

INTERNATIONAL COURT OF JUSTICE

**THE GAMBIA'S OBSERVATIONS ON**  
**MYANMAR'S REPORT OF 22 NOVEMBER 2024**

REPUBLIC OF THE GAMBIA

v.

REPUBLIC OF THE UNION OF MYANMAR

6 December 2024

1. In accordance with the Court’s letter of 22 November 2024 (ref: 163332), the Republic of the Gambia (“The Gambia”) submits these Observations on the Tenth Report of the Republic of the Union of Myanmar Pursuant to Paragraph 86(4) of the Order of 23 January 2020 (the “Tenth Report”).<sup>1</sup>

2. These Observations, like those The Gambia submitted in response to the previous reports of the Republic of the Union of Myanmar (“Myanmar”),<sup>2</sup> are intended to highlight the principal shortcomings in the Tenth Report and obvious ways in which Myanmar is failing to fulfill its obligations under the Court’s Order of 23 January 2020 (“Provisional Measures Order” or “Order”). The Gambia has not attempted to document all the inaccuracies and inadequacies of Myanmar’s Tenth Report.

3. Myanmar’s genocidal state policies against the Rohingya persist. The Tenth Report, like those before it, contains much information that is irrelevant to the Provisional Measures Order and many assertions that are unsupported, misleading, not credible, and impossible to verify because Myanmar continues to prohibit UN investigators, UN experts, journalists, and international non-governmental organizations from accessing much of the country, in particular northern Rakhine State. Other information provided in the Tenth Report confirms that Myanmar has failed to meaningfully implement the Court’s Order. Indeed, recent developments in Rakhine State have heightened the vulnerability of the Rohingya population there to acts of genocide.

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<sup>1</sup> *Tenth Report of the Republic of the Union of Myanmar Pursuant to Paragraph 86(4) of the Order of 23 January 2020* (22 November 2024) [hereinafter the “Tenth Report”].

<sup>2</sup> *Report of the Republic of the Union of Myanmar Pursuant to Paragraph 86(4) of the Order of 23 January 2020* (22 May 2020) [hereinafter the “First Report”]; *Second Report of the Republic of the Union of Myanmar Pursuant to Paragraph 86(4) of the Order of 23 January 2020* (23 November 2020) [hereinafter the “Second Report”]; *Third Report of the Republic of the Union of Myanmar Pursuant to Paragraph 86(4) of the Order of 23 January 2020* (20 May 2021) [hereinafter the “Third Report”]; *Fourth Report of the Republic of the Union of Myanmar Pursuant to Paragraph 86(4) of the Order of 23 January 2020* (23 November 2021) [hereinafter the “Fourth Report”]; *Fifth Report of the Republic of the Union of Myanmar Pursuant to Paragraph 86(4) of the Order of 23 January 2020* (23 May 2022) [hereinafter the “Fifth Report”]; *Sixth Report of the Republic of the Union of Myanmar Pursuant to Paragraph 86(4) of the Order of 23 January 2020* (23 November 2022) [hereinafter the “Sixth Report”]; *Seventh Report of the Republic of the Union of Myanmar Pursuant to Paragraph 86(4) of the Order of 23 January 2020* (23 May 2023) [hereinafter the “Seventh Report”]; *Eighth Report of the Republic of the Union of Myanmar Pursuant to Paragraph 86(4) of the Order of 23 January 2020* (23 November 2023) [hereinafter the “Eighth Report”]; and *Ninth Report of the Republic of the Union of Myanmar Pursuant to Paragraph 86(4) of the Order of 23 January 2020* (23 May 2024) [hereinafter the “Ninth Report”].

## I. The Court’s Questions for Myanmar

4. On 14 October 2024 the Registrar conveyed three questions from the Court addressed to Myanmar regarding the implementation of Presidential Directive No. 1/2020 on compliance with the Genocide Convention. Regarding the Court’s first question—whether any “appropriate mechanisms” had been established to transmit credible information to the Office of the President about the commission of acts referred to in Articles II and III of the Genocide Convention—Myanmar admitted that the Presidential Directive does “not envisage that additional new mechanisms will be established”.<sup>3</sup> Instead, “already existing government means” are being used for its implementation.<sup>4</sup> In response to the Court’s second question—regarding what action, if any, the President may take on receipt of any credible information regarding violations of the Genocide Convention—Myanmar provided only a non-specific assertion that “the Office of the President will take prompt and effective action in accordance with relevant laws, rules and regulations”.<sup>5</sup> Myanmar answered the Court’s third question—whether there are any other mechanisms in place to enforce the Presidential Directive—by referencing the previous answers, *i.e.*, by referring to existing mechanisms.<sup>6</sup>

5. Myanmar’s answers to the Court’s questions confirm that no actions have been taken, other than the issuance of the Presidential Directive itself. Since the military coup of February 2021, the Office of the President of Myanmar has been held by the State Administration Council, led by Senior General Min Aung Hlaing, the leader responsible for the genocidal operations against the Rohingya as described in the Memorial and Reply. As The Gambia has documented in detail in those written pleadings, Myanmar’s state-sanctioned impunity has protected all officers and soldiers, from top to bottom, from accountability for the crimes committed against the Rohingya.<sup>7</sup> Those facts have not changed.

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<sup>3</sup> Tenth Report, para. 24.

<sup>4</sup> Tenth Report, para. 30.

<sup>5</sup> Tenth Report, para. 32.

<sup>6</sup> Tenth Report, para. 33.

<sup>7</sup> *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Memorial of The Gambia (23 October 2020), Chapter 11 [hereinafter “Memorial”]; *Application of the*

6. Indeed, the sole example cited by Myanmar of a complaint filed by a member of the public illustrates this point. Myanmar asserts that anyone can report potential violations to the Myanmar National Human Rights Commission, and it cites a “complaint letter in January 2021 from Legal Action Worldwide concerning the case of a wife of a victim of the incident in Inn-din Village that occurred in Rakhine State in 2017”.<sup>8</sup> The “incident” in Inn Din was the summary execution by Myanmar soldiers of ten Rohingya men, murdered while on their knees with their hands tied behind their backs—an incident that came to light due to the reporting of Reuters journalists, who were imprisoned for that work.<sup>9</sup> The complaint was filed in December 2020 by Setara Begum, a widow of one of the murdered men;<sup>10</sup> she sought compensation from the Myanmar government for her husband’s murder at the hands of Myanmar soldiers, who were pardoned by Senior General Hlaing after serving just a few months of a ten-year prison sentence.<sup>11</sup> The Gambia has confirmed from her lawyers that Ms. Begum received no formal response to her complaint, which was filed almost four years ago. These are the “already existing government means” that Myanmar touts in its answers to the Court’s questions.

## II. Ongoing Discrimination Against the Rohingya as a Group

7. Myanmar has done nothing to dismantle the oppressive and discriminatory system targeting the Rohingya, one of seven indicators of Myanmar’s genocidal intent that characterize Myanmar’s conduct toward the Rohingya, according to the UN Fact-Finding Mission.<sup>12</sup> Myanmar’s ongoing failure to remove this system has been repeatedly reported by UN officials and experts, including during the six months since Myanmar’s last report to the Court.

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*Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), Reply of The Gambia* (23 May 2024), Chapter 8 [hereinafter “Reply”].

<sup>8</sup> Tenth Report, para. 27.

<sup>9</sup> Memorial, paras. 11.18-11.22.

<sup>10</sup> Reuters, *Rohingya widow seeks compensation from Myanmar government* (11 December 2020), available at <https://www.reuters.com/article/world/rohingya-widow-seeks-compensation-from-myanmar-government-idUSKBN28L267/>.

<sup>11</sup> Memorial, para. 11.21.

<sup>12</sup> UN Human Rights Council, *Detailed findings of the Independent International Fact-Finding Mission on Myanmar*, UN Doc. A/HRC/42/CRP.5 (16 September 2019), para. 224. MG, Vol. III, Annex 49. See Memorial, paras. 9.1-6.89; Reply, Chapter 5.

8. The UN Special Rapporteur on the situation of human rights in Myanmar detailed the systematic nature of the discrimination that Rohingya experience in Myanmar in his report of 1 July 2024:

“The estimated 600,000 Rohingya who remain in Myanmar suffer under an apartheid regime enforced by the military. They face rigid segregation, severe restrictions on movement and access to education, healthcare, and employment, arbitrary arrest and detention, confinement to squalid IDP camps, and vulnerability to violence from armed actors and civilians. Since the coup, the already repressive environment for Rohingya in Myanmar has worsened. The SAC has imposed new movement restrictions on Rohingya in Rakhine State and systematically blocked humanitarian aid deliveries and organizational access, cutting off Rohingya communities from life-saving aid. Rohingya also face a rapidly deteriorating security situation, as they are increasingly caught in the crossfire of fighting between the SAC and Arakan Army. Since May 2024, thousands of Rohingya living in northern Rakhine State have been displaced from their homes with serious concerns about their safety, security, and access to food and shelter.”<sup>13</sup>

9. The Third Committee of the UN General Assembly, in a resolution adopted in November 2024, expressed its “deep concern” regarding this ongoing discrimination:

“in Rakhine, more than 600,000 Rohingya Muslims remain largely segregated and discriminated against with respect to accessing citizenship and enjoying their human rights and fundamental freedoms, a large number of whom remain confined in camps with no freedom of movement and grossly restricted access to basic services, including food, health and psychosocial care and education, as well as livelihoods”.<sup>14</sup>

10. The UN Committee on the Elimination of Discrimination against Women emphasized the impact of these discriminatory policies on women and girls, expressing its alarm that:

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<sup>13</sup> UN Human Rights Council, *Courage amid crisis: gendered impacts of the coup and the pursuit of gender equality in Myanmar*, UN Doc. A/HRC/56/CRP.8 (1 July 2024), para. 164 [hereinafter the “Special Rapporteur July 2024 Report”].

<sup>14</sup> UN General Assembly, Third Committee, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*, UN Doc. A/C.3/79/L.46/Rev.1 (13 November 2024), preamble.

“severe restrictions on their right to movement, access to education, employment, healthcare and housing, as well as arbitrary arrest and detention and gender-based violence, have placed Rohingya women and girls in Myanmar in desperate situations detrimentally impacting their lives and futures”.<sup>15</sup>

11. To enforce the movement restrictions described above, which confine the Rohingya to the internment camps or their respective villages and townships, Myanmar continues to prosecute Rohingya for travelling across states and regions within Myanmar. In the Tenth Report Myanmar admits to prosecuting “78 Bengalis (65 males and 13 females)” for such internal travel.<sup>16</sup>

12. As in Myanmar’s prior reports,<sup>17</sup> the Tenth Report refers to alleged reports submitted by Union Ministries and State and Regional Governments in response to the Presidential Directives issued in April 2020 in purported compliance with the Genocide Convention.<sup>18</sup> Here, as before, the Report does not make those alleged reports available to the Court for examination.

13. There is no indication that any of Myanmar’s discriminatory policies targeting the Rohingya have been repealed. To the contrary, as explained above, the reports of UN officials and bodies confirm that the enforcement of discriminatory policies continues unabated.

### **III. Continuing Impunity for Acts of Genocide and Pervasive Sexual Violence against the Rohingya**

14. In his 25 October 2024 report to the UN General Assembly, the UN Special Rapporteur decried the “widespread impunity enjoyed by junta forces and other armed actors in Myanmar”.<sup>19</sup> The Tenth Report confirms that Myanmar has taken no meaningful actions to hold

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<sup>15</sup> UN Committee on the Elimination of Discrimination against Women, *UN women’s rights committee urges action to end gender-based violence against women and girls in Myanmar* (3 July 2024), available at <https://www.ohchr.org/en/statements/2024/07/un-womens-rights-committee-urges-action-end-gender-based-violence-against-women>.

<sup>16</sup> Tenth Report, para. 92.

<sup>17</sup> See Fifth Report, para. 36; Sixth Report, para. 17; Seventh Report, para. 24; Eighth Report, para. 56; Ninth Report, para. 23.

<sup>18</sup> Tenth Report, para. 19.

<sup>19</sup> UN General Assembly, *Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews*, UN Doc. A/79/550 (25 October 2024), para. 112 [hereinafter the “Special Rapporteur October 2024 Report”].

anyone accountable for the acts of genocide committed during the “clearance operations” of 2016-2018. Regarding “Proceedings within the military justice system”, Myanmar admits that no progress has been made on the Chut Pyin investigation.<sup>20</sup> Regarding “Civilian accountability”, Myanmar also admits that the Criminal Investigation and Prosecution Body (“CIPB”) did not meet and is “unable to move forward with its tasks”.<sup>21</sup>

15. Furthermore, Myanmar continues to fail to provide accountability for the massive, systematic and extremely brutal rape, gang rape, sexual assault, and genital mutilation of Rohingya women and girls across northern Rakhine State.<sup>22</sup> The Tenth Report confirms that no action has been taken, and no plans have been made, to address the crimes of sexual violence during the “clearance operations”.

#### **IV. Denial of Humanitarian Assistance and Adequate Healthcare**

16. Myanmar falsely claims that “there are no limitations or restrictions imposed on humanitarian assistance provision to the IDP camps in Rakhine State”.<sup>23</sup> In reality, due to Myanmar’s restrictions on aid, the humanitarian situation for the Rohingya in Rakhine State is dire, with increasing reports of starvation and disease, as reported by the UN Special Rapporteur:

“The situation in Rakhine State is particularly desperate. Junta-imposed telecommunications restrictions make it extremely difficult to assess the needs—or even the location—of displaced populations in northern Rakhine State. Hundreds of thousands of displaced Rohingya from the northern part of the state are almost completely cut off from international assistance. The Special Rapporteur has received anecdotal reports that many Rohingya are on the brink of starvation. In August, the United League of Arakan’s Department of Health issued an urgent appeal for donations of essential medicines, raising the alarm about the spread of dysentery and diarrhea among those displaced from Maungdaw.

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<sup>20</sup> Tenth Report, para. 42.

<sup>21</sup> Tenth Report, para. 40.

<sup>22</sup> See Memorial, Chapter 9; Reply, Chapter 7.

<sup>23</sup> Tenth Report, para. 81.

68. The junta has systematically restricted the access of humanitarian agencies, with deadly consequences for displaced and conflict-affected communities in Myanmar. Active armed conflict and the actions of some opposition groups have further limited the reach of humanitarian aid.”<sup>24</sup>

17. The UN Special Rapporteur also reported that the Myanmar military has raided IDP camps and burned a World Food Programme warehouse:

“In a clear breach of international humanitarian law, junta forces have raided and established bases in camps for internally displaced people and inside compounds of humanitarian organizations. In at least one case, junta forces planted landmines near a displacement camp that it occupied. In June 2024, junta soldiers looted and set fire to a World Food Programme warehouse holding 1,175 metric tons of food aid, an amount that could have fed more than 60,000 people for a month.”<sup>25</sup>

Myanmar’s Tenth Report failed to mention this incident, let alone offer any defence or explanation.

18. According to the Special Rapporteur, Myanmar’s severe restrictions on humanitarian organizations have made their work almost impossible to carry out. As a result, humanitarian assistance outside of Sittwe is almost nonexistent:

“Junta bureaucratic requirements continue to be a major impediment to the work of humanitarian organizations and agencies. The junta has made compliance with the requirements set out in the Organization Registration Law, which it imposed in 2022, virtually impossible. Most international humanitarian organizations have been unable to secure memorandas of understanding with junta-controlled ministries as required by the junta’s law. Junta officials have delayed issuing visas to INGO staff, denied travel authorizations, and imposed unreasonable requests for documentation, leading to delays in aid deliveries and the cancellation of humanitarian programs. Banking restrictions and cash withdrawal limits have been a major impediment to aid efforts. ...

76. The result is that many parts of the country are completely beyond the reach of humanitarian organizations. Humanitarian

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<sup>24</sup> Special Rapporteur October 2024 Report, paras. 67-68.

<sup>25</sup> Special Rapporteur October 2024 Report, para. 38.

programs across Rakhine State have largely been abandoned. Some limited humanitarian supplies have reportedly reached Sittwe, but delivery outside Sittwe is severely limited, leaving displaced and desperate Rohingya and Rakhine people to largely fend for themselves.”<sup>26</sup>

19. Due to this restrictive environment, Médecins Sans Frontières—the only healthcare provider for Rohingya in many parts of Rakhine State—suspended its operations in Rakhine State in June 2024:

“In June, Doctors Without Borders/Médecins Sans Frontières (MSF) indefinitely suspended its operations in Rakhine State, citing the escalation of violence, the burning of its office in Buthidaung in April, and junta-imposed restrictions on humanitarian programs. MSF has been the only provider of health care services for Rohingya people in many parts of Rakhine State. Hospitals throughout northern Rakhine State are either closed or offering only basic care because of junta restrictions on aid and trade, the displacement of medical workers, and limited supplies of medicines and other medical supplies. Junta forces have also occupied the offices of humanitarian organizations in Sittwe and Maungdaw and set up bases in camps for internally displaced persons.”<sup>27</sup>

20. These restrictions on humanitarian aid and healthcare have an outsized impact on Rohingya women and girls:

“The military junta’s obstruction of humanitarian aid to Rohingya communities since the coup, including displacement camps in Rakhine State, has had an outsized impact on women. Local civil society groups told the Special Rapporteur that pregnant women have had little to no access to maternal care, medication, and nutrition after Cyclone Mocha because of the SAC’s aid restrictions. ...

168. Discrimination and administrative processes often pose unique challenges for Rohingya women. They often must pay exorbitant amounts to SAC officials in order to obtain birth certificates for their children, and some women have been extorted in the process. Rohingya women have also faced discrimination as

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<sup>26</sup> Special Rapporteur October 2024 Report, paras. 71, 76.

<sup>27</sup> Special Rapporteur October 2024 Report, para. 70.

they attempt to access healthcare services at the few clinics and hospitals that take Rohingya patients. Some have reported verbal abuse from nurses, including abuse related to their use of a hijab or niqab. Rohingya women and girls are less likely than Rohingya men to hold identity documents, further limiting their mobility and access to employment, healthcare, and education under the SAC's web of restrictions and travel checkpoints."<sup>28</sup>

## **V. Hate Speech Against the Rohingya**

21. The Myanmar military continues to incite violence and hatred against the Rohingya in Rakhine State, increasing the risk for acts of genocide against them. Myanmar failed to rebut the evidence of this incitement presented in The Gambia's Observations on Myanmar's Ninth Report, and the evidence continues to accumulate. As reported by the Special Rapporteur in his report of 25 October 2024:

"The junta has deliberately stoked animosity between ethnic Rakhine and Rohingya populations in Rakhine State. Junta officers have reportedly coerced Rohingya people to protest against the Arakan Army in Sittwe, Buthidaung and elsewhere in Rakhine State. Rohingya have been threatened with fines, violence and further rights restrictions if they refused to participate in these protests and have sometimes been offered compensation for their participation. ...

44. The involvement of Rohingya recruits and militant groups in the conflict has predictably increased tensions between Rakhine and Rohingya communities in Rakhine State. Online hate speech, misinformation and hateful rhetoric has increased on all sides. ..."<sup>29</sup>

22. Independent investigations confirm that the Myanmar military forced Rohingya to demonstrate against the Arakan Army in order to incite hatred and violence:

"The military's next step was to orchestrate protests by the Rohingya in Buthidaung town against the Arakan Army in order to fuel ethnic strife. The military presumed that the protests would spark riots between the Rohingya and other communities and stall the Arakan Army's entry into Buthidaung town. The same tactic

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<sup>28</sup> Special Rapporteur July 2024 Report, paras. 167-168.

<sup>29</sup> Special Rapporteur October 2024 Report, paras. 39, 44.

was also adopted in other townships of Rakhine State. On March 22, thousands of protestors hit the streets in state capital Sittwe with slogans denouncing the Arakan Army. ... A video of the procession that I obtained in Buthidaung showed a dozen blue colored mini-trucks ostensibly belonging to the military following the protesters, many of whom were raising slogans and holding placards. One vehicle was observed carrying a few protesters. It is possible that the vehicles were used to ferry residents from some neighboring villages to the town for the protest.”<sup>30</sup>

23. As discussed further in Section VII below, these actions, along with the Myanmar military’s forced conscription of Rohingya, have significantly increased the vulnerability of the Rohingya group to further acts of genocide.

24. In its Tenth Report, as in previous reports, Myanmar provides no evidence that any of its alleged broadcasts regarding hate speech include any condemnation of anti-Rohingya hate speech.<sup>31</sup>

## **VI. Repatriation and Resettlement**

25. Myanmar admits that “no repatriations have occurred”.<sup>32</sup> In fact, due to the violence that the Myanmar military is inciting, the opposite is occurring—Rohingya are fleeing once again to Bangladesh:

“According to Bangladesh officials, more than 40,000 Rohingya have recently crossed into Bangladesh from Myanmar. The Special Rapporteur is fearful that these ominous developments portend an increase in the number of desperate Rohingya willing to risk everything to escape, including by putting their fate in the hands of

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<sup>30</sup> Rajeev Bhattacharyya, The Diplomat, *Investigation: What Happened at Buthidaung Town in Myanmar’s Rakhine State* (8 October 2024), available at <https://thediplomat.com/2024/10/investigation-what-happened-at-buthidaung-town-in-myanmars-rakhine-state/>. See also Nathan Ruser, Australian Strategic Policy Institute, *They left a trail of ash: decoding the Arakan Army’s arson attacks in the Rohingya heartland* (13 June 2024), available at <https://www.aspistrategist.org.au/they-left-a-trail-of-ash-decoding-the-arakan-armys-arson-attacks-in-the-rohingya-heartland/>.

<sup>31</sup> Tenth Report, para. 49.

<sup>32</sup> Tenth Report, para. 54.

smugglers and setting out on dangerous journeys at sea or by taking perilous overland routes.”<sup>33</sup>

26. In its Tenth Report, Myanmar claims that it scrutinized a total of 217,450 individuals in Bangladesh out of a total of 828,824 persons.<sup>34</sup> The accuracy of that claim cannot be confirmed, but even if true it represents only 26% of the total number. So, not only are the conditions not conducive to the safe, voluntary, and dignified return of the Rohingya refugees, but, more than seven years after the “clearance operations” commenced, Myanmar remains incapable of even processing their names for return.

## **VII. Change in the Situation in Rakhine State**

27. The situation of the Rohingya remaining in Rakhine State continues to deteriorate, placing them under further risk of acts of genocide. Myanmar is responsible for this worsening situation, as it has purposefully engaged in practices—like indiscriminate shelling, forced conscription, and collaboration with ARSA against the Arakan Army—that have placed Rohingya in the line of fire and inflamed communal tensions against them.

28. In its Tenth Report, Myanmar did not deny the evidence of forced conscription and collaboration with ARSA that The Gambia presented in paragraphs 27-36 of its Observations on Myanmar’s Ninth Report. The evidence of these activities by the Myanmar military have only increased over the past several months. As reported by the Special Rapporteur in his 25 October 2024 report:

“Nowhere is the situation more desperate and dangerous than in Rakhine State. The junta has responded to steady military losses to the Arakan Army by attacking civilians and stoking tensions between ethnic Rakhine and Rohingya communities. This has included conscripting thousands of young Rohingya men and deploying them to the frontlines. Meanwhile, Rohingya militant groups have created a tinderbox of suspicion, animosity and violence by cynically aligning with the junta and committing

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<sup>33</sup> Special Rapporteur October 2024 Report, para. 5.

<sup>34</sup> Tenth Report, para. 51.

human rights abuses against ethnic Rakhine and Rohingya communities alike. ...

40. As part of its program of mass conscription, the junta has forcibly recruited thousands of Rohingya men and boys. Many have been deployed to the frontlines of the fight against the Arakan Army, and there are credible reports that some have been ordered to attack Rakhine civilian populations.

41. Adding fuel to the fire, Rohingya militant groups—including the Arakan Rohingya Salvation Army and Rohingya Solidarity Organization—have aligned with junta forces and have reportedly carried out killings and arson attacks on ethnic Rakhine villages and neighborhoods alongside junta forces.

42. In April and May, junta forces and allied Rohingya armed groups burned Rakhine wards in Buthidaung town as the Arakan Army approached. An office and pharmacy of Medecins Sans Frontières were burned in April 2024.”<sup>35</sup>

29. These actions by the Myanmar military have led to their inevitable reaction—the Arakan Army has engaged in serious violations against the Rohingya in retaliation:

“The Special Rapporteur is concerned by allegations of Arakan Army forces committing grave human rights abuses in northern Rakhine State. Rohingya survivors have described indiscriminate attacks by the Arakan Army on Rohingya villages and Rohingya wards of larger towns with heavy artillery or drones, resulting in civilian deaths. Schools, hospitals and other civilian structures where displaced Rohingya have been sheltering have been struck in lethal attacks. Arakan Army soldiers have been accused of mass killings of Rohingya civilians and there are reports of Rohingya being abducted, detained and tortured by the Arakan Army. The whereabouts of many detained Rohingya remain unknown. Like the junta, the Arakan Army has been accused of forcibly recruiting Rohingya men and deploying them in combat against junta forces.

46. Eyewitness accounts and satellite imagery implicate Arakan Army forces in the widespread burning of Rohingya villages and wards in Buthidaung Township in April and May 2024. Dozens of villages were destroyed in areas controlled by the

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<sup>35</sup> Special Rapporteur October 2024 Report, paras. 3, 40-42.

Arakan Army as it advanced toward Buthidaung town in April and May 2024.

47. On 17 May 2024, the Arakan Army reportedly entered Buthidaung town and ordered Rohingya residents to evacuate by the following morning. However, eyewitnesses say that in the evening, before many residents were able to leave, Arakan Army forces burned Rohingya-populated areas of the town. They described Arakan Army soldiers shelling Rohingya wards, firing on residents as they fled, and setting alight homes with inhabitants still inside. A Rohingya resident of Buthidaung told the Special Rapporteur that he saw many dead bodies as he fled the town on 17 May. ...

49. Following the fall of Buthidaung, the Arakan Army increased attacks in Maungdaw township, capturing many junta bases. In mid-June, the Arakan Army ordered civilians to evacuate Maungdaw town in advance of the attack. On 5 August 2024, up to 200 Rohingya civilians were killed on a beach on the Naf River where they fled to avoid attacks by the Arakan Army. Rohingya eyewitnesses reported that the attack involved drones coming from the direction of Arakan Army positions near Maungdaw. The Arakan Army denied responsibility for the attack, which it blamed on junta forces.”<sup>36</sup>

30. The Special Rapporteur has also warned that the “re-escalation of conflict between the Arakan Army and the SAC has put Rohingya women at heightened risk of sexual and gender-based violence”.<sup>37</sup>

31. The Gambia is deeply concerned about the elevated risk of acts of genocide against the Rohingya group given these serious changes in the situation in Rakhine State, and in this context notes the potential relevance of Article 76 of the Rules of Court.

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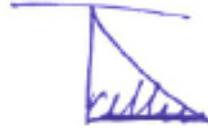
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<sup>36</sup> Special Rapporteur October 2024 Report, paras. 45-47, 49. *See also* Nathan Ruser, Australian Strategic Policy Institute, *They left a trail of ash: decoding the Arakan Army’s arson attacks in the Rohingya heartland* (13 June 2024), available at <https://www.aspistrategist.org.au/they-left-a-trail-of-ash-decoding-the-arakan-armys-arson-attacks-in-the-rohingya-heartland/> (“from 24 April, the Arakan Army began an arson campaign against Rohingya villages, retaliating against the whole Rohingya community for arson attacks in Buthidaung town”).

<sup>37</sup> Special Rapporteur July 2024 Report, para. 169.

32. For these reasons, it is The Gambia's view that the Tenth Report provides no reason to conclude that Myanmar is discharging its obligations under paragraphs 86(1), 86(2), or 86(3) of the Court's Order of 23 January 2020, or that it has taken the needed steps to depart from its genocidal state policy.

33. The Gambia appreciates the opportunity the Court has afforded it to submit these Observations, and it reserves the right to present further evidence of Myanmar's non-compliance with the Court's Order, as such evidence becomes available.



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**H.E. Mr. Dawda Jallow**

**Attorney General and Minister of Justice  
of the Republic of The Gambia**

**Agent of the Republic of The Gambia**

**6 December 2024**