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Gambia Brings Genocide Case Against Myanmar

International Court of Justice to Address Atrocities Against Rohingya



Rohingya refugees gather in an open field at Kutupalong refugee camp in Ukhia, Cox's Bazar, Bangladesh to commemorate the two-year anniversary of the Myanmar military's ethnic cleansing campaign in Rakhine State on August 25, 2019. © 2019 K M Asad/LightRocket via Getty Images

(The Hague) – The **Gambia's** case against **Myanmar** at the International Court of Justice (ICJ) for violating the Genocide Convention, filed on November 11, 2019, will bring the first judicial scrutiny of Myanmar's campaign of murder, rape, arson, and other atrocities against Rohingya Muslims, 10 nongovernmental organizations said.

provisional measures to stop continuing violations. **Myanmar became a party** to the Genocide Convention in 1956.

“The Gambia’s legal action triggers a judicial process before the world’s highest court that could determine that Myanmar’s atrocities against the Rohingya violate the Genocide Convention,” said **Param-Preet Singh**, associate international justice director at Human Rights Watch. “The court’s prompt adoption of provisional measures could help stop the worst ongoing abuses against the Rohingya in Myanmar.”

The nongovernmental organizations supporting the initiative are No Peace Without Justice, the Association pour la Lutte Contre l’Impunité et pour la Justice Transitionnelle, the European Center for Constitutional and Human Rights, the International Federation for Human Rights (FIDH), Global Centre for the Responsibility to Protect, the Global Justice Center, Human Rights Watch, the International Bar Association Human Rights Institute, Parliamentarians for Global Action, and the Women’s Initiatives for Gender Justice.

In its first Genocide Convention case, the ICJ imposed provisional measures against Serbia in 1993 and **eventually found that Serbia had violated its duty to prevent and punish genocide** in Bosnia-Herzegovina.

Canada, Bangladesh, Nigeria, Turkey, and France have asserted that Myanmar committed genocide against the Rohingya. The **Organization of Islamic Cooperation (OIC)** has encouraged its 57 members to bring Myanmar before the court. **Malaysia’s** prime minister has also alleged that Myanmar committed genocide against the Rohingya and called for efforts to bring Myanmar before the court.

“As a country recently emerging from decades of brutal dictatorship, The Gambia’s leadership on the Rohingya genocide is especially striking and welcome,” said Alison Smith, international justice director at No Peace Without Justice. “Other members of the Genocide Convention should follow The Gambia’s lead and lend their clear and unwavering support.”

In September 2019, the **United Nations-backed Independent International Fact-Finding Mission** on Myanmar concluded that “Myanmar is failing in its obligation to prevent genocide, to investigate genocide and to enact effective legislation criminalizing and punishing genocide.” The fact-finding mission highlighted “the enormity and nature of the sexual violence perpetrated against women and girls” during Myanmar’s military campaign as one of seven indicators of the state’s intent to destroy the Rohingya people.

“The Gambia’s proceedings before the ICJ offer countless survivors of sexual violence and other victims some hope that Myanmar could legally be held to account for its ruthless campaign against the Rohingya,” said Melinda Reed, executive director at Women’s Initiatives for Gender Justice.

Legal actions addressing individual criminal responsibility are also underway at the international level. The fact-finding mission has called for the investigation and prosecution of Myanmar’s military leaders for **genocide, crimes against humanity, and war crimes in Rakhine State** in Myanmar, the state where most Rohingya lived.

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UN Security Council.

The Myanmar government has failed to prosecute or punish perpetrators of human rights abuses. The current domestic commission of enquiry established by the government follows eight failed commissions and lacks credibility, and its chair has stated that **it will not hold those responsible for abuses to account**.

“The Gambia’s case before the ICJ could pressure Myanmar to reverse its course of violence and live up to its obligation under the Genocide Convention to punish those responsible,” said Andrea Giorgetta, Asia director at the International Federation for Human Rights.

On November 11, the 10 organizations convened a meeting in The Hague with Abubacarr Tambadou, The Gambia’s attorney general and justice minister, and members of his legal team; several representatives of the Rohingya community; and others who have supported this initiative. The meeting provided an update on the initiative, addressed the implications of state responsibility under the Genocide Convention for deterring further crimes and providing redress the victims, and discussed the role that civil society groups and other stakeholders could play in such an inter-state dispute.



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