



## **GENDER CRIMES REQUIRE GENDER JUSTICE FOR BURMA'S ROHINGYA**

Rohingya women and girls have suffered targeted atrocities at the hands of Burma's security forces. Amounting to crimes against humanity and genocide, these attacks were gendered in their conception, commission, and consequences. Accordingly, gender must be central to any and all efforts aimed at justice and accountability for the crimes committed against the Rohingya.

For an in-depth analysis of the sexual and gender-based crimes perpetrated by Burma's security forces against Rohingya women and girls, see the Global Justice Center's (GJC) legal brief: [Discrimination to Destruction: A Legal Analysis of Gender Crimes Against the Rohingya](#).

### **GENDER WAS A FUNDAMENTAL COMPONENT OF THE VIOLENCE COMMITTED AGAINST THE ROHINGYA**

Sexual and gender-based violence has long been the weapon of choice for Burma's security forces, and the recent attacks against the Rohingya is no exception. Beginning in October 2016, Rohingya women and girls were targeted for particularly brutal manners of killing, rape, sexual violence, torture, and forced displacement. Perpetrators showed no mercy, targeting pregnant and disabled women, as well as girls as young as five. Many women report being gang raped, some by as many as eight perpetrators. Rapes were accompanied by physical violence, threats, humiliation, and cruelty. Women were beaten, punched, kicked, and subjected to invasive body searches. Their bodies were mutilated, their breasts and nipples cut off and vaginas slashed. According to [one report](#), after a pregnant woman was raped, her stomach was slit open and her unborn baby killed with a knife. These violations were often performed in public or in front of family members, traumatizing both the victims and the witnesses. They were also widespread: in one instance, [52%](#) of women interviewed reported they had been raped or subject to sexual violence.

The violence was not limited to sexual crimes. Rohingya women and girls were often murdered by being burned alive or butchered by knives used for slaughtering animals—methods of killing that mirror the destruction of objects and property, demonstrating the security forces' misogyny and deeply gendered conceptions of power. Further, long-embedded discriminatory legal systems limit Rohingya women's reproductive choice and family life and reflect institutionalized and gendered persecution. Upon fleeing these horrors, women confront particularly harsh consequences: cultural obstacles to receiving humanitarian aid and medical and psychosocial care, lasting consequences and discrimination from sexual violence crimes, and increased risk for sexual violence and exploitation.

## THESE ATTACKS ARE INTERNATIONAL CRIMES

Brazen and pervasive sexual and gender-based violence was used by Burma's security forces as "[collective punishment](#)" and as a "[push factor](#)" to destroy and coerce the Rohingya to flee Burma. As such, the crimes against Rohingya women and girls form the basis of the crimes against humanity of murder, persecution, forcible transfer or deportation, rape and other sexual violence of comparable gravity, and torture; as well as the genocidal acts of killing, causing serious bodily or mental harm, inflicting conditions of life calculated to bring about physical destruction and imposing measures intended to prevent births within the group. As detailed in GJC's recent brief, these classifications show how gender permeates the commission and effects of international crimes and how those experiences might be incorporated into prosecutions.

More generally, the crimes against humanity committed against the Rohingya are the result both of the widespread and systematic nature of the campaigns of violence, as well as the network of laws and policies that deprive the Rohingya of fundamental rights and freedoms such as citizenship, marriage, reproductive choice, movement, and healthcare access. Burma's security forces attacked Rohingya civilians en masse and with machine-like consistency, [destroying almost 400 villages in Rakhine State and forcing over 700,000 Rohingya to flee](#) to Bangladesh in the months following August 2017. The violence showed clear patterns, demonstrating planning and intentionality.

Individual acts amount to genocide when they are committed with intent to destroy a national, ethnic, racial or religious group, in whole or in part. The unprecedented scale of atrocities, longstanding discrimination against the Rohingya, systematic patterns of attack, brutal and public sexual and gender-based violence crimes, and statements of Burmese government officials and security forces are all strong indicators of genocidal intent against the Rohingya.

## GENDER-INCLUSIVE JUSTICE AND ACCOUNTABILITY IS IMPERATIVE

The international community has, at long-last, begun to recognize the imperative to ensure justice and accountability for the crimes committed by Burma's security forces and the impossibility for justice in Burma's domestic system. While the international community begins to develop mechanisms for justice and accountability—whether through investigations in the United Nations system, International Criminal Court, or third-party states—it is essential that the gender dynamics underpinning the crimes committed against Rohingya women and girls are a central and omnipresent concern.

As the evidence of crimes against humanity and genocide committed against the Rohingya mounts, the call for justice is not just a moral imperative, but also a legal one. In order to fulfill state obligations to prevent, suppress and punish genocide, the international community must recognize and punish all forms of genocidal violence, including gendered genocidal crimes. When gendered crimes are excluded from prosecutions and remedies, survivors of those crimes are denied justice and history yet again erases the experiences of women and girls. Accountability for crimes committed against the Rohingya presents an opportunity to treat crimes against women equally under international law.

## KEY RECOMMENDATIONS

**To the Burmese government:** (1) Initiate impartial investigations and civilian accountability proceedings into violations of international law and human rights; (2) Cooperate with and grant access to international human rights and accountability efforts; (3) Amend the 2008 Constitution to bring the military and security forces under civilian oversight; (4) Pass the Prevention and Protection of Violence Against Women Law in line with international human rights standards; and (5) Amend citizenship laws in order to recognize and restore the rights of the Rohingya.

**To the United Nations & international community:** (1) The Security Council should refer Burma to the International Criminal Court (ICC); (2) The UN General Assembly should establish an impartial international mechanism to collect, consolidate, preserve and analyze evidence of violations of international law; and (3) Countries should employ universal jurisdiction to prosecute responsible individuals for international crimes.

**To the ICC Office of the Prosecutor:** Expeditiously conduct a preliminary examination into the crimes committed against the Rohingya in Rakhine State and apply to open an investigation into all cross-border crimes, with a focus on gender-based crimes.