

## The Questions

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### Justice

Is justice always achievable?

How does a society define what form of justice is most acceptable?

What scenarios are the different types of justice most suitable for?

### Justice within the International Context

What avenues exist for parties within the international community to seek justice?

Are the current avenues sufficient enough to guarantee justice for the oppressed?

Do participants in the international community have an obligation to fight for justice on behalf of others?

### Justice and Balance

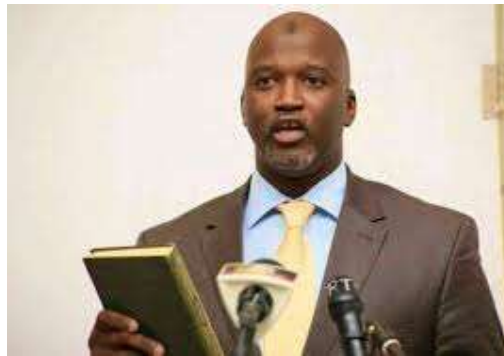
How can The Gambia sufficiently balance international and local justice concerns?

## Issues in Contemporary Ethics:

### Justice

#### At a Glance

Justice in an international context means ensuring accountability for crimes that are perpetrated against some of the most vulnerable people in the world today. These crimes often include genocide, war crimes, and torture. In cases where the oppressed cannot fight for their justice, it is imperative that the international community, in the form of states and other international institutions, stand up on their behalf and fight for the less privileged.



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#### Case Study: The Gambia v. Myanmar Case on Crimes of Genocide at the International Court of Justice

On 11 November 2019, The Gambia lodged a 45-page application with the International Court of Justice, initiating the *Rohingya Genocide Case* against the country of Myanmar. The application alleged that Myanmar has committed mass murder, rape and destruction of communities against the Rohingya group in Rakhine state since about October 2016, and that these actions violate the Genocide Convention. Gambia's Minister of Justice previously served as a special assistant to the prosecutor at the international criminal tribunal for Rwanda, and as such he has expertise and personal interest in this case which led to his government taking up the case, with the support of the Organisation of Islamic Cooperation. Additionally, the counsel team for The Gambia asked for the ICJ to indicate provisional measures for protecting the Rohingya while the case was before the court, a request that was granted on the 23rd of January 2020 (International Court of Justice, 2020).

#### Implications

The International Court of Justice, as the principal judicial organ of the United Nations, is different from any international court that deals with criminal prosecutions in that no individuals appear as parties at the ICJ and every case is between two states. As a "small" state within the international order, one might wonder why The Gambia decided to take Myanmar to court. On the other hand, the fact that the West African nation took it upon itself to take Myanmar to court showed that they were ready to ask for justice for the oppressed and is likely to spur on other countries to fight for other oppressed people. It is unclear what the ICJ will decide regarding the case, but it is encouraging to see the provisional measures that have been put in place so far to prevent further atrocities. As this case proceeds, we might ask: What kind of justice would serve the Rohingya best and how can this be enforced?

## Further Reading

Akm Ahsan Ullah

[Rohingya Refugees to Bangladesh: Historical Exclusions and Contemporary Marginalization](#)

Nokoko Pod (podcast)  
[A Gambian Perspective on The Gambia v. Myanmar Case on the Crimes of Genocide at the ICJ](#)

Zarni, M. and Cowley, A. (2014)

[The Slow Burning Genocide of Myanmar's Rohingya](#)

International Court of Justice  
[How Does the International Court of Justice Work?](#)

Human Rights Watch  
[Myanmar: Seeking International Justice for Rohingya](#)

Radio France International  
[Gambians March for Justice over Jammeh's Human Rights Abuses](#)

Canadian Rohingya Development Initiative

[International Court of Justice and Rohingya Issue](#)

### Comparing Perspectives

In this series of briefs, one rationalist ethics theory and one alternative ethics theory will be explored to present contrasting views on the issues and questions raised.

#### Virtue Ethics

Virtue ethics is an alternative theory that states that one should always strive for a balance of excess and lack based upon a set of prioritized virtues. In so doing, virtue ethics is concerned with the moral character of a person and their ability to create a suitable balance. In the context highlighted above, a virtue ethicist might argue that while it is admirable that The Gambia has chosen to stand up for human rights internationally, the fact remains that there are serious questions of injustice within the country that should be prioritized. The systematic human rights abuses that were committed by the military complex under Yahya Jammeh against its citizens are being revealed by the Truth, Reconciliation and Reparations Commission (Amnesty International, 2019). The fact that the Gambian Minister of Justice has been reportedly slow to enact justice in his country after years of brutal military rule while actively asking for justice for the Rohingya could be used by a virtue ethicist to argue that the country is correct in pursuing international justice but incorrect in its approach to balancing whose justice is sought, particularly in light of the responsibility of The Gambia in upholding justice for its own people.

#### Act Utilitarianism

Act utilitarianism is a rationalist theory that is concerned with maximizing overall happiness or utility derived from an action. In other words, act utilitarians believe that if the net result from an action is positive and increases the overall happiness of a given people, such an action is considered ethical. With regards to this specific case, an act utilitarian might argue that The Gambia's taking of Myanmar to the ICJ is an ethical action because it has the potential to increase the overall happiness of the global community. This is notwithstanding the fact that an equal amount of time could have been applied towards solving whatever problems currently exist within the local context of The Gambia. As the net happiness increases within the global community, according to an act utilitarian, this action is ethical.

#### Questions for Reflections

The Gambia's attempt to stand up for justice is admirable, especially considering that the Rohingya have been systematically discriminated against within Myanmar, which has caused a refugee and Internally Displaced Persons (IDP) crisis. The fact that it took the relatively small country of The Gambia to take Myanmar to the ICJ begs the question of whether justice is in fact being practiced in the international community at all. Additionally, The Gambia's relative inability to address their internal human rights issues while attending to this international issue begs the question of whether their priorities are misplaced or not. Does the government of The Gambia have a higher responsibility to the citizens of The Gambia or the Rohingya in Myanmar? Are the responsibilities equal? These are some of the questions that should be considered when thinking about justice within the international context.

International Court of Justice (2020, April). Latest Developments on Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar). Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)

Amnesty International (2019, May 2). Gambia: Key Human Rights Concerns Highlighted in a Meeting with President Barrow. Retrieved from <https://www.amnesty.org/en/latest/news/2019/05/gambia-key-human-rights-concerns/>