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HUMAN RIGHTS WATCH

“An Open Prison without End”

Myanmar’s Mass Detention of Rohingya in Rakhine State

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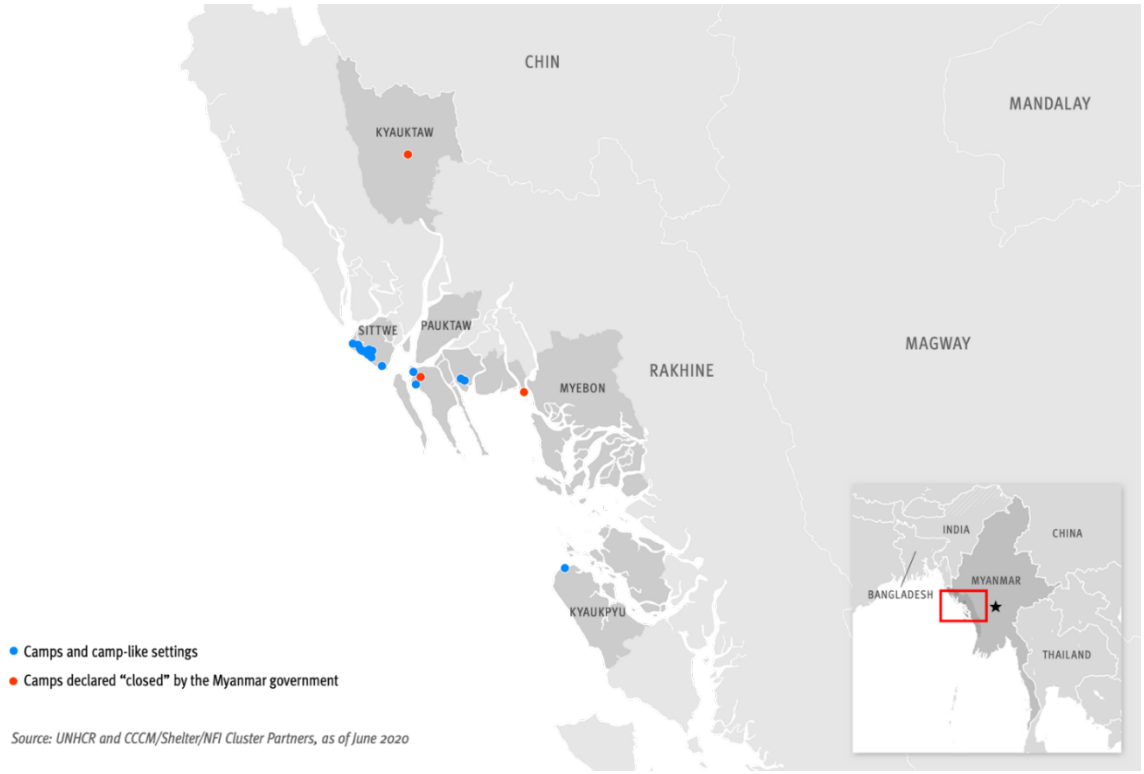
Maps

Central Rakhine Camps



Sittwe Camps

Table

Rohingya and Kaman Camps in Central Rakhine State		
Township	**Camp name**	**Population**
Kyaukpyu	Kyauk Ta Lone**	993
Kyauktaw	Nidin*	546
Myebon	Taung Paw*	2,920
Pauktaw	Ah Nauk Ywe	5,025
	Kyein Ni Pyin*	6,091
	Nget Chaung 1	4,786
	Nget Chaung 2	4,759
	Sin Tet Maw	2,538
Sittwe	Basara**	2,369
	Baw Du Pha (in host families)	226
	Baw Du Pha 1	4,697
	Baw Du Pha 2	7,531
	Dar Paing	10,892
	Dar Paing (in host families)	2,951
	Khaung Doke Khar 1**	2,400
	Khaung Doke Khar 2**	2,234
	Maw Ti Ngar**	3,812
	Ohn Taw Chay	4,611
	Ohn Taw Gyi (North)	14,499
	Ohn Taw Gyi (South)	11,810
	Say Tha Mar Gyi	14,526
	Thae Chaung	12,380
	Thet Kae Pyin**	6,369
	Thet Kae Pyin (in host families)	2,942
Total population		**131,907**

*Camps declared "closed" by the Myanmar government

**Camps identified for closure

Source: UNHCR and CCCM/Shelter/NFI Cluster Partners, June 2020

Summary

> We have nothing called freedom.
>
> **–Mohammed Siddiq, lived in Sin Tet Maw camp in Pauktaw, September 2020**

Hamida Begum was born in Kyaukpyu, a coastal town in Myanmar's western Rakhine State, in a neighborhood where Rohingya Muslims, Kaman Muslims, and Rakhine Buddhists once lived together. Now, at age 50, she recalls the relative freedom of her childhood: "Forty years ago, there were no restrictions in my village. But after 1982, the Myanmar authorities started giving us new [identity] cards and began imposing so many restrictions."

In 1982, Myanmar's then-military government adopted a new Citizenship Law, effectively denying Rohingya citizenship and rendering them stateless. Their identity cards were collected and declared invalid, replaced by a succession of increasingly restrictive and regulated IDs.

Hamida found growing discrimination in her ward of Paik Seik, where she had begun working as an assistant for local fishermen. It was during those years a book was published in Myanmar, *Fear of Extinction of the Race*, cautioning the country's Buddhist majority to keep their distance from Muslims and boycott their shops. "If we are not careful," the anonymous author wrote, "it is certain that the whole country will be swallowed by the Muslim *kalars*," using a racist term for Muslims.

This anti-Muslim narrative would find a resurgence years later. "The earth will not swallow a race to extinction but another race will," became the motto of the Ministry of Immigration and Population. By 2012, a targeted campaign of hate and dehumanization against the Rohingya, led by Buddhist nationalists and stoked by the military, was underway across Rakhine State, laying the groundwork for the deadly violence that would erupt in June that year.

Hamida's ward was spared the first wave of violence, but tensions grew over the months that followed. Pamphlets were distributed calling for the Rohingya to be forced out of Myanmar. Local Rakhine officials held meetings discussing how to drive Muslims from the town.

In late October 2012, violence returned. Mobs of ethnic Rakhine descended on the local Rohingya and Kaman with machetes, spears, and petroleum bombs. In Hamida's ward, Rakhine villagers, often alongside police and soldiers, burned Muslim homes, destroyed mosques, and looted property. "The Buddhist people started attacking us and our houses," Hamida recalls. "When we Muslims tried to protest and stand against the mob, the Myanmar security forces opened fire on us." Soldiers shot at Rohingya and Kaman villagers gathered near a mosque, killing 10, including a child.

Hamida and her Muslim neighbors attempted to flee to Bangladesh. They arranged boats and set off at night. "We were on the Bay of Bengal for three days without any food," she says. "When we arrived at the Bangladesh sea border, the authorities there provided us with some dry food—then pushed us back toward Myanmar."

Hearing they could receive much needed food and aid at the camps in Sittwe, the Rakhine State capital, Hamida and her family made their way to Thet Kae Pyin camp. She lived there for six years with her husband and six children, first in a temporary settlement, later a shared longhouse shelter. Life in the camps brought hopelessness, fear, and pain.

"There is no future there," Hamida says. "Do you think only tube wells and shelters inside the camp is enough to live our lives? We couldn't go to market to get the items we needed, couldn't eat properly, couldn't move freely anywhere. We were in turmoil 24 hours a day."

They were not allowed to study, work, or leave the camp confines. Hamida was unable to get the health care she needed.

"When our children died from lack of medical treatment, we had to bury them without any funeral," she says.

In 2018, two of Hamida's sons who had escaped to Malaysia spent 1,400,000 kyat (US$960) to send her and two of her daughters to Bangladesh. She sought medical care and the basic freedoms that her family had been denied for years. She now lives in another camp among nearly one million Rohingya refugees in Cox's Bazar. Her husband and two other children remain in Thet Kae Pyin, their requests to return home denied. She hopes one day they can all live in Kyaukpyu again. But only if they will be safe and free:

> We want justice. We want to get back to our land. I have a desire to go back to my birthplace in Kyaukpyu before I die; otherwise, it's better to die here in Bangladesh. Even the animals like dogs, foxes, or other creatures in the forest have their own land, but we Rohingya don't have any place—although we had our own place once.

* * *

The 2012 coordinated attacks on Rohingya Muslims in Rakhine State by ethnic Rakhine, local officials, and state security forces ultimately displaced over 140,000 people. More than 130,000 Muslims—mostly Rohingya, as well as a few thousand Kaman—remain confined in camps in central Rakhine State that are effectively open-air detention facilities, where they are held arbitrarily and indefinitely.

Many Rohingya told Human Rights Watch that their lives in the camps are like living under house arrest every day. They are denied freedom of movement, dignity, and access to employment and education, without adequate provision of food, water, health care, or sanitation.

The Myanmar government's system of discriminatory laws and policies that render the Rohingya in Rakhine State a permanent underclass because of their ethnicity and religion amounts to apartheid in violation of international law. The officials responsible for their situation should be appropriately prosecuted for the crimes against humanity of apartheid and persecution.

The 2012 attacks on the Rohingya ushered in an era of increased oppression that laid the groundwork for more brutal and organized military crackdowns in 2016 and 2017. In August 2017, following attacks by an ethnic Rohingya armed group, security forces launched a campaign of mass atrocities, including killings, rape, and widespread arson, against Rohingya in northern Rakhine State that forced more than 700,000 to flee across the border into Bangladesh. While these atrocities, which amount to crimes against humanity and possibly genocide, have drawn international attention, the Rohingya who remain in Rakhine State, effectively detained under conditions of apartheid, have been largely ignored.

After the 2012 violence, the Rakhine State government segregated the displaced Muslims and ethnic Rakhine in Sittwe township in an ostensible effort to defuse tensions. While the displaced ethnic Rakhine have since returned to their homes or resettled, the government has maintained the Rohingya's confinement and segregation for eight years.

Myanmar has failed to articulate any legitimate rationale for this extensive, unlawful internment. While the Rohingya have faced decades of systematic repression, discrimination, and violence under successive Myanmar governments, the 2012 violence provided a pretext for a longer term approach. "What they did in 2012 was overwhelm the Rohingya population," said a UN officer who worked in Rakhine State at the time. "Corner them, fence them, confine the 'enemy.'"

Rohingya in the camps are denied freedom of movement through overlapping systems of restrictions—formal policies and local orders, informal and ad hoc practices, checkpoints and barbed-wire fencing, and a widespread system of extortion that makes travel financially and logistically prohibitive.

Myanmar authorities meanwhile have enabled a culture of threats and violence that instills fear and self-imposed constraints. The central Rakhine camps violate international human rights law and contravene international standards on the treatment of internally displaced persons (IDPs), which provide that displaced populations "shall not be interned in or confined to a camp." These violations are so severe that these camps cannot accurately be considered IDP camps at all, but rather open-air detention camps.

Access to and from the camps and movement within are heavily controlled by military and police checkpoints. Rohingya are not allowed to leave the camps without official, mostly unobtainable, permission. In the city of Sittwe, where about 75,000 Rohingya lived before 2012, only 4,000 remain. Surrounded by barbed wire, checkpoints, and armed police guards, they now live under effective lockdown in the last Muslim ghetto of Aung Mingalar.

The restrictions have given rise to a widespread system of bribes and extortion, while unauthorized attempts to leave result in arrest and ill-treatment. The constraints have tightened over the years. Mohammed Yunus lived in Ohn Taw Gyi camp in Sittwe before fleeing to Bangladesh. "During my years inside the camp, I saw the situation becoming more and more strict," he said. "It was like an open prison without end."

Myanmar officials have often invoked tensions between ethnic Rakhine and Muslim communities as the rationale for limiting Rohingya's freedom to travel outside the camps. This claim is belied by the authorities' involvement in stoking mistrust and fear and longstanding ability, demonstrated over decades of military dictatorship, to keep communal tensions in check.

The security risks posed at various points by the Arakan Rohingya Salvation Army (ARSA), the ethnic Rohingya armed group, and the Arakan Army, an ethnic Rakhine armed group, also fail to justify the repressive measures. The broad-based and harsh security restrictions imposed on Rohingya are unlawfully discriminatory, indefinite, and do not reflect specific security threats as international law requires.

The government's policies have exacerbated the underlying ethnic tensions by failing to address hate speech and Buddhist nationalism, hold accountable perpetrators of violence, or promote tolerance. Instead of undertaking effective action to protect vulnerable communities, government officials have echoed and endorsed the threats, discrimination, and violence against the Muslim population.

A Rohingya woman from Aung Mingalar described her frustration with the government's pretense: "They say, 'Because of your security you can't go outside [the camps].' What security? If they wanted to put people in prison, they could. If they wanted to control the situation now, they could."

Living conditions in the 24 camps and camp-like settings are squalid, described in 2018 as "beyond the dignity of any people" by then-United Nations Assistant Secretary-General Ursula Mueller. Severe limitations on access to livelihoods, education, health care, and adequate food or shelter have been compounded by increasing government constraints on humanitarian aid, which Rohingya are dependent on for survival. Fighting between the Myanmar military and Arakan Army since January 2019 has triggered new aid blockages across Rakhine State.

Camp shelters, originally built to last just two years, have deteriorated over eight monsoon seasons. The national and Rakhine State governments have refused to allocate adequate space or suitable land for the camps' construction and maintenance, leading to pervasive

overcrowding, high vulnerability to flood and fire, and uninhabitable conditions by humanitarian standards.

A UN official described her visit to the camps: "The first thing you notice when you reach the camps is the stomach-churning stench. Parts of the camps are literally cesspools. Shelters teeter on stilts above garbage and excrement. In one camp, the pond where people draw water from is separated by a low mud wall from the sewage."

These conditions are a direct cause of increased morbidity and mortality in the camps. Rohingya face higher rates of malnutrition, waterborne illnesses, and child and maternal deaths than their Rakhine neighbors. An assessment of health data by the International Rescue Committee (IRC), a humanitarian organization working in the camps, found that tuberculosis rates are nine times higher in the camps than in the surrounding Rakhine villages.

Lack of access to emergency medical assistance, particularly in pregnancy-related cases, has led to preventable deaths. Only 7 percent of live births took place in health facilities during the first quarter of 2018, putting mothers and newborns in life-threatening risk. Child mortality rates are also high. During a 10-day period in January 2019, five children under 2 died from treatable diarrheal illness.

The Covid-19 pandemic has highlighted the extreme vulnerability in which Rohingya live. They face threats from overcrowding, aid blockages, and movement restrictions that increase the risk of transmission, as well as harassment, extortion, and hate speech from authorities.

Rohingya children are denied their right to quality education without discrimination. About 70 percent of the 120,000 school-age Muslim children in central Rakhine camps and villages are out of school. Given the movement restrictions, most can only attend under-resourced temporary learning centers led by volunteer teachers. The only high school in central Rakhine State open to Muslims, located in the Sittwe camp area, has just 600 students and a 100:1 student-teacher ratio.

Rohingya have been barred from attending Sittwe University since 2012 for undefined "security" reasons. A Rohingya woman who passed the matriculation exam to study in

Yangon in 2005 but was never granted permission to leave Rakhine said: “Since childhood, I have lost many opportunities for my education. If I could have come [to Yangon] in 2005, I could have changed my life.” In one camp, only 3 percent of women are literate.

This deprivation of education is a violation of the fundamental rights of the 65,000 children living in the camps. It serves as a tool of long-term marginalization and segregation of the Rohingya, cutting off younger generations from a future of self-reliance and dignity, as well as the ability to reintegrate into the broader community. It also feeds into the cycle of worsening conditions and services. Without opportunities for Rohingya to study to become teachers or healthcare workers, the community is left with a growing lack of trained service providers, particularly as ethnic Rakhine are often unwilling to work in the camps.

Restrictions that prevent Rohingya from working outside the camps have had serious economic consequences. Almost all Rohingya in the camps were forced to abandon their pre-2012 trades and occupations. Former teachers and shopkeepers have been left seeking ad hoc and inconsistent work as day laborers for an average of 3,000 kyat (US$2) a day. An 18-year-old from Say Tha Mar Gyi camp said: “Some of us want to run our own businesses but we don’t have money to invest. Some of us want to be carpenters but we don’t have tools. Some of us want to go fishing but we don’t have boats.”

The seeming unending joblessness is a significant push factor in Rohingya seeking high-risk avenues of escape from the camps. Since 2012, more than 100,000 have willingly faced the threat of drowning at sea or abuse by traffickers to seek protection and the chance for a new life and work in Malaysia and elsewhere. A Rohingya woman explained: “We know we will die in the sea. If we reach there, we will be lucky; if we die, it is okay because we have no future here.”

The National League for Democracy (NLD) government, under the leadership of Aung San Suu Kyi, has repeatedly demonstrated its unwillingness to improve conditions for Rohingya since taking office in 2016 following a half century of military rule. A Rohingya woman who fled Rakhine State described the lack of political will:

> After the 2015 elections [when the NLD won], they have hope in the camps. They think things will change. After one year, they realize the Lady [Suu Kyi] will not do anything for us. They flee again. They are hopeless. She really doesn't care. If the government wanted to control the monks, hate speech, it could.… Daw Suu is always talking about rule of law. If she actually practiced rule of law, we would be okay.

Little seems likely to change with the upcoming November elections. Most Rohingya have been barred from running for office and stripped of their right to vote.

Rohingya living in the camps have consistently expressed their desire to return to their homes, villages, and land, a right that the government has long denied. As Myo Myint Oo from Nidin camp said: "We want to go back to our places of origin and work our jobs again and live again with our neighbors in peace, like before 2012. We want to live in a safe place with other people, permanently."

No compensation or other form of reparation has been provided for lost lives, homes, or property. A Kaman Muslim community leader said: "Nobody has been able to return, nobody has been compensated. We keep asking, even still we are asking the government for our land.… The land is still empty, there are no buildings there. We are still asking."

In response to recommendations in an interim report from the government-appointed Advisory Commission on Rakhine State, led by the late UN Secretary-General Kofi Annan, the government announced in April 2017 that it would begin closing the camps. Its approach, however, has entailed constructing permanent structures in the current camp locations, further entrenching segregation and denying the Rohingya the right to return to their land, reconstruct their homes, regain work, and reintegrate into Myanmar society, in violation of their fundamental rights.

As noted in a March 2019 memo by the UN-led Humanitarian Country Team:

> The Humanitarian community recognizes that the activities undertaken by the Government thus far in the framework of its "camp closure" plan are contributing to the permanent segregation of Rohingya and Kaman IDPs,

and have not provided any durable solutions for IDPs or improved their access to basic human rights.

In November 2019, the government adopted the "National Strategy on Resettlement of Internally Displaced Persons (IDPs) and Closure of IDP Camps," which it claimed would provide sustainable solutions. Yet the steps undertaken thus far offer no sign of improving the "closure" process or having any positive impact on the lives of camp detainees. A UN official called the strategy development "just a smokescreen," and a 2020 UN analysis concluded: "The implementation of the strategy, in of itself, will unlikely resolve the fundamental issues that led to the displacement crisis in Rakhine state."

The camp "closures" being carried out fall far short of the safe and dignified solution to displacement called for under international standards. Rohingya and Kaman as well as humanitarian agencies report that in the three camps labeled "closed," there has been no notable increase in freedom of movement or access to basic services.

"Nothing has changed," a Rohingya man living in one of the "closed" camps said. "We have had individual shelters since August 2018, but everything else has stayed the same. We don't have freedom of movement, and still have major challenges for livelihood, income, and health."

The camp closure process has triggered the UN and humanitarian groups to reevaluate their approach to working in the camps. These agencies have a humanitarian mandate to assist wherever it is needed, and the needs of the Rohingya in the camps are vast. But working in the camps for eight years has increasingly threatened to make them complicit in what agency staff have determined to be a government effort at permanent segregation and deprivation. Many are questioning their engagement with a government and military that have threatened and manipulated their operations for years.

One UN officer said: "Do you really want to invest millions in making concentration camps better? That is the question we're facing…. You are helping them become permanent detainees."

An internal UN discussion note from September 2018 asserted that despite the humanitarian community's efforts, "the only scenario that is unfolding before our eyes is

the implementation of a policy of apartheid with the permanent segregation of all Muslims, the vast majority of whom are stateless Rohingya, in central Rakhine."

After eight years of de facto detention, the sense of hopelessness among displaced Rohingya is pervasive, and only worsened by the meaningless assurances of camp closures. Not one Rohingya interviewed by Human Rights Watch expressed a belief that their situation in the camps could improve, that their indefinite detention may end, or that their children could one day live, learn, and move freely. "How can we hope for the future?" said Ali Khan, who lives in a camp in Kyauktaw. "The local authorities could help us if they wanted things to improve, but they only neglect [us]."

"I think they won't solve this problem," a Rohingya woman who had escaped Rakhine State said of the government's plan to close the camps. "I think the system is permanent. A long time ago they took our money. Nothing will change. It is only words."

In September 2012, then-UN Special Rapporteur on Myanmar Tomás Ojea Quintana gave a prescient warning about the government's plan:

> The current separation of Muslim and Buddhist communities following the violence should not be maintained in the long term. In rebuilding towns and villages, Government authorities should pay equal attention to rebuilding trust and respect between communities.… A policy of integration, rather than separation and segregation, should be developed at the local and national levels as a priority.

Yet, rather than "rebuilding trust and respect," the government has maintained the Rohingya's confinement and segregation for eight years—while having since resettled or returned the thousands of displaced Rakhine Buddhists—exacerbating ethnic and religious discrimination with devastating impact.

The 1973 Apartheid Convention applies to "inhumane acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them." Apartheid and persecution

are also crimes against humanity under the Rome Statute of the International Criminal Court.

As the term "racial group" has been defined under the International Convention on the Elimination of All Forms of Racism (ICERD) and by ad hoc international criminal tribunals, the Rohingya, as an ethnic and religious group, should be considered a distinct racial group for purposes of the Apartheid Convention.

Myanmar government laws and policies on the Rohingya community, notably their long-term and indefinite confinement in camps and villages, and regime of restrictions on movement, citizenship, employment, housing, health care, and other fundamental rights, demonstrate an intent to maintain domination over them. The adoption of many of these practices into state regulations and official policies and their enforcement by state security forces shows an intent for this oppression to be systematic.

Specific inhumane acts applicable to the government's apartheid system include denial of the right to liberty; infringement of freedom or dignity causing serious bodily or mental harm; and illegal imprisonment. Various governmental measures appear calculated to prevent members of the Rohingya population from participating in the political, social, and economic life of the country, and deny group members their rights to work, to education, to leave and to return to their country, to a nationality, and to freedom of movement and residence. The government has also imposed measures designed to divide the population along racial lines by the "creation of separate reserves and ghettos" for the Rohingya and the confiscation of property.

All of these acts are ongoing in Rakhine State and amount to a regime of apartheid against the Rohingya.

A Litmus Test for Returns

Nearly one million Rohingya refugees live in overcrowded, flood-prone camps in Cox's Bazar, Bangladesh, most of whom fled Myanmar after August 2017 to escape the military's mass atrocities. Since November 2017, the Myanmar government has made claims about its readiness to repatriate Rohingya refugees from Bangladesh, yet authorities have shown no willingness to ensure safe, dignified, or voluntary returns.

The eight-year mistreatment and confinement of 130,000 Muslims in central Rakhine stands as a clear rebuttal of the government's claims. In 2018, the government built "reception centers" and "transit camps" in northern Rakhine State to process and house future returnees that are surrounded by high barbed-wire perimeter fencing—a mirror image of the detention camps in central Rakhine. Such structures, constructed on land from which the Rohingya had fled, and which was burned and bulldozed in their wake, constitute the new physical infrastructure of discrimination and segregation.

If operationalized, these camps for returning refugees would invariably limit basic rights, segregate returnees from the rest of the population, and exacerbate discrimination. As Zeid Ra'ad Al Hussein, then-UN high commissioner for human rights, said in July 2018, the central Rakhine detention camps "provide an ominous indication of what can be expected for any Rohingya returning from Cox's Bazar to Myanmar under current conditions." The narrative of a safe and voluntary repatriation process will remain a fiction until the Myanmar government undertakes fundamental, demonstrable, and lasting reforms.

Despite pressure from authorities in both Bangladesh and Myanmar, no Rohingya have formally agreed to return. Rohingya refugees told Human Rights Watch that while they wish to go home to Myanmar eventually, current conditions make their return unsafe. Repatriation attempts undertaken by the Myanmar and Bangladesh governments in November 2018 and August 2019 were widely opposed. Refugees compiled a list of demands outlining their conditions for return, including guarantees of citizenship and security, as well as freedom for the Rohingya in the central Rakhine camps.

One refugee told Human Rights Watch:

> They [Myanmar authorities] always abuse us in different ways. Why would we go back to that country to endure the same cycle of abuse? If we are recognized as Rohingya, given citizenship, our lands, and assurance of freedom of movement, then no one will need to send us back. We will go ourselves.

“We are losing hope here also,” said Ibrahim Rafiq, who fled to Bangladesh in 2017. “Our fate made us live this refugee life. Still, I have hope that one day we will be able to go back to our village to live with safety and security.”

Rohingya refugees in Bangladesh are watching the central Rakhine camps closely, deeply aware of what they signal for their futures. “They’re in touch, they’re very informed,” a humanitarian aid worker based in Rakhine said. “And no one wants to go back.”

Most Rohingya who fled to Bangladesh from the central Rakhine camps still have family living there and have heard about the tightening restrictions. “My mom said the situation is worsening there day by day,” said Abdul Kadar, whose mother lives in Thae Chaung camp. “Once she tried to flee to Bangladesh but the boat engine died, so she had to turn back.”

“We know that thousands of Rohingya back in Myanmar are still in detention camps,” said a Rohingya refugee a few days before the August 2019 repatriation attempt was set to start. “If those people are released and return to their villages, then we’ll know it’s safe to return and we’ll go back home.”

Key Recommendations

To the Myanmar Government

- End the laws, policies, and practices that have resulted in an apartheid regime against the Rohingya population.
- Lift all arbitrary restrictions on freedom of movement for Rohingya, Kaman, and other minorities, and cease all official and unofficial practices that restrict their movement and livelihoods.
- Respect the right of Rohingya to return voluntarily to their place of origin in safety and dignity, or to a place of choice, and to the return of their property.
- Halt the fundamentally flawed camp "closure" process in central Rakhine State and meaningfully engage Rohingya and Kaman communities, the UN, and international agencies to develop an updated strategy and implementation plan that ensures durable solutions, with clear timelines and procedures.
- Grant humanitarian groups and UN agencies immediate, unrestricted, and sustained access to Rakhine State.
- De-link ethnicity and citizenship, and citizenship and freedom of movement and other basic rights, so that these rights can be effectuated immediately, regardless of citizenship status or ethnicity.
- Rescind the 1982 Citizenship Law or amend it in line with international standards: ensure the law is not discriminatory in its purpose or effect, eliminate distinctions between different types of citizens, and use objective criteria to determine citizenship.

To the United Nations and Humanitarian Agencies

- Develop a comprehensive, practical, and detailed approach to assistance provision in Rakhine State, centered on long-term solutions for displaced populations that prioritize human rights protection and avoid reinforcing segregation, discrimination, and persecution of Rohingya.
- Urge the Myanmar government to halt the current camp "closure" process until thorough consultations with affected communities have been incorporated into an updated strategy, to be implemented in line with international standards.

- Develop a joint strategy for engaging publicly and privately with the government on Rakhine State, including establishing benchmarks for government progress on issues such as freedom of movement and access to health care. Failure to meet key asks should prompt groups to escalate collective advocacy and more broadly publicize the impact of the government's discriminatory policies.

To Key International Governments and Donors

- Publicly and consistently press the Myanmar national and Rakhine State governments to end all policies and practices that promote discrimination, segregation, or unequal access to services.
- Condition funding for permanent infrastructure and development projects in Rakhine State on the government's realization of human rights benchmarks, including the lifting of movement restrictions and other markers defined by the Advisory Commission on Rakhine State.
- Support international action to ensure accountability for grave crimes in Myanmar, including by urging the Security Council to refer the situation in Myanmar to the International Criminal Court, and by urging Myanmar to take concrete steps to comply with the International Court of Justice's provisional measures order directing Myanmar not to commit and to prevent genocide as part of Gambia's case under the Genocide Convention.
- Impose targeted sanctions, including travel bans and asset freezes, on officials and entities—in particular, military-owned enterprises and companies—that are credibly implicated in grave international crimes, including apartheid and persecution.
- States party to the Apartheid Convention should investigate and prosecute, in accordance with article IV of the convention, those credibly alleged to be responsible for the crime of apartheid.

Methodology

This report is based on research conducted by Human Rights Watch in the city of Yangon and Rakhine State, Myanmar, and Cox's Bazar, Bangladesh, since late 2018.

We conducted interviews with 32 Rohingya living in the townships of Sittwe, Pauktaw, Myebon, Kyauktaw, and Kyaukpyu in central Rakhine State, and in the refugee camps in Cox's Bazar who had fled the central Rakhine camps. Because Human Rights Watch is restricted by the Myanmar government from visiting the central Rakhine camps, all interviews with people detained there were conducted by phone.

Interviewees were informed how the information gathered would be used and that they could decline the interview or terminate it at any point. The majority of interviews were conducted directly in the Rohingya language. Some were conducted in Burmese with English interpretation. The names of Rohingya interviewees have been replaced with pseudonyms for their protection.

We also conducted more than 30 in-depth interviews with staff from United Nations agencies, international and local humanitarian organizations, and Rohingya and Kaman civil society groups, in addition to activists, community leaders, and local and regional analysts. Follow-up interviews were conducted over the phone and via other secure means of communications. Because of concerns of official backlash and security considerations, we have withheld the names and details of sources.

In researching this report, Human Rights Watch obtained, reviewed, and analyzed over 100 internal and public government, UN, and academic documents and reports related to the situation in central Rakhine State.

A Note on Terminology

In this report, the Rohingya camps in central Rakhine State are not referred to as the commonly used "internally displaced persons camps." The use of the term internally displaced persons or IDPs to refer to the camp population obscures the government's intent and minimizes its violation of international law, an illustration of authorities' efforts

to legitimize their repression of the Rohingya population. The term "detention camps" more accurately reflects the extreme movement restrictions imposed on the Rohingya since 2012 that amount to arbitrary and indefinite detention and severe deprivation of liberty.[1]

[1] Liam Mahony, a protection expert who authored two internal reports for the UN in Myanmar on its approach to the situation in Rakhine State, wrote in a 2018 report: "For the people in the camps, the application of a standard 'IDP' model served to normalize a situation that should never have been considered normal.… The use of standard IDP terminology is very convenient for both the international institutions and the government, because it diverts attention from the illegality of the situation.… Both the government and the humanitarian actors themselves need to be constantly reminded of illegality of the situation they are supporting." Fieldview Solutions, *Time to Break Old Habits: Shifting from Complicity to Protection of the Rohingya in Myanmar*, June 2018.

I. A History of State Violence and Abuse

Large-scale ethnically motivated attacks against the Rohingya have occurred repeatedly since Myanmar's independence in 1948. In 1978, the Myanmar military drove over 200,000 Rohingya out of the country in a campaign of killings, rape, and arson. Another anti-Rohingya campaign followed in 1991-1992 that forced over 250,000 to flee to Bangladesh.[2]

Between 1993-1997, about 230,000 were forced back from Bangladesh to Myanmar—to northern Rakhine State, where the government sought to concentrate the Rohingya away from predominantly ethnic Rakhine parts of the state, subjecting them to increasingly restrictive and discriminatory policies and practices including the effective denial of citizenship, forced labor, and arbitrary confiscation of property.[3]

2012 Ethnic Cleansing and Internment

In early June 2012, sectarian clashes erupted between ethnic Rakhine Buddhists and Rohingya in four townships in Rakhine State. When violence resumed in October that year, it engulfed nine more townships and became a coordinated campaign to forcibly relocate or remove the state's Muslims.

While often portrayed as intercommunal, the violence against the Rohingya was planned and instigated by government officials and state security forces.[4] Months before the violence started, local Rakhine political party officials and senior Buddhist monks had begun a campaign to vilify the Rohingya population, depicting them as a threat to Rakhine State and Buddhism, denying the existence of the Rohingya ethnicity, and calling for their removal from the country. A Rohingya woman living at the time in the city of Sittwe, Rakhine State's capital, described the spread of propaganda: "Before the violence, they

[2] Human Rights Watch, *Burmese Refugees in Bangladesh: Still No Durable Solution*, May 2000, https://www.hrw.org/reports/2000/burma/index.htm.

[3] Ibid.

[4] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, A/HRC/39/CRP.2, September 2018, https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/A_HRC_39_CRP.2.pdf (accessed October 1, 2018), paras. 696-716, 724-728.

[Rakhine nationalists] were handing out pamphlets that said, 'You need to wipe out these people or they'll take your land.'"[5]

Immediately following the first wave of violence in June, local Buddhist monks circulated pamphlets calling for the isolation of Muslims. A Buddhist monk in Sittwe told Human Rights Watch in 2012:

> This morning we handed our pamphlet out downtown [in Sittwe]. It is an announcement demanding that the Rakhine people must not sell anything to the Muslims or buy anything from them. The second point is the Rakhine people must not be friendly with the Muslim people. The reason for that is that the Muslim people are stealing our land, drinking our water, and killing our people. They are eating our rice and staying near our houses. So we will separate. We don't want any connection to the Muslim people at all.[6]

Officials labeled Rohingya as "terrorists" who would take over the state with "uncontrollable" birth rates.[7] The Rakhine Nationalities Development Party (RNDP)—at the time the dominant party in the Rakhine State parliament, with an additional 14 seats in the national parliament—called on the national government to support its "endeavours to maintain the Rakhine race," citing Adolf Hitler in its claim that "inhumane acts" are sometimes necessary:

> The Union Government and the citizens collectively need to have a decisive stand on the issue of Bengali Muslims [Rohingya]. We cannot afford to waste time.... If we do not courageously solve these problems, which we have inherited from several previous generations … we will go down in history as cowards. For our citizens, for the maintenance of Buddhism, for

[5] Human Rights Watch interview with Myat Noe Khaing, Yangon, April 8, 2019.

[6] Human Rights Watch interview with C.D., Sittwe, June 2012, qtd. in Human Rights Watch, *All You Can Do is Pray: Crimes Against Humanity and Ethnic Cleansing of Rohingya Muslims in Burma's Arakan State*, April 2013, https://www.hrw.org/report/2013/04/22/all-you-can-do-pray/crimes-against-humanity-and-ethnic-cleansing-rohingya-muslims.

[7] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, paras. 1409-1410. Various local orders were implemented as a response to the narrative that Rohingya birth rates constitute a threat to the Buddhist population, including restrictions on marriage and childbirth that could carry criminal penalties. Fearing repercussions for unauthorized births, Rohingya women would flee the country or resort to illegal and unsafe abortions.

> the protection of our culture, it is now time to sacrifice…. Although Hitler and Eichmann were the greatest enemies of the Jews, they were probably heroes to the Germans…. If inhumane acts are sometimes permitted to maintain a race, a country and the sovereignty … our endeavours to maintain the Rakhine race and the sovereignty and longevity of the Union of Myanmar cannot be labelled as inhumane.[8]

The October 2012 attacks against Rohingya and Kaman Muslims were organized, instigated, and committed by local Rakhine political party operatives, the Buddhist monkhood, and Rakhine villagers, with active involvement of state security forces.[9] A Human Rights Watch investigation into the 2012 violence determined that the attacks were carried out with the intent to drive the Rohingya from the state or at least relocate them from areas in which they had been residing—particularly from areas shared with the majority Buddhist population.[10]

Hundreds of Rohingya men, women, and children were killed, some buried in mass graves, their villages and neighborhoods razed. State security forces frequently stood aside during attacks or directly supported the assailants, committing killings and other abuses. Human Rights Watch concluded that the atrocities amounted to crimes against humanity carried out as part of a campaign of ethnic cleansing.[11]

Rohingya from central Rakhine describe 2012 as a turning point in the treatment of their community. Many Rohingya and Rakhine describe positive relationships and interactions between the communities prior to 2012. “I lived with my [Rakhine] neighbors for over 25 years,” said Myat Noe Khaing, a Rohingya woman who grew up in the city of Sittwe. “When the violence happened, they said, ‘We want to help you, but if we do, they will kill us too.’ Then everyday they started calling us ‘kalar.’”[12]

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[8] Editorial, Toe Thet Yay, Rakhine Nationalities Development Party (RNDP) magazine, November 2012, qtd. in UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 1328.

[9] For more on the Kaman Muslims, see box below.

[10] Human Rights Watch, *All You Can Do is Pray.*

[11] Ibid.

[12] Human Rights Watch interview with Myat Noe Khaing, Yangon, April 8, 2019. In Myanmar, “kalar” is a racist slur used against Muslims.

Khadija Khatun's husband and son were killed when violence broke out in her town of Myebon in October 2012. "Police opened fire on the Rohingya who were fleeing," she said. "My husband died. One of my sons died. When we were fleeing from our village, the Buddhist neighbors, who we were living together with for so many years, were swearing at us and saying they wanted to shower with our blood."[13]

"For years, they'd lived next door without killing each other, depending on each other," a UN official who worked in Rakhine State at the time said, describing the role that state forces had on instigating the violence. "It was engineered by the government, the military.... They used this conflict to advance their interests."[14]

Over 140,000 people were ultimately displaced from their homes. In the wake of the violence, the Rakhine State government segregated the displaced Muslims and Buddhists in Sittwe township in an ostensible effort to defuse tensions. The long-term segregation, however, only resulted in worsening tensions and mistrust.

The government's response to the 2012 violence—including its radically disparate treatment of the displaced Rohingya and the few thousand displaced Rakhine—indicated a calculated effort to capitalize on the crisis by segregating and confining a population it had previously sought to remove, with restrictions so harsh and unlivable as to spur their leaving the country.[15] RNDP leader Aye Maung laid out a plan for segregating the Rohingya just days after the June attacks: "We need to have a policy; an exclusive one, for these people and figure out how to defend this region—they will be repeatedly invading our territory."[16]

Then-Myanmar President Thein Sein released an official statement in July 2012, one month after the first wave of violence, calling for Rohingya to be removed from Myanmar and seeking UN support to do so: "We will take care of our own ethnic nationalities, but Rohingyas who came to Burma illegally are not of our ethnic nationalities and we cannot

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[13] Human Rights Watch interview with Khadija Khatun, Cox's Bazar, October 30, 2019.

[14] Human Rights Watch interview with humanitarian worker, Sittwe, November 15, 2018.

[15] For more on the disparate treatment of displaced Rakhine and Rohingya, see "A Tale of Two Camps," below. See also Human Rights Watch, *All You Can Do is Pray.*

[16] *Venus News Weekly*, vol. 3, no. 47, June 14, 2012, qtd. in Francis Wade, *Myanmar's Enemy Within: Buddhist Violence and the Making of a Muslim 'Other'* (London: Zed Books, 2019), p. 167.

accept them here.... The solution to this problem is that they can be settled in refugee camps managed by UNHCR [the UN High Commissioner for Refugees], and UNHCR provides for them. If there are countries that would accept them, they could be sent there."[17]

"In 2012, things happened so quickly," a humanitarian worker said, describing the beginning of the humanitarian response by the UN and international nongovernmental organizations (INGOs). "The government was setting up internment camps, but no one noticed."[18] Just a year later, the UN Office of the High Commissioner for Human Rights (OHCHR) warned in an internal situation update to the UN resident coordinator that the camps "are in effect manifestations of what is increasingly recognized as a de facto government policy of confinement." The report added: "[the] restrictions on movement … may now arguably be impacting the right to life."[19]

Post-Segregation Violence

The 2012 violence and ensuing displacement inflamed anti-Rohingya sentiment throughout Myanmar and precipitated an era of increased oppression, in both policy and practice, that became the groundwork for more brutal and organized military crackdowns in 2016 and 2017.

In October 2016, the ethnic armed group Arakan Rohingya Salvation Army (ARSA) attacked three police outposts in northern Rakhine State.[20] The Myanmar security forces responded with months-long "clearance operations" against the Rohingya that involved extrajudicial killings, rape of women and girls, and the burning of at least 1,500 structures.[21]

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[17] "Call to Put Rohingya in Refugee Camps," Radio Free Asia, July 12, 2012, https://www.rfa.org/english/news/rohingya-07122012185242.html (accessed June 16, 2020).

[18] Human Rights Watch interview with humanitarian worker, Yangon, November 2, 2018.

[19] OHCHR, "OHCHR Rakhine Deployment Situation Report, November 15, 2013-January 15, 2014" (copy on file with Human Rights Watch).

[20] At the time, ARSA was known as Harakah al-Yaqin (meaning "Faith Movement").

[21] "Burma: Rohingya Recount Killings, Rape, and Arson," Human Rights Watch news release, December 21, 2016, https://www.hrw.org/news/2016/12/21/burma-rohingya-recount-killings-rape-and-arson; "Burma: Security Forces Raped Rohingya Women, Girls," Human Rights Watch news release, February 6, 2017, https://www.hrw.org/news/2017/02/06/burma-security-forces-raped-rohingya-women-girls; "Burma: Military Burned Villages in Rakhine State," Human Rights Watch news release, December 13, 2016, https://www.hrw.org/news/2016/12/13/burma-military-burned-villages-rakhine-state.

In August 2017, following new ARSA attacks on police outposts, security forces again launched a systematic campaign of mass atrocities, including widespread killings, rape, and arson, against the Rohingya in northern Rakhine State. More than 700,000 were forced to flee to Bangladesh. In a September 2018 report, the Fact-Finding Mission on Myanmar, which the UN Human Rights Council had authorized in March 2017, asserted that evidence "suggests that the estimate of up to 10,000 deaths is conservative."[22] The mission concluded on the finding of genocidal intent:

> The actions of those who orchestrated the attacks on the Rohingya read as a veritable check-list: the systematic stripping of human rights, the dehumanizing narratives and rhetoric, the methodical planning, mass killing, mass displacement, mass fear, overwhelming levels of brutality, combined with the physical destruction of the home of the targeted population, in every sense and on every level.[23]

The Fact-Finding Mission called for senior military officials, including the military commander-in-chief, Sr. Gen. Min Aung Hlaing, to face investigation by an international criminal tribunal for alleged genocide, crimes against humanity, and war crimes. The Myanmar government has repeatedly denied that serious security force abuses took place, setting up successive investigations—none of which have been carried out credibly or impartially—to refute the extensive documentation of military atrocities.[24]

Most recently, it established an Independent Commission of Enquiry to investigate the August 2017 violence. The executive summary of the commission's report, released in January 2020, contained selective admissions of military wrongdoing but failed to hold senior military officials responsible or provide a credible basis for justice and accountability.[25]

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[22] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 1008.

[23] Ibid., para. 1440.

[24] Human Rights Watch, *Myanmar's Investigative Commissions: A History of Shielding Abusers*, September 2018, https://www.hrw.org/sites/default/files/supporting_resources/201809myanmar_commissions.pdf.

[25] "Myanmar: Government Rohingya Report Falls Short," Human Rights Watch news release, January 22, 2020, https://www.hrw.org/news/2020/01/22/myanmar-government-rohingya-report-falls-short.

The National League for Democracy (NLD) government, under the leadership of State Counsellor Aung San Suu Kyi, has repeatedly proven unwilling to improve conditions for Rohingya in Myanmar or address the root causes of the crisis. A Rohingya woman who fled Rakhine State in 2013 described the lack of political will:

> After the 2015 elections [when the NLD won], they have hope in the camps. They think things will change. After one year, they realize the Lady [Suu Kyi] will not do anything for us. They flee again. They are hopeless. She really doesn't care. If the government wanted to control the monks, hate speech, it could…. Daw Suu is always talking about rule of law. If she actually practiced rule of law, we would be okay.[26]

The mass atrocities committed against the Rohingya in recent years have drawn international attention, while the Rohingya who remain trapped in villages and camps in Rakhine State—within a system of institutionalized oppression, under a military threateningly intent on "solving the [Rohingya] problem"—have been largely forgotten. As Ursula Mueller, then-UN assistant secretary-general for humanitarian affairs, stated after an April 2018 visit: "There is a humanitarian crisis on both sides of the Bangladesh-Myanmar border."[27]

Since late 2018, fighting has escalated between the Myanmar military and Arakan Army, an armed group seeking greater autonomy for ethnic Rakhine. The armed conflict has increased insecurity across Rakhine State and displaced as many as 200,000 civilians in Rakhine and Chin States, the majority ethnic Rakhine.[28] Myanmar authorities responded by imposing new restrictions on aid, movement, media, and the internet. Hundreds of Rakhine and dozens of Rohingya civilians have been killed in the fighting.[29]

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[26] Human Rights Watch interview with Myat Noe Khaing, Yangon, April 8, 2019.

[27] "UN Deputy Humanitarian Chief: 'All People Affected by Humanitarian Crises in Myanmar Must Get the Assistance and Protection They Need,'" UN Office for the Coordination of Humanitarian Affairs, April 8, 2018, https://reliefweb.int/sites/reliefweb.int/files/resources/OCHA_PRESS_RELEASE_DERC_ASG_Ursula_Mueller_Mission_to_Myanmar_08_April_2018_FINAL.pdf (accessed October 1, 2018).

[28] Figure of 200,000 IDPs is according to local NGO Rakhine Ethnics Congress. "Refugees From Myanmar's Rakhine Conflict Spill Into State Capital," Radio Free Asia, August 11, 2020, https://www.rfa.org/english/news/myanmar/idps-sittwe-08102020194536.html (accessed September 20, 2020).

[29] "257 Civilians killed in Rakhine fighting from 2018 to May 2020: RFA," *Mizzima*, June 5, 2020, http://www.mizzima.com/article/257-civilians-killed-rakhine-fighting-2018-may-2020-rfa (accessed June 15, 2020);

The Fact-Finding Mission has continued to raise concerns about the government's treatment of Rohingya remaining in Rakhine State. In its September 2018 report, the mission found that the government's systematic oppression of Rohingya may amount to the crime against humanity of apartheid as set out under the Apartheid Convention and the Rome Statute of the International Criminal Court: "The regime against the Rohingya is not a series of random occurrences but an overarching regimen of restrictions and abuses, that operate to cumulatively remove rights and erode the community's dignity.… The 'domination by one racial group over another' has been accomplished."[30] It further concluded that genocidal acts, including the imposition of conditions of life calculated to bring about the physical destruction of the Rohingya group, had been committed.[31]

A year later, the Fact-Finding Mission reported that the Rohingya remaining in Rakhine State were still living under threat of genocide, concluding that "Myanmar is failing in its obligation to prevent genocide, to investigate genocide and to enact effective legislation criminalizing and punishing genocide."[32]

In November 2019, Gambia filed a case at the International Court of Justice (ICJ) alleging that Myanmar's atrocities against the Rohingya violate various provisions of the Genocide

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"Rakhine clashes have killed at least 215 civilians since pandemic began, says monitoring group," *Myanmar Now*, September 14, 2020, https://myanmar-now.org/en/news/rakhine-clashes-have-killed-at-least-215-civilians-since-pandemic-began-says-monitoring-group (accessed September 20, 2020); Moe Myint, "Six Rohingya Workers Killed in Army Helicopter Attack," *Irrawaddy*, April 4, 2019, https://www.irrawaddy.com/news/burma/six-rohingya-workers-killed-army-helicopter-attack.html (accessed April 23, 2020); Shoon Naing, "Four Rohingya children killed in blast in Myanmar's Rakhine state," Reuters, January 7, 2020, https://www.reuters.com/article/us-myanmar-rohingya-explosion/four-rohingya-children-killed-in-blast-in-myanmars-rakhine-state-idUSKBN1Z61K1 (accessed April 23, 2020); "Myanmar army clash with insurgents kills five Rohingya: lawmaker, residents," Reuters, March 1, 2020, https://www.reuters.com/article/us-myanmar-rakhine/myanmar-army-clash-with-insurgents-kills-five-rohingya-lawmaker-residents-idUSKBN20O1ML (accessed April 23, 2020); Kyaw Ye Lynn, "3 Rohingya Muslims killed in Myanmar shelling," *Andalou Agency*, February 29, 2020, https://www.aa.com.tr/en/asia-pacific/3-rohingya-muslims-killed-in-myanmar-shelling/1750045 (accessed April 23, 2020); "UN: Recent Myanmar army attack may have killed dozens of Rohingya," *Al Jazeera*, April 9, 2019, https://www.aljazeera.com/news/2019/04/myanmar-army-attack-killed-dozens-rohingya-190409062501653.html (accessed April 23, 2020).

[30] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 1505. The Rome Statute defines apartheid as underlying acts of crimes against humanity or other inhumane acts "committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime." See also International Convention on the Suppression and Punishment of the Crime of Apartheid (Apartheid Convention), adopted by UN G.A. Res. 3068 (XXVIII) of November 30, 1973, 28 U.N. G.A.O.R. Supp. (No. 30) at 75, U.N. Doc. A/9030 (1973).

[31] Ibid., paras. 1400-1407.

[32] Office of the United Nations High Commissioner for Human Rights (OHCHR), "Myanmar's Rohingya Persecuted, Living under Threat of Genocide, UN Experts Say," September 16, 2019, https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24991&LangID=E (accessed April 30, 2020).

Convention.[33] In January 2020, the ICJ unanimously adopted Gambia's request for "provisional measures."[34]

The provisional measures require Myanmar to prevent all acts under article 2 of the Genocide Convention, ensure that its military does not commit genocide, and take effective measures to preserve evidence related to the underlying genocide case.[35] The court also ordered Myanmar to report on its implementation in May 2020, and then every six months afterward.[36] The order is legally binding on the parties.[37]

Although Myanmar is not a member of the International Criminal Court (ICC), the ICC ruled it has jurisdiction over the forced deportation of Rohingya because the crime was completed in Bangladesh, an ICC state party. In November 2019, the ICC authorized the investigation of alleged crimes against humanity committed against the Rohingya in Myanmar since October 2016, including forced deportation, persecution, and other inhumane acts.[38]

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33 International Court of Justice (ICJ), "The Republic of The Gambia institutes proceedings against the Republic of the Union of Myanmar and asks the Court to indicate provisional measures," November 11, 2019, no. 2019/47, https://www.icj-cij.org/files/case-related/178/178-20191111-PRE-01-00-EN.pdf (accessed April 30, 2020). Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention), adopted December 9, 1948, G.A. Res. 260 A (III), 78 U.N.T.S. 227, entered into force January 12, 1951.

34 ICJ, "The Court indicates provisional measures in order to preserve certain rights claimed by The Gambia for the protection of the Rohingya in Myanmar," January 23, 2020, no. 2020/3, https://www.icj-cij.org/files/case-related/178/178-20200123-PRE-01-00-EN.pdf (accessed April 30, 2020), para. 76.

35 Ibid.

36 Ibid.

37 LaGrand (*F.R.G. v. U.S.*), 2001 I.C.J. 466 (June 27).

38 "ICC judges authorise opening of an investigation into the situation in Bangladesh/Myanmar," International Criminal Court, November 14, 2019, https://www.icc-cpi.int/Pages/item.aspx?name=pr1495 (accessed April 28, 2020).

II. Citizenship and Identity

> Am I wrong? For being Rohingya, being from Rakhine? I ask myself, what did I do wrong? But there is nothing wrong with me.
>
> –A Rohingya woman from Aung Mingalar, April 2019

Rohingya Muslims have faced decades of systematic repression, discrimination, and violence under successive Myanmar governments. Central to their persecution is the 1982 Citizenship Law, which effectively denies them citizenship on discriminatory ethnic grounds.

In Myanmar, nationality is the principal link between the individual and the law: people invoke the protection of the state by virtue of their nationality. The Rohingya's imposed statelessness has thus facilitated long-term and severe government human rights violations, including deportation, arbitrary confinement, and persecution. By linking ethnicity to citizenship, and citizenship to freedom of movement and other basic rights, the government has created a multilayered system of oppression.

In its September 2019 report, the Fact-Finding Mission on Myanmar identified seven indicators of Myanmar's genocidal intent against the Rohingya, including discriminatory policies such as the Citizenship Law and National Verification Card (NVC) process; derogatory and racist speech by Myanmar officials; and "the Government's tolerance for public rhetoric of hatred and contempt for the Rohingya."[39] Further, it took the government's "failure to reform the Citizenship Law [and] the inhumane use of the NVC process" as evidence of continuing genocidal intent and ongoing, serious risk of genocide.[40]

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[39] UN Human Rights Council, Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, A/HRC/42/CRP.5, September 2019, paras. 106, 224.

[40] The Fact-Finding Mission concluded: "The manner in which the Government restricts citizenship also denies Rohingya their identity and deprives them of the rights people need to survive and live with dignity. The Mission regards such restrictions and denials as one of several indicators that it has identified to infer that the Government continues to harbour genocidal intent and that the Rohingya remain under serious risk of genocide. Finally, the Mission concludes that citizenship restrictions contribute to an overall condition that makes it unsafe, unhumane, unsustainable and impossible for Rohingya to return to Myanmar." Ibid., paras. 106, 238.

In September 2016, State Counsellor Aung San Suu Kyi created the Advisory Commission on Rakhine State, chaired by the late UN Secretary-General Kofi Annan, to "examine the complex challenges facing Rakhine State and to propose answers to those challenges." Its final report released in August 2017 put forward 88 recommendations, including a call for a review of the Citizenship Law to eliminate the linkage between ethnicity and nationality and enable Rohingya to acquire citizenship.

The government at points asserted it had implemented 81 of the commission's recommendations, a spurious claim—its progress has been superficial, limited, or nonexistent, particularly with regard to recommendations addressing critical human rights issues, including freedom of movement. Crucially, the government has wholly refused to address the issue of citizenship.[41]

Hate and Denial of Identity

The government's persistent rights violations against the Rohingya have been facilitated by a long-term process of dehumanization and "othering." The government, along with Myanmar society more broadly, openly considers the Rohingya to be illegal immigrants from what is now Bangladesh, and not a distinct "national race" under Myanmar law, despite the fact that many families have lived in Myanmar for generations, if not centuries.[42]

In its application at the International Court of Justice alleging Myanmar violated the Genocide Convention, Gambia cited as an indicator of genocidal intent the Myanmar authorities' dehumanizing and hate-filled rhetoric toward the Rohingya.[43]

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[41] Poppy McPherson and Simon Lewis, "Myanmar rejects citizenship reform at private Rohingya talks," Reuters, June 26, 2018, https://www.reuters.com/article/us-myanmar-rohingya-meeting-exclusive-idUSKBN1JNoD7 (accessed May 5, 2020).

[42] Interpretations of early and modern Rakhine State history and the question of indigenousness are deeply contested. Nevertheless, there have been Muslim inhabitants in western Myanmar for centuries. Use of the term "Rohingya" in English dates back at least to research published in 1799 on the languages of Myanmar, then Burma, by Francis Buchanan, who wrote of a dialect in western Myanmar "spoken by the [Muslims], who have long settled in Arakan, and who call themselves Rooinga, or natives of Arakan." The Muslim population of Rakhine State grew significantly during the British colonial period, which has been used to argue that the Rohingya exist merely as a modern construct and that all Rohingya are direct descendants of migrants from Bengal. The latter claim is widely accepted in Myanmar, and functions as the basis for their statelessness, given that full citizenship is restricted to those who can verify their ancestry in Myanmar prior to British colonial rule. Myanmar authorities commonly use the term "Bengali" to refer to Rohingya.

[43] *Republic of the Gambia v. Republic of the Union of Myanmar*, "Application Instituting Proceedings And Request For Provisional Measures," International Court of Justice, November 11, 2019, paras. 37-46.

The Rohingya were excluded from the 2014 census—conducted in partnership with the UN Population Fund—denying their existence in the country and obstructing the collection of population and demographic figures.[44] A 60-year-old Rohingya man living in the Dar Paing camp in Sittwe said: "The census team asked me, 'What is your ethnicity?' When I answered 'Rohingya,' they walked away. They didn't even ask me any of the other questions. Now if we don't appear in the census, are we really here?"[45]

The government is overt in its erasure of the Rohingya identity. In a 2014 report to the UN, the Myanmar government stated: "The term 'Rohingya' has never existed in our national history…. The said term is maliciously used by a group of people with ulterior motives. The people of Myanmar never recognizes it."[46] Official statements refer to the Rohingya as "Bengali" or "the Muslim community in Rakhine."

Aung San Suu Kyi refuses to call the group "Rohingya" and told international stakeholders, including the United States, European Union, and UN, as well as the Advisory Commission on Rakhine State, to follow suit.[47] Since Suu Kyi's party took office in 2016, media groups have been pressured to cease using "Rohingya"; the authorities banned Radio Free Asia from broadcasting on local outlets after it refused to comply.[48]

All individuals in Myanmar, including the Rohingya, are entitled to a nationality and to self-identify in line with international human rights standards. As the Fact-Finding Mission noted, avoiding the use of the term Rohingya "feeds the narrative that the Rohingya do not belong in Myanmar … denies their right to self-identification, and contributes to their stigmatisation and marginalisation."[49]

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[44] IRIN, "Briefing: Myanmar's 'Rohingya' – what's in a name?" September 15, 2014, https://www.refworld.org/docid/5417f6204.html (accessed May 5, 2020).

[45] Ibid.

[46] "Observations by Myanmar on the Report of the Special Rapporteur on the situation of human rights in Myanmar (A/HRC/25/64)," March 12, 2014, A/HRC/25/64/Add.1.

[47] Aung Kyaw Min, "UN investigator told to avoid 'controversial' terms," *Myanmar Times*, June 21, 2016, https://www.mmtimes.com/national-news/nay-pyi-taw/20952-un-investigator-told-to-avoid-controversial-terms.html (accessed April 10, 2020); Feliz Solomon, "Why Burma Is Trying to Stop People From Using the Name of Its Persecuted Muslim Minority," *Time*, May 9, 2016, https://time.com/4322396/burma-myanmar-rohingya-us-embassy-suu-kyi/ (accessed April 10, 2020).

[48] Reporters Without Borders, "Myanmar bans Radio Free Asia for using the term 'Rohingyas,'" June 12, 2018, https://rsf.org/en/news/myanmar-bans-radio-free-asia-using-term-rohingyas (accessed April 10, 2020).

[49] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 1330.

For Rohingya, their call for the right to self-identify is closely linked to other rights. Jamal Ullah from Ohn Taw Gyi camp said: "We want the name 'Rohingya.' We want our homes, we want our country. We want to get back the things we owned."[50]

The 2012 violence was followed by a nationwide escalation of Islamophobia and the growing influence of Buddhist extremism in public and political spheres.[51] The military began training soldiers on protecting Buddhist Myanmar from the existential threat of Islam, with lectures warning that "the danger of being swallowed up by Bangladeshi Chittagonian 'kowtow kalars' truly exists…. They infiltrate the people to propagate their religion."[52]

Buddhist nationalist groups including 969 and the Race and Religion Protection Association, or Ma Ba Tha, effectively tapped into the divisive ethno-religious nationalism that triggered the 2012 ethnic cleansing campaign in Rakhine State. These groups became increasingly influential alongside certain prominent Buddhist monks such as Wirathu, who held frequent public rallies to spread populist anti-Muslim propaganda.[53] In 2015, Ma Ba Tha successfully campaigned for the government to pass four discriminatory "race and religion protection laws," marking a new level of sway over the Myanmar government.[54]

Similarly, the official rhetoric depicting Rohingya as illegal immigrants swelled after the August 2017 violence. Commander-in-Chief Sr. Gen. Min Aung Hlaing posted a statement in September asserting, "So we openly declare that 'absolutely, our country has no Rohingya race.'"[55] A spokesperson for the ruling NLD party responded to the international attention on Rakhine State, saying, "We ask the international community to acknowledge that these

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[50] Human Rights Watch interview with Jamal Ullah, Cox's Bazar, September 10, 2020.

[51] The 2012 violence also triggered anti-Muslim attacks more generally and in regions outside Rakhine State, including in central and east Myanmar in 2013 and in Mandalay in 2014. "Burma: Satellite Images Detail Destruction in Meiktila," Human Rights Watch news release, April 1, 2013, https://www.hrw.org/news/2013/04/01/burma-satellite-images-detail-destruction-meiktila; Human Rights Watch, World Report 2015, Burma chapter, https://www.hrw.org/world-report/2015/country-chapters/myanmar-burma.

[52] "Fear of Extinction of Race," Lecture at Naypyidaw Divisional Military Headquarters, No. 13 Combatants Organizing School, Training Batch no. 102, October 2012, https://www.documentcloud.org/documents/2484993-military-powerpoint-presentation-shown-at.html (accessed June 17, 2020).

[53] David Mathieson, "Burma's Pageant of Bigotry," Human Rights Watch dispatch, October 8, 2015, https://www.hrw.org/news/2015/10/08/dispatches-burmas-pageant-bigotry.

[54] Ibid.

[55] "Entire government institutions and people must defend the country with strong patriotism," September 12, 2017, https://www.seniorgeneralminaunghlaing.com.mm/en/345/entire-government-institutions-and-people-must-defend-the-country-with-strong-patriotism/ (accessed April 10, 2020).

Muslims are illegal immigrants from Bangladesh and that this crisis is an infringement of our sovereignty."[56] A member of parliament expressed gratitude that so many Rohingya had fled: "All the Bengalis learn in their religious schools is to brutally kill and attack. It is impossible to live together in the future."[57]

Military and government officials employ hate-filled language that both echoes and fuels the narrative of Buddhist extremist violence. A decade of statements from authorities endeavor to paint the Rohingya not only as less than Burmese, but less than human. They are commonly called "dogs," "snakes," and "fleas," including by authorities and Buddhist leaders. A soldier deployed to Rakhine State in August 2017 posted on Facebook: "On the battlefield, whoever is quick will get to eat you, Muslim dogs."[58]

In a book on the Rohingya published by the Myanmar armed forces' Directorate of Public Relations and Psychological Warfare, the military wrote: "The origin and glory of a race cannot change. Despite living among peacocks, crows cannot become peacocks."[59]

As the Fact-Finding Mission concluded, "their extreme vulnerability is a consequence of State policies and practices implemented over decades, steadily marginalising the Rohingya. The result is a continuing situation of severe, systemic and institutionalised oppression from birth to death."[60]

A Rohingya woman who escaped the central Rakhine camps said she wonders about the fate she and her family have faced for simply being Rohingya: "Am I wrong? For being Rohingya, being from Rakhine? I ask myself, what did I do wrong? But there is nothing wrong with me."[61]

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[56] Hannah Beech, "Across Myanmar, Denial of Ethnic Cleansing and Loathing of Rohingya," *New York Times*, October 24, 2017, https://www.nytimes.com/2017/10/24/world/asia/myanmar-rohingya-ethnic-cleansing.html (accessed March 30, 2020).

[57] Ibid.

[58] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 1378.

[59] *Myanmar Politics and the Tatmadaw: Part I*, Directorate of Public Relations and Psychological Warfare, Tatmadaw, July 2018, p. 115 (copy on file with Human Rights Watch). The peacock has long been a national symbol in Myanmar, originally as an emblem of the Burmese monarchy, later adopted by General Aung San's independence movement and Aung San Suu Kyi's National League of Democracy party.

[60] UN Human Rights Council, Report of the Independent International Fact-Finding Mission on Myanmar, A/HRC/39/64, August 2018, para. 20.

[61] Human Rights Watch interview with Myat Noe Khaing, Yangon, April 8, 2019.

Denial of Citizenship

Myanmar's 1982 Citizenship Law violates several fundamental principles of customary international law and Myanmar's obligations under various human rights treaties, and leaves Rohingya exposed with no legal protection of their rights.

International law obligates states to avoid acts that would render stateless anyone who has a genuine and effective link to that state. Such a genuine and effective link can be determined by factors like long-term residence, family ties, descent, or birthplace.[62]

Promulgated soon after the mass return of Rohingya who fled in 1978, the Citizenship Law established a tiered, ethnic-based citizenship scheme. The use of ethnicity rather than objective criteria as a primary basis for granting citizenship violates international legal prohibitions on racial discrimination.[63] The law defines three categories of citizens: full citizens, associate citizens, and naturalized citizens. Color-coded Citizenship Scrutiny Cards are issued according to citizenship status—pink, blue, and green, respectively.[64] Each card records name, sex, religion, race, father's name, and identification number.

Full citizens are members of one of the recognized "national ethnic groups" who settled in the country before 1823, the beginning of the British occupation, and whose parents also hold citizenship. The law names eight primary groups—Bamar (Burman), Chin, Kachin, Karen, Karenni, Mon, Rakhine, and Shan—but government officials have referenced a total of 135 recognized ethnic groups, which does not include the Rohingya, since around 1989. General Ne Win, Myanmar's long-time military dictator, said shortly after the law was established: "This is not because we hate them. If we were to allow them to get into positions where they can decide the destiny of the state and if they were to betray us we would be in trouble."[65]

Associate citizenship became available under the 1982 law for those whose citizenship applications under the prior law were pending in 1982. Persons can become naturalized

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[62] Nottebohm Case (*Liechtenstein v. Guatemala*), Second Phase, International Court of Justice (ICJ), April 6, 1955, https://www.refworld.org/cases,ICJ,3ae6b7248.html (accessed July 9, 2020).

[63] See Committee on the Elimination of Racial Discrimination (CERD), General Recommendation 30 on Discrimination Against Non-Citizens, adopted on October 1, 2002, https://www.refworld.org/pdfid/45139e084.pdf, para. 14.

[64] 1982 Citizenship Law, http://www.unhcr.org/refworld/docid/3ae6b4f71b.html (accessed April 8, 2020).

[65] Robert Taylor, *General Ne Win: A Political Biography* (Singapore: ISEAS Publishing, 2015), p. 484.

citizens if they can provide "conclusive evidence" that they entered and resided in Myanmar prior to independence in 1948. Those who have at least one parent who holds one of the three types of citizenship are also eligible to become naturalized citizens. The law stipulates that naturalized citizen applicants must be at least 18 years old, be able to "speak well" one of the national languages, and be of "good character" and "sound mind."

According to the terms of the law, only full and naturalized citizens are "entitled to enjoy the rights of a citizen under the law, with the exception from time to time of the rights stipulated by the State." All forms of citizenship, "except a citizen by birth," may be revoked by the state.[66] Most of the country's ethnic minority populations, including those named in the law, were negatively impacted by its passage, which formalized the primacy of the majority Bamar.

Most Rohingya lack formal documents, even those whose families have lived in Myanmar for generations, leaving them with no means to provide "conclusive evidence" of their lineage in Burma prior to 1948, let alone prior to 1823. And although international human rights law ensures non-citizens virtually all the rights of citizens, except for the right to vote, the Myanmar government has long used the Rohingya's absence of citizenship to deny them fundamental human rights. The 2008 Constitution further enshrines this violation by embedding citizenship as a prerequisite for enjoying constitutional rights.[67]

The difficulty for Rohingya of providing "conclusive evidence" of their lineage increased in 2012, when many lost their documents in arson attacks or had them forcibly taken. Several Rohingya told Human Rights Watch that during the June and October violence, local authorities or groups of ethnic Rakhine confiscated their ID cards.[68]

Under the 1982 law, the children born to non-citizens do not obtain citizenship, perpetuating the denial of citizenship to Rohingya over generations. In order for a child to obtain citizenship, at least one parent must already hold one of the three types of

[66] 1982 Citizenship Law, art. 8(b).

[67] Under Myanmar's 2008 Constitution, "Every citizen shall enjoy the right of equality, the right of liberty and the right of justice, as prescribed in this Constitution.… Every citizen shall have the right to settle and reside in any place within the Republic of the Union of Myanmar according to law."

[68] Human Rights Watch, *All You Can Do is Pray.*

citizenship. In this respect, the Citizenship Law conflicts with the Myanmar government's obligations under article 7 of the Convention on the Rights of the Child, which states, "The child shall be registered immediately after birth and shall have the right to a name [and] the right to acquire a nationality." It calls on states parties to ensure implementation of these rights "in particular where the child would otherwise be stateless."[69] Myanmar ratified the convention in 1991 and is obligated to grant citizenship to children born in Myanmar who would otherwise be stateless.

Discrimination against Rohingya children begins at birth, with many denied legal recognition of a birth certificate, which in turn restricts them from accessing future opportunities to study, marry, or travel.

The practice of registering newborn Rohingya was informally phased out in the 1990s and sharply curtailed in 2012. The Advisory Commission on Rakhine State reported that "birth registration of [Rohingya] Muslim babies came to an almost complete halt after the violence in 2012," and that "today, the majority of Muslim children … lack such documentation."[70] Ko Min Kyaw, who lives in Ohn Taw Gyi camp, explained:

> A lot of children born after June 2012 don't have a record in the camp or host community. So, the local authorities and Rakhine State government are accusing them of being illegal immigrants from Bangladesh. The government, INGOs [international nongovernmental organizations], and the UN haven't been able to solve this issue. It means a lot of people will be automatically stateless in the future.
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> Also, some of the children who applied for citizenship failed because they don't have a birth certificate, [which is] a requirement of the citizenship

[69] Convention on the Rights of the Child (CRC), G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art. 7.

[70] The Advisory Commission on Rakhine State declined to use the term "Rohingya" in its reports in line with a request from State Counsellor Aung San Suu Kyi, noting that it would instead use the term "Muslims" to refer to the Rohingya population, and "Kaman" to refer to Kaman Muslims. Advisory Commission on Rakhine State, *Interim Report and Recommendations*, March 2017, http://www.rakhinecommission.org/app/uploads/2017/03/Advisory-Commission-Interim-Report.pdf (accessed October 5, 2018), pp. 5 and 12.

> application. This issue is very important and a big challenge for the Rohingya children in Rakhine State.[71]

In July 2019, the government passed a new Child Rights Law that states, "All children born within the country shall have the right to birth registration free of charge without any discrimination."[72] However, it clarifies that children have the right to citizenship "in accordance with the provisions under the existing law," perpetuating the 1982 Citizenship Law's exclusion of Rohingya children.[73]

Aung San Suu Kyi's office held a press conference on the law confirming that "the child's citizenship will be determined by 1982 Citizenship Law … a non-citizen child will not become a citizen. A registration of a birth would not make the registered child a citizen." The director-general of the State Counsellor's office reported that birth certificates will have "written in red letter that this is not a certificate of citizenship."[74]

National Verification Cards

Rohingya's right to nationality has been steadily eroded over decades, with successive citizenship regimes increasingly restricting their access to identity documents. Documentation establishes a person's legal identity, serving as the basis for accessing fundamental rights and services—education, employment, owning property, medical treatment, freedom of movement, and receiving state protection.[75] At several junctures, Rohingya were required to turn over their prior documentation to be replaced with a lesser identity card, or none at all.[76] "They say we are foreign settlers," said one Rohingya man. "My grandfather had a citizenship card. My mother. My father. My older brother. But they say I am not a citizen."[77]

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[71] Human Rights Watch telephone interview with Ko Min Kyaw, November 6, 2019.

[72] Child Rights Law, 2019, art. 21(a).

[73] Ibid., art. 22.

[74] "Press conference held in Presidential Palace," *Global New Light of Myanmar*, July 6, 2019, https://www.globalnewlightofmyanmar.com/press-conference-held-in-presidential-palace/(accessed April 10, 2020).

[75] "Nationality is a legal bond between a state and an individual for which civil documentation provides the legal evidence." Trevor Gibson, Helen James, and Lindsay Falvey, eds., *Rohingyas' Insecurity and Citizenship in Myanmar* (Chiang Mai: TSU Press, 2016), p. 8.

[76] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, paras. 472-476.

[77] Human Rights Watch interview with Mohammed A., Cox's Bazar, November 10, 2018.

Beginning in 1995, the government issued many Rohingya "white cards," or temporary registration cards, which did not carry citizenship rights but did afford them the right to vote. However, the government nullified the white cards in 2015, disenfranchising the Rohingya ahead of the November 2015 national elections.[78]

Ahead of the November 2020 elections, the government seems again intent on suppressing Rohingya's political rights. The election commission barred at least six Rohingya candidates from running. Six others were approved to run but expressed little optimism given their disenfranchised electorate. The voter lists posted around the country are absent from the Rohingya detention camps.[79] Sultan Ahmad from Thet Kae Pyin camp said:

> We have big concerns about the coming election in 2020. In 2015, we lost the right to vote by the union government. It is not fair for Rohingya and Kaman. In 2020, the international community should advocate to the government to get us a chance to vote in a fair election for Rohingya.[80]

In 2014, the government began rolling out a coercive "citizenship verification" process in Rakhine State, launched in a Myebon camp, which required Rohingya to register as "Bengali." After several stops and starts, Myanmar is once again pushing ahead with a revised National Verification Card system, an inherently discriminatory process that does not signify citizenship, but merely serves as another government tool of exclusion and control.[81]

The NVC process has been widely rejected by Rohingya, who see it as marking them as foreigners in their own land. "You take that card with that name, now you are not Rohingya, you are Bengali," a Rohingya woman said.[82] Exemplifying such concerns, the NVC

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[78] "Burma: Election Fundamentally Flawed," Human Rights Watch news release, November 4, 2015, https://www.hrw.org/news/2015/11/04/burma-election-fundamentally-flawed.

[79] Shoon Naing, "Rohingya politicians excluded from Myanmar election," Reuters, August 24, 2020, https://www.reuters.com/article/us-myanmar-election-rohingya/rohingya-politicians-excluded-from-myanmar-election-idUSKBN25L02T (accessed September 10, 2020).

[80] Human Rights Watch telephone interview with Sultan Ahmad, November 5, 2019.

[81] UN Human Rights Council, Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2019, paras. 66-93.

[82] Human Rights Watch interview with Myat Noe Khaing, Yangon, April 8, 2019.

application form asks for the applicant's date of entry into Myanmar and place of arrival. In a statement to the UN General Assembly, Union Minister Kyaw Tint Swe compared the NVC to the US "green card" for permanent residents.[83]

The government calls the NVC a "first step toward citizenship," which is not true. The card itself notes that the holder is not a Myanmar citizen, but rather "a person who need to apply for citizenship in accordance with Myanmar Citizenship Law." NVC-holders are still required to apply for citizenship and undergo verification in accordance with the 1982 Citizenship Law. Authorities allege the process takes six months, but Rohingya who have attempted it report their applications have faced up to two-year delays or remain unanswered.[84]

Few have been successful. Official reporting on NVC statistics has been inconsistent, but the government has made various claims of having issued between 13,000 and 16,000 NVCs in Rakhine State.[85] In one report, the union minister for social welfare, relief, and resettlement asserted that of 13,215 NVC recipients from Rakhine, 1,276 adults and children had been granted citizenship—about 0.2 percent of the 600,000 Rohingya left in Myanmar.[86] In its most recent update, the government's Implementation Committee on Recommendations on Rakhine State reported that 1,144 NVCs and 46 citizenship cards were issued from September to December 2019.[87]

Rohingya report authorities using threats, violence, and coercion to force them to accept the NVC, including withholding access to lifesaving resources and increasing restrictions

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[83] Kyaw Tint Swe, Union Minister for the Office of the State Counsellor, Statement to the 74th Session of the UN General Assembly, New York, September 29, 2019.

[84] Human Rights Watch interviews, April and November 2019; UN Human Rights Council, Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2019, para. 71.

[85] "The Holder of NV Card and the Freedom of Movement," *Global New Light of Myanmar*, May 13, 2018, https://www.burmalibrary.org/docs24/NLM2018-05-13-NRS.pdf (accessed April 25, 2020); "Meeting on implementation of recommendations on Rakhine held," *Global New Light of Myanmar*, December 5, 2018, https://www.globalnewlightofmyanmar.com/meeting-on-implementation-of-recommendations-on-rakhine-held/ (accessed April 25, 2020); Moe Myint, "Rohingya Trading Identity for Partial Citizenship, More Rights in Rakhine State," *Irrawaddy*, March 7, 2019, https://www.irrawaddy.com/news/burma/rohingya-trading-identity-partial-citizenship-rights-rakhine-state.html (accessed April 25, 2020).

[86] 700 adults and 576 children. "Meeting on implementation of recommendations on Rakhine held," *Global New Light of Myanmar*.

[87] "Report to the people on the progress of the implementation committee on recommendations on Rakhine State between September and December 2019," *Global New Light of Myanmar*, May 24, 2020, https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/NLM2020-05-24-NRS.pdf (accessed August 17, 2020), p. 7.

on movement as retribution for refusing to take the card.[88] Prior to the August 2017 violence, officials made statements at meetings with Rohingya threatening to kill or harm them if they refused to accept the NVC.[89] Hundreds of Rohingya who were released from prison as part of an April 2020 amnesty were forced to accept NVCs before returning to Rakhine State.[90]

The card is positioned as a prerequisite for accessing livelihoods such as fishing or working for nongovernmental organizations (NGOs) in the camps, and for receiving various services such as food assistance, raising serious concerns about its voluntary and secure nature.[91] Rohingya describe authorities telling them: "If you want to move, you need to take these cards."[92] Those who have been issued a card say they have not been granted meaningful freedom of movement, as promised by the government, while those who refuse have faced worsening constraints.

Abdul Kadar, 32, who lived in Thae Chaung camp until 2018 but never accepted the NVC, said:

> After the 2012 violence, suddenly the government came up with the NVC card offer. Like they were offering us, if we would take the NVC then we would be given permission to work freely, move freely.... We could not do anything independently if we did not take the NVC. From 2016, the people who didn't take the NVC were not even allowed to move anywhere, and the situation became more strict for us.[93]

Some Rohingya in northern Rakhine State who accepted NVCs reported slight decreases in local travel restrictions and extortion at checkpoints, though both remain ever-present factors. No such changes, however, were reported by NVC-holders in central Rakhine State.

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[88] UN Human Rights Council, Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2019, para. 68.

[89] Ibid., paras. 90-93.

[90] Human Rights Watch email correspondence with humanitarian officials, April 2020.

[91] "Statement by Ms. Yanghee Lee, Special Rapporteur on the Situation of Human Rights in Myanmar at the 34th session of the Human Rights Council." March 13, 2017, https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21355&LangID=E (accessed April 30, 2020).

[92] Human Rights Watch interview with Myat Noe Khaing, Yangon, April 8, 2019.

[93] Human Rights Watch interview with Abdul Kadar, Cox's Bazar, October 30, 2019.

Rohingya with NVCs are still prevented from leaving the camps at night, and many have faced arrest while traveling, despite holding the card.[94]

Nurul Bashar, 25, fled to Cox's Bazar in 2017 but still has family in Thae Chaung camp in Rakhine State. He said that the government's promises of the freedoms the card would afford have proven false:

> Last month [October 2019] when I talked to my family, they said they had taken the NVC cards after believing authorities' promises that it would let them travel frequently to Yangon. But now they are not even allowed to stay in another Muslim village. People who have the NVC card, they can go for fishing but only for three days. Nothing changed after taking the NVC.[95]

Amir Hossain lived in Thet Kae Pyin camp in Rakhine State until 2018, where his family still lives. He said that security officials are increasing their efforts to pressure Rohingya in the camps to accept the NVC, adding that older Rohingya were being targeted in particular: "Authorities just called my father along with 30 other people to the police camp to take the NVC card. They are trying to force people to take the cards by calling the elders to the police camps to get the NVCs. Authorities think older Rohingya will take the cards because they are afraid."[96]

Kamal Ahmad from Khaung Doke Khar camp said: "These days, the Myanmar authorities are forcing the Rohingya in the IDP camps to have NVC cards. Every day there are meetings called by authorities with the Rohingya [about the cards]."[97]

Many Rohingya in camps that have been declared "closed" or slated for closure have been forced to accept NVCs before moving houses, such as those in Myebon's Taung Paw camp. Sandar Swe, who lives in Taung Paw, said: "The authorities started talking to us two years ago about applying for the NVC. We understand that it's not very useful for us, but we

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[94] Human Rights Watch telephone interviews, November 2019; Fortify Rights, *"Tools of Genocide": National Verification Cards and the Denial of Citizenship of Rohingya Muslims in Myanmar*, September 2019; Independent Rakhine Initiative, "Freedom of Movement in Rakhine State," March 2020.

[95] Human Rights Watch interview with Nurul Bashar, Cox's Bazar, November 6, 2019.

[96] Human Rights Watch interview with Amir Hossain, Cox's Bazar, November 2, 2019.

[97] Human Rights Watch interview with Kamal Ahmad, Cox's Bazar, November 2, 2019.

didn't want trouble with local authorities and the Rakhine State government, so a lot of people applied."[98]

Rahim Iqbal also lives in Taung Paw, where he was moved to new housing under the camp's "closure" process in 2018. He said that during the move:

> The authorities also forced us to take NVC cards. The card labeled us "Bengali."… With the NVC card, some Rohingya can travel to Sittwe [the state capital], but not freely. There are still restrictions on movement from one place to another place after the evening. We still cannot go outside the camp to go shopping or buy essentials or do any work—we are only allowed to work inside the camps.[99]

Rohingya's concerns regarding the National Verification Cards have been borne out by authorities' enforcement of the process. NVCs have failed to reduce statelessness or protect the rights of those marked by lack of citizenship. Instead, characterized by coercion and deceit, the NVC process has entrenched a discriminatory system and upheld the government's long-standing use of identification systems as means of marginalization.

[98] Human Rights Watch telephone interview with Sandar Swe, November 12, 2019.

[99] UN Human Rights Watch telephone interview with Rahim Iqbal, October 31, 2019.

III. Restrictions on Freedom of Movement

The central Rakhine camps, where about one-quarter of the country's remaining 600,000 Rohingya reside, exemplify the government's repression and persecution of the group.[100]

The government-created Advisory Commission on Rakhine State noted in its final report in August 2017: "Freedom of movement is one of the most important issues hindering progress towards inter-communal harmony, economic growth and human development in Rakhine State."[101] The commission called for the government to ensure freedom of movement for all people in Rakhine State, regardless of religion, ethnicity, or citizenship status.[102]

Open-Air Prisons

As of June 2020, an estimated 131,900 displaced Rohingya and Kaman resided in 24 camps or camp-like settings in five central Rakhine townships: Sittwe (16 sites), Pauktaw (5), Myebon (1), Kyaukpyu (1), and Kyauktaw (1). The population is primarily Rohingya, plus a few thousand Kaman Muslims. Over half of the displaced are under 18 years old. An estimated 75 percent are women and children.[103]

Rohingya in the camps are denied freedom of movement through overlapping systems of restriction—barbed-wire fencing, checkpoints, and other physical barriers; widespread extortion and bribes; restrictive and arbitrary permission procedures; denial of documentation; security force presence and abuse; and an environment of threats and violence that instills fear and self-imposed constraints.

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[100] UNHCR estimates that between 550,000 and 600,000 Rohingya remain in Rakhine State. See UN Human Rights Council, Oral update of the High Commissioner for Human Rights on Situation of human rights of Rohingya people, A/HRC/38/CRP.2, July 3, 2018, https://reliefweb.int/sites/reliefweb.int/files/resources/A_HR_38_CRP.2.pdf (accessed October 1, 2018), para. 23.

[101] Advisory Commission on Rakhine State, *Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine: Final Report*, August 2017, http://www.rakhinecommission.org/app/uploads/2017/08/FinalReport_Eng.pdf (accessed October 5, 2018), p. 33.

[102] Ibid., p. 34.

[103] CCCM/Shelter/NFI, "Cluster Analysis Report (CAR) - Central Rakhine and Chin, Myanmar," June 2020, https://cccmcluster.org/sites/default/files/2020-08/Shelter-NFI-CCCM%20Rakhine%20Cluster%20Analysis%20Report%2030%20June%202020.pdf (accessed September 2, 2020).

These restrictions are carried out through formal government policies, written and oral local orders and regulations, and informal and ad hoc practices implemented by local authorities. Together, they serve to arbitrarily deprive Rohingya of their liberty and disproportionately limit their movement in violation of international law. In addition, the severe restrictions on movement sharply hinder their access to other rights, notably health care, livelihoods, shelter, and education. "Every day it is like we are under house arrest," said Myo Myint Oo from Nidin camp in Kyauktaw.[104]

The Rakhine State government segregated the displaced Muslims and Buddhists in 2012. For displaced Rohingya in Sittwe township, a rural area was sealed off with barbed wire fencing and military checkpoints.[105] Nurul Bashar, 25, described the transformation of his village, Thae Chaung, into a militarized displacement site:

> My village turned into an IDP camp…. Over those three months [after June 2012], the authorities imposed more restrictions on the people living in my village and the Rohingya taking shelter there. After the attacks, four new checkpoints were built in our area. Whenever we crossed the checkpoints, we had to walk bowing down our heads.[106]

Thae Chaung, a self-settled rather than planned camp, remains one of the largest central Rakhine camps, with an estimated 12,300 Rohingya.

Anwar Islam, 25, who also lived in Thae Chaung village in Sittwe at the time of the 2012 attacks, described the 2012 internment as an inflection point in their lives:

> During childhood, I realized we were being discriminated against by Buddhists. At school they always swore at us, calling us "Bengali" and "kalar." Security forces always stopped us and searched for something to fault. If they found anything, they would torture us. But still, we were able to

[104] Human Rights Watch telephone interview with Myo Myint Oo, October 21, 2019.

[105] For more, see "A Tale of Two Camps," below. CCCM Cluster, Danish Refugee Council, UNHCR, and JIPS, *Sittwe Camp Profiling Report*, June 2017, https://reliefweb.int/sites/reliefweb.int/files/resources/sittwe_camp_profiling_report_lq.pdf (accessed September 20, 2018), p. 12.

[106] Human Rights Watch interview with Nurul Bashar, Cox's Bazar, November 6, 2019.

> travel. We Rohingya had businesses. Some Rohingya owned boats. We were free, at least.…
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> After 2012, Rohingya from other villages who were affected by the attacks took shelter in our village. The area turned into IDP camps. The whole place was locked down. We faced huge problems, restrictions imposed on us.… The camp is not a livable place for us Rohingya.[107]

Kamal Ahmad, 23, lived in Sittwe's Khaung Doke Khar camp after fleeing his home in Na Zi ward, just a few kilometers away. He said: "After the violence happened in 2012, authorities started putting restrictions on our movement. Police patrolling in my area increased a lot."[108]

Many Rohingya who were originally from areas not affected by violence also ended up living in the camps. Some were rounded up by security forces and forcibly relocated, some fled to the camps due to threats and fear. For others, the restrictions placed on them by authorities were so severe that the camps, where they could receive humanitarian assistance, seemed like a better option. Mohammed Yunus, 37, said:

> I started living with my family in the IDP camp in December 2012. The area where I used to live [in Sittwe] was not affected by the June violence. But after the attacks, Myanmar authorities started putting so much restriction on our movement [in the city], prices of daily needs went up. At the same time, we were not allowed to do any work or business, so at some point I decided to go to the IDP camp.[109]

Local government officials forcibly displaced many Rohingya families after the violence in both June and October 2012, some from their homes and others from their first displacement sites. A Rohingya fisherman from Pauktaw described how his village was sent to Sittwe:

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[107] Human Rights Watch interview with Anwar Islam, Cox's Bazar, November 3, 2019.

[108] Human Rights Watch interview with Kamal Ahmad, Cox's Bazar, November 2, 2019.

[109] Human Rights Watch interview with Mohammed Yunus, Cox's Bazar, October 31, 2019.

> The township official said openly that we should all go to Sittwe in a group.… He is a three-star township officer, and a member from the RNDP.… After they told us villagers to go to Sittwe, they didn't give us a chance to reply. We had no say on this issue.[110]

The forced relocation of Rohingya by border guard officials and Rakhine State authorities in 2012 suggested an attempt to round up the Muslim population in fixed areas and permanently shift the state's demographics.[111]

The majority of displaced Rohingya, about 100,000, have been interned in the sprawling cluster of camps in rural Sittwe, most only kilometers from their pre-2012 homes. These camps make up a "restricted area" cordoned off with barbed wire fencing which they are not allowed to leave. An additional 30,000 Muslims are confined in camps in Pauktaw, Myebon, Kyauktaw, and Kyaukpyu townships. As these camps are generally more remote and isolated, the Rohingya and Kaman confined there face additional geographic constraints, such as inaccessible waterways and terrain, along with checkpoints and security force monitoring.[112]

The camps' access points and internal pathways are heavily controlled by series of military and police checkpoints. Rohingya must obtain permission from state security forces to travel outside the camps, for example to go to Sittwe General Hospital, a highly restricted and arbitrary process that requires them to pay a fee of between 500 and 20,000 kyat (US$0.35-$14) to secure an "escort" from officials.[113] Obtaining a security escort is further constrained and ad hoc—dependent on the time of day, generally available only in the morning or afternoon, and at the discretion of the on-duty officers.[114]

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[110] Human Rights Watch interview with S.J., Sittwe, October 2012, qtd. in Human Rights Watch, *All You Can Do is Pray.* The reference to a "three-star" official indicates a military affiliation.

[111] Human Rights Watch, *All You Can Do is Pray.*

[112] Independent Rakhine Initiative, "Freedom of Movement in Rakhine State," March 2020.

[113] Ibid., p. 39.

[114] Human Rights Watch and Fortify Rights, "Submission to CEDAW regarding Myanmar's Exceptional Report on the Situation of Women and Girls from Northern Rakhine State," May 2018, https://www.hrw.org/news/2018/05/24/joint-submission-cedaw-myanmar.

"The only difference between a prison and the Rakhine camps is that in prison at least they know how long their sentence is," said a Rohingya man living in a camp in Sittwe.[115]

In a 2015 survey, 78 percent of displaced Muslims interviewed said they could not leave their camp at all, while 22 percent reported being able to travel to nearby villages. None reported freedom to move outside their township.[116] A 2019 study revealed the situation had only worsened over the following years: 99.6 percent of Rohingya respondents reported being prevented from traveling outside their township.[117] For Rohingya in the rural Sittwe camps, travel to the city of Sittwe a few kilometers away, where about 75 percent of them lived prior to the 2012 violence, is prohibited.[118]

Mohammed Yunus lived in Ohn Taw Gyi camp in Sittwe with his family, before fleeing the restrictive conditions there, first to northern Rakhine State and then Bangladesh:

> We were not allowed to go outside of the [Ohn Taw Gyi] camp anytime. We could move to the other camps during the daytime, until 9 p.m. From 9 p.m. to 6 a.m. there was a total curfew, restriction of movement even on moving to the other camps. If anyone was found outside of their shelter after 9 p.m., they were given punishment, either jail or torture.… During my years inside the camp, I saw the situation becoming more and more strict. It was like an open prison without end. We don't want to go back to that jail again if our rights will not be ensured.[119]

His children are still living in Ohn Taw Gyi.

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[115] Qtd. in Francesca Morano, "'We Will Lose Any Hope of Going Home': Rohingya Live in Fear of Resettlement," *Guardian*, https://www.theguardian.com/global-development/2019/may/02/we-will-lose-any-hope-of-going-home-rohingya-live-in-fear-of-resettlement-myanmar-rakhine-state (accessed August 26, 2019).

[116] Center for Diversity and National Harmony, "Rakhine State Needs Assessment," September 2015, https://themimu.info/sites/themimu.info/files/documents/Report_Rakhine_State_Needs_Assessment_0.pdf (accessed September 20, 2018), p. 42.

[117] Fortify Rights, *"Tools of Genocide": National Verification Cards and the Denial of Citizenship of Rohingya Muslims in Myanmar*, September 2019.

[118] CCCM Cluster, DRC, UNHCR, and JIPS, *Sittwe Camp Profiling Report*, p. 27.

[119] Human Rights Watch interview with Mohammed Yunus, Cox's Bazar, October 31, 2019.

Fatema Amir, 25, also lived in Ohn Taw Gyi camp:

> They put curfews in place for the Rohingya in the evening. No Rohingya could go outside without permission, there was no freedom of movement.… As we could not go outside, we had problems buying the things we needed. In the camp, we had serious problems with movement, getting to the market. We had a food crisis and no jobs. You will be surprised to know that when we were in our villages, we used to work alongside men. But after coming to the camps, us women were not able to go outside.[120]

The camps are militarized by internal security force posts and checkpoints, and, in the case of the Sittwe camps, by the presence of a large military base nearby. New checkpoints are set up by security forces at will, and have been increasing steadily across Rakhine State since 2017. "These aren't IDP camps, they're detention centers," a UN official said.[121]

Travel through some camps requires as many as seven checkpoint stops. Military, border guard force, and police officials overseeing the checkpoints use the stops to carry out abuses against Rohingya, including harassment, humiliation, extortion, torture and other ill-treatment, and arbitrary arrests.[122]

Rohingya living in Basara camp in Sittwe, located near the airport, are isolated from the larger cluster of camps and have struggled to access markets and the Thet Kae Pyin health center due to government restrictions on their travel routes.[123]

The long-term separation of the Rohingya and Rakhine communities has eroded communication between the two groups, generating deep mistrust and fear and fostering an environment of pervasive dehumanization.

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[120] Human Rights Watch interview with Fatema Amir, Cox's Bazar, November 6, 2019.

[121] Human Rights Watch interview with humanitarian worker, Yangon, November 2, 2018.

[122] Human Rights Watch interviews with humanitarian workers and Rohingya, Yangon, and Sittwe, October-November 2019.

[123] Human Rights Watch interview with foreign political officer, Yangon, April 8, 2019.

Whereas prior to 2012, business and social interactions between Muslim and ethnic Rakhine communities were common, in 2017, less than 1 percent of Rakhine in the area reported having any contact with Rohingya in the week prior.[124]

Yet rather than acknowledging the impact that policies of segregation have had on communal relations, Myanmar authorities invoke such tensions as a rationale for preventing Rohingya from leaving the camps. A senior Rakhine State official defending the restrictions said: "Restrictions on movement are there because of the conflict.... If they [the Rohingya] want to go to Sittwe [town], they need police security. They cannot leave their areas without permission and security because of the Rakhine residents."[125]

"The government is playing the security card all the time," a humanitarian worker said. "They want to instill paranoia."[126] Another said: "The government uses 'security' as a constant defense, but in reality, there's no security concerns that justify this segregation."[127]

Many Rohingya told Human Rights Watch that authorities refused to take action to de-escalate hostilities from local Rakhine communities, contradicting their claims and compounding informal restrictions.[128] Yusuf Ali, 54, from Kyein Ni Pyin camp said: "We asked to get support for our safety and security from local authorities so many times [due to threats from Buddhist villagers]. The local authorities and Rakhine State government said they would, but nothing improved. So, we don't trust them and we don't feel safe."[129]

Myat Noe Khaing, a Rohingya woman originally from Aung Mingalar, said: "They say, 'because of your security you can't go outside [the camps].' What security? If they wanted to put people in prison, they could. If they wanted to control the situation now, they could."[130]

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[124] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 724; CCCM Cluster, DRC, UNHCR, and JIPS, *Sittwe Camp Profiling Report*, p. 130.

[125] Qtd. in Amnesty International, "'Caged Without a Roof': Apartheid in Myanmar's Rakhine State," November 2017, https://www.amnesty.org/en/documents/asa16/7484/2017/en/ (accessed October 1, 2018), p. 56.

[126] Human Rights Watch interview with humanitarian worker, Sittwe, November 15, 2018.

[127] Human Rights Watch interview with humanitarian worker, Yangon, November 16, 2018.

[128] Human Rights Watch telephone interviews, November 2019. For more on the impact of communal tensions, see the Access to Medical Facilities and Restrictions on Aid sections, below.

[129] Human Rights Watch telephone interview with Yusuf Ali, November 9, 2019.

[130] Human Rights Watch interview with Myat Noe Khaing, Yangon, April 8, 2019.

In a 2014 response to a report by the UN special rapporteur on Myanmar, the government claimed that no such restrictions existed:

> There is no restriction on the freedom of movement of the IDPs. Security presence in IDP camps is simply to prevent recurrence of communal violence while the level of distrust between the two communities is still high. The two communities are staying separately because they feel that they are safer that way.… Neither the government nor others can force them to live side-by-side.[131]

In reality, of course, the government restrictions are incontrovertible. "Life in the camps is so painful," a Rohingya man said. "There is no chance to move freely.… We have nothing called freedom."[132]

Rohingya told Human Rights Watch that the restrictions placed on their lives have only tightened over the past eight years, particularly in the periods after the 2016 and 2017 violence, during which freedom of movement was steeply constrained.[133]

After the August 2017 violence, authorities escalated security controls, with a proliferation of new checkpoints and heightened military presence in and around the camps. A woman described the conditions in her camp in Sittwe:

> Our lives in the camps changed on August 25. We had no assistance from any outside organization for one month. People who fished couldn't go out because they feared attack. The government expanded checkpoints everywhere. They not only asked questions, they sometimes beat people. Everyone in the camps, including myself, had no income. For the whole month of September there was no food assistance or medical supplies, so

[131] UN Human Rights Council, Observations by Myanmar on the Report of the Special Rapporteur on the Situation of Human Rights in Myanmar, A/HRC/25/64/Add.1, March 12, 2014, http://www.refworld.org/docid/533417504.html (accessed October 1, 2018), para. 15.

[132] Human Rights Watch interview with Mohammed Siddiq, September 9, 2020.

[133] Human Rights Watch interview with Fatema Amir, Cox's Bazar, November 6, 2019.

> people had to share their food or borrow from others, and skip meals as well.[134]

"It's huge steps back in times of conflict," a humanitarian worker said. "After the 2017 violence, all movement stopped—no fishing, no markets."[135]

In 2012, security officials forcibly moved Sayed Karim, 77, and his family to Min Gan camp in Sittwe, even though their village was not affected by the violence. Years later, he fled to Bangladesh after facing threats from authorities for holding a protest. He said that the tightening restrictions in the central Rakhine camps keep him from envisioning a future in which he could return:

> I am running a shop here [in the Cox's Bazar camps] and living in peace. It was a good decision to come to Bangladesh, as the situation over there in the [Rakhine State] camps is deteriorating day by day.
>
> I talked to my wife [in Rakhine State] a few days back who told me that very recently, the government blocked the only road that was used by the Muslim people in that area. That means bad days are coming. Thanks to Allah, two of my sons went to Malaysia and are earning money over there.
>
> We came into this country as a guest. This country is continuing to be hospitable to us. But this is not life. Maybe I will die without seeing any solution for these Rohingya who were once citizens of Myanmar.[136]

Khadija Khatun's parents live in Taung Paw camp in Myebon, where she lived before fleeing to Bangladesh:

> Last time I talked to my parents, they said the situation inside the IDP camp was not good. It's getting more restricted. The aid has not been like earlier.

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[134] International Rescue Committee (IRC) interview with Khin Hla Hlaing, qtd. in "Fear and Hunger: Rohingya Aid Workers Describe Life Inside Rakhine," November 16, 2017.

[135] Human Rights Watch interview with humanitarian worker, Yangon, April 2, 2019.

[136] Human Rights Watch interview with Sayed Karim, Cox's Bazar, November 3, 2019.

A food crisis is happening over there, that's what my parents told me last month [October 2019].

At least here in Bangladesh, we can move around to other camps to meet with relatives or friends. There in the IDP camps, there is still no freedom of movement, my parents always tell me. I wish I could bring them here. But I don't have the money to bring them here to live with me.[137]

A Tale of Two Camps

About 4,000 to 5,000 ethnic Rakhine Buddhists were displaced during the 2012 violence. In an ostensible effort to defuse tensions, the Rakhine State government segregated the displaced Muslims and Buddhists. In Sittwe township, Muslim camps were set up on flood-prone land in rural Sittwe, while Buddhist camps were established in the city area. All displaced Rakhine have since been returned or resettled, while more than 100,000 Rohingya remain confined in the Sittwe camp area today.[138]

While living in the camps, displaced Rakhine were allowed to move freely and received adequate shelter and access to services from the state and national government. A 2015 UN memo noted, "Rakhine IDPs in Ba Wan Chaung Wa Su enjoy freedom of movement and can access the market, clinics, schools in town, they also access their livelihood sources which are fishing and casual labour."[139]

A 2015 report by the research institute International State Crime Initiative (ISCI) described the conditions in an ethnic Rakhine camp:

> In stark contrast to the Rohingya and Maramagyi camps visited, many Rakhine IDPs are housed in relatively high quality, permanent buildings…. The houses [in the ethnic Rakhine camp] are laid out along wide well maintained streets and run alongside a river which provides an alternative boat route for travel to downtown Sittwe. Each family has its own house with an indoor toilet, separate living and sleeping areas. The houses are large and raised on stilts

[137] Human Rights Watch interview with Khadija Khatun, Cox's Bazar, October 30, 2019.
[138] CCCM Cluster, DRC, UNHCR, and JIPS, *Sittwe Camp Profiling Report*, June 2017, p. 12.
[139] "Protection Concerns and Risks Analysis," November 2015, p. 25.

> to protect from flooding, also providing a cool and spacious outdoor cooking and living area. Interviews with residents revealed that their new homes were generally of a better quality than the ones they had lived in Sittwe before the violence.[140]

In contrast, ISCI described the Rohingya living in the Sittwe area as "subjected to wretched living conditions; characterised by overcrowding, hunger, illness and despair."[141]

By the end of 2015, the majority of displaced ethnic Rakhine had returned to their places of origin or resettled to locations of their choice with the support of the government. A UN memo describes the process of resettling 65 Rakhine households from one of the last Rakhine camps in mid-2017:

> A relocation site has already been identified and mutually agreed between the Rakhine State Government and the Rakhine Buddhist IDPs. The construction of individual houses and infrastructure (water, electricity, and walkway) has been completed.… IDPs were allowed to dismantle existing long shelters and take the materials to the new relocation site.… Upon moving into their individual houses, IDPs have to sign a written agreement which stipulates that they own the land plot and the individual house.… Cash assistance (MMK 400,000) [$275] was provided to each and every family upon signature of the contract. In addition, two trucks were provided to transfer IDP household's materials.[142]

Meanwhile, the Myanmar government continued to deny the 130,000 displaced Rohingya and Kaman Muslims their right to return home.[143]

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[140] ISCI, "Countdown to Annihilation: Genocide in Myanmar," 2015, p. 91.

[141] Ibid., p. 90.

[142] Protection Sector, "Relocating Internally Displace Persons from Ramree, Ka Nyin Taw and Kyein Ni Pyin Camps," May 15, 2017.

[143] For more, see the Camp Closures section, below.

Arbitrary Detention, Ill-Treatment, Torture

Rohingya who attempt to leave the camps frequently face arbitrary arrest and inhuman and degrading treatment from local authorities.[144] Many Rohingya told Human Rights Watch that if they were found traveling at night, they would be subjected to physical punishments. "During the evening we could not move anywhere. If they found anyone, then the nightmare started," Abdul Kadar from Thae Chaung said. "They tortured in a way that was completely inhuman."[145]

Kamal Ahmad lived in Khaung Doke Khar camp before fleeing to Bangladesh in 2018 for medical treatment. He said:

> In the evening, no one was allowed to go outside of their shelter, there was no freedom of movement. If any Rohingya were found outside of the shelter, they were tortured, and sometimes after torture they were sent to jail. As my shelter was just beside the police camp, most nights we heard torturing sounds.[146]

He described the abuses he witnessed:

> If Rohingya were found outside at night, they were first beaten on their feet, then other parts of the body. Rohingya who had heart disease or respiratory problems would be begging police officers not to kick their chest. Slaps on the face were common.[147]

Kamal said he saw Rohingya die from the beatings they suffered for being outside at night:

> Three years back, I witnessed a young Rohingya killed by torture just because he came outside. Eight months ago, my mother who is still living in

[144] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 513.

[145] Human Rights Watch interview with Abdul Kadar, Cox's Bazar, October 30, 2019.

[146] Human Rights Watch interview with Kamal Ahmad, Cox's Bazar, November 2, 2019.

[147] Human Rights Watch telephone interview with Kamal Ahmad, August 27, 2020.

> the camp informed me over the phone that one Rohingya utensil seller was tortured to death just because he was late to enter his shelter before evening.[148]

Jamal Ullah, 30, lived in Ohn Taw Gyi camp in Sittwe. Like Kamal, he said there were Rohingya who had died from attacks by authorities after leaving their homes at night:

> We were not allowed to go anywhere outside the camp. At night, we were not even allowed to come out of our shelters, even in an emergency. Those who were found outside their shelter at night were either jailed or tortured. I know five Rohingya who were tortured to death just because they came out of their shelter. Even if someone died at night, still no one was allowed to leave the shelter.[149]

Physical assault is one tool used to restrict Rohingya's access to livelihoods.[150] Abdul Kadar, who worked as a fisherman, said:

> One day we were late coming back from fishing. It was already evening. The military officers forced us to lie down and started kicking us with their boots. Some were kicking while others used sticks to beat our feet. The beatings continued, mostly on our hips, knees, and elbows, until we paid them 20,000 kyat [$14] to let us go.[151]

Rohingya caught attempting to escape the camps are frequently detained under section 6(3) of the 1949 Residents of Myanmar Registration Act for traveling without official identity documents. Many have been sentenced to the maximum two years in prison or to child detention centers. The number of Rohingya facing such incarceration increased in 2019, in part due to the authorities' stricter responses when picking up groups of Rohingya

[148] Human Rights Watch interview with Kamal Ahmad, Cox's Bazar, November 2, 2019.

[149] Human Rights Watch interview with Jamal Ullah, Cox's Bazar, October 31, 2019.

[150] For more, see the Restrictions on Livelihoods section, below.

[151] Human Rights Watch telephone interview with Abdul Kadar, August 26, 2020.

being smuggled.[152] Rohingya community leaders said that about 3,000 Rohingya have been imprisoned for attempting to flee; over 400, including at least 50 children, were arrested in late 2019 and early 2020 alone.[153]

In April 2020, the government pardoned 866 Rohingya who had been detained for traveling as part of its annual amnesty marking Thingyan, the Myanmar New Year. They were forced to accept National Verification Cards, however, and were returned to Rakhine State on a navy vessel. About 600 were sent to central Rakhine, where they underwent quarantine for Covid-19 before being once again confined in the camps and villages they had attempted to flee.[154]

In September 2019, 30 Rohingya were arrested while fleeing Thae Chaung camp in Sittwe. Authorities apprehended them in Ayeyarwady Region, where they had arrived via boat from central Rakhine, intending to continue onward to Yangon, where they planned to seek work or escape to Malaysia. A week after their arrest, the Ngapudaw Township Court sentenced the 21 adults to two years in Pathein prison, following a one-day hearing during which they were denied access to legal counsel. Eight of the children were sent to "training schools" and "rehabilitation centers" in Yangon region. About 120 Rohingya were arrested under the same charges in Ayeyarwady Region in November 2019.[155]

In May 2018, Ma Hla Phyu, a 26-year-old Muslim teacher who had been living in the Kyauk Ta Lone camp in Kyaukpyu since 2012, was arrested in Tangup township while attempting to travel to Yangon. Two days after her arrest, with no access to legal counsel, she was sentenced to one year in prison with hard labor under section 6(3) of the 1949 Residents of Myanmar Registration Act for allegedly using a falsified or borrowed registration card.[156]

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[152] Human Rights Watch interview with humanitarian official, November 1, 2019; Ye Mon, Eaint Thet Su, and Ben Dunant, "No exit: Rohingya jailed en masse for escaping Rakhine," *Frontier Myanmar*, January 15, 2020. https://frontiermyanmar.net/en/no-exit-rohingya-jailed-en-masse-for-escaping-rakhine (accessed April 29, 2020).

[153] Human Rights Watch conversation with humanitarian officials, Yangon, January 2020.

[154] The remainder were returned to northern Rakhine State, where they underwent quarantine in the camps built for returning refugees. UNHCR, "COVID-19 External Update—Asia and the Pacific," April 29, 2020, http://reporting.unhcr.org/sites/default/files/UNHCR%20Asia-Pacific%20COVID-19%20Update%20-%2029APR20.pdf (accessed May 1, 2020); Human Rights Watch communication with humanitarian officials, May 2020.

[155] "Myanmar: Rohingya Jailed for Traveling," Human Rights Watch news release, October 8, 2019, https://www.hrw.org/news/2019/10/08/myanmar-rohingya-jailed-traveling; Ye Mon, Eaint Thet Su, and Ben Dunant, "No exit: Rohingya jailed en masse for escaping Rakhine," *Frontier Myanmar*.

[156] Residents of Myanmar Registration Act, 1949, sec. 6(3).

Ma Hla Phyu had submitted applications for permission to travel outside the camp in 2017 and 2018, but both were rejected.[157]

Some Rohingya described abuses carried out by the police and military presence in the camps, including raids and violent assaults, often claiming they were searching for weapons or individuals involved in "terrorism."

Hamida Begum, 50, lived in Thet Kae Pyin camp in Sittwe until 2018. "All the time inside the camps there were raids by the police, even to see if there is a knife in the kitchen," she said. She added that threats from local Buddhist nationalists contributed to the environment of fear, which the security forces failed to respond to: "We always lived in fear that Buddhist mobs could attack us in the camps. The Buddhist people living nearby have so much hate toward the Rohingya. It felt like they could attack at any time."[158]

Police have used excessive and unnecessary lethal force in the camps in response to skirmishes. Amir Hossain, who worked as a translator for an international organization in Thet Kae Pyin, said that he was shot by police when he was 16 years old: "One day, in 2016, I was shot in my belly by the police during a dispute that happened inside the IDP camp in Sittwe. I was shot along with four others. Two of them died."[159]

The security forces' use of physical abuse escalated after the violence in 2016 and 2017, including interrogation and assault. According to Amir:

> After the August 2017 violence in northern Rakhine, the situation in the camps became much worse. The authorities deployed a lot of police [in the camps] and they started torturing Rohingya without any reason. They were targeting the young Rohingya living inside the camps. It created an environment of fear. So in the middle of 2018, I fled to Bangladesh.[160]

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[157] Nay Paing and Jacob Goldberg, "Myanmar Hastily Jails Kaman Muslim Teacher Who Escaped IDP Camp," *Coconuts Yangon*, June 1, 2018, https://coconuts.co/yangon/news/kaman-muslim-teacher-hastily-jailed-escaping-idp-camp/ (accessed October 1, 2018).

[158] Human Rights Watch interview with Hamida Begum, Cox's Bazar, October 31, 2019.

[159] Human Rights Watch interview with Amir Hossain, Cox's Bazar, November 2, 2019.

[160] Ibid.

A 26-year-old Rohingya from a camp in Sittwe said that after the October 2016 violence, the military threatened and assaulted him and other young men: "They told us not to create any problems for them and asked us to let them know if there were any ARSA [Arakan Rohingya Salvation Army] people inside our IDP camps.... They kept hitting us. They beat me with a stick and military belt at the same time."[161]

During the Covid-19 pandemic, authorities harassed and physically assaulted Rohingya in the camps under the guise of public health measures. Military and police officials subjected Rohingya to degrading treatment and punishment at checkpoints for failing to wear a face mask. Yet authorities did not provide the community with adequate supplies; some families said they had to share a single mask because they could not afford more.[162]

One Rohingya woman told Human Rights Watch that the police made her do sit-ups for 30 minutes for not wearing a mask through a checkpoint, after which she was too exhausted to move. Another man witnessed people being forced to perform squats at a checkpoint with their hands on their ears.[163]

Extortion and Bribes

Movement restrictions have given rise to a widespread system of bribes and extortion, carried out by both Myanmar authorities and the internal Camp Management Committees (see below).[164] While bribery was a regular feature of life for Rohingya before 2012, once the camps were constructed, it became ubiquitous. As noted in an assessment of new market systems in central Rakhine State: "There is a substantial bribery system 'finely attuned to what people can afford.'"[165]

Rohingya describe bribes as being a requisite to even attempting to move outside their camps or access services or livelihoods. Without a bribe, it is not possible to fish or go to market; to travel to schools and study; to travel to health centers and receive treatment; or to escape military detention.

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[161] Human Rights Watch telephone interview, August 27, 2020.

[162] Human Rights Watch interviews with Rohingya in central Rakhine camps, April-May 2020.

[163] Ibid.

[164] For more on extortion and bribes, see the Lack of Access to Health Care and Restrictions on Livelihoods sections, below.

[165] Danish Refugee Council, "Cash Based Programming Feasibility Assessment in Central Rakhine," May 2015, p. 10.

Securing official permission to travel is for the most part impossible, prohibited by excessive fees, bureaucratic procedures, and discriminatory regulations. As a result, bribing security forces, such as for medical treatment or short-term job opportunities in Bangladesh, offers a cheaper and more accessible option.

Ko Min Kyaw, 25, from Ohn Taw Gyi camp, said:

> The [travel authorization] form is very expensive for regular income families, around 150,000 to 200,000 kyat [$100-140] for one person. So sometimes people travel to Bangladesh [by boat]. We travel to make an income or get medical assistance.… Sometimes, we have a problem with local security forces when we return from the trip. If the security forces want to make more income, they accuse us of being illegal migrants from Bangladesh and then ask for a lot more money. If that person can't give money to the security forces, they will have trouble with them.[166]

Some Rohingya reported that extortion attempts became harsher after the August 2017 violence. Amir Hossain said:

> After the Maungdaw violence [in 2017], the camp rules and regulations became more strict. We had to go back inside the blocks by 4 p.m. If we failed to get back inside in time … the authorities would charge us 60,000 kyat [$40]. We didn't have 10 kyat to eat, but they charged us 60,000.[167]

Rohingya described how during the Covid-19 pandemic, officials extorted them at checkpoints for not complying with mask regulations, even in cases where they were worn. One Rohingya man said: "Police fine people even though they are wearing a mask.… They took money from a man's pocket, about 20,000 kyat [$14]"—more than the monthly food allowance of 15,000 kyat ($10) granted in lieu of rations by the World Food Programme.[168]

[166] Human Rights Watch telephone interview with Ko Min Kyaw, November 6, 2019.
[167] Human Rights Watch telephone interview with Amir Hossain, September 9, 2020.
[168] Human Rights Watch telephone interview with Rohingya in Sittwe camp, April 2020.

Camp Management Committees consist of Rohingya and are intended to represent the camp populations. However, the government-appointed committees frequently engage in corrupt practices that feed the camp systems of extortion and corruption, exacting bribes or payment in the form of aid for the various processes they oversee.

The committees have been a long-term barrier to addressing urgent concerns in the camps, despite attempts at reform, which have had little impact. In 2016, the UN and INGOs working in the camps reported: "The need to reform the Camp Management Committees (CMCs) remains the single biggest and most persistent challenge. The CMC's responsibility fails to be enforced, they are appointed not elected, fail to be representative of their residents and have proved corrupt, violent, block humanitarian assistance, [are] prone to extortion and yet benefit from impunity."[169]

Kaman Muslims

Kaman are the only Muslim ethnic group legally recognized by the Myanmar government and therefore entitled to citizenship. Yet they have also faced serious restrictions and other rights violations, particularly following the violence in 2012. In October that year, Kaman Muslims in Kyaukpyu township were targeted in attacks by ethnic Rakhine, their homes destroyed, and thousands displaced. Many were injured and killed by security forces. Thousands of Kaman remain in camps where they face similar confinement and restrictions as the interned Rohingya.[170]

Kaman are frequent targets of anti-Muslim sentiment, including hate speech and bigotry from local residents and officials. Despite their legal eligibility for citizenship, some are still denied access to official documentation and forced to apply for travel authorizations.

When the government-formed Advisory Commission on Rakhine State led by Kofi Annan called on the government to begin closing the camps, a Kaman site in Ramree was named as one of the three pilot locations to be closed. The site was chosen because both Kaman and Rakhine

[169] CCCM Cluster, "Myanmar Factsheet," September 2016, https://www.sheltercluster.org/sites/default/files/docs/myanmar_national_cccm_cluster_factsheet_september_2016_0.pdf (accessed August 2, 2020).

[170] In some camps, reports of the ethnic makeup, and therefore the overall population breakdown between Rohingya and Kaman, vary.

communities had told the commission they were open to reintegrating. "Kofi asked [the Rakhine] if they would allow them [Kaman] to return and live peacefully, and they said yes," a Kaman community leader said. "Before, they had been living peacefully, interacting.… They both said that everything was okay, there were no problems, we can live together. But then the story changes."[171]

After the commission's interim report came out, the Rakhine community told the Ministry of Social Welfare, Relief and Resettlement that it opposed the Kaman returning, and suggested they be moved to Yangon instead. Though the Kaman had made clear their desire to return to their place of origin with both union and state authorities, they were left with little choice. As the protection sector reported:

> Most of the IDPs in Ramree wanted to return to their place of origin and had made their intentions known to the authorities (both Union and local), during a series of consultations in Ramree and Yangon with both the leaders and the community at large. However, they were not permitted to do so, not in the least because of opposition from the Rakhine community, echoed by authorities at local and Union level.[172]

The Kaman families were given 500,000 kyat ($345) each, plus 100,000 kyat ($70) per family member, and bus tickets to Yangon. "They said okay out of fear," the Kaman leader said. "They were living in the camps for five years—no future, no chance to work, not enough rations, curfews, reliant on aid, bored."[173] No compensation or other form of reparation has been provided, he said:

> Nobody has been able to return, nobody has been compensated. We keep asking, even still we are asking the government for our land.… The land is still empty, there are no buildings there. We are still asking.[174]

[171] Human Rights Watch interview with Kaman community leader, Yangon, November 9, 2018.
[172] Protection Sector, "Relocating Internally Displaced Persons from Ramree, Ka Nyin Taw, and Kyein Ni Pyin camps," May 15, 2017.
[173] Human Rights Watch interview with Kaman community leader, Yangon, November 9, 2018.
[174] Ibid.

Dangerous Escapes by Sea

The oppressive restrictions under which Rohingya in the camps live have pushed large numbers to seek high-risk avenues of escape. UNHCR estimates that between 2012 and 2015, about 110,000 to 170,000 Rohingya migrants and asylum seekers embarked on smugglers' boats in the Bay of Bengal and Andaman Sea, most looking to reach Malaysia where an existing Rohingya community holds the promise of work.[175] These dangerous voyages entail weeks or months on unseaworthy boats while subject to abuse by unscrupulous smugglers and traffickers.[176] Some pay up to $2,000; others may pay little but end up in situations of forced labor or exploitation.[177]

Sea journeys declined in 2016 and 2017, when about 800,000 Rohingya fled overland to Bangladesh, but resumed in 2018 with a higher fatality rate. In 2018 and 2019, 1 in 69 Rohingya who fled by sea died during the journey, compared to 1 in 81 during the 2013-2015 crisis.[178] According to UNHCR, "Confirmed reports are, however, only the tip of the iceberg given most bodies are never found and many missing persons never reported."[179] Yet Rohingya continue to embark on the journey, knowing they risk drowning at sea, ending up in traffickers' mass graves, or being held in immigration detention facilities.[180] The majority who are fleeing Myanmar leave from central Rakhine State.[181]

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[175] Vivian Tan, "Over 168,000 Rohingya likely fled Myanmar since 2012," UNHCR press release, May 3, 2017, http://www.unhcr.org/en-us/news/latest/2017/5/59099off4/168000-rohingya-likely-fled-myanmar-since-2012-unhcr-report.html (accessed August 5, 2019); UNHCR, "Movement Restrictions for Stateless Residents in Rakhine State," Information Note, April 2016.

[176] "Thailand: Mass Graves of Rohingya Found in Trafficking Camp," Human Rights Watch news release, May 1, 2015, https://www.hrw.org/news/2015/05/01/thailand-mass-graves-rohingya-found-trafficking-camp; "Southeast Asia: Accounts from Rohingya Boat People," Human Rights Watch news release, May 27, 2015, https://www.hrw.org/news/2015/05/27/southeast-asia-accounts-rohingya-boat-people; "Thailand: Let UN Refugee Agency Screen Rohingya," Human Rights Watch news release, May 21, 2020, https://www.hrw.org/news/2020/05/21/thailand-let-un-refugee-agency-screen-rohingya.

[177] UNHCR, "Separated by the Sea," February 23, 2016, https://www.unhcr.org/en-us/news/stories/2016/2/574446f54/separated-by-the-sea.html (accessed September 20, 2020).

[178] UNHCR, "Refugee Movement in Southeast Asia—2018 – June 2019," October 2019, https://www.unhcr.org/5d91e2564.pdf (accessed April 1, 2020).

[179] "Rohingya refugees continue to risk lives to seek safety: UNHCR," *Al Jazeera*, October 1, 2019, https://www.aljazeera.com/news/2019/10/rohingya-refugees-continue-risk-lives-seek-safety-unhcr-191001075311416.html (accessed April 1, 2020).

[180] "Southeast Asia: Accounts from Rohingya Boat People," Human Rights Watch news release.

[181] UNHCR, "Refugee Movement in Southeast Asia—2018 – June 2019," October 2019.

"We know we will die in the sea," Myat Noe Khaing said. "If we reach there we will be lucky; if we die, it is okay because we have no future here."[182]

Sultan Ahmad, 52, who lives in Thet Kae Pyin camp in Sittwe, said:

> We can't stop human trafficking in the camp because most of the brokers and local security forces are cooperating.… Sometimes, the people on the boats get arrested; sometimes they have to change direction because of the weather conditions; sometimes the boats sink and they die in the sea. But people still take the risk, because they say they can't stay at home detained in the camp, and they don't think they will ever be free.[183]

In the first months of 2020, numerous boats, each carrying hundreds of Rohingya refugees, left the refugee camps in Cox's Bazar for Malaysia. Authorities from Malaysia and Thailand pushed the boats back to sea, contrary to their international obligations, leaving more than a thousand asylum seekers in life-threatening conditions for months.[184] Rohingya who eventually landed in Bangladesh, Indonesia, and Malaysia described desperate conditions in which large numbers died. When a boat of 300 refugees disembarked in Indonesia in September after being at sea for over seven months, more than one-third of the passengers needed hospitalization.[185]

Given the risks of maritime escapes, Rohingya have increasingly sought to flee overland via the Myanmar-Thai border. In May 2020, Thai authorities arrested 35 Rohingya in the border town of Mae Sot. They were being held in Thai immigration detention, and the authorities announced their plans to deport them once Covid-19 eases.[186]

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[182] Human Rights Watch interview with Myat Noe Khaing, Yangon, April 8, 2019.

[183] Human Rights Watch telephone interview with Sultan Ahmad, November 5, 2019.

[184] "Malaysia/Thailand: Allow Rohingya Refugees Ashore," Human Rights Watch news release, June 12, 2020, https://www.hrw.org/news/2020/06/12/malaysia/thailand-allow-rohingya-refugees-ashore.

[185] UNHCR, "Seven-month ordeal at sea takes toll on Rohingya refugees in Indonesia," September 15, 2020.

[186] "Thailand: Let UN Refugee Agency Screen Rohingya," Human Rights Watch news release; Fortify Rights, "Thailand: Protect Rohingya Refugees from Forced Return, Indefinite Detention," June 5, 2020, https://www.fortifyrights.org/tha-inv-2020-06-05/ (accessed June 10, 2020).

Restrictions on Rohingya Outside the Camps

For the estimated 470,000 Rohingya living outside the camps in central and northern Rakhine State, severe and arbitrary movement restrictions have had similarly grave consequences.[187] The draconian system of travel authorizations has exposed Rohingya to systemic extortion by officials. Those found violating restrictions regularly face harassment and detention. Reports of security force officers beating or otherwise physically and verbally assaulting Rohingya at checkpoints in northern Rakhine State are common, regardless of whether they possess the requisite documents.[188]

In order to leave their township, Rohingya must obtain a temporary travel permit known as "Form 4," required under a 1997 order issued by the Rakhine State Immigration and National Registration Department.[189] The onerous application process, which can take days or months, entails submitting various forms of documentation to the township immigration office and informal payments of up to 100,000 kyat (US$70).[190]

In the rare cases when Rohingya are able to acquire a Form 4 to travel outside Rakhine State, the process requires they possess official identification such as a National Verification Card and obtain additional state-level approval, as well as sign-off by the Yangon immigration department if traveling to Yangon. Rohingya who were able to travel to Yangon for major medical treatment told Human Rights Watch that the authorization, bribes, and travel for a single trip cost them about 1,500,000 kyat ($1,030).[191] A government committee on Rakhine State reported that from September to December 2019, 242 people were granted Form 4s for temporary authorization to travel outside Rakhine State for trainings, meetings, or health care.[192]

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[187] Arriving at accurate population figures for the Rohingya has been hindered by Myanmar's excluding them from the census as well as restricting independent research and monitoring in Rakhine State. The figure of 470,000 is reported by OCHA and Humanitarian Country Team, "Myanmar: Humanitarian Needs Overview 2020," December 2019, https://reliefweb.int/sites/reliefweb.int/files/resources/MMR_HNO_2020_FINAL_131219.pdf (accessed April 1, 2020).

[188] Physicians for Human Rights, "Where There is Police, There is Persecution: Government Security Forces and Human Rights Abuses in Myanmar's Northern Rakhine State," October 2016, https://www.ecoi.net/en/file/local/1050261/1226_1480496260_burma-rakhine-state-oct-2016.pdf (accessed June 10, 2020); Amnesty International, "Caged Without a Roof," pp. 45-47.

[189] The 1997 order requires travel permits for "Bengali races" and "foreigners and persons who are doubted as foreigners" seeking to travel outside their township.

[190] Physicians for Human Rights, "Where There is Police, There is Persecution."

[191] Human Rights Watch interviews, November 2019.

[192] "Report to the people on the progress of the implementation committee on recommendations on Rakhine State between September and December 2019," *Global New Light of Myanmar*, May 24, 2020.

Once valid for up to 45 days, the Form 4's period of validity within Rakhine State has diminished over time. Since the 2012 violence, it generally authorizes travel for only one to two weeks.[193] Violation of the order is punishable by up to six months in prison under section 188 of the Penal Code or up to two years under the 1949 Residents of Myanmar Registration Act. In northern Rakhine State, Rohingya are even required to obtain permission to travel outside their village by applying for a "Village Departure Certificate" from their village administrator, which they must acquire in order to apply for a Form 4.

As described above, authorities have escalated restrictions on movement during periods of insecurity. Security checkpoints—operated by the military, border guard force, and police—proliferated following the violence in 2012, 2016, and 2017, reaching about 200 in northern Rakhine State alone.[194]

Curfew orders have similarly been imposed in various forms since 2012, prohibiting Rohingya from leaving their homes at night and restricting gatherings of more than five people in public areas. The orders are primarily issued under section 144 of the criminal procedure code, which allows for wide-ranging responses to situations of social conflict or unrest.[195] The military exploits the ambiguity of the section to enact broad de facto emergency powers without oversight.[196]

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[193] The increasingly rare authorization to travel outside Rakhine State still covers 45 days. UK Home Office, "Country Policy and Information Note Burma: Rohingya," March 2019; UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, paras. 503-507.

[194] UK Home Office, "Country Policy and Information Note Burma: Rohingya," March 2019.

[195] Myanmar Code of Criminal Procedure, sec. 144.

[196] Section 144 of the 1898 Code of Criminal Procedure grants "power to issue order absolute at once in urgent cases of nuisance or apprehended danger." It was originally framed as a judicial power, but military officials and the military-aligned General Administration Department have co-opted the authority to issue section 144 orders. The application and use of section 144 has been excessive and far-reaching, including to crack down on protests against rights abuses, to grab land for military companies, and to restrict victims' movement following state violence, such as in the wake of the 2012 attacks. Orders issued under the section are intended to be limited to two months, unless extended by the president in the case of "danger to human life, health or safety, or a likelihood of a riot or an affray," yet officials have maintained curfews and other "emergency" orders for years. As Melissa Crouch notes, section 144 has afforded the military greater unchecked emergency powers than the constitution, which it exploits to target certain communities and legitimize a "perpetual state of emergency": "Section 144 of the Code of Criminal Procedure constitutes the most real, immediate power of executive officials, which precedes any exercise of constitutional power.… Section 144 has contributed to the culture of the 'everyday emergency,' an emergency that targets Muslim minorities, ethnic groups fighting against the military and land rights activists, among others." Melissa Crouch, "The Everyday Emergency: Between the Constitution and the Code of Criminal Procedure in Myanmar," *UNSW Law SSRN Working Paper* Series, December 2015.

Rohingya in Maungdaw and Buthidaung townships have faced continuous curfews since 2012, and report being subjected to arrest, violence, and extortion by security forces if found breaking the order.[197] In April 2019, authorities imposed a curfew in an additional five Rakhine State townships in response to the Arakan Army conflict.[198] The Fact-Finding Mission found that the expanded curfews "have exacerbated the already difficult living conditions for the Rohingya and they have been applied less strictly to non-Rohingya communities."[199]

Rohingya in northern Rakhine State are facing a serious health and protection crisis as a result of increasing restrictions. Blocks on humanitarian aid in response to the 2017 violence and the Arakan Army conflict have sharply limited the presence of mobile clinics and other health services provided by nongovernmental organizations. Curfews and travel authorization requirements impede many seeking medical care.

The increased security monitoring of the Bangladesh border after August 2017 cut off access to Cox's Bazar hospitals, where Rohingya from northern Rakhine State would commonly travel for serious health concerns. Sittwe General Hospital is now the only option for emergency or serious treatment, which requires securing the requisite travel documents and obtaining a referral from the township hospital. For Rohingya from northern Rakhine State, the process is all but closed off—since 2016, only one patient from northern Rakhine has been successfully referred to Sittwe General Hospital, and only following weeks of lobbying.[200]

Rohingya living in villages in central Rakhine State are also prohibited from moving outside boundaries demarcated by authorities. Attempting to leave these areas can lead to arrest or ill-treatment.[201] Without the aid agency presence that exists in the camps, Rohingya in

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[197] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 683.

[198] The 9 p.m. to 5 a.m. curfew covered Rathedaung, Ponnagyun, Kyauktaw, Mrauk-U, and Minbya townships. "Nighttime Curfew Imposed in Five Townships in Myanmar's Rakhine State," Radio Free Asia, April 2, 2019, https://www.rfa.org/english/news/myanmar/nighttime-curfew-imposed-in-five-townships-04022019162835.html (accessed April 30, 2020).

[199] UN Human Rights Council, Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, A/HRC/42/CRP.5, September 2019, para. 149.

[200] Independent Rakhine Initiative, "Freedom of Movement in Rakhine State," March 2020.

[201] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 513.

these villages often face additional barriers to accessing health care, food, and other basic services.

In the city of Sittwe, where about 75,000 Rohingya lived before 2012, only 4,000 remain. For eight years, they have been confined to Sittwe's last remaining Muslim enclave of Aung Mingalar. Formerly a middle-class neighborhood of traders and shop owners with Buddhist and Hindu neighbors, the area of a few square blocks is now surrounded by barbed wire, checkpoints, and armed police guards. Rohingya are only permitted to leave with an emergency referral to the hospital from a visiting clinic, or to visit markets in the rural Sittwe camps under police escort whom they must pay. The threat of abuse by security officials, heightened at night, has led to an unofficial curfew.[202]

[202] UK Home Office, "Country Policy and Information Note Burma: Rohingya," March 2019; "In Burma, Hell in a Very Small Place," Human Rights Watch Dispatch, September 30, 2015, https://www.hrw.org/news/2015/09/30/dispatches-burma-hell-very-small-place.

IV. Economic and Social Rights Abuses

Living conditions in the Rohingya and Kaman camps in Rakhine State are squalid, described as "beyond the dignity of any people" by Ursula Mueller, then-UN assistant secretary-general for humanitarian affairs, after a 2018 visit.[203] A UNICEF official described her own 2018 visit to the camps:

> The worst camps are in appalling condition.... The camps are below sea level, with almost no tree cover. The first thing you notice when you reach the camps is the stomach-churning stench. Parts of the camps are literally cesspools. Shelters teeter on stilts above garbage and excrement. In one camp, the pond where people draw water from is separated by a low mud wall from the sewage. You can easily see how a little bit of rainfall would wash that filth over into the pond.[204]

Shelters, originally built to last two years, have deteriorated over eight monsoon seasons. Severe limitations on access to livelihoods, education, health care, and adequate food or shelter have been compounded by increasing government constraints on humanitarian aid, Rohingya's main source of support. In 2019, the Myanmar director for Save the Children compared the conditions to previous postings he held in other parts of the world:

> It is impossible to convey the degradation of life in these camps. I have visited them many times, and they are among the worst places to live and to bring up children that I have seen during a long career in humanitarian work around the world. Families are crammed into a single room in a five-family "longhouse," bordered by endless lines of latrines in a sea of mud.[205]

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[203] Ursula Mueller, UN assistant secretary-general for humanitarian affairs, April 4, 2018, video clip, Twitter, https://twitter.com/uschimuller/status/981625075953782784?lang=en (accessed October 1, 2018).

[204] Marixie Mercado, "The Situation of Children in Rakhine State, Myanmar," UNICEF, January 10, 2018, https://blogs.unicef.org/east-asia-pacific/situation-children-rakhine-state-myanmar/ (accessed August 25, 2019).

[205] Michael McGrath, "The Forgotten Side of the Rohingya Crisis," *Frontier Myanmar*, August 26, 2019, https://frontiermyanmar.net/en/the-forgotten-side-of-the-rohingya-crisis (accessed August 26, 2019).

Lack of Access to Health Care

Severe movement restrictions, arbitrary limitations on humanitarian aid, poor living conditions, and discriminatory care exacerbate the Rohingya's vulnerability, creating a cycle of worsening health outcomes. These outcomes are the result of government policies at the state and national level.

"We overcame a lot of difficulties, but our main concern became health care," a Thet Kae Pyin camp resident said of the period after the 2012 violence died down.[206] "Health care is our number one need," a Rohingya woman from Aung Mingalar said.[207]

A 2016 study in the *Lancet* medical journal found that the Myanmar government's "political and military policies" led to the Rohingya community in Rakhine State's mortality "substantially increasing above the population."[208] It determined that the discrimination and persecution of the Rohingya had led to a "cycle of poor infant and child health, malnutrition, waterborne illness, and lack of obstetric care."[209]

The researchers concluded: "The part played by the Myanmar Government in restricting Rohingya reproductive rights, and in the high morbidity and mortality of the Rohingya people could arguably be advanced as a charge of genocide, or at the very least as ethnic cleansing."[210]

The Fact-Finding Mission similarly noted that the "arbitrary and cumbersome procedures to access hospitals and health facilities" contributed to the erosion of the Rohingya's capacity to survive as well as to preventable deaths, serving as a tool of what the mission concluded was the underlying genocidal act of deliberately inflicting on the group "conditions of life calculated to bring about the physical destruction of the Rohingya group."[211]

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[206] Mike Ives, "Fear and Loathing in Thet Kal Pyin: Myanmar's Healthcare Crisis," *Mosaic*, July 28, 2015, https://mosaicscience.com/story/myanmar-healthcare/ (accessed August 19, 2019).

[207] Human Rights Watch interview with Myat Noe Khaing, Yangon, April 8, 2019.

[208] Syed S. Mahmood et al., "The Rohingya People of Myanmar: Health, Human Rights, and Identity," *Lancet*, vol. 389, no. 10081, December 2016, p. 1846.

[209] Ibid., p. 1841.

[210] Ibid., p. 1848.

[211] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, paras. 1400-1407.

Widespread Illness

With poor living conditions, overcrowding, and travel restrictions, health indicators for Rohingya in the camps have in large part worsened over the past eight years. Sanitation and nutrition gaps leave them vulnerable to communicable diseases such as malaria, dengue, acute respiratory infections, and tuberculosis (TB), which are endemic to Rakhine State.[212] A 2015 needs assessment survey found that 56 percent of Rohingya and Kaman Muslim respondents reported being ill in the past three months.[213]

In 2016, a Rohingya man from a camp in Sittwe said: "Health conditions have gotten worse. Because camps are too crowded and cramped with a lot of people, illnesses such as TB and diarrhea can easily spread."[214]

Over a 10-day period in January 2019, five children from 7 months to 2 years old died in Sittwe due to suspected diarrhea.[215] A UN official described the link between the unsanitary conditions and child mortality in the camps: "Children walk barefoot through the muck. One camp manager reported four deaths among children ages 3-10 within the first 18 days of December [2017]. His only ask was for proper pathways so they wouldn't have to walk through their own waste."[216]

The International Rescue Committee (IRC), drawing on its work in 12 camps and 7 villages in Sittwe, analyzed 18 months of data from consultations at its 13 mobile clinics to determine the impact of shelter conditions on health. It found that between April 2015 and October 2016, the proportion of cases of scabies, dysentery, tuberculosis, and influenza were significantly higher in camp clinics than village clinics, with the tuberculosis rates nine times as high. All disease outbreaks occurred in the camp areas, with the two most intense clusters originating in areas of severe overcrowding.[217] It concluded: "The International Rescue Committee (IRC) has witnessed the debilitating impact that sub-

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[212] World Health Organization (WHO), "Bangladesh/Myanmar: Rakhine Conflict 2017," October 2017, http://www.searo.who.int/mediacentre/emergencies/bangladesh-myanmar/publichealthsituationanalysis-october2017.pdf (accessed December 17, 2018).

[213] Center for Diversity and National Harmony, *Rakhine State Needs Assessment*, September 2015, p. 76.

[214] Center for Diversity and National Harmony, *Rakhine State Needs Assessment II*, December 2016, p. 77.

[215] Health Cluster, "Current Situation of Acute Watery Diarrhea Status in January 2019," January 25, 2019 (copy on file with Human Rights Watch).

[216] Marixie Mercado, "The Situation of Children in Rakhine State, Myanmar."

[217] IRC, "Poor Shelter Conditions: Threats to Health, Dignity and Safety," June 2017.

standard shelter conditions have had on the health and psychological well-being of internally displaced people. This cannot continue."[218]

Health data and statistics for the Rohingya population in Myanmar are incomplete, in part due to the government's rejection of the Rohingya as a distinct ethnic group, as well as their exclusion from national surveys such as the census. Most Rohingya receive healthcare services from international aid organizations, such as Medecins Sans Frontieres, which the government has restricted or outright barred for various periods of time, leading to incomplete oversight and data collection.[219]

The lack of systematic information on healthcare needs, trends, and gaps creates further challenges for providers, and, as the *Lancet* review noted, "is in of itself a sign of negligence on the part of the State."[220] While sparse, existing data suggests that Rohingya face higher rates of malnutrition, waterborne illnesses, and child and maternal mortality.[221]

Access to Medical Facilities

Access to health care is inadequate for all communities in Rakhine, one of the poorest states in the country, with only five healthcare workers per 10,000 people, far below the national average and the recommended minimum of the World Health Organization (WHO).[222] But for Rohingya, the addition of restrictive policies has led to high-risk, sometimes fatal, circumstances. Logistical and financial barriers prevent Rohingya from accessing lifesaving services, as noted by the UN and humanitarian aid organizations in the 2019 Humanitarian Response Plan:

> Restrictions on freedom of movement and other restrictive policies and practices affecting the Rohingya community in central Rakhine mean that they are not able to travel freely to the nearest township hospital, even

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[218] Ibid.

[219] Jane Perlez, "Ban on Doctors' Group Imperils Muslim Minority in Myanmar," *New York Times*, March 13, 2014, https://www.nytimes.com/2014/03/14/world/asia/myanmar-bans-doctors-without-borders.html (accessed August 20, 2019).

[220] Syed S. Mahmood et al., "The Rohingya People of Myanmar: Health, Human Rights, and Identity," *Lancet*, p. 1846.

[221] Ibid., pp. 1846-1847.

[222] The national average is 16 workers per 10,000; the WHO recommended minimum is 22 per 10,000. Myanmar Ministry of Health and Sports and ICF, "Demographic and Health Survey 2015-16."

> during medical emergencies, a situation which has led to increased risk of preventable morbidities and mortalities.[223]

The UN Fact-Finding Mission similarly found that "restrictions have been enforced strictly, even in the case of women in obstructed labour, infants needing emergency oxygen, people suffering from heart attacks, and people with severe disabilities. In some cases, the delays caused by these restrictions have been fatal."[224]

This risk has been present—and identified by UN teams on the ground—since the camps were established. In a 2014 internal situation report, OHCHR reported that it had "received credible allegations of another 69 Muslims who appear to have died over the past year as a result of being denied access to life-saving care as a result of movement restrictions."[225] Yet years later, the situation has not improved, with a growing tally of preventable deaths.[226]

In a 2016 survey, only 16 percent of Rohingya reported receiving necessary medical care.[227] As a Rohingya interviewee told the Fact-Finding Mission:

> One of my relatives had to go to Yangon to get medical treatment. She tried to get the necessary papers to travel to Yangon but didn't get them and died at the Sittwe hospital. If Rohingya have a minor sickness it is okay, but if the sickness is serious, they can't get proper treatment.[228]

Access to health facilities is mostly limited to in-camp services, primarily basic mobile clinics operated by nongovernmental organizations, generally open only a few hours at a

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[223] UN Humanitarian Country Team, "2019 Humanitarian Response Plan," p. 12.

[224] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 550.

[225] OHCHR, "OHCHR Rakhine Deployment Situation Report, November 15, 2013-January 15, 2014" (copy on file with Human Rights Watch).

[226] According to the UN Fact-Finding Mission: "It is very difficult to quantify the number of preventable deaths. Some humanitarian actors estimate that there have been hundreds of preventable deaths in central Rakhine since 2012." UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 1179.

[227] Center for Diversity and National Harmony, *Rakhine State Needs Assessment II*, December 2016, p. 76.

[228] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 545.

time. There are two government health centers located in the Sittwe camp complex, including a station hospital in Thet Kae Pyin. Rohingya need to visit the health center for a referral to Sittwe General Hospital, the only site where they can receive complex care.[229] Aung Zaw Min, 59, from Ohn Taw Chay camp in Sittwe said:

> We have not had full access to the medical services in Sittwe general hospital since June 2012. The health ministry provides very basic medicine at health clinics in Thae Chaung, Thet Kae Pyin, and Dar Paing in the Sittwe camp areas. Most of the patients and caretakers are not comfortable getting medical services at Sittwe General Hospital because of the treatment by health staff there. The health staff don't much care about the patients. Sometimes, mothers and children die during delivery because of the carelessness of the staff at Sittwe general hospital.[230]

In a May 2020 review of its progress in implementing the Advisory Commission on Rakhine State recommendations, the government reported that from September to December 2019, 26,000 people from "national races" had received treatment at Sittwe General Hospital, more than 30 times the number of Rohingya—only 800—who were treated there over the same four months.[231]

A UNICEF official reported after visiting the camps: "People are turning to traditional healers, untrained physicians or self-medicating. One UNICEF-supported caseworker told me that his daughter had committed suicide because she was unable to bear a pain in her abdomen that existing camp health services were unable to treat."[232]

Access to Sittwe General Hospital is restricted to emergency cases. Even then, seeking an emergency referral entails an onerous process requiring approval from authorities, which can take days, if it comes at all, even in life-threatening situations. The patient is required

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[229] Human Rights Watch interviews with humanitarian workers (details withheld), Sittwe and Yangon, October-November 2018.

[230] Human Rights Watch telephone interview with Aung Zaw Min, November 7, 2019.

[231] "Report to the people on the progress of the implementation committee on recommendations on Rakhine State between September and December 2019," *Global New Light of Myanmar*, May 25, 2020, https://www.moi.gov.mm/npe/nlm/sites/default/files/newspaper-pdf/2020/05/25/25_May_20_gnlm.pdf (accessed June 17, 2020).

[232] Marixie Mercado, "The Situation of Children in Rakhine State, Myanmar."

to cover the high costs of transport and requisite police escort, which are often prohibitive. The availability of ambulance services has grown over the past two years, but at least six remote camps still lack adequate emergency transport, and the requisite security escorts are generally not available at night.[233] There have been reports of Rohingya dying even in situations where an ambulance was dispatched because it took several hours to arrive at the Thet Kae Pyin clinic.[234]

In August 2016, a Rohingya woman, Raysuana, was found semi-conscious and mostly naked by soldiers at the military compound in Sittwe. She had serious injuries including vaginal bleeding that suggested she may have suffered a sexual assault. Rather than bring her to Sittwe General Hospital, the soldiers had her picked up by a village leader who brought her to the Thet Kae Pyin camp clinic. Despite her critical condition, a state doctor who was "reluctant to handle her" determined her case was non-urgent and did not require a transfer to the hospital.[235] An INGO doctor who arrived in the afternoon suggested she be brought to Sittwe General Hospital, but with no contacts or money for a "security escort" and "patient attendant," there was no possibility of a referral.[236]

She received no treatment for the likely sexual assault injuries and died at the clinic 12 hours later. A witness at the clinic described as having a medical background told the *Myanmar Times*: "I believe if she'd been taken to hospital, she would have lived."[237] The village leader said: "We Rohingya people are not allowed to go to the hospitals ourselves. If there were no restrictions on movement, we would have taken her to the hospital in

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[233] CCCM Cluster, "CCCM Camp Profiles, Central Rakhine, Myanmar, Q2 2020," June 2020, https://app.powerbi.com/view?r=eyJrIjoiMWU1MTRlZWQtZTA3YSooNTJhLTgwMWUtZmI4ZjAwMzhmNDA3IiwidCI6ImU1YzM3OTgxLTY2NjQtNDEzNC04YTBjLTY1NDNkMmFmODBiZSIsImMiOjh9 (accessed September 2, 2020); Human Rights Watch interviews with humanitarian workers (details withheld), Yangon, March 2019.

[234] Oxfam International, "Voices Rising: Rohingya Women's Priorities and Leadership in Myanmar and Bangladesh," April 2020.

[235] According to Dr. Thaung Hlaing, then-state public health director: "We … could not see [if sexual assault occurred] for medical reasons. Our doctor was also reluctant to handle her" due to the fact that there was not a qualified female nurse or doctor present. The state doctor's examination entailed checking her "extremities." Fiona MacGregor, "'I believe if she'd been taken to hospital she would have lived': Why was Rohingya woman Raysuana denied proper medical care?" *Myanmar Times*, September 26, 2016, https://www.mmtimes.com/national-news/22723-i-believe-if-she-d-been-taken-to-hospital-she-would-have-lived-why-was-rohingya-woman-raysuana-denied-proper-medical-care.html (accessed August 23, 2019).

[236] Ibid.

[237] Ibid.

Sittwe, but at this moment in time we cannot."[238] Refusing to investigate, police ordered villagers to bury her without a post-mortem.[239]

For Rohingya and Kaman in remote camps outside Sittwe, such as those in Myebon and Pauktaw townships, barriers to accessing health care are compounded. Access is mostly limited to once or twice weekly mobile clinics.[240] Barred from their nearby township hospitals, any greater level of care requires an onerous referral to Sittwe General Hospital and a boat trip to Sittwe township that can take up to seven hours.[241] Since August 2017, those arriving via Sittwe jetty are required to endure often long waits for an official police escort, a service previously provided by the hospital, which has tripled the escort cost.[242]

Ali Khan, 45, from a camp in Kyauktaw said:

> Two MHAA [Myanmar Health Assistant Association] mobile clinics come two hours once a week to the camp for general health issues. If we have serious health concerns, we can't access the Kyauktaw general hospital because of security reasons, according to local authorities. Some families with good income, they can access the Sittwe General Hospital for health care, but the transportation is very expensive.[243]

In Taung Paw camp in Myebon, hostilities from local Rakhine nationalists toward the Rohingya have led to further restrictions. Hla Maung, 42, said:

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[238] Fiona MacGregor, "From a Violent Beginning to a Tragic End: The Story of a Rohingya Woman Called Raysuana," *Myanmar Times*, September 23, 2016, https://www.mmtimes.com/national-news/22712-from-a-violent-beginning-to-a-violent-end-the-story-of-a-rohingya-woman-called-raysuana.html (accessed August 23, 2019).

[239] "Myanmar: Investigate death and alleged rape of Rohingya woman," Amnesty International, August 30, 2016, https://www.amnesty.org/download/Documents/ASA1647232016ENGLISH.pdf (accessed August 23, 2019).

[240] Inter-Cluster Coordination Group and Camp Management Agencies, "Camp Improvement Action Plan," June 2018 (copy on file with Human Rights Watch). A report from an INGO field visit underscores the limited care provided by in-camp services: "The mobile clinic comes twice per month to this site.… When questioned about the number of diarrhea cases and the cause, the women mentioned that a month and a half ago, a child died of diarrhea. He had been seen by the doctor of the mobile clinic and received one ORS sachet. However, the child died some days after, without any additional medical care." Rakhine WASH Sub-Cluster Team, "WASH Cluster Evaluation in Minbya and Mrauk-U Townships," December 2014, p. 13 (copy on file with Human Rights Watch).

[241] Human Rights Watch interviews with humanitarian workers (details withheld), Yangon, March 2019; UK Home Office, "Country Policy and Information Note Burma: Rohingya," March 2019.

[242] Human Rights Watch correspondence with humanitarian workers (details withheld), September 2018.

[243] Human Rights Watch telephone interview with Ali Khan, October 22, 2019.

> Healthcare services is one of the biggest needs for us in Myebon camp. We can't access the Myebon general hospital because the Rakhine political parties, Rakhine community leaders, and some Rakhine CSOs [civil society organizations] don't allow it. The local authorities haven't addressed the problem for a long time. It's difficult in emergency cases in the camp, we can't get medical services on time. The NGO holds a clinic at the camp, but if the patient needs [more serious] medical services, they can't refer them to the Myebon general hospital because the Rakhine community leaders won't let them go.[244]

At Sittwe General Hospital, which has been segregated since 2012, Rohingya and Kaman are treated in a Muslim-only ward that contains only 20 beds out of the hospital's 200-300 bed capacity. The ward is guarded at all times and patients are not allowed to leave without supervision. Muslim patients have to pay bribes to the guards for delivery of food or outside medicine, or to use a phone. They are prohibited from bringing cellphones into the hospital, a policy that fuels anxiety, confusion, and the spread of misinformation about medical treatment.[245]

The UN Office for Project Services (UNOPS), with funding from the Norwegian government, is undertaking a project to expand Sittwe General Hospital, including construction of staff accommodations and a maternal and child care building. The project is framed as an "implementation of one of the recommendations put forward by the Advisory Commission on Rakhine State led by Kofi Annan," yet no information has been released on what increased access for Rohingya it will entail.[246]

Fears of Sittwe General Hospital are prevalent among Rohingya, often based on a perceived high mortality rate for Muslim patients and rumors of maltreatment by doctors.[247] This mistrust fosters a reluctance to seek medical care, leading to delays that can turn a potentially treatable condition into a life-threatening one, and an increase in

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[244] Human Rights Watch telephone interview with Hla Maung, November 11, 2019.

[245] Human Rights Watch correspondence with humanitarian workers (details withheld), September 2018.

[246] Royal Norwegian Embassy in Yangon, Facebook post, August 24, 2018, https://www.facebook.com/norwegianembassyyangon/posts/1609544322482937 (accessed September 20, 2020); UNOPS, "Sittwe General Hospital Expansion—Project Implementation Plan," https://www.ungm.org/UNUser/Documents/DownloadPublicDocument?docId=946831 (accessed September 20, 2020).

[247] Mike Ives, "Fear and Loathing in Thet Kal Pyin: Myanmar's Healthcare Crisis," *Mosaic*.

preventable deaths.[248] Such deaths feed the cycle of rumors and fear, with adverse effects on health-seeking behavior.[249]

Almost all those interviewed expressed fear about seeking care at Sittwe General Hospital. Hamida Begum from Thet Kae Pyin camp said:

> I have diabetes and had some serious health issues. In the camp, I could only go to the camp-based Rohingya health workers who were not proper doctors. I could only go outside to see a doctor with permission, but I never tried that as most of the time when Rohingya went to the outside doctors, they wouldn't survive.[250]

She later added:

> Sometimes we didn't take our children to the doctor because we believed that when our people go to the doctor, they don't come back alive.... Sometimes our children died in our laps. We didn't want them to die by Buddhist doctors.... When our children died from lack of medical treatment, we had to bury them without any funeral.[251]

Kamal Ahmad said that he sought medical treatment in Bangladesh to avoid Sittwe General Hospital:

> In 2016, I was seriously injured playing football. I tried to get help for one and half years but was never able get proper treatment. I didn't ask the authorities to let me get better treatment in town [at Sittwe General Hospital]. My family and I were afraid of getting treatment there since so many Rohingya never come back alive or cured after going.

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[248] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 555.

[249] Human Rights Watch correspondence with humanitarian workers (details withheld), September 2018.

[250] Human Rights Watch interview with Hamida Begum, Cox's Bazar, October 31, 2019.

[251] Human Rights Watch interview with Hamida Begum, Cox's Bazar, September 9, 2020.

> Finally [in 2018], my family decided to send me to Bangladesh to get better treatment. It cost me 30,000 kyat [US$20] only for the middlemen. I spent another 180,000 kyat [$125] to reach Bangladesh.… I spent all the money from my own savings.…
>
> Even after arriving here for treatment I am disappointed, as the doctors only prescribed me some medicine, but not the operation that I need. But when I went to a private hospital doctor, he asked for huge amount of money for the operation, which I can't afford.
>
> My mother, sister, and brother are still living in the IDP camp. So I think I will look for the opportunity to go back again to Myanmar in the IDP camps. But there is no future that's any good.[252]

Amir Hossain (discussed above) was shot by police during a dispute that broke out in his camp in 2016, yet he still avoided the general hospital:

> I took treatment inside the camp from a Rohingya village doctor. I never went to Sittwe [General Hospital] to get treatment because if I gave my identity as a Rohingya then I might not come back alive. For one year I suffered. So many NGO people came to visit me, but could not ensure my safe treatment.[253]

Khadija Khatun fled the camp where she lived in Myebon, but her parents, including her sick mother, still live there. She said:

> Last time I heard from mom she is sick. But Allah knows if I can be able to see her anytime again soon. My mother does not want to go to the doctor outside of the camp [at Sittwe General Hospital], as most of the Rohingya living in the camps fear dying if they go to the doctor in town. They believe the doctors give fatal injections to the Rohingya patients from the camps.

[252] Human Rights Watch interview with Kamal Ahmad, Cox's Bazar, November 2, 2019.

[253] Human Rights Watch interview with Amir Hossain, Cox's Bazar, November 2, 2019.

> So, if you are sick, the only solution is you will die soon, but naturally—that's how my mother thinks.[254]

Fears are heightened during periods of instability, such as the in the wake of the August 2017 violence. Concerns grew over the following months; in November, one-third of Muslim patients declined referral to Sittwe hospital.[255]

The Rakhine State border affairs and security minister, a military-controlled post, wields greater authority regarding Sittwe General Hospital policies than the Ministry of Health. During security lockdowns after the October 2016 and August 2017 violence, the Ministry of Health granted some patients express approval to travel to the hospital, which security officials overruled.[256]

Excessive Costs and Extortion

Medical costs are one of the main reasons Rohingya cite for not seeking health care. An estimated 93 percent of Rohingya families reported having difficulty paying health care expenses in the previous six months.[257] Costs include formal expenses and bribes—transportation, police escorts, extortion at checkpoints and by guards, interpreters, pharmacy medicine, caregivers, food, phone use, and blood from private donor banks. As a humanitarian worker explained: "Only people with money can get to Sittwe hospital. Permission [to leave the camp], phone calls, food, it's all bribes. If you can't pay bribes or you're not friends with the Camp Management Committee, you're not going."[258]

The informal fees, according to an internal humanitarian agency report, amount to an estimated 61 percent increase in medical costs for Muslim patients compared to non-Muslim patients, yet one more arbitrary form of discrimination against Rohingya.[259] Rohingya in Sittwe camps reported that access to health care is the most common reason

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[254] Human Rights Watch interview with Khadija Khatun, Cox's Bazar, October 30, 2019.

[255] Human Rights Watch correspondence with humanitarian workers (details withheld), September 2018.

[256] Internal humanitarian report on file with Human Rights Watch.

[257] CCCM Cluster, DRC, UNHCR, and JIPS, *Sittwe Camp Profiling Report*, June 2017, pp. 83-84.

[258] Human Rights Watch interview with humanitarian worker, Yangon, November 13, 2018.

[259] Internal 2018 humanitarian report on file with Human Rights Watch.

for taking out loans, with some electing not to seek medical help to avoid acquiring debt they would be unable to pay off.[260]

Ethnic Rakhine who donate blood to the Sittwe General Hospital blood bank often request their donation be earmarked for non-Muslim patients only, which the state hospital accepts. As a result, the Muslim ward at Sittwe General Hospital faces a constant shortage of blood. Attempts to mitigate the consequences of this dangerous and discriminatory policy include informal blood banks, such as the Aung Mingalar Donor Group, that collect blood from camp residents and charge about 15,000 kyat ($10) for use per donation. The organizer of one such effort said he had donated blood 44 times. But the supply remains limited and unable to meet the needs of patients; at least eight Rohingya patients were left without necessary blood transfusions at Sittwe General Hospital in 2017.[261]

Sexual and Reproductive Health

Sexual and reproductive health care for Rohingya in the camps falls perilously short of international standards, including the Minimum Initial Service Package for Reproductive Health (MISP), "a priority set of lifesaving activities to be implemented at the onset of every emergency." In the Rakhine camps, none of the standards, which are meant to be implemented within the first six weeks of a crisis as the absolute minimum lifesaving care, are met.[262]

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[260] Human Rights Watch and Fortify Rights, "Joint Submission to CEDAW on Myanmar," May 2018, https://www.hrw.org/news/2018/05/24/joint-submission-cedaw-myanmar.

[261] Internal humanitarian report on file with Human Rights Watch; Timothy McLaughlin and Shibani Mahtani, "Myanmar's Buddhists Block Rohingya Muslims from Blood Supplies, Report Says," *Washington Post*, December 24, 2018, https://www.washingtonpost.com/world/asia_pacific/myanmars-buddhists-block-rohingya-muslims-from-blood-supplies-report-says/2018/12/23/d08157c8-02af-11e9-8186-4ec26a485713_story.html (accessed August 19, 2019).

[262] United Nations Population Fund (UNFPA), "What is the Minimum Initial Services Plan?" undated, http://www.unfpa.org/resources/what-minimum-initial- service-package (accessed February 19, 2020). MISP, which was recognized as a Sphere standard in 2004, provides that a reproductive health officer should be in place to coordinate efforts and help collect information; that reproductive health kits (containing medicines and equipment) should be available and used; that clinical care is available for rape victims; and that visibly pregnant women should be given clean delivery equipment. Referral systems for emergencies for women in labor and for newborns should be established and blood transfusions made available. The Sphere Charter and Minimum Standards have global "soft law" status according to the International Federation of the Red Cross.

Because Rohingya women and girls are less likely than men and boys to attend school or have a source of income, they face greater barriers in acquiring the funds and language skills needed to access health services.[263]

The restrictions on access to health care have particularly grave consequences for pregnant Rohingya women in central Rakhine, at least 15 percent of whom require emergency services.[264] Maternal mortality rates in Rakhine State are approximately double that of Myanmar as a whole—between 320 and 380 deaths per 100,000 live births, compared to 178 per 100,000 nationwide.[265]

These maternal mortality statistics and the dire discrepancy between them—both well above the worldwide target of 70 per 100,000—fail to capture the reality for Rohingya women and girls in the camps, as there is limited data collection and no statistics disaggregated by location or ethnicity.

Humanitarian groups have attempted to improve maternal care via auxiliary midwife trainings and by providing the camps with mobile health clinics with emergency obstetric capacity. The same organizations report that few Rohingya women and girls in the camps give birth in hospitals or clinics:

> Based on available data from January to April 2018, only seven percent of the expected live births … occurred in health facilities. For the remaining 93 percent of estimated births, we have no information where the delivery happens (presumably at home) and we have no further information on whether it happens with the assistance of a trained healthcare provider.[266]

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[263] Oxfam International, "Voices Rising: Rohingya Women's Priorities and Leadership in Myanmar and Bangladesh," April 2020.

[264] UN Humanitarian Country Team, "2019 Humanitarian Response Plan," December 2018, https://reliefweb.int/sites/reliefweb.int/files/resources/2019%20Myanmar%20HRP_FINAL_2018%2012%2018.pdf (accessed July 1, 2019), p. 12.

[265] The maternal mortality rate refers to the number of women who die due to complications during and following pregnancy and childbirth per 100,000 live births in a given year. The majority of maternal deaths result from preventable and treatable causes. Syed S. Mahmood et al., "The Rohingya People of Myanmar: Health, Human Rights, and Identity," *Lancet*, p. 1848; IOM, "IOM Appeal (Myanmar/Rakhine State, April 2016-April 2018)," March 2016, p. 4.

[266] Inter-Cluster Coordination Group, "Camp Improvement Action Plan," June 2018 (copy on file with Human Rights Watch).

Rohingya women and girls are far less likely to give birth in health facilities than members of other communities in Rakhine or elsewhere in Myanmar. According to data from the Ministry of Health, the percentage of deliveries taking place in a health facility is 19 percent for Rakhine State as a whole, and 37 percent nationwide—three times and five times respectively that of Rohingya women in the camps.[267]

Home births in unhygienic camp conditions, without the presence of skilled birth attendants or access to emergency care, carry life-threatening risks for mothers and newborns.[268] The UN special rapporteur on Myanmar said following a visit to the camps that she had "received disturbing reports of [maternal] deaths in camps owing to the lack of access to emergency medical assistance and owing to preventable, chronic or pregnancy-related conditions."[269]

A mother in Taung Paw camp, which has a population of about 2,900, described the prevalence of maternal deaths: "As far as I can recall, at least 20 pregnant women have died in labor since we arrived here [four years earlier] due to complicated referral procedures to other hospitals and other hardships."[270]

Approximately 30 percent of pregnant women in the Sittwe camps reported experiencing a serious pregnancy-related health issue in a 2017 study by UNHCR and international groups working in the camps; in one camp the rate was as high as 71 percent.[271]

Many Rohingya described complications arising from the lack of additional training for traditional birth attendants. Myo Myint Oo from Kyauktaw said:

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[267] UNICEF, "Myanmar: Maternal and Newborn Health Disparities," 2017, p. 6.

[268] Save the Children, "3 in 4 Rohingya Refugee Babies are Born in Unsanitary Bamboo Shelters," June 3, 2019, https://www.savethechildren.org/us/about-us/media-and-news/2019-press-releases/rohingya-refugee-babies-born-unsanitary-shelters (accessed August 16, 2019).

[269] UN General Assembly, "Situation of Human Rights in Myanmar," A/69/398, September 23, 2014, https://reliefweb.int/sites/reliefweb.int/files/resources/A-69-398%20SR%20Myanmar%20Report%20to%20the%20GA%2069th%20Session%202014.pdf (accessed August 1, 2019).

[270] Mallika Panorat, "Myanmar/Burma: Ensuring Access to Health Care for Conflict Victims in Rakhine State," European Civil Protection and Humanitarian Aid Operations, July 6, 2016, https://ec.europa.eu/echo/field-blogs/stories/myanmarburma-ensuring-access-health-care-conflict-victims-rakhine-state_en (accessed August 1, 2019).

[271] CCCM Cluster, DRC, UNHCR, and JIPS, *Sittwe Camp Profiling Report*, pp. 76-77.

> Most of the pregnant women deliver with TBA [Traditional Birth Attendants] from the villages, but most of the TBAs are not trained by any other organization. So it's difficult to prevent problems during delivery—sometimes the mother and child die. Sometimes trained local nurse aides and health staff who are not Muslim help pregnant Rohingya women during delivery, but those services are very expensive.[272]

Ko Min Kyaw from Ohn Taw Gyi camp in Sittwe said: "Most pregnant women deliver with Traditional Birth Attendants from the camp, but very few TBAs have been trained by the government or INGOs."[273]

The fears and rumors surrounding Sittwe General Hospital and doctors' treatment of Rohingya is a common thread in pregnancy-related concerns. Ko Min Kyaw said:

> Most of the patients aren't comfortable going to Sittwe General Hospital for medical assistance because of the bad communication by health staff there. Some pregnant women have died during delivery because of neglect by staff at Sittwe General Hospital, so most pregnant women don't want to go there. A lot of people who get seriously sick try to go to Bangladesh or Yangon for medical assistance.[274]

Rumors of pregnant Rohingya women receiving injections from Rakhine doctors that terminate the pregnancy are unsubstantiated but common, with deeply adverse effects on the health-seeking behavior of pregnant women and girls.[275]

The fear of medical assistance can have long term implications, even when Rohingya leave Myanmar. Rohingya women and girls who fled to Bangladesh continue to face health repercussions from the trauma they experienced as a result of poor or abusive sexual and reproductive health care in Myanmar. Save the Children reported that their staff in Bangladesh "heard anecdotally that some families don't seek out care during pregnancy

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[272] Human Rights Watch telephone interview with Myo Myint Oo, October 21, 2019.

[273] Human Rights Watch telephone interview with Ko Min Kyaw, November 6, 2019.

[274] Ibid.

[275] Human Rights Watch interviews, Cox's Bazar, November 2019.

complications because they fear sterilization or infanticide based on their experiences in Myanmar and would rather keep the woman at home at all costs."[276]

The conditions of displacement—lack of livelihood opportunities, overcrowding and limited privacy, safety concerns, and disrupted social networks—have led to increased vulnerability to and prevalence of gender-based violence, including intimate partner violence, sexual assault, human trafficking, and child marriage.[277]

Anyone can be a victim of rape, sexual assault, or intimate partner violence, but worldwide, women and girls make up the majority of victims. According to a UN specialist, "adolescent girls in overcrowded IDP camps are at particularly high risk. The situation is compounded by lack of privacy and a breakdown of usual community structures which can offer a form of protection from sexual harassment, violence, and early marriage."[278]

Khin Khin Moe, 32, who lives in Ohn Taw Gyi camp in Sittwe, said her biggest concern is "feeling unsafe. I fear for my own safety and security." She added:

> The narrow space of the shelters is unsafe for women and girls. Sometimes, there is sexual violence. One long shelter has eight rooms for eight families. All family members share a room, without privacy for women and girls. The toilets and shower room are used by all family members—they should be renovated to make them safe for women and children in the camp. Sometimes women are sexually assaulted when they go to the toilets at nighttime....

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[276] Save the Children, "3 in 4 Rohingya Refugee Babies are Born in Unsanitary Bamboo Shelters." Human Rights Watch interviewed 52 Rohingya women and girls who fled to Bangladesh from Rakhine State after August 2017 and found that fear of health providers was one reason rape victims did not seek out care in the Bangladesh refugee camps. Of the 52 Rohingya women and girls interviewed, only two knew what a condom was, and only one had received prenatal care in Myanmar when she was pregnant. Human Rights Watch, *All of My Body Was Pain: Sexual Violence against Rohingya Women and Girls in Burma*, November 2017, https://www.hrw.org/report/2017/11/16/all-my-body-was-pain/sexual-violence-against-rohingya-women-and-girls-burma; Human Rights Watch and Fortify Rights, "Joint Submission to CEDAW on Myanmar," May 2018.

[277] IRC, "Gender Based Violence among Displaced Communities in Sittwe Township, Rakhine State," September 2016; Action Against Hunger (ACF) and Department for International Development (DFID), "Qualitative Research and Comprehensive Study on Malnutrition in Displaced and Non-displaced Communities of Sittwe Township," 2014.

[278] Alexandra Robinson, qtd. in Sara Perria, "Rohingya Women Face Violence, by Military and Inside Camps," Centre for International Governance Innovation, September 29, 2017, https://www.cigionline.org/articles/rohingya-women-face-violence-military-and-inside-camps (accessed August 26, 2019).

> The women and girls in the camp don't get protection from community and religious leaders. Even if they tell the leaders, the victims don't get justice. So nobody complains, and nobody stops it.[279]

Other women also reported that they would go to the toilet at night for privacy reasons, but at times faced harassment, even in groups.

INGOs have implemented projects for reducing the incidence and mitigating the impact of gender-based violence, but a sense of helplessness permeates the work, according to staff members involved. As long as Rohingya are still confined to camps, one said, "GBV [gender-based violence] is not going to be something that gets better. That's true for almost everything."[280]

A donor report on gender-based violence programming in the camps noted that Rohingya sexual assault victims have no good recourse for medical care, as referral pathways lead to places of fear:

> Although survivors were linked with camp clinics, these clinics largely provide only first aid care to external injuries.… [They] do not assess or treat internal injuries that might be the result of sexual assault. This is due to ongoing concern over the requirements for survivors to report to the police before accessing medical treatment. Although referral pathways are established to Thet Kyel Pin Clinic and Sittwe General Hospital, IRC [International Rescue Committee] staff noted that they had never had a case that accepted to go through the formal referral channel for reasons of fear of mistreatment and stigmatization.[281]

[279] Human Rights Watch telephone interview with Khin Khin Moe, November 14, 2019.

[280] Human Rights Watch interview with humanitarian worker, Sittwe, November 15, 2018.

[281] DFID, "Humanitarian Assistance in Rakhine State: Annual Review," October 2016. International best practice holds that all survivors of sexual assault should be able to access full medical care, including emergency medical care, without reporting to police, unless they choose to do so.

Myanmar's total failure to comply with international standards for preventing and responding to gender-based violence compounds the long-term mental and physical health consequences that survivors may face.[282]

Health in Crisis

Chronic violations of Rohingya's right to health by the government have been punctuated by acute crises following natural disasters or outbreaks of violence. The tightened access and movement restrictions that followed the October 2016 and August 2017 violence had dire effects. As the World Food Programme, which conducts food and nutrition security programs in Rakhine State, reported in November 2017:

> Other UN agencies and humanitarian organizations have continued to face severe access constraints which are affecting their ability to deliver life-saving non-food assistance in camps and villages.... Significant constraints remain in delivery of health and other vital services to camps and villages.[283]

A Rohingya community health worker in the Sittwe camps described the post-August 2017 conditions:

> When humanitarian agencies are able to come, we are OK, and can survive off what they give us. But after August 25, nobody came, and health emergencies began arising. Six women in my area in the camp gave birth during one week alone. Two of them suffered complicated pregnancies. Because we were cut off from help and could not call an ambulance or go to a hospital, one baby was a stillborn, and one survived only a few minutes before dying in front of us.
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> Even now, in case of emergency, we can't go out of the camp. If we go out, we have to pay from 20,000 to 100,000 kyat [$14-70] to soldiers at

[282] UNHCR, "Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons," May 2003.
[283] World Food Programme (WFP), "Operational Update," November 30, 2017.

> checkpoints. There were two cases so urgent that we paid the bribe to go to the nearest hospital.[284]

Another woman described the camps after August 2017: "People are scared. Before, if we had big medical problems like hepatitis C or a need for a C-section, we could go to Bangladesh. Now, we dare not."[285]

Morbidity rates of illnesses including dengue, acute respiratory infection, and severe diarrhea increased over the following months.[286] Action contre la Faim (ACF), an international humanitarian organization, reported an 18 percent increase in severe acute malnutrition cases in central Rakhine following the August 2017 violence, when aid groups were prohibited from entering the camps to distribute food.[287] A Rohingya woman who lives in a Sittwe camp said in November 2017:

> After the August attacks, we had no rations for a month. People were eating rice with salt or oil. We shared as much food as we could, but we felt afraid—we didn't contact agencies to ask for support. We couldn't do anything but wait. Humanitarian agencies have started providing food again, but we have fewer food rations than before the attacks.[288]

In January 2019, authorities rolled out new restrictions across the state in response to the Arakan Army conflict, with significant impacts on government and nongovernmental health services. From July 2018 to July 2019, INGO and government-run mobile clinics in central

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[284] IRC interview with Thiri Hla Ming, qtd. in "Fear and Hunger: Rohingya Aid Workers Describe Life Inside Rakhine," November 16, 2017, https://www.rescue.org/article/fear-and-hunger-rohingya-aid-workers-describe-life-inside-rakhine (accessed August 25, 2019).

[285] IRC interview with Khin Hla Hlaing, qtd. in "Fear and Hunger: Rohingya Aid Workers Describe Life Inside Rakhine," November 16, 2017.

[286] Health Cluster, "ILI Cases and Proportionate morbidity trend: Comparative analysis for Epi weeks (1 to 38) 2017, and 2018," September 2018; "Dashboard of early, warning, alert and response system (EWARS)," 2017-2018; "AWD Cases and Proportionate morbidity trend: Comparative analysis," 2016-2018; EWARS Epi Week spreadsheets, 1-52, 2016-2018. Copies on file with Human Rights Watch.

[287] ACF, "IDC Inquiry: DFID's Work on the Rohingya Crisis—Written Evidence Submitted by Action Against Hunger," November 14, 2017, http://data.parliament.uk/WrittenEvidence/CommitteeEvidence.svc/EvidenceDocument/International%20Development/DFIDs%20work%20on%20Bangladesh,%20Burma%20and%20the%20Rohingya%20crisis/written/73147.html (accessed August 25, 2019).

[288] IRC interview with Thiri Hla Ming.

and northern Rakhine were reduced by 65 percent, from 274 to 100. Mobile clinics in Sittwe township, including the camp areas, were reduced from 92 to 56.[289]

Against the backdrop of violence, abuse, and protracted detention, mental health care needs in the camps are high. In surveys on the issue, nearly every respondent reported struggling with anxiety or depression. The pervasive hopelessness that has grown with the length of their displacement has a profound impact on psychosocial well-being.[290] A UK government review found:

> Despite support, psychosocial problems detected among the population remain high, in particular fear of violence and renewed conflict, stress linked to living conditions, low income, uncertainty about the future, family problems linked to frustration, and harmful coping mechanisms.[291]

Covid-19

The ongoing violations of the right to health—overcrowding, aid blockages, and movement restrictions, among others—left the Rohingya especially vulnerable in the face of the Covid-19 pandemic. One Rohingya man said that a township official told him: "If people are affected [by Covid-19], you have to get treatment in the camps. They will not be allowed to the hospital."[292]

The severely substandard health care; inadequate access to clean water, sanitation, and other essential services; and high prevalence of underlying medical conditions and chronic diseases put the camp populations at high risk of transmission and of suffering serious effects.

State media announced a Covid-19 response plan for internally displaced people in March 2020, but humanitarian workers told Human Rights Watch they were not consulted on the plan. The strategy failed to include plans for testing, which is not available in the Rohingya

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[289] Health Cluster, "Rakhine Health Cluster Mobile Clinic Status," September 2019, https://www.who.int/docs/default-source/searo/myanmar/201907-health-cluster-mobile-clinic-status.pdf (accessed September 20, 2020).

[290] Human Rights Watch interview with humanitarian worker, Yangon, November 13, 2018.

[291] DFID, "Humanitarian Assistance in Rakhine State: Annual Review," October 2016.

[292] Human Rights Watch telephone interview with Rohingya in Sittwe camp, April 2020.

camps. Humanitarian workers also reported that they were barred from accessing quarantine facilities.[293]

Myanmar authorities also used Covid-19 response measures as a pretext to further harass and extort Rohingya, including physically assaulting them at checkpoints for failing to comply with requirements such as wearing masks.[294]

In mid-August, cases of Covid-19 spiked in Rakhine State. At time of writing, Sittwe, with over 700 confirmed cases, had the highest number among townships nationwide.[295] The government imposed a statewide stay-at-home order and curfew in response. A Rakhine State member of parliament inflamed tensions online by blaming the rise on Rohingya. In late August, the Rakhine State government ordered the UN and NGOs to suspend all but lifesaving activities in Rakhine State, with an explicit restriction on work in the camps.[296] Some camp clinics have closed.[297]

After some NGO staff who worked in the camps tested positive for Covid-19, Rohingya reported that there were also confirmed cases among those living in the Sittwe camps.[298] For the most part, however, information on the extent of the virus in the camps is limited. The government does not disaggregate data from the Rohingya or ethnic Rakhine camps, while reports from activists that Rohingya cases are not included in government figures cast doubt on the accuracy of available data.[299]

After the new NGO restrictions were imposed, Rohingya in the camps expressed fears about having sufficient food, with shops and markets having been shut down. Some

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[293] Human Rights Watch telephone interviews with humanitarian staff, March-April 2020.

[294] See the Arbitrary Detention, Ill-Treatment, and Torture section, above. Human Rights Watch interviews with Rohingya in central Rakhine camps, April-May 2020.

[295] Ministry of Health and Sports, "Coronavirus Disease 2019 (COVID-19) Surveillance Dashboard," https://doph.maps.arcgis.com/apps/opsdashboard/index.html#/f8fb4ccc3d2d42c7ab0590dbb3fc26b8 (accessed September 16, 2020).

[296] Zarni Mann, "NGO Activities Restricted in Myanmar's Rakhine State Amid COVID-19 Spike," *Irrawaddy*, August 24, 2020, https://www.irrawaddy.com/news/burma/ngo-activities-restricted-myanmars-rakhine-state-amid-covid-19-spike.html (accessed September 6, 2020).

[297] Center for Operational Analysis and Research, Community Analysis Support System, "CASS Weekly Update, 27 August-2 September 2020," September 16, 2020.

[298] Nyein Nyein, "At Least 10 UN, INGO Workers Hit by COVID-19 in Myanmar's Rakhine State," *Irrawaddy*, August 28, 2020, https://www.irrawaddy.com/specials/myanmar-covid-19/least-10-un-ingo-workers-hit-covid-19-myanmars-rakhine-state.html (accessed September 6, 2020).

[299] Human Rights Watch telephone interviews, September 2020.

reported that while they had been given 15,000 kyat ($10) for the month, they could not buy essentials and had not otherwise received food aid. The security force presence in the camps also grew, with increased patrols and enforcement at checkpoints.[300]

Malnutrition

WHO has named Myanmar as one of the 36 "high-burden countries" that account for 90 percent of global stunting, or chronic malnutrition in children under 5, while Rakhine State has the highest rates of child malnutrition in the country.[301]

In Rakhine State, 38 percent of children under 5 are chronically malnourished, exceeding the WHO's "very high" prevalence threshold of 30 percent, with a corresponding increase in morbidity and mortality.[302] Approximately 18 percent are severely stunted, carrying a five-times higher risk of death.[303]

A World Food Programme (WFP) project document reveals that Rakhine State is above the emergency threshold for acute malnutrition:

> In addition to poor development and lack of adequate public infrastructure, the protracted humanitarian crisis in Rakhine State has contributed to high vulnerability to nutrition security in the state. Preliminary results from the DHS [Demographic and Health Survey] reveal a critical nutrition situation, with GAM [global acute malnutrition] and severe acute malnutrition (SAM) rates reaching 13.9 percent and 3.7 percent, respectively.[304]

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[300] Human Rights Watch telephone interviews in Sittwe camps, August-September 2020.

[301] WHO, "Stunting – 36 High-Burden Countries," http://www.who.int/nutrition/topics/Map_36_countries.pdf; UN Humanitarian Country Team, "2017 Humanitarian Response Plan," December 2016, https://fscluster.org/sites/default/files/documents/2017_hrp_myanmar_0.pdf (accessed August 20, 2019).

[302] Myanmar Ministry of Health and Sports and ICF, "Demographic Health Survey 2015-16," March 2017, https://dhsprogram.com/pubs/pdf/FR324/FR324.pdf; UNICEF, WHO, and World Bank Group, "Levels and Trends in Child Malnutrition," 2018, https://www.who.int/nutgrowthdb/2018-jme-brochure.pdf?ua=1 (accessed August 20, 2019).

[303] Ibid.; Wasting-Stunting Technical Interest Group, "Child Wasting and Stunting: Time to Overcome the Separation," https://reliefweb.int/sites/reliefweb.int/files/resources/WaSt%20Policy%20Brief%20FINAL%20June%202018.pdf (accessed August 20, 2019).

[304] WFP, "Supporting Transition by Reducing Food Insecurity and Undernutrition among the Most Vulnerable (Myanmar PRRO 200299): Budget Revision 8," 2017, https://docs.wfp.org/api/documents/WFP-0000015354/download/ (accessed August 20, 2019).

A GAM rate over 10 percent with aggravating factors constitutes a nutritional crisis according to the WHO, while a SAM rate above 2 percent is considered critical.[305]

The threat of maternal malnutrition is also high. In the Sittwe camps, 18.5 percent of pregnant and lactating women were found to be moderately undernourished, and 6.3 percent severely undernourished, which has significant prenatal impact: "Undernutrition is handed down from one generation to another and the vicious cycle continues."[306] Malnutrition is a strong predictor of child mortality and the underlying cause of about 45 percent of deaths of children under 5 worldwide, in addition to increasing risk of disease.[307]

After fleeing the attacks on her village in October 2012, Fatema Amir spent six months in a makeshift shelter along the Pauktaw coast near a Rohingya village. "For food we used to beg from the Rohingya [villagers]. Only we know how we survived there under the sun. Some people died there. We were starving most of our days." She said she took a three-hour boat ride with her family to the Ohn Taw Gyi camp in Sittwe, where they could receive humanitarian assistance. But access to food remained a struggle:

> We used to get food assistance regularly but the amount we used to get was not enough for our family members. So many Rohingya who were living inside the camps died because of inhumane living conditions. One of my neighbors died when she was only 40 years old only because of the heat.[308]

Mohammed Yunus, who also lived in Ohn Taw Gyi, said: "Sometimes we had only 500 grams of rice for seven members of the family."[309]

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[305] Ibid.

[306] WFP, "Supporting Transition by Reducing Food Insecurity and Undernutrition among the Most Vulnerable"; Tahmeed Ahmed, Muttaquina Hossain, and Kazi Istiaque Sanin, "Global Burden of Maternal and Child Undernutrition and Micronutrient Deficiencies," International Centre for Diarrhoeal Disease Research Bangladesh, 2013, https://pdfs.semanticscholar.org/07ba/2616b6468c546da11c8bc65151occe3a0c67.pdf (accessed August 20, 2019).

[307] UNICEF, "2018 Global Nutrition Report Reveals Malnutrition is Unacceptably High," November 28, 2018, https://www.unicef.org/press-releases/2018-global-nutrition-report-reveals-malnutrition-unacceptably-high-and-affects (accessed August 20, 2019).

[308] Human Rights Watch interview with Fatema Amir, Cox's Bazar, November 6, 2019.

[309] Human Rights Watch interview with Mohammed Yunus, Cox's Bazar, October 31, 2019.

Over the past year, about 20 percent of Rohingya across all camps did not have access to food aid, according to humanitarian reports.[310]

Squalid Conditions

Living conditions in the camps have worsened over the past eight years, with increased constraints on humanitarian access and the deterioration of temporary shelters, originally designed to last two years.

Many of the camps are situated on former paddy fields and in low-lying coastal areas, highly prone to flooding. Prior to the start of the 2013 monsoon season, humanitarian groups outlined what would happen if the government failed to immediately identify suitable land to relocate the camp populations:

> 64,000 people living for weeks in flooded area. Latrine pits will get flooded, and feces will spread in the at-risk camps. Shallow hand pumps will get flooded and contaminated by both floodwater, and underground water contaminated by latrine pits.... Significantly increased health risks likely leading to higher morbidity and mortality rates, and a humanitarian disaster.[311]

And yet, years later, the camp populations continue to face the same risks with each monsoon season, while the Myanmar government has refused to implement appropriate solutions.

Camps outside of Sittwe, which are highly isolated and sit below sea level, face especially serious hazards. A joint paper by humanitarian groups illustrates the conditions at a camp in Pauktaw:

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[310] Average of percentage of households with access to food aid in the previous three months in quarterly reports from CCCM Cluster, "CCCM Camp Profiles, Central Rakhine, Myanmar," 2019-2020.

[311] "Inter-Agency Preparedness/Contingency Plan – Rakhine State, Myanmar," March 2013, https://reliefweb.int/sites/reliefweb.int/files/resources/Ref%20Doc_Rakhine_Inter-Agency_Contingency%20Plan_5_April_2013.pdf (accessed August 28, 2019), p. 11.

> The Nget Chaung 2 site is coastal and below sea level resulting in continuous flooding and poor drainage. As a result, the site is muddy, particularly in the monsoon season, with pools of stagnant water contaminating living space and flooded latrine pits requiring frequent and hazardous pit emptying. In November 2017, a child died from drowning in the stagnant pools. Insufficiency of land, which has never accounted for space to meet sphere standards for facilities nor population growth over the past five years, the site's topography and inadequate site planning have led to poor drainage, overcrowding and congestion … and critical sanitation and protection concerns exacerbated by limited access and isolation.[312]

The report concluded:

> Improving living conditions in the camp in a meaningful and sustainable manner would require a full-fledged land raising … roughly estimated at USD 8 million.… More immediate temporary improvements could also be considered through land surveying.… However, this will not address the fundamental technical issue (below sea level), nor will it result in decongestion of camp and meeting sphere standards for facilities. For both scenarios, other requirements would include the allocation of additional suitable land.[313]

The Rakhine State government's unwillingness to allocate additional land for the camps is a direct cause of overcrowding, vulnerability to cyclone and fire hazards, poor sanitation, and flooding. During the camps' construction in 2012 and 2013, the Rakhine State government denied the majority of humanitarian agency requests for adequate land and resources to construct camps that would comply with international standards. Regarding seven of the nine Sittwe camps, a 2013 joint agency assessment noted: "Rakhine State Government adamant that these IDPs … will NOT be provided temp shelter in Sittwe";

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[312] CCCM/Shelter/NFI/WASH Clusters, "White Paper on the improvement of living conditions in IDP camps in the central part of Rakhine State," March 12, 2018 (copy on file with Human Rights Watch). The Sphere standards refer to the Humanitarian Charter and Minimum Standards in Humanitarian Response, which hold global "soft law" status according to the International Federation of the Red Cross.

[313] Ibid.

"Rakhine State Govt will NOT construct shelters here"; or "Proposed construction was rejected in Nov 2012."[314]

The government has maintained its denial of space, shelters, and resources that would allow the Rohingya to live in dignity and safety. In identifying the urgent camp needs in mid-2018, a consortium of humanitarian agencies noted:

> Many of the potential improvements identified are reliant on the allocation of additional land by the Rakhine State Government.… Lack of additional land will remain a barrier to many improvements proceeding unless it is urgently resolved by the Government.[315]

The agencies went on to identify the urgent camp improvements that are precluded by the government restrictions on land, including improved drainage, private bathing spaces, additional shelters, additional learning centers and child-friendly spaces, improved water, sanitation, and hygiene infrastructure, cyclone shelters, and confinement of livestock.[316]

Overcrowding

The union and Rakhine State governments have tightly regulated the camps' construction and maintenance, including site selection, space allocation, and technical guidelines, effectively confining 130,000 Muslims to overcrowded, unsanitary, flood-prone conditions. As detailed in a March 2018 internal report by the UN and INGOs operating in the camps:

> Five years into a humanitarian response, IDPs in central Rakhine continue to live in temporary camps which do not meet international humanitarian standards despite ongoing and costly repairs. The camps were constructed in line with strict technical guidelines, including the temporary facilities, provided by the Union and Rakhine State Governments. In all camps, locations and inadequate space allotment to meet Sphere standards leave

[314] "Inter-Agency Preparedness/Contingency Plan – Rakhine State, Myanmar," March 2013.

[315] Inter-Cluster Coordination Group and Camp Management Agencies, "Camp Improvement Action Plan," June 2018 (copy on file with Human Rights Watch).

[316] Ibid.

humanitarian agencies with a challenging environment in which to provide services.[317]

Overcrowding in the camps is pervasive, exacerbating health and safety risks. When the camps were constructed in 2012 and 2013, the Rakhine State government compelled INGOs to fit more displaced people onto plots than humanitarian standards provide. "UNHCR would say, this plot can fit 800 houses, and they'd [the government] make us put in 1,200," a UN officer said.[318]

None of the camps meets the minimum amount of space per person of 45 square meters defined by the Humanitarian Charter and Minimum Standards in Humanitarian Response (Sphere standards). The average is 23 square meters per person, half the recommended amount. In the most crowded camp, Thae Chaung, 12,400 Rohingya have an average of just 7 square meters per person.[319]

About 68 percent of Rohingya in the Sittwe camps have less than 3.5 square meters of living space per person, the minimum amount defined in the Sphere guidelines; 16 percent have less than 2 square meters.[320] The densely packed conditions lead to a heightened risk of communicable diseases, fires and flooding, community tensions, psychosocial stressors, and domestic and sexual violence.

Shelters

Camp shelters primarily consist of 8 and 10-unit longhouses, in addition to makeshift structures. The humanitarian community advocated for the shelters to be temporary structures "as so not to lend permanency to the camps," but the Myanmar government's

[317] CCCM/Shelter/NFI/WASH Clusters, "White Paper on the improvement of living conditions in IDP camps in the central part of Rakhine State," March 2018 (copy on file with Human Rights Watch).

[318] Human Rights Watch interview with humanitarian worker, Yangon, April 8, 2019.

[319] Sphere Project, "Humanitarian Charter and Minimum Standards in Humanitarian Response," 2011, https://www.ifrc.org/PageFiles/95530/The-Sphere-Project-Handbook-20111.pdf (accessed October 1, 2018); CCCM Cluster, "CCCM Camp Profiles, Central Rakhine, Myanmar, Q2 2020," June 2020.

[320] CCCM Cluster, DRC, UNHCR, and JIPS, *Sittwe Camp Profiling Report*, p. 59;

restrictions on maintenance and repair over the first three years led to rapid deterioration.[321]

The shelter construction approved by the government for displaced Muslims is inferior to that used in IDP camps in Kachin State, with weaker construction materials and less space—2.8 square meters versus 3.6 square meters space per person.[322]

A new shelter design was approved for repairs starting in 2018, but the improvements do "not increase the floor space per shelter unit nor address the issue of overcrowding in IDP camps," a shelter cluster assessment determined.[323]

Aung Zaw Min from Ohn Taw Chay camp in Sittwe described the overcrowding:

> Things haven't improved over the last seven years in the camp. We are still in the long shelters, in the same situation. One shelter is only one room for all family members, and one long shelter has eight rooms for eight families from different places. In my family, we are 13 people. It's difficult to fit in one room. We have no privacy.[324]

A Rohingya man from Ohn Taw Gyi camp, also in Sittwe, said:

> In the long houses, there are eight rooms with one family living in each room, which are separated only by a thin bamboo partition which means there is very little privacy as it is possible to see through it. I often feel stressed because if you or your child is feeling ill, there may be someone shouting in the adjacent room and there is nothing you can do about it. You

[321] Ibid., p. 54; Shelter Cluster Rakhine State, "Rapid Shelter Needs Assessment of Temporary Shelters in Sittwe Township," January 2018, https://reliefweb.int/sites/reliefweb.int/files/resources/5._rapid_shelter_needs_assessment_report_january_2018.pdf (accessed September 20, 2018), p. 2.

[322] Shelter Cluster Rakhine State, "Rapid Shelter Needs Assessment," p. 2; IRC, "Poor Shelter Conditions: Threats to Health, Dignity and Safety," June 2017.

[323] Shelter Cluster Rakhine State, "Rapid Shelter Needs Assessment," p. 17.

[324] Human Rights Watch telephone interview with Aung Zaw Min, November 7, 2019.

> cannot stop them. They are very overcrowded, which I think has a negative impact on health.[325]

The government-approved shelter layout also fails to afford sufficient space for basic safety and protection measures. The planned fire break of 4.5 meters between shelters was designed to contain the impact of any fires to a maximum of five shelters, yet four major fires that broke out from 2014 to 2017 destroyed entire sections of the camp.[326] The shelter assessment notes: "Relieving this congestion and overcrowding requires the allocation of additional land. Without additional land, it will not be possible to improve the living conditions of IDP camps in line with international humanitarian standards."[327]

In refusing to approve adequate shelter design, suitable land, and sufficient space for even minimum standards of living, the Rakhine State government is denying the Rohingya their right to live with dignity and safety.

Repair efforts by humanitarian groups have been unable to keep up with the ever-growing needs, leaving the shelters in a constant state of disrepair, compounded by the government's refusal to work toward safe, voluntary, and dignified returns or resettlements. As the shelter cluster noted, "Lack of durable solutions led to a constant and costly cycle of repair and maintenance."[328] About 70 percent of complaints received through feedback mechanisms in the camps from April to June 2020 related to shelter concerns.[329]

The deterioration of shelters has been accelerated by extreme weather and flooding. In August 2015, Cyclone Komen damaged around 25 percent of shelters in the Sittwe camps, while 42 percent were damaged by Cyclone Mora in May 2017.[330]

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[325] Qtd. in IRC, "Poor Shelter Conditions: Threats to Health, Dignity and Safety," June 2017.

[326] Shelter Cluster Rakhine State, "Rapid Shelter Needs Assessment."

[327] Ibid.

[328] Global Shelter Cluster, *Shelter Projects 2015-2016*, 2017, p. 2.

[329] Shelters accounted for 2,422 of 3,467 complaints received. CCCM Cluster, "CCCM Camp Profiles, Central Rakhine, Myanmar, Q2 2020," June 2020.

[330] United States Agency for International Development (USAID), "Burma – Floods, Fact Sheet 1," August 6, 2015, https://www.usaid.gov/sites/default/files/documents/1866/burma_fl_fs01_08-06-2015.pdf (accessed October 1, 2018); Shelter Cluster Rakhine State, "Rapid Shelter Needs Assessment," p. 2.

The Rakhine State government has been unwilling to allocate additional land for the construction of sufficient cyclone shelters in the camps.[331] Further, movement restrictions prevent Rohingya from independently seeking protection on higher ground during severe weather. In advance of Cyclone Mahasen in 2013, the Rakhine State government left the displaced population off the evacuation site plan, leaving them without safe shelter during the storm.[332]

Restrictions on movement and livelihoods have also affected infrastructure conditions. Without income or access to markets, some Rohingya turn to using materials from sanitation or other physical structures for housing reconstruction, firewood, and other needs. A 2018 humanitarian assessment on needed camp improvements notes:

> Materials are often stolen for re-use by IDPs without any livelihood opportunities meaning that constant repairs are required by humanitarian agencies. This is especially true in some of the Pauktaw camps where movement restrictions tightened after 25 August [2017] now prevent people moving to the neighbouring hills to collect firewood as they previously were allowed to do.[333]

Communal tensions have also affected the Rohingya's housing conditions. In some cases, ethnic Rakhine nationalists in neighboring communities have blocked the transport of construction materials. Several INGOs stopped working with ethnic Rakhine contractors due to concerns about the quality of their camp construction work. A damage assessment carried out after Cyclone Mora found that infrastructure which had been built by Rakhine contractors "had significantly worse levels of damage" compared to structures built directly by humanitarian agencies, concluding that there are projects for which "ethnic Rakhine contractors are poorly positioned to deliver on effectively for Muslim IDPs."[334]

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[331] Inter-Cluster Coordination Group and Camp Management Agencies, "Camp Improvement Action Plan," June 2018 (copy on file with Human Rights Watch).

[332] Jessica Chaix and Jan Willem van Rooij, "Disaster Risk Reduction Assessment Report—Sittwe Township," Action contre la Faim, October 2013, p. 2 (copy on file with Human Rights Watch).

[333] Inter-Cluster Coordination Group and Camp Management Agencies, "Camp Improvement Action Plan."

[334] Internal WASH Cluster document on file with Human Rights Watch.

Water, Sanitation, and Hygiene

Water, sanitation, and hygiene (WASH) structures in the camps are severely inadequate. As the Sphere guidelines note: "The right to water and sanitation is inextricably related to other human rights, including the right to health, the right to housing and the right to adequate food. As such, it is part of the guarantees essential for human survival."[335]

Poorly secured water and sanitation facilities pose high risks to children; several have died due to falling in latrine pits, wells, ponds, and pools of standing water.[336] After a few children drowned in Nget Chaung camp in 2014, INGOs attempted to engage the irrigation department to support efforts to improve safety measures, without success.[337] Despite awareness of the risks posed, the problem persisted. The WASH cluster reported in March 2019:

> 1 child fell down a latrine pit of one Sittwe camp and died within January. WASH Cluster requested to all WASH partners to check the safety and security of WASH facilities which is considered as a priority issue to reduce harm to children. In Pauk Taw camp, most of the water sources are ponds and no fencing, children are collecting water from the water pond directly and this can pose a risk to children.[338]

The only source of fresh water in many of the camps is rain collection, an inconsistent source that can leave collection ponds empty for up to six months during the dry season. Contamination of drinking water is prevalent. An evaluation of a UK-funded project to improve access to safe water in the camps found that "only 24% of people are drinking water that meets international consumption standards, and 48% are drinking dangerously contaminated water."[339] The WASH Cluster reported that 63 percent of tested water sites

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[335] Sphere Project, "Humanitarian Charter and Minimum Standards in Humanitarian Response," 2011, p. 83.

[336] WASH Cluster, "Meeting Minutes—March 22, 2019, Sittwe"; Shelter/NFI/CCCM National Cluster, "Meeting Minutes—June 4, 2014, Yangon"; Shelter/NFI/CCCM National Cluster, "Meeting Minutes—August 13, 2014,"; NFI and CCCM Cluster, "Meeting Minutes—December 5, 2014, Sittwe"; Shelter/NFI/CCCM/WASH Clusters, "White Paper on the improvement of living conditions in IDP camps in the central part of Rakhine State," March 12, 2018.

[337] Shelter/NFI/CCCM National Cluster, "Meeting Minutes—August 13, 2014."

[338] WASH Cluster, "Meeting Minutes—March 22, 2019, Sittwe."

[339] DFID, "Annual Review – Summary Sheet," Humanitarian Assistance in Rakhine State, October 2016.

were contaminated with E. coli, while high levels of arsenic were found in tube wells in Sittwe and Pauktaw camps.[340]

Restrictions on humanitarian access, particularly following the October 2016 and August 2017 violence, have triggered further deterioration of living conditions. Arbitrary gaps in service also result from pressure and threats by Camp Management Committees, local authorities, and ethnic Rakhine villagers. Solidarites International, which oversees waste management in the camps, has at different points been blocked from carrying out activities in the camps. In response to one protracted suspension, it analyzed the impact of their absence in an internal briefing:

> In 8 months, half of the latrines in Sittwe camps will be overflowing. After one year the overflowing will reach 74% with 10,955 m3 of sludge disposed unsafely in the environment. In 16 months all latrines will be not functional and all pits will be overflowing.[341]

All but four camps fail to meet the Sphere minimum of one toilet per 20 people, some with up to twice as many sharing one latrine.[342]

Restrictions on Livelihoods

Rohingya in the camps face severe restrictions on livelihoods under the system of movement constraints, without access to farmland, fishing areas, or markets outside their restricted areas.[343] Any opportunities that do exist are inconsistent, with extremely minimal pay. As a UN analysis noted:

> The small livelihood opportunities that IDPs and villagers could have access to (e.g., fishing) are usually affected by the system of bribes to

[340] WASH Cluster, "Factsheet #2: Myanmar WASH Cluster 2nd Qtr 2017," September 2017; WASH Cluster, "Drinking Water Quality Standard and Technical Guidelines on Water Treatment Process," January 2019 (copy on file with Human Rights Watch).

[341] Solidarites International, "Background information on the STS (Sludge Treatment Station)," May 2019 (copy on file with Human Rights Watch).

[342] CCCM Cluster, "CCCM Camp Profiles, Central Rakhine, Myanmar, Q2 2020," June 2020.

[343] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, paras. 538-540.

> security forces. The limited access to any livelihoods results in IDPs having to sell part of their food rations or pawn their food ration cards to cover the costs of basic needs i.e. health services, medicines, etc. Furthermore, the lack of livelihoods exposes women/girl single headed households to protection risks such as sexual exploitation. The phenomenon is also linked to the high number of disputes and instances of domestic violence in the IDP camps.[344]

An 18-year-old from Say Tha Mar Gyi camp said: "Some of us want to run our own businesses but we don't have money to invest. Some of us want to be carpenters but we don't have tools. Some of us want to go fishing but we don't have boats."[345]

The most common work in the Sittwe camps is as day laborers picking up ad hoc work like construction or farming, with an average pay of 60,000 kyat (US$40) per month. About 90 percent of Rohingya in the camps working as day laborers held different jobs prior to 2012—such as fishing, handicrafts, tailoring, and retail—but had to abandon their trade and skills in the face of their confinement.[346] While fishing is another main economic opportunity, about 1,800 families lost boats they owned prior to 2012, leaving less than 3 percent of households in possession of boats.[347]

Nur Kamal, 37, from Thae Chaung, said:

> Before 2012 I used to go to the main Sittwe port with my boat, but after the communal violence I was never able to go to town anymore. During the 2012 violence, my boat was shored in Sittwe town port, but since I was not allowed to go there anymore, I lost my boat forever.… After 2012, life became very hard to lead. There was no freedom of movement, no work opportunities. Nothing was there after losing my boat.[348]

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344 Protection Sector, "Protection Concerns and Risks Analysis—Rakhine State," November 2015, p. 22.

345 CCCM Cluster, DRC, UNHCR, and JIPS, *Sittwe Camp Profiling Report,* p. 101.

346 Ibid.*,* pp. 87-96.

347 Ibid., p. 101.

348 Human Rights Watch interview with Nur Kamal, Cox's Bazar, October 30, 2019.

Access to livelihoods is further obstructed by threats from local authorities, Rakhine villagers, and Camp Management Committees. A protection incident monitoring report found: "Physical assault, intimidation, arbitrary arrest and extortion continue to be the most reported violations. They often relate to restrictions on freedom of movement in circumstances where people try to access livelihoods."[349] Regarding extortion, an assessment of new market systems in central Rakhine State noted that "local leaders [in the camps] once appropriated up to 30 percent of livelihoods grants."[350]

According to Kamal Ahmad in Khaung Doke Khar camp: "Rohingya could only operate shops as their businesses by bribing the police with 30,000 to 50,000 kyat [$20-35] through the Camp Management Committee."[351]

Abdul Kadar from Thae Chaung described the arbitrary bribery systems that regulate their fishing opportunities:

> We worked as fishermen, but the authorities only permitted us two days at sea. We needed 10 to 12 days, but that was an opportunity for Buddhist people, not for us. On the way to the sea we had to give the checkpoint police oil, firewood, and dry foods, and we needed to give them everyone's name. By any chance if you missed the deadline to come back from the sea, we were beaten, tortured, or they forced us to give them whatever fish we had from fishing in the sea. Even if we came back on time, they took away the big fish we had gotten.[352]

Anwar Islam also worked as a fisherman in Thae Chaung:

> We were only allowed to leave to go fishing, but we realized the authorities allowed us to fish because they could earn something from us. We had to give them four liters of [cooking] oil and 10,000 kyat [$7], and when coming

[349] Protection Sector, "Protection Incident Monitoring Dashboard—Central Rakhine State," October-December 2016.
[350] Danish Refugee Council, "Cash Based Programming Feasibility Assessment in Central Rakhine," May 2015, p. 10.
[351] Human Rights Watch interview with Kamal Ahmad, Cox's Bazar, November 2, 2019.
[352] Human Rights Watch interview with Abdul Kadar, Cox's Bazar, October 30, 2019.

> back from fishing they would take away so many fishes from our boat that they chose. But still we continued going to the sea to fish.[353]

In some camps, Rohingya were wholly denied access to go fishing.[354] Khadija Khatun, 22, from Taung Paw camp in Myebon, said: "Most of the Rohingya inside that IDP camp were once upon a time fisherman. But living inside the IDP camp, there is no chance to do this fishing."[355]

As with other abuses, bouts of violence have triggered new restrictions that exacerbate existing constraints on livelihoods and compound the Rohingya's economic vulnerability and dependence on aid. Anwar Islam described the shift in 2016:

> From 2016, the authorities put a restriction that meant we could not stay at sea for more than two days, which was 10 to 15 days before. Fishermen like me started facing losses. We could not make in two days enough to cover the bribes to the police and authorities. So, we stopped going to the sea to fish.[356]

Nurul Bashar, also from Thae Chaung camp, said:

> At that time [in 2012], the authorities gave us permission to go fishing only for five days, but we needed to pay 75,000 kyat [$50]. But that was restricted later. Those who already paid them the fees lost the money and also the permission, because by then there was complete restriction on us Rohingya going to work.[357]

The World Food Programme reported about conditions following the August 2017 violence:

> In central Rakhine State, restrictions on movement and lack of access to livelihoods continue to leave the majority of Muslim internally displaced

353 Human Rights Watch interview with Anwar Islam, Cox's Bazar, November 3, 2019.
354 Internal WFP report on file with Human Rights Watch.
355 Human Rights Watch interview with Khadija Khatun, Cox's Bazar, October 30, 2019.
356 Human Rights Watch interview with Anwar Islam, Cox's Bazar, November 3, 2019.
357 Human Rights Watch interview with Nurul Bashar, Cox's Bazar, November 6, 2019.

> people (IDPs) reliant on external humanitarian assistance as their sole means of survival. New restrictions on livelihoods and movements of Muslim communities, such as inability to obtain fishing licenses and local curfews, are observed.[358]

Informal trading between Muslim and ethnic Rakhine communities diminished, as did traditional activities like collecting firewood.

Access to livelihoods plays a central role in the government's coercive enforcement of the National Verification Card (NVC) process. New limitations arose as the cards were pushed on Rohingya. In 2017, the government instituted a requirement for fishermen to apply for the identity card in order to continue working; opportunities to fish without an NVC were shut down. Anwar Islam explained:

> In 2017, we were told by the authorities to take the NVC cards if we wanted to move freely. Our villagers were mostly fishermen, so many of them took the NVC, as they thought by taking it they could be able to fish again. I did not take it. Instead I came into Bangladesh. I contacted my mother three months back. She said the situation [for fishing] is more strict right now.[359]

Under the new restrictions, average income in the camps where fishing was the main avenue of work dropped off significantly, while debts grew. An internal UN document on Thae Chaung camp noted:

> The residents are predominantly fishermen who have been severely affected by new requirements that people must hold an Identity Card for National Verification (ICNV) in order to secure a fishing license. This has resulted in a significant reduction in income to the camp which acts as a major trading hub for the Sittwe camps. This situation has resulted in significant indebtedness and potential need for livelihoods support.[360]

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[358] WFP, "Comprehensive update on the Myanmar Country Strategic Plan (2018–2022) in view of recent developments," February 15, 2018.

[359] Human Rights Watch interview with Anwar Islam, Cox's Bazar, November 3, 2019.

[360] Inter-Cluster Coordination Group and Camp Management Agencies, "Action Plan: Thae Chaung – Sittwe," June 2018 (copy on file with Human Rights Watch).

Humanitarian groups employ about 10 percent of working adults in the camps, particularly those with higher levels of education from before 2012. Across all sectors, including shelter, WASH, protection, and health, the pay for one month of INGO work ranges from 30,000 to 80,000 kyat ($20-55).[361]

Kamal Ahmad worked for two NGOs with a monthly salary of 30,000 and 40,000 kyat ($20 and $27); Amir Hossain worked as a translator for an INGO for 30,000 kyat ($20) per month. Humanitarian work is also erratic. While INGOs may provide more consistent work than other fields, the arbitrary government restrictions on aid still generate insecurity. A Rohingya woman whose brother works for an INGO described his anxiety about the position: "His work is never stable because the government can restrict access any time. He is afraid and wants to leave. He tells me, 'If I have no job, what can I do?'"[362]

A humanitarian worker in the camps said that lack of employment is a large factor in the amount of anxiety and depression they encounter in the camps, and is often blamed for the prevalence of intimate partner violence.[363] A Rohingya man living in Nget Chaung, Pauktaw, who had worked as a teacher prior to 2012, described the emotional impact of joblessness and confinement:

> There aren't any real opportunities for employment here; there are hardly any fish to catch either. Because there's so little trade, we can't buy the things we want.…
>
> People here are sad, they are frustrated that they can't go anywhere or do anything more. We hold our frustration inside because we cannot speak out—there are no opportunities for that. We cannot even travel to the next township, so people keep everything inside, bottled up.[364]

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[361] CCCM Cluster, DRC, UNHCR, and JIPS, *Sittwe Camp Profiling Report*, p. 99; CCCM Cluster, "Rates Comparative Review—Sittwe IDP Camps" (copy on file with Human Rights Watch); Human Rights Watch interviews, November 2019.

[362] Human Rights Watch interview with Myat Noe Khaing, Yangon, April 8, 2019.

[363] Human Rights Watch interview with humanitarian worker, Sittwe, November 15, 2018.

[364] Suleiman, MSF watchman in Nget Chaung, qtd. in "Being Rohingya in Myanmar: 'We hold our frustration inside because we cannot speak out,'" Medecins Sans Frontieres, August 20, 2019.

Ibrahim Rafiq told Human Rights Watch that while he had dealt with abusive work conditions before 2012, he had been glad to have a job, which disappeared in the camps:

> [Before 2012] I used to work in a police camp to put up fences and also in government construction work site to construct a road. If we made any mistakes in our work, they beat us, but still I was happy—at least we could be able to work….
>
> Inside the IDP camps life was not so easy. There was no chance to have a job, but the camp police forced us to work inside the camp, and sometimes they forced us to do labor in a nearby field.[365]

The lack of livelihood opportunities is a significant push factor in Rohingya fleeing Myanmar via high risk journeys at sea.[366] Kamal Ahmad said:

> These days, the Rohingya from the IDP camps are taking risks to go to Malaysia, as there are very few ways inside the camps for them to earn money. So out of depression from not doing any work and becoming poorer and poorer, they dare to choose the dangerous boat journey to Malaysia.[367]

The lack of economic opportunities—and consequent debt from medical or education costs—has a trickle-down effect on the quality of living conditions in the camps. A 2018 field visit report to Kyein Ni Pyin camp found: "The low access to market and the absence of livelihood opportunities imply that WASH structures are regularly dismantled by IDPs to use materials for other purposes, particularly for firewood and long houses rehabilitation."[368]

Ensuring dignity and building resilience for Rohingya and Kaman is not only a question of removing movement restrictions, but creating a system in which they can obtain livelihoods to be able to live independently. As an INGO worker said: "Freedom of

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[365] Human Rights Watch interview with Ibrahim Rafiq, Cox's Bazar, November 2, 2019.

[366] "Southeast Asia: Accounts from Rohingya Boat People," Human Rights Watch news release, May 27, 2015, https://www.hrw.org/news/2015/05/27/southeast-asia-accounts-rohingya-boat-people.

[367] Human Rights Watch interview with Kamal Ahmad, Cox's Bazar, November 2, 2019.

[368] Internal August 2018 WASH Cluster report on file with Human Rights Watch.

movement is the nub of the matter but … there are all these other issues around it. They need livelihoods if they're going to leave."[369]

Denial of Education

According to data from the Myanmar Ministry of Education, approximately 70 percent of the estimated 120,000 school-aged Muslim children in central Rakhine State camps and villages are not in school.[370] About 50 percent of Rohingya living in the camps, or 65,000 people, are under 18 years old.[371]

These children do not have access to formal government education. Instead, most can only access primary education at temporary learning centers run by UN agencies and INGOs that are severely under-resourced and under-staffed. While the temporary learning centers generally follow the official Myanmar curriculum, they are not recognized as schools by the government. As a UNICEF official said in 2018:

> The movement restrictions are shrinking horizons for children in the camps—nowhere more so than in terms of education. Most of the learning takes place in poorly-resourced temporary learning classrooms, with determined volunteer teachers who have little formal training. There are nowhere near enough classrooms to accommodate students.[372]

A volunteer teacher described the crowded conditions at the learning center in his camp:

> We teach in two shifts. We tried to partition the room, but it became unbearably hot. Many students have difficulty concentrating. They do not have a place to study at home, after sunset, there is no light to do homework. Everybody eats and sleeps in the same space.[373]

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[369] Human Rights Watch interview with humanitarian worker, Yangon, November 15, 2018.

[370] Aung Naing Soe, "Rakhine Update—Education," Powerpoint, Department of Basic Education, March 2018, qtd. in internal September 2018 humanitarian report on file with Human Rights Watch.

[371] CCCM/Shelter/NFI, "Cluster Analysis Report (CAR) - Central Rakhine and Chin, Myanmar," June 2020.

[372] Marixie Mercado, "The Situation of Children in Rakhine State, Myanmar."

[373] Maung Kyaw Naing, community teacher, qtd. in "LWF World Service," Luther World Federation, 2016, p. 10.

Yusuf Ali, who lives in Kyein Nyi Pyin camp, said:

> Education has not been good since 2012. The students can't continue in middle school after primary school because there are not enough teachers or education materials. We don't have skilled teachers. Most of the teachers are not trained by the government or INGOs and UN.[374]

Secondary schooling opportunities are especially limited, with no temporary learning centers for students beyond primary school. Only about 600 students attend high school at the one location in central Rakhine State where Muslims are allowed to enroll—the state-run Basic Education High School (BEHS) in Thet Kae Pyin. With only two government-appointed teachers and four volunteers, there are about 100 students per teacher.[375]

The learning centers lack adequate water, sanitation, and hygiene facilities. An NGO survey found that about one-quarter of schools in central Rakhine had no latrine; in those that did, one latrine was shared by an average of 102 students. Only 35 percent of schools had access to hand washing facilities, and only 30 percent year-round access to clean water. The lack of WASH facilities disproportionately harms girls' access to education.[376]

Children in remote camps have even fewer educational opportunities. Since August 2017, Rohingya and Kaman students from camps outside of Sittwe have been largely unable to attend the Thet Kae Pyin high school due to movement restrictions.[377] Mohammed Amin, who lives in the remote, flood-prone Nget Chaung camp in Pauktaw, an hours-long boat ride from Sittwe, said:

> Education is very difficult for our children in the Nget Chaung camp. We want to get skilled teachers for our children and [formal] affiliation for middle schools in the camps. Now, the students who finish middle schools can't continue high school in the camp areas. Some of the people moved to

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374 Human Rights Watch telephone interview with Yusuf Ali, November 9, 2019.

375 Internal April 2018 humanitarian report on file with Human Rights Watch; UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 563.

376 PLAN International and Reach, "Joint Education Sector Needs Assessment," November 2015.

377 Some parents from Pauktaw reported sending their children to Sittwe to live in order to attend the high school, in which case they lost the ability to see or visit with them. Internal April 2018 humanitarian report on file with Human Rights Watch.

> the Sittwe camps to continue their education. But university students haven't been able to continue their education since June 2012.[378]

Rohingya have almost no access to tertiary education, having been barred from attending Sittwe University since 2012 for undefined "security" reasons. Rohingya who were in the midst of university studies in 2012 were expelled and have been prohibited from completing their studies.[379]

Ko Min Kyaw, 25, who lives in Ohn Taw Gyi camp, said:

> For me, life has gotten worse over the past seven years because I can't continue my education in the camp. I passed the matriculation exam in June 2012, but I am not allowed to pursue my university education in Rakhine State. Most of the students who passed the matriculation exam cannot continue since June 2012. Some Rohingya left Rakhine State to try and study in different areas of Myanmar and other countries.[380]

A Rohingya woman who passed the matriculation exam to study in Yangon in 2005 but was refused permission to leave Rakhine said: "Since childhood, I have lost many opportunities for my education. If I could have come [to Yangon] in 2005, I could have changed my life."[381]

In its final report, the Advisory Commission on Rakhine State called on the government to expand access to post-primary education and to "find ways and means to also permit their [Muslims'] physical presence at university in Rakhine State."[382] Yet rather than allowing Rohingya to attend Sittwe University in person, the government has moved forward with an extremely limited distance education program.

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[378] Human Rights Watch telephone interview with Mohammed Amin, November 8, 2019.

[379] Joshua Carroll, "Myanmar's Rohingya Deprived of Education," *Al Jazeera*, August 4, 2014, https://www.aljazeera.com/indepth/features/2014/08/myanmar-rohingya-deprived-education-201484105134827695.html (accessed September 3, 2019).

[380] Human Rights Watch telephone interview with Ko Min Kyaw, November 6, 2019.

[381] Human Rights Watch interview with Myat Noe Khaing, Yangon, April 8, 2019.

[382] Advisory Commission on Rakhine State, *Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine: Final Report*, August 2017, http://www.rakhinecommission.org/app/uploads/2017/08/FinalReport_Eng.pdf (accessed October 5, 2018).

In reporting on its progress on the advisory commission recommendations in March 2018, the Ministry of Education claimed that 70 Muslim students were studying at universities via distance learning—8 students in Sittwe and 62 in Thandwe in southern Rakhine State. With a small number of courses and limited teacher contact, the program is dismissed by many potential Rohingya students, some of whom expressed concerns that their participation would be exploited for government propaganda.[383]

Unofficial school costs, including transportation, materials, and teacher contributions, are a significant barrier for Rohingya families in central Rakhine State, particularly in accessing secondary education.[384] Some Rohingya described how the bribery system applies to schooling opportunities as well. Nurul Bashar said: "One of my younger brothers is still studying in a local school … by providing a bribe of 500,000 kyat (US$345). But the study is not something that everyone can access. [The authorities] only know money.… To continue my studies, I came back to Bangladesh again."[385]

The gender disparity in school attendance is large and grows with children's age. In the Thet Kae Pyin middle and high schools, there are more than three times as many boys than girls.[386] Rohingya girls are disproportionately affected by financial barriers to education, as families often prioritize sending boys to school with their available funds. In a 2017 survey, almost half of girls ages 14 and 15 gave as their reason for not attending school that "girls do not go to school in our culture."[387]

Many parents are also unwilling to send girls to classrooms led by male teachers, while the availability of female teachers is particularly limited by the lack of higher education opportunities. In 2018, the six government-appointed and volunteer teachers at the Thet Kae Pyin high school were all men. Protection and security risks present a barrier to education for all Rohingya children, but pose acute challenges for girls, as does the lack of adequate hygiene and sanitation facilities in schools.[388]

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[383] Human Rights Watch interviews, November 2019; internal September 2018 humanitarian report on file with Human Rights Watch.

[384] Internal April 2018 humanitarian report on file with Human Rights Watch.

[385] Human Rights Watch interview with Nurul Bashar, Cox's Bazar, November 6, 2019.

[386] Internal April 2018 humanitarian report on file with Human Rights Watch.

[387] CCCM Cluster, DRC, UNHCR, and JIPS, *Sittwe Camp Profiling Report*, p. 50.

[388] Internal April 2018 humanitarian report on file with Human Rights Watch.

The lack of livelihood opportunities and general hopelessness regarding the future have dissuaded Muslim families from seeking access to the limited education that exists. A humanitarian worker said: "They think, 'What's the point of sending my kid to TKP [Thet Kae Pyin] high school? What can they do?'"[389]

Hamida Begum lived in Thet Kae Pyin camp until 2018. "My two sons used to go to the temporary learning centers since there were no school facilities," she said. "The kids are not safe there.... They cannot go to school. There is no future there."[390]

Because Rohingya are not allowed to attend university to become official teachers, and ethnic Rakhine frequently refuse to work in the camps, the majority of educators are "volunteer teachers" from the communities, with no official training. The dearth of volunteer teachers who speak Rakhine or Burmese language limits the ability of temporary learning centers to adequately follow the government curriculum.[391] The salary for teachers at INGO-run temporary learning centers is 60,000 to 80,000 kyat ($40-55) per month.[392]

Denying Rohingya access to quality education serves as a tool of long-term marginalization and segregation. Literacy rates among displaced Rohingya are extremely low. A 2017 UN profiling report found that among displaced Rohingya, fewer than one-third of the women and one-half of the men were able to read or write a simple sentence with understanding in any language. Only 3 percent of Rohingya women in Dar Paing camp are literate. In comparison, literacy rates among the ethnic Rakhine population are over 85 percent.[393]

Given the limited access to education in the camps, the ability to speak the Rakhine or Burmese language is sharply decreasing among younger Rohingya. Such language skills highly impact work opportunities in the camps; 95 percent of Rohingya working for humanitarian organizations and over 80 percent of those working in construction and transportation are able to speak Rakhine.[394]

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[389] Human Rights Watch interview with humanitarian worker, Yangon, November 13, 2018.

[390] Human Rights Watch interview with Hamida Begum, Cox's Bazar, October 31, 2019.

[391] Internal April 2018 humanitarian report on file with Human Rights Watch.

[392] CCCM Cluster, "Rates Comparative Review—Sittwe IDP Camps" (copy on file with Human Rights Watch).

[393] CCCM Cluster, DRC, UNHCR, and JIPS, *Sittwe Camp Profiling Report,* pp. 35-37.

[394] Ibid., pp. 38-39.

The inability to communicate in Rakhine or Burmese languages among the younger Rohingya population will cut them off from employment opportunities in the future and limit their ability to reintegrate into cities and towns, in addition to further hindering social cohesion across religious and ethnic lines. "We see that a lot of the children in the temporary learning spaces don't speak Burmese or Rakhine," a humanitarian worker said. "If they do close the camps, where are they going to go? They can't integrate."[395]

A Rohingya woman whose family lives in Thet Kae Pyin camp said:

> My brother has a 5-year-old daughter. She cannot speak Rakhine, so will not be able to keep in touch with Rakhine people. He worries for her because she cannot go to government school. And without [speaking] Rakhine or Burmese, she cannot study government textbooks. I tell him to teach her [those languages], but if only one or two speak, it will not change our society.[396]

Humanitarian staff who work in the camps describe the heightened sense of hopelessness for families, especially with children under 8, who have spent their entire lives in confinement. "They don't want this life for their children," one said. "But the sense of hopelessness is heartbreaking. They see no future for themselves or their children."[397]

The Ministry of Education has denied that there are formal policies preventing Rohingya children from attending school. But even if not formally banned, officials fail to acknowledge the restrictions on movement, lack of schools and teachers, and other discriminatory policies that prevent Rohingya children from accessing education.

"They just say, 'There are no Muslim children in schools, but we don't know why,'" a humanitarian worker who engages with the ministry said. "They may actually want to improve the situation, but they're not empowered to make any real change. They can't deliver anything on freedom of movement."[398]

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[395] Human Rights Watch interview with humanitarian worker, Yangon, November 13, 2018.
[396] Human Rights Watch interview with Myat Noe Khaing, Yangon, April 8, 2019.
[397] Human Rights Watch interview with humanitarian worker, Yangon, April 2, 2019.
[398] Ibid.

V. Restrictions on Aid

Myanmar authorities wield control over humanitarian access in the camps through opaque, burdensome, and constantly shifting rules and procedures. All Myanmar and international humanitarian staff require travel authorizations (TAs) to enter the camps, which are issued through a highly bureaucratic and arbitrary procedure, requiring various levels of formal and informal approval.[399] "The process looks uncoordinated, but they do it on purpose—to confuse, to complicate things," a humanitarian worker said. "It's intentional."[400]

"The government is pushing humanitarians into a corner," a political analyst said.[401] Constraints on access for humanitarian workers acutely harm the Rohingya population, which is largely dependent on basic support from foreign aid. Access was severely restricted following the October 2016 and August 2017 attacks. Under the increased restrictions on aid agencies after August 2017, overcrowding, unsanitary conditions, and vulnerability to flood and fire steadily grew. The World Food Programme reported in June 2018:

> International non-governmental organizations and United Nations agencies continued to face extraordinary challenges in obtaining travel authorization and implementing their programmes in northern and central parts of Rakhine State, threatening the delivery of life-saving assistance.[402]

While 2018 saw some relaxation in restrictions, the TA process remains significantly more constrained and with greater scrutiny than pre-August 2017, described by a UN staffer as "increasingly bureaucratic hoops" leading to a "TA bottleneck."[403] Local staff are now

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[399] Human Rights Watch interviews with humanitarian workers (details withheld), Sittwe and Yangon, October-November 2018.

[400] Human Rights Watch interview with humanitarian worker, Yangon, April 4, 2019.

[401] Human Rights Watch interview with political analyst, Yangon, November 8, 2018.

[402] WFP, "Comprehensive update on the Myanmar country strategic plan (2018–2022) in view of recent developments," WFP/EB.A/2018/8-B, June 7, 2018, https://docs.wfp.org/api/documents/33055e13dec549f2825c39f4e2817262/download/ (accessed September 4, 2019).

[403] Human Rights Watch interview with humanitarian worker, Sittwe, November 14, 2018.

required to have TAs, while new restrictions on international staff have also been put in place.[404]

Organizations are required to submit highly detailed paperwork to the Coordination Committee and Rakhine State government line agencies, including monthly workplans, daily breakdowns of activities, and lists of all international and national staff involved. Some groups reported having to submit ethnicity data on their beneficiaries. Travel in the camps to implement activities requires staff to carry several copies of their paperwork, visas, and passports to provide to police at checkpoints and any additional arbitrary stops "to a ridiculous degree," according to a humanitarian staff member.[405]

As of May 2019, 25 percent of travel authorization requests for central Rakhine were fully or partially rejected, according to the UN.[406] Meanwhile, local staff working with international organizations have reported being denied permission to leave the camps for years.[407]

Signs at the camp entrances announce in English and Burmese the restrictions that cut off the Rohingya from the outside world: "Restricted Area: (1) No admittance without the approval of the State Government; (2) Everybody is subject to check willingly for security."

The government coordinates with humanitarian aid agencies, primarily the World Food Programme (WFP), on registers of individuals eligible for food aid. This list has been used at various points as a tool of government reprisals, such as denying rations to Muslim families that authorities claim played a role in the 2012 violence, forcing them to rely on private aid or to bribe Camp Management Committees.[408]

The government threatens to restrict access as a tool to hold sway over humanitarian organizations. An INGO staff member said: "Anytime anyone goes to the government and

[404] Ibid.

[405] Human Rights Watch interview with humanitarian worker, Sittwe, November 15, 2018.

[406] United Nations Office for the Coordination of Humanitarian Affairs (OCHA), "Myanmar: Humanitarian Access in Central Rakhine (May 2019)," June 26, 2019.

[407] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 517.

[408] "Rakhine's Food Aid Racket," *Frontier Myanmar*, August 31, 2015, https://www.frontiermyanmar.net/en/rakhines-food-aid-racket/ (accessed September 1, 2020).

complains, it impacts TAs."[409] Staff from various agencies described blowback they had faced in response to actions that authorities disapproved of for various reasons.

Organizations have been denied TAs for months at a time, or had staff that were forced to leave or refused new visas. "The constant threat of being blacklisted sets the tone for all our work in Rakhine," an INGO staff member said.[410] After releasing a public call for increased access, the UN Office for the Coordination of Humanitarian Affairs (OCHA) was criticized by government officials at a Coordination Committee meeting, with all groups warned that the next organization to follow suit would be blocked.[411]

In January 2020, the International Rescue Committee announced that it was forced to shut down a food security and livelihood program for 56,000 people in Minbya and Myebon townships in Rakhine State due to a government ban. The IRC had submitted a travel authorization request to Rakhine State authorities in November 2018 that included a "good faith administrative mistake." The organization informed the state government of the mistake—an error in an employee list on a routine travel request—but was denied all travel requests over the following year, forcing the project's eventual suspension.

In its statement on the closure, which was later removed from the website, the IRC wrote: "The permanent withdrawal of this support will exacerbate the needs of rural communities and slow their recovery from the ongoing conflict.… More than 60 program staff, almost all from Myebon and Minbya, will lose their jobs."[412] After the IRC's access was restricted, another organization attempted to fill in the gaps in aid, in particular the mobile health clinics that IRC had been operating in Sittwe, but was also denied.[413]

Broad blockages on the provision of assistance indicate the government's willingness to place unnecessary and punitive restrictions on humanitarian agencies that have harmful, and potentially dire, consequences for the communities they serve. Restrictions limit the capacity of humanitarian agencies to collect independent and impartial data about the

[409] Human Rights Watch interview with humanitarian worker, Sittwe, November 13, 2018.

[410] Human Rights Watch interview with humanitarian worker, Yangon, April 2, 2019.

[411] Human Rights Watch interview with humanitarian worker, Yangon, April 2, 2019.

[412] IRC, "IRC's livelihoods and food security program forced to close in Rakhine State, Myanmar," January 7, 2020, http://tatlan.org/en/news-updates/ircs-longstanding-livelihoods-and-food-security-program-forced-to-close-in-rakhine-state-myanmar/(accessed January 8, 2020).

[413] Human Rights Watch interview with foreign political officer, Yangon, April 8, 2019.

populations beyond their reach, which prevents them from determining and responding with accuracy to the urgent needs of communities. Conducting research in the camps, particularly with any indication data will be shared publicly, appears to be of serious concern to the government and often prompts new restrictions.

In July 2017, the World Food Programme released an assessment that found that 80,000 children under 5 in northern Rakhine would require treatment for acute malnutrition following the October 2016 military crackdown. After a request from the government, WFP removed the report from its website, replacing it with a statement that the government and WFP were "collaborating on a revised version."[414] The government also responded by sending a letter to INGOs banning such reports, and in 2018 announced stringent guidelines for requesting permission from the Ministry of Home Affairs to conduct assessments.[415] The government began inserting clauses into memoranda of understanding of INGOs that they also need advanced permission from their line ministry.[416]

An INGO staff member based in Sittwe told Human Rights Watch: "No one can do any research. The government is pissed about statements…. The RCO [UN resident coordinator office] has been explicit in meetings: don't publish research or it'll affect access. The second you cross their invisible line…."[417]

The threat of access restrictions has led to an atmosphere of fear and self-censorship among humanitarian groups, as it was designed to. One INGO staff member criticized their sector's failure to push back against the government's manipulation: "There's an atmosphere of self-censorship—some real, some not. We're playing it safe. How many NGOs have actually been kicked out? The fear is exaggerated."[418]

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[414] Oliver Holmes, "UN report on Rohingya hunger is shelved at Myanmar's request," *Guardian,* October 16, 2017, https://www.theguardian.com/world/2017/oct/17/un-report-on-rohingya-hunger-is-shelved-at-myanmars-request (accessed April 30, 2020).

[415] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, paras. 574, 578.

[416] Human Rights Watch interview with humanitarian worker, Yangon, April 2, 2019.

[417] Human Rights Watch interview with humanitarian worker, Sittwe, November 15, 2018. For more on the humanitarian community's engagement with the government, see the Concerns about Humanitarian Complicity section, below.

[418] Human Rights Watch interview with humanitarian worker, Yangon, April 3, 2019.

Hostilities from ethnic Rakhine villagers are also a primary cause of aid blockages, an ongoing threat since 2012 due to the government's failure to take action. A 2013 humanitarian assessment noted: "Access to IDP locations by UN and its humanitarian partner is being seriously hampered by ongoing intimidation by some members of the local community."[419] The humanitarian agencies called on the government to "make accountable instigators of such threats," condemn "incitement to hatred, and instruct officials to do likewise," "ensure security and control tensions," and counter misperceptions of humanitarian bias "by clearly stating that international community is working at the invitation of and in support of the Government's efforts."[420] The government, however, was unwilling to undertake such actions.

In 2014, ethnic Rakhine political and religious leaders launched a campaign to cut off aid and health care for Rohingya. The protests and threats led the government to ban Medecins Sans Frontieres (MSF, or Doctors Without Borders) and kept Rakhine landlords from renting to humanitarian groups. A riot in March targeted UN and INGO offices and warehouses in Sittwe, causing significant destruction and the withdrawal of aid workers.[421]

The government ban on MSF for perceived bias in favor of the Rohingya lasted from February to December 2014.[422] MSF was the primary healthcare provider for 500,000 Rohingya, including in the camps. Given the Rohingya's reliance on international organizations for medical support and other essential services, the health consequences of aid blockages were grave. Medical professionals estimated that during the first two weeks of the MSF ban, about 150 people died, including 20 pregnant women due to delivery complications.[423]

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[419] "Inter-Agency Preparedness/Contingency Plan – Rakhine State, Myanmar," March 2013, https://reliefweb.int/sites/reliefweb.int/files/resources/Ref%20Doc_Rakhine_Inter-Agency_Contingency%20Plan_5_April_2013.pdf (accessed August 28, 2019).

[420] Ibid.

[421] Aubrey Belford, "As Myanmar's Rakhine Buddhists gain strength, so does anti-Muslim apartheid," Reuters, June 18, 2014, https://uk.reuters.com/article/us-myanmar-rohingya/as-myanmars-rakhine-buddhists-gain-strength-so-does-anti-muslim-apartheid-idUSKBNoET2UR20140618 (accessed April 16, 2020).

[422] "MSF resumes work in Myanmar state after government ban," Reuters, January 21, 2015, https://www.reuters.com/article/us-myanmar-msf/msf-resumes-work-in-myanmar-state-after-government-ban-idUSKBNoKU22F20150121 (accessed September 4, 2019).

[423] Jane Perlez, "Ban on Doctors' Group Imperils Muslim Minority in Myanmar," *New York Times*, March 13, 2014, https://www.nytimes.com/2014/03/14/world/asia/myanmar-bans-doctors-without-borders.html (accessed August 25, 2019).

About 3,000 Muslims living in the Myebon camp have been threatened and attacked for years by Rakhine villagers who live nearby. Rakhine community leaders and local political parties urged the community to avoid contact with Muslims; a shopkeeper who sold Muslims goods was beaten, shorn of her hair, and marched around with a sign that read "national traitor." Similar mobs were deployed to block aid agencies from the camp.[424]

"We are concerned that if we don't check that boats of the NGOs communicating directly with the Bengalis, they might include weapons together with the aid," a local Buddhist monk said, describing their efforts to inspect all boats delivering aid supplies.[425] Muslims in Myebon said that local authorities allowed the issue to continue by refusing to take action.[426]

Tensions grew after the August 2017 violence, fueled by the claim that international groups were biased in their material and political support for the Rohingya. The government made several statements suggesting aid groups, including the US Agency for International Development (USAID) and WFP, were providing materials to the ethnic Rohingya armed group, ARSA, such as food rations and construction materials for producing landmines.[427]

In September 2017, a 300-person mob surrounded a boat of the International Committee of the Red Cross carrying relief goods at the Sittwe jetty. The crowd threw petrol bombs, forced the group to unload the boat, and prevented it from continuing on.[428] "People thought the aid was only for the Bengalis," said Tin Maung Swe, secretary of the Rakhine

[424] Kyaw Soe Oo, "Segregation fans fears of fresh 'cleansing' in Myanmar's Rakhine," Reuters, October 9, 2017, https://www.reuters.com/article/us-myanmar-rohingya-segregation/segregation-fans-fears-of-fresh-cleansing-in-myanmars-rakhine-idUSKBN1CE13X (accessed April 16, 2020).

[425] Ibid.

[426] Human Rights Watch telephone interviews, November 2019.

[427] Rik Glauert, "US Ambassador Rejects Govt Implication of Aid Agencies in Rakhine Attacks," *Irrawaddy*, August 31, 2017, https://www.irrawaddy.com/news/burma/us-ambassador-rejects-govt-implication-of-aid-agencies-in-rakhine-attacks.html (accessed April 30, 2020).

[428] "Buddhist protesters block aid to Rohingya," *Al Jazeera*, September 21, 2017, https://www.aljazeera.com/news/2017/09/buddhist-protesters-block-aid-muslim-rohingya-170921062521668.html (accessed April 16, 2020).

State government.[429] That same month in Myebon, the Rakhine Women's Network, a frequent anti-Muslim campaigner, again prevented aid delivery to the camp.[430]

The Arakan Army conflict, which has escalated since January 2019, has led to new restrictions on aid across Rakhine State. In response to the conflict, authorities restricted humanitarian access in 8 of Rakhine State's 17 townships, obstructing the delivery of lifesaving supplies.[431] Fighting has also impeded access. In April 2020, a driver for the World Health Organization was killed during an attack in Minbya township while transporting Covid-19 test samples from Sittwe in a marked UN vehicle.[432]

In June 2019, the government shut down mobile internet communications in Rakhine and Chin States. The restriction on 2G networks was lifted in August 2020, but the block on 3G and 4G services was extended until October 31.[433] The restrictions encompass eight conflict-affected townships and approximately one million people.[434]

The internet restrictions disproportionately affect civilians in conflict areas, hampering humanitarian aid operations, livelihoods, the dissemination of information on Covid-19, and the work of human rights monitors.

The restrictions have also hindered the capacity to assess Myanmar's compliance with the January 2020 ruling by the International Court of Justice (ICJ) ordering "provisional measures" to protect the Rohingya community in Rakhine State from genocidal acts. The

[429] Andrew R.C. Marshall, "Myanmar protesters try to block aid shipment to Muslim Rohingya," Reuters, September 20, 2017, https://www.reuters.com/article/us-myanmar-rohingya-aid/myanmar-protesters-try-to-block-aid-shipment-to-muslim-rohingya-idUSKCN1BW0D1 (accessed April 16, 2020).

[430] Hannah Beech, "Across Myanmar, Denial of Ethnic Cleansing and Loathing of Rohingya," *New York Times*, October 24, 2017, https://www.nytimes.com/2017/10/24/world/asia/myanmar-rohingya-ethnic-cleansing.html (accessed March 30, 2020).

[431] OCHA, "Asia and the Pacific: Weekly Regional Humanitarian Snapshot (14 - 20 January 2020)," January 20, 2020.

[432] ACF et al., "Myanmar: 16 agencies express extreme concern after the death of an aid worker transporting COVID-19 test samples," April 21, 2020, https://www.oxfam.org/en/press-releases/myanmar-16-agencies-express-extreme-concern-after-death-aid-worker-transporting (accessed September 20, 2020).

[433] Telenor, "Continued network restrictions in Myanmar from 1 August 2020," https://www.telenor.com/network-restrictions-in-myanmar-1-august-2020/ (accessed September 20, 2020).

[434] OHCHR, "UN experts concerned at surge in civilian casualties in northwest Myanmar after internet shutdown," February 18, 2020, https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25572&LangID=E (accessed August 2, 2020).

prolonged restrictions violate international human rights law, which requires internet-based restrictions to be necessary and proportionate.[435]

In August 2020, after Covid-19 cases spiked in Rakhine State and some INGO staff tested positive, the Rakhine State government imposed broad restrictions on international humanitarian access, with an explicit restriction on work in the camps.[436] Multiple organizations' travel and activity authorizations were canceled indefinitely.[437] The state border affairs minister announced that for agencies still operating, only critical activities such as distribution of food and medicine would be allowed.[438]

[435] Human Rights Committee, General Comment No. 34: Article 19 (Freedoms of Opinion and Expression), CCPR/C/GC/34, July 29, 2011, https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf (accessed August 2, 2020).

[436] Zarni Mann, "NGO Activities Restricted in Myanmar's Rakhine State Amid COVID-19 Spike," *Irrawaddy*, August 24, 2020, https://www.irrawaddy.com/news/burma/ngo-activities-restricted-myanmars-rakhine-state-amid-covid-19-spike.html (accessed September 6, 2020).

[437] Center for Operational Analysis and Research, Community Analysis Support System, "Rakhine State and Southern Chin State Scenario Plan: August Update," September 2020.

[438] Zarni Mann, "NGO Activities Restricted in Myanmar's Rakhine State Amid COVID-19 Spike," *Irrawaddy*.

VI. Camp "Closures": Enshrining Apartheid

In late 2019, the government launched a national camp closure strategy that claimed to be aimed at "achieving sustainable solutions for IDPs" and "helping them to rebuild their lives in safety and dignity without dependency."[439] The steps undertaken, however, have contradicted these assertions, underscoring the government's continuing unwillingness to create durable solutions for the Rohingya through dignified, safe, and voluntary returns or resettlements. The process is led by the Ministry of Social Welfare, Relief and Resettlement, with support from the Union Enterprise for Humanitarian Assistance, Resettlement and Development (UEHRD) chaired by State Counsellor Aung San Suu Kyi.[440]

Since their displacement in 2012, Rohingya have, via surveys, focus groups discussions, and other consultations, consistently expressed their desire to return to where they lived prior to the 2012 violence. Every Rohingya with whom Human Rights Watch spoke said they wanted to return to their places of origin, as long as they could be safe and free.[441] Hamida Begum, who was originally from Kyaukpyu but lived in Thet Kae Pyin camp before fleeing to Bangladesh in 2018, said:

> We want to get back to our land. I have a desire to go back to my birthplace in Kyaukpyu before I die; otherwise, it's better to die here in Bangladesh. Even the animals like dogs, foxes, or other creatures in the forest have their own land, but we Rohingya don't have any place—although we had our own place once.[442]

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[439] "National Strategy on Resettlement of Internally Displaced Persons (IDPs) and Closure of IDP Camps," 2019, Ministry of Social Welfare, Relief and Resettlement, unofficial translation (copy on file with Human Rights Watch).

[440] The UEHRD is a public-private initiative formed by the Myanmar government to oversee work in Rakhine after the 2017 violence. In its report on the economic interests of the military, the UN Fact-Finding Mission concluded that "the Tatmadaw [Myanmar military] and civilian authorities of the UEHRD have sought support from crony companies to pursue an objective of changing the demographic landscape on northern Rakhine and keeping Rohingya displaced from Myanmar in a manner that is causing them considerable inhumane suffering." UN Human Rights Council, "The economic interests of the Myanmar military," Independent International Fact-Finding Mission on Myanmar, A/HRC/42/CRP.3, August 5, 2019, para. 128.

[441] Human Rights Watch interviews, October-November 2019.

[442] Human Rights Watch interview with Hamida Begum, Cox's Bazar, October 31, 2019.

In a 2017 camp profiling survey, 94 percent of Rohingya said they wanted to return to their original homes.[443] And yet government officials, throughout both the eight-year confinement and unlawful camp-closing process, have consistently denied Rohingya and Kaman their right to return to their places of origin or of choice.

In March 2017, the Kofi Annan-led Advisory Commission on Rakhine State released an interim report which included a recommendation on closing the central Rakhine camps:

> The Government of Myanmar should prepare a comprehensive strategy towards closing all IDP camps in Rakhine State. The strategy should be developed through a consultation process with affected communities, and contain clear timelines. It should also contain plans for the provision of security and livelihood opportunities at the site of return/relocation.[444]

It suggested three locations for immediate return and relocation, as a "first step and sign of goodwill"—65 ethnic Rakhine households in Ka Nyin Taw, 55 Kaman Muslim households in Ramree, and 215 Rohingya households in Kyein Ni Pyin.

The government announced in April 2017 it would begin the closures. The pilot process, however, was protracted and opaque, falling far short of a safe or dignified solution to displacement.

For the closure of the Ka Nyin Taw camp in Kyaukpyu, the displaced ethnic Rakhine were relocated to a site mutually agreed upon by the government and community in April and May 2017.

The Kaman households in Ramree were identified as a pilot site because both Kaman and Rakhine communities had told the commission they were open to reintegrating.[445] However, after the commission's interim report came out, the Rakhine community told the

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[443] CCCM Cluster, DRC, UNHCR, and JIPS, *Sittwe Camp Profiling Report*, June 2017, p. 143.

[444] Advisory Commission on Rakhine State, *Interim Report and Recommendations*, March 2017, http://www.rakhinecommission.org/app/uploads/2017/03/Advisory-Commission-Interim-Report.pdf (accessed October 5, 2018), p. 12.

[445] See box on Kaman Muslims, above. Human Rights Watch interview with Kaman community leader, Yangon, November 9, 2018.

Ministry of Social Welfare, Relief and Resettlement that it opposed the Kaman returning and called for them to be moved to Yangon instead.

Despite their having asked to return to their places of origin, the Kaman in Ramree were relocated to Yangon under coercion by authorities. "They said okay out of fear," a Kaman community leader said.[446] Each family was given 500,000 kyat (US$345), plus 100,000 kyat ($70) per family member, and bus tickets to Yangon. No compensation or other form of reparation was provided.[447]

The closure of the Rohingya camp, Kyein Ni Pyin, consisted of constructing permanent individual houses on the existing camp site, without any changes in freedom of movement or access to livelihoods. This model has formed the basis of the Rohingya camp "closures" carried out since.

Yusuf Ali from Kyein Ni Pyin camp said:

> The restrictions on movement and security risks are still major challenges for us. Most of the IDPs in Kyein Ni Pyin don't have access to work for their family income since June 2012. Some risk traveling for jobs or emergency healthcare services to the Sittwe area. But mostly we are depending on humanitarian assistance from INGOs and UN. People don't want to accept the individual shelters from the government because they worry the humanitarian assistance will stop if they move.[448]

In its final report in August 2017, the Annan commission noted that efforts to close the Rohingya camp "seem to have stalled," concluding: "This process should not serve as a precedent for other camp closures in the future."[449]

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[446] Human Rights Watch interview with Kaman community leader, Yangon, November 9, 2018; see also Protection Sector, "Relocating Internally Displaced Persons from Ramree, Ka Nyin Taw and Kyein Ni Pyin camps," May 15, 2017.

[447] Ibid.

[448] Human Rights Watch telephone interview with Yusuf Ali, November 9, 2019.

[449] Advisory Commission on Rakhine State, *Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine: Final Report*, August 2017, http://www.rakhinecommission.org/app/uploads/2017/08/FinalReport_Eng.pdf (accessed October 5, 2018), p. 35.

"Permanent Detainees"

The camp closure process was halted after the August 2017 violence but relaunched in October. New announcements regarding camp closures were issued without meaningful consultation with affected communities, any clear timeframe, or guarantees of protection, such as respect for their right to return or reestablishing freedom of movement. "It's been done in a very chaotic manner," said a humanitarian worker involved in the limited government consultations. "There's no plan."[450]

As with Kyein Ni Pyin camp, the ongoing government efforts have involved building more permanent housing structures—individual houses or two to three-story concrete buildings—within or adjacent to the current camp areas. It is a system of effectively renaming rather than resettling, only serving to further entrench the Rohingya's segregation and rights deprivations, while denying them the right to return to their land, reconstruct their neighborhoods, regain work, and reintegrate into Myanmar society.

"I think they won't solve this problem," a Rohingya woman who had escaped Rakhine State to Yangon said of the closures. "I think the system is permanent. A long time ago they took our money. Nothing will change. It is only words."[451]

Humanitarian agencies working in Rakhine State reported in February 2018:

> The government is taking renewed steps towards what they call the closure of IDP camps in central Rakhine State but what is in reality a last step towards permanent segregation of Muslims in central Rakhine, a process which raises major protection concerns especially in the absence of any commitment/guarantee to address issues of freedom of movement and access to livelihoods and services.[452]

At least nine camps have been identified for closure thus far, three of which have been arbitrarily declared "closed" by the government. At each camp, Rohingya and Kaman

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[450] Human Rights Watch interview with humanitarian worker, Yangon, November 6, 2018.

[451] Human Rights Watch interview with Myat Noe Khaing, Yangon, April 8, 2019.

[452] Shelter/NFI/CCCM National Cluster Meeting, February 22, 2018, meeting minutes, https://www.sheltercluster.org/sites/default/files/docs/joint_national_protection_shelter_nfi_cccm_meeting_minutes_february_2018.pdf (accessed October 1, 2018).

asked to return to their place of origin or nearby; every request was denied by the Rakhine State and union governments. Dil Mohammed, who lives in Ah Nauk Ywe camp in Pauktaw, said:

> We want to go back to our place of origin in Pauktaw town, but it's not possible because the Rakhine State government already resettled Rakhine IDPs there in 2013-2014. Most of us lived in that area in Pauktaw before the conflict. The Rakhine State government and local authorities don't tell us where we will be settled. But we already told them we don't want to stay here [in the camp location].[453]

Consultations with Rohingya and Kaman communities have been deeply inadequate—limited and superficial, often taking place with the corrupt and non-inclusive Camp Management Committees—and any moves have been carried out under various forms of pressure, threats, and coercion.[454]

During the minimal "consultations" held, authorities have told communities they could not return to their original villages, and must instead remain permanently in the camp locations. A joint humanitarian agency document noted that in some cases, there was "pressure on IDPs to accept various relocation sites, including threats that food assistance will end."[455]

The communities that have been approached by authorities expressed fear that moving into new houses would mean renouncing their right to return or losing access to humanitarian assistance. "There's a high level of anxiety about closings," a UN official said. "One more piece of the uncertain existence they live in."[456]

INGOs that work in the camps reported in 2019: "We've heard from IDPs in the camps that without a recognition of basic rights, the government's declaration of camps as 'closed' is meaningless."[457] Drawing on interviews and focus group discussions, the groups found:

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[453] Human Rights Watch telephone interview with Dil Mohammed, November 10, 2019.

[454] Human Rights Watch interview with humanitarian worker, Yangon, November 16, 2018.

[455] Internal 2019 humanitarian document on file with Human Rights Watch.

[456] Human Rights Watch interview with humanitarian worker, Sittwe, November 14, 2018.

[457] Internal 2019 humanitarian report on file with Human Rights Watch.

> People in the camps are losing hope that anything will change for the better. They fear that while camps may be declared closed, they will remain confined and dependent on aid, unable to access education or earn an income. They fear that they will remain in this situation with limited agency or say in their future. And they fear their children will grow up in detention, deprived of their most basic rights. In such a context, many IDPs are struggling to maintain a sense of hope and to believe they will see a change to their confinement.[458]

For Rohingya who have moved to individual houses in the "closed" camps of Nidin, Kyein Ni Pyin, and Taung Paw, little apart from their type of shelter has changed. Myo Myint Oo, 41, who was moved to individual housing in Nidin camp in Kyauktaw in 2018, said:

> Nothing has changed in the camp over the past seven years. We have had individual shelters since August 2018, but everything else has stayed the same as it was since June 2012. The location of our houses is still outside of the [Rohingya-majority] host community area, and we can't move freely in the villages because [the authorities] say it's not secure for us. Every day it is like we are under house arrest. We don't have freedom of movement, and still have major challenges for livelihood, income, and health. Sometimes [the authorities] come and threaten us for asking for freedom of movement....
>
> We want to go back to our places of origin and work our jobs again and live again with our neighbors in peace, like before 2012. We want to live in a safe place with other people, permanently. Our place of origin is already occupied by some other people, but the local authorities don't take action on that.[459]

[458] Ibid.

[459] Human Rights Watch telephone interview with Myo Myint Oo, October 21, 2019.

"How can we hope for the future?" said Ali Khan, 45, who also moved to an individual shelter in Nidin in 2018. "The local authorities could help us if they wanted things to improve, but they only neglect [us]."[460]

A UN and NGO monitoring visit to Nidin camp in January 2020 found that "the mental and physical wellbeing of IDPs continues to deteriorate."[461]

A 2019 humanitarian agency briefing notes:

> Despite the Government's announcement that the camps have been "closed," the IDPs remain without freedom of movement and so also without access to livelihood opportunities and non-segregated services. With the exception of the move to permanent individual houses or two-story concrete buildings, their situation is unchanged.[462]

Without any change in the Rohingya's freedom of movement or access to services, the camp "closure" process falls far short of a safe or dignified solution to displacement, contradicts the durable solutions framework entirely, and is in reality nothing more than a re-labeling exercise. "It means nothing now, it meant nothing in the past, and it will mean nothing in the future," an INGO director said of the process.[463]

A Rohingya student in the camps said: "We don't know what real strategic plan is behind this in the government. So, I have suspicions that the government is trying to create other bigger camps by closing smaller ones, which I always refer to as 'trying to create a new shape of catastrophe.'"[464]

Rohingya who had moved to individual houses in the three "closed" camps all raised concerns about the quality of construction, noting the buildings had flooded during the

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[460] Human Rights Watch telephone interview with Ali Khan, October 22, 2019.

[461] USAID, "Burma and Bangladesh: Regional Crisis Response," March 11, 2020, https://reliefweb.int/sites/reliefweb.int/files/resources/03.11.20%20-%20USAID-DCHA%20Burma%20and%20Bangladesh%20Fact%20Sheet.pdf (accessed September 10, 2020).

[462] Internal 2019 humanitarian report on file with Human Rights Watch.

[463] Human Rights Watch interview with humanitarian worker, Yangon, November 6, 2018.

[464] Rohingya student in Sittwe camps qtd. in UK All Party Parliamentary Group on the Rights of the Rohingya, *"A New Shape of Catastrophe": Two years on from the 2017 Rohingya Crisis*, 2019.

following monsoon season. “The individual shelters are lower quality, not strong enough for the family members to stay in,” Myo Myint Oo said of the Nidin houses. “They are not secure for disasters like floods and cyclones.”

Mohammed Amin lives in Nget Chaung 1 camp in Pauktaw, where some individual houses were built in 2015:

> Most of our individual shelters were constructed with poor quality materials. They are not strong enough for the cyclones and strong winds and heavy rains in this area. We have tried to reconstruct them ourselves. The other Rohingya [in neighboring camps] saw the quality of individual shelters provided by the government so they don’t want to accept that. Also, the IDPs worry that if they accept the individual shelters, the international organizations won’t assist them. That is another big concern.[465]

Rohingya and Kaman Muslims have been granted no compensation or other form of reparation for their lost homes and property, and much of their former land has been transferred to or taken over by ethnic Rakhine villagers. In some areas, the government has allocated the land to development projects, including along the Sittwe waterfront.[466] Aung Zaw Min, now in Ohn Taw Chay camp, lived there before 2012. He said:

> During the conflict, most of our documents were destroyed, but we can find the owners’ names at the land department. Most of the land ownership by Rohingya was made illegal. I have three houses in our place of origin with official documents issued by the land department since a long time ago. One land is already occupied by Rakhine neighbors and another one is taken by the local authority for the new city project areas. So I can’t get back those two lands.[467]

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[465] Human Rights Watch telephone interview with Mohammed Amin, November 8, 2019.

[466] Wendy Bone, “Myanmar’s For Profit Genocide,” *Investigative Journal*, January 10, 2020.

[467] Human Rights Watch telephone interview with Aung Zaw Min, November 7, 2019.

Abdul Kadar from Thae Chaung said: "Even the university was built on Rohingya's land. The authorities took away our land and built campus buildings and a military camp there."[468]

The Rakhine State government has also undertaken construction of new permanent infrastructure in some camps, which humanitarian groups fear indicates an effort to make permanent the detention of the Rohingya in those locations.[469] Internal surveys found:

> These developments are causing fear and anxiety for many IDPs in the Sittwe camps. They see these infrastructure upgrades … as an indication that the camps where they live will soon be declared as "closed" without any ability to leave the camps or return to their communities of origin.[470]

Taung Paw Camp "Closure"

Discussions around closing the Taung Paw camp in Myebon, with a population of 2,960, were held in early 2018. A humanitarian staffer suggested the location was chosen because of the high level of desperation among the displaced community there, given its isolation from Sittwe, smaller size and thus worse access to services, and unsuitable land.[471]

The displaced Rohingya and Kaman requested they be allowed to return to their places of origin in Myebon town, or to relocate to another site not built atop farmland, both of which the ethnic Rakhine community strongly opposed. "When the government met with us, we asked to go back to our place of origin next to our current location in Myebon," said Hla Maung, 42, who had been a shop owner in Myebon town before 2012.[472] Instead, the new houses were built in waves in the current campsite and adjacent rice paddies.

Rahim Iqbal worked as a fisherman in Myebon before 2012, when his house and most of his village was burned down. "Our villages are 40 minutes away from where we are living

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[468] Human Rights Watch interview with Abdul Kadar, Cox's Bazar, October 30, 2019.

[469] Human Rights Watch interviews with humanitarian workers, Yangon and Sittwe, October-November 2018.

[470] Internal 2019 humanitarian report on file with Human Rights Watch.

[471] Human Rights Watch interview with humanitarian worker, Yangon, November 6, 2018.

[472] Human Rights Watch telephone interview with Hla Maung, November 11, 2019.

now," he said. "We were expecting the government would send us back to our old village, but they are providing us new shelters here. That means we will never be able to go back to our village and home."[473]

Attempts at beginning construction in March 2018 were delayed, first by protests from the displaced Muslims, and then by the Rakhine community, which called for the Muslims to be removed from Myebon entirely.

Authorities held a lottery to determine who would move, which led to extortion by the Camp Management Committee. Newlyweds were interested in the new shelters because under the existing system they were unable to move into a separate space after getting married. "Some people didn't want to accept the new shelters [because they want to return to their homes], but most IDPs accepted the new houses because they want to improve their living conditions in the camp," Hla Maung said.[474]

"The decision between two crappy shelters, one of which is new and more private, isn't a real choice," a humanitarian worker said, noting that the process did not comply with international standards of voluntariness.[475]

The houses were built on 10 by 15 meter plots, smaller than the plots for the Rakhine IDPs who were relocated in a nearby area in 2015. The first round of 100 houses was constructed from April to June 2018 on highly flood-prone paddy fields, with limited access to agricultural livelihood opportunities.[476] A WASH sector assessment from the original camp construction found: "During the wet season, the simultaneous combination of high river yields—due to the contribution of the upstream catchment area—and the high tide cycles, the low river bed slope and the run off from the hills behind the camp itself will turn the entire valley in a large pond."[477]

The new houses flooded during rainy season, requiring further construction to reinforce the structures with concrete rings. Hla Maung said: "Most of the individual houses are not

[473] Human Rights Watch telephone interview with Rahim Iqbal, October 31, 2019.

[474] Human Rights Watch telephone interview with Hla Maung, November 11, 2019.

[475] Human Rights Watch interview with humanitarian worker, Yangon, November 16, 2018.

[476] Internal April 2019 UN document on file with Human Rights Watch.

[477] WASH Sector, "Rapid Assessment for IDPs relocation in Pauktaw and Myebon townships," 2013.

strong enough to handle natural disasters during the raining season. So we had to rebuild the shelters when we received them from the Camp Management Committee."[478]

Staff working in the camp reported the construction seemed "rushed and shoddy—cheap," that the latrines were not functioning well, and that there was no consultation on plans for access to education. There is still no access to formal or post-secondary education. New schoolhouses were built, but humanitarian workers warn the construction "indicates that RSG [Rakhine State government] is investing in permanent segregation."[479]

The community has had little to no improved freedom of movement. Hla Maung said: "Rakhine people can come and work or trade in the Rohingya IDP camp every day. But the Rohingya can't go to the Rakhine ward and Myebon downtown.... We can't access the Myebon general hospital." He added that they were told the Myebon jetty was closed to them "because of security reasons," so they had asked the state government for an alternative option. "The Rakhine State government still hasn't responded to our request for a safe travel plan," he said.[480]

Camp residents were forced to accept NVC cards, which have also failed to provide the increased freedoms promised by the government. Rahim Iqbal said: "The authorities also forced us to take NVC cards.... There are still restrictions on movement from one place to another place after the evening. We still cannot go outside the camp to go shopping or buy essentials or do any work."[481]

Humanitarian groups report "no changes in terms of service provision. Both the resettled population and the one still residing in the camp are only able to access mobile clinics and the conditions are unchanged for emergency referrals. [They] are still not able to access Myebon hospital or township services."[482]

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[478] Human Rights Watch telephone interview with Hla Maung, November 11, 2019.

[479] Internal 2019 humanitarian report on file with Human Rights Watch.

[480] Human Rights Watch telephone interview with Hla Maung, November 11, 2019.

[481] Human Rights Watch telephone interview with Rahim Iqbal, October 31, 2019.

[482] Internal 2019 humanitarian report on file with Human Rights Watch.

Construction continued in waves. Authorities declared the camp "closed" in mid-2018, though less than half of the camp had moved into the new houses over a year later.[483] Some families chose to move to Sin Tet Maw camp in Pauktaw rather than remain in what they viewed to be a permanent internment camp.[484]

National Camp Closure Strategy

In November 2019, the government, led by the minister for social welfare, relief and resettlement, Win Myat Aye, adopted the "National Strategy on Resettlement of Internally Displaced Persons (IDPs) and Closure of IDP Camps," which includes Kachin, Karen, and Shan States in addition to Rakhine. The former UN representative on IDPs, Walter Kalin, was recruited to support the drafting effort, and the government held a series of consultation meetings with the UN and several INGOs to solicit input. The process, however, again failed to meaningfully involve affected communities, and the resulting document was unsubstantial.[485]

The strategy fails to acknowledge the issues of citizenship and marginalization that lie at the root of the problem it seeks to address. Its focus is on resettling the Rohingya without establishing as a primary objective their return to their areas of origin. There is likewise no mention of protecting the housing, land, and property rights in places of origin or the land currently used. Further, the strategy outlines a highly bureaucratic plan for carrying out the actual implementation of the camp closures.[486]

A 2020 UN analysis of the document concluded: "The implementation of the strategy, in of itself, will unlikely resolve the fundamental issues that led to the displacement crisis in Rakhine state."[487]

The "closure" processes on the ground remained underway as the national strategy was being developed. "These are top-level processes, just a smokescreen," a humanitarian

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[483] Human Rights Watch telephone interview with humanitarian worker, January 2020.

[484] Center for Operational Analysis and Research, Community Analysis Support System, "Information Ecosystems Paper 2: southern Rakhine," June 2020.

[485] "National Strategy on Resettlement of Internally Displaced Persons (IDPs) and Closure of IDP Camps," 2019, Ministry of Social Welfare, Relief and Resettlement.

[486] Ibid.

[487] Internal January 2020 UN analysis on file with Human Rights Watch.

worker said of the strategy development.[488] In his remarks at the third workshop on the strategy, then-UN Resident and Humanitarian Coordinator Knut Ostby called for the closures in central Rakhine to be halted:

> As the government is finalizing the National Strategy, we would like to reiterate our call to suspend the camps closure process until the strategy is completed, in particular in central Rakhine. In the absence of sufficient attention to the needs, choices and rights of the IDPs, and without adequate consultations, this process may not lead to sustainable solutions.[489]

UN and INGO staff involved in the process expressed concern that their participation is being coopted by the government on the pretext of progress that will not impact the situation on the ground.[490] "Of course it will be manipulated," an INGO worker said, "but we can't cut ourselves out of the process."[491]

In January 2020, the government announced it would move ahead with closing Kyauk Ta Lone camp, the first to be "closed" since the strategy was finalized. In the months since, little to none of the strategy's rights-based rhetoric has been implemented.

In "closing" Kyauk Ta Lone, the government has sidestepped meaningful consultations and disregarded the community's expressed desire to return home. Instead, it is again building permanent housing on flood-prone farmland near the current camp.

Most of the Kyauk Ta Lone camp population lived in the town of Kyaukpyu only a few kilometers from the camp site prior to 2012, and has long sought to return home. The authorities have refused. "The government said, 'You have to stay away from the village, the situation is getting worse,'" a community leader said. "Their houses were not burned,

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[488] Human Rights Watch interview with humanitarian worker, Yangon, April 4, 2019.

[489] Knut Ostby, "Opening Remarks at the Third Workshop on the National Strategy on Closure of IDP camps," United Nations Myanmar, Naypyidaw, April 9, 2019, http://mm.one.un.org/content/unct/myanmar/en/home/news/opening-remarks-by-acting-un-resident-and-humanitarian-coordinat.html (accessed September 1, 2019).

[490] Human Rights Watch interview with humanitarian workers, Yangon, March-April 2019.

[491] Human Rights Watch interview with humanitarian worker, Yangon, April 4, 2019.

but they are not allowed to go back. Now there are Rakhine living in their houses, or they took pieces of their houses, their windows."[492]

Kaman and Rohingya living in Kyauk Ta Lone camp protested the plan to relocate them after the site was identified on isolated and unsuitable land in January.[493] When construction began in April, they raised their concerns again with the General Administration Department. Yet no meaningful consultations took place. They have reported facing increased threats and pressure to relocate, including losing permission to leave the camp for day labor.[494] Construction is ongoing, with 2 billion kyat ($1.4 million) reportedly allocated to the project from the government's emergency fund.[495]

The UN High Commissioner for Human Rights raised serious concerns about the Kyauk Ta Lone closure in a September 2020 report: "The relocation site currently under construction is near the existing camp, and is prone to flooding, and job opportunities, health care and education are inaccessible. This proposal threatens permanent segregation and ghettoization of the displaced persons concerned."[496]

Concerns about Humanitarian Complicity

In its September 2018 report, the UN-backed Fact-Finding Mission stated: "Myanmar was repeatedly identified as a situation that required the 'whole of UN,' human rights driven, response to crises set out in the [Human Rights up Front] Action Plan. This approach was rarely, if ever, pursued."[497] It recommended a "comprehensive, independent inquiry into the United Nations' involvement in Myanmar since 2011, with a view to establishing whether everything possible to prevent or mitigate the unfolding crises was done."[498]

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[492] Human Rights Watch interview with Kaman community leader, November 9, 2018.

[493] Kyauk Ta Lone camp residents video briefing on relocation, Khit Thit Media, Facebook page, June 6, 2020, https://www.facebook.com/story.php?story_fbid=2547729558047 98&id=385165108587508 (accessed September 2, 2020).

[494] CARE International et al., "Three Years On: Prospects for durable solutions and justice remain elusive for Rohingya," August 24, 2020; Center for Operational Analysis and Research, Community Analysis Support System, "CASS Weekly Update, 2-8 April 2020," April 29, 2020.

[495] "ရခိုင်ရှိ ဒုက္ခသည်စခန်းတစ်ခု ပြောင်းရွှေ့တည်ဆောက်ရန် ကျပ်သန်း ၂၀၀၀ ကျော်သုံးမည်," *Myanmar Now*, May 21, 2020, https://myanmar-now.org/mm/news/3784 (accessed September 2, 2020).

[496] UN Human Rights Council, "Situation of human rights of Rohingya Muslims and other minorities in Myanmar," Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/45/5, September 3, 2020.

[497] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, September 2018, para. 1559.

[498] Ibid., para. 1706.

Accordingly, the UN commissioned an independent investigation into its own involvement in Myanmar, led by Gert Rosenthal. The report, released in May 2019, outlined the UN's "systemic and structural failures" to prevent or mitigate the atrocities committed in Myanmar. It highlighted the dangers of "mixed and incomplete signals coming from the field" in undercutting the UN's ability to act decisively in the face of a human rights crisis. It concludes that "there simply is no way to reconcile the extreme limitations imposed on the Rohingya community with international humanitarian and human rights norms and legislation."[499]

The UN and other international actors' approach to the Myanmar context, in particular with regard to the Rohingya, has been the focus of many critical analyses, which highlight the damage wrought by the international community's "business as usual approach"—the privileging of "quiet diplomacy" over "outspoken advocacy," self-censorship, and complicity in ethnic cleansing.[500] In a 2018 report, analyst Liam Mahony writes:

> The UN, INGOs and donors have been subsidizing apartheid and detention camps imprisoning over 100,000 people for 6 years, thus facilitating the government's policy of segregation and ethnic cleansing. It is not a small subsidy: the internationals pay the bills for these prisons, and provide and pay for their staffing. When international staff in Rakhine refer to themselves cynically as "jailers," they wish they were joking.[501]

While concerns of humanitarian complicity in supporting the central Rakhine camps and Rohingya detention has been raised for years, the government's camp "closure" process prompted a more formal discussion among humanitarian organizations about changing course. "The camp closures have been a trigger point," a humanitarian worker said. "It's a line to draw around extracting ourselves from an apartheid system."[502]

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[499] Gert Rosenthal, "A Brief and Independent Inquiry into the Involvement of the United Nations in Myanmar from 2010 to 2018," May 2019, https://www.un.org/sg/sites/www.un.org.sg/files/atoms/files/Myanmar%20Report%20-%20May%202019.pdf (accessed September 1, 2019).

[500] This report is only exploring the issue as it relates to the current context in central Rakhine State and the humanitarian community's shifting approach. For further exploration, please see the Gert Rosenthal report and Fieldview Solutions reports from 2015 and 2018.

[501] Liam Mahony, "Time to Break Old Habits: Shifting from Complicity to Protection of the Rohingya in Myanmar," Fieldview Solutions, June 2018, p. 9.

[502] Human Rights Watch interview with humanitarian worker, Yangon, April 4, 2019.

A September 2018 Humanitarian Country Team discussion note stated:

> For the past six years, the emphasis on the *humanitarian imperative* has led humanitarian organizations to compromise other key principles, including the *do no (further) harm*, without alleviating suffering in the long term. The very short-term humanitarian vision, despite being well-intentioned, resulted in *de facto* support of the government's policy of segregation and detention sites.…
>
> Despite all efforts by the humanitarian and international community at large to support Government-led initiatives to improve the camp closure process … the only scenario that is unfolding before our eyes is the implementation of a policy of apartheid with the permanent segregation of all Muslims, the vast majority of whom are stateless Rohingya, in central Rakhine.…
>
> The humanitarian community should re-set its strategy for central Rakhine and consider implementing drastic measures.… The new strategy should be centred on holding the Government accountable and taking responsibility for the protection and assistance of people within its territory, in a much stronger fashion than before.[503]

UN agencies and INGOs are not aligned in their take on the "humanitarian imperative" versus "avoiding complicity" debate, or how to avoid making the same mistakes as were made in 2012. "Do you really want to invest millions in making concentration camps better? That is the question we're facing," one UN officer said. "Hell is paved with good intentions. You are helping them become permanent detainees.… Plenty of people say, 'the humanitarian imperative beats all else.' They say, 'a latrine is a latrine.' But no, a latrine in an IDP camp is not a latrine in a concentration camp."[504]

[503] Internal discussion note for Humanitarian Country Team meeting, September 26, 2018 (copy on file with Human Rights Watch).

[504] Human Rights Watch interview with humanitarian worker, Yangon, November 16, 2018.

Another said: "Yes, we don't want to build infrastructure that contributes to this permanent segregation—but people still need a place to shit."[505]

Said one INGO worker:

> When we started in 2013, the question was, if we go are we just sticking on plaster. Five years later we're still there. Yeah, we're sustaining life, but not doing much more.… There's a conflict between short-term and long-term goals. When you're on a micro level, you're just trying to get the job done. The long term—no one's gotten that right.[506]

This tension was reflected in conversations with Rohingya. Hamida Begum described the limited impact of the basic camp services:

> Do you think only tube wells and shelters inside the camp is enough to live our lives? We couldn't go to the market to get the items we needed, couldn't eat properly, couldn't move freely anywhere. We were in turmoil 24 hours a day.[507]

In March 2019, the UN Humanitarian Country Team endorsed a set of operating principles for working in camps declared "closed." The five key principles include the decision to halt involvement in infrastructure work in "closed" camps and to condition the delivery of non-lifesaving activities on the government's concrete progress on freedom of movement. The position also calls for increased advocacy on human rights and greater coherence between engagement with the Myanmar government and operations on the ground.[508]

INGO staff involved in the process, however, report that little progress has been made in upholding the principles, monitoring the government's actions, or implementing the

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[505] Human Rights Watch interview with humanitarian worker, Yangon, November 4, 2018.

[506] Human Rights Watch interview with humanitarian worker, Yangon, November 6, 2018.

[507] Human Rights Watch interview with Hamida Begum, Cox's Bazar, September 9, 2020.

[508] Protection Sector, "'Closure of Camps' or Permanent Segregation? Internally Displaced Persons at a Cross-Roads in Rakhine State," Operating Principles in Displacement Sites Declared "Closed" by the Government in Central Rakhine, January 2019; "Implementation of Operating Principles For Humanitarian Engagement In Displacement Sites Declared 'Closed' by the Government in Rakhine," Guidance Note, March 2019 (copies on file with Human Rights Watch).

phasing out of non-lifesaving activities as planned, which has been further impeded by the Arakan Army conflict and Covid-19.[509]

[509] Human Rights Watch telephone interviews with humanitarian workers, Yangon, September 2019 and March 2020.

VII. Rights of Displaced Persons under International Law

The various international legal protections afforded internally displaced persons (IDPs) under international law can be found in the United Nations Guiding Principles on Internal Displacement (the "Guiding Principles"), which reflect and are consistent with international human rights, humanitarian, and refugee law as it relates to the protection of internally displaced people.[510]

The Guiding Principles apply to all phases of displacement, including "guarantees during return or alternative settlement and reintegration."[511] They provide that displaced people "shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced."[512]

Freedom of Movement and Detention

It is a well-established principle of international law that any person who is lawfully in the territory of a state should enjoy the right to freedom of movement and residence within that state. This principle is enshrined in article 13 of the Universal Declaration of Human Rights (UDHR) and article 12 of the International Covenant on Civil and Political Rights (ICCPR). Under international human rights law, no restrictions on the right to freedom of movement may be imposed, including on non-citizens, except if "provided by law" and "necessary to protect national security, public order, public health or morals or the rights and freedoms of others."[513]

The overarching principle of nondiscrimination also applies to the realization of the right to freedom of movement. The statelessness of a person resulting from the arbitrary

[510] UN Guiding Principles on Internal Displacement ("Guiding Principles"), E/CN.4/1998/53/Add.2, November 11, 1998, introduction.

[511] Guiding Principles, introductory note, art. 9.

[512] Guiding Principles, principle 1.

[513] International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art. 12(3).

deprivation of nationality cannot be invoked as a justification for the denial of other human rights, including freedom of movement.[514]

Principle 12 of the Guiding Principles provides:

> 1. Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.
> 2. To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.[515]

Such exceptional circumstances do not exist in Rakhine State.

The UN Human Rights Committee has suggested that detention occurs whenever someone is confined to a "specific, circumscribed location."[516] The UN Working Group on Arbitrary Detention has said that detention is "the act of confining a person to a certain place … and under restraints which prevent him from living with his family or carrying out his normal occupational or social activities."[517]

The confinement of Rohingya to the central Rakhine camps constitutes detention because of the specific circumscribed location and the prevention of their carrying out of normal occupational and social activities.

Further, the confinement violates the international legal prohibition on arbitrary detention. The Working Group on Arbitrary Detention has defined deprivation of liberty as arbitrary, among other things, "when it is clearly impossible to invoke any legal basis justifying the

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[514] See Right to Nationality, below.

[515] Guiding Principles, principle 12.

[516] Human Rights Committee, Decision: *González del Río v. Peru*, CCPR/C/46/D/263/1987, http://www1.umn.edu/humanrts/undocs/html/263-1987.html (accessed July 13, 2020), para. 5.1.

[517] Working Group on Arbitrary Detention, "Compilation of Deliberations," October 17, 2013, http://www.ohchr.org/Documents/Issues/Detention/CompilationWGADDeliberation.pdf (accessed July 13, 2020), p. 6.

deprivation of liberty."[518] The Rohingya in central Rakhine State are being held indefinitely, for no lawful purpose, and have no effective remedy to challenge their detention.

Humanitarian Aid

Under the Guiding Principles, the Myanmar government has the "primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons," and IDPs have the "right to request and to receive protection and humanitarian assistance" from Myanmar authorities.[519]

If the Myanmar authorities do not provide assistance, then aid agencies "have the right to offer their services in support of the internally displaced.... Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.... All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced."[520]

Humanitarian assistance shall not be diverted, particularly for political or military reasons.[521] International humanitarian organizations providing assistance to IDPs are expected to respect the human rights and protection needs of IDPs, and to adhere to relevant international standards and codes of conduct.[522]

Regarding the type of assistance to which all IDPs are entitled, the Guiding Principles make clear that "at a minimum, regardless of the circumstances," they shall receive help to ensure safe access to essential food and potable water; basic shelter and housing; appropriate clothing; and essential medical services and sanitation.[523]

The principles also set out the rights of special groups, such as "children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons," to receive assistance "required

[518] Ibid.
[519] Guiding Principles, principle 3.
[520] Ibid., principle 25.
[521] Ibid., principle 24(2).
[522] Ibid., principle 27(1).
[523] Ibid., principle 18(2).

by their condition and to treatment which takes into account their special needs."[524] The UN High Commissioner for Refugees (UNHCR) has delineated that adequate dwellings in camps and settlements should "provide a covered area that affords dignified living space with a degree of privacy; have sufficient thermal comfort with ventilation for air circulation; provide protection from the elements and natural hazards; [and] ensure that inhabitants, especially women or groups with special needs, are not disadvantaged due to poor accommodation design."[525]

Right to Health

All individuals have the right to enjoy the highest attainable standard of health, a right that has been enshrined in international and regional treaties.[526] According to the UDHR, "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services."[527]

The International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Myanmar is party, similarly guarantees the right of everyone to the highest attainable standard of health, and obligates governments to take steps individually and through international cooperation to progressively realize this right via the prevention, treatment, and control of epidemic diseases and the creation of conditions to assure medical service and attention to all.

In its general comment on the right to health, the UN Committee on Economic, Social and Cultural Rights has stated that "progressive realization" demands of states a "specific and continuing obligation to move as expeditiously and effectively as possible towards the full

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[524] Ibid., principle 4(2).

[525] UNHCR, Practical Guide to the Systematic Use of Standards and Indicators in UNHCR Operations, 2006.

[526] See International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, ratified by Myanmar on October 6, 2017, art. 12; Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, acceded to by Myanmar on July 15, 1991, art. 24; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981, acceded to by Myanmar on July 22, 1997, arts. 11.1(f) and 12; International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted December 21, 1965, G.A. Res. 2106 (XX), annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, entered into force January 4, 1969, art. 5(e)(iv).

[527] Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948)., art. 25(1).

realization of [the right]."[528] According to the World Health Organization, "When considering the level of implementation of this right in a particular State, the availability of resources at that time and the development context are taken into account. Nonetheless, no State can justify a failure to respect its obligations because of a lack of resources."[529] The concept of available resources is intended to include available assistance from the international community.[530]

To be consistent with the right to health, the health resources provided should be respectful of medical ethics and culturally appropriate. Indeed, "all health facilities, goods and services must be … respectful of the culture of individuals, minorities, peoples and communities, sensitive to gender and life-cycle requirements, as well as being designed to respect confidentiality and improve the health status of those concerned."[531]

The right to health is an "inclusive" right—it includes a range of factors that contribute to living a healthy life. The Committee on Economic, Social and Cultural Rights calls these the "underlying determinants of health." They include safe drinking water and adequate sanitation; safe food; adequate nutrition and housing; healthy working and environmental conditions; health-related education and information; and gender equality. [532] All services, goods, and facilities must be available, accessible, acceptable, and of good quality.[533]

Equality and Nondiscrimination in Access to Health Care

The ICESCR prohibits discrimination based on—among other things—race, language, religion, social origin, and birth or other status, which includes ethnic minorities and internally displaced persons. The committee has stressed each state's obligation to make health facilities and services accessible to everyone within the state's jurisdiction without discrimination, particularly the most vulnerable, so that health facilities, goods, and services are within safe physical reach of "all sections of the population, especially

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[528] UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 14: The right to the highest attainable standard of health, November 8, 2000, paras. 12, 31. The Committee on Economic, Social and Cultural Rights is the UN body responsible for monitoring compliance with the International Covenant on Economic, Social and Cultural Rights.

[529] OHCHR and WHO, "The Right to Health: Fact Sheet No. 31," June 200, p. 5.

[530] See Ryszard Cholewinski, "Economic and Social Rights of Refugees and Asylum Seekers in Europe," *Georgetown Immigration Law Journal*, pp. 714-719.

[531] CESCR, General Comment No. 14 on the Right to Health, para. 12(c).

[532] Ibid., para. 4.

[533] Ibid., para. 12(d).

vulnerable or marginalized groups, such as ethnic minorities and indigenous populations, women, children, adolescents, older persons, persons with disabilities and persons with HIV/AIDS."[534]

The Committee on Economic, Social and Cultural Rights has stated that governments must provide certain core obligations as part of the right to health, including ensuring nondiscriminatory access to health facilities, particularly for vulnerable or marginalized groups; providing essential drugs; ensuring equitable distribution of all health facilities, goods, and services; adopting and implementing a national public health strategy and plan of action with clear benchmarks and deadlines; and taking measures to prevent, treat, and control epidemic and endemic diseases.[535] While the committee notes the progressive nature of the right to health, it also directs governments to immediately take steps to realize the right to health, and immediately guarantee the exercise of the right without discrimination of any kind.[536]

The Guiding Principles reinforce the obligation that special attention "be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counseling for victims of sexual and other abuses."[537]

As a state party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Myanmar is obligated to take "all appropriate measures" to eliminate discrimination against women in the field of health and ensure equal access to healthcare services. In particular, states should provide "appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation."[538]

Importantly, the Committee on Economic, Social and Cultural Rights has said that the obligation to ensure reproductive, maternal, and child health care is of "comparable

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[534] Ibid., para. 12(b).
[535] Ibid., para. 43.
[536] Ibid., para. 30.
[537] Guiding Principles, principle 19(2).
[538] CEDAW, art. 12.

priority" to the non-derogable core obligations under the International Covenant on Economic, Social and Cultural Rights.[539]

Right to Return Home

Under international law, displaced persons have the right to return to their homes or places of habitual residence. Principle 28 of the Guiding Principles states:

> Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.[540]

In 1998, the UN Sub-Commission on the Promotion and Protection of Human Rights, which operated under the former Commission on Human Rights, reaffirmed "the right of all refugees and internally displaced persons to return to their homes and places of habitual residence in their country and/or place of origin, should they so wish."[541] The Security Council and other UN bodies have also repeatedly asserted the right of internally displaced persons to return to their former homes. The Security Council in Resolution 820 states that "all displaced persons have the right to return in peace to their former homes and should be assisted to do so."[542]

Regarding return, resettlement, and reintegration, the Guiding Principles provide that special efforts should be made to ensure the full participation of all internally displaced persons in the planning and management of such processes. The participation of women, in particular, is considered essential.[543]

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[539] CESCR, General Comment No. 14 on the Right to Health, paras. 43-44.

[540] Guiding Principles, principle 28.

[541] Sub-Commission on the Promotion and Protection of Human Rights, "Housing and Property Restitution in the Context of the Return of Refugees and Internally Displaced Persons," Resolution 1998/26, August 26, 1998.

[542] UN Security Council, Resolution 820, S/Res/820, April 17, 1993. Similar language by the Security Council affirming this right to return can be found in resolutions addressing the conflicts in Abkhazia and the Republic of Georgia, Azerbaijan, Bosnia and Herzegovina, Cambodia, Croatia, Cyprus, Kosovo, Kuwait, Namibia, and Tajikistan.

[543] Guiding Principles, principle 28.

The right to return needs to be conducted in a manner that does not further violate human rights. The UN Sub-Commission urged "all states to ensure the free and fair exercise of the right to return to one's home and place of habitual residence by all refugees and internally displaced persons and to develop effective and expeditious legal and administrative procedures to ensure the free and fair exercise of this right, including fair and effective mechanisms to resolve outstanding housing and property problems."[544]

Any attempt to redress past abuses or repossess private property should be free of violence, intimidation, and threats. The potential for hostility against Rohingya and Kaman Muslims from local ethnic Rakhine, Buddhist nationalists, state security forces, and government officials remains high, and could complicate returns unless the authorities take proactive measures. To prevent renewed violence and state-sanctioned abuse against the Rohingya, any program to implement the right to return of the displaced communities should ensure that persons who have their claims legally recognized can actually return to their homes in safety.

Moreover, the Myanmar government is obligated to ensure that those who may not have lawful or other rights to dwell within the housing or property registered to returnees do not become homeless or subject to other human rights violations.[545]

Right to Redress

International human rights law generally provides for victims of human rights violations to receive adequate compensation. The Universal Declaration of Human Rights states, "Everyone has the right to an effective remedy by the competent national tribunals" for acts violating fundamental rights.[546]

Internally displaced persons have the right to redress for their losses, including their lands and properties. If displaced persons are unable to return to their homes because their property has been destroyed, they are entitled to compensation. The UN Committee on the Elimination of Racial Discrimination (CERD), in its General Recommendation XXII, states:

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[544] Sub-Commission on the Promotion and Protection of Human Rights, "Housing and Property Restitution in the Context of the Return of Refugees and Internally Displaced Persons," Resolution 1998/26, August 26, 1998.

[545] CESCR, General Comment 7 on Forced Evictions, 1997, para. 16.

[546] UDHR, art. 8.

> All refugees and displaced persons have, after their return to their homes of origin, the right to have restored to them property of which they were deprived in the course of the conflict and to be compensated appropriately for any such property that cannot be restored to them.[547]

The Guiding Principles provide that:

> Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.[548]

IDPs who have been arbitrarily or unlawfully deprived of their liberty, livelihoods, citizenship, family life, and identity also have the right of restitution, which the former UN Commission on Human Rights recognized as an effective remedy for forced displacement.[549]

Right to Nationality

Rohingya's lack of Myanmar citizenship has resulted in their being denied fundamental rights. Addressing the discriminatory provisions in the 1982 Citizenship Law that effectively deny Rohingya citizenship is crucial for ensuring they receive adequate protection and access to justice and compensation for violations of their rights.

Citizenship, or nationality, is a fundamental human right that facilitates the ability to exercise other rights. Article 15 of the UDHR asserts that "everyone has the right to a nationality," and that "no one shall be arbitrarily deprived of his nationality."[550] While

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[547] CERD, General Recommendation XXII, art. 5.

[548] Guiding Principles, principle 29(2).

[549] See, for example, Commission on Human Rights resolutions 2000/41 and 1999/33 recognizing the "right to [property] restitution for victims of grave violations of human rights."

[550] UDHR, art. 15.

states have the right to decide who may be entitled to citizenship, international law limits this discretion, particularly where an individual would otherwise be stateless. Former special rapporteur on the rights of non-citizens, David Weissbrodt, stated:

> At the very least, a person should be eligible for the citizenship of the country with which she or he has the closest link or connection. A substantial link or connection to a state can be forged by, for example, long-term habitation in a state without a more substantial link to another state, descent from a state's citizen, birth within a state's territory, or citizenship in a country's former federal state.[551]

Article 24 of the International Covenant on Civil and Political Rights specifies that states must protect children against statelessness, asserting that "every child has the right to acquire a nationality."[552] While Myanmar is not a state party to the ICCPR, the UN has established that the right to a nationality is a fundamental right. The Convention on the Rights of the Child (CRC), ratified by Myanmar in 1991, affirms this right, adding that "the child shall be registered immediately after birth," and noting a particular obligation on states parties to ensure implementation of the rights in the convention, including the right to acquire a nationality "where the child would otherwise be stateless."[553]

The right to nationality without arbitrary deprivation is recognized as a basic human right under international law, which imposes the general duty on states not to create statelessness. The primary international legal instruments addressing the issue of statelessness are the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. These conventions provide for the acquisition or retention of nationality by those who would otherwise be stateless and who have an effective link with the state through factors of birth, descent, or residency. The 1954 convention defines a "stateless person" as someone "who is not considered a national by any State under the operation of its law."[554]

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[551] David S. Weissbrodt, *The Human Rights of Non-Citizens* (New York: Oxford University Press, 2008), p. 108.

[552] ICCPR, art. 24.

[553] CRC, art. 7.

[554] Convention relating to the Status of Stateless Persons, 360 U.N.T.S. 117, entered into force June 6, 1960, art. 1.

Under article 1 of the 1961 convention, a state "shall grant its nationality to a person born in its territory who would otherwise be stateless."[555] Article 8 prohibits the deprivation of nationality if it results in statelessness, and article 9 prohibits the discriminatory deprivation of nationality.[556] While Myanmar is not a party to these conventions, the general principles embodied in the conventions are drawn from the basic provisions found in nationality legislation and practice of the majority of states. The conventions, therefore, reflect an international consensus on the minimum legal standards of nationality, thus are regarded as customary international law. In addition, provisions in other conventions support the principles underlying the instruments on statelessness.

The International Court of Justice has defined nationality as "a legal bond having as its basis a social fact of attachment, a genuine connection of existence, interests and sentiments."[557] A "genuine and effective link," as the "real and effective nationality" has been termed, is determined by considering factors laid out in the court's pivotal *Nottebohm* case, including the "habitual residence of the individual concerned but also the centre of interests, his family ties, his participation in family life, [and] attachment shown by him for a given country and inculcated in his children."[558]

Under international law, states are obligated to avoid acts that would render stateless anyone who has a genuine and effective link to that state. A 2009 UN secretary-general report on human rights and the arbitrary deprivation of nationality states that "regardless of the general rules regulating nationality issues at the domestic level, States should ensure that safeguards are in place to ensure that nationality is not denied to persons with relevant links to that State who would otherwise be stateless."[559]

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[555] Convention on the Reduction of Statelessness, 989 U.N.T.S. 175, entered into force December 13, 1975, art. 1.

[556] Art. 8(1) provides that "a Contracting State shall not deprive a person of his nationality if such deprivation would render him stateless"; art. 9 provides that "a Contracting State may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds."

[557] Nottebohm Case (*Liechtenstein v. Guatemala*), Second Phase, ICJ, 1955.

[558] Ibid. In the Nottebohm Case, the court developed this analysis to determine an individual's nationality.

[559] UN Human Rights Council, Human Rights and Arbitrary Deprivation of Nationality, Report of the Secretary-General, A/HRC/13/34, December 14, 2009, para. 36.

States are obligated to ensure that individuals arbitrarily deprived of nationality, such as the Rohingya, have access to effective remedy.[560]

Human Rights Protections while Stateless

As a state party to the ICESCR and the CRC, Myanmar must protect the rights of all persons, including non-citizens, to health, education, and work.[561]

The 1954 Convention relating to the Status of Stateless Persons calls upon states to afford stateless persons who are habitual residents of their territory the same treatment as their own nationals in areas such as access to primary education and health care, and the same treatment as foreign residents in areas such as access to secondary and higher education, the right to legal employment, and the right to own property.

International law prohibiting discrimination requires states to take particular care in protecting the rights of vulnerable and marginalized populations, such as stateless persons. In practice, many states discriminate between citizens and non-citizens in their provision of social services. However, international legal experts have repeatedly stressed that governments may make distinctions between citizens and non-citizens only in exceptional circumstances when protecting ICESCR rights.[562]

International law protects the Rohingya's right to civil documentation, including passports and birth, marriage, and death certificates, and their rights to access to health care,

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[560] ICCPR, art. 2(3); UNHCR, "Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness," HCR/GS/20/05, May 2020, paras. 106-108. The Guidelines affirm: "States should also ensure that persons arbitrarily deprived of nationality have practical access to an effective remedy, and that the remedy consists of restoration of nationality and compensation. States are encouraged to ensure that restoration of nationality as a remedy for arbitrary deprivation of nationality is automatic, and preferably with retroactive effect to the moment of deprivation. Where proof of identification is necessary to procure an effective remedy, States should adopt flexible rules of evidence as withdrawal of nationality may hamper an individual's ability to produce such documentation. For example, witness testimony or reliance on other sources of documentary evidence could be permitted in place of identity documents. Where withdrawal of nationality is linked to past persecution against a particular group within the society of a State, the State is encouraged to implement a simple, non-discretionary application procedure for individuals from this group to re-acquire nationality."

[561] ICESCR, arts. 7, 12, 13; CRC, arts. 24, 28.

[562] See, for example, the final report of the UN special rapporteur on the rights of non-citizens: "All persons should by virtue of their essential humanity enjoy all human rights unless exceptional distinctions … serve a legitimate State objective and are proportional to the achievement of that objective.… There is a large gap between the rights that international human rights law guarantees to non-citizens and the realities they must face." Final Report on the Rights of Non-Citizens, E/CN.4/Sub.2/2003/23 (2003), pp. 1-2.

education, and work, as well as the right to own property. In practice, because nationality remains the gateway to access other rights—the right to have rights—the Rohingya remain particularly vulnerable to rights deprivation.

VIII. Crimes under International Law

Crimes against Humanity

The Myanmar government and military have subjected the Rohingya Muslim population to a wide range of crimes against humanity, including murder, torture, and deportation from the country, during periods of extensive violence in 2012, 2016, and 2017. This section looks at additional crimes against humanity committed against the populations that have remained in Myanmar during comparatively peaceful periods.

Human Rights Watch found that the Rohingya living in Rakhine State have suffered what amounts to crimes against humanity of persecution and apartheid, as well as the crimes against humanity of severe deprivation of physical liberty, forcible transfer of the population, and other inhumane acts causing great suffering under the Rome Statute of the International Criminal Court (ICC).[563]

The concept of crimes against humanity dates to at least 1915 and was part of the 1945 Charter of the International Military Tribunal that created the Nuremberg trials of Nazi leaders.[564]

Under the Rome Statute of the ICC, crimes against humanity are a group of serious offenses, including apartheid and persecution, that are knowingly committed as part of a widespread or systematic attack against any civilian population. "Widespread" refers to the scale of the acts or number of victims.[565] A "systematic" attack indicates a pattern or methodical plan.[566] Crimes against humanity can be committed during peace time as well as during armed conflict, so long as they are directed against a civilian population.

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[563] Rome Statute of the International Criminal Court (Rome Statute), art. 7(1).

[564] History of the United Nations War Crimes Commission and the Development of the Laws of War (1943), p. 179, qtd. in Rodney Dixon, "Crimes against humanity," in Otto Triffterer (ed.), *Commentary on the Rome Statute of the International Criminal Court* (Baden-Baden: Nomos Verlagsgesellschaft, 1999), p. 123.

[565] See *Prosecutor v. Akayesu*, International Criminal Tribunal for Rwanda (ICTR). Akayesu defined widespread as "massive, frequent, large scale action, carried out collectively with considerable seriousness and directed against a multiplicity of victims." *Prosecutor v. Akayesu*, ICTR Trial Chamber, September 2, 1998, para. 579; see also Kordic and Cerkez, ICTY Trial Chamber, February 26, 2001, para. 179, and Kayishema and Ruzindana, ICTR Trial Chamber, May 21, 1999, para. 123.

[566] See *Prosecutor v. Tadic*, International Criminal Tribunal for the former Yugoslavia (ICTY), para. 648. In Kunarac, Kovac, and Vokovic, para. 94, the Appeals Chamber stated that "patterns of crimes—that is the non-accidental repetition of similar criminal conduct on a regular basis—are a common expression of [a] systematic occurrence."

The Rome Statute defines "attack" to mean that the crime needs to be committed as part of a policy of the state or of an organized group. The policy requirement, along with the need for such crimes to be widespread or systematic, limits crimes against humanity to the worst cases. All states have an obligation to ensure that crimes against humanity are punished and that those responsible are held accountable.

The Myanmar government's actions against the Rohingya since at least 2012 can be considered both a widespread and a systematic attack against a civilian population. Many of their actions reflect state policy.

Persecution

The crime against humanity of persecution can originally be found in the Charter of the International Military Tribunal in 1945, which defined crimes against humanity as including "persecutions on political, racial or religious grounds."[567] The Rome Statute defines persecution as the intentional and severe deprivation of fundamental rights contrary to international law by reason of "the identity of the group or collectivity," including on national, religious, or ethnic grounds.[568]

The crime of persecution consists of an act or omission that entails actual discrimination and denies a fundamental human right, and was carried out deliberately with the intention of discriminating on one of the recognized grounds. These include for political, national, ethnic, and religious reasons. Persecutory acts have been found to include murder, sexual assault, beatings, destruction of livelihood, and deportation and forced transfer, among others.

Both acts of violence and other apparently discriminatory actions—such as the deprivation of Rohingya's access to livelihoods or food—may be considered acts of persecution that amount to crimes against humanity.

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[567] Charter of the International Military Tribunal (Nuremberg), 1945, art. 6.

[568] Rome Statute, arts. 7(1)(h) and 7(2)(g). The Rome Statute expanded the definition of persecution to include national, ethnic, cultural, gender, and "other grounds." However, it also introduced a limitation on the application of the crime to only apply "in connection with" other ICC crimes. Antonio Cassese, a prominent international criminal lawyer and judge in the leading case on the crime of persecution, defined persecution under customary international law as being acts that a) result in egregious violations of fundamental human rights; b) are part of a widespread or systematic practice; and c) are committed with discriminatory intent. See Cassese, *International Criminal Law*, p. 125.

Apartheid

The Convention on the Suppression and Punishment of the Crime of Apartheid (the "Apartheid Convention"), which came into force in 1973, states that apartheid is a crime against humanity. The treaty defines the crime of apartheid as "including similar policies and practices of racial segregation and discrimination as practiced in southern Africa"[569] and applies to a listed group of "inhumane acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them."[570]

These acts include the denial to members of a racial group the right to life and liberty by murder, infliction of serious bodily or mental harm, infringement of their freedom or dignity, torture or ill-treatment, or arbitrary arrest or detention, as well as the imposition of living conditions calculated to cause their physical destruction.[571]

Prohibited acts also include legislative and other measures calculated to prevent members of the racial group from participating in the political, social, economic, and cultural life of the country, and the deliberate creation of conditions preventing their full development, in particular by denying them their basic human rights and freedoms, including the right to work; to education; to leave and to return to their country; to a nationality; to freedom of movement and residence; to freedom of opinion and expression; and to freedom of peaceful assembly and association.[572]

In addition, acts of apartheid include legislative or other measures designed to "divide the population along racial lines by the creation of separate reserves and ghettos" for members the racial group; the prohibition of mixed marriages; the expropriation of property; and having racial group members submit to forced labor.[573]

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[569] Apart from South Africa, practices of racial segregation and discrimination in southern Africa in 1973 would have included Rhodesia (now Zimbabwe), Namibia (then controlled by South Africa), and the Portuguese colonies of Mozambique and Angola.

[570] International Convention on the Suppression and Punishment of the Crime of Apartheid (Apartheid Convention), adopted by UN G.A. Res. 3068 (XXVIII) of November 30, 1973, 28 U.N. G.A.O.R. Supp. (No. 30) at 75, U.N. Doc. A/9030 (1973), art. II.

[571] Ibid.

[572] Ibid.

[573] Under the Apartheid Convention, the entire group of crimes making up the crime against humanity of apartheid is: Denial to a member or members of a racial group or groups of the right to life and liberty of person; By murder of members of a racial group or groups; By the infliction upon the members of a racial group or groups of serious bodily or mental harm, by the

The Rome Statute lists apartheid as one of 11 distinct crimes against humanity. The crime of apartheid includes inhumane acts similar to the other named crimes against humanity in the treaty that are "committed in the context of an institutionalised regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime."[574]

Myanmar is not party to either the Apartheid Convention or the Rome Statute of the ICC. There is strong support for the crime against humanity of persecution being a crime under customary international law.[575] While apartheid is prohibited as a matter of customary law, the crime against humanity of apartheid is less clear.[576]

The terms for the crime against humanity of apartheid used in the Apartheid Convention and the Rome Statute have not been litigated in an international court, so ambiguity as to their meaning remains. Perhaps most important with respect to the situation in Myanmar is the meaning of the term "racial group," and whether the Rohingya population is a racial group distinct from the majority population.

It is not clear whether "racial group," first used in the Apartheid Convention, was intended to mean the same as "race" as broadly defined by the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).[577] One approach would be to

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infringement of their freedom or dignity, or by subjecting them to torture or to cruel, inhuman or degrading treatment or punishment; By arbitrary arrest and illegal imprisonment of the members of a racial group or groups; Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part; Any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including the right to work, the right to form recognised trade unions, the right to education, the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association; Any measures including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof; Exploitation of the labour of the members of a racial group or groups, in particular by submitting them to forced labour; and Persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid. Ibid.

574 Rome Statute, art. 7(2)(h).

575 See Cassese, *International Criminal Law*, p. 125.

576 See Paul Eden, "The Practices of Apartheid as a War Crime: A Critical Analysis," Yearbook of International Humanitarian Law, January 2015, pp. 17-18.

577 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted December 21, 1965, G.A. Res. 2106 (XX), annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, entered into force January 4, 1969.

use the "narrow" interpretation of "racial group," based on the presumed intentions of the drafters of the Apartheid Convention, who may have intended to limit "racial group" solely to divisions of color. The drafters of the convention arguably used "racial group" rather than "race" to distinguish the term from ICERD's broad definition of race, which is not referenced in the Apartheid Convention. Additionally, some states during the drafting of the Apartheid Convention spoke about the distinction between racial groups being based on color.[578] The text of the convention makes specific reference to the practices and policies of racial segregation and discrimination as practiced in southern Africa in the 1970s.[579]

The second approach would be a "broad" interpretation of "racial group," based on the progressive development of the term's meaning similar to that of "racial discrimination" as it is used in ICERD. ICERD defines "racial discrimination" to mean "any distinction, exclusion, restriction or preference *based on race, colour, descent, or national or ethnic origin*" that has the purpose or effect of nullifying or impairing human rights and fundamental freedoms.[580] The Apartheid Convention mentions ICERD in its preamble, and such an approach would give coherence to the meaning of "race" across international law.

While there have been no international court cases concerning the crime against humanity of apartheid, there have been some rulings before the international tribunals for Rwanda and the former Yugoslavia concerning the definition of "racial group" in the crime of genocide. The Rwanda tribunal ultimately said that the conception of racial group "should be considered 'on a case-by-case basis,' with each 'assessed in the light of a particular political, social and cultural context.'"[581] The Yugoslavia tribunal stated that a racial or other group "is identified by using as a criterion the stigmatisation of the group, notably by the perpetrators of the crime, on the basis of its perceived national, ethnical, racial or religious characteristics."[582]

Additional terms used in the Rome Statute definition—requiring that the crime be committed "in the context of an institutionalized regime of systematic oppression" and

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[578] UN General Assembly, Report of the Third Committee, UN GAOR 28th Session UN Doc A/9326 (1973), para. 14.

[579] Apartheid Convention, art. II.

[580] ICERD, art. 1 (emphasis added).

[581] *Prosecutor v. Rutaganda*, Case No. ICTR-96-3, Trial Judgment, December 6, 1999, paras. 57, 55.

[582] *Prosecutor v. Blagojevic and Jokic*, Case No. IT-02-60-T, Trial Judgment, January 17, 2005, para. 667.

"with the intention of maintaining that regime"—have not been litigated. The language would appear to limit the crime's application to states, excluding non-state groups promoting racial supremacy, and to the worst institutionalized instances of racial domination.

The Apartheid Convention calls on states parties to prosecute those who commit the crime and over whom they have jurisdiction, as well as to take other measures aimed at "prevention, suppression and punishment" of the crime.

Apartheid and the Rohingya

The Apartheid Convention applies to "inhumane acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them."[583]

As the term "racial group" has been defined by ICERD and ad hoc international criminal tribunals, the Rohingya, as an ethnic and religious group, should be considered a distinct racial group for purposes of the Apartheid Convention. Myanmar government laws and policies on the Rohingya community, notably their long-term and indefinite confinement in camps and villages, and regime of restrictions on movement, citizenship, employment, housing, health care, and other fundamental rights, demonstrates an intent to maintain domination over them. The adoption of many of these practices into state regulations and official policies and their enforcement by state security forces shows an intent for this oppression to be systematic.

Specific inhumane acts applicable to the government's apartheid system include denial of the right to liberty; infringement of their freedom or dignity causing serious bodily or mental harm; and illegal imprisonment. Various governmental measures appear calculated to prevent members of the Rohingya population from participation in the political, social, and economic life of the country, and deny group members their rights to work, to education, to leave and return to their country, to a nationality, and to freedom of movement and residence. The government has also imposed measures designed to divide the population along racial lines by the "creation of separate reserves and ghettos" for the Rohingya and the expropriation of property.

[583] Apartheid Convention, art. II.

These inhumane acts in Rakhine State amount to a regime of apartheid against the Rohingya.

Other Crimes against Humanity

In addition to persecution and apartheid, the Rome Statute sets out other crimes against humanity that may apply to Rohingya currently living in Myanmar.

Forcible transfer of a population relates to displacements within a state. The Rome Statute defines deportation and forcible transfer as the "forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law."[584] The crime of forcible transfer includes "the full range of coercive pressures on people to flee their homes, including death threats, destruction of their homes, and other acts of persecution such as depriving members of a group of employment, denying them access to schools, and forcing them to wear a symbol of their religious identity."[585]

During the various campaigns of ethnic cleansing in 2012, 2016, and 2017, the Myanmar government's policy of deportations and forced transfer appears aimed at permanently removing Rohingya and other Muslims from their places of residence in Rakhine State to either locations outside of Myanmar or other parts of Rakhine State, thus changing the state's demographic nature. The apparent goal of the majority Buddhist population was to drive out or relocate Muslim populations.

The Rome Statute also defines as a crime against humanity "imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law."[586]

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[584] Rome Statute, art. 7(2)(d).

[585] Christopher K. Hall in Otto Triffterer (ed.), *Commentary on the Rome Statute of the International Criminal Court* (Baden-Baden: Nomos Verlagsgesellschaft, 1999), p. 162.

[586] Rome Statute, art. 7(1)(e).

Recommendations

To the Government of Myanmar

- End the laws, policies, and practices that have resulted in an apartheid regime against the Rohingya population.
- Respect the right of Rohingya to return voluntarily to their place of origin in safety and dignity, or to a place of choice, and to the return of their property.
- Publicly commit to returning all lands where Rohingya lived before 2012, and develop transparent and time-bound plans for a mechanism to resolve claims about land rights. Ensure adequate compensation for Rohingya for the loss of homes and properties and those arbitrarily or unlawfully deprived of their liberty, livelihoods, citizenship, family life, and identity.
- Repeal all discriminatory national, state, and local regulations, laws, and orders affecting Rohingya and Kaman Muslims. Communicate to central, state, and local governments and the general public that the relevant authorities are to immediately cease all official and unofficial practices related to discriminatory restrictions against Rohingya.
- De-link ethnicity and citizenship, and citizenship and freedom of movement and other basic rights, so that these rights can be effectuated immediately, regardless of citizenship status or ethnicity.
- Ensure that all internally displaced people have equal and nondiscriminatory access to adequate food, shelter, clean water, and other basic assistance and protection services in line with international humanitarian and human rights law, irrespective of religion, ethnicity, or citizenship status.
- Allow international human rights monitors unfettered access to observe, advise, and protect respect for rights in Rakhine State, including during any resettlement and return of Rohingya.
- Establish and fully implement a credible, time-bound, and publicly available strategy toward the comprehensive fulfillment of all recommendations of the Advisory Commission on Rakhine State, including those on access to citizenship, freedom of movement, the elimination of systematic segregation and all forms of discrimination, and inclusive and equal access to health services and education,

with technical assistance from United Nations agencies and in full consultation with ethnic and religious minorities and civil society.

- Commit to and prioritize meaningful consultations with camp and village communities in implementing the recommendations in this report, and ensure all reforms are accompanied by social cohesion initiatives and conflict-sensitive engagement with all communities in Rakhine State.
- Ratify the International Covenant on Civil and Political Rights, the 1951 Convention relating to the Status of Statelessness, the 1961 Convention on the Reduction of Statelessness, and the Rome Statute of the International Criminal Court.

Freedom of Movement

- Lift all arbitrary restrictions on freedom of movement for Rohingya, Kaman, and other minorities, and cease all official and unofficial practices that restrict their movement and livelihoods.
- Remove all checkpoints and roadblocks across Rakhine State that are not strictly necessary for public safety, and ensure any checkpoint stops are carried out without discrimination.
- Allow Rohingya and Kaman to travel freely by removing physical barriers such as barbed wire and other fencing surrounding the camps, as well as checkpoints at entry points to and within camps and other sites of de facto detention such as Aung Mingalar.
- Eliminate mandatory security escorts to move outside of camps; if necessary in certain situations, such protection services should be fully paid for by the state.
- Abolish formal and informal payments to travel outside the camps and through checkpoints, and monitor security guard practices to prevent extortion.
- Abolish the system of travel authorizations that targets Rohingya, including eliminating Form 4s, Village Departure Certificates, and discriminatory documentation requirements.
- Communicate new policies on freedom of movement to local security officials working in and around camp areas, as well as across Rakhine State, and demand nondiscriminatory enforcement.
- Review all curfew orders and lift any that are not strictly necessary to protect public safety. Amend section 144 of the criminal procedure code to reduce the scope and

scale of its application, increase the threshold for emergency orders, and fully return it to the control of the judiciary.

Right to Education

- Establish a path for Rohingya and Kaman children to receive a certified education by accrediting the temporary learning centers in the camps and providing humanitarian groups with staff and resources to adequately offer formal Myanmar curriculum classes.
- Desegregate Rakhine State schools and allow Rohingya and Kaman children to enroll in primary and secondary schools outside the camps.
- Carry out training programs for government and volunteer teachers on establishing an inclusive and tolerant learning environment.
- Provide adequate security for students at schools and traveling to and from schools as needed.
- Reinstate full access to Sittwe University and other higher education facilities for Rohingya students, and allow students who were forced to drop out in 2012 to re-enroll at their prior course level.

Right to Health

- Lift all restrictions on access to hospitals and health centers for Rohingya and Kaman throughout Rakhine State, and ensure equal and unhindered access to care.
- Eliminate the bureaucratic medical referral system that requires authorization to access Sittwe General Hospital, and ensure Rohingya and Kaman urgent access to lifesaving treatment in emergency situations.
- Provide funding or remove financial requirements for traveling to health facilities and receiving care, including costs for security escorts, guards, and hospital services such as phone use, food and medicine, and language interpretation.
- Desegregate the wards at Sittwe General Hospital with support from groups working on inclusion, nondiscrimination, and social cohesion, so that Muslim and Buddhist patients receive equal and integrated care.
- Ensure all blood bank donations are stored anonymously and collectively, without designation based on ethnicity or religion, and grant all patients equal access.

- Ensure Rohingya in the camps have access to free 24/7 ambulance services, operated by staff trained in principles of nondiscrimination, without requiring a mandatory security escort.
- Ensure full access to quality sexual and reproductive health care, including access to contraceptive choice, prenatal care, and emergency obstetric care.
- Take necessary steps to prevent gender-based violence and ensure emergency and trauma-informed health services for survivors.
- Ensure the response to Covid-19 includes targeted prevention and treatment efforts for Rohingya and other displaced populations, including allocating additional space and resources to alleviate overcrowding; improving water, sanitation, and health services; and ensuring nondiscriminatory access to information, aid, testing, and treatment.

Aid and Access

- Grant humanitarian groups and UN agencies immediate, unrestricted, and sustained access to Rakhine State.
- Ensure that humanitarian groups are able to perform their work without arbitrary government interference. Replace bureaucratic and opaque decision-making around travel authorizations with transparent, timely, and clearly defined procedures for authorizing aid delivery to displaced populations.
- Lift blanket restrictions on humanitarian assistance and allow international and local groups access to conflict-affected areas in order to conduct independent needs and security assessments.
- Lift restrictions on mobile internet communications in Rakhine and Chin States. Repeal section 77 of the Telecommunications Law, which grants authorities broad powers to suspend telecommunications services.
- Allow independent observers including journalists, human rights monitors, and UN mechanisms access to the camps and the rest of Rakhine State so that accurate and timely information is publicly available and can inform conversations about the repatriation of Rohingya refugees from Bangladesh.
- Authorize and facilitate the establishment of an office in Myanmar of the UN High Commissioner for Human Rights with a mandate for rights protection and promotion, reporting, and technical assistance, with branch offices permitted as needed, including in Rakhine State.

Durable Solutions

- Halt the fundamentally flawed camp "closure" process in central Rakhine State and meaningfully engage Rohingya and Kaman communities, the UN, and international agencies to develop an updated strategy and implementation plan that ensures durable solutions, with clear timelines and procedures. Make public the national strategy and all related action plans.
- Develop an action plan to ensure Rohingya and Kaman are granted freedom of movement and access to livelihoods, education, and health care as an integral part of all relocations or returns, as well as a conflict-sensitive strategy to desegregate all public spaces across the state in conjunction with the returns.
- Ensure that returns or resettlements are fully voluntary and carried out in accordance with the UN Guiding Principles on Internal Displacement and the recommendations of the Advisory Commission on Rakhine State.
- Ensure full and meaningful participation of all affected communities in a decision-making capacity, including the equal participation of women, and maintain regular communication with communities about the implementation of the return or resettlement process.
- Request the participation of the UN High Commissioner for Refugees and other relevant parties for technical assistance in carrying out a revised strategy, including providing transitional security.
- Ensure that the decision of Rohingya and Kaman to relocate or move to a new shelter under the current closure process does not deny them the right to return to their place of origin when that becomes possible.

Nationality

- Immediately suspend the current citizenship verification process. In its place, promptly establish a nondiscriminatory procedure to grant Rohingya full citizenship, with safeguards to ensure its voluntary and safe nature.
- Rescind the 1982 Citizenship Law or amend it in line with international standards: ensure the law is not discriminatory in its purpose or effect, eliminate distinctions between different types of citizens, and use objective criteria to determine citizenship, such as descent, birth, or residency, through which citizenship is passed through one parent who is a citizen or permanent resident.

- In accordance with the Convention on the Rights of the Child, facilitate registration of all children born in Myanmar without discrimination, with technical support from UN agencies, and revise the Citizenship Law to ensure that Rohingya children have the right to acquire a nationality where they would otherwise be stateless because they have no relevant links to another state.
- Replace the tiered citizenship categories with a single citizenship class, and remove ethnic and religious biographical details from identity cards as a matter of anti-discrimination practice and policy.
- Ahead of the November 2020 general elections, reinstate Rohingya's right to vote and stand for election by restoring eligibility to all those who held voting rights during the 2010 elections and to their children who are now over 18, as well as to all Rohingya in possession of any previously nullified identification documents.
- Engage the UN High Commissioner for Refugees for technical assistance under its mandate to identify, prevent, and reduce statelessness and protect stateless people.

Justice and Accountability

- Release and exonerate all Rohingya and others arrested for travel violations, including children detained at juvenile training centers.
- Grant humanitarian agencies and human rights groups unhindered access to all official and unofficial places of detention in Rakhine State, including Sittwe and Buthidaung prisons, to monitor Rohingya detainees, review cases of terrorism-related charges, and independently investigate prison conditions and reports of torture and ill-treatment, including deaths in custody. Ensure the new draft prison law safeguards against torture and ill-treatment and upholds fair trial rights and due process guarantees.
- Make public information on the number of Rohingya currently detained, their whereabouts, and the charges against them. Ensure they have access to legal counsel and family members; detainees that have not been charged with a recognizable criminal offense should be released.
- Cooperate with and grant unfettered access to UN mechanisms including the Independent Investigative Mechanism for Myanmar, the Office of the High Commissioner for Human Rights, and the special rapporteur on Myanmar, in order to facilitate credible, impartial, and independent investigations of alleged abuses

committed in Rakhine, Kachin, Shan, and Chin States, and the role of the military chain of command.

- Undertake credible and comprehensive efforts to enforce the provisional measures ordered by the International Court of Justice, including monitoring their implementation at all levels of the military and civilian government and making this analysis public, and holding accountable actors who fail to do so.
- Make public the full report of the Independent Commission of Enquiry (ICOE), including the cases presented to the Office of the Attorney General and Office of the Judge Advocate General for further investigation. Regularly and publicly report on the progress of the recommendation to investigate and prosecute responsible military personnel, including at the highest ranks.

Preventing Violence and Discrimination

- Explicitly denounce threats, hate speech, and discriminatory rhetoric, and publicly endorse nondiscrimination and the right of all individuals to equal protection under the law, regardless of ethnicity or religion.
- Call for an end to public vilification and any incitement to violence or discrimination against Rohingya, including by repudiating public commentary that denigrates Rohingya, denies their existence, or calls for their expulsion from Myanmar.
- Hold accountable government officials and public organizations found to be disseminating hate speech and discriminatory rhetoric, in person or online.
- Develop a long-term plan in consultation with affected communities and international experts to end discrimination and promote tolerance in Rakhine State, including launching a public information campaign and holding interfaith and substantive dialogues with a diverse range of political and religious leaders.
- Review, amend, or repeal legislation that is discriminatory in nature or effect, in accordance with international human rights law, such as the four "race and religion protection laws."
- Undertake reforms to bring the security sector under civilian control and remove the military from the political sphere.
- Immediately order security forces to cease abusive practices against Rohingya and other ethnic minority groups, including unlawful killings, torture and ill-treatment,

rape and other sexual violence, persecution, arbitrary arrests and detention, forced labor, and destruction of property.

To the United Nations and Humanitarian Agencies

- Develop a comprehensive, practical, and detailed approach to assistance provision in Rakhine State, in line with the UN's Human Rights up Front agenda, the secretary-general's Call to Action for Human Rights, and the Inter-Agency Standing Committee's Policy on Protection in Humanitarian Action, centered on long-term solutions for displaced populations that prioritize human rights protection and avoid reinforcing segregation, discrimination, and persecution of Rohingya. In line with this aim, the UN Humanitarian Country Team should:
    - Urge the Myanmar government to halt the current camp "closure" process until thorough consultations with affected communities have been incorporated into an updated strategy, to be implemented in line with international standards. Avoid directly or indirectly facilitating operations under closures that entrench segregation.
    - Fully implement the March 2019 operating principles on humanitarian engagement in "closed" camps, including monitoring government progress on freedom of movement and carrying out planned response measures.
    - Identify and enforce additional common positions among groups operating in central Rakhine State with regard to humanitarian "red lines"—for example, refusing to support permanent infrastructure projects in the camp areas—and outline concrete steps for field operations to uphold such principles.
    - Encourage collaboration to strengthen the impact of conditional assistance and limit the government's ability to exploit divisions among agencies.
- Develop a joint strategy for engaging publicly and privately with the government on Rakhine State, including establishing concrete, time-bound benchmarks for government progress on issues such as freedom of movement and access to health care. Failure to meet key asks should prompt groups to escalate collective advocacy and more broadly publicize the impact of the government's discriminatory policies, drawing on information gathered through operations in Rakhine State.

- Do not operate in transit and repatriation camps that have been constructed with the apparent intent of confining future Rohingya returnees, in order to avoid further supporting and legitimizing the government's policy of segregation.
- Ensure that humanitarian aid is delivered impartially to all populations in need in Rakhine State. Urge the Myanmar government to permit the resumption of assistance programs throughout Rakhine State and raise concerns publicly when humanitarian access to communities in need is blocked.
- Ensure that humanitarian standards for Rohingya are consistent with those enumerated in the Humanitarian Charter and Minimum Standards in Humanitarian Response.
- Assess humanitarian projects in Rakhine State to ensure they are nondiscriminatory in implementation and impact, and do not contribute directly or indirectly to the segregation or marginalization of Rohingya.
- Enhance coordination and cooperation among humanitarian, development, and protection agencies, including through improved information sharing, transparency, and prioritization of the basic principles of human rights protection.
- Recognize the right to self-identification by using the term "Rohingya" in all publications and agency documents.

To the UN Secretary-General

- Treat the human rights situation in Myanmar as a priority for the secretary-general's Call to Action for Human Rights.
- Promptly implement reforms to prevent the recurrence of the systematic failures and "obvious dysfunctional performance" before and during Myanmar's 2017 campaign of mass atrocities as outlined in the Rosenthal report, and ensure accountability for such failures.
- Re-energize the Human Rights up Front initiative prompted by the Petrie report and assign adequate resources to ensure its full implementation throughout the UN system.
- Support the resident coordinator and senior UN staff on the ground to ensure they have the authority to implement a comprehensive Human Rights up Front strategy that takes into account the views of national and international NGOs, community-based organizations, and other human rights actors, and is reflected and implemented at country level.

- Urge the Security Council, including through article 99 of the UN Charter and other key UN bodies, to raise concerns about the situation in Myanmar and press the country's authorities to take meaningful steps to end its abusive policies.
- Support international bodies such as the Independent Investigative Mechanism for Myanmar aimed at holding those responsible for abuses in Myanmar to account.
- Take concrete steps to improve coordination at all levels of the UN working on Myanmar.

To Governments and Donors

- Publicly and consistently press the Myanmar national and Rakhine State governments to end all policies and practices that promote discrimination, segregation, or unequal access to services.
- Urge the immediate removal of all unnecessary restrictions on freedom of movement in Myanmar.
- Publicly press the government to grant unfettered access to Rakhine State to humanitarian agencies, journalists, and human rights monitors, including the Office of the High Commissioner for Human Rights.
- Demand the authorities improve conditions in the camps as described above.
- Suspend funding of non-essential services for the government's current camp "closure" process until a clear, time-bound plan is in place, based on thorough consultation with affected communities, the UN, and international experts, that will ensure all future returns or relocations are voluntary, safe, dignified, and sustainable, with guaranteed freedom of movement.
- Condition funding for permanent infrastructure and development projects in Rakhine State on the government's realization of human rights benchmarks, including the lifting of movement restrictions and other markers defined by the Advisory Commission on Rakhine State.
- Ensure all donor-supported projects in Rakhine State are explicitly conditioned on nondiscrimination, do not further entrench segregation, and do not discriminate in any way against Rohingya on the basis of their statelessness.
- Provide support to UN agencies and INGOs to meet the humanitarian needs of internally displaced populations. Ensure that critical assistance programs are not decreased in camps labeled "closed"—which have seen no change in levels of

community need or vulnerability—and do not otherwise contribute to the involuntary or coerced relocation of Rohingya.

- Assess any business operations or development projects in Rakhine State to ensure they are not contributing to human rights abuses or providing direct or indirect financial support to known perpetrators of abuses, such as senior military commanders.
- Insist that any repatriation of Rohingya refugees from Bangladesh, in addition to being safe, voluntary and informed, does not take place until conditions conducive to return in Rakhine State have been established, including freedom of movement for all Rohingya.
- Establish a comprehensive responsibility-sharing arrangement among the US, EU member states, Canada, and other key countries to incorporate equitable refugee assistance, protection, and resettlement into the international response to the Rohingya crisis.
- Issue public statements at the Human Rights Council or Security Council denouncing Myanmar's apartheid system and persecution of the Rohingya, and highlight concerns about the crimes against humanity of apartheid, persecution, and other inhumane acts, and genocide in statements or resolutions regarding Myanmar government policies toward the Rohingya.
- Support international action to ensure accountability for grave crimes in Myanmar, including by urging the Security Council to refer the situation in Myanmar to the International Criminal Court, and by urging Myanmar to take concrete steps to comply with the International Court of Justice's provisional measures order directing Myanmar to not commit and to prevent genocide as part of Gambia's case under the Genocide Convention.
- Impose targeted sanctions, including travel bans and asset freezes, on officials and entities—in particular, military-owned enterprises and companies—that are credibly implicated in grave international crimes, including apartheid and persecution.
- Present a resolution at the General Assembly or Human Rights Council establishing a position of UN envoy for the crime of apartheid. Once established, request that the Security Council invite the envoy to participate in a formal briefing on Myanmar.
- Support the work of the Independent Investigative Mechanism for Myanmar, authorized by the Human Rights Council, including by extending its mandate and ensuring adequate funding for its work, and amend the resolution at a future

session of the council to also document the crime of apartheid, with a sufficiently broad approach that covers the potential complicity of other actors, including companies and officials of other states.
- States party to the Apartheid Convention should investigate and prosecute, in accordance with article IV of the convention, those credibly alleged to be responsible for the crime of apartheid.

To Southeast Asian Governments, Australia, Bangladesh, and India

- Provide Rohingya refugees with access to fair asylum procedures and ensure they are not subject to indefinite detention, inhospitable conditions, or threat of being returned to Myanmar, where they face a risk of torture or other ill-treatment.
- End forced returns of Rohingya seeking asylum by land or sea and instead ensure they receive humanitarian aid and full access to procedures for international protection in close coordination with UNHCR.
- Respond urgently to refugee boats in distress, including coordinated search-and-rescue operations and timely disembarkation at the nearest safe port.
- Acknowledge and respond to the Rohingya refugee situation as a regional problem that necessitates a comprehensive plan of action and effective regional and extra-regional responsibility sharing.
- Use the Association of Southeast Asian Nations (ASEAN) and other regional mechanisms to collectively press Myanmar to meet all conditions necessary for voluntary, safe, dignified, and sustainable returns of Rohingya refugees, including ending the systematic persecution of the Rohingya population and holding accountable those responsible for atrocity crimes.

Acknowledgments

This report was researched and written by Shayna Bauchner, assistant researcher in the Asia Division at Human Rights Watch. It was edited by Brad Adams, Asia director; James Ross, legal and policy director; and Danielle Haas, senior program editor.

The report was reviewed by Bill Frelick, refugee and migrant rights director; Nadia Hardman, refugee and migrant rights researcher; Megan McLemore, health and human rights consultant; Param-Preet Singh, associate international justice director; Bill Van Esveld, associate children's rights director; and Skye Wheeler, senior women's rights researcher. Joe Amon, director of global health at Drexel University, provided additional review. Production assistance was provided by Seashia Vang, senior Asia associate; Travis Carr, photo and publications coordinator; and Fitzroy Hepkins, senior administrative manager.

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Above all, we are deeply grateful to the Rohingya and Kaman who agreed to speak with us and share their stories.

Appendix: Letter to the Myanmar Government

August 26, 2020

Daw Aung San Suu Kyi
State Counsellor
Office No. 20, Naypyidaw
Republic of the Union of Myanmar

Re: Treatment of Rohingya in Rakhine State

Dear State Counsellor Aung San Suu Kyi,

Human Rights Watch is a nongovernmental organization that monitors and reports on human rights in over 90 countries around the world. We have covered human rights issues in Myanmar for over three decades.

We are currently preparing a report regarding the Rohingya who have been living in camps in central Rakhine State since their displacement in 2012. The report documents the eight years of government restrictions on the right to freedom of movement imposed on the Rohingya and the ensuing harms suffered.

We are writing to ensure that our report properly reflects the views, policies, and practices of the Myanmar government, and would greatly appreciate answers to the questions attached below. In addition to the information requested, please do not hesitate to share any other material, statistics, orders, or information that you think may be relevant for us to better understand the government's approach to the Rohingya population in central Rakhine State.

Human Rights Watch is committed to producing material that is well-informed and objective. We hope you or your staff will respond in a timely way so that your views are accurately reflected in our reporting. In order for us to take your answers into account in our forthcoming report, we would appreciate a written response by September 26, 2020. Thank you for your attention to this request.

Sincerely,

Brad Adams
Asia Director
Human Rights Watch

Cc:
U Win Myint, President of Myanmar
Dr. Win Myat Aye, Minister for Social Welfare, Relief and Resettlement
Lt. Gen. Soe Htut, Minister for Home Affairs
Lt. Gen. Ye Aung, Minister for Border Affairs
U Thein Swe, Minister for Labour, Immigration and Population
U Kyaw Tint Swe, Minister for the Office of the State Counsellor
U Nyi Pu, Chief Minister, Rakhine State

Questions for State Counsellor Aung San Suu Kyi

1. What policies, regulations, orders, or laws form the basis of the movement restrictions imposed on the Rohingya living in camps since their displacement in 2012, and how are they enforced and monitored? Please share any relevant documentation.
2. What is the status of the camp closure process in Rakhine State?
3. Which camps are considered closed by the government?
4. Can the Rohingya living in closed camps travel freely outside their villages and townships?
5. What consultations have taken place and what was the feedback from the Rohingya communities over the closure process?
6. Please share the National Camp Closure Strategy and any related documentation and plans.
7. What is the current legal status and ownership of the land in central Rakhine State on which Rohingya and Kaman people resided prior to their displacement in 2012?
8. What avenues do Rohingya and Kaman people have to reclaim land that has been confiscated?

9. What avenues do Rohingya and Kaman people have to receive compensation for destroyed homes and property?
10. Why were Rohingya and Kaman who requested to return to their land from before 2012 denied, as described in testimony to Human Rights Watch?
11. Please describe the process for Rohingya to attain citizenship through the National Verification Card (NVC) system.
12. What are the requirements for an NVC holder to receive citizenship, and how long does the process take?
13. How many Rohingya have been issued NVCs?
14. How many Rohingya have received citizenship since the introduction of the NVC?
15. Under the new Child Rights Law, will Rohingya who are born in Myanmar and would otherwise be stateless have access to citizenship, as required by international law?[587]
16. What is the basis for the restrictions that have barred Rohingya from studying at Sittwe University since 2012?
17. Why has the government, prior to the Covid-19 pandemic, provided tertiary education for Rohingya through distance learning programs rather than allowing them to attend university in person?
18. According to government statistics, from September to December 2019, 26,046 individuals from "national races" received treatment at Sittwe General Hospital, while only 814 Muslim individuals were treated at Sittwe General Hospital.[588] What accounts for the low number of Muslim patients?
19. Please explain the basis for the permission requirements that are in place for Rohingya to access Sittwe General Hospital and the policy of segregated wards and treatment.
20. How many Rohingya are currently in jail or prison for violating travel regulations? Please provide information on their locations, charges, and sentences.
21. Please describe the travel authorization process for domestic and international humanitarian groups operating in Rakhine State.

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[587] "Children's right to a nationality," Open Society Justice Initiative, https://www.ohchr.org/Documents/Issues/Women/WRGS/RelatedMatters/OtherEntities/OSJIChildrenNationalityFactsheet.pdf.

[588] "Report to the people on the progress of the Implementation committee on recommendations on Rakhine State between September and December 2019," *Global New Light of Myanmar*, May 25, 2020, https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/GNLM2020-05-25-red.pdf, p. 5.

22. What is the rationale for limiting humanitarian access and fully restricting journalists, except for government-led tours, and human rights monitors from the camps?
23. Please provide a full update on the status of the implementation of the recommendations from the Advisory Commission on Rakhine State. Which recommendations have been fully implemented, which have been partially implemented, and which have not been implemented at all?
24. The Advisory Commission found in its final report that the issue of citizenship "cannot be ignored" and that "if this issue is not addressed it will continue to cause significant human suffering and insecurity, while also holding back the economic and social development of the entire state." Why has the government not reviewed the 1982 Citizenship Law to bring it into compliance with international law, as recommended by the commission?[589]
25. Please provide an update on the activities of the Union Enterprise for Humanitarian Assistance, Resettlement and Development (UEHRD). What measures are in place to ensure UEHRD programs do not undermine the rights of Rohingya?

[589] *Final Report of the Advisory Commission on Rakhine State*, Advisory Commission on Rakhine State, August 2017, http://www.rakhinecommission.org/app/uploads/2017/08/FinalReport_Eng.pdf.

About 130,000 Rohingya Muslims have been confined to open-air detention camps in Myanmar's central Rakhine State since the military forced them from their homes in a 2012 campaign of ethnic cleansing. The Myanmar government is indefinitely interning the Rohingya and depriving them of their land, freedom, and basic rights.

"An Open Prison without End" documents the institutional oppression and grave rights violations committed against the Rohingya by the government led by Aung San Suu Kyi. Based on interviews with Rohingya and Kaman Muslims from central Rakhine State as well as humanitarian workers, the report details the government's creation of squalid and oppressive conditions that amount to the crimes against humanity of apartheid and persecution.

Denied the freedom to move, study, work, or access medical care, Rohingya in the camps live every day in extreme vulnerability. Access for aid workers is tightly restricted, and for human rights monitors, denied outright. Recent bad faith initiatives to "close" the camps have only further entrenched their segregation and confinement.

Human Rights Watch calls on the Myanmar government to lift all arbitrary movement restrictions for Rohingya, Kaman, and other minorities, and end the apartheid regime against Rohingya in Rakhine State. Foreign governments should pursue justice and accountability for grave international crimes in Myanmar, including prosecuting as appropriate the military and civilian officials responsible, while urgently pressing Myanmar to protect the rights of this community.

(above) A boy walks in Kyauk Ta Lone camp in Kyaukpyu, Rakhine State, Myanmar, October 3, 2019.
© 2019 Ye Aung Thu/AFP via Getty Images

(front cover) A Myanmar police officer patrols the Thet Kae Pyin camp in Sittwe township where Rohingya Muslims have been confined since 2012, Rakhine State, Myanmar, September 7, 2016.
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