

CR 2026/9

**International Court
of Justice**

THE HAGUE

**Cour internationale
de Justice**

LA HAYE

YEAR 2026

Public sitting

held on Monday 19 January 2026, at 10 a.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 lundi 19 janvier 2026, à 10 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
M. Kress, juges *ad hoc*

M. Gautier, greffier

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The PRESIDENT: Please be seated. The sitting is open. For reasons duly made known to me, Judge Tomka is unable to sit with us for part of this morning. The Court meets this morning to resume hearing the first round of oral argument of Myanmar. I now give the floor to Mr Sam Blom-Cooper. You have the floor, Sir.

Mr BLOM-COOPER:

I. THE MAIN LOCATIONS

1. Introduction

1. Distinguished Members of the Court, good morning. It is an honour and privilege to appear before you for the first time on behalf of Myanmar.

2. My colleague Ms Lawrie and I will now address The Gambia's allegations of genocidal acts committed during the counter-terrorism operations in northern Rakhine State in 2016 and 2017. I will focus on events in and around three villages of Min Gyi, Chut Pyin and Maung Nu¹. Following this, Ms Lawrie will deal with the other 43 specific locations where The Gambia alleges acts of violence to have been committed.

3. I refer to Min Gyi, Chut Pyin and Maung Nu as the "main locations". This is because, out of the 509 locations in northern Rakhine State wholly or in part inhabited by Bengalis², The Gambia focuses predominantly on these three villages, the populations of which, at the time, respectively were 4,300, 1,200 and 4,600 people³.

4. Throughout these proceedings, The Gambia has repeatedly sought to claim that what happened in these three locations was typical and representative of what happened in many locations throughout northern Rakhine State. It claims repeatedly that there was a "consistent pattern of conduct"⁴ in 2016 and 2017, from which a genocidal intent can be inferred.

5. However, there is simply no basis for that claim.

¹ CMM, Chapter 8; RM, Chapter 8.

² The List of Population of the Communities Residing in Wards/Villages in Northern Rakhine State before 2017 ARSA Attack sent by the Ministry of Immigration and Population, RM, 30 December 2024, Vol. III, Annex 79.

³ 2018 FFM Detailed Findings, paras. 756 and 779, MG, Vol. II, Annex 40; Ministry of Immigration and Population, List of population, p. A16, No. 107, CMM, Vol. IX, Annex 465.

⁴ MG, paras. 1.28, 1.52, 4.51, 8.33, 8.79, 9.2-9.4, 9.6, 9.10, 9.13, 10.2, 10.53, 10.55, 10.63, 10.68 (fn. 1301), 10.74, 11.5, 11.44, 12.69, 12.88, 12.104.

6. *First*, events in these three locations were not as alleged by The Gambia.

7. *Second*, for the reasons to be addressed by Ms Lawrie, events in the vast majority of the other 43 locations referred to by The Gambia were of a completely different quality by way of alleged violence and where loss of life was either minimal or even non-existent⁵. As for the *hundreds* of other locations in northern Rakhine State, inhabited by Bengalis, The Gambia presents no evidence at all of any violence.

8. As is apparent, there are many matters upon which the respective Parties do not agree but, on the opening morning of these proceedings, I confess I was struck by a handful of words uttered by counsel for The Gambia with which I unreservedly do agree. Those words spoke of the “particular obligation on counsel to be as careful as possible in dealing with the law and the facts”⁶. Those words have an important resonance throughout this case.

9. They are words that guide what we say about the allegations in this case now, just as those words were central to the careful village-by-village analysis of each location in Chapters 8 and 9 of Myanmar’s Counter-Memorial. We know that The Gambia read those chapters, because its Reply then radically resiled from its unsubstantiated, initial claims of “*hundreds* of villages” being subject to a “consistent pattern of conduct” of extreme brutality and sexual violence⁷. The Gambia’s Reply refers to just 13 locations⁸.

10. Before you, The Gambia now revises its claims once more. Last Monday, it suggested that its alleged pattern of extreme brutality, mass killings, rape and destruction took place in “scores”⁹ of villages across northern Rakhine State. By Wednesday, The Gambia had raised its claim to allege genocidal attacks in 76 locations in August 2017¹⁰, adding at least 30 alleged attacks without any evidential basis. This is not the “carefulness” trumpeted on that first morning. And it is antithetical to the rigour and care required in proceedings of such gravity.

⁵ CMM, para. 9.306, and RM, paras. 1.6, 8.11, 8.28, 16.14.

⁶ CR 2026/1, p. 41, para. 2 (Reichler).

⁷ MG, para. 8.1.

⁸ Reply of The Gambia, 23 May 2024 (hereinafter “RG”), paras. 9.55-9.57.

⁹ CR 2026/1, pp. 44, 48, 51, 57, paras. 13, 31, 41, 58 (Reichler).

¹⁰ CR 2026/5, p. 26, para. 16 (Sands).

11. In relation to the three main locations, contrary to what The Gambia contends, there were significant ARSA attacks. The deployment of military force was necessary and justified. In the course of those operations — carried out within village settings where ARSA had elected to attack — there were casualties. Some of these may have resulted from a failure to distinguish clearly enough between ARSA and civilians not participating in the violence. That, however, is far removed from the genocidal conduct that The Gambia claims.

12. In so far as the allegations of sexual violence are concerned, such allegations arise predominately from the events at Min Gyi and Chut Pyin. It is difficult, given the nature of such alleged criminality, for Myanmar to discount the possibility of incidents of serious sexual assault. However, there is no reliable evidence of their widespread character — a matter to which I will return. However, such abhorrent conduct can never form part of any legitimate counter-terrorism operation. It was no part of any plan of Myanmar to cause or encourage such behaviour, and no one was authorized to order the use of any form of sexual violence, or indeed gratuitous physical violence, upon any person.

13. The allegations of brutality, killing and rape recounted in the speeches last week were difficult to listen to and, if true, would amount to an appalling catalogue of criminal behaviour. It is, however, to be recalled that what those speeches describe is not established fact and cannot be subject — in and by this Court — to the level of examination and investigation that such allegations demand. What weight you eventually place on the material is a matter for the Court to determine but it does not have, and cannot reach, the level of being “fully conclusive”¹¹ evidence of the kind accepted in other similarly grave cases.

14. The Gambia’s claims in respect of the main locations are the product of unreliable, and at times, demonstrably dissembling accounts that have deliberately withheld the truth about what took place in August 2017. It is an extraordinary feature of The Gambia’s case as a whole, and in particular in relation to these three locations, that its witnesses so systematically and intentionally withheld all reference to the widespread presence and activities of ARSA throughout this period: whether it be to

¹¹ See *Croatia Genocide, 2015 Judgment*, p. 74, para. 178.

ARSA's killing of Hindus, ethnic Mro, Daingnet and Rakhine civilians, as well as the Myanmar security personnel, or to ARSA's many violent confrontations with the Myanmar defence services.

15. The Gambia may well be able to produce a substantial volume of material alleging violence in these three locations. However, little or no weight can be given to that material, for reasons given by Dr Staker and Ms Cordone, and those that follow. The Court will not conflate quantity with quality. In relation to all locations, The Gambia's claims of genocidal acts are refuted.

2. Prelude to the events of August 2017

16. Mr President, before addressing the events of August 2017 themselves, it is of importance to recall the compelling reason why military forces had to be deployed in northern Rakhine State at all. Anyone reading The Gambia's pleadings, or listening to its presentations, would be forgiven for thinking that the military simply descended like a "wolf on the fold". Indeed, it is that impression that so many witnesses and The Gambia itself seek to achieve.

17. However, as has been explained in Myanmar's pleadings¹², and by Ms Lawrie¹³, military forces were there for an undeniable reason, namely ARSA, which repeatedly attacked military and police facilities, suborned the local Bengali population, murdered those who opposed them in their community, and killed other innocent non-Bengalis alike. There had been attacks by ARSA in the region in October and November 2016, and ARSA was known to be planning further attacks. An increased presence in security forces in the region was therefore understandable, indeed inevitable.

18. The evidence shows that ARSA initiated the violence with a series of attacks across northern Rakhine State, and that the military responded to it¹⁴. No responsible sovereign State could, or would, sit back and permit such pervasive violence to go unchecked. Myanmar acted in necessity, and justifiably, to protect its citizens and the integrity of the State.

19. The counter-terrorism operations against ARSA and its supporters were conducted *only* in locations where ARSA was active¹⁵. That is a profoundly important point in this case. They were conducted not over months or years but over a short period of time: just three days in October 2016,

¹² CMM, Chapter 3; RM, Chapter 3.

¹³ CR 2026/8, pp. 52-60, paras. 23-52 (Lawrie).

¹⁴ CMM, paras. 3.26-3.85; CR 2026/8, paras. 23-52 (Lawrie).

¹⁵ CMM, paras. 8.3, 8.12, 9.2, 9.4, 9.305-9.306; RM, paras. 8.28, 8.35-8.36.

two days in November 2016, and for just the last week of August and first days of September 2017. That was the full extent of the military operations — to be measured in days — and undertaken in response to ARSA’s widespread campaign of violence. The vast majority of Bengali villages and communities were not subject to any form of military intervention at all.

3. Events in Min Gyi

20. Mr President, Members of the Court, I now turn to events in and around the first of the three “main locations”, namely Min Gyi, in Maungdaw Township.

21. To listen to The Gambia’s presentation is to leave you with nothing but the sense that what occurred was no more than the unprovoked, unilateral use of unjustifiable military force upon a defenceless and peaceful civilian population¹⁶. The totality of the evidence, however, shows that this was fundamentally not what occurred¹⁷.

22. Like many of the witnesses it relies upon, The Gambia omits any details about events that took place in and around this village in the hours, days and weeks prior to 8 a.m. on 30 August 2017. The Gambia omits to mention that this was just five days after ARSA had commenced its co-ordinated attacks throughout northern Rakhine State.

23. ARSA’s latest campaign of violence had begun by the early hours of 25 August, with a focus on Maungdaw Township. In the days leading up to 30 August, witnesses noted that there was a “heavy ARSA presence in the Kha Maung Seik area and surrounding village tracts”, following ARSA’s massacre of nearly a hundred Hindus¹⁸ at Kha Maung Seik itself¹⁹, a village 10 km up the Pyuma river valley from Min Gyi.

24. Witnesses “consistently described seeing large groups of ARSA fighters gathered . . . in the village tracts of Ta Man Thar and Thit Tone Nar Gwa Son”²⁰ on 25 August and the days following. The Gambia’s own witness, Andrew Riley, had himself noted the “strong ARSA

¹⁶ CMM, para. 8.54, and see RM, paras 8.4-8.5.

¹⁷ CMM, paras. 8.22-8.70; RM, paras. 8.65-8.110.

¹⁸ Amnesty International, “*We Will Destroy Everything*”: *Military responsibility for crimes against humanity in Rakhine State, 27 June 2018* (hereinafter “Amnesty International, *Destroy Everything*”), p. 55, CMM, Vol. VI, Annex 269.

¹⁹ Amnesty International, *Myanmar: New Evidence Reveals Rohingya Armed Group Massacred Scores in Rakhine State*, 22 May 2018, CMM, Vol. VI, Annex 268.

²⁰ Amnesty International, *Destroy Everything*, p. 56, CMM, Vol. VI, Annex 269.

presence” in that particular area²¹. Military records show that two days later, some 300 Bengalis attacked and set fire to the Thet Kaing Nyar Police post²².

25. Moving yet closer to Min Gyi, the FFM acknowledges that in the early hours of 25 August, ARSA attacked the Net Chaung police post that neighbours Min Gyi, and that the following day, ARSA conducted a further attack on the Wat Kyein police post²³. Each of these attacks is corroborated by Myanmar’s own contemporaneous military reports, often recorded within hours of the events taking place, which detail the involvement in the attacks of up to 600 armed Bengalis from the surrounding villages of La Baw Wa, Pa Da Khar and Min Gyi. Police officers fled from their posts at Net Chaung and Min Gyi, which were both then burnt²⁴.

26. The ARSA attacks in and around Min Gyi were not confined to targeting State security entities, but also involved inflicting violence upon non-Bengali civilians and settlements.

27. Following its massacre of the Hindus at Kha Maung Seik, on 28 August ARSA fighters attacked Wat Kyein once more, detonating an IED and burning down 30 houses²⁵. The same day, it attacked the ethnic Mro population in the neighbouring village of Khu Daing, in respect of which satellite imagery corroborates the burning of some 40 homes by ARSA²⁶. Contemporaneous reports describe approximately 400 ARSA militants participating in the attack upon Khu Daing, during which they murdered seven Mro villagers²⁷. A number of other Mro still remain unaccounted for²⁸.

²¹ IIMM, Witness Statement No. IIMM0001557475 (Andrew Riley), para. 46, RG, Vol. IV, Annex 48.

²² Myanmar, Ministry of Home Affairs, Terrorists Attacks, Executions and Arson Attacks on Border Guard Police Outposts and People of Other Religions and Villages Committed by ARSA Terrorists Group during 2016 and 2017 (hereinafter “Ministry of Home Affairs, Terrorists Attacks”), para. 10 (v), CMM, Vol. IV, Annex 148.

²³ 2018 FFM Detailed Findings, paras. 757-760, MG, Vol. II, Annex 40.

²⁴ Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. 243/2017, 31 August 2017; Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. (244/2017), 1 September 2017, pp. 3-4, para. (A), under the heading “Command of No. (992) Tactical Operation Command”, CMM, Vol. IV, Annex 127; 2018 FFM Detailed Findings, para. 757, footnote 1619, MG, Vol. II, Annex 40.

²⁵ 2018 FFM Detailed Findings, para. 757, MG, Vol. II, Annex 40.

²⁶ *Ibid.*, para. 757, including footnote 1622, MG, Vol. II, Annex 40, images following para. 1065, CMM, Vol. VI, Annex 239; Amnesty International, *Destroy Everything*, p. 49, CMM, Vol. VI, Annex 269.

²⁷ Myanmar News Agency, “Seven more civilians killed in Rakhine”, *The Global New Light of Myanmar*, 31 August 2017, pp. 1 and 9, CMM, Vol. VIII, Annex 398.

²⁸ Amnesty International, *Destroy Everything*, pp. 47-48, CMM, Vol. VI, Annex 269; 2018 FFM Detailed Findings, para. 1064, CMM, Vol. VI, Annex 239.

Mro villagers describe large numbers of Bengalis gathering on the road near Myawaddy village shortly before the events of 30 August. Many were armed with knives, swords²⁹ and guns³⁰.

28. A witness account obtained by Fortify Rights, but removed by The Gambia from its own Memorial Annex, similarly confirms ARSA's attack on the Mro village of Pa Da Kar Ywar Thit, immediately north of Min Gyi, during which seven ARSA fighters armed with IEDs and long swords, and supported by more than 40 local villagers, attacked the Border Guard Police³¹. Of this village, the FFM reported that "more than 600 structures were burned and destroyed"³².

29. During this period, neighbouring Rakhine communities and State security services were similarly attacked. Civilians describe sustained exchanges of gunfire on 25 August during ARSA's attack upon the police checkpoint at Ah Htet Pyu Ma village tract, south of Min Gyi, with "trailers of gunfire passing in each direction"³³. ARSA freely and publicly acknowledged responsibility for the attack³⁴. Hundreds of Rakhine villagers fled, leaving ARSA to burn down the entire village, both Rakhine and Bengali parts alike, a fact corroborated by satellite imagery³⁵. This even went beyond the instruction broadcast widely by ARSA's leader, Ataullah, to his followers: "Burn down all Rakhine villages, one by one . . . Do not spare even a single village — all Mro villages, all Daingnet villages — set fire to all of them"³⁶.

30. The threat posed by ARSA also emanated from other villages south of Min Gyi, where hundreds of ARSA-led fighters engaged in violence. Ms Lawrie will address the Court on the events

²⁹ Amnesty International, *Destroy Everything*, pp. 47-48, CMM, Vol. VI, Annex 269.

³⁰ Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. 243/2017, 31 August 2017; Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. (244/2017), 1 September 2017, pp. 3-4, para. (A), under the heading "Command of No. (992) Tactical Operation Command", CMM, Vol. IV, Annex 127.

³¹ Fortify Rights, "First-hand Testimonies from August-September 'Clearance Operations' in Myanmar", August-September 2017, #43, p. 81, CMM, Vol. VII, Annex 278.

³² 2018 FFM Detailed Findings, para. 1232, CMM, Vol. VI, Annex 239.

³³ *Ibid.*, para. 1062, CMM, Vol. VI, Annex 239.

³⁴ *Ibid.*, para. 1062, CMM, Vol. VI, Annex 239.

³⁵ *Ibid.*, paras. 1062-3, CMM, Vol. VI, Annex 239.

³⁶ Amnesty International, *Destroy Everything*, p. 47, CMM, Vol. VI, Annex 269.

in and around the villages of Ree Dar, Don Peik, Kyein Chaung and Laung Don, where confrontations with Myanmar Defence Services occurred³⁷.

31. Turning now to events in Min Gyi itself, contemporaneous military records corroborate eyewitness testimony in describing repeated clashes involving groups of hundreds of Bengalis, often armed with knives, swords and IEDs³⁸. In accordance with the Rules of Engagement distributed to all combat personnel³⁹, which The Gambia accepts are consistent with internationally recognized standards⁴⁰, warning shots were fired in repeated attempts to ward off advancing attackers, before any use of force was deployed⁴¹. Even then, the military continued to be fired upon until well into the evening of 30 August, before the attackers finally withdrew southwards⁴².

32. Mr President, despite all of the matters that I have described in and around Min Gyi, not a single word of this is mentioned by any of The Gambia's witnesses. Contrived silence permeates each and every account. A silence intended to mislead and to deceive.

33. Each and every one of the 21 witness statements taken by Legal Action Worldwide, which were provided years after these events took place, positively denies any suggestion whatsoever of armed activity by even a single Bengali, or even the presence of ARSA at all, at any stage⁴³. Even more starkly, 53 out of the 54 anonymous witnesses interviewed by the FFM likewise make no mention of ARSA's presence, let alone any of its violent activity⁴⁴.

³⁷ 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 ("Ministry of Defence, Table of the Clash"), p. 1, Item no. 3, p. 6, Item no. 37, p. 8, Item no. 5, and p. 17, Item no. 10, CMM, Vol. IV, Annex 149; Myanmar Defence Services, No. (15) Mobile Operation Command Headquarters, Zwe Man Hone Operation, Daily Operation Report No. (238/2017), p. 5, para. (13), CMM, Vol. IV, Annex 114.

³⁸ CMM, paras. 8.41-8.46.

³⁹ CMM, para. 1.16; RM, para. 13.102.

⁴⁰ RG, para. 7.13.

⁴¹ Witness Statement of Captain Hein XXX, company commander, Frontline Light Infantry Regiment, 4 September 2017, pp. 1-2, CMM, Vol. V, Annex 157; Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. 243/2017, 31 August 2017; Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. (244/2017), 1 September 2017, pp. 4-6, para. (B) (2), CMM, Vol. IV, Annex 127; Witness Statement of Captain Zwe, 5 September 2017, pp. 1-3, RM, Vol. III, Annex 83.

⁴² Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. 243/2017, 31 August 2017; Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. (244/2017), 1 September 2017, pp. 5-6, CMM, Vol. IV, Annex 127; Witness Statement of Captain Hein XXX, company commander, Frontline Light Infantry Regiment, 4 September 2017, p. 2, CMM, Vol. V, Annex 157.

⁴³ CMM, paras. 8.59-8.62; MG, Vol. X, Annexes 345-350, Vol. XI, Annexes 355-358, 360, 362-370; RG, Vol. IV, Annex 47.

⁴⁴ CMM, para. 8.55.

34. Confronted with Myanmar's evidence, The Gambia's Reply accepts that there had been ARSA terrorists operating in Min Gyi, but suggests perhaps that they must have run away⁴⁵.

35. There are only three plausible explanations for The Gambia's witnesses so systematically hiding the truth: *First*, there has been co-ordinated management and control of those witnesses presented to organizations who interviewed or took statements from them; *Second*, fear of ARSA⁴⁶, or loyalty to ARSA, as described by Ms Lawrie, is so entrenched that those interviewed were too afraid or too unwilling to provide a truthful account of what occurred. The *third* is that there was a combination of those factors: of management, of fear, of loyalty⁴⁷.

36. When this fundamental evidential deficiency, indeed an absurdity, was highlighted by Myanmar, The Gambia attempted to address it by annexing to its Reply a witness statement from the Bengali former Deputy Chairman of Min Gyi — witness P1299 — obtained by the IIMM. What has now transpired is of significant interest and concern as to the reliability of evidence presented in this case⁴⁸.

37. P1299 accepts in this statement that there *was* indeed a series of violent attacks in and around Min Gyi by what he described as a "Muslims group" that had prompted the counter-terrorism operation⁴⁹. What The Gambia failed to realize, however, was that this same person had previously given one of the 21 witness statements given to Legal Action Worldwide, which The Gambia had annexed to its Memorial. The Gambia's failure to realize this was undoubtedly the result of the pervasive anonymity that characterizes this case. In the earlier statement, P1299 had denied any knowledge of ARSA activity in the area⁵⁰. His later IIMM statement reveals not only that he had lied in his earlier statement but discloses the reason for having done so.

"I can't speak about the names of the people in this group, it is not possible for me to speak about this, these people are still around in the camps here [in Bangladesh] now . . . they came from all four of our hamlets . . . I can't speak more about this."⁵¹

⁴⁵ RG, para. 7.56.

⁴⁶ See Witness Statement of U Idirids, 7 September 2017, p. 1, RM, Vol. III, Annex 85; Witness Statement of U Shu Kuali, 7 September 2017, p. 1, RM, Vol. III, Annex 86.

⁴⁷ CMM, paras. 3.120-3.145; RM, paras. 3.103-3.119.

⁴⁸ RM, paras. 8.75-8.80.

⁴⁹ IIMM, Witness Statement No. IIMM0027992990, para. 194, RG, Vol. IV, Annex 51.

⁵⁰ Legal Action Worldwide Witness Statement No. 010, MG, Vol. X, Annex 347, para. 12.

⁵¹ IIMM, Witness Statement No. IIMM0027992990, paras. 194-196, RG, Vol. IV, Annex 51.

One thing of which the Court can be certain from this witness is his fear of ARSA, no doubt felt by many⁵², which fundamentally taints the integrity of testimony emanating from the camps — namely, all The Gambia’s so-called eyewitness testimony.

38. The issue of anonymity merits further comment here, too, in light of The Gambia’s repeated claims that the FFM narrative, which is so central to its case, is variously said to be “corroborated by” or “consistent with” other witness testimony. These are virtually meaningless phrases when dealing with anonymous testimony, as it simply cannot be known whether one account is simply corroborating another account given to a different organization, but by the same person. The case of P1299 is a stark and salutary lesson of this. And nor is anonymity cured by noting that the evidence comes from “independent” organizations. Their independence has no bearing, as such organizations themselves are not the ultimate source of the underlying testimony.

39. Conscious perhaps of the negligible evidential value of its anonymous testimony, The Gambia refers to one of the very few identified witnesses in the whole case: a man called Nazmul Islam⁵³, a self-confessed supporter of ARSA’s terrorism. Upon analysis of his evidence, however, we learn that he could not possibly have seen what he claims, from his position detained in a police cell, 1 km away, in a different hamlet from the events that he claimed to observe⁵⁴.

40. In any event, it is inconceivable that all of these witnesses on whose accounts The Gambia relies were unaware of *any* activity of ARSA in the Min Gyi area. The former Deputy Chairman now acknowledges the “very loud” activities of the “Muslim rebel group” operating in Min Gyi, as gunfire and multiple explosions reverberated⁵⁵, which tends to support the course of events described in Myanmar’s pleadings⁵⁶.

41. So far as casualties are concerned, The Gambia adopts the FFM’s alleged death toll of 750 people at Min Gyi⁵⁷. The FFM acknowledges, however, that this figure is merely an unverified claim, emanating from a single unknown source, named K-153.1. Following its own investigation,

⁵² CR 2026/8, pp. 61-63, paras. 55-62 (Lawrie).

⁵³ CR 2026/3, pp. 32, 38, paras. 4, 24 (Pasipanodya).

⁵⁴ RM, paras. 8.81-8.88; Video and transcript of interview of Nazmul Islam, 28 February 2018, at Part 1, [03:31:42.19]-[03:31:47.28], RG, Vol. III, Annex 41.

⁵⁵ IIMM, Witness Statement No. IIMM0027992990, para. 153, RG, Vol. IV, Annex 51.

⁵⁶ CMM, paras. 8.23-8.41.

⁵⁷ 2018 FFM Detailed Findings, paras. 774-775, MG, Vol. II, Annex 40.

Amnesty International expressed confidence in a figure of well over 200⁵⁸. Myanmar's military personnel record that approximately 108 were killed⁵⁹. Other bodies and wounded may perhaps have been taken away during the clashes.

42. Even if Myanmar's evidence were to be disregarded, there is no rational basis why the FFM's unverified figure should be accepted over that of Amnesty International. Critically, however, these estimates are "death tolls" are limited in what they can reveal. They do *not* represent the number of intentional killings, which is what this Court will consider for the purposes of Article II. Yet, when The Gambia addressed the Court last week in respect of the quantitative aspects of the *dolus specialis*, the evidence had inexplicably morphed into a claim that "750 people were murdered" at Min Gyi⁶⁰. That is incorrect. That is not what the evidence shows. And that is not what happened.

4. Events in Chut Pyin

43. Mr President, Members of the Court, I now turn to address the second of the "main locations": Chut Pyin in Rathedaung Township.

44. The Gambia's presentation of events in Chut Pyin proceeds along similarly distorted lines⁶¹. In much the same way as it has approached events at Min Gyi, The Gambia strips out of its narrative the context and circumstances of the counter-terrorism operations, and why they were necessary. This again arises out of what the FFM observed to be "widespread reluctance of Rohingya to talk about ARSA and any alleged abuses committed by it"⁶². As you will come to see, the use of the word "widespread" here, is a very significant understatement.

45. In respect of Chut Pyin, what the totality of the evidence demonstrates is that Myanmar responded to ARSA violence in and around the village in order to protect security services personnel and civilians alike. There was no pre-planned attack by the military.

⁵⁸ Amnesty International, *Destroy Everything*, p. 75, MG, Vol. IV, Annex 112.

⁵⁹ Witness Statement of Captain Zwe, 5 September 2017, p. 1-3, RM, Vol. III, Annex 83; Witness Statement of Captain Hein XXX, company commander, Frontline Light Infantry Regiment, 4 September 2017, p. 1-3, CMM, Vol. V, Annex 157.

⁶⁰ CR 2026/5, p. 27, para. 20 (Sands).

⁶¹ CMM, paras. 8.74-8.82; CR 2026/3, pp. 42-56, paras. 1-57 (Ho).

⁶² 2018 FFM Detailed Findings, para. 1051, CMM, Vol. VI, Annex 239. See also Amnesty International, *Destroy Everything*, p. 14, CMM, Vol. VI, Annex 269.

46. Contrary to the picture that The Gambia seeks to portray, events in Chut Pyin did not simply begin at 2 p.m. on 27 August 2017⁶³. The area in and around Chut Pyin had been a hotbed of ARSA activity, certainly since May 2017 onwards, with ARSA camps established near the village, where tactical and weapons trainings had taken place.

47. As late August 2017 approached, ARSA's preparations intensified, with Chut Pyin representing a particularly important foothold for its fighters amid heightened tensions in Rathedaung Township⁶⁴.

48. In mid-July 2017, security forces arrested eight men in Chut Pyin, of whom four were later released, with the remainder detained on terrorism charges⁶⁵. One wonders why bother with recourse to municipal criminal justice processes if The Gambia's case is that Myanmar's campaign of genocidal violence had already begun some nine months earlier?

49. Days later an ethnic Rakhine was killed, the suspected victim of local Bengalis. This triggered an armed stand-off between groups of Rakhines and Bengalis. The FFM describes how: "the military and [border guard police] intervened and controlled the situation"⁶⁶. The following day, three Bengalis believed to be assisting security services as informants, were found killed⁶⁷. Two of them had been decapitated⁶⁸. The ARSA camp of those responsible was found in the nearby hills shortly afterwards⁶⁹.

50. When ARSA launched its August 2017 offensive, it did so in proximity to Chut Pyin, and within the village itself.

51. The map shows Chut Pyin centrally located, close to the intersection of the three townships, where the southern parts of Maungdaw and Buthidaung abut north-western Rathedaung Township.

⁶³ MG, para. 8.109.

⁶⁴ 2018 FFM Detailed Findings, para. 780, MG, Vol. II, Annex 40.

⁶⁵ 2018 FFM Detailed Findings, para. 1162, MG, Vol. II, Annex 40.

⁶⁶ *Ibid.*, para. 1163, CMM, Vol. VI, Annex 239.

⁶⁷ *Ibid.*, para. 1163, CMM, Vol. VI, Annex 239.

⁶⁸ IIMM, Witness Statement No. IIMM0027971404, paras. 59-61, RG, Vol. IV, Annex 55.

⁶⁹ Myanmar News Agency, "Tents of violent attackers discovered in Mayu Mountains", *The Global New Light of Myanmar*, 1 August 2017, CMM, Vol. VIII, Annex 389.

52. On 25 August, at around 3:30 a.m., Gwa Sone police post was attacked by about 300 armed militants. Police officers responded by firing back at the group to repel the assault⁷⁰.

53. Some 15 minutes later, Thin Baw Kway police post, west of Chut Pyin, was attacked by about 250 armed ARSA fighters. Again, police fought back killing one of the attackers during the clash⁷¹.

54. As these events unfolded, a very large number of ARSA members and supporters attacked Myin Hlut, north-west of Chut Pyin, killing two police officers⁷². The FFM noted it to be a particularly intense clash with continuous gunfire heard throughout the early hours of 25 August⁷³. In a similar vein, further ARSA attacks were carried out at Kyauk Pan Du⁷⁴, and at Ah Lel Than Kyaw where hundreds of ARSA militants likewise attacked the border guard police, killing an immigration staff member⁷⁵. Each of these locations will be addressed in greater detail by Ms Lawrie.

55. Two days later, on 27 August, ARSA commenced its attack upon Chut Pyin, detonating IEDs at the police station. When security services arrived to conduct a search of the village for the attackers, they were surrounded by a group of some 80 ARSA fighters. Simultaneously, there was a second, and much larger, offensive within Chut Pyin involving approximately 400 Bengalis, who discharged explosives and exchanged gunfire with police. By late afternoon, ARSA had begun fire-setting in the village, causing women and children to flee southwards to Ah Htet Nan Yar⁷⁶.

56. These ARSA attacks are all documented in the contemporaneous daily operational reports and by testimony of military personnel⁷⁷, which confirms that defensive force was deployed

⁷⁰ Ministry of Home Affairs, Terrorists Attacks, para. 8 (xv), CMM, Vol. IV, Annex 148.

⁷¹ *Ibid.*, para. 8 (xviii), CMM, Vol. IV, Annex 148.

⁷² *Ibid.*, para. 8 (xxviii), CMM, Vol. IV, Annex 148. See also Ministry of Defence, Table of the Clash, p. 3, Item No. 18, CMM, Vol. IV, Annex 149; Myanmar Defence Services, No. (15) Mobile Operation Command Headquarters, Zwe Man Hone Operation, Daily Operation Report No. (238/2017), 25 August 2017, pp. 3-4, para. (10), CMM, Vol. IV, Annex 114.

⁷³ 2018 FFM Detailed Findings, para. 857, MG, Vol. II, Annex 40.

⁷⁴ CMM, paras. 9.39-9.40.

⁷⁵ Ministry of Home Affairs, Terrorists Attacks, para. 8 (xxiv), CMM, Vol. IV, Annex 148.

⁷⁶ Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. (240/2017), 28 August 2017, pp. 5-6, para. (B) under the heading "Command of No. (333) Tactical Operation Command", CMM, Vol. IV, Annex 120.

⁷⁷ RM, para. 8.118; Witness Statement of Captain Maung (16 October 2017), pp. 1-2. RM, Vol. III, Annex 86*bis*.

proportionately, and in accordance with the applicable rules of engagement⁷⁸, and in order to ward off attackers armed with swords, grenades and guns.

57. Significantly, ARSA's attacks are yet further corroborated by signed witness statements of local Bengalis themselves. Three ARSA fighters all describe their own recruitment by local religious leaders, their training and ultimately their participation in these attacks, including the burning of houses at Chut Pyin⁷⁹. They recount being part of an armed group of about 200 ARSA members and supporters drawn from the neighbouring villages of Ni Lin Baw, Auk Nan Yar and Chut Pyin itself.

58. Each witness testifies against self-interest in respect of their involvement. The third witness even places blame on ARSA for the coercive manner in which he himself was recruited into ARSA's violence⁸⁰.

59. While Myanmar bears no burden to prove so, it is beyond doubt that ARSA repeatedly attacked Chut Pyin on 27 August in large numbers, and that Myanmar's use of force was responsive to it.

60. In contrast to Myanmar's contemporaneous and mutually corroborative strands of witness testimony and documentary records, The Gambia relies overwhelmingly on unsigned, anonymous, summary notes of interviews, that conspicuously omit all mention of ARSA or any violence by any Bengalis: witness after witness after witness.

61. In fact, The Gambia did not even annex to its Memorial a single signed witness statement regarding events at Chut Pyin. It now relies on four such statements⁸¹, the earliest of which is dated October 2022, more than five years after the events in question. None of these accounts are either contemporaneous in nature or uninfluenced by the presence of ARSA in the camps of Bangladesh⁸².

⁷⁸ RM, para. 8.118; Witness Statement of Captain Maung Maung Myat Kyaw (16 October 2017), RM, Vol. III, Annex 86*bis*.

⁷⁹ RM, paras. 8.119-8.126; 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; Sworn Statement of Maw Go Lar Mauk, confirming his account given on 2 November 2017 (24 February 2023) (corrected translation), RM, Vol. III, Annex 106; Witness Statement of U Baw Shee Ullah, 2 November 2017, RM, Vol. III, Annex 99.

⁸⁰ Witness Statement of U Baw Shee Ullah, 2 November 2017, RM, Vol. III, Annex 99.

⁸¹ IIMM, Witness Statement No. IIMM0019922097, RG, Vol. IV, Annex 49; IIMM, Witness Statement No. IIMM0027971404, RG, Vol. IV, Annex 55; IIMM, Witness Statement No. IIMM0027992301, RG, Vol. IV, Annex 57; IIMM, Witness Statement No. IIMM0027999848, RG, Vol. IV, Annex 59.

⁸² CMM, paras. 3.120-3.145.

62. Here, the dangers of relying upon The Gambia's anonymous witness evidence is, once again, demonstrated by the account given in a document prepared by Legal Action Worldwide by witness CK0526⁸³. The summarized allegations of this person were originally annexed to The Gambia's Memorial. Some seven years after the events in question, the same person gave a witness statement to the same organization⁸⁴. This is one of only four instances, in a case involving many hundreds of witnesses⁸⁵, where it has been possible to compare two witness statements given by the same person. In the case of this witness, the contradictions and inconsistencies between the two accounts are stark and fundamental⁸⁶. So much so, that before you last week The Gambia simply abandoned this witness altogether during its presentation⁸⁷.

63. The implications of this evidential episode cannot be swept under the carpet so lightly. It provides this Court with a powerful example of how an untruthful witness can mislead investigators and then be shielded behind a veil of anonymity, with no realistic prospect of scrutiny of their account. And this applies to virtually every single witness in The Gambia's entire case.

64. The FFM interviewed 50 eyewitnesses in relation to the events in Chut Pyin⁸⁸. Just as with events in Min Gyi, not a single one of these 50 interviewees is said to have made any mention of the undeniable presence of ARSA and its violent activities.

65. Remarkably, or perhaps not, the same is true of the 23 anonymized summary accounts obtained by Legal Action Worldwide that were specially prepared⁸⁹ for these proceedings three years after the events⁹⁰. Not a single one of *these* anonymized summary accounts utters a word about ARSA either. Such co-ordinated and contrived silence cannot be coincidental. It cannot have had any other purpose than to mislead.

⁸³ Legal Action Worldwide, Collated Information from Victims/Witnesses ("Legal Action Worldwide, Collated Information"), pp. 2-5 (CK0526), MG, Vol. X, Annex 336.

⁸⁴ Legal Action Worldwide, Witness Statement No. 039, RG, Vol. IV, Annex 62.

⁸⁵ RM, paras. 7.22, 7.29.

⁸⁶ RM, para. 7.29 (3).

⁸⁷ CR 2026/4, p. 56, para. 54 (Ho).

⁸⁸ CMM, para. 8.75; 2018 FFM Detailed Findings, paras. 779-798, MG, Vol. II, Annex 40.

⁸⁹ See *Croatia Genocide, 2015 Judgment*, p. 98, para. 292.

⁹⁰ CMM, para. 8.76; Legal Action Worldwide, Collated Information, MG, Vol. X, Annex 336.

66. And it is obvious why The Gambia avoids the IIMM witness testimony from Chut Pyin. It reveals a quite different picture of the military's conduct. One such Bengali witness says as follows:

- (i) "The Military also planted mines around the village and along the road . . . they would tell us that we had a mine planted next to our village . . . No individual died by these mines. Because of the warnings villagers stayed away"⁹¹.
- (ii) "Militaries don't attack ladies . . . many ladies told us that during the attack they were shown their way"⁹².
- (iii) "They let go everyone who wanted to go to Bangladesh. That was the only direction where people were allowed to move."⁹³

67. The Gambia's criticism of Myanmar's careful analysis of the evidence in respect of Chut Pyin is extraordinary. It complains of Myanmar deploying "a microscope at isolated discrepancies"⁹⁴, yet that is the very exercise that compelled The Gambia to abandon one of its witnesses before you last week.

68. Given that The Gambia rejects any exculpatory material that Myanmar produces on the basis that it is said to be self-serving, one wonders how then The Gambia envisages any State might defend itself in proceedings such as these. In essence, what they seem to say is this: "don't look too closely"; "don't probe too much"; "just accept what we say". That, however, is not how allegations of the utmost gravity are to be approached.

69. So far as the number of fatalities is concerned, Myanmar's contemporaneous witness evidence indicates that 32 ARSA fighters were killed at Chut Pyin⁹⁵. In contrast, The Gambia adopts the FFM's unverified figure of 358 deaths, which comes from a single unknown source⁹⁶. Necessarily, the FFM is explicit that it cannot confirm the accuracy of its figure. As with Min Gyi, The Gambia's figures provide no indication of how many of its contended figures are said to have been intentionally killed, which is ultimately what this Court must assess, and do so with the rigour that allegations of genocide demand.

⁹¹ IIMM, Witness Statement No. IIMM0019925304, paras. 82-83, RM, Vol. IV, Annex 127.

⁹² *Ibid.*, para.129, RM, Vol. IV, Annex 127.

⁹³ *Ibid.*, para. 151, RM, Vol. IV, Annex 127.

⁹⁴ CR 2026/3, p. 56, para. 56 (Ho).

⁹⁵ Witness Statement of Captain Maung (16 October 2017), p. 4. RM, Vol. III, Annex 86*bis*.

⁹⁶ 2018 FFM Detailed Findings, para. 796, MG, Vol. II, Annex 40.

5. Events in Maung Nu

70. Mr President, I turn now to the third and final of the three “main locations”: Maung Nu in Buthidaung Township.

71. The Gambia’s written and oral analyses of events in Maung Nu avoid all reference to any event prior to 10 a.m. on 27 August 2017⁹⁷. While The Gambia may ignore it, it does not dispute that there were indeed, in and around the area of Maung Nu, high intensity confrontations between ARSA fighters and Myanmar defence services in the days prior to, during, and after 27 August⁹⁸.

72. As with Min Gyi and Chut Pyin, The Gambia persists in stripping all context from its narrative of events. This misleading approach is now compounded further by: *one*, The Gambia’s deliberate decision to avoid the testimony of the IIMM witnesses to whom I shall return shortly; and *two*, demonstrable carelessness in its sweeping assessments of the evidence as a whole. To that feature, I will also return in due course.

73. Coupled with its heavy reliance on anonymous summary hearsay notes of evidence from secondary sources, The Gambia can only present a distorted and incomplete impression of events.

74. What is not seriously disputed about events in and around Maung Nu is the following.

75. As part of its co-ordinated campaign of attacks on some 30 Border Guard Police posts and one military headquarters across northern Rakhine State⁹⁹, ARSA attacked the BGP post at Hpaung Taw Pyin, during the course of which two police officers were killed and a medical assistant slashed severely with knives¹⁰⁰.

76. Simultaneously, ARSA carried out two other attacks in the immediate vicinity. The first was the army headquarters occupied by the No. 552 Light Infantry Regiment near Taung Bazar, to the north of Maung Nu. This was a major target. The second was against the BGP post in Nga Yant Chaung village tract¹⁰¹. The attack upon the army base involved some 200 ARSA fighters, many of

⁹⁷ CMM, paras. 8.103-8.104.

⁹⁸ RM, para. 8.149.

⁹⁹ CR 2026/8, p. 57, para. 41 (Lawrie); 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, pp. 1-5, Items 1-31, CMM, Vol. IV, Annex 149; 2018 FFM Detailed Findings, para. 1038, CMM, Vol. VI, Annex 239; Myanmar News Agency, “Extremist terrorists attack on police outposts in N-Rakhine”, *The Global New Light of Myanmar*, 26 August 2017, pp. 1 and 3, CMM, Vol. VIII, Annex 392.

¹⁰⁰ 2018 FFM Detailed Findings, para. 801, MG, Vol. II, Annex 40; 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; Witness Statement No. IIMM0019628625, para. 75, RM, Vol. IV, Annex 131.

¹⁰¹ 2018 FFM Detailed Findings, para. 802, MG, Vol. II, Annex 40.

whom had been hiding in the villages of Thin Ga Net and Suu Taung¹⁰². When Border Guard Police went to investigate at Thin Ga Net, they too were attacked and IEDs were detonated. ARSA then set fire to 50 houses before moving on to Suu Taung. Ultimately, the villages of Thin Ga Net, Suu Taung, Done Peik and Kone Taung were all burned by ARSA militants¹⁰³.

77. To the extent that The Gambia has sought to portray ARSA as inadequately armed for serious violence, this is flatly undermined by Bengali testimony, which The Gambia itself elected to remove from its own Annex. This was not material initially in Myanmar's possession. Inevitably, this evidence coheres with Myanmar's contemporaneous operational reports. Referring to ARSA by its former name, the witness states:

“[T]he Al Yaqin group blasted a bomb in Thin Ga Net . . . There were 800 Al Yaqin gathered near the forest, near the mountainside. There were more than 250 Al Yaqin members in the village when the bomb blasted . . . Almost each person had a bomb. I saw more than 200 people, each with one knife and one bomb.”¹⁰⁴

78. Following these initial attacks, ARSA militants began to assemble in Maung Nu itself, throughout 26 August — and also in nearby Maung Gyi Taung¹⁰⁵, where one month earlier a cache of ARSA weapons had been discovered¹⁰⁶.

79. On the morning of 27 August, while en route to Maung Gyi Taung, the No. 562 Light Infantry Regiment was confronted at Sin Oe Pyin, south of Maung Nu, by some 300 ARSA fighters, who were further bolstered by hundreds of local armed villagers. Soldiers were fired upon and returned fire¹⁰⁷. That is what is recorded in Myanmar's contemporaneous records of the incident. The Gambia cannot deny this incident, not least because it invites you to accept the evidence of its own witness (P5513) who corroborates these facts. He estimated the group numbering somewhere

¹⁰² Myanmar Defence Services, No. 15 Mobile Operation Command Headquarters, Zwe Man Hone Operation, Daily Operation Report No. 238/2017, 25 August 2017, p. 5, para. 13, CMM, Vol. IV, Annex 114.

¹⁰³ Myanmar Defence Services, No. 15 Mobile Operation Command Headquarters, Zwe Mhann Hone Operation, Daily operation report No. 240/2017, 27 August 2017, pp. 3-4, para. 13, CMM, Vol. IV, Annex 118; Ministry of Defence, Table of the Clash, p. 12, Item No. 6, CMM, Vol. IV, Annex 149.

¹⁰⁴ Fortify Rights, “First-hand Testimonies from August-September ‘Clearance Operations’ in Myanmar”, August-September 2017. #25, pp. 41-42, CMM, Vol. VII, Annex 278.

¹⁰⁵ CMM, para. 9.237.

¹⁰⁶ Amnesty International, *Destroy Everything*, p. 69, footnote 427, MG, Vol. IV, Annex 112.

¹⁰⁷ Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. 240/2017, 28 August 2017, pp. 11-12, para. 4, CMM, Vol. IV, Annex 120; Ministry of Defence, Table of the Clash, p. 12, Item No. 7, CMM, Vol. IV, Annex 149.

between 300-500 armed attackers¹⁰⁸. This is yet further corroborated by a local villager who witnessed the group attack and burn 82 houses in the village¹⁰⁹.

80. Following ARSA's attack two days earlier on Hpaung Taw Pyin, the No. 234 Light Infantry Regiment returned to the village to establish security. They were, however, attacked by ARSA fighters who detonated explosive devices.

81. A separate group of militants who had also been involved in the Hpaung Taw Pyin attack were then reported to have taken up position around Maung Nu village and so a company of the No. 564 Light Infantry Regiment moved to Maung Nu at about 10 a.m. but were quickly attacked by a group of about 100 militants, who detonated IEDs. Despite initially retreating when warning shots were fired, the group of attackers, now numbering about 300, returned to attack once more¹¹⁰.

82. Myanmar rejects the characterization that what occurred in Maung Nu was an unprovoked, unilateral attack by the security forces upon a passive Bengali population. The available evidence shows that the security operations in Maung Nu were focussed upon ARSA cell leader, Zahid Hussein, and his home address¹¹¹. This was not an indiscriminate attack upon the population of Maung Nu more generally.

83. I stated earlier that allegations of sexual violence arise predominately from allegations at Min Gyi and Chut Pyin. Due to the nature of the crime, I reiterate that Myanmar cannot discount the possibility of shameful isolated incidents, though if they ever did occur, they would run counter to the ethos of the Myanmar defence services. Maung Nu is now included in The Gambia's allegations of widespread sexual violence though it made no such allegation in its Memorial. Belatedly, it refers to anonymous hearsay accounts from FFM witnesses concerning three incidents of rape or multiple rape in unknown locations¹¹². Each allegation is uncorroborated. Such tenuous summary evidence cannot be given any evidential weight.

¹⁰⁸ IIMM, Screening Note No. IIMM0028728637, para. 23, filed under cover of the letter of the Agent of The Gambia dated 6 November 2025, added to the case file by decision of the Court communicated to the Parties on 17 December 2025.

¹⁰⁹ No. 165, witness statement of U Nu Hu Saung, 14 October 2017, annexed to the letter of the Agent of Myanmar dated 5 January 2026.

¹¹⁰ 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.

¹¹¹ IIMM, Witness Statement No. IIMM0019628625, paras. 80-81, RM, Vol. IV, Annex 131; RM, para. 8.161.

¹¹² RG, para. 7.111; 2018 FFM Detailed Findings, paras. 810-811, MG, Vol. II, Annex 40.

84. More generally, The Gambia yet again relies upon overwhelmingly anonymous, untested and — in very large part — hearsay summary accounts given by persons who were interviewed by the FFM¹¹³, Legal Action Worldwide¹¹⁴ and other organizations¹¹⁵. In the now familiar pattern, not one of the 27 witnesses interviewed by the FFM about Maung Nu is recorded as having made any mention whatsoever of the activities, or even *presence*, of ARSA¹¹⁶.

85. The same confected silence is adopted by each of LAW's six clients who have specially prepared signed statements for these proceedings¹¹⁷. The sole reference to ARSA in one of these six statements is the claim: "In our area, ARSA don't exist."¹¹⁸

86. The Gambia has annexed to its pleadings only one of the four relevant witness statements provided to the parties by the IIMM, heralding witness P1244 as "corroborative" of another witness' account obtained by Legal Action Worldwide¹¹⁹. Since then, however, The Gambia has come to realize that its new witness is in fact the *same* person as the LAW statement for which it was said to have been corroborative. This not only represents yet another prime example of the dangers of ubiquitous anonymization, which not even The Gambia itself had been able to detect, but it also provides another of the four instances where Myanmar and this Court can compare multiple accounts given over time by the same witness.

87. It does not surprise Myanmar that witness P1244 manifestly lied in his 2020 when initially telling Legal Action Worldwide that ARSA did not exist in or around Maung Nu and that he had never seen or heard of them¹²⁰. This cannot be another isolated example given that The Gambia itself does not know the true identity of the vast majority of the witnesses it relies upon.

88. It is clear why The Gambia avoids the other three IIMM witness statements provided to the Parties. Witness P1496, a Bengali man, gives an important description of ARSA's presence and

¹¹³ 2018 FFM Detailed Findings, paras. 799-817, MG, Vol. II, Annex 40.

¹¹⁴ MG, Vol. X, Annexes 336, 339-343, and MG, Vol. XI, Annex 361.

¹¹⁵ For example, Fortify Rights, "First-hand Testimonies from August-September 'Clearance Operations' in Myanmar", August-September 2017, p. 52, MG, Vol. X, Annex 338.

¹¹⁶ CMM, para. 8.103; 2018 FFM Detailed Findings, paras. 799-817, MG, Vol. II, Annex 40.

¹¹⁷ MG, Vol. X, Annexes 339-343, and MG, Vol. XI, Annex 361.

¹¹⁸ Legal Action Worldwide, Witness Statement No. 005, para. 36, MG, Vol. X, Annex 342.

¹¹⁹ RG, paras. 7.108-7.109.

¹²⁰ RM, paras. 8.157-8.160.

the murderous activities of ARSA cell leader Zahid Hussein and others, in and around Maung Nu in August 2017, and his fears of speaking out openly about ARSA¹²¹. His warning to the IIMM bears out an important theme that permeates much of this case:

“I believe that people who are members of ARSA may come to speak [to] your organisation and will share false information with you.”¹²²

89. Despite his detailed account of the structure of ARSA in Maung Nu and its conscription of many young acolytes through the local village mosque, this protected witness, like witness P1244, nevertheless still refuses to disclose the names of certain ARSA members. This Court will appreciate why, given that his account includes ARSA’s murder of a fellow informant, like him, shortly prior to its August attacks. ARSA members from Maung Nu had cut the informant’s throat, placed him in a sack and then thrown him down a hill¹²³.

90. So far as fatalities in and around the area of Maung Nu is concerned, Myanmar’s contemporaneous reports record that 15 terrorists died during clashes with Myanmar defence services¹²⁴. This was out of a population of approximately 4,600¹²⁵. The actual population data is available. So, we need not trouble with The Gambia’s crude calculation by reference to the number of households¹²⁶. By contrast, the FFM relies on anonymous hearsay sources to claim that 48 people from Maung Nu and 34 from Hpaung Taw Pyin respectively were killed.

91. As before, the FFM “cannot confirm the accuracy”¹²⁷ of these figures. Importantly, the FFM’s figures again do not indicate the number of deaths, if any, that are said to have been the result of intentional killings and as falling within Article II.

92. Finally, I would ask the Court to consider whether the generalized descriptions that you have heard about The Gambia’s third main location truly reflects the hard reality of the evidence. Last week, The Gambia told this Court that “the Tatmadaw *burned Maung Nu to the ground* in the

¹²¹ RM, paragraph 8.161; IIMM, Witness Statement No. IIMM0019628625, paras. 52-54, 66-68, 75, 80-81, 108, RM, Vol. IV, Annex 131.

¹²² RM, para. 8.161; IIMM, Witness Statement No. IIMM0019628625, para. 52, RM, Vol. IV, Annex 131.

¹²³ IIMM, Witness Statement No. IIMM0019628625, paras. 67-68, RM, Vol. IV, Annex 131.

¹²⁴ 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) and p. 6, para. (F) (3), CMM, Vol. IV, Annex 118.

¹²⁵ Ministry of Immigration and Population, List of population, p. A16, No. 107, CMM, Vol. IX, Annex 465.

¹²⁶ CR 2026/5, p. 27, para. 20 (Sands).

¹²⁷ 2018 FFM Detailed Findings, para. 815, MG, Vol. II, Annex 40.

days following the ‘clearance operation’”¹²⁸. Its Memorial similarly left no ambiguity: “Maung Nu was *completely destroyed* during the clearance operation”¹²⁹. I want to briefly examine that proposition now and the meaning of “completely destroyed”.

93. The first image is the satellite view of Maung Nu three months before 27 August 2017, showing no damage to structures, and shows houses with dark roofs¹³⁰. The second image was taken two months *after* the alleged destruction and is similarly relied upon by The Gambia. The houses certainly now appear light brown, perhaps all systematically burnt, as The Gambia suggests.

94. But I ask you to peer more closely. What you will see is that, save for a small number of structures within the white box marked up by the FFM, the village is far from being completely destroyed. This imagery may not be entirely clear, so let me extinguish any lingering doubts. The third image is taken three months later. The season has changed, but it is clear that the houses of Maung Nu were never destroyed completely — and indeed are intact — and this is consistent with both IIMM and Myanmar’s witness testimony¹³¹.

95. In due course, this Court may wish to consider whether the words “completely destroyed” fairly and accurately reflect what really matters in this case, which is the evidence itself. That is as true for the events in Maung Nu as it is for each and every other location where allegations of genocide are claimed.

6. Conclusion

96. Mr. President, Members of the Court, let me close this chapter with *six* points in respect of the three main locations, that will also apply to the remaining locations to be examined.

97. *First*, it is indisputable that the use of force by Myanmar defence services in northern Rakhine State in August 2017 was directly responsive to ARSA-led violence against civilians and state security personnel.

98. *Second*, the use of force by Myanmar defence services was only deployed in, or proximate to, those specific locations where ARSA was present and active.

¹²⁸ CR 2026/1, p. 48, para. 29 (Reichler).

¹²⁹ MG, para. 8.136.

¹³⁰ 2018 FFM Detailed Findings, p. 299, MG, Vol. II, Annex 40.

¹³¹ *Ibid.*, p. 300, MG, Vol. II, Annex 40.

99. *Third*, it is not disputed that rules of engagement, accepted as being consistent with international standards, were distributed to security services personnel prior to engagement with ARSA and its mobilized supporters.

100. *Fourth*, The Gambia's claims of atrocities are overwhelmingly found in untested and anonymous witness statements and records of interviews that uniformly present a false narrative of the events that deliberately omit all mention of the role of ARSA. Where multiple statements from a single witness have been made available to compare, there are fundamental issues of unreliability or even evidence of lies.

101. *Fifth*, the fatality figures advanced by The Gambia do not accurately reflect the evidence. Moreover, they do not distinguish between those casualties who were ARSA fighters actively participating in the violence; those who were unintentional collateral casualties of the fighting; and those who were allegedly innocent civilians who were intentionally killed or harmed.

102. *Sixth*, events in Min Gyi, Chut Pyin and Maung Nu were *not* typical of events during the counter-terrorism operations elsewhere in northern Rakhine State and, as Ms Lawrie will demonstrate this afternoon, there was no consistent "pattern of conduct" throughout northern Rakhine State mirroring what occurred in these three main locations. While fatalities in these three main locations were high relative to other locations, it cannot be ignored that they were the scenes of some of ARSA's most deadly violence and intense clashes with Myanmar defence services.

103. Mr. President, that concludes my presentation and I thank you for your kind attention. I now kindly ask you to call upon Dr Staker, who will address the Court upon the evidential weight of material.

The PRESIDENT: I thank Mr Blom-Cooper for his statement. I now invite Mr Christopher Staker to address the Court. You have the floor, Sir.

Mr STAKER:

II. OTHER MATERIAL RELIED ON BY THE GAMBIA

1. Introduction

1. Mr President, Madam Vice-President, Members of the Court, on Friday I addressed the evidential weight of the reports of the FFM. This morning, I will deal with the evidential weight of the other material relied on by The Gambia, which is the subject-matter of Chapter 7 of Myanmar's two written pleadings. I emphasize again that this topic is dealt with in far more detail in the written pleadings.

2. Other than the FFM reports, the documents relied on by The Gambia as evidence of the claimed events of 2016 and 2017 consist primarily of witness statements, interview records, reports and documents of United Nations and other official bodies and NGOs, and media articles. The Gambia also relies on an expert report of Professor Newton, but given that Professor Newton is to be called to be examined orally, I will reserve observations on his evidence to the second round.

3. Myanmar's written pleadings address individually each annex cited as evidence in the chapters of The Gambia's pleadings relating to the claimed events of 2016 and 2017¹³². The points made in Chapter 7 of the written pleadings will also apply as relevant to other material relied on elsewhere in The Gambia's written pleadings¹³³.

4. Myanmar says that as in the case of the FFM reports, little or no weight can be given to any of the other material relied on by The Gambia to prove the core facts central to its claim of genocide.

2. Overarching features of the other evidence

5. I begin by noting two overarching features of the body of other evidence relied on by The Gambia, which it shares with the FFM reports.

6. The first is this: in all of this other material, as in the FFM reports, the information concerning alleged atrocities overwhelmingly has as its ultimate source people living in the camps in Bangladesh. The witness statements are largely from people in the camps in Bangladesh, and the

¹³² MG, Chaps. 8 and 9; RG, Chap. 7; see CMM, para. 7.2; RM, para. 7.4.

¹³³ CMM, para. 7.2, fn. 773; RM, paras. 7.4-7.5, 7.128-7.132.

reports of United Nations and official bodies and NGOs, like the FFM reports, are largely based on interviews of people in the camps in Bangladesh.

7. The second of the overarching features is this: in all of this material, those providing the information are almost entirely anonymous. As I said on Friday, the FFM interviewed *hundreds* of witnesses and virtually all of them are anonymous. In the reports and documents of United Nations and other official bodies and NGOs, the sources of information about atrocities are also largely anonymous. With rare exception, even the witness statements provided by the IIMM are redacted to conceal identities. And that is truly remarkable because the IIMM is meant to be producing evidence for use in judicial proceedings, and it is difficult to see what use can be made in judicial proceedings of anonymous witness statements. The witness statements prepared by Legal Action Worldwide (LAW) were also originally annexed to The Gambia's written pleadings in anonymized form. After the written pleadings closed, The Gambia filed new versions of 15 of these witness statements so that they now disclose the identities of these 15 witnesses¹³⁴. By doing this, The Gambia appears to acknowledge that anonymous witness statements lack evidential weight. However, the fact remains that many of the LAW witness statements are still anonymous. And the fact furthermore remains that the body of witness evidence as a whole remains overwhelmingly anonymous, if one has regard to the hundreds of persons interviewed by the FFM, and all the people spoken to by all the different bodies and organizations that produced the various reports and documents on which The Gambia relies. Neither the Parties, nor the Court, have any idea who the vast majority of these people are.

8. The consequence of these overarching features is this.

9. First, due to the presence and influence of ARSA in the camps in Bangladesh¹³⁵, it is unlikely that anyone living there would give an account contradicting the ARSA narrative¹³⁶. Some living there will be members of, or sympathizers of, ARSA, while others live in fear of ARSA. In either case, either loyalty to ARSA or fear of ARSA — or a combination of both — will make it

¹³⁴ MG, Annexes 339*bis*, 341*bis*, 344*bis*, 346*bis*, 348*bis*, 354*bis*, 355*bis*, 356*bis*, 367*bis*, 368*bis*, 369*bis* and 370*bis*, RG, Annexes 66*bis* and 68*bis*, filed under cover of the letter of the Agent of The Gambia dated 19 November 2025, added to the case file by the decision of the Court communicated to the Parties on 10 December 2025.

¹³⁵ CMM, paras. 3.108-3.145 (and as to the fear engendered by ARSA generally, also CMM, paras. 3.24, 3.43-3.45, 6.65-6.67, 7.211, 13.40, 13.101, 16.16); RM, paras. 3.03-3.119.

¹³⁶ RM, paras. 7.33-7.34.

unlikely that accounts are true and objective. Ms Lawrie has already dealt with this¹³⁷. ARSA has attacked and even killed others in the camps who oppose its views¹³⁸. This is an acknowledged fact: it is acknowledged by Human Rights Watch¹³⁹, Amnesty International¹⁴⁰, the International Crisis Group¹⁴¹ and the Bangladesh police¹⁴². It is reported in the international media¹⁴³. A LAW witness statement says that “[t]here is no security in the camps, and no one is safe there. I am concerned that something might happen”¹⁴⁴. As you have already heard, at least two IIMM witnesses, when asked about those responsible for the ARSA attacks in northern Rakhine State, have stated openly that they are not able to speak about this because those concerned are present in the camps¹⁴⁵.

10. The Court’s settled case law acknowledges that the evidential weight of witness statements is diminished significantly if the witness is not disinterested¹⁴⁶. Although ARSA is not a party to these proceedings, an eyewitness who is loyal to ARSA has an interest in the outcome of the

¹³⁷ CR 2026/8, p. 63, para. 60 (Lawrie).

¹³⁸ CMM, paras. 1.18, 3.108-3.145; RM, paras. 2.30, 3.103-3.123, 7.33-7.34, 8.77-8.79, 8.161, 9.72; Myanmar’s First Provisional Measures Report, 22 May 2020, paras. 124-125; Myanmar’s Sixth Provisional Measures Report, 23 November 2022, paras. 38-41; Myanmar’s Eighth Provisional Measures Report, 23 November 2023, paras. 77, 79; Myanmar’s Ninth Provisional Measures Report, 23 May 2024, paras. 9-12; Myanmar’s Eleventh Provisional Measures Report, 23 May 2025, para. 10.

¹³⁹ CMM, para. 1.18, Human Rights Watch, “Bangladesh: Spiraling Violence Against Rohingya Refugees”, 13 July 2023, CMM, Vol. VII, Annex 285bis; A. Foyez and A. Rahman, “Rights watchdog: Bangladesh failing to protect Rohingya against rising violence in camps”, *Benar News*, 13 July 2023, CMM, Vol. IX, Annex 461bis.

¹⁴⁰ CMM, para. 3.127, Amnesty International, *Myanmar: New Evidence Reveals Rohingya Armed Group Massacred Scores in Rakhine State*, 22 May 2018, p. 11, CMM, Vol. VI, Annex 268.

¹⁴¹ CMM, paras. 3.125, 3.131; RM, para. 3.115; International Crisis Group, *Building a Better Future for Rohingya Refugees in Bangladesh*, Asia Report No. 155, 25 April 2019, p. 4, CMM, Vol. VII, Annex 298; International Crisis Group, “Five Years on Rohingya Refugees Face Dire Conditions and a Long Road Ahead”, by T. Kean, 22 August 2022, CMM, Vol. VII, Annex 300; International Crisis Group, *Breaking Away: The Battle for Myanmar’s Rakhine State*, Crisis Group Asia Report No. 339, 27 August 2024, p. 16, RM, Vol. V, Annex 169; S. Samad, “OP-ED: Is ARSA a Threat to Bangladesh?” *Dhaka Tribune*, 17 August 2021, CMM, Vol. IX, Annex 446.

¹⁴² CMM, paras. 3.132, 3.140, 3.142; T. Ripon, “Targeted Killings Spread Terror in Rohingya Refugee Camps”, *The Diplomat*, 15 November 2022, CMM, Vol. IX, Annex 460; S. Khiam and A. Rahman, “Refugees: ARSA rebels threaten Rohingya leaders who push for repatriation”, *Radio Free Asia*, 25 August 2022, CMM, Vol. IX, Annex 454.

¹⁴³ CMM, paras. 1.18, 3.126-3.129, 3.133-3.134, 3.140-3.142; RM, paras. 2.30, 3.116-3.118.

¹⁴⁴ RM, para. 9.72; Legal Action Worldwide, Witness Statement No. 043, para. 3, RG, Vol. IV, Annex 68.

¹⁴⁵ RM, paras. 3.107-3.108; IIMM, Witness Statement No. IIMM0028050361, paras. 75-76; RM, Vol. IV, Annex 140; IIMM, Witness Statement No. IIMM0027992990, paras. 194-196; RG, Vol. IV, Annex 51.

¹⁴⁶ *Croatia Genocide, 2015 Judgment*, p. 78, para. 197; *Ukraine v. Russia, 2024 Judgment*, p. 155, para. 177; *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia), Judgment, I.C.J. Reports 2022 (I)*, p. 349, paras. 218-219; *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras), Judgment, I.C.J. Reports 2007 (II)*, p. 731, para. 244.

proceedings in a way similar to a State official of a party to the case¹⁴⁷. As regards those who live in fear of ARSA, to use the words of the Court in *Armed Activities*, whether or not their statements were obtained under duress, “the setting and context cannot . . . be regarded as conducive to impartiality”¹⁴⁸.

11. Furthermore, those in the camps may have a more personal interest in the proceedings, whether supporters of ARSA or not. One of the LAW witness statements says expressly, with reference to these proceedings, “I hope that we will win our case”¹⁴⁹. Others express hopes that these proceedings will lead to them obtaining citizenship, or official recognition of the name “Rohingya”¹⁵⁰, which, as I showed on Friday, are outcomes sought by The Gambia in this case. Legal Action Worldwide describes the witnesses from which it took witness statements as its “clients”¹⁵¹. It appears that the “clients” sign a power of attorney stating that Legal Action Worldwide “will act as my legal representative in relation to the proceedings before the International Court of Justice”¹⁵². The LAW witnesses thus see themselves as legally represented participants in the proceedings. This is at least as great a personal interest as that of the fisherpeople whose statements were not given weight in previous cases concerning maritime spaces¹⁵³.

12. As to the extensive anonymity of witnesses, this undermines evidential weight in two ways in particular in these proceedings.

13. First, anonymity prevents any kind of background checks of those giving the information. A background check might reveal, for instance, that a claimed eyewitness was not from the village

¹⁴⁷ *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)* and *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, Judgment, I.C.J. Reports 2015 (II), p. 701, paras. 82-83; *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, Judgment, I.C.J. Reports 2007 (I), p. 731, para. 244; *Armed Activities*, 2005 Judgment, pp. 203, 219, paras. 65, 129; *Nicaragua v. United States*, 1986 Judgment, p. 43, para. 70.

¹⁴⁸ *Armed Activities*, 2005 Judgment, p. 202, para. 64.

¹⁴⁹ Legal Action Worldwide, Witness Statement No. 032, para. 47, MG, Vol. XI, Annex 370.

¹⁵⁰ RM, para. 7.11, footnote 756.

¹⁵¹ Witness statement of Antonia Mulvey, MG, Vol. XI, Annex 373, paras. 7, 8 and 12.

¹⁵² Witness statement of Antonia Mulvey, Annex VII, page 25 first paragraph, MG, Vol. XI, Annex 373.

¹⁵³ *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)*, Judgment, I.C.J. Reports 2022 (I), p. 349, para. 219; *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, Judgment, I.C.J. Reports 2007 (I), pp. 731-732, paras. 243-245.

that they claimed to be from, or was not there at the material time, or was a member of ARSA actively participating in the violence¹⁵⁴.

14. Secondly, anonymity prevents it from being known what documents relied on by The Gambia are in fact based on the same information from the same people. For instance, one of the anonymous IIMM witness statements might in fact be given by the same person giving one of the anonymous LAW witness statements, and that person might also at the very same time be one of the anonymous persons interviewed by the FFM as well as one or more of the NGOs on whose reports The Gambia relies. In short, we cannot know to what extent all these various documents relied on by The Gambia repeat the same information from the same people¹⁵⁵.

15. This concern is not hypothetical. Many of the IIMM's witnesses confirm that they were previously interviewed by other organizations¹⁵⁶. One IIMM witnesses says: "in 2017, right after we arrived in Bangladesh, there were a lot of people who interviewed us. I was interviewed many times, maybe more than 15 or 20 times. There were a lot of people asking questions and we just answered."¹⁵⁷ Another says: "There were many journalists and NGOs who conducted interviews immediately after the influx . . . There were so many people approaching us and asking questions that I can't remember all of them."¹⁵⁸

16. In fact, you will know from my presentation on Friday that one of the IIMM witnesses was also one of the FFM's interviewees¹⁵⁹. We also know that two of the IIMM witnesses are the same people who gave two of the LAW statements¹⁶⁰. It also now seems apparent that three separate

¹⁵⁴ RM, paras. 7.35-7.38.

¹⁵⁵ See RM, paras. 7.16-7.23.

¹⁵⁶ RM, para. 7.18 footnote 769; IIMM, Witness Statement No. IIMM0019922097, p. 5, para. 10, RG, Vol. IV, Annex 49; IIMM, Witness Statement No. IIMM0019629206, p. 6, para. 16, RG, Vol. IV, Annex 50; IIMM, Witness Statement No. IIMM0027992990, p. 4, para. 10, RG, Vol. IV, Annex 51; IIMM, Witness Statement No. IIMM0019629265, p. 5, para. 10, RG, Vol. IV, Annex 53; IIMM, Witness Statement No. IIMM0027971404, p. 5, para. 15, RG, Vol. IV, Annex 55; IIMM, Witness Statement No. IIMM0027999848, p. 4, para. 10, RG, Vol. IV, Annex 59; IIMM, Witness Statement No. IIMM0027997604, p. 4, para. 10, RG, Vol. IV, Annex 60.

¹⁵⁷ RM, para. 7.18, IIMM, Witness Statement No. IMM0027993001, p. 8, para. 21, RG, Vol. IV, Annex 56.

¹⁵⁸ IIMM, Witness Statement No. IIMM0019629206, p. 6, para. 16, RG, Vol. IV, Annex 50.

¹⁵⁹ IIMM witness statement of P4715; FFM interview record of XI-008; letter from the Head of the IIMM dated 14 July 2025 (all filed with the letter of the Agent of Myanmar dated 8 September 2025, added to the case file by decision of the Court communicated to the Parties on 22 September 2025). See CR 2026/8, p. 38, para. 23 (Staker).

¹⁶⁰ RM, para. 7.22 (1)-(2); IIMM, Witness Statement No. IIMM0027992990, RG, Vol. IV, Annex 51; Legal Action Worldwide, Witness statement No. 010, MG, Vol. X, Annex 347; IIMM, Witness Statement No. IIMM0019915116, RG, Vol. IV, Annex 54; Legal Action Worldwide, Witness Statement No. 005, MG, Vol. X, Annex 342.

documents of Fortify Rights¹⁶¹ relied on by The Gambia are all based on the same interviews with the same people¹⁶². Information in two different LAW documents is now also known to come from the same person¹⁶³. However, the ubiquitous anonymity prevents the full extent of such duplications being known. There is reason to think that it is far more extensive.

17. Given the large number of people living in the camps in Bangladesh, it is unlikely that so many would have been interviewed multiple times by different organizations if these organizations genuinely selected interviewees randomly. This suggests that different organizations were somehow being consistently directed to the same groups of people in the camps for interview. Given what we know about the ARSA influence in the camps, that is not purely speculative.

18. The Court has said that it must “treat with caution evidentiary materials . . . emanating from a single source”¹⁶⁴. Multiple items of evidence are obviously not mutually corroborative if they are in fact both from the same source. They also cannot be treated as mutually corroborative if it cannot be known whether or not they are from the same source.

19. Another problem is that if it cannot be known when two different statements are made by the same person, then it is impossible to check whether different statements made by the same person are contradictory.

20. There have been only four instances where it has been possible to know that two different witness accounts relied on by The Gambia were in fact made by the same person. Significantly, in three of those instances, there are fundamental contradictions between the two statements¹⁶⁵.

21. In various other of the IIMM witness statements, the witness admits that statements that they previously made to other organizations were wrong. Although, in the case of these other statements, it is not possible to identify a particular earlier statement or the organization to which it was given. For instance, one IIMM witness says this: “I personally did not witness any incidents of

¹⁶¹ Fortify Rights, “First-hand Testimonies from August-September ‘Clearance Operations’ in Myanmar”, August-September 2017, MG, Vol. X, Annex 338, CMM, Vol. VII, Annex 278; Fortify Rights, *They Gave Them Long Swords*, 19 July 2018, MG, Vol. IV, Annex 114, additional extracts at CMM, Vol. VII, Annex 279; 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, MG, Vol. VII, Annex 192, additional extracts at CMM, Vol. VII, Annex 280.

¹⁶² RM, para. 7.90 (9).

¹⁶³ RM, para. 7.22 (3) Legal Action Worldwide, Witness statement No. 039, RG, Vol. IV, Annex 62; Legal Action Worldwide, Collated Information, pp. 2-5 (CK0526), MG, Vol. X, Annex 336.

¹⁶⁴ *Croatia Genocide, 2015 Judgment*, p. 98, para. 292; *Armed Activities, 2005 Judgment*, p. 201, para. 61.

¹⁶⁵ RM, para. 7.29; generally, RM, paras. 7.24-7.32.

rape during the attack on my village, nor did I learn of any such incidents in Gudam Fara after the attack.”¹⁶⁶

22. This witness then goes on to speak about an earlier interview that he gave to another organization. He says:

“At the time of the interview, the interviewers asked me if I saw anyone get raped, and because of what I had seen during the attack on my village and heard from other survivors in the camps in Bangladesh, I told [REDACTED] that I saw Kabir’s wife being raped, but this is not true. That interview happened a long time ago and at the time of the interview, I was heavily traumatised and exaggerated the events I saw. I did not know what I was saying. I saw Kabir and his wife get taken away by the military, which is the truth, but I did not see her get raped. I was not told by anyone to say that Kabir’s wife was raped, I said it with my own will because I wanted the world to know about all the atrocities that had been committed against us, because I thought the world was unaware of what happened.”¹⁶⁷

23. In other words, this witness admits to having given a deliberately false account to another organization. The name of that other organization or person to whom he spoke has been redacted by the IIMM from the witness statement, although we do not know why. The other organization might well have been the FFM, or one of the other organizations on whose reports The Gambia relies.

24. Other IIMM witness statements also accept that the witness made inconsistent and wrong statements when speaking previously to unidentified other organizations¹⁶⁸, which again may have been the FFM or one of the other bodies on whose reports The Gambia relies. Other IIMM witness statements admit that information previously given by the witness to other organizations was mere hearsay rather than information within their own knowledge¹⁶⁹. However, the extensive anonymity makes it impossible to identify which words in which documents relied on by The Gambia are now admitted to be wrong. It is reasonable to assume that many other people who were interviewed by the FFM or other organizations on whose material The Gambia relies would now admit that things that they are recorded by those other organizations as saying are wrong, if they were to be interviewed now by a professional forensic investigator.

25. The Gambia has claimed that this pervasive anonymity has been required because witnesses are at risk from the authorities in Myanmar, yet The Gambia has in fact presented no

¹⁶⁶ RM, para. 7.28; IIMM, Witness Statement No. IIMM0027997604, pp. 23-24, para. 108, RG, Vol. IV, Annex 60.

¹⁶⁷ *Ibid.*

¹⁶⁸ RM, para. 7.24-7.28.

¹⁶⁹ RM, paras. 7.27, especially footnote 794.

evidence to the Court to establish such a claim, nor has the Court ever made a finding that any such objective risk exists. Even the Head of the IIMM does not state that any such objective risk exists: rather, he says that witnesses express a subjective fear of such a risk¹⁷⁰. In fact, there is a large amount of evidence that witnesses in the camps in Bangladesh are at risk from ARSA, but none at all is presented of any actual risk from the authorities of Myanmar. The fact that witnesses express a personal but unsubstantiated unwillingness to testify without anonymity does not mean that their statement should be given the evidential weight that it would have been given if the evidence was not anonymous¹⁷¹.

26. These two overarching features — the fact that the ultimate source of information is the people in camps in Bangladesh and the pervasive anonymity of evidence — have a severe negative impact on the evidential weight of the material relied on by The Gambia.

27. Mr President, might I suggest that this might be a good moment for the coffee break?

The PRESIDENT: Indeed, Mr Staker, before you begin the next section of your presentation, the Court will observe a break of 15 minutes. The sitting is suspended.

The Court adjourned from 11.25 a.m. to 11.45 a.m.

The PRESIDENT: Please be seated. The sitting is resumed. I now give the floor back to Mr Staker to continue his presentation. You have the floor, Sir.

Mr STAKER:

3. Reports of official bodies and NGOs

28. Thank you, Mr President, Members of the Court. Having identified the overarching features of the material relied upon by The Gambia to establish the core elements of its claim, I now proceed to examine particular types of materials in turn. I begin with the reports and other documents of United Nations bodies, other official bodies and NGOs.

¹⁷⁰ Affidavit of Nicholas Koumjian, 17 November 2025, para. 46 (filed with the letter of the Agent of The Gambia dated 18 November 2025, maintained in the case file by decision of the Court communicated to the Parties on 15 December 2025).

¹⁷¹ See also the letter to the Registrar from the Agent of Myanmar dated 15 December 2025, para. 10 (f).

29. Everything I have said about the FFM reports applies equally, or with even greater force, to these bodies. I need not repeat myself to any great extent. These other bodies, like the FFM, did not have the expertise or resources or the mandate to produce materials suitable for use as evidence in judicial proceedings. They did not purport to apply the standard of proof applicable in this case. Any findings in such reports are not made by judges and are not made following any adversarial judicial process. They represent only one side of the story. They are secondary sources of information. They give second-hand summaries of events spoken of by those who the organizations interviewed, and second-hand descriptions of any documents that they considered, and express opinions which are not evidence. This Court has no way of making its own independent determination of facts based on documents such as these. A representative of Amnesty International is reported as acknowledging, in respect of fact-finding by NGOs, that “we are trying to get the facts but they’re not facts that have to stand up in a court of law”. Despite this, The Gambia seeks to rely on such reports as if opinions stated in them are definitive proof of facts¹⁷².

30. I pointed out before that many of the IIMM witnesses have admitted to giving prior inconsistent statements to other organizations¹⁷³. Many of these witnesses tried to explain the reason for those prior inconsistent statements was the result of the way the earlier organizations interviewed them, saying that the interviews were brief, lacking in detail, with questions asked non-chronologically and statements not being read back to them¹⁷⁴. This just underscores how these other organizations did not produce reports by a process that makes them fit for use for forensic purposes.

31. In any event, not all of the reports and documents relied on by The Gambia even purport to be investigations into the facts. They vary in their level of detail. Some merely contain high-level statements that do not refer to any evidence or sources.

32. These observations apply also to the analytical reports prepared by the IIMM¹⁷⁵. These also consist merely of descriptions and summaries of evidence said to be held by the IIMM, and set

¹⁷² See examples at CMM, para. 7.147, footnote 922.

¹⁷³ RM, paras. 7.24-7.32.

¹⁷⁴ RM, paras. 7.26-7.27.

¹⁷⁵ RG, Vol. II, Annexes 5, 7-10. See RM, paras. 7.151-7.154.

out the IIMM's own analysis of this material and the IIMM's own conclusions based on this material. The Gambia effectively admits this¹⁷⁶. The conclusions and opinions carry no evidential weight. If the documents referred to in these analytical reports had all been annexed to the written pleadings or otherwise been put into evidence, the Court could have examined them itself and formed its own view based on them. Little or no evidential weight can be given to second-hand (hearsay) descriptions in the IIMM analytical reports of the contents of the documents cited in them. Again, it is astonishing that the IIMM would not have made all of the documents referred to in its analytical notes available to the Parties for use in these proceedings, given that the mission of the IIMM is to produce and maintain evidence for use in judicial proceedings.

33. The Gambia might have approached all the organizations producing all of these reports and asked them to share their documentation and evidence underlying the reports. Instead, it has just unquestioningly relied on the reports themselves. This highlights just how little effort The Gambia has put into investigating this case.

4. Interview records

34. Mr President, Members of the Court, I turn now to another category of material relied on by The Gambia, which I refer to as "records of interview". By this I mean a document prepared by someone other than a witness, that simply records what a witness is understood to have said. Such a document is not signed or adopted by the witness, who may not have read it and may not be aware of its contents.

35. An example of this kind of document is the FFM record of interview that I took you to on Friday, that is at tab 6.2 of your folder from last Friday. As I observed on Friday, the Court held in *Croatia* that this kind of document has no evidential weight¹⁷⁷.

36. Other documents of this type relied on by The Gambia include the "Collated information" document prepared by Legal Action Worldwide¹⁷⁸, the "First-hand testimonies" prepared by Fortify

¹⁷⁶ CR 2026/2, p. 27, para. 41 (Reichler).

¹⁷⁷ CR 2026/8, p. 37, paras. 18-20 (Staker). Also CR 2026/8, pp. 28-29, paras. 24-29 (Cordone).

¹⁷⁸ Legal Action Worldwide, "Collated Information from Victims/Witnesses", MG, Vol. X, Annex 336. See CMM, paras. 7.48-7.65; RM, paras. 7.74-7.71.

Rights¹⁷⁹ and a document provided by the International State Crimes Initiative at Queen Mary University of London¹⁸⁰. “Screening notes” or notes of “screening calls” taken by the IIMM also fall into this category. Such documents are only a preliminary step in the process leading to the preparation of a witness statement. They are not of themselves signed witness statements¹⁸¹.

37. For the same reasons, no evidential weight can be given to these documents.

5. Lack of neutrality of organizations producing materials

38. Mr President, Members of the Court, another important matter is the issue of impartiality and neutrality, or the lack of neutrality and perceived lack of impartiality of some of the organizations producing the materials most heavily relied on by The Gambia.

39. The Gambia states forcefully that the materials on which it relies have been produced by “reputable international human rights organizations”, by “diverse and independent sources”¹⁸², by “independent and authoritative non-judicial entit[ies]”¹⁸³, by “independent, impartial and authoritative third-party entities”¹⁸⁴, by “disinterested third parties”¹⁸⁵ and by “disinterested witness[es]”¹⁸⁶. In fact, some of the key organizations, even if institutionally independent of each other, do not appear to be neutral and unconnected parties in these proceedings at all.

40. I have already mentioned that the witnesses giving the witness statements prepared by Legal Action Worldwide are all *clients* of that organization¹⁸⁷, which is providing legal services to them in what is said to be their quest for “justice and accountability”¹⁸⁸. The purpose of preparing the LAW witness statements is said by the executive director of Legal Action Worldwide to be “to

¹⁷⁹ Fortify Rights, “First-hand Testimonies from August- September ‘Clearance Operations’ in Myanmar”, August-September 2017, CMM, Vol. VII, Annex 278. See CMM, paras. 7.82-7.98; RM, paras. 7.84-7.93.

¹⁸⁰ “Witness Statement No. 001, signed on 7 November 2014”, MG, Vol. X, Annex 336; CMM, para. 7.100 footnote 872.

¹⁸¹ See the letter to the Registrar from the Agent of Myanmar dated 15 December 2025, paras. 9-10.

¹⁸² CR 2026/1, p. 19, para. 3 (Jallow).

¹⁸³ CR 2026/2, pp. 14, 24, paras. 8, 33 (Reichler).

¹⁸⁴ CR 2026/2, p. 25, para. 36 (Reichler).

¹⁸⁵ CR 2026/2, pp. 14-15, paras. 8, 10-11 (Reichler).

¹⁸⁶ CR 2026/2, p. 15, para. 11 (Reichler).

¹⁸⁷ CMM, paras. 7.43, 7.79-7.80, 8.104, 10.123.

¹⁸⁸ CMM, para. 7.80; “Memorandum of Understanding” between LAW and Foley Hoag, February/March 2020, paras. 1 and 3, annexed to the witness statement of Antonia Mulvey, MG, Vol. XI, Annex 373.

gather witness testimony evidencing the physical acts of genocide”¹⁸⁹. Thus, the LAW witnesses have given a specific mandate to that organization to support a particular outcome in this case, rather than to investigate events neutrally and impartially. The witness statements prepared by Legal Action Worldwide then state that they have been prepared specifically for purposes of this case. That organization made the witness statements and other materials available to The Gambia, but not to Myanmar.

41. Legal Action Worldwide also works with an organization called Justice Rapid Response, which provided some of the investigators who took some of the LAW witness statements, although details of the relationship between the two organizations is not clear¹⁹⁰. What is known is that the executive director of Legal Action Worldwide is a rostered expert with Justice Rapid Response, as is The Gambia’s expert witness Professor Michael A. Newton¹⁹¹. Justice Rapid Response and Legal Action Worldwide issued a joint press release, stating that the two organizations “have worked towards gathering evidence to support” the case brought by The Gambia¹⁹².

42. It is furthermore noted that the executive director of Legal Action Worldwide formerly worked for the FFM¹⁹³.

43. Legal Action Worldwide has also received support from the Government of Canada, which provided investigators from the Royal Canadian Mounted Police to take some of the witness statements prepared by Legal Action Worldwide¹⁹⁴. Canada has also issued a statement that its intervention in this case would “support [the] efforts” of The Gambia, which Canada says has taken the “laudable step” of bringing this case before the Court¹⁹⁵. Canada therefore overtly sides with

¹⁸⁹ CMM, para. 7.80; “Standard Operating Procedures”, p. 3, section I.b), first paragraph, annexed to the witness statement of Antonia Mulvey, MG, Vol. XI, Annex 373.

¹⁹⁰ CMM, para. 7.73-7.74; RM, paras. 7.73, 7.77, 7.93.

¹⁹¹ RM, para. 7.77; Witness statement of Antonia Mulvey, para. 4, MG, Vol. XI, Annex 373; Expert Report of Professor Michael A. Newton, October 2020, para. 6, MG, Vol. XI, Annex 359.

¹⁹² RM, para. 7.77; Justice Rapid Response and Legal Action Worldwide, Press Release, “Paths to Justice: The international pursuit of justice for the Rohingya”, 25 May 2021, RM, Vol. V, Annex 164.

¹⁹³ Witness statement of Antonia Mulvey, para. 4, MG, Vol. XI, Annex 373.

¹⁹⁴ CMM, paras. 7.72, 7.74.

¹⁹⁵ RM, para. 7.76; Joint statement of Canada and the Kingdom of the Netherlands regarding intention to intervene in *The Gambia v. Myanmar* case at the International Court of Justice, Diplomatic statement, 2 September 2020, RM, Vol. V, Annex 182.

The Gambia. Myanmar's written pleadings highlight other issues with the lack of neutrality of Legal Action Worldwide¹⁹⁶.

44. Myanmar also does not accept the impartiality or neutrality of Fortify Rights. Mr Smith of Fortify Rights is officially part of The Gambia's delegation at this hearing. The evidence in the case includes documents produced by Fortify Rights¹⁹⁷, a witness statement by Mr Smith¹⁹⁸ and article authored by Mr Smith¹⁹⁹ — and a witness statement that was taken by Mr Smith²⁰⁰. The Burmese Rohingya Organisation UK which is also represented on the delegation of The Gambia at this hearing was one of the joint signatories of a document relied on by The Gambia²⁰¹ and co-authored a document with Fortify Rights cited in another document relied on by The Gambia²⁰². Mr Smith and Fortify Rights are thus, at the same time, witnesses and sources of evidence in the case, as well as official representatives of the Applicant in the proceedings. That is wholly inconsistent with the claim that evidence from Fortify Rights should be treated as emanating from an "independent source". Myanmar's written pleadings highlight other issues with its lack of neutrality²⁰³.

45. These matters were drawn to the Court's attention just before the hearing²⁰⁴ and I refer the Court to what is stated in the letter of the Agent of Myanmar to the Court dated 11 January 2026. As the Agent for Myanmar expressed it in his opening statement, in this case representatives of The Gambia, witnesses and authors of reports relied on by The Gambia as evidence, are all sitting on the "same bench"²⁰⁵. The evidence is not independent.

¹⁹⁶ CMM, paras. 7.64, 7.80, 7.95, 7.163 and 7.204; RM, paras. 7.11 footnote 758 and accompanying text, 7.68, 7.73, 7.76-7.77, 7.80-7.81, 7.93. See also RG footnote 146.

¹⁹⁷ MG, Annexes 91, 114, 126, 128, 298, 337, 338; RG, Annexes 14, 63, and 71.

¹⁹⁸ RG, Annex 71.

¹⁹⁹ MG, Annex 126.

²⁰⁰ Witness statement of Mohammadul Hassan, MG, Vol. X, Annex 337; Fortify Rights, Second Witness Statement of Mohammadul Hassan, RG, Vol. IV, Annex 63; CMM, para. 7.99-7.100; RG, para. 4.47 footnote 252 and accompanying text; RM, paras. 3.13(2), 7.94-7.95.

²⁰¹ MG, Annex 189.

²⁰² MG, Annex 114 fn. 128.

²⁰³ CMM, paras. 7.95, 7.204; RM, 7.11 fn. 758 and accompanying text, 7.94.

²⁰⁴ Letter from the Agent of Myanmar to the Registrar dated 11 January 2026.

²⁰⁵ CR 2026/7, p. 13, para. 5 (Hlaing).

46. As to the IIMM, I have already noted that Myanmar does not recognize it. It is certainly not the case, as The Gambia suggests, that Myanmar has “waiv[ed] any objection”²⁰⁶ to reliance on IIMM witness statements. However, quite apart from this, there are objective reasons for concluding that the IIMM lacks impartiality and neutrality in this case.

47. First, the Head of the IIMM was prepared to be called as a witness by The Gambia in these proceedings. Ultimately, he did not testify orally, apparently because the Office of Legal Affairs in New York did not give him permission to do so. However, he provided an affidavit to The Gambia which The Gambia filed in support of its case²⁰⁷ and he has thus given testimony as a witness of The Gambia in these proceedings. You will find this affidavit at tab 2.2 of your folder.

48. You will see that, at paragraph 42, his affidavit says this:

“I have been informed that among the material shared by the Mechanism with the parties to these proceedings and filed by the legal counsel for The Gambia in support of its memorial, there are 10 redacted witness statements of Rohingya witnesses. While these represent a small proportion of the Mechanism’s relevant evidence — and a small proportion of the evidence that the Mechanism has shared with both parties to these proceedings — I am satisfied that they are broadly consistent and representative of the Mechanism’s other evidence, from witnesses and other sources, pertaining to these incidents.”²⁰⁸

49. I ask the question, why would the Head of the IIMM state this in an affidavit for use in these proceedings? Presumably the IIMM has given all relevant witness statements and other evidence to The Gambia. Given the stated mandate of the IIMM, it would be incomprehensible if it has not. So if The Gambia wanted to rely on all of the witness statements or any other evidence provided to it by the IIMM, it could have annexed all of them to its written pleadings and the Court could have decided for itself whether or not they are all “broadly consistent”.

50. It would appear that this affidavit is intended specifically to assist The Gambia, by enabling it to say in these proceedings that all 42 witness statements and other relevant evidence provided or held by the IIMM are “broadly consistent”, despite the fact that The Gambia has only put a small amount of it into evidence.

²⁰⁶ CR 2026/2, p. 28, para. 45 (Reichler).

²⁰⁷ Affidavit of Nicholas Koumjian, 17 November 2025 (filed with the letter of the Agent of The Gambia dated 18 November 2025, maintained in the case file by decision of the Court communicated to the Parties on 15 December 2025).

²⁰⁸ *Ibid.*, para. 42.

51. Of course, the expression “broadly consistent” is a very ambiguous term. A statement that said no more than that military operations took place in northern Rakhine State in 2016 and 2017 might be said to be “broadly consistent” with the witness statements that have been filed by The Gambia. Yet by using these two words, the Head of the IIMM seems to be telling the Court: you have no need to look for yourselves at all of the other witness statements or any of the other evidence that The Gambia has not filed in these proceedings, because you can just trust me — they say the same things as the ones that The Gambia did file. I submit that that is astonishing.

52. It is a plain fact that The Gambia consciously chose to annex only 12 out of 42 witness statements provided by the IIMM. There is no rational reason why The Gambia would have omitted to annex any IIMM witness statement dealing with the very events in question, if the witness statement was at all consistent with its case. This affidavit of the Head of the IIMM thus appears to be specifically intended to assist The Gambia to paper over this problem. It certainly does not appear neutral and impartial.

53. Secondly, paragraphs 54 to 64 of this affidavit describe the contents of the IIMM analytical notes relied on by The Gambia, and in some cases, express opinions on them. For instance, at paragraph 55, it describes of the analytical notes as “comprehensive and detailed”²⁰⁹; at paragraph 58, he points out what he considers to be the significance of one analytical note²¹⁰; at paragraph 60, he says what he “find[s] notable” in another²¹¹; and at paragraph 62, he refers to “findings”²¹² in an analytical note.

54. These paragraphs of his affidavit can obviously add nothing to the evidential weight of the analytical notes. The Court can look at the analytical notes itself and decide for itself what weight they should be given, which I have argued is little or nothing. The Head of the IIMM is a lawyer and must know that it is a matter for the Court to form its own view. The fact that he nonetheless gives an affidavit seeking to bolster the significance of these analytical notes to the apparent advantage of The Gambia also appears inconsistent with neutrality.

²⁰⁹ *Ibid.*, para. 55.

²¹⁰ *Ibid.*, para. 58.

²¹¹ *Ibid.*, para. 60.

²¹² *Ibid.*, paras. 61 (last sentence) and 62.

55. Thirdly, paragraph 48 of this affidavit says that there are “targeted killings by organised armed groups in the camps” in Bangladesh but conspicuously omits to mention that one of the main such organized armed groups is ARSA. The omission to mention this is also inconsistent with the appearance of impartiality, since, as I have already said, this affidavit expressly claims at paragraph 46 that witnesses fear a risk from Myanmar, despite the lack of any objective evidence of such risk.

56. For these reasons, the position of Myanmar is that any evidential weight that might otherwise be given to any materials produced by the IIMM, Legal Action Worldwide, Fortify Rights and certain other organizations, is seriously diminished by the lack of impartiality or neutrality of these organizations.

6. Witness statements

57. Mr President, Members of the Court, I turn then to the evidential weight of the witness statements on which The Gambia relies.

58. Contrary to what The Gambia suggests, Myanmar does not take the position that witness statements taken by a party to the case, or by someone overtly siding with a party to the case, must necessarily be rejected out of hand. Rather, Myanmar asks the Court to apply its settled jurisprudence. The Court does not simply accept everything stated in a witness statement. The settled jurisprudence is that witness statements and affidavits are treated with caution²¹³. What weight such a document is given will depend on a consideration of various factors²¹⁴, including the form and circumstances in which it is made²¹⁵.

59. As to the IIMM and LAW witness statements, quite apart from and in addition to the fact that Myanmar does not recognize the IIMM, these should not be given any significant evidential

²¹³ *Croatia Genocide*, 2015 Judgment, pp. 77-78, para. 196; also *Ukraine v. Russia*, 2024 Judgment, p. 154, para. 177; *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)* and *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, Judgment, I.C.J. Reports 2015 (II), p. 701, para. 83; *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, Judgment, I.C.J. Reports 2007 (I), p. 731, para. 244.

²¹⁴ *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)*, Judgment, I.C.J. Reports 2022 (I), pp. 301, 349, paras. 68, 218; *Armed Activities (Reparations)*, 2022 Judgment, p. 63, para. 147; *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, Judgment, I.C.J. Reports 2007 (I), p. 731, para. 244; *Armed Activities*, 2005 Judgment, p. 203, para. 65.

²¹⁵ *Croatia Genocide*, 2015 Judgment, p. 78, para. 196; *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)* and *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, Judgment, I.C.J. Reports 2015 (II), p. 701, para. 83.

weight, given, first, the lack of neutrality of these organizations; second, the almost complete anonymity of the IIMM witness statements and the remaining significant anonymity of the LAW witness statements; third, the fact that the reasons for anonymity are not adequately justified; fourth, the circumstance that the body of material relied on by The Gambia as a whole is overwhelmingly anonymous; fifth, in the case of witnesses in camps in Bangladesh, the pervasive influence of ARSA in the camps; sixth, the fact that the witnesses in Bangladesh themselves cannot be considered to be disinterested.

60. Mr President, Members of the Court, I need not speak in detail about the witness statements of persons other than those in the camps in Bangladesh. They are addressed in detail in Myanmar's written pleadings, to which The Gambia provides no substantive response.

61. Christina Lamb²¹⁶, Alex Crawford and Neville Lazarus²¹⁷ give hearsay evidence about what they were told by others in Bangladesh and Myanmar. Jonathan Head²¹⁸ gives hearsay evidence of what he was told by others in Myanmar, and expresses mere opinions on certain things he witnessed. None of these witnesses personally witnessed any atrocities being committed. Nor did Andrew Riley, who gave one of the IIMM witness statements²¹⁹.

62. The Gambia also claims to have evidence from a number of defectors or deserters from the military²²⁰. However, this material also lacks evidential weight. Apart from anything else, it is not possible to know whether the claimed defectors are in fact the persons they claim to be, or whether they were actually in northern Rakhine State at the time of the events²²¹. Furthermore, military defectors will have some grievance with the military and it cannot be assumed, unquestioningly, that the reasons stated by a "defector" for deserting from military service are true. In the case of an anonymous defector, the reasons for defection cannot be tested²²². The evidential deficiencies of the

²¹⁶ CMM, para. 7.119-7.121; RM, para. 7.103.

²¹⁷ CMM, para. 7.122-7.127; RM, para. 7.104.

²¹⁸ CMM, para. 7.128-7.131; RM, para. 7.105-7.112.

²¹⁹ IIMM, Witness Statement No. IIMM0001557475 (Andrew Riley), p. 28, RG, Vol. IV, Annex 48.

²²⁰ See CMM, paras. 7.101-7.118; RM, paras. 7.96-7.102; the letter to the Registrar from the Agent of Myanmar dated 15 December 2025; CR 2026/2, p. 63, para. 77 (Suleman); CR 2026/4, p. 73, para. 54 (Suleman).

²²¹ See CMM, paras. 7.110-7.118; the letter to the Registrar from the Agent of Myanmar dated 15 December 2025, para. 10 (*e*).

²²² See the letter to the Registrar from the Agent of Myanmar dated 15 December 2025, para. 10 (*d*).

video interviews of two claimed deserters from the Tatmadaw²²³ and of other witnesses²²⁴, are also set out fully in the written pleadings.

63. The witness statements, or parts of them, also lack evidential weight for other reasons recognized in the settled jurisprudence, including that they contain information that is or might be hearsay or opinion²²⁵ and are made years after the event²²⁶ — and after the institution of proceedings for purposes of the case²²⁷.

7. Conclusions

64. Mr President, Members of the Court, The Gambia avoids all serious discussion of issues of evidential weight and continues to assert simplistically that documents it relies on should be accepted as proof of whatever they say.

65. It seems The Gambia simply received documents from third parties or took them from public sources and then, unquestioningly and uncritically, annexed them to its pleadings. There is no suggestion that The Gambia undertook investigations of its own, or took steps to verify the accuracy, credibility and reliability of the information in the material received from third parties. There is no suggestion that it sought to obtain from third parties the evidence underlying their reports, or the identifies of the persons they interviewed for purposes of verifying information.

66. The Gambia effectively acknowledges that the third party reports it relies on have even less evidential weight than the FFM reports. It acknowledges this by making the FFM reports the centrepiece of its case. It states openly that it “does not rely on these [other] reports as its principal

²²³ IIMM, Witness Statement No. IIMM0001557475 (Andrew Riley), p. 28, RG, Vol. IV, Annex 48.

²²⁴ *Ibid.*

²²⁵ *Croatia Genocide, 2015 Judgment*, pp. 78-79, paras. 197, 199; *Ukraine v. Russian Federation, 2024 Judgment*, p. 154, para. 177; *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras), Judgment, I.C.J. Reports 2007 (II)*, p. 731, para. 244; *Nicaragua v. United States of America*, p. 42, para. 68; *Corfu Channel (United Kingdom v. Albania), Merits, Judgment, I.C.J. Reports 1949*, p. 17.

²²⁶ *Croatia Genocide, 2015 Judgment*, p. 78, para. 197; *Ukraine v. Russian Federation, 2024 Judgment*, p. 154, para. 177; *Armed Activities (Reparations), 2022 Judgment*, p. 63, para. 147.

²²⁷ *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia), Judgment, I.C.J. Reports 2022 (I)*, p. 349, paras. 218-219; *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua) and Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica), Judgment, I.C.J. Reports 2015 (II)*, p. 701, para. 82; *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras), Judgment, I.C.J. Reports 2007 (II)*, p. 731, para. 244.

sources of evidence, but . . . as material that corroborates and confirms the evidence contained in the two [FFM] reports”²²⁸.

67. In a different context, but one in which a similar standard of proof applies, the International Criminal Court has held that NGO reports and press articles “may be a useful introduction to the historical context”, but that they do “not usually constitute a valid substitute for the type of evidence that is required to meet the evidentiary threshold for the confirmation of charges”²²⁹. If they do not meet the threshold for confirmation of charges, *a fortiori* they cannot meet the evidentiary threshold for a final judgment on the merits.

68. As to the witness statements, when all relevant factors are considered, including the form and circumstances in which they were made, no evidential weight can be given to these either, or at least, none that could come anywhere near meeting the standard of proof required for a finding of genocide in proceedings against a sovereign State.

69. Mr President, Members of the Court, that concludes my presentation of Chapter 7. Mr President, may I now invite you to call on Ms Lawrie, who will address the subject-matter of Chapter 9 of Myanmar’s written pleadings, namely the other locations.

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

Ms LAWRIE:

III. The other locations

Introduction

1. Mr President, Madam Vice-President. Members of the Court, I follow on from Mr Blom-Cooper’s presentation on the three main locations to address 42 “other locations” where The Gambia alleges crimes were committed by Myanmar forces during counter-terrorism operations conducted in 2016 and 2017. My presentation relates to Chapter 9 of Myanmar’s written pleadings.

²²⁸ CR 2026/2, p. 28, para. 43 (Reichler).

²²⁹ RM, para. 5.71.

2. I am going to start with an apology. My presentation is going to be detailed. It is going to be detailed because a case of this significance requires a rigorous, forensic analysis of the evidence. A forensic exercise like this is more head than heart. By approaching the evidence in this analytical way, please do not think that we do not realize that the allegations in the speeches of The Gambia concern individual tragedies — unimaginable pain and suffering. But our role in these proceedings — on both sides of the Bar and for you, judges and finders of the facts — is to scrutinize the evidence, to ask hard, uncomfortable questions, to put the case to proof.

3. Of course, The Gambia does not want to look at the detail. It seems to say that to ask questions about the evidence is disrespectful of victims; it denies their suffering! It is so analytical that it borders on the shameful! That by necessarily looking at the quantitative element, Myanmar is arguing that “it is not genocide because it didn’t kill that many”. The Gambia ridicules Myanmar’s careful approach, arguing it is akin to being stung to death by single bees²³⁰. It may be, but the exercise is, unfortunately, absolutely necessary.

4. Why does The Gambia ridicule scrutiny of their evidence? We are all lawyers, after all. The reason is simple. Their case does not stand up to the scrutiny required when invoking the Genocide Convention.

5. The crux of The Gambia’s case is that the counter-terrorism operations conducted in 2016 and 2017 followed a “consistent pattern”²³¹, the same “*modus operandi*”, involving killing, extreme brutality and sexual violence in “hundreds” of Bengali villages across northern Rakhine State. From this, it asks you to draw an inference of genocidal intent. If it cannot prove this alleged consistent pattern across hundreds of villages, little if anything remains of its claim of genocide.

6. However, the evidence of this consistent pattern is just not there. The purpose of this forensic presentation is to explain why. Before getting into the detail, four headline points can be made.

7. *First*, The Gambia cannot even fix on the total number of locations it says form part of its pattern. Despite claiming that “hundreds” of villages were affected, the Memorial focuses on just three — the three main locations dealt with by Mr Blom-Cooper. According to Myanmar’s analysis,

²³⁰ CR 2026/6, p. 49, para. 3 (Sands).

²³¹ MG, paras. 5.6, 8.79, 9.3, 9.6, 10.2, 10.53, 10.55, 10.63, 10.68 (fn. 1301), 12.69, 12.88, 12.91, 12.104; RG, paras. 7.12, 7.43, 7.48, 7.50, 7.53, 9.10, 9.53, 9.57, 9.84.

the Memorial discusses events at a further 38 locations, including Kha Maung Seik, but it does so in an extremely generalized way²³². In its Reply, The Gambia adds allegations for, in essence, another four locations, given that it confuses two different villages with the same name. In its oral submissions last week, it added another location not previously expressly mentioned, and that is Nga Yant Chaung²³³. Therefore, it appears the current total is 46 locations, not the claimed “hundreds”.

8. As there were 509 locations in northern Rakhine State which were either entirely or partially inhabited by Bengalis in August 2017²³⁴, The Gambia is making allegations for less than 10 per cent of Bengali inhabited settlements in northern Rakhine State.

9. *Second*, The Gambia does not undertake the necessary analysis to support its claimed “consistent pattern”. It should be obvious that to demonstrate a consistent pattern, the evidence relating to each location must be examined individually. Once events in each location are established, they can then be compared and a judgment formed as to whether they show a pattern as between them. The Gambia does not do this. It also somewhat surprisingly argues that it is not required to do this²³⁵. This argument is clearly wrong. To prove a pattern, some sort of repetition must be established among *all* locations said to form part of the pattern otherwise a key finding in this case will be made by extrapolation alone.

10. *Third*, by not properly specifying its case, many of The Gambia’s claims are not properly anchored by an identified witness, a specific location or by any date. I am sure you remember the allegations of “tongues and hands cut off”, of “hundreds of body parts hanging from trees” and of “heads floating in the river like footballs”²³⁶. These come from two reports — one prepared by the Public International Law & Policy Group (PILPG) and the other prepared by the US State Department²³⁷. As you will see on your screen, the sources of the first two allegations taken from the PILPG report are “questionnaires”. For the other allegation, taken from the US State Department

²³² MG, para. 8.79.

²³³ CR 2026/4, p. 21, para. 6; p. 23, para. 9 (Pasipanodya).

²³⁴ The List of Population of the Communities Residing in Wards/Villages in Northern Rakhine State before 2017 ARSA Attack sent by the Ministry of Immigration and Population, RM, Vol. III, Annex 79.

²³⁵ RG, para. 9.57. See also RG, paras. 7.48 (fn. 687), 9.18 and 9.54.

²³⁶ CR 2026/4, p. 18, para. 22 (Ho).

²³⁷ The Public International Law & Policy Group, *Documenting Atrocity Crimes Committed Against the Rohingya (December 2018)*, p. 49, MG, Vol. IV, Annex 121; US Department of State, *Documentation of Atrocities in Northern Rakhine (August 2018)*, p. 12, MG, Vol. VII, Annex 194.

report, no information is given about the source. All we know is that the US investigators spoke to residents of camps in Bangladesh. This is the totality of the information we have to defend Myanmar in relation to these allegations. Now they make for dramatic sound bites but we are not here to consider sound bites. How does Myanmar, or indeed any State, positively challenge such vague allegations or call evidence to contradict them? It is impossible!

11. *Fourth*, despite not bearing the burden of proof, it is Myanmar which undertakes the necessary analysis of the evidence. As has been explained in earlier presentations, Myanmar's general contention is that the material relied on by The Gambia can be given no or no significant evidential weight. Without prejudice to that position, Myanmar's detailed location-by-location analysis demonstrates additionally that this material does not show a "consistent pattern" of atrocities in the 46 locations.

12. What this material shows is this.

- *First*, the operations were responsive — they responded to a specific threat posed by ARSA in and around each specific location.
- *Second*, the operations were focused — they were short-lived and only persisted for as long as necessary to neutralize the threat posed by ARSA.

13. Therefore, if there was any pattern of conduct, it was one of responsive, targeted and time-limited action by Myanmar's security forces initiated only and in response to the undisputed violence of the terrorist organization, ARSA.

14. As I have explained, The Gambia's allegations relate to a total of 46 locations. Mr Blom-Cooper has addressed three of those in his presentation this morning. Kha Maung Seik was addressed in my presentation on ARSA on Friday. I will now address the remaining 42 locations in turn.

15. My review of these locations will be broken up into three parts. The first will examine the evidence in relation to the six locations that were the subject of the specific examination by the FFM in its 2018 report. The second part will examine the 11 locations which only concern crimes allegedly committed in 2016. The third part will examine the remaining 25 locations mentioned in The Gambia's Memorial, Reply and oral submissions.

Location-by-location analysis

1. Gu Dar Pyin

16. The first location is Gu Dar Pyin in Buthidaung Township.

17. The evidence shows this.

18. In August 2017, ARSA was present in this village — a fact conceded by The Gambia²³⁸. There were only two consecutive days of counter-terrorism operations, all responding to ARSA's violence. The military first engaged with ARSA shortly before midnight on 26 August 2017²³⁹, and again on 28 August when security forces came under attack from 500 ARSA terrorists²⁴⁰. No evidence supports The Gambia's claim that all ARSA terrorists had left when the military was conducting its operations there²⁴¹.

19. ARSA's violence in the area was not confined to Gu Dar Pyin. On 27 August 2017, a warning about a possible ARSA attack on neighbouring Kyauk Sar Taing caused the predominantly Rakhine villagers to flee²⁴². Explosions were subsequently heard nearby including in Tha Yet Taung; as was gunfire involving soldiers and armed Bengali²⁴³.

20. The available evidence contradicts The Gambia's case theory that the military was pursuing a pattern from which genocidal intent can be inferred. For example, The Gambia simply ignores three IIMM witnesses.

21. P1548 says that, in the aftermath of the August 2017 operations, villagers from neighbouring Hpoe Khaung Chaung were detained by the military during a search for Gu Dar Pyin residents, and then released without incident, after being warned against providing shelter to outsiders²⁴⁴. His statement says: "The military did not do anything to the Rohingya of Hpoe Khaung

²³⁸ RG, para. 7.120.

²³⁹ Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. (239/2017), 27 August 2017, p. 5, para. (6), CMM, Vol. IV, Annex 119.

²⁴⁰ Ministry of Home Affairs, Terrorists Attacks, para. 11 (iii), CMM, Vol. IV, Annex 148; Ministry of Defence, Table of the Clash, p. 16, Item no. 6, CMM, Vol. IV, Annex 149; Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. (241/2017), 29 August 2017, pp. 9-10, paras. (6), F, CMM, Vol. IV, Annex 123.

²⁴¹ RG, para. 7.130.

²⁴² Amnesty International, *Destroy Everything*, p. 79, MG, Vol. IV, Annex 112; Myanmar Defence Services, Western Command Headquarters, Aung Yan Naing Operation Report No. (241/2017), 29 August 2017, p. 8, para. A, CMM, Vol. IV, Annex 123.

²⁴³ Amnesty International, *Destroy Everything*, p. 79, MG, Vol. IV, Annex 112.

²⁴⁴ IIMM, Witness Statement No. IIMM0027997604, para. 116, RG, Vol. IV, Annex 60.

Chaung, and there were many other Rohingya villages that were not harmed.”²⁴⁵ Another individual, P0806, speaks about Bengali from Gu Dar Pyin being arrested on suspicion of involvement in the October 2016 attacks²⁴⁶, and of the presence of armed villagers and attacks on soldiers in August 2017²⁴⁷. P1547 recounts that, during her journey from Gu Dar Pyin to Bangladesh, her group was stopped by the military without incident²⁴⁸.

22. No allegation that any sexual violence was committed in Gu Dar Pyin is made in the Memorial. The belated allegations made in the Reply emanate from the FFM and Amnesty International²⁴⁹, which lack evidential weight for the reasons already given²⁵⁰. The two other sources relied on by The Gambia do not assist it. The incident described in Witness Statement 040 occurred at a location nearly 12 hours’ walk away²⁵¹ and the two incidents described by P1550 occurred before the counter-terrorism operations²⁵². They cannot be part of any purported “pattern of conduct”.

23. Two further sources before the Court undermine the claim that sexual violence was committed in Gu Dar Pyin. P0806 states that he neither saw nor heard any accounts of the abduction or rape of women by the “authorities”²⁵³. P1548 states that he did not witness or learn of any incidents of rape in Gu Dar Pyin in August 2017, and admits he lied when he said in a previous interview that he had seen someone being raped there²⁵⁴.

²⁴⁵ *Ibid.*, para. 117, RG, Vol. IV, Annex 60.

²⁴⁶ IIMM, Witness Statement No. IIMM0019627993, para. 35, RM, Vol. IV, Annex 129.

²⁴⁷ *Ibid.*, paras. 43, 48. See also Witness Statement U Yaw Shee, 15 May 2019, p. 1, RM, Vol. III, Annex 103; Witness Statement of Marmmad Armain, 15 May 2019, p. 1, RM, Vol. III, Annex 102.

²⁴⁸ IIMM, Witness Statement No. IIMM0019629302, paras. 80-82, RM, Vol. IV, Annex 134. See also IIMM, Witness Statement No. IIMM0027997604, paras. 121-126, RG, Vol. IV, Annex 60.

²⁴⁹ RG, paras. 7.125 and 7.127, referring to 2018 FFM Detailed Findings, paras. 826, 931 and 935, MG, Vol. II, Annex 40; and Amnesty International, *Destroy Everything*, p. 92, MG, Vol. IV, Annex 112.

²⁵⁰ CMM, para. 9.20. The 2018 FFM Detailed Findings refer to four anonymous sources (EI-078, EI-079, EI-080, K-151) and the Amnesty International Report refers to two anonymous sources (C.R. and M.J.).

²⁵¹ Legal Action Worldwide, Witness Statement No. 040, paras. 84-119, RG, Vol. IV, Annex 64.

²⁵² IIMM, Witness Statement No. IIMM0019629265, paras. 42, 44, RG, Vol. IV, Annex 53.

²⁵³ IIMM, Witness Statement No. IIMM0019627993, para. 75, RM, Vol. IV, Annex 129.

²⁵⁴ IIMM, Witness Statement No. IIMM0027997604, para. 108, RG, Vol. IV, Annex 60.

24. In terms of the suspected death toll, in 2017, the location had a Bengali population of some 6,300²⁵⁵. The FFM suggests an unverified figure of 243 fatalities²⁵⁶, while P0806 names 53 persons, overwhelmingly males, as having died²⁵⁷. Other evidence records that approximately 15 people died during armed engagements²⁵⁸. All these figures are a small proportion of the population. No indication is given in any of these estimates as to the numbers killed who were not taking part in the clashes.

2. Ah Lel Than Kyaw

25. The second location is Ah Lel Than Kyaw in Maungdaw Township.

26. The evidence shows this.

27. In the early hours of 25 August 2017, ARSA launched two attacks on border guard police posts in the village tract²⁵⁹. The attacks involved “hundreds of terrorists” and resulted in some 17 terrorists being killed, along with a Deputy Township Immigration Officer²⁶⁰.

28. No mention is made of this ARSA attack in The Gambia’s Memorial, or by 15 out of the 16 individuals whose alleged eyewitness accounts are relied on by The Gambia for this location²⁶¹, or in the solitary signed witness statement produced by The Gambia for this location²⁶². This undermines the credibility of these witnesses, since they cannot have been unaware of the ARSA attack or its materiality.

²⁵⁵ Myanmar, Ministry of Immigration and Population, List of population in all the administrative villages and villages tracts of Maungdaw Township, Buthidaung Township, Rathedaung Township, information provided for: Before 2017 ARSA Attack, and 30 June 2023 (“Ministry of Immigration and Population, List of population”), p. A21, No. 55, CMM, Vol. IX, Annex 465.

²⁵⁶ 2018 FFM Detailed Findings, para. 833, MG, Vol. II, Annex 40.

²⁵⁷ IIMM, Witness Statement No. IIMM0019627993, paras. 77-78, RM, Vol. IV, Annex 129.

²⁵⁸ Witness Statement of Marmmad Aru, 15 May 2019, p. 1, RM, Vol. III, Annex 104.

²⁵⁹ 2018 FFM Detailed Findings, para. 866, MG, Vol. II, Annex 40; Ministry of Home Affairs, Terrorists Attacks, para. 8 (xxiv), CMM, Vol. IV, Annex 148; Ministry of Defence, Table of the Clash, p. 3, Item no. 19, CMM, Vol. IV, Annex 149.

²⁶⁰ Ministry of Home Affairs, Terrorists Attacks, para. 8 (xxiv), CMM, Vol. IV, Annex 148; Ministry of Defence, Table of the Clash, p. 3, Item no. 19, CMM, Vol. IV, Annex 149; 2018 FFM Detailed Findings, para. 866, MG, Vol. II, Annex 40.

²⁶¹ 2018 FFM Detailed Findings, paras. 865–870, MG, Vol. II, Annex 40: CI-129, CI-192, LI-111, LI-112, ZI-006, XI-008, V-083, BI-012, CI-013, CI-039, CI-065, CI-187, LI-068, CI-035, QI-116, YI-010.

²⁶² Legal Action Worldwide, Witness statement No. 016, MG, Vol. XI, Annex 353.

29. There is no claim that sexual violence was committed in this location, a conclusion not contradicted by the FFM²⁶³.

30. In August 2017 the population of this village tract was some 11,500, the majority Bengali²⁶⁴. The FFM mentions an unverified figure of up to 77 fatalities²⁶⁵. No further detail as to the identity of, or circumstances in which, these persons were killed is provided. This figure is also a very small percentage of the population.

3. Myin Hlut

31. The third location is Myin Hlut.

32. The evidence shows this.

33. At around 3 a.m. on 25 August 2017, ARSA attacked this location, killing two police officers²⁶⁶.

34. The security forces arrived later that morning, having been requested to attend to protect the local population from violence²⁶⁷.

35. No mention is made of this ARSA attack in The Gambia's Memorial, or by the individuals whose alleged eyewitness accounts are relied on by The Gambia for this location²⁶⁸, or in the solitary signed witness statement produced by The Gambia for this location²⁶⁹.

36. The Gambia's Memorial makes no mention of sexual violence in Myin Hlut²⁷⁰. In its Reply, The Gambia relies on a passage from an FFM report quoted by Myanmar in its Counter-

²⁶³ RM, paras. 9.47-9.49.

²⁶⁴ Ministry of Immigration and Population, List of population, p. A10, No. 74, CMM, Vol. IX, Annex 465.

²⁶⁵ 2018 FFM Detailed Findings, para. 869, MG, Vol. II, Annex 40.

²⁶⁶ 2018 FFM Detailed Findings, para. 857, MG, Vol. II, Annex 40; Ministry of Home Affairs, Terrorists Attacks, para. 8 (xxviii), CMM, Vol. IV, Annex 148. See also Ministry of Defence, Table of the Clash, p. 3, Item no. 18, CMM, Vol. IV, Annex 149; Myanmar Defence Services, No. (15) Mobile Operation Command Headquarters, Zwe Man Hone Operation, Daily Operation Report No. (238/2017), 25 August 2017, p. 3 (10), CMM, Vol. IV, Annex 114.

²⁶⁷ See Witness Statement of Ma Soe Soe, 24 October 2017, p. 1, RM, Vol. III, Annex 91; Myanmar Defence Services, No. (15) Mobile Operation Command Headquarters, Zwe Man Hone Operation, Daily Operation Report No. (238/2017), 25 August 2017, p. 3 (10), CMM, Vol. IV, Annex 114.

²⁶⁸ 2018 FFM Detailed Findings, paras. 856-864.

²⁶⁹ Legal Action Worldwide, Witness Statement No. 44, RG, Vol. IV, Annex 69.

²⁷⁰ CMM, para. 9.34.

Memorial about a single hearsay allegation of rape²⁷¹. Whether or not that incident occurred, it is not evidence of a “pervasive pattern” of genocidal sexual violence of the kind alleged by The Gambia.

37. In August 2017, the population of the village tract was 16,837²⁷². The FFM mentions an unverified figure of up to 70 fatalities²⁷³. Again, no further detail is provided including whether any person was a civilian who had been deliberately targeted. Again, the figure constitutes a very small percentage of the population.

4. Kyauk Pan Du

38. The fourth location is Kyauk Pan Du.

39. The evidence shows this.

40. In the early hours of 25 August 2017, ARSA attacked the border guard police camp in Kyauk Pan Du²⁷⁴. ARSA also destroyed a bridge at the location²⁷⁵. In response, the military arrived on 28 August to reinforce the police outpost. They were later confronted by about 30-40 terrorists²⁷⁶. None of this highly relevant context is mentioned by The Gambia or by the witnesses relied on by the FFM for this location.

41. The only evidential source relied on for alleged killings and sexual violence at this location is the FFM. For the reasons already discussed, no evidential weight can be given to these anonymous, hearsay, untested summaries.

42. The FFM mentions an unverified figure of 38 fatalities at this location²⁷⁷. This is a very small percentage of a total population of 7,460²⁷⁸. But the figure is of little evidential value when no information is given about the identities of the deceased — were they police, terrorists, civilians — or the circumstances of their deaths.

²⁷¹ RG, para. 7.101.

²⁷² Ministry of Immigration and Population, List of population, pp. A1-A2, No. 3, CMM, Vol. IX, Annex 465.

²⁷³ 2018 FFM Detailed Findings, para. 864, MG, Vol. II, Annex 40.

²⁷⁴ *Ibid.*, para. 846, MG, Vol. II, Annex 40.

²⁷⁵ *Ibid.*, para. 846, MG, Vol. II, Annex 40.

²⁷⁶ Ministry of Defence, Table of the Clash, p. 16, Item No. 5, CMM, Vol. IV, Annex 149; Myanmar Defence Services, No. (15) Mobile Operation Command Headquarters, Zwe Man Hone Operation, Daily Operation Report No. (241/2017), 28 August 2017, p. 5 (10), CMM, Vol. IV, Annex 121.

²⁷⁷ 2018 FFM Detailed Findings, para. 864, MG, Vol. II, Annex 40.

²⁷⁸ Ministry of Immigration and Population, List of population, p. A11, No. 83, CMM, Vol. IX, Annex 465.

5. Koe Tan Kauk/Chein Khar Li

43. The fifth location comprises the neighbouring villages of Koe Tan Kauk and Chein Khar Li.

44. The evidence shows this.

45. ARSA activity in Koe Tan Kauk goes back to at least 9 October 2016 when the police station was the target of one of three co-ordinated ARSA attacks on security forces across Rakhine State. This understandably resulted in an increased military presence in the area²⁷⁹.

46. Similar violence but on a larger scale occurred in 2017. Both Koe Tan Kauk and Chein Khar Li were the scene of repeated ARSA attacks between 25 and 28 August 2017, involving hundreds of armed terrorists confronting the military²⁸⁰. These clashes were triggered by the simultaneous ARSA attacks on the border guard police stations in both villages in the early hours of 25 August.

47. This context is relevant to assessing material such as the FFM report which states that in Chein Khar Li “many people were shot when fleeing”²⁸¹. Given that the military were responding to an ARSA attack in this location, it is plausible that some of these people had been participating in the violence. But, like the FFM, The Gambia does not distinguish between ARSA and civilian casualties.

48. The reality is that the evidence relied on by The Gambia for these two locations is not sufficient to discharge its high burden of proof. Save for one signed statement, it consists of anonymous, hearsay, untested summary allegations²⁸². The solitary statement — signed seven years after events and made specifically for these proceedings²⁸³ — is not sufficient either. Anonymity was lifted less than two months before these hearings, so late that no meaningful investigation could be undertaken²⁸⁴, and it remains untested.

²⁷⁹ 2018 FFM Detailed Findings, para. 835, MG, Vol. II, Annex 40.

²⁸⁰ CMM, paras. 9.47-9.57; Witness Statement of Police Major Wai XXXXX, 24 October 2017, pp. 1-2, RM, Vol. III, Annex 92.

²⁸¹ 2018 FFM Detailed Findings, para. 837, MG, Vol. II, Annex 40.

²⁸² *Ibid.*, paras. 837, 841, MG, Vol. II, Annex 40; Amnesty International, *Destroy Everything*, p. 77, MG, Vol. IV, Annex 112; Legal Action Worldwide, Collated Information from Victims/Witnesses, Statement CK0254, Statement CK0307, Statement CK0343, Statement CK0557, MG, Vol. X, Annex 336.

²⁸³ Legal Action Worldwide, Witness Statement No. 043, 2 May 2024, RG, Vol. IV, Annex 68.

²⁸⁴ Letter of the Agent of The Gambia dated 19 November 2025.

49. The two allegations of rape noted by the FFM are also the product of anonymous hearsay²⁸⁵. Even if this evidence were accepted without question, two isolated incidents in different villages clearly do not support The Gambia's claim of "pervasive sexual violence".

50. In August 2017, this village tract had a population of 10,492 Bengalis²⁸⁶. The FFM suggests an unverified figure of "more than 180" fatalities²⁸⁷, while Amnesty suggests at least 66 people died²⁸⁸. No attempt is made by either source to identify whether any or all of the deceased were not legitimate targets. In any event, the figures amount to a very small percentage of the total population.

6. Inn Din

51. The sixth location is Inn Din.

52. The evidence shows this.

53. On 25 August 2017, ARSA attacked police posts in two villages adjacent to Inn Din. The first attack occurred in Thin Baw Kway, a village to the north²⁸⁹, at around 3.45 a.m. The second attack occurred in Tha Win Chaung, a village to the south²⁹⁰, at about 4.50 a.m.²⁹¹. Four days later, on 29 August, 30 terrorists attacked Inn Din²⁹². Counter-terrorism operations were undertaken in response to these attacks²⁹³.

54. No mention of ARSA's activities in this area is made by The Gambia.

55. Instead, it focuses on conduct which is undeniably criminal but irrelevant to a claim of genocide. On 1 September 2017, ten men were killed by Myanmar Defence Service personnel²⁹⁴. Following an investigation, the Myanmar Defence Services admitted that its troops had been

²⁸⁵ 2018 FFM Detailed Findings, para. 841, MG, Vol. II, Annex 40.

²⁸⁶ Ministry of Immigration and Population, List of population, pp. A25-A26, No. 34, CMM, Vol. IX, Annex 465.

²⁸⁷ 2018 FFM Detailed Findings, para. 843, MG, Vol. II, Annex 40.

²⁸⁸ Amnesty International, *Destroy Everything*, pp. 77-78, MG, Vol. IV, Annex 112.

²⁸⁹ Ministry of Defence, Table of the Clash, p. 2, Item No. 8, CMM, Vol. IV, Annex 149.

²⁹⁰ 2018 FFM Detailed Findings, para. 871, MG, Vol. II, Annex 40. Ministry of Defence, Table of the Clash, p. 3, Item No. 21, CMM, Vol. IV, Annex 149.

²⁹¹ Amnesty International, *Destroy Everything*, p. 81, MG, Vol. IV, Annex 112. See also Ministry of Defence, Table of the Clash, p. 2, Item No. 8, and p. 3, Item No. 21, CMM, Vol. IV, Annex 149; Ministry of Home Affairs, Terrorists Attacks, para. 8 (xviii), CMM, Vol. IV, Annex 148.

²⁹² Ministry of Home Affairs, Terrorists Attacks, para. 12, CMM, Vol. IV, Annex 148.

²⁹³ Amnesty International, *Destroy Everything*, pp. 81-82, MG, Vol. IV, Annex 112.

²⁹⁴ *Ibid.*, pp. 83-84, MG, Vol. IV, Annex 112.

involved, and that the rules of engagement had been broken²⁹⁵. The “clear motive behind the killing” was identified as retribution for the murder of a local Rakhine man by Bengalis²⁹⁶. The available evidence, therefore, shows that this incident was not perpetrated with genocidal intent.

56. The single allegation of rape for this location also does not fit The Gambia’s narrative of “pervasive sexual violence”²⁹⁷.

57. Nor do the number of suspected fatalities fit. Amnesty International suggests at least 17 fatalities, including the 10 killed on 1 September 2017²⁹⁸. No indication is given as to whether the other 7 fatalities were the result of unlawful violence.

58. Drawing my analysis of these locations to a close. The FFM considered that the three main locations plus these additional six locations were the “[m]ost serious incidents”²⁹⁹. Yet none of them provide evidence of The Gambia’s pattern. In relation to the six I have just analysed, there is no evidence of “pervasive” sexual violence. Specifically, no allegations of sexual violence are made for one location and single allegations of rape are made for four.

59. I move now to analyse the 11 locations which only concern events in 2016. These are locations seven to seventeen.

7-8. Doe Tan and Nga Khu Ya

60. Locations seven and eight are Doe Tan and Nga Khu Ya. Given their proximity, they are analysed together.

61. The evidence shows this.

²⁹⁵ *Myawady Newspaper*, “10 unidentified dead bodies found in Inn Din Village Cemetery, Mawdaw Township and launch investigations”, 20 December 2017 [in Myanmar, with English translation], CMM, Vol. IX, Annex 416; Tatmadaw True News Information Team, “Tatmadaw investigation team issues statement on findings of discovery of unidentified bodies in Inn Din Village cemetery in Mawdaw Township”, *Myawady in English*, 11 January 2018, CMM, Vol. IX, Annex 417; Lun Min Mang, “Tatmadaw probe found soldiers responsible in Inn Din village killings”, *Myanmar Times*, 11 January 2018, p. 1, MG, Vol. IX, Annex 274.

²⁹⁶ Amnesty International, *Destroy Everything*, p. 84, MG, Vol. IV, Annex 112; Wa Lone, Kyaw Soe Oo, S. Lewis and A. Slodkowski, “Massacre in Myanmar: How Myanmar forces burned, looted and killed in a remote village”, Reuters, 8 February 2018, p. 12, MG, Vol. IX, Annex 279.

²⁹⁷ 2018 FFM Detailed Findings, para. 928, MG, Vol. II, Annex 40.

²⁹⁸ Amnesty International, *Destroy Everything*, p. 84, MG, Vol. IV, Annex 112.

²⁹⁹ 2018 FFM Detailed Findings, paras. 755-879, MG, Vol. II, Annex 40.

62. On 9 October 2016, the police station in Nga Khu Ya was the target of one of the three co-ordinated ARSA attacks on security forces across Rakhine State³⁰⁰. Events, especially those the following day on 10 October, must fairly be considered against this background. They are clearly responsive rather than unprovoked.

63. Doe Tan and Nga Khu Ya feature once in the Memorial³⁰¹. The material for Nga Khu Ya is a single sentence that an elderly woman was assaulted by soldiers³⁰². No date or further detail is provided.

64. The material for Doe Tan is similarly skeletal; an anonymous witness's account of being shot and their father being killed on 10 October³⁰³. No explanation is given about how the father died or who killed him. It can be deduced that both allegations relate to 2016.

65. Myanmar draws the Court's attention to a purported sexual assault in Doe Tan reported by the FFM³⁰⁴, which also appears to date from 2016³⁰⁵. This allegation relates solely to an invasive search for valuables.

66. In its Reply, The Gambia fails to mention Nga Khu Ya at all. Whereas Doe Tan is identified as a village that was "completely destroyed"³⁰⁶. But no evidence is provided about when this destruction is said to have occurred or who was responsible.

67. Taking this skeletal evidence at its highest — an assault, a single death and an invasive search for valuables — it does not support the existence of a "consistent pattern of conduct" involving allegations of extreme brutality repeated throughout northern Rakhine State.

9. Ngar Sar Kyu

68. The ninth location is Ngar Sar Kyu. This village is located close to Doe Tan and Nga Khu Ya and, again, only concerns crimes allegedly committed in 2016.

³⁰⁰ International Crisis Group, *New Muslim Insurgency*, p. 6, CMM, Vol. VII, Annex 296; A. Ware and C. Laoutides, *Myanmar's "Rohingya" Conflict* (2018), pp. 48-49, CMM, Vol. III, Annex 72; Myanmar News Agency, "Security Tightened: Nine policemen killed, five injured, one missing in border attacks", *The Global New Light of Myanmar*, 10 October 2016, pp. 1 and 3, CMM, Vol. VIII, Annex 366.

³⁰¹ MG, paras. 8.14 and 9.71.

³⁰² MG, para. 8.71.

³⁰³ MG, para. 8.14.

³⁰⁴ CMM, para. 9.92, citing to 2018 FFM Detailed Findings, para. 1095, MG, Vol. II, Annex 40.

³⁰⁵ 2018 FFM Detailed Findings, p. 255, MG, Vol. II, Annex 40.

³⁰⁶ RG, para. 9.57, fn. 1109.

69. The evidence shows this.

70. An ARSA bomb-making factory was located in the village in 2016. On 7 October, an explosive device accidentally detonated in the village, causing ARSA to launch its attacks on 9 October (including in neighbouring Nga Khu Ya) ahead of schedule³⁰⁷.

71. One allegation is made for Ngar Sar Kyu. It arises from an anonymous account in a February 2017 UN report that a house was burned, resulting in the death of a child who was left behind. No further information is provided, not even a date³⁰⁸.

72. The deficiencies in the value of this evidence are obvious. But, even at its highest, this incident does not fit into The Gambia's claimed common *modus operandi*.

73. This location is not mentioned at all by The Gambia in its Reply³⁰⁹. However, it was mentioned in the oral hearings last week as a location where women of reproductive age were targeted³¹⁰. Having checked the underlying material relied upon, this anonymous hearsay allegation was made by a witness *from* Ngar Sar Kyu but relates to an incident in the next location to be considered, Kyet Yoe Pyin³¹¹. The Gambia may dismiss this analysis as “nit-picking” but identifying the correct location is important when what is at issue is determining whether a pattern covering various locations exists or not.

10. Kyet Yoe Pyin

74. The tenth location is Kyet Yoe Pyin — a village located to the south of Ngar Sar Kyu.

75. The violence alleged by The Gambia for this village relates to activity by the military around 12 October 2016³¹², and focuses mainly on sexual violence³¹³.

76. Events in this village are tied to ARSA's activities on 7 and 9 October in the neighbouring villages of Nga Khu Ya and Ngar Sar Kyu, which I have just described. Despite the relevance of

³⁰⁷ International Crisis Group, *New Muslim Insurgency*, p. 16, CMM, Vol. VII, Annex 296.

³⁰⁸ OHCHR, *Flash Report*, p. 17, MG, Vol. II, Annex 30.

³⁰⁹ RM, para. 9.107.

³¹⁰ CR 2026/4, p. 23, para. 9 (Pasipanodya).

³¹¹ UN OHCHR, *Report of OHCHR mission to Bangladesh: Interviews with Rohingyas fleeing from Myanmar since 9 October 2016: FLASH REPORT* (3 Feb. 2017), p. 18. MG, Vol. II, Annex 30.

³¹² Amnesty International, *Breaking Point*, p. 32, MG, Vol. IV, Annex 97.

³¹³ MG, paras. 9.20 and 9.33.

these attacks to what subsequently occurred, no mention is made of them by The Gambia, nor, it would appear, by the individuals on who The Gambia relies. This omission affects their credibility.

77. The evidence relied on by The Gambia for this location is exclusively untested, anonymous, hearsay summaries taken from UN and NGO reports³¹⁴. For the reasons already discussed, no evidential weight can be given to these sources.

78. The Gambia also provides no evidence about fatalities — the reference to “at least 20 dead bodies scattered in a field” does not assist when it is not known if any of the dead were actively engaged in the ARSA attacks³¹⁵. In any event, 20 is a very small percentage of a total population of 8,259 in 2016³¹⁶.

79. This is another location which is not mentioned at all in The Gambia’s Reply³¹⁷.

11. Pwint Hpyu Chaung

80. The eleventh location is Pwint Hpyu Chaung.

81. The evidence shows this.

82. Following the 9 October 2016 ARSA attacks, the FFM narrates that soldiers went to this village “twice to look for ‘bad people’”³¹⁸. On 11 November 2016, soldiers detained local men before releasing them. Later that day local men were again detained and then taken to prison. Neither detentions nor the search for “bad people” fit with an intent to destroy.

83. On 12 November 2016, the Myanmar Defence Services clashed with ARSA terrorists near Pwint Hpyu Chaung; one soldier was killed and several were wounded; six terrorists reportedly died³¹⁹. There is no mention of this relevant context by The Gambia.

³¹⁴ FFM, *Report of the Detailed Findings* (2018), para. 1092. MG, Vol. II, Annex 40; UN OHCHR, Flash Report (2017), pp. 18, 26. MG, Vol. II, Annex 30; Fortify Rights, *They Gave Them Long Swords* (2018), pp. 60, 145, 149. MG, Vol. IV, Annex 114.

³¹⁵ MG, para. 8.49, citing to Fortify Rights, *They Gave Them Long Swords* (2018), p. 60. MG, Vol. IV, Annex 114.

³¹⁶ Ministry of Immigration and Population, List of population, p. A5, No. 26, CMM, Vol. IX, Annex 465.

³¹⁷ RM, para. 9.109.

³¹⁸ 2018 FFM Detailed Findings, para. 1074, MG, Vol. II, Annex 40.

³¹⁹ Amnesty International, *Breaking Point*, p. 18, MG, Vol. IV, Annex 97; International Crisis Group, *New Muslim Insurgency*, p. 9, CMM, Vol. VII, Annex 296; *Myawady*, “One officer, one soldier dead, several injured in fighting continuously erupts in Rakhine”, *The Global New Light of Myanmar*, 13 November 2016, CMM, Vol. VIII, Annex 371.

84. Serious allegations of killing, rape and burning are made in respect of this location³²⁰ but the sources are exclusively untested, anonymous, hearsay summaries taken from the UN and NGO reports³²¹. For the reasons already discussed, no evidential weight can be given to these sources.

85. The Gambia's Reply contains no mention of Pwint Hpyu Chaung³²².

12. U Shey Kya

86. The twelfth location is U Shey Kya. This is another 2016-only location.

87. The evidence shows this.

88. In early September 2016, the identities of eight local ARSA members were revealed to the police by two informers in U Shey Kya. The ARSA members were arrested on 12 September³²³. On 30 September, ARSA reportedly killed the two informers, which led to police raids and arrests in the area.

89. Absent this relevant context, The Gambia refers to only two incidents in this location³²⁴. The first concerns an anonymous allegation that on an undated occasion soldiers rounded up elderly people outside a mosque and beat them³²⁵. Omitted from The Gambia's summary is that the soldiers were constantly asking, "Where are you hiding weapons? Where are the armed insurgents? Show us the weapons, or we will kill you all"³²⁶. Taking this allegation at its highest, it is clear from this fuller account that the security forces were engaged in security operations, directed at the threat posed by armed terrorists.

³²⁰ MG, paras. 8.58, 8.64, 8.67 and 9.19.

³²¹ FFM, *Report of the Detailed Findings* (2018), paras. 1073-1082. MG, Vol. II, Annex 40; UN OHCHR, *Flash Report* (2017), MG, Vol. II, Annex 30; Fortify Rights, *They Gave Them Long Swords* (2018), MG, Vol. IV, Annex 114; Amnesty International, *Breaking Point*, MG, Vol. IV, Annex 97; International Crisis Group, *New Muslim Insurgency*, CMM, Vol. VII, Annex 296.

³²² RM, para. 9.113.

³²³ International Crisis Group, *New Muslim Insurgency*, p. 16, CMM, Vol. VII, Annex 296.

³²⁴ MG, paras. 8.72, 8.76.

³²⁵ MG, para. 8.72; OHCHR, *Flash Report*, p. 26, MG, Vol. II, Annex 30.

³²⁶ UN Office of the High Commissioner for Human Rights, *Report of OHCHR mission to Bangladesh: Interviews with Rohingyas fleeing from Myanmar since 9 October 2016: Flash Report*, 3 February 2017, p. 26, MG, Vol. II, Annex 30.

90. The second allegation concerns an anonymous, hearsay account of an assault on a pregnant woman by soldiers, resulting in a miscarriage³²⁷. No further detail is provided. The source of this allegation is a woman *from* U Shey Kya. It is unclear if the incident occurred there.

91. The source for both allegations indicates that they relate to events in October or November 2016³²⁸.

92. The only other allegations for this location are identified by Myanmar and relate to what appear to be improper/inappropriate invasive searches for valuables reported by the FFM and the United Nations, rather than the “extreme” sexual violence alleged by The Gambia³²⁹. None of the allegations for this location support the existence of a common *modus operandi*.

13. Myaw Taung

93. Location 13 is Myaw Taung.

94. Given it is located a few kilometres away from locations 8, 9, 11 and 12, which I’ve just discussed, military operations in this location must be understood against the backdrop of the terrorist activity in the surrounding area in late 2016.

95. Two anonymous witnesses allege that they were raped in Myaw Taung³³⁰. The allegations are contained in untested, anonymous, hearsay accounts given to a journalist and the United Nations³³¹. Neither account is corroborated. Neither account is dated, but the underlying sources indicate that they likely relate to autumn 2016. For the reasons already discussed, no evidential weight can be given to these sources.

96. Not a single witness interviewed by the FFM refers to events in Myaw Taung, let alone to acts of unlawful homicide, physical assault or sexual violence.

³²⁷ MG, para. 8.76; OHCHR, *Flash Report*, p. 26, MG, Vol. II, Annex 30.

³²⁸ OHCHR, *Flash Report*, p. 26, MG, Vol. II, Annex 30.

³²⁹ 2018 FFM Detailed Findings, para. 1095, MG, Vol. II, Annex 40; OHCHR, *Flash Report*, pp. 24-25, MG, Vol. II, Annex 30.

³³⁰ MG, paras. 9.38 and 9.39.

³³¹ Witness Statement of Christina Lamb, p. 6, MG, Vol. XI, Annex 371; OHCHR, *Flash Report*, MG, Vol. II, Annex 30, p. 28.

97. Nothing at this location supports the contention that the Myanmar Defence Services were pursuing a “consistent pattern of conduct” involving the same acts of brutality, repeated in village after village. The weakness of The Gambia’s allegations for this location is evidenced by the fact that its Reply contains no mention of this location at all³³².

14. Yae Khat Chaung Gwa Son

98. The fourteenth location is Yae Khat Chaung Gwa Son.

99. The evidence shows this.

100. Serious armed clashes between the Myanmar Defence Services and large numbers of ARSA terrorists and their supporters occurred in and around this location in November 2016³³³. These clashes were linked to those in Pwint Hpyu Chaung as the attackers retreated to this village. During these attacks, several soldiers were shot, including at least one fatally. Yae Khat Chaung Gwa Son was the scene of mass arrests of Bengali males in November 2016³³⁴, a fact in line with counter-terrorism measures and not with the conduct of a genocidal campaign.

101. Again, stripped of context, The Gambia scatters fragmented allegations throughout its Memorial for this location³³⁵. The resulting picture is confused and certainly not one capable of showing a “consistent pattern”. In essence undated allegations of murder, rape and burning are made which stem from anonymous, untested, hearsay summaries within various reports. The underlying sources indicate that some of the allegations can be dated to 2016³³⁶. For the reasons already discussed, no evidential weight can be given to these sources.

Mr President, I note the time. I am not sure if this would be a convenient moment to take the lunch break?

³³² RM, para. 9.117.

³³³ International Crisis Group, *New Muslim Insurgency*, pp. 9-10, CMM, Vol. VII, Annex 296; Amnesty International, *Breaking Point*, p. 18, MG, Vol. IV, Annex 97.

³³⁴ Fortify Rights, *Long Swords*, pp. 108, 109, 154, CMM, Vol. VII, Annex 279.

³³⁵ MG, paras. 8.22, 8.28, 8.68, 8.73, 8.74, 9.28, 9.33.

³³⁶ CMM, paras. 9.157-9.158

The PRESIDENT: Yes, I thank you for your statement. Indeed, before you begin the next section of your presentation, this may be a good time to bring this sitting to a close. The oral proceeding will resume this afternoon, at 3 p.m., when Ms Lawrie may continue her presentation. The sitting is closed.

The Court rose at 1 p.m.
