

Committee: ICJ (International Court of Justice)

Topic: Lockerbie case Libya and USA and UK

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Position : Main Chair

Definition of Key Terms :

Extradition : In an extradition, one jurisdiction delivers a person accused or convicted of committing a crime in another jurisdiction, into the custody of the other's law enforcement.

State Immunity : State immunity protects a State and its property from the jurisdiction of the courts of another State. It covers administrative, civil, and criminal proceedings (jurisdictional immunity), as well as enforcement measures (enforcement immunity).

Montreal Convention : The primary objectives of the Montreal Convention are: to provide for equitable compensation for death or injury to passengers, and damage to baggage and cargo that occur in international air cargo. to facilitate the efficient operation of international carriage by air of passengers, baggage and cargo.

ICJ : The International Court of Justice, or colloquially the World Court, is the only international court that adjudicates general disputes between nations, and gives advisory opinions on international legal issues. It is one of the six organs of the United Nations, and is located in The Hague, Netherlands.

Jurisdiction: The authority of a court or other legal body to make decisions and judgments. In this case, the ICJ's jurisdiction to rule on the dispute between Libya, the U.S., and the U.K. was contested but eventually upheld.

Sovereignty: The principle of a state's full right and power to govern itself without outside interference. Libya's sovereignty was a central issue, as it argued its right to handle the prosecution within its own judicial system under the Montreal Convention.

Background :

In 1992, Libya took the United States and the United Kingdom to the International Court of Justice (ICJ) because of a disagreement over how an international law about air safety should be applied. This issue started because of the tragic bombing of Pan Am Flight 103 over Lockerbie, Scotland, in 1988, which caused the plane to crash, killing everyone on board. After investigating, both the U.S. and the U.K. accused two Libyan men of being responsible for putting a bomb on the plane, and they wanted Libya to hand these men over to stand trial. Libya, however, had a different view based on an international agreement called the Montreal Convention. This Convention was made to handle cases where people commit violent acts against aircraft, and Libya believed it had to follow the Convention's rules.

According to Article 5 of the Montreal Convention, if a country finds suspects of such crimes within its borders and doesn't have an agreement (called an extradition treaty) with the countries requesting the suspects, it doesn't have to send the suspects to another country. Instead,

The Convention's Article 7 says that the country should handle the case within its own legal system by either investigating the crime and putting the suspects on trial in that country. Since Libya didn't have an extradition treaty with either the U.S. or the U.K., it argued that it should prosecute the suspects in Libya. However, the U.S. and U.K. disagreed, believing the suspects needed to be tried in their courts. So, Libya took the case to the ICJ to get a ruling on whether it was following international law correctly by keeping the suspects for prosecution rather than handing them over.

Libya requested the ICJ to issue provisional measures to prevent the U.S. and U.K. from pressuring it to extradite the suspects and to ensure that Libya's rights under the Convention would not be compromised. On 14 April 1992, however, the ICJ declined to grant these provisional measures, stating that the situation did not warrant such action.

The U.S. and U.K. subsequently filed preliminary objections, arguing that the ICJ lacked jurisdiction to hear the case. In response, the Court suspended proceedings on the merits of the case while it reviewed these objections. Libya was later given a deadline to submit statements addressing the objections, which it complied with.

On 27 February 1998, the ICJ issued judgments on these preliminary objections, ruling that it did have jurisdiction to hear the dispute under Article 14 of the Montreal Convention. The

Court rejected the U.S. and U.K. 's claims that there was no legal dispute and dismissed their objection that U.N. Security Council resolutions 748 (1992) and 883 (1993)—which called for Libya to surrender the suspects—rendered Libya’s claims inadmissible. The ICJ found that the objections based on these resolutions did not exclusively prevent Libya’s claims from proceeding.

By June 1999, the ICJ authorized further submissions, allowing Libya to submit a Reply and the U.S. and U.K. to file Rejoinders, which each country completed within the designated deadlines. However, on 9 September 2003, Libya, the U.S., and the U.K. jointly notified the ICJ of an agreement to discontinue the case. On 10 September 2003, the ICJ formally recorded the termination of the proceedings with prejudice, removing the case from its docket by mutual consent of the parties.

This case highlighted the intersection of international law, extradition procedures, and state sovereignty in addressing international crimes, especially those implicating the United Nations Security Council’s authority.

Major Countries and Organizations involved :

Netherlands: The Netherlands played a critical role as the neutral location where the trial eventually took place. After extensive negotiations, Libya, the U.S., and the U.K. agreed that the suspects would be tried under Scottish law in a court set up in Camp Zeist, the Netherlands, in 1999.

United Nations Security Council (UN): The UN, particularly through its Security Council, was heavily involved in the Lockerbie case. The Security Council issued resolutions (748 and 883) demanding that Libya extradite the suspects and imposed sanctions when it refused. The UN also monitored Libya's compliance with these resolutions and worked with the involved nations to find a resolution.

Arab League: The Arab League supported Libya’s stance on prosecuting the suspects within its own legal system. The League also objected to the imposition of UN sanctions on Libya and called for a fair trial in a neutral country.

Timeline

21 December 1988 : Pan Am flight 103 from London to New York is blown up over Lockerbie, Scotland.

14 November 1991 : US and the UK accuse Abdelbaset Ali Mohamed Al Megrahi and Al Amin Khalifa Fhimah of Libya of involvement. Libya denies any involvement

23 March 1999 : Libya's UN delegate says the suspects will be handed over to the

31 March 1992 : Arab League, but the West rejects Libya's conditions. Security Council Resolution 748 requires Libya to surrender the suspects by 15 April 1992 or face a worldwide ban on air travel and arms sales.

30 April 1992 : The Libyan leader, Colonel Qaddafi, says that Libya will not hand over the two suspects.

11 November 1993 : The Security Council tightens sanctions.

23 March 1995 : The FBI offers a record US\$4m reward for information leading to the arrest of the two Libyan suspects.

19 April 1995 : Libya sends a flight of Muslim pilgrims to Saudi Arabia despite the air embargo

11 June 1997 : Libya says in a letter to the UN Secretary-General that sanctions had caused losses to Libya of US\$23.5billion. The Security Council debates the Lockerbie issue, with wide-spread support for a trial in a neutral country.

20 March 1998 : The Security Council debates the Lockerbie issue, with wide-spread support for a trial in a neutral country.

22 April 1998 : After a visit to Libya, representatives of victims' families say the Libyan Government has agreed to a trial in the Netherlands

24 August 1998 : Under Scots law the UK and US agree two suspects can be tried in the Netherlands under Scots law.

27 August 1998 : The Security Council unanimously endorses the plan.

13 February 1999 : A South African envoy meets with Colonel Qaddafi and states there is an accord.

Credible sources

<https://www.icj-cij.org/case/89>

<https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e160?rsk=hsVJP5&result=2&prd=OPIL>

<https://www.asil.org/insights/volume/3/issue/3/international-court-justice-upholds-its-jurisdiction-l-ockerbie-cases#:~:text=On%20February%2027%2C%201998%2C%20the,%2C%20on%20March%203%2C%201992.>

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