



## **INTERNATIONAL COURT OF JUSTICE**

Application of the Convention on the Prevention and Punishment of the Crime of Genocide  
(The Gambia v. Myanmar)

**Moderator:** Javier Elizondo

**Director:** Claudia Galindo

**Secretary:** Mariana Ruiz

### **DESCRIPTION OF THE COMMITTEE**

The main court of the UN is the International Court of Justice, sometimes referred to as the World Court. The United Nations charter established it in June 1945, and it officially got going in April 1946. The international Court of Justice was established to peacefully resolve or regulate international disputes or circumstances that could otherwise threaten public order. The court's duties include providing advisory opinions on legal issues that have been brought to it by recognized United Nations institutions and specialized agencies as well as resolving legal disputes that States have presented to it in conformity with international law. The Court determines the disputes between countries, based on the voluntary participation of the States concerned.

### **INTRODUCTION TO THE TOPIC**

More than thousands of Rohingya's refugees began to flee into the beaches of southern Bangladesh in August of 2017, it's when people started to realize this issue was a major problem happening in Myanmar. Almost 60 percent of them are children who are being forced to flee from their country that they once called home, after being constantly discriminated against and abused. To this day more than half a million of Rohingya children are living in exile from their home country. Gambia immediately acted upon this matter and filed a suit to the ICJ about Myanmar violating the genocide code. They stated that Myanmar's atrocities against the Rohingya in Rakhine State violate various provisions of the Genocide Convention.

### **BACKGROUND INFORMATION ON THE TOPIC**

In 1982, Myanmar passed a law that stated that all Rohingyas were denied nationality and were left stateless. Over the years Rohingyas experienced acts of violence and were continuously denied their rights. According to Gambia, in October of 2016, Myanmar military committed "clearance operations" against the Rohingyas. The Rohingyas people are an ethnic group, primarily believers of Islam, with a long-standing history of inhabiting predominantly Buddhist Myanmar. Currently, Myanmar is home to approximately 1.1 million Rohingya individuals. They



communicate using the Rohingya or Rohingya language, which is an extremely unique dialect compared to other languages spoken in Myanmar. The Rohingya arrived in the Arakan Kingdom in the fifteenth century, what is now the Rakhine State.

It was stated that the Myanmar military preformed genocide, rape, and several other acts of sexual violence towards the Rohingya community. They also locked the inhabitants in burning houses with the intention of destroying the Rohingya as a group. These violent acts happened due to tensions between the Buddhist and the Muslim that led to violence acts in the Rakhine State. Gambia later said that these violent acts continued to occur until August of 2017. While all these tragic events were occurring, 740,000 Rohingyas started to flee to Myanmar neighboring country Bangladesh, half of them being children. On November 19 Gambia filed a suit to the International Court of Justice that the Union of Myanmar had violated the Genocide Convention.

### **CURRENT SITUATION OF THE TOPIC**

The current situation of the topic of the gambia situation it has “Breached and continues to breach its obligations under the Genocide Convention through acts adopted, taken and condoned by its Government against the members of the Rohingya group”. The Gambia’s petition was met with a number of preliminary concerns from Myanmar. First, Myanmar contended that the ICJ lacks jurisdiction or, alternatively, that the application is inadmissible because the Organisation of Islamic Cooperation, not The Gambia, is the “real applicant”. Second, Myanmar claims that The Gambia lacks the legal authority to file this claim. As a result of Myanmar's reservation to the Article VIII of the Genocide Convention, Myanmar claims that the ICJ lack jurisdiction over the case or that the application is inadmissible. IN a fourth argument, Myanmar claims that the ICJ lacks jurisdiction, or alternatively that the application is inadmissible since the moment the application was filed, there were no disagreements between the parties regarding the Genocide Convention.

The ICJ dismissed Myanmar’s preliminary objections on all four counts. In response to the first preliminary objections, the ICJ decided that a State’s acceptance of a request to bring a case before the ICJ from another intergovernmental body to which it belongs does not affect its standing as the applicant before the Court. For the purpose of establishing jurisdiction, motivation is irrelevant. The ICJ determined that The Gambia, a State party to the Genocide Conventions, had standing to “invoke the responsibility of Myanmar for the alleged breaches of its obligations” because the State parties to the Genocide Convention” have a common interest to ensure the



prevention, suppression, and punishment of genocide by committing themselves to fulfilling the obligations contained therein”. In other words all Contracting Parties have a interest in upholding the responsibilities under the Genocide Conventions, which are owed erga omnes parts, “toward all parties”; as a result, a breach of those commitments harms all Contracting Parties to the Convention.

### **INTERNATIONAL ACTION OF THE TOPIC**

On March 21, 2022, U.S. Secretary of State Antony J. Blinken made it clear that the country had determined that the Rohingyas in the Rakhine Territory had been the victims of crimes against humanity and genocide based on a thorough examination of the pertinent facts and legal requirements. It is only the sixth time in history that the U.S. has made such a decision, making it highly unusual. Notably, other than its commitment to prevent and punish genocide under the Genocide Convention and as a signatory to that treaty, the United States is not a state whose material interest is implicated by the current litigation.

Given that the U.S. conclusion is far more extensive and fact-based than previous anonymous news stories have been, it would seem to pass both the first and second criteria. The conclusions of the experts chosen by the U.S. The State Department likewise supports, among other things, those of the IIFFMM (Independent International Fact-Finding Mission on Myanmar). Therefore, the U.S. decision should also contribute to strengthen the argument made by The Gambia by corroborating the IIFFMM findings. In this context, it's important to take note of Secretary Blinken's claim in his statement that the United States had informed The Gambia of the ICJ action. Therefore, the Gambian legal team may still have access to more information. According to the Court's statutes, the Registrar must inform any other State that is qualified to appear before the Court as well as Member States of the United Nations of the submission of the Application through the Secretary-General.

### **RECOMMENDATIONS FOR CREATING A RESOLUTION**

- The UN cannot create laws, only enforce existing ones
- Make sure to avoid the use of personal pronouns.
- Add your in-text citations and bibliographies in APA citation and alphabetical order
- The UN can't create or remove laws; they can only enforce them.
- Money is not a problem for the UN.



- Include every judge's opinion and suggestions to create a worldwide solution.
- Remember to avoid the use of personal pronouns.
- Listen to other judges' ideas and proposals.
- Remember that your primary goal is to prevent more chaos from spreading.
- People's lives are at risk, and try to keep your solutions on the topic
- Consider having long term and short terms solutions as a backup since you're dealing with people's lives

### **QUESTIONS TO CONSIDER(TO CREATE A RESOLUTION)**

- What's the main issue?
- How is your delegation involved in this topic? Why does your delegation care about the topic... since later you ask how it affects the country.
- What has your country done to help this problem?
- Are other countries involved?
- What has INJ done to solve this issue?
- How can you integrate new solutions to the problem?
- Where does your country stand on this issue?
- How does this issue affect your country?
- Does your judge have any preference for a country?
- How is this affecting the rest of the world?

## **Research Aid**



***ICJ dismisses the preliminary objections over the Gambia's claims regarding Myanmar's violation of the Genocide Convention.*** Available at: <https://www.iisd.org/itn/en/2022/10/07/icj-dismisses-the-preliminary-objections-over-the-gambias-claims-regarding-myanmars-violation-of-the-genocide-convention-the-gambia-v-myanmar-ying-sun/>

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