Corrigé
Corrected

CR 2019/8

International Court of Justice

THE HAGUE

Cour internationale de Justice

LA HAYE

YEAR 2019

Public sitting

held on Thursday 9 May 2019, at 4.30 p.m., at the Peace Palace,

President Yusuf presiding,

***in the case concerning* Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar *v.* United Arab Emirates)**

VERBATIM RECORD

ANNÉE 2019

Audience publique

tenue le jeudi 9 mai 2019, à 16 h 30, au Palais de la Paix,

sous la présidence de M. Yusuf, président,

***en l'affaire relative à l'*Application de la convention internationale sur l'élimination de toutes les formes de discrimination raciale (Qatar c. Emirats arabes unis)**

COMPTE RENDU

Present:	President	Yusuf
	Vice-President	Xue
	Judges	Tomka
		Abraham
		Bennouna
		Cançado Trindade
		Donoghue
		Gaja
		Bhandari
		Robinson
		Crawford
		Gevorgian
		Salam
		Iwasawa
	Judge *ad hoc*	Daudet
	Registrar	Couvreur

Présents : M. Yusuf, président
Mme Xue, vice-présidente
MM. Tomka
Abraham
Bennouna
Cançado Trindade
Mme Donoghue
MM. Gaja
Bhandari
Robinson
Crawford
Gevorgian
Salam
Iwasawa, juges
M. Daudet, juge *ad hoc*

M. Couvreur, greffier

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The PRESIDENT: Please be seated. The sitting is open. For reasons duly made known to me, Judge *ad hoc* Cot is unable to sit with us this afternoon. The Court meets this afternoon to hear the second round of oral observations of Qatar on the Request for the indication of provisional measures filed by the United Arab Emirates. I invite Mr. Vaughan Lowe to take the floor. You have the floor.

Mr. LOWE:

I. OPENING

1. Mr. President, Members of the Court: there are four main points that Qatar wishes to emphasize to the Court this afternoon.

2. *First*, this is a human rights case arising from a land, sea and air blockade of Qatar and a crisis in which thousands of individuals, selected for no other reason than their national origin, were told to leave the UAE within 14 days. I will not labour the point; but even this procedural hearing is being watched closely, as we speak, by many of those affected by the actions of the UAE, and sight must not be lost of the fact that it is their welfare that lies at the heart of this case.

3. *Second*, the UAE has based its case for provisional measures on only three concrete facts or sets of facts:

(i) the blocking of access from Qatar to the UAE website of which you have heard so much;

(ii) the criticism of the UAE by the media and the National Human Rights Commission in Qatar; and

(iii) the application by Qatar to the CERD Committee and Commission.

4. If those facts do not support the UAE's application, the UAE's case falls. There is no other factual basis on which the UAE puts forward its Request.

5. *Third*, the issue of principle concerning the parallel proceedings, which the UAE says arises from Qatar's CERD application, comes down to the question whether the Court regards the concurrent pursuit of a possible amicable settlement as incompatible with its judicial function.

6. *Fourth*, this is an interlocutory hearing on an application for four specific provisional measures. It is not a hearing on preliminary objections or on the merits.

7. My colleagues will address these and other points arising from the UAE's second round pleadings; but before they do, I should say a few words to explain and develop these basic points.

A. This is a human rights case

8. On the first main point, I say no more about the seriousness of this human rights case. Qatar is confident that the Court is alive to the context in which this hearing arose.

B. The limited factual foundation

9. The second main point is that the application has an extremely limited factual foundation.

10. The UAE gives the fourth requested order — non-aggravation — no foundation in concrete facts whatever.

11. The first requested order is in its own terms confined to the proceedings before the CERD. If those proceedings cease to be an issue, the first request falls. I shall return to that point shortly.

12. The second requested order, relating to the UAE's attempts to assist Qatari citizens, identifies only one such attempt: the UAE website. If that matter is resolved — and the UAE could have resolved it this week if it had wished to — the second request falls.

13. The third requested order — the "fake news" request — refers to the acts of all of Qatar's "national bodies" and "State-owned, controlled and funded media outlets".

14. The UAE does not explain how it is to be determined if something is a national body, or if it is owned or controlled or funded to some degree or other by the State. Such details might be thought necessary for the Court to make an order capable of practical application. But putting those matters to one side, the point is that if the "fake news" claim is dismissed, whether because it requires a determination on the merits or because it is simply baseless, the third request falls.

"Fake news"

15. On the question of "fake news", it is not for counsel to express offence after hearing accusations of fraud and lying flung around for hours; but it is appropriate for counsel to point out the lack of evidence and the mischaracterization of evidence, and I take some examples.

16. To start with the *Qatar* v. *Bahrain* case, on the historical facts the Court may note that Professor Reisman, who was co-counsel for Bahrain in that case, wrote an entire chapter on these allegations in his book on *Fraudulent Evidence Before Public International Tribunals*, and concluded: "there is no evidence to implicate an official or officials within the Qatari government who might have engaged, consciously and intentionally, in an effort to submit a trove of forged documents in order to win the case"[1].

17. Whatever force the suggestion that Qatar had "established a reputation" for fabricating evidence may have as a facile and baseless insult, it has no value as a submission on evidence. If the UAE wishes to allege that any piece of evidence submitted in this case has been fabricated by Qatar, it should say so and it should prove it.

18. Part of the problem lies in what the UAE regards as proof of "fabrication". Qatar's witness statements are an example. Qatar's mendacity was said to be evidenced by the fact that witnesses had repeated phrases used on television and in the press that described the UAE hotline or website as a face-saving gesture. How on earth does that indicate that the witness statements are fraudulent?

19. It is said that the witness statements were drawn up for witnesses, after interviews with them, and given to them to revise as necessary before signing them. Yes; they were. That is a perfectly normal way of preparing concise and focused witness statements for legal proceedings. No one with any exposure to litigation in the common law world would be in the slightest bit surprised by this ubiquitous professional practice.

20. It is said that the fact that some witnesses did not try to use the hotline shows that their witness statements are fabricated or manipulated. The suggestion that the fact that people who had been given 14 days to clear out of the country with their families and belongings did not then choose to phone the same governmental authorities that had ordered them out, in some way evidences the "fabrication" of their witness statements is, at best, insensitive. Is it said that they must have lied in their sworn statements because they did not telephone? Or is it said that Qatar

[1] W. M. Reisman & C. Skinner, *Fraudulent Evidence before Public International Tribunals*, 2014, p. 188

coerced them into signing false sworn statements? We will never know because the UAE contented itself with pasting its "fake news" label over the evidence.

21. Then there are the redactions in the witness statements. The Court has the unredacted statements and will judge for itself if, as Qatar believes, these are redactions necessary to protect the identities of vulnerable witnesses, in accordance with the common practice adopted also by the UAE in this case. The suggestion that the redactions evidence fabrication is nonsensical.

22. Time is short, and these examples must suffice. The claims collapse under their own weight; and, perhaps more importantly, they are all claims that the UAE can make in the form of challenges to the reliability of the evidence, and to the inferences that can properly be drawn from it, at the merits hearing.

23. The factual basis of this case is vanishingly slight. The UAE says that Qatar is *even now* continuing to fabricate evidence. That accusation is unfounded, and it is untrue.

C. The relationship between the Court and the CERD

24. The third main point concerns the relationship between the Court and the CERD mechanism. This is a happier topic, where there is a clean disagreement between the Parties on a question of law.

25. The UAE pulled back from its submissions on *lis pendens* and advances the broader argument that the Court should use its general procedural powers to bar abusive duplicative proceedings.

26. We accept the existence of the general power. What divides us is the question whether the CERD and ICJ proceedings are duplicative and abusive.

27. Qatar submits that the critical point is that there is no possibility of conflicting obligations arising from these procedures, because the CERD procedure *cannot* result in the imposition of an obligation on the Parties.

28. Obviously the CERD Committee and Commission will "*address*" questions of interpretation of the CERD: what else would they be talking about? But they cannot make binding *determinations* of the legal rights and obligations of the Parties. The Parties decide whether to accept or reject recommendations of the Conciliation Commission. The findings and

recommendations of the conciliators will not even claim the status of "General Comments" of the kind commonly made by human rights bodies, which have existed for many years without anyone suggesting that they usurp the authority of the Court.

29. The basic question is whether to allow the Parties to continue the search for an amicable settlement of their dispute while the Court remains seised of their case.

30. Parties cannot be forbidden to engage in negotiations that might lead to the settlement of their case. That is both impracticable and contrary to States' rights to seek the settlement of their dispute by peaceful means of their own choice. It is hard to see why negotiations assisted by the provision of good offices, or by a mediator or a conciliator, should be treated any differently, or why it should make any difference whether the mediation or conciliation occurs on an *ad hoc* basis or under a pre-established procedure such as that in the CERD.

31. Qatar submits that it would impede the effectiveness of the Court — and of any international tribunal — in taking its part in the peaceful adjustment of disputes if States were barred from setting about the business of finding amicable, agreed solutions to disputes while they are pending before the Court.

32. Counsel for the UAE helpfully accepted that their position is that even non-binding procedures must be barred. Qatar disagrees. You have heard the submissions of both Parties, and you will decide.

D. This is a provisional measures hearing

33. The final main point: this is a hearing only on provisional measures. You have already heard detailed submissions from Qatar on this point; and I add only one observation.

34. The UAE's explanation of its interpretation of CERD Article 16, with which we disagree, is a good example of the problem. We say that Article 16 permits parallel proceedings; they say that it does not. A dispute exists over the interpretation which will be settled at the preliminary objections stage. What does not exist at present is a clear and uncontested right of the UAE to have the CERD case terminated now. The UAE has not established that its interpretation is plausible and that Qatar's is not.

35. This case has very serious human rights dimensions, and it is not hard to find interesting questions of legal principle that might arise from the submissions of one or other party; but it may be that this application can be determined solely on the basis of the Court's well-established case law concerning the proper scope of the various phases of litigation in cases before it.

36. Mr. President, Members of the Court, thank you for your attention; that brings my submission to an end and I would ask that you now invite Mr. Martin to take the lectern.

The PRESIDENT: I thank Mr. Lowe. I invite Mr. Martin to take the floor. You have the floor.

Mr. MARTIN:

II. THE COURT SHOULD REJECT THE FIRST PROVISIONAL MEASURES THE UAE REQUESTS

1. Mr. President, distinguished Members of the Court, good afternoon. My topic today is the same as it was yesterday: the reasons the first provisional measure the UAE requests should be denied. I am mindful of the late hour and the limited time. I will be brief, in part because there is not much that needs to be said.

2. Yesterday, I discussed three reasons the first measure should be rejected: (1) the object of the measure is improper; (2) granting it would impermissibly prejudge issues of jurisdiction and admissibility; and (3) the UAE faces no irreparable harm. Today, I will take up the same three issues but in reverse order.

A. There is no risk of irreparable prejudice

3. This morning, counsel for the other side tried to explain why the UAE faces an imminent risk of irreparable injury. Professor Reisman argued that what matters is whether the CERD institutions can "make an authoritative decision, whether or not the decision is binding"[2]. He then explicitly stated that the CERD institutions are "quasi-judicial bodies" whose decisions are "not binding" on States[3].

[2] CR 2019/7, p. 18, para. 5 (Reisman).

[3] CR 2019/7, p. 21, para. 16 (Reisman).

4. Mr. President, this clearly is a distinction that makes a difference. If the CERD institutions are not judicial bodies, and cannot issue binding decisions, then, and I quote Professor Reisman again, "having to deal with an authoritative decision of another adversarial dispute-resolving institution in the midst of your own proceeding" cannot possibly give rise to irreparable prejudice[4]. The reason is simple: this Court is fully capable ***of*** reaching its own conclusions on the law and the facts.

5. The UAE itself recognizes this. At the hearing on Qatar's request for provisional measures last June, counsel for the UAE stated: "[o]f course, the Committee cannot take binding decisions and that is precisely why Article 22, *in fine*, the ultimate safety net, provides the possibility . . . of seising this Court . . ."[5].

6. Elsewhere, the UAE was even more explicit — I quote again from its pleadings before the Court: "The views of the CERD Committee may of course be of some interest to the Court; however, the question of interpretation of the Convention is, in the final analysis, *one for the Court alone*."[6]

7. We could not agree more.

8. On its own pleadings, then, the UAE's prejudice does not arise. And even if it could be said that some kind of prejudice did arise, it can be repaired easily by the Court's function to decide such disputes as are submitted to it in accordance with international law, pursuant to Article 38 of the Statute[7].

9. More generally, Mr. President, I think we should resist the intimation that the relationship between the CERD institutions and the Court is antagonistic[8]. The Court's jurisprudence makes clear that it values and respects, and frequently relies on, the interpretations of human rights treaties

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[4] CR 2019/7, p. 18, para. 4 (Reisman).

[5] CR 2018/13, p. 26, para. 20 (Pellet).

[6] CR 2018/15, p. 23, para. 19 (Olleson); emphasis added.

[7] *Pulp Mills on the River Uruguay (Argentina* v. *Uruguay), Provisional Measures, Order of 13 July 2006, I.C.J. Reports 2006*, p. 131, para. 70.

[8] CR 2019/6, p. 13, para. 11 (Al-Khulaifi).

made by human rights bodies[9]. The UAE is asking you to disregard this harmonious relationship and interfere with the CERD process. The implications of granting the UAE's unprecedented request can only be described as extreme, as the UAE itself previously recognized before the Court. To quote again from its argument before the Court last June: "The Committee was assigned the role of principal custodian of the Convention. Bypassing the conciliation mechanism would have the regrettable effect of undermining its authority and that of all comparable human rights bodies."[10]

10. Again, we could not agree more.

B. If granted, the first measure would prejudge issues of jurisdiction and admissibility

11. Granting the first measure the UAE requests would also impermissibly prejudge questions of jurisdiction and admissibility.

12. Indeed, this morning Professor Reisman could scarcely have been any clearer in this respect. He went so far as to claim that "the central question before you in this provisional measure is whether parallel proceedings are intended by the CERD and should be allowed"[11]. In other words, the UAE wants you to answer that question now, but it cannot be answered now. It is a question of jurisdiction that must be raised at the appropriate stage. Indeed, it already has been raised by the UAE at the appropriate stage — in the form of its third preliminary objection recently filed with the Court — which is effectively identical in fashion.

13. As you can see on the screen — and this is also at tab 1 of your judges' folder — in paragraph 36 of its application for provisional measures, the UAE claimed that "Article 22 of the CERD specifically restricts" recourse to the Court "to be the final stage of a carefully crafted linear and hierarchical dispute resolution process".

14. It made the same claim in paragraph 237 of its Preliminary Objections. In its words, "parallel proceedings of the CERD Committee and of the Court would entail the risk of a clash

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[9] See e.g. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004, I.C.J. Reports 2004 (I)*, pp. 179-180, paras. 109-110; *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo), Merits, Judgment, I.C.J. Reports 2010 (II)*, pp. 663-664, paras. 66-67; *Questions relating to the Obligation to Prosecute or Extradite (Belgium* v. *Senegal), Judgment, I.C.J. Reports 2012 (II)*, p. 384, para. 101.

[10] CR 2018/13, p. 21, para. 8 (6) (Pellet).

[11] CR 2019/7, p. 17, para. 4 (Reisman).

between these two international institutions in violation of the linear and hierarchical dispute resolution process of Article 22 of the CERD".

15. Similarly, in paragraph 43 of its Request for provisional measures, the UAE claimed that "Qatar's abuse of process threatens the breakdown of the legitimate institutions established by the CERD and makes a mockery of the systemic integrity of its dispute resolution mechanism".

16. In paragraph 238 of its Preliminary Objections, it made the same claim: that this case has "all the hallmarks of an abuse of process".

17. Mr. President, Members of the Court, the UAE would like you to answer the very same questions that it *itself* recognizes are really suited to the Preliminary Objections phase of these proceedings.

18. Doing so would require the Court to inappropriately prejudge the answer to those questions, *and* irreparably prejudice Qatar's own right to conciliate the dispute in the process, as my friend Professor Klein explained during our opening submissions.

C. The "rights" the UAE seeks to protect have no connection to the merits of the case

19. That brings me, Mr. President, to my final point: the question of whether or not the rights the UAE seeks to protect have a sufficient connection with the merits. We say: they plainly do not. The object of the UAE's Request is therefore improper and the Court is without power to grant it.

20. Thankfully, at the end of the day, there is no meaningful dispute between the Parties on the relevant legal standard. As the Court said in *Pulp Mills*, and Mr. Volterra acknowledged this morning, the question is whether or not the rights sought to be protected have a "sufficient connection" to the merits.

21. That said, I do want to underscore one point. As we showed yesterday, the Court's consistent case law stands for the proposition that provisional measures can only be indicated when the rights the protection of which is sought form "the subject of the proceedings before the Court on the merits of the case"[12].

[12] *Arbitral Award of 31 July 1989 (Guinea-Bissau* v. *Senegal), Provisional Measures, Order of 2 March 1990, I.C.J. Reports 1990*, p. 70, para. 26.

22. While the Court used a somewhat less strict formulation in *Pulp Mills* — that is, the "sufficient connection" language — the choice of those words must be understood in context. That was the first time the Court was called on to deal with a request for provisional measures initiated by a respondent State. The Court should thus be understood as adapting its traditional rule to that rather unique situation.

23. That said, the "sufficient connection" test is nevertheless critical because it shows that even when it is a respondent initiating a request, the rights sought to be protected must still relate to the subject of the dispute on the merits. Moreover, not any connection, no matter how remote will do. The rights must be sufficiently connected to the merits such that they can be considered at issue on the merits.

24. The *Pulp Mills* case proves the point. There, the two rights Uruguay asserted — to build the pulp mill and have the Court determine on the merits whether it had the right to do so — were directly connected with the subject-matter of the case on the merits. Although they were not rights explicitly put at issue in Argentina's application, they nevertheless constituted rights that Uruguay had at stake on the merits.

25. In this case, there is no connection whatsoever, let alone a "sufficient connection", between the rights the UAE seeks to protect and the merits.

26. Yesterday, I explained why the rights for which the UAE seeks protection only relate to the jurisdictional debate between the Parties, not the merits. As characteristically strident as he was during his presentation this morning, Mr. Volterra never once responded to my argument. Nor did he make any effort whatsoever to explain in what way the rights the UAE seeks to protect with its first measure are connected to the merits in any way shape or form. Still less did he explain how they are "sufficiently connected" to the merits.

27. This omission is not only telling; it is fatal. As the Party seeking provisional measures, it is for the UAE to establish a sufficient link between the rights the protection of which is sought and the rights that are the subject of the case on the merits. But it has not even tried to do so. Its request must fail for this reason as well. And this explains why the prima facie jurisdictional decision made by the Court in 2018 is irrelevant in the current proceedings and why it does not and cannot be extended to the UAE's Request.

28. Mr. President, distinguished Members of the Court, thank you once again for your customary courtesy. May I ask that you kindly invite Ms Amirfar to the podium?

The PRESIDENT: I thank Mr. Martin and I now give the floor to Ms Amirfar. You have the floor, Madam.

Ms AMIRFAR:

III. THE SECOND, THIRD AND FOURTH MEASURES MUST BE DISMISSED

1. Mr. President, Honourable Members of the Court, good afternoon. I am privileged to appear before you again on behalf of the State of Qatar.

2. Tuesday morning the UAE readily acknowledged the well-settled criteria for the indication of provisional measures under Article 41 for what it called "one form" of provisional measures. Those criteria have been carefully crafted by the Court to guide the exercise of a power that, the Court has stressed, may only be exercised in exceptional circumstances.

3. While the UAE has purported to acknowledge the need to satisfy the settled criteria, on Tuesday, it went on to suggest that the principle of non-aggravation provided an effectively limitless alternative source of authority to indicate provisional measures in a second "form". While at times the UAE appeared to nod to the settled criteria[13], it may fairly be understood to have argued that non-aggravation could be deployed to justify measures designed to prevent Qatar from pursuing CERD-based conciliation, to bar Qatar from protecting its populace from cyber security threats, to force Qatar to suppress the expression of views in the press with which the UAE disagrees, to restrict the work of human rights organizations, and to have the Court adjudicate on provisional measures what it regards as violations of the extant non-aggravation order.

4. Unsurprisingly, the Court's settled jurisprudence forecloses such a freewheeling approach to the Court's exercise of its Article 41 power. The UAE's discussion on Tuesday of the Court's jurisprudence on that second "form" of provisional measure was exceedingly brief, essentially one two-sentence paragraph in the transcript citing the *Temple of Preah Vihear* and the *Cameroon* v.

[13] Request for provisional measures submitted by the United Arab Emirates (hereinafter "RPMUAE"), pp. 13, 30, paras. 30, 69–73; CR 2019/5, pp. 18–21, 42, paras. 6–20, 32, 36 (Volterra).

Nigeria case[14]. Today, the UAE's treatment of the *Temple of Preah Vihear* case tells all. The UAE cited that case to the effect that "the Court, independently of the parties' requests, also possesses the power to indicate provisional measures with a view to preventing the aggravation of extension of the dispute".

5. But lest there be any confusion, the Court was not there holding that it might indicate specific measures on the basis of non-aggravation "independently" of the settled Article 41 criteria. To the contrary, the sentence the UAE relies on begins with a phrase that the UAE did not trouble to recite. The Court actually said that "when it is indicating provisional measures for the purpose of preserving specific rights" it may also indicate a non-aggravation measure. The Court used the word "independently" to make clear that it was not bound by the parties' own requests — that is, their formulation of the provisional relief sought. There is therefore no reason to read that decision to hold that the Court will indicate specific provisional measures "independently" of the settled criteria on the ground of non-aggravation.

6. Now recognizing that, to satisfy the Article 41 criteria, it must identify a right at issue that is plausible, linked to the dispute, and at imminent risk of frustration, the UAE now appears to rest entirely on what it terms "procedural rights". Contrary to the position taken this morning by Professor Volterra, Qatar does not request a "different" standard now as compared to its Request for provisional measures last year[15]. Nor does it contest that, in principle, procedural rights may be protected by provisional measures. However, Professor Volterra is quite wrong that Qatar accepts that the alleged rights actually relied on by the UAE in this proceeding satisfy those requirements.

7. I will address these points as I turn again to the fourth, third and second requested measures, in that order.

A. The fourth measure

8. By the fourth measure, the UAE requests another non-aggravation order, though the non-aggravation Order indicated in July of last year remains in full force and effect. The basis for

[14] CR 2019/5, p. 21, para. 22 (Volterra).

[15] CR 2019/7, p. 10, para. 2 (Volterra).

the order is the alleged breaches by Qatar of the extant Order that track the specific measures that the UAE seeks by haphazard application of the settled criteria.

9. But there is nothing in Article 41 or the Court's jurisprudence that suggests that a request for provisional measures may be used to accelerate the Court's determination of a party's claim that the adverse party has breached a binding legal obligation in the form of provisional measures. If the conduct to which the UAE objects is indeed proscribed by the July 2018 Order, the UAE may seek to hold Qatar responsible for that breach during the merits phase. If that conduct is not provisionally so proscribed by that Order, the UAE may file a request that seeks to demonstrate that the settled criteria are satisfied. What the UAE may not do, however, is what it tries here: an end-run around those criteria by basing its request for provisional measures on alleged breaches of the prior Order.

B. The third measure

10. Mr. President, Members of the Court, Qatar demonstrated yesterday that there is no conceivable basis for the third measure requested by the UAE here. It is, indeed, an affront to this Court to request that it order the suppression of the routine exercise of freedom of expression and opinion, in the guise of provisional measures or otherwise.

11. As an initial matter, after two rounds of oral submissions, the UAE still has failed to identify any right under the CERD that might be put in issue by the daily work of journalists and human rights monitors to which it objects. This request is the one that rests most squarely on its theory that it may seek specific measures solely on the basis of non-aggravation.

12. In your judges' folders, at tab 1, we have excerpted statements from the nine press articles attached to the UAE's Request, published by five Qatari media outlets, that the UAE has characterized as "false and unfounded accusations" and "inflammatory conduct and attacks"[16]. These statements are comprised of statements from rights monitors or other third parties, largely to the effect that the UAE has violated the CERD and the Court's Provisional Measures Order. Mr. President, Members of the Court, the UAE may not agree with ~~***those***~~ ***the*** views expressed in these articles. But it is hard to understand how it could ask the Court — in a case arising, no less,

[16] RPMUAE, pp. 23-24, paras. 53-54.

from the treaty devoted to basic protections of free expression on a non-discriminatory basis — to issue provisional measures to suppress them. Even if there were some international legal instrument that the UAE could possibly bring to bear on this material, this is not hate speech. This is not defamation. This is legitimate reporting and the expression of opinion.

13. These statements well exemplify what it would mean for the scope of public discourse for the Court to indulge the UAE's request to silence Qatari media, simply because the UAE finds free and independent commentary on the dispute and the events that gave rise to the dispute objectionable.

14. One final note on free expression. It is clear that the UAE is especially disturbed by the independent news coverage of Al Jazeera. The Court is already aware of the UAE's "non-negotiable" demand that Qatar shutter the Al Jazeera station as a condition of even discussing a possible resolution of this dispute[17]. But the UAE is so bothered precisely because Al Jazeera is committed — as its Editorial Guidelines, Code of Ethics and Code of Conduct confirm — to "objectivity, credibility and independence"[18]. The United Nations Special Rapporteur on freedom of opinion and expression stated that the demands, including from the UAE, to shutter Al Jazeera "represent[ed] a serious threat to media freedom"[19]. And Reporters Without Borders has reported that "[Al Jazeera] provides a forum to all of the region's political tendencies . . . Al Jazeera is the Arab world's most important and influential media outlet."[20]

15. As to the work of the NHRC, the UAE summarized its case on Tuesday in a heading in the transcript that stated: "Qatar's NHRC Report of 23 January 2019 aggravates the Parties' dispute"[21]. Need I say more? The UAE acknowledges that the NHRC maintains an "A" rating, including for its independence from the Qatari Government, from the Global Alliance of National Human Rights Institutions, which is the body that monitors and supervises the implementation of

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[17] CR 2018/12, p. 26, para. 30 (Donovan).

[18] "Editorial Standards", Al Jazeera Media Network, 3 May 2019, https://network.aljazeera.com/about-us/our-values/standards; "Code of Conduct", Al Jazeera Media Network, 3 May 2019, https://network.aljazeera.com/about-us/our-values/values. See also "Code of Ethics", Al Jazeera Media Network, 3 May 2019, https://network.aljazeera.com/about-us/our-values/code-ethics.

[19] "Demand for Qatar to close Al-Jazeera 'a major blow to media pluralism' — United Nations expert", OHCHR, 28 June 2017, https://www.ohchr.org/ FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=21808&LangID=E.

[20] "Unacceptable Call for Al Jazeera's Closure in Gulf Crisis", Reporters Without Borders, 28 June 2017, https://rsf.org/en/news/unacceptable-call-al-jazeeras-closure-gulf-crisis.

[21] CR 2019/5, p. 45, Sec. V. A (Fogdestam-Agius).

its recommendations. This kind of robust scrutiny does not suggest any shortcomings in the accreditation process. Rather, it is precisely the method by which civil society organizations are held accountable. To put it bluntly, to bring provisional measures proceedings against Qatar in an attempt to silence the NHRC in pursuing its mission is simply disrespectful to the Court.

16. The events that brought Qatar to the Court, whatever the UAE's view of their legal effects, have had profound consequences for the lives of thousands of individuals. On the UAE's own account, they form part of a larger dispute that has had enormous consequences for Qatar and the region. Both the collective expulsion of Qataris from the UAE, and the broader dispute of which that expulsion formed a part, are a matter of intense public interest, and there is no basis to suppress public commentary and debate on those events. Indeed, it is remarkable that the UAE could request the third measure without so much as acknowledging the impact of that measure on principles of freedom of expression and of the press that are so important to civil society and the international community.

C. The second measure

17. I turn now to the second requested measure. Mr. President, Members of the Court, you heard from Qatar yesterday that the UAE's visa application website is one piece of an arbitrary and discriminatory immigration "system" imposed on Qataris by the UAE, which is itself a violation of the CERD. This morning, the UAE went through the visa systems of other countries in an attempt to demonstrate that its visa application website is actually an ordinary-course visa system. Qatar obviously disagrees with that characterization of the system**,** of which the website is a part**,** as contrary to the evidence presented in its Memorial.

18. But for these purposes, if there were any doubt that the issues the UAE raises in the guise of provisional measures actually go to the merits, the UAE's presentation Tuesday and this morning settles it. The Court needs no further confirmation that the UAE raises issues that the Court will need to address at the merits phase, but which the UAE asks the Court to predetermine now. But that is not all the UAE seeks: the UAE actively asks the Court to interfere with *Qatar's* ability to monitor and take necessary protective measures in response to acts in its territory

affecting the cyber security of its nationals. It attempts to disguise these efforts by characterizing them as attempts to preserve "procedural rights". They are no such thing.

19. To review the bidding: in its initial Request, the UAE made no attempt to identify any plausible rights underlying the requested measure. On Tuesday, for the first time, Professor Sarooshi attempted to characterize the right in question as a right to "a 'fair and equal opportunity' to present and rebut evidence in the case"[22], and again this morning, he referred to the "right to preserve evidence"[23]. In both cases, he supported his argument by referring to the Court's orders in *Frontier Dispute* and *Cameroon* v. *Nigeria*.

20. As I explained yesterday, this right is not plausible in the context raised by the UAE, nor remotely linked to the requested measure. The Court's orders in *Frontier Dispute* and *Cameroon* v. *Nigeria* make that clear. Both of those cases arose from territorial disputes, and in both of those cases, the Court was faced with a situation of armed activities within the disputed territory. In both cases, the Court concluded that the rights of the parties within the disputed territory were subject to a "serious risk of . . . irreparable damage"[24], and that "armed actions within the territory in dispute" could "jeopardize the existence of evidence relevant to the present case"[25] or "result in the destruction of evidence material to the Chamber's eventual decision"[26]. Thus the Court was faced with a situation where there was both an imminent risk of irreparable harm to the parties' substantive rights *and* an imminent risk of the destruction of material evidence resulting from the same conduct.

21. The situation here is wholly different. Again, the UAE here does not seek to preserve existing evidence from potential destruction. And it does not seek to otherwise protect procedural rights, such as the intimidation of witnesses or kidnapping of opposing counsel, as

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[22] CR 2019/5, p. 43, para. 40 (Sarooshi).

[23] CR 2019/7, p. 28, para. 29 (Sarooshi).

[24] *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria), Provisional Measures, Order of 15 March 1996, I.C.J. Reports 1996 (I),* p. 23, para. 42; *Frontier Dispute (Burkina Faso/Republic of Mali), Provisional Measures, Order of 10 January 1986, I.C.J. Reports 1986*, p. 10, para. 21.

[25] *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria), Provisional Measures, Order of 15 March 1996, I.C.J. Reports 1996 (I)*, p. 23, para. 42.

[26] *Frontier Dispute (Burkina Faso/Republic of Mali), Provisional Measures, Order of 10 January 1986, I.C.J. Reports 1986*, p. 9, para. 20.

Professor Volterra hypothesized this morning[27]. Rather, the UAE asks the Court to direct the future conduct of the Parties, in a way that disregards entirely the legitimate cyber security risks posed by that website, which risks are entirely unrelated to the CERD dispute.

22. The UAE's complaint now, and any argument it may make later, does not raise an issue of "falsification" of evidence. It can make the same arguments it has made Tuesday and today when it addresses the Court on the merits, in order to challenge Qatar's evidence. But it is not entitled to a determination of that factual dispute now, in the guise of seeking provisional measures to preserve evidence that does not now exist.

23. And because at the merits phase, the Parties will have a full opportunity to present, and the Court a full opportunity to assess, the full evidentiary record, there can be no risk of irreparable harm. The UAE's complaint reduces to the blocking of a website for legitimate and significant cyber security reasons unrelated to the CERD dispute, even while the UAE's "hotline", its main attempt to mitigate, continues to operate. Indeed, in the UAE's own words, its hotline "can still be accessed, in the event that a Qatari citizen encounters technical problems with the website"[28]. On the UAE's own case, then, there simply can be no risk of irreparable prejudice prior to the Court's decision being rendered.

24. On the point of the "hotline", I want to pause, because there appears to be a danger of confusing the facts. On Tuesday and again this morning, Professor Sarooshi shared with you slides purporting to show that the website, the eChannels website, the immigration website, was established in August 2017[29], suggesting that the operation of the website governed the question of entry by Qataris into the UAE from as early as 2017. To be clear, that suggestion is just wrong. After imposing the discriminatory measures expelling Qataris collectively and subjecting them to a travel ban on 5 June 2017, the UAE, about a week later, on 11 June 2017, announced that a *telephone hotline* had been set up for an extremely narrow exception of "Emirati-Qatari joint

[27] CR 2019/7, p. 13, para. 12 (Volterra).

[28] RPMUAE, p. 6, para. 12.

[29] CR 2019/5, pp. 38-39, paras. 14-15 (Sarooshi).

families"[30]. The Court heard only about the telephone hotline at last year's provisional measures proceeding because that website was not available to Qataris at that time. The Court will recall that the 5 July 2018 directive requiring Qatari citizens overseas to obtain prior permission for entry into the UAE stated that "[a]ll applications for entry clearance may be made through the *telephone hotline* announced on June 11 2017"[31].

25. Thus, presenting a slide of a single press article from August 2017 referring to the UAE's echannels.moi.gov.ae website address is profoundly misleading: the website was not and has not been the UAE's means of mitigation with respect to Qataris — the UAE's case on that point has been and continues to be about the hotline. This point is made clear by the fact that the UAE cannot produce a single statement, ever, in which it actually announced to Qataris that they should be using the eChannels website rather than the hotline. The UAE's case has always been about mitigating through the hotline, until now, in what appears to be the opportunistic recharacterization of the website in support of its quest for provisional measures.

26. As a consequence, the UAE's own contention that the hotline continues to function allegedly effectively, even in the absence of the website, is fatal to its claim of irreparable prejudice. The continuing, unimpeded operation of the hotline also puts the lie to their allegation that Qatar was motivated not by legitimate cyber security concerns, but by an attempt to interfere with the UAE's supposed "mitigation". And as made clear by Qatar's statement that it will remove the suspension of the UAE travel website if the UAE addresses the cyber security concerns identified — which it can — Qatar has no intention whatsoever to interfere.

27. Turning to the underlying facts, I will be brief, but in light of the UAE's presentation this morning, I want to address three inaccuracies.

28. *First*, the UAE suggests that because the UAE's travel website, that is echannels.moi.gov.ae, has a valid security certificate and no detected malware, there is no cyber security problem. Notably, the UAE does not deny — including this morning — that the

[30] Memorial of the State of Qatar (hereinafter "MQ"), 25 April 2019, p. 23, para. 2.11 (citing Annex 1, "UAE supports statements of Kingdom of Bahrain and Kingdom of Saudi Arabia on Qatar", UAE Ministry of Foreign Affairs, 5 June 2017). MQ, pp. 37-38, para. 2.32 (citing Annex 13, "President issues directives to address humanitarian cases of Emirati-Qatari joint families", United Arab Emirates Ministry of Foreign Affairs, 11 June 2017).

[31] Annex 18, United Arab Emirates, Ministry of Foreign Affairs, "An Official Statement by The UAE Ministry of Foreign Affairs and International Cooperation", 5 July 2018, https://www.mofa.gov.ae/EN/MediaCenter/News/Pages/05-07-2018-UAE-Statement-of-MoFAIC.aspx (with unofficial French translation); emphasis added.

www.echannels.ae and g***dr***faf.gov.ae sites are compromised by faulty security certificates and malware, respectively. The UAE also does not deny that the echannels.ae website automatically redirects users to the UAE's travel website address or that the g***dr***faf.gov.ae website hosts a link to the UAE's travel website.

29. Now the UAE suggested again this morning that the technical terms relating to the internet "sought to scare the Court away". Again, Qatar does not share that view of the Court's competence. To say the least, the UAE ignores some basic truths about how the internet functions. Websites do not exist in a vacuum; to the contrary, they are interlinked, they depend on and, critically, are *affected by* other websites, most directly when they are on connected servers. As I mentioned yesterday and Professor Sarooshi did not dispute this morning, the UAE's travel website, echannels.moi.gov.ae, is one such domain, and it is connected to two other websites that serve, as Professor Sarooshi did acknowledge this morning, to redirect Qataris to the travel website. That means that users, Qataris, can pass through these other websites to arrive at the travel website. In other words, the fact that the echannels.ae website lacked and still lacks a valid security certificate, as you saw yesterday and Professor Sarooshi did not deny this morning, means that the user's information is left vulnerable to hacking as information passes through the shared connection, so that sensitive personal information is at high risk of being lost or stolen. This fact is illustrated in stark terms in the screenshots I showed you yesterday and contained in your folders from yesterday at tabs 1 and 2.

30. As I mentioned before, it is also misleading to suggest that Qataris were directed to the UAE's echannels.moi.gov.ae website address, as the UAE attempts to assert again from that single, press article dating from August 2017. Again, that article does not mention Qataris at all, which is not surprising since the UAE chose not to make its eChannels website system accessible to Qataris in 2017 or even most of 2018. There was no such announcement by the UAE Government at any point; only certain Qataris, usually at the border, were directed to submit personal information through the UAE website, although it is unclear which website[32].

[32] MQ, pp. 40-41, para. 2.35; p. 274, para. 5.71.

31. *Second*, again as I mentioned yesterday, the risk of malware infection relates to g***dr***faf.gov.ae, a website that the UAE Government uses to provide information for visas to enter the UAE, which *hosts a link* to the UAE's travel website[33]. This website is hosted on the same server as a website that the CRA and Cyber Security sector identified as "malicious" and infected by malware[34]. The screenshot of this was shown to the Court yesterday and is in your folders. Again, the UAE does not dispute that fact.

32. Now in the cyber world, the presence of malware on a server hosting one website presents a risk of it spreading to the other websites on that server like an epidemic. As a result, the website that links to the UAE's travel website, and which sits on this infected server, is at risk of infection. And that infection is at risk of spreading to a Qatari's computer, meaning information uploaded to the UAE travel website was and remains at risk of being hacked, accessed and used by unauthorized parties.

33. *Third*, and finally, I turn to the third risk identified in the CRA letter[35], relating to the fact that the g***dr***faf.gov.ae web address is hosted on a private company server, rather than a secure government server. In light of the UAE's argument this morning suggesting abandonment, I only note that Qatar maintains this point, which the UAE does not address, much less refute.

34. In short, the UAE's attempt to obtain a provisional measure to order Qatar to reinstate access to the UAE's travel website, when it does not even seriously refute that there is a cyber security risk, is untenable. Equally, the UAE cannot demonstrate irreparable prejudice when the main mechanism that it has put forth as its mitigation measure, including during the provisional measures hearing before the Court last year is the telephone hotline, which remains operational. The second request should be rejected as both legally and factually unsustainable.

35. Mr. President, Honourable Members of the Court, I thank the Court for its kind attention and request that the Court call Professor Klein to the podium.

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[33] http://gdrfaf.gov.ae.

[34] Ann. 33, Letter from the President of the Communications Regulatory Authority to His Excellency Dr. Mohammed Abdulaziz Al-Khulaifi, Legal Advisor to His Excellency Deputy Prime Minister and Minister for Foreign Affairs, 30 Apr. 2019 (with unofficial French translation), p. 3, para. 11.

[35] Ann. 33, Letter from the President of the Communications Regulatory Authority to His Excellency Dr. Mohammed Abdulaziz Al-Khulaifi, Legal Advisor to His Excellency Deputy Prime Minister and Minister for Foreign Affairs, 30 Apr. 2019, para. 11.

The PRESIDENT: I thank Ms Amirfar and I give the floor to Professor Klein. You have the floor.

M. KLEIN :

IV. L'ÉQUILIBRE ENTRE LES DROITS RESPECTIFS DES PARTIES CONSTITUE UN ÉLÉMENT ESSENTIEL DE LA PROCÉDURE EN INDICATION DE MESURES CONSERVATOIRES

1. Monsieur le président, Mesdames et Messieurs les Membres de la Cour, la question de l'équilibre qu'il convient à la Cour d'assurer entre les parties dans le cadre d'une procédure en indication de mesures conservatoires n'a visiblement guère inspiré nos contradicteurs. Ce souci, vous ont-ils exposé ce matin, n'apparaît nulle part, ni dans l'article 41 du Statut, ni dans la jurisprudence de la Cour[36]. Ces deux propositions sont en réalité aussi inexactes l'une que l'autre.

2. Ainsi que la chose vous a été rappelée à l'envi cette semaine, l'article 41 évoque bel et bien la sauvegarde des droits de *chacune* des Parties à l'instance. Les conclusions que tire de cette formulation l'un des commentaires les plus autorisés de cette disposition sont les suivantes en ce qui concerne la question qui nous intéresse ici, celle de l'équilibre entre les Parties — et ces conclusions sont particulièrement claires : «it is vital for the Court to consider what action is called for in order to ensure that none of the parties is put at a disadvantage, or that the provisional measures would not cause irreparable prejudice to the rights of the other party»[37].

3. Quant à la jurisprudence, je me permettrai de vous renvoyer aux décisions de la Cour et du Tribunal international du droit de la mer que j'ai citées hier. Je ferai simplement mention, à ce stade, de quelques-unes des positions prises à ce sujet par plusieurs membres de la Cour, pour qui «[q]uand elle est saisie d'une demande de mesures provisoires, la Cour est forcément en présence de droits (ou de prétendus droits) opposés, ceux que les deux parties revendiquent, qu'elle ne peut pas éviter de confronter les uns aux autres»[38]. Ou encore, «[l]orsqu'elle examine des demandes en

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[36] CR 2019/7, p. 37, par. 3 (Volterra).

[37] K. Oellers-Frahm, commentaire de l'article 41, *in* Andreas Zimmermann *et al.*, *The Statute of the International Court of Justic*e, 3e éd., Oxford, OUP, 2019, p. 1145, par. 20.

[38] *Usines de pâte à papier sur le fleuve Uruguay (Argentine c. Uruguay), mesures conservatoires, ordonnance du 13 juillet 2006, C.I.J. Recueil 2006*, opinion individuelle de M. le juge Abraham, p. 138-139, par. 6.

indication de mesures conservatoires, la Cour doit peser et tenter de concilier les droits respectifs des parties à la lumière de leurs arguments»[39].

4. Ces différents éléments me semblent donc bien de nature à confirmer que l'invocation de l'image des balances de la justice, dans le présent contexte, est tout sauf déplacée.

5. Si l'on en vient maintenant à son application en l'espèce, nos contradicteurs ont avancé ce matin que «[l]es soi-disant droits du Qatar, que celui-ci veut faire peser dans la balance, sont exactement le même genre de droits que le Qatar refuse de reconnaître aux Emirats» et que, «selon le Qatar, ses droits valent mieux que ceux des Emirats»[40]. On serait donc ici en présence de ce que M. Volterra a appelé un «jugement éminemment subjectif» de la part du Qatar[41].

6. A vrai dire, cette accusation de subjectivité, qui rendrait l'exercice de la mesure de l'équilibre des droits en cause inutile ou à tout le moins irrémédiablement faussé, se comprend assez mal. C'est évidemment à la Cour qu'il reviendra, dans le jugement objectif du poids des droits respectifs des Parties, de déterminer si cet équilibre est réalisé ou non. C'est elle qui déterminera leur valeur respective.

7. Il n'en reste évidemment pas moins que, selon le Qatar, les droits dont les Emirats arabes unis demandent aujourd'hui la protection sont loin d'être avérés, alors que les droits du Qatar qui seraient atteints si les mesures demandées par les Emirats devaient leur être accordées sont bien réels. En particulier, le Qatar possède un droit bien établi à ne pas voir préjuger, à ce stade très préliminaire de la procédure, des questions relevant tant de débats relatifs à la compétence de la Cour pour trancher le présent différend que de débats relatifs au fond de l'affaire. Il est manifeste, à cet égard, que la Cour ne dispose pas, dans le cadre de la présente instance, des éléments nécessaires pour se prononcer sur la situation de fait alléguée par la Partie adverse, selon laquelle les Qatariens ne feraient plus, à l'heure actuelle, l'objet aux Emirats d'aucune mesure de discrimination fondée sur leur origine nationale. Mes collègues l'ont amplement démontré hier et

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[39] *Application de la convention internationale pour la répression du financement du terrorisme et de la convention internationale sur l'élimination de toutes les formes de discrimination raciale (Ukraine c. Fédération de Russie), mesures conservatoires, ordonnance du 19 avril 2017, C.I.J. Recueil 2017,* déclaration de M. le juge Tomka, p. 152, par. 6.

[40] CR 2019/7, p. 38, par. 4 (Volterra).

[41] *Ibid.*

aujourd'hui, et je suis sûr que vous ne m'en voudrez pas de ne pas y revenir plus en détail à ce stade très tardif de nos débats.

8. Monsieur le président, Mesdames et Messieurs les Membres de la Cour, on ne peut s'empêcher d'avoir l'impression que le seul sens que les Emirats arabes unis trouvent au principe de l'équilibre entre les Parties et leurs droits dans le présent contexte consiste en substance à suggérer que, si la Cour a ordonné des mesures conservatoires à la demande du Qatar en 2018, l'équilibrage des balances de la justice exigerait que la Cour ne refuse pas d'indiquer les mesures sollicitées aujourd'hui par les Emirats. Ceux-ci prétendent que le Qatar subordonnerait le pouvoir de la Cour au titre de l'article 41 à une nouvelle condition. Il n'en est évidemment rien ; mais pour leur part, en plaidant un nécessaire équilibre dans l'obtention des mesures conservatoires, les Emirats tentent sous ce couvert d'obtenir que la Cour exerce son pouvoir au titre de l'article 41 alors que les conditions requises à cet effet ne sont aucunement réunies.

9. Monsieur le président, Mesdames et Messieurs les Membres de la Cour, je vous remercie pour votre aimable attention. Monsieur le président, je vous demanderais de bien vouloir passer la parole à l'agent du Qatar, M. Mohammed Al-Khulaifi, afin qu'il puisse présenter les conclusions du Qatar.

The PRESIDENT: I thank Professor Klein. I now give the floor to the Agent of Qatar, Dr. Mohammed Abdulaziz Al-Khulaifi for the submissions of his Government. You have the floor.

Mr. AL-KHULAIFI:

V. CLOSING STATEMENT

1. Thank you Mr. President, Honourable Members of the Court. It is my privilege to address you once again and to close the submissions by the State of Qatar.

2. As I said at the outset, this case is about the UAE's violation of the human rights of the Qatari people guaranteed under the CERD. It is not about the end of the diplomatic relations or the political rift that unfortunately persists. It is not about the UAE's false allegations for the support for terrorism or more recently, equally false allegations about the fabrication of evidence. It is not about the criticism of the UAE by the independent media and human rights bodies. It is not even

about the fact that Qatar has brought its claims to the Court, while at the same time pursuing, as is its right, the mechanism of the conciliation provided under the CERD.

3. At the end of the day, it is about the Court being able to resolve the dispute before it, a dispute Qatar brought against the United Arab Emirates to obtain a binding decision under the CERD with respect to the racial discrimination Qataris have suffered and continue to suffer at the hands of the UAE.

4. As Qatar and its representatives have stated in our pleadings in these proceedings, there is no legal or factual basis for the Request made by the UAE for the indication of provisional measures. You have heard from the UAE that its so-called "procedural rights" should justify that the Court take the extraordinary step of indicating provisional measures in this case. We now near the end of the oral proceedings. The UAE, instead of explaining how its alleged rights could justify the indication of provisional measures pursuant to the Court's settled criteria, it spent an unbelievable amount of time in its Request and the two rounds of the oral submissions making false allegations about Qatar.

5. Indeed, the UAE's submissions before the Court this week suggest that its true motivation in petitioning the Court is not to vindicate any rights under the CERD or protect itself from irreparable harm. Rather, the UAE seeks to further another purpose by gaining a platform to intimidate the Committee or otherwise delay the Committee procedures and to broadcast its allegations and grievances against Qatar.

6. Mr. President, Honourable Members of the Court, let me be clear: it is the UAE, and *not* Qatar, that has aggravated this dispute in this case, including by seeking to obtain provisional measures that are entirely without legal or factual merit, apparently for the purpose of making false allegations about Qatar.

7. I end on one point. The Court has heard much from the UAE arguing that nothing happened since 5 June 2017, that Qataris were not expelled from or banned from the entry to the UAE, and that the so-called immigration "system" in place is ordinary course sovereign regulation of its borders. That the UAE has made the argument by selectively choosing and then misstating quotes from Qatar's evidence in an attempt to create a twisted version of the facts in order to

support the position of the UAE and again, nothing happened other than the termination of diplomatic relations.

8. Mr. President, Honourable Members of the Court, this is simply not true. When the Court turns to the jurisdiction and the merits, it will find overwhelming evidence of the UAE's violations of the CERD. The evidence submitted with Qatar's Memorial on 25 April 2019 includes over 100 witness statements from Qataris who have suffered from the UAE's discriminatory measures; primary documentary evidence supporting their testimony; quantitative evidence demonstrating a significant drop in the number of Qataris in the UAE following the 5 June measures; primary source evidence of the UAE's campaign of hate speech and anti-Qatari incitement; and reports by the United Nations bodies, independent human rights organizations and trusted news outlets.

9. As I said, the evidence is for jurisdiction and the merits. The point for present purposes is that every provisional measure requested by the UAE shares the same fundamental defect — they seek determination of jurisdictional and merits issues, before the Court has had a chance to consider the full record of underlying evidence submitted or to hear the Parties by the full exchange of written and oral submissions that the Court's procedures contemplate. That basic defect is why each of the requested measures fails when tested against the settled criteria of the Court under Article 41.

10. Mr. President, Honourable Members of the Court, my country renews its respect for this Court and its continued commitment to abide by the Provisional Measures Order of 23 July 2018. I also wish to say again that, should the UAE address the security issues with its visa application website, Qatar is prepared to unblock access to the website within the country. I shall now read out Qatar's final submissions:

> "In accordance with Article 60 of the Rules of the Court, for the reasons explained during these hearings, Qatar respectfully asks the Court to reject the request for the indication of provisional measures submitted by the United Arab Emirates."

11. Mr. President, Honourable Members of the Court, I thank you for your kind attention and I would like also to take the opportunity to thank all members of the Registry and interpreters for their dedicated work throughout the hearings. Thank you.

The PRESIDENT: I thank the Agent of the State of Qatar. This brings us to the end of the second round of oral observations of Qatar. The Court will now retire for deliberations. The Agents of the Parties will be informed in due course of the date of delivery in public sitting of the Order of the Court. The sitting is adjourned.

The Court rose at 5.45 p.m.

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