaragua to insurgents in El Salvador, thus endangering El Salvador’s government and violating its right to sovereignty. The Court accepted such evidence and determined there was an arms flow between Nicaragua and El Salvador’s insurgents; however, the Court found such evidence insufficient to prove the government of Nicaragua was responsible for the flow of arms to El Salvadorian insurgents. As such, it found there was not enough evidence that the U.S. response was proportional.

Ultimately, the Court found the following:

-
1. Rejects the justification of collective self-defense maintained by the United States of America in connection with the military and paramilitary activities in and against Nicaragua the subject of this case;
 2. Decides that the United States of America, by training, arming, equipping, financing and supplying the contra forces or otherwise encouraging, supporting and aiding military and paramilitary activities in and against Nicaragua, has acted, against the Republic of Nicaragua, in breach of its obligation under international law not to intervene in the affairs of another State;
 3. Decides that the United States of America, by certain attacks on Nicaraguan territory in 1983–1984, namely attacks on Puerto Sandino on 13 September and 14 October 1983, an attack on Corinto on 10 October 1983; an attack on Potosi Naval Base on 4/5 January 1984,

an attack on San Juan del Sur on 7 March 1984; attacks on patrol boats at Puerto Sandino on 28 and 30 March 1984; and an attack on San Juan del Norte on 9 April 1984; and further by those acts of intervention referred to in subparagraph (3) hereof which involve the use of force, has acted, against the Republic of Nicaragua, in breach of its obligation under customary international law not to use force against another State;

4. Decides that the United States of America, by directing or authorizing over Rights of Nicaraguan territory ... has acted, against the Republic of Nicaragua, in breach of its obligation under customary international law not to violate the sovereignty of another State;
 5. Decides that, by laying mines in the internal or territorial waters of the Republic of Nicaragua during the first months of 1984, the United States of America has acted, against the Republic of Nicaragua, in breach of its obligations under customary international law not to use force against another State, not to intervene in its affairs, not to violate its sovereignty and not to interrupt peaceful maritime commerce;
 6. Decides that, by the acts referred to in subparagraph (6 [previous bullet point]) hereof the United States of America has acted, against the Republic of Nicaragua, in breach of its obligations under the Treaty of Friendship, Commerce and Navigation between the United States of America and the Republic of Nicaragua signed at Managua on 21 January 1956;
 7. Decides that the United States of America, by failing to make known the existence and location of the mines laid by it, referred to in subparagraph (6) hereof, has acted in breach of its obligations under customary international law in this respect;
 8. Finds that the United States of America, by producing in 1983 a manual entitled "Psychological Operations in Guerilla Warfare", and disseminating it to contra forces, has encouraged the commission by them of acts contrary to general principles of humanitarian law; but does not find a basis for concluding that any such acts which may have been committed are imputable to the United States of America as acts of the United States of America;
 9. Decides that the United States of America, by the attacks on Nicaraguan territory referred to in subparagraph (4) hereof, and by declaring a general embargo on trade with Nicaragua on 1 May 1985, has committed acts calculated to deprive of its object and purpose the Treaty of Friendship, Commerce and Navigation between the Parties signed at Managua on 21 January 1956, and is in breach of international law;
 10. Decides that the United States of America, by the attacks on Nicaraguan territory referred to in subparagraph (4) hereof, and by declaring a general embargo on trade with Nicaragua on 1 May 1985, has acted in breach of its obligations under Article XIX of the Treaty of Friendship, Commerce and Navigation between the Parties signed at Managua on 21 January 1956...
-

Case Law: Indonesia v. Malaysia (2002)

The Court held that violations of *relevant* treaties and international agreements can serve as circumstantial evidence that a country has not adhered to similar agreements. Proponents using this

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case must argue why certain international agreements the offending country has broken in the past relate to the current one the offending country has allegedly broken. The alleged offending country may respond by delineating how the previous breaches of international agreements differ from the current agreement in contention.

Case Law: Cameroon v. Nigeria (2002)

In its Application, Cameroon referred to “an aggression by the Federal Republic of Nigeria,” whereby troops occupying borders on several Cameroonian localities on the Bakassi Peninsula at times occupied areas across the border and harassed local populations. It furthermore razed some of the farmland in Cameroon. The Court held that the Nigerian soldiers exhibited illegal conduct when they occupied areas across the Cameroonian border, and when they altered the landscape (razing some farmland). However, any other aggressive tactics that did not actually cause physical or psychological harm, and that did not occupy or alter Cameroonian land, was permissible.

THE MATERIAL FACTS

Qatar's Diplomatic History: Broad Strokes

Tensions between gulf nations and Qatar run deep. Since he took power in 1995, Amir Hamad bin Khalifa al-Thani believed Qatar could find security only by transforming itself from a Saudi vassal state to a rival of Saudi Arabia. When Hamad bin Khalifa assumed power, Qatar was in a better position to chart its own path than any time prior because of the massive wealth it had

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gained from hydrocarbon extraction (oil and natural gas). Establishing Al Jazeera in 1996 created a significant rift in their relationships.⁵²

In 1996, a coup attempt to depose al-Thani was exposed. Qatari intelligence indicated that the masterminds behind the attempt were government officials from Saudi Arabia, Bahrain, Egypt and the United Arab Emirates. Since then, Qatar has broadly attempted to counter encroaching Saudi influence in the region, and Saudi Arabia likewise did the same.⁵³

The “Blockade of Qatar”

Following the Riyadh Summit, May 2017, U.S. President Donald Trump met with Arab-peninsula leaders to discuss counter-terrorism. Trump strongly supported Saudi Arabia’s fight against states and groups allied with Iran and the Muslim Brotherhood. *Business Insider* reported that “Elliott Broidy a top fundraiser for President Donald Trump; and George Nader, Broidy's business partner...pushed for anti-Qatar policies at the highest levels of government, and expected large consulting contracts from Saudi Arabia and the UAE.”

In May 2017, following the Riyadh Summit, government media platforms, including the Qatar News Agency, posted that Amir (Qatari head of state) Sheik Tamim bin Hamad Al Thani said the following: “Iran represents a regional and Islamic power that cannot be ignored and it is unwise to face up against it. It is a big power in the stabilization of the region.” Included in the Amir’s alleged remarks was “sympathy” for groups such as “ Hamas, Hezbollah and Israel.”

In response to this, at 5:50 AM on June 5, Saudi Arabia’s news agency released a statement in which it accused Qatar of “harboring a multitude of terrorist and sectarian groups that aim to

⁵² Max Fisher, “How the Saudi-Qatar Rivalry, Now Combusting, Reshaped the Middle East,” *NYTimes.com*.

⁵³ *Ibid*.

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create instability in the region.” Between June 5 and 6, Saudi Arabia, the UAE, Bahrain, and Egypt, and later, the Maldives, Mauritania, Sudan, Senegal, Djibouti, the Comoros, Jordan, the Tobruk-based Libyan government and the Hadi-led Yemeni government severed diplomatic relations with Qatar and banned Qatari planes and ships from entering their airspace and sea routes along with Saudi Arabia blocking the only land crossing and officially closing the border. This is collectively known as the “Blockade of Qatar.”⁵⁴

The UAE and Saudi Arabia furthermore ejected its Qatari diplomats, closed embassies and consulates and informed citizens they had a maximum of two weeks to evacuate the country.⁵⁵

To end the blockade, Saudi Arabia required that Qatar cooperate in thirteen ways:⁵⁶

-
1. Downgrade diplomatic relations with Iran, expel Iranian military representatives from Qatar, and limit economic cooperation.
 2. Shut down the Turkish military base under construction in Qatar and cease all military cooperation with Turkey.
 3. Sever ties to all “terrorist, sectarian and ideological” groups and add them to current and future “terror lists.”
 4. Stop all funding of individuals, groups and organizations designated “terrorists” by the blockading countries, the US and others.
 5. Hand over all listed “terrorists” and criminals wanted by the four countries and the US and to share all information about them.
 6. Shut down Al Jazeera and all affiliated stations [to stop interfering with the internal affairs of other countries].
 7. Stop meddling in other nations’ affairs and naturalizing citizens of the four blockading countries. Sever relations with elements opposed to blockading governments and hand over all intelligence gathered on them.
 8. Financially compensate the four countries for loss of life, property and income caused by Qatar's policies over the years.
 9. Seek harmony with surrounding countries - militarily, politically, economically, etc. - to ensure Gulf security and the application of the 2013/2014 Riyadh Agreement.
 10. Hand over all information it holds on opposition elements it supported, with clarifications of the forms of support it gave them.
 11. Shut down all news outlets funded directly and indirectly by Qatar, including: Arabi21, Rassd, Al Araby Al Jadeed, Mekameleen and Middle East Eye.

⁵⁴ “Qatar Crisis: What you need to know.” *BBC*.

⁵⁵ *Ibid*.

⁵⁶ *Ibid.*; Alia Chughtai, “Understanding the Blockade against Qatar,” *Al Jazeera*.

12. All demands must be agreed to within 10 days or they will become null and void.
 13. An agreement with Qatar on these points was to include clear goals and a schedule for reporting on progress (monthly for a year, quarterly for the second year, and annually for 10 years after that).
-

According to the American Federal Bureau of Investigations, the Qatari government platforms that posted comments from the Amir were hacked. Al Jazeera, the Qatar News Agency and other state-owned media vehemently denied that the Amir actually made the terrorism-sympathetic remarks, claiming these were false statements attributed to Qatar – a deliberate hack by Saudi Arabia.⁵⁷

U.S. security agencies initially indicated that Russian hackers were behind the intrusion first reported by the Qataris. However, a U.S. official briefed on the inquiry told *The New York Times* that it “was unclear whether the hackers were state-sponsored.”⁵⁸ *The Guardian* reported that “it is believed that the Russian government was not involved in the hacks; instead, freelance hackers were paid to undertake the work on behalf of some other state or individual.”⁵⁹ A U.S. diplomat said that Russia and its ally Iran stood to benefit from sowing discord among U.S. allies Qatar and Saudi Arabia in the region, “particularly if they made it more difficult for the United States to use Qatar as a major base.” The FBI sent a team of investigators to Qatar to investigate the hacking.⁶⁰ *The New York Times* reported that the hacking incidents may be “part of a long-running cyberwar between Qatar and other Gulf countries that was only revealed to the public during the recent incidents, and they noted how Saudi and UAE media picked up the statement made by the hacked media in less

⁵⁷ David Kirkpatrick. “Hacking in Qatar Highlights a Shift toward Espionage-for-Hire,” *New York Times*.

⁵⁸ Mark Landler. “Trump Takes Credit for Saudi Move Against Qatar, a U.S. Military Partner”. *New York Times*.

⁵⁹ “Gulf plunged into diplomatic crisis as countries cut ties with Qatar.” *The Guardian*.

⁶⁰ “Ministry of the Interior Statement on Piracy Crime on Qatar News Agency Website”. mofa.gov.qa. Archived from the original on 21 June 2017.

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than 20 minutes and began interviewing many well-prepared commentators against Qatar.”⁶¹ U.S. intelligence agencies believe that the hacking was done by the United Arab Emirates, according to the *Washington Post*. The intelligence officials stated that the hacking was discussed among Emirati officials on May 23, one day before the operation took place. The UAE denied hacking. On August 26, 2017, Qatar’s Attorney-General announced that five people were arrested and being questioned in Turkey for alleged involvement in the hacking. Their nationalities were not disclosed.⁶²

Developments since June 2017 and Impact of the Blockade:

Food Supply

Around 80 percent of Qatar’s food requirements come from Gulf Arab neighbors, with only 1 percent being produced domestically. Most trade with Gulf countries, furthermore, go through Saudi Arabia. Immediately after the cutting of relations, local reports indicated residents swarmed grocery stores in hopes of stockpiling food. Many food delivery trucks were idled along the Saudi-Qatari border. On June 8, 2017, Qatari Foreign Minister Sheikh Mohammed bin Abdulrahman al-Thani said “we’re not worried about a food shortage, we’re fine. We can live forever like this, we are well prepared.” Qatar has been in talks with both Turkey and Iran to secure supply of water and food. On June 11, 2017, Iran sent four cargo planes with fruit and vegetables and promised to continue the supply. Turkey has pledged food and water supplies to go along with their troop deployment at their Turkish military base in Qatar. As part of the Qatari government’s response to lost food imports, it provided support to domestic agricultural company Baladna, which

⁶¹ David Kirkpatrick. “Hacking in Qatar Highlights a Shift toward Espionage-for-Hire,” *New York Times*.

⁶² “UAE orchestrated hacking of Qatari government sites, sparking regional upheaval, according to U.S. intelligence officials”. *The Washington Post*.

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built a new dairy farm with imported cattle that was planned to produce enough milk to fulfill domestic demand for dairy products by June 2018.⁶³

Maritime Trade

The UAE banned Qatar-flagged ships from calling at Fujairah. It also banned vessels from Qatar from the port and vessels at the port from sailing directly to Qatar. Similar restrictions were put in place at the port town of Jebel Ali, which pre-boycott handled over 85% of Qatar's maritime cargo. Bahrain, Egypt and Saudi Arabia also banned Qatari ships from their ports. On June 8, 2017, Maersk was unable to transport in or out of Qatar entirely: since Qatar's ports are shallow, large cargo ships for Qatari imports and exports must dock at Jebel Ali or other nearby ports where a feeder service transports the goods into Qatar. In response, Maersk and Swiss vessels for Qatar were rerouted to Salalah and Sohar in Oman. On June 12, 2017, Chinese shipping company COSCO announced suspension of services to and from Qatar. Taiwan's Evergreen Marine and Hong Kong's Orient Overseas Container Line have already suspended services.⁶⁴

Financial Markets

American financial service company Standard & Poor's downgraded Qatar's debt rating by one notch, from an AA to an AA- at the end of the 2017 fiscal year. Qatar's stock market dropped 7.3% on the first day of the crisis, and reached a 9.7% drop by June 8, 2017; it has recovered since. Banks in Qatar are strong enough to survive a withdrawal of all Gulf country deposits, according to Standard and Poor's.⁶⁵

⁶³ "Qatar builds dairy industry in desert as it defies Arab boycott". Reuters. 29 November 2017. Retrieved 24 January 2018; "Iran flies food to Qatar amid concerns of shortages"; "Qatar vows no surrender in Gulf crisis as U.S., Kuwait seek solution." *Reuters*.

⁶⁴ "Chinese shipping firm suspends services to Qatar". *khaleejtimes.com. IANS*. Retrieved 12 June 2017.

⁶⁵ "Qatari stocks plunge 7% after Arab states cut ties". CNN. 5 June 2017. Retrieved 9 June 2017.

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Other Implications and Developments

Qatari troops were expelled from the Saudi-led coalition fighting in Yemen. Also, by shutting-down the border, Saudi Arabia has successfully blocked Qatar's ability to send financial and military supports to conflicts throughout the region, like in Yemen.⁶⁶

Qatar has spent \$1.5 Billion on PR efforts in western media following the diplomatic crisis.⁶⁷

Saudi Arabia has floated the possibility of building a wall on the Qatari border and to “dig [a] canal to turn Qatar into an island.” In other words, it has announced it may *literally* sever Qatar from the mainland peninsula by digging a canal, so that terrorist cannot funnel into the Arab peninsula. Saudi Arabia has also threatened its Gulf neighbor with military action over Doha's discussions on purchasing the Russian-made air defense system.⁶⁸

The Twittersphere

President Donald Trump tweeted “So good to see the Saudi Arabia visit with the King and 50 countries already paying off. They said they would take a hard line on funding ... extremism, and all reference was pointing to Qatar. Perhaps this will be the beginning of the end to the horror of terrorism!”

Treaties and International Agreements

Qatar signed and ratified the *International Convention for the Suppression of Terrorist Bombings*.

Qatar and Saudi Arabia are both part of the Gulf Cooperation Council (GCC). The GCC is a regional intergovernmental political and economic union consisting of all Arab gulf states except

⁶⁶ "Saudi, Egypt, UAE, Bahrain and Yemen isolate Qatar over 'terrorism' as rift deepens". *Dawn. Reuters/AFP/AP*. 5 June 2017.

⁶⁷ Hassan Hassan. “Qatar Won the Saudi Blockade.” *Foreign Policy*. 4 June 2018.

⁶⁸ Alex Ward. “Saudi Arabia is about to spend millions to troll Qatar by turning it into an island.” *Vox*. 21 June 2018.

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Iraq, signed into law 1981. This agreement deeply integrated the economies of Qatar with those of the other states: it provided for the virtually free movement of goods and people across the borders of these six countries. The customs union was formally completed on January 1, 2015 – meaning they allowed free trade of most goods among themselves, and imposed the same import duties on exports coming from outside the region. In January 2015, the common market was also further integrated, allowing full equality among GCC citizens to work in the government and private sectors, social insurance and retirement coverage, real estate ownership, capital movement, access to education, health and other social services in all member states.⁶⁹

As part of the GCC, Qatar signed an agreement in November 2013 to refuse support to anyone “threatening the security and stability” of the GCC.⁷⁰

Qatar and Terrorism

The Center for Strategic and International Studies (CSIS) labeled Qatar a “safe haven for religious extremists expelled by other countries.” CSIS cited Qatar’s history of providing refuge for Palestinian, Sudanese, and Algerian fugitives. Qatar reportedly gave refuge to Saudi militants following the 1979 takeover of the Grand Mosque in Mecca. The country has also reportedly hosted members of al-Qaeda and the Taliban. According to the military affairs periodical *Jane’s*, Qatar in the 1980s was a “waypoint for senior Salafist terrorists transiting to or from Afghanistan, utilizing the homes of Qatari notables as safehouses.”⁷¹

Analysts have accused the Qatari mosque’s religious leadership of fomenting radicalism by inviting extremist guest speakers. In late January 2015, Saudi cleric Sa’ad Ateeq al Ateeq reportedly

⁶⁹ "Doha's Actions May Destabilize the Region: Saudi Minister". *Newsweek ME*. 14 June 2017.

⁷⁰ Ibid.

⁷¹ “Qatar: Extremism & Counter-Extremism.” *Counter Extremism Project*.

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gave a sermon at the mosque calling for Allah to “destroy the Jews and whoever made them Jews, and destroy the Christians and Alawites and the Shiites.” It was reportedly al Ateeq’s sixth visit to the mosque since 2013. Qatari government officials reportedly promoted the imam’s sermon on Qatari media and Twitter. Other invited speakers to the mosque reportedly include the U.S.- and U.N.-designated Kuwaiti Hamid Abdullah al Ali, who has been accused of financing al-Qaeda, and U.S.-designated Hamid Hamad al Ali, accused of supporting the Nusra Front.

⁷²Qatari officials have condemned extremism while defending U.S.-designated terrorist organizations. Extremist groups claim they are defending the rights of people who feel oppressed by their governments, according to Qatar’s U.N. Permanent Representative Ambassador Alia bint Ahmed bin Saif Al-Thani. The ambassador called on the international community to focus on resolving social-justice problems and a “whole-of-society approach” in order to combat terrorism. Al-Thani also called for differentiating between terrorism and legitimate resistance to oppression.

On June 8, 2017, Saudi Arabia, Bahrain, Egypt, and the UAE designated 59 people and 12 groups—all either based in or otherwise associated with Qatar—for links to terrorism. The list included Qatar-based Muslim Brotherhood ideologue Yusuf Qaradawi, as well as 18 Qatari businessmen and politicians. Qatar rejected the list.⁷³

Qatar has an extremely low incidence of terrorist attacks in the country. The U.S. Department of State credits Qatar’s strict immigration laws and government monitoring of violent extremists for the country’s low rate of domestic terrorism.⁷⁴

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Ibid.

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The National Anti-Terrorism Committee was restructured in 2014, after the new Amir came into office in June 2013.⁷⁵

Qatar and the Muslim Brotherhood (from the Counter Extremism Project)

Qatar is one of the only countries in the world that has not yet designated the Muslim Brotherhood a terrorist organization. Egypt designated the Brotherhood in 2013, while Saudi Arabia, the United Arab Emirates and Bahrain labeled the Brotherhood a terrorist group in 2014. The Gulf Cooperation Council signed an agreement in November 2013 to refuse support to “anyone threatening the security and stability” of the GCC. Fellow GCC members Saudi Arabia, Bahrain, and the United Arab Emirates withdrew their ambassadors from Qatar in March 2014 in protest of what they called the country’s violation of that agreement and “interference” in regional affairs, citing continued Qatari support for the Brotherhood. That November, Saudi Arabia, Bahrain, and the UAE announced intentions to return their ambassadors after Qatar purportedly agreed to finally expel several Brotherhood leaders from the country. Qatar had reportedly agreed to the expulsions in November 2013, and ultimately in September 2014, seven Muslim Brotherhood members stated they were “asked to leave Qatar.”⁷⁶

Al Jazeera

Over the years Al Jazeera has been seen as both a force for free speech and a mouthpiece for terrorism. American officials criticized its reports of the wars in Afghanistan and Iraq; Arab autocrats claim that it was responsible for the Arab Spring in 2012, which brought about the ousting of the hardline leaders of Tunisia and Egypt, and nearly existential civil unrest in Libya, Yemen, Syria

⁷⁵ Ibid.

⁷⁶ Ibid.

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and Bahrain. Mostefa Souag, acting director-general of Al Jazeera, dismisses claims that it was responsible for the Arab spring: “That is disrespectful to the Arab people. People were fed up with the situation in their countries.”⁷⁷

The Economist reports that “critics think Al Jazeera, especially its Arabic-language channel, has become the mouthpiece of the Qatari government. It was fawning in its coverage of Syrian jihadist groups linked to al-Qaeda, and largely ignored the humanitarian cost of the war in Yemen until the intra-Gulf bust-up. It fails to subject Qatar to the same hard reporting it applies to other countries. That may explain why the annual Arab Youth Survey, issued by ASDA’s Burson-Marsteller, a public-relations firm, finds that Al Jazeera has become one of the least trusted news sources.”⁷⁸

Al Jazeera leaked the UAE Ambassador to the U.S.’s emails berating Saudi leadership shortly after the hacking scandal in Qatar.⁷⁹

⁷⁷ “Why Gulf Countries are Feuding with Qatar.” *The Economist*. 21 June 2018.

⁷⁸ Ibid.

⁷⁹ Ibid.

CONCLUDING REMARKS

I recommend that, now you've read through this guide once, re-read the law, draw timelines and re-read the material facts. I understand this is dense reading on a very specialized topic – in fact, many political scientists know very little about this topic. This case carries fewer factual considerations than the Vietnam case, but is considerably more case law heavy, rendering it challenging in a different way. I guarantee you that by the end of this process, you will not only have a far superior command of some of the major legal issues surrounding international law and the Qatar-Saudi relationship – you will come out with a much improved ability to grapple with hard facts and formulate compelling, cogent arguments. Above all, I hope you learn from this experience, are challenged by the task, and enjoy yourselves thoroughly along the way. I can't wait to hear your oral arguments.

If you'd like to clarify anything, email me at axsobel@princeton.edu. This is a tough case, so I'll be more than happy to talk you through some of the confusing details, and even talk to you about some of the arguments you might have.

Witness Sneak-Peek:

- Saudi Foreign Minister
 - Al Jazeera News Former Chief Content Officer
 - U.S. Counter-Terrorism Chief
 - Chinese Silk Road Fund Contractor
 - Ejected Qatari Citizen
 - *The Economist* Qatar Specialist
 - UN Parliamentarian
 - Egyptian President Hosni Mubarak
 - Iraqi kidnapper
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