Nuclear Tests Case: New Zealand v. France
I.C.J. Reports 1973-1974

Facts
1. This case was brought to the International Court of Justice on 9 May 1973 when New Zealand instituted proceedings against France in terms of a dispute concerning the legality of atmospheric nuclear tests conducted by France in the South Pacific region.

2. The government of New Zealand asked the Court to declare that the nuclear tests run by the French government in the South Pacific which lead to radioactive fallout were a violation of New Zealand’s rights under international law. The French Government stated that it considered the Court was “manifestly not competent” in the case and that it could not accept its jurisdiction, further requesting the removal of the case from the Court list. New Zealand filed a Memorial and presented argument at public hearings supporting that the Court had jurisdiction. France did not file Counter-Memorial and was not represented at the hearings. The Court then rejected France’s request to remove the case from the Court list and affirmed its jurisdiction in this case. When the case was heard in 1974, France had issued numerous public statements within that year that it planned to hold no further nuclear tests in the South Pacific.

3. New Zealand, the plaintiff, claimed that its rights under international law were violated by the French government’s nuclear testing in the South Pacific.

4. France, the defendant, argued in the first place that the Court did not have sufficient competence to hear the case. When this was dismissed, France contended that it no longer had plans to continue testing in the South Pacific and therefore, no further ruling on the claims of the plaintiff could take place.

Questions
1. Does a dispute still exist between New Zealand and France that the Court can adjudicate?

Decision
1. The Court ruled that a dispute no longer existed at the time of the case hearing between New Zealand and France. The court recognized that public statements made by the Office of the President of the French Republic and other government officials since the case originated conveyed an announcement of the French government to cease nuclear-testing after the completion of its 1974 series. These public statements in effect created certain
legal obligations for the French government, the binding character of which is based on “good faith” and that “interested States are entitled to require that the obligation be respected.”

2. Thus, the court stated, in a vote of 9 to 6, that the objective of New Zealand for the total cessation of nuclear-atmospheric testing by the French government had been reached and there no longer existed a dispute for which the Court could contemplate and adjudicate.

Principles

1. New Zealand cited international law in reference to its rights that were being compromised by the French government’s nuclear testing program in the South Pacific.

2. To found jurisdiction of the Court, New Zealand cited the General Act for the Pacific Settlement of International Disputes concluded at Geneva in 1928, as well as Articles 36 and 37 of the Statute of the Court.

3. This case also illustrates the necessity for the existence of a dispute at the time of the case hearing for the Court to be able to make any judgment concerning said dispute.

4. This case also illustrates the principle of “good faith” in citing the French government’s public statements about the end of their nuclear testing program as evidence enough that in fact they were going to do so and should be held responsible for this sentiment.

Conclusion

In order for the Court to have been able to make any sort of ruling in this case, the nuclear testing which New Zealand objected to needed to be going on at the time of the case hearing. This principle prevents the court from taking unnecessary and extraneous action against a State who has already met the demands of the State filing suit against the other. This case illustrates an important respect for legal boundaries that the Court should be expected to obey in the sense of not intervening in the affairs of states when no conflict exists. This case would hold relevance today in any situation in which a conflict has essentially been resolved in a way that satisfies the objective that the plaintiff wanted the Court to accomplish, making it unnecessary for the Court to rule on the matter.

Bibliography


Submitted

Katherine R. Rynone, September 17, 2009