REFUGEES INTERNATIONAL

ABUSE OR EXILE

MYANMAR'S ONGOING PERSECUTION OF THE ROHINGYA

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Cover Photo: Mohammed Yasin, a Rohingya refugee living in a Bangladesh mega-camp.

SUMMARY

One million Rohingya refugees continue to live in Bangladesh, with little prospect for safe return to their homeland in western Myanmar. Forcibly displaced by years of persecution and a brutal ethnic cleansing campaign at the end of 2017, the Rohingya are understandably afraid to go home. The government of Myanmar has neither addressed the atrocities committed in the past nor improved the wretched conditions for the few hundred thousand Rohingya estimated to still be living in the Rakhine region of Myanmar. In fact, the government is pursuing policies that are causing the situation of the Rohingya to deteriorate further. This population continues to be denied citizenship and faces severe human rights abuses, heavy restrictions on their daily lives, and little access to humanitarian aid or basic services.

In February and April 2019, Refugees International interviewed Rohingya who had arrived in Bangladesh from Myanmar just days before. Those interviewed described ongoing harassment, arbitrary detention, and forced labor at the hands of Myanmar's security forces. The newly arrived refugees also reported that the security situation in the Rakhine region had recently deteriorated. In early 2019, the Arakan Army (AA), an ethnic armed group from the non-Rohingya Buddhist community in Rakhine State, carried out several attacks against police stations in the region. In response, Myanmar security forces initiated a crackdown that displaced more than 20,000 people and contributed to a sense of growing insecurity in those areas to which Rohingya refugees in Bangladesh would seek to return.

The long-term trendlines for the Rohingya in Rakhine show no signs of improvement. For example, more than 120,000 Rohingya have been living in displacement camps since 2012 in what the UN has described as deplorable conditions. The government's plans to close the camps have resulted in little more than shifting the displaced to structures next to the camps with no greater degree of freedom of movement or opportunity to return to their lands of origin.

In addition, hundreds of Rohingya continue to face dangerous conditions in prisons and detention centers in Myanmar, having been held on questionable charges–many since 2012. More fundamentally, the Rohingya continue to be denied citizenship based on Myanmar's discriminatory 1982 Citizenship Law. Government suggestions of National Verification Cards (NVCs) as a path to citizenship have been largely rejected by the Rohingya because they reasonably view the process as a repudiation of their ethnic identity and of legitimate claims to citizenship in Myanmar.

It is also clear that continued impunity constitutes a significant barrier to safe and voluntary returns. Justice for past crimes remains one of the preconditions that Rohingya refugees in Bangladesh most frequently cite for returning to Myanmar, and they express little faith in the existence of a credible accountability mechanism within Myanmar. The scale and coordination behind the atrocities have been documented by the U.S. State Department and a UN Independent Fact-Finding Mission on Myanmar. Although the State Department fell short of making a legal determination about the nature of the crimes, the mission found that Myanmar's military leaders should be prosecuted for crimes against humanity and genocide; yet there has been virtually no accountability for atrocities committed.

Finally, efforts to date to promote repatriation have failed to involve the Rohingya themselves. Any serious repatriation process will require close consultation with the Rohingya refugee

community about their rights, options, and safety. It should also include "go and see" visits in cooperation with the UN Refugee Agency (UNHCR). So far, none of these steps have occurred. As a result, a failed attempt to organize a first wave of returns on November 15, 2018, resulted in widespread fear and anxiety among the refugee population. It should not be surprising that no Rohingya have yet volunteered to be repatriated.

Clearly, the government of Myanmar has failed to create conditions conducive to the safe, voluntary, dignified, and sustainable return of Rohingya. It is also clear that the government is continuing to take consequential steps that will make the situation of the Rohingya untenable over the long term. These include the NVC process, the internally displaced people (IDP) policy, troubling reports of the movement of non-Rohingya populations onto land from which Rohingya were expelled, and rejection of credible accountability mechanisms. Nothing short of strong, coordinated international action will reverse this dangerous trend.

In short, the international community needs a strategy–one that combines a careful mix of pressure and engagement from the UN Security Council and influential individual member states. The elements of such a strategy are set out below. They must match the magnitude of the crisis, confront the problematic policies of the government of Myanmar, and address the ongoing impunity of its security forces. The longer the international community fails to act, the more distant the prospect of returns become. The world's response must reflect that reality.

RECOMMENDATIONS

The government of Myanmar should do the following:

- End abuses by Myanmar security forces against the Rohingya and other ethnic minorities, including arbitrary arrest and detention, forced labor, and sexual violence.
- Recognize the basic rights of the Rohingya, including the rights to freedom of movement, access to health and education, and the right to self-identify as Rohingya.
- Ensure dignified conditions in internal displacement camps and facilitate the voluntary return of Rohingya to their place of origin or alternative locations of their choice.
- Release Rohingya prisoners arbitrarily arrested and held in jails or detention centers–many since 2012.
- Allow unfettered access throughout Myanmar for the UN Special Rapporteur for Human Rights in Myanmar, International Criminal Court investigators, and other independent international human rights monitors and journalists.
- Recognize and restore full citizenship rights to the Rohingya by amending the discriminatory 1982 Citizenship Law.
- End the coercive issuance of NVCs and take measures to simplify the citizenship verification process.
- Hold accountable those responsible for atrocities committed against the Rohingya through cooperation with a credible independent international mechanism, such as an ad hoc tribunal or the International Criminal Court.

- Allow unfettered access for international humanitarian aid and for the UNHCR and UN Development Program (UNDP) in line with the Memorandum of Understanding on repatriation signed in June 2018. Any repatriation exercise should include the participation of UNHCR, as well as "go and see" visits for Rohingya, to verify the safety of potential areas for returns.

The UN Security Council and individual UN member states should do the following:

- Oppose the repatriation of Rohingya to Myanmar until the government of Myanmar has taken meaningful and verifiable steps to address ongoing human rights abuses, restrictions on movement and humanitarian access, and denial of citizenship and fundamental rights to the Rohingya.
- Demand access for and inclusion of UN agencies in any plans to repatriate Rohingya to Myanmar.
- Demand access for the UN Fact-Finding Mission and the UN Special Rapporteur for Human Rights in Myanmar, and support the transition from the mission to the UN-sponsored Independent Investigative Mechanism for collecting evidence related to atrocity crimes committed against the Rohingya.
- Press for accountability for atrocity crimes committed against the Rohingya through the following:
- Establishing an ad hoc tribunal or referral to the International Criminal Court
- Sanctioning high-level Myanmar military officials, as identified in the Fact-Finding Mission report, including Senior General Min Aung Hlaing, as well as military-owned enterprises
- Placing a multilateral arms embargo on the Myanmar military until those responsible for atrocity crimes are held to account
- Support the representation of Rohingya refugees in global forums on the Rohingya crisis and consult and inform refugees on UN agreements, such as the Memoranda of Understanding on repatriation with Bangladesh and Myanmar.

The United States government should do the following:

- Make a legal determination, through the U.S. Secretary of State, as to whether the abuses identified in the U.S. State Department's August 2018 report amount to crimes against humanity and genocide.
- Place additional targeted sanctions on high-level Myanmar military officials, as identified in the UN Fact-Finding Mission report, including Senior General Min Aung Hlaing, as well as military-owned enterprises.
- Appoint a high-level presidential envoy on Myanmar (who could be a "dual-hatted" official already serving in government); this envoy would seek to work with like-minded governments to lead international efforts to end abuses, provide assistance to refugees, and promote conditions that will permit the eventual safe and voluntary return of Rohingya to Myanmar.

BACKGROUND

The Rohingya ethnic minority from western Myanmar has endured decades of persecution and abuse, which reached an unprecedented scale in the final months of 2017. Ultimately, more than 700,000 Rohingya, the majority of the population previously living in Myanmar, were forced to flee to neighboring Bangladesh between August 2017 and mid-2018. The Myanmar military, following attacks on security posts by a group of Rohingya insurgents at the end of August 2017, responded disproportionately with widespread clearance operations targeting the entire Rohingya population. The attacks, both by Myanmar's military and local ethnic Rakhine groups, included burning of villages, mass killings, and widespread rape, in what amounted to a campaign of ethnic cleansing.

Following interviews with Rohingya refugees in Bangladesh in September 2017, the Myanmar military was "executing a campaign of ethnic cleansing against the Rohingya people of Myanmar, marked by abuses that constitute crimes against humanity."[1] The extent of the abuse has been documented further in numerous investigations, including by the U.S. State Department and the UN. A State Department investigation, based on more than a thousand interviews with Rohingya refugees in Bangladesh, described the violence as "extreme, large-scale, widespread," and concluded that "the scope and scale of the military's operations indicate they were well-planned and coordinated."[2] An independent Fact-Finding Mission mandated

1. For further background on past persecution and the atrocity crimes committed against the Rohingya during the October 2016 and August 2017 ethnic cleansing campaigns, see Refugees International, "A Continuing Humanitarian Tragedy: Ongoing Abuses and Oppression of the Rohingya in Myanmar," https://www.refugeesinternational.org/reports/myanmarpolicybrief; and "Bearing Witness to Crimes Against Humanity: The Forced Expulsion of the Rohingya from Myanmar," https://www.refugeesinternational.org/reports/2017/10/bangladesh.
2. U.S. Department of State, "Documentation of Atrocities in Northern Rakhine State," https://www.state.gov/j/drl/rls/286063.htm.

NOOR JAN, a 70-year-old Rohingya grandmother, arrived in Bangladesh in December 2018. She came with three of her grandchildren: an eight-year-old grandson and two granddaughters, ages seven and five. Her village was burned to the ground at the height of the ethnic cleansing campaign against the Rohingya in August 2017. She subsequently lived in four different villages and described regular visits by security forces who beat people or took men away for forced labor or women to be raped. She told the Refugees International team that she would have fled earlier but did not find a way until a couple of months before. "I would not dare to say it is safe for people to go back," she told the team. For now, she says, "I feel safe in the camp [in Bangladesh]. Here I can sleep."

by the UN Human Rights Council described the attacks as "a human rights catastrophe" and found that Myanmar's military leadership should be prosecuted for genocide.[3]

By early 2018, the military assaults on Rohingya had scaled down, and the numbers fleeing to Bangladesh each month lessened from tens of thousands to hundreds—though reports of systematic and grave violations of human rights continued. International condemnation has shifted to talks of repatriation of the Rohingya now living in Bangladesh back to Myanmar. Three agreements have been signed toward the goal of repatriation: one between the governments of Myanmar and Bangladesh in November 2017, another between the government of Bangladesh and UNHCR in April 2018, and a third between the Myanmar government and two UN agencies (UNHCR and the UN Development Program [UNDP]) in June 2018. Bangladesh has produced a list of approximately 8,000 potential returnees, which has been vetted by Myanmar; also, several plans to begin these returns have been announced by the two governments, most recently involving a list of some 2,200 vetted names of individuals meant to begin repatriation on November 15, 2018. At the time of writing, however, no Rohingya refugees in Bangladesh have volunteered to participate in the return plans.

Meanwhile, Rohingya refugees continue to arrive in Bangladesh because of ongoing persecution–some of them paying smugglers to evade detection by Myanmar's border security forces. UNHCR estimates that more than 16,000 Rohingya arrived in 2018; scores

3. United Nations Human Rights Council, "Myanmar: UN Fact-Finding Mission Releases its Full Account of Massive Violations by Military in Rakhine, Kachin and Shan States," https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23575&LangID=E.

have continued to arrive so far in 2019.[4] Bangladesh's Foreign Secretary stated in March 2019 that Bangladesh would no longer be able to accept Rohingya from Myanmar, but as of the time of writing, Rohingya have continued to arrive.

Several hundred thousand Rohingya remain in Myanmar's Rakhine State, where they continue to endure restrictions and abuse. An estimated 200,000 live in northern Rakhine, where access to outside observers, including humanitarian organizations, has been heavily restricted–even more so because of insecurity in recent months. In addition, more than 120,000 Rohingya have been living in displacement camps in central Rakhine State since 2012, in what the UN describes as deplorable conditions. There is greater, albeit still restricted, outside access to Rohingya populations in central Rakhine State. Several thousand Rakhine and other ethnic minorities have also been displaced by violence and insecurity in both central and northern Rakhine State.

An independent Fact-Finding Mission mandated by the UN Human Rights Council described the attacks as "a human rights catastrophe" and found that Myanmar's military leadership should be prosecuted for genocide.

A team from Refugees International traveled to the Rohingya refugee camps in Bangladesh in February and April 2019 to explore conditions in Rakhine State through interviews with Rohingya who had arrived from Myanmar just days before. The new arrivals Refugees International interviewed were all from northern Rakhine State, where outside access has been particularly restricted. Information on conditions in central Rakhine State was gathered through research and recent UN and nongovernmental organization (NGO) reports. The team also interviewed dozens of UN and NGO officials in Bangladesh and Myanmar, including those who had had recent access to various parts of Rakhine State.

THE SECURITY SITUATION AND FREEDOM OF MOVEMENT

The Rohingya have long faced restrictions on their movements in Myanmar, whether through formal curfews and security restrictions, informal demands for bribes, or targeted harassment based on their ethnicity. These restrictions have increased in recent years and even more so in recent months because of the emergence of fighting between the Myanmar army and the Arakan Army (AA), an ethnic Rakhine insurgent group.

Restricted Movement and Livelihood Opportunities

The Rohingya in Rakhine State continue to face heavy restrictions on their freedom of movement and ability to pursue livelihood opportunities. Although the freedom of movement for Rohingya has been restricted

4. In February, UNHCR processed 130 new arrivals from Myanmar and India through its Transit Center; Refugees International interviewed several additional Rohingya refugees arriving from Myanmar who did not go through the Transit Center. United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Response, "Situation Report: Rohingya Crisis – Cox's Bazar, February 2019," https://www.humanitarianresponse.info/en/operations/bangladesh/document/situation-report-rohingya-crisis-coxs-bazar-february-2019.

for decades, those restrictions have grown more severe over the past couple of years. Recently arrived Rohingya from northern Rakhine told the Refugees International team about being unable to leave their towns or villages to access fields, fish in rivers, or go to health centers or nearby markets. Strict curfews limit their ability to even leave their homes.

In northern Rakhine, there is some freedom of movement for people within larger towns, such as Maungdaw and Buthidaung, but the situation is worse for people living in rural areas. Some Rohingya have tried to travel by boat to Sittwe, the state capital in central Rakhine, but have been turned away by the Myanmar security forces and told to go back to the north. As one woman from a village near Maungdaw town told the team, "We can't move. It's becoming worse day by day. We can't go anyplace without fear. Most people in the village are thinking about how they can flee."

With restricted movement comes restricted livelihood opportunities, forcing the Rohingya population to rely increasingly on outside aid. Adding to the challenge, many livestock were killed during the state-sponsored violence in 2017, a situation the government has done little to address. As a donor government official who recently visited northern Rakhine told the team, "Across the board, it's a dire situation."

Insurgency and Insecurity

The AA's attacks on the Myanmar army and police forces, and a subsequent heavy-handed response by Myanmar's security forces introduced a new element of insecurity in 2019. This dynamic is separate from the persecution of the Rohingya but is related in that the Rakhine people also have suffered from decades of neglect and the underdevelopment of Rakhine State at the hands of the central government. Unlike the Rohingya, the Rakhine are recognized by the government of Myanmar as citizens and share the predominant Buddhist religion of the main Baman ethnic group. The AA was formed in 2009 and seeks greater autonomy for the Rakhine. Though many Rakhine express animosity toward the Rohingya, particularly in recent years, the AA has focused its ire largely on the Myanmar government.

In early January, the AA attacked four Myanmar police outposts, killing 13 officers. Myanmar's security forces responded by moving thousands of troops into Rakhine State and carrying out its own attacks and arrests.[5] The violence has affected both the Rohingya and Buddhist ethnic minorities. More than 20,000 people, mostly non-Rohingya ethnic minorities, have been displaced by the fighting, including some Rakhine Buddhists who fled temporarily to Bangladesh.

The deployment of additional army troops and heightened tensions in Rakhine State have made it even more dangerous for Rohingya to move between towns, also raising very serious questions about the feasibility of any safe returns for Rohingya in the near term. Additionally, new violence perpetrated by the AA has been used by Myanmar security forces as a pretext for justifying continued harassment of Rohingya. The government has also pointed to this violence to justify further restrictions on humanitarian access to most of northern Rakhine, even to areas not directly impacted by conflict.

5. International Crisis Group, "A New Dimension of Violence in Myanmar's Rakhine State," https://www.crisisgroup.org/asia/south-east-asia/myanmar/b154-new-dimension-violence-myanmars-rakhine-state.

ROBIS AHMED, a 45-year-old Rohingya man, arrived in Bangladesh in February 2019, just days before the Refugees International team interviewed him. He was arrested in 2012, charged with taking part in riots, and held until late December 2018. "When I was released," he told the team, "I wanted so badly to go back to see my village, but I didn't dare." Getting permission to move from town to town is difficult for Rohingya and comes with a high risk of being detained or shot on suspicion of being a terrorist. Instead, Robis remained in Maungdaw town, which he noted had changed completely from when he last visited it in 2012. "There are many security forces and an 8 p.m. curfew," he told the team. "The Rohingya still there stay mostly in their homes." While in prison, Robis said he was tasked with cooking, a job that required large amounts of wood over time. He told the team that wood was often brought in from destroyed Rohingya villages. "I even heard," said Robis, that "some of the wood I cooked with came from my own village." Unable to return to his own village and facing an increasingly restrictive environment, Robis fled to Bangladesh two months after being released. After arriving in Bangladesh, he was reunited with his wife and children for the first time in seven years. "I cannot express my feeling," said Robis. "It is so amazing." His message to the international community and those still in the camps is clear. "Human beings must have basic human rights. They are not there in Myanmar. This must be changed; otherwise, Rohingya should not go back. The situation is so terrible for the Rohingya."

ONGOING HUMAN RIGHTS ABUSES

In addition to new movement restrictions, the government has continued to commit serious human rights violations against the Rohingya. Recently arrived Rohingya refugees with whom the Refugees International team spoke in the Bangladesh camps cited several ongoing abuses at the hands of Myanmar's security forces. Myanmar army and Border Guard Police (BGP) are carrying out more searches of Rohingya villages, often looting Rohingya homes and beating and arbitrarily arresting civilians in the process. Sexual violence, which was so prevalent in the ethnic cleansing campaign, remains a daily threat. Noor Jan, a 70-year-old Rohingya refugee who had arrived in Bangladesh a few days before, described security forces coming to her village almost every night, beating people or taking men for forced labor or women to be sexually assaulted.

Arbitrary Arrests and Detention

Accounts from recently arrived Rohingya refugees also suggest that there has been an uptick in harassments and arrests in 2019, at least partially related to the increased overall insecurity in Rakhine State brought on by AA attacks. Bizarrely, given the widespread antipathy of Rakhine toward Rohingya, the Myanmar government has claimed that the AA is being supported by the Rohingya population–the Arakan Rohingya Salvation Army (ARSA) militant group in particular. The AA has denied this accusation, but the Myanmar military has used the AA attacks as an excuse to crack down further on Rohingya, particularly leaders in the community. Several new arrivals told the Refugees International team they had heard security forces accusing Rohingya of supporting the AA.

> "I don't know why the government is seeking him. I just know being a Mullah is a crime."
>
> -WIFE OF ISLAMIC RELIGIOUS LEADER

One man, a respected Mullah, or Islamic religious leader, told the team that he fled after one of his close friends, a fellow Mullah, was detained; he was warned that he was also on a list of people being sought for arrest. As his wife told the team, "I don't know why the government is seeking him. I just know being a Mullah is a crime." After arriving in Bangladesh, the husband and wife heard from friends who were still in his village in Rakhine that Myanmar security forces had arrived the day after he left, searching homes and forcing people to stand in the sun for hours. They described such occurrences as becoming increasingly frequent.

Other Rohingya refugees who had recently been released from prison told the team that hundreds of Rohingya were still being detained. One Rohingya group in the Bangladesh camps keeps a list of individuals still in prison and estimated that more than 2,000 remain, held on questionable charges and in dangerous conditions. Many were arrested during a previous security crackdown in 2012 and charged with participating in riots. The former prisoners with whom the team spoke described horrible conditions in jail, including lack of food and clean water. One interviewee who had been detained in Maungdaw prison described seeing a Rohingya prisoner killed by the prison guards, with no consequences to them. He also said that some prisoners committed suicide because the conditions were so bad. According to a non-Rohingya political prisoner who spent time imprisoned in Buthidaung, the prison guards "don't treat Rohingya like human beings."

Forced Labor

Some refugees also described forced labor. One man from northern Rakhine told the team that he had been seized and forced to do everything from carrying supplies to cooking to helping to build military check posts. "When they came to the village, you had to do everything they said," he told the team. "If you refused, you would be beaten seriously or maybe sent to jail."

UN officials who conducted numerous interviews with other Rohingya refugees cited further credible reports of Rohingya in Rakhine being seized and forced to assist in building new camps. It was unclear whether these camps were meant to be the transit centers the Myanmar government has announced for repatriation or were to be used for another purpose. These accounts are consistent with a documented history of the use of forced labor by the Myanmar military. The UN Fact-Finding Mission highlighted that the use of forced labor continues; also, in early 2019 the International Labor Organization Committee of Experts noted "with deep concern the persistence of forced labour imposed by the [Myanmar army]."[6]

THE HUMANITARIAN SITUATION

Humanitarian Access

With ongoing restrictions on movement and livelihood, the Rohingya population remaining in Rakhine State, particularly in northern Rakhine State, have become increasingly dependent on aid. However, the government has heavily restricted the access of international humanitarian organizations to these populations and has further tightened these restrictions as fighting with the AA has intensified. Since mid-January 2019, the Myanmar government has blocked all aid organizations except for two–the UN's World Food Program and the International Committee of the Red Cross–from accessing the rural areas of Rakhine's five northern townships–even areas that remain peaceful.

In late January 2019, a statement by 18 international NGOs warned, "Without effective and ongoing access, the ability to provide life-saving assistance to all conflict-affected communities in central and northern Rakhine is seriously compromised."[7] Another statement in April 2019 estimated that at least 95,000 people are no longer able to access essential services.[8]
Even when aid is delivered, these restrictions make it impossible to verify that it is reaching the targeted populations. Several Rohingya refugees told the team they had witnessed aid being delivered and then confiscated by Myanmar soldiers. As one refugee said, international NGO staff delivered food aid to a village, took pictures, and then left. Shortly thereafter, Myanmar soldiers came to the village and took all of the food away. Another refugee described lamps being delivered to his village, only to be taken away.

IDP Camps and Camp Closure Plans

More than 120,000 Rohingya have been living in displacement camps in central Rakhine since 2012. These camps have reportedly come to resemble open-air

6. International Labour Organization, "Application of International Labour Standards, 2019," https://www.ilo.org/wcmsp5/groups/public/---ed_norm/--relconf/documents/meetingdocument/wcms_670146.pdf.
7. "Statement of INGOs in Myanmar 22 January 2019," https://www.lutheranworld.org/sites/default/files/2019/documents/190122_statement_from_ingos_in_myanmar.pdf.
8. "Statement of INGOs in Myanmar on the Situation in Rakhine (1 April 2019) [EN/MY]," https://reliefweb.int/report/myanmar/statement-ingos-myanmar-situation-rakhine-1-april-2019-enmy.

prisons. As Refugees International described after visits in 2014, the internally displaced people (IDPs) live "in conditions of total segregation and marginalization from the Rakhine Buddhist majority [living outside the camps]."[9] The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) has described the camps as "deplorable," with "overcrowding and poor environmental health conditions."[10] For Rohingya refugees in Bangladesh, the IDP camps are a dire warning for what their future would hold should they return to Rakhine State. As one refugee told the team, "It will not change anything for us to move from one camp to another. We do not want to go back without our rights. It is better to die here."

For Rohingya refugees in Bangladesh, the IDP camps are a dire warning for what their future would hold should they return to Rakhine State.

The poor conditions in these IDP camps were highlighted by the Kofi Annan-led Rakhine Advisory Commission and acknowledged by the Myanmar government itself. The Annan report, released in August 2017, called for closure of the camps through a process of voluntary return and relocation, and in active consultation with IDPs.[11] The government of Myanmar has begun to close camps in Rakhine and is in the process of developing a broader camp closure plan that would apply both to Rakhine State and the camps in the Kachin and northern Shan states that have existed since 2011.

However, UN and NGO officials with whom Refugees International spoke harbor serious doubts that these closures would lead to improvements in movement restrictions and other conditions for the Rohingya. So far, at least three camps have been reportedly "closed" and replaced by newly built "villages" next to the old camps. As one NGO official said, the "closure" of one IDP camp amounted to no more than the removal of a sign reading "IDP Camp" with one that reads "Village." New buildings and shelters are being built in the same areas as the camps, with no indication that the Rohingya will be able to return to their places of origin.

One fear is that Rohingya will simply be shuffled around and then concentrated to create an apartheid-like system.[12] In fact, reports indicate that, even as Rohingya are being corralled in certain areas, Rakhine people are being moved to what were Rohingya villages and land–a practice that has a history in Myanmar. Development aid under current conditions risks reinforcing such an apartheid system. UN agencies and NGOs should be clear and united in their message to the government of Myanmar that they will not provide assistance for new construction and services unless concrete steps are taken to improve freedom of movement and access to livelihood opportunities for the Rohingya.

9. Refugees International, "Myanmar: Act Immediately to Protect Displaced People's Rights," https://www.refugeesinternational.org/reports/2015/10/14/myanmar-act-immediately-to-protect-displaced-peoples-rights.
10. OCHA, "Myanmar Humanitarian Relief," https://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Myanmar%20Humanitarian%20Brief%20-%20September%202018.pdf.
11. Advisory Commission on Rakhine State, "Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine," http://www.rakhinecommission.org/the-final-report/.
12. Reuters, "Erasing the Rohingya: Point of No Return," https://www.reuters.com/investigates/special-report/myanmar-rohingya-return/.

CITIZENSHIP AND THE NATIONAL VERIFICATION CARD (NVC) PROCESS

At the heart of the crisis has been a decades-old policy by the government of Myanmar to deny citizenship to Rohingya. As the Annan Commission stated, if the question of citizenship is not addressed, "it will continue to cause significant human suffering and insecurity."[13] Any sustainable solution for the current crisis and the long-term plight of the Rohingya will require addressing their stateless status. The government of Myanmar has sought to address this issue through the National Verification Card (NVC) process, through which Rohingya are offered temporary residence permission and a chance to prove their citizenship later. However, the fact that the NVC process is based on the 1982 Citizenship Law means that it remains inherently discriminatory. The process requires that the Rohingya abandon their identity as a distinct ethnic group. Even if Rohingya are willing to take such a step, many, having been forced to flee their homes quickly, do not have the required documentation to prove citizenship. So far, only a few thousand Rohingya have gone through this process. Even with NVC cards, they continue to face heavy restrictions on their movements and livelihoods.

All of the Rohingya with whom the Refugees International team spoke voiced great suspicion of the NVC process. One refugee told the team that he had been forced to accept an NVC card upon release from a prison in which he had been held for six years after being charged with involvement in riots in 2012. He told the team he had been held without food or water for three days until he agreed to accept the NVC card. Following release, holding the card has made little difference in his ability to move around or pursue livelihood opportunities. When he asked a town administrator about reclaiming land he had owned and paid taxes on for 60 years, he was told, "You need to forget these things." His land had already been confiscated and his village bulldozed. He was told he could never go back. The loss of a home and the ongoing abusive atmosphere led him to flee to Bangladesh.

Other Rohingya refugees were concerned that the NVC would be forced on any returnees. They view it as not only a repudiation of their ethnic identity but also of any future claim to citizenship in Myanmar. As one refugee told the team, "The NVC is the first step toward making us a foreigner." They argue that the Myanmar government has ignored such documents in the past, and there is no reason to believe that these new documents will be any different.[14] According to Hafiz Saifullah, a 35-year-old man who had been in Rakhine State up to four days before the team interviewed him, the NVC is being pushed on Rohingya, but "systematically they are trying to denationalize us."

Recognizing the citizenship of Rohingya, along with their right to self-identify, will be fundamental to resolving the long-term crisis. The government of Myanmar can do so by amending its 1982 Citizenship Law to include Rohingya. Meanwhile, it must put into place a credible process to recognize the citizenship of Rohingya. The current NVC process is deeply problematic. As recommended by the Annan Commission, Myanmar should "establish a clear strategy and timeline for the citizenship verification process" and "ensure that the process is voluntary."[15]

13. Advisory Commission on Rakhine State, "Future for the People of Rakhine."
14. Since Myanmar gained independence from the United Kingdom in 1948, several identity cards have been issued at different times to the population of Myanmar, under different laws, and often different colors.
15. Advisory Commission on Rakhine State, "Future for the People of Rakhine."

A Rohingya refugee looks over a mega-camp in Bangladesh.

IMPUNITY

Finally, a fundamental obstacle to the safe, voluntary, dignified, and sustainable return of Rohingya is the ongoing impunity for abuses committed against Rohingya and other ethnic minorities in Myanmar. There has been little accountability for the atrocities committed against the Rohingya, and justice is one of the preconditions that Rohingya refugees in Bangladesh most frequently cite when discussing a return to Myanmar. As Refugees International stated in September 2018, crimes against humanity amounting to ethnic cleansing have been carried out against the Rohingya. The UN Fact-Finding Mission called for several of Myanmar's senior generals to be prosecuted for crimes against humanity and genocide.

To date, however, only a handful of officials have been demoted or resigned, and it is unclear whether these moves have anything to do with the abuses committed against the Rohingya. Investigations by the Myanmar military and government have largely exonerated the military of responsibility,[16] despite ample evidence collected by the UN Fact-Finding Mission, a U.S. State Department investigation, and several independent reports by journalists and human rights groups. Rather, such evidence has been denied and suppressed. Two Reuters journalists from Myanmar uncovered one massacre of Rohingya and are now imprisoned and facing seven years in detention.

International Options for Accountability

Rohingya refugees with whom the Refugees International team spoke saw little hope for a credible accountability mechanism within Myanmar and called for international involvement to ensure justice and accountability. Refugees often cited the International Criminal Court (ICC) as an option. Myanmar is not a member of the ICC, however, so a UN Security Council referral of the case would be needed–a step likely to be opposed and vetoed by China in its role as a permanent member of the Council. Still, the ICC has been able to begin a preliminary investigation because Bangladesh is a member of the court and based on the finding that the crime of deportation began in Myanmar but continued into Bangladesh.

The UN Human Rights Council has also mandated an "ongoing independent mechanism to collect, consolidate, preserve and analyse evidence of the most serious international crimes and violations of international law committed in Myanmar since 2011."[17] The UN General Assembly has approved $26.7 million to fund such an "independent, impartial mechanism." The Organization for Islamic Cooperation (OIC) has also endorsed introducing a case in the International Court of Justice, and there has been some discussion of establishing an international ad hoc tribunal as an alternative accountability mechanism.[18]

In addition, several countries have implemented targeted sanctions against those individuals and military units found most directly responsible for crimes committed against the Rohingya. The European Union has sanctioned 14 Myanmar security officials, Canada has sanctioned seven officials, and Australia has sanctioned five officials. The United States has imposed targeted sanctions on five individuals and two army units. These designations do not go far enough. As a recent Congressional Research Service report pointed out, nearly 40 individuals and

16. Refugees International, "5 Key Priorities to Address the Rohingya Crisis," https://www.refugeesinternational.org/reports/2018/8/22/5-key-priorities-to-address-the-rohingya-crisis.
17. U.N. Human Rights Council, "Situation of Human Rights of Rohingya Muslims and Other Minorities in Myanmar," https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session39/Pages/ResDecStat.aspx.
18. Congressional Research Service (CRS), "Burmese Security Forces and Personnel Implicated in Serious Human Rights Abuses and Accountability Options," https://crsreports.congress.gov/product/pdf/R/R45388.

more than 100 units have been identified in various independent investigations by UN agencies, the press, and human rights groups as responsible for serious human rights violations since 2011.[19]

Human rights groups are also urging further targeted sanctions, including against military-owned enterprises in Myanmar. In addition, the European Union is considering suspending Myanmar's trade benefits under its Generalized Scheme of Preferences. The UN Fact-Finding Mission called for a global arms embargo on Myanmar and identified Senior General Min Aung Hlaing for targeted sanctions and prosecution for genocide. In the absence of domestic actions in Myanmar to address both the past and ongoing abuses against Rohingya and other ethnic minority groups, such international measures will be essential.

U.S. POLICY OPTIONS

The United States has failed to take sufficient measures to address the Rohingya crisis and continued impunity in Myanmar. To be sure, it has taken some steps, including the State Department investigation and the few targeted sanctions mentioned earlier. Notably, U.S. Vice President Mike Pence confronted Myanmar's de facto leader Aung San Suu Kyi at a Southeast Asia regional summit in November 2018, saying that the atrocities committed against the Rohingya were "without excuse" and urging accountability. U.S. President Donald Trump has yet to directly address the Rohingya crisis publicly, however, and there is much more that the United States can and should do to match the magnitude of the crisis.

The State Department's report established the extreme nature, scale, and coordination behind the atrocities committed but failed to provide a legal determination as to whether the crimes identified amount to crimes against humanity and genocide. The State Department should make such a determination, accompanied by requisite action to pressure and hold Myanmar accountable. The United States should impose additional targeted sanctions on those identified in the UN Fact-Finding mission report, including on Senior General Min Aung Hlaing and military-owned enterprises. It also should make diplomatic efforts to pursue a global arms embargo and pressure countries still supporting Myanmar's military.

U.S. leadership should be sustained at the highest levels, including from President Trump himself, who should appoint a high-level presidential envoy on Myanmar (who could be a "dual-hatted" official already serving in the government) to work with like-minded governments in leading international efforts to end abuses, provide assistance to refugees, and promote conditions that will permit the eventual safe and voluntary return of Rohingya to Myanmar.

THE IMPORTANCE OF INCLUDING ROHINGYA IN REPATRIATION DISCUSSIONS

As Refugees International has discussed in previous reports, Rohingya continue to face immense challenges in Bangladesh even though they have found a safe haven there. These challenges include a lack of recognized refugee status and related restrictions on freedom of movement. Also, they do not enjoy meaningful access to livelihoods, edu-

19. CRS, "Burmese Security Forces and Personnel."

cation, and justice.[20] Conditions in the camps have improved since they were first established and preparations for the monsoon season have been implemented. However, the camps remain crowded, and the government of Bangladesh is threatening to move Rohingya to an island prone to cyclones and flooding, a move that raises serious safety concerns.

All of these issues must be addressed. With respect to repatriation, however, the key point is that the relevant actors must include Rohingya refugees in any plan for their return to Myanmar. For their return to be viable, UN agencies and the governments of Myanmar and Bangladesh must engage with and inform the Rohingya refugee community about its rights, options, and safety. Refugee International's discussions with Rohingya refugees and UN and NGO officials in the camps in Bangladesh suggest that this engagement is grossly lacking.

The Problems of November 15th

In 2018, Myanmar and Bangladesh reached an agreement to begin repatriation by November 15, 2018. However, this experience underscores the dangers inherent in a failure to adequately involve the Rohingya community in decisions about their own future. The November 15 push for repatriation came after extended discussions between the governments of Myanmar and Bangladesh, which involved mutual recriminations over delays in the process. In preparation for the initial repatriation, Bangladesh submitted a list of approximately 8,000 Rohingya to Myanmar for vetting. Myanmar subsequently approved approximately 2,260 names on that list. However, none of those listed were properly informed that they were on the list and slated for repatriation.

Uncertainty about who was to be repatriated led to widespread fears among the Rohingya population. Several Rohingya refugees abandoned their shelters on the day of the proposed repatriation and numerous cases of mental trauma occurred, including reported attempts at suicide. As one NGO health worker described to the Refugee International team, this community is already highly traumatized, with many having underlying mental illnesses. As health workers reported, the repatriation debacle triggered an increase in such episodes among this population, as well as a marked increase in anxiety among the general population.

The lack of information and coordination appears to have gone beyond the Rohingya themselves and included UN agencies and different parts of the Bangladesh government. As one humanitarian official told the team, "The whole communication on repatriation was extremely poor." Officials never shared practical information about how the repatriation would be carried out or the right of the Rohingya not to participate; team interviews indicated that the government of Bangladesh reportedly held up this information. Uncertainty continued throughout the day in question. Buses arrived in Unchiprang camp in the morning and remained all day. However, the shelters of the Rohingya on the list were empty (presumably because people were in hiding) and no one came forward to volunteer for repatriation.

The government of Bangladesh declared the November 15 exercise to be a show of its willingness to facilitate returns and Myanmar's failure to create conditions conducive to them. UN officials pointed to the exercise as a sign of Bangladesh's stated commitment not to return Rohingya forcibly. The effect on the Rohingya refugee population was dangerous, however, and illustrates broader failures of engagement.

20. Refugees International, "Aid Restrictions Endangering Rohingya Ahead of Monsoons in Bangladesh," https://www.refugeesinternational.org/reports/rohingyalivesatrisk.

Chekufa (right) and her network of 400 Rohingya refugee women volunteers are working to give Rohingya women in their community a voice.

Hearing the Voices of the Rohingya

The team met with several Rohingya groups that have been organizing themselves to give their community a stronger voice. Rohingya have shown an ability to organize themselves, including in widespread protests regarding initial concerns about identity cards, the failure to include Rohingya in agreements on repatriation, and to demand justice on the one-year anniversary of the August 2017 military clearance operations.

Efforts to further empower such groups will be important.

Rohingya refugees' key requests range from fundamental calls for citizenship in Myanmar to demands for a UN peacekeeping force to establish safe zones in the country before any returns take place. The most common requests the team heard in its random selection of interviews with Rohingya refugees were for justice, citizenship, and a guarantee of basic rights and safety if they return to Myanmar. Other requests included a return to their own lands and homes, and compensation for losses. There is also widespread suspicion of the NVC card process and a call for alternatives for citizenship recognition.

With respect to conditions in the refugee camps in Bangladesh, refugees ask most often for livelihood and education opportunities for their children, and better protection for women and children as long as they must remain in the camps. At a more basic level, self-organized groups of Rohingya refugees are asking to be included in agreements about them and to be engaged in UNHCR's repatriation agreements with the governments of Bangladesh and Myanmar. To date, Rohingya groups do not feel that their voices are being adequately heard. As one group wrote in a letter addressed to President Trump via the U.S. Ambassador in Bangladesh:

"There are so many meetings being held at the international level where they discuss a lot of the Rohingya issues, say caring things and make decisions on paper that look very nice. But there are no practical outcomes and our lives continue to be miserable under tarpaulin roofs…We tell the international visitors many demands but we don't think they are listening."[21]

21. Letter from ARSPH, February 4, 2019.

Refugees International is encouraged by the inclusion of Rohingya refugee representatives in the UN Human Rights Council session in March 2019 and urges more such efforts to include Rohingya refugees in global discussions. A greater effort must be made to include groups such as the Arakan Rohingya Society for Peace & Human Rights (ARSPH), Shanti Mohila, and the Rohingya Women's Empowerment and Advocacy Network.

CONCLUSION

Rohingya refugees in Bangladesh overwhelmingly want to return home to Myanmar. The main barrier, as described above, remains the government of Myanmar. As recent arrivals in Bangladesh told the team, there are ongoing restrictions on freedom of movement and livelihood opportunities as well as serious human rights abuses, including arbitrary arrest and forced labor. Myanmar has not only failed to create conditions conducive to return but, as demonstrated through the NVC process, its IDP policy, and other actions, is taking steps to further deteriorate and entrench the situation for the Rohingya. As long as Myanmar continues these policies, strong international pressure and engagement will be needed. The United States and other countries of influence must push for a collective strategic response, including the robust measures listed above. The Rohingya face a future of further exile and persecution; urgent action is needed if this dangerous trend is to be reversed.

REFUGEES INTERNATIONAL SENIOR ADVOCATE FOR HUMAN RIGHTS DANIEL P. SULLIVAN TRAVELED TO BANGLADESH IN FEBRUARY AND APRIL 2019, SENIOR ADVOCATE AND UN LIAISON MARK YARNELL ACCOMPANIED HIM IN FEBRUARY 2019.

ABOUT THE AUTHOR

DANIEL SULLIVAN is the senior advocate for human rights at Refugees International where his research focuses on Myanmar, Sudan, South Sudan, and other areas affected by mass displacement. He traveled to Bangladesh in February and April 2019 to interview newly displaced Rohingya refugees. Follow him on Twitter @EndGenocideDan.

ABOUT REFUGEES INTERNATIONAL

Refugees International advocates for lifesaving assistance and protection for displaced people and promotes solutions to displacement crises around the world. We are an independent organization and do not accept any government or UN funding.

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