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Press Release

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The Republic of The Gambia institutes proceedings against the Republic of the Union of Myanmar and asks the Court to indicate provisional measures

THE HAGUE, 11 November 2019. The Republic of The Gambia (“The Gambia”) today instituted proceedings against the Republic of the Union of Myanmar (“Myanmar”) before the International Court of Justice, the principal judicial organ of the United Nations, alleging violations of the Convention on the Prevention and Punishment of the Crime of Genocide (the “Genocide Convention”) through “acts adopted, taken and condoned by the Government of Myanmar against members of the Rohingya group”.

Specifically, The Gambia argues that

“from around October 2016 the Myanmar military (the ‘Tatmadaw’) and other Myanmar security forces began widespread and systematic ‘clearance operations’ — the term that Myanmar itself uses — against the Rohingya group. The genocidal acts committed during these operations were intended to destroy the Rohingya as a group, in whole or in part, by the use of mass murder, rape and other forms of sexual violence, as well as the systematic destruction by fire of their villages, often with inhabitants locked inside burning houses. From August 2017 onwards, such genocidal acts continued with Myanmar’s resumption of ‘clearance operations’ on a more massive and wider geographical scale.”

The Gambia contends that these acts constitute violations of the Genocide Convention. It states that it has made this claim known to Myanmar since September 2018, but that Myanmar has continued to deny any wrongdoing.

The Applicant seeks to found the Court’s jurisdiction to entertain this dispute on Article 36, paragraph 1, of the Statute of the Court and on Article IX of the Genocide Convention, to which both States are parties.

In its Application, The Gambia

“respectfully requests the Court to adjudge and declare that Myanmar:

— has breached and continues to breach its obligations under the Genocide Convention, in particular the obligations provided under Articles I, III (a), III (b), III (c), III (d), III (e), IV, V and VI;

- must cease forthwith any such ongoing internationally wrongful act and fully respect its obligations under the Genocide Convention, in particular the obligations provided under Articles I, III (a), III (b), III (c), III (d), III (e), IV, V and VI;
- must ensure that persons committing genocide are punished by a competent tribunal, including before an international penal tribunal, as required by Articles I and VI;
- must perform the obligations of reparation in the interest of the victims of genocidal acts who are members of the Rohingya group, including but not limited to allowing the safe and dignified return of forcibly displaced Rohingya and respect for their full citizenship and human rights and protection against discrimination, persecution, and other related acts, consistent with the obligation to prevent genocide under Article I; and
- must offer assurances and guarantees of non-repetition of violations of the Genocide Convention, in particular the obligations provided under Articles I, III (a), III (b), III (c), III (d), III (e), IV, V and VI.”

The Application also contains a request for the indication of provisional measures, seeking to protect the rights of the Rohingya group and those of The Gambia under the Genocide Convention, and to prevent the aggravation or extension of the dispute pending the final judgment of the Court. The Gambia thus asks the Court to indicate the following provisional measures:

“Myanmar shall immediately, in pursuance of its undertaking in the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent all acts that amount to or contribute to the crime of genocide, including taking all measures within its power to prevent the following acts from being committed against member[s] of the Rohingya group: extrajudicial killings or physical abuse; rape or other forms of sexual violence; burning of homes or villages; destruction of lands and livestock, deprivation of food and other necessities of life, or any other deliberate infliction of conditions of life calculated to bring about the physical destruction of the Rohingya group in whole or in part;

Myanmar shall, in particular, ensure that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not commit any act of genocide, of conspiracy to commit genocide, or direct and public incitement to commit genocide, or of complicity in genocide, against the Rohingya group, including: extrajudicial killing or physical abuse; rape or other forms of sexual violence; burning of homes or villages; destruction of lands and livestock, deprivation of food and other necessities of life, or any other deliberate infliction of conditions of life calculated to bring about the physical destruction of the Rohingya group in whole or in part;

Myanmar shall not destroy or render inaccessible any evidence related to the events described in the Application, including without limitation by destroying or rendering inaccessible the remains of any member of the Rohingya group who is a victim of alleged genocidal acts, or altering the physical locations where such acts are alleged to have occurred in such a manner as to render the evidence of such acts, if any, inaccessible;

Myanmar and The Gambia shall not take any action and shall assure that no action is taken which may aggravate or extend the existing dispute that is the subject of this Application, or render it more difficult of resolution; and

Myanmar and The Gambia shall each provide a report to the Court on all measures taken to give effect to this Order for provisional measures, no later than four months from its issuance.”

Note: The Court’s press releases are prepared by its Registry for information purposes only and do not constitute official documents.

The Gambia’s Application instituting proceedings and requesting provisional measures will be available shortly on the Court’s website (www.icj-cij.org).

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The Court is composed of 15 judges elected for a nine-year term by the General Assembly and the Security Council of the United Nations. The seat of the Court is at the Peace Palace in The Hague (Netherlands). The Court has a twofold role: first, to settle, in accordance with international law, legal disputes submitted to it by States (its judgments have binding force and are without appeal for the parties concerned); and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system.

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