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**International Court
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**Cour internationale
de Justice**

THE HAGUE

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YEAR 2026

Public sitting

held on Tuesday 13 January 2026, at 3 p.m., at the Peace Palace,

President Iwasawa presiding,

*in the case concerning Application of the Convention on the Prevention and Punishment
of the Crime of Genocide (The Gambia v. Myanmar: 11 States intervening)*

VERBATIM RECORD

ANNÉE 2026

Audience publique

tenue le mardi 13 janvier 2026, à 15 heures, au Palais de la Paix,

sous la présidence de M. Iwasawa, président,

*en l'affaire relative à l'Application de la convention pour la prévention et la répression
du crime de génocide (Gambie c. Myanmar ; 11 États intervenants)*

COMPTE RENDU

Present: President Iwasawa
 Vice-President Sebutinde
 Judges Tomka
 Abraham
 Nolte
 Charlesworth
 Brant
 Gómez Robledo
 Cleveland
 Aurescu
 Tladi
 Hmoud
Judges *ad hoc* Pillay
 Kress

 Registrar Gautier

Présents : M. Iwasawa, président
M^{me} Sebutinde, vice-présidente
MM. Tomka
Abraham
Nolte
M^{me} Charlesworth
MM. Brant
Gómez Robledo
M^{me} Cleveland
MM. Aurescu
Tladi
Hmoud, juges
M^{me} Pillay
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The PRESIDENT: Please be seated. The sitting is open.

The Court meets this afternoon to resume hearing the first round of oral argument of The Gambia on the merits in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar: 11 States intervening)*.

I now give the floor to Mr Andrew Loewenstein. You have the floor, Sir.

Mr LOEWENSTEIN:

**I. THE PREPARATION, ORGANIZATION AND CONDUCT
OF THE “CLEARANCE OPERATIONS”**

1. Mr President, Members of the Court, good afternoon. It is an honour once again to appear before you on behalf of The Gambia in this most important of cases. I will open a series of presentations specifically addressed to Myanmar’s “clearance operations”. My speech will focus on their preparation, organization and conduct. You will recall that they proceeded in two waves, the first in October 2016 and the second in August 2017.

2. I will begin with Myanmar’s actions that immediately preceded the “clearance operations”, focusing on the second wave. These included preparatory acts that, among other things, denied the Rohingya access to food and medical care and subjected them to draconian restrictions on movement, all intended to render the Rohingya vulnerable to the onslaught that the Tatmadaw soon carried out.

3. I will then turn to the “clearance operations” themselves. I will detail — by reference to the evidence obtained by the UN Fact-Finding Mission, the Independent Investigative Mechanism for Myanmar, and the UN Special Rapporteur on the human rights situation in Myanmar — their objective, organization, scale and hallmarks. These collectively show beyond any doubt that in Rohingya villages across northern Rakhine State, the Tatmadaw and associated forces committed atrocities in the most inhumane manner against the Rohingya — men, women, children, infants, the elderly, the infirm — that can only be understood as having been intended to destroy the group as such.

4. After this overview of the “clearance operations”, my colleagues’ presentations will detail their commission in seven Rohingya villages located in three different townships. The Gambia will then address two of the defining aspects of the “clearance operations” in all these, and scores of other,

locations: Myanmar's extreme brutality and perpetration of sexual violence. Both are well-recognized indicators of genocidal intent. Finally, I will return to conclude the presentations on the "clearance operations" by addressing another defining characteristic: Myanmar's targeted and intentional killing of Rohingya children.

5. Mr President, as the UN Fact-Finding Mission determined, the "clearance operations" did "not occur in a vacuum"; "[t]hey were" both "foreseeable and planned"¹. This organized aspect of the "clearance operations", the Mission found, is itself an indicator of genocidal intent².

6. That conclusion is firmly grounded in this Court's jurisprudence. As it held in *Croatia v. Serbia*, "the scale and allegedly systematic nature of the attacks" is relevant to determining genocidal intent³. Similarly, in *Bosnia v. Serbia*, genocidal intent was found to be present when "the killings were *planned*", as demonstrated by, among other things, "the number and nature of the forces involved" and "the invariability of the killing methods applied"⁴. As we will see, these indicia are undeniably present here.

7. Indeed, at the time of the "clearance operations", the Rohingya were already, as the Fact-Finding Mission put it, "in a situation of severe, systemic and institutionalised oppression from birth to death" and their "extreme vulnerability" was a "consequence of State policies and practices implemented" by Myanmar "over decades"⁵. Thus, in the words of the IIMM, the "clearance operations" were the "culmination of decades of systemic persecution and disenfranchisement" under which "the Rohingya had been stripped of citizenship, excluded from education, denied health care, and marginalized from political participation"⁶.

¹ UN Human Rights Council, *Report of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/64 (12 Sept. 2018), para. 43. MG, Vol. II, Annex 39.

² UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), paras. 1428-1431. MG, Vol. II, Annex 40.

³ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, I.C.J. Reports 2015 (I), p. 121, para. 413.

⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007 (I), p. 163, para. 292 (emphasis added) (citing IT-98-33-T, Judgment (2 Aug. 2001), para. 8).

⁵ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), para. 458. MG, Vol. II, Annex 40.

⁶ Independent Investigative Mechanism for Myanmar, *The Destruction and Dispossession of Rohingya Land and Property During the 2017 Clearance Operations* (29 Sept. 2025), available at <https://iimm.un.org/sites/default/files/2025/09/Land%20Report%20Public%20Summary%20EN.pdf>, para. 1.

8. Put simply, prior to the “clearance operations”, the Rohingya were already, as a consequence of State-sponsored oppression, in a state of extreme precariousness. This was by design. And, to ensure that the Rohingya were ripe for destruction, in the months preceding the “clearance operations”, Myanmar implemented a multi-pronged effort to increase their vulnerability to an unprecedented level, even when measured against the deprivations to which Myanmar had subjected them for years.

9. This took the form of mutually reinforcing measures. One such measure was limiting access to food. In July 2017, Myanmar terminated the World Food Programme’s authorization to deliver critically needed food assistance⁷.

10. Myanmar does not dispute that it terminated the Programme’s authorization or that of other humanitarian organizations, including Action contre la Faim, the largest such organization operating in Rakhine State. In fact, Myanmar admits, to use its words, “[r]estrictions were temporarily imposed on the provision of humanitarian aid”⁸. The only explanation it offers is that “[s]hortly before August 2017, Myanmar discovered that World Food Program . . . biscuits had been found at an ARSA camp, which suggested that the UN agency might have supporters of ARSA terrorists among its number”⁹. That quote can be found at paragraph 3.91 of the Rejoinder. It is the totality of Myanmar’s excuse for terminating food aid to the entire Rohingya population.

11. Mr President, in July 2017, the World Food Programme reported the results of a food security assessment survey of 450 households in 45 villages in Buthidaung and Maungdaw Townships¹⁰. Those are the townships where the Rohingya population exceeded 90 per cent and where the Tatmadaw would soon carry out many of the “clearance operations”.

12. This is what the Programme reported to be the situation in regard to food security when Myanmar forbade the delivery of humanitarian aid:

⁷ Fortify Rights, “Firsthand Testimonies from August-September ‘Clearance Operations’ in Myanmar”, Statement #30. MG, Vol. X, Annex 338.

⁸ RG, para. 3.91.

⁹ *Ibid.*

¹⁰ World Food Programme, *Food Security Assessment in the Northern Part of Rakhine State, Final Report* (July 2017), available at <https://docs.wfp.org/api/documents/WFP-0000019264/download/?iframe>.

- “During [the] thirty days prior to the survey, about one third of the households faced extreme experiences of food insecurity, such as no food of any kind in the household (28 percent), went to bed hungry (34 percent) or went for the whole day and night without eating (28 percent).”¹¹
- “Nearly 90 percent of the households were worried about not having enough food (89 percent)”¹².
- “None of the [82] children from 6 to 23 months met” the requirements for a “minimum adequate diet, only 2.5 percent reached minimum dietary diversity and [only] 8.5 percent met the minimum meal frequency” requirements¹³.
- “Households were employing crisis and emergency type coping strategies such as . . . begging for food (29 percent).”¹⁴

13. The World Food Programme’s July 2017 report warned:

“Under these circumstances and with the upcoming rainy season that may aggravate an already fragile situation, the capacity of the most vulnerable population to access sufficient food in the long-term . . . *will depend on . . . humanitarian assistance in the near future.*”¹⁵

Specifically, the Programme estimated that approximately “38,000 households corresponding to 225,800 people are in need of humanitarian assistance”¹⁶.

14. Despite these emergency conditions, Myanmar imposed “restrictions [that] affected *all of the agencies*” that had provided food assistance. This is described in the IIMM-prepared Witness Statement of Mr Andrew Riley, a humanitarian aid worker employed by Action contre la Faim in Maungdaw from May to August 2017, that is, in the months leading to the “clearance operations” until his evacuation when they began. He testifies that the termination of food aid “occurred only a few weeks before the August 2017 violence”¹⁷.

¹¹ *Ibid.*, PDF p. 2.

¹² *Ibid.*, PDF p. 4.

¹³ *Ibid.*, PDF p. 2.

¹⁴ *Ibid.*, PDF p. 4.

¹⁵ *Ibid.*, PDF p. 2 (emphasis added).

¹⁶ *Ibid.*

¹⁷ United Nations Independent Investigative Mechanism for Myanmar, Witness Statement of Andrew Riley, No. IIMM0001557475 (10 February 2022), para. 96. RG, Vol. IV, Annex 48.

15. Myanmar restricted the Rohingya's access to health care as well. Médecins Sans Frontières reported that on 11 August 2017, the organization "lost government authorization to carry out medical activities in northern Rakhine" State¹⁸. Together with the food restrictions, this not only made the Rohingya physically more vulnerable, it permitted the Tatmadaw to carry out the "clearance operations" largely free from outside observation. Again, Myanmar does not deny imposing the restriction in advance of the "clearance operations"; it does not even pretend that preventing health care was an anti-terrorism measure; it simply asserts that the organization was later able to resume operations¹⁹. But a year later, the organization remained unable to access northern Rakhine State²⁰.

16. Even before imposing the food and medical restrictions, Myanmar undertook to render the Rohingya defenceless. Utterly so. Myanmar ordered the removal of fences around Rohingya homes. The Fact-Finding Mission reported that "Rohingya villagers in northern Rakhine State were ordered to remove their fences from around their properties"²¹. This order, the Mission found, was "widely implemented in the three townships"²². The Mission determined that village administrators charged with enforcing the order were sometimes "accompanied by security forces, with soldiers or police removing fences by force"²³. "Non-compliance", the Mission reported, "often result[ed] in beatings and fines"²⁴. The US State Department's randomized survey reported dozens of respondents saying that the authorities had "removed fences before the attacks, either by doing so themselves or by forcing Rohingya villagers to do so"²⁵. Myanmar does not dispute that it imposed this measure²⁶.

17. Here is how one witness described to the Fact-Finding Mission the way in which Myanmar implemented the fence-removal programme: "A few months before" August 2017, the "village

¹⁸ Médecins Sans Frontières, *Myanmar Continues to Block Humanitarian Access in Rakhine State* (10 August 2018), p. 1. MG, Vol. IV, Annex 116.

¹⁹ RG, para. 3.97.

²⁰ Médecins Sans Frontières, *Myanmar Continues to Block Humanitarian Access in Rakhine State* (10 August 2018), p. 1. MG, Vol. IV, Annex 116.

²¹ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), available at <https://digitallibrary.un.org/record/1643079?ln=en&v=pdf>, para. 1126.

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ US State Department, *Documentation of Atrocities in Northern Rakhine State* (August 2018), p. 6. MG, Vol. VII, Annex 194.

²⁶ RG, para. 3.68.

chairman, an ethnic Rakhine, accompanied by the military, demanded us to remove the fences from the yards and around the houses. They visited the village together with the police three times in one month” after “the order [to] remov[e] the fences was issued”²⁷. The witness told the Fact-Finding Mission: “The villagers who did not implement the order were beaten and had to pay fines to the chairman.”²⁸

18. The impact was plain for all to see. This is what the UN Special Rapporteur on the situation of human rights in Myanmar reported to the Human Rights Council in March 2017 on the basis of her first-hand investigation: “One of the more remarkable observations made during the visit to Maungdaw was of ‘hanging doors’” that were “standing alone without fencing”²⁹. This, she explained, “made women feel particularly vulnerable and insecure”³⁰. Why? Because the “bathing and toilet facilities [we]re normally enclosed within those fences”³¹.

19. The Fact-Finding Mission reported much the same. It found that while Myanmar sought to justify the measure on the basis of supposed “security considerations”, the removal of the fences “greatly limited the ability of Rohingya to keep their homes private”. This caused “[v]illagers” to feel “more vulnerable and exposed to intimidation and harassment by security forces and ethnic Rakhine, making it difficult for them to shelter safely in their own homes”³². Like the Special Rapporteur, the Mission highlighted the impact on women, “as bathing and toilet facilities were often located within those fences”³³. One “young Rohingya woman explained that it was difficult for her to go to the bathroom” because now she had to use what she described as “open toilets”³⁴.

20. Summing up, the Mission concluded that “[t]he effect of the removal of fences” — which occurred on the precipice of the “clearance operations” — was “precisely to open up Rohingya

²⁷ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), available at <https://digitallibrary.un.org/record/1643079?ln=en&v=pdf>, para. 1126.

²⁸ *Ibid.*

²⁹ UN Human Rights Council, *Report of the Special Rapporteur on the Situation of Human Rights in Myanmar*, UN doc. A/HRC/34/67 (14 March 2017), para. 75 (emphasis added). MG, Vol. III, Annex 84.

³⁰ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), available at <https://digitallibrary.un.org/record/1643079?ln=en&v=pdf>, para. 75.

³¹ *Ibid.*

³² *Ibid.*, para. 1127.

³³ *Ibid.*

³⁴ *Ibid.*

households to greater surveillance and to facilitate the movement of security forces into and across Rohingya property”³⁵.

21. That was not all. To deprive the Rohingya of any modicum of an ability to defend themselves, Myanmar systematically confiscated implements — no matter how innocuous — such as cooking utensils and agricultural tools. There is no dispute that this happened; Myanmar admits doing so³⁶.

22. Here is what the Fact-Finding Mission determined: “Rohingya houses across the three townships of northern Rakhine State were frequently searched. The authorities confiscated sharp objects, including small knives and other implements used for cooking and harvesting.”³⁷ One witness recounted to the Mission that the authorities “did not leave a single small tool, not even to clean fish”³⁸. Another described how “soldiers came and took all of our sharp implements” and “only left” the “small scissors used for beetle nuts”³⁹. This, the witness said, “was all that we had to cut food to cook”⁴⁰. The confiscations’ effect, the Mission found, was to “deprive[] Rohingya families of the tools and implements needed to conduct daily activities”⁴¹.

23. These measures were paired with what the Mission characterized as “strictly enforced” curfews; not only were Rohingya forbidden from leaving their homes, they were not even “allowed to light up their houses after dark”⁴². And, beyond the curfews, Myanmar imposed movement restrictions. In the words of the Mission, “in some locations Rohingya were no longer able to leave their village, under any circumstances”⁴³. A witness from Rathedaung Township, for instance,

³⁵ *Ibid.*

³⁶ RG, para. 3.65.

³⁷ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), available at <https://digitallibrary.un.org/record/1643079?ln=en&v=pdf>, para. 1124.

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *Ibid.*, paras. 1115-1116.

⁴³ *Ibid.*, para. 1118.

explained: “Everything changed about two months before the violence . . . Even villages within the same village tract became inaccessible. We were not allowed to go outside the village.”⁴⁴

24. Again, there is no dispute that Myanmar imposed these restrictions, although it claims they were anti-terrorism measures. Remarkably, Myanmar cites Amnesty International for that contention. However, the title of Amnesty’s report — “‘Caged without a Roof’: Apartheid in Myanmar’s Rakhine State” — tells you what you need to know about the measures’ legitimacy⁴⁵. More specifically, Amnesty’s report, among other things, refutes Myanmar’s attempt to argue that the curfews were not targeted against the Rohingya. Amnesty found, based on interviews and other credible sources, that the curfews were “imposed selectively against Muslims”⁴⁶.

25. The bottom line, Mr President, is that in the months preceding the “clearance operations,” Myanmar engaged in a concerted, multifaceted effort to prepare the ground for them.

26. This brings me to the “clearance operations” themselves. As I mentioned, I will focus on the second wave, although these were similar in nature to the first. The Fact-Finding Mission concluded that Myanmar “planned and ordered” them “well in advance of 25 August 2017”, when the wave began⁴⁷.

27. In the weeks beforehand, Myanmar massively increased its military presence in northern Rakhine State. On 10 August, the Tatmadaw airlifted to Rakhine State at least 1,600 soldiers from the 33rd and 99th Light Infantry Divisions. These deployments of specialized, highly trained units required the orders of the army’s Commander-in-Chief. The Tatmadaw also deployed to Rakhine State other units. The Fact-Finding Mission determined that “as many as nine battalions from other Western Regional Command units” and “one Armoured Brigade consisting of 60 tanks and armoured personnel carriers” were moved there⁴⁸.

⁴⁴ *Ibid.*

⁴⁵ Amnesty International, “*Caged without a Roof’: Apartheid in Myanmar’s Rakhine State* (Nov. 2017). RM, Vol. V, Annex 156; RG, paras. 3.75-3.77.

⁴⁶ Amnesty International, “*Caged without a Roof’: Apartheid in Myanmar’s Rakhine State* (Nov. 2017), Section 3.1.2. RM, Vol. V, Annex 156.

⁴⁷ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), para. 1157.

⁴⁸ UN Fact-Finding Mission, *Report of the Detailed Findings* (2018), available at <https://digitallibrary.un.org/record/1643079?ln=en&v=pdf>, para. 1152.

28. The Tatmadaw pre-positioned its forces in close proximity to Rohingya villages, where it established new military bases and command centres. They occupied public buildings, such as schools, mosques and monasteries⁴⁹. The Tatmadaw also established camps on riverbanks and other strategic locations near Rohingya villages. Its deployments included the delivery of heavy vehicles and weaponry, including eight MI-17 helicopters and five naval vessels offshore⁵⁰. The Fact-Finding Mission found that Myanmar in parallel recruited, armed and trained ethnic Rakhine as part of a new “Regional Police”, subordinate to the Tatmadaw⁵¹.

29. The upshot, Mr President, is that these forces, pre-positioned, allowed the Tatmadaw to be poised to carry out the “clearance operations” with maximum impact on the Rohingya as a group.

30. I turn now to the organization of the Tatmadaw and the other security services that perpetrated the mass killings of Rohingya during those the soon-to-be launched “clearance operations”. Here, the Parties are largely in agreement as to the relevant facts. There is no dispute regarding the paramount place the Tatmadaw holds in Myanmar’s constitutional system⁵².

31. The Tatmadaw’s rigid hierarchy is illustrated on your screens. At the pinnacle, the Commander-in-Chief. As noted yesterday, for the last decade-and-a-half, this has been Senior General Min Aung Hlaing, who was responsible for all material aspects of the planning and conduct of the “clearance operations”⁵³.

32. General Hlaing’s orders and instructions were given to and carried out by the Tatmadaw’s army, navy and air force, each headed by its own service-level Commander-in-Chief. The army’s Commander-in-Chief also served as the Tatmadaw’s overall Deputy Commander-in-Chief, subordinate only to General Hlaing. During the “clearance operations”, this was General Soe Win⁵⁴.

⁴⁹ UN Human Rights Council, Detailed findings of the Independent International FactFinding Mission on Myanmar, UN doc. A/HRC/42/CRP.5 (16 Sept. 2019), available at https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFM-Myanmar/20190916/A_HRC_42_CRP.5.pdf, para. 279.

⁵⁰ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), para. 1152.

⁵¹ *Ibid.*, para. 1143.

⁵² MG, para. 10.10.

⁵³ Republic of the Union of Myanmar, *Constitution* (2008), para. 1533. MG, Vol. VI, Annex 176.

⁵⁴ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), para. 1555. MG, Vol. II, Annex 40.

33. Subordinate to the army's Commander-in-Chief were the bureaus of special operations, responsible for specific geographical areas, where authority was exercised by a regional military command. In northern Rakhine State, that authority was exercised by the Bureau of Special Operations-3 and the Western Regional Command. And, falling under that Command were combat units, known as military operational commands, or "MOCs", each comprised of infantry battalions. At the time of the "clearance operations", the Western Regional Command included three MOCs, augmented by two light infantry divisions — the 33rd and 99th. These were deployed to northern Rakhine State at the order of General Soe Win, as I mentioned earlier.

34. In short, Mr President, there can be no serious dispute that the tactics and operational decisions made by the Tatmadaw during the "clearance operations" reflect the commands and orders passed down through its command structure. These emanated from the very top.

35. I turn now to the conduct of the "clearance operations". You will hear more about this in the presentations that follow. I will confine myself to describing the conclusions reached by the UN Fact-Finding Mission and other investigations about their essential characteristics, focusing on aspects that demonstrate the Tatmadaw's planning and organization.

36. However, before doing so, I will say a few words about their objective. That the "clearance operations" were intended to destroy the Rohingya as a group is readily apparent not just from the massive scale and extraordinary violence that Myanmar inflicted on the Rohingya — features that will be addressed in detail by my colleagues — but also from the words of the Tatmadaw itself, including most tellingly, its seniormost leadership. Mr Suleman reviewed some of General Hlaing's statements, and the Tatmadaw's surreptitiously disseminated Facebook posts that mirrored them, through the lens of hate speech. As these were contemporaneous with the "clearance operations", they also cast a revealing light on the intention behind them, an intention to destroy the Rohingya as a group.

37. And that is precisely what occurred next. This is how the Fact-Finding Mission described the "clearance operations": "Rohingya-populated areas across the three townships of northern Rakhine State were deliberately destroyed, in a targeted manner."⁵⁵ This, the Mission found, had a

⁵⁵ *Ibid.*, para. 883.

“devastating impact on the Rohingya civilian population, which was targeted, brutalised and terrorised”⁵⁶.

38. The Mission determined that the “clearance operations” generally followed a distinct *modus operandi*. “Rohingya villages were approached without warning, usually from more than one direction, and often in the early morning, by armed Tatmadaw soldiers”, who were “often accompanied by other armed security forces” and “frequently by ethnic Rakhine civilians”⁵⁷. They “shot assault rifles towards the Rohingya villages from a distance, not targeting any particular military objective or making any distinction between ARSA fighters and civilians”⁵⁸. The Mission found that “[m]en, women and children were all shot at. Many victims referred to the volume of gunfire, with some describing it as ‘raining bullets’. Many were shot and kill[ed] or injured while attempting to flee”⁵⁹.

39. Indeed, the Fact-Finding Mission found that “targeted killings occurred as Tatmadaw soldiers and other security forces systematically moved from house to house, pulling people out of their homes and executing them, or shooting them inside their houses, or as they left their houses, often in front of family members”⁶⁰.

40. In carrying out these targeted killings, the Tatmadaw often separated the Rohingya by gender. Men and boys were then killed, often in mass executions. One former Tatmadaw soldier described how he and his fellow soldiers were “ordered to shoot and clear the villages”. This involved “surrounding the villages according to race”, in other words, targeting only Rohingya villages and not those of other ethnicities and “search[ing] houses one after one”⁶¹. Then, he explained, “[w]hen the villagers were running away, we followed and shot them. For those arrested alive, we tied them with ropes and tortured [them]. We kicked them. We tortured them by beating with rifles and helmets and punching with fists. We also killed them.”⁶²

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*, para. 884.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*, para. 893.

⁶¹ Interview of Zaw Naing Tun (15 August 2020), p. 6. MG, Vol. V, Annex 141.

⁶² *Ibid.*, p. 7.

41. The Fact-Finding Mission found that the Tatmadaw “specifically targeted” “educated, wealthy and influential men” who comprised the Rohingya leadership⁶³. This, the Mission concluded, further demonstrated a “deliberate plan or a level of organization evidencing a plan of destruction”⁶⁴. Under the jurisprudence of the Court, this specific targeting of emblematic members of the group needed for its survival meets the “qualitative criteria” in determining the intent to destroy part of the group⁶⁵.

42. Here is how a defecting Tatmadaw soldier described the killings his unit was ordered to commit. The unit’s second-in-command, he said, “ordered us to shoot every target in villages, to go [from] one village after another, to shoot at every sight of a person”⁶⁶. The soldier elaborated on what this meant in practice: “After we got to the villages, we went after the people and shot them when we saw them.”⁶⁷

43. The soldier’s testimony is corroborated by the Fact-Finding Mission, which documented “detailed accounts” of “corroborated mass killings” in which “hundreds[] of men, women and children were killed” in “targeted attacks”⁶⁸. During those attacks, the Tatmadaw “shot individual persons, including at point blank range, and executed people, including those injured, by slitting their throats using long knives”⁶⁹. And the testimony is further corroborated by the US State Department’s randomized survey of Rohingya refugees, which revealed that 82 per cent of respondents had personally witnessed at least one killing⁷⁰. One in five had personally witnessed a “mass-casualty event of killings or injuries (either in their villages or as they fled) with more than 100 victims”⁷¹.

⁶³ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), para. 1431. MG, Vol. II, Annex 40.

⁶⁴ *Ibid.*

⁶⁵ See *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, *I.C.J. Reports 2007 (I)*, p. 127, para. 200.

⁶⁶ Interview of Zaw Naing Tun (15 August 2020), p. 6. MG, Vol. V, Annex 141.

⁶⁷ *Ibid.*

⁶⁸ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), para. 892. MG, Vol. II, Annex 40.

⁶⁹ *Ibid.*, para. 893.

⁷⁰ US Department of State, *Documentation of Atrocities in Northern Rakhine State (August 2018)*, p. 1. MG, Vol. VII, Annex 194.

⁷¹ *Ibid.*

44. Myanmar carried out these atrocities with extreme brutality, a matter that will be addressed by Ms Ho as a specific indicator of genocidal intent. These acts of exceptional cruelty included beating, stabbing and burning alive the members of the Rohingya group in villages across northern Rakhine State. And it extended to include the targeted and systematic killing of infants and young children, the elderly and disabled, young girls of childbearing age and pregnant women. The commonality of these types of atrocities across many different locations indicates they were committed in an organized and directed manner.

45. The Mission also found a “notable pattern” of “mass gang rape, involving multiple perpetrators and multiple victims in the same incident”, including where “up to 40 women and girls were raped or gang raped together”⁷². Ms Pasipanodya will address that evidence as an indicator of genocidal intent. For present purposes, I will simply note the Mission’s conclusion that the sexual violence followed a pattern.

46. Another feature of the “clearance operations”, the Mission concluded, was the “widespread destruction of Rohingya homes and villages, causing further death and injury through burning”⁷³. Specifically, “[h]ouses were burned both manually using flammable liquid and matches, and by the use of ‘launchers’, weapons firing a munition that explodes upon impact”⁷⁴. One Tatmadaw defector recounted how, “[w]hen no one was left, we burned . . . We burned the villages.”⁷⁵

47. Indeed, the Mission “verified a pattern of Tatmadaw soldiers intentionally forcing people into houses that were either burning or about to be set alight, and even locking them inside”. This included “babies and children” who were “pushed or thrown into burning houses by soldiers”⁷⁶. I will revert to the killing of children tomorrow.

48. The burning of Rohingya villages was systematic. Myanmar burned hundreds of them. Based on satellite imagery analysis, the Fact-Finding Mission documented what it described as the “widespread, systematic, deliberate, organized and targeted destruction, mainly by fire, of

⁷² UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), para. 921. MG, Vol. II, Annex 40.

⁷³*Ibid.*, para. 905.

⁷⁴ *Ibid.*

⁷⁵ Interview of Myo Win Tun (15 August 2020). MG, Vol. V, Annex 142.

⁷⁶ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), paras. 908, 910. MG, Vol. II, Annex 40.

Rohingya-populated areas”⁷⁷. By any measure, this was done on a massive scale. The Operational Satellite Applications Programme (UNOSAT) of the UN Institute for Training and Research (UNITAR), based on its own satellite imagery analysis, concluded that, as of 18 October 2018, at least 178 Rohingya villages had been totally destroyed by fire, with an additional 214 partially destroyed⁷⁸.

49. UNOSAT analysis demonstrates the intensity of the burning. The image now on your screens “illustrates areas of satellite detected fires” using data collected by UNOSAT on multiple dates from 25 August to 20 November 2017⁷⁹. This analysis detected no fewer than 170 active fires “in different areas across Rathedaung, Buthidaung and Maungdaw townships during this period”⁸⁰. And that figure, UNOSAT determined, is likely an *underestimation*, given the presence of cloud cover on the relevant dates⁸¹. You can see the relative intensity of the fires, based on UNOSAT’s analysis. The darker the colour, the more intense the conflagration. Entire swathes of northern Rakhine State are ablaze with dark red.

50. You can now see on your screens the fires in microcosm, in the village of Chein Khar Li, a Rohingya village located in Rathedaung Township⁸². UNOSAT explains that it “us[ed] imagery collected on 31 August 2017”, just after Myanmar carried out the “clearance operation” there. The agency “compar[ed]” this image with imagery collected three months earlier⁸³. UNOSAT’s analysis “identified 671 destroyed structures [within] the village”, finding “visible signs of scorching with darkened soils, burned vegetation and damage to structures consistent with the use of fire”⁸⁴. UNOSAT concluded: “Almost the entire village appears destroyed.”⁸⁵ This is depicted in the

⁷⁷ *Ibid.* (additional excerpts to MG, Vol. II, Annex 40), para. 960. RG, Vol. II, Annex 1.

⁷⁸ United Nations Institute for Training and Research (UNITAR), *Affected settlements in Buthidaung, Maungdaw and Rathedaung Townships of Rakhine State in Myanmar* (18 October 2018). MG, Vol. III, Annex 70.

⁷⁹ UNOSAT and UNITAR, *Fire Detections in Buthidaung, Maungdaw, and Rathedaung Townships of Rakhine State in Myanmar* (29 Nov. 2017), available at <https://unosat.org/products/1195>.

⁸⁰ *Ibid.*

⁸¹ *Ibid.*

⁸² UNOSAT and UNITAR, *Damage assessment in the Chein Khar Li (Ku Lar) village, Rakhine state, Myanmar* (5 Sept. 2017), available at https://unosat.org/static/unosat_filesystem/1178/UNOSAT_A3_KoeTan_damage_assessment_31August2017_Portrait2.pdf.

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

hundreds of red squares that blanket the village. Each is a destroyed Rohingya home or structure. You can see the burned-out remains of some in the inset.

51. Myanmar’s planning and organization is also revealed by analysis conducted by the IIMM. It analysed “witness statements collected by the Mechanism, photographic and video documentation, land and property records including those preserved by Rohingya who fled the violence, geospatial imagery and open-source material such as statements by Myanmar officials and corporate executives”⁸⁶. And it focused on seven village tracts in northern Rakhine State that collectively encompassed over 30 individual Rohingya villages⁸⁷. In these areas, the IIMM found a “systematic pattern whereby villages and farmland were destroyed and razed between late 2017 and early 2018 and were rapidly supplanted by [Border Guard Police] Battalion bases”⁸⁸. The IIMM found that its analysis “provide[s] the strongest evidentiary record to date that the 2017 clearance operations combined land seizure, targeted destruction of livelihoods, and forced displacement to erase Rohingya presence from their ancestral homeland”⁸⁹. There can be no doubt that destruction on this scale, carried out by different military units, across a wide geographic region, had to have been carefully planned and organized.

52. You can see the locations of a sampling of these razed Rohingya villages on the map prepared by the IIMM that is on your screen⁹⁰. Here is what the Mechanism determined happened in just a single village tract — Myo Thu Gyi in Maungdaw Township — which encompassed five Rohingya villages. Prior to the “clearance operations”, the Rohingya in these villages “possessed extensive land, homes and businesses, substantiated by inheritance, purchase and formal registration documents”⁹¹. For instance, “[w]itnesses described inheriting and acquiring land, possessing houses, shops and entire market areas, and cultivating large tracts of farmland. Some families traced their

⁸⁶ Independent Investigative Mechanism for Myanmar, *The Destruction and Dispossession of Rohingya Land and Property During the 2017 Clearance Operations* (29 Sept. 2025), available at <https://iimm.un.org/sites/default/files/2025/09/Land%20Report%20Public%20Summary%20EN.pdf>, para. 5.

⁸⁷ *Ibid.*, paras. 10, 14, 19, 21, 25, 28, 33.

⁸⁸ *Ibid.*, paras. 5-6.

⁸⁹ *Ibid.*, para. 6.

⁹⁰ *Ibid.*, p. 4, Figure 2.

⁹¹ *Ibid.*, para. 15.

possession over generations, with supporting documentation from both Myanmar and even British colonial records”⁹².

53. In this village tract, the Mechanism determined that prior to the “clearance operations”, “[g]eospatial imagery . . . confirm[ed] the existence of 307 intact structures” in one of its villages and another “518 intact structures” in an adjacent village⁹³. Myanmar obliterated both. In the words of the IIMM: “Witness accounts, journalist reports, video evidence, geospatial imagery and internal correspondence from the Rakhine State authorities collected and analyzed by the Mechanism all confirm the burning and razing of Rohingya homes, markets and religious buildings.”⁹⁴

54. By early 2018, the IIMM determined, Myanmar had “cleared over 411 acres of burned Rohingya land with heavy machinery and labourers”⁹⁵. The IIMM reported that “[v]ideo footage, photographs, aerial footage, and geospatial imagery show destroyed Rohingya homes and farmland being flattened to make way for the construction”⁹⁶.

55. You can see this progression in the series of images that will appear on your screens. First, you can see a satellite image of Myo Thu Gyi taken three months before the “clearance operations”⁹⁷. The Rohingya’s homes and other structures are intact.

56. Now consider the next image. This shows the same location three weeks after the “clearance operation”⁹⁸. The Rohingya’s homes and other buildings have been comprehensively destroyed.

57. You can see Myanmar’s construction of a military base on the destroyed village in the next two images, taken on 9 April 2018 and 28 September 2019⁹⁹.

⁹² *Ibid.*

⁹³ *Ibid.*

⁹⁴ *Ibid.*, para. 16.

⁹⁵ *Ibid.*, para. 18.

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*, p. 19, Annex 1.

⁹⁸ *Ibid.*

⁹⁹ *Ibid.*

58. Here is the IIMM’s conclusion: “Cumulatively, this evidence shows the deliberate destruction, razing and reappropriation of Rohingya land in Myo Thu Gyi, leaving its former inhabitants permanently dispossessed and unable to return.”¹⁰⁰

59. To get a sense of the scale on which the destruction occurred, consider the following. “Geospatial analysis conducted by UNOSAT” documented what the IIMM characterized as “the extensive and sustained destruction of Rohingya villages in northern Rakhine State”¹⁰¹. Specifically, between 25 August 2017 and November 2018, 411 settlements across Maungdaw, Buthidaung and Rathedaung townships were damaged or destroyed. Further analysis from February to April 2019 revealed “continued demolition beyond November 2018 until April 2019, with UNOSAT estimating approximately 40,600 destroyed structures; even that, UNOSAT concluded, was likely an undercount by at least 10 per cent”¹⁰².

60. There can be no doubt about Myanmar’s widespread destruction of Rohingya villages. The IIMM reported that “[p]hotographs taken during visits organized by Myanmar authorities for journalists and diplomatic personnel between February and April 2018 further corroborates the systematic erasure of Rohingya villages”¹⁰³. Indeed, “[n]inety-five such aerial photographs show villages razed to the ground, leaving only barren terrain with consistent patterns of bulldozing, parallel tracks, and uniform land levelling”¹⁰⁴.

61. The Mechanism made specific findings with respect to the planning and organization of that destruction. It concluded: “The scale and uniformity of this clearance indicate a coordinated and organized operation, aimed not only at destruction but also at obliterating visible evidence of Rohingya habitation.”¹⁰⁵ Indeed, the IIMM reported that the “[e]vidence [it] collected . . . shows that Myanmar security forces and State-contracted companies” even “deliberately destroyed Rohingya cemeteries, mosques and other communal landmarks”¹⁰⁶.

¹⁰⁰ *Ibid.*, para. 18.

¹⁰¹ *Ibid.*, para. 43.

¹⁰² *Ibid.*

¹⁰³ *Ibid.*, para. 44.

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*, para. 36.

62. Mr President, the carefully planned and organized nature of the “clearance operations” is further confirmed by the highly specific targeting of the Rohingya group. The Fact-Finding Mission identified that, “in at least 22 locations analysed, only specific Rohingya settlements were affected, while other non-Rohingya settlements within the same village tracts remained untouched”¹⁰⁷. Likewise, where the Mission “establish[ed] that the ‘clearance operations’ were carried out in mixed ethnicity villages, satellite imagery show[ed] that only the areas populated by the Rohingya were targeted”. That conclusion, the Mission reported, was corroborated by witness accounts provided to it.

63. You can see an example on your screens. This is the village of Zay Di Pyin, in Rathedaung Township. The destroyed Rohingya area is plainly visible; it contrasts sharply with intact surrounding ethnic Rakhine areas. Mr President, such finely targeted destruction is further evidence that it was organized and planned.

64. The same location and planning is evident in both the widespread scope of the destruction and in the fact that it occurred in locations where Myanmar concedes it did not carry out operations against ARSA. The destruction thus cannot be attributed to damage caused by combat. In that connection, Myanmar included in the Counter-Memorial as Figure 8.1, a map you can now see on your screens¹⁰⁸. This, Myanmar represented, depicts with red dots the locations where ARSA is alleged to have committed attacks¹⁰⁹. Now, Myanmar did not include evidentiary support for that assertion; there is thus no basis on which it can be concluded that ARSA actually conducted operations in many of those locations. But, for present purposes, it suffices to note that these are the places where Myanmar contends there were ARSA operations. And, it is fair to say, Myanmar had every incentive to maximize the number of such locations. Myanmar also represented that the locations of Rohingya villages where it did *not* carry out counter-terrorism operations are depicted with green dots¹¹⁰.

¹⁰⁷ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), available at <https://digitallibrary.un.org/record/1643079?ln=en&v=pdf>, para. 972.

¹⁰⁸ CMM, para. 8.12.

¹⁰⁹ CMM, para. 8.12, fig 8.1.

¹¹⁰ *Ibid.*

65. You can now see on your screens a map prepared by UNOSAT, which The Gambia included as Figure 1.3 in the Memorial¹¹¹. This shows the locations of destroyed Rohingya villages, based on UNOSAT's analysis of satellite imagery. The red dots depict villages that UNOSAT determined were more than 90 per cent destroyed; orange dots identify villages that were more than 50 per cent destroyed; villages less than 50 per cent destroyed are shown in yellow.

66. You can now see on your screens a map that overlays the dots showing where UNOSAT determined Rohingya villages had been destroyed on top of the dots showing the locations of Rohingya villages where Myanmar accepts it did *not* carry out anti-terrorism operations¹¹². As you can see, a very significant number of such villages — that is, Rohingya villages where operations against ARSA are *not* even alleged to have been carried out — were nonetheless destroyed during the “clearance operations”.

67. Here are the numbers. Out of the 329 Rohingya villages that Myanmar identifies as places where it carried out, in its own words, “no counter-terrorism operations”¹¹³, UNOSAT determined that no fewer than 122 were completely or mostly destroyed, with another 66 partially destroyed¹¹⁴. In short, UNOSAT's analysis determined that at least 188 Rohingya villages suffered the fate I have described, where Myanmar does not even try to claim it was acting against ARSA.

68. In other words, Myanmar's widespread destruction of Rohingya villages cannot be attributed to any alleged armed conflict with ARSA. It destroyed these villages regardless of whether there was any alleged ARSA presence. The destruction had nothing to do with ARSA. It was aimed at all of them — all of the Rohingya people. This is compelling evidence that the destruction was planned and organized, and that the intent behind it was genocidal.

69. Mr President, this concludes my presentation. Thank you for your kind attention. I ask that you invite Ms Pasipanodya to the podium.

¹¹¹ MG, para. 1.30.

¹¹² RG, para. 1.11, fig 1.2.

¹¹³ CMM, para. 8.12.

¹¹⁴ See RG, para. 1.11, fig. 1.2.

The PRESIDENT: I thank Mr Loewenstein for his statement. I now invite Ms Pasipanodya to address the Court. You have the floor, Madam.

Ms PASIPANODYA:

II. THE “CLEARANCE OPERATIONS” IN MIN GYI

1. Mr President, Members of the Court, my colleagues have described Myanmar’s “clearance operations” in northern Rakhine in 2016 and 2017. I will focus on their implementation in the village of Min Gyi.

2. At least three hallmarks of the operations in Min Gyi reveal Myanmar’s genocidal intent. The first is comprehensive targeting: unarmed civilians — men, women, children and the elderly — were targeted and destroyed as Rohingya, not as combatants. The second is the chosen methods: encirclement to prevent escape; systematic execution of adult males; organized sexual violence accompanied by mutilation; killing of infants; and the burning of bodies and homes to erase victims and foreclose return. The third is implementation by identified State units acting under a chain of command, against the backdrop of leadership rhetoric calling for a “final solution” to the “Bengali problem”¹¹⁵. This conduct admits of no reasonable explanation other than an intent to destroy the Rohingya, in whole or in substantial part, in Min Gyi, as elsewhere.

1. Myanmar’s “clearance operation” in Min Gyi demonstrates genocidal intent

3. As Mr Reichler indicated yesterday, Min Gyi — also known as Tula Toli in Rohingya — is a village tract in Maungdaw Township in northern Rakhine State¹¹⁶. It is surrounded by the Purma River on the north, east and south¹¹⁷. It was home to roughly 4,300 Rohingya, who lived in houses

¹¹⁵ Senior General Min Aung Hlaing, “Entire government institutions and people must defend the country with strong patriotism” (2 September 2017). MG, Vol. VI, Annex 150. See also UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 753. MG, Vol. II, Annex 40; Simon Lewis, Zeba Siddiqui, Clare Baldwin & Andrew R.C. Marshall, “Tip of the Spear”, *Reuters* (26 June 2018). MG, Vol. IX, Annex 284.

¹¹⁶ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 756. MG, Vol. II, Annex 40; CMM, para. 8.22.

¹¹⁷ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 74. MG, Vol. IV, Annex 112; CMM, para. 8.22.

made of bamboo or wood in the peninsula to the east, and about 400 ethnic Rakhine, who lived, and still live, on an elevated part of the village to the west¹¹⁸.

4. On 30 August 2017, between 8 and 9 a.m., approximately 70 Tatmadaw soldiers entered the village, accompanied by police security forces, and armed members of Rakhine and other ethnic groups¹¹⁹. What followed led the UN Fact-Finding Mission to describe Min Gyi as “one of the largest and most egregious mass killing[s]”¹²⁰. A 25-year-old survivor told the US Holocaust Memorial Museum: “They tried to kill us all.”¹²¹ Nazmul Islam, a former Myanmar soldier who lived in Min Gyi, heard a Tatmadaw corporal say: “We have the order to kill everyone.”¹²² Independent investigations by UN institutions, NGOs and journalists, as well as testimony offered in scores of signed witness statements, converge on the destruction that took place that day. Before I proceed, I must alert the Court that some of the descriptions that follow are graphic. They are offered with restraint, not to shock, but to provide a faithful account of what happened at Min Gyi.

5. The operation began with indiscriminate shooting and arson. The UN Fact-Finding Mission explains that as soon as the Tatmadaw entered the village, they “opened fire and began burning houses”¹²³. Many Rohingya tried to escape by fleeing to the riverbank, but the soldiers fired directly at them and moved to encircle them¹²⁴.

¹¹⁸ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 756. MG, Vol. II, Annex 40; CMM, para. 8.22; Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 73. MG, Vol. IV, Annex 112.

¹¹⁹ See UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), paras. 758, 761. MG, Vol. II, Annex 40; see also United States Holocaust Memorial Museum, “*They tried to kill us all*”: *Atrocity Crimes against Rohingya Muslims in Rakhine State, Myanmar* (November 2017), p. 9. MG, Vol. VII, Annex 192.

¹²⁰ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 1227. MG, Vol. II, Annex 40.

¹²¹ United States Holocaust Memorial Museum, “*They tried to kill us all*”: *Atrocity Crimes against Rohingya Muslims in Rakhine State, Myanmar* (November 2017), p. 1. MG, Vol. VII, Annex 192.

¹²² Poppy McPherson, “Witness to a massacre: the former Myanmar soldier who saw his village burn”, *The Guardian* (5 February 2018). MG, Vol. IX, Annex 278.

¹²³ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 761. MG, Vol. II, Annex 40.

¹²⁴ *Ibid.*, para. 761. See also, United States Holocaust Memorial Museum, “*They tried to kill us all*”: *Atrocity Crimes against Rohingya Muslims in Rakhine State, Myanmar* (November 2017), p. 9. MG, Vol. VII, Annex 192; Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 73. MG, Vol. IV, Annex 112.

6. MS, a survivor who will testify before the Court, saw a soldier place a call and, after hanging up, begin “spraying bullets” across the crowd along with other troops¹²⁵, killing “old people and young people, little ones, men and women”¹²⁶.

7. The victims were “effectively trapped, on one side by the river and on the other side by the soldiers”¹²⁷, with drowning or gunfire for those attempting to cross the river¹²⁸. A mother watched soldiers shoot and kill her two sons as they tried to swim across¹²⁹. According to the UN Fact-Finding Mission, “[s]everal accounts described bodies of men, women and children floating in the river”¹³⁰. The NGO Fortify Rights “obtained mobile-phone video footage of Rohingya adults lifting dead infant children out of the Purma River”¹³¹.

8. A 35-year-old man managed to escape by jumping into the river and narrowly escaping a bullet as he swam to the other side¹³². He recalled seeing as many as 60 or 70 other villagers in the river when he jumped in, but they had all disappeared by the time he reached the other side. From the cover of a tree, he saw his mother running on the beach and then get shot by the military and fall to the ground¹³³. As he explains in his signed witness statement, all the other members of his household also died in the attack along with his mother: his 22-year-old wife, his two-and-a-half-year-old child, his 10-month-old baby, his 20-year-old sister and his 19-year-old sister¹³⁴.

9. The soldiers then separated the women and children on the shore from the men¹³⁵. As documented by the UN Fact-Finding Mission and in signed witness statements, NGO reports and

¹²⁵ Witness Statement No. 013, signed 23 September 2020, para. 18. MG, Vol. X, Annex 350.

¹²⁶ *Ibid.*, para. 22.

¹²⁷ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 763. MG, Vol. II, Annex 40.

¹²⁸ *Ibid.*, para. 764.

¹²⁹ Human Rights Watch, *Massacre by the River: Burmese Army Crime Against Humanity in Tula Toli* (19 December 2017), p. 15. MG, Vol. IV, Annex 107.

¹³⁰ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 765. MG, Vol. II, Annex 40.

¹³¹ Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 2018), p. 63. MG, Vol. IV, Annex 114.

¹³² Witness Statement No. 008, signed on 30 August 2020, para. 18. MG, Vol. X, Annex 345.

¹³³ *Ibid.*

¹³⁴ *Ibid.*, para. 5.

¹³⁵ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), paras. 766-767. MG, Vol. II, Annex 40; Witness Statement No. 013, signed 23 September 2020, para. 23. MG, Vol. X, Annex 350.

media accounts, women were forced to sit in the water, while the soldiers “systematically killed the men”¹³⁶. A witness described how the first round of shooting was “like a rain of bullets. The second round was slow as the soldiers killed the men individually. They aimed a gun at each man and shot.”¹³⁷

10. Those who survived the gunfire were killed with knives¹³⁸. Men captured elsewhere in the village were brought to the shore and killed as well¹³⁹. The methodical elimination of adult males — under control, separated and executed in sequence — reflects a deliberate choice to extinguish the group’s immediate capacity to survive and demonstrates that the Tatmadaw acted with genocidal intent.

11. The Tatmadaw did not spare the children¹⁴⁰. One mother saw her five-year-old thrown into the river, her two-year-old torn from her arms and tossed on a fire, and her 11-month-old lying half-dead with his throat cut¹⁴¹. A teacher observed more than 20 children taken from their mothers and thrown into the fire or water¹⁴². She watched those who tried to climb ashore being beaten back¹⁴³.

12. In a statement taken by the UN Independent Investigative Mechanism for Myanmar, yet another witness described how he saw “children, who were scattered everywhere [on the riverbank], being killed with knives and machetes”, and babies were being snatched from their mothers and

¹³⁶ See UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 766. MG, Vol. II, Annex 40; Witness Statement No. 013, signed 23 September 2020, paras. 23, 26. MG, Vol. X, Annex 350; Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 73. MG, Vol. IV, Annex 112; Jason Motlagh, “The Survivors of the Rohingya Genocide: An investigation into Myanmar’s state-orchestrated murder of thousands of Rohingya Muslims — and the second tragedy unfolding in the refugee camps”, *Rolling Stone* (9 August 2018). MG, Vol. IX, Annex 286.

¹³⁷ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 766. MG, Vol. II, Annex 40.

¹³⁸ *Ibid.*, para. 767; Witness Statement No. 024, signed on 5 October 2020, para. 21. MG, Vol. XI, Annex 362.

¹³⁹ Human Rights Watch, *Massacre by the River: Burmese Army Crime Against Humanity in Tula Toli* (19 December 2017), p. 14. MG, Vol. IV, Annex 107.

¹⁴⁰ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 770. MG, Vol. II, Annex 40; Poppy McPherson, “Witness to a massacre: the former Myanmar soldier who saw his village burn”, *The Guardian* (5 February 2018). MG, Vol. IX, Annex 278. See also, Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 2018), pp. 61, 67. MG, Vol. IV, Annex 114.

¹⁴¹ “Myanmar’s Killing Fields”, Transcript, *Frontline* (8 May 2018). MG, Vol. V, Annex 139. See also Witness Statement No. 022, signed on 5 October 2020, para. 29. MG, Vol. XI, Annex 360.

¹⁴² Witness Statement No. 009, signed on 13 September 2020, para. 40. MG, Vol. X, Annex 346.

¹⁴³ *Ibid.*

thrown into the fire¹⁴⁴. This is consistent with MS's testimony that "[s]ome of the small children died from the initial shooting or being attacked by knives but most were later thrown on the fire in the graves that were dug. Some of the children were walking and crawling in the sand, and the military hit them and put them in the fire."¹⁴⁵

13. The Tatmadaw also brutally attacked the elderly. As one witness explained in a signed statement, "they started killing old people — they cut and slaughtered them"¹⁴⁶. Another survivor found the decapitated corpse of his 75-year-old grandmother in the ruins of his house¹⁴⁷. Still another survivor witnessed his grandmother "get cut with a knife on the head, fall down and then be struck on the body"¹⁴⁸. Mr President, the deliberate killing of infants and young children, alongside the elderly, shows that civilians were targeted as Rohingya across age and sex. This is a strong indicator of genocidal intent.

14. Pervasive sexual violence was also integral to the operation at Min Gyi. The UN Fact-Finding Mission found that after systematically killing the men on the riverbanks, soldiers took women and girls to houses where they were raped and gang raped, then locked the doors and set the houses on fire¹⁴⁹.

15. A rice miller witnessed groups of five to seven women being taken into houses for 30 to 50 minutes, after which the houses were set alight; he saw women forced to enter houses in this way but never saw any leave¹⁵⁰.

¹⁴⁴ United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IMM0027993001 (13 March 2023), paras. 137, 161. RG, Vol. IV, Annex 56. See also, Witness Statement No. 008, signed on 30 August 2020, para. 33. MG, Vol. X, Annex 345.

¹⁴⁵ Witness Statement No. 013, signed 23 September 2020, paras. 29, 30. MG, Vol. X, Annex 350. See also, Witness Statement No. 008, signed on 30 August 2020, para. 33. MG, Vol. X, Annex 345.

¹⁴⁶ Witness Statement No. 027, signed on 5 October 2020, para. 31. MG, Vol. XI, Annex 365.

¹⁴⁷ Oliver Holmes, "Massacre at Tula Toli: Rohingya recall horror of Myanmar army attack", *The Guardian* (7 September 2017). MG, Vol. IX, Annex 266.

¹⁴⁸ Legal Action Worldwide, Witness Statement No. 037 (1 October 2020), para. 38. RG, Vol. IV, Annex 47.

¹⁴⁹ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), paras. 771, 909. MG, Vol. II, Annex 40.

¹⁵⁰ Witness Statement No. 009, signed on 13 September 2020, para. 42. MG, Vol. X, Annex 346.

16. Survivors who did escape described beatings, gang rapes, stabbings, cuttings with machetes, genital assaults with wooden sticks, and the killing of infants during the attacks¹⁵¹. One described to the UN Fact-Finding Mission how she was raped while soldiers stabbed her neck and abdomen¹⁵²; her 28-day-old baby was thrown to the ground and died¹⁵³.

17. Another mother informed Amnesty International that she was raped while soldiers slit her breastfeeding infant's throat and stabbed her older children as they tried to protect her¹⁵⁴.

18. Yet another survivor testified as follows in a signed witness statement:

“When I arrived at the house, there were dead women on the ground. . . . I saw the military rip off the clothing of the other women, rape them and kill them by beating. They slashed my throat and slashed my 3-month old girl, before throwing her onto the leg of a dead body on the ground. The military beat me with a big wooden stick and then I was raped by 5 of them. After doing this with me, they brought more women into the house. I was half dead but still alive. All other 4 women from my group were dead.”¹⁵⁵

19. Still another survivor explained in a signed witness statement how seven soldiers took women into houses in groups of five¹⁵⁶. She was in the third group of women taken. Her three children also entered the house with her. Once inside, she saw two soldiers beat to death two of the women who had entered with her and rape her sister and another woman, who were also in her group, before forcefully holding her hands while two additional soldiers raped her. When her children started screaming, the military stabbed and killed her four-year-old son and her one-and-a-half-year-old son. They also shot her nine-year-old daughter, but she survived. She and her daughter pretended that they were dead, and then escaped as the soldiers set the house on fire. Her interviewer took several photos of the injuries she testified were caused during the attack: a bullet graze on top of her

¹⁵¹ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 772. MG, Vol. II, Annex 40; Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), pp. 91-92. MG, Vol. IV, Annex 112; Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 2018), pp. 21-23, 28. MG, Vol. IV, Annex 107.

¹⁵² UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), paras. 771-772. MG, Vol. II, Annex 40.

¹⁵³ *Ibid.*

¹⁵⁴ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 91. MG, Vol. IV, Annex 112.

¹⁵⁵ Witness Statement No. 022, signed on 5 October 2020, para. 29. MG, Vol. XI, Annex 360. See also, HRW, *Massacre by the River* (2017), p. 28. MG, Vol. IV, Annex 107.

¹⁵⁶ Legal Action Worldwide, Witness Statement No. 018, signed on 1 October 2020, paras. 15-17. MG, Vol. XI, Annex 355. See also Legal Action Worldwide, Witness Statement No. 020, signed on 1 October 2020, paras. 26-33. MG, Vol. XI, Annex 357.

skull; a stab wound on the right side of her head; a stab wound on the back of her head; a knife wound on her left cheek; and a cut on her left ear inflicted when a soldier cut off her earring with a knife¹⁵⁷.

20. Medical examinations of Rohingya women from Min Gyi documented serious burn marks, stab wounds and lacerations consistent with the accounts of these women¹⁵⁸. Médecins Sans Frontières, for example, reported that a rape survivor who was treated at its clinic had “[g]ashes [that] carved her skull, and her torso was covered with bruises and cuts that had to be stitched up”¹⁵⁹. Members of the Court, this organized sexual violence — coupled with mutilation and the killing of infants — caused serious bodily and mental harm and targeted the community’s reproductive integrity. In the context of the killings and burnings, it is powerful evidence of a destructive purpose directed at the group as such.

21. Further evidence of Myanmar’s genocidal intent at Min Gyi is the fact that the Tatmadaw burned bodies and razed the Rohingya part of the village. Witnesses described dead bodies being thrown into pits, doused with gasoline that had been delivered by helicopters, and set ablaze¹⁶⁰. Others saw multiple piles of burned bodies¹⁶¹.

22. UNOSAT satellite imagery confirms that by 16 September 2017, Rohingya houses and structures in Min Gyi were completely destroyed, while the neighbouring ethnic Rakhine village to the south remained intact¹⁶². This very selective destruction — obliteration of Rohingya structures and preservation of the neighbouring Rakhine structures — confirms discriminatory targeting and an intent to erase the Rohingya presence.

¹⁵⁷ Legal Action Worldwide, Witness Statement No. 018, signed on 1 October 2020, paras. 17, 20. MG, Vol. XI, Annex 355.

¹⁵⁸ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 772. MG, Vol. II, Annex 40.

¹⁵⁹ Jason Motlagh, “The Survivors of the Rohingya Genocide: An investigation into Myanmar’s state-orchestrated murder of thousands of Rohingya Muslims — and the second tragedy unfolding in the refugee camps”, *Rolling Stone* (9 August 2018). MG, Vol. IX, Annex 286.

¹⁶⁰ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), paras. 762, 768. MG, Vol. II, Annex 40; United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IMM0027993001 (13 March 2023), paras. 152-157. RG, Vol. IV, Annex 56; Witness Statement No. 009, signed on 13 September 2020, paras. 37-38. MG, Vol. X, Annex 346.

¹⁶¹ Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 2018), pp. 67-68. MG, Vol. IV, Annex 114.

¹⁶² UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 773. MG, Vol. II, Annex 40.

23. The perpetrators were State organs acting under command. Witnesses interviewed by the UN Fact-Finding Mission, the UN Independent Investigative Mechanism for Myanmar, and NGOs consistently identified Tatmadaw soldiers as the principal perpetrators, supported in some cases by ethnic Rakhine and members of other ethnic minorities¹⁶³. Some witnesses recognized Western Command insignia on the shoulders of the soldiers and described them as wearing camouflage military fatigues and helmets¹⁶⁴, while others observed people in Lon Htein (paramilitary riot squad) uniforms alongside military personnel wielding knives and machetes¹⁶⁵.

24. The UN Fact-Finding Mission determined that the Tatmadaw's 99th Light Infantry Division primarily carried out the operation at Min Gyi¹⁶⁶. Nazmul Islam, a former soldier familiar with Tatmadaw units, reported that at least 80 from that division were present on the day¹⁶⁷. These units — the Western Command, the 99th Light Infantry Division and the Lon Htein — are State organs. Under established principles of State responsibility, their conduct is attributable to Myanmar. Their co-ordinated participation, in uniform and with logistical support, confirms centralized planning and implementation.

25. The burning of bodies and Myanmar's efforts to prevent independent investigations in Min Gyi¹⁶⁸ impede precise enumeration of deaths. Nevertheless, the UN Fact-Finding Mission determined that "credible information collected by Rohingya community volunteers in the refugee camps in southern Bangladesh indicates that at least 750 people died in Min Gyi on 30 August 2017, including

¹⁶³ *Ibid.*, para. 776; Amnesty International, "We Will Destroy Everything": Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar (June 2018), p. 75. MG, Vol. IV, Annex 112; Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 2018), pp. 65, 144, 150. MG, Vol. IV, Annex 114.

¹⁶⁴ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 776. MG, Vol. II, Annex 40.

¹⁶⁵ United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IMM0027993001 (13 March 2023), paras. 137-138. RG, Vol. IV, Annex 56.

¹⁶⁶ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 776. MG, Vol. II, Annex 40.

¹⁶⁷ Amnesty International, "We Will Destroy Everything": Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar (June 2018), pp. 74-75. MG, Vol. IV, Annex 112.

¹⁶⁸ See UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), paras. 762, 768, 1618. MG, Vol. II, Annex 40; 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), available at https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFM-Myanmar/20190916/A_HRC_42_CRP.5.pdf, para. 29; UN Human Rights Council, *Report of the independent international fact-finding mission on Myanmar*, UN doc. A/HRC/42/50 (8 August 2019), para. 4. MG, Vol. III, Annex 47; UN OHCHR, *Myanmar refuses access to UN Special Rapporteur* (20 December 2017). MG, Vol. III, Annex 67; UN General Assembly, *Report of the Special Rapporteur on the situation of human rights in Myanmar*, UN doc. A/74/342 (30 August 2019), para. 2. MG, Vol. III, Annex 77.

at least 400 who had been residents of Min Gyi¹⁶⁹. On that estimate, a minimum of 10 per cent of the Rohingya population in Min Gyi was killed in a single day, in addition to the vast majority of Rohingya from other villages who had come to Min Gyi to escape. Many families were virtually or entirely wiped out¹⁷⁰. On the screen is a photo of the family of one witness, a 33-year-old former farmer, taken before the massacre¹⁷¹. Other than him, everyone else in his household was killed on 30 August 2017: his 22-year-old wife, his four boys between 1 and 9 years old, his mother-in-law and his father-in-law¹⁷².

26. The scale, nature and method of violence at Min Gyi reflect the deliberate execution of a centrally directed campaign against the Rohingya. Taken together, these acts fall squarely within Article II of the Genocide Convention, including killing members of the group, causing serious bodily or mental harm, and deliberately inflicting conditions of life calculated to bring about physical destruction.

2. Myanmar's counter-terrorism narrative fails on the facts and on the law

27. Mr President, Members of the Court, Myanmar seeks to avoid this natural conclusion by characterizing Min Gyi as a counter-terrorism incident in which Myanmar's military supposedly responded responsibly to "multiple attacks" in the village from about 700 ARSA terrorists "armed with 'swords, spears, sticks and guns'"¹⁷³. Relying only on two of its own Ministry of Defence documents and the statements of two military officers¹⁷⁴, Myanmar claims that its soldiers fired only

¹⁶⁹ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 774. MG, Vol. II, Annex 40.

¹⁷⁰ HRW, *Massacre by the River* (2017), p. 7, available at <https://www.hrw.org/report/2017/12/19/massacre-river/burmese-army-crimes-against-humanity-tula-toli>; See also Oliver Holmes, "Massacre at Tula Toli: Rohingya recall horror of Myanmar army attack", *The Guardian* (7 September 2017). MG, Vol. IX, Annex 266; UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 775. MG, Vol. II, Annex 40.

¹⁷¹ Witness Statement No. 021, signed on 1 October 2020, para. 15. MG, Vol. XI, Annex 358.

¹⁷² *Ibid.*

¹⁷³ RM, paras. 8.72, 8.74.

¹⁷⁴ Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. (244/2017) (1 September 2017). CMM, Vol. IV, Annex 127; Ministry of Defence, Table of the Clash of the Police Outposts, the Military Columns and the Bengali Terrorists in Buthidaung-Maungdaw Region (26 June 2020). CMM, Vol. IV, Annex 149; Witness Statement of Captain Hein XXX, company commander, Frontline Light Infantry Regiment (4 September 2017). CMM, Vol. V, Annex 157; Witness Statement of Captain Zwe (5 September 2017). RM, Vol. III, Annex 83.

“warning shots”¹⁷⁵ and exercised “proportionate and incremental . . . force”¹⁷⁶ as “security measures” allegedly intended “not to attack Bengalis but just to protect and rescue the Rakhine ethnic people” against the ARSA terrorists¹⁷⁷.

28. This account finds no support in the extensive independent evidence. On Myanmar’s telling, somehow all the UN institutions, credible NGOs and reputable journalists who documented the horrific events of 30 August 2017 at Min Gyi missed that 700 ARSA terrorists were repeatedly attacking the Tatmadaw and ethnic Rakhine there that day.

29. To the contrary, the evidence makes clear that the alleged ARSA threat at Min Gyi was at most marginal. The UN Fact-Finding Mission did not record any armed engagement with ARSA there on 30 August 2017 and identified only two ARSA attacks in other villages in the vicinity several days before¹⁷⁸. Instead, the UN Mission, like numerous other independent investigators, identifies State forces as the primary actors in Min Gyi¹⁷⁹. Contrary to Myanmar’s claims, the UN Mission also affirms that it found no indication that ARSA burned Rohingya villages¹⁸⁰ or used landmines¹⁸¹.

30. Nor does the record support Myanmar’s assertion that its conduct at Min Gyi was limited to warning shots into the air and single shots aimed below the knee at supposed terrorist leaders¹⁸².

31. Instead, the evidence shows soldiers encircling hundreds of Rohingya on the riverbank and shooting those trying to escape. It shows the soldiers systematically killing men by shooting them,

¹⁷⁵ Witness Statement of Captain Hein XXX, company commander, Frontline Light Infantry Regiment (4 September 2017), p. 40. CMM, Vol. V, Annex 157; Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. (244/2017) (1 September 2017), pp. 4-5 CMM, Vol. IV, Annex 127. See also RM, para. 8.73 (citing Witness Statement of Captain Zwe (5 September 2019), p. 238. 2. RM, Vol. III, Annex 83).

¹⁷⁶ RM, para. 8.73.

¹⁷⁷ Witness Statement of Captain Zwe (5 September 2019), p. 3. RM, Vol. III, Annex 83.

¹⁷⁸ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), paras. 757, 761, 776-778. MG, Vol. II, Annex 40.

¹⁷⁹ See e.g. UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), paras. 776-778. MG, Vol. II, Annex 40; Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 75. MG, Vol. IV, Annex 112; Fortify Rights, *They Gave Them Long Swords* (2018), pp. 56, 143-144, 150. MG, Vol. IV, Annex 114.

¹⁸⁰ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), paras. 1066-1067. MG, Vol. II, Annex 40.

¹⁸¹ *Ibid.*, para. 914.

¹⁸² See Witness Statement of Captain Hein XXX, company commander, Frontline Light Infantry Regiment (4 September 2017). CMM, Vol. V, Annex 157; Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. (244/2017) (1 September 2017), pp. 4-5 CMM, Vol. IV, Annex 127.

and stabbing to death those who survived the gunfire. It shows the deliberate killing of children, including infants, by taking them from their mothers and throwing them into the river or onto fires. It shows soldiers taking women and girls to houses to be raped, stabbed and killed. It shows the methodical burning of Rohingya homes and those inside — dead or alive¹⁸³.

32. Myanmar's response to what occurred in those houses to which the girls and women were taken is equally implausible. When asked, "Was there any incident[] involving detaining, interrogation, shaming and inappropriate treatment and raping of Bengali women?", Platoon Commander Captain Zwe simply testifies: "None whatsoever"¹⁸⁴.

33. Myanmar's argument is refuted by multiple and mutually reinforcing independent sources. The UN Fact-Finding Mission found, based on numerous witness interviews, that soldiers in Min Gyi raped and gang raped women and girls in houses, and then locked the doors and set them alight¹⁸⁵. Human Rights Watch and Amnesty International recorded survivors describing the same pattern; Médecins sans Frontières documented injuries consistent with those rapes and burning; and sworn statements taken by Legal Action Worldwide (LAW) from Min Gyi residents confirm the organized seizure, rape and burning of women.

34. Indeed, Myanmar's account of what happened at Min Gyi — consisting only of its own self-serving military reporting and officer testimony — and lacking any independent or unbiased account — is squarely contradicted by The Gambia's evidence, which rests primarily on objective and reliable UN sources, reputable NGOs and signed witness statements. As Mr Reichler explained yesterday, the convergence of these independent sources on the same narrative, and the physical corroboration in medical and satellite evidence, meet the standard of proof this Court applies in cases of exceptional gravity.

35. Mr President, from the totality of this evidence, the particular circumstances convincingly show that Myanmar, through its State organs, acted with the intent to destroy the Rohingya, in whole or in substantial part, in Min Gyi, as in other locations across Rakhine State.

¹⁸³ See MG, paras. 8.81-8.101.

¹⁸⁴ Witness Statement of Captain Zwe (5 September 2017), Annex 83, PDF p. 240. See also RM, paras. 8.68, 8.72.

¹⁸⁵ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 772. MG, Vol. II, Annex 40.

36. I thank the Court for its attention. With your permission, Ms Diem Ho will continue The Gambia's presentation, perhaps after a brief break.

The PRESIDENT: Yes, indeed. Before I give the floor to Ms Diem Huong Ho, the Court will take a break of 15 minutes. Thank you.

The Court adjourned from 4.20 p.m. to 4.40 p.m.

The PRESIDENT: Please be seated. The sitting is resumed. I now give the floor to Ms Diem Huong Ho. Madam, you have the floor.

Ms HO:

III. THE "CLEARANCE OPERATIONS" IN CHUT PYIN

1. Mr President, distinguished Members of the Court, it is an honour to address you for the first time, and a special privilege and responsibility to do so on behalf of The Gambia. I will continue The Gambia's submission by describing the "clearance operation" that Myanmar conducted in a second village in northern Rakhine State, known as Chut Pyin.

2. You just heard from Ms Pasipanodya about the brutal "clearance operations" visited upon the village of Min Gyi. As I will explain, a remarkably similar and cruel fate befell Chut Pyin — a different village in a different township more than 90 km from Min Gyi — where the Tatmadaw massacred some 400 Rohingya.

1. Myanmar conducted a brutal "clearance operation" in Chut Pyin

3. As Mr Reichler has shown you, Chut Pyin — known in Rohingya as Shuap Parung — is a village tract in northern Rathedaung Township, surrounded by rice paddies and forests¹⁸⁶. It included a Rohingya settlement — at the time inhabited by about 1,200 people — and the nearby ethnic Rakhine hamlet, with an estimated population of 400¹⁸⁷. Rohingya families there were farmers and

¹⁸⁶ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), para. 779. MG, Vol. II, Annex 40.

¹⁸⁷ *Ibid.*

labourers, raising livestock and cultivating vegetables. Many were at home for lunch or at the mosque for prayers when the Tatmadaw began its “clearance operation” at around 2 p.m. on 27 August 2017.

4. Accompanied by other security forces and ethnic Rakhine people, Tatmadaw soldiers emerged from the direction of the Rakhine hamlet and encircled the Rohingya village¹⁸⁸. The “clearance operation” in Chut Pyin then unfolded according to a familiar *modus operandi*, characterized by five distinctive features.

5. *First*: indiscriminate killing of Rohingya civilians. The UN Fact-Finding Mission found “[t]he security forces . . . opened fire, shooting at villagers, including those who were fleeing”¹⁸⁹. This finding is corroborated by considerable first-hand witness testimony, and independent investigations by reputable organizations.

6. Amnesty International, for example, reported that “Myanmar security forces . . . attacked the *entire Rohingya population* in Chut Pyin”¹⁹⁰. In the words of one survivor, as villagers fled towards the surrounding paddy fields, the Tatmadaw fired at them, “kill[ing] whoever they could”¹⁹¹. Many Rohingya, including children, were killed¹⁹². A mother recalled the murder of her two-and-a-half-year-old son: “[t]he military were all around, shooting . . . A bullet shot through my son’s stomach . . . and opened it . . . I saw the blood coming out of his stomach, and I fainted.”¹⁹³ The infant died soon after¹⁹⁴. Another survivor — a 12-year-old girl named Fatima — described how soldiers opened fire from behind her family as they were running from their house, killing her father and her 10-year-old sister¹⁹⁵.

¹⁸⁸ *Ibid.*, para. 782; Affidavit of NJ (14 Nov. 2025), paras. 44-46.

¹⁸⁹ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), para. 783. MG, Vol. II, Annex 40.

¹⁹⁰ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 62. MG, Vol. IV, Annex 112.

¹⁹¹ Legal Action Worldwide, Collated Information from Victims/Witnesses, Statement CK0452. MG, Vol. X, Annex 336. See also UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), para. 783. MG, Vol. II, Annex 40; Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 66. MG, Vol. IV, Annex 112.

¹⁹² See UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 Sept. 2018), paras. 783, 789. MG, Vol. II, Annex 40; “Myanmar’s Killing Fields”, Transcript, *Frontline* (8 May 2018). MG, Vol. V, Annex 139.

¹⁹³ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 65. MG, Vol. IV, Annex 112.

¹⁹⁴ *Ibid.*, p. 66.

¹⁹⁵ *Ibid.*

7. The Tatmadaw went door-to-door, dragged people out and shot them “at point blank range”, or cut their throats with large knives¹⁹⁶. As a witness told Fortify Rights: “The military shot people, and the Rakhine were cutting heads. Some of the people were shot by the military first and, when they were lying down, the Rakhine came and cut their necks.”¹⁹⁷ As another survivor told the UN Fact-Finding Mission: “If people were not killed by the [first] gunshots, they were slaughtered [with long knives] to make sure they were really dead”¹⁹⁸.

8. *The second pattern in Chut Pyin* is that the men and boys were singled out and systematically executed.

9. In the northern part of Chut Pyin, for example, soldiers forced a group of villagers into a school and executed the men and boys¹⁹⁹. A victim whose husband was killed recalled: “I saw so many bodies in front of the school. Some had been shot, some had been cut. All of the dead bodies were bound [their hands tied with rope]. There were bullets on the ground everywhere . . . There was so much blood. The dead bodies were like stones in a field.”²⁰⁰

10. House after house, the Tatmadaw repeated this pattern. When soldiers entered into a woman’s home, they took her husband and father-in-law into the yard and shot them there²⁰¹. In another, they dragged a man outside and fired repeatedly into his chest²⁰². Another survivor saw her husband and son tied up, beaten and slaughtered as a soldier cut their throats²⁰³.

11. In a statement taken by the IIMM, a witness testified: “[T]he militaries took [my son] . . . They brought him to the alley of the paddy field . . . Four soldiers surrounded my son . . . He was

¹⁹⁶ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 783. MG, Vol. II, Annex 40. See also, Affidavit of NJ (14 November 2025), para. 44.

¹⁹⁷ Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 2018), p. 55. RG, Vol. II, Annex 14 (additional excerpts to MG, Vol. IV, Annex 114).

¹⁹⁸ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 783. MG, Vol. II, Annex 40.

¹⁹⁹ Amnesty International, *“We Will Destroy Everything”: Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 65. MG, Vol. IV, Annex 112.

²⁰⁰ *Ibid.*, p. 65 (brackets and ellipsis in original).

²⁰¹ Legal Action Worldwide, Collated Information from Victims/Witnesses, Statement CK0357. MG, Vol. X, Annex 336.

²⁰² *Ibid.*, Statement CK0013. MG, Vol. X, Annex 336.

²⁰³ *Ibid.*, Statement CK0044. MG, Vol. X, Annex 336.

killed in front of my own eyes: a soldier put the bullets into his long gun and shot him in the temple . . . [H]e died immediately.”²⁰⁴

12. Those Rohingya who managed to reach a paddy field found no safety. The Tatmadaw apprehended them, separated the men and boys, tied their hands behind their backs, and shot them all²⁰⁵.

13. The *third modus operandi* of the Tatmadaw was to kill women, children, the elderly and the disabled. The UN Fact-Finding Mission determined that: “A large number of women and children were victims of the attacks. *Children*, including infants and babies, were *specifically targeted*; some were wrenched from their mothers’ arms and thrown to the ground, others were thrown into fires and burned alive.”²⁰⁶ This finding is, again, corroborated by witness testimony and independent reports from reputable organizations.

14. A witness, for example, testified to the IIMM how she “saw that the militar[y] gathered hay to start a fire and threw some little children in the fire”. She said: “I saw four or five of them being thrown . . . They were throwing them like a ball.”²⁰⁷

15. Another survivor recalled how, after the Tatmadaw had left, he found the bodies of his two nephews in the fields, beheaded. “One was six years old and the other was nine years old.”²⁰⁸

16. One woman recounted that, as she was being kicked and punched, she “felt her [infant son] ripped from her arms and saw one of the military men throw him [on] the ground. As soon as [he] hit the ground, he was shot and killed.”²⁰⁹

²⁰⁴ Witness Statement No. IIMM0027992301 (14 March 2023), paras. 41-42. RG, Vol. IV, Annex 57.

²⁰⁵ International State Crime Initiative, *Genocide Achieved, Genocide Continues: Myanmar’s Annihilation of the Rohingya* (2018), p. 53. MG, Vol. IV, Annex 109.

²⁰⁶ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 789 (emphasis added). MG, Vol. II, Annex 40.

²⁰⁷ United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IIMM0027992301 (14 March 2023), para. 52. RG, Vol. IV, Annex 57.

²⁰⁸ Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 2018), p. 67. MG, Vol. IV, Annex 114.

²⁰⁹ Legal Action Worldwide, Collated Information from Victims/Witnesses, Statement CK0013. MG, Vol. X, Annex 336.

17. In yet another instance, soldiers gathered a large group of women and children. They “snatched the children from their mothers’ laps”²¹⁰. A witness reported: “If any mother cried out for their baby, they shot them. They killed 10 women for that”²¹¹. Soldiers then dragged the children and babies to a nearby burning home, and “threw them into the flames alive”²¹².

18. Witness NJ is a victim from Chut Pyin; the Court will hear directly from her next week. She has described how the military grabbed her three-year-old son out of her arms, used a knife to “stab [him] around the chest or stomach area . . . and some of his innards spilt out”²¹³. The military then carried her son towards her neighbour’s burning house. She recalled: “I could hear my son screaming and see him struggling and arching his back trying to break free. I saw them throw my son into the burning house. I could no longer see my son or hear him screaming.”²¹⁴

19. As for the fate of elderly and disabled people in Chut Pyin, one elderly woman described to the UN Fact-Finding Mission the brutal murder of her 70-year-old brother: “Soldiers used rifle butts to beat my brother on the head and I saw his brains come out.”²¹⁵ Other witnesses confirmed that the Tatmadaw captured and killed a man named Osman who had both physical and mental disabilities²¹⁶. One witness recalled that soldiers “told him to stand up, but he wasn’t able to stand up due to his condition . . . [T]he military [then] shot him in his chest. [He] died immediately.”²¹⁷

20. *In a fourth familiar hallmark* of the “clearance operation”, the UN Fact-Finding Mission concluded that the Tatmadaw committed sexual violence, including “rape, gang rape, sexual

²¹⁰ “Myanmar’s Killing Fields”, Transcript, *Front Line* (8 May 2018), available at <https://www.pbs.org/wgbh/frontline/film/myanmars-killing-fields/transcript/>.

²¹¹ *Ibid.*

²¹² *Ibid.*

²¹³ Affidavit of NJ (14 Nov. 2025), para. 51. See also Legal Action Worldwide, Collated Information from Victims/Witnesses, Statement CK0206, MG, Vol. X, Annex 336.

²¹⁴ Affidavit of NJ (14 Nov. 2025), para. 52.

²¹⁵ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 785. MG, Vol. II, Annex 40.

²¹⁶ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 66. MG, Vol. IV, Annex 112; United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IIMM0027971404 (20 February 2023), para. 116. RG, Vol. IV, Annex 55; United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IIMM0027992301 (14 March 2023), para. 42. RG, Vol. IV, Annex 57.

²¹⁷ United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IIMM0019922097 (6 October 2022), para. 62.

mutilation and sexual humiliation”, against women and girls in Chut Pyin²¹⁸. This finding is fully corroborated by independent investigations and survivors’ testimony. Allow me to mention a few.

21. One survivor recalled the rape and murder of the wife of a local imam: “I saw her taken from the house and raped by [] soldiers . . . After they raped her, they killed her . . . [S]he was taken to the road, and [one soldier] cut her neck and cut her breasts off.”²¹⁹

22. In another instance, the Tatmadaw gang raped four women in the same family. They were blindfolded, dragged around the house and beaten²²⁰. After regaining consciousness, the mother found the naked bodies of her daughters “lying on their backs, motionless”²²¹.

23. In the paddy field to which dozens of Rohingya fled, the Tatmadaw captured them, killed the men and boys, and raped the women. A group of seven women was “rounded up and taken into some bushes”²²². When one woman resisted, she was shot dead; a soldier cut off one of her breasts and held it up as a warning to the others²²³. One victim later reported: “Four or five soldiers held me down and raped me.”²²⁴

24. At the same school where the Tatmadaw slaughtered men and boys en masse, they also raped and gang raped women²²⁵. As a victim told the IIMM:

“Once the militaries took me inside the school, they blindfolded me with my hijab . . . They threw me on the floor, on my back, and did whatever they wanted. By this, I mean they raped me . . . More than one raped me but I don’t know how many, maybe two or three”²²⁶.

25. Another recounted that when the Tatmadaw soldiers dragged her to the school, she “found women screaming and crying” and “saw two women being raped, and the baby of one of the victims

²¹⁸ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 790. MG, Vol. II, Annex 40.

²¹⁹ Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 2018), p. 69 (brackets in original). MG, Vol. IV, Annex 114.

²²⁰ Legal Action Worldwide, Collated Information from Victims/Witnesses, Statement CK0150. MG, Vol. X, Annex 336.

²²¹ *Ibid.*

²²² “Myanmar’s Killing Fields”, Transcript, *Frontline* (8 May 2018). MG, Vol. V, Annex 139.

²²³ *Ibid.*

²²⁴ *Ibid.*

²²⁵ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 91. MG, Vol. IV, Annex 112.

²²⁶ United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IIMM0027999848 (4 June 2023), paras. 83-84. RG, Vol. IV, Annex 59.

being thrown into a fire”²²⁷. Others recounted being raped repeatedly, along with other women, for three hours²²⁸.

26. Witness NJ also testified that she was beaten and raped by two soldiers until she lost consciousness²²⁹. This happened after she witnessed the brutal murder of her son at the hands of the Tatmadaw.

27. Mr President, the Tatmadaw perpetrated sexual violence against women and girls in Chut Pyin in a particularly vicious manner, as if rape and gang rape were not cruel enough. Victims included children²³⁰. Others were pregnant and died “bleeding uncontrollably”²³¹, their naked bodies “covered in blood from head to toe”²³². One victim was raped 40 days after giving birth. As her baby was crying, a soldier “cut off the woman’s breast and gave it to the child”²³³. Another witness, in a statement obtained by the IIMM, testified: “I have seen with my own eyes a woman nine month[s] pregnant being raped and killed with a knife. They . . . cut her belly.”²³⁴

28. *The fifth* distinctive feature of the Tatmadaw’s “clearance operation” in Chut Pyin is the intentional destruction of the Rohingya part of the village. The UN Fact-Finding Mission determined that Myanmar’s “security forces used ‘launchers’ to set houses on fire, including those still occupied” and “forced” Rohingya “inside houses, which were then intentionally set alight”²³⁵. The Mission’s determinations are, again, supported by witness testimony and independent reports.

29. One survivor described, in a statement taken by the IIMM, how the Tatmadaw used launchers to burn Rohingya homes: “I saw two military soldiers positioning two of those big

²²⁷ Physicians for Human Rights, “*Please Tell the World What They Have Done to Us*”: *The Chut Pyin Massacre: Forensic Evidence of Violence against the Rohingya in Myanmar* (July 2018), p. 19. MG, Vol. IV, Annex 115.

²²⁸ Legal Action Worldwide, Collated Information from Victims/Witnesses, Statement TS0434. MG, Vol. X, Annex 336.

²²⁹ Affidavit of NJ (14 November 2025), paras. 54-59.

²³⁰ “Myanmar’s Killing Fields”, Transcript, *Frontline* (8 May 2018). MG, Vol. V, Annex 139.

²³¹ Legal Action Worldwide, Collated Information from Victims/Witnesses, Statement TS0215. MG, Vol. X, Annex 336.

²³² Legal Action Worldwide, Collated Information from Victims/Witnesses, Statement CK0150. MG, Vol. X, Annex 336.

²³³ Legal Action Worldwide, Collated Information from Victims/Witnesses, Statement CK0545. MG, Vol. X, Annex 336.

²³⁴ United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IIMM0019922097 (6 October 2022), para. 50. RG, Vol. IV, Annex 49.

²³⁵ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 784. MG, Vol. II, Annex 40.

weapons . . . with a round wheel and a tube in front . . . The militaries fired, the bullets from those weapons were non-stop.”²³⁶

30. Amnesty International, based on its own investigation, likewise reported that “the soldiers, BGP [Border Guard Police], and local vigilantes” burned Rohingya houses “using petrol cans and matchsticks” and “projectiles shot from a shoulder-fired grenade launcher”²³⁷.

31. A witness told Fortify Rights that “[t]he military took some dead bodies and put them in a cowshed . . . piled them in the shed, and then . . . just burned them, including the shed”²³⁸.

32. UNOSAT analysis of satellite imagery confirms that the total destruction of Chut Pyin took place in the days immediately following the “clearance operation”. The burn pattern is comprehensive on the Rohingya side, shown in the brown areas in the middle of the image on your screen. Meanwhile, the nearby Rakhine hamlet, shown on the top right corner of the image on your screen, remained intact.

33. Based on its own forensic examinations and the consistent and detailed testimony of Chut Pyin survivors, Physicians for Human Rights concluded that “the savagery inflicted on the people of Chut Pyin is a typical example of the widespread and systematic campaign that Myanmar authorities have waged against the Rohingya people”²³⁹.

34. The UN Fact-Finding Mission determined that the Tatmadaw, specifically the 33rd Light Infantry Division, led the Chut Pyin “clearance operation”, acting in concert with other security forces and ethnic Rakhine people, including the ethnic Rakhine chairperson of Chut Pyin²⁴⁰. Amnesty International reached the same conclusion, reporting that “[t]he principal perpetrators of the 27 August massacre and rapes in Chut Pyin were soldiers from a unit of the 33rd [Light Infantry

²³⁶ United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IIMM0027999848 (4 June 2023), paras. 73-74. RG, Vol. IV, Annex 59.

²³⁷ Amnesty International, *“We Will Destroy Everything”*: Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar (June 2018), p. 66. MG, Vol. IV, Annex 112.

²³⁸ Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 2018), p. 68. MG, Vol. IV, Annex 114.

²³⁹ Physicians for Human Rights, *“Please Tell the World What They Have Done to Us”*: The Chut Pyin Massacre: Forensic Evidence of Violence against the Rohingya in Myanmar (July 2018), available at <https://phr.org/our-work/resources/please-tell-the-world-what-they-have-done-to-us/>, p. 3.

²⁴⁰ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 797. RG, Vol. II, Annex 1 (additional excerpts to MG, Vol. II, Annex 40).

Division]”²⁴¹. A witness also confirms in a statement taken by the IIMM that the perpetrators in Chut Pyin were Myanmar’s security forces: “That day, military, police . . . were all mixed and working together, burning houses, cutting people with knives or shooting at running people. I could see the various security forces clearly and distinguish them by their uniforms”²⁴².

35. In the end, the Tatmadaw killed hundreds of Rohingya and brutalized hundreds more in the “clearance operation” at Chut Pyin. Independent assessments place the death toll at between 358 and 400, including an estimate of 127 children under the age of six²⁴³. That is one third of the Rohingya population in Chut Pyin. Survivors described seeing bodies “strewn” across houses, lanes and fields²⁴⁴. Others saw children’s corpses “floating in the river”²⁴⁵. An exact accounting of the death toll in Chut Pyin is impossible because people were shot and dismembered, and everything burned. But, Mr President, the convergence of the UN Fact-Finding Mission’s report, consistent witness testimony, independent investigations, clinical findings, and even satellite imagery admits of only one conclusion: there was an organized and co-ordinated attack to destroy the Rohingya in Chut Pyin.

2. Myanmar’s counter-terrorism narrative does not explain the targeting of civilians, the extreme brutality and the pervasive sexual violence in Chut Pyin

36. Mr President, Members of the Court, what does Myanmar say about Chut Pyin? Counter-terrorism. What does Myanmar say about the ruthless killing of unarmed civilians? Counter-terrorism. What does Myanmar say about the Tatmadaw raping and gang raping women and girls? Counter-terrorism. And what does Myanmar say about the Tatmadaw stabbing and burning children alive? Counter-terrorism.

²⁴¹ Amnesty International, *“We Will Destroy Everything”*: Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar (June 2018), p. 68. MG, Vol. IV, Annex 112.

²⁴² United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IIMM0027999848 (4 June 2023), para. 57. RG, Vol. IV, Annex 59.

²⁴³ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 796. RG, Vol. II, Annex 1 (additional excerpts to MG, Vol. II, Annex 40); Physicians for Human Rights, *“Please Tell the World What They Have Done to Us”*: The Chut Pyin Massacre: Forensic Evidence of Violence against the Rohingya in Myanmar (July 2018), available at <https://phr.org/our-work/resources/please-tell-the-world-what-they-have-done-to-us/>, p. 14.

²⁴⁴ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 792. MG, Vol. II, Annex 40.

²⁴⁵ *Ibid.*

37. That does not add up: “counter-terrorism” cannot explain any of the horrific acts of brutality, sexual violence and wanton cruelty we have just reviewed.

38. Myanmar argues that The Gambia’s reliance on the evidence I have just described is somehow “flawed” because it “ignore[s] the context and circumstances in which the counter-terrorism operations took place”²⁴⁶. Myanmar specifically alleges that “a member of ARSA from Chut Pyin” attacked the Chut Pyin Police with home-made bombs²⁴⁷. As if that could be an excuse for targeting everyone in the village, for massacring children and infants and for raping women and girls. But even if such an attack did occur, the UN Fact-Finding Mission pointed out that “plans for a ‘clearance operation’ in Chut Pyin appear to have been made prior to this [incident]”²⁴⁸.

39. In an attempt to explain this so-called “counter-terrorism context”, Myanmar relies exclusively on three things: a military operational report, a statement from a certain Captain Maung — company commander of Infantry Regiment No. 4 who participated in the “clearance operation”, and statements from supposed ARSA members. Yet none of these sources engages with — let alone justifies — what the Tatmadaw actually did to the Rohingya at Chut Pyin.

40. To begin with, take Annex 120 to Myanmar’s Counter-Memorial. This is the military operational report of the Myanmar Defence Services that purports to describe the “clearance operation” at Chut Pyin. It dwells on alleged clashes between the military and the “Bengali terrorists”, which started with the military’s “warning shots” into the air. As the so-called “terrorists” continued to approach, the two sides exchanged fire²⁴⁹. These “terrorists”, we are told, set fire to the south-westernmost part of the village and retreated. The military then “carried out security actions”²⁵⁰.

41. And there it stops. No details of what the so-called “security actions” in Chut Pyin entailed. No mention of any burnings, killings, brutality or sexual violence. Mr President, as with Min Gyi,

²⁴⁶ RM, para. 8.111.

²⁴⁷ CMM, para. 8.73 (6).

²⁴⁸ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 781. MG, Vol. II, Annex 40. MG, Vol. II, Annex 40.

²⁴⁹ Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. (240/2017) (28 August 2017), p. 6. CMM, Vol. IV, Annex 120.

²⁵⁰ *Ibid.*

the reality in Chut Pyin was not “clashes” with “terrorists”. The Tatmadaw indiscriminately, deliberately and systematically killed Rohingya men, women and children, raped and gang raped women in the most cruel manners, and set houses ablaze. As Professor Newton will tell you next week, nothing in modern counter-insurgency doctrine — and nothing in Myanmar’s own purported rules of engagement — permits that.

42. Turning to Captain Maung’s statement, which Myanmar calls “contemporaneous . . . military evidence”²⁵¹, it repeats much of the same narrative as the military operational report: a supposed defensive operation against “Bengali terrorists”, using “proportionate and defensive force”²⁵². The statement also describes Captain Maung’s own orders given to his subordinates, said to be “in accordance with the Right to Protect and Rules of Engagement”²⁵³, including “not to shoot the elderly people, women, children, those who turned back and ran away and the Bengali civilians who were staying in their houses”²⁵⁴.

43. There are, at the outset, serious concerns as to the independence and reliability of Captain Maung’s testimony. He is a serving military officer who personally participated in the “clearance operation”. Moreover, his testimony was taken in 2017 in a Myanmar military investigation of unknown composition and procedure²⁵⁵. These internal military processes, as Professor d’Argent will explain, have been widely criticized to be systemically flawed and conducive to impunity.

44. But even setting these difficulties aside, his statement is uncorroborated by any independent source, and is *flatly contradicted* by the overwhelming evidence of what actually took place in Chut Pyin. The record shows indiscriminate shooting, including at those who were running away; the killing of infants and children; disabled and elderly people; mutilation and raping of women and girls; and houses set alight with people still inside. Mr President, is this counter-terrorism? Not according to Myanmar’s own purported rules of engagement. Not according to Captain Maung, even if we take what he supposedly ordered his subordinates to do at face value. Unless, of course, the entire Rohingya population in Chut Pyin is treated as terrorists.

²⁵¹ RM, para. 8.117.

²⁵² RM, para. 8.118; Witness Statement of Captain Maung (16 October 2017), pp. 1-2. RM, Vol. III, Annex 86*bis*.

²⁵³ Witness Statement of Captain Maung (16 October 2017), pp. 1-2. RM, Vol. III, Annex 86*bis*.

²⁵⁴ *Ibid.*, p. 3.

²⁵⁵ *Ibid.*, p. 1.

45. Finally, Myanmar relies on statements from men it claims to be ARSA members to suggest that ARSA and Rohingya villagers *themselves* burned Chut Pyin²⁵⁶. As The Gambia explained in its Reply, these men are all incarcerated by Myanmar — and thus under Myanmar’s complete control — in the Buthidaung prison, a penal facility notorious for engaging in torture and other forms of abuse²⁵⁷. Indeed, the IIMM observed in its report published in May 2024 that most Rohingya detainees in Buthidaung prison were subjected to “verbal and physical mistreatment, torture and other inhumane acts perpetrated by prison guards, including the Head of Prison”, sometimes resulting in death²⁵⁸.

46. But Myanmar answers that “there is simply no evidence that [these] witnesses [were] coerced or forced into making false statements”²⁵⁹. Yet, each and every statement in Myanmar’s Counter-Memorial and Rejoinder from these men recites a boilerplate disclaimer that the witness was not beaten, tortured or assaulted by the security forces²⁶⁰. Mr President, one wonders whether the fact that these men all arrived at these similar verbal formulations, unaided, over several years, is a testament to their shared clarity of recollection. Or, perhaps, there is a more reasonable inference: such exculpatory language has been scripted. As Mr Reichler explained yesterday, in *Croatia v. Serbia*, the Court refused to accord evidentiary weight to records of interviews by Croatian police where “the words used appear to be those of the police officers themselves”²⁶¹. In this case, the Court

²⁵⁶ CMM, Annexes 159 and 160. RM, Annexes 99-101, 105-106.

²⁵⁷ RG, para. 7.87. See e.g. MG, paras. 6.31-6.32, 10.39-10.40. See also United Nations Independent Investigative Mechanism for Myanmar, *Evidence Related to Detention of Rohingya in Buthidaung Prison and Other Locations* (15 May 2024). RG, Vol. II, Annex 10. See also Amnesty International, “Myanmar: Government must go further with prisoner release” (12 October 2011), available at <https://www.amnesty.org/en/latest/press-release/2011/10/myanmar-government-must-go-further-prisoner-release/>.

²⁵⁸ United Nations Independent Investigative Mechanism for Myanmar, *Evidence Related to Detention of Rohingya in Buthidaung Prison and Other Locations* (15 May 2024), para. 26. RG, Vol. II, Annex 10.

²⁵⁹ RM, para. 8.125.

²⁶⁰ Sworn Statement of U Kay Phar Yad Aulla, confirming his account given on 2 November 2017 (24 February 2023), p. 57. CMM, Vol. V, Annex 159, p. 2; Sworn Statement of Maw Go Lar Mauk, confirming his account given on 2 November 2017 (24 February 2023), p. 67. CMM, Vol. V, Annex 160, p. 1; Witness Statement of Maw Go Lar Mauk (2 November 2017), p. 1. RM, Vol. III, Annex 100, p. 1; Witness Statement of U Kay Phar Yad Aulla (2 November 2017), p. 1. RM, Vol. III, Annex 101, p. 2; Sworn Statement of U Kay Phar Yad Aulla, confirming his account given on 2 November 2017 (24 February 2023) (corrected translation). RM, Vol. III, Annex 105, p. 2; Sworn Statement of Maw Go Lar Mauk, confirming his account given on 2 November 2017 (24 February 2023) (corrected translation), p. 1. RM, Vol. III, Annex 106, p. 1.

²⁶¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, *I.C.J. Reports 2015 (I)*, p. 78, para. 198.

should likewise give no evidentiary weight to statements extracted in custody, in the party's exclusive control, where coercion is a known risk.

47. As The Gambia further pointed out, in each one of these statements, the individual purportedly identifies himself as “Bengali” — that is a de-legitimizing label imposed by Myanmar, and rejected by the Rohingya, including the very small number who belong to ARSA, who expressly identify themselves as the Arakan *Rohingya* Salvation Army. If anything defeats the credibility of these prisoner statements, it is their undoubtedly coerced self-description as “Bengalis”.

48. Moreover, the contention that ARSA and Rohingya villagers burned their own village is contradicted by overwhelming evidence in the form of extensive witness testimony²⁶², the reports from the UN Fact-Finding Mission²⁶³ and reports from reputable NGOs²⁶⁴ — all confirming that the

²⁶² Legal Action Worldwide, Collated Information from Victims/Witnesses, Statement CK0251, p. 11, MG, Vol. X, Annex 336; *ibid.*, Statement TS0434, p. 17; *ibid.*, Statement TS0454, pp. 18-19; *ibid.*, Statement TS0512, pp. 19-20; *ibid.*, Statement CK0249, pp. 22-23; *ibid.*, Statement TS0756, p. 25; *ibid.*, Statement CK0425, pp. 33-34; *ibid.*, Statement CK0507, p. 35; *ibid.*, Statement CK0307, p. 36; *ibid.*, Statement CK0452, p. 37; *ibid.*, Statement CK0132, p. 39; *ibid.*, Statement CK0201, p. 40; *ibid.*, Statement CK0037, p. 41; *ibid.*, Statement TS0045, p. 45; *ibid.*, Statement CK0444, p. 46; *ibid.*, Statement CK0522, pp. 47-48; *ibid.*, Statement CK0545, p. 49; *ibid.*, Statement TS0523, pp. 53-54; *ibid.*, Statement CK0621, pp. 54-55; *ibid.*, Statement CK0254, p. 56; *ibid.*, Statement CK0157, p. 65; *ibid.*, Statement CK0229, pp. 66-67; *ibid.*, Statement CK0405, pp. 71-72; *ibid.*, Statement CK0437, p. 73; *ibid.*, Statement CK0442, p. 74; *ibid.*, Statement TS0811, pp. 113-114; *ibid.*, Statement CK0318, p. 119; *ibid.*, Statement CK0346, p. 120; Fortify Rights, *Firsthand Testimonies from August-September “Clearance Operations” in Myanmar*, pp. 11, 52-53, 77. MG, Vol. X, Annex 338; Witness Statement No. 003, signed on 13 July 2020, para. 30. MG, Vol. X, Annex 340; Witness Statement No. 007, signed on 6 August 2020, para. 21. MG, Vol. X, Annex 344; Witness Statement No. 008, signed on 30 August 2020, para. 39. MG, Vol. X, Annex 345; Witness Statement No. 009, signed on 13 September 2020, paras. 17-19, 22, 27. MG, Vol. X, Annex 346; Witness Statement No. 011, signed on 14 September 2020, paras. 8, 22. MG, Vol. X, Annex 348; Witness Statement No. 013, signed 23 September 2020, para. 11. MG, Vol. X, Annex 350; Witness Statement No. 014, signed on 24 September 2020, para. 11. MG, Vol. XI, Annex 351; Witness Statement No. 17, signed on 30 September 2020, paras. 41-51. MG, Vol. XI, Annex 354; Witness Statement No. 018, signed on 1 October 2020, para. 12. MG, Vol. XI, Annex 355; Witness Statement No. 019, signed on 1 October 2020, paras. 19-21, 27-28. MG, Vol. XI, Annex 356; Witness Statement No. 024, signed on 5 October 2020, para. 23. MG, Vol. XI, Annex 362; Witness Statement No. 025, signed on 5 October 2020, para. 17. MG, Vol. XI, Annex 363; Witness Statement No. 027, signed on 5 October 2020, para. 25. MG, Vol. XI, Annex 365; Witness Statement No. 029, signed on 8 October 2020, para. 10. MG, Vol. XI, Annex 367; Witness Statement No. 031, signed on 8 October 2020, para. 15. MG, Vol. XI, Annex 369; Witness Statement No. 032, signed on 8 October 2020, paras. 17-20, 23. MG, Vol. XI, Annex 370; Legal Action Worldwide, Witness Statement No. 035 (15 July 2020), para. 30. RG, Vol. IV, Annex 45; Legal Action Worldwide, Witness Statement No. 034 (19 June 2020), para. 22. RG, Vol. III, Annex 44; Legal Action Worldwide, Witness Statement No. 036 (14 September 2020), para. 22. RG, Vol. IV, Annex 46; Witness Statement No. 016, signed on 28 September 2020, para. 38. MG, Vol. XI, Annex 353; Legal Action Worldwide, Witness Statement No. 040 (21 April 2024), paras. 54-56, 59-61. RG, Vol. IV, Annex 64; Legal Action Worldwide, Witness Statement No. 038 (7 April 2024), paras. 66, 90, 92. RG, Vol. IV, Annex 61.

²⁶³ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), paras. 784, 788. MG, Vol. II, Annex 40; 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. 128. MG, Vol. III, Annex 49.

²⁶⁴ Amnesty International, “*My World Is Finished*”: *Rohingya Targeted in Crimes Against Humanity in Myanmar* (October 2017), p. 27. MG, Vol. IV, Annex 99; PILPG, *Documenting Atrocity Crimes Committed Against the Rohingya* (2018), pp. 29-31, 33-34, 40, 43-46. MG, Vol. IV, Annex 121; UN OHCHR, *Report of OHCHR mission to Bangladesh: Interviews with Rohingyas fleeing from Myanmar since 9 October 2016: FLASH REPORT* (3 February 2017), pp. 16-17. MG, Vol. II, Annex 30; Save the Children, “*Horrors I will Never Forget: The Stories of Rohingya Children*” (2017), pp. 12, 14. MG, Vol. IV, Annex 100; Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 2018), pp. 62, 143-146. MG, Vol. IV, Annex 114; Human Rights Watch, *Massacre by the River: Burmese Army Crimes Against Humanity in Tula Toli* (19 December 2017), pp. 13, 21-25, 28. MG, Vol. IV, Annex 107.

fires in Rohingya villages were started not by ARSA or any of its alleged supporters, but by the Tatmadaw.

49. Having failed to engage with The Gambia's evidence, Myanmar resorts to a blanket denial that "the Myanmar Defence Services engaged in any indiscriminate physical and/or sexual violence in Chut Pyin"²⁶⁵. It does not even attempt to provide evidence negating the fact that these atrocities occurred, much less to show that they are not imbued with genocidal intent.

50. The Gambia's account of what happened in Chut Pyin rests on independent, multifaceted and convergent proof. The UN Fact-Finding Mission's 2018 report — grounded in more than 50 witness interviews from Chut Pyin — is corroborated by separate investigations by Amnesty International, Physicians for Human Rights, Fortify Rights and the International State Crime Initiative, as well as more than 20 witness accounts compiled by LAW, four signed witness statements taken by the IIMM and the affidavit of witness NJ.

51. Myanmar somehow dismisses this body of evidence as "unreliable"²⁶⁶. But as Mr Reichler explained yesterday, The Gambia's evidence is not only credible; it is compelling, and it warrants substantial weight. Myanmar has offered nothing in response but its own military operational report, the statement from its own military officer, and words ascribed to detainees in its custody in one of its most notorious, torture-ridden prisons. Its attempt to refute and discredit The Gambia's evidence is cynical.

52. Mr President, let us consider their challenge to The Gambia's evidence in Chut Pyin.

53. *First*, Myanmar points to two IIMM witness statements which it says contradict our position that sexual violence is part of the Tatmadaw's *modus operandi* in Chut Pyin²⁶⁷. In reality, those witnesses merely note that a group of women from Chut Pyin were allowed by the military to proceed to U-Oror-Fara, a nearby village²⁶⁸. The witnesses do not say that no killing or sexual violence occurred at Chut Pyin, only that it did not happen to those women. Their testimony does not

²⁶⁵ RM, para. 8.112.

²⁶⁶ RM, paras. 7.42, 9.74.

²⁶⁷ RM, paras. 8.134-8.138.

²⁶⁸ RM, paras. 8.135-8.137, citing United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IIMM0027971404 (20 February 2023), paras. 111-113, 127. RG, Vol. IV, Annex 55; United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IIMM0027992301 (14 March 2023), para. 39. RG, Vol. IV, Annex 57.

negate the evidence from multiple credible sources regarding what happened to scores of women and girls elsewhere in the village at the hands of other soldiers. That evidence leaves no doubt that the Tatmadaw perpetrated sexual violence against Rohingya women and girls in Chut Pyin.

54. *Second*, Myanmar asserts that, because some witness statements and account summaries from LAW are anonymous, and in one identified case, reflect inconsistencies between two accounts given by the same person, none of the LAW material should be trusted²⁶⁹. To be clear, The Gambia does not rely on either of these two accounts in respect of Chut Pyin. But in any event, this misses the point.

55. Anonymization and interview notes are standard protection measures in atrocity documentation; and they do not make the content false. What matters is whether different, independent sources point to the same core facts. And here they do. The witness accounts provided by LAW for Chut Pyin align with the UN Fact-Finding Mission's determinations, with the four witness statements taken by the IIMM, with independent organizations' reports, and also with medical reporting of injuries that are typical of sexual violence. Myanmar's suggestion that identifying one witness as the same individual across a collated interview note and a later signed statement — somehow taints the entire corpus of The Gambia's evidence on Chut Pyin is simply not serious.

56. Myanmar's challenge to The Gambia's evidence picks at labels, formats and isolated discrepancies while avoiding the substance. The totality of the evidence on Chut Pyin is consistent and mutually reinforcing on the essential details of the "clearance operation", namely, indiscriminate shooting at fleeing civilians, targeting of infants and children, sexual violence and the burning of Rohingya homes surgically and comprehensively. None of that is diminished by pointing a microscope at isolated discrepancies in a very small number of witness accounts. The fact that Myanmar has had to go to such lengths in search of a defence speaks to the desperation of its case. The convergence across multiple sources of independent evidence points — clearly, convincingly and overwhelmingly — to one conclusion: the Tatmadaw conducted an organized operation with the intent to destroy the Rohingya in Chut Pyin and elsewhere.

²⁶⁹ RM, paras. 8.143-8.145.

57. Mr President, Members of the Court, I thank you for your kind attention and respectfully request that you call to the podium Ms Mariama Ngum to continue The Gambia's submission.

The PRESIDENT: I thank Ms Diem Huong Ho for her statement. I now call Ms Mariama Ngum to the podium. You have the floor, Madam.

Ms NGUM:

IV. THE "CLEARANCE OPERATIONS" IN MAUNG NU

1. Mr President, honourable Members of the Court, good afternoon. It is an honour to appear before you on behalf of the Republic of The Gambia. I will continue The Gambia's presentation of evidence by discussing Maung Nu — another village in northern Rakhine State where Myanmar engaged in horrific acts of violence and labelled it a "clearance operation".

2. My colleagues described the acts of genocide that took place in Min Gyi and Chut Pyin. I will address how, on 27 August 2017, Myanmar's security forces also launched a large-scale attack in Maung Nu against innocent, unarmed Rohingya civilians. As the evidence will demonstrate, what occurred in Maung Nu was not an isolated event: it was a deliberate, organized assault that closely mirrored the pattern of "clearance operations" carried out in other villages across northern Rakhine State.

3. The reports of the UN Fact-Finding Mission, multiple witness testimonies and other independent investigations show that the "clearance operation" in Maung Nu followed the same *modus operandi* and resulted in the same devastating consequences: indiscriminate attacks, the separation and killing of men and boys, the widespread sexual violence against women and girls and the burning of homes to erase the Rohingya from Myanmar's maps.

1. Myanmar conducted a brutal "clearance operation" in Maung Nu

4. Mr President, honourable Members of the Court, Myanmar conducted a brutal "clearance operation" in Maung Nu. As shown on the screens before you, Maung Nu (known in Rohingya as Monu Para) is located in Buthidaung Township, within the Chin Tha Mar village tract²⁷⁰.

²⁷⁰ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 799. MG, Vol. II, Annex 40.

5. Prior to August 2017, Maung Nu was home to roughly 400 Rohingya households²⁷¹. In the days before the “clearance operation”, the population increased as residents from nearby Hpaung Taw Pyin fled into Maung Nu seeking safety after a similar operation there two days earlier²⁷². Many believed that they would be protected if they sheltered in a prominent compound at the heart of the village, a place owned by families known to have long-standing ties with the security forces²⁷³.

6. They were wrong. What followed on 27 August was a carefully orchestrated attack that unfolded with chilling predictability.

7. The “clearance operation” in Maung Nu resembled those in other villages in four important aspects. *First*, the Tatmadaw’s operation in Maung Nu likewise involved indiscriminate attacks against Rohingya civilians, including children.

8. According to the UN Fact-Finding Mission, upon arriving at Maung Nu, the Tatmadaw split into co-ordinated squads and advanced into the village on foot, rounding up the villagers²⁷⁴. Several witnesses identified the soldiers as being from the 564th Light Infantry Battalion. Since the military bases had long operated near the village, certain soldiers were known and readily recognizable by the residents²⁷⁵. The soldiers opened fire on fleeing villagers as they moved inward into the village. As one witness testified in a signed statement, the military “started firing” as they “made a circle inside the village and . . . brought all the people to the place where they were killed”²⁷⁶. Another

²⁷¹ *Ibid.*

²⁷² *Ibid.*, para. 804.

²⁷³ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), pp. 69-70. MG, Vol. IV, Annex 112; UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 804. MG, Vol. II, Annex 40; United States Holocaust Memorial Museum, “*They tried to kill us all*”: *Atrocity Crimes against Rohingya Muslims in Rakhine State, Myanmar* (November 2017), p. 9. MG, Vol. VII, Annex 192; Witness Statement No. 006, signed on 29 July 2020, para. 18. MG, Vol. X, Annex 343.

²⁷⁴ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), paras. 805-806. MG, Vol. II, Annex 40.

²⁷⁵ See e.g. Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), pp. 71-72, 162. MG, Vol. IV, Annex 112; Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 2018), p. 65. MG, Vol. IV, Annex 114; Witness Statement No. 006, signed on 29 July 2020, para. 18. MG, Vol. X, Annex 343; Fortify Rights, Witness Statement of Mohammadul Hassan (23 February 2018). MG, Vol. X, Annex 337.

²⁷⁶ Witness Statement No. 004, signed on 15 July 2020, para. 15. MG, Vol. X, Annex 341.

witness described how “the military surrounded the village from all sides and started firing”²⁷⁷. In the witness’s words: “When they found people in front of them in the village, they killed them.”²⁷⁸

9. The troops converged on the compound where Rohingya were gathered. They then pounded on the doors, ordering people to come out of the houses and threatening to set the houses on fire²⁷⁹. Once the doors were forced open, soldiers burst inside and fired, kicking at those who were screaming and trying to escape²⁸⁰. One witness describes how those in houses “heard the sound of guns, the sounds of bullets, [which] went on and on”²⁸¹. Another women recounted how the soldiers methodically killed those in the houses: they first “opened fire” and “then when people became weak, they started mutilating the bodies” with long knives²⁸².

10. The gunfire did not spare children. Multiple witnesses reported to the UN Fact-Finding Mission that during this encounter, a young child was struck in the head by a bullet fired by the military and died shortly afterward²⁸³. A witness testified in his signed statement that a “ten year old boy was hit” and “[h]is brain came out from his head”²⁸⁴.

11. *Second*, as elsewhere, the Tatmadaw in Maung Nu singled out men and boys and killed them in a deliberate, organized manner. Once inside the compound, the soldiers separated the men from the larger group of civilians. The women and children were locked in similar houses, where screams could be heard²⁸⁵. The men and boys were beaten, bound and dragged into the shared courtyard²⁸⁶. They were then lined up in smaller groups and ordered to kneel or lie face down.

²⁷⁷ Witness Statement No. 006, signed on 29 July 2020, para. 16. MG, Vol. X, Annex 343. See also Witness Statement No. 005, signed on 16 July 2020, para. 13. MG, Vol. X, Annex 342.

²⁷⁸ Witness Statement No. 006, signed on 29 July 2020, para. 16. MG, Vol. X, Annex 343.

²⁷⁹ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 70. MG, Vol. IV, Annex 112; UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 806. MG, Vol. II, Annex 40; Witness Statement No. 006, signed on 29 July 2020, para. 21. MG, Vol. X, Annex 343.

²⁸⁰ Witness Statement No. 003, signed on 13 July 2020, paras. 17-20. MG, Vol. X, Annex 340.

²⁸¹ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 70. MG, Vol. IV, Annex 112.

²⁸² *Ibid.*

²⁸³ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 806. MG, Vol. II, Annex 40.

²⁸⁴ Witness Statement No. 006, signed on 29 July 2020, para. 33. MG, Vol. X, Annex 343.

²⁸⁵ Witness Statement No. 002, signed on 2 July 2020, para. 10. MG, Vol. X, Annex 339.

²⁸⁶ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 70. MG, Vol. IV, Annex 112.

12. According to eyewitnesses, “[t]he soldiers took the men out of the house and tied up their hands behind their back with a rope” or with headscarves²⁸⁷. Soldiers “forced them to lie with their chest and face down on the ground”²⁸⁸. One interviewee described to Amnesty International that the soldiers “forced [him] to lie down in the courtyard” and kicked him right by his left eye before tying up his hands with a rope, while repeatedly calling him and his brother “*Kalar*”²⁸⁹.

13. One of the men who owned the compound, Zahid Hussein, was among the first to be killed. He was stabbed to death in the stomach, while two soldiers restrained him. After Zahid Hussein was stabbed, he was heard screaming that everyone should come out of the house because the soldiers were going to burn it down²⁹⁰. Hearing him scream, two of his sons came out, but both of them were shot dead²⁹¹.

14. The soldiers then proceeded to execute the remaining men and boys who were either kneeling or lying face down on the ground with their hands tied. According to eyewitness accounts, prior to the execution, a soldier from the 564th Light Infantry Battalion was heard speaking on the phone in the courtyard. He was heard asking: “Boss we have caught 87 people, what should we do now?”²⁹² At the end of the phone call, the soldier turned to the others and relayed the order: “We will kill them.”²⁹³

15. What followed were summary executions carried out systematically, victim by victim, with guns and knives. That killing en masse is corroborated by multiple witness statements and reports,

²⁸⁷ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 808. MG, Vol. II, Annex 40.

²⁸⁸ *Ibid.*

²⁸⁹ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 70. MG, Vol. IV, Annex 112. See also Witness Statement No. 006, signed on 29 July 2020, para. 36. MG, Vol. X, Annex 343; Witness Statement No. 004, signed on 15 July 2020, paras. 20, 22. MG, Vol. X, Annex 341.

²⁹⁰ Witness Statement No. 004, signed on 15 July 2020, para. 20. MG, Vol. X, Annex 341.

²⁹¹ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 808. MG, Vol. II, Annex 40; Witness Statement No. 004, signed on 15 July 2020, para. 25. MG, Vol. X, Annex 341.

²⁹² Witness Statement No. 003, signed on 13 July 2020, para. 23. MG, Vol. X, Annex 340.

²⁹³ Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 2018), p. 64. MG, Vol. IV, Annex 114. See also Fortify Rights, Witness Statement of Mohammadul Hassan (23 February 2018), p. 1. MG, Vol. X, Annex 337.

including from the UN Fact-Finding Mission, Human Rights Watch, the Associated Press, Fortify Rights and Amnesty International²⁹⁴.

16. Quoting the words of one interviewee, the UN Mission reported that “[s]ome of [the men and boys] were shot first and then their throats were slit with a knife. Others just had their throats slit.”²⁹⁵ One survivor told Fortify Rights that “[t]he soldiers took away people in groups of two and three and one-by-one hacked on the back of their necks”²⁹⁶. Another witness interviewed by the International State Crime Initiative of the Queen Mary University described how a soldier from the 564th Battalion put a knife to the temples of the victims and used it to “cut the back of their necks”, while other victims “were shot at close range by others behind him”²⁹⁷.

17. Several of those in the courtyard were young children who were stabbed to death. One woman described how the Tatmadaw killed her male family members: “The courtyard was full of blood. They killed my husband, my father-in-law and my two nephews of 15 and eight years old. They even killed the child in the same way.”²⁹⁸

18. Some men were led from the courtyard to a nearby scrubland and murdered there²⁹⁹. Another 50-year-old resident described how the soldiers “grabbed as many as they could” and “[w]hoever they found in front of them”, adding that “[m]any people were taken like this from the house and to the edge of the hillside and shot”³⁰⁰.

²⁹⁴ See Amnesty International, *“We Will Destroy Everything”: Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 69. MG, Vol. IV, Annex 112; UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018). MG, Vol. II, Annex 40; Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 2018). MG, Vol. IV, Annex 114.

²⁹⁵ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 808. MG, Vol. II, Annex 40. See also United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IIMM0019915116 (23 November 2022), paras. 103, 105, 107. RG, Vol. IV, Annex 54.

²⁹⁶ Fortify Rights, Witness Statement of Mohammadul Hassan (23 February 2018), p. 1. MG, Vol. X, Annex 337.

²⁹⁷ International State Crime Initiative, *Genocide Achieved, Genocide Continues: Myanmar’s Annihilation of the Rohingya* (2018), p. 53. MG, Vol. IV, Annex 109.

²⁹⁸ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 809. MG, Vol. II, Annex 40.

²⁹⁹ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 808. MG, Vol. II, Annex 40; Amnesty International, *“We Will Destroy Everything”: Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 71. MG, Vol. IV, Annex 112.

³⁰⁰ Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 2018), p. 64. MG, Vol. IV, Annex 114.

19. In a signed statement, one witness — whom the Court will call next week — recounted how he narrowly escaped death that day. His hands had been bound, as he waited as the military “began to take [groups of] 5 to 6 people to another place” to kill them. He watched in terror as the military seized his 80-year-old father, who was executed and placed atop a pile of dead bodies. When the soldiers ordered his group to stand, the witness broke free and fled. He was struck in the arm by a bullet but survived, and now appears to testify in these proceedings before this honourable Court³⁰¹.

20. *Third*, the “clearance operation” in Maung Nu also involved brutal sexual assault and violence, including rape. Women fleeing from gunfire were seized, stripped and subjected to body searches that devolved into sexual assault. Some were raped and others were mutilated and killed.

21. One survivor recounted to the UN Fact-Finding Mission how, as she fled towards the hills to escape the shooting, soldiers caught her and gang raped her in her husband’s presence. In her words: “Three members of the military took me. One man held me down and pushed me to the ground. They tore off[f] my clothes. Two men raped me. My husband could still see me.”³⁰²

22. The witness was not alone. According to her, the Tatmadaw “took many other women — maybe around 10-20 women . . . at different times”. She “saw [those women] being raped” as well³⁰³. Another witness, who was hiding behind, described a woman being violently killed by being stabbed in her genitals³⁰⁴.

23. Myanmar dismisses these accounts as being “uncorroborated”³⁰⁵. In doing so, Myanmar simply ignores the clear determination by the UN Fact-Finding Mission, based on multiple eyewitness accounts, that the “[w]omen and girls were also gang raped, killed and mutilated” in Maung Nu³⁰⁶.

³⁰¹ Witness Statement No. 003, signed on 13 July 2020, paras. 23-24, 26-27. MG, Vol. X, Annex 340.

³⁰² UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 811. MG, Vol. II, Annex 40.

³⁰³ *Ibid.*

³⁰⁴ *Ibid.*, para. 810.

³⁰⁵ RM, para. 8.170.

³⁰⁶ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 810. MG, Vol. II, Annex 40. See also UN Human Rights Council, *Sexual and gender-based violence in Myanmar and the gendered impact of its ethnic conflicts*, UN doc. A/HRC/42/CRP.4 (22 August 2019), paras. 73-77. MG, Vol. III, Annex 48.

24. The sexual violence in Maung Nu was not limited to acts of rape. When separating women from the men, the soldiers stripped women naked, took any valuable items and ripped off their headscarves³⁰⁷. Based on multiple interviews with women from Hpaung Taw Pyin and Maung Nu, Amnesty International reported that “many women were sexually assaulted during [these] body searches for valuables”³⁰⁸.

25. *Fourth*, as in other villages, the “clearance operation” in Maung Nu culminated in the destruction of Rohingya homes and the concealment and removal of bodies. UNOSAT analysis of satellite imagery confirmed that in both Maung Nu and neighbouring Hpaung Taw Pyin, more than 300 structures were destroyed by fire³⁰⁹. Witness accounts confirm that the Tatmadaw “used launchers to burn the houses”³¹⁰.

26. After executing the men and boys, soldiers were seen moving bodies from the courtyard into military trucks, which drove to the nearby army base. Other soldiers were seen burying bodies in shallow pits nearby³¹¹. Human Rights Watch similarly reported in October 2017 that soldiers were seen “gather[ing] the bodies on green tarps and load[ing] them onto pushcarts”, before taking them to military vehicles³¹².

27. Witnesses who returned to the village after the “clearance operation” saw body parts, including those of children, scattered on the ground, which felt “sticky” from blood³¹³. One witness recalled: “The field was streaked with blood. There were trails of it, on the ground, the trees,

³⁰⁷ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 807. MG, Vol. II, Annex 40; Witness Statement No. 006, signed on 29 July 2020, paras. 39-40. MG, Vol. X, Annex 343.

³⁰⁸ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), pp. 70, 92-93. MG, Vol. IV, Annex 112.

³⁰⁹ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), paras. 816, 1234. MG, Vol. II, Annex 40. See also The Gambia’s Memorial, Figure 8.4.

³¹⁰ International State Crime Initiative, *Genocide Achieved, Genocide Continues: Myanmar’s Annihilation of the Rohingya* (2018), p. 53. MG, Vol. IV, Annex 109.

³¹¹ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 71. MG, Vol. IV, Annex 112.

³¹² International State Crime Initiative, *Genocide Achieved, Genocide Continues: Myanmar’s Annihilation of the Rohingya* (2018), p. 53. MG, Vol. IV, Annex 109.

³¹³ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 813. MG, Vol. II, Annex 40.

everywhere.”³¹⁴ Those witness accounts are corroborated by video footage and photographs analysed by the UN Fact-Finding Mission, showing patches of blood near the compound and tarpaulin bags buried just below the surface, with a decomposing human leg visibly protruding from one of the bags³¹⁵.

28. Given the destruction of the village and the disposal of bodies, the precise death toll is difficult to ascertain. Various sources have estimated that approximately 100 to 200 people were killed in Maung Nu during the “clearance operation” on 27 August 2017³¹⁶. Based on nearly 20 interviews with witnesses as well as its own review of several videos filmed in the aftermath of the “clearance operation”, Amnesty International reported that “[o]n 27 August, Myanmar soldiers summarily executed scores of men and boys in Maung Nu”, calling it a “massacre”³¹⁷.

2. Myanmar’s counter-terrorism narrative does not account for the extreme brutality and pervasive sexual violence in Maung Nu

29. Mr President, honourable Members of the Court, Myanmar’s counter-terrorism narrative does not account for the extreme brutality and the pervasive sexual violence in Maung Nu. Myanmar does not dispute that the Tatmadaw conducted a “clearance operation” in Maung Nu³¹⁸. Instead, Myanmar (predictably) asserts that the operation was purportedly necessitated by ARSA attacks and alleges that The Gambia omitted from its narrative the “contextual details” that demonstrate that the “clearance operation” was in fact a counter-terrorism operation³¹⁹.

30. The “contextual details” that Myanmar considers relevant to what transpired in Maung Nu are embodied in two self-justifying sources of evidence: (i) the Tatmadaw’s daily operation report

³¹⁴ Amnesty International, *“We Will Destroy Everything”: Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 59. MG, Vol. IV, Annex 112. See also Witness Statement No. 006, signed on 29 July 2020, para. 43. MG, Vol. X, Annex 343.

³¹⁵ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 814. MG, Vol. II, Annex 40.

³¹⁶ See UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 815. MG, Vol. II, Annex 40. See also Republic of the Union of Myanmar, *Independent Commission of Enquiry, Executive Summary* (21 January 2020), p. 6. MG, Vol. VI, Annex 167; Fortify Rights and United States Holocaust Memorial Museum, *“They Tried to Kill Us All”: Atrocity Crimes against the Rohingya Muslims in Rakhine State, Myanmar* (November 2017), p. 9. MG, Vol. VII, Annex 192.

³¹⁷ Amnesty International, *“We Will Destroy Everything”: Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 69. MG, Vol. IV, Annex 112.

³¹⁸ CMM, para. 8.101.

³¹⁹ CMM, para. 8.89.

and (ii) the Ministry of Defence's internal "Table", prepared for this litigation, documenting the "clash[es]" between ARSA and the security forces, which are at Annexes 118 and 149 of Myanmar's Counter-Memorial³²⁰. At most, they refer to ARSA-related activities in *other* locations *surrounding* Maung Nu, such as Hpaung Taw Pyin, Nga Yant Chaung (approximately 10 to 12 km to the north) and Maung Gyi Taung (approximately 5 km to the south-west)³²¹.

31. With respect to Maung Nu, the Tatmadaw's operation report, on your screens, merely states that, upon receiving the report that ARSA terrorists who had attacked the Hpaung Taw Pyin police outpost two days earlier were suspected to be hiding in Maung Nu, the 564th Battalion and border guard police arrived at the village around 10 a.m.³²² Upon arriving, the security forces immediately carried out an "outer parameter security action" while another group "carried out the security operation in the village"³²³. The Tatmadaw's report then notes that at 1.15 p.m., *hours after Myanmar's* security forces had already arrived and began conducting the "clearance operation", they were attacked by a group of "Bengali terrorists", prompting the security forces to fight back³²⁴.

32. Characteristically, as was the case with other villages, Myanmar's Government reports include no details of what the Tatmadaw did during the "clearance operation", including the *modus operandi* described in the Fact-Finding Mission reports or by the eyewitnesses in their sworn statements. The Tatmadaw's reports are silent on the indiscriminate shooting at civilians, the systematic execution of men and boys, the rape and gang rape of women and girls, and the burning of homes and razing of villages. That absence, honourable Members of the Court, is telling. It shows why it is difficult to place *any* evidentiary weight on these self-serving reports.

33. But even if one assumes that the reports are true and takes them at face value, they only show that the purported ARSA attack occurred several hours *after* the security forces had already

³²⁰ Myanmar Defence Services, No. (15) Mobile Operation Command Headquarters, Zwe Mhann Hone Operation, Daily operation report No. (240/2017) (27 August 2017). CMM, Vol. IV, Annex 118; Ministry of Defence, Table of the Clash (26 June 2020). CMM, Vol. IV, Annex 149.

³²¹ CMM, paras. 8.90, 8.98; UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 800. MG, Vol. II, Annex 40.

³²² Myanmar Defence Services, No. (15) Mobile Operation Command Headquarters, Zwe Mhann Hone Operation, Daily operation report No. (240/2017) (27 August 2017), p. 4, para. 14. CMM, Vol. IV, Annex 118. See also CMM, para. 8.101.

³²³ Myanmar Defence Services, No. (15) Mobile Operation Command Headquarters, Zwe Mhann Hone Operation, Daily operation report No. (240/2017) (27 August 2017), p. 4, para. 14. CMM, Vol. IV, Annex 118.

³²⁴ *Ibid.*

entered the village, encircled civilians and begun their violent sweep. In other words, even on Myanmar's evidence, the Tatmadaw did not arrive at Maung Nu in military trucks on 27 August in *response* to an ARSA attack; it deliberately chose to conduct a "clearance operation" based on an uncorroborated suspicion that ARSA members could be "hiding around" the village. Myanmar's attempt to retroactively justify its violence based on an alleged clash that was reported hours into a pre-planned raid is simply not credible.

34. Myanmar has no explanation for the extreme brutality and sexual violence during the "clearance operation" itself. It merely speculates that those who fled from Hpaung Taw Pyin to Maung Nu "would inevitably have included many" ARSA terrorists, which "likely explains the intensity of the subsequent clashes in Maung Nu"³²⁵. Using the same logic, or illogic, Myanmar does not dispute the high death toll in Maung Nu but notes that "it is unknown how many of these were ARSA fighters or supporters"³²⁶.

35. That rationale, honourable Members of the Court, does not even come close to justifying the attacks against unarmed and defenceless civilians, and the atrocities that were committed against them in Maung Nu. What it reveals is that, for Myanmar, the unverified suspicion that ARSA members might be present in the village gave it a licence to treat every Rohingya civilian — the men and boys who were executed and the women and girls who were subjected to sexual violence — as legitimate targets.

36. Myanmar's response to the high death toll in Maung Nu likewise underscores the indefensibility of its position. From Myanmar's perspective, the Tatmadaw could kill first and rationalize later, invoking the intentionally broad and indiscriminate notion of "ARSA and *its supporters*". The explanation that those who were killed were "ARSA fighters or supporters" also collapses entirely when confronted with the facts of how the "clearance operation" was conducted: soldiers made no effort to identify combatants or terrorists or sympathizers among the men and boys whom they rounded up and executed, or among the women and girls whom they raped, mutilated and killed.

³²⁵ CMM, para. 9.230.

³²⁶ RM, para. 3.13.

37. Finally, Myanmar discredits the evidence that The Gambia relies on, asserting that it is “untested” and mostly based on “anonymous” “hearsay accounts”³²⁷. That sweeping assertion is untenable at the outset. The Gambia’s evidence is diverse, independently corroborated and mutually reinforcing.

38. The various sources of evidence include not only the eyewitness accounts and satellite imagery compiled by the UN Fact-Finding Mission’s detailed findings, but also several independent reports from organizations such as Amnesty International, Fortify Rights, the International State Crime Initiative and the United States Holocaust Memorial Museum, as well as multiple signed witness statements³²⁸. While some witness accounts are anonymized — reflecting the imperative to protect victims and other at-risk sources — they themselves are corroborated by multiple signed witness statements.

39. As to the signed witness statements, Myanmar asserts that those are unreliable, primarily because they are “silent” as to the activities of ARSA³²⁹. In a similar vein, Myanmar claims that The Gambia deliberately omitted two first-hand testimonies from Fortify Rights that purportedly “corroborate aspects of the [Tatmadaw’s] operational reports” concerning the terrorist activity near Maung Nu³³⁰.

40. Contrary to Myanmar’s assertion, the two first-hand testimonies were not addressed because they are not directly relevant, as neither discusses the “clearance operation” in Maung Nu to begin with. They simply refer to ARSA activities in *other* locations in Buthidaung Township, and

³²⁷ CMM, para. 8.103.

³²⁸ See UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018). MG, Vol. II, Annex 40; Amnesty International, *“We Will Destroy Everything”: Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018). MG, Vol. IV, Annex 112; Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 2018). MG, Vol. IV, Annex 114; International State Crime Initiative, *Genocide Achieved, Genocide Continues: Myanmar’s Annihilation of the Rohingya* (2018). MG, Vol. IV, Annex 109; United States Holocaust Memorial Museum, “They tried to kill us all”: Atrocity Crimes against Rohingya Muslims in Rakhine State, Myanmar (November 2017). MG, Vol. VII, Annex 192; Witness Statement No. 002, signed on 2 July 2020. MG, Vol. X, Annex 339; Witness Statement No. 003, signed on 13 July 2020. MG, Vol. X, Annex 340; Witness Statement No. 004, signed on 15 July 2020. MG, Vol. X, Annex 341; Witness Statement No. 005, signed on 16 July 2020. MG, Vol. X, Annex 342; Witness Statement No. 006, signed on 29 July 2020. MG, Vol. X, Annex 343; Witness Statement No. 023, signed on 5 October 2020. MG, Vol. XI, Annex 361; Fortify Rights, Witness Statement of Mohammadul Hassan (23 February 2018). MG, Vol. X, Annex 337; United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IIMM0019915116 (23 November 2022). RG, Vol. IV, Annex 54.

³²⁹ CMM, paras. 13.90, 8.103-8.104. See also RM, para. 3.13.

³³⁰ CMM, para. 8.94.

where they do, they only contradict Myanmar's accounts of the Tatmadaw's "clearance operations" as an allegedly limited and proportionate response to the imminent security threats.

41. The first testimony is from a resident of Taung Bazar village who describes how, following a report of "a bomb near Thin Ga Nat village", "the military came [to the village] and arrested and beat people". Importantly, the witness adds that "some of the military set fire to houses" and arrested and killed "young people" including the witness' three children — all younger than 10 years — who were forced to "lie down on the ground [while the military] cut the backs of their necks"³³¹. Myanmar makes no mention of these details in its Rejoinder while addressing the witness statement.

42. The second testimony, which is from a resident of Mee Kyang Guang Swa village, mentions that there was a clash in Hpaung Taw Pyin. The witness describes, however, how the attackers "had only sticks and knives" and how the entire "village was burned down" by the Tatmadaw³³². Those details are omitted by Myanmar in its Rejoinder.

43. As such, even the first-hand testimonies that Myanmar relies on to frame events ultimately corroborate The Gambia's evidence that the Tatmadaw burned Rohingya houses and inflicted extreme brutality on civilians, despite the limited, rudimentary force of the attackers.

44. In the Rejoinder, Myanmar presents two IIMM witness statements, which purportedly support its account of ARSA's activities and presence in Maung Nu³³³.

45. In fact, both statements reinforce The Gambia's case.

46. The statement by witness P1496, a 48-year-old man, does nothing to contradict The Gambia's account of the "clearance operation" on 27 August. The witness's account of ARSA's activities surrounding the village are expressly limited to those "in the *months* before" 27 August³³⁴, and the witness explains that during the "clearance operation" itself, he stayed in a neighbouring village "collecting information from survivors" and "learning about who had lived and who had died", including from the "mass killing of people at [the] compound"³³⁵.

³³¹ Fortify Rights, "First-hand Testimonies from August-September 'Clearance Operations' in Myanmar, Witness #25, pp. 41-43. CMM, Vol. VII, Annex 278.

³³² Fortify Rights, "First-hand Testimonies from August-September 'Clearance Operations' in Myanmar, Witness #49, pp. 98-99. CMM, Vol. VII, Annex 278.

³³³ RM, paras. 8.161-8.162.

³³⁴ IIMM, Witness Statement No. IIMM0019628625, p. 16. RM, Vol. IV, Annex 131.

³³⁵ *Ibid*, p. 30, paras. 107-108.

47. The statement by witness P2892, a 43-year-old woman, likewise only recounts hearing gunshots from Hpaung Taw Pyin, and makes no mention of ARSA’s activities in Maung Nu³³⁶. As to the events on 27 August, the statement corroborates The Gambia’s account on various fronts. The witness describes how the soldiers arrived at the village and “start[ed] firing . . . in the direction of terrified villagers [who] were fleeing towards the hills”³³⁷, and recounts how the soldiers stripped women of their valuables by “inappropriately” touching “their private parts” and putting their “hands on [their] whole body”³³⁸.

48. We conclude by noting that — as is the case for other villages — Myanmar’s criticisms reflect a tendency to pick at nits, avoiding the core substance, and ignoring the convergent picture that emerges when the evidence on Maung Nu is viewed cumulatively. When assessed as a whole, the evidence concerning the “clearance operation” on 27 August forms a compelling narrative that aligns with the broader, well-documented pattern of conduct in other Rohingya villages across Rakhine State: indiscriminate attacks on civilians (including women, children and the elderly), the separation and execution of men and boys, sexual violence against women and girls, and the burning of Rohingya homes and destruction of their villages. In sum, the destruction of the Rohingya as a group.

49. Honourable Members of the Court, I thank you for your kind attention and respectfully request that Mr Chalis Combeh Njai be called to the podium to continue The Gambia’s submission.

The PRESIDENT: I thank Ms Mariama Ngum for her statement. I now invite Mr Chalis Combeh Njai to address the Court. You have the floor, Sir.

Mr NJAI:

V. THE “CLEARANCE OPERATIONS” IN SELECT ADDITIONAL VILLAGES

1. Mr President, Members of the Court, good afternoon. It is an honour to appear before you on behalf of The Gambia. My task is to address the evidence concerning additional locations in the northern Rakhine State where the Tatmadaw systematically perpetrated the same pattern of atrocities

³³⁶ IIMM, Witness Statement No. IIMM0028048879, para. 30. RM, Vol. IV, Annex 141.

³³⁷ *Ibid*, para. 34.

³³⁸ *Ibid*, paras. 52, 54.

against the Rohingya that — as Ms Pasipanodya, Ms Ho and Ms Ngum just described — was committed in Min Gyi, Chut Pyin and Maung Nu.

2. In the written pleadings, The Gambia presented overwhelming evidence of indiscriminate and targeted killings, extreme brutality and sexual violence in 40 locations across Maungdaw, Buthidaung and Rathedaung Townships. These reflect just some of the hundreds of Rohingya villages that the UN Fact-Finding Mission determined, on the basis of satellite image analysis, had been totally or partially destroyed following the “clearance operations”³³⁹. Time does not permit us to review all of that evidence today. So, I will confine myself to describing the same pattern of conduct that characterized the Tatmadaw’s “clearance operations” in four additional Rohingya villages in August 2017.

1. Gu Dar Pyin

3. I will start with Gu Dar Pyin.

4. Gu Dar Pyin is a Rohingya village within a mixed-ethnicity village tract in Buthidaung Township, as shown on your screens³⁴⁰. It is yet another village where the Tatmadaw unleashed a devastating assault on Rohingya of all ages. The UN Fact-Finding Mission found, drawing from the testimonies of multiple eyewitnesses, that the Tatmadaw commenced its “clearance operation” on 28 August 2017³⁴¹ in Gu Dar Pyin. Soldiers and armed police, aided by ethnic Rakhine men, encircled the village and advanced from multiple directions, firing on villagers — including young children — as they fled towards the paddy fields or jumped into the river to save their lives. One woman described to the Mission: “The soldiers were shooting at the people, who were running from burning houses to save their lives. People were running everywhere, in the paddy fields, jumping into the river, and hiding in trees. I saw people burning, and people being cut.”³⁴²

5. Another survivor recounted to the Mission how she fled with her children into the forest and trying to cross the river, and that “[s]ome children died trying to cross the river, as it was raining

³³⁹ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 959. MG, Vol. II, Annex 40.

³⁴⁰ *Ibid*, para. 818.

³⁴¹ *Ibid*, para. 820.

³⁴² *Ibid*, para. 823.

and the water level was so high”³⁴³. These accounts are corroborated by independent reporting by Amnesty International. One villager, around 45 years old, described how he tried to escape with his wife and children towards the canal that separates Gu Dar Pyin and neighbouring villages. He said:

“When we were running away, we were being followed by the soldiers. They were shooting . . . My [15-year-old] daughter . . . was shot, as she was running with us . . . I took my youngest child on my shoulders . . . We were 10 feet [from the canal], she had my hand, we were running, and she was shot. She was hit by two bullets, one in her left side, one in her left shoulder.”³⁴⁴

6. Based on multiple eyewitness accounts, Amnesty International determined that “dozens of Rohingya, including children, were killed while trying to flee; others were last seen captured by soldiers and remain forcibly disappeared”³⁴⁵. One IIMM witness statement described how the military shot people who were running away and hiding. Those who came back to check on their homes were killed. The witness testified: “Some people died in open fields, some in houses, some on the roads.”³⁴⁶

7. The UN Fact-Finding Mission determined that “[d]uring the operation, buildings were set on fire by the security forces and ethnic Rakhine men. The Tatmadaw used ‘launchers’ and the ethnic Rakhine used petrol”³⁴⁷. The Mission also determined based on satellite imagery analysis that all Rohingya structures in the village were burned to the ground by 16 September³⁴⁸. Amnesty International likewise found that “the Myanmar military attacked and burned the vast majority of Gu Dar Pyin village”³⁴⁹.

8. The Tatmadaw executed those captured or wounded by slitting their necks with knives or cracking their heads with rocks, before dragging their lifeless bodies into mass graves. As one witness testified in his witness statement:

³⁴³ *Ibid.*, para. 820.

³⁴⁴ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 80. MG, Vol. IV, Annex 112.

³⁴⁵ *Ibid.*, Annex 112, p. 78.

³⁴⁶ United Nations Independent Investigative Mechanism for Myanmar, Witness Statement No. IIMM0019629265 (3 Nov. 2022), para. 84. RG, Vol. IV, Annex 53.

³⁴⁷ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN Doc. A/HRC/39/CRP.2 (17 Sept. 2018), para. 822. MG, Vol. II, Annex 40.

³⁴⁸ *Ibid.*, para. 828. MG.

³⁴⁹ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 78. MG, Vol. IV, Annex 112.

“From where I was hiding I saw people injured by bullets and motor/mortar bombs. They were lying down but were still alive. When the military found them the military hit the heads of the injured with rocks and cut their necks or chest before pulling them into a grave . . . There were many injured, men, women and children.”³⁵⁰

9. One mother interviewed by the Fact-Finding Mission described how she was forced to choose which of her children she could attempt to save. The security forces barged into her house and grabbed her young daughter. When her son tried to save her, he was assaulted. Watching from the other end of the house, the mother made “the split second decision that these two children would not live, but that she could perhaps still save [the lives of] her two younger children”³⁵¹. When her husband arrived to Gu Dar Pyin, he dug through the piles of corpses and found the dead body of their son. They never found the dead body of their daughter³⁵². Another survivor interviewed by Amnesty International recounted being dragged through the village with her legs and hands bound together and then gang raped by four soldiers³⁵³. Yet another woman described being tied up, kicked and, on this occasion, violently gang raped by three soldiers³⁵⁴.

10. Myanmar urges the Court to give *zero* weight to these women’s testimony, invoking the purported “evidential deficiencies” of the Fact-Finding Mission’s findings and the 2018 report prepared by Amnesty International³⁵⁵. That contention rings hollow in light of Myanmar’s own written submissions on Gu Dar Pyin, which — when addressing the broader context of alleged ARSA activity in the area — rely heavily on both of these reports, and expressly treat the interviews and sources they contain as “reliable”³⁵⁶. Myanmar’s blanket denial is further undermined by the fact that the Mission and Amnesty International’s accounts of Gu Dar Pyin are corroborated by multiple witness statements gathered by LAW and the IIMM³⁵⁷.

³⁵⁰ Legal Action Worldwide, Witness Statement No. 035 (15 July 2020), paras. 21-22. RG, Vol. IV, Annex 45.

³⁵¹ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN Doc. A/HRC/39/CRP.2 (17 Sept. 2018), para. 825. MG, Vol. II, Annex 40.

³⁵² *Ibid.*

³⁵³ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 92. MG, Vol. IV, Annex 112.

³⁵⁴ *Ibid.*

³⁵⁵ RM, para. 9.29.

³⁵⁶ CMM, paras. 9.11-9.18. See, in particular, para. 9.12.

³⁵⁷ Legal Action Worldwide, Witness Statement No. 034 (29 June 2020). RG, Vol. III, Annex 44; Legal Action Worldwide, Witness Statement No. 035 (15 July 2020). RG, Vol. IV, Annex 45; Legal Action Worldwide, Witness Statement No. 040 (21 April 2024). RG, Vol. IV, Annex 64; Witness Statement No. IIMM0027997604 (18 June 2023), RG, Vol. IV, Annex 60; Witness Statement No. IIMM0019629265 (3 November 2022). RG, Vol. IV, Annex 53.

11. Myanmar’s own evidence on Gu Dar Pyin consists of the Tatmadaw’s Daily Operation Report³⁵⁸, the Ministry of Home Affairs’ report on so-called “terrorist attacks” during 2016 (which was apparently prepared in June 2022)³⁵⁹ and the Ministry of Defence’s summary “Table of Clashes” between terrorists and security forces (prepared in June 2020)³⁶⁰. As with other villages, those reports describe the “clearance operations” in Gu Dar Pyin in the broadest possible terms and without *any* mention of the ubiquitous violence against civilians. Conspicuously, there is no reference even to the widely documented atrocities, such as the multiple mass graves discovered in the village that were reported in detail by Associated Press³⁶¹.

12. Instead, the Tatmadaw’s Daily Operation Report states that on 28 August 2017, at around 14:45 p.m., the Tatmadaw was ambushed by “ARSA extremist Bengali terrorists wielding sticks, swords and arms” while conducting a “security operation” in Gu Dar Pyin³⁶². The report states that ARSA members “withdrew to the south of the village” and “[t]he security forces gave chase [but] nothing suspicious occurred”³⁶³. The only death or injury reported from the Government’s side is a corporal receiving a “no[n]-critical” cut to his left cheek³⁶⁴. On Myanmar’s own evidence, there was nothing to justify the Tatmadaw’s brutal violence against civilians — the most that had occurred was an alleged attack with sticks and swords that ended with ARSA’s withdrawal and virtually no casualties on the Government’s side.

2. Koe Tan Kauk / Chein Khar Li

13. I now move on to two additional locations: Koe Tan Kauk and Chein Khar Li.

³⁵⁸ Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. (241/2017) (29 August 2017), p. 9(6), 10(F), CMM, Vol. IV, Annex 123.

³⁵⁹ Ministry of Home Affairs, Terrorists Attacks, para. 11(iii), CMM, Vol. IV, Annex 148. See also *id.*, p. 373 (dated 19-6-2022).

³⁶⁰ Ministry of Defence, Table of the Clash of the Police Outposts, the Military Columns and the Bengali Terrorists in Buthidaung-Maungdaw Region, p. 16, Item no. 6, CMM, Vol. IV, Annex 149.

³⁶¹ Foster Klug, “AP finds evidence for graves, Rohingya massacre in Myanmar”, *AP News* (1 February 2018). MG, Vol. IX, Annex 276. See also Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 80. MG, Vol. IV, Annex 112.

³⁶² Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. (241/2017) (29 Aug. 2017), p. 9(6), 10(F), CMM, Vol. IV, Annex 123.

³⁶³ *Ibid.*

³⁶⁴ *Ibid.*

14. These are neighbouring village tracts in Rathedaung Township, situated along the Bay of Bengal. The locations are shown on your screens. Within the Koe Tan Kauk village tract was a military compound and a Border Guard Police post³⁶⁵.

15. On 25 August 2017, around 4 a.m., residents of Koe Tan Kauk and Chein Khar Li heard gunshots. The Tatmadaw alleged that two ARSA attacks took place and seven ARSA members were killed³⁶⁶.

16. It could not have been much of an attack, since no casualties were reported on the Government's side³⁶⁷. Notwithstanding this, in the early hours of 25 August, Tatmadaw soldiers, alongside other security forces and ethnic Rakhine, entered Chein Khar Li, shooting at villagers fleeing from the village in terror and methodically burning houses as they advanced from south to north³⁶⁸. The UN Fact-Finding Mission found that those not killed by gunfire were slaughtered by having their throats slit or being stabbed to death³⁶⁹. The Mission's determinations are corroborated by witness interviews taken by Amnesty International. As one witness recounted:

“[The soldiers] entered — they stepped into the village — and they opened fire . . . Seeing them, I went back into my house, took all of my family, and we fled towards the nearby hill. Many people were running to the hill. Soldiers were coming from a different direction, and we came across them. They opened fire.”³⁷⁰

17. That same witness saw bullets hit his family members, including a 70-year-old woman³⁷¹. Myanmar asks the Court to disregard these eyewitness accounts, asserting that they “make no mention of the fact that those persons fleeing . . . are likely to have been, only a short time earlier, engaged in violent armed attack upon state security services”³⁷². The absurdity of this speculation

³⁶⁵ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN Doc. A/HRC/39/CRP.2 (17 Sept. 2018), para. 834. MG, Vol. II, Annex 40.

³⁶⁶ *Ibid.*, para. 836.

³⁶⁷ *Ibid.* See also Ministry of Defence, Table of the Clash, pp. 3, 7, 12, 15, 17, CMM, Vol. IV, Annex 149; Witness Statement of Police Major Wai xxxxx, 24 October 2017, p. 2. RM, Vol. III, Annex 92.

³⁶⁸ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN Doc. A/HRC/39/CRP.2 (17 Sept. 2018), paras. 837-838. MG, Vol. II, Annex 40.

³⁶⁹ *Ibid.*, para. 837.

³⁷⁰ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 77. MG, Vol. IV, Annex 112.

³⁷¹ *Ibid.*

³⁷² *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Counter-Memorial of The Republic of the Union of Myanmar (24 August 2023), para. 9.54.

becomes clear when one considers that among those fleeing, who were slaughtered and targeted, were young children and infants³⁷³. As one survivor who returned to the village recounted:

“I found my six-month old son’s body lying next to my wife’s body. She had been shot. My baby son was stabbed in his stomach and his intestine and liver were coming out. When I took his small body into my lap, I was showered with his blood.”³⁷⁴

18. On 28 August 2017, the Tatmadaw undertook another “clearance operation” in Koe Tan Kauk³⁷⁵. Entering the village from both sides in the early hours of the morning, soldiers opened fire at any sign of life, including the elderly and the disabled³⁷⁶. Bullets were also fired from naval ships which were stationed just offshore³⁷⁷. The brutality of the Tatmadaw’s violence in Koe Tan Kauk mirrored that of Chein Khar Li. Another account describes how soldiers caught her mother, tied her up to a tree, and set her alight after pouring petrol on her³⁷⁸.

19. Drawing on multiple interviews with survivors from Koe Tan Kauk and Chein Khar Li, Amnesty International determined that the “clearance operation” in the two villages “followed a similar pattern of soldiers partially surrounding the village, opening fire as people fled, and, with the help of vigilantes, burning the villages as some people remained inside their homes”³⁷⁹.

20. The UN Fact-Finding Mission additionally concluded, drawing from witness testimonies, that women were raped and killed in both villages. In Koe Tan Kauk, one young girl who was raped was left naked and bleeding on the ground³⁸⁰. In Chein Khar Li, an eyewitness saw soldiers “rape and kill his wife by slitting her throat, as well as kill his three children, all aged under five”³⁸¹.

21. Like elsewhere, the Tatmadaw fired at Rohingya houses with launchers to set them ablaze, as those unable to escape — including the elderly and the disabled — remained trapped inside and

³⁷³ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN Doc. A/HRC/39/CRP.2 (17 Sept. 2018), paras. 837, 841. MG, Vol. II, Annex 40.

³⁷⁴ *Ibid.*, para. 837.

³⁷⁵ *Ibid.*, para. 839.

³⁷⁶ *Ibid.*, para. 840.

³⁷⁷ *Ibid.*

³⁷⁸ Legal Action Worldwide, Collated Information from Victims/Witnesses, Statement CK0343, pp. 70-71. MG, Vol. X, Annex 336.

³⁷⁹ *Ibid.*, p. 76.

³⁸⁰ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 841. MG, Vol. II, Annex 40.

³⁸¹ *Ibid.*

burned to death³⁸². Satellite image analysis reported by the UN Fact-Finding Mission confirmed that all Rohingya hamlets inside the village tract were destroyed³⁸³. This analysis is consistent with the witness accounts describing to Amnesty International how “[t]here were only a couple green trees left. Everything else was burned down.”³⁸⁴ The Mission also determined that the two ethnic Rakhine hamlets remained intact³⁸⁵.

3. Inn Din

22. Finally, I will address the events in Inn Din, which is a village tract in Maungdaw Township. It comprises of six Rohingya settlements and two small ethnic Rakhine hamlets. Its location can be seen on your screens³⁸⁶. Prior to August 2017, Inn Din’s population was predominantly Rohingya³⁸⁷. The UN Fact-Finding Mission found that, on 25 August 2017, the Tatmadaw launched a week-long “clearance operation” across Inn Din in a “similar manner to neighbouring village[s]”³⁸⁸.

23. On the basis of multiple eyewitness accounts, the Mission concluded that “[m]en, women and children were killed and wounded. They were shot. They were stabbed or slashed with large knives and swords, including by persons in civilian clothes, believed to be ethnic Rakhine.”³⁸⁹ One survivor described to the Mission how she heard gunfire in the early hours of the morning and saw her neighbour’s house ignite in flames. Bullets then entered her house, and her three-year-old son was killed. The same survivor witnessed the bodies of her uncle and her brother-in-law with slit throats³⁹⁰.

³⁸² *Ibid.*, paras. 839-840. See also Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), pp. 77-78. MG, Vol. IV, Annex 112.

³⁸³ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 842. MG, Vol. II, Annex 40.

³⁸⁴ Amnesty International, “*My World Is Finished*”: *Rohingya Targeted in Crimes Against Humanity in Myanmar* (October 2017), p. 27. MG, Vol. IV, Annex 99.

³⁸⁵ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 842. MG, Vol. II, Annex 40.

³⁸⁶ *Ibid.*, para. 871; MG, Figure 1.2.

³⁸⁷ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 871. MG, Vol. II, Annex 40; MG, Figure 1.2.

³⁸⁸ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 873. MG, Vol. II, Annex 40.

³⁸⁹ *Ibid.*

³⁹⁰ *Ibid.*, para. 874.

24. The Fact-Finding Mission interviewed another woman in a Bangladesh hospital in September 2017, who recounted seeing soldiers setting houses on fire and shooting at people, including her elderly neighbour³⁹¹. Another survivor, a mother from Inn Din, recounted the unbearable ordeal of being forced to watch her daughter gang raped with her legs tied to different doors, before her throat was slit and the house set ablaze³⁹².

25. The eyewitness accounts in the Fact-Finding Mission report are consistent with those provided in witness interviews conducted by Amnesty International and witness accounts compiled by LAW. Survivors describe how the Tatmadaw led the assault, entering the village and firing at anyone in sight. The security forces slashed men, women and children with large knives and swords, and torched houses with people inside³⁹³. One witness described how the Tatmadaw spared no one, including her husband who was unable to walk. She said:

“It was chaos when the military surrounded the houses. [My husband] was a bit [physically disabled] . . . One of my sons had fled but came back and asked him, ‘Can I carry you?’ That was when the soldiers came. They took both of them and [shot and] killed them. They died right by us.”³⁹⁴

26. The UN Fact-Finding Mission and Amnesty International concluded, based on aerial photographs and satellite imagery, that following the week-long “clearance operation”, Rohingya homes and properties were demolished and bulldozed, while the ethnic Rakhine properties remained untouched³⁹⁵.

27. Myanmar concedes there were no ARSA attacks in Inn Din on 25 August 2017, when the “clearance operation” began³⁹⁶. It instead tries to justify the “operation” by referencing ARSA attacks on Border Guard police posts in the neighbouring village tracks of Thin Baw Kwe and Tha Win

³⁹¹ *Ibid.*

³⁹² *Ibid.*, para. 928.

³⁹³ Legal Action Worldwide, Collated Information from Victims/Witnesses, Statement CK0522, CK0249. MG, Vol. X, Annex 336.

³⁹⁴ Amnesty International, “*We Will Destroy Everything*”: *Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), p. 82 (brackets and ellipses in original). MG, Vol. IV, Annex 112.

³⁹⁵ UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), paras. 879. MG, Vol. II, Annex 40. UN Human Rights Council, *Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), available at <https://digitallibrary.un.org/record/1643079?ln=en&v=pdf>, para. 974. See also MG, para. 10.66 & Figure 10.6; Amnesty International, “*My World Is Finished*”: *Rohingya Targeted in Crimes Against Humanity in Myanmar* (October 2017), p. 30. MG, Vol. IV, Annex 99.

³⁹⁶ CMM, para. 9.67; UN Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, UN doc. A/HRC/39/CRP.2 (17 September 2018), para. 871. MG, Vol. II, Annex 40.

Chaung³⁹⁷. According to the Ministry of Defence's "Table of Clashes", the 25 August incidents at Thin Baw Kwe and Tha Win Chaung — each lasting an hour or less — resulted in no Government casualties³⁹⁸. Those incidents could not possibly form the catalyst, much less the justification, for the systematic killing of the Rohingya civilians at Inn Din.

28. After its general assault on the village, the Tatmadaw summarily executed ten men and boys — including two high school students — as authoritatively documented by Reuters³⁹⁹. In tab 4 of the judges' folder is a photo of these men in Tatmadaw custody with their wrists tied behind their backs. A subsequent photo from Reuters — which I must respectfully warn includes graphic content that may be difficult to view — captures the moments immediately after those men were executed and is also included in tab 4 of the judges' folder.

29. Myanmar has acknowledged these extrajudicial killings but seeks to minimize their significance, claiming they were acts of retribution for the disappearance and suspected murder of an ethnic Rakhine man the week before. It admits that soldiers permitted the man's son to violently assault them with swords before the firing squad killed them⁴⁰⁰. That narrative does not exonerate; it condemns. It shows that the Tatmadaw not only summarily executed civilians but also facilitated vigilante violence against them on the basis of their identity as Rohingya.

30. In sum, Myanmar claims that what occurred in these locations were counter-terrorism operations necessitated by, and responsive to, lethal attacks by ARSA. The evidence proves otherwise. The assaults on Rohingya civilians in each of these villages reflect the same organized, targeted campaign of extremely brutal killings of Rohingya civilians — men, women and children — and sexual violence against women and girls carried out across the three townships in the northern Rakhine State.

31. Mr President, Members of the Court, we thank you for your kind attention throughout this afternoon's sitting. This concludes The Gambia's presentation for today.

³⁹⁷ CMM, paras. 9.65-9.68; RM, para. 9.85.

³⁹⁸ Ministry of Defence, Table of Clashes, p. 2, Item no. 8 and p. 3, Item no. 21, CMM, Vol. IV, Annex 149.

³⁹⁹ Amnesty International, *"We Will Destroy Everything": Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar* (June 2018), pp. 83-84. MG, Vol. IV, Annex 112.

⁴⁰⁰ CMM, para. 9.72.

The PRESIDENT: I thank Mr Chalis Combeh Njai, whose statement brings this sitting to a close. The oral proceedings in the case will resume tomorrow, Wednesday 14 January 2026 at 10 a.m., when The Gambia will continue its first round of oral argument.

The sitting is closed.

The Court rose at 6.10 p.m.
