

ORDER OF THE INTERNATIONAL COURT OF JUSTICE
December 3, 2017; PAMUN XVII

Present: President Hilditch; Vice President Kozikoglu; Judge Fort; Judge Israely; Judge Karapostalis; Judge Bonneville; Judge Lovato; Judge Ponnudurai; Judge Oliveira; Judge Nossiter; Judge Riehl; Judge Carpenter; Judge Grunnesjö

On the question of certain Iranian assets abroad,

THE COURT,

Composed as above,

Hereby notes, finds, orders, adjudges, and decrees that:

1. The application of the Counsel of the Islamic Republic of Iran to the Court was made to challenge the legality of the seizure and detention of certain Iranian assets abroad, including certain assets within the territory of the United States of America. The Applicant was received by the Respondent, Counsel of the United States of America. The dispute is stipulated to concern primarily ‘the adoption by the [United States] of a series of measures that had, and/or are having a serious negative impact upon the ability of Iran and of Iranian companies (including Iranian State-owned companies) to exercise their rights to control and enjoy their property.’
2. Through their membership of the United Nations, both State Parties to the dispute are entitled to appear before the Court. Both parties stipulated that ‘the Court has jurisdiction in relation to [this] dispute, and to rule on the claims submitted by Iran.’
3. The Court is cognizant of previous contraventions by both State Parties of the judgements of this Court in contentious cases; the Charter of the United Nations, however, affirms the obligation of State Parties to disputes to comply with the decisions of the International Court of Justice, as is provided for in Article 94 of the Charter.
4. In the course of hearings held from December 1, 2017 to December 2, 2017, the Court heard oral statements, in the following order, by:

for the United States: Akbar Karbassian, Iranian economist;

Elena Chachko, candidate for Harvard Law’s Doctorate of Juridical Sciences degree;

for Iran: The honourable John Glover Roberts Jr., Chief Justice at the US Supreme Court;

Yukiya Amano, Director General of the International Atomic Energy Agency; and

for the United States: Stephen Flatow, American lawyer and father of a victim of a terrorist attack carried out by the Islamic Jihad Movement of Palestine.

5. The Court's decision is in the favour of the party of The Islamic Republic of Iran (henceforth Iran) but does not recognize the Treaty of Amity as a valid treaty or part of international law. The reason for this decision is connection to the Vienna Convention, specifically articles 59, 60, and 61. This is the case because multiple breaches of the some of the most fundamental components of the Treaty of Amity invoke article 60 of the Vienna Convention. The treaty was built on the amiable relations between the two countries, this relationship has clearly not been respected. The nation of Iran's transition of government also constitutes a fundamental shift in circumstances in the nation of Iran.
6. The Court stresses that the United States of America (Henceforth US) does not have justification to freeze the Iranian assets as they have not presented any substantial evidence connecting the Islamic republic of Iran to terrorist organizations. Thusly, Iran should be granted immunity from the jurisdiction of the courts of the US. This shall be done in respect to enforcement proceeding in the US, to the extent allowed by international law.
7. The Court has ruled that the United States of America violated international law affecting the Islamic Republic of Iran on a multitude of occasions. These instances include, but are not limited to, the Algiers Accords, which was drafted and agreed upon by both parties, following the Iranian Hostage Crisis of 1979-1981. These accords remain fully active to this day, and will presumably remain active into the future.
8. The Court declares that the United States of America will provide full reparations to Iran. These reparations are for the assets seized from Iranian state owned companies, such as bank Markazi in the default judgements ruled in US courts between US citizens and Iran. This is because due process of law was not given to Iran. The default judgement and refusals of appeal show this refusals of due process.

Concurring: *Justices:* Karapostopolis, Bonneville, Oliveira, Nossiter, Riehl, Carpenter, Grunnesjö

Separate But Concurring: *Justices:* Israely,

Separate But Concurring: *Justices:* Fort,

Dissenting: *Justices:* Hilditch, Kozikoglu, Lovato, Ponnudurai.

SEPARATE BUT CONCURRING OPINION BY JUSTICE ISRAELY

REGARDING the freezing of Iranian assets in the United States of America

I HAVE RULED in favour of the Applicant State.

I AFFIRM, in concurrence with the majority ruling, that the United States has breached amongst other, the Algiers Accords.

I AGREE that the United States has failed to provide the court with enough evidence to show that the freezing of their assets was justified;

I ALSO AGREE that the United States must pay full reparations to Iran.

I FIND that the United States' has not proved that Iran has sponsored terrorism, and thus not fulfilled their burden of proof.

HOWEVER,

I DO NOT believe that the Treaty of Amity is nullified or that it should be considered as such, due to the failure of either party to declare the agreement null and void.

THEREFORE, in addition to the violation of the Algiers accords, the United States has also failed to comply with the Treaty of Amity.

I HAVE hereby rendered my opinion.

JUSTICE ISRAELY

SEPARATE BUT CONCURRING OPINION BY JUSTICE FORT

REGARDING the application by the Islamic Republic of Iran in the proceeding of Iran v. United States of America pertaining to the United States of America's series of alleged illegal measures to freeze and award assets to United States of America's citizens under default judgements,

I HAVE RULED in favor of the Applicant State.

I AFFIRM, in concurrence with the majority ruling, that the United States has violated international law, as the Islamic Republic of Iran has asserted, by freezing and awarding Iranian assets;

I THEREFORE ASSERT that the United States of America has breached Article 1 of the Algiers Accord of 1981, which being a treaty, is recognized as international law, by breaking its pledge not to intervene, directly or indirectly, politically or militarily, in Iran's internal affairs;

I FURTHER AFFIRM that the United States of America has not legally justified their freezing and awarding of Iranian assets;

I FIND that the attempted United States' justification that Iran is a terrorist state has not met the required burden of proof;

I AGREE that Iran and Iranian State companies are entitled to immunity from the jurisdiction of the United States' courts and in respect, enforcement proceedings in the United States allowed by international law and required by the treaty of amity;

I ALSO AGREE that the US is to be forced to respect the juridical status of all Iranian companies, and that no steps further shall be taken against the assets or interests of Iran or any Iranian entity or national.

HOWEVER,

I DO NOT AGREE that the United States of America should be forced to make full reparations to Iran for the violation of its international legal freedoms;

FOR THE REASON that the United States awarded pieces of said assets under United States domestic law, under which the designation of Iran as a sponsor of terrorism is legally valid.

I AFFIRM that the Treaty of Amity, Economic Relations, and Consular Rights signed between the Islamic Republic of Iran and the United States of America signed in 1955 was not, and should no longer be, legally valid under Articles 59.1, 60.1, 61.1, and 62 of the Vienna Convention of 1969;

THEREFORE, I am compelled to stress that the Treaty of Amity, Economic Relations, and Consular Rights should be pacifically resolved in as punctual a matter as possible and currently should no longer be legally binding or used in a court of law.

I HAVE hereby rendered my opinion.

JUSTICE FORT

DISSENTING OPINION BY JUSTICES HILDITCH, KOZIKOGLU, LOVATO, AND
PONNUDURAI

REGARDING the question of certain Iranian assets abroad

WE HAVE RULED in favour of the Respondent State.

WE FIND that the Applicant Party, the Islamic Republic of Iran has not met the burden of proof, and have failed to demonstrate that international law precludes the seizure and detention of assets of foreign states, or the intervention of states in the internal or external affairs of other states.

WE ALSO FIND that the Treaty of Amity, Economic Relations, and Consular Rights has effectively been nullified and rendered inviable due to repeated breaches of said Treaty by both Parties.

MOREOVER, WE DECLARE that Iran violated the spirit and the letter of, inter alia, Article I of said Treaty following the Iranian Revolution of 1978-1979, and throughout the hostage crisis of 1979-1981.

WE NOTE that customary international law does dissuade states from interfering in the internal and external affairs of foreign and sovereign states, such as through the Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States from the United Nations General Assembly, and through the Algiers Accords.

HOWEVER, WE cannot be compelled to interpret this customary international legal principle so stringently, and assert the right of states to self-defense and the maintenance of internal security and prosperity.

THEREFORE, we recuse the United States of America from the charges posed by Iran.

WE ALSO CONCLUDE that the Treaty of Amity can no longer be considered viable or legally binding for both parties.

WE HAVE hereby rendered our opinion.

JUSTICES HILDITCH, KOZIKOGLU, LOVATO, AND PONNUDURAI