

INTERNATIONAL COURT OF JUSTICE

THE GAMBIA'S OBSERVATIONS ON
MYANMAR'S REPORT OF 21 NOVEMBER 2025

REPUBLIC OF THE GAMBIA

v.

REPUBLIC OF THE UNION OF MYANMAR

5 December 2025

1. In accordance with the Court’s letter of 21 November 2025 (ref: 165366), the Republic of the Gambia (“The Gambia”) submits these Observations on the Twelfth Report of the Republic of the Union of Myanmar Pursuant to Paragraph 86(4) of the Order of 23 January 2020 (the “Twelfth Report”).¹

2. These Observations, like those The Gambia submitted in response to the previous reports of the Republic of the Union of Myanmar (“Myanmar”),² are intended to highlight the principal shortcomings in the Twelfth 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 Twelfth Report.

3. Myanmar’s genocidal state policies against the Rohingya continue. The Twelfth 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. Indeed, as is clear in the Twelfth Report, Myanmar no longer

¹ *Twelfth Report of the Republic of the Union of Myanmar Pursuant to Paragraph 86(4) of the Order of 23 January 2020* (21 November 2025) [hereinafter the “Twelfth Report”].

² *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”]; *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”]; *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”]; and *Eleventh Report of the Republic of the Union of Myanmar Pursuant to Paragraph 86(4) of the Order of 23 January 2020* (23 May 2025) [hereinafter the “Eleventh Report”].

controls the townships of northern Rakhine State.³ Other information provided in the Twelfth Report confirms that Myanmar has failed to meaningfully implement the Court’s Order.

I. The Security Situation in Rakhine State

4. The situation of the Rohingya remaining in Rakhine State continues to deteriorate. According to UN High Commissioner for Human Rights Volker Türk, “[t]oday, life in Myanmar—especially in Rakhine State—may be the worst it has ever been for the Rohingya and other minorities, marking another grim chapter in a long history of persecution.”⁴

5. In the context of the ongoing armed conflict in Rakhine State, the High Commissioner further reports that: “The Myanmar military has increasingly used aerial attacks against civilians across Rakhine. It has committed grave violations of human rights and atrocity crimes, including deliberately killing civilians, destroying civilian property, arbitrarily detaining and torturing people, and forcibly conscripting them into its ranks.”⁵

6. The High Commissioner has documented violations targeting the Rohingya by both the Myanmar military and the Arakan Army:

“In northern Rakhine State, the Rohingya continued to suffer many human rights violations and abuses, some of which were reminiscent of the 2017 atrocities. Both the military and the Arakan Army reportedly carried out air and artillery strikes, resulting in the killing of civilians and the destruction of civilian objects, and killings, enforced disappearances, torture and ill-treatment, arbitrary deprivation of liberty and the damage and destruction, looting and occupation of civilian property, in addition to the forced recruitment of Rohingya.”⁶

³ Twelfth Report, para. 8.

⁴ UN General Assembly, *High Level Conference on the situation of Rohingya Muslims and other minorities in Myanmar*, UN High Commissioner for Human Rights Volker Türk (30 Sept. 2025), available at <https://www.ohchr.org/en/statements-and-speeches/2025/09/high-commissioner-turk-rohingya-conference-international-community>.

⁵ *Id.*

⁶ UN Human Rights Council, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar: Report of the United Nations High Commissioner for Human Rights*, UN Doc. A/HRC/60/20 (29 Aug. 2025), para. 36.

7. The UN Special Rapporteur on the situation of human rights in Myanmar also reports that “the junta has repeatedly attacked civilian populations in Rakhine State, killing and displacing both Rohingya and ethnic Rakhine people”.⁷

II. Ongoing Discrimination Against the Rohingya as a Group

8. 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.⁸ Myanmar’s ongoing failure to remove this system has been repeatedly reported by UN bodies, officials, and experts.

9. According to the High Commissioner for Human Rights, “Rohingya have reported that their movement is increasingly restricted, their communications monitored, mobile phones seized, and there are internet shutdowns.”⁹ Furthermore, the Office of the High Commissioner reports that:

“Arbitrary deprivations of liberty by both the military and the Arkan Army have been widespread. According to available data, at least over 5,000 civilians from all communities in Rakhine, including the Rohingya, have been detained since November 2023. In June and July alone, the military was reported to have arrested over 200 civilians across central Rakhine for alleged fishing, irregular movement, violating curfews, and seeking to leave the state. Rohingya youths from Sittwe camps and villages continued to be detained, subjected to extortion, forced labour, forced recruitment, and ill-treatment. Rohingya refusing recruitment have also been

⁷ UN General Assembly, *Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews*, UN Doc. No. A/80/490 (20 Oct. 2025), para. 52.

⁸ 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.

⁹ UN General Assembly, *High Level Conference on the situation of Rohingya Muslims and other minorities in Myanmar*, UN High Commissioner for Human Rights Volker Türk (30 Sept. 2025), available at <https://www.ohchr.org/en/statements-and-speeches/2025/09/high-commissioner-turk-rohingya-conference-international-community>.

arrested. Village leaders continue to be ill-treated and detained when they fail to ‘provide’ youths for recruitment purposes.”¹⁰

10. Myanmar continues to enforce discriminatory restrictions on movement that specifically target the Rohingya. According to the Office of the High Commissioner, “Rohingya continued to face increased risks of arrest and forced recruitment during movement, especially while seeking livelihood opportunities outside camps. Credible sources reported that in June 2025 alone, over 50 Rohingya from camps were arrested by the military for movement restriction and curfew violations, with several sentenced to fines and a month-long imprisonment.”¹¹

11. Furthermore, with the Arakan Army now in control of many townships in Rakhine State, the Office of the High Commissioner reports that the Arakan Army has maintained Myanmar’s long-standing discriminatory restrictions on the Rohingya:

“In these areas, the Arakan Army has continued the military’s long-established regime of severe and discriminatory restrictions, solely targeting the Rohingya community. Draconian restrictions, including curfews, continued to have a wide-ranging effect on all aspects of daily life, severely limiting access to livelihood activities, preventing farming, fishing and the gathering of food from forests. Members of the community were also prevented from attending mosques for nighttime prayers. Rohingya are required to seek authorization and pay money to undertake journeys beyond their village including for medical purposes.”¹²

12. As in Myanmar’s prior reports,¹³ the Twelfth 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.¹⁴ Here, as before, the Report does not make those alleged reports available to the Court for examination.

¹⁰ OHCHR, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar: update* (26 Sept. 2025), para. 10, available at <https://www.ohchr.org/sites/default/files/documents/form/crp-ny-high-level-conference-myanmar.pdf>.

¹¹ *Id.*, para. 18.

¹² *Id.*, para. 19.

¹³ See Fifth Report, para. 36; Sixth Report, para. 17; Seventh Report, para. 24; Eighth Report, para. 56; Ninth Report, para. 23; Tenth Report, para. 19; Eleventh Report, para. 18.

¹⁴ Twelfth Report, para. 18.

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. The Twelfth Report confirms that Myanmar has taken no meaningful actions to hold 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 any investigations "due to the current situation in northern Rakhine State".¹⁵ Regarding "Civilian accountability", Myanmar also admits that the Criminal Investigation and Prosecution Body has made no progress in any of its cases.¹⁶

15. Furthermore, Myanmar continues to fail to provide accountability for the massive, systematic and brutal rape, gang rape, sexual assault, and genital mutilation of Rohingya women and girls across northern Rakhine State.¹⁷ The Twelfth 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. Despite its denials, the evidence from independent United Nations reporting continues to demonstrate that Myanmar is restricting humanitarian assistance to the Rohingya. According to the High Commissioner for Human Rights, Myanmar's "[m]ilitary blockades have

¹⁵ Twelfth Report, para. 25.

¹⁶ Twelfth Report, para. 23.

¹⁷ See Memorial, Chapter 9; Reply, Chapter 7.

severely restricted humanitarian access. Hunger and malnutrition are at an all-time high, with 57 percent of families unable to meet basic food needs.”¹⁸

17. The Office of the High Commissioner reports that the food scarcity situation has reached emergency levels and is contributing to health emergencies as well:

“Food scarcity across Rakhine has reached emergency levels, with deaths, disease, and malnutrition reported throughout the state. In northern Rakhine, the situation is acute with most Rohingya surviving on a single meal a day. Internally displaced persons in those areas have been living in makeshift shelters or the homes of other Rohingya families, unable to access food, water and sanitation. In the Arakan Army run Hla Poe Kaung IDP camp in Maungdaw, ten children are reported to have died in 2025 from diarrhoea. Acute food shortages, caused by months of conflict, have been exacerbated by Arakan Army taxes and restrictions on access to land and livelihoods. In central Rakhine, where as many as 70% of Rohingya IDPs in certain camps may be at risk of starvation, there are credible reports of survival strategies including women resorting to sex work to earn money to buy food. Reports of suicides and attempted suicides due to hunger were also received. In these desperate humanitarian conditions, disease is rampant, with cases of acute watery diarrhoea, scabies, hepatitis, malaria, and dengue fever reported. Amidst a global funding crisis that has seen financial support for assistance plummet, the humanitarian crisis in Rakhine is likely only to get worse.”¹⁹

18. Access to adequate healthcare in northern Rakhine State continues to deteriorate, leading to preventable deaths: “The availability and accessibility of healthcare services continued to decline, with numerous reports received of preventable deaths of children and displaced persons due to the absence of basic services and assistance.”²⁰

¹⁸ UN Human Rights Council, 60th Session, *Remarks of UN High Commissioner for Human Rights, Volker Türk* (8 Sept. 2025), available at <https://www.ohchr.org/en/statements-and-speeches/2025/09/hc-turk-myanmar-de-escalation-aid-and-accountability-are-way-out>.

¹⁹ OHCHR, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar: update* (26 Sept. 2025), para. 20, available at <https://www.ohchr.org/sites/default/files/documents/form/crp-ny-high-level-conference-myanmar.pdf>.

²⁰ UN Human Rights Council, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar: Report of the United Nations High Commissioner for Human Rights*, UN Doc. A/HRC/60/20 (29 Aug. 2025), para. 37.

19. As has been the case in the past, the dire conditions in Rakhine State have led Rohingya to attempt to flee by sea, resulting in tragic deaths. As reported by the High Commissioner:

“UN figures indicated that in the first five months of 2025, at least 457 of the 3,329 (roughly 1 in 7) [] Rohingya who have fled Myanmar for Southeast Asia died at sea, making this year’s initial five months nearly seven times deadlier than the same period in 2024 that recorded 69 deaths at sea.”²¹

V. Hate Speech Against the Rohingya

20. The Myanmar military continues to incite violence and hatred against the Rohingya in Rakhine State through forced recruitment and purposeful incitement of tensions between Rohingya and Rakhine communities. Myanmar has failed to rebut the evidence of this incitement presented in The Gambia’s Observations on Myanmar’s Ninth (at paragraphs 27-36), Tenth (at paragraphs 21-23 and 28-29), and Eleventh (at paragraphs 16-17) Reports.

21. New reporting by the United Nations and non-governmental organizations confirms these facts. According to the Office of the High Commissioner:

“Widespread forced recruitment by both the military and the Arakan Army remained a serious protection concern among the Rohingya community, driving them to flee Rakhine. Throughout the ground offensives in 2024, the military relied heavily on Rohingya forced recruits. Scores, possibly hundreds, of those men and boys recruited by the military remain unaccounted for, with many feared killed on the battlefield. Since the military announced the initiation of a conscription process in February 2024, over 5,000 Rohingya are reported to have been conscripted in the period up to June 2025, with this practice continuing into July 2025 in Sittwe IDP camps and villages and Kyaukphyu, prompting many to flee Rakhine. Information received indicated that only those who could pay military and camp leaders could avoid recruitment. Rohingya men who resisted recruitment risk being arrested, beaten, threatened, extorted, and detained. Conscripted Rohingya continued to be

²¹ OHCHR, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar: update* (26 Sept. 2025), para. 9, available at <https://www.ohchr.org/sites/default/files/documents/form/crp-ny-high-level-conference-myanmar.pdf>.

deployed at military bases and checkpoints with the military extorting money from Rohingya families in Sittwe camps to support families of the recruits, exacerbating their already dire financial conditions. Credible reports indicated that many forcibly recruited Rohingya men from Sittwe camps in June and July were sent to fight the Arakan Army in the ongoing battles in Kyaukphyu, and families have lost contact with them, with their whereabouts unknown. Hundreds of Rohingya youths have fled camps and villages to avoid conscription.”²²

22. Naturally, Myanmar’s forced recruitment practices have inflamed intercommunal tensions:

“Rohingya civilians, particularly, were caught between positions of the Arakan Army and of the military, whose forces had included deployments of Rohingya recruits since March 2024. That intentionally and necessarily exacerbated intercommunal tensions and fuelled further violence. Since 12 April 2024, the military have burned hundreds of ethnic Rakhine homes in Buthidaung town, including in Ward 6, and deployed conscripted Rohingya in those operations. As Rakhine-owned homes burned in Buthidaung, the Arakan Army burned surrounding Rohingya villages, with as many as 25 villages burned in the following weeks.”²³

23. Reporting from the UN Special Rapporteur corroborates these findings:

“Junta forces have forcibly recruited thousands of Rohingya men and boys, many of whom have been deployed to the frontlines of the fight against the Arakan Army or used as human shields. Rohingya recruits have also been ordered to attack Rakhine civilian populations and destroy Rakhine property, escalating tensions between Rakhine and Rohingya populations.”²⁴

²² OHCHR, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar: update* (26 Sept. 2025), para. 13, available at <https://www.ohchr.org/sites/default/files/documents/form/crp-ny-high-level-conference-myanmar.pdf>.

²³ UN Human Rights Council, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar: Report of the United Nations High Commissioner for Human Rights*, UN Doc. A/HRC/60/20 (29 Aug. 2025), para. 37.

²⁴ UN General Assembly, *Report of the Special Rapporteur on the situation of human rights in Myanmar*, Thomas H. Andrews, UN Doc. No. A/80/490 (20 Oct. 2025), para. 54.

24. This reporting from United Nations sources is corroborated by the findings of the International Crisis Group, which reported as follows:

“As the Arakan Army began advancing into Rohingya-dominated northern Rakhine in early 2024, the Myanmar military sought to mobilise Muslims against it. Though the vast majority of Rohingya are not recognised as Myanmar citizens, the junta used the pretext of national conscription to recruit thousands of them into militia units. Alongside this recruitment campaign, the military also attempted to foment communal tensions between the Rohingya and Rakhine Buddhists, who constitute the largest ethnic group in Rakhine State and are the Arakan Army’s support base. At first, most Rohingya recruitment into the army was forced or the result of inducement, but later some Rohingya men volunteered out of anger at the Arakan Army, which had by then been accused of widespread human right violations against Rohingya in Buthidaung [].

Regime commanders also forged alliances with Rohingya armed groups, seeking their support to defend both Buthidaung and Maungdaw townships. At first, the military worked with ARSA – an unexpected turn of events, given that the group had been responsible for the 2016-2017 attacks that prompted the military campaign against the Rohingya. In April-May 2024, ARSA and the military fought alongside each other against the Arakan Army in both Buthidaung and Maungdaw.”²⁵

25. In its Twelfth 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.²⁶

VI. Repatriation and Resettlement

26. Myanmar’s Twelfth Report once again indicates that repatriations have not commenced.

²⁵ International Crisis Group, *Bangladesh/Myanmar: The Dangers of a Rohingya Insurgency*, Report No. 348 (18 June 2025), available at <https://www.crisisgroup.org/asia/south-east-asia/myanmar-bangladesh/348-bangladeshmyanmar-dangers-rohingya-insurgency>.

²⁶ Twelfth Report, paras. 29-32.

27. As noted by the UN High Commissioner, “[t]he situation is clearly not conducive for the voluntary, safe and sustainable return of Rohingya. As long as violence and discrimination against the Rohingya and other minorities persist, this will continue to be the case.”²⁷

28. Even if conditions were conducive for repatriation, Myanmar has yet to sufficiently process the names of the refugees who would seek to return to Rakhine State. In its Twelfth Report, Myanmar claims that it scrutinized 322,078 individuals in Bangladesh out of a total of 828,824 persons.²⁸ Assuming that is true, it would represent only 39% of the total number.

29. Worse still, the situation in Rakhine State has led to even greater numbers of Rohingya to flee for safety. As reported by the Office of the High Commissioner for Human Rights:

“More than half of the Rohingya population estimated to be living in Rakhine in November 2023 are currently living as displaced people on either side of the border. Figures for recent displacement in northern Rakhine are likely the clearest evidence as to the nonexistence of conditions on the ground for safe, sustainable, dignified and voluntary returns to Rakhine State. According to UNHCR, 150,000 Rohingya fled to Bangladesh in the 18 months up to July 2025. A further 88,100 Rohingya in northern Rakhine have been displaced by hostilities since November 2023 with a further 140,000 Rohingya living in displacement in central Rakhine.”²⁹

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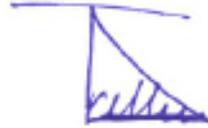
²⁷ UN General Assembly, *High Level Conference on the situation of Rohingya Muslims and other minorities in Myanmar*, UN High Commissioner for Human Rights Volker Türk (30 Sept. 2025), available at <https://www.ohchr.org/en/statements-and-speeches/2025/09/high-commissioner-turk-rohingya-conference-international-community>.

²⁸ Twelfth Report, para. 34.

²⁹ OHCHR, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar: update* (26 Sept. 2025), para. 16, available at <https://www.ohchr.org/sites/default/files/documents/form/crp-ny-high-level-conference-myanmar.pdf>.

30. For these reasons, it is The Gambia's view that the Twelfth 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.

31. 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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5 December 2025