

# 5 KEY PRIORITIES TO ADDRESS THE ROHINGYA CRISIS

By Daniel Sullivan

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August 25 marks a grim anniversary. It has now been one year since a brutal campaign of ethnic cleansing by the Myanmar military forced more than two-thirds of the Rohingya population living in Myanmar out of the country. Over the past year, more than 700,000 Rohingya have fled to neighboring Bangladesh, joining at least 200,000 other Rohingya who had fled previous bouts of violence and persecution. Described by the military as “clearance operations” provoked by attacks by Rohingya militants, the military’s actions have been not only grossly disproportionate, but marked by indiscriminate killing, widespread sexual violence, and wholesale burning of villages. Crimes against humanity, and possibly genocide, have taken place and the evidence of such crimes continues to mount. Yet there has been little accountability.

Prospects for return of Rohingya refugees remain dim, underscored by the fact that hundreds of thousands of Rohingya still living in western Myanmar continue to face widespread abuse, lack of access to healthcare and education, and heavy restrictions on freedom of movement. Access for humanitarian aid has been limited and independent human rights experts and media have been denied entry. Neither a UN Human Rights Council mandated Fact-Finding Mission nor the UN Special Rapporteur on Human Rights in Myanmar have been permitted by the government to enter the country.

As the world takes stock of the situation a year since the forced mass expulsion of Rohingya from Myanmar, Refugees International (RI) provides five key priorities to address the Rohingya crisis.

*Refugees International carried out an emergency mission to Bangladesh within the first days of the Rohingya exodus in September 2017 and another in April 2018 during which RI interviewed dozens of Rohingya refugees. This analysis is based on those interviews, previous RI missions and reports, and information provided by partner groups and individuals on the ground in Bangladesh and Myanmar.*

# 1. CRIMES AGAINST HUMANITY HAVE TAKEN PLACE AND MUST BE EXPOSED

Crimes against humanity, and possibly genocide, have taken place against the Rohingya, and the evidence of such crimes and who among the Myanmar military and security forces committed them has been steadily growing. In the first weeks of the mass exodus, RI collected testimonials from Rohingya fleeing to Bangladesh and quickly determined that what was taking place was ethnic cleansing, a determination shared by the U.S. government by November 2017.<sup>1</sup> In an October report, *Bearing Witness to Crimes Against Humanity*, and again highlighted in testimony before U.S. Congress, RI documented hearing “consistent accounts of Myanmar soldiers surrounding villages, burning homes to the ground, stabbing, shooting, and raping the inhabitants, leaving the survivors to flee for their lives.”<sup>2</sup>

Such initial accounts of Rohingya refugees collected by RI and other groups have been reinforced by comprehensive documentation efforts carried out by the United Nations and the United States. A U.S. State Department documentation project has compiled more than 15,000 pages of documentation based on interviews with a randomized sampling of more than 1,000 Rohingya refugees in camps in Bangladesh. A Fact-Finding Mission mandated by the UN Human Rights Council has carried out its own independent research, indicating evidence of grave abuses in its interim oral report.<sup>3</sup> The final report of the Fact-Finding Mission will be presented at the Human Rights Council session in September 2018.

In addition, journalists and NGOs have uncovered further details of the crimes committed. A special investigation by Reuters identified the 33<sup>rd</sup> and 99<sup>th</sup> Rapid Action Battalions of the Myanmar military as spearheading the clearance operations against Rohingya. The investigation detailed reporting lines directly to the head of Myanmar’s military, Senior General Min Aung Hlaing.<sup>4</sup> Independent investigations by Amnesty International and Fortify Rights have further identified a number of units and commanders involved in egregious human rights abuses.<sup>5</sup> Doctors Without Borders estimated that at least 6,700 Rohingya had been killed in the clearance operations.<sup>6</sup> These various reports have verified crimes against humanity that the UN Special

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1. Former Secretary of State Rex W. Tillerson, Press Statement, “Efforts to Address Burma’s Rakhine State Crisis,” U.S. Department of State, November 22, 2017, <https://www.state.gov/secretary/20172018tillerson/remarks/2017/11/275848.htm>.

2. Refugees International, “Bearing Witness to Crimes Against Humanity,” October 2017, <https://www.refugeesinternational.org/reports/2017/10/bangladesh>; Daniel Sullivan testimony before the House Foreign Affairs’ Asia and the Pacific Subcommittee Hearing, “Burma’s Brutal Campaign Against the Rohingya,” September 27, 2017, <https://foreignaffairs.house.gov/hearing/subcommittee-hearing-burmas-brutal-campaign-rohingya/>.

3. United Nations Office of the High Commissioner for Human Rights (OHCHR), Human Rights Council, “Fact-finding Mission on Myanmar: Concrete and overwhelming information points to international crimes,” March 12, 2018, <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22794&LangID=E>.

4. Simon Lewis, Zeba Siddiqui, Clare Baldwin, and Andrew R.C. Marshall, “Tip of the Spear: The shock troops who expelled the Rohingya from Myanmar,” *Reuters*, June 26, 2018, <https://www.reuters.com/investigates/special-report/myanmar-rohingya-battalions/>.

5. Fortify Rights, News Release, “Myanmar: International Accountability Needed for Military-Planned Genocide Against Rohingya,” July 19, 2018, <http://www.fortifyrights.org/publication-20180719.html>; Amnesty International, “Myanmar: ‘We Will Destroy Everything’: Military Responsibility for Crimes Against Humanity in Rakhine State,” June 27, 2018, <https://www.amnesty.org/en/documents/asa16/8630/2018/en/>.

6. Médecins Sans Frontières (MSF), Press Release, “MSF surveys estimate that at least 6,700 Rohingya were killed during the attacks in Myanmar,” December 12, 2017, <https://www.msf.org/myanmarbangladesh-msf-surveys-estimate-least-6700-rohingya-were-killed-during-attacks-myanmar>.

Rapporteur for Human Rights in Myanmar describes as having “the hallmarks of genocide.”<sup>7</sup>

The momentum created by these and future evidence collection efforts must not be squandered. The United States and other UN member states should demand access for the UN Fact-Finding Mission and any UN-mandated follow up mechanism as well as for the UN Special Rapporteur for Human Rights in Myanmar and independent media and human rights groups. The U.S. State Department, for its part, should publicly release the findings of its investigation and use it to promote further accountability efforts.

## 2. ONGOING PERSECUTION OF ROHINGYA INSIDE MYANMAR MUST BE STOPPED

While the exact number of Rohingya in Myanmar today is impossible to know for certain, it is estimated that several hundred thousand remain. As recently arrived Rohingya refugees in Bangladesh told RI in April of this year, those still in Myanmar continue to face heavy restrictions on freedom of movement and access to livelihoods and healthcare, not to mention arbitrary arrest and other abuses. Many are dependent on humanitarian aid. RI has been reporting on such conditions for several years, but conditions and access have worsened during the past twelve months. Most agencies and international organizations have been unable to access northern Rakhine State to provide aid or carry out needs assessments.<sup>8</sup> Even the UN Development Program (UNDP) and UN Refugee Agency (UNHCR), with which Myanmar signed a Memorandum of Understanding (MoU) in May 2018 regarding the return of the Rohingya, have been waiting since early June to gain access.

Limited visits and satellite images, however, provide some indication of current conditions. The UN Security Council was allowed to visit parts of Rakhine State in May 2018, and Security Council members were flown over burned out villages. Satellite images show the empty spaces where villages stood before being burnt to the ground, as well as the construction of new military buildings on razed Rohingya property.<sup>9</sup> In addition, in Central Rakhine State, more than 100,000 Rohingya have been living in displacement camps, described as open-air prisons, since 2012. USAID Administrator Mark Green highlighted the restrictions and overall despair in the camps during his own visit in May 2018 and has since described the lack of hope he saw in one young father’s eyes as “the single most disturbing moment of my tenure as USAID Administrator.”<sup>10</sup>

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7. OHCHR, Human Rights Council, Statement by Ms. Yanghee Lee, Special Rapporteur on the situation of human rights in Myanmar at the 37th session of the Human Rights Council, March 12, 2018, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22806&LangID=E>.

8. OHCHR, Human Rights Bodies, Special Procedures, Country Mandates, Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee, <https://www.ohchr.org/en/hrbodies/sp/countriesmandates/mm/pages/srmyanmar.aspx>.

9. Amnesty International, “Myanmar: Military land grab as security forces build bases on torched Rohingya villages,” March 12, 2018, <https://www.amnesty.org/en/latest/news/2018/03/myanmar-military-land-grab-as-security-forces-build-bases-on-torched-rohingya-villages/>.

10. U.S. Agency for International Development (USAID), Administrator Mark Green’s Remarks at the Ministerial to Advance Religious Freedom, July 26, 2018, <https://www.usaid.gov/news-information/press-releases/jul-26-2018-usaid-administrator-mark-green-remarks-ministerial-advance-religious-freedom>.

The United States and other UN members must continue to call for unfettered humanitarian access and an end to serious human rights abuses against the Rohingya as well as other ethnic minority groups throughout the country. Failure to address the ongoing discrimination and abuses against ethnic minorities should be met by increased international pressure, including through targeted sanctions, a global arms embargo, and referral to the International Criminal Court (ICC).

### 3. ROHINGYA IN BANGLADESH ARE STILL AT RISK AND MUST BE PROTECTED

Some 1 million Rohingya refugees in Bangladesh, while safe from the direct abuses of the Myanmar military, continue to face significant risks. The camps are densely populated and in danger of floods and landslides during the monsoon and cyclone seasons. The government of Bangladesh deserves praise for providing refuge to hundreds of thousands of Rohingya and providing land and shelter. However, the needs remain immense and are exacerbated by troubling restrictions on NGO activities and services for Rohingya. The government of Bangladesh refuses to recognize the vast majority of Rohingya in Bangladesh as refugees. It also continues to propose moving Rohingya to Bhashan Char, an island in the Bay of Bengal prone to significant cyclone and flooding risks. The UN response has also created its own inefficiencies in the form of blurred lines of responsibility and oversight.

Rohingya refugees with whom RI has spoken have a near universal desire to return to their homes, but do not feel it is safe now. In the meantime, they are urgently appealing for assistance to deal with the trauma they have experienced, education for their children, and basic protections. The challenges faced by Rohingya women and girls in the camps is particularly acute, with many having experienced sexual violence in Myanmar. The humanitarian community in Bangladesh still ill-prepared to prioritize gender-based violence as a lifesaving matter in its response. For more on these issues, see Refugees International's reports *Unnatural Disaster: Aid Restrictions Endangering Rohingya Ahead of Monsoons in Bangladesh*<sup>11</sup> and *Still At Risk: Restrictions Endanger Rohingya Women and Girls in Bangladesh*<sup>12</sup> from May and July 2018.

For the time being, and almost certainly for years to come, hundreds of thousands of Rohingya in Bangladesh will require humanitarian assistance and protection. The United States and other UN members should urge the government of Bangladesh to remove bureaucratic barriers hindering response activities and refrain from moving Rohingya refugees to Bhashan Char Island. International donors should also fully fund the efforts that were laid out in a 2018 Joint Response Plan for the Rohingya humanitarian crisis, including lifesaving aid for Rohingya refugees and the local host community in Bangladesh.<sup>13</sup>

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11. Daniel Sullivan, "Aid Restrictions Endangering Rohingya Ahead of Monsoons in Bangladesh," *Refugees International*, May 23, 2018, <https://www.refugeesinternational.org/reports/rohingyalivesatrisk>.

12. Francisca Vigaud-Walsh, "Still at Risk: Restrictions Endanger Rohingya Women and Girls in Bangladesh," *Refugees International*, July 25, 2018, <https://www.refugeesinternational.org/reports/2018/7/24/still-at-risk-restrictions-endanger-rohingya-women-and-girls-in-bangladesh>.

13. United Nations Refugee Agency (UNHCR) and International Organization for Migration (IOM), Strategic Executive Group, "Joint Response Plan (JRP) for Rohingya Humanitarian Crisis," March-December 2018, <http://reporting.unhcr.org/sites/default/files/JRP%20for%20Rohingya%20Humanitarian%20Crisis%20-%20March%202018.PDF>.

## 4. REPATRIATION OF ROHINGYA TO MYANMAR IS A DIM PROSPECT BUT AN ESSENTIAL PART OF ANY SUSTAINABLE SOLUTION

The ultimate solution to the Rohingya crisis will be safe, voluntary, dignified, and sustainable return of those who fled back to their homes or, for the many whose villages have been destroyed, to the lands upon which their villages stood. The government of Myanmar has stated its willingness to take back Rohingya and signed a Memorandum of Understanding on returns with the government of Bangladesh and another more recently with UNHCR and UNDP. The government of Myanmar has built new reception centers and said it is ready to accept Rohingya back. However, its rhetoric is belied by a failure to address the root causes of the crisis, including refusal to recognize the Rohingya as citizens of Myanmar. And Rohingya refugees rightly ask: What prospects are there for improved rights, let alone recognition of citizenship, if more than 100,000 Rohingya displaced inside Myanmar have been unable to return home since 2012?

The MoU signed between the government of Myanmar and the UN agencies was a notable step but a problematic one. A leaked version of the MoU revealed that there was no reference to Rohingya citizenship or ethnic identity. The fact that the MoU has not been made public is cause for concern, particularly among Rohingya who have not been involved. Any future moves toward repatriation will require input from the refugees, greater transparency, and guarantees of independent international monitoring to ensure the process is safe, voluntary, dignified, and sustainable. To date, those conditions clearly are not present.

## 5. SEVERAL STEPS TOWARD ACCOUNTABILITY ARE AVAILABLE BUT HAVE NOT YET BEEN TAKEN

Accountability for the crimes against humanity committed against the Rohingya will also be essential to any sustainable solution for the Rohingya crisis. Steps taken toward accountability will demonstrate a clear interest in justice on the side of Myanmar authorities that would help deter future crimes and will promote confidence among the Rohingya for the possibility of safe returns.

Yet, to date, there has been little accountability for the abuses that have taken place in Myanmar. A handful of officers involved with the clearance operations have been demoted or resigned, but it is unclear if these moves had anything to do with abuses committed. Investigations carried out by the military have cleared it of any responsibility for abuses, and other government investigations have had similar results. Aung San Suu Kyi, Myanmar's de facto civilian leader, has not simply been silent, but has defended the military's claims.<sup>14</sup> Two commissioners of an international Advisory Commission on Rakhine State set up by Suu Kyi have resigned citing

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14. Rebecca Wright, Katie Hunt, and Joshua Berlinger, "Aung San Suu Kyi breaks silence on Rohingya, sparks storm of criticism," CNN, September 19, 2017, <https://www.cnn.com/2017/09/18/asia/aung-san-suu-kyi-speech-rohingya/index.html>.

concerns of the commission being another whitewash.<sup>15</sup> In July 2018, the Myanmar government established a Commission of Enquiry that includes two international representatives, but its chairwoman has already indicated it will not be looking to point out those responsible for crimes, saying “there will be no blaming of anybody.”<sup>16</sup>

In the absence of credible domestic remedies in Myanmar, the main mechanism for accountability is through the International Criminal Court, which has jurisdiction for crimes against humanity and genocide. While Myanmar is not a party to the ICC, a referral to the court to open an investigation could come from the UN Security Council, as was done for the atrocities committed in Darfur. In the case of the Rohingya, the Security Council has not yet voted on the question of an ICC referral. Many assume that China would veto such a resolution. But even a vetoed attempt would increase international pressure on the Myanmar authorities.

Another possible option would be for Bangladesh to refer the situation in Myanmar to the ICC. Bangladesh is a party to the ICC, and the crime of deportation of the Rohingya in some measure took place in the territory of Bangladesh. The U.S. government should work with other UN Security Council members to promote such a referral.

Other accountability mechanisms include rigorous evidence collection and targeted sanctions. In Syria, the UN General Assembly has created an intensive evidence gathering mechanism that documents abuses to an evidentiary standard that could be used in any future ICC case. UN Special Rapporteur for Human Rights in Myanmar Yanghee Lee has proposed that a similar mechanism be created for the situation in Myanmar.<sup>17</sup> This is a step the United States should support.

Another option for seeking accountability is through targeted sanctions. To date, the United States has sanctioned five individuals and two army units. Only one of these individuals had been sanctioned prior to August 2018. These are significant and welcome steps but still come in short of the highest levels of accountability required. Canada and the European Union have already sanctioned seven officials. Independent investigations have identified 26 Myanmar officials who should be considered for sanctions.<sup>18</sup> The U.S. government should augment the steps it has taken so far with additional targeted sanctions, including on Senior General Min Aung Hlaing, and through pursuit of a global arms embargo and bilateral pressure on countries supporting Myanmar’s military.

Perhaps most importantly, sustained U.S. leadership at the highest levels will be needed. To this end, the Trump administration should appoint a high-level presidential envoy on Myanmar (who could be a “dual-hatted” official who is already serving in government), 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.

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15. The Daily Star, “Rohingya Crisis: Key member quits Myanmar advisory panel,” July 22, 2018, <https://www.thedailystar.net/backpage/rohingya-crisis-key-member-quits-myanmar-advisory-panel-1609198>.

16. Richard Weir, “Don’t Expect Much from Latest Myanmar Commission,” Human Rights Watch, August 17, 2018, <https://www.hrw.org/news/2018/08/17/dont-expect-much-latest-myanmar-commission>.

17. OHCHR, Concept Note, “Accountability mechanism for Myanmar,” 2018, <https://www.ohchr.org/Documents/Countries/MM/ConceptNoteAccountabilityFramework.pdf>.

18. Fortify Rights, “Myanmar: International Accountability Needed,” and Amnesty International, “We Will Destroy Everything” (see footnote 5).



# CONCLUSION

Any sustainable solution to the Rohingya crisis will require addressing the root causes of the crisis, including recognition of Rohingya citizenship in Myanmar and of the basic rights of the Rohingya people. These are steps that must be taken by the authorities in Myanmar. The culture of impunity enjoyed by the Myanmar military must also be addressed, if not domestically, then through international pressure. As long as refugees remain in Bangladesh, the scale of the humanitarian crisis faced by displaced Rohingya requires that the government of Bangladesh remove barriers, that UN agencies improve coordination of their response, and that international donors provide sufficient support for humanitarian efforts. Finally, the United States and other UN member states have a variety of options for pressuring Myanmar—from targeted sanctions to referral to the ICC. On this grim anniversary, there is still much that the world can and must do to address the plight of the Rohingya.

# RECOMMENDATIONS

## *To UN Agencies, Member States, and Donors:*

- Demand access for the UN Fact-Finding Mission and any UN-mandated follow up mechanism as well as for the UN Special Rapporteur for Human Rights in Myanmar and independent media, human rights groups, and humanitarian organizations.
- Impose additional targeted sanctions on the Myanmar security officers responsible for gross human rights abuses including Senior General Min Aung Hlaing.
- Pursue measures to pressure the government of Myanmar to address impunity and discrimination including through a global arms embargo, bilateral pressure on countries supporting Myanmar's military, and referral to the International Criminal Court.
- Fully fund the efforts laid out in the 2018 Joint Response Plan for the Rohingya humanitarian crisis, including lifesaving aid for Rohingya refugees and the local host community in Bangladesh.
- Urge the government of Bangladesh to remove bureaucratic barriers hindering the humanitarian response activities of international NGOs and to refrain from moving Rohingya refugees to Bhashan Char Island, a relocation site that would pose unacceptable risks to their well-being.
- Pursue repatriation of the Rohingya to Myanmar as an ultimate goal, but ensure that any returns are safe, voluntary, dignified, and sustainable, in accordance with international standards, as verified by the UNHCR.
- Urge the UNHCR and UNDP to publicly release the Memorandum of Understanding on repatriation signed with the Government of Myanmar and ensure that Rohingya refugees, both in terms of input and information sharing, are included in the process.

*To the U.S. Government:*

- Publicly release the findings of the U.S State Department investigation and use it to promote further accountability efforts including establishment of a UN-mandated evidence gathering mechanism and referral to the International Criminal Court.
- Appoint a high-level presidential envoy on Myanmar (who could be a “dual-hatted” official who is already serving in government), who 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.

REFUGEES INTERNATIONAL SENIOR ADVOCATE FOR HUMAN RIGHTS DANIEL SULLIVAN CARRIED OUT AN EMERGENCY MISSION TO BANGLADESH WITHIN THE FIRST DAYS OF THE ROHINGYA EXODUS IN SEPTEMBER 2017 AND ANOTHER IN APRIL 2018 DURING WHICH RI INTERVIEWED DOZENS OF ROHINGYA REFUGEES. THIS ANALYSIS IS BASED ON THOSE INTERVIEWS, PREVIOUS RI MISSIONS AND REPORTS, AND INFORMATION PROVIDED BY PARTNER GROUPS AND INDIVIDUALS ON THE GROUND IN BANGLADESH AND MYANMAR.



# ABOUT THE AUTHOR

**DANIEL SULLIVAN** is senior advocate for human rights at Refugees International. With more than 15 years of human rights and foreign policy experience, Dan has provided expert testimony before the U.S. Congress and has briefed other policymakers on the Rohingya crisis. Previously, Dan worked for United to End Genocide, the Brookings Institution, and the Albright Stonebridge Group, where he supported former Secretary of State Madeleine Albright in her role as co-chair of the Genocide Prevention Task Force. Follow him on Twitter @EndGenocideDan.

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# 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.