



Historic City. Historic Conference.

LSEMUN 2026

INTERNATIONAL COURT OF JUSTICE

**Maritime Delimitation and Territorial Questions
between Qatar and Bahrain (*Qatar v. Bahrain*) 2001**

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Directors' Welcome

Dear International Court of Justice delegates,

Allow me to formally welcome you to LSEMUN 2026's 20th edition! We are beyond excited to chair this committee, and are committed to making this experience as fulfilling, memorable and fun as possible.

This year, we bring to your attention an extremely compelling topic. While it does centre around the Law of the Sea (which, I agree, can get quite annoying in the London circuit, by virtue of its repetitive use), the topic also works heavily around topics of colonialism, longstanding tribal tensions, and corporate and elite petroleum-centred interests. With all this, we hope that preparing for this committee will feel as much like an enticing investigation to you, as writing this study guide did to us.

As we congratulate you on the bravery it takes to pick this committee, we would like to remind you that this bravery pertains to the fact that the ICJ runs by a special Rules of Procedure (ROP). As obvious as it may sound, please make sure to familiarize yourself with said rules *prior to the conference*, regardless of the role you've been appointed, and do not hesitate to contact us should you have any questions.

To conclude this message, I would like to say the following: many of you may see the news repeatedly fill with disenchantment towards the United Nations and the ICJ itself. While this disappointment is entirely understandable, I don't believe that it is through losing hope that we will foster change. I sincerely hope that this court will provide you not only with a broader understanding of international law (or at least some historical fun facts to further fuel your curiosities) but incite you to remain critical in your judgment of events and remain open and hopeful in the power of meaningful cooperation and debate. Cliché as it is to say, it is in our generation's hands now to preserve our world, our peace, our humanity and dignity and to do so in alignment with principles of international law.

We are open to any and all of your questions, at all times. At any point, please do not hesitate to contact us.

Yours sincerely,

Maria KLIUCHNIKOVA, Director of the ICJ
On behalf of the ICJ Co-Directors, **Ekaterina CHASOVNIKOVA & Neville LEUNG**



Introduction to the Dais

Director – Maria KLIUCHNIKOVA

Maria is of Russian origin and nationality, but was raised in the South of France (and still has no idea what compelled her to trade the Mediterranean for a yearly 6 months of rain). Yet, while a (wo)man can escape Eastern Europe, Eastern Europe never escapes a (wo)man, so she pursued a degree in Politics and Sociology with East European Studies at UCL and is currently on a year abroad in Budapest, focusing on economics and international security studies. She began MUN in her first year of university, and found her niche in participating in and chairing international courts at a variety of conferences. While lately she has steered away, she is excited to be back at it, chairing with her best friend – Ekaterina. Outside of MUN and academia you can find her on her couch with a Murakami novel, hiking up some mountain, running (literally) away from her mind, or painting – all activities accompanied by good music, of course. She is looking forward to this exciting simulation and wishes you all good luck in your preparation!

Deputy Director – Ekaterina CHASOVNIKOVA

Ekaterina is currently reading Law at Durham University. She began her MUN journey at a small high school conference in London, discovering a passion for legal committees a few months in. Ekaterina has since become a frequent tenant of a MUN “courtroom,” where she is most likely to be found on the Dais. She is very much looking forward to reuniting with her partner in crime – or, rather, in prosecution – Maria, as well as working with Neville for the first time! Ekaterina also serves on the Board of the London Youth Diplomacy Foundation and may even be spotted with a camera at some Model UN conferences and events. Diplomacy aside, Ekaterina enjoys painting with watercolours or – once in a while – a round of golf with friends.

Deputy Director – Neville LEUNG

Neville is from Hong Kong, and he is a first-year law student at the LSE. Having been a delegate, chair, and a member of the secretariat in the high-school circuit in Hong Kong, he is very excited to engage with the European circuit here at LSEMUN. To him, MUN is a place where he can explore his interests in diplomacy and international law, all while gathering with like-minded people from around the world. On that note, he very much looks forward to chairing the ICJ—his favourite committee!—in his home campus and with Maria and Ekaterina. Outside of MUN, you might find him ropeskipping or playing the drum set.



Introduction to the ICJ

Structures and Functions

The International Court of Justice (ICJ) is the main judicial organ of the United Nations. It was established in 1945 by the UN Charter, hence its Statute is annexed to the Charter itself. The Court is composed of 15 judges who serve as independent adjudicators and are elected for nine-year terms by the United Nations General Assembly and the Security Council, with elections held every three years. Parties involved in cases appoint legal counsel to represent their interests. The ICJ's primary functions include settling disputes between UN Member States and providing advisory opinions on legal queries referred to it by UN organs as well as specialised agencies (Orth, 2023). The Statute of the ICJ – as stipulated in Article 93 of the UN Charter – outlines its structure, jurisdiction, and procedures. All UN member states are *ipso facto* parties to this statute (UN, 2023).

The ICJ exercises its jurisdiction in two ways: contentious and advisory. Contentious jurisdiction allows the Court to hear cases brought by states against one another, provided that the states involved consent to the Court's jurisdiction (a mechanism referred to as *forum prorogatum*). Such consent is given through special agreements, treaties containing jurisdictional clauses, or declarations made under Article 36(2) of the ICJ Statute (International Court of Justice, 1945). On the other hand, advisory jurisdiction enables the Court to provide non-binding legal opinions at the request of UN organs, such as the General Assembly or the Security Council, as outlined in Article 96 of the UN Charter (UN, 2023). The ICJ can only consider a case when asked to do so by one or more States; unlike the Court of Justice of the European Union, it is not a supreme court that national courts can refer to.

The relationship between the ICJ and the UN is integral as it acts as the key vehicle for upholding international law. The Court, however, does not have the power to immediately implement its decisions, even though they are binding on the parties. On the basis of the states' adherence to the UN Charter and customary international law, compliance is required instead. If there is non-compliance, the UN Security Council may be consulted in order to consider possible enforcement measures.

ICJ proceedings typically involve a written phase, whereby parties submit written pleadings, followed by oral hearings, whereby agents and legal representatives present their arguments and respond to questions from the Judges. Subsequently, Judges' deliberations – held *in camera* – culminate in a verdict, which is delivered in a public session (International Court of Justice, 2023).



Changes in Rules of Procedure

The International Court of Justice at LSEMUN 2026 will follow a specialised Rules of Procedure titled 'ICJ – Rules Governing Court Procedures.' The ICJ will not be observing the UN General Assembly Rules of Procedure.

Unlike a committee that partakes in the General Assembly (e.g. UN Women, ECOSOC or COPUOS), whereby delegates represent their respective Member States and debate is moderated by the Chairs, roles in the ICJ are divided into Judges and Advocates. The Judges serving as the President and Vice-President in the real ICJ trial will therefore not possess any chairing functions. As the Case being tried is historical, the Chairs assigned each Judge the role of their respective adjudicator in the original Trial.



Registry of Parties

JUDGES

Judge Gilbert Guillaume - France
Judge Shi Jiuyong - China
Judge Shigeru Oda - Japan
Judge Mohammed Bedjaoui - Algeria
Judge Géza Gábor Herczegh - Hungary
Judge Carl-August Fleischhauer - Germany
Judge Abdul Gadire Koroma - Sierra Leone
Judge Vladlen Stepanovich Vereshchetin - Russian Federation
Judge Rosalyn Higgins - United Kingdom
Judge Gonzalo Parra-Aranguren - Venezuela
Judge Pieter Hendrik “Peter” Kooijmans - The Netherlands
Judge José Francisco Rezek - Brazil
Judge Awn Shawkat Al-Khasawneh - Jordan
Judge Thomas Buergenthal - United States
Judge Santiago Torres Bernárdez - Spain
Judge Judge Yves L. Fortier - Canada

ADVOCATES

The State of Qatar:

H.E. Mr. Najeeb Al-Nauimi, Minister Legal Adviser;
Mr. Adel Sherbini, Legal Expert;
Mr. Sami Abushaikha, Legal Expert.

The State of Bahrain:

H.E. Mr. Husain Mohammed Al Baharna, Minister of State for Legal Affairs, Barrister at Law, Member of the International Law Commission of the United Nations;
Mr. Derek W. Bowett, C.B.E., Q.C., F.B.A., Whewell Professor emeritus at the University of Cambridge;
Mr. Keith Highet, Member of the Bars of the District of Columbia and New York.



Introduction to the Topic

DISCLAIMER: This is a historical court. The Dais is aware that this study guide and any other resources used and recommended may contain information on the final outcome of the case as ruled in 2001. The Dais would like to ask the judges to refrain from being influenced by the latter in their decisions, going purely off of the evidence presented during court proceedings. On that account, the Dais asks advocates to refrain from using any elements that may be presented to evidence that were written, filmed, recorded or created in any form *prior* to March 16th, 2001.

Maritime Delimitation and Territorial Questions between Qatar and Bahrain (1991–2001) is a landmark case before the ICJ that attempts to settle a dispute between Qatar and Bahrain which covers treaty interpretation, historical title considerations and the application of customary international law, all within the scope of the Court's jurisdiction (Mendelson, 2007). As the only territorial dispute between two Arab states adjudicated by the ICJ, the case presents an opportunity for the Court to demonstrate the universality of its competence, and to gain wider acceptance in the international community. The dispute arose from a long-standing sovereignty dispute between the two States over the Hawar Islands, Zubarah, and several shoals (see image) The origin of the dispute traces back to the 18th century, when the Al Khalifa tribe, now Bahrain's ruling family, controlled parts of Zubarah and the Hawar Islands. In the 19th century, both Bahrain and Qatar came under British protectorate status, allowing Britain to control their domestic and foreign policies (Wiegand, 2012). Alerted to the possibilities of oil deposits under the islands in question, Bahrain began asserting its claim in the 1930s, with the endorsement of Britain, and contestation from Qatar (Wiegand, 2012).



Map of Qatar and Bahrain, with indication of disputed territories. Source: Al Jazeera (2017)



After they acquired independence in 1971, both states sought to resolve their disputes through mediation, most notably with Saudi Arabia's intervention in 1983 and 1987. The failure of the series of negotiations culminated in Qatar's unilateral application to the Court for a conclusive determination. While many applauded the Court's judgement for its ability to bring peace between Qatar and Bahrain and clarify maritime boundaries for resource development, critics, including dissenting judges, accused the judgement for undermining state consent and for its reliance on colonial-era delimitations. The conference therefore offers Appellants/Respondents to re-litigate, and Judges to re-imagine, the outcome of this landmark ruling.

Key Definitions

Key term	Definition
High-tide feature	Structures visible at high tide (UN, 1982).
Island	A high-tide feature that is either (i) able to support permanent life of a community or (ii) capable of providing economic materials independently from the mainland for such a community (UN, 1982).
Rock	A high-tide feature that fails to exhibit both conditions of an 'island' (UN, 1982).
Low-tide elevations (LTEs)	Structures submerged at high tide and only visible at low tide (UN, 1982).
Protectorate	An autonomous territory that is protected diplomatically or militarily against third parties by a stronger state or entity. The protectorate retains formal sovereignty (i.e. remains a state under international law) and often jurisdiction over domestic affairs, but submits the authority to conduct foreign affairs to the protector state (Mukoyama, 2023).
UNCLOS/ LOSC	An international treaty that provides the legal framework for all activities in the world's oceans and seas, defining maritime zones, resource rights, navigation rules, and marine species protection (UN, 1982).
Territorial seas	A maritime zone extending up to 12 nautical miles from a coastal state's baseline, where the state has sovereignty over the water, its resources, and the airspace above it (UN, 1982).
Exclusive Economic Zone (EEZ)	A maritime area extending up to 200 nautical miles from a nation's coast where the country has special rights over



	exploring, using, and conserving marine resources like fish, oil, and wind energy (UN, 1982).
Extended continental shelf	The seabed and subsoil extending beyond 200 nautical miles from a coastal state's baseline, extending up to 250 nautical miles from it, representing the natural prolongation of its land territory. A coastal state possesses exclusive sovereign rights to explore and exploit non-living resources (minerals, oil) and sedentary species on the seafloor of its extended continental shelf (UN, 1982).
High seas	All parts of the sea that are not included in an EEZ, territorial sea, or internal or archipelagic waters of a state. They are open to all states, in the sense that all states enjoy freedoms including the freedom of navigation, freedom of overflight, and freedom to lay submarine cables, and that no state can subject them under claims of sovereignty (UN, 1982).



Statement of Key Historical Facts

Events Timeline

Date	Event description
Pre-1783	Bahrain region successively controlled by Achaemenids, Sassanians, Persians, Arab tribes and the Portuguese (Bahrain Authority for Culture and Antiquities, 2026). Indeed - historically - the region has a layered sovereign history.
1868	Agreement between Britain and Qatar's ruler, by which rulers of Bahrain could not engage in direct acts of authority over Zubarah (Plant, 2002). Note that by recognizing the rulers' authority over the territory, the British did not affirm the territory's belonging to the State.
1783	Al-Khalifah tribe (rulers of modern-day Bahrain) invade the Hawar Islands and make it their home (Wiegand, 2012).
1880s	Bahrain becomes a protectorate of Britain. The Hawar Islands equally fall under British control (Wiegand, 2012).
1916	Qatar becomes a protectorate of Britain (Wiegand, 2012).
1932	American-owned Bahrain Petroleum Company (BAPCO) discovers oil in Bahrain, beginning an era of competition between USA and British-owned companies for oil concessions. By that point, the USA has drilling rights in Bahrain and Saudi Arabia, while the British (the Anglo-Persian Oil Company [APOC]) have claims over Qatar (Wiegand, 2012).
1935	Bahrain builds garrison on the Hawar Islands and asserts sovereignty over the disputed islands by planting flags on Hawar, Fasht al-Dibal, and Fasht al-Jaradah (Wiegand, 2012).
1936	First dispute over the Hawar Islands. Rulers of Bahrain built a military garrison on Hawar in 1935, to which Qatar protested, claiming the Islands as its constituent part (Wiegand, 2012). In response to the protest, Bahrain placed the Bahraini flag on Hawar, Fasht al-Dibal, and Fasht al-Jaradahs. The British officially confirmed Bahrain's ownership of the islands (ibid.).
1937	Beginning of the dispute over Zubarah, which involved a blockade imposed on Qatar by the ruler of the Bahraini sheikhdom, which would last until 1943 (Polak-Springer, 2022). It became a question



	of indigenous agency (see below).
1939	The British officially “awarded” the Hawar Islands to Bahrain, confirming their ownership over them (Polak-Springer, 2022).
1940	British negotiations with Qatar over Zubarah (Polak-Springer, 2022).
1971	Bahrain and Qatar gained independence on August 15th and September 3rd, respectively (Urkevich, 2023).
1978	Incident near Hawar Islands, where Qatari authorities detained Bahraini fishermen in the waters of the disputed islands. In response, Bahrain held military activities in the vicinity of the island (Polak-Springer, 2022).
1980	Discovery of significant oil and gas resources on the blocks and seabed near the island by Bahrain. Beginning of active attempts on both ends to solve the issue (Short, 2020).
April 1986	Fasht Dibal Conflict. Mid-April of 1986, Bahrain began construction of a coast guard station on Fasht al-Dibal. In response, Qatar deploys helicopter gunships, armed troops, seizes 29 engineers and technicians, and dismantles the installations (Short, 2020).
1987	Following failure of mediated negotiations, agreement (in principle) to an ICJ submission under Saudi framework (see “ The difficult road to ICJ application ” below). Failure to come to a consensus on the scope of the dispute - withdrawal of the ICJ application, return to mediated negotiations (Seddiq, 2001).
1988 & 1990	Failure of Saudi-led mediation attempts. The cause for said failure was the lack of consensus over which territories are disputed (Seddiq, 2001).
1991	Qatar unilaterally files a case to the ICJ (ICJ, 1995).
1992	Bahrain files a counter-memorial, questioning the jurisdiction of the court over a unilaterally submitted case (ICJ, 1995).
1994	ICJ confirms its jurisdiction over the case; proceedings begin. The case is moved fully into its merits phase (ICJ, 1995).
1995	Bahrain boycotts parts of proceedings and demands GCC mediation (ICJ, 1995).
March 16, 2001	Final ICJ judgment delivery (ICJ, 1995).



Analysis of key historic events

Zubarah – beyond petrol interests towards indigenous agency

Despite what it may seem like at first, the Zubarah question is not merely a matter of territorial gain in the realist International Relations sense, nor is it a matter of Exclusive Economic Zones. Indeed, petroleum has intensified the stakes in the 1930s, but the interest in the region is largely more deep rooted than may appear on the surface – the conflict should be understood through indigenous political agency.

It would, of course, be wrong to not recognize the role of oil in accelerating the process. Nonetheless, a focus on merely events that followed that discovery omits important elements of regional dynamics which existed long before the discovery in 1932, when the Gulf was characterized by fluid authority and tribal allegiance systems, which leaders exercised through negotiated relationships rather than existing territorial boundaries (Polak-Springer, 2022). This is why, when the Sheikhs of Al-Thani (rulers of contemporary Qatar) and Al-Khalifa (rulers of contemporary Bahrain) were competing over the territories, with Al-Khalifa ruler also claiming that the Al-Naim tribe are Bahraini, the British – intervening at the request of Sheikh Abdullah Al-Thani – saw it necessary to decide on the “nationality” of the Al-Naim peoples (Polak-Springer, 2022). In turn, the Al-Khalifa – in a display of “their own 1930s Gulf variant of national self-determination” – gave the British political resident a document signed by 536 Al-Naim loyalists, attesting that they and their land belong to Bahrain (Polak-Springer, 2022).

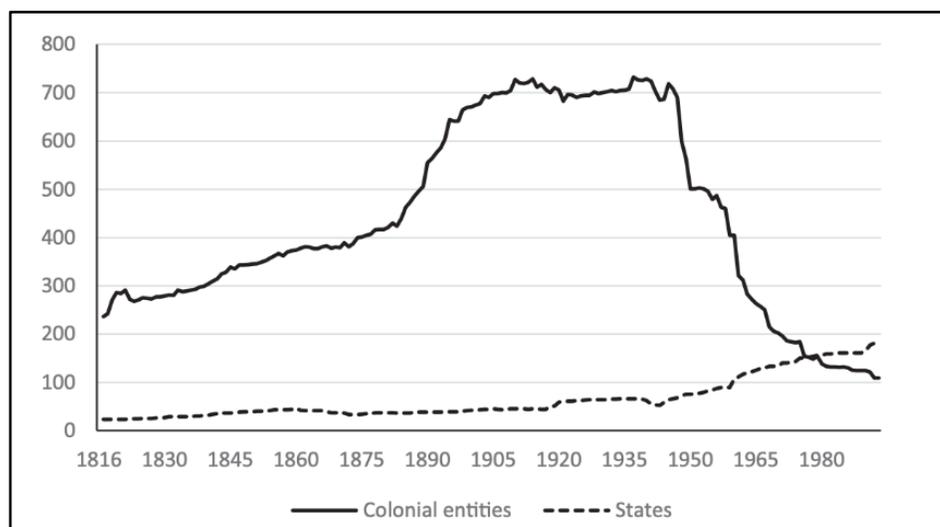
Yet, this is also why the 1937 Qatari seizure of Zubarah marked a transformation in political logic. Sheikh Abdullah bin Jassim Al-Thani’s imposition of custom duties and establishment of coastal guards worked as a shift from loose tribal governance towards more modern territorial statehood, further consolidated by British support for the action (Polak-Springer, 2022). This gradual consolidation was then recognized as evidence of effective Qatari authority. It’s important to note, though, that British interests were secondary – primary was the undemocratic seizure of sovereignty over Zubarah through *effectivités* and shaping tribal rule into *à titre de souverain* governance (see [Legal Discussion](#) below). It was a sign of emerging territorial nationalism.

This is important to remember for delegates, as this is not something that is recent, nor is it a question of mere resources; rather it is a question of belonging, of century-long tensions between tribes, that in their essence, run way deeper than a simple question of territorial concessions.



Chase for wealth and foreign interests – GCC politics and the role of Saudi Arabia

As mentioned, though, oil interests were not entirely absent from the main picture, as in 1932, the American-owned Bahrain Petroleum Company (BAPCO) discovered oil on Bahraini soil, beginning an era of competing geopolitical, geostrategic, and economic interests (Polak-Springer, 2022). With high stakes in terms of financial gain as well as global partnerships, this was less of a blessing and rather a curse – the “resource curse,” as academia calls it (Mukoyama, 2023). The discovery of oil resulted in Britain preventing Saudi Arabia from annexing what was then the GCC-5 (Mukoyama, 2023). At the time, the GCC-5 was composed of Kuwait, Bahrain, Qatar, the United Arab Emirates (UAE), and Oman. The alliance is now officially known as the Gulf Cooperation Council and consists of six states – those stated above as well as Saudi Arabia – and was formally established in 1981 (Gulf Cooperation Council, 2025).



Number of States and Colonial Entities, 1816–1993 (Mukoyama, 2023)

As displayed in the graph above, the number of colonies globally fell significantly during the 1940s and was ultimately overtaken by the growth in independent States by the time of the Trial. Such a trend very much justifies the desire for independence both States displayed. As Mukoyama argues in his analysis of this period, the protectorate system – which both Parties were a part of – still maintains a level of colony-like dependency (Mukoyama, 2023). He adds, however, that the metropole – Britain, in this case – allows the “colonies” to function economically as it subsidises the “costs of being small” (Mukoyama, 2023). Oil was the very factor that allowed Qatar and Bahrain to sustain their economies as they gained independence (Mukoyama, 2023). Thus, the Parties’ competing claims to the oil sources in the disputed territories – specifically, the potentially oil-rich Hawar Islands – cannot simply be viewed as a power struggle or



economic competition. Rather, they are an inevitable outcome of a century-long turbulent decolonisation process.

Saudi Arabia was a key stakeholder in this question before the two States even gained independence - in fact, it was King Faisal of Saudi Arabia who was approached by Britain to obtain approval for them to do so (Mukoyama, 2023). Following their respective entries into the United Nations, the two parties sought to mediate under the good offices of Saudi Arabia (New York University, 2018).

The talks, however, were not at all successful, as the conflicting interests over the territories in question escalated into a period of hostile relations between the two States. In 1986 Bahrain began the construction of a coastguard station on the Hawar Islands, which would have prompted Qatar to “dispatch helicopter gunships and soldiers to the area and arrest the construction workers” (Short, 2020). Bahrain responded by deploying their own troops (Short, 2020). These tensions would have escalated into full-fledged armed conflict in 1986 if not for Saudi intervention (Seddiq, 2001). The mediation efforts then led by King Fahd of Saudi Arabia continued through until 1991, when the matter was brought before the ICJ (Short, 2020). Although tensions were defused to a remarkable extent - enough for Qatar to promise to withdraw the case if the talks reached a productive solution to the dispute - they did not prove fruitful from a delimitation perspective (Seddiq, 2001). Consequently, a trial was not only unavoidable - indeed, considering the political climate, it was the best possible option for both states.

The difficult road to ICJ application

Post-independence, both Qatar and Bahrain’s preferred means of conflict resolution remained mediated negotiations. Many attempts were taken on both sides prior to the court proceedings. The historical timeline above indicated Britain and Saudi Arabia as main arbitrator and mediator respectively throughout the conflict’s history. Important to know, however, is that though less significant, there were other appointed third parties, including: kings and envoys from Egypt, Syria, Kuwait, Jordan and Iran; and regional organizations such as the Gulf Cooperation Council (GCC), Arab League, and the Islamic Conference Organizations (Padney, 2021; Wiegand, 2012). The regional approach is a conscious choice, as until a certain point, International Law was seen as serving Western interests (Wiegand, 2012). Highlighted alongside the general, strong preference for mediated negotiations, this only emphasizes the longstanding difficulty of this conflict’s resolution.

As such, one of the Saudi attempts at mediation led to the establishment of a framework for conflict resolution (officially the *Principles for the Framework for Reaching a*



Settlement), accepted in 1981. Generally, the principles affirmed that if mediated negotiations failed, international law would take precedent as the best means to resolve said conflict (*Maritime Delimitation and Territorial Questions (Qatar v. Bahrain)* – Counter-memorial of Bahrain [1992] – paragraph 1.4). Moreover, the framework (henceforth, “the Principles”) stated that all issues of dispute, whether it be sovereignty of the islands, maritime boundaries, or territorial waters, are to be complementary, and all issues are to be solved together. This is important as thereby, neither of the two states could divide the disputed territories into separate disputes. This is why when the first decision to turn to the ICJ was taken in 1987, it was the lack of consensus on what constitutes disputed territory that caused that application to be withdrawn. Therein, both states went back to their own round table.

Bahrain’s counter-memorial to Qatar’s subsequent unilateral application further emphasized two other documents later on, as to reaffirm agreed-on principles – those were the “Bahraini Formula” and the so-called “Doha Minutes”. The former was proposed by Bahrain to Qatar on October 26th 1988, with its main goal to propose specific wording as to how to frame the dispute and the scope of the dispute that the court would have to entertain (International Court of Justice, 1995). The Doha Minutes (1990), in turn, were a re-establishment of earlier Saudi-mediated principles, especially that all disputed matters were to be treated as a single, comprehensive dispute (International Court of Justice, 1995). Combined with the Saudi “Principles”, they formed a basis for Bahrain’s rejection of the submission’s validity as well as the court’s jurisdiction over the case. Nonetheless, in the interests of time, the court’s jurisdiction over proceedings will be taken as a given at LSEMUN 2026.



Legal Discussion

Relevant doctrines, maxims and principles of international law

Effectivités and legal title in the context of territorial sovereignty

The term *effectivités* is used almost exclusively by the ICJ and in relation to its matters. It refers to actual exercise of state authority such as “imposing laws, levying taxes, garrisoning troops and other similar acts à titre de souverain appropriate to the territory in question” (O’Keefe, 2011). An action taken as such implies that the agency is that of the State rather than a non-state actor and that the State in question does not recognise, in the given context, the sovereignty of another State (Buderi and Ricart, 2018). Legal title to territory is seen as a tool that helps decide whether a given competence does in fact exist and if so, to what extent (Kozłowski, 2010). Its connotation in international legal literature is fairly self-explanatory: “both the source and the evidence of a right over land or maritime territory acquired by a State through a process of historical consolidation” (Gioia, 2018).

To contextualise the dilemma between the above principles, consider the case at hand. Advocates for the Applicant may submit evidence to establish that Qatar’s *effectivités* – the construction of a fort, amongst other means of exercising authority in Zubarah, for instance (Polak-Springer, 2022) – demonstrate their rights over the disputed territories. Such claims may, however, be challenged by the Respondent on the grounds of legal title as it provides a *prima facie* basis over the islands through instruments such as the British decisions on sovereignty made after the Second World War (Mendelson, 2007). Moreover, Bahrain’s counsels may employ their State’s use of *effectivités* as proof of sovereignty – for instance, their historic use of pearling banks (Tanaka, 2003). This, in turn, is subject to rebuttal by the Applicant, as they may claim that an “original territorial title” prevails over the Respondent’s “demonstration of use, presence, display of governmental authority and other ways of showing possession” (Kwiatkowska, 2003). Since no hierarchy between these principles is established via treaty (O’Keefe, 2011), the Judges are awarded a considerable level of discretion in determining which Party’s claims are stronger based on their analysis of the evidence presented.

Uti possidetis juris – to possess or not to possess?

The modern interpretation of this doctrine originates from the decolonisation of Latin American states in the XIX century, when it served as the guiding principle for the determination of boundaries between the newly sovereign States (Nesi, 2018). Essentially, *uti possidetis* allows such States to “[secure] respect for [their] territorial



boundaries at the moment when independence is achieved,” as stated in the judgement of the 1986 Frontier Dispute (Burkina Faso/Mali) (Kohen, 2009).

The Respondent’s argument may very likely rest upon this principle, particularly on the basis of the 1939 British decision on sovereignty (Kwiatkowska, 2003). However, the Judges may approach the legal nature, scope and effect of this decision with a certain level of scrutiny - specifically, they may wish to compare the “convergence of history and law” in this matter to that of “geography and law” in *Eritrea/Yemen* (Kwiatkowska, 2003). Besides, the Applicant’s approach may also be highly critical of Bahrain’s reliance on this doctrine as they may choose to argue that neither of the two States were a colony and historically maintained a level of independence (Evans, 200), much unlike the decolonisation processes of Latin America or Africa which shaped the present day application of the principle itself. Qatar’s Advocates may therefore request in their Prayer to the Court that the legal status of the 1939 British decision be nullified and should not thus be binding on the Parties. Though, certainly, such claims are likely to be subject to rebuttal from the Respondent’s side.

So close and yet so far... Special considerations in maritime delimitation

At the time of the Trial, Bahrain was the only Party to ratify the 1982 United Nations Convention on the Law of the Sea (UNCLOS) (Evans, 2002). Hence, the maritime delimitation was - and will be during the session at LSEMUN - conducted under customary international law (CIL). The rules of customary international law are unwritten and are instead derived from practice; such practice consisting of “what the subjects of international law, primarily States, do and say [...] (known as *opinio iuris sive necessitatis*, or *opinio iuris* in short form)” (Wood and Sender, 2024). Despite this, the Judges may consider applying the relevant Articles of UNCLOS as a guide in their deliberations - and, ultimately, the Verdict - if, in their view, it reflects CIL. This is exemplified by the Court’s use of Article 15 of the Convention to establish that “special circumstances” serve as bases for apt adjustment of the provisional equidistance line - which is then finalised into the Single Maritime Boundary (SMB) - in the actual ICJ Trial of *Qatar v. Bahrain* (Evans, 2002). Another such instance was the application of Article 121(2) to clarify the legal status of islands in comparison to land territories (Evans, 2002). Although the Dais strongly advise delegates not to read the original verdict, such examples are derived from it as they serve as a useful model for the reasoning Advocates may wish to employ in their submissions, and Judges - in their analyses.

Integral to the demarcation in this matter would be Articles 74(1) and 83(1) of the LOSC, which codify, respectively, the delimitation of an exclusive economic zone (EEZ) and a continental shelf (Scovazzi, 2006). If the Judges deem them to be reflective of CIL, they may become an extremely useful tool for structuring their *ratio* during what are bound



to be highly technical deliberations and verdict drafting. Furthermore, the Court may wish to recall the *Burkina Faso/Mali* and *North Sea* disputes as well as the *Eritrea/Yemen Arbitration Award* to guide their considerations on any issues surrounding EEZs and continental shelf boundaries that may arise during the proceedings. For a comprehensive list of applicable matters please refer to the [Further Resources](#) section of this Study Guide.

Guidance for potential approaches taken by the Parties

Responsibilities of the Judges

The fascinating aspect of this case is the pioneering role of the Judges. In reality, this was the first ICJ trial to ever apply the equidistance method to two adjacent States under customary international law (Tanaka, 2003). Yet, the 2001 Judgement received substantial scholarly critique for being too simplistic and not considering the factors at play to the full extent (Evans, 2002; Kwiatkowska, 2003). This Dais hence urges the Judge cohort to conduct a thorough critical analysis of the historical, geographical and legal aspects of the matter during the Trial at LSEMUN. These will be introduced in the Advocates' Opening Statements and then be elaborated upon during Real Evidence presentation and Witness examinations. We therefore urge the Judges to take copious notes throughout every stage of the oral proceedings in order to then be able to ask much-needed questions to both the Advocates and Witnesses, as well as deliberate with fellow Members of the Court – and, of course, to then relay their findings in the Verdict. As much as background research is mandatory, the Judges must base their decisions solely on the evidence presented to them during the Conference.

Applicant's stance – Qatar

With the onus of proof on the Applicant, the Advocates are challenged with what are notably substantive claims for both land and maritime territories. In their Prayer to the Court, Qatar's counsels may, first and foremost, request from the Court sovereignty over the disputed coastal areas, islands and waters. This implies that the Advocates ask the Court to i) maintain their sovereignty over the Hawar Islands, ii) declare Dibal and Qit'at Jaradah shoals LTEs under Qatar's sovereignty, iii) declare Bahrain has no sovereignty over Janan or Zubarah and iv) pronounce any claim by Bahrain which concerns archipelagic baselines, pearling banks and fishing areas would not hold any relevance for the purposes of maritime delimitation in this matter. Qatar's counsels may thus argue that there is no valid legal instrument transferring possession over these territories to Bahrain and that they are legally entitled to sovereignty based on the legal principles discussed above.



Respondent's stance - Bahrain

Responding to the Applicant's claims would also be a challenge. Virtually, Bahrain's Advocates would likely request for the Court to invalidate the claims put forward by Qatar and ask the Judges to grant Bahrain sovereignty over the territories in question. The Respondent's counter-argument is likely to rest upon the superiority of their own establishment and practice of state authority, historical activity in the region as well as legal entitlement to the disputed territories. Ultimately, both States' goal in this matter is for the Verdict to contain an SMB between the "maritime areas of sea-bed, subsoil and superadjacent waters appertaining respectively [to each Party]" (Tanaka, 2003).



Further Resources

1. Reisman, W.M. and Skinner, C. (2014) 'Qatar v. Bahrain: massive forgeries', *Fraudulent Evidence Before Public International Tribunals: The Dirty Stories of International Law*. Cambridge: Cambridge University Press (Hersch Lauterpacht Memorial Lectures), pp. 163-192. Link to online version [here](#).

Analysis of forged evidence presented during the real *Qatar v. Bahrain* trial (of which there were over eighty (!) items), as well as how the forgery was detected and its broader implications.

2. d'Argent, P. (2017) 'ICJ jurisdiction: special agreement and *forum prorogatum*', *International Law MOOC*. Université catholique de Louvain. Link to video [here](#).

Brief but handy explanation of the two mechanisms which allow the ICJ to obtain jurisdiction over matters brought to it by UN Member States.

3. Zerbe, N. (2020) 'Core Concepts in International Relations: Sovereignty', *Key Concepts in International Relations*. Humboldt State University. Link to video [here](#).

Both an explanation and an exploration of sovereignty, covering its meaning in international relations, its key dimensions, as well as the limits and challenges that limit state authority.

4. Polak-Springer, P. (2022) 'Bordering Zubara: oil politics, the 1937 Qatari-Bahraini conflict, and the making of a modern Arabian (Persian) Gulf Borderland', *Journal of Borderlands Studies*, 37(5) pp.1-25. Link to online publication [here](#).

This article is one of the key sources for this Study Guide for a reason - it is a very comprehensive analysis of the tensions shaping the regional conflict in question from a cultural history and border studies standpoint.

5. Kohen, M. (2009) 'Maritime Delimitation: *Uti Possidetis* and Maritime Delimitations', *United Nations Audiovisual Library of International Law*. See 'Jurisprudence' section under 'Boundary Delimitation' Lecture > 'Related Materials' [here](#).

Comprehensive list of ICJ cases and Arbitration Awards relevant to this matter.



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