SRMUN ATLANTA 2021
Fostering Global Youth Empowerment and Leadership
November 18 - 20, 2021
icj_atlanta@srmun.org

Greetings Delegates,

Welcome to SRMUN Atlanta 2021 and International Court of Justice (ICJ). My name is Jordan Manley, and I will be serving as your Director for the ICJ. This will be my second conference as a SRMUN staff member. Previously, I served as an Assistant Director for the General Assembly Plenary. I currently work as a Financial Analyst. I hold a Bachelor of Arts in Political Science and a Masters of Science in Business Management both from University of North Carolina at Charlotte. Our committee's Assistant Director will be Rachel Abernathy. Rachel recently graduated with Masters of Laws in International Law from the University of Leeds. She also received her Bachelor of Arts in Political Science from the University of North Carolina at Charlotte.

Founded in 1945, the ICJ is an arbitration court that was established by the UN Charter to resolve international disagreements between Member States. The Court is located at the Peace Palace of the Hague in Netherlands and consists of fifteen judges. Court proceedings are conducted in either English or French. Since its founding, the ICJ has decided 178 cases and currently has sixteen pending cases on its docket.

By focusing on the mission of the ICJ and the SRMUN Atlanta 2021 theme of "*Fostering Global Youth Empowerment and Leadership,"* throughout the conference, delegates will be responsible for arguing on behalf of their assigned position for the assigned case, as well as serving as a Justice for the ICJ for the remaining cases. The following cases will be debated:

I. Alleged violations of the 1955 Treaty of Amity, Economic Relations, and consular Rights (Islamic Republic of Iran v. United States of America)
II. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)
III. Jadhav (India v. Pakistán)
IV. Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russia Federation)

The background guide provides a strong introduction to the committee and the topics and should be utilized as a foundation for the delegate's independent research. While we have attempted to provide a holistic analysis of the issues, the background guide should not be used as the single mode of analysis for the cases. Delegates are expected to go beyond the background guide and engage in intellectual inquiry of their own. The memorials and counter-memorials for the committee should reflect the complexity of these issues and their externalities. Delegates are expected to submit a memorial and counter-memorial on their assigned case and be prepared to argue their positions at conference. More detailed information about formatting and how to write memorials and counter-memorials can be found later in this document. ***All memorials MUST be submitted no later than Friday, October 29, 2021, by 11:59pm EST via the SRMUN Website.*** Once received, delegates will receive the memorial from their opposing counsel and ***then must write and submit a counter-memorial no later than Monday, November 15, 2021, by 11:59pm EST to icj_atlanta@srmun.org***

Sidrah and I are enthusiastic about serving as your dais for the ICJ. We wish you all the best of luck in your conference preparation and look forward to working with you soon. Please feel free to contact Rachael, Sidrah, or myself if you have any questions while preparing for the conference.

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International Court of Justice Addendum to the SRMUN Rules of Procedure

Introduction

The International Court of Justice (ICJ) is one of the six primary organs of the UN system, and it plays a critical and increasingly important role in international politics. The ICJ is also one of the most complex parts of the UN, which makes it a challenging, but rewarding, body to simulate at any Model United Nations (MUN) conference. To deliver this unique experience at SRMUN, several changes have been made that differentiate ICJ from the way other committees are managed.

One of the most striking differences delegates, with experience in other committees, will notice is the dual role for delegates as both "Justice of the Court" and "Advocate" for a Member State they represent. There are four cases for the ICJ at SRMUN Atlanta 2021, and each delegation on the Court is responsible for one case as an Advocate. During this case, that delegation will represent its state's own view in the Court and try to win the case by having its state's goals accomplished. This system is similar to the formal presentation and questioning process in the United States of America's (US) Supreme Court. For the other three cases before the Court, each delegation will have one Justice for each case. The Justice will listen to case presentations, question Advocates from both sides, and work toward reaching a sound legal decision with his or her fellow Justices. Unlike when delegates in the ICJ are serving as Advocates, any time they are serving as Justices, they should represent their own legal minds and views as a resident of their assigned state, but they should not represent the interests of their government.

In certain circumstances such as Advisory Opinions, one or both sides of an issue may be represented by an entity such as the Economic and Social Council rather than a Member State. In these cases, all parties involved should refer to these representatives as the party they are representing, and not their home state. For example, when drafting legal documents or making speeches, Advocates should refer to themselves as representing the General Assembly Plenary or other body they have been assigned rather than their own state.

It is also important for Court members to realize that the rules of procedure for SRMUN's ICJ simulation are not the same as the rules for other committees at SRMUN or the Statute of the ICJ. The SRMUN ICJ Rules of Procedure take precedence over other rules of procedure, include the ICJ Rules of Procedures. For example, the ICJ Statute explains the procedure for third-party Court briefings, which are not permitted for the SRMUN ICJ simulations. If there are any questions about the rules or how they should be applied, the final decision on these matters rests with the Chief Justice of the Court.

Role of the Justice

Justices of the Court are required to ensure that their opinions, questions, and eventual judgments pertaining to all cases are given without bias towards the interests of any state or entity — even the state in which the Justice resides. Justices are encouraged to read each case guide carefully and examine the sources presented, but Justices should strive to evaluate these sources only so far as to ascertain a general understanding of the case before the Court. In other words, Justices must strive not to make preliminary judgment for or against the Applicant or Respondent. Justices are required to deliberate on each case and each set of evidence presented by the Advocates before the Court, and not to simply reach a summary judgment based on evidence not formally presented before the Court. Justices must also understand that Advocates before the Court only serve as Advocates for one case. This means that Justices should strive to cooperate with each other throughout their tenure. Despite the adversarial nature of these cases and the need for Advocates to firmly stand behind a position when addressing the Court, anyone serving as a Justice before the Court is required to act in a professional manner at all times. Any disagreements two Advocates may have with each other during a case are not to be carried over to their role as Justices.

Justices of the Court are to ensure that the deliberations of the Court are kept secret. All Justices were required to recite a solemn Oath of the Court to start their tenure and they will be expected to uphold their promise to the Court. This oath of secrecy until the Closing Ceremony and the unveiling of the decisions applies to communication with any persons not declared Officers of the Court by the Chief Justice. This does include members of your State's

delegation, pages, visitors, and Faculty Advisors. However, this does not include discussion of cases in which you are an Advocate as you will not be in the room during the deliberation process during this time period. This process is in place to assure that all Advocates are given a fair chance to present their case to a non-biased group of Justices. If any Faculty Advisor, Justice, or other interested party has a question about this policy, please feel free to speak to the Chief Justice.

Role of the Advocate and Memorial/Counter-Memorial Writing Guide

Advocates are charged with representing the interests of their state or body before the Court to the best of their ability. Advocates should be prepared to give a significant presentation to the Court, and they should be prepared to answer difficult questions from Justices or Advocates. Advocates are encouraged to understand as much as possible about their case in order to provide a competent defense of their point.

While presenting to the Court and having a presentation ready are crucial to becoming a great advocate, the Memorial/Counter-Memorial writing process is a critical first impression for Advocates. The Memorial and Counter-Memorial are also great ways to ensure that an Advocate's research is focused on the topic at hand and helps them to streamline the process. These documents are the backbone of the Advocate's case, and include a Statement of Relevant Facts, a Statement of Relevant Law, and a conclusion section in which the Advocate makes specific requests of the Court.

The Statement of Relevant Facts should include all relevant facts of the case that the Advocate feels are necessary. This may include sections of relevant text from a transcript of a speech, official statement, or other document, parts of a Resolution or other similar document, statistical data that helps to prove the Advocate's case, or any other relevant facts the Advocate finds useful in preparing for his or her case. As with all other parts of the Memorial or Counter-Memorial, you must ensure that anything you cite in this section is properly documented and that the document is brought with you to the Court. For example, if you site a statistic from the UN, a printout or electronic copy of the document must be brought with you to the Court.

The Statement of Relevant Law should be a comprehensive list of case law the Advocate wishes to cite during her or his presentation. This may include text from a Treaty, Charter, or other relevant document to which the interested parties are obligated to. This may also include relevant customary law or other law the Advocate feels both parties should be legally bound by. For example, an Advocate may wish to cite text from the Nuclear Non-Proliferation Treaty, the Universal Declaration of Human Rights, or the UN Charter itself. While some documents such as the UN Charter are considered common knowledge and may be cited without documentation, it is strongly encouraged that the Advocate bring copies, either paper or electronic, of all sources researched. If an Advocate cites a legal statute or other relevant document, and the Advocate doesn't provide a proper citation, it is at the discretion of the Justices of the Court and ultimately the Chief Justice as to whether to consider the legal citation.

The final section of the Memorial or Counter-Memorial is the Advocate's conclusion. This section is where the Advocate makes their final requests of the Court. This section is not simply a summary of previous statements, but a final product of the evidence presented previously. For example, an Advocate representing State A believes State B has violated its sovereign territory and offered trade agreements for land which State A alleges belongs to itself. In State A's conclusion, State A could ask the Court to nullify any previous trade agreements made between State B and other parties involving the disputed territory, and further request that State B pay reparations to State A for the value of the lost resources that State B's agreements cost State A. While all three sections are equally important to an Advocate's case, this section should be particularly carefully worded as it will be the basis of the Advocate's request of the Court for any action, and the Justices will carefully consider the requests of each Advocate when reaching their final decision.

Finally, Advocates are once again reminded that all evidence should be carefully documented and brought to the Court. Advocates may choose to provide paper evidence in a binder with each piece of evidence easily identifiable, or Advocates may bring an electronic copy of their sources sorted by file directory for each type of evidence. Aside from "common knowledge" documents such as the UN Charter, any evidence or statement presented by Advocates that does not have accompanying evidence with it may not be considered. The decision to consider evidence is at the discretion of the Justices of the Court with final determination made by the Chief Justice of the Court.

Rules of Procedure for the ICJ

Article 1
The International Court of Justice, established by the United Nations as its principal judicial organ, shall be constituted and shall function in accordance with the provisions of the present Statute and Rules.

Article 2
The Court shall be composed of a body of independent judges, elected or appointed from among persons of high moral character.

Article 3
Section 3.01 The Court shall consist of at least eight Justices, not including the Chief Justice and Assistant Chief Justice.

Section 3.02 Membership on the Court shall be determined by the Chief Justice at the beginning of the calendar year.

Section 3.03 Each Justice shall have one seat on the Bench, except while a state is being represented in the case currently being heard by the court. Such members shall recuse themselves for the duration of the proceedings of the case in question.

(a) Each seat on the Bench shall be represented in formal procedure by a Justice of the Court. Justices of the Court must be present for the entirety of all proceedings of the Court.

(b) The declaration to be made by every Member of the Court shall be as follows:

"I <state your name> do solemnly swear to uphold the Charter of the United Nations and the Statute of the Court, and to act only on the basis of law, independently of all outside influence or interventions whatsoever, in the exercise of the judicial function entrusted to the Court alone by the Charter and its statute. I further swear to keep the confidentiality of the Court, and to avoid discussing any matters related to deliberations of the Court until authorized by the Chief Justice."

Article 4
Section 4.01 The Chief Justice of the Court shall have final discretion in all matters of the Court, both procedural and substantive.

Section 4.02 The Chief Justice and Assistant Chief Justice may vote in substantive and procedural matters to break a tie.

Article 5
Section 5.01 The Assistant Chief Justice shall retain all rights of access afforded to the Chief Justice.

Section 5.02 When the Chief Justice is not present, the Assistant Chief Justice shall act as a representative for the Chief Justice and shall have all rights and privileges afforded to the Chief Justice.

Article 6
Members of the Court shall be bound, unless prevented from attending by illness or other serious reasons duly explained to the Chief Justice of the Court, to hold themselves permanently at the disposal of the Court while the Court is in session.

Article 7
Section 7.01 If, for some special reason, a member of the Court considers that he or she should not take part in the decision of a particular case, he or she shall so inform the Chief Justice of the Court.

Section 7.02 If the Chief Justice of the Court considers that for some special reason one of the members of the Court should not sit in a particular case, he shall give him or her notice accordingly.

Section 7.03 If in any such case the member of the Court and the Chief Justice disagree, the matter shall be settled by a two-thirds majority decision of the members of the Court.

Section 7.04 In no case shall a member of the Court sit in a case where his or her state is a party.

Article 8
Section 8.01 The full Court shall sit on all cases except when it is expressly provided otherwise in the present Statute.

Section 8.02 A quorum of nine judges – including the Chief Justice – shall suffice to constitute the Court. In cases where a fewer number of Justices sit, the quorum shall remain proportional thereto.

Article 9
Shall there be several parties in the same interest, they shall be reckoned as one party only and shall be represented by the Member State or appropriate agent listed on the Docket of the Court. Final decisions on this matter shall be settled by the Chief Justice.

Article 10
Only states or entities specifically enumerated in the Statute of the International Court of Justice may be parties in cases before the Court. Final decisions in this regard will rest with the Chief Justice.

Article 11
The Court, subject to and in conformity with its Rules, may request of public international organizations information relevant to cases before it, and shall receive such information presented by such organizations on their own initiative.

Article 12
In the event of a dispute as to the Court's jurisdiction, the matter shall be settled by a majority decision of the Court.

Article 13
Section 13.01 The Court, whose function is to decide in accordance with international law such disputes as are

submitted to it, shall apply:

(a) International conventions, whether general or particular, establishing rules expressly recognized by the contesting states;

(b) International custom and Customary Law, as evidence of a general practice accepted as law;

(c) The general principles of law recognized by the United Nations;

(d) Judicial decisions and the teachings of the most highly qualified publicists of the various members of the United Nations, as subsidiary means for the determination of rules of law.

Section 13.02 The validity of all sources of law and evidence presented before the Court shall be determined by the Court.

Section 13.03 This provision shall not prejudice the power of the Court to decide a case ex aequo et bono (according to the commonly accepted standards of what constitutes appropriate behavior), if the parties agree thereto.

Article 14

The Court shall have the power to indicate, if it determines that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party. Pending the final decision, notice of the measures suggested shall forthwith be given to the relevant parties.

Article 15

Section 15.01 The parties involved in any matter before the Court shall be represented by Agents whose credentials shall be examined and verified by the Court upon initial submission of an Application instituting proceedings before the Court.

Section 15.02 The Agents shall serve as Advocates for their respective case before the Court.

Article 16

Section 16.01 The procedure of the Court shall consist of two parts: written and oral.

Section 16.02 The written portion shall consist of the communication to the Court of Memorials, Counter-Memorials and, if necessary, Replies and Rejoinders. All evidence and sources of law cited by Advocates will also be included with these documents, and shall be subject to the full scrutiny of the Court.

(a) The Court may authorize or direct that there shall be a Reply by the applicant and a Rejoinder by the respondent if the parties are so agreed, or if the Court decides of its own volition or at the request of one of the parties, that these pleadings are necessary.

(b) A Memorial shall contain:

1) A statement of the relevant facts; and

2) A statement of relevant law.

(c) A Counter-Memorial shall contain:

1) An admission or denial of the facts stated in the Memorial;

2) Any additional facts, if necessary;

3) Observations concerning the statement of relevant law in the Memorial; and,

4) A statement of law in answer thereto.

(d) The Reply and Rejoinder, whenever authorized by the Court, shall not merely repeat the parties' contentions, but shall be directed to bringing out the issues that still divide them.

(e) Every pleading shall set out the party's submissions at the relevant stage of the case, distinctly from the arguments presented, or shall confirm the submissions previously made.

(f) There shall be annexed to every pleading copies of any relevant documents cited in support of the contentions in the pleading.

(g) A list of all documents annexed to a pleading shall be furnished at the time the pleading is filed.

(h) These communications shall be made through the Chief Justice, in the order and within the time fixed by therein.

(i) A copy of every document produced by one party shall be communicated to the other party.

(j) After the closure of the written proceedings, no further documents may be submitted to the Court by either party except with the consent of both parties or upon request of the Court.

(k) If a new document is produced under Section 16.02(j), the other party shall have an opportunity of commenting upon it and of submitting documents in support of its comments.

Section 16.03 The Court's Docket shall be determined by the Chief Justice and should correspond to the order in which the Court receives the Memorials.

Section 16.04 The oral proceedings shall consist of the hearing by the court of Advocates and witnesses, experts, or other parties at the request of the Court and upon approval by the Chief Justice.

(a) The Applicant shall present its case first, and shall be allotted twenty (20) minutes to do so.

(b) The Respondent may question the Applicant for a period of fifteen (15) minutes.

(c) The Court shall question the Applicant on the merits of its case for fifteen (15) minutes.

(d) The Respondent shall then present its case and respond to the questions of the Applicant and the Court in the same manner and within the same time allotments as the Applicant.

(e) The Respondent, followed by the Applicant, shall make closing remarks not to exceed five (5) minutes.

(f) Should the Respondent find the Applicant's closing remark grossly offensive or inaccurate, it may rise to a Right of Reply, which may be granted at the discretion of the Chief Justice and shall not exceed one (1) minute.

(g) The time restrictions imposed by Section 16.04 may be extended at any time at the discretion of the Court and final authorization by the Chief Justice.

(h) No reference may be made during the oral proceedings to the contents of any document which has not been produced in accordance with Section 16.02, unless this document is part of a publication readily available to all parties at the time the reference is made, or if the document is part of accepted public knowledge.

1) The determination of whether a document or piece of evidence is part of "accepted public knowledge" is at the discretion of the Chief Justice.

(i) Without prejudice to the provisions of the Statute concerning the production of documents, each party shall communicate to the Chief Justice, in sufficient time before the opening of the oral proceedings, information regarding any evidence which it intends to produce or which it intends to request the Court to obtain.

(j) The Court may, if necessary, arrange for the attendance of a witness or expert to give evidence in the

proceedings. These witnesses will be evaluated by the Justices upon the approval of the Chief Justice to ensure that their testimony before the Court is germane and accurate.

1) Every witness shall make the following declaration before giving any evidence: "I solemnly declare upon my honor and conscience that I will speak the truth, the whole truth, and nothing but the truth;"

2) Every expert shall make the following declaration before giving any evidence: "I solemnly declare upon my honor and conscience that I will speak the truth, the whole truth, and nothing but the truth and that my statement will be in accordance with my sincere belief."

Section 16.05 The hearing shall be presided over by the Chief Justice of the Court.

Section 16.06 The hearing in Court shall be open to the public upon acquisition of appropriate credentials. This is not meant in any way, however, to construe a right of open access to deliberations of the Court.

(a) All parties executing or observing the functions of the Court must display official credentials issued by the Secretariat of the United Nations or the Court at all times. Entry may be denied to any party not displaying proper credentials or upon notice from the Chief Justice.

(b) At the discretion of the Court or Chief Justice, members of the press may be temporarily or permanently dismissed from any hearing.

Section 16.07 The Court may, at any time, call upon the Advocates to produce any document or to supply any explanations. Formal note shall be taken of any refusal.

Section 16.08 During the hearing, any relevant questions are to be put to the witnesses and experts under the conditions laid down in Section 16.04.

Section 16.09 When, subject to the control of the Court, the parties have completed their presentation of the case, the Chief Justice shall declare the hearing closed. The Court shall withdraw into private deliberations upon completion of the hearing.

(a) The Chief Justice and Justices not otherwise barred from the proceedings subject to the Statute will participate in deliberations.

(b) The deliberations of the Court shall take place in private and remain secret until they are authorized to be released by the Chief Justice.

(c) No representative of the states party to the case being deliberated may observe any part of the deliberations for any reason.

(d) No representative of the press may observe the deliberations.

(e) Individuals wishing to gain access to the deliberations of the Court must submit a written request. Only upon the acceptance of that request by the Chief Justice will credentials for access to the Court be granted. Credentials are revoked upon departure from the Court. All individuals wishing further access must resubmit their request in order to gain access.

(f) All parties executing or observing the deliberations of the Court must display official credentials issued by the Court at all times. All parties receiving credentials have, in displaying credentials, accepted the rules of the Court and are therefore bound to them. This particularly applies to Section 16.09(b). Access to the Court shall be denied to any party not displaying proper credentials.

(g) When the deliberations of the Court result in a draft judgment with apparent support of several Justices, the Chief Justice shall call a formal vote.

(h) Justices will vote by indicating their favor or opposition in writing to the Chief Justice.

(i) If the draft judgment receives a majority of the votes, the Chief Justice will assign a Justice to write the judgment. The Chief Justice will also assign Justices to write the dissenting opinions as necessary. The Chief Justice may also authorize concurring or per curiam (by the Court) opinions as the Chief Justice feels necessary.

(j) If the draft Judgment fails to receive a majority of the votes, the Chief Justice will instruct the Justices to continue deliberations.

(k) Each judgment and dissenting opinion shall state and explain the reasons on which it is based.

(l) Each judgment or other opinion shall contain an abstract of 200 words or more, and the abstract shall not exceed one page.

(m) Judgments shall be submitted to the Chief Justice for review and processing.

(n) Justices shall not reveal the nature of their judgment votes. Such information will be revealed at the reading of the Court's judgments and dissenting opinions when specifically authorized by the Chief Justice.

(o) Deliberations may be extended by a majority vote of the Justices at the discretion of the Chief Justice.

(p) All opinions, decisions, deliberations, and documents generated by the Court during deliberations shall remain secret until specifically authorized to be publicized by the Chief Justice.

Article 17

The Chief Justice or the Court, at his or her discretion, may declare any person in breach of any of the Statue and Rules to be in contempt of Court. If the person in contempt is a Justice, the Chief Justice may remove their speaking privileges for a period of time determined by the Chief Justice. If the person is an observer, the Chief Justice may remove that person from the Court indefinitely.

Article 18

Whenever one of the parties does not appear before the Court, or fails to defend its case, the other party may call upon the Court to decide in favor of its claim. The Court must, before doing so, satisfy itself, not only that it has jurisdiction, but also that the claim is well founded in fact and law. The Chief Justice may determine whether those requirements are met, and either reschedule the proceedings or remove the case from the Court docket.

Article 19

The judgment of the Court shall be binding on any state that agrees to be bound by the decision of the Court during the Application process. All other decisions of the Court shall be considered Advisory Opinions.

Article 20

The judgment of the Court is final and without appeal. In the event of a dispute as to the meaning or scope of the judgment, the Court shall provide written explanation upon request of any party.

Article 21

Section 21.01 Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to make a presentation before the Court explaining

what stake it may have in the case. The Court, and ultimately, the Chief Justice, will make the final determination on this matter.

Section 21.02 Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Chief Justice shall notify all states forthwith. Every state so notified has the right to intervene in the proceedings. If the state uses this right, the construction given by the judgment will be equally binding upon the state.

Article 22

Section 22.01 Advisory opinions may be requested by certain authorized bodies of the United Nations as specifically enumerated in the Statute of the International Court of Justice.

Section 22.02 Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likely to impact the question at hand.

Section 22.03 The Court shall deliver its advisory opinions in the same manner as binding judgments, upon authorization by the Chief Justice. Such opinions shall remain secret, including their deliberations, until specifically authorized by the Chief Justice.

Section 22.04 In the exercise of its advisory functions, the Court shall further be guided by the provisions of the present Statute which apply in contentious cases to the extent to which it recognizes them to be applicable.

Article 23

If at any time a party to a case feels that these rules have been violated, any member of the Court or Advocate to the Court may submit a written or oral objection. The objection shall be ruled upon by the Chief Justice whose decision on the matter shall be final.

Article 24

The rules herein will supersede all conflicting rules within the Rules of Procedure for SRMUN. Where these is no conflict in these rules, the aforementioned document will be applicable to the function of the Court. All final decisions in this regard, including, but not limited to, interpretations of said rules and documents as to how they may or may not pertain to the Court, shall be made by the Chief Justice.

Article 25

The working language of the Court shall be English. Any party involved with the Court proceedings not wishing to use English must provide a complete, simultaneous translation to English of all oral and/or written statements they may wish to bring before the Court. Refusal to provide translation will result in the record being stricken of any non-English statements made by any party, and may result in the party being charged with contempt of Court.

Glossary of ICJ Terms

Advisory Opinion – Case before the Court in which the Court may issue an Opinion, but it will not be binding. This type of Opinion can be requested by an organ of the United Nations or select sub-bodies of the United Nations.

Advocate – Official agent of state or other entity with business before the Court.

Amendment – Formal document changing a portion of a current document before the Court.

Applicant – Party that initiates proceedings in the Court – known in American law as "prosecution."

Contentious Case – Case before the Court where both sides have agreed to abide by the ruling of the Court. In other words, decisions reached in contentious cases are binding on all parties to the case. Enforcement of these decisions is dependent on the Security Council.

Counter-Memorial – Respondent's evaluation of case law, issue before Court, and its position on the case and possible action the Court could take.

Justice – Legal expert on the International Court of Justice appointed to judge and rule upon cases before the Court based on sound legal knowledge.

Memorial – Applicant's evaluation of case law, issue before Court, and its position on the case and action the Applicant wishes the Court to take against the Respondent.

Rejoinder – Respondent's response to the formal Reply of the Applicant. Document should respond to fallacies of case law in Reply and issues in dispute with Reply

Reply – Applicant's response to the Counter-Memorial of the Respondent. Reply should cite improper interpretation of case law in Counter-Memorial and general issues in dispute with Counter-Memorial.

Respondent – Party that responds to initial proceedings – known in American law as "defense."

Operational Technicalities:

Timeline for Court proceedings:

- 20-minute presentation by Applicant.
- 15-minute cross-examination by Respondent.
- 15-minute questioning of the Applicant by Justices.
- 20-minute presentation by Respondent.
- 15-minute cross-examination by the Applicant.
- 15-minute questioning of the Respondent by Justices.
- 5-minute closing remarks by Respondent.
- 5-minute closing remarks by Applicant.
- Advocates excused followed by 60-minute deliberation period from Justices.

Motions in the Court:

- Motions in the ICJ are handled differently than in other committees. While the Chief Justice is the final authority on the validity of any motion within the Court, the following are some common motions that are generally acceptable in the ICJ:
  - Motion to extend questioning or deliberations: This motion would be acceptable if a Justice believes that more time is needed for questioning an Advocate or for closed deliberations. To pass, this motion requires a majority of the Justices and approval of the Chief Justice. Advocates may not make this motion.
  - Motion to end questioning or deliberations: This motion shall be valid if a Justice believes that adequate time has passed during the questioning or deliberation process, and that the respective period should be ended early. This motion requires a majority of the Justices and approval of the Chief Justice. Advocates may not make this motion.
  - Objections should be made in a respectful manner, and they should be used minimally to avoid disruption in the Court.
    - The Chief Justice reserves the right to rule on the merits of any objections.
    - Objections should be made on law or procedure, and not simply on whether or not the Advocate or Justice agrees or disagrees with a statement.

Sample Memorial and Counter-Memorial

Please note that all of the text below is directly quoted from the original text of the Memorial and Counter-Memorials for the relevant cases from the International Court of Justice website. These are ideal examples of the general framework that all Memorials and Counter-Memorials should be based on. However, when creating your own Memorial and Counter-Memorial, which should be at minimum two (2) pages in length and single spaced, it is of course inappropriate for you to use official documents as your own work.

SRMUN-ATLANTA

INTERNATIONAL COURT OF JUSTICE

Memorial

INSTITUTING PROCEEDINGS

filed in the Registry of the Court on 29 January 2017

MARITIME DISPUTE

(PERU v. CHILE)

2017 General List No. 1

I. APPLICATION INSTITUTING PROCEEDINGS
16 January 2017.

To the Registrar, International Court of Justice.

I, the undersigned, duly authorized by the Government of the Republic of Peru, of which I am the Agent, have the honor to submit to the International Court of Justice, in accordance with Articles 36 (1) and 40 (1) of its Statute and Article 38 of its Rules, an application instituting proceedings brought by the Republic of Peru against the Republic of Chile in the following case.

I. Subject of the Dispute

1. The dispute between Peru and Chile concerns the delimitation of the boundary between the maritime zones of the two States in the Pacific Ocean, beginning at a point on the coast called Concordia according to the Treaty of 3 June 1929. The dispute between Peru and Chile also involves the recognition in favor of Peru of a large maritime zone lying within 200 nautical miles of Peru's coast, and thus appertaining to Peru, but which Chile considers to be part of the high seas.

II. The Facts

2. The maritime zones between Chile and Peru have never been delimited by agreement or otherwise. Peru, accordingly, maintains that the delimitation is to be determined by the Court in accordance with customary international law.

3. However, Chile contends that both States have agreed on a maritime delimitation starting at the coast and then proceeding along a parallel of latitude. Moreover, Chile has refused to recognize Peru's sovereign rights in a maritime area situated within the limit of 200 nautical miles from its coast (and outside Chile's exclusive economic zone or continental shelf).

4. Since the 1980s, Peru has consistently endeavored to negotiate the various issues in dispute, but it has constantly met a refusal from Chile to enter into negotiations (see e.g., Annex 1). By a Note of 10 September 2004 of its Minister for Foreign Affairs (Annex 2), Chile firmly closed the door on negotiations.

III. The Jurisdiction of the Court

5. The jurisdiction of the Court in this case is based on Article XXXI of the American Treaty on Pacific Settlement (Pact of Bogotá) of 30 April 1948 (Annex 3). This provision reads as follows: "In conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, the High Contracting Parties declare that they recognize, in relation to any other American State, the jurisdiction of the Court as compulsory ipso facto, without the necessity of any special agreement so long as the present Treaty is in force, in all disputes of a juridical nature that arise among them concerning:

(a) the interpretation of a treaty;

(b) any question of international law;

(c) the existence of any fact which, if established, would constitute the breach of an international obligation;

(d) the nature or extent of the reparation to be made for the breach of an international obligation.

6. Both Peru and Chile are Parties to the Pact of Bogotá. No reservation in force at the present date has been made by either Party under the Pact.

IV. The Legal Grounds upon Which Peru's Claims Are Based

7. The principles and rules of customary international law governing maritime delimitation, as reflected in the relevant provisions of the 1982 United Nations Convention on the Law of the Sea ("UNCLOS") and developed by the jurisprudence of the International Court of Justice and other tribunals, constitute the main sources of law applicable to the present dispute.

8. The fundamental guiding principle for the delimitation of the exclusive economic zone and the continental shelf between States with adjacent coasts, as expressed in Articles 74 and 83 of the Convention, is that the delimitation "shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution." As interpreted by the recent jurisprudence of the Court, this principle is largely similar to the principle of "equidistance/special circumstances" concerning the delimitation of the territorial sea between States with adjacent coasts, as expressed in Article 15 of

the Convention.

9. Under international law, both Peru and Chile are entitled to a maritime domain adjacent to and prolonging their respective land territory to a distance of 200 nautical miles from their baselines. On this basis and due to the geographic configuration of the coast, their entitlements overlap. As long as no agreement has been reached by the Parties in respect of the delimitation of their respective maritime zones and in the absence of special circumstances of such a nature as to put into question the equidistance line, such equidistance line achieves an equitable result. The maritime boundary between the Parties should be determined accordingly.

10. In contrast, a dividing line along a parallel starting from the coast, advocated by Chile, does not meet the fundamental requirement of achieving an equitable result, nor does it stem from any agreement between the Parties.

11. The delimitation should begin at a point on the coast called Concordia, the terminal point of the land boundary established pursuant to the Treaty and Complementary Protocol to settle the issue of Tacna and Arica — Treaty of Lima — of 3 June 1929 (Annex 4), the co-ordinates of which are 18° 21' 08" S and 70° 22' 39" W (see Annex 5) and extends to a distance of 200 nautical miles from the baselines established by the Parties. This is in conformity with Article 54, paragraph 2, of the Peruvian Constitution of 1993 (Annex 6), the Peruvian Law No. 28621 on the Maritime Domain Baselines of 3 November 2005 (Annex 5), the Peruvian Supreme Decree No. 047-2007-RE of 11 August 2007 (Annex 7) and Article 596 of the Chilean Civil Code as amended by Law No. 18.565 of 23 October 1986 (Annex 8) which all concur in fixing the outer limit of their respective maritime entitlements up to a distance of 200 nautical miles measured from the baselines.

12. Under well-established principles and rules of international law, Peru is also entitled to the maritime areas lying within 200 nautical miles of its baselines and beyond 200 nautical miles from Chile's baselines, and Chile's contentions to the contrary are devoid of merit.

V. Decision Requested

13. Peru requests the Court to determine the course of the boundary between the maritime zones of the two States in accordance with international law, as indicated in Section IV above, and to adjudge and declare that Peru possesses exclusive sovereign rights in the maritime area situated within the limit of 200 nautical miles from its coast but outside Chile's exclusive economic zone or continental shelf.

14. The Government of Peru, further, reserves its right to supplement, amend or modify the present Application in the course of the proceedings.

15. For the purposes of Article 31 (3) of the Statute and Article 35 (1) of the Rules of the Court the Government of Peru declares its intention of exercising the right to designate a Judge ad hoc. All communications relating to this case should be sent to the Embassy of the Republic of Peru in the Netherlands, Nassauplein 4, 2585 EA The Hague, the Netherlands.

Respectfully submitted,

X_____

Allan Wagner (*Your Name*),

Agent of the Government of the Republic of Peru.

SRMUN-ATLANTA

INTERNATIONAL COURT OF JUSTICE

COUNTER-MEMORIAL

filed in the Registry of the Court

on 1 March 2017

(Malaysia/Singapore)

2017 General List No. 1

I. Comment on Facts Stated in the Memorial of the Republic of Malaysia

1. Malaysia's claim to Pedra Branca is based on an alleged "original title" held by the Johor-Riau-Lingga Sultanate (called the "Sultanate of Johor" in Malaysia's Memorial) before 1824, which was subsequently transmitted to Malaysia through an elaborate chain of "succession."

2. According to Malaysia, this alleged chain of "succession" proceeded as follows:

(a) the 1824 Anglo-Dutch Treaty split the region into British and Dutch spheres of influence and resulted in the division of the Johor-Riau-Lingga Sultanate into two successor entities – one north of the Strait of Singapore, the other south of the Strait of Singapore;

(b) after the split, Pedra Branca became a territory of the northern successor entity (i.e., the State of Johor);

(c) when the State of Johor joined the Malayan Union in 1946, Pedra Branca became part of the territory of the Malayan Union;

(d) when the Malayan Union was replaced by the Federation of Malaya in 1948, Pedra Branca became part of the territory of the Federation of Malaya;

(e) when the Federation of Malaya was reconstituted as the Federation of Malaysia in 1963, Pedra Branca became part of Malaysia.

II. Additional Facts

1. In contrast, Singapore's case is based on well-documented and uncontroverted acts of lawful possession undertaken by Great Britain, Singapore's predecessor in title. Lawful possession of Pedra Branca was taken by agents of the British Crown during the years 1847-1851 for the purpose of constructing a lighthouse. Possession

was taken openly without seeking the permission of any Malay chief or any other power in the region, and without protest from any of them.

2. Britain's (and Singapore's) title over Pedra Branca was time and again recognized and acknowledged by Malaysia and her predecessor, the State of Johor. Such recognition included:

(a) Malaysia seeking permission from Singapore for her officials to conduct activities around Pedra Branca;

(b) Malaysia requiring Singapore to cease flying the Singapore Marine Ensign on the lighthouse on Pulau Pisang (which belongs to Malaysia), but at the same time making no such requests with respect to Horsburgh Lighthouse on Pedra Branca; and

(c) publishing a series of official maps from 1962-1975 which attributed Pedra Branca to Singapore.

3. Not only did Malaysia and her predecessor, the State of Johor, consistently recognize and acknowledge Singapore's title, in 1953, the State of Johor expressly, unconditionally and unequivocally disclaimed title to Pedra Branca.

III. Observations Concerning the Statement of Relevant Law in the Memorial of the Republic of Malaysia

1. In her Memorial, Malaysia has sought to deny Singapore's title by arguing that:

(a) under the Crawfurd Treaty of 1824 only the island of Singapore and all the islands within ten geographical miles from its coasts were ceded to the British, and Pedra Branca is located outside this zone;

(b) under international law, the mere construction and operation of a lighthouse does not confer sovereignty upon the lighthouse operator: a fortiori, when the lighthouse, as in the case of Pedra Branca, was built and operated with the permission of the territorial sovereign;

2. Malaysia's arguments run contrary to the evidence:

(a) the Crawfurd Treaty of 1824 is irrelevant. It does not circumscribe British competence in acquiring other territories in the region. Singapore's claim is not based on this Treaty but on Britain's lawful taking of the island in 1847;

(b) British officials did not seek permission from any local rulers for their activities on Pedra Branca;

(c) contrary to Malaysia's contention, this Court has recognised that the construction of navigational aids "can be legally relevant in the case of very small islands". In any event, Singapore's activities on the island are not confined to the operation of the lighthouse, but include a vast range of other acts of State authority, including legislative, administrative and quasi-judicial acts, performed over a period of 150 years on the island and in the waters around it;

IV. Statement of Relevant Law:

1. The present section demonstrates that when the British took possession of Pedra Branca in 1847, Johor had no prior title to the island, whether assessed under classical principles of international law or under regional custom of allegiance:

2. While the law applicable to the British acquisition of Pedra Branca in 1847 was clearly the law of the nations as

adopted by the European powers, there is less certainty concerning the applicable law by which Malaysia's claim to an "original title" should be evaluated. This is because of Malaysia's complete failure to explain the legal basis of her alleged "original title" and also because Malaysia has not made clear how and when this alleged "original title" arose, apart from some vague hints in her Memorial that her alleged "original title" dates from the 16th century.

3. Malaysia's avoidance of this critical issue has made it necessary for Singapore to discuss both the regional custom of allegiance and classical principles of international law. Whether examined under the local context of allegiance or under classical international law, the evidence clearly establishes that, immediately before the British took possession of Pedra Branca in 1847, there was an absence of title on the part of Johor.

V. Conclusion

Accordingly, on the basis of the facts and arguments set forth in this Counter-Memorial, and without prejudice to the right further to amend and supplement these submissions in the future, the Republic of Singapore asks the Court to adjudge and declare that:

1. For the reasons set out in this Counter-Memorial and in Singapore's Memorial, the Republic of Singapore requests the Court to adjudge and declare that:

(a) the Republic of Singapore has sovereignty over Pedra Branca / Pulau Batu Puteh;

(b) the Republic of Singapore has sovereignty over Middle Rocks; and

(c) the Republic of Singapore has sovereignty over South Ledge.

The Republic of Singapore has designated the undersigned as its Agents for the purposes of these proceedings. All communications relating to this case should be directed to this Agent.

Respectfully submitted,

X_____

Prof. Tommy Koh (*Your Name*)

Committee History of the International Court of Justice

The International Court of Justice (ICJ) was established by Chapter XIV of the Charter of the United Nations (UN) in 1945.[1] Participation in the ICJ is voluntary; only Member States that have opted into the jurisdiction of the ICJ are able to bring cases to the court and have cases brought against them.[2] Jurisdiction is defined as "the authority given by law to a court to try cases and rule on legal matters within a particular geographic area and/or over certain types of legal cases."[3] The ICJ's jurisdiction is twofold.[4] First, it settles legal disputes submitted by Member States.[5] Second, it responds to legal questions referred to it by specialized agencies and UN organs with advisory opinions.[6] ICJ participation is exclusive to Member States excludes entities such as transnational corporations, international NGOs, ethnic groups, and indigenous peoples.[7] The cases tried in the ICJ are classified as civil cases or cases between Member States. Therefore, ICJ's jurisdiction should not be confused with that of the International Criminal Court (ICC). The ICC hears criminal cases and is otherwise recognized as a court who "investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and the crime of aggression."[8]

In contentious cases, proceedings commence once an application or notification of a special agreement is submitted.[9] Special agreements are bilateral in character and can be submitted by either or both involved parties.[10] Applications are unilateral in character and submitted by an applicant Member State against a respondent Member State.[11] Advisory proceedings procedure depends on which body makes the request.[12] The United Nations Security Council (UNSC) and the United Nations General Assembly (UNGA) may request opinions on "any legal question," while other organs and specialized agencies may only seek advisory opinions with respect to "legal questions arising within the scope of their activities."[13] ICJ cases can be resolved in the following three ways: (1) mutual agreement by the parties during the proceedings; (2) discontinuation from the proceedings or withdrawal by an involved Member State; or (3) a verdict delivered by the ICJ. The ICJ judgments can be brought as evidence for intervention to the SC.[14] While the UNSC cannot alter an ICJ ruling, it can determine the international intervention action.[15] Thus, enforcement of ICJ rulings is vulnerable to veto from the permanent members of the UNSC.[16]

The Permanent Court of International Justice (PCIJ) directly preceded the ICJ.[17] The PCIJ was established at the end of the First World War by the newly formed League of Nations.[18] Between 1922 and 1940, the PCIJ dealt with 29 contentious cases and gave 28 Advisory Opinions to the League of Nations.[19] It functioned as a peaceful means of conflict resolution for countries that were bound by the treaty.[20] When the UN was established in 1945, the Charter

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[1] The United Nations, *Charter of the United Nations,* June 26, 1945.
[2] How the Court Works," The International Court of Justice, https://www.icj-cij.org/en/how-the-court-works (accessed February 27, 2021).
[3] "Jurisdiction," Legal Dictionary, https://dictionary.law.com/Default.aspx?selected=1070 (accessed February 27, 2021).
[4] "How the Court Works," The International Court of Justice.
[5] "How the Court Works," The International Court of Justice.
[6] "How the Court Works," The International Court of Justice.
[7] "How the Court Works," The International Court of Justice.
[8] "About the Court," The International Criminal Court, https://www.icc-cpi.int/about (accessed February 27, 2021).
[9] "How the Court Works," The International Court of Justice.
[10] "How the Court Works," The International Court of Justice.
[11] "How the Court Works," The International Court of Justice.
[12] "How the Court Works," The International Court of Justice.
[13] "How the Court Works," The International Court of Justice.
[14] "Dispute Settlement," United Nations Conference on Trade and Development, https://unctad.org/system/files/official-document/edmmisc232add19_en.pdf (accessed February 27, 2021).
[15] Keith Suter, "The International Court of Justice," *Global Directions* http://www.global-directions.com/Articles/Global%20Politics/InternationalCourtofJustice.pdf (accessed February 27, 2021).
[16] Keith Suter, "The International Court of Justice."
[17] "History," The International Court of Justice, https://www.icj-cij.org/en/history (accessed February 27, 2021).
[18] "History," The International Court of Justice.
[19] "History," The International Court of Justice.
[20] "History," The International Court of Justice.

stated that the Statue of the ICJ was to be based upon that of the PCIJ.[21] The ICJ took on the tasks that the PCIJ had previously handled—contentious cases and Advisory Opinions, and the PCIJ was dissolved.[22]

From 1947-2019, the ICJ entered 178 cases to the General List, which includes contentious cases and advisory proceedings.[23] These cases are titled with the names of involved parties and *v.* for the Latin *verses;* the applicant Member State is listed first and the respondent Member State is listed second, (e.g., Cameroon v. Nigeria). [24, 25] For advisory proceedings, the two Member States' names are separated by a slash (e.g., Indonesia/Malaysia).[26]

The official languages of the ICJ are English and French, meaning everything written or said in one language is translated to the other.[27] The ICJ is located at the Peace Palace of The Hague in the Netherlands and is composed of 15 judges.[28] Judges are elected by the UNGA and the SC for nine-year terms.[29] The UNGA and UNSC vote simultaneously yet separately on judges.[30] Multiple rounds of voting are sometimes necessary because candidates must receive an absolute majority of votes from both bodies.[31] Elections occur every three years and replace one-third of the Court.[32] Judges may be reappointed.[33] Every three years, the President and Vice-President of the court are elected by Members of the Court through a secret ballot.[34] The President presides at meetings of the Court, directs the work of the Court, supervises its administration, and casts a vote in the event of a tie.[35] Joan E. Donoghue, United States of America, is the current President, and Kirill Gevorgian, Russian Federation, is the current Vice-President; both were elected on February 6, 2021, and take precedence before all other members of the court.[36] The remaining 13 judges are: Judge Peter Tomka of Slovakia, Judge Ronny Abraham of France, Judge Mohamed Bennouna of Morocco, Judge Antonion Augusto Cancado Trindade of Brazil, Judge Abdulqaei Ahmed Yusuf of Somalia, Judge Xue Hanqin of China, Judge Julia Sebutinde of Uganda, Judge Dalveer Bhandari of India, Judge Patrick Lipton Robinson of Jamaica, Judge Nawaf Salam of Lebanon, Judge Iwasawa Yuji of Japan and Judge Georg Nolte of Germany.[37]

Formal votes are called for by the President of the ICJ and following the apparent support of several judges for a draft judgment.[38] Draft judgments require a two-thirds majority vote from all judges to pass. In the event of a failed draft judgment, judges will continue deliberation until a draft judgment is passed.[39] However, judges may also file dissenting judgements should they not be in agreement with the judgement that was passed[40]Member States may not appeal the decision of the court, but they may request an interpretation of the decision by the Court which provides further elaboration on the judgement.[41] All decisions are final, but if new evidence is discovered that may change the verdict, Member States, UN bodies, or UN agencies from the case may apply for a revision of the judgment.[42]

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[21] "History," The International Court of Justice.
[22] "History," The International Court of Justice.
[23] "Cases," The International Court of Justice, https://www.icj-cij.org/en/cases (accessed February 27, 2021).
[24] "Cases," The International Court of Justice.
[25] "Cases," The International Court of Justice.
[26] "Cases," The International Court of Justice.
[27] "How the Court Works," The International Court of Justice.
[28] "How the Court Works," The International Court of Justice, https://www.icj-cij.org/en/how-the-court-works (accessed February 27, 2021).
[29] "How the Court Works," The International Court of Justice.
[30] "How the Court Works," The International Court of Justice.
[31] "How the Court Works," The International Court of Justice.
[32] "How the Court Works," The International Court of Justice.
[33] "How the Court Works," The International Court of Justice.
[34] "Presidency," The International Court of Justice, https://www.icj-cij.org/en/presidency (accessed February 27, 2021.)
[35] "Presidency," The International Court of Justice.
[36] "Current Members," The International Court of Justice, https://www.icj-cij.org/en/current-members (accessed February 27, 2021).
[37] "Current Members," The International Court of Justice, https://www.icj-cij.org/en/current-members (accessed July 27, 2021).
[38] "Dispute Settlement," United Nations Conference on Trade and Development, https://unctad.org/system/files/official-document/edmmisc232add19_en.pdf (accessed February 27, 2021).
[39] "Dispute Settlement," United Nations Conference on Trade and Development.
[40] "Dispute Settlement," United Nations Conference on Trade and Development.
[41] "Dispute Settlement," United Nations Conference on Trade and Development.
[42] "Dispute Settlement," United Nations Conference on Trade and Development.

As an organ of the UN, the ICJ is primarily funded through the UN regular budget.[43] Some voluntary funding also comes from international organizations and entities.[44] On occasion, there is emergency funding for specific situations or special request referral from the UNSC.[45] In 1989, the Secretary-General of the UN established a trust fund for financial assistance in certain circumstances. [46]Today, the fund may be allocated to any Member State that wishes to submit a dispute.[47] The fund is also intended to help Member States comply with judgements of the ICJ.[48]

[43] "How the Court Works," The International Court of Justice.

[44] "General Assembly Approves UN Budget for 2021," UN News, https://news.un.org/en/story/2020/12/1081222#:~:text=A%20detailed%20view%20of%20the%20General%20Assembly%20Hall.&text=United%20Nations%20Member%20States%2C%20on,Organization's%20regular%20budget%20for%202021. (Accessed February 22, 2021).

[45] "How the Court Works," The International Court of Justice, https://www.icj-cij.org/en/how-the-court-works (accessed February 27, 2021).

[46] "How the Court Works," The International Court of Justice.

[47] "How the Court Works," The International Court of Justice.

[48] "Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice." United Nations, https://www.un.org/law/trustfund/trustfund.htm (accessed May 4, 2021)

I. Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights
(Islamic Republic of Iran v. United States of America)

Introduction

In July 2018, the Islamic Republic of Iran filed proceedings against the United States (US) of America for violating the Treaty of Amity, Economic Relations, and Consular Rights in 1955.[49] Iran claimed that sanctions placed by the US, against the Islamic Republic, violate the Treaty specifically Articles 4, 7, 8, 9, and 10, all of which guarantee free commerce for both Member States.[50] Additionally, Iran asserts that the International Court of Justice (ICJ) has jurisdiction of the dispute under Article 21 of the Treaty.[51] The US, however, holds the belief the court has no jurisdiction to interfere with the US' sovereign right to impose sanctions and that due to national security and Iran's use of the treaty as an adjudication tool is meritless.[52]

History of Conflict

Until 1951, Great Britain controlled Iran's oil industry.[53] In 1951, however, Shah Mohammad Reza Pahlavi fell to pressure from Iran's legislative body to appoint Mohammed Mosaddegh as Prime Minister.[54] Mossadegh gained popularity over his platform of nationalizing the British-owned oil industry in Iran.[55] The Shah, sympathetic to the British because of their assistance in shoring up his own power, was somewhat opposed. Britain for their part led an international boycott of Iranian oil in response.[56] The following two years were plagued by conflicts between Mosaddegh and Shah Pahlavi, culminating in an attempt by the Shah to dismiss Mosaddegh from his position.[57] The Shah's decision was urged by the US' Central Intelligence Agency (CIA), who feared a communist takeover.[58] Following retaliatory protests in the streets of Iran, Shah Pahlavi was forced to flee from Iran.[59] During this time, General Fazlollah Zahedi, with the support of the CIA, successfully overthrew Mosaddegh in a *coup d'etat*.[60] In 1955, the US and Iran signed the Treaty of Amity, codifying economic relations and consular rights between the nations.[61] In 1957, under the guidance of US and Israeli intelligence officers, Iran created SAVAK, an Iranian intelligence organization.[62] The US also supplied Iran with its first nuclear reactor and fuel that year.[63] Steady relations between the Member States continued until the 1970s, with the US supplying Iran with weapon-grade enriched uranium.[64]

By 1979, however, marked the beginning of increasingly deteriorating relations between the US and Iran.[65] In 1979, Islamic students loyal to Ayatollah Khomeini, the leader of newly formed republic, stormed the US' embassy in

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[49] International Court of Justice, *Application Instituting Proceedings*, July 18, 2018.
[50] International Court of Justice, *Application Instituting Proceedings*.
[51] International Court of Justice, *Application Instituting Proceedings*.
[52] Stephanie van den Berg and Toby Sterling, "World Court Hears Iran Lawsuit to Have U.S. Sanctions Lifted," Reuters (Thomson Reuters, August 27, 2018), https://www.reuters.com/article/us-iran-nuclear-usa-sanctions/world-court-hears-iran-lawsuit-to-have-u-s-sanctions-lifted-idUSKCN1LC00G.
[53] Frazee, Gretchen "A timeline of U.S.-Iran relations," PBS News Hour, January 13, 2020 https://www.pbs.org/newshour/world/a-timeline-of-u-s-iran-relations.
[54] Gretchen Frazee, "A timeline of U.S.-Iran relations."
[55] Gretchen Frazee, "A timeline of U.S.-Iran relations."
[56] Gasiorowski, Mark J., and Malcolm Byrne, eds. *Mohammad Mosaddeq and the 1953 Coup in Iran*. Syracuse, New York: Syracuse University Press, 2004. Accessed July 25, 2021. http://www.jstor.org/stable/j.ctt1j5d815.
[57] Frazee, Gretchen, "A timeline of U.S.-Iran relations."
[58] Frazee, Gretchen, "A timeline of U.S.-Iran relations."
[59] Frazee, Gretchen "A timeline of U.S.-Iran relations."
[60] Frazee, Gretchen, "A timeline of U.S.-Iran relations."
[61] United Nations, *United Nations Treaty Series*, 1957-58.
[62] Gretchen Frazee, "A timeline of U.S.-Iran relations."
[63] Atoms for Peace Speech, International Atomic Energy Agency, December 8, 1953, https://www.iaea.org/about/history/atoms-for-peace-speech.
[64] Profile: IAEA, the nuclear watchdog, BBC News, August 30, 2019, https://www.bbc.com/news/world-middle-east-33521655.
[65] Gretchen Frazee, "A timeline of U.S.-Iran relations."

Tehran, holding 52 American employees hostage for 444 days.[66] The hostage situation severed diplomatic ties between the nations.[67] Various attempts by both Member States to reconcile the tension has ultimately failed.[68] In 2020, the US killed Iranian General Qassem Soleimani in a drone strike in Baghdad, Iraq, further straining relationships.[69]

Statement of Facts

The US' involvement in overthrowing Shah Mohammad Reza Pahlavi and bringing General Fazlollah Zahedi into control during the 1953 *coup d'etat* soured relations with Iran.[70] In an effort to reconcile the relationship, Iran and the US signed the Treaty of Amity, Economic Relations, and Consular Rights on in 1955.[71] The agreement established peaceful and friendly relations between both Member States and became effective on June 16, 1957.[72] Articles 8 through 10 of the Treaty focus on trade; Articles 8 and 9 outline guidelines for importing and exporting goods; Article 10 ensures freedom of commerce and navigation.[73] Articles 12 through 14, 16, 17, 18, and 19 focus on diplomatic and consular relations.[74] Article 20 lists areas not covered by the treaty.[75] Article 21 gives the ICJ jurisdiction for settling disputes that arise.[76] Finally, Article 23 requires either party to give a written notice one year before the treaty can be effectively cancelled.[77]

Despite the existence of the Treaty, the 1979 Iran hostage situation in Tehran exasperated dormant tensions with the US.[78] With its diplomats held hostage in Tehran, the US organized a rescue military operation.[79] When the operation failed, the US imposed sanctions against Iran, claiming Iran violated Article 2, Clause 4 of the Treaty, which ensured the protection of citizens of both states.[80] The sanctions included freezing approximately USD 8.1 Billion in Iranian assets, such as bank deposits, gold, and imposing a trade embargo.[81] The sanctions were lifted in 1981 after the American hostages were released but were re-imposed in 1995 with the US alleging the Iranian government was financing and supporting terrorism.[82]

In July 2015, the US, alongside China, France, Germany, Russia, and the United Kingdom, created the Joint Comprehensive Plan of Action (JCPOA), also known as the Iran Nuclear Deal.[83] Under the JCPOA, the US and Europe agreed to lift sanctions against Iran in exchange for Iran's compliance with restrictions places on and monitoring of its nuclear program.[84] In May 2018, despite the International Atomic Energy Agency's (IAEA) verification of Iran's compliance of its nuclear-related commitments, then US President Donald J. Trump, denied the IAEA's finding and asserted that Iran had failed to fully comply with the most recent limitations placed on its nuclear program.[85] The US announced its withdrawal from the JCPOA and intention of re-imposing sanctions on

[66] Gretchen Frazee, "A timeline of U.S.-Iran relations."
[67] Gretchen Frazee, "A timeline of U.S.-Iran relations."
[68] Gretchen Frazee, "A timeline of U.S.-Iran relations."
[69] Gretchen Frazee, "A timeline of U.S.-Iran relations."
[70] Gretchen Frazee, "A timeline of U.S.-Iran relations," *PBS News Hour*, January 13, 2020 https://www.pbs.org/newshour/world/a-timeline-of-u-s-iran-relations.
[71] United Nations, *United Nations Treaty Series*, 1957-58.
[72] United Nations, *United Nations Treaty Series*, 1957-58.
[73] United Nations, *United Nations Treaty Series*, 1957-58.
[74] United Nations, *United Nations Treaty Series*, 1957-58.
[75] United Nations, *United Nations Treaty Series*, 1957-58.
[76] United Nations, *United Nations Treaty Series*, 1957-58.
[77] United Nations, *United Nations Treaty Series*, 1957-58.
[78] International Court of Justice, *Application Instituting Proceedings*, July 18, 2018.
[79] International Court of Justice, *Application Instituting Proceedings*.
[80] International Court of Justice, *Application Instituting Proceedings*.
[81] International Court of Justice, *Application Instituting Proceedings*.
[82] International Court of Justice, *Application Instituting Proceedings*.
[83] International Court of Justice, *Application Instituting Proceedings*.
[84] International Atomic Energy Agency, Verification and monitoring in the Islamic Republic of Iran in light of United Nations Security Council resolution 2231 (Director-General, 2015), https://www.iaea.org/sites/default/files/18/06/gov2018-24.pdf.
[85] International Atomic Energy Agency, Verification and monitoring in the Islamic Republic of Iran in light of United Nations Security Council resolution 2231.

Iran to pressure Iran into negotiating a new deal with stronger restrictions.[86] The current administration of US President Joseph R. Biden is currently working with the Iranian government to find a deal that appeases both sides, however with the ongoing court case and both sides drawing lines in the sand this has been difficult.[87]

Procedural History

In July 2018, Iran filed a case against the US in the ICJ, alleging the re-imposition of sanctions by the US violated Article 1 of the Treaty of Amity.[88] Specifically, Iran alleges that the first package of sanctions "target, directly, or indirectly," Iran and its nationals, and therefore violate Articles 4, 7, 8, 9, 10 of the JCPOA and the Treaty.[89] Iran also assert's the Court jurisdiction under Article 21 paragraph 2 of the Treaty, which defers disputes to the ICJ upon unsuccessful attempts at diplomacy and Article 36 paragraph 1 of the Statute of the Court, which subsequently grants the Court jurisdiction over parties and disputes deferred to it.[90, 91, 92] The US recognizes the Treaty of Amity and agrees that it became effective in 1957 but asserts that the Court lacks jurisdiction over the claim and jurisdiction over the US because it is not a party to the Statute of the Court.[93] Moreover, the US denies its imposition of sanctions on Iran violates the Treaty because a sovereign nation has the right to whatever necessary to protect its national security.[94]

On July 16, 2018, Iran also submitted a request for a provisional measure, under Article 41 of the Statute and Article 73, 74, and 75 of the Rules of Court.[95] Iran requested that the US be required to lift its sanctions and refrain from imposing additional sanctions in the interim.[96] On October 3, 2018, the Court, ICJ granted Iran's provisional measure and issued an interim.[97] The Order requires the US to lift sanctions preventing the administration of humanitarian aid from reaching civilians in Iran and bans both States from engaging in any action which may aggravate, prolong, or interfere with the current legal action.[98] The US ignored this order and responded with objections of its own.[99]

Following the Court's Order on July 16, 2018, the US raised preliminary objections over the Court's jurisdiction and admissibility of the Application.[100] The US had two main objections to the case. First, both the ICJ and the Treaty have no jurisdiction over matters of national security.[101] Secondly, the US argues that Iran had already violated the terms of the treaty by attempting to developing nuclear intercontinental ballistic missiles. [102] Public hearings on the preliminary objections took place from September 14 to 21, 2020.[103] On February 3, 2021, the Court rejected both objections and found that the Court has jurisdiction under Article 21 paragraph 2 of the Treaty of Amity, Economic

[86] International Court of Justice, *Application Instituting Proceedings*.
[87] Erlanger, Steven, and David E. Sanger. "U.S. and Iran Want to Restore the Nuclear Deal. They Disagree Deeply on What That Means." The New York Times. The New York Times, May 9, 2021. https://www.nytimes.com/2021/05/09/world/middleeast/biden-iran-nuclear.html.
[88] International Court of Justice, *Application Instituting Proceedings*.
[89] International Court of Justice, *Application Instituting Proceedings*.
[90] International Court of Justice, *Application Instituting Proceedings*.
[91] United Nations, *United Nations Treaty Series*, 1957-58.
[92] "Basis of the Court's Jurisdiction," International Court of Justice, https://www.icj-cij.org/en/basis-of-jurisdiction (accessed May 27, 2021).
[93] International Court of Justice, *Judgement*, February 3, 2021.
[94] International Court of Justice, *Judgement*.
[95] International Court of Justice, *Request for the Indication of Provisional Measures*, July 16, 2018.
[96] International Court of Justice, *Request for the Indication of Provisional Measures*.
[97] International Court of Justice, *Request for the Indication of Provisional Measures*.
[98] International Court of Justice, *Request for the Indication of Provisional Measures*.
[99] International Court of Justice, *Request for the Indication of Provisional Measures*.
[100] International Court of Justice, *Request for the Indication of Provisional Measures*.
[101] International Court of Justice, *Request for the Indication of Provisional Measures*.
[102] International Court of Justice. "Public Sitting Held on Monday 14 September 2020, at 3 P.m., at the Peace Palace, President Yusuf Presiding, in the Case Concerning Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America)." ICJ.org. In, September 14, 2020. International Court of Justice.
[103] International Court of Justice, *Request for the Indication of Provisional Measures*.

Relations, and Consular Rights of 1955.[104] As it stands now, the court is awaiting the Counter Memorial from the US.

Committee Directive

The Court needs to conclude whether the US violated the Treaty of Amity. Furthermore, if the Court finds the US indeed violated the Treaty of Amity whether punitive action is required against the US. However, if the Court finds that the US did not violate the prior Judgment, this Court must consider if there is any additional action the Court needs to take to conclude all proceedings on this issue.

[104] International Court of Justice, *Judgement*, February 3, 2021.

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

Introduction

The Republic of the Union of Myanmar (Myanmar) has had growing tensions in its western-most State of Rakhine since British colonization.[105] In October 2016, tensions culminated when at least 92,000 people were violently displaced.[106] The majority of which were members of the Rohingya Muslim minority group.[107] The Gambia has brought this case to the ICJ, in an attempt to have the violence against the Rohingya classified as genocide and punished as such.[108] Thus, the distinct definition of the term genocide is integral to this case.

The term *Genocide* was first coined in 1944 by Polish-Jewish lawyer Raphael Lemkin in a book detailing the systematic destruction of national and ethnic groups by the Nazis during the Holocaust.[109] The word is a combination of *geno-,* the Greek word for race or tribe, and *-cide* from the Latin word for killing.[110] Lemkin defined this term as "a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves."[111] The 1948 Convention on the Prevention and Punishment of the Crime of Genocide established genocide as an international crime, legally defining it as:

> *"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."*[112]

According to Article I of the Convention on the Prevention and Punishment of the Crime of Genocide, henceforth known as the Genocide Convention:

> *"genocide means 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*
> *d. physical destruction in whole or in part;*
> *e. Imposing measures intended to prevent births within the group;*
> *f. Forcibly transferring children of the group to another group."* [113]

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[105] Aye Chan, "The Development of a Muslim Enclave in Arakan (Rakhine) State of Burma (Myanmar)," SOAS Bulletin of Burma Research, Volume 3. https://www.soas.ac.uk/sbbr/editions/file64388.pdf

[106] United Nations Office for the Coordination of Humanitarian Affairs, Myanmar Humanitarian Bulletin, Issue 4.October 2016-January 2017. https://reliefweb.int/report/myanmar/myanmar-humanitarian-bulletin-issue-4-october-2016-january-2017-enmy

[107] United Nations Office for the Coordination of Humanitarian Affairs, Myanmar Humanitarian Bulletin, Issue 4.October 2016-January 2017.

[108] International Court of Justice, The Republic of The Gambia institutes proceedings against the Republic of the Union of Myanmar and asks the Court to indicate provisional measures, Press Release https://www.icj-cij.org/public/files/case-related/178/178-20191111-APP-01-00-EN.pdf

[109] Lemkin, Raphael. *Axis Rule in Occupied Europe: Laws of Occupation- Analysis of Government- Proposals for Redress,* (Carnegie Endowment for International Peace, 1944), 79-95.

[110] Lemkin, Raphael. *Axis Rule in Occupied Europe*

[111] Lemkin, Raphael. *Axis Rule in Occupied Europe*

[112] The United Nations, *Convention on the Prevention and Punishment of the Crime of Genocide.*

[113] Convention on the Prevention and Punishment of the Crime of Genocide, Article 1

History of Conflict

Conflict in the Rakhine State traces back to British colonization. Beginning in 1824, the British ruled Myanmar, formerly known as Burma, for over a century.[114] During this period, the British implemented policies that encouraged the migration of labor to Myanmar in order to increase rice cultivation and profits.[115] According to census records, between 1871 and 1911, the Muslim population of the state tripled.[116] Not only did it increase the size of the Muslim population, but Britain also promised the Rohingya a separate land that would be known as a "Muslim National Area."[117] Although they never attained an autonomous state, the promise of a state resulted in the Rohingya's loyalty to the British during the Second World War, while Myanmar's nationals fought alongside the Japanese.[118] When Myanmar gained independence from the British in 1948, the first violent conflicts between the groups broke out.[119]

After independence, the Rohingya requested that the government of Myanmar grant them their own autonomous state.[120] The government denied their request for an autonomous state and instituted barriers to citizenship, claiming they are foreigners.[121] In 1950, a group of Rohingya staged a rebellion in protest of the policies of the Myanmar government, demanded citizenship, and asked for an independent state.[122] The military in Myanmar struck down the resistance movement and its demands.[123]

In 1962, a coup in the country created a one-party military state; the state saw a rise in nationalism, and the Rohingya were seen as a threat to this identity. [124] Subsequently, the Rohingya were forced into labor, arbitrarily detained, physically assaulted, raped, tortured, and killed by the army.[125] Structural violence, such as the destruction of Rohingya businesses, infrastructure, and sociopolitical organizations simultaneously occurred.[126] As a result, in the early 1990s, more than 250,000 Rohingya fled or attempted to flee to Bangladesh.[127]

The Rohingyas' legal status in the state has always been an area of contention.[128] The government of Myanmar alleges that the Rohingya do not have a claim to the land because they arrived during colonization and are not native to the area.[129] As a result, the Rohingya face statelessness, meaning that they do not possess citizenship of any state and do not have access to the rights and protections that accompany citizenship.[130] The Rohingya make up the largest community of stateless people worldwide.[131] Although the group had been informally denied citizenship for decades, the 1982 Citizenship Act of Myanmar was the first piece of legislation to legally inhibit these rights.[132] Specifically, the law required those seeking citizenship to prove that their ancestors belong to a national race or group present in Myanmar that predates the age of British colonization in the region.[133] Moreover, the law classified each member of the Muslim minority as an illegal immigrant.[134]

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[114] Aye Chan, "The Development of a Muslim Enclave in Arakan (Rakhine) State of Burma (Myanmar),"
[115] Aye Chan, "The Development of a Muslim Enclave in Arakan (Rakhine) State of Burma (Myanmar),"
[116] Aye Chan, "The Development of a Muslim Enclave in Arakan (Rakhine) State of Burma (Myanmar),"
[117] "Historical Background of Burma," Human Rights Watch. https://www.hrw.org/reports/2000/burma/burm005-01.htm
[118] "Historical Background of Burma," Human Rights Watch
[119] Engy Abelkader, "The Rohingya Muslims in Myanmar: Past, Present, and Future," Oregon Review of International Law, Volume 15. https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/17966/Abdelkader.pdf;sequence=1
[120] "Historical Background of Burma," Human Rights Watch
[121] "Historical Background of Burma," Human Rights Watch
[122] "Historical Background of Burma," Human Rights Watch
[123] "Historical Background of Burma," Human Rights Watch
[124] Engy Abelkader, "The Rohingya Muslims in Myanmar: Past, Present, and Future"
[125] Engy Abelkader, "The Rohingya Muslims in Myanmar: Past, Present, and Future"
[126] "Historical Background of Burma," Human Rights Watch
[127] "Historical Background of Burma," Human Rights Watch
[128] "Historical Background of Burma," Human Rights Watch
[129] Engy Abelkader, "The Rohingya Muslims in Myanmar: Past, Present, and Future"
[130] Engy Abelkader, "The Rohingya Muslims in Myanmar: Past, Present, and Future"
[131] "What is Statelessness?" United Nations High Commissioner for Refugees, https://www.unhcr.org/ibelong/wp-content/uploads/UNHCR-Statelessness-2pager-ENG.pdf
[132] Engy Abelkader, "The Rohingya Muslims in Myanmar: Past, Present, and Future"
[133] Engy Abelkader, "The Rohingya Muslims in Myanmar: Past, Present, and Future"
[134] Engy Abelkader, "The Rohingya Muslims in Myanmar: Past, Present, and Future"

On August 25, 2017, the militant group Arakan Rohingya Salvation Army (ARSA) attacked approximately 30 police and military bases.[135] The military of Myanmar retaliated on August 30, 2017, in what is widely called the Tula Toli Massacre, which is reported to have involved mass rape, torture, murder, and village burning of the Rohingya people.[136] As a result of the attack, more than 160,000 fled to the Cox Bazar region of Bangladesh.[137]

Statement of Facts

In November 2019, the Gambia filed to institute proceedings and requested provisional measures for the application of the Convention on the Prevention and Punishment of the Crime of Genocide against Myanmar.[138] The Gambia contends that Myanmar committed acts "which include killing, causing serious bodily and mental harm, inflicting conditions that are calculated to bring about physical destruction, imposing measures to prevent births, and forcible transfers, are genocidal in character because they are intended to destroy the Rohingya group in whole or in part."[139] The Gambia classifies the Rohingya as a distinct ethnic, racial, and religious group.[140] The Gambia aims to ensure protection for the Rohingya people, in order to prevent more death and atrocity.[141]

The Gambia alleges that the military and security forces of Myanmar are responsible for, among other things, rape, other sexual violence, killing, torture, cruel treatment, beatings, and the destruction of/denial of access to food, shelter, and other essentials.[142] The Gambia claims that these alleged crimes have been carried out with the intent to destroy the Rohingya as a group, in whole or in part.[143]

Myanmar denies all accusations of genocide and wrongdoing, claiming that security forces have carried out a campaign to ensure stability in the Rakhine State.[144] It considers the conflict to be domestic, and not within the purview of international law.[145] Myanmar argues that the Rohingya are illegal immigrants from Bangladesh who cause instability in the region and points to attacks on government security forces from the Arakan Rohingya Salvation Army (ARSA) as evidence of their need to protect domestic stability.[146] Myanmar argues that there is no dispute between the Parties and that the Gambia is acting as a proxy and on behalf of the Organization of Islamic Cooperation (OIC).[147] Shortly after the release of the Fact-Finding Mission Myanmar alleged that the UN's Fact-Finding Mission reports "biased and flawed, based not on facts but on narratives".[148]

Myanmar further denied the jurisdiction of the Court in this case, declaring that article VIII of the Genocide Convention shall not apply to it. Article VIII provides that "[a]ny Contracting Party may call upon the competent

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[135] "Burma: Ensure Aid Reaches Rohingya." Human Rights Watch, www.hrw.org/news/2017/09/11/burma-ensure-aid-reaches-rohingya.

[136] "Burma: Ensure Aid Reaches Rohingya." Human Rights Watch

[137] Oliver Holmes, "Massacre at Tula Toli: Rohingya recall horror of Myanmar army attack". The Guardian. September, 2017. https://www.theguardian.com/world/2017/sep/07/massacre-at-tula-toli-rohingya-villagers-recall-horror-of-myanmar-army-attack

[138] International Court of Justice, The Republic of The Gambia institutes proceedings against the Republic of the Union of Myanmar and asks the Court to indicate provisional measures, Press Release https://www.icj-cij.org/public/files/case-related/178/178-20191111-APP-01-00-EN.pdf

[139] International Court of Justice, The Republic of The Gambia institutes proceedings

[140] International Court of Justice, The Republic of The Gambia institutes proceedings

[141] International Court of Justice, The Republic of The Gambia institutes proceedings

[142] International Court of Justice, Request for the indication of provisional measures, Press Release https://www.icj-cij.org/public/files/case-related/178/178-20200123-SUM-01-00-EN.pdf

[143] International Court of Justice, Request for the indication of provisional measures

[144] International Court of Justice, The Republic of The Gambia institutes proceedings

[145] International Court of Justice, The Republic of The Gambia institutes proceedings

[146] Myanmar: New evidence reveals Rohingya armed group massacred scores in Rakhine State, Amnesty International, May 22, 2018. https://www.amnestyusa.org/reports/myanmar-new-evidence-reveals-rohingya-armed-group-massacred-scores-in-rakhine-state/

[147] International Court of Justice, Request for the indication of provisional measures, Press Release https://www.icj-cij.org/public/files/case-related/178/178-20200123-SUM-01-00-EN.pdf

[148] International Court of Justice, Request for the indication of provisional measures

organs of the UN to take such action under the Charter of the UN as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in Article III."[149]

Procedural History

On November 11, 2019*,* the Gambia instituted proceedings against the Republic of the Union of Myanmar and asked the Court to indicate provisional measures alleging violations of the Convention on the Prevention and Punishment of the Crime of Genocide.[150] In its application, the Gambia requested that the Court declare that Myanmar (1) has breached and continues to breach Articles I, III (a), III (b), III (c), III (d), III (e), IV, V and VI of the Genocide Convention; (2) must cease all ongoing wrongful acts as outlined in the Genocide Convention; (3) must enact tribunal proceedings and punishments for those committing genocide; (4) must perform reparation obligations for victims of genocidal acts, including a safe and dignified return, full citizenship, and human rights protections from discrimination, persecution, and other related acts for the Rohingya; and (5) must offer the guarantee of non-repetition of violations of the alleged violations of the Genocide Convention.[151] The Gambia also requested provisional measures to ensure protections for the Rohingya to prevent tensions from heightening while proceedings are underway.[152] These provisions include Myanmar halting alleged crimes of genocide against the Rohingya group, and not destroying evidence or rendering it inaccessible.[153]

Public hearings opened on December 10, 2019, to address the provisional measures submitted by the Gambia.[154] In these hearings, Myanmar requested that the Court (1) remove the case from its List; or (2) reject the request put forth by the Gambia for provisional measures.[155] On January 23, 2020, the Court established *prima facie,* meaning based on the first impression, there is a dispute between the two Parties relating to the Genocide Convention and the ICJ has jurisdiction over the case.[156] Additionally, the Court determined that the first three provisional requests put forward by the Gambia should be followed by Myanmar, but it determined that requests five and six are not properly linked to the rights that the Gambia seeks.[157] The sixth provisional request was also not deemed necessary.[158]

The Court concluded in January 2020 that Myanmar must,

> *"take all measures within its power to prevent the commission of all acts within the scope of Article II of the Convention, in particular: (a) killing members of the group; (b) causing serious bodily or mental harm to the 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; and (d) imposing measures intended to prevent births within the group."*[159]

After a series of extensions of the case, Myanmar filed preliminary objections to the jurisdiction of the Court in this case on January 20, 2021.[160]

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[149] International Court of Justice, Request for the indication of provisional measures
[150] International Court of Justice, The Republic of The Gambia institutes proceedings against the Republic of the Union of Myanmar and asks the Court to indicate provisional measures*,* Press Release https://www.icj-cij.org/public/files/case-related/178/178-20191111-APP-01-00-EN.pdf
[151] International Court of Justice, The Republic of The Gambia institutes proceedings
[152] International Court of Justice, The Republic of The Gambia institutes proceedings
[153] International Court of Justice, The Republic of The Gambia institutes proceedings
[154] International Court of Justice, Conclusion of the public hearings on the request for the indication of provisional measures submitted by the Republic of the Gambia, Press Release https://www.icj-cij.org/public/files/case-related/178/178-20191212-PRE-01-00-EN.pdf
[155] International Court of Justice, Conclusion of the public hearings on the request for the indication of provisional measures
[156] International Court of Justice, Request for the indication of provisional measures
[157] International Court of Justice, Request for the indication of provisional measures
[158] International Court of Justice, Request for the indication of provisional measures
[159] International Court of Justice, Request for the indication of provisional measures, page 7
[160] International Court of Justice, Order of 28 January 2021, Press Release https://www.icj-cij.org/public/files/case-related/178/178-20210128-ORD-01-00-EN.pdf

Latest Development

The Gambia's initial requests to the Court remain the same today. They are as follows: to adjudge and declare that Myanmar (1) has and continues to breach the Genocide Convention, (2) must cease forthwith ongoing wrongful action and respect the Genocide Convention, (3) must ensure that persons committing genocide are punished by an international penal tribunal, (4) must perform reparation obligations, and (5) must offer assurance and guarantees of non-repetition.

Committee Directive

It is the duty of the Court to determine the facts of the situation in the Rakhine State of Myanmar, the cause and intent of violence, and if this violence should be globally recognized as genocide. The ICJ's ruling on this case will set a future precedent on international aid, intervention, and definitions surrounding the situation of the Rohingya. The Court should consider previous cases of genocide, the definition of genocide, and the events in Myanmar in order to rule on this case.

III. Jadhav

(India v. Pakistan)

Introduction

In March 2016 in Baluchistan, Pakistan, Mr. Kulbhushan Sudhir Jadhav, an Indian national and former commander for the Indian military, was arrested for treason and espionage.[161] While India claims that Jadhav is retired from the military and was arrested solely as an Indian National, Pakistan claims that he was deliberately performing espionage after entering Pakistan under a Muslim alias.[162] After the Pakistani government discovered him, he was sentenced to death by a Pakistani Military Court and India claims that it was not notified of his detention in due time.[163] His conviction spurred the Republic of India to issue proceedings accusing the Islamic Republic of Pakistan of "egregious violations of the Vienna Convention on Consular Relations" on May 8, 2017.[164] Jadhav had sought clemency, the reduction or elimination of criminal penalties, earlier the same year.[165]

History of Conflict

The case of Jadhav is part of an ongoing and geopolitically significant dispute between Pakistan and India.[166] Since gaining independence from Great Britain in 1947, the countries have had contentious relations.[167] The first Indo-Pakistani war was fought from 1947-1949 over the Kashmir region, and the second was fought in 1965 as clashes broke out across the India-Pakistani border.[168] In 1971, Pakistan was split into two parts — East and West Pakistan — and the third Indo-Pakistani war broke out, and East Pakistan emerged as the sovereign nation of Bangladesh.[169] Both countries nuclearized in the 1990s, and have a series of treaties as nuclear rivals.[170]

Drafted and signed in 1963, the Vienna Convention on Consular Relations (VCCR) is the framework for consular relations between the 180 Member States that have ratified it. India and Pakistan have both ratified the VCCR.[171] The VCCR addresses the immunities, rights, and functions of consular officers and their offices in terms of "receiving States," the Member State hosting the consul, and "sending States," the Member State the consul represents.[172] Article 36 establishes communication rights between sending States and consular officers, stating "consular officers shall be free to communicate with nationals of the sending State and have access to them." Additionally, foreign nationals who are detained must be notified of their right to contact their consulate or embassy "without delay."[173] The VCCR is seminal to international consular rights issues, making it central to this case.

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[161] Asad Hashim, *Pakistan, India spar over 'spy' Kulbhushan Jadhav,* Al Jazeera News, December 27, 2017. https://www.aljazeera.com/news/2017/12/27/pakistan-india-spar-over-spy-kulbhushan-jadhav

[162] International Court of Justice, *The Republic of India institutes proceedings against the Islamic Republic of Pakistan and requests the Court to indicate provisional measures,* Press Release. https://www.icj-cij.org/public/files/case-related/168/19420.pdf

[163] International Court of Justice, *The Republic of India institutes proceedings*

[164] International Court of Justice, *The Republic of India institutes proceedings*

[165] Asad Hashim, *Pakistan, India spar over 'spy' Kulbhushan Jadhav*

[166] History of Conflict in India and Pakistan, Center for Arms Control and Non-Proliferation, November 26, 2019, https://armscontrolcenter.org/history-of-conflict-in-india-and-pakistan/#:~:text=The%20countries%20have%20fought%20a,a%20nuclear%20power%20in%201998.

[167] History of Conflict in India and Pakistan, Center for Arms Control and Non-Proliferation

[168] History of Conflict in India and Pakistan, Center for Arms Control and Non-Proliferation

[169] History of Conflict in India and Pakistan, Center for Arms Control and Non-Proliferation

[170] History of Conflict in India and Pakistan, Center for Arms Control and Non-Proliferation

[171] Vienna Convention on Consular Relations, 1963 Treaty

[172] Vienna Convention on Consular Relations, 1963 Treaty

[173] Vienna Convention on Consular Relations, 1963 Treaty

Statement of Facts

India contends that Pakistan delayed notifying India of Jadhav's detention until well after his arrest and that Jadhav was not informed of his rights upon arrest.[174] The VCCR is alleged to be violated because Jadhav has been denied consular access by Pakistani authorities despite multiple requests.[175] Specifically, the delay in consular contact is a violation Article 36, of the VCCR because of the delay in informing India of Jadhav's detention.[176] India claims to have learned about the death sentence through a press release rather than diplomatic channels.[177] According to it, Jadhav was "kidnapped from Iran, where he was carrying on business after retiring from the Indian Navy and was then shown to have been arrested in Baluchistan" on March 3, 2016. Indian officials repeatedly sought consular access to Jadhav, starting on March 25, 2016, without success.[178] Furthermore, India says that "linking assistance to the investigation process to the grant[ing] of consular access was by itself a serious violation of the Vienna Convention" after Pakistan allegedly requested assistance in its investigation of Jadhav for espionage and terrorism in January 2017.[179]

India considers the confession of Jadhav submitted by India to be the result of Military Court practices that are "illegal and patently unjust."[180] 95 percent of civilians tried by Military Court in Pakistan confess, and India points to this as evidence of wrongdoing and coercion.[181] Pakistan claims the bilateral agreement between India and Pakistan render the case outside of the jurisdiction of the ICJ.[182] India refutes this claim, stating that under the Vienna Convention, the Court has jurisdiction, and that the two are to interplay, it is the bilateral agreement that that would interoperate the Vienna Convention.[183] Therefore, accordingly to India, the case does fall under the jurisdiction of the ICJ.[184]

By alleging Pakistan's violation of the VCCR, India seeks a set of reliefs from Pakistan and the international community. They seek the immediate suspension of Jadhav's death sentence; interregnum, in this case the suspension of the authority of the military court's decision in Jadhav's case; and restitution, in this case the act of restoring Jadhav's consular rights. India also seeks to restrain Pakistan from putting Jadhav's sentence into effect. Should the Court side with India and Pakistan not annul the decision, India requests that the Court declare the decision illegal and in violation of international law.

Pakistan stands by its arrest and detention of Jadhav, claiming that his death sentence is reflective of national security needs.[185] The Pakistani government claims that Jadhav was a commander in the Indian Navy who engaged in subversive activities that undermine Pakistani security, specifically by financially supporting militant groups and fueling sectarian violence.[186] While Pakistan is a member of the Court, it does not consider this case to be within the Court's jurisdiction, as it is an internal matter and a response to terrorism and espionage.[187] Pakistan provided the Court with a transcript of a confession statement from Jadhav on March 25, 2016.[188] It classifies this as a voluntary confessional.[189]

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[174] International Court of Justice, *The Republic of India institutes proceedings*
[175] International Court of Justice, *The Republic of India institutes proceedings*
[176] International Court of Justice, *The Republic of India institutes proceedings*
[177] International Court of Justice, *The Republic of India institutes proceedings*
[178] International Court of Justice, *The Republic of India institutes proceedings*
[179] International Court of Justice, *The Republic of India institutes proceedings*
[180] International Court of Justice, *Memorial of the Republic of India,* Press Release. https://www.icj-cij.org/public/files/case-related/168/168-20170913-WRI-01-00-EN.pdf
[181] International Court of Justice, *Memorial of the Republic of India*
[182] International Court of Justice, *Memorial of the Republic of India*
[183] International Court of Justice, *Memorial of the Republic of India*
[184] International Court of Justice, *Memorial of the Republic of India*
[185] Mateen Haider and Shakeel Qarar, *India accepts 'spy' as former navy officer, denies having links.* Dawn News, Published March 25, 2016. https://www.dawn.com/news/1247850/india-accepts-spy-as-former-navy-officer-denies-having-links
[186] Mateen Haider and Shakeel Qarar, *India accepts 'spy' as former navy officer, denies having links*
[187] Mateen Haider and Shakeel Qarar, *India accepts 'spy' as former navy officer, denies having links*
[188] International Court of Justice, *Counter-memorial of the Islamic Republic of Pakistan*
[189] International Court of Justice, *Counter-memorial of the Islamic Republic of Pakistan*

Pakistan claims that on March 3, 2016, Jadhav illegally and clandestinely entered Pakistan after crossing the Saravan border with Iran.[190] While India claims that Jadhav was retired from his governmental role at the time of his entry into Pakistan, Pakistan points to the age of retirement for Indian government employees, as it indicates that Jadhav is too young for retirement from an Indian government job.[191] Pakistan further alleges that India "sought to engineer 'urgency' to justify exceptional provisional measures without any hearing" thus invalidating the integrity of the trial.[192] Pakistan alleges that Jadhav entered Pakistan using an authentic Indian passport, using a Muslim alias.[193] Given the combination of espionage and trail tampering that Pakistan alleges, it considers India to have engaged in the principles of (1) abuse of process, (2) abuse of rights, (3) illegality, and (4) *ex turpi causa* clean hands doctrine).[194] Because of this, Pakistan requests that India's claims be the subject of an initial evaluation and that the case be dismissed.[195]

Procedural History

On May 8, 2017, the Republic of India instituted proceedings against the Islamic Republic of Pakistan under the allegation of egregious violations of the Vienna Convention on Consular Relations (the Vienna Convention) because of the trial of Jadhav.[196] In its application to the Court, India stated that on March 3, 2021 Jadhav had been carrying on business after his retirement from the Indian Navy and was kidnapped from Iran.[197] Then, he was shown to have been arrest in Baluchistan."[198] India claims to have requested consular access repeatedly starting on March 25, 2016, immediately after it was alerted of the arrest.[199] It also claims that Pakistan requested assistance in its investigation of Jadhav, which according to India, is a violation of the Vienna Convention.[200] As a result of the alleged violations, India

> *"seeks the following reliefs:*
> *(1) relief by way of immediate suspension of the sentence of death awarded to the accused[;]*
> *(2) relief by way of restitution in interregnum by declaring that the sentence of the military court arrived at, in brazen defiance of the Vienna Convention rights under Article 36, particularly Article 36, paragraph 1 (b), and in defiance of elementary human rights of an accused which are also to be given effect as mandated under Article 14 of the 1966 International Covenant on Civil and Political Rights, is violative of international law and the provisions of the Vienna Convention; and*
> *(3) restraining Pakistan from giving effect to the sentence awarded by the military court, and directing it to take steps to annul the decision of the military court as may be available to it under the law in Pakistan;*
> *(4) if Pakistan is unable to annul the decision, then this Court to declare the decision illegal being violative of international law and treaty rights and restrain Pakistan from acting in violation of the Vienna Convention and international law by giving effect to the sentence or the conviction in any manner and directing it to release the convicted Indian National forthwith."*[201]

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[190] International Court of Justice, *Counter-memorial of the Islamic Republic of Pakistan*
[191] International Court of Justice, *Counter-memorial of the Islamic Republic of Pakistan*
[192] International Court of Justice, *Counter-memorial of the Islamic Republic of Pakistan,* Press Release. https://www.icj-cij.org/public/files/case-related/168/168-20171213-WRI-01-00-EN.pdf
[193] International Court of Justice, *Counter-memorial of the Islamic Republic of Pakistan*
[194] International Court of Justice, *Counter-memorial of the Islamic Republic of Pakistan*
[195] International Court of Justice, *Counter-memorial of the Islamic Republic of Pakistan*
[196] International Court of Justice, *The Republic of India institutes proceedings against the Islamic Republic of Pakistan and requests the Court to indicate provisional measures,* Press Release. https://www.icj-cij.org/public/files/case-related/168/19420.pdf
[197] International Court of Justice, *The Republic of India institutes proceedings*
[198] International Court of Justice, *The Republic of India institutes proceedings*
[199] International Court of Justice, *The Republic of India institutes proceedings*
[200] International Court of Justice, *The Republic of India institutes proceedings*
[201] International Court of Justice, Memorial of the Republic of India, Press Release. https://www.icj-cij.org/public/files/case-related/168/168-20170913-WRI-01-00-EN.pdf

To establish jurisdiction of the Court in this case, India evokes Article 36, paragraph 1, of the Statue of the Court, which establishes consular rights between sending and receiving states in diplomatic situations.[202] Alongside their institution of proceedings, India also submitted a request for the indication of provisional measures. It indicated that this matter is urgent because Jadhav only has forty days following his death sentence to file an appeal, and India claims a complete lack of access to Jadhav.[203] Specifically, India requested that the Court indicate (1) that Pakistan take all measures necessary to avoid the execution of Jadhav, (2) that Pakistan report to the Court on all action taken to execute Jadhav, (3) that Pakistan ensure that no action is taken that could prejudice the rights of India.[204] In response to India's initial filing of proceedings, Pakistan submitted a Counter-Memorial in the form of 7 volumes of Annexes on December 13, 2017.[205]

Committee Directive

When deciding this case, the Court should first consider if this case falls within the Jurisdiction of the Court. Furthermore, if the Court finds that this case does fall under its jurisdiction, then the Court must decide whether Pakistan is in violation of the VCCR. The Court should have a wholistic understanding of the history of conflict between the states involved in this case and use that to inform the decision-making process and to understand the significance of the ruling of this case. Delegates must sift through complexities in the case and establish a clear factual timeline for Jadhav's arrest.

[202] Vienna Convention on Consular Relations, 1963 Treaty
[203] International Court of Justice, *Request for the indication of provisional measures of protection,* Press Release. https://www.icj-cij.org/public/files/case-related/168/19424.pdf
[204] International Court of Justice, *Request for the indication of provisional measures of protection*
[205] International Court of Justice, *Counter-memorial of the Islamic Republic of Pakistan,* Press Release. https://www.icjcij.org/public/files/case-related/168/168-20171213-WRI-01-00-EN.pdf

IV. Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)

Introduction

On January 16, 2017, Ukraine filed an application against the Russian Federation in the International Court of Justice (ICJ).[206] Ukraine alleges that Russia violated two international treaties: the Convention for the Suppression of the Financing of Terrorism (ICSFT) and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).[207] Under the first treaty, Ukraine asserts that Russia instigated and sustained an armed insurrection challenging the authority of the Ukrainian State by illegally supplying armed groups with heavy weaponry, money, personnel, and training.[208] Ukraine also alleges that Russia's support not only targeted Ukrainian authorities, but is also responsible for terrorist attacks on civilians, including the July 2014 downing of Malaysia Airlines Flight MH17.[209] Under the second treaty, Ukraine accuses Russia of mistreatment and discrimination against Crimean Tatar and ethnic Ukrainian communities in Russian-annexed Crimea.[210] Russia denies violating both treaties and requests the dismissal of all accusations.[211]

History of Conflict

In 2004, tensions arose between Russia and Ukraine during the latter's Orange Revolution.[212] Ukrainian opposition leader Vikror Yushchenko contended the presidential election results favoring pro-Russian candidate Viktor Yanukovych and advocated for free and fair elections.[213] Consequently, the Supreme Court of Ukraine invalidated the results.[214] The following year, Yushchenko was declared president after winning the election re-run.[215] This victory for the Ukrainians led to increasingly deteriorating relations between Russia and Ukraine. In 2010, Yanukoych won the second round of presidential elections, but was jailed in 2011 following allegations of abuse of power over a 2009 gas deal with Russia.[216]

In November 2013, Ukrainians protested Yanukovych's decision rejecting the Association Agreement with the European Union (EU), a deal that would have created political and economic ties between the EU and Ukraine.[217] The deal was expected to benefit Ukrainians by giving them access to a broad economic market and provide a vital supporter of Ukrainian territorial sovereignty.[218] In response, Russia imposed unilateral trade sanctions, withheld

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[206] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*, January 16, 2017.
[207] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[208] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[209] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[210] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[211] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[212] Karpyak, Oleg. "Ukraine's Two Different Revolutions" BBC News, December 3, 2013, https://www.bbc.com/news/world-europe-25210230
[213] "Ukraine's Two Different Revolutions" *BBC News*,
[214] Schneider, William. "Ukraine's 'Orange Revolution'" *The Atlantic*, December 2004, https://www.theatlantic.com/magazine/archive/2004/12/ukraines-orange-revolution/305157/
[215] "Ukraine's Two Different Revolutions" *BBC News*.
[216] "Ukraine's Two Different Revolutions" *BBC News*.
[217] "Ukraine profile – Timeline," BBC News, March 5, 2020, https://www.bbc.com/news/world-europe-18010123.
[218] "EU-Ukraine Relations - FACTSHEET." EEAS. Accessed July 26, 2021. https://eeas.europa.eu/headquarters/headQuarters-homepage/4081/eu-ukraine-relations-factsheet_en.

natural gas supplies during the winter, and questioned Ukraine's territorial integrity.[219] Yanukovych consequently abandoned the EU agreement Ukrainians protested his decision in Kyiv.[220] The protests turned violent, with protesters lighting fires outside of the Ukrainian parliament building.[221] Ukrainian security forces retaliated by killing over 100 protesters, and President Yanukovych fled to Russia.[222]

During Yanukovych's absence, Russian forces reentered Ukraine and declined to accept Ukraine's formerly declared independence from Russia.[223] In March 2014, Russian forces annexed Crimea.[224] Russia's annexation exasperated the divide between eastern and western countries.[225] Both the United States (US) and the EU responded by imposing sanctions against Russia.[226] Russia continued to intervene with Ukrainian politics; in July 2014, pro-Russian forces shot down a Malaysian Airlines flight flying over eastern Ukraine's conflict zone.[227] Nearly 300 passengers on board died.[228] Also, 12 and 30 civilians in Volnovakha and Mariupol, respectively, also died in terror attacks when separatists blew up checkpoints. In September 2014, the North Atlantic Treaty Organization (NATO) confirmed that Russian troops had entered eastern Ukraine with heavy military equipment.[229]

In 2015, talks over a ceasefire were held between Russia, Ukraine, France, and Germany.[230] Two years later, Ukraine's association agreement with the EU was ratified by all signatories.[231] In May 2018, Russian President Vladimir Putin opened a bridge linking southern Russia to Crimea and implemented new policies upon Ukrainians in the region.[232] In October 2018, the Ecumenical Patriarch of Constantinople granted Ukraine permission to establish its own Orthodox Church independent of Russian supervision.[233] In September 2019, both Russia and Ukraine returned prisoners of war captured during Russian's seizure of Crimea.[234]

Statement of Facts

Ukraine alleges Russia has violated both ICSFT and CERD.[235] Ukraine argues that Russia, through "organs, agents, persons, entities," is financing terrorism against Ukraine by "supplying weapons, funds, and training to illegal armed groups."[236] Specifically, Ukraine's allegations against Russia date back to March 2014, when armed groups seized control of the eastern border separating Ukraine and Russia.[237] At this time, Russia illegally smuggled weapons,

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[219] "EU-Ukraine Relations - FACTSHEET." *E*EAS

[220] Calamur, Krishnadev. "4 Things to Know about What's Happening In Ukraine." NPR, February 19, 2014. https://www.npr.org/sections/parallels/2014/02/19/279673384/four-things-to-know-about-whats-happening-in-ukraine.

[221] "4 Things to Know about What's Happening In Ukraine." NPR.

[222] "Ukraine profile – Timeline," BBC News.

[223] "Ukraine profile – Timeline," BBC News.

[224] "Ukraine profile – Timeline," BBC News.

[225] "Ukraine profile – Timeline," BBC News.

[226] "Ukraine profile – Timeline," BBC News, March 5, 2020, https://www.bbc.com/news/world-europe-18010123.

[227] "Ukraine profile – Timeline," BBC News.

[228] "Ukraine profile – Timeline," BBC News.

[229] "Ukraine profile – Timeline," BBC News.

[230] "Ukraine Ceasefire Agreed At Belarus Talks," The Guardian, February 12, 2015, https://www.theguardian.com/world/2015/feb/12/ukraine-crisis-reports-emerge-of-agreement-in-minsk-talks

[231] "Association Agreement Between the European Union and its Member States, of one part, and Ukraine of the Other Part"" Official Journal of The European Union, May 28, 2015, https://trade.ec.europa.eu/doclib/docs/2016/november/tradoc_155103.pdf

[232] "Putin Opens 12 Mile Bridge between Crimea and Russian Mainland" The Guardian, May 15, 2018 https://www.theguardian.com/world/2018/may/15/putin-opens-bridge-between-crimea-and-russian-mainland

[233] "Ukraine Orthodox Church Granted Independence from Russian Orthodox Church" BBC News, January 5, 2019, https://www.bbc.com/news/world-europe-46768270

[234] "Ukraine and Russia Exchange Prisoners in Landmark Deal" BBC News, September 7, 2019 https://www.bbc.com/news/world-europe-49610107

[235] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*, January 16, 2017.

[236] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.

[237] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.

funds, and trained armed forces into Ukraine.[238] The illegal activity was used to execute terrorist acts intended to "cause death or serious bodily injury to civilians, for the purpose of intimidating the Ukrainian population and compelling action by the Ukrainian Government."[239]

Ukraine's allegations focus on terrorist activity committed by the Donetsk People's Republic (DPR) and the Luhansk People's Republic (LPR), illegal armed groups operating in Ukraine.[240] Ukraine asserts that both groups violate human rights through violence on Ukrainians and operate through support and aid from Russia.[241] On May 4, 2014, DPR seized the Regional State Administration building in Donetsk, Ukraine, tortured town councilors, trade union members, and others inside the building.[242] An Orthodox priest and a family were also shot in Donetsk the same day.[243] Most notably, councilor of Horlivka, Ukraine, Volodymyr Rybak's murder was linked to DPR and the Russian government.[244] Rybak was abducted in April 2014 for raising the Ukrainian flag outside the Horlivka town hall.[245] DPR leader Igor Bezler, who is closely tied to the Russian government, then ordered for Rybak's abduction and death.[246]

Ukraine claims Russia violates CERD through its "policy of cultural erasure" and "pattern of discriminatory actions, treating groups that are not ethnic Russian as threats to the régime whose identity and culture must be suppressed."[247] Ukraine focuses on Russian policies discriminating against Crimean Tatar and ethnic Ukrainian communities as violations of Article 2, 3, 4, 5, and 6.[248] Since its illegal invasion and referendum in March 2014, Russia has used violence and intimidation against non-Russian ethnic groups, suppressed the political and cultural representation of Crimean Tatar identity, and silenced ethnic Ukrainian voices in the media. Such acts violate CERD.[249] Russia, however, rejects Ukraine's allegations of state responsibility for the acts committed by Ukrainian insurgents and denies allegation of suppressing ethnic Ukrainian communities in Crimea.[250]

Procedural History

In January 2017, Ukraine filed a complaint and a request for provisional measure of protections with the Court against Russia.[251] In March 2017, following hearings on Ukraine's application for preventative measures to protect

[238] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[239] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[240] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[241] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[242] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[243] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[244] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[245] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[246] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[247] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[248] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[249] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[250] International Court of Justice, *Preliminary Objections Submitted by the Russian Federation*, September 12, 2018.
[251] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.

the civilian population during litigation of the case, the Court issued a precautionary decision.[252] The Court ordered Russia to refrain from placing further restricts on the Malikis of the Crimean Tatar community, yet denied issuing a provision prohibiting Russia from financing terrorists.[253] In 2019, the Court determined it had jurisdiction to hear the case.[254]

On June 8, 2020, Russia requested an extension by twelve months for filing of the Court-Memorial due to restrictions, difficulties, and delays resulting from the ongoing COVID-19 pandemic. On June 22, 2020, Ukraine opposed Russia's request and asked the Court to decline it. Ukraine argued that the COVID-19-related restrictions did not justify an extension and granting one would be "severely prejudicial" to Ukraine. On July 13, 2020, the Court granted an extension until April 8, 2021.[255] On December 22, 2020, Russia requested another extension under the same rationale as the last.[256] Despite Ukraine's opposition, the court granted an extension until July 8, 2021.[257]

Committee Directive

The Court needs to conclude whether the Russian violated the two international treaties: the Convention for the Suppression of the Financing of Terrorism (ICSFT) and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). Furthermore, if Russia is found to have violated these treaties the court must determine if to what extent Russia is culpable and what relief is available to Ukraine.

[252] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[253] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[254] International Court of Justice, *Application Instituting Proceedings: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation)*.
[255] International Court of Justice, *Reports of Judgements, Advisory Options: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation), and Orders*, July 13, 2020.
[256] International Court of Justice, *Reports of Judgements, Advisory Options: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation), and Orders*.
[257] International Court of Justice, *Reports of Judgements, Advisory Options: Terrorism Financing and Racial Discrimination in Ukraine (Ukraine v. Russian Federation), and Orders*.

Annotated Bibliography

Case I: Alleged violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America)

Constance Duncombe "Representation, Recognition and Foreign Policy in the Iran–US Relationship," *European Journal of International Relations* 22, no. 3 (2016): 622–645. https://journals.sagepub.com/doi/10.1177/1354066115597049

> Addressing the impact of representation and cognition on foreign policymaking, this article examines and provides delegates with background information on Iran-US relations. Duncombe demonstrates that analyses of representations can lead to diplomatic misrecognition, which can trigger or exacerbate foreign policy crises. This approach addresses intersubjective dynamics of the Iran-US relationship and illuminates the emotional complexities of the diplomatic relationship.

Darioush Bayandor, *Iran and the CIA:the Fall of Mosaddeq Revisited,* (Palegrave Macmillian, 2010). https://www.tandfonline.com/doi/abs/10.1080/10848770.2012.715853

> This book investigates claims alleging the fall of the government of Iranian Dr. Mohammad Mosaddeq in 1953 was the result of a Central Intelligence Agency-inspired *coup*, or that the fall saved Iran from communism and descent into chaos. Bayandor argues that there is not adequate evidence to substantiate either of these theories. Instead, he argues that the public domain must be more thoroughly utilized to uncover the truth. The truth and context behind this historical event is integral to modern-day Iran-US relations.

Kaz Miyagiwa and Yuka Ohno, "Nuclear Bombs and Economic Sanctions." *Southern Economic Journal* 82, no. 2 (2015): 635–646. https://doi.org/10.1002/soej.12031

> Examining the effectiveness of trade sanctions, this study finds that for nuclear sanctions to work, the country imposing sanctions must pre-commit to maintaining sanctions long after the section target becomes a nuclear power. In the absence of this commitment, nuclear sanctions can be ineffective or even backfire. Sanctions should be gradually increased as a threat becomes more of a problem.

Leon Eisenberg, "The Sleep of Reason Produces Monsters — Human Costs of Economic Sanctions." *The New England Journal of Medicine* 336, no. 17 (1997): 1248–1250. https://www.nejm.org/doi/full/10.1056/NEJM199704243361711

> In this medical journal article, Eisenburg addresses the impact of US sanctions on human health. Eisenburg claims that economic sanctions afflict civilians rather than soldiers for and leaders of autocratic governments. He describes neuropathy and self-inflicted disease and injuries caused by rioting as sanction-caused health conditions in Cuba. Cholera, typhoid fever, and gastroenteritis, particularly among children, result from economic sanctions in Iraq.

Mark J Gasiorowski, "The Causes of Iran's 1953 Coup: A Critique of Darioush Bayandor's Iran and the CIA." *Iranian studies* 45, no. 5 (2012): 669–678. https://doi.org/10.1080/00210862.2012.702555

> Critiquing Darioush Bayandor's book *Iran and the CIA*, Gasiorowski refutes the theory that Shi'a clerics were the main actors responsible for the overthrow of Iranian Prime Minister Dr. Mohammed Mosaddeq in 1953. He asserts that Bayandor's theory places too little blame on Britain and the US lacks evidential backing. Gasiorowski points to three key flaws in Bayandor's analysis: lack of historical evidence, overemphasis of the role of civilian crowds, and a lack of acknowledgment of the importance of British and US involvement during early phases.

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

Engy Abdelkader. "The Rohingya Muslims in Myanmar: Past, Present, and Future." *Oregon Review of International Law*, 2014. https://ssrn.com/abstract=2277949

> Using a contemporary humanitarian and human rights lens, this review examines the historic and contemporary (as of 2014) Rohingya Muslim experience. Abdelkader addresses the impact of restrictions on religious freedom, lethal use of force, forced displacement, and denial of citizenship rights on Rohingya Muslims and the consequential adverse effect on global security. The statelessness of the Rohingya is considered integral to the injustices and abuses the Rohingya have faced.

Kai Ambos. "Criminology Explained Reality of Genocide, Structure of the Offence and the "Intent to Destroy' Requirement," *The Genocide Convention: the Legacy of 60 Years* (2012) 59- 80. https://ssrn.com/abstract=1971275

> Through a Criminology framework, this chapter examines the 'intent to destroy' requirement of genocide. Criminology is unique as it examines crime through a social perspective to evaluate who commits crimes, how they are committed, and how they can be prevented. Ambos argues that in order for there to be intent to destroy, there must be an organized, top-down attack on a group; violent actions from individuals do not qualify as intent to destroy. Ambos uses typologies in criminology to distinguish among the various perpetrators of violence. This discourse is significant for both defining genocides and for determining who is responsible for genocide and to what degree.

Nicole Messner et al., "Qualitative Evidence of Crimes Against Humanity: The August 2017 Attacks on the Rohingya in Northern Rakhine State, Myanmar," *Conflict and Health* 13, no. 1 (2019): 41–41. https://doi.org/10.1186/s13031-019-0227-8

> Through a multiphase mixed-method assessment, this study assesses violence and mortality in the northern Rakhine State during the August 2017 attacks. The study primarily relies on interviews from community leaders who witnessed 10 or more deaths, mass rape, and/or mass graves in a hamlet or during displacement. The results indicate systematic civil oppression via tactics such as restrictions on legal rights, education, marriage, and travel, denial of citizenship, and unsubstantiated accusations of terrorist activities. This article goes into depth on the various violent acts, including sexual violence and crimes against children, that took place in August 2017.

Raphael Lemkin. *Axis Rule in Occupied Europe: Laws of Occupation- Analysis of Government- Proposals for Redress,* (Carnegie Endowment for International Peace, 1944), 79-95.

> In this seminal work, Raphael Lemkin coins the term *genocide* by combining "genos" (race, people) and "cide" (to kill). He states that genocide is not the immediate destruction of a nation, but rather, "it is intended rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves." He further explains that "the objectives of such a plan would be the disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups." This definition of genocide lays the foundation for modern understandings of genocide.

William Schabas. "Genocide and Crimes Against Humanity, Clarifying the Relationship," *The Genocide Convention: the Legacy of 60 Years* (Leiden: Martinus Nijhoff Publishers, 2012) 3-14.

> This chapter of the publication draws a distinction between the terms *genocide* and *crimes against humanity. Crimes against humanity* is a more flexible and broad term, while *genocide* is a legal concept. *Genocide,* unlike *crimes against humanity,* does not require a link with an aggressive war. Although it has few if any legal consequences, the distinction of *genocide* uniquely validates victims of atrocity. Schabas also addresses the recognition of genocide as an international crime by the General Assembly at the Convention on the Prevention and Punishment of the Crime of Genocide in 1948.

Case III: Jadhav (India v. Pakistan)

John B Quigley. "Vienna Convention on Consular Relations: In Retrospect and into the Future." *Southern Illinois University Law Journal* 26 no. 1 (2013). https://law.siu.edu/_common/documents/law-journal/articles-2013/5%20-%20Quigley%20Article%20-%20Final.pdf.

> Quigley's article provides an in-depth analysis of the Vienna Convention on Consular Relations (VCCR) within an historical context. It specifically synthesizes the legal evolution of consular access as it relates to state nationals, as in the case of Jadhav. Quigley provides the origins of the VCCR; an analysis of how the VCCR relates to state nationals; the issues of non-uniformity and state burden involved in satisfying the legal requirements of the VCCR; consular access; obligations of Member States, and VCCR protocol and its recent challenges. Understanding the history of the VCCR is integral to delegates' understanding of this case overall.

Curtis J Milhaupt. "The Scope of Consular Immunity under the Vienna Convention on Consular Relations: Towards a Principled Interpretation Notes." *Columbia Law School Faculty Scholarship*, 1988. https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=1149&context=faculty_scholarship.

> This article observes the gross disparities between courts when observing consular immunity. Split into three sections, Milhaupt first looks at how the Vienna convention initially treated consular immunity and how this has been interpreted in various national jurisdictions. Section two argues for a specific and consistent interpretation of consular immunity, observed previously only in some jurisdictions. Each jurisdiction has different expectations for sending states and receiving states. This interpretation has a particular interest in functional necessity as a basis for justifying immunity for a consular. This last section then applies a recommended version of this functional interpretation to demonstrate its applicability and appropriateness.

Eric Rosenfield. "Irreconcilable Differences: How *Sanchez-Llamas v. Oregon* Undermines Article 36 of the Vienna Convention on Consular Relations." *University of Pittsburgh Law Review* 69, 2008. https://lawreview.law.pitt.edu/ojs/index.php/lawreview/article/view/100/100.

> Rosenfield's article provides both a high-level view of comity, a notion fundamental to American international jurisprudence, and addresses a detailed analysis of the VCCR's irrelevancy within the American court system following the United States Supreme Court's ruling in *Sanchez-llamas.* This article allows for the benefits and drawbacks of the VCCR to be analyzed from an inward-looking, national view as opposed to an international view. Rosenfield asserts that while the VCCR is internationally significant, it clashes with US domestic law and is rendered irrelevant.

Beilke, Kristin K. "The U.S. is Not Alone in its Reluctance to Adhere to Supranational Decisions from the International Court of Justice." *Loyola University Chicago International Law Review* 7, 2010. https://lawecommons.luc.edu/cgi/viewcontent.cgi?article=1035&context=lucilr.

> Beilke's article observes the reluctance of many Member States in adhering to the rules laid out by the VCCR. The approaches taken by various countries are similar only in the fact that they each refuse to comply in totality with the requirements of international law as defined in the VCCR. Beilke's article begins by discussing several examples of reluctance to adhere to the VCCR by the United States. She proceeds by discussing similar rulings across various other Member States, most specifically Australia, Canada, China, Germany, and the United Kingdom. Lastly, there is a recommendation by Beilke on how to better enforce international law to create uniformity of compliance.

Case IV: Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)

"Suppressing the Financing of Terrorism: A Handbook for Legislative Drafting." International Monetary Fund, 2003. https://www.imf.org/external/pubs/nft/2003/SFTH/pdf/SFTH.pdf.

> Providing a holistic overview of terrorism funding, this report from the International Monetary Fund (IMF) provides recommendations for legislation in combating financiers of terror groups. The report is split into three broad categories: sources of international norms and standards on the suppression of the financing of terrorism; legislating to meet the international norms and standards, and drafting notes on establishing jurisdiction over the financing of terrorism. The first section gives an overview of various types of financial terrorism, as well as previous attempts by the UN to hinder terror groups. The second section focuses purely on the legislative aspects of financial terrorism. The last section has details on international legislation relating to an array of specific forms of terrorism and the legal implications therein.

United Nations Office on Drugs and Crime. "Legislative Guide to the Universal Legal Regime Against Terrorism." (2008). https://www.unodc.org/documents/terrorism/Publications/Legislative_Guide_Universal_Legal_Regime/English.pdf.

> Prepared by the United Nations (UN), this recommended approach to legislation against terrorism covers all substantial aspects of global terrorism. By positioning financial terrorism within the context of all forms of terrorism, the UN provides a means of legislating against groups and nations that fund terror groups. This article addresses specifically the difficulties of proving terror financing and the complexities involved in enforcing guilty verdicts for Member States.

McGougall, Gay. "International Convention on the Elimination of All Forms of Racial Discrimination." United Nations Legal, 2021. https://legal.un.org/avl/pdf/ha/cerd/cerd_e.pdf.

> McGougall's article provides the history and impact of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). A plethora of issues are addressed, including the convention itself, a strict definition of racial discrimination, state obligations, hate speech, and perhaps most relevantly measures to combat prejudices. Most importantly, the article explains the General Recommendations as clarifications of existing ICERD articles and discusses the state's obligations under the Convention.

Cooper, Joshua. "Maximizing the Convention on the Elimination of Racial Discrimination." *Cultural Survival,* 2016. https://www.culturalsurvival.org/publications/cultural-survival-quarterly/maximizing-convention-elimination-racial-discrimination.

> This short article provides a layman's overview of the ICERD and the mechanism by which racial discrimination is reported to the CERD for review. While specifically written for indigenous groups, it gives a requester's perspective of the CERD: the process in which a group can petition to be recognized as having their human rights violated. CERD consists of twenty-five articles defining racial discrimination and state responsibility and applies to all groups in the same way. The practical application of CERD is not always in line with its provisions - while Member States are expected to submit reports every two years, in practice, reports are submitted every four years.