



CMUNCE 2010

Columbia Model United Nations
Conference and Exposition

INTERNATIONAL COURT OF JUSTICE

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COLUMBIA UNIVERSITY

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TABLE OF CONTENTS

Letter from the Chair.....	2
Committee Introduction.....	2
Committee Structure and Format.....	3
History of Case 1: Bosnia and Herzegovina <i>v.</i> Serbia.....	4
History of Case 2: Nicaragua <i>v.</i> the United States of America.....	7
Topics.....	8
List of ICJ Judges.....	II

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LETTER FROM THE CHAIR

Hello and welcome to Columbia University Model United Nations Conference and Exposition 2010. Each year, Columbia University hosts a MUN conference for high school students. These conferences provide a plethora of diverse committees in which students may participate. This year I have the honor and privilege of leading the committee modeled on the International Court of Justice (ICJ). Whether you are planning to one day attend law school or enter into politics or you just found the topics of the committee interesting and wanted to try something new, I believe that this committee holds something for everyone attending.

My name is Jasmine Senior and I will be your Chair for CMUNCE 2010. So that you can get to know me a little better, I will give you some information about myself. I am a sophomore in Columbia College and I am majoring in Political Science and concentrating in French and Francophone Studies. I began participating in Model United Nations my junior year of high school. I have attended eight conferences in which I have been a Chair for one and an Ambassador for another. I was also a Vice-Chair at CMUNCE 2009 in the Committee for a Democratic South Africa.

I joined MUN because I wanted to better understand international politics and ways to foster international cooperation. From the committees I myself have been a part of and issues I have debated and researched, I have found that international politics is extremely complex and international cooperation is next to impossible. Despite the frustrating circumstances and perpetual arguments I have experienced during my time in MUN, I cannot deny that they have all been completely enlightening and enriching. These conferences are not meant to enforce a certain set of values upon students or have a brief impact on those who participate. I hope that through this experience, no matter what you plan to do for the future, you will better understand the role of international politics, see the large amount of important issues that must be addressed, and how necessary it is that we work together as a global community to solve them.

I am looking forward to an amazing and exciting conference!

Best Regards,

Jasmine Senior
Chair, ICJ
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COMMITTEE INTRODUCTION

The International Court of Justice (ICJ) was established in June of 1945 by the Charter of the United Nations. The Court's purpose "is to settle, in accordance with international law, legal disputes submitted to it by States and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies".¹

¹ <http://www.icj-cij.org/court/index.php?p1=1>

The primary issues that will be looked at by the delegates will be the cases of *Bosnia and Herzegovina v. Serbia and Nicaragua v. the United States of America (1986)*. In the case of *Bosnia and Herzegovina v. Serbia*, delegates will determine whether or not the entire nation of Serbia is accountable for the genocide that occurred in Bosnia due to the actions of military commander, Ratko Mladic. Issues such as ethnic cleansing and conflicting governments will be discussed and evaluated in order to determine the verdict for this case.

The next case that will be presented for debate is that of *Nicaragua v. the US (1986)*. In this case delegates must decide whether or not the United States participated in military and paramilitary activities against Nicaragua, thereby violating International Law and if so, whether or not the US must give reparations to Nicaragua. The final decision for this case will be found through an evaluation of subjects such as the US's involvement with the Contras— e.g. through direct or indirect military support—and human rights violations.

Delegates will represent 13 judges that currently preside over cases for the ICJ. Each delegate must review and research their respective judge's past opinions on various cases and their rulings in the cases that will be addressed at CMUNCE 2010. The judges will be presented with various pieces of evidence, witnesses, and records concerning each case. From this information and research the judges will thoroughly discuss each topic and reach a verdict for each case. Every judge must remember that the decisions made for these two cases will have a lasting effect not only on the ICJ—in terms of the precedents that will be set— and the nations involved in each case. These decisions will also have a significant effect on International Law, which governs the relations between nations and effects the decisions and choices that nations make when conducting their affairs.

COMMITTEE STRUCTURE AND FORMAT

The ICJ committee will be structured a little differently from the usual MUN conferences.

1. We will start with opening statements from each judge concerning their knowledge and opinion of the case being presented and the evidence they have reviewed (placed here in the background guide).
2. The prosecuting lawyer will come in and give a brief statement
3. The defense lawyer will come in and give a brief statement
4. From there, witnesses will be introduced by both the prosecuting lawyer and the defense lawyer. The process for each witness will include:
 - a. Presentation of the witness
 - b. Initial questioning, the prosecuting lawyer is allowed to question the witness
 - c. Cross examination, the defense lawyer questions the witness
 - d. Redirect , the prosecuting lawyer is allowed to address any new points that have arisen during the cross examination
 - e. Judge questioning, judges are allowed the opportunity to question the witness. After each witness leaves, the judges may then caucus to discuss the testimony that was presented. This is where the majority of committee time will be spent
5. After hearing all of the witnesses, the judges will state and discuss their opinions
6. Delegates will form to voting blocs, a majority bloc and a minority bloc. Each bloc will write their final opinions, their reasoning behind these opinions, and the appropriate punishment that should be given.

HISTORY OF CASE 1: BOSNIA AND HERZEGOVINA v. SERBIA



The war in Bosnia began with the aftermath of World War II, during which Yugoslavia experienced ethnic conflict between all groups: Croats, Serbs, Jews, Communists, etc. The Communist-led Partisans eventually arose triumphant at the end of the war. Their leader was Josip Broz (Tito) who ruled the nation of Yugoslavia as a one-party socialist state².

Under Tito, Yugoslavia seemed to be prospering when compared to other communist regimes: Yugoslavs under Tito's rule held more freedoms, standards of living were high, and Tito seemed to have addressed and resolved the nationalism issue. However, as nationalist sentiments among Croats began to rise—due to the widespread belief that the Serbs were oppressing the Croats— and protests occurred, Tito began to restrict liberties and denounce the nationalist sentiments. After his death in 1980, the nation began to experience even more economic and political issues which were primarily caused by the divided interests of the leadership. Conflict began occurring between Croatia and Serbia in 1991 due to Croatia's call for independence and Serbia's desire to increase its power and influence through physical expansion.³ Although the war was specifically between these two nations, Croats and Serbs from Bosnia also joined the conflict. The Yugoslav People's Army (JNA) trained Serbs throughout Bosnia to help in their effort. Bosnia believed it could avoid war even though the fighting had spread into its nation, but was ultimately due to the preexisting political division that was being heightened by the three national parties (the Croats, Serbs, and Muslims)⁴.

These national parties purged the state administration and destroyed the fragile interethnic checks and balances that existed in Bosnia. They enforced inclusion and exclusion rules in both the private and public sector of society. As a result, multiculturalism was quickly dismantled. Although the three parties attempted to share power, they were always in a deadlock when trying to resolve problems. They soon began separating by pushing out other ethnic groups in certain areas. For example, the Croat leader in Motzar began to purge the area of Muslims even though the Muslims were helping the Croats in their struggle against the Serbs⁵.

In 1991 negotiations occurred between Croatia, Slovenia, and Bosnia concerning the fate of Yugoslavia. Croatia and Slovenia chose independence which left Bosnia to either choose Serbia or independence as well; Bosnia chose independence. Europe recognized Bosnia's independence on April 6 1992⁶. However, before Europe even recognized Bosnia's independence, Bosnian Serbs declared Bosnia to be a "Serbian Republic"⁷. Bosnian Serbs desired for Bosnia to be Serbian; the rest of Bosnia did not agree. The same day that Europe recognized Bosnia's independence, Bosnian Serbs began a siege of Sarajevo. Residents were cut off from food, utilities, and communication. As a result, war broke out between the Bosnian Serbs and the other residents of Bosnia—Croats and Muslims. This war brought horrible atrocities to the people of Bosnia. Soldiers and civilians experienced rape, concentration camps, murder and other horrors which have been collectively named "ethnic cleansing".

² www.friendsofbosnia.org/edu_bos.html

³ International Politics since WWII, Charles L. Robertson

⁴ The War in Bosnia-Herzegovina, Steven L. Burg, Paul S. Shoup

⁵ The War in Bosnia-Herzegovina, Steven L. Burg, Paul S. Shoup

⁶ International Politics since WWII, Charles L. Robertson

⁷ International Politics since WWII, Charles L. Robertson

CULTURAL GROUPS OF YUGOSLAVIA

Serbs: The Serbs were the most populous and dispersed nationality in Yugoslavia. They became so widely dispersed during the rule of the Ottoman Empire. To escape the oppressive rule of the Ottomans, the Serbs migrated west into unpopulated areas. After World War II, the Serbian population was once again dispersed among the various parts of Yugoslavia where many claimed that they were discriminated against and treated horribly.

Croats: the second most numerous ethnic groups in Yugoslavia. The Croats were self-ruled for several centuries before the 12th century when they were overtaken by Hungary. From that time, they were ruled by various regimes, predominately Hungarian. After a brief period of subjection under Napoleonic rule, Croatian nationalism was born. This nationalist sentiment would be seen under every regime that the Croats were under even up until Yugoslavia's rule. During the 1970s, Tito and his regime attempted to stop all forms of Croat nationalism.

Bosnian Muslims: the Muslim population in Bosnia was the largest "ethnic group" in Bosnia during this time (although they should be classified as a religious group, they were placed into the category of ethnic groups). Islam arrived in this region primarily when the Ottoman Empire took it over in the Middle Ages. Since that time, Islamic culture has been a large presence in Bosnia.

KEY LEADERS IN BOSNIAN WAR

President Slobodan Milosevic: Milosevic became president of Serbia in 1989. He called for a "Greater Serbia" in order to unite ethnic Serbs. Milosevic tried to accomplish this goal through military initiatives in the surrounding areas of Bosnia, Croatia, Slovenia and Macedonia. When these states called for independence, Milosevic combined Serbia and Montenegro to create the Federal Republic of Yugoslavia (FRY).⁸

Radovan Karadzic: Karadzic was a Bosnian Serb who supported Milosevic's call for a "Greater Serbia". Karadzic started the campaign to "cleanse" Bosnia of all non-Serbs. One individual who provided him with a lot of support in this effort was his military commander Ratko Mladic.

Ratko Mladic: Mladic was a military commander under Karadzic during the Bosnian War. He has been accused of engineering the massacre at Srebrenica and the shelling of Sarajevo which left thousands of civilians dead. He also made some public statements against Muslims during the Bosnian War.⁹

President Alija Izetbegovic: Izetbegovic was the head of the Party of Democratic Action (SDA) in Bosnia. He is quoted as saying, "I would sacrifice peace in order to win sovereignty for Bosnia, but for that peace in Bosnia, I would not sacrifice sovereignty." This statement was made in response to the growing Serbian warnings that he should not call for independence. However, Izetbegovic still chose to declare Bosnia independent. Izetbegovic led his army and supporters against the Serbian threat throughout the war.¹⁰



⁸ [Cia.gov/library/publications/the-world-factbook](https://www.cia.gov/library/publications/the-world-factbook)

⁹ [Topics.nytimes.com/top/reference/timestopics/people](https://www.nytimes.com/top/reference/timestopics/people)

¹⁰ www.nytimes.com/2003/10/20/world/alija-izetbegovic

SIGNIFICANT EVENTS

Srebrenica Massacre: This massacre began on July 6, 1995 and ended five days later on July 11, 1995. During the course of these five days, 8000 Muslims were killed. 30,000 Muslims were seeking refuge in Srebrenica from advancing Serbian troops. One hundred Dutch peacekeeping troops were accompanying the group and leading them to the supposedly safe area (Srebrenica was declared as such by the UN Security Council in Resolution 819). Unfortunately the Serbian troops caught up with them in Srebrenica. Although many were able to flee the onslaught, many more were tortured, murdered, and buried alive by the Serbian troops. Those that fled were later killed by Serbian troops in an attack led by Ratko Mladic. The Dutch troops were forced to stand aside and watch as the atrocities were committed¹¹.

Prijedor Massacre: Serbian forces took over the town of Prijedor and arrested most of the high officials in leadership positions. These forces began by denying material items to non-Serbs and eventually took over all institutions in the town. Fighting began to occur in surrounding towns and eventually spilled over into Prijedor. The primary Serbian leaders that led this effort were the JNA and the Serbian Democratic Party (SDS). Many individuals were taken from their homes and arrested. Many individuals were killed during the siege¹².

Omarska Camp: Serbian forces created many concentration camps during the Bosnian War. The Omarska Camp was located in the Prijedor region and held approximately 2000 Muslim and Croatian Men and about twenty-three to thirty-eight women. The men were interrogated and tortured and some even murdered while the women were raped. These acts were some of the many that occurred in the other Serbian concentration camps¹³.

DAYTON ACCORDS

In 1995 Croatia waged a massive offense against the Serbs in Krajina. Croatia was very successful in this endeavor and the Serbian side was significantly affected. Soon after, NATO entered the conflict and began bombing the Serbian forces providing the Bosnians and Croats with a major advantage. All of these actions culminated in Milosevic's decision to begin peace talks with Izetbegovic and Tudjman, and sign the Dayton Accords effectively ending the war.

These Accords gave Bosnia 51% of the original territory that belonged to Bosnia, and they gave Serbia the other 49% of the territory. Sarajevo was established as the capitol of Bosnia. Although the division placed the Bosnian Muslims and Bosnian Croats together, their alliance is still fragile.

¹¹ Edition.cnn.com/2008/WORLD/Europe/07/22/srebrenica.feature/index.html

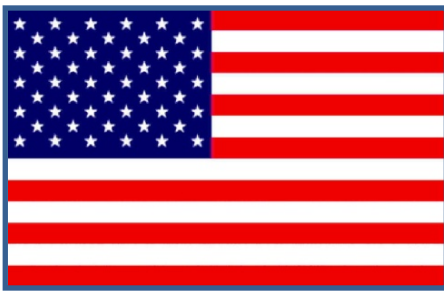
¹² [War Crimes in Bosnia-Hertzgovenia](#), Helsinki Watch, Ivana Nizich

¹³ [War Crimes in Bosnia-Hertzgovenia](#), Helsinki Watch, Ivana Nizich

HISTORY OF CASE 2: NICARAGUA v. THE UNITED STATES OF AMERICA

After the Sandinista revolution in Nicaragua in 1979, there was hope that democracy would rule the nation. However, the revolution left many more issues to be solved such as half a million homeless citizens and a faltering economy. The government—headed by the Sandinista Liberation Front (FSLN) — instated limited freedoms and confiscated the property of its citizens soon after coming to power. To help improve the economy, Nicaragua requested and received aid from Soviet-bloc nations, which brought many concerns to the US. The US had stopped giving aid to Nicaragua after the Sandinista revolution due to its concerns that the revolution meant Nicaragua was moving toward communism. When Nicaragua began seeking aid from the Soviet-bloc and expressing its support of Cuba, the US' fears seemed to be confirmed.

Nicaragua created organizations whose purposes were to indoctrinate the people and report any individuals who were against the state as “counterrevolutionaries”. An example of one of these committees were the Comités de Defensa Sandinista (CDSs) which had the purpose of distributing information to the public and doing block-by-block census's of all numbered houses in cities. Nicaragua implemented such initiatives as the Agrarian Reform Law in which those who supported the government received free land and titles in exchange for government service or agricultural cooperatives¹⁴.



In 1981, the US began sending support to the counterrevolutionaries in Nicaragua in the form of money, arms, and training of the rebels. The US primarily provided aid because it was displeased that the Sandinista government was supporting the communist nation of Cuba and wanted to ensure that Nicaragua did not fall to communism itself. In 1982, Congress created the Boland Amendment which restricted CIA and Department of Defense operations in Nicaragua. In 1984, the amendment was strengthened to the point where it provided almost no opportunity for the US to support anyone involved in the Nicaragua conflict. After this amendment was implemented, the Reagan Administration began covertly providing support to the “Contras”—the counterrevolutionaries— by selling arms to Iran in return for the release of US hostages in Lebanon and sending the money from those sales to the Contras¹⁵. This action came to be known as the Iran-Contra scandal.

The Contras set up their bases on the borders of Honduras and Costa Rica. Their main offense against the Sandinista government was through disruption of the government's economic activity. The Contras then began building up their forces and the Nicaragua government responded by doing the same. Despite the formidable offense from the Nicaragua government, the Contras managed to remain strong in the conflicts that arose.

On November 4, 1984, Nicaragua held elections and the FSLN's candidate, Daniel Ortega Saavedra, won 63% of the vote. Although other members of the international community found the election and its results to be fair, the US believed that the election was corrupt. As a result, in 1985 the US enforced a trade embargo against Nicaragua which effectively worsened the already devastating economic situation Nicaragua was experiencing¹⁶.

¹⁴ Britannica.com/EBchecked/topic/413855/Nicaragua

¹⁵ Pbs.org/wgbh/amex/Reagan/peoplevents/pande08.html

¹⁶ Britannica.com/EBchecked/topic/413855/Nicaragua



KEY FIGURES IN THE CONTRA WAR

Commander Luis Carrion: During the Sandinista period, Luis Carrion served as First Vice- Minister of the Interior for Nicaragua. His responsibility was primarily for state security. He was in charge of government operations in the “principal war zone” as Nicaragua has called it. He monitored US involvement in military and paramilitary activities during the conflict.¹⁷

Dr. David MacMichael: An American citizen, David MacMichael was a CIA analyst primarily involved in intelligence concerning Nicaragua. He had clearance to all things concerning Central America and supposedly he took part in the meeting that led 1500 soldiers to the Nicaraguan border to direct the arms traffic from Nicaragua to the El Salvador insurgents.¹⁸

William Hupper: He was the minister of finance during the Sandinista period and claims that economic damage has occurred due to attacks in oil storage facilities and other damages resulting from the Contras’ actions which were fueled by US support.¹⁹

President Ronald Reagan: Reagan called for the US to support the Contras in their fight against the Sandinista government. He believed that he was fighting against the spread of communism by stopping the Sandinista government which was dealing with communist nations at the time. Reagan pushed for financial aid to be given to the Contras but Congress was not in favor of providing monetary aid. He therefore then turned to the CIA to provide covert support in the form of money, arms, etc. However, when the Contras and Sandinistas finally signed a 2 month cease fire, Congress consented to giving aid meant to cover the Contras expenses during the cease fire.²⁰

TOPICS

In Court, both sides will present evidence and witnesses to support their claims. The judges will have to evaluate the evidence they receive and validate the witnesses they hear. They will have to compare all that is presented with the facts that are already known about the issues. The position papers that will be written before hand will present the view of each judge concerning certain pieces of evidence and/or eyewitness accounts which are listed below. Delegates must remember that they are representing their respective judges’ opinions. After expressing their view of the evidence presented here, delegates will then give their opinion—based on independent research done before the conference— on what the final verdicts should be for each situation.

¹⁷ Litigation Strategy at the International Court, Terry D. Gill. Pg.187

¹⁸ Litigation Strategy at the International Court, Terry D. Gill. Pg.192

¹⁹ Litigation Strategy at the International Court, Terry D. Gill. Pg.195

²⁰ President Reagan: The Triumph of Imagination, Richard Reeves

CASE 1

On March 20, 1993, Francis Boyle—representing the nation of Bosnia—filed a case against Serbia and Montenegro for the events that occurred during the Bosnian War. In this case—now titled *Bosnia and Herzegovina v. Serbia*—Bosnia is requesting that the court order Serbia to pay reparations for the damages it incurred from the war. These damages include deaths of civilians, environmental damage, economic damage, etc²¹.

In this case Bosnia will try to prove to the court that Serbia and Montenegro committed acts of genocide. Bosnia will bring many witnesses who were victims in the massacres that occurred and possibly even use evidence from the Milosevic hearing. The defense, Serbia and Montenegro, claims that genocide can only occur when there is an actual intent to kill. While some Serbian individuals may have desires to kill and even acted on these desires, Serbia claims that the state cannot be faulted for those individuals²².

There are two methods that can be used in order to prove whether or not Serbia committed acts that can be labeled genocide. The first is the Nuremberg method which requires the court to first show that actions on the ground were committed with the clear intent of murder to a particular population. After establishing the intent, the Court will then have to link the actions back to people in the higher offices of the state. The second method that can be used to prove genocide is useful when a direct link to the state cannot effectively be made. The Court must show how the decisions of those in the highest positions of state resulted in the events that occurred²³.

Witness Account 1:

“The commanding officer told me to make coffee for him and two other men present. One was a man named Babic who was the manager of the mine in Omarska, and he was serving his military duty and was in uniform. A second man named Nedeljko Grabovac and he was a reserve captain...he said that the Muslims were raping Serbian women...when I was assaulted, there was no electricity in the building, and I could not identify the second man who had entered the room. Both Grabovac and this other man started to beat me. They said I was an Ustasa and that I needed to give birth to a Serb—that I would then be different. I was raped only by Grabovac...after he raped me, I was ordered to go back to my room with the other women.”

- 39 yr old Croatian woman from Prijedor; held in the Omarska Camp

Some questions to ask when evaluating eyewitness accounts:

1. How reliable is the eyewitness?
2. Does the eyewitness' story line up with recorded historical events?
3. Is the eyewitness' statement contradictory in any way (within itself)?

²¹ www.iwpr.net

²² www.iwpr.net

²³ www.iwpr.net

CASE 2

Nicaragua brought its case to the ICJ April 9, 1984. It argues that the US had violated Nicaragua's sovereignty, territorial integrity, and political independence. Nicaragua claims that the US has also violated the Charter of the UN and the Charter of the Organization of American States. Nicaragua requests the US pay reparations equal to the economic damage and lost lives of Nicaragua citizens that have resulted from what it claims to be the US' violation of international law.²⁴

The US claims that it intervened in Nicaragua's affairs due to the requests made by El Salvador. El Salvador states that Nicaragua attacked its nation and requested aid from the US. The US also claims that the ICJ has no jurisdiction in the case.

Judges will have to review the Charter of the UN, the Charter of the Organization of American States, and other official documents that Nicaragua claims the US violated in its application of the case to the Court which can be found at <http://www.icj-cij.org/docket/files/70/9615.pdf>. With these findings, if the judges discover that the US has violated certain signed agreements, they will then have to decide the appropriate punishment that must be enforced against the US and how much in reparations must be given to Nicaragua.

Statement made by President Ronald Reagan to National Security Adviser Robert McFarlane:

"I want you to do whatever you have to do to help these people keep body and soul together"- quoted in a PBS article

Questions to ask concerning this statement:

1. Can this statement be trusted?
2. Although the article says Reagan was referring to the situation with the Contras in Nicaragua, is the US necessarily interfering with the sovereignty of Nicaragua?
3. What is Reagan really saying?
4. Is any international law really being broken?

These are just some of the questions you can ask for both cases. Any other observations or conclusions that can be drawn are also welcome in the position paper. Presented are only two examples of evidence that judges will have to review and validate in order to come to a final decision about each case. Good luck and get ready!

²⁴ <http://www.icj-cij.org/docket/files/70/9615.pdf>

LIST OF ICJ JUDGES

Hisashi Owada (Japan)
Peter Tomka (Slovakia)
Shi Jiuyong (China)
Abdul G. Koroma (Sierra Leone)
Awn Shawkat Al-Khasawneh (Jordan)
Thomas Buergenthal (USA)
Bruno Simma (Germany)
Ronny Abraham (France)
Kenneth Keith (New Zealand)
Bernardo Sepúlveda-Amor (Mexico)
Mohamed Bennouna (Morocco)
Leonid Skotnikov (Russian Federation)
Antonio A. Cancado Trindade (Brazil)
Abdulgawi Ahmed Yusuf (Somalia)
Christopher Greenwood (UK and Northern Ireland)

It is very important that all delegates research their judge and ensure that they will be able to effectively represent them at the conference. In order to have productive debate, everyone must be able to play their role and correctly participate in solving each case. Information about each judge can be found on the ICJ website and of course, other sources. The information is out there for both the cases and the judges; however, everyone is going to have to search for it. It would also be beneficial for each delegate to review their judge's previous decisions on other cases similar in nature to the ones that will be discussed at CMUNCE 2010. Thorough knowledge of each case and the historic facts concerning them is very important in order to propose a reasonable and just verdict.

