

**REPORT CARD # 1: BURMA/MYANMAR'S FAILURE
TO COMPLY WITH ICJ PROVISIONAL MEASURES**

- **Burma has failed to take effective measures to comply with the Provisional Measures Order ordered by the International Court of Justice (ICJ) in relation to its alleged genocidal acts against the Rohingya.**
- **Although President Win Myint has issued three Directives, there have been no enforcement or explicit directions on how to comply.**
- **Burma has not enacted new laws, or repealed or amended existing laws, to ensure domestic legislation complies with its obligations under the Genocide Convention.**
- **Between 23 January and 13 May 2020, there were at least 410 armed clashes in civilian areas or direct attacks on civilians by armed actors, across 5 States and 2 Regions of Burma.**
- **These incidents resulted in at least 134 civilians being killed, 419 civilians injured, 324 civilians abducted or detained, 74 civilians tortured, 1,059 houses destroyed, and 3,870 civilians displaced. The majority of civilian casualties were the result of the Tatmadaw's actions or its failure to protect civilians.**
- **Government-enforced internet blackouts in nine townships in Rakhine and Chin State continue to prevent scrutiny and documentation of abuses.**

On 23 January 2020, the International Court of Justice issued provisional measures to Burma. The measures had two purposes: (1) to stop the country from doing anything genocidal; and (2) to stop the country from doing anything to affect the outcome of The Gambia's case against Burma for potentially violating the Genocide Convention. The Court ordered Burma to report on its progress after four months (i.e. 23 May 2020), and every six months after that. Burma has not made its first report to the ICJ public. The Court has the ability to make the report public, but it has not done so yet.

Lack of positive compliance measures

Burma has failed to take effective measures to address the situation in Rakhine State, halt its longstanding practices of violence against ethnic minorities, or change its generally discriminatory environment which continues to permit hate speech and violence.

President Win Myint has issued three statements in response to the provisional measures order: (1) a statement calling for the military not to commit genocide; (2) a statement calling for the military to not destroy evidence in Rakhine State; and (3) a statement condemning hate speech. There has been no visible example of enforcement, and there was a lack of clarity concerning implementation as a matter of policy.

**SUMMARY OF PROVISIONAL MEASURES
ORDERED BY THE ICJ ON 23 JAN 2020**

1: Prevent acts constituting genocide

The government must take all measures within its power to prevent the killing of Rohingya people; causing serious bodily or mental harm to them; deliberately inflicting conditions of life that would destroy at least part of the group; and imposing measures intended to prevent births.

2: Prevent other groups from committing or planning to commit acts of genocide

Myanmar must ensure that its military, as well as any other armed units, organizations and individuals under its control, direction or influence, do not commit, conspire to commit, incite, attempt, or be complicit with any acts described above.

3: Preserve evidence

Myanmar must take effective measures to preserve evidence related to the crimes alleged in this case.

4: Document and report

Myanmar must submit regular reports to the Court on efforts to comply with the Order.

Full text of the provisional measures appears on page 23-24 at <https://www.icj-cij.org/files/case-related/178/178-20200123-ORD-01-00-EN.pdf>

These statements were not accompanied by efforts to abolish, amend or replace legislation to ensure compliance with the provisional measures or the Genocide Convention itself. The International Commission of Jurists and Yanghee Lee, the Special Rapporteur on the Situation of Human Rights in Myanmar have listed several laws that should be amended to address these conditions, including the 1982 Citizenship Law, the 2015 Race and Religion laws, and constitutional provisions that effectively guarantee military impunity.¹

Burma's prior refusals to cooperate with independent investigators and rejections of their findings undermine its credibility in preserving and disclosing evidence. It rejects the International Criminal Court (ICC) investigation.² It ignored the Independent International Fact-Finding Mission for Myanmar (IIFMM) requests for country access, written responses, and cooperation.³ Burma's Ministry of Foreign Affairs said on 6 August 2019 "We do not recognize either the Fact-Finding Mission or the report that it produced. Burma categorically rejects the latest report and its conclusions."⁴ It denied entry to the Special Rapporteur from 2017 to 2020,⁵ including her request to visit in January 2020,⁶ and continues to ignore her findings publicly. Government spokesperson U Zaw Htay said on 29 August 2019 that the government's own Independent Commission of Enquiry (ICOE) was formed to "respond to false allegations made by the UN Agencies and other international communities."⁷ Despite this, Burma has failed to act on the findings of the ICOE so far.

Positive Statements	Negative Actions
Presidential Directive on compliance with the Genocide Convention ⁸ Presidential Directive on preservation of evidence in Rakhine State ⁹ Presidential Directive on anti-hate speech activities ¹⁰	At least 410 incidents of violence targeting or affecting civilians across 5 States and 2 Regions (see next table) Government-mandated internet blackouts across Rakhine and Chin States, affecting approximately one million people ¹¹ Internet blackouts began in June 2019 in Ponnagyun, Myauk-U, Kyauktaw, and Minbya Townships. In February 2020, the blackouts were extended to Maungdaw, Buthidaung, Rathedaung, Myebon, and Paletwa Townships. In May 2020, the government allowed internet service to resume in Maungdaw. ¹² Independent news sources blocked ¹³
Unless footnoted otherwise, all information comes from Armed Conflict Location & Event Data Project (ACLED) Data Export Tool, available at https://acleddata.com/data-export-tool/	

Continuing violence on the ground

Meanwhile, the country's military continues to commit grievous human rights abuses across the country, despite the Court's order, and despite the President's call for ending genocidal practices. These practices also continue despite the Covid-19 pandemic, and calls for a ceasefire to address the pandemic, coming from the UN, groups across Burma, and ethnic armed organizations.

Between 23 January and 13 May (the last day for which conflict data is available), there were *at least* 410 armed clashes in civilian areas or direct attacks on civilians by armed actors, across 5 States and 2 Regions of Burma. These incidents took place in the west, center, and east of the country, i.e., Rakhine

¹ International Commission of Jurists (22 May 2020) Myanmar: Government must do far more to comply with International Court Justice's order on protection of Rohingya population; Myanmar Times (22 May 2020) Myanmar made "no progress" in resolving plight of Rakhine Muslims, Yanghee Lee says.

² Al Jazeera (16 Nov 2019) Myanmar rejects ICC probe into alleged crimes against Rohingya

³ UN General Assembly (8 Aug 2019) Report of the independent international fact-finding mission for Myanmar, A/HRC/42/50; UN General Assembly (12 Sep 2018) Report of the independent international fact-finding mission for Myanmar, A/HRC/39/64

⁴ (Myanmar) Ministry of Foreign Affairs (6 Aug 2019) Press Statement

⁵ UN Office of the High Commissioner for Human Rights (14 Jan 2020) Myanmar: UN expert to carry out her final mission by visiting Bangladesh and Thailand

⁶ UN Human Rights Council (4 Mar 2020) Report of the Special Rapporteur on the situation of human rights in Myanmar, A/HRC/43/59

⁷ Human Rights Watch (18 Sep 2018) Myanmar: Domestic Commissions on Rohingya All Failures

⁸ Republic of the Union of Myanmar, Office of the President (8 Apr 2020) Directive No. 1/2020

⁹ Republic of the Union of Myanmar, Office of the President (8 Apr 2020) Directive No. 2/2020

¹⁰ Republic of the Union of Myanmar, Office of the President (20 Apr 2020) Directive No. 3/2020

¹¹ Human Rights Watch (5 Feb 2020) Myanmar Again Cuts Rakhine State's Internet

¹² Telenor Group (last updated 12 May 2020) Internet services restricted in Myanmar townships (Updated 12 May 2020)

¹³ Myanmar Times (31 Mar 2020) Telenor follows Myanmar orders to block alleged 'fake news' sites

State, Chin State, Sagaing Region, Mandalay Region, Shan State, Kayah State and Kayin State.¹⁴ In addition to terrorizing civilians, these incidents threaten to destroy evidence of past atrocity crimes.

Please [click here](#) to access a sortable, detailed excel file listing the individual incidents summarized in the table below.

Conflict data by state/region, 23 Jan–13 May 2020 Source: Armed Conflict Location & Event Data Project (ACLED) Data Export Tool								
State/Region	Incidents	Deaths	Civilian deaths	Civilian injuries	Civilian detention	Civilian torture	Houses destroyed	Civilians displaced
Chin State	61	39	36	59	18	0	15	1200
Karen/Kayah State	1	0	0	0	8	0	0	0
Karen/Kayin State	43	3	2	2	2	2	0	300
Mandalay Region	1	0	0	0	0	0	0	0
Rakhine State	258	194	81	342	268	60	1044	2170
Sagaing Region	2	0	0	0	0	0	0	0
Shan State	44	32	15	16	28	12	0	200
National TOTAL	410	268	134	419	324	74	1059	3870

Censorship, suppression of information, harassment of media

Government-enforced measures hurt the ability of the press to document and share information relevant to the case or destruction of evidence. Internet blackouts across Rakhine State prevent information—about either new abuses or destruction of evidence—from reaching the outside. Blackouts starting in June 2019 have continued until now, and as of February are affecting nine townships.¹⁵

Reporting from late February 2020 has shown that villagers are only allowed to speak to journalists after being carefully coached on what they can and cannot say.¹⁶ When journalists are able to publish information, they are harassed. A journalist was charged on 31 March for publishing about Rakhine State, and potentially faces life in prison.¹⁷ Both Reuters and The Irrawaddy were recently sued under Burma’s Telecommunications Act,¹⁸ and although both cases were dropped in March,¹⁹ harassment in the courts is a common tactic used to target independent media sources. In May, an editor in Kayin State was charged for publishing “fake news.”²⁰

In late March 2020, phone service providers in Burma were ordered to block access to websites the government accuses of spreading fake news about COVID-19. The list allegedly contains 221 websites, including several ethnic news media outlets, at least two of which are in Rakhine State.²¹

¹⁴ Armed Conflict Location & Event Data Project (ACLED) Data Export Tool, available at <https://acleddata.com/data-export-tool/>

¹⁵ Human Rights Watch (5 Feb 2020) Myanmar Again Cuts Rakhine State’s Internet

¹⁶ Frontier Myanmar (27 Feb 2020) Playing cat and mouse on a Rakhine reporting tour

¹⁷ The Guardian (1 Apr 2020) Myanmar blocks hundreds of news sites and threatens editor with life in jail

¹⁸ Reuters (18 Mar 2020) Myanmar army withdraws criminal complaint against Reuters

¹⁹ Reuters (18 Mar 2020) Myanmar army withdraws criminal complaint against Reuters

²⁰ Myanmar Times (21 May 2020) Editor in Kayin State sentenced to jail over Covid-19 story

²¹ Myanmar Times (31 Mar 2020) Telenor follows Myanmar orders to block alleged ‘fake news’ sites