



ARAKAN ROHINGYA NATIONAL ORGANISATION (ARNO)

ANALYSIS REPORT

The Gambia v. Myanmar at the International Court of Justice

Justice and Accountability for the Rohingya in 2026

Prepared by the Arakan Rohingya National Organisation (ARNO)
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About ARNO

The Arakan Rohingya National Organisation (ARNO) was formed in 1998 as a broad-based body bringing together Rohingya leaders under a shared commitment to Rohingya unity and to the realisation of the political and human rights of the Rohingya people. ARNO is a diplomatic and advocacy organisation based in the United Kingdom.

ARNO works alongside credible Rohingya social, political and civil society organisations worldwide, together with other aligned organisations, including ethnic groups from within Myanmar. It maintains working relations with the UK Foreign, Commonwealth and Development Office, the European Parliament and European Union institutions, Amnesty International, Human Rights Watch, Fortify Rights, Burma Campaign UK, and a wider network of human rights and humanitarian organisations, academics and universities.

ARNO is a founding member of the Arakan Rohingya National Alliance (ARNA) and was a leading founder member of the Arakan Rohingya Union (ARU), formed in 2011 under the auspices of the Organisation of Islamic Cooperation (OIC) and the Euro-Burma Office (EBO).¹

Core Objectives

- Securing the right of self-determination for the Rohingya people within a democratic, federal Union of Myanmar.
- Restoring full citizenship, ethnic and collective rights for the Rohingya people within Myanmar.
- Improving the living conditions and protection of Rohingya and other Muslim communities in Myanmar and in their places of refuge.

Guiding Principles

Solidarity, integrity, discipline, transparency and accountability are the founding ideals of the organisation.

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¹Arakan Rohingya National Organisation, “About ARNO,” rohingya.org/about-arno

Forward

Justice and Accountability for the Rohingya in 2026

I have spent more than half a century standing beside my people. I was born in Maungdaw township in North Arakan, in the heartland of Arakan territory that the Rohingya National Charter describes as “Rohingya Traditional Homeland.” It is a contiguous area between the River Kaladan and the River Naf, where our forebears ruled, farmed, worshipped, and built a civilisation over many centuries. I have watched how our people have been stripped of citizenship under the most oppressive Myanmar 1982 Citizenship Law, confined to ghettos and apartheid-like camps, and then, in August 2017, subjected to what the United Nations Fact Finding Mission declared genocide: mass killings, systematic rape, the burning of hundreds of villages, and the forced exodus of over 700,000 men, women, and children into Bangladesh in a matter of weeks.

This report is published at a moment of genuine consequence. From 12 to 29 January 2026, the International Court of Justice (ICJ) held the long-awaited merits hearings in *The Gambia v. Myanmar*, the first full genocide case before the World Court in more than a decade, with eleven states intervening in support of The Gambia. Evidence was laid before fifteen judges at The Hague: oral arguments, witness testimony, forensic findings, and the documented record of what the Myanmar military did to our people. The Court has now entered deliberation, and a ruling is expected in due course. This report is our contribution to that moment of reckoning and to the historical record it demands.

The Ground Has Shifted in Arakan

Justice in 2026 must confront a changed reality on the ground in our homeland. Most of Arakan/Rakhine State, including the majority of its townships, is now under the control of the Arakan Army, which has fought Myanmar's military since 2009, while fierce fighting continues around state capital Sittwe. Where once the Myanmar military carried out mass atrocities against the Rohingya, now the Arakan Army has itself committed grave abuses and heinous crimes against them: forced conscription, displacement and relocation of people, destruction of villages and places of worship, restrictions on freedom of movement and religion, and a massacre of unarmed Rohingya civilians in Hoyyar Siri in May 2024, documented in detail by Human Rights Watch. Now hundreds of thousands of Rohingya who remain inside Myanmar continue experiencing these terrible and genocidal onslaughts or conditions under the Arakan Army rather than by the junta.

This is not a reason for silence, but a reason for clarity. The Rohingya National Charter, adopted by our representatives from across the world on 29 January 2021, affirms that the Rohingya are an indigenous people of Arakan, they are one of the many ethnic nationalities of Myanmar. No force or oppressors, either Myanmar military or Arakan Army, can deprive the Rohingya of their inherent universal rights and ethnic identity. We call on the Arakan Army directly, as we have called on every authority in our homeland, to recognise Rohingya as equals in Arakan, to cease all abuses against them, and to accept that a peaceful, prosperous and just Arakan cannot be built without Rohingya.

What Justice Means for the Rohingya in 2026

Justice, for the Rohingya in 2026, rests on seven conditions, and each depends on the others. None can substitute for the rest, and none can wait for the others to come first.

It begins with recognition. Before any court ruling, before any repatriation, before any political settlement, the international community and any governing authority in Myanmar must formally recognise the Rohingya as a distinct ethnic group indigenous to Arakan. The denial of our identity is not an administrative accident. It has been the deliberate precondition for every act of persecution committed against us. The Rohingya National Charter affirms that our identity is genuine, essential, and inherent, transmitted from generation to generation through history, language, culture, and faith, and that no state has the authority to define it out of existence.

Recognition on its own is nothing without legal accountability. If the ICJ finds that Myanmar breached the Genocide Convention, it will establish the legal foundation to demand reparations, dismantle impunity, and compel compliance with international law. ARNO's April 2026 policy brief is unequivocal: normalising relations with Myanmar's military through sham elections or managed transitions risks entrenching the very impunity these legal proceedings are working to end.

Accountability, in turn, means little without citizenship restored. The 1982 Myanmar Citizenship Law that stripped our people of their nationality must be repealed and replaced with legislation that recognises the Rohingya as equal citizens of Myanmar alongside all other ethnic nationalities. Without citizenship, return is impossible. Without citizenship, there is no justice.

Citizenship only matters if it makes repatriation on our terms possible. More than 1.4 million Rohingya now live in the camps of Cox's Bazar, Bangladesh, in conditions of acute hardship, with humanitarian funding collapsed and food rations cut below subsistence levels. Bangladesh has shared the biometric data of over 829,000 refugees with Myanmar as part of the pressure now building toward return. But return without safety, freedom of movement, access to education, healthcare and all necessities for life and restoration of land and property is not safe and voluntary repatriation.

Return itself is hollow without reparation. Our villages were bulldozed. Our land was declared state property. Our places of worship were destroyed. Reparation is not charity. It is an obligation under international law for the harms inflicted, and the Rohingya National Charter affirms it as a condition without which victims cannot see justice served and the cycle of violence broken.

And none of this endures without inclusion. The Rohingya must be at the table, not as subjects of policy but as architects of the solutions that will govern our lives. Any political process in Myanmar, or in a Rakhine State under the Arakan Army, that excludes the Rohingya is not a peace process. It is a rearrangement of power over our heads.

Finally, none of these guarantees can depend solely on promises from Myanmar or whichever authority controls Arakan. The Rohingya need credible international protection and guarantees, backed by independent monitoring, to ensure that citizenship, rights, safe return, restitution and political inclusion are respected in practice. Without such protection, agreements can be made on paper while persecution continues on the ground.

A Word to the International Community

The international community created the legal architecture that should protect us: the Genocide Convention, the Rome Statute, the Refugee Convention, and the Universal Declaration of Human Rights.

The ICJ's provisional measures order of 23 January 2020 required Myanmar to prevent all acts of genocide and to preserve evidence. On the contrary, Myanmar did not comply and the international community did not compel it. The question before us in 2026 is not whether the law exists. It does. The question is whether there is the political will to enforce it.

We call on the United Nations and its member states, EU, ASEAN, OIC, and on every actor with influence in this region: do not allow accountability to be traded away for political convenience. The Rohingya are watching. History is watching.

A Word to My People

To my Rohingya brothers and sisters, whether in the camps of Cox's Bazar, in the townships of Arakan, or in their places of refuge across the world: we are in the deepest part of our history. But we are not alone, and we have not been forgotten.

We want our rights and freedom. We want to live peacefully and honourably in Arakan as equals. The Rohingya National Charter commits us to peaceful coexistence, to an inclusive federal democratic union, and to unity in diversity. That vision is not naive. It is what our people have always stood for, and it is what we will continue to stand for until it is achieved. It is the Rohingya Dream.

The arc of history has a way of bending towards justice. But it does not bend on its own. It bends because people refuse to let it be bent back. As the judges at The Hague weigh their judgment, this report stands as our testimony that the Rohingya have not stopped bending it forward and will not stop now.

Nurul Islam, Chairman

Arakan Rohingya National Organisation (ARNO)

London, United Kingdom

July 2026

Rohingya Priorities

These are the demands of the Rohingya community:

1. That the Rohingya people are re-recognized as one of Burma's ethnic groups, as was the case at the time of Burma's independence.
2. That the Rohingya people are given citizenship in Myanmar without any conditions or stipulations based on their ethnic or religious identity.
3. That the Rohingya people are given all their rights as they are entitled to under international law, particularly under the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, and other Conventions and Treaties.
4. That the Rohingya people are given the opportunity to engage as a primary party in all discussions relating to their return to Myanmar.
5. That the Rohingya people are given the ability to return to Myanmar in a safe, dignified, voluntary and sustainable manner, consistent with international law.
6. That the Rohingya people have access to justice and all perpetrators of international crimes within Myanmar are prosecuted for their acts against the Rohingya which contravene the Genocide Convention and the Rome Statute.
7. That the Rohingya people are provided support, including but not limited to access to education, access to mental health services, access to health care/aid, support to receive food aid.

General Timeline of Events

The table below sets out the principal events in the history of the Rohingya crisis, from Burmese independence to the opening of the merits hearing at the International Court of Justice.

	1948	Burmese Independence. Rohingya recognised as part of the fabric of Burma. All citizens are equal.
	1962	Burmese military overthrows elected government.
	1978	Operation Naga Min. Thousands of Rohingya flee as a result of violence at the hands of the military.
	1982	Citizenship Law passed, defining citizenship around a list of ‘national races’ deliberately constructed to exclude the Rohingya, rendering them stateless in their own homeland.
	1991-1992	Operation Pyi Thaya. Thousands of Rohingya flee again due to violence by the Tatmadaw.
	2012	Clashes between communities in the Rakhine, further escalation in violence is attributed to hate speech and calls for violence by different groups.
	2015	National Verification Scheme is introduced. Rohingya reject the cards as they are labelled immigrants from Bangladesh.
	2016 – 2017	Kofi Annan Advisory Commission begins its work and makes recommendations for improvement in the Rakhine.
	October 2016	Clearance operation is implemented by the Tatmadaw. Nearly 100,000 Rohingya flee to Bangladesh due to the violence.
	March 2017	UN creates Fact Finding Mission on Burma.
	August 2017	Tatmadaw unleashes its most violent clearance operation against the Rohingya to date, forcing 700,000+ people to flee, with thousands killed.
	2019	International Criminal Court opens investigation into the situation involving Bangladesh and Myanmar.
	2019	The Gambia files an International Court of Justice case against Myanmar.
	2020	International Court of Justice issues Preliminary Order for Provisional Measures.
	2026	Hearing on the merits of the case in International Court of Justice case <i>The Gambia v. Myanmar.</i>

Overview of Gambia v. Myanmar

Preliminary Matters

The International Court of Justice (ICJ) is the judicial body of the United Nations. It was established by the UN Charter in 1945. The Court's role is to settle legal disputes which are submitted to it by States and to give advisory opinions on legal questions referred to it by authorized United Nations divisions and agencies. The Court must settle disputes or give these advisory opinions in line with international law. There are 15 judges who are elected by the UN General Assembly. They serve for a term of 9 years.

The case involving *Gambia v. Myanmar* is a legal dispute between two States. The two parties are Gambia and Myanmar. In November 2019, Gambia started proceedings against Myanmar and alleged violations of the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention). Specifically, Gambia alleged that Myanmar's clearance operations against the Rohingya were intended to destroy the Rohingya as a group. This was achieved through mass murder, rape, and other forms of sexual violence, as well as the destruction of their villages by fire. Gambia requested the Court in this case to declare the following:²

- That Myanmar has breached the Genocide Convention and its obligations under the Convention.
- That Myanmar stops any intentionally wrongful acts and fully respects its obligations under the Genocide Convention.
- That Myanmar ensures perpetrators are brought to justice.
- That Myanmar provides reparations to the Rohingya for the genocidal acts which include a safe and dignified return, respect for their full citizenship, and human rights protection against discrimination and persecution.
- That Myanmar offers assurances and guarantees of non-repetition of violations of the Genocide Convention.

Gambia also requested provisional measures.³ Provisional measures are temporary measures intended to stop ongoing harm and preserve evidence, while the Court continues to review the facts of the case. Provisional measures are binding on all the parties involved, but the ICJ does not have a mechanism to enforce the measures if a State violates them. If the Court orders provisional measures it does not mean that a State has violated or is in breach of international law.

In December 2019, Daw Aung San Suu Kyi presented a response to the Gambia's preliminary claims. She told the Court that the situation in the Rakhine is complex. She indicated that the

²ICJ Press Release, The Republic of Gambia institutes proceedings against the Republic of the Union of Myanmar and asks the Court to indicate provisional measures, (2019), [icj-cij.org \(178-20191111-PRE-01-00-EN.pdf\)](https://www.icj-cij.org/178-20191111-PRE-01-00-EN.pdf)

³Application Instituting Proceedings and Request for Provisional Measures, Gambia, (2019), [icj-cij.org \(178-20191111-APP-01-00-EN.pdf\)](https://www.icj-cij.org/178-20191111-APP-01-00-EN.pdf)

Arakan Army (AA) and the Tatmadaw (Myanmar military) were engaged in an internal armed conflict in the Rakhine which has led to the displacement of thousands of people. Aung San Suu Kyi explained that in October 2016 the Arakan Rohingya Salvation Army (ARSA) launched attacks against three police posts. This led to the deaths of civilians, stolen weapons and ammunition. She claimed that ARSA grew in strength following the 2016 attacks and in August 2017, ARSA launched attacks against 30 police posts and villages and it was believed that ARSA's objective was to seize Maungdaw. She indicated that the internal armed conflict between the Tatmadaw and ARSA lasted until late 2017. She also clarified that the term “clearance operation” has had its meaning distorted and it means in Burmese language “to clear a locality” of terrorists. The expression is used by the military in counter-insurgency and counter-terrorism operations.

Aung San Suu Kyi also indicated that in 2019 there were court martials (military courts) for the perpetrators of the Gutar Pyin village incident. She stated “there will be additional courts martial if further incriminating evidence is brought up by the Independent Commission of Enquiry.”⁴ She stated that while perpetrators were prosecuted under court martial for the Inn Dinn village massacre, those men were given a military pardon. She said “many of us in Myanmar were unhappy with this pardon.”⁵

Myanmar also argued that the Court did not have jurisdiction to hear this matter and that Gambia was not the appropriate party to bring the case because Gambia is not an injured State in this matter.

On January 23, 2020 the ICJ determined that it had jurisdiction to deal with the case and that the parties involved are parties to the Genocide Convention and Gambia can bring the dispute to the ICJ regarding its allegations of genocide against Myanmar. The Court ordered the following provisional measures:

- That Myanmar takes all measures to prevent all acts of genocide in relation to the Rohingya under the Genocide Convention.
- That Myanmar ensures the military and any organizations under its control or influence, does not commit any acts of genocide or attempts to commit genocide.
- That Myanmar takes effective measures to stop the destruction and ensure the preservation of evidence.
- That Myanmar submits reports to the Court on its progress every 6 months, until the Court makes a decision.

The provisional measures will end when the Court makes its final judgment.

⁴Record, December 11, 2019, p. 16, [icj-cij.org \(178-20191211-ORA-01-00-BL.pdf\)](https://www.icj-cij.org/178-20191211-ORA-01-00-BL.pdf)

⁵Record, December 11, 2019, p. 17, [icj-cij.org \(178-20191211-ORA-01-00-BL.pdf\)](https://www.icj-cij.org/178-20191211-ORA-01-00-BL.pdf)

Interim Matters

Progress Reports

Before the hearing on the merits which took place in January 2026, Myanmar filed 12 reports⁶ in accordance with the provisional measures. Each report goes into a discussion regarding Myanmar's compliance with the provisional measures. While the reports are large and cover many issues, the central topics discussed are: (1) conflict in Rakhine – ARSA and AA (2) Internally Displaced Persons (3) Information regarding the Three Directives (4) Repatriation (5) Accountability and (6) Hate Speech.

In the first report filed in May 2020, the Office of the President of Myanmar issued 3 Directives to all Ministries and State Governments:

- Compliance with the Genocide Convention (issued on April 8, 2020).
- Preservation of evidence and property in Rakhine (issued on April 8, 2020).
- Hate Speech Directive (issued on April 20, 2020).

All reports filed by Myanmar since the first report discuss the information that has been provided by the leaders in charge of implementing and enforcing these Directives. For example, in Myanmar's 10th Report to the ICJ, Myanmar stated with regards to the April 8th Directive (Compliance with the Genocide Convention) that “Union Ministries and State and Region Governments have reported that there have been no violations of the [Genocide Convention] in the reporting period.” In that same report, Myanmar also noted that it amended its criminal code to add the crime of genocide, which is punishable by death or life imprisonment in Myanmar.⁷

State Intervention

Several States intervened in this case. When a State decides to intervene, it generally means they wanted to share their opinion on how the treaty or laws should be interpreted. The following States intervened in this matter:

Canada, Denmark, France, Germany, the Netherlands, UK, Maldives, Slovenia, Democratic Republic of Congo, Belgium, and Ireland.

Merits Hearing

Prior to the hearings in January 2026, Gambia and Myanmar had time to submit their written documents. In January 2026, the hearings were conducted at the Court in the Hague. In summary, both sides argued their points before the ICJ Judges in two rounds of arguments. Gambia relied on certain key reports to present its case. The main report was the UN Fact Finding Mission (FFM) Report from 2018.

Briefly, it is worth remembering that the UN FFM report focused on the Rakhine, Kachin, and Shan areas and the human rights violations which occurred around the 2016-2017 timeframe.

⁶All 12 reports can be found here: [icj-cij.org/case/178](https://www.icj-cij.org/case/178)

⁷Tenth Report of the Republic of the Union of Myanmar Pursuant to Paragraph 86(4) of the Order of January 23, 2020, Para 29, p. 12, [icj-cij.org \(178-20241122-oth-01-00-en.pdf\)](https://www.icj-cij.org/178-20241122-oth-01-00-en.pdf)

Myanmar did not cooperate with the UN FFM. The FFM concluded that the Tatmadaw leaders perpetrated acts with genocidal intent against the Rohingya. It also made recommendations for action by States and the UN. Myanmar rejected these findings.

At the ICJ hearing on the merits, in brief summary, Gambia argued:

- Myanmar violated the Genocide Convention, through different acts listed in the Genocide Convention and these acts were committed intentionally as can be seen through the way Myanmar conducted the clearance operations.
- Myanmar owes reparations for its breach of the Genocide Convention.

At the ICJ hearing on the merits, in brief summary, Myanmar argued:

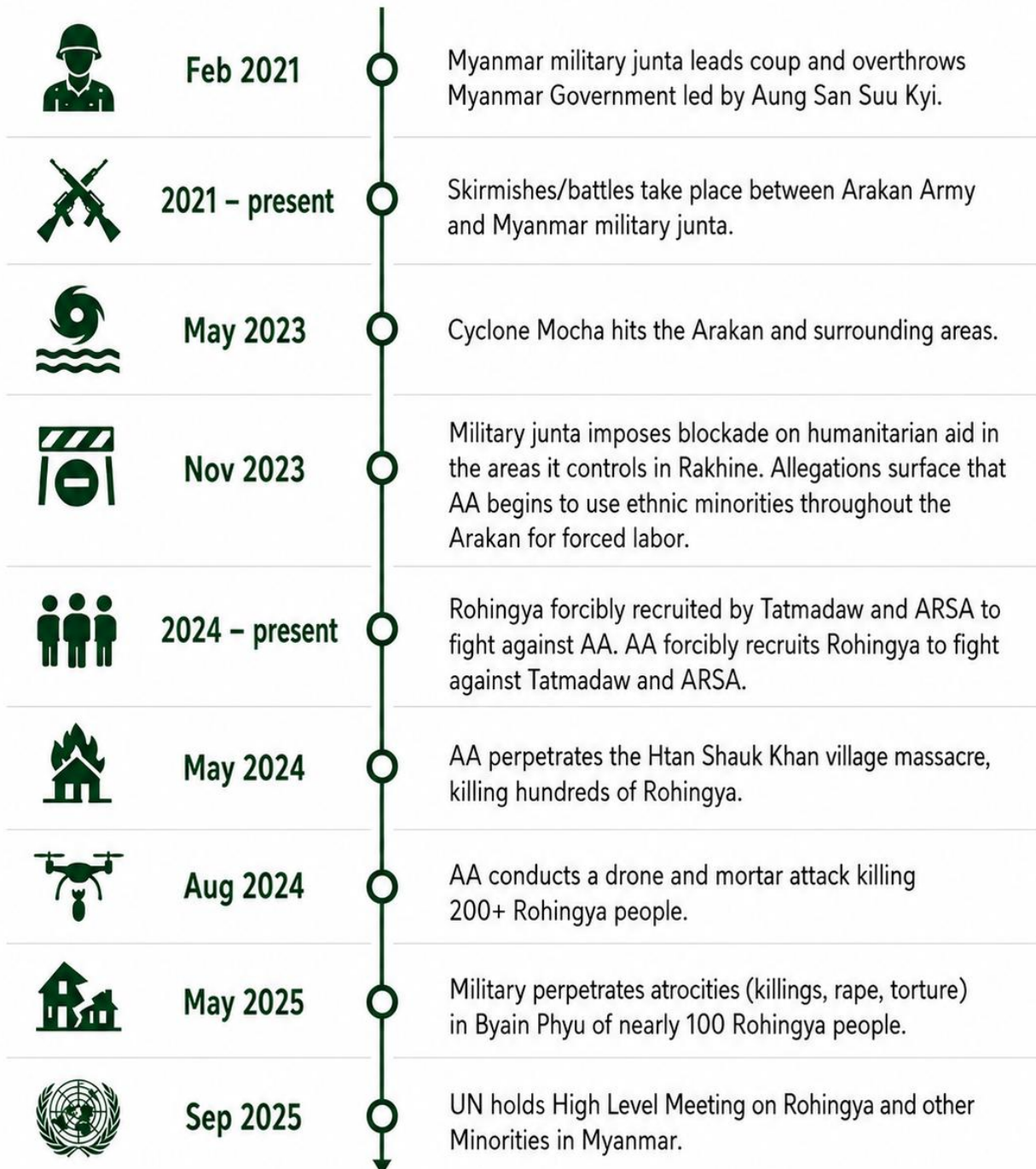
- Myanmar carried out legitimate counter-terrorism operations, in accordance with its rules of engagement given the threat that ARSA posed.
- The evidence presented by Gambia is problematic and is not reliable, including the way the FFM conducted its investigation.

Final ICJ Stage

Now that the two rounds of hearings are over, the judges will take time to deliberate. They will meet behind closed doors to discuss arguments, evidence, and testimonies. They will then draft their decision and some judges can agree with the majority, or write their own opinion, or write a dissenting opinion. A final decision could take anywhere from a few months to several months to be pronounced. When the Court is ready, it will hold a public session at the Hague to read the opinion out loud. The judgment is considered final and legally binding on the parties involved and there is no appeal.

Timeline of Key Events During the ICJ Case

January 2020 – January 2026



Reflections

Significance of the Case

The Gambia v. Myanmar case is a significant case for the international community as well as for the Rohingya community. As mentioned earlier in this report, the case is a legal dispute between two States. It is not a criminal case. If the judges agree that Myanmar breached the Genocide Convention, then they may order Myanmar to provide reparations for the harm it caused. This can include changing laws, paying monies, etc. If the judges do not agree that Myanmar breached the Genocide Convention, the case still remains significant and symbolic. It remains significant and symbolic because it is the first time that the Myanmar Government and Tatmadaw have been forced to answer in a court of law for the atrocities they have committed against the Rohingya. It remains significant because the case files and the hearings will remain an important source of historical record with regards to the horrific abuses the Rohingya have endured at the hands of the Myanmar military.

Have the provisional measures worked?

It is clear from the timeline of events from 2020 (the year the provisional measures went into effect) and 2026, that the Rohingya have not been spared from violence at the hands of the Myanmar government. In addition, as the timeline indicates, the Myanmar government has not protected the Rohingya from any violence either. In addition, significant challenges remain in obtaining evidence from the Government regarding past and current atrocities. No independent international bodies are allowed in the Arakan. However, it cannot be ignored that Myanmar has cooperated with the ICJ and has continued to file the reports. It appears it did take the case seriously, even though events in the Arakan show a different story. This indicates some level of consciousness about its activities. Years, months, weeks, days, and minutes go by and no steps to allow a voluntary and dignified return have taken place, and a new wave of violence is washing over the Rohingya. The international community must take the *Gambia v. Myanmar* case seriously and remember it too – as obligations to prevent and punish genocide.

Actors who are not the Myanmar Government

This report only focuses on the ICJ case and the Myanmar government/military. Anyone who follows the events in the Arakan knows that Myanmar's government and military are not the only perpetrators in committing crimes in the Arakan. The ICJ case does not deal with the other armed groups that are operating in the Arakan, because these are not considered to be state actors. While this may be seen as unfortunate to many, all parties involved in committing human rights violations and perpetrating international crimes, can be held accountable under universal jurisdiction and possibly at the International Criminal Court. As of this writing no case has been opened up to try the armed groups and their leaders for the heinous human rights violations that have taken place. It is also worth mentioning that organizations such as Justice for Myanmar and Burma Campaign UK, continue to identify how the Tatmadaw and military junta are operating and which companies are supporting them. This also opens up possibilities for potential prosecution and accountability.