

WIGJ Statement on The Gambia application before ICJ against Myanmar

11 November 2019

Women's Initiatives for Gender Justice commends the efforts of The Gambia in calling for accountability for the Rohingya genocide in Myanmar. Today, The Gambia filed an application before the International Court of Justice (ICJ) for alleged violations by Myanmar of the Genocide Convention, for the genocide against the Rohingya. The historic efforts of The Gambia give hope not only to the Rohingya but to all genocide survivors.

The Rohingya genocide, like most cases of genocide, is highly gendered. Women and girls, who are seen as the custodians and propagators of the Rohingya identity, were disproportionately affected by the clearance operations through widespread use of brutal acts of sexual violence.

According to the UN Secretary-General, António Guterres, “[t]he violence is linked with an inflammatory narrative alleging that high fertility rates among the Rohingya community represent an existential threat to the majority population.”¹ A recent report by Guterres found that the widespread threat and use of sexual violence was integral to the Myanmar military's strategy, “humiliating, terrorizing and collectively punishing the Rohingya community and serving as a calculated tool to force them to flee their homelands and prevent their return”.²

Interactions with victims underscore this notion of such sexual violence being a key cause for the Rohingya to flee into Bangladesh from in 2017 and precluding their return. The forcibly deported Rohingya have legitimate fear of brutal sexual violence being again perpetrated against them and their family members should they return to Myanmar. The atmosphere of terror created when extreme acts of sexual violence are perpetrated publicly affect virtually the entire community whether directly or indirectly. Such an atmosphere of terror can itself be a form of sexual violence and has lasting impacts on survivors and the community as a whole.

Legally, forcible transfer and sexual violence constitute serious bodily and mental harm, which is part of the five prohibited acts under the Genocide Convention. Jurisprudence from international tribunals, in particular the *Akayesu* case before the ICTR, first determined that rape and other acts of sexual violence could be constitutive acts of genocide. The submission filed by The Gambia before the ICJ is unequivocal on this point. The widespread and oftentimes brutal acts of sexual violence committed against the Rohingya are not happening separate from acts of genocide, they are a fundamental *part* of the genocide.

Sexual violence is one of the most marked characteristics of this genocide. The understanding of genocide as a crime committed mainly through organized mass killings—mostly males—is a notion still being held today, as set out in the excellent [report](#) on the Rohingya genocide by Global Justice Centre.

WIGJ calls upon all actors to ensure that the female experience of genocide, as well as the experience of males not selected for execution are not overlooked. We encourage all actors to support the efforts of The Gambia to pursue accountability under the Genocide Convention, and to ensure that acts of genocide beyond killings are considered fully.

Women's Initiatives for Gender Justice is an international women's human rights organisation working to achieve gender justice. We aim for equality through and in the law, including increased accountability for sexual and gender-based crimes. We work to include gender perspectives and increase female participation in justice mechanisms and strive to elevate the voices of local actors and victims to international structures such as the ICC. Current programme countries include the Democratic Republic of the Congo and Uganda. Find more about the [Call it what it is campaign](#).

¹ Edit M. Lederer, [Myanmar military put on UN blacklist for sexual violence](#), 14 April 2018, Associated Press.

² [Bangladesh and the international community must ensure support to victims of sexual violence](#), Op-Ed by Andrew Gilmour, Assistant Secretary-General for Human Rights, 2019.

