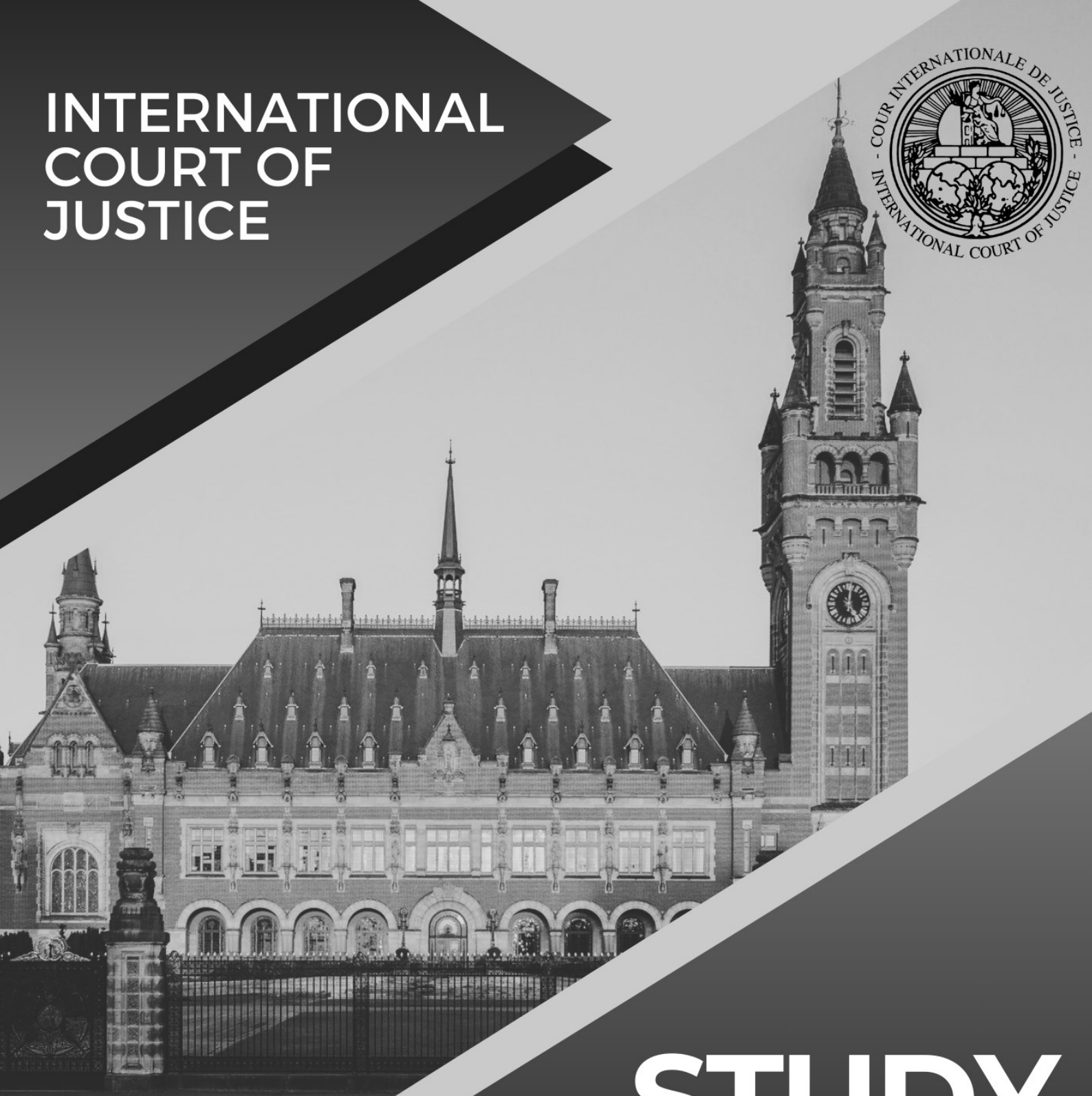
INTERNATIONAL COURT OF JUSTICE



STUDY GUIDE

SHAPING GLOBAL PERSPECTIVES TOGETHER

LUMUN21

THE LUMUN SPIRIT

The LUMUN Spirit was first introduced as a concept at LUMUN XV. It sought to reintroduce a recognition of the most essential components of MUN culture; imparting a sense of responsibility accepting that the onus is on us to be the forerunners of change. The fundamental premise of a Model UN is to develop our understanding of the issues and conflicts in the world as a collective, and to connect individuals with vastly differing life experiences with each other. The pursuit of quantitative success and accolades has fermented a tradition of MUN being a space mired in hostility and distrust. The LUMUN Spirit is our continuing effort to inculcate empathy, compassion, understanding and diplomacy within this competitive activity.

As we proceed on our journey of revamping Model UN, the LUMUN Spirit is an idea that we aspire to incorporate in the entire LUMUN experience: from the Host Team, to an expectation that we will have from the delegates as well. It is not an abstract concept – it is a vision that should embody the behavior of every delegate in every committee. Inside the committee or out; the enthusiasm to meet other people, present arguments in a true ambassadorial manner and the idea to enjoy LUMUN should never be forgotten. In this very essence we will be able to represent what it means to simulate a true world model; an actual representation of the United Nations. We continue to strive and ensure that the outlook of LUMUN XVIII is to not be an average Model UN conference anymore.

And so, leadership and prowess within a committee is not characterized by exerting one's overbearing presence on others or by alienating and excluding others from discussion. They manifest in a delegate's ability to engage with others, help them play their part in the committee, and to facilitate the committee as a whole to engage in a fruitful and informative debate. This includes actions as simple as maintaining a moderate temperament, inviting others' input and operating with honesty and respect. The LUMUN Society invites you to understand what it means to be an ambassador of a country and represent its foreign policy means to employ collaboration alongside reasoned argumentation to press forward with that actor's policy agenda.

Secretary General

Laiba Noor Abid

The Dear Delegates,

On behalf of our Secretariat and Staff, it is with great joy and immense pride that I extend a heartfelt invitation to you for the 21st edition of LUMS Model United Nations (LUMUN). This milestone marks not only a continued legacy of excellence in diplomacy at LUMS but extends beyond! It is both an honor and a privilege to carry forward this tradition of global engagement in collaboration with Oxford University this year.

At LUMUN, we believe in the power of dialogue. For just over two decades, each year young minds have come together to tackle issues of global and contemporary importance. In the process, they learn how to face adversity and difference while celebrating the spirit of negotiation and collaboration. These five days serve as a platform for utilizing real-world knowledge to craft actionable and feasible policy proposals.

But LUMUN is so much more than just a forum for intellectual exchange; it is a community where lasting connections are forged! Now more than ever, as we diversify and internationalise the LUMUN community, we hope to facilitate bonds and create treasured moments for delegates to carry as souvenirs far beyond the conference days. Staffed by over 200 members, our team is dedicated to ensuring that delegates feel welcomed to the vibrant

city of Lahore and enjoy a wide array of engaging social and recreational activities, outside their committee rooms.

With a diverse range of committees – from General Assemblies to Specialized Agencies, Regional Bodies, and the Economic and Social Councils – there is something for everyone at LUMUN. Whether you are new to Model United Nations or a seasoned delegate, you will find a platform that perfectly aligns with your interests.

As we celebrate and expand our ongoing legacy of quality debate, we are committed to making this year's LUMUN more memorable than ever. The Staff and I are thrilled to welcome you to the 21st edition of LUMUN!

Warm Regards,

Laiba Abid

Secretary-General

LUMS Model United Nations XXI

Under Secretary General

Eman Ali

Dear Delegates,

It is my immense pleasure to welcome you to the 21st Edition of LUMUN. I extend to you my warmest greetings and heartfelt gratitude for your dedication. At LUMUN we are dedicated to bring-fourth an environment that stimulates intellectual debate and encourages you to forge solutions that advance sustainable development, economic resilience, and social equity worldwide.

I will be serving as your Undersecretary for Ecosocs. A little about me, I am currently a Sophmore studying Computer Science at the Syed Babar Ali School of Science and Engineering. With what little time I have to myself, I love reading and sketching. I also binge watch movies and series when I am procrastinating (which is almost the full semester).

My journey of Muns started relatively later than my peers. I was always intimidated by public speaking and during my A levels I needed Extracurriculars for my applications hence, I decided to join my school's mun society. It was terrifying yet the most thrilling experience for me and since then Muns became a big part of my life. It was not easy to be surrounded by far more experienced delegates who have had multiple years of experience yet every Mun I attended taught me something new and I made the most memorable memories simultaneously.

Being part of Lumun has given me the opportunity to expand my horizon and further polish my public speaking skills. My goal as your usg is to keep the Lumun spirit alive, provide an environment that not only is a safe space but it also challenges you intellectually so that you gain the most fruitful experience out of it. Best of luck and prepare well!

Warm regards,

Eman Ali

Under-Secretary-General | Economic and Social Council

LUMUN XXI

Committee Director

Bilal Ijaz

Hi Delegates (or Judges)!

My name is Muhammad Bilal Ijaz and I will be serving as your Committee Director for the International Court of Justice. It is with immense pleasure that I call you to this one-of-a-kind Committee. I am a sophomore at LUMS, currently divided between either pursuing my major in Law or English Literature, but hopefully somehow a combination of both. I am interested in a wide range of things - from religion (I know an unhealthy amount of information on Sufism and classical Islamic philosophy) to films (Dr. StrangeLove is the best Stanley Kubrick film) to Literature (Kafka, Ismat Chughtai, and James Baldwin were out of this world man) to a lot more (come and speak to me outside committee and find out!)

I'm really excited to meet all of you, given that this will be a new committee where we will have lots of room to experiment and have fun. Having said that though, I also expect each of you to put in more effort than usual. I'd advise to know all the intricacies of each case, since a good judge is a well-informed one, aware of all possibilities that a judicial decision can go towards. Be creative, ambitious, and smart with how you can achieve your desired outcomes within this unique setting. Finally, I request each of you to leave the expectation of any award

outside of the committee room, since time has shown me (and I hope it shows you too) just how worthless an award title looks like on your college applications as compared to the learning and growth you experience at a MUN.

I can't wait to see all of you in person! Looking forward to an amazing New Year's Eve and of course, the New Year, with all of you :)

Best,

M. Bilal Ijaz.

Committee Director, International Court of Justice, LUMUN XXI.

LUMUN21

Committee Director

Isha Ali

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Committee Design

This additional section is to familiarize you, Justice of the ICJ, with the workings of the Court at LUMUN 21.

Starting off with every member's role, the Committee Directors will act as the ICJ Presidents. Unlike the real ICJ Presidents, the Committee Directors won't participate in the proceedings, but they will simply moderate. The Assistant Committee Directors will act as the Advocates, as they will engage in oral proceedings before the case is adjudicated upon. Finally, the 15 delegates will act as the Judges of the ICJ, who will be expected to debate the case, negotiate each other's stances, and draft two judgements over the course of the four days. All of you have been assigned a judge from the panel of that particular case. Research your judge's stance on the issue as well as any foreign policy considerations which come from the judge's associated country. However, I will encourage you to play around and go beyond what your personalities said by exploring the essence of their reasoning. For example, almost all judges agree that Serbia should comply to the Genocide Convention but almost all judges were against any monetary reparations being made to Bosnia - why is that? What is particular about each judge's reasoning which lends it that conclusion? And is there something that can be extended on, played with, and thought of within each reasoning that may help you reach your decisions? Hence, be aware of your personality's stance but don't hesitate to go beyond, ensuring strong backing for your digression or compliance. Try to be creative with reasoning and see where that leads you.

The proceedings will begin with the first case, which is the Bosnian case, followed by the Nicaraguan case. The conditions of these cases will also apply in that manner. For instance, whilst adjudicating upon Bosnia, the Justices are barred from bringing any evidence, law, treaties, etc. after 2007 and can only consider evidence from before the day the case was brought in Court. The same principle will work for the Nicaraguan case i.e. no evidence after 1986 can be considered whilst adjudicating upon that case. Afterwards, there will be a GSL for the judges to express their initial thoughts about the case. Afterwards, the Court will move onto the oral proceedings, after which the Judges can engage in a question-answer session towards the advocates. Afterwards, the committee will run in standard MUN fashion with mods, unmods, etc. We'll have

some additional motions as well such as summoning expert testimony, etc. We won't have working papers, but straight to judgements (which is our replacement for Draft Resolutions). There is no limit to how many judgements there can be for a case, except it is to be noted that all judgements must meet a legal standard and that it must cater to all questions mentioned in this guide. A sample judgement will be provided in the ROP doc, which will also cater to the details of the ICJ-specific processes mentioned herein such as the post-oral proceedings QnA and the new motions. Before the voting procedure, there will be Presentations and Question-Answer (QnA) sessions between the judges. This will be a moment for the dais to inspect and the judges to reflect whether there are truly any contestable differences between each of their legal reasoning. Hence, the Presentations and QnA will ensure that only contestable judgments to break through. The voting procedure will also follow standard MUN procedure, except that the judgment which first passes with the majority vote will be the majority judgment. Any judgment that gains the majority vote after the majority judgment will be concurring judgments. Finally, any judgments that may fail will be dissenting judgments. The judgments' quality will have a heavy weightage in the awards criteria, so the Justices are expected to be mindful of that.

After the majority judgment is passed, the Court staff will take a short interval to announce the majority judgment in summary. Afterwards, the Court will move towards the second case to be adjudicated upon.

Case 1: Bosnia and Herzegovina v. Serbia and Montenegro (2007)

Background and History

The Bosnian Genocide is one that is uniquely rooted in ethnic fears, one ethnic group felt that their superiority was challenged, and there was an idea that they were being replaced by an inferior "other". The roots of the genocide stretch back to the formation of the Federal People's Republic of Yugoslavia, from 1946 onwards Bosnia and Herzegovina underwent massive shifts both culturally and economically as they adjusted to the new communist order that was being imposed on them. Despite the communist order, in the 1960's when the government began to once again acknowledge and allow religious ethnic identities, it did this by including "Muslim" and "Muslim in an ethnic sense" as options in the 1961 census[1]. This wide scale

acknowledgement of Muslims coincided with the mass exodus of Serb and Croat populations, many emigrated out of the region to the point that Muslims became a two-fifths majority within the region and both Serbs and Croats were minorities, comprising of less than one-third and one-sixth of the population respectively[1]. Muslims even acquired their own ethnic term, that being "Bosniaks" to define themselves[1]. This shift in ethnic makeup of Bosnia maintained itself even as the political situation in Yugoslavia became more and more unstable, by the 1980's it was clear that the Cold War was lost and communist countries around the globe were feeling the impacts, Yugoslavia saw a rapid decline in its economy, and this created a dissatisfaction within the region. This dissatisfaction manifested as a political power struggle between three key nations, Slovenia, Croatia and Bosnia. Initially there was a tripartite coalition government with Bosniak Alija Izetbegović leading a joint presidency[1]. However, these elections and their outcomes were called illegal by Yugoslavia as they were perceived to undermine the stability of the nation, it came to the point that the Yugoslav People's Army confiscated the weapons of the Slovenian and Croatian Territorial Defense forces. These expressions of political power did sit well with the people and on May 19th, 1990, 92% of Croatians voted for an independent state, as did Serbia. This event signals a turning point, it is when Serbia declared independence that ethnic violence began within the region as Serbia waged aggressive wars against other breakaway nations under the guise of protecting Serbians in all regions and establishing a "Greater Serbia"[3]. Serbian President Slobodan Milošević radicalized his people with non-stop fear mongering and national propaganda, he called Croats "Ustaše" (a Slavik slur), Muslims were called "Islamic Fundamentalists", and "Turks"[3]. He continued to stoke ethnic flames and arm local militia leaders, in July 1991 the UN issued an arms embargo to curtail the growing violence and uncertainty but it only resulted in Milosevic gaining a monopoly over weaponry and then being able to call himself a peacemaker[3]. In March 1992 the Bosnians declared independence after a referendum that passed with 99.7% in favor of an independent Bosnia, what's important to note is that the Bosnian Serb Party boycotted the vote[3]. It was after the signaling of Independence that Serbia would order its paramilitaries, and special forces (called "Tigers" and "White Eagles") to begin the offensive. They were aided by their monopoly on arms and the lack of international acknowledgement of

Bosnian independence and sovereignty[3]. Serbian activity in Bosnia was called "Očistiti" (cleaning up), it's the term that the Serbian military used to talk about their actions against the Bosniaks. It's clear given the mass abuse, rape, and torture of Bosniaks that followed the beginning of the war that there was an attempt to annihilate Bosniak culture at a microlevel[2]. At this point it had become clear that the goal was ethnic cleansing for a homogenous Serbian state, for Serbs and by Serbs[2]. The Serbian army was relentlessly violent in its treatment of both civilians and POWs, most of whom showed signs of severe abuse, ranging all the way from being burned with cigarettes to being burned with hot metal bars. This abuse was paired with a principle of rape as a weapon of war that was implemented throughout the Serbian army. There were numerous rape camps set-up, there was almost one in every town, but the most infamous camp is likely the one at Visegrad, where 200 women and girls were held and routinely raped. At no point did Serbian officials ever acknowledge this policy of rape as a weapon of war, and in fact they actively deny it to this day. One of the largest flashpoints in the war was the siege of the Srebrenica village (elaborated on later), which lasted 3 years and serves as an acute representation of the extent to which Serbian military force was willing to go to ensure their goal of a homogenous united Serbian state. It wasn't until three years of genocide and ethnic cleansing later, in 1995, that the Bill Clinton administration got involved in the war that it began to come to a close, Clinton lifted the arms embargo, sent US military into Croatia and Bosnia, and began a policy of air strikes against key Serbian targets[2]. These three key policy choices led to Bosnia changing the tide of the war within weeks and the signing of the Dayton Accords. Now, Dr. Francis Boyle, advisor to Bosnian President Alija Izetbegović has filed a claim to you, the Justices of the ICJ alleging that Serbia attempted to exterminate the population of Bosnia and Herzegovina, the arguments for both parties are provided.

Srebrenica Case Study

Throughout the war period of 1992-1995 Srebrenica village served as a bastion for Bosniaks. It was controlled by the Army of the Republic of Bosnia, and as such any Bosniaks fleeing surrounding areas would find themselves in Srebrenica seeking asylum. In reaction to this, the Bosnian Serb forces besieged the village and cut off any entry or exit from the city, this siege included preventing any humanitarian aid through[6]. The siege was also accompanied

by frequent shelling and aerial raids. The town was very quickly overpopulated, refugees were camped in hallways, basements, cars, schools, community centers, and even then some had no shelter and were left on the streets[6]. There was a dire food shortage as the refugees didn't bring much food with them, and the supply lines to the village were cut off, the local river was the only water source but that was heavily polluted with excrement and oil. The situation grew increasingly untenable, forcing the UNSC to pass Resolution 819 in April 1993[6]. The resolution called for a complete demilitarization, the deployment of the UN Peacekeeping forces, and the establishment of a route between Tuzla and Srebrenica, which would be used to evacuate the wounded and ill[6]. There were about 600 peacekeeping troops which rotated every 6 months and were meant to oversee the demilitarization effort[6]. In March 1995, Radovan Karadžić, the Supreme Commander of the Republika Srpska instituted "Directive 7" which was an order to eliminate the Muslim population of Srebrenica[6]. In July the directive became a full-fledged operation called Krivaja 95, and in which, 8,000 men and boys killed or missing, and 30,000 women, children, and elderly persons forcibly relocated. The Bosnian Serb forces stormed the town and overpowered the peacekeepers, they then proceeded to round up Bosniak men and boys and take them to the killing sites like the riverbank, or meadows and fields near neighboring towns, any who tried to escape through the woods surrounding the town were chased and gunned down[7]. The victims had their hands and feet bound, and most bodies showed heavy signs of mutilation and abuse[7].

The Case of Bosnia and Herzegovina (Applicant)

As stated in the application, the key arguments the Bosnian legal counsel tackled were that Serbia had breached its legal obligations under international humanitarian law towards Bosnia. Through violent acts, such as mass killing, rape, and blatant extermination of Bosniaks, Serbia has violated its obligations under the United Nations Charter. They submitted to the Court in their memorial that Serbia should immediately cease all military acts in Bosnian territory and sought to prove that these acts were committed with genocidal intent by Serbia.

Bosnia and Herzegovina argued their case with a focus on igniting feelings of compassion for the victims of the war, and apart from legal and procedural arguments, they centered around one claim,

which is that Serbia and Montenegro have violated their responsibilities under the Genocide Convention and funded the killings of innocent Bosniaks [11]. Bosnia sought to prove its claim that the acts of violence committed by Serbia and Montenegro were done with the intent to commit genocide. This was an integral part of their arguments because proving the intent is a crucial element in determining whether Serbia had committed genocide and violated the genocide convention. Articles 1 and 3 of the Genocide Convention were important in determining whether Serbia's actions were legal and could constitute genocidal intent.

Bosnia's arguments elaborated on how Serbia has violated international and customary law by aerial and military attacks against Bosnia. Bosnia claimed that sexual violence was a significant part of the larger aim of Serbia to ethnically cleanse the Bosnian Muslim population Additionally, they claimed that there was no prevention by the leadership to prevent rapes, nor did they punish those who were committing such horrendous acts of violence [11]. The commanders of these camps were also complicit in committing sexual abuse on innocent Bosnian women [11] The applicants urged the Court to characterize these acts of violence under substantive acts, which act as acts of genocide [11]. Moreover, their legal team has claimed that after the mass killings, the Bosnian population has reduced from 4.3 million to 3.4 million, and Serbia is responsible for this. They further argued that acts of sexual violence, such as rape, were also committed during the genocide, which violated Article II (e) of the Genocide Convention 1948 [11].

Apart from this, Serbia's Ministry of Interior was coordinating with the Republica of Srpska's Ministry of Interior, which was controlling the paramilitary group involved in the killings [11]. Elaborating upon this, the legal counsel of Bosnia and Montenegro argued that Belgrade (the capital of Serbia) had financial and military control over Serb territories during the war period. The Bosnian Serb army (VRS) was the military force of the Republic of Sperska, which is an independent Serb state within Bosnia [11] Serbia funded VRS' military operations, provided logistical support to the extent of even providing salaries to the officers, and asserted that VRS officers remained under the FRY military administration until 2001 as well [11]. In addition to this, Serbia presented itself to protect the Bosnian population as they had a vision for a "Greater Serbia" derived from Serbia's President Karadžić's "Strategic Goals" for the nation [11]. This claim helped the legal counsel to strengthen their case

regarding Serbia's intention to commit genocide.

The Case of Serbia and Montenegro (Respondent)

Serbia's counsel rebutted the arguments presented by Serbia and submitted that their obligations under the Genocide Convention of 1948 had not been violated. Serbia's case was not based on denying that they had not committed any serious crimes towards the Bosniaks, and Serbia's response to Bosnia's argument began with accepting the fact that they committed serious crimes during the war period[12]. They also accepted the suffering of the victims and did not deny the existence of the serious crimes. However, they claimed that the allegations from the applicants (Bosnia) were inaccurate and exaggerated [12]. They argued that even if these acts were committed, they were not committed with genocidal intent, and their responsibility cannot be attributed to the State itself.

Secondly, the legal counsel for Serbia and Montenegro claimed that Serbia and Montenegro did not have access to the Court when the initial application was submitted by Bosnia in 1993. Additionally, the counsel claimed that Article XI of the Genocide Convention does not bind Serbia. Serbia presented lengthy arguments regarding jurisdiction in comparison to Bosnia, and their claim was also considered by the Court in 1996. During the proceedings, it was decided that Article XI of the Genocide Convention bound Serbia. Serbia urged the court to reconsider this assumption[12]. This argument was supported by the fact that Serbia was not a member of the United Nations from 1992 till 2000. Hence, it could not have been a party to the Statute of the ICJ or be bound to treaties such as the Genocide Convention[12]. Additionally, Article IX provides jurisdiction to the ICJ over disputes between States with the requirement that a State has to be bound by a Convention, and then only the ICJ has jurisdiction over them[12]. Serbia claimed that this article was vague, and it could not be inferred those states had any responsibility. Bringing it all together, as Serbia claims that the Convention did not bind them, then ICJ has no jurisdiction in this case.

Their arguments were also based on historical context, and the legal counsel emphasized that hostilities between Bosnia and Serbia do not have any historical grounds, there has never been a plan or policy aimed at ethnically cleaning non-Serb population, and the war that took place

in Yugoslavia (present-day Serbia) was a territorial war[13]. Moreover, regarding the issue of deciding whether genocide by a State can be committed when an individual has not been convicted of genocide by a competent court, Serbia brought forward its argument about the condition of sine qua non, which suggests that if a state is to be held responsible for certain acts then according to criminal law principles, it has to be determined firstly that an individual is criminally liable for committing the act . They further claimed that the facts presented by Bosnia are exaggerated, and the number of victims was actually less than the ones Bosnia submitted in their application to the Court. Lastly, the counsel rebutted genocide allegations made by Bosnia but accepted that ethnic homogenization took place, but it was not a one-sided policy from Serbia, and both sides engaged in these horrific acts of violence. Both Serb and non-Serb populations became victims of displacement during the war. Lastly, the counsel urged the court and emphasized reconciliation between the parties, not completely accepting the allegation of genocide but not denying the suffering of the Bosnian victims.

Relevant Law, Treaties, And Precedents

Genocide Convention 1948

The case of "Bosnia and Herzegovina v. Serbia and Montenegro" dealt with the question of genocide. Henceforth, the Genocide Convention was of pertinent importance to the case. Article IX of the Genocide Convention served as the legal basis for Bosnia[15]. It states, "Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute".

International Humanitarian Law (IHL)

International Humanitarian Law (IHL) is a set of laws aimed towards limiting the effects of armed conflicts on non-combatants. It also defines the responsibilities of both state and non-state actors in armed conflicts. IHL was formed on the basis of the 4th Geneva Convention. Severe violations of the law were reported in Bosnia during the Bosnian war. Although IHL does not directly deal with genocide but serves as a legal and moral

foundation when assessing the atrocities committed during the war.

Geneva Conventions 1949 and Additional Protocols

In 1949, the 4 Geneva Conventions were drafted and adopted to control and prevent the barbarity of war. Later additional protocols were adopted to build upon the earlier conventions. They are primarily designed to protect civilians and parties not directly engaged in warfare. They do so by outlining the laws countries ought to respect and abide by in the case of warfare. Acts of genocide in the Bosnian War violate the conventions and serves as an important treaty when assessing the conflict.

Customary International Laws

Customary international laws are derived from common practice and exist independently of treaty agreements . Customary international laws serve as the basis of ICJ judgements, alongside treaty agreements. Although customary laws are not codified, they are binding on state parties. The prohibition on targeting civilians and commiting acts of genocide is a customary international law and are applicable in this case.

Key Questions

Judges will be expected to form a judgement on the case of Bosnia and Herzegovina v. Serbia and Montenegro. When answering questions pertaining to the case, judges will be expected to have a strong legal basis for their reasoning. These issues are interlinked but deal with separate aspects of the case and should be answered accordingly. Some key questions, their judgement should answer include:

1. Does the Court have the jurisdiction to hear this case and if yes, under what basis?
2. What constitutes as a genocide and based on the definition, was a genocide committed in Bosnia?
3. Was there genocidal intent on the part of Serbia and Montenegro? The delegates need to either estabish Serbia's direct involvement in the genocide or at the very least, the intent to commit genocide.
4. Did Serbia facilitate the genocide, either directly or indirectly?
5. Did Serbia undertake measures to prevent a genocide in Bosnia?
6. Was any other party involved in the genocide and if yes, what was their role in it, along with the measures that can be taken by the Court against them?

7. To what extent should Serbia be held responsible and should a penalty by the Court be placed on it?
8. Should Serbia be mandated to give reparations to Bosnia and if yes, specify the details?

It needs to be noted that these are not the only questions a judgement should answer but serve as a guideline for the judges. Judges are encouraged to explore their own questions pertaining to the case. The judgement should be holistic and should at least tackle the given questions above.

Case 2: Nicaragua v. The United States of America (1986)

Background and History

The history of US involvement in Nicaragua starts in the early 1900's and since then, the United States has been a constant stakeholder within the political consciousness of Nicaragua, propping up and taking down governments as they see fit through a combination of international pressure and American funded insurgencies. In 1937, the US backed head of the Nicaraguan National Guard, Anastasio Somoza Garcia, engineered the assassination of Cesar Augusto Sandino, the leader of Nicaragua at the time. Sandino was a liberation fighter who led his men against a force of 6000 men (both US Marines and local collaborators) with only 700 men of his own. After the assassination of Sandino, Somoza declared himself president with the assistance of American emissaries and using US Troops as a way to violently establish his own sovereignty. The alliance between the Somoza dictatorship and the United States ran so deep that American President Franklin D Roosevelt said, "Somoza may be a son of a bitch, but he's our son of a bitch."[21]. It took 50 years of struggle for the Nicaraguans to finally break free from the dictatorship of the Somoza family, but they did so in July 1979 and established a progressive left-wing government under the Sandinista party[21]. The new ruling party under Sandinista commander Daniel Ortega immediately began implementing progressive policies like nationalizing the land of the Somoza family and creating labor unions and work co-operatives. When Ronald Reagan was elected in 1981, he introduced the Reagan Doctrine. Under this doctrine, the United States viewed this newly free and increasingly left-wing government as a communist threat to the security of the United States[22]. The US government claimed the elections were rigged and funded various political analysts (like Freedom House) to support the claims of the Sandinistas being undemocratic. By December of 1981 the US Support of Contras had begun, there was large scale funding, arming, clothing and feeding by the CIA towards the contras explicitly for the purposes of overthrowing the Nicaraguan government[21]. The CIA also distributed pamphlets and literature teaching the contras about psychological warfare and other tactics that violated international law[21]. They also supported the Somozan national guard that had taken refuge in Honduras and Costa Rica and helped to turn them into armed organized opposition towards the Sandinista

government as well[21]. Beyond the funding of contras, the United States also placed mines in Nicaraguan water and ports[21]. It was this policy, combined with a State Department investigation that proved Reagan's claims about the legitimacy of the Sandinista government false, that forced Congress' hands and outlawed any funding towards the contras from the government. Once Reagan was prevented from funding the contras, he instead implemented a trade embargo following the election of Ortega as President in 1984[23]. Nicaragua has now lodged a formal complaint to you, the Justices of the ICJ, alleging that the United States breached Nicaraguan sovereignty and as such they are owed some form of justice. The cases for both parties are given below.

Nicaragua's Case (Applicant)

Nicaragua's case is centered around asking the court to immediately cease the United States' military activities against them and cease all attempts to overthrow their government [24]. Nicaragua claims that under President Reagan's personal orders, their port of Corinto was attacked by sea and air routes, killing several innocent civilians [24]. They elaborated on how these attacks by the United States violated international law, including the organization of the American States Charter and the United Nations Charter. Article 2 (4) of the United Nations Charter specifically prohibits the use of force in international relations, and the United States violated this via its military and paramilitary operations in Nicaragua[24]. The counsel further submitted to the Court that the CIA carried out the operation[24]. Their arguments were twofold; they first and foremost described the urgency of their application on the basis of humanity and the loss of lives they have suffered, and secondly, they described the immense economic consequences of the attacks on their ports, which have weakened their economy [24]. Their legal counsel highlighted the suffering of their people and stated that these attacks have resulted in starving the Nicaraguan population, who are unable to receive food and medicines because ships are unable to access the country's port [24]. Apart from this, their representatives discussed a crucial argument upon which the United States has mainly based its case, and it is the question of jurisdiction[24]. Nicaragua then went on to address the issue of the jurisdiction of ICJ when it comes to granting interim protections to States. Nicaragua argued that it accepted the compulsory jurisdiction of the compulsory court of the ICJ in 1929, thus claiming that it had accepted jurisdiction[24]. Nevertheless, the legal counsel recognized that in Article

41 of the ICJ's statute, the Court could provide the parties with provisional measure if the circumstances demand it, and they argued that the ICJ only needs to establish that they have some plausible basis to hear the case as per its Rules [24]. Nicaragua continued to emphasize that the urgency of the situation required immediate action and claimed that based on precedent, ICJ had granted provisional measures even though, procedurally speaking, their jurisdiction had not been established yet [24]. This argument concerning jurisdiction is crucial, as it will become the basis for the respondents, United States, to present their case.

The Case of the United States (Respondent)

The United States based its case on dismissing the validity of Nicaragua's case and arguing first and foremost that procedurally and legally, the application submitted by Nicaragua should not be able to proceed. Their arguments were made in the first stage of the proceedings and were absent in the second stage. Nevertheless, in the first stage, the legal counsel for the United States compiled their arguments relating to jurisdiction and began their opening arguments by claiming that Nicaragua had provided no evidence regarding its acceptance of the jurisdiction of the ICJ. Thus, the ICJ has no jurisdiction to hear this case. They rebutted Nicaragua's arguments regarding the conflict by stating that Nicaragua has illustrated the issue at hand to the ICJ in a different manner and that the reality is more complex [24]. The issues are embedded in border and political disputes, and ICJ is not the appropriate forum to discuss or bring up such claims[24]. Another defense taken by the U.S. was accusing Nicaragua of collaborating with El Salvador [24]. They stated that Nicaragua was responsible for providing arms and ammunition to Salvadoran guerillas fighting against the El Salvador government [24]. The U.S. argues that this point can be linked to Nicaragua's involvement with the Cuban government as well, and the U.S. pointed out that it is to be assumed that they were involved in destabilizing the Salvadoran government[24]. The United States took an approach to paint Nicaragua as a country who themselves are involved in perpetuating and aiding violence rather than playing the role of victims who have been bombarded and rendered helpless by the attacks from the United States. They stated and brought in views of other Central American countries who have supported the view that Nicaragua's application will have direct implications for their rights and interests, as well as the Cantadora negotiations initiated

in the 1980s[25]. They elaborated on this by referring to United States support for the Contadora regional negotiations and the appropriate way to resolve conflict in Central America [24]. The counsel further pointed out that Nicaragua has faced internal instability, its leaders have led resistance movements, and their government was involved in blatant human rights violations such as strict restrictions on the freedom of their people to practice religions and freedom of speech and expression. Moreover, for countries such as Costa Rica and Honduras, Nicaragua has attacked their territories, and in light of these activities, these countries turned to the United States for security assistance. Lastly, they argued that they had a right to resort to self-defense and invoked Article 51 of the United Nations Charter, which provides countries with the right to self-defense. They asserted that they practiced collective self-defense as Nicaragua has been responsible for attacks and violence in their neighboring countries as well.

Relevant Law, Treaties, And Precedents

The case Nicaragua vs. the US is built upon a set of treaties and statutes which serve as the basis for the judgement. Additionally, as Nicaragua brought the case to the Court, the burden to prove the validity of the case fell on Nicaragua, which it did so, by supporting its allegations with international statutes and treaties.

1956 Treaty of Friendship, Commerce and Navigation

The Treaty of Friendship, Commerce and Navigation was a bilateral agreement signed between the US and Nicaragua in 1956 and was seen as a means of strengthening diplomatic relations between both countries. The treaty promoted collaboration between the two countries to build stronger economic and cultural relations. Article 1 of the treaty calls for both nations to respect the sovereignty of the other country, which Nicaragua claimed in this case to be violated by the US, when they supported Contra rebels.

Statute of the International Court of Justice Article 36

Article 36 of the Statute of the International Court of Justice defines the jurisdiction of the Court and is the basis of Nicaragua's argument on the question of jurisdiction[27]. Article 36 (2) states that the Court has jurisdiction over cases pertaining to the "interpretation of a treaty; any question of law; the existence of any fact which, if established, would constitute a

breach of an international obligation; the nature or extent of the reparation to be made for the breach of an international obligation".

United Nations Charter 1945

The Charter of the United Nations is the founding document of the organisation. It serves as a source of international law for member states. Articles pertaining to national sovereignty and self-defence are of importance in the context of this case. Two key articles pertaining to these issues include Article 2(4) and Article 51 of the charter.

Charter of the Organisation of the American States

The Organisation of the American States was formed in 1948 as a means of promoting peace and stability in the Western Hemisphere. Both the US and Nicaragua are members of the organisation and signatories to the charter of the organisation. In the case proceedings, Nicaragua argued that the US violated Article 18 and 20 of the Charter, which refrain a member state from intervening in the affairs of another member state.

Customary Laws

The International Court of Justice often relies on customary laws when deciding cases presented before it as guided by Article 38 of its charter [28]. Consequently, customary laws played a key role in the case of Nicaragua vs US. In this case, customary laws pertained to humanitarian laws, use of force against other countries and respect for the sovereignty of other countries.

Key Questions

Judges will be expected to form a judgement on the case of Nicaragua vs US. When answering questions pertaining to the case, judges will be expected to have a strong legal basis for their reasoning. These issues are interlinked, but deal with separate aspects of the case should be answered accordingly. Some key questions, their judgement should answer include:

1. Does the Court have the jurisdiction to hear the case? If not, what is the correct platform to discuss this issue?
2. Can bilateral agreements, like the 1956 treaty be used as legal basis in this case?
3. Canthe US be held responsible for the actions of contra rebels?
4. Did the US violate its responsibility to not intervene in the affairs of another country under customary international law by supporting and equipping the contra rebels?

5. Did the US violate the sovereignty of Nicaragua?
6. Can self-defence justify intervention in another state and is it applicable in this case?
7. If the US is found guilty, should the court take any action against the US?
8. Does Nicaragua have the right to demand reparations from the US? If yes, elaborate on the key details.

It needs to be noted that these are not the only questions a judgement should answer, but serve as a guideline for the judges. Judges are encouraged to explore their own questions pertaining to the case. The judgement should be holistic and should at least tackle the given questions above.

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