

Maritime delimitation and territorial questions between Qatar and Bahrain
(Qatar v. Bahrain)

Statement by Judge Gilbert Guillaume
President of the International Court of Justice

The Hague, 16 March 2001

Ladies and Gentlemen,

The Court has today delivered its Judgment in the case concerning the *Maritime Delimitation and Territorial Questions between Qatar and Bahrain*. This Judgment is binding, final and without appeal. It brings to an end a long-standing dispute between these two sister States, thereby inaugurating a new stage in their relations.

The dispute referred to us concerned several territories claimed by each of the Parties. It also related to the delimitation of the maritime waters appertaining to Qatar and to Bahrain. Our Judgment is more than 70 pages long and does not make for easy reading. I therefore thought it useful to summarize it for you and for the general public.

The Court first decided the question of sovereignty over Zubarah, an area of the Qatar peninsula claimed by Bahrain. After a long historical analysis, the Court noted that, although the Al-Khalifah dynasty of Bahrain had exercised a certain measure of authority in Zubarah prior to 1868, the authority of the Al-Thani dynasty of Qatar was gradually consolidated there after that date. That authority was acknowledged in the 1913 Anglo-Ottoman Convention and was

definitively established in 1937. The Court accordingly held that sovereignty over Zubarah lay with Qatar.

The Court next addressed the issue of sovereignty over the Hawar Islands. It carefully examined the legal arguments made by each Party and based on both history and geography. The Court observed that, in 1938, the Rulers of Qatar and of Bahrain had entrusted the British Government with the task of determining the sovereignty issue. The British Government decided in 1939 that "these Islands belong to the State of Bahrain and not to the State of Qatar". The Court found that this decision, the making of which had been consented to by the two States, did not have the nature of an arbitral award. But nonetheless it was from the outset a valid and binding decision. That decision, taken at a time when Qatar and Bahrain were protected States of Great Britain, remained binding after 1971, when their status as protected States came to an end. The Court therefore concluded that Bahrain has sovereignty over the Hawars and rejected Qatar's submissions on this question.

The Court did however point out that the British decision of 1939 had not specified whether Janan Island should be regarded as forming part of the Hawar Islands group. It noted that in 1947 the British Government had informed the two States that this was not the case. The Court considered that Great Britain, in thus proceeding, had provided an authoritative interpretation of the 1939 decision and of the situation resulting from it. Accordingly, the Court recognized Qatar's sovereignty over Janan.

The last of the territorial disputes between the two States concerned the maritime feature of Qit'at Jaradah (much further to the north), the nature of which was disputed. The Court decided that this is an island,

and that only Bahrain could show that it had carried on activities there of a sovereign nature. These were few in number, but in accordance with the Court's case-law and given the small size of the island, they could be regarded by the Court as sufficient to support Bahrain's claim.

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Having thus decided the questions of sovereignty over Zubarah and Janan in favour of Qatar and those concerning the Hawar Islands and Qit'at Jaradah in favour of Bahrain, the Court proceeded to determine, in accordance with customary international law, the line of the single maritime boundary which the Parties had asked it to draw.

To do this, the Court began by provisionally establishing what the specialists call the median or equidistance line, that is to say the line connecting points situated at an equal distance from the relevant coasts of the two States. This is a complex technical operation, which I shall not go into here.

The Court then considered whether the line so drawn required adjustment in order to achieve an equitable result, as required by international law for maritime delimitations. In the area of the Hawars, the Court took the view that such an adjustment was not necessary.

However, at Fasht al Azm and Qit'at ash Shajarah, the Court did adjust the equidistance line by making the maritime boundary pass between those two features, thereby leaving Fasht al Azm on the Bahraini side and Qit'at ash Shajarah on the Qatari side of the line. Further north, it found that Qit'at Jaradah and Fasht al Jarim had

disproportionate effects on the delimitation that favoured Bahrain. Here, it therefore adjusted the equidistance line in favour of Qatar. The boundary consequently passes some 500 metres to the east of Qit'at Jaradah, then some 500 metres to the west of Fasht ad Dibal (thus placing this low-tide elevation under Qatari sovereignty). Further to the north, the boundary in this area meets Qatar's claims.

Finally, the Judgment makes it clear that the waters separating the Hawar Islands from the other Bahraini islands are not internal waters of Bahrain, but territorial waters of that State, where vessels of the State of Qatar, in particular, enjoy what lawyers call the right of innocent passage.

This, in outline form, is the Judgment rendered by the Court. The States of Qatar and Bahrain have been wise enough to submit their dispute to judicial settlement. Responding to their wishes, and at the end of lengthy proceedings, the Court has carried out its task, and we are particularly happy thus to have brought final closure to a long-standing dispute.

May the wisdom of the two States and their peoples be an example to all.
