

MUN

ICJ BACKGROUND GUIDE

AUSMUN 2021



AMERICAN UNIVERSITY OF SHARJAH

DIRECTOR OF RESEARCH WELCOME LETTER



Dear Delegates and Faculty Advisors,

It is my utmost pleasure to welcome you to the American University of Sharjah Model United Nations (AUSMUN) 2021. As an organization led by the students of AUS, AUSMUN has had the privilege of hosting some of the biggest and most diverse MUN conferences in this region. Our 2020 conference saw over 1000 delegate registrations from more than 45 national and international institutions!

Adapting to a New Normal, Promoting Resilience: given the turbulent year of 2020, there was no other theme which could have fit our present conditions better. A small outbreak in Wuhan exactly a year back has now trickled down into a global catastrophe which has two million dead, leaving a trail of broken lives in its wake. Looking at the severely distorted life that has become our 'new normal', some may question whether it could all have been avoided. Whether we could have been better prepared. And the broader goal of our conference is to do exactly that: teach the upcoming generation to question current policies in the hopes of preventing another similar global catastrophe.

This background guide has been formulated by your chairs along with the research team to provide you with a concise overview of the topics chosen.

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The guide is initially divided into two sections based on the two topics and is further split into logical components. Firstly, the Summary and History section acts as an introduction to the issue. Secondly, the Discourse on the Issue section establishes a link between the issue, its implications, significance, and the United Nations Charter. Lastly, the Past International Organization (IO) Actions and Latest Developments section elaborates on the previous actions that have been taken, which can be used by delegates as a stepping stone to come up with their own solutions to the issues. At the end of each topic, delegates will find sections of questions and suggestions that aim to guide the process of research.

Delegates are greatly encouraged to expand beyond the guide and research about their country and topics in order to construct well founded arguments during debate. The delegate handbook contains a number of tips on how to research and addresses a vast array of common concerns. Finally, let me use this opportunity to extend my gratitude to all those who have helped create the document you are reading right now: Your wonderful moderators, the AUSMUN Research Team, and not to mention the AUSMUN Media team who have done an incredible job in designing and formatting the Background Guides.

I wish you the very best in preparing for the conference. If you have any queries at all, or need any specific help in researching for your topics, do not hesitate to contact research@ausmun.com

Sincerely,
Julia Jose
Director of Research
AUSMUN 2021

MODERATORS



Neimat ElKarib

Faisal AlAli

MMXXI

WELCOME DELEGATES!

We are in unprecedented times, and AUSMUN is something that brings us a sense of normalcy.

Dear ICJ Advocates and Judges,

Welcome to AUSMUN 2021! It is our honor to welcome you to The International Court of Justice (ICJ). The ICJ works to settle disputes between member states in accordance with international law. The two main topics selected for this committee are “the Interpretation of the Genocide Convention and Rohingya Genocide”, and “the Iranian Assets and Disputes based on the Treaty of Amity, Economic Relations and Consular Rights.”

We are well aware of those extremely unprecedented times that we are living through and we are proud of your commitment to participate in this conference. Please remember that your participation and hard work during this conference will most definitely contribute to the quality of your experience.

This background guide should be your first step to prepare for the conference. You are highly encouraged to base your research around this guide, in the context of your delegation. Should you have any questions or inquiries, please do not hesitate to contact us at g00084436@aus.edu and b00084443@aus.edu.

As your chairs, we promise to try and make this conference as lively, informative and exciting as possible. We are looking forward to ‘meeting’ you all. We wish you all the best and look forward to a very successful conference!

SINCERELY,
NEIMAT & FAISAL
AUTHORS OF THE BACKGROUND GUIDE

OVERVIEW OF THE COMMITTEE

The International Court of Justice is the judicial organ of the United Nations, it was established in 1945 and began operating in 1946. The first case ever presented was by the United Kingdom against Albania in 1947.

The court can entertain two types of cases, the first being disputes between states and the second being advisory opinions requested by other UN organs. Only states who are members of the UN can file cases and the ICJ will only consider disputes between states who have accepted the court's jurisdiction. Although the court does not punish leaders, it can involve other UN bodies such as the security council as well as impose UN sanctions. The court consists of 15 judges who must come from different countries, each elected by the UN and serving a 9-year term.

In AUSMUN2021 we will have 2 presidents, 4 counsels (advocates) - 2 of which are applicants and 2 are respondents, and a number of judges.

The procedure of the ICJ is as follows:

1. The motion to set the agenda followed by voting procedures, in other words, which topic to begin discussing.
2. After the agenda is set, each judge must take an oath.
3. The applicants, which have presented the case to the ICJ, must then make their opening statement.
 - *Opening statements should include why they have brought this case to the ICJ as well as facts and evidence they are planning on presenting.*
4. The respondent will then give their opening statement.
 - *The opening statements must not provide detailed arguments as those will be addressed in the court session.*

5. The judges may then question the advocates opening speeches.
6. The advocates should then present their evidence with the applicants going first and the respondents following them.
 - *Evidence may be witness testimonies, newspaper articles, multilateral or bilateral treaties, reports, resolutions, or anything that can help the counsels prove their arguments during trial.*
7. The applicants and the respondents may yield their time to questions from judges or the opposing counsels.
8. Finally, the judges will have an unmoderated caucus in which they can discuss the evidence and draft a verdict. They will then present this verdict to the counsels.



Summary and History of issue

The Treaty of Amity, Economic Relations and Consular Rights was signed in 1955, two years after the 1953 coup in Iran was carried out by the British government and America's Central Intelligence Agency. The coup was carried out to overthrow the nationalist government of Iran and replace Prime Minister Mohammad Mossadegh who had nationalized the Iranian oil industry by restoring power to Mohammad Reza Shah, the last Shah of Iran (Mohammed, 2020). The Treaty of Amity, which happened during a time when Iran wanted to attract foreign investors, is still valid under international law. The Treaty is made up of an introduction and twenty-three articles which address investments, mutual trade, and regulating consular relations. In June of 1957, the treaty came into force and has served as the legal framework for bilateral relations between Iran and the U.S (Kashani, 2018). By 1968, the Nuclear Non-Proliferation Treaty was signed by Iran, permitting it to have a civil nuclear program in return for a commitment not to obtain weapons (Mohammed, 2020). One year later, the revolution in Iran forced the U.S-backed Shah to flee and by April of 1980, the U.S cut diplomatic ties with Iran due to the hostage crisis that took place at the American Embassy in Tehran when students held the staff hostage. A few days after Washington cut ties with Iran, the U.S conducted a military operation ordered by President Jimmy Carter to rescue the hostages and the mission failed. By 1984, the U.S listed Iran as a state sponsor of terrorism. This is when U.S sanctions against Iran were first put into place and all Iranian assets in the U.S were frozen. The US-Iran relationship deteriorated further when in 1988 the US mistakenly shot down an Iranian passenger plane. Under George Bush's administration, Iran was accused of developing an extensive nuclear program and is described to be part of an "axis of evil". As a result, intensified sanctions were imposed on Iran, by both the US, and the UN.

After the first round of sanctions against Iran began, it ignited an era of hostility between the two countries and the actions carried out by both countries were always counted as violations of the Treaty. The Treaty of Amity continued to exist despite these tensions and conflicts of interest over the last four decades. The U.S was the first to go to the International Court of Justice while Iran was hesitant to do so after the 1979 revolution in order to avoid indications of their wanting to renew relations with the U.S. After the hostage situation at the US embassy, the U.S went to the ICJ and accused Iran of going against Article II, Clause 4 of the treaty, which states that “Nationals of either High Contracting Party shall receive the most constant protection and security within the territories of the other High Contracting Party.” Since then, there have been many hostile actions by both countries which violate the Treaty.

The Treaty allows both countries to legally challenge one another based on the Treaty’s foundation of “friendly relations”. It is an unusual situation in the history of international law because two countries that have cut political ties and taken action against each other for over four decades still have a living Treaty of Amity in place. Under the Trump administration, the US unilaterally withdrew from the Iran nuclear deal, and reimposed nuclear sanctions on Iran. The basis of Iran’s current case is that the reimposition of nuclear sanctions are in violation of the treaty; hence, justifying any potential aggression from their side. The US claims that the re-imposition of nuclear sanctions is outside the jurisdiction of the ICJ, and is valid due to “Iran’s failure to adhere to its nuclear non-proliferation obligations”, which is also a violation of the treaty’s the Non-Proliferation of Nuclear Weapons agreement (the “NPT Safeguards Agreement”) (US, 2019). In 2018, Secretary of State Mike Pompeo stated that the U.S plans to terminate the Treaty and called it an “absolute absurdity” and said it should have been terminated 39 years ago considering the constant aggression and tension between Iran and the U.S that has existed since the treaty’s origin (Morello, 2018). This article by Washington Post reporter Carol Morello reads “The impetus for the United States tearing up the treaty was a decision earlier Wednesday in the International Court of Justice, which ordered the Trump administration to lift some sanctions on Iran” (Morello, 2018).

After the treaty's termination, and despite the ICJ ruling, the US elevated its hostility towards Iran. The most notable example of that is the assassination of Qasem Soleimani, and the missile attacks against the US embassy in Iraq by Iran-backed militias. These recent developments have further exacerbated tensions between both countries.

Questions and suggestions for further research

- Sanctions due to the Iranian Nuclear Deal.
- 1953 US-sponsored coup in Iran.
- Default Judgements made against Iran in US courts.
- The 2019 Luxembourg ruling in regard to frozen Iranian Assets.



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Summary and History of issue

The case that The Gambia has put forward to the International Court of Justice is a very crucial issue that has put the Rohingya people in Myanmar under great threat.

The Convention on the Prevention and Punishment of the Crime of Genocide was first approved by the Assembly of the United Nations on the 9th of December 1948. It was later put into force in 1951. This convention was established post-world war II as an attempt to condemn the atrocities committed. Currently signed by 152 states, including both Myanmar and The Gambia, Article I of the convention vows to prevent and punish acts of genocide. Article II of the convention states that genocide refers to “ any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.” (n/a, Convention on the Prevention and Punishment of the Crime of Genocide, 1948).

Myanmar itself is a Buddhist country and the Rohingya are one of Myanmar's ethnic groups. The Rohingya represent the majority of Myanmar's muslim population. However, the Myanmar government refuses to acknowledge them as citizens of the country. Instead, it views them as refugees from Bangladesh. The torment of the Rohingya people dates back to the 1990's when they would attempt to flee the violations done by the then Burmese forces (Burma is former Myanmar). In 1996, 15 women and children out of a group of 150 Muslim Burmese refugees,

drowned as they were being forced to return back to Myanmar from Bangladesh. This shed light on the issue and resulted in 10,000 new asylum seekers in Bangladesh (Human Rights Watch, 1996). Furthermore, displaced refugees did not only come from Rohingya but also from other areas in Myanmar. For example, in 1996, 95,000 Burmese refugees in Thailand were joined by 2,300 from Karenni State and 8,000 more from Shan State. This is due to the fact that the State Law and Order Restoration Council (SLORC) were forcing people that came from those different villages to relocate in order for the government to gain better control of them (Human Rights Watch, 1996). Again in 2017, the Rohingya people fled their homes as a response to the violence committed on them by troops accompanied by the Buddhist people. They raped, attacked, burned homes, and killed Rohingya civilians. In about a month since the violence has started, 6,700 Rohingya were killed. In response, the army claims it has been fighting Rohingya militants and not just normal civilians, as well as repeated denials by the country's leader Aung San Suu. (n/a, Myanmar Rohingya: What you need to know about the crisis, 2020).

The response of the Myanmar government has been that of strong defense against accusations of genocide. The government claims that the 'operations' ended on September 5th, however, violence against the Rohingya people has been observed on multiple occasions after the alleged date. In 2018, UN investigators accused Myanmar's military of genocide intent against the Rohingya people. Aung San Suu Kyi, the State Counsellor of Myanmar, appeared in court on December 2019, where she denied accusations of genocide: "The country's Independent Commission of Enquiry (ICOE) admitted that members of the security forces may have carried out "war crimes, serious human rights violations, and violations of domestic law", but claimed there was no evidence of genocide." (n/a, Myanmar Rohingya: What you need to know about the crisis, 2020). More recently, a fact finding mission by the UN urged the security council to impose sanctions on companies that are controlled by the military of Myanmar known as Tatmadow. Furthermore, it also demanded restrictions on 14 foreign firms that supplied the military with weapons such as "fighter jets, armored combat vehicles, warships, missiles and missile launchers to Myanmar since 2016." (United Nations OHCHR, 2017).

It is important to also consider that those weapons were used to facilitate the violence imposed by the military on minorities including “the forced deportation of more than 700,000 ethnic Rohingya to Bangladesh.” (United Nations OHCHR, 2017).

Gambia, a majority-muslim nation in Africa, on behalf of 57 members of the OIC (organization of Islamic Cooperation), has brought this case to the ICJ on the 11th of November 2019. Gambia claims that Myanmar has violated the genocide convention through its approach and treatment towards the Rohingya people. Gambia is requesting the ICJ to determine the following: “Myanmar has violated the provisions of the Genocide Convention; Myanmar must cease any acts that violate the Convention (in effect, stop committing genocide), but also to implement its obligation to prevent genocide; Myanmar must hold individuals who committed acts in violation of the Genocide Convention criminally accountable within its domestic legal system; Myanmar must pay reparations to the victims of the Rohingya, including allowing them to return to Myanmar, reinstating their citizenship, and undertaking protection of the group’s human rights; and Myanmar must demonstrate its intent to not commit further violations of the Genocide Convention.” (Rist, 2020).

On January 23rd 2020, the ICJ issued a decision regarding the provisional measures requested by The Gambia in the case. The court expressed that Myanmar “must take steps to prevent further genocidal acts by its own forces or by groups or forces acting within its territory”. (Rist, 2020) The court also required Myanmar to “take steps to preserve any evidence of wrongdoing under the genocide convention.” (Rist, 2020) Accordingly, the court also required Myanmar to submit a report within 4 months of the decision regarding the steps it is taking to comply with the ICJ’s decision (Rist, 2020). In addition, the court also presented a schedule in which the Gambia could submit a written memorial and Myanmar should respond on January 23rd 2021 (Rist, 2020). As of May 2020, Myanmar has confirmed the submission of its second report to the ICJ regarding the case. (Lynn, 2020). Should Myanmar fail to oblige to the courts orders, “other UN bodies could take steps to increase the power of the ICJ’s order and, by extension, increase the political cost should Myanmar fail to comply.” (Human Rights Watch, 2019).

Questions and suggestions for further research

- Why is The Gambia (specifically) filing this case against Myanmar?
- What effect will a verdict by the ICJ have on this case?
- How can the court ensure that the decisions are put into place?
- Effect of this dispute on neighbouring countries.
- Should the wants of the rest of the population in Myanmar be considered in this dispute?



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