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The ICERD in the Jurisprudence of the International Court of Justice

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Abstract. This study aims to elucidate the boundaries and nature of the relationship between the International Court of Justice [hereafter, ICJ or the Court], the principal judicial organ of the United Nations, and the International Convention on the Elimination of All Forms of Racial Discrimination [hereafter, ICERD], a pivotal international human rights convention. Article 22 of ICERD delineates the theoretical framework of this relationship and the associated conditions. Meanwhile, several cases brought before the Court illustrate the practical interpretation and application of ICERD, with notable instances including the 2018 case between Qatar and the United Arab Emirates [hereafter, UAE], and the 2024 case between Russia and Ukraine.

1. INTRODUCTION

Since the entry into force of the ICERD[i] on 4 January 1969, the Committee on the Elimination of Racial Discrimination established under the same Convention has played an important role in monitoring and implementing its provisions by its States parties. The main function of the international human rights treaty bodies (treaty bodies[ii]) established under the same conventions or protocols is to interpret and apply the provisions of those conventions. Once this Convention has been ratified, all States shall review their compliance with its provisions in order to assume international responsibility for the violation of the rights of persons under the power of States Parties as a result of the application of domestic legislation or practices manifestly contrary to these Conventions.

However, the Convention allows States parties to resort to ICJ for the interpretation or application of its provisions instead of the Committee on the Elimination of Racial Discrimination under the specific conditions set out in article 22 of the Convention, which states: "in the event of any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled by negotiation or by the procedure expressly provided for in this Convention, such dispute shall, at the request of any of the Parties, be referred to ICJ for adjudication, unless the parties agree on another way to settle it."

Although the relationship between the principal judicial organ of the United Nations and the ICERD is the most important external relationship established by the latter in the interpretation or application of its provisions as stated in its article 22 above, however, the materialization of that relationship in the practice of the States parties did not emerge directly until 2008, when Georgia first submitted an application to the Court instituting proceedings against the Russian Federation in the case concerning the Application of the International Convention on the Elimination of All Forms of Racial Discrimination. It was followed by Ukraine in 2017, when it also filed another case against the Russian Federation in the case concerning the application of the International Convention for the Suppression of the Financing of Terrorism and the International Convention on the Elimination of All Forms of Racial Discrimination, and finally the case filed by Qatar against the UAE in 2018, concerning the application of the same Convention.

In fact, it was not the first time in 2008 that article 22 of the Convention was invoked before the Court in the technical sense of the word, since the text of that article was indirectly invoked in the case concerning Armed activities on the Territory of the Congo between the Republic of the Congo and Rwanda in 2002. the Congo claimed that Rwanda had violated a number of international human rights instruments and international humanitarian law, including the International Convention on the Elimination of All Forms of Racial Discrimination. However, the Court rejected the request for the indication of provisional measures made by the Congo in its order of 10 July 2002, on the grounds that Rwanda ' s instrument of accession contained a reservation to article 22 of the Convention. The Court then confirmed its refusal to accept jurisdiction in the same case in its judgment of 30 February 2006 on the same ground[iii].

For the purposes of the study, we shall deal only with the three cases in which the Court dealt directly with the International Convention on the Elimination of All Forms of Racial Discrimination, respectively, the case concerning the application of the Convention between Georgia and the Russian Federation in 2008, between Ukraine and the Russian Federation in 2017 and finally between Qatar and the UAE in 2018.

The scientific value of this topic in both theoretical and practical terms and its serious problems that require a practical solution through study and analysis, there are many issues that need to be stopped and clarified, as this study aims to reveal the limits and nature of this relationship between ICJ on the one hand. the International Convention on the Elimination of All Forms of Racial Discrimination, on the other hand, would provide an opportunity for the effective interpretation and application of one of the most important international human rights conventions by a group of jurists with proven competence in the field of international law.

Based on all of the above, it is important to put forward the following fundamental forms:

What are the limits of the Jurisdiction of ICJ to interpret and apply the ICERD in accordance with its provisions?

The mere fact of asking such a question indicates how difficult it is to provide an answer; however, for the purposes of the methodology in this study, we will rely mainly on the method of analysis of the content. some of the contents of the decisions taken by the Court concerning the interpretation or application of the provisions of the ICERD in application of the provisions of article 22 of the Convention have been discussed.

Based on the premise of the bilateral variables arising from the forms in question, we have decided to adopt a bilateral plan of action, consisting of two issues, the first of which is to determine the limits of the competence of ICJ to interpret or apply the

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ICERD through the provisions of article 22 thereof. while we will devote the second topic to the practical practice of ICJ in interpreting or applying the provisions of the same Convention.

1.1. Section I. The limits of the Jurisdiction of ICJ to Interpret or Apply the Convention

Article 22 of the ICERD states: "In the case of any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled by negotiation or by the procedure expressly provided for in this Convention, this dispute shall, at the request of any of the Parties, be referred to ICJ for adjudication, unless the disputers agree on another method of settlement."

A careful reading of the text of this article shows that the Court should seek to ascertain, first before declaring its jurisdiction, that there is a legal basis for it to do so (a first claim), it should also take into account that the case referred to it concerns a legal dispute between two or more parties to the Convention concerning the interpretation or application of the latter (a second claim), and finally the court must be satisfied that the preconditions for recourse to the proceedings set out in article 22 of the Convention have been met (third request). We will explain this as follows:

I. Jurisdiction of the Court on the basis of the arbitration clause in Article 22 of the Convention.

In fact, the main principle underlying the Court is that it is a judicial body with optional jurisdiction, which exercises its jurisdiction only with the agreement of the parties to the conflict (ICJ[iv]). However, if such an agreement occurs between the disputing States after a particular dispute has arisen before it has been submitted to the Court, we are in the process of optional jurisdiction. Otherwise, if such an agreement between the disputing States occurs before any dispute arises between them, we are inevitably in[v] the case of compulsory jurisdiction.

Like other international conventions, the ICERD does not depart from this rule with regard to the question of the jurisdiction of ICJ, the basis of which is derived from the first paragraph of Article 36 of the Statute of the Court, which states: "the jurisdiction of the Court shall extend to all cases brought before it by litigants, as well as to all matters specifically provided for in the Charter of the United Nations or in applicable treaties and conventions."

The ICERD gives the Court jurisdiction to hear all disputes concerning its interpretation or application on the basis of the arbitration clause provided for in article 22 of the same Convention. In this sense, all States Parties that have signed and ratified this Convention without any reservation, including the text of article 22 of the same Convention, shall be covered by the compulsory jurisdiction provided by this clause to the Court in respect of any dispute concerning the interpretation or application of this Convention without the need for a special agreement. While States Parties to the Convention that have made reservations to this clause shall be covered by the compulsory jurisdiction of the Court only if they so agree by special agreement after any dispute has arisen between them and any other State Party concerning the interpretation or application of this Convention, here we are in respect of the optional rather than compulsory jurisdiction of the Court.

In the light of the Preparatory works of the Convention and the circumstances of its conclusion, it was very clear that at the time when the latter was being drafted, the idea of a compulsory settlement of disputes by the Court was not readily accepted by a number of States. While States parties could make reservations to the mandatory dispute settlement provisions of the Convention concerning their interpretation or application, it was very reasonable, a matter which the Conference considered during the drafting of the Convention. the imposition of additional restrictions on recourse to judicial settlement in the form of prior negotiations and other non-time-bound settlement procedures (procedures[vi]) has undoubtedly been designed, on the one hand, to facilitate the wide acceptance of the Convention by States and, on the other, to encourage States to resort to the Court.

Not only that, but the text of the aforementioned article 22 allowed the disputing States parties to agree on another way of settling their disputes concerning the interpretation or application of the Convention rather than resorting to the court, whether that means agreed upon by the parties is judicial or non-judicial. with a view to providing further safeguards and facilities that would encourage States to accede to this Convention without any reservation. In fact, many States have lifted reservations to the arbitration clause provided for in article 22 of the Convention, including the former Soviet Union (USSR[vii]), which deposited its instrument of ratification on 40 February 1969 with a reservation to article 22, but this reservation was withdrawn almost 20 years after its ratification on 08 March 1989. The instrument of ratification deposited by Ukraine on 07 March 1969 also contained a reservation to article 22 of the Convention, which was withdrawn on 20 April 1989. Since the Russian Federation is the State retaining the legal personality of the former Soviet Union, two cases were brought against it in court on the basis of the arbitration clause contained in the text of the aforementioned Article 22, the first case was filed in 2008 by Georgia and the second case was filed in 2017 by Ukraine as we shall see later.

In addition to the previous two cases, the Court was on an appointment with the third case in its history on the basis of the arbitration clause provided by article 22 of the Convention between Qatar and the UAE in 2018 in the case concerning the interpretation and Application of the International Convention on the Elimination of All Forms of Racial Discrimination. The UAE (UAE[viii]) ratified the Convention on 20 June 1974 without reservation to article 22 of the Convention, while Qatar ratified it on 22 July 1974 without any reservation to article 22 of the Convention.

In the 2002 case concerning Armed activities on the Territory of the Congo between the Republic of the Congo and Rwanda, the Congo claimed that Rwanda had violated a number of international human rights instruments and international humanitarian law, including the International Convention on the Elimination of All Forms of Racial Discrimination. The Court rejected the request for the indication of provisional measures made by the Congo in its order of 10 July 2002 on the grounds that Rwanda ' s instrument of accession to the Convention contained a reservation to the arbitration clause provided by article 22 of the Convention. The Court confirmed its refusal to accept jurisdiction in the same case in its judgment of 30 February 2006 on the same ground[ix].

In any event, the acceptance of the court ' s jurisdiction is linked, in time, to the entry into force of the Convention against its parties prior to the submission of the petition to the court, but before that date the court has no jurisdiction to hear the case in accordance with the arbitration clause provided by the aforesaid article 22. This was confirmed by the Court in its judgment on the Application of the ICERD (ICERD[x]) between Georgia and the Russian Federation of 01 April 2011, in which it stated that "the dispute must in principle arise at the time of submission of the petition to the Court".

Perhaps it is the threshold of limitations imposed by article 22 of the Convention as the basis for the Court ' s jurisdiction that explains the delay in States ' recourse to the Court and the small number of cases referred to it on the basis of the arbitration clause provided by the preceding article. whereas the Court was on the date of the first case directly dealing with this issue between Georgia and the Russian Federation in 2008, almost 40 years after the entry into force of the Convention on 40 January 1969, at the time of writing, only three cases had been referred to the Court.

II. The existence of a dispute between two or more States concerning the interpretation or application of the Convention.

Indeed, the specific jurisdiction of the Court is primarily concerned with the adjudication of "disputes", so defining the concept of "dispute" is a preliminary matter to be decided before discussing the jurisdiction of the Court. since the latter ' s approach in dealing with a legal dispute (ICSID) first examines the existence of a dispute between two or more parties and then determines its nature before accepting jurisdiction and action in accordance with article 36, paragraph VI, of its Statute[xi] and in the light of the first paragraph of article 38[xii] thereof, otherwise it cannot accept jurisdiction to hear the case.

While the first paragraph of article 36 does not include it, most instruments of jurisdiction, including those included in treaties, use the term "conflict", including the ICERD in its article 22, which states: "in the case of any dispute between two or more States Parties concerning the interpretation or application of this Convention ...". The concept of dispute is thus the nucleus within which the idea of the jurisdiction of the Court is built, and it also serves the function of clear legal expression of the subject matter on which the Court is competent to adjudicate[xiii].

In this regard, the Permanent Court of International Justice (PJCI) has defined the " dispute" in its well-established jurisprudence, often cited in its judgment on the Mavrommatis Palestine concessions case of 30/08/1924 (preliminary objections), as "a dispute over a question of law or fact, or a conflict of legal opinions or interests between two persons". [xiv]

At the international level, Professor "Hans Kelsen has defined it" as: " Such contradictory claims between two or more international persons (persons[xv]), which require their resolution in accordance with the rules of international dispute settlement contained in international law".

According to Professor Omar Saad-Allah, an international dispute is "a dispute that arises between two States or generally between two or more subjects of international law and involves the existence of a claim or claims by one of the parties concerning a specific issue or subject matter. such claims or claims (such claims[xvi]) must be met with rejection or counterclaims by the other party"

Thus, the international dispute is concerned with the emergence of conflicting interests that reflect the opposite behavior of two conflicting States, which are of such seriousness and gravity as to threaten their interests. The dispute involves protest and then denial by the opposite party[xvii]. Therefore, mere differences of opinion on international political issues that do not give rise to obligations or rights of the other parties do not give rise to an international conflict[xviii]. in its earlier case law, the Court had alluded to a fundamental distinction between mere "difference of view" and "dispute" in its advisory opinion on the applicability of article 06, section 22, of the Convention on the Privileges and Immunities of the United Nations[xix]of 15 December 1989.

With regard to the word "dispute" in the first part of the aforementioned Article 22, the Court affirmed in its judgment on the Application case of the ICERD between Georgia and the Russian Federation of 01 April 2011, this word has been stated in the same manner as in several arbitration clauses of other international conventions. The Court added that the consistent use of the word in the same manner suggested that there was no reason to deviate from the generally understood meaning of the word "dispute" in the arbitration clause of article 22 of the ICERD[xx].

In the same case, in its first submission, the Russian Federation claimed that the word "dispute" in the first part of article 22 of the Convention had a special meaning, narrower than that of general international law, which made it difficult to meet its requirements. He went even further, noting that, under the Convention, States parties to a dispute were not considered to be in dispute until a "question" had arisen between those parties through a five-stage process involving the procedures established under the Convention. This claim is based on the wording of articles 11 to 16 of the Convention and on the distinctions that he considers to be made by those articles between "the matter" (cases referred to the Committee by States),"complaints" (submitted by individuals to the Committee) and "disputes" (considered by the Committee or the Court).

However, the Court did not consider that the terms "matter", "complaints" and" disputes" were used in articles 11 to 16 of the Convention in a systematic manner that required a narrower interpretation of the term "dispute" in article 22 of the Convention. The Court concluded that the conclusion made by the Russian Federation on this matter did not in any way indicate the particular form that the narrower interpretation would take. Accordingly, the Court rejects this argument made by the Russian Federation and reverts to the general meaning of the term "dispute" when used in relation to the jurisdiction of the Court. The Court pointed out that the question of whether there is a dispute in a particular case is a matter of "objective assessment" by the Court, and that "it must be established that the claim of one party is positively opposed by the other party"[xxi] .

Not only that, but the Court went even further, by stating in its judgment that the documents exchanged between the parties to the dispute must refer to the subject matter of the treaty sufficiently clearly to determine whether there was a "de facto" or "likely to be a dispute" on that subject. In fact, this latter phrase leads us to another conclusion that the Court ' s jurisdiction extends not only to existing disputes, but also to the pre-conflict phase if there is a possibility that there may indeed be a future dispute. This is called the "situation" in international jurisprudence and action, where the Charter of the United Nations, in Article 34 of the Charter of the United Nations, alludes to a situation that predates the existence of a conflict when it states that "the Security Council may examine any "dispute" or "situation" that leads to international friction or may give rise to a dispute".

The wording of article 34 above indicates that the term "position" is broader and more general than the term "dispute", since, as expressed by Ahmed Abou Alouafa, the position may be expressed at one of the early stages of the emergence and development of a conflict[xxii]. While Mohamed Talaat Al-Ghunaimi went on to say that " the position is a general word that includes in its meaning the word dispute, and accordingly every dispute is considered a position ..., the Charter has singled out some positions with special provisions and called these positions conflict, and therefore the dispute is a position that includes a fight against the argument, in other words, there is a dispute where there are two parties, one claiming a right and the other denying it, or where a State makes a request to another State and the other refuses to respond to it, but the mere dispute does not make the situation a dispute." [xxiii]

Thus, according to the arbitration clause in article 22 of the Convention, the jurisdiction of the Court to resolve disputes between States parties to the Convention does not extend only to the dispute in its prima facie sense, but also to the "dispute" in its broad sense, including the" position "that is likely to give rise to a dispute at a later stage as described above.

In addition to the foregoing, on the subject matter of the dispute, and in accordance with the terms of Article 22 of the Convention, the dispute must be "concerning the interpretation or application of the Convention". This is a matter in which the Court provides substantive guidance in its judgment on the Application of the ICERD between Georgia and the Russian Federation of 01 April 2011, the Court noted that, while it was not necessary for a State to expressly refer to a specific treaty in its documents exchanged with the other State in order to be able to subsequently invoke that instrument before the Court, such documents exchanged between the parties to the dispute must refer to the object of the treaty sufficiently clearly to enable the State against which the claim is made to determine whether there is indeed or is likely to be a dispute on that subject. An explicit definition

would dispel any doubt as to the understanding of the subject matter of the dispute[xxiv] by the first State (the latter) and by the other State.

In its judgment, the Court found that the documents and statements submitted by Georgia prior to the entry into force of the Convention in its confrontation prior to 22 July 1999 did not support its claim that there was "a long-standing and legal dispute with Russia and not a recent fabrication". The Court adds that, even if that were the case, that dispute, even if it was about racial discrimination, could not be " about the interpretation or application of the treaty", which is the only type of dispute to which article 22 of the Convention confers jurisdiction on the Court[xxv]. Thus, other types of conflicts, including those relating to territorial integrity, armed conflict, etc., are not covered by the arbitration clause of the Convention.

III. The preconditions set out in Article 22 of the Convention have been met.

Similar to the arbitration clauses similar to article 22 of the Convention, the latter imposes preconditions that States parties must meet before resorting to court. This is an issue that can be simply drawn from the provisions of the aforementioned article 22, which in its ordinary sense suggests that the phrase "any dispute ... It cannot be settled by negotiation or by the procedures expressly provided for in this Agreement", which establishes preconditions that must be met before the dispute is submitted to the Court. The Court must therefore be satisfied that the preconditions set out in article 22 of the Convention have been met before it can exercise its jurisdiction.

In its judgment on the Application of the Convention between Georgia and the Russian Federation of 01 April 2011, the Court determined the simple meaning of the terms used in article 22 of the Convention in order to ascertain whether this article contained preconditions to be met before resorting to the Court. However, she had previously pointed out that phrases such as "a clause", "a precondition", "a pre-condition" and" an introductory clause" were sometimes used as synonyms, and sometimes as terms of varying meaning. There is no difference in the substance of these statements except that the word "condition", when not restricted, may include, in addition to the precondition, other conditions that must be met simultaneously or in a period subsequent to an event. ([xxvi]II) if the procedural requirements of Article 22 are pre-conditions for the submission of the dispute to the Court even when the term is not limited by a time element.

As to the normal meaning of the terms used in article 22 of the Convention, she noted that the latter limited the right to submit a "dispute" to the court by the words "irreconcilable" by the means of peaceful resolution provided for therein. Those words must be put into practice. A key phrase in these provisions would be meaningless if article 22 of the Convention were interpreted to mean, in fact, that all that is necessary is that the dispute has not been resolved (through negotiations or procedures expressly provided for in this Convention).

The Court then pointed out that the above-mentioned phrase was in the French text in the future version, while in the English text it was in the present tense. She noted that the use of the future formula greatly reinforced the idea that a previous procedure (an attempt to settle the dispute) must have taken place before resorting to another procedure (referral to the court). The other three authentic texts of the Convention (i.e., the Chinese, Russian and Spanish[xxvii]) do not contradict this interpretation. The Court added that the Preparatory works of the Convention do not suggest a different conclusion from that reached by the Court through the main method of interpretation of the ordinary meaning [xxviii].

The Court cited other similar arbitration clauses that conferred jurisdiction on it and other judicial bodies, noting that it was customary to refer to negotiations before resorting to them[xxix]. The Court went on to say that the resort to negotiations performed three separate functions. In the first place, the respondent State is aware of the existence of a dispute and determines the scope and subject matter of the dispute. The Permanent Court of International Justice was aware of the issue when it stated in the Mavrommatis Palestine case that "before a dispute is the subject of a procedure in law, its subject matter should have been clearly defined by means of diplomatic negotiations". Secondly, it encourages the parties to seek the settlement of their dispute by mutual consent, thereby dispensing with binding litigation through a third party. Third, prior recourse to negotiations or other methods of dispute settlement (dispute resolution[xxx]) has an important function in determining the limits of consent by States.

In determining what constitutes negotiations, the Court ' s approach did not differ from the concept agreed upon in international jurisprudence and action[xxxi], where the Court stated that negotiations were independent of protest or dispute (dispute). It involves more than simply opposing legal opinions or interests between the parties, a series of accusations and appeals, or even the exchange of directly conflicting claims and counter-claims. Thus, the concept of "negotiations" differs from "dispute" and requires at least one of the disputing parties to make a genuine attempt with a view to initiating discussions with the other disputing party, with a view to resolving the dispute. Since the subject matter of the dispute must be the interpretation or application of the Convention, as we have seen before, the substance of the negotiation must in turn relate to the subject of the treaty containing the arbitration clause, here the International Convention on the Elimination of All Forms of Racial Discrimination.

However, the Court emphasized that such an attempt at negotiation did not necessarily require that an effective agreement be reached between the disputing parties. In the absence of evidence of a genuine attempt to negotiate, it was clear that the precondition for negotiation was not being met. However, when an attempt is made to negotiate or negotiations are initiated, it is clear from the case law of this Court that the pre-condition for negotiation is met only when negotiations fail, become useless or face a stalemate.

The second precondition of Article 22 of the Convention is " the procedures expressly provided for in this Convention", only in its most recent jurisprudence on the case for the Application of the International Convention for the Suppression of the Financing of Terrorism and the ICERD between Ukraine and the Russian Federation of 28 November 2019, has the Court had an opportunity to demonstrate its nature and consider its appropriate form and substance. the Court reviewed an assessment of what constituted the " procedures expressly provided for in this Convention" and to what extent they should be pursued before the precondition for such proceedings could be said to have been met. The Court held that "negotiations" and" procedures expressly provided for in this Convention" were means of achieving the same purpose, namely the settlement of disputes between States Parties by mutual consent. In determining what constitutes proceedings under the guardianship of the Committee on the Elimination of Racial Discrimination (CERD[xxxii]), the Court stated that such proceedings are conducted in accordance with the provisions of articles 11 to 13 of the Convention.

In this regard, the first paragraph of article 11 of the Convention states: " If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring this to the attention of the Committee. The Committee shall then transmit a letter of attention to the State party concerned. The addressee State shall provide the Committee in writing, within three months, with the necessary clarifications or statements to clarify the matter and, where appropriate, with an indication of any remedial measures it may have taken. The second paragraph of the same article reads as follows: "if the matter cannot be resolved to the satisfaction of both parties either through bilateral negotiations or by any other procedure available to them, within six months after the receiving State has received the first communication, either State shall have the right to refer the matter back

to the Commission by notification to it and to the other State."

Pursuant to article 12, paragraph 1 (a): "The Chairman of the Commission, having obtained, scrutinized and compared all information it deems necessary, shall appoint a special conciliation Commission consisting of five persons, who may be members of the Commission or non-members thereof. The members of the Commission shall be appointed with the unanimous consent of the Parties to the conflict, and the good offices of the States concerned shall be available to the States concerned with a view to reaching an amicable solution to the matter on the basis of respect for this Convention."

The first paragraph of Article 13 states: "When the Commission has exhausted its consideration of the matter, it shall prepare a report to the Chairman of the Commission, containing its findings on all factual matters relating to the dispute between the Parties and including such recommendations as it deems appropriate for the amicable resolution of the dispute." The second paragraph of the same article states: "The Chairman of the Commission shall communicate the report of the Commission to each of the States Parties to the dispute. They shall, within three months, inform the Chairman of the Committee of their acceptance or non-acceptance of the recommendations contained in the report of the Commission."

The Court notes that all of the above provisions clearly indicate that the purpose of the procedures provided for in Article 22 of the Convention is to allow the disputing States Parties to reach a satisfactory settlement of their disputes. Thus, according to the Court, what constitutes "the procedures expressly provided for in this Convention" are those aimed at achieving a friendly settlement satisfactory to the parties under the auspices of the Committee on the Elimination of Racial Discrimination (CERD[xxxiii]).

As to whether the procedural rule on "exhaustion of local remedies" falls within what constitutes "the procedures expressly provided for in this Convention", the Court held that under the rules of customary international law, the scope of application of this rule is when a State brings a claim or action on behalf of one or more of its nationals. If the issue concerns "systematic and continuing stereotypical conduct or practices" against an unspecified number of people or persons belonging to a race or national or ethnic origin, the procedural rule on "exhaustion of local remedies" does not apply in this case. In this sense, according to the Court, this rule does not fall within what constitutes "the procedure expressly provided for in the Convention" and, therefore, does not constitute preconditions that must be met before recourse to the court within the meaning of article 22 of the aforementioned Convention[xxxiv].

Although on three occasions the Court hesitated to answer a question as to whether the two preconditions should be met by choice or a combination of them, it again cast doubt on the certainty of its previous judgment, it concluded that the application of the rules of customary international law with respect to the interpretation of treaties suggests that the functional meaning of the term "or" in the words "cannot be settled by negotiation or procedure expressly provided for in the present Convention" should be interpreted in accordance with the context and purpose of the text of the article. "Negotiations" and" procedures expressly provided for in this Convention" are means of achieving the same purpose as the Court has already stated. The interpretation that all preconditions must be met is not in keeping with the true context and purpose of the article, which is the effective and speedy elimination of all forms of racial discrimination. The Court drew this objective from a series of phrases in the preamble and articles 20, 40 and 07 of the Convention, along the lines of "without delay", "immediate and effective measures"," immediate positive measures "and" rapid". This objective would undoubtedly be more difficult to achieve if it were assumed that the preconditions set out in Article 22 must be met together. The Court concluded that it did not need to refer to the preparatory work to reach the conclusion that the requirements of article 22 of the Convention could not have been intended to function as conditions to be met collectively [xxxv].

1.2. Section II. The Practice of ICJ In the Interpretation or Application of the Provisions of the Convention

With the entry into force of the ICERD on 4 January 1969, practice had to reveal a range of new challenges to the relationship between the Convention and the Court. Although the States parties to the Convention are nearly 40 years behind the entry into force of the Convention, excluding the 2002 case concerning Armed activities on the Territory of the Congo between the Republic of the Congo and Rwanda, which the Court refused to hear on the basis of the arbitration clause contained in article 22 of the Convention, the cases referred to it are, however, at the time of writing, there were only three cases, which provided useful guidance with regard to the interpretation or application of this Convention. In this regard , the Court was on the date of the first case directly dealing with this issue between Georgia and the Russian Federation in 2008, it was then followed by a second suit filed by Ukraine in 2017 against the Russian Federation in the case concerning the Application of the International Convention for the Suppression of the Financing of Terrorism and the ICERD, and finally the case filed by Qatar against the UAE in 2018 concerning the application of the same Convention. We will address this through the following three demands:

I. The case concerning the application of the Convention between the Russian Federation and the Georgia in 2008.

On 12 August 2008, Georgia filed its first application for action against the Russian Federation for alleged violations of the ICERD. In this request, Georgia argues, inter alia, that the Russian Federation, through its organs and agents, and by the South Ossetian and Abkhaz separatist forces under its administration and control, has practiced, sponsored and supported racial discrimination by directing attacks and mass expulsions against ethnic Georgians, other ethnic groups, in the South Ossetia and Abkhazia regions of the Republic of Georgia.

On 15 October 2008, the Court issued the first order for provisional measures submitted by Georgia in the same case, obliging both parties to refrain from any act or action that might prejudice their rights under the Convention or that might aggravate or widen the dispute. The Court ruled that the case lacked jurisdiction when it accepted the second preliminary objection made by the Russian Federation in its judgment of 01 April 2011.

In this regard, the Court had a duty to ascertain the existence of a number of conditions, a number of which had been raised by Russia in the form of preliminary objections, before reaching such a conclusion. The first relates to the jurisdiction of the court on the basis of the arbitration clause in article 22 of the Convention. The second requires ascertaining that there is a dispute between two or more States concerning the interpretation or application of the Convention. Finally, the preconditions set out in article 22 of the Convention have been met.

While the Court had no difficulty in ascertaining whether the first condition was met as the Convention entered into force between the parties on 20 July 1999, the Court dealt with the evidence submitted by the parties to determine whether it proved, as alleged by Georgia, it had a dispute with the Russian Federation concerning the interpretation or application of the Convention, at the time of its filing of the petition, on 12 August 2008. The Court was invited to decide whether the documents established a disagreement on a matter of law or fact between the two States; Whether the dispute concerns “the interpretation or application of the Convention” as required by article 22 of the Convention; Whether the dispute existed on the date of submission of the petition. In this regard, it needs to decide whether Georgia has made such a claim and whether the Russian Federation is

positively opposed to it, resulting in a dispute between them within the meaning of article 22 of the Convention.

The Court noted that while the allegations of Georgia from 09 to 12 August 2008 were primarily allegations of the alleged unlawful use of force, they also explicitly refer to ethnic cleansing by Russian forces. These allegations were made directly against the Russian Federation and not against a party to the previous conflicts, the Russian Federation rejected it. Furthermore, the Court noted that the acts alleged by Georgia could be contrary to the rights provided for in the Convention, even if some of the alleged acts could be covered by other rules of international law, including humanitarian law. The Court believes that this is sufficient to determine the existence of a dispute between the parties that could be covered by the provisions of the Convention. The Court concluded that the exchange of statements between the Georgian and Russian representatives in the Security Council on 10 August 2008, the allegations made by the President of Georgia on 90 and 11 August and the response of the Minister for Foreign Affairs of Russia on 12 August prove that up to that day, that is, the day of Georgia ' s submission, there was a dispute between Georgia and the Russian Federation regarding the latter ' s compliance with its obligations under the Convention invoked by Georgia in this case. Accordingly, the Russian Federation ' s first preliminary objection was rejected.

As to the latter condition, it was stated in the second preliminary objection of the Russian Federation, on the basis of which it claimed that Georgia was prohibited from going to court because it had not fulfilled two procedural requirements of article 22 of the Convention, namely negotiations and recourse to the procedures expressly provided for in the Convention.

The Court noted that the issue of ethnic cleansing had not become the subject of genuine negotiations or attempts at negotiation between the parties and held that, although allegations and counter-claims of ethnic cleansing might prove a dispute over the interpretation or application of the Convention, they did not constitute attempts at negotiation by either party.

Although the Court recalled the tone of some of the remarks made by the Minister for Foreign Affairs of the Russian Federation against Georgian President Saakashvili, when he expressed his displeasure and stated that "he does not believe that Russia will have the mood not only to negotiate with Mr. Saakashvili, but even to talk to him", the Court, at the same time, the subject of these negotiations was not compliance by the Russian Federation with its obligations to eliminate racial discrimination. Therefore, apart from the ambiguous and possibly conflicting statements of the Russian Federation on the subject of the negotiations with Georgia as a whole, and President Saakashvili personally, these negotiations did not concern issues related to the Convention. Therefore, the question of whether the Russian Federation wishes to conclude negotiations with Georgia on the issue of armed conflict or to continue them is irrelevant in this case to the Court. Thus, the remarks of the President and Minister for Foreign Affairs of the Russian Federation on the prospects for negotiations with the President of Georgia did not end the possibility of negotiations on matters relating to the Convention, since those negotiations were not actually or specifically sought.

The Court was therefore unable to endorse Georgia ' s conclusion when it contended that "Russia ' s refusal to negotiate with Georgia in the midst of its ethnic cleansing campaign, and two days before the filing of the petition, is sufficient to give the Court jurisdiction under Article 22". The Court concluded that the facts on the record demonstrate that, from 09 to 12 August 2008, Georgia had not attempted to negotiate matters relating to the Convention with the Russian Federation. Consequently, Georgia and the Russian Federation have not conducted negotiations on the latter ' s compliance with its substantive obligations under the Convention.

The Court noted that, prior to submitting the dispute to the Court, Georgia had not claimed to have used or attempted to use another method of dispute resolution contained in article 22, namely the procedures expressly provided for in the Convention. Having regard to the Court ' s conclusion that, under Article 22 of the Convention, the negotiations and procedures expressly provided for in the Convention are preconditions for the exercise of its jurisdiction, and having regard to the factual conclusion that Georgia has not attempted to use any of these methods of dispute settlement, the Court does not need to consider whether the two preconditions have to be met by choice or by combination. Accordingly, the Court concludes that neither of the requirements of article 22 have been met and that article 22 of the Convention cannot therefore serve as a basis for establishing the Court ' s jurisdiction in this case. Accordingly, he supported the second preliminary objection of the Russian Federation. The Court therefore concluded that it was not required to consider or decide on the other objections to its jurisdiction raised by the respondent and that the case could not be moved to the substantive stage.

With this provision, the Court has missed the opportunity to decide, possibly at a later substantive stage, whether the events referred to in the complaint filed with it, which have caused many victims, fall within the scope of the relevant provisions of the Convention.

Although the Court refused to consider the Russian Federation ' s third submission alleging that the alleged wrongful conduct had taken place outside its territory, the Court therefore did not have jurisdiction ratione loci to hear the case. In its order of 15 October 2008, the Court noted that the Convention contains no restriction of a general nature relating to its territorial application and further noted, in particular, that neither article 20 nor article 50 of the Convention contain a particular territorial limitation and the Court therefore found that these provisions of the Convention generally apply, as do those of other instruments of the same nature, to acts of a State party acting outside its territory.

With regard to the last argument made by the Russian Federation, the fact that whatever jurisdiction the court may have limited in time to events occurring after the entry into force of the Convention between the parties, namely on 20 July 1999, does not raise many problems, even though the court has refused to consider it. It implicitly answered this question when considering the first argument relating to the handling of evidence concerning the existence of a dispute between the parties, with the Court distinguishing between documents and statements made before and after Georgia became a party to the Convention.

The most important question remains open to all eventualities: Whether the two preconditions should be met by choice or by combination? Especially in light of the accusation of the court by some of its judges to impose a very high threshold in formality and the lack of the latest jurisprudence in this regard.

II. The case concerning the application of the Convention between Ukraine and the Russian Federation in 2017.

The facts of the case date back to 16 January 2017, when the Government of Ukraine submitted to the Registry an application for suit against the Russian Federation for alleged violations by the latter of its obligations under the International Convention for the Suppression of the Financing of Terrorism and the ICERD.

Since the subject matter of this study is linked to the International Convention on the Elimination of All Forms of Racial Discrimination, we shall limit ourselves to presenting the aspects of this Convention in the Court ' s decision only. In this regard, Ukraine argues, inter alia, that the Russian Federation, through its bodies and agents, persons and entities exercising elements of public power, as well as its de facto authorities administering the illegal Russian occupation of Crimea, has violated its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination. Inter alia, as part of the State policy of cultural extermination of disadvantaged groups perceived as opposing the occupation regime, Crimean Tatars and ethnic Ukrainians in Crimea are systematically subjected to discrimination and ill-treatment; Crimean Tatars and persons of

Ukrainian ethnicity are also denied the possibility of receiving education in their own language, educational institutions, etc.

On 19 April 2017, the Court issued an order for provisional measures submitted by Ukraine obliging the Russian Federation to fulfill all its obligations in Crimea under the International Convention on the Elimination of All Forms of Racial Discrimination, including ensuring the provision of education in the Ukrainian language. It also committed both parties to refrain from any action or action that could prejudice their rights under the provisions of the Convention or exacerbate or widen the dispute. In its most recent decision, the Court ruled on the admissibility of jurisdiction when it rejected all preliminary objections submitted by the Russian Federation in its judgment of 08 November 2019.

Since the Court had to ascertain the conditions set out in article 22 of the aforementioned Convention, the Court had no difficulty in ascertaining the first and second conditions, as the Convention entered into force between the parties on 20 April 1989. Whereas the requirement to ascertain the existence of a dispute between two or more States was a priority for the Russian Federation in its defenses only in respect of its latter part, which, according to the terms of article 22 of the Convention, requires the dispute to be "concerning the interpretation or application of the Convention". In this regard, the Russian Federation has raised objections similar to those it had made in its case against Georgia in 2008, but later realized that this argument, which the Court had already rejected in its first case, would again be futile. in its final judgment, the Court declared that the parties had agreed that Crimean Tatars and people of Ukrainian ethnicity in Crimea would form ethnic groups protected under the Convention.

The Russian Federation should focus all its efforts on the argument concerning the latter requirement that the preconditions set out in article 22 of the Convention be met before resorting to the court. The Russian Federation argues that these conditions have not been met for two reasons. The first is that they must be met by combination rather than by choice and that the failure of the applicant to meet them deprives him of his right of recourse to the court, which was not the case in the present case. The second is whether, prior to its recourse to the court, the applicant had observed the procedural rule of "exhaustion of local remedies" which is part of what constitutes "the procedure expressly provided for in this Convention".

Although on three previous occasions the Court had hesitated to answer the first question, it again cast doubt on this judgment. having concluded that the application of rules of customary international law with respect to the interpretation of treaties suggests that the functional meaning of the term "or" in the words "cannot be settled by negotiation or by procedures expressly provided for in the present Convention" should be interpreted in accordance with its context and purpose, "negotiations" and "procedures expressly provided for in this Convention" are means of achieving the same purpose as the Court has already stated. The interpretation that all preconditions must be met is not in keeping with the true context and purpose of the article, which is the effective and speedy elimination of all forms of racial discrimination.

The Court drew this objective from a series of phrases in the preamble and articles 02, 04 and 07 of the Convention, along the lines of "without delay", "immediate and effective measures", "immediate positive measures" and" rapid". This objective would undoubtedly be more difficult to achieve if it were assumed that the preconditions set out in Article 22 must be met together. The Court concluded that it did not need to refer to the preparatory work to reach the conclusion that the requirements of article 22 of the Convention could not have been intended to function as conditions to be met collectively[xxxvi].

With regard to the second question relating to whether the procedural rule on "exhaustion of local remedies" falls within what constitutes "the procedure expressly provided for in this Convention", the Court held that the scope of application of this rule, under rules of customary international law, it is when a State brings a claim or action on behalf of one or more of its nationals. If the issue concerns "systematic and continuing stereotypical conduct or practices" against an unspecified number of people or persons belonging to a race or national or ethnic origin, the procedural rule on "exhaustion of local remedies" does not apply in this case. In this sense, according to the Court, this rule does not fall within what constitutes "the procedure expressly provided for in the Convention" and, therefore, does not constitute preconditions that must be met before recourse to the court within the meaning of article 22 of the aforementioned Convention [xxxvii].

The Court thus decided the case by accepting jurisdiction in its most recent decision when it rejected all preliminary objections submitted by the Russian Federation in its judgment of 08 November 2019. This is undoubtedly a precedent in the history of the Court, as this is the first of its kind to clarify the limits and nature of the relationship between the principal judicial organ of the United Nations. on the other hand, the ICERD is one of the most important international conventions in the field of human rights. There is no doubt that the transition in this case to the stage of substance will remove confusion about many ambiguous issues and answer some of the problems that are still outstanding. this would provide substantial guidance to countries in other similar cases, such as the case being heard by the court between Qatar and the UAE.

III. The case concerning the application of the agreement between Qatar and the UAE in 2018.

The facts of the case date back to 11 June 2018, when the State of Qatar submitted to the Registry an application to file a claim against the UAE for alleged violations by the latter of its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination. This is against the backdrop of the mass expulsion of Qataris inside the UAE territory, giving them only 14 days to leave, banning Qataris from entering or passing through it, shutting down Qatar's airspace and ports, interfering with Qatari-owned properties and discriminating against Qatari students who receive their education there. Qatar also alleges, among other things, that the UAE has criminalized any speech perceived as "support" for Qatar, closed Al Jazeera's offices, and banned access to Qatari stations and websites.

Qatar claims that these measures and actions, taken by the UAE on 05 June 2017, violate a number of rights, including the right to marry and choose a spouse where parents are separated from their children and husbands from their wives and families are dispersed, and result in violations of the right to freedom of opinion and expression. the rights to education, the right to work, the right to health and medical care, and they impede the right of Qatari companies and individuals to own property and their right to equal treatment before the UAE courts [xxxviii].

On 23 July 2018, the Court issued an order for interim measures submitted by Qatar obliging the UAE to fulfill its obligations under the Convention by ensuring, inter alia:

1) Reunite Qatari-Emirati families separated as a result of the measures taken by the UAE on 50 June 2017.

2) Enable Qatari students affected by the measures taken by the UAE on 05 June 2017 to complete their studies in the UAE or obtain their academic or university profile if they wish to study elsewhere.

3) Enable Qataris affected by the measures taken by the UAE on 05 June 2017 to have access to the courts and other judicial bodies in that country.

It also committed both parties to refrain from any act or action that could prejudice their rights under the provisions of the Convention or that could exacerbate or widen the dispute[xxxix]. (C)

As the Court was once again invited to verify that the conditions set forth in article 22 of the aforementioned Convention were met, it had no difficulty in ascertaining whether the first condition was met, as the Convention entered into force between the

parties on 22 July 1974. Although the UAE denied all the charges against it in this regard, the Court relied on the contradictory allegations between the parties to conclude that there was a dispute "concerning the interpretation or application of the Convention" and therefore the second condition was also met.

As to the third requirement, which requires the preconditions of article 22 of the Convention to be met before recourse to the Court, the latter decided on prima facie merits in its first part, and held that there was no possibility of settling the dispute and the questions raised about it through negotiation at the time of the submission of the request. recalling the letter submitted by the Minister for Foreign Affairs of Qatar to the Minister for Foreign Affairs of the UAE on 25 April 2018, during the thirty-seventh session of the Human Rights Council, in which he referred to the alleged violations resulting from the measures taken by his State on 50 June 2017, the Qatari Minister stated that "there is a need to enter into negotiations to put an end to these violations and their effects within two weeks"[xl] .

In this regard, the Court will be invited to rule on a question raised by the UAE in the Court's order of 23 July 2018, when it referred to the issue of "the seriousness of the negotiations". This shall not be without prejudice to the fact that the Court itself has granted this requirement as provided for in Article 22 of the Convention. the assessment of the "seriousness of the negotiations" is a different matter, which the Court considers at the substantive stage on a case-by-case basis, as noted in its judgment of 01 April 2011 in the case concerning the Application of the Convention between Georgia and the Russian Federation. "The verification of whether the negotiations, as distinct from mere protests or disputes, have taken place, and whether they have failed or faced deadlock, are essentially matters of substance "to be considered on a case-by-case basis". Notwithstanding this observation, the Court ' s jurisprudence has highlighted the general criteria against which it is ascertained whether negotiations have actually taken place. In this regard, they ended up accepting a less formal concept of what could be considered negotiations and endorsed "conference diplomacy or parliamentary diplomacy" [xli].

As to the second requirement of article 22 of the Convention, and whether their actions were intended as conditions to be met together? Whether the procedural rule on "exhaustion of local remedies" falls within what constitutes "the procedure expressly provided for in this Convention"? These are matters in which we refer to the most recent jurisprudence of the Court in its judgment of 08 November 2019, concerning the application of the ICERD between Ukraine and the Russian Federation, as we have seen before.

On 30 April 2019, the UAE raised preliminary objections regarding the court's incompetence and the inadmissibility of the petition. As a result, the proceedings on the merits of the case were suspended. By the order of 14 June 2019, the President of the Court fixed 30 August 2019 as the time limit within which Qatar could submit a written statement of its observations and conclusions on the preliminary objections raised by the UAE[xlii].

If there is any way to prejudge the Court's decision with regard to the preliminary objections raised by the UAE, which we have not yet had access to, it is not expected to depart much from those raised in the previous court orders of 23 July 2018 and 14 June 2019. Whereas the Court has cast doubt on certain grounds when, in its most recent case law , it has retained answers to some of these arguments in its judgment of 08 November 2019, concerning the application of the Convention between Ukraine and the Russian Federation as referred to earlier, a number of other questions would put the Court to careful tests at both the acceptance of jurisdiction and substance stages.

Perhaps most notably, the question raised by the UAE in its requests for interim measures on 22 March 2019, she claimed that she had the right not to be compelled to defend herself in parallel proceedings to answer the same question before two different organs, the Court on the one hand and the Committee on the Elimination of All Forms of Racial Discrimination on the other. In this regard, Qatar noted that this measure prejudges issues of jurisdiction and admissibility that should be decided at the stage of preliminary objections.

Although the court rejected the request for interim measures made by the UAE in its order of 14 June 2019, it recalled that it addressed this problem in its order of 23 July 2018 following Qatar's request for interim measures. In this context, the Court noted that recourse to the Committee on the Elimination of Racial Discrimination (CERD[xliii]) as well as negotiations were preconditions that must be met before recourse to the Court in principle, but that it was not required to decide this matter definitively at this stage of the proceedings.

The second question, which appears to be closer to the substantive stage, was raised by the UAE in the order of 23 July 2018, when it noted that the factual allegations by Qatar do not involve "racial" discrimination prohibited, within the meaning of the Convention, or other prohibited acts. It argues that the term "national origin", as referred to in article 1, paragraph 1, of the Convention, is "in conjunction with" "ethnic origin" and that the term "national origin "cannot include" current nationality". In their view, this interpretation is clear from the ordinary meaning of the text of the article, read in the context and in the light of the object and purpose of the Convention. The UAE also considers that the preparatory work confirms its interpretation. Thus, Qatar ' s allegations regarding the discriminatory treatment in which Qataris are alleged victims on the sole basis of their "present nationality" go beyond the scope of the Convention ' s substantive jurisdiction (CWC[xliv]). However, the Court considered that it was not incumbent upon it to decide this matter at this stage of the proceedings either. To keep the question, open about the criteria that the court will adopt to answer this question, will the court adopt a broad interpretation to consider that the term "national origin" can include "current nationality", or will it adopt a narrow interpretation? To answer this delicate question, if the Court were allowed to move to the substantive stage, would certainly constitute unprecedented jurisprudence in the history of the Court in the field of human rights in general and the ICERD in particular.

2. CONCLUSION

At the conclusion of this study, it can be said that the answers to the forms and questions arising from the practice of the Court, in revealing the limits and nature of the relationship it has with the International Convention on the Elimination of All Forms of Racial Discrimination, do not seem easy, especially with the legal consequences that may result from the difference in that answer. in the stages that the Court has not yet decided. Before any findings or recommendations of this study are discussed, it should be noted that they are based in part on practical principles, based on the practice of the Court and forward-looking ones that prejudge the decisions of the Court in pending cases:

3. RESULTS

- There is no doubt that the relationship between ICJ and the ICERD is the most important external relationship adopted by the latter. Recourse to the Court provides an appropriate mechanism for the application and interpretation of the provisions

of the Convention under the compulsory jurisdiction of the Court on the basis of the arbitration clause provided by article 22 of the same Convention. There is no doubt that the use of this mechanism in the field of human rights is a very important advantage, both for States parties and for the Convention itself, as the Court plays a major role in the application and development of the rules and principles of international law in general and human rights in particular. As well as the international legal value of the Court ' s decisions, as the principal judicial organ of the United Nations, compared with the parallel mechanism of the Committee on the Elimination of Racial Discrimination through its opinions as a quasi-judicial treaty body.

- Although States have delayed recourse to the Court for almost 40 years after the entry into force of the Convention, given the high threshold of restrictions imposed by Article 22 of the Convention as the basis for its jurisdiction, in recent years, however, there has been an active movement that has allowed the Tribunal to hear three full cases in just ten years (2008-2018). This is a significant number compared to the total number of cases transferred to the Tribunal during that period. Although the Court has tried to avoid going into some fine detail as much as possible, it has unambiguously contributed to revealing a large part of the nature and limitations of the relationship between the Court and the International Convention in both its procedural and substantive aspects. in particular, the most recent case law was issued in its judgment of 08 November 2019 on the application of the Convention between Ukraine and the Russian Federation. There is no doubt that the Court still has the opportunity to reveal the remaining part of the nature and limits of that relationship in the later stages, especially since it moved to the substantive stage in the previous case or if it decides to accept jurisdiction and move to the substantive stage in the case of Qatar and the UAE.

4. SUGGESTIONS

- Based on the principle that "the law is the weapon of the weak," we call on the governments of developing and vulnerable countries, including Arab countries, which have acceded to the ICERD with a reservation to the arbitration clause provided by Article 22 thereof, to have the courage to lift its reservation and not to be too afraid to resort to the Court, because of the guarantees and benefits that the Court provides for the preservation of its rights, as evidenced by the fairness provided by the Court throughout its history, to just cases, like its historic fatwa on the question of the separation wall in Palestine in 2004, as well as its famous judgment on the issue of military and paramilitary activities in and against Nicaragua in 1986, when a microscopic state in terms of area triumphed over a great state like the United States of America. This forced the court to issue a withdrawal permit to evade the court's compulsory jurisdiction, accusing the court of "politicization".
- The issue of the application of the agreement between Qatar and the UAE does not seem to be just a legal dispute between the two brotherly countries, but is part of a broader dispute that has spilled over to the citizens of both countries. There is no doubt that the court's decision, whatever its outcome, the victor is a loser, and there is no evidence of this that the citizens of the two countries have been affected by the dispersion of many families and UAE-Qatari spouses. In this regard, we are almost certain that bringing the issue to the walls of the Court is not the most appropriate and viable way for the two countries, but rather, it should be resorted to the table of "negotiations" only to end the dispute from the ground without victory or defeat.

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[i] adopted and opened for signature, ratification and accession by United Nations General Assembly resolution 2106A) S-20 of 21 December 1965, entry into force: 4 January 1969, in accordance with article 19.

[ii] - See: Decision of the Committee on the Elimination of Racial Discrimination, appendices to the opinion in Panagiotis et al. v. Greece, communication No. 1507/2006, Views adopted on 25 October 2010. (Separate opinion of Messrs. Rajsoomer Lallah, Lazhari Bouzid and Fabian Omar Savioli).

[iii] - See: Judgment on Armed activities in the Territory of the Congo between the Republic of the Congo and Rwanda, of February 2006, Summary of judgments, Advisory Opinions and Orders of the International Court of Justice, 2003-2007, United Nations document No. ST/leg/SER.F/1/Add.3, p. 172-173.

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[v] - Kazran Mustafa, substantive jurisdiction of the International Court of Justice, Journal of Legal and Social Sciences, Zian Ashour University of Jalfa, tenth issue, June 2018, p. 376.

[vi] - See: Judgment on the Application of the International Convention on the Elimination of All Forms of Racial Discrimination between Georgia and the Russian Federation of April 2011, Summary of judgments, Advisory Opinions and Orders of the International Court of Justice 2008-2012, see United Nations document ST/leg/SER.F/1/Add.4, p. 206.

[vii] - See order on the case concerning the Application of the International Convention on the Elimination of All Forms of Racial Discrimination between Georgia and the Russian Federation (indication of provisional measures), of 15 October 2008, Summary of judgments, Advisory Opinions and Orders of the International Court of Justice 2008-2012, see United Nations document ST/leg/SER.F/1/Add.4, p. 36.

[viii]- *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates), Order of 23 July 2018, P 12.*

[ix] - See: Judgment on Armed activities in the Territory of the Congo between the Republic of the Congo and Rwanda, of February 2006, Summary of judgments, Advisory Opinions and Orders of the International Court of Justice, 2003-2007, United Nations document No. ST/leg/SER.F/1/Add.3, p. 172-173.

[x] - See: Judgment on the case of application of the International Convention on the Elimination of All Forms of Racial Discrimination between Georgia and the Russian Federation of 01 April 2011, op. cit., p. 201.

[xi] - Zuhair al-Hassani, "the concept of legal dispute in the light of the advisory opinion of the International Court of Justice on 26 April 1988", Egyptian Journal of International Law, No. 47, 1991, p. 38.

[xii] - See: Qashy al-Khair, Legal and political disputes in the jurisdiction of the International Court of Justice ", Journal of Social and Human Sciences, University of Batna, second issue, 1994, see also 23, 24.

[xiii] - Ibid, p. 14.

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[xiv] - Ahmed Belkacem, International Judiciary, Al-Homa Printing, Publication and Distribution House, Algeria, 2005, p. 58. The definition is set out in the series of judgments of the Permanent Court as follows:

" A dispute is a disagreement on a point of law or fact, a contradiction, an opposition of legal theses or interests between two parties …", C.P.J.I; Serie a, N° 2, 1924, p. 12.

[xv] Suhail Hassan al-Fatlawi, Public International Law, Egyptian Bureau of Publication Distribution, Cairo, 2002, p.231.

[xvi] - Omar Saad Allah, Dictionary of contemporary International Law, first edition, University Publications Office, Algeria 2005, p448.

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[xix]*-David Ruzié : Public international law,14 Ed , Dalloz,Paris,1999.,p.160.*
[xx] - See: Judgment on the case of application of the International Convention on the Elimination of All Forms of Racial Discrimination between Georgia and the Russian Federation of 01 April 2011, op. cit., p. 200.
[xxi] Ibidem..
[xxii] Ahmed Abou Alouafa, mediator in International organizations Law, Fifth Edition, Dar al-Nahda al-Arabi, Cairo 1998, p.367.
[xxiii] - Mohamed Talaat al-Ghunaimi, General provisions in the Law of Nations, Manchaat Almaaref, Alexandria, 1971, p. 632, 633.
[xxiv] - See: Judgment on the case of application of the International Convention on the Elimination of All Forms of Racial Discrimination between Georgia and the Russian Federation of 01 April 2011, op. cit., p. 201.
[xxv] – Ibid, p. 201.
[xxvi] - Ibid, p. 205.
[xxvii] Ibidem..
[xxviii] - Ibid, p. 206.
[xxix] - Wissam Saleh Abdul Hussein Al-Rubaie, role of negotiations in promoting International Peace, Journal of the Faculty of Basic Education for Educational and Human Sciences, twentieth issue, April 2015, p. 440.
[xxx] - See: Judgment on the case of application of the International Convention on the Elimination of All Forms of Racial Discrimination between Georgia and the Russian Federation of 01 April 2011, op. cit., p. 205.
[xxxi] - See Wissam Saleh Abdul Hussein al-Rubaie, op. cit., p. 440.
[xxxii]*- Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), Judgment of 8 November 2019, P 40.*
[xxxiii]*- IBID, pp. 40-41.*
[xxxiv]*- IBID, pp. 45-46.*
[xxxv]*- IBID, pp. 40-41.*
[xxxvi]*- IBID, pp. 40-41.*
[xxxvii]*- IBID, pp. 45-46.*
[xxxviii]*- Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates), Order of 23 July 2018, P 13.*
[xxxix]*- Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates), Order of 23 July 2018, PP 31-32.*
[xl]*- Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v United Arab Emirates), Order of 23 July 2018, P 18.*
[xli] - See: Judgment on the case of application of the International Convention on the Elimination of All Forms of Racial Discrimination between Georgia and the Russian Federation of 01 April 2011, op. cit., p. 207.
[xlii]*- Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates), Order of 14 June 2019, P 04.*
[xliii]*- Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates), Order of 14 June 2019, PP 08-09.*
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