



American Model United Nations

ICJ Justice

The dissenting opinion was signed by and agreed to by Justice Selvaggio of France, Justice Kahlon of Iraq, Justice Rogier of Argentina.

The International Court of Justice under Article 36, clauses 2a, 2b, and 2c has jurisdiction to consider the case of the Libyan Arab Jamahiriya against the United States of America. The main points to be considered in the dispute are the interpretation of the Montreal Convention and whether or not Security Council resolutions 731 attributing blame for the Pan Am bombing to the Libyan Government and 748 sanctioning the government of the Libyan Arab Jamahiriya were adequately justified under Chapter 7.

In the matter of the bombing of then Pan Am flight over Lockerbie, Scotland a essential question in the consideration of the whether extradition of the accused persons to the United States or United Kingdom for trial can be sufficiently justified to preclude trial of the suspects in Libya. In addition there is a question of whether resolution 731 under Chapter 7 pushing for the extradition of the accused by putting responsibility of the bombing to the Libyan government creating a pretense that a trial in Libya would not be sufficiently capable of delivering justice in the case of the bombing.

As a permanent member of the Security Council the United States was instrumental along with the United Kingdom and France also permanent members of the Security Council, was involved at the time of the passage of resolution 731 under Chapter 7 demanding extradition of the accused. Chapter 7, the only way in which the United States could vote on resolution 731 and it was erroneously evoked.

The United States did not fulfill its obligation under the Montreal convention during the period between the 731 by not allowing Libya to bring the accused Libyan nationals to trial in Libya. The United States by pushing resolution 748 through the Security Council prior to the end of mutually agreed to arbitration through the International Court of Justice as specified through the Montreal convention.

Libya through requesting legal aid from the United States and the United Kingdom related to the incident demonstrates a good will effort on the part of Libya to follow the spirit of the Montreal convention. The insistence of Libya on exercising its sovereign right to try its own citizens in its courts with assistance from the United States and the United Kingdom was reasonable.

Security Council resolution 748 in sanctioning the sovereign nation of Libya, punished Libya without providing an adequate base to justify punitive action against the nation of Libya without linking the Libyan government to the crime committed in the Lockerbie incident. Without such a link the Security Council exceeded what would be reasonable as Libya has no obligation to extradite its nationals for foreign judicial proceedings.

The United States sponsorship of the conclusions of the Security Council resolutions 731 and 748 presents a material breach of the obligations of the

Montreal Convention on the part of the United States. The Court in this instance must in this instance exercise its minimal power of review in order to uphold basic principles of national sovereignty and the spirit of the United Nations Charter.

Though the Security Council under Chapter 7 has broad sweeping and legally binding powers, there are some sacred boundaries that must be respected in order to prevent the abuse of the Security Council's power by the Council's permanent members. In order for the council to fulfill its responsibility to promote international peace and security Chapter 7 can not be invoked at the whim of permanent members of the Council to promote their own jingoistic agendas. Vengeance against a whole nation for the actions of a few citizens by a superpower is unreasonable and goes against the principles of the United Nations.

For the United States with France and the United Kingdom to use their position on the Council to bully less influential nations is without conscience. All United Nations bodies must operate within the principles of the charter of the United Nations. When the Security Council exploits nations such as Libya to the appeasement a majority, the actions of the Security Council must be challenged.

The sanctions against Libya inflicted real economic damage that has served to impoverish the people of Libya. The United States and the Security Council has failed to submit to the court to significant evidence that the government of Libya was involved in the incident over Lockerbie to punish the people of Libya. It is not unimaginable that the United States would actually owe reparations to Libya. The United States acted selfishly by demanding to bring the accused to trial outside of Libya in violation of Libya's sovereignty under the Montreal Convention and general international law.

Justice Kahlon
Iraq

Justice Rogier
Argentina

Justice Selvaggio
France