

0144347111

1 August 2000

**QATAR'S COMMENTS ON BAHRAIN'S ANSWER OF 13 JULY 2000 TO THE  
QUESTION POSED BY JUDGE PARRA-ARANGUREN ON 29 JUNE 2000  
CONCERNING THE TERRITORIAL LIMITS OF ZUBARAH**

**I. General Remarks**

**A. Zubarah is not the so-called "Zubarah region"**

1. Bahrain has not answered the question of "what is the extent and what are the territorial limits of Zubarah?" (emphasis added). As Qatar noted in its own answer to this question, it is "Zubarah" that is the subject matter of the present proceedings before the Court.

It may be noted that Bahrain's own official Annual Report for the year March 1937 - February 1938 states: "... Zubara, the subject of this quarrel, is a place of no apparent value. The town is entirely in ruins...". In addition, the Agreement of June 1944 between the Rulers of Qatar and Bahrain provided that "[t]he Ruler of Qatar undertakes that Zubarah will remain without anything being done in it which did not exist in the past. This is from consideration and reverence to Al Khalifah...". All of this referred to the town of Zubarah as described in Qatar's reply to Judge Parra-Aranguren's question. There was no question at that time of defining a "Zubarah region"; yet Bahrain devotes the greater part of its reply to showing what are the limits of the "Zubarah region". In Qatar's submission this is entirely irrelevant.

2. Further confirmation of the extent of Zubarah, and of the British view of the extent of Zubarah, is to be found in a British chart prepared on the basis of a survey by H.M. Surveying Ships Owen and Dalrymple in 1950 and 1951<sup>3</sup>. That chart, of which a copy of the relevant

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<sup>1</sup> QR, Annex III.59, Vol. 3, p. 361, at p. 368; emphasis added.

<sup>2</sup> QM, Annex III.240, Vol. 8, p. 183.

<sup>3</sup> QM, Annex IV.202, Vol. 11, p. 9.

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extract is attached hereto<sup>4</sup>, clearly shows Zubarah as covering only the area identified as Zubarah on Map No. 10 in Qatar's Memorial.

3. Not once, however, does Bahrain state what are the limits of the town of Zubarah. Its whole argument is devoted to showing that the concept of Zubarah relates to a region that expands and contracts with each different description: the "region" is described in nine separate paragraphs (paragraphs 1, 6, 7, 12, 13, 14, 15, 16 and 18), none of which provides the same description. To take a few examples: while Lisha and Halwan (Hulwan) are mentioned 7 times (paragraphs 6, 7, 12, 13, 14, 15 and 16), Ain Muhammed is mentioned only twice (paragraphs 6 and 13), Umm al Ghubur and Al Maharaqa twice (at paragraphs 1 and 18 and 13 and 18, respectively), and Rakaiyat and Al Hiddeyyah only once (paragraphs 6 and 12, respectively), etc. Further examples of this shifting geography will be mentioned below, at paragraph 7, in relation to Bahrain's paragraphs 6 and 7.

Bahrain has thus not given a direct answer to Judge Parra-Aranguren's question, but has described an area that it tries to assimilate to Zubarah, which in fact covers a wide expanse of land with varying contours.

B. The so-called "Zubarah region" as a tribal territory

4. Bahrain now tries to define the outer limits of what it calls the "Zubarah region" as a function of its frequentation by the Naim tribe and of that tribe's ties of allegiance with the Ruler of Bahrain (paragraphs 3-6, 8-12 and 18-19). In other words, Bahrain has taken advantage of a question that was purely geographical, in order to reopen an argument on the merits: the argument of the tribal ties of allegiance of the Naim with the Ruler of Bahrain. Clearly, Bahrain can put forward no other basis for its claim, and seeks, without any basis in fact, to demonstrate the territorial extent of Zubarah in relation to the localities frequented by the Naim.

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<sup>4</sup> A copy of the whole chart is being deposited with the Registry of the Court, in accordance with Article 50, paragraph 2 of the Rules of Court.

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5. Qatar has already demonstrated that there is no foundation whatsoever for the criterion of ties of allegiance of the Naim, claimed by Bahrain as the basis of its title to Zubarah or the surrounding area. This demonstration was made by Qatar in its written pleadings<sup>5</sup> and was summarised during the oral pleadings<sup>6</sup>. As Qatar emphasised in the second round of oral pleadings<sup>7</sup>, Bahrain has never provided a serious response to any of these arguments.

6. Qatar will not repeat here everything that it has already said which shows that the argument of the tribal allegiance of the Naim, or of the Al-Jabr section alone, is of no value whatsoever in establishing any sovereign title of Bahrain over Zubarah or its surrounding area, and that therefore such an argument could not be used as a criterion for delimiting a territory that, in any event, was frequented by many Naim tribal sections other than the Al-Jabr and indeed by tribes other than the Naim<sup>8</sup>.

There can therefore be no question of attempting to define the limits of Zubarah on the basis of ties of allegiance which, moreover, were non-existent as such with regard to the Naim tribe. Such ties concerned only one section of the tribe - the Al-Jabr - and even with regard to that section, the criterion of ties of allegiance is inoperative since, in addition to all that has already been said as to the weakness of a claim based on allegiance, it will be recalled that, on 13 July 1937, the Chief of the Al-Jabr acknowledged "that he had entered into an agreement with the Ruler of Qatar and that he had agreed to obey the laws of Qatar while he resided in Qatar"<sup>9</sup>.

## II. Specific Comments

7. In order to avoid unnecessary repetition of argument, Qatar has made no attempt in these comments to refute every point made by Bahrain. Therefore, absence of comment cannot be taken as implying acceptance by Qatar of any of the assertions and arguments put forward in Bahrain's answer to Judge Parra-Aranguren's question.

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<sup>5</sup> See, QCM, paras. 5.42-5.62 and QR, paras. 6.30-6.58.

<sup>6</sup> See, CR 2000/9, pp. 19-25, paras. 39-54.

<sup>7</sup> CR 2000/19, p. 11, para. 39.

<sup>8</sup> On these particular points, see, QCM, paras. 5.11 and 5.53-5.57; BM, Annex 229, Vol. 4, p. 983a; QR, para. 6.31; CR 2000/9, p. 23, para. 51.

<sup>9</sup> QM, Annex III.138, Vol. 7, p. 191.

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At this stage of the proceedings, Qatar wishes simply to make a few comments on certain statements made by Bahrain. The paragraph numbers below correspond to the paragraph numbers in Bahrain's answer.

- Paragraph 1. This paragraph uses a technique that Bahrain is very fond of using in its arguments: insinuating that its territory is minuscule in comparison with Qatar's, and that its claim to Zubarah does not in fact really cover very much: "slightly more than one per cent of Qatar's land territory"<sup>10</sup>. The idea of a lilliputian State of Bahrain compared with a huge State of Qatar also appeared in the opening speech by the Agent of Bahrain<sup>11</sup>. Regardless of the absurd nature of this comparison - Bahrain and Qatar are both very small States - and although Bahrain is even smaller than Qatar in terms of surface area, the legal issue of Zubarah has quite clearly nothing to do with its comparative size. Judge Parra-Aranguren's question concerned only the determination of the precise limits of the place called "Zubarah", and this is all that was required.

- Paragraph 3. Bahrain alleges that "the Al-Ramzan branch of the Naim defected to the Ruler of Qatar and went to Doha and its environs". Bahrain has however cited no reference to prove that the whole of the Al-Ramzan section left the Zubarah area for Doha.

- Paragraph 6. Bahrain states that "Lorimer observed that the site [of Zubarah]... was surrounded by dependent forts 'within a radius of 7 miles' [15.4 kilometres] from the main town". Lorimer does not however use the word "dependent" in relation to these forts; and it may be observed in passing that 7 miles corresponds to 11.3 kilometres, not 15.4. More significantly, what Bahrain does not say is that at the time (a little before 1908) Lorimer had noted that these forts were in ruins and that the places were deserted, with the exception of Thagab, which was frequented by people from Khor Hassan, who were Kibisa, not Naim<sup>12</sup>.

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<sup>10</sup> Bahrain's calculation, like its calculation of the relative surface area of the Hawar islands, is wrong. For the Hawar islands, Bahrain has stated that they represent one-third of Bahrain's territory (CR 2000/11, p. 8, para. 5), whereas in fact they represent only about 7.5 % of the territory occupied by Bahrain. Bahrain now says that its claim to Zubarah represents "slightly more than one per cent of Qatar's land territory", whereas in fact it represents approximately 1.75%.

<sup>11</sup> CR 2000/11, p. 8, paras. 4-7.

<sup>12</sup> Lorimer, in QM, Annex II.4, Vol. 3, p. 109, at p. 138; and BM, Annex 74, Vol. 3, p. 371, at p. 398.

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- Paragraph 7. This paragraph contains a further example of misrepresentation by Bahrain. The statement of the Political Agent that is cited in this paragraph was qualified by the words "For the purpose of this note"<sup>13</sup>, and it is apparent from an earlier passage in the same annex that the statement was based upon what the Naim had told the Political Agent<sup>14</sup>. Moreover, the "Zubarah area" was described, by the Naim themselves, as being "bound on the north by Faraihah and on the south by Rubaijah" (Al Rubayqan on the map attached to Bahrain's answer as Annex 1). It will be appreciated that this covers a much smaller area than the area now claimed by Bahrain as the "Zubarah region". This is further confirmation that the so-called "Zubarah region" is sheer fantasy on the part of Bahrain.

- Paragraph 8. Bahrain also mentions an application for registration with the Bahrain land registry of a house in Lisha<sup>15</sup>. Qatar had already pointed out in its oral pleadings that there were no other such applications and that there is nothing to indicate whether the application was accepted<sup>16</sup>. During its second round of pleadings, Bahrain simply responded that "il n'y avait pas de cadastre à Zubarah il y a un siècle" (*sic*)<sup>17</sup>. In its answer to Judge Parra-Aranguren's question, Bahrain now returns to this application for registration which occurred not a century ago, but on 23 April 1937<sup>18</sup>. It must therefore be reiterated that the fact that there was only ever one single application, and that it appears not to have been followed up, confirms that Bahrain performed no acts of administration in the area it claims as Zubarah, given that it had established a land registry for its territory at the beginning of the 1930s<sup>19</sup>.

- Paragraphs 8, 12 and 18. Bahrain refers to witness statements by private persons: the Court will be well aware of the value to be attributed to statements favourable to one of the parties to a case, when such statements are made by nationals of that party.

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<sup>13</sup> BM, Annex 126, Vol. 3, p. 652, at p. 665.

<sup>14</sup> See, *ibid.*, at p. 654.

<sup>15</sup> BM, Annex 118, Vol. 3, p. 638.

<sup>16</sup> CR 2000/18, p. 54, para. 25.

<sup>17</sup> Qatar's translation: "there was no land registry at Zubarah a century ago"; CR 2000/22, p. 54, para. 10.

<sup>18</sup> BM, Annex 118, Vol. 3, p. 638.

<sup>19</sup> BM, Annex 227, Vol. 4, p. 968.

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- Paragraph 14. Bahrain states that "in the context of the 1944 settlement negotiations between Bahrain and Qatar, ... the Political Agent proposed that the historical claims of the Al-Khalifa to the forts at the wells of Umm El Ma, Al Naman, Al Lisha, Halwan [Hulwan], Umm Sika [Masarehah] and Al Furiha [Faraiyah], all ringing the Zubarah area, be recognised". What Bahrain omits to mention is that the Political Agent proposed that such forts should be "the personal property of the Al Khalifah" and that the Ruler of Bahrain "shall have no claim or right whatsoever to the ground" in the area between such forts and the ruins of Zubarah<sup>20</sup>. In the event, of course, the agreement that was actually signed some four months later made no provision for any such rights of personal property<sup>21</sup>.

- Paragraph 19. Bahrain states, on the basis of a map drawn up by Ms. A. Montigny-Kozlowska, that the Al-Jabr "were the predominant branch of the Naim in the Zubarah region". Qatar has however already shown in its Counter-Memorial that this statement is incorrect<sup>22</sup>.

- Paragraphs 15 and 16. The documents cited in these paragraphs are again not evidence of a territorial claim by the Ruler of Bahrain over the localities that are mentioned, but concern rather claims of private property rights and freedom of movement. Moreover, Bahrain has failed to mention that in his note of November 1946, cited by Bahrain in paragraph 15, the Political Agent referred to his own opinion that the Ruler of Bahrain "had no rights whatsoever in Qatar or Zubara"<sup>23</sup>.

\* \* \*

Qatar regrets that it has been necessary to go into such detail in the above comments, but it felt obliged to do so, given the nature of Bahrain's answer to the question of Judge Parra-Aranguren.

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<sup>20</sup> BM, Annex 166, Vol. 4, p. 751.

<sup>21</sup> BM, Annex 167, Vol. 4, p. 752/753.

<sup>22</sup> QCM, para. 5.56.

<sup>23</sup> BM, Annex 182, Vol. 4, p. 790.

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NORTHERN



0144347111

1 August 2000

## QATAR'S COMMENTS ON BAHRAIN'S ANSWER TO JUDGE KOOIJMANS' QUESTIONS

Only the first two sentences of Bahrain's response to Judge Kooijmans' questions deal with those questions.

In this respect, Qatar takes note of Bahrain's confirmation (a) that, to date, Bahrain has not specified baselines for the determination of the outer limits of its territorial sea, and (b) that Bahrain has not produced maps or charts which reflect such baselines.

The remainder of Bahrain's response is devoted to argument on the merits relating to its maritime claim presented to the Court. Although that part of its response is therefore irrelevant in relation to Judge Kooijmans' questions, Qatar feels obliged to make the following two remarks.

First, with regard to the placing of beacons and markers on islands and low-tide elevations in the 1930s, Qatar has already shown that such beaconing and marking has no implications as to sovereignty<sup>1</sup>, as was recently confirmed by the first Award in the *Eritrea/Yemen* Arbitration<sup>2</sup>.

Second, concerning Bahraini coastguard patrols to the east of what Bahrain now claims as basepoints, Qatar has previously shown that such patrols are not by themselves evidence of sovereignty<sup>3</sup>. This is why, in the proceedings before the Court, Qatar refrained from drawing the Court's attention to the evidence that it had filed which demonstrates that its own naval forces and coastguards patrol in these waters<sup>4</sup>.

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<sup>1</sup> See, QM, paras. 6.41, *et seq.*; QCM, para. 6.21; CR 2000/5, pp. 39-40, para. 22; CR 2000/9, pp. 58-59, para. 54.

<sup>2</sup> Award, 9 October 1998, para. 328. This was also the position taken, on 5 May 1986, by the Mediator between the Parties to the present case in response to a complaint by the Amir of Qatar of 30 April 1986 (QMJA, Annex II.12, Vol. III, p. 63, at pp. 65 and 68).

<sup>3</sup> QCM, para. 6.35; CR 2000/5, p. 40, para. 22.

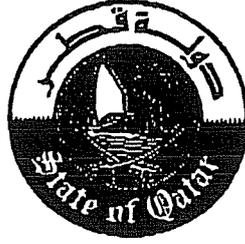
<sup>4</sup> See, for example, QM, Appendix I, Vol. 14, pp. 23-32, 38-72, 74-79 and 87-99.



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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

*Agent of the State of Qatar before the  
International Court of Justice*



وكيل دولة قطر  
لدى محكمة العدل الدولية

H.E. Mr. Philippe Couvreur  
Registrar  
International Court of Justice  
Peace Palace  
2517 KJ The Hague  
The Netherlands

1 August 2000

**Re. Case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)**

Sir,

In his letter dated 13 July 2000, H.E. the Agent of the State of Bahrain transmitted to the Court Bahrain's comments on Qatar's responses to Judge Vereshchetin's questions.

At paragraph 5 of Bahrain's comments on Question 2, concerning the meaning of "Bahrain and its Dependencies", Bahrain made the new assertion that "passports issued by Bahrain from the late 1950's until 1971 were headed 'Government of Bahrain and Dependencies'". Bahrain made that assertion without any supporting evidence and without having requested the right to produce new evidence. Had Bahrain requested authorization to produce evidence to support its new assertion, Qatar would have been in a position also to file evidence in this regard, at the time of its filing of its own comments on Bahrain's responses to Judge Vereshchetin's questions.

Consequently, and pursuant to Article 56 of the Rules of Court, Qatar hereby requests authorization to produce four new documents, being examples of passports issued in the 1950s by "Qatar State and Dependencies", which are a further indication of Qatar's independent international status at the time. A copy of the relevant extract from each passport is attached hereto, in accordance with Article 56, paragraph 1 of the Rules of Court, and I hereby certify that these are true copies.

Please accept, Sir, the assurance of my highest consideration.

*A. A. Muslemani*  
Dr. Abdullah bin Abdulatif Al-Muslemani  
Agent of the State of Qatar

0144347111

This passport contains 32 pages. يشتمل هذا الجواز على ٣٢ صفحة.

جواز السفر

PASSPORT

QATAR STATE AND DEPENDENCIES

حكومة قطر وتوابعها

No. of Passport

٠٠٧٦

رقم الجواز

Name of Bearer

أحمد الجواز عبد الله محمد بن

ABDULLAH MOHD. ZIR

Accompanied by

NIL

مصحوبا

National Status

الجنسية القطرية

QATAR SUBJECT

بسم الله الرحمن الرحيم

PASSPORT

جواز السفر

Qatar State and Dependencies.

حكومة قطر وتوابعها

To all whom it may concern :-

لكل من يقف على هذا :-

Greeting.

تحية،

Honourable friends, the Officials of the Great Powers, and the Representatives of other Kingdoms abroad, are required and requested to allow the bearer to pass freely without let or hindrance and to afford him every assistance and protection of which he may stand in need.

نود ونرجو من الاصدقاء الكرام ورجال الدول العظام وممثلي الحكومات ان يسمحوا لحامل هذا الجواز حرية المرور من غير تمويق وتأخير، ويسهلوا الصعوبات في سبيله وبراعوه بكل ما يحتاج اليه من المساعدة.

Issued by order of His Excellency the Ruler of Qatar.

صدر بأمر حاكم قطر

Given at Doha

في لاهور تاريخ ١٤

the 24th FEBRUARY 1953

١٣٧٢

Minister, Government of Qatar.

مستشار حكومة قطر

0144347111

This passport contains 32 pages يشتمل هذا الجواز على ٣٢ صفحة

جواز السفر

PASSPORT

QATAR STATE  
AND  
DEPENDENCIES

حكومة قطر  
وتوابعها

No. of Passport: ٠٤١٢ رقم الجواز

Name of Bearer: اسم حامل الجواز فضيل الله بن علي

Fayez Allah Bin Ali

Accompanied by مصحوبا زوجة وابنتان

Wife & Sons

National Status الجنسية مصرية يابسة من قبل والده

Naturalised Qatar Subject

٧٥١٨

بسم الله الرحمن الرحيم

PASSPORT

جواز السفر

Qatar State and  
Dependencies.

حكومة قطر وتوابعها

To all whom it may  
concern:—

لكل من يقف على هذا:—

Greeting.

تحية.

Honourable friends, the  
Officials of the Great Powers,  
and the Representatives of  
other Kingdoms abroad, are  
required and requested to  
allow the bearer to pass  
freely without let or hind-  
rance and to afford him every  
assistance and protection of  
which he may stand in need.

نود وترجو من الاصدقاء الكرام  
رجال الدول العظام ويمثلي الحكومات  
ان يسمحوا لحامل هذا الجواز حرية  
المرور من غير تمويق وتأخير،  
وسهلوا الصعوبات في سبيله وراعوه  
بكل ما يحتاج اليه من المساعدة.

Issued by order of His  
Excellency the Ruler of  
Qatar.

صدر بأمر حاكم  
قطر

Given at Qatar Doha في قطر الدوحة تاريخ

the 9<sup>th</sup> May 1955 من ١٣٧٤ سنة

Adviser, Government of Qatar.

مستشار حكومة قطر

0144347111

This passport contains 32 pages صفحة ٣٢ يتتمل هذا الجواز على

**CANCELLED**  
جواز السفر  
**PASSPORT**

**QATAR STATE** | حكومة قطر  
**AND**  
**DEPENDENCIES** | وتوابها

No. of Passport 7530703 رقم الجواز

Name of Bearer محمد الحسن ميسري اسم حامل الجواز

**MOHAMMED HASSAN MAYSARI.**

Accompanied by WIFE مصحوبا زوجة

National Status جنسية قطر

**QATAR SUBJECT BY NATURALIZATION**

بسم الله الرحمن الرحيم

**PASSPORT** جواز السفر

**Qatar State and Dependancies** حكومة قطر وتوابها

To all whom it may concern: لكل من يقف على هذا: -

Greeting: تحية  
Honorable friends, the Officials of the Great Powers, and the Representatives of other Kingdoms' abroad, are required and requested to allow the bearer to pass freely without let or hindrance and to afford him every assistance and protection of which he may stand in need.  
فود وترجو من الاصدقاء الكرام رجال الدول المظالم ويمتلي الحكومات أن يسمحوا لحامل هذا الجواز حرية المرور من غير تعويق وتأخير، ويسهلوا الصعوبات في حيله وبراعوه بكل ما يحتاج اليه من المساعدة.

Issued by order of His Excellency the Ruler of Qatar. صدر باسم حاكم قطر

Given at **QATAR** في **قطر**  
the **25 JUNE 1996** من رواله ٢٥ ١٣٧٥

*J. Binaghi*  
Adviser, Government of Qatar. مستشار حكومة قطر

0144347111

This passport contains 32 pages صفحة ٣٢ على هذا الجواز

جواز السفر

PASSPORT

QATAR STATE  
AND  
DEPENDENCIES

حكومة قطر  
وتوابعها

No. of Passport 1154 1108 رقم الجواز

Name of Bearer اسم حامل الجواز صالح بن عبد الرحمن

SAHEM OBEID AL TARIEI

Accompanied by متزوجا وزوجته وابنته

WIFE AND DAUGHTER

National Status الجنسية قطري بالتجنس رقم (٩٦٤٥)

QATARI BY NATURALIZATION

NE 9622/56

بسم الله الرحمن الرحيم

PASSPORT

جواز السفر

Qatar State and  
Dependencies.

حكومة قطر وتوابعها

To all whom it may  
concern :-

لكل من يقف على هذا :-

Greeting.

تحية،

Honourable friends, the  
Officials of the Great Powers,  
and the Representatives of  
other Kingdoms abroad, are  
required and requested to  
allow the bearer to pass  
freely without let or hind-  
rance and to afford him every  
assistance and protection of  
which he may stand in need.

نود وتوجو من الاسدقاء الكرام  
رجال الدول المظام ويمتلكي الحكومات  
أن يستحقوا الحامل هذا الجواز حرية  
المرور من غير تعويق وتأخير،  
وسهلوا الصعوبات في سبيله وبراووه  
بكل ما يحتاج اليه من المساعدة.

Issued by order of His  
Excellency the Ruler of  
Qatar.

صدر باسم حاكم  
قطر

Given at DOHA في الدوحة تاريخ ٩

the 24 MAR 19 58 ١٣ ٧٧ سنة ١٣٧٧

Adviser, Government of Qatar.

مدير الجوازات  
مدير الجوازات  
مدير الجوازات

