LAW Legal Action Worldwide

Long-Term Physical and Psychosocial Consequences of Genocidal Sexual and Gender-Based Violence the Myanmar Military Committed against the Rohingya in its 2017 'Clearance Operations'

November 2023

About LAW

Legal Action Worldwide (**'LAW'**) is an independent, non-profit organisation comprised of human rights lawyers and jurists working in fragile and conflict-affected areas in the Middle East, Africa, and South Asia. LAW works to bring justice to individuals and communities that have experienced grave human rights violations and abuses, with a particular focus on gender equality and gender-based violence.

LAW's Rohingya Crisis programme seeks to ensure meaningful Rohingya participation in international justice processes pertaining to the serious international crimes committed against them in Myanmar. LAW provides information, legal assistance and representation to over 300 Rohingya, who are survivors of the 2017 'clearance operations'. One of the key pillars of our programme is the 'Survivor Advocates' network, which assists and provides peer support to individual clients, especially survivors of sexual and gender-based violence, and raises awareness within their community about the ongoing international justice and accountability processes.

This research focuses on the long-term consequences of sexual and gender-based violence perpetrated in Myanmar against Rohingya individuals and communities during the Myanmar military's 2017 'clearance operations'. It is based on the experiences of female, male and *hijra* (third-gender or transgender) survivors of sexual and gender-based violence, nearly six years after their deportation from Myanmar, currently living in the refugee camps in Cox's Bazar, Bangladesh. It will consider the impact of the historic sexual and gender-based violence on survivors' current reproductive and psychological health, and their relations with their children and kinship, with reference to the crime of genocide.

Trigger Warning:

This research contains graphic descriptions of sexual violence (including rape and genital mutilation) that may be upsetting to readers.

All participants in this research were informed about its purpose and how it would be used before they gave consent to participate. LAW verified the identities of interview participants, cross-checked the accuracy of their reported locations or villages of origin, and confirmed that they were survivors of sexual and gender-based violence in Myanmar. Please note the names of participants and locations have been removed for confidentiality. LAW has obtained consent of all persons photographed in this report.

Acknowledgments

LAW dedicates this research to the Rohingya victims and survivors of sexual and gender-based violence perpetrated in Myanmar. LAW is grateful to those who participated in this research, confided in us, and shared the harrowing experiences they suffered and continue to suffer. Their courage to speak out and pursue justice is deeply moving – we must have the courage to seek justice with them.

LAW is grateful to many other Rohingya survivors and witnesses of genocide who assisted in the research in numerous ways across all stages, from conceptualisation to implementation, and the contextual analysis of the data collected.

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This report was written by the LAW team comprising five lawyers, with the clinical analysis of the psychosocial data contributed by Dr Medeiros and Prof Rechtman. The findings presented in the report were strengthened from the review of the data on physical injuries by Ranit Mishori (MD, MHS, FAAFP, Senior Medical Advisor for Physicians for Human Rights). The data coding and qualitative analysis by Andrew Riley (MA) and Haley Ritsema (MPH) lent the necessary support to the team for identifying thematic patterns within the data collected.

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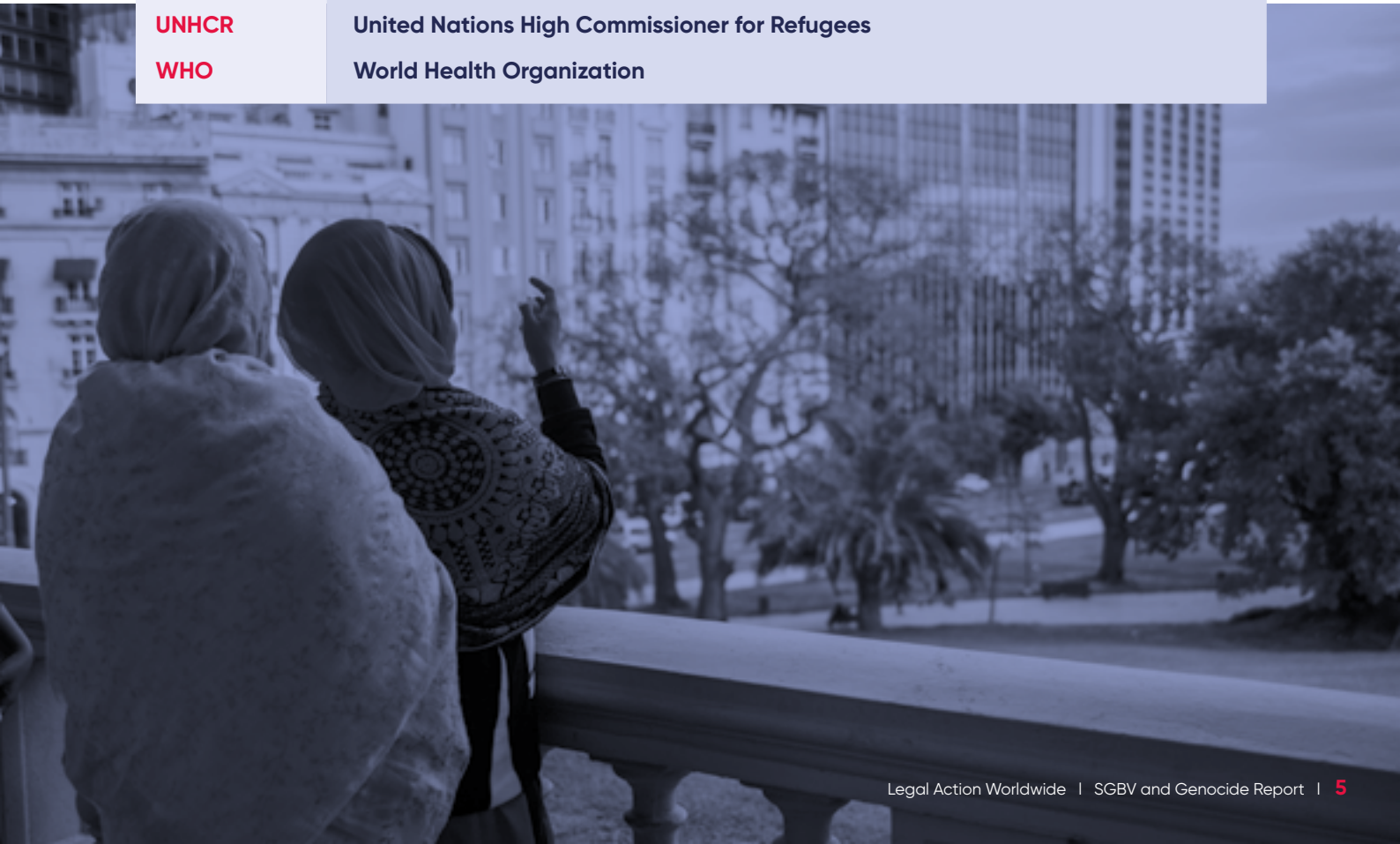
Contents

Acronyms

ARSA	Arakan Rohingya Salvation Army
ECCC	Extraordinary Chambers in the Courts of Cambodia
IASC	Inter-Agency Standing Committee
ICC	International Criminal Court
ICJ	International Court of Justice
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
IIFFMM	Independent International Fact-Finding Mission on Myanmar
IIMM	Independent Investigative Mechanism for Myanmar
NGOs	Non-Governmental Organisations
ISIL	Islamic State of Iraq and the Levant
KII	Key-Informant Interviews
MHPSS	Mental health and psychosocial support
NVC	National Verification Card
PTSD	Post-traumatic stress disorder
SAMHSA	Substance Abuse and Mental Health Services Administration
SGBV	Sexual and gender-based violence
SOGI	Sexual orientation and gender identity
Syrian COI	Independent International Commission of Inquiry on the Syrian Arab Republic
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
WHO	World Health Organization



Key terms

Clearance operations	On 9 October 2016 and 25 August 2017, Myanmar authorities launched what they referred to as 'clearance operations' in response to attacks by the Arakan Rohingya Salvation Army. The reality of these 'clearance operations' was planned, widespread, and systematic violence against Rohingya civilians led by the Myanmar military and other security forces, which resulted in their large-scale displacement.
Hijra	A term used in South Asia to refer to an identity category for people assigned male at birth who develop a feminine gender identity.
Rape	A perpetrator invades the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body. The invasion is committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent (Definition of 'rape' under article 7(1) (g)-1 of the Rome Statute of the International Criminal Court ('Rome Statute')).
Sexual violence	A perpetrator commits an act of a sexual nature against one or more persons or causes such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent (Definition of 'sexual violence' under article 7(1)(g)-6 of the Rome Statute).[1]
SGBV (Sexual and gender-based violence)	Violence that is directed at a person on the basis of their gender or sex. It includes acts that inflict physical, mental, or sexual harm or suffering, as well as threats or coercion related to these kinds of harm. SGBV can include, but is not limited to, rape and sexual violence. Non-sexual forms of gender-based violence can include, for example, the attack on a girl's school, or the bombing of an LGBTIQ+ community centre.
Survivor/ victim	LAW uses the terms victim and survivor throughout this research to refer to individuals who have directly experienced or witnessed a violation or abuse. Both terms are used as LAW recognises that not all victims are survivors. Some do not survive the violation or abuse, whilst others do survive but identify as a victim, not a survivor.
Tatmadaw	The Myanmar Armed Forces are known as 'Tatmadaw', which literally translates into 'Imperial or Royal Armed Forces' with the suffix 'daw' or 'taw' denoting 'royal' or 'sacred'. In Myanmar, they are usually referred to as 'Sit-Tat', meaning 'Sit (Armed or Military), Tat (Forces).[2] Given the brutality of the Tatmadaw, including actions discussed in this research, LAW refers to them simply as the 'Myanmar military', in line with LAW's Rohingya clients who simply use the term 'military' or 'Burma military', except where quoting existing sources.

Executive Summary

During the 2017 'clearance operations', the Myanmar military subjected Rohingya civilians in Rakhine State, particularly women and girls, to brutal sexual and gender-based violence (**'SGBV'**), including mass rape, gang rape, and genital mutilation – frequently in public spaces and in front of family and neighbours. This SGBV was a key part of the military's broader attack on the Rohingya civilian population which forced hundreds of thousands of them to flee to Cox's Bazar, Bangladesh, where they remain in refugee camps to this day.

Nearly six years later, LAW sought to understand if there is any continuing impact(s) of the SGBV that was committed by the Myanmar military on Rohingya survivors – men, women, and *hijra* - with a view to determining whether such SGBV can constitute genocide in and of itself. A multi-disciplinary team comprising psychologists, a medical doctor, and lawyers undertook the research and analysed the medical and psychosocial data collected from survivors and examined the findings within the applicable legal framework. The team undertook 30 psychological evaluations with SGBV survivors; four focus group discussions with 34 survivors and witnesses of SGBV and seven key-informant interviews to assess the impact of SGBV on current physical, reproductive, and mental health as well as biological relations and kinship. Forty-five public UN, NGO and academic reports were reviewed.

The research found that the scale of physical injuries from SGBV committed during the 2017 'clearance operations' resulted in long-term consequences, including permanent damage to survivors' genitalia, which has impacted their ability to procreate. Survivors described intense physical injuries to their genitals and secondary sex organs, which have a lasting impact today. They continue to suffer from chronic pain, recurring reproductive tract infections, dyspareunia (pain during sexual intercourse) and/or other forms of sexual dysfunction, such as loss of libido or erectile dysfunction, negatively impacting their ability to procreate.

All survivors described severe psychological injuries which has left them in a state of extreme emotional distress. Many survivors described a state of paralysis or numbness due to their emotional distress, which continues to make daily life extremely difficult. The clinical observations draw strong similarities with the clinical diagnosis of post-traumatic stress disorder(**'PTSD'**). Coupled with living in a state of fear and hypervigilance for years before the 2017 'clearance operations', the cruel and public nature of the SGBV in 2017 violence has inflicted severe psychological harm on those who survived it. Those who witnessed SGBV continue to suffer psychological trauma – hence becoming both witnesses and survivors.

The SGBV also damaged individual survivors' intra-familial relationships including their ability to be intimate with their partner, their relationship with extended family networks, and with the broader community. In particular, the use of sexual violence negatively impacted survivors' parent-child relationships and their psychological capacity to procreate. Within the family, survivors' spousal relationships have been impacted due to their physical and psychological inability to have intimate relations, in turn impacting their capacity to procreate. Survivors' relations with their children have also been severely impacted in a number of ways: their physical and/or psychological inability to support the healthy early development of their children and the reversal of the caretaking role between parents and child, especially in cases where a child witnessed SGBV endured by their mother. For women who were impregnated due to SGBV or were already pregnant, their children are viewed by the community as no longer having the cultural-religious identity of Rohingya-Muslim but 'polluted' with that of the ethnic Rakhine or Myanmar military perpetrators. Moreover, female survivors' experiences of domestic violence and spousal abandonment (in cases where SGBV was disclosed) have further damaged the Rohingya family unit, with negative implications for these survivors' relations with their extended family.

The research also found that the systematic nature of the SGBV was destructive to the social fabric of the community in at least three ways. Firstly, severe ostracisation of the female survivors from family and kinship resulted in the loss of their cultural identity. Secondly, the real and symbolic emasculation of men by instilling powerlessness and diminishing their social role. Thirdly, the forced reorganisation of the Rohingya family unit and lineage, and erosion of future social alliances such as marriage within the community. The way the Myanmar military targeted the Rohingya community through SGBV has damaged the architecture of the Rohingya social life. There has been a breakdown of the traditional household structures and gender roles. The destroyed individual and collective *izzot* (social honour) that the female survivors and their children are believed to have brought to their households has obliterated the possibility for them to establish social alliances. This has resulted in fragmented households with single women-led family units along with their children, parted from their extended family relationships, and excluded from necessary protection and support.

Female survivors in particular are seen as a constant reminder of the horrors experienced, resulting in their severe ostracisation. Several female survivors' narratives illustrate that they have been reduced to a position of being

perceived as radically different from the rest of the community. They feel trapped in their identities as 'rape survivors', with no exit from their current state of suffering. This rejection reflects the diminished capacity of the Rohingya community to offer support to the survivors, heal itself, and the exacerbation of the impact of the SGBV committed by the Myanmar military. Further, the intrusion of perpetrators into the Rohingya families' compounds during the 'clearance operations' and the acts of SGBV inflicted on the women's bodies constituted a direct attack on men's social function as guardians, thereby enforcing powerlessness amongst them. This was a crucial dimension of the process of emasculation by the perpetrators. The emasculation is magnified for male SGBV survivors, evidenced in their difficulty in performing their core social and family roles in displacement due to their physical and psychological injuries.

These findings, specific to the 2017 'clearance operations', are made in the historical context of over five decades of Myanmar's state-sponsored discrimination, marginalisation, and violence (including SGBV) directed at their Muslim Rohingya minority population. It is also made in comparison to several other contexts where widespread SGBV has occurred with long-term mental health consequences for survivors: Namibia, Armenia, the Holocaust, Cambodia, Guatemala, Bosnia and Herzegovina, Rwanda, Darfur, and Iraq.

From this analysis, LAW found reasonable grounds to believe the Myanmar military's conduct in 2017 can be legally characterized as two acts of genocide against the Rohingya, in violation of Myanmar's obligations under the Genocide Convention: (1) causing serious or bodily harm to members of the group, and (2) imposing measures intended to prevent births within the group. This report substantiates that the participants' experience of SGBV aligns with the Myanmar military's broader operations against the Rohingya, as revealed in the desk research, and that this SGBV forms part of the military's larger genocidal plan targeting the Rohingya group for destruction.

Recommendations

1 Efforts to hold Myanmar accountable for the serious international crimes against the Rohingya including SGBV, must be advanced on an urgent basis.

- States must call upon Myanmar to immediately fulfil all provisional measures issued by the International Court of Justice (**'ICJ'**) in *The Gambia v. Myanmar* case on Application of the Convention on the Prevention and Punishment of the Crime of Genocide, including prevention of rape or other forms of sexual violence against Rohingya. Interim reporting by Myanmar on compliance with provisional measures should be made public and available to survivors, and an ad-hoc committee should be created/considered by the ICJ to monitor the implementation of the provisional measures by Myanmar.

- Additional states should file interventions in The Gambia v Myanmar case at the ICJ to support the interpretation of the Genocide Convention that leverages the developments in the international criminal law, and accounts for the systematic SGBV against the Rohingya as satisfying the elements of genocide.

- The UN Security Council should immediately refer Myanmar to the International Criminal Court (**'ICC'**) for investigation into violations of international criminal law against the Rohingya, including SGBV and genocide, that occurred fully on the territory of Myanmar.

- In light of the long-term consequences of SGBV on survivors' physical, reproductive, and psychological health, and the resulting destruction of their biological relations and family unit, SGBV should be a key part of any prosecutorial strategy to hold the Myanmar military and individual officials accountable for the crime of genocide against Rohingya.

- States should utilise principles of universal and extraterritorial jurisdiction, as in Argentina, and initiate structural investigations against the Myanmar military for its genocidal campaign against the Rohingya, paying special attention to the experiences of SGBV survivors.

2 Improved protection measures are necessary to ensure Rohingya SGBV survivors' continuous engagement in international justice proceedings.

- For SGBV survivors to participate in international justice proceedings safely, effective witness protection measures are essential. States and relevant institutions must ensure protection of identity, access to safe houses in countries of asylum, and fast-track third-country resettlement as necessary.

- Alongside witness protection, the Rohingya SGBV survivors must have access to accurate legal information, assistance, and representation that is trauma-informed, in order for survivors to effectively participate in international justice proceedings, and provide valuable evidence.

3 Fund and establish quality and long-term specialised support for Rohingya SGBV survivors across genders.

- Donors, humanitarian agencies, and service providers should engage with SGBV survivors across genders. The SGBV experiences of the Rohingya men and *hijra* in Myanmar, and its long term-impact in displacement should be mainstreamed.

- Donors, humanitarian agencies, and service providers must prioritise and adequately fund specialised sexual and reproductive health (**'SRH'**) services and psychological support to tackle the lack of comprehensive care available for Rohingya SGBV survivors.

- International justice mechanisms must pursue transformative reparations within judicial processes for survivors of SGBV and their communities. Survivor-centred approach should be adopted in the design and implementation of reparations programmes. This includes but not limited to access to appropriately trained (gender and sexual orientation and gender identity **('SOGI')** - competent) medical staff, and instituting psychological therapy programmes for victims and survivors.

Part I

Introduction

Introduction

In 2018, the UN Independent International Fact-Finding Mission on Myanmar ('IIFFMM') recommended the investigation and prosecution of senior Myanmar military leaders for genocide, among other serious crimes, in relation to the violence committed against Rohingya during the 2017 'clearance operations'.[3] Sexual violence perpetrated mainly by the Myanmar military was a hallmark of these devastating and horrific attacks against the Rohingya in 2017. The IIFFMM concluded, based on its investigation, that the scale and brutality of sexual violence against women and girls was one of the factors that indicated the Myanmar military's genocidal intent to destroy the Rohingya community.[4]

Nearly six years later, this research sought to understand if there is any continuing impact(s) of the SGBV that was committed by the Myanmar military on Rohingya survivors – men, women, and *hijra* - with a view to determining whether such SGBV can constitute genocide in and of itself.

Several international efforts since the 2017 'clearance operations' have documented the perpetration of SGBV against the Rohingya.[5] Separately, studies have analysed a broad range of mental health outcomes among the Rohingya population in the aftermath of the 'clearance operations' and during the accompanying humanitarian response.[6] Nevertheless, this research breaks new ground by exploring the connection between the SGBV experienced by Rohingya in Myanmar and their current psychological state. In essence, there is a lack of clinical evidence that delves into the enduring impact of the systematic SGBV committed against Rohingya in Myanmar, particularly in terms of its consequences for not only survivors' mental health but also their reproductive capacity and its impact on the community as a whole.

To shed light on these aspects, this research focused on three questions: **(1)** What is the physical and psychological impact of the SGBV during 2017 'clearance operations' on Rohingya victims and survivors? **(2)** What is the impact of such SGBV on the individual survivors' familial relations, and is there any impact on the Rohingya society? **(3)** Can SGBV against Rohingya – through its perpetration and long-term physical and psychosocial consequences – constitute a crime of genocide under the international law?

The research adopted a multi-disciplinary approach to answer these questions in a holistic, credible, and reliable manner – the research team comprising psychologists, medical doctor, and lawyers analysed the medical and psychosocial data collected from survivors and examined the findings within the applicable legal framework.

This research report is divided into the following six parts: the relevant contextual background on the Rohingya population, the SGBV they have endured, and efforts to seek justice, along with an overview of comparable contexts where the long-term impact of SGBV committed as part of genocide has been studied; the methodology of the multi-disciplinary research; summary of the applicable law; factual findings derived from the data on physical and psychosocial injuries collected from the survivors and its clinical analysis by the experts; legal analysis of the factual findings; and conclusions and recommendations.

Context

Myanmar's predominantly Muslim Rohingya minority population has faced over five decades of state-led marginalisation and violence perpetrated by the Myanmar military. This has led to tens and sometimes hundreds of thousands of Rohingya being displaced internally within Rakhine state and fleeing into neighbouring countries, mainly Bangladesh, on multiple occasions, including in 1978,[7] 1991-1992,[8] 2012,[9] and most recently during the 'clearance operations' in 2016 and 2017.[10]

On each occasion, serious human rights violations, including rape and other forms of SGBV, arbitrary executions and unlawful killings, torture and cruel, inhuman and degrading treatment and punishment, and the widespread destruction of property have been documented.[11] In 1978, the Myanmar immigration and military authorities conducted a 'national effort to register citizens and screen out foreigners prior to a national census', which led to the flight of more than 200,000 Rohingya to Bangladesh. Rohingya refugees reported that in addition to being forcibly evicted from their homes, they suffered widespread brutality, rape, and murder by the Myanmar military.[12] A similar mass exodus of approximately 250,000 Rohingya into Bangladesh occurred again in 1991 and 1992, prompted by discrimination, violence, and forced labour practices by the Myanmar authorities.[13] In 2012, violence erupted between ethnic Rakhine and Rohingya due to intensifying discrimination against the Rohingya.[14] Widespread sexual violence carried out against Rohingya by the Myanmar military, Border Guard Police and other security forces, including murder, arson attacks, arbitrary arrests, abductions and SGBV, have been extensively documented.[15] This violence was a precursor for the 2016 'clearance operations' perpetrated by the Myanmar military against the Rohingya. Between October and December 2016, the Myanmar military carried out rape, gang rapes and other forms of SGBV on a massive scale.[16] The 2016 'clearance operations' also involved killings of Rohingya men and boys who were violently rounded up[17] and indiscriminate firing against civilians by the Myanmar military soldiers accompanied by the police.[18]

Alongside the Myanmar military's targeted violence, Myanmar's domestic legal framework and state policies have long placed extensive discriminatory restrictions on the Rohingya, which has relegated them to the margins of society. Myanmar's 1982 Citizenship Law excludes Rohingya from the list of officially recognised national ethnic groups, rendering them ineligible for full citizenship. According to this legislation, those Rohingya seeking citizenship may apply for naturalised citizenship if they can provide conclusive evidence that they entered and resided in Myanmar prior to 4 January 1948.[19] However, this is an onerous requirement for populations that are repeatedly displaced, such as the Rohingya.[20]

Accordingly, many Rohingya have been effectively stateless since 1982. They are victims of a decades-long hate campaign, including incitement of anti-Rohingya sentiment, and have been deprived of their basic rights, including freedom of movement and religion.[21] They have suffered decades of violence and persecution, deep-rooted in a long-standing narrative that the Rohingya are not native to Myanmar and are an existential threat to the Burmese national identity.[22] This 'non-native' narrative has been embedded into government policies, such as the National Verification Card ('**NVC**') initiative, which, since its implementation in 2012, requires Rohingya to identify as 'Bengali'. Multiple instances of Rohingya being coerced by the Myanmar military to accept the NVCs, which confer no rights, have been documented.[23]

Denial of citizenship has also served as the basis for Myanmar to deprive Rohingya of basic human rights and freedoms. These encompass restrictions on many aspects of their day-to-day life, including restrictions on access to education and professional employment, registration of births of Rohingya children (a pre-requisite for obtaining identity documents, travel authorisations, marriage permissions, and enrolment in most government schools),[24] and marriage between Rohingya couples.[25] Additionally, there are restrictions on the permissible number and spacing of children, with specifically Rohingya couples prohibited from having more than two children and being forced to use contraception as part of the marriage permission procedure, or risk fines or imprisonment.[26] From 2015, national policies and practices were implemented to severely restrict the Rohingya movement and purportedly protect race and religion, which discriminate against women and girls.[27] For instance, in 2015, Myanmar adopted a package of four laws targeting Muslims and imposing restrictions on marriage, religious conversion, extramarital relations and population control measures respectively.[28] These rules caused long delays in obtaining marriage permissions and resulted in complex and humiliating procedures. Due to this, couples often choose to only marry religiously, which carries the risk of penalties. The lack of access to contraception contributed to a rise in unsafe abortions.[29]

The restrictions above, in addition to increasing the prospect of harassment at military checkpoints, have the effect of significantly restricting the Rohingya's access to essential services in Myanmar, including healthcare.[30]

Such embedded history of marginalisation, systematic discrimination and persecution creates the backdrop for the subsequent 'clearance operations', including widespread SGBV against Rohingya, and sets the context for any assessment of genocide.

2017 "Clearance Operations"

On 25 August 2017, the Myanmar military initiated 'clearance operations' in northern Rakhine state following an attack by the Arakan Rohingya Salvation Army ('ARSA') on a Myanmar military base and up to 30 security outposts.[31] For the next two months, the Myanmar military implemented one of the most devastating and horrific attacks on Rohingya civilians, resulting in the death of at least 10,000 people[32] and the mass exodus of at least 720,000 survivors – half of them children[33] – to escape the violence. The 2017 'clearance operations' caused the largest displacement of Rohingya into neighbouring Bangladesh to date.[34]

The IIFFMM, which was appointed by the UN Human Rights Council in March 2017 to establish the facts and circumstances of the alleged human rights violations and abuses by military and security forces in Myanmar, described the 'clearance operations' as a 'human rights catastrophe' and as 'foreseeable and planned'.[35]

No meaningful accountability processes have taken place within Myanmar related to crimes perpetrated against the Rohingya during or prior to the 2017 'clearance operations',[36] nor is it likely that such a domestic process will take place in the foreseeable future.[37] In February 2021, the Myanmar military sought to implement an unlawful coup d'état in Myanmar, resulting in international condemnation. The Myanmar military has brutally suppressed peaceful protests through patterns of human rights violations,[38] some constituting international crimes.[39] Notably, many of the same battalions and divisions alleged to have perpetrated criminal conduct during the 2017 'clearance operations' in Rakhine state have been redeployed in Myanmar's cities. Over time, the political violence has escalated, with the Myanmar military attacking and raiding villages suspected of harbouring resistance forces, and as of June 2023, at least 6,337 civilians have been killed.[40] There is no evidence to suggest that the culture of impunity will be addressed – indeed, the coup d'état makes the prospect of ending impunity even less likely. Since the attempted coup, the situation of more than 400,000 Rohingya remaining in Rakhine state has deteriorated. It is reported that the Rohingya 'languish in closed villages and in now nine[-year-old] decrepit "temporary" detention camps'.[41]

SGBV perpetrated against Rohingya

In the context of military operations in Myanmar, patterns of rape and sexual violence against civilians, particularly ethnic minority populations, have been reported for at least three decades by the UN and local and international civil society organisations.[42] In 1995, the Special Rapporteur on the human rights situation in Myanmar reported indications that 'soldiers view rape as a right, and that sometimes it is encouraged by officers'.[43] In its 2018 report, the IIFFMM concluded that 'rape and other sexual violence have been a particularly egregious and recurrent feature of the targeting of the civilian population in Rakhine, Kachin and Shan States since 2011'.[44]

The use of SGBV against civilians in these operations with long-standing tolerance and impunity, where military personnel have no reason to fear punishment or disciplinary action,[45] culminated in the widespread and systematic use of SGBV during the 2017 'clearance operations' against the Rohingya, which has been described as 'brutal and grossly disproportionate'.[46] The rapes and other forms of sexual violence perpetrated against the Rohingya have been identified as part of a deliberate strategy to intimidate, terrorise and punish a civilian population as a tactic of war.[47] The SGBV perpetrated during the 2017 'clearance operations' was a significant factor indicating the Myanmar military's genocidal intent in light of the extent and scale of violence, along with its impact on foreseeable impact on individuals, families and communities.[48]

'I was raped by the Rakhine and the military, they were five of them. They tied up my mouth, and I was bleeding a lot. They held sharp knives with them and pulled a gun on my head and threatened to kill me if I was to shout. That is why I could not shout and had to accept when they were doing. They cut me under my breast whilst they were raping me`.

J, female SGBV survivor

Rohingya women and girls

The Myanmar military perpetrated widespread and systematic SGBV against Rohingya women and girls during the 'clearance operations',[49] such as abduction, rape (including mass gang rapes), acts of sexual humiliation, forced nudity, mutilation, and physical and mental torture. Such SGBV against women and girls was often accompanied by the killing of their children.[50]

During the 2012 violence and the 2016 and 2017 'clearance operations', sexual violence was committed by the Myanmar military, Border Guard Police and other security forces, as well as members of ethnic Rakhine communities.[51] 80% of incidents of rape corroborated by the IIFFMM were gang rapes, and 82% of these gang rapes were perpetrated by the Myanmar military.[52] Such experiences led the IIFFMM to describe women and girls as becoming the conflict's 'frontline victims'.[53]

'When I regained my senses, I saw that the military was also raping other women and one of my sister-in-law, who was so young and attractive. They raped her and cut her vagina. She was next to me, so I saw this with my own eyes. I also saw a lot of dead bodies around me near the pond by my house. There was another woman who was a newly wedded relative who had a 3-month-old baby and was breastfeeding. The military came to try to rape her. She said to them, "I have to breastfeed, so please don't torture me!" They then cut her breasts, tortured her a lot, killed her and raped her'.

MK, female SGBV survivor

In the aftermath of the 'clearance operations', in April 2018, the Office of the United Nations High Commissioner for Human Rights (**'OHCHR'**) estimated there are over 40,000 pregnant women and girls among the Rohingya refugee population, a significant number of which pregnancies are the result of rape.[54] The KII also noted that there was a high incidence of births during April/May 2018 post-influx, suggesting large-scale SGBV during the 'clearance operations'.[55]

While the actual number of women who died secondary to the sexual violence committed during the 'clearance operations' is unknown, Médecins Sans Frontières estimates that at least 2.6% of women and girls died from or after sexual violence between 25 August and 24 September 2017.[56] Reportedly, the majority of the victims of sexual violence who arrived in Bangladesh (estimated at over 58,000 according to a data analytical study [57]) were not able to receive post-assault medical care such as emergency contraception or obstetric care. As a result, they faced high risk of sexually transmitted diseases, placing women and girls, in particular, at increased risk of morbidity and mortality.[58] Media reports at the time noted that amongst those who survived the rape, there was an overwhelming number of reports of severe gynaecological injuries and complications, including but not limited to cervical lacerations and vaginal tearing resulting from the insertion of objects like guns/nails, and severe vaginal bleeding.[59] The IIFFMM, in its 2019 report, concluded that the attacks on pregnant women, the mutilation and other injuries to their reproductive organs, and the severity of injuries to victims was such that they may be unable to have sexual intercourse or to conceive, leaving them concerned that they would no longer be able to have children.[60]

Rohingya men and boys

There are credible, consistent reports of Rohingya men and boys being subjected to SGBV prior to and during the 'clearance operations',[61] attributable to members of the Myanmar military, NaSaKa border forces (prior to its disbandment in 2012), Border Guard Police, prison authorities and members of ethnic Rakhine communities.[62] Instances include anal and oral rape, forced nudity, genital mutilation and sexualised torture, as well as being forced to witness SGBV, taking place in detention facilities (notably Buthidaung Prison).[63]

'I suffered much torture oppression [zulum nijjaton]. During the genocide, the Myanmar police arrested me and kept me for 14 days. In the night, five or six people used to come to our room and torture us in many ways. They took hot iron and burned on our backs, beating us with sticks and raping us time and time again`.

NB, male SGBV survivor

SGBV perpetrated against men and boys was intentionally inflicted to cause severe mental and physical suffering on a scale so large that it was found to meet the contextual elements of crimes against humanity in that it constituted part of the military's widespread and systematic attack against the Rohingya civilian population.[64] The scale of SGBV perpetrated against Rohingya men and boys is believed to be significant; the representative study conducted with Rohingya refugees in Bangladesh showed that 34.3% of male respondents had experienced 'sexual abuse, sexual humiliation, or sexual exploitation'.[65]

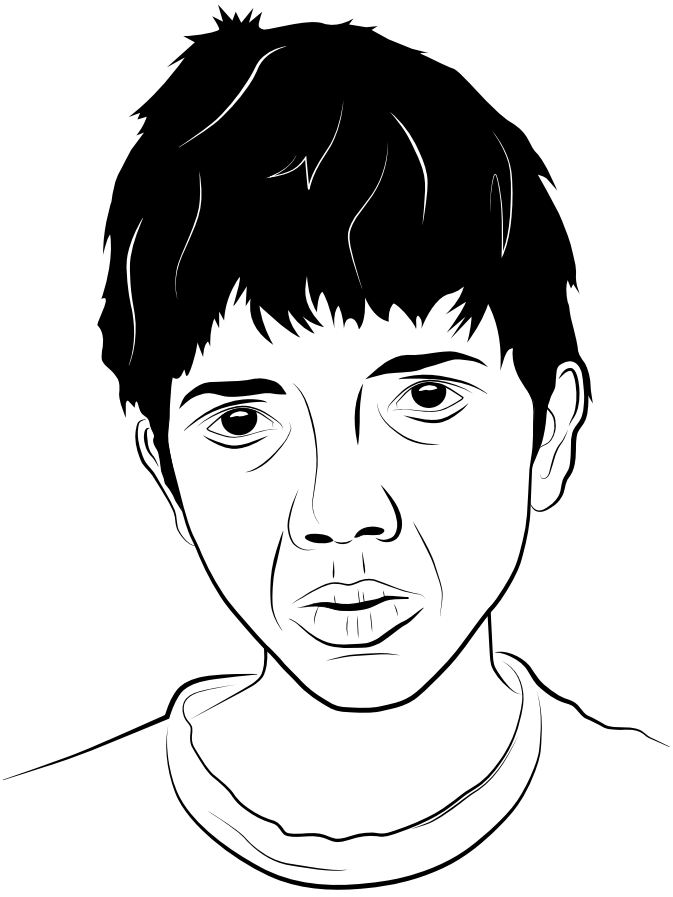
'They took me, tied my wrists and ankles with rope, then they hit me with the back of the gun, two men stood on my back, two men stood on my legs and the fifth man raped me. I was so tired, senseless, weak, and feeling pain all over my body. I felt I was almost dying [Ai abbe o`ran oi geilamgoi, beshi norom oi geilam goi, a`ar shara ga bish oi geilgoi. A`ttu ai mori jargoi Fan laiggil]`.

AU, male SGBV survivor

The impact of physical and psychological impacts of SGBV against Rohingya men has also been documented. This includes stigma and taboo associated with SGBV, as well as a decreased sexual desire and feelings of being emasculated, hindering their ability to contribute productively to society, impacting not only their personal well-being but also their families and communities.[66] Myanmar military forces reportedly forced Rohingya men to witness SGBV against Rohingya women 'to inflict terror, humiliation, and anguish on both the female victims and the male observers, and to damage familial bonds, destroy the social fabric, and subjugate communities as whole'.[67]

'After arresting me, they asked for 800,000 (Kyat). When my wife heard about the incident and the bribe, she gathered 600,000 (Kyat) and went to release me. When they saw that my wife could not fulfil their demands, they raped me first and then they raped my wife`.

MS, male SGBV survivor



Rohingya with diverse SOGI

Rohingya with diverse SOGI have been subjected to sexual violence by the Myanmar military, both before and during the 'clearance operations'.[68] Consistent accounts have been documented from transgender women 'who authorities targeted with sexual violence because of their gender and sexual orientation, in addition to their ethnicity as Rohingya'.[69] Civil society has documented that discrimination against persons with diverse SOGI is commonplace in Burmese society, but vulnerabilities are increased in conflict-affected contexts, such as the Rakhine state, due to the collapse of social protections and increased violence and impunity.[70]

'I was raped very badly during the three days of detention in Myanmar. They were seven men, soldiers. They did everything to me, raped "from the back" [Hitara a*re bura ham goijje ar fisottu ow zulum goijje]. They did everything they wanted to me. They left me as I was like a dead body [A*re mora mainshordoil felai di gilgoi]'.

MN, hijra SGBV survivor

'When we fled the village to the jungle, there was a group of Rakhine militaries. They had masks on their face; I could only see their eyes. I was with another hijra friend. They tied our hands, they blindfolded us, and forcefully raped us. When we tried to escape, they tried to slice our throats (actual marks visible on the neck)'.

MY, hijra SGBV survivor

Seeking justice for SGBV experienced by Rohingya

'Sometimes I feel weak [norcom], but I am strong enough to seek justice. Whatever they did to the women and children, and killing people, I am ready to seek justice. I will never forget how they killed children`.

F, female SGBV survivor

In 2018, the IIFFMM concluded that the acts committed in Myanmar 'undoubtedly amount to the gravest crimes under international law' and recommended that 'named senior generals of the Myanmar military should be investigated and prosecuted in an international criminal tribunal for genocide, crimes against humanity and war crimes'.[71] In subsequent years, numerous international efforts to secure justice for the crimes experienced by the Rohingya in Myanmar have been underway.

The establishment of the IIMM in 2018 to collect, consolidate, preserve, and analyse evidence of the most serious international crimes and violations of international law committed in Myanmar since 2011 was an important component for facilitating criminal proceedings and accountability efforts for the Rohingya.

The ICC's Office of the Prosecutor is currently investigating alleged crimes against humanity, such as deportation, acts of persecution and other inhumane acts, committed against Myanmar's Rohingya population on or after 1 June 2010. Whilst Myanmar is not a State Party to the Rome Statute, Bangladesh ratified the Rome Statute in 2010. In 2019, the ICC Pre-Trial Chamber found there to be a reasonable basis to believe widespread and/or systematic violence against the Rohingya population, including their deportation into Bangladesh, may have been committed at least in part on the territory of Bangladesh, which suffices to permit ICC jurisdiction to investigate these matters.[72]

In 2019, proceedings before the ICJ were also brought by The Gambia against Myanmar, arguing that, through its treatment of the Rohingya, Myanmar failed to meet its obligations in respect of the Convention on the Prevention and Punishment of the Crime of Genocide (**'Genocide Convention'**).[73]

In December 2019, during hearings on provisional measures in the case, The Gambia included evidence of SGBV documented by the IIFFMM in its oral submissions. These proceedings are an essential component in determining state responsibility and finding a long-term solution for the wider Rohingya crisis, as well as in duly acknowledging and addressing the horrific experiences of the Rohingya in Myanmar, including the perpetration of SGBV. After rejecting Myanmar's objections to its jurisdiction, the ICJ judges allowed the case to proceed to its current stage: briefing on the merits.[74] Notably, the Maldives,[75] Canada and the Netherlands,[76] and more recently, the UK,[77] Germany,[78] and France[79] have indicated their intention to intervene formally in the case, in support of the Gambia's submissions.

Also in 2019, a criminal complaint was filed in federal court in Argentina on the basis of 'universal jurisdiction', which resulted in local authorities opening an ongoing investigation into international crimes committed against the Rohingya in Myanmar during the 2017 clearance operations, including SGBV, crimes against humanity, and genocide.[80] In June 2023, an Argentine federal prosecutor conducted closed-door confidential investigative hearings, including taking testimony from witnesses.[81] LAW supported these witnesses in travelling to Argentina and helped prepare their testimony. In 2022, the United States Secretary of State announced that the Myanmar military committed the crime of genocide and crimes against humanity against Rohingya in Rakhine State.[82]

The courts within Myanmar have been politicised to the point where due process is impossible, and domestic initiatives have not resulted in genuine, independent, or effective investigations or prosecutions.[83] Accordingly, victims of the Myanmar military's crimes have no credible recourse to domestic justice. There has, therefore, been significant enthusiasm within the displaced Rohingya population for the ongoing international justice proceedings.[84]

More recently, as the Rohingya crisis has entered its sixth year, the levels of insecurity, violence, and intra-community tensions in the camps in Cox's Bazar have significantly risen.[85] These rising tensions are occurring amid increased food insecurity with the reduction of rations from the World Food Programme.[86] Even within this complex environment, the current grass-roots perceptions among the Rohingya community indicate that returning to Myanmar without 'achieving justice' is unthinkable for many. The importance of justice is especially paramount for those who faced incidents of severe SGBV and physical harm, as well as for those who lost family members in the violence. Therefore, the value of justice is not a simple question of accountability for past crimes but should also address the long-term impacts of the violence that impact Rohingya refugees' physical and mental health, as well as the fact of their being in 'limbo' given their sustained displacement and deportation until the present day in dangerous conditions in crowded refugee camps in Cox's Bazar.

SGBV as genocidal acts with long-term effects

Rohingya SGBV survivors are not alone in their experience. From the 20th century, victims and survivors in some contexts, such as Namibia, Armenia, former German-occupied Europe, Cambodia, Guatemala, Bosnia and Herzegovina, Rwanda, Darfur, and Iraq, have suffered long-term psychological, physical, and social consequences of SGBV, which amounted to an international crime, including as a constitutive act of genocide. This section provides a brief overview of these contexts where severe long-term consequences of SGBV have been studied, showing how the perpetration of genocidal SGBV can have a devastating effect on the health, welfare, social fabric, and the existence of the community. A review of these studies further merited undertaking the present research to reflect on whether and how the nature and extent of harm inflicted on Rohingya survivors and communities due to the SGBV by the Myanmar military is comparable to that documented in other genocidal contexts.

1 Herero and Namaqua ('Nama') (1904-1908)

In 1904, the German imperial military forces defeated the Nama and Ovaherero peoples after several months of clashes in the former colony of German South West Africa, present-day Namibia.[87] Referred to as the first genocide of the twentieth century,[88] between 1904 and 1908, German imperial military forces systematically targeted indigenous Ovaherero and Nama peoples, using physical violence, establishing conditions of malnutrition, sickness, starvation and thirst, and implementing an official extermination policy.[89] Sexual violence was common during German colonial rule, particularly against women and girls who were raped, subjected to sexual slavery, or killed when they refused sexual advances of the Germans.[90] Ovaherero and Nama women and girls were subject to rape and physical violence during this period, with the reported knowledge and consent of German colonial authorities.

The UN experts, as part of their joint communication to the German Government in February 2023 expressing their concern over the lack of effective reparative measures by Germany for the genocide survivors, noted in particular the long-term effects of the genocide in Namibia, stating that 'the impact on the loss of tribal organisation, practices, names, and religion has resulted in the loss of cultural identity and belonging [and that] the concentration and slave labour camps led to institutional sexual violence and trauma that was never addressed and which is visible in contemporary Namibia through gender-based violence'.[91]

2 Armenia (1915–1916)

A nationalist reform group called the 'Young Turks' sought to strengthen, modernise and 'Turkify' the empire in 1908.[92] This nationalistic ideology ignited a campaign against the Ottoman Armenians, leading to the implementation of a set of measures targeting the Armenian population that was seen as a barrier to the unification of the Turkic people.[93] The measures implemented included a law authorising the military and government to deport anyone deemed as a security threat and to confiscate abandoned Armenian property. Consequently, Armenian men were arrested and killed in mass executions, whilst women, children, and the elderly were removed from their homes and deported to the desert of modern-day Syria by way of 'death marches' for hundreds of miles without food or water.[94]

Sexual violence against women and girls took place at the outset and at every stage of the massacre and expulsion of Armenian villages in 1915. Women and girls were abducted, sexually abused, and raped before being killed or left to die from severe injuries. Some were forcibly converted and married to Muslim Turks, Kurds and Arabs, whilst some lived in sexual servitude.[95] The horrific nature of the sexual violence led to some committing suicide.[96] Many survivors were pregnant, infected with sexually transmitted diseases and/or traumatised by physical abuse.[97] The enduring trauma passed down through generations included the cultural eradication of the Armenian people from their historic communities in Western Armenia, their conversion into Muslim households and destruction of their own civilisation, and the dispersal of the survivors around the globe.[98]

After the war, international pressure for accountability led to several courts martial applying the Ottoman military code to convict several Ottoman leaders for massacre, plunder and pillage.[99] Some of the tribunals or military courts invoked the principle of 'crimes against humanity' in the trials, and although sexual violence was rarely expressly charged, it surfaced in many indictments and trials due to the widespread nature of the crimes.[100] Reflecting on the role of sexual violence in the pattern of crimes against Armenians, the Turkish Military Tribunals found that the honour of women and girls was violated by forcing them into marriages or servitude, with the aim of subjecting them to poverty and ruin through abuse.[101]

3 The Holocaust (1933–1945)

The Nazis, who assumed power in Germany in 1933 and its collaborators, carried out systematic and state-sponsored persecution, which led to the murder of an estimated 6 million European Jews.[102] The Nazis (a shortened name for the 'National Socialist German Workers' Party')[103] was a racist regime who believed that the Aryan were racially superior and regarded the Jews, Romas (sometimes derogatorily known as 'gipsies'), those physically or mentally disabled, LGBTIQ+ persons, and other ethnic groups[104] as inferior to the Germanic race. The Holocaust (also known as 'Shoah' in Hebrew)[105] unfolded in stages over time and during World War II, beginning with the passing of the Nuremberg Laws in 1935, which sought to exclude the Jewish population from German society, including stripping them of citizenship.[106] Following the invasion of Poland in 1939, the Jewish community was segregated into ghettos where poor living conditions caused many to lose their lives due to diseases, starvation, and murders.[107] In 1941, the last stage of the Holocaust was implemented with the deliberate and systemic mass murders on an unprecedented scale of the Jewish community, which the Nazis called 'Final Solution to the Jewish Question'.[108] Mass shooting operations took place in more than 1,500 cities, towns, and villages across Eastern Europe, in broad daylight and in full view of the local residents. Specially designed 'extermination camps' were built where the primary means of murder was poisonous gas released into sealed chambers. In the final months of World War II, Jewish detainees were forced into 'death marches' by the Germans in an attempt to evacuate the concentration camps to prevent the prisoners from being liberated by the Allied troops.[109]

Sexual violence during the Holocaust was inflicted not just against women but men and boys,[110] and LGBTIQ+ individuals.[111] During 'routine procedures' in the ghettos or in the extermination camps, women were subjected to sexual humiliation and rape, forced prostitution or sexual barter in exchange for food,[112] forced abortions, forced sterilisations and medical experiments.[113] Mass sterilisation experiments were conducted, including through injecting reproductive organs with chemical solutions or through exposure to X-ray radiation.[114] Many victims died from complications that arose from these unethical medical experiments. The experiences of imprisonment in the extermination camps resulted in long-term psychological trauma amongst survivors,[115] in combination with psychosis leading to lifelong illnesses.[116] The majority of women stopped menstruating in the extermination camps, and survivors later described experiencing difficulties in fertility.[117]

4 Bangladesh (1971)

In 1971, a Pakistani military junta based in West Pakistan launched a nine-month military operation and air strikes against the Bengali residents of East Pakistan, present-day Bangladesh.[118] The Pakistani military and its local collaborators targeted mostly Hindu women and girls for sexual violence,[119] while Bihari women were also subjected to rape.[120] It was estimated that during the nine-month-long war, about three million people were killed, nearly a quarter million women were raped, and over 10 million people were deported to India, causing brutal persecution of them.[121]

The victims of sexual violence often had to cope not only with their physical injuries and trauma but also with a society hostile towards them. They were refused reentry to their families due to the dishonour associated with having a raped woman in their families.[122] Also, they were ostracised and confronted by constant *khota* (sarcastic/censorious remarks evoking unpleasant events) by their communities.[123] Research indicates that approximately 200 reported cases where the victims had committed suicide following their rape to save themselves from the social stigma of shame.[124]

The International Crimes Tribunal was established in 2010 to prosecute and punish those responsible for crimes committed during the 1971 war.[125] It has convicted several individuals of the crime of genocide under the International Crimes (Tribunals) Act, 1973, including Ghulam Azam and Salahuddin Quader Chowdhury.[126] The International Commission of Jurists concluded that there was a strong prima facie case that the crime of genocide was committed against the group comprising the Hindu population of East Bengal.[127]

5 Cambodia (1975-1979)

From 1975 until early 1979, the Khmer Rouge regime ruled Cambodia as a totalitarian state, abolishing civil and political rights, private property, religious practices, and minority languages.[128] It subjected the Cambodian population to forced transfer and evacuation, forced labour, torture, imprisonment and execution.[129] In terms of deaths per total population, it ranks very high among genocidal regimes.[130] After an estimated 1.5 million – a quarter of the then population – died under the regime from execution, overwork, or starvation,[131] survivors were left with multiple and long-standing psychiatric disorders.[132] During the three years and eight months that the Khmer Rouge was in power, gross acts of sexual violence were committed against both men and women, including: rape, forced marriage and sexual humiliation.[133]

With an aim to control sexuality and increase population, forced marriage, in particular, was a cornerstone of SGBV under the Khmer Rouge. Marriage ceremonies involved 3-160 couples who usually had no choice in their partner and had never met each other before. Refusal to marry and later consummate the marriage often resulted in imprisonment, torture, or death.[134] The Khmer Rouge targeted ethnic minorities, especially Chinese, Vietnamese and Muslim Cham, and regulated their family building and marriage. For example, the regime considered the Vietnamese ethnicity to be matrilineal, and as a result, in mixed families, targeted Vietnamese mothers and their children whilst sparing Khmer fathers, as well as targeted Vietnamese fathers whilst sparing Khmer mothers and children.[135] Decades later, victims and witnesses, including SGBV survivors, had the opportunity to testify before the Extraordinary Chambers in the Courts of Cambodia (**'ECCC'**), a special court set up to try those responsible for serious violations committed during the Khmer Rouge regime. ECCC found that crime of genocide and persecution on racial grounds were committed against the Vietnamese.[136] Despite the significant passage of time, studies show that Cambodian residents and refugees still have psychiatric symptoms associated with trauma.[137]

A 2015 study (with 222 interviewees who experienced SGBV under the Khmer Rouge either directly or indirectly, and all of whom were civil parties of Case 002 of the ECCC) states that women continue to suffer from the violence they experienced during the Khmer Rouge era through today.[138] The study found that 51.1% of respondents reported that the violence has affected their psychological well-being. The vast majority reported that they are still suffering from feelings of shame (50.0%) and guilt (87.5%). A considerable number of interviewees described symptoms of baksbat (literally, broken courage, Cambodian idiom of distress), including nervousness, sleeping problems and headaches. 20.4% of respondents said that the experience of violence had affected their physical well-being, whilst 15.2% reported that it had harmed their sexual functioning. Nine female respondents reported feeling ongoing pain in the vagina and uterus, whilst five respondents reported feeling uncomfortable when having sex. Thirty female respondents reported feeling discriminated against and enduring a bad reputation due to the gender-based violence they suffered during the regime. Six victims of forced marriage stated that they suffer from a lack of respect in their community because members of the community believe their marriage went against tradition. Among the 119 victims of forced marriage interviewed, 68.9% revealed that they are still worrying about what others may think of them in light of the sexual violence they have experienced.[139]

6 Guatemala (1980 -1983)

During the Guatemalan civil war between 1960 and 1996, an estimated 200,000 people were killed by the military, including in more than 600 documented massacres around the country.[140] More than 80 per cent of the victims were indigenous Maya civilians, and more than 100,000 women suffered brutal rapes.[141] In 1980, the army instituted 'Operation Sophia', which sought to undermine anti-government guerrilla by terrorizing or killing civilians, primarily descendants of the Maya, whom the army suspected were supporting the insurgents.[142] The most intense genocidal period took place during the military dictatorship of Efrain Ríos Montt between 1982-1983, where the murder of 1,771 people of the Ixil Maya ethnic group was ordered and a further 29,000 individuals were displaced and subjected to subhuman conditions, torture, rape and sexual abuse.[143] Ríos Montt was found guilty of genocide and crimes against humanity in 2013,[144] though the Constitutional Court overturned the verdict ten days later and ordered a retrial.[145] In 1994, a UN-supported Guatemala's Commission for Historical Clarification - La Comisión para el Esclarecimiento Histórico (**'CEH'**) was formed to clarify human rights violations related to the internal conflict from 1960 to the United Nations brokered peace agreement of 1996, and to foster tolerance and preserve the memory of the victims.[146] The CEH investigation demonstrated that the rape of the Mayan women, during torture or before being murdered, was a common practice aimed at destroying dignity. Most of the women suffered profound trauma and stigma as a result of the sexual violence.[147]

7 Bosnia (1992-1995)

During the conflict in Bosnia and Herzegovina, up to 50,000 Muslim women are estimated to have been raped. 'Rape camps' were established to oversee the authorities' policies of gang rapes and forced impregnation, as militias sought to impregnate Bosnian women to bear 'Serbian' children.[148] Bosnian men were also victims of brutal SGBV, particularly in detention settings, and were subject to castrations.[149] Between 2,000-4,000 children are estimated to have been born out of SGBV during the conflict.[150] In a similar manner to Rwanda, during and immediately after the genocide, Bosnia and Herzegovina experienced a rapid reduction in the birth rate due to factors such as spousal separation, increased miscarriages, and delayed births.[151] In 1993, the International Criminal Tribunal for the Former Yugoslavia (**'ICTY'**) was established to prosecute war crimes, crimes against humanity, and genocide committed during the conflicts in the Balkans.[152]

As detailed in Part V of this report, the court handed down several relevant judgments documenting widespread SGBV. The Appeals Chamber in Krstić held that evidence introduced at trial supported the finding that with the majority of the men killed officially listed as missing, their spouses are unable to remarry and, consequently, to have new children.[153] Hence, the physical destruction of the men had severe procreative implications for the Srebrenica Muslim community, potentially consigning the community to extinction.

A study of former Bosnian refugees in the region found that 45% of all respondents who were originally classified as having depression, PTSD, or both remained symptomatic after three years, and that 16% of respondents who were asymptomatic had developed PTSD, depression, or both.[154] A 2006 study of 68 Croatian and Bosniak women who were victims of rape during the genocide found that, despite none of the women having a psychiatric history before being raped, 52 women later suffered from depression, 51 from social phobia, 21 from PTSD and 17 had sexual dysfunctions. Further, out of 29 women who became pregnant after being raped, 17 had an artificial abortion, with this decision strongly predicated on suicidal thoughts and impulses. The study concluded that the wartime rapes had deep, immediate, and long-term consequences on the mental health of women victims and their social and interpersonal functioning.[155]

8 Rwanda (1994)

From April until mid-July 1994, the genocide in Rwanda resulted in the deaths of an estimated 800,000 people, most of whom were members of the Tutsi minority community.[156] In the run-up to the genocide, much of the propaganda was directed at Tutsi women, deriving from patriarchal societal structures and the view that Tutsi women are sexual objects requiring subjugation.[157] It is estimated that 90% of surviving Tutsi women and girls were sexually molested in some manner during the genocide, and nearly 70% of women raped contracted HIV/AIDS. There were widespread reports of forced sexual penetrations, mutilations, burnings, mass rape and sexual slavery.[158] Potentially, over 10,000 children were born as a result.[159]

Prior to the genocide, Rwanda had one of the world's highest birth rates (6.2 per woman).[160] During and immediately after the genocide, Rwanda experienced a progressive reduction[161] in the birth rate due to factors such as spousal separation, widespread killing, increased miscarriages and delayed births.[162] Children born as a result of SGBV suffered high infanticide rates, abandonment, neglect and cultural obstacles.[163] Once rendered unmarriageable by sexual violation, women's societal values became marginal.[164]

A decade later, a survey of adults in four Rwandan communes found that 24.8% of participants met the symptom criteria for PTSD. It also found that respondents who met PTSD criteria were less likely to develop a shared vision and sense of a collective future.[165] In the direct aftermath of 1994, the International Criminal Tribunal for Rwanda (**'ICTR'**) was established to prosecute those considered most responsible for war crimes, crimes against humanity, and genocide.[166] As detailed in Part V, the ICTR handed down several judgements, including for the use of SGBV as a genocidal act.

9 Darfur (2003)

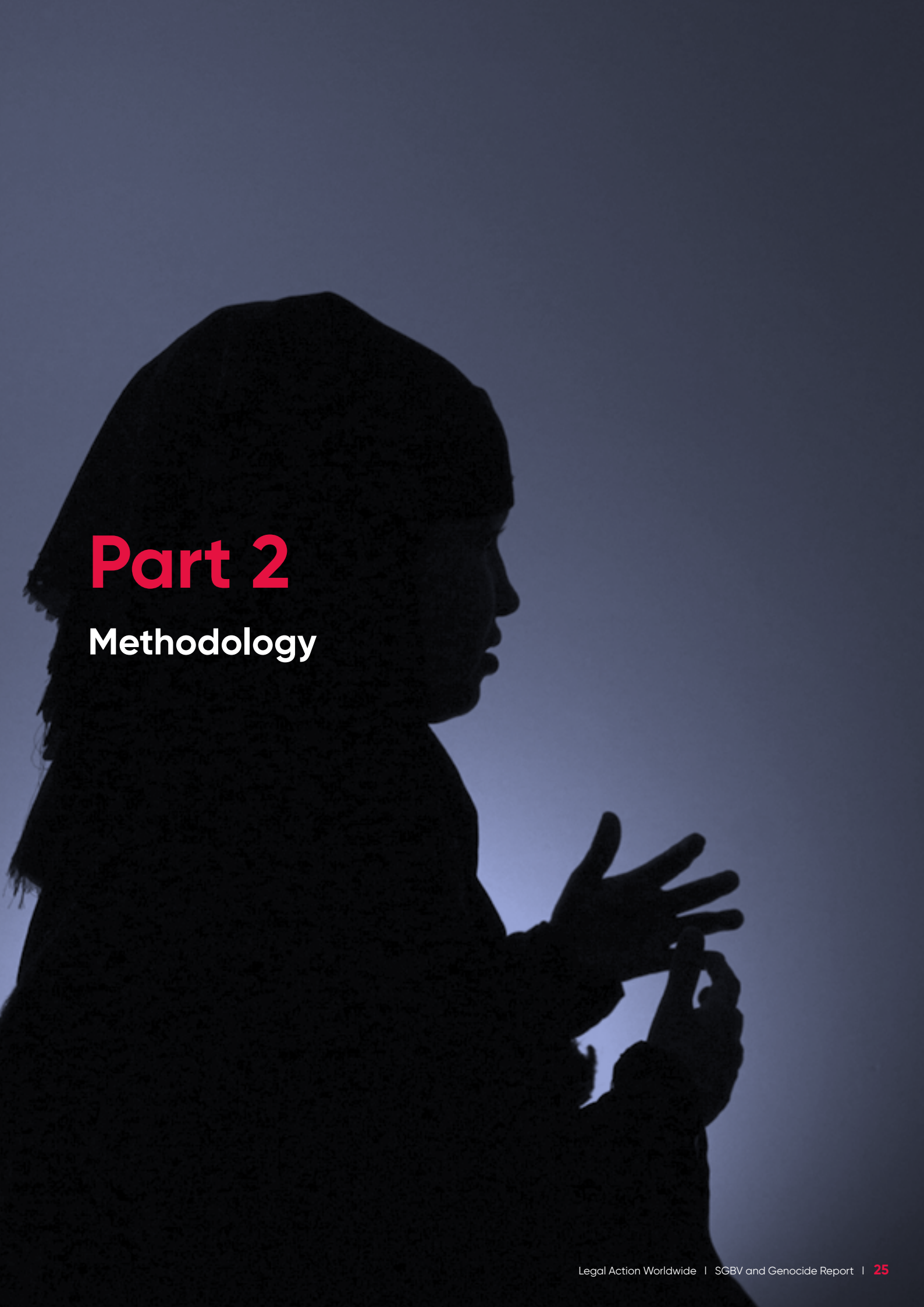
Since early 2003, Janjaweed militias and the Sudanese government forces have been responsible[167] for the killing of at least 300,000 men, women, and children.[168] The UN International Commission of Inquiry on Darfur concluded that the serious violations of human rights include indiscriminate attacks, including the killing of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement.[169]

Deliberate aggression against women and girls, including gang rape, was widespread,[170] occurring during the attacks on the villages and during flight or in internal displacement camps.[171] The ongoing Darfur conflict led the UN Security Council in 2005 to refer the situation to the ICC for investigations.[172] The ICC issued warrants of arrest against several individuals for crimes against humanity, rape, forced transfer, torture, and specifically against Bashir, for the crime of genocide.[173] Survivors of sexual violence and their family members suffer long-term trauma, with some being blamed for disgracing their families due to conservative cultural belief that pregnancy can only happen between consenting individuals.[174] Children born out of rape were not readily accepted by the community, and they faced ostracisation, trauma, and abuse of their rights.[175]

10 Yazidi (2014-ongoing)

Following the rise of the so-called Islamic State of Iraq and the Levant (**'ISIL'**) militant group, the estimated 400,000 Yazidi population in northern Iraq experienced severe human rights violations. In August 2014, ISIL committed what was described as a crime of genocide[176] against the ethno-religious minority group, leaving approximately 3,100 dead and 6,800 abducted.[177] Women and girls were the primary targets for abduction, sexual slavery and mass sexual violence,[178] with targeted acts against Yazidi women's reproductive capacity, including forced contraception and abortions.[179] Significant stigma was attached to children born from this SGBV, with many Yazidi women and girls forced to choose between their children or their community.[180] An estimated 200,000 Yazidis remain displaced and in camps, whilst thousands of others are missing.[181]

Thousands of Yazidis were held captive in the Syrian Arab Republic, and the Independent International Commission of Inquiry on the Syrian Arab Republic (**'Syrian COI'**) was established in 2011 to investigate all alleged violations of international human rights law in the territory.[182] Yazidi women and girls who escaped ISIL captivity were found to be in a situation of acute emotional distress,[183] which led some to subsequently refuse to procreate.[184] Whilst high levels of severe physical and mental health problems have been found among the displaced Yazidi population,[185] particularly high rates of trauma exposure, PTSD, and depression are reported for female survivors of the attacks and abductions.[186] In a 2020 study, among 326 displaced Yazidi women with high levels of war exposure, enslavement experience and intimate partner violence, PTSD and depression were found.[187] The Syrian COI noted that 'female survivors of sexual slavery have been shattered, with many experiencing suicidal thoughts and intense feelings of rage interspersed with periods of deep depression and listlessness'.[188] It further observed that some Yazidi women were so tr aumatised by SGBV that they 'did not want to marry, or to contemplate relationships with men now or in the future. This was compounded by a sense that they had lost their honour'.[189]



Part 2

Methodology

The research was undertaken between August 2022 and April 2023 by a multi-disciplinary team and comprised of four phases:

Phase 1 (August to November 2022)

Desk research, participant identification, and screening

Desk research involving review of 45 documents (UN, NGOs and academic publications focusing on SGBV against Rohingya in Myanmar and its impact, mental health outcomes among Rohingya refugees living in Cox's Bazar, studies on medium and long-term impact of SGBV on survivors in other contexts, and the applicable international criminal law) was undertaken.

Participants for the interviews were identified and selected through a 'purposive sampling' approach, meaning the participants were known to have experienced SGBV in Myanmar. Participants for the focus group discussions were selected through a 'convenience sampling' approach, i.e., based on their availability to participate in the discussions. All participants interviewed were survivors of SGBV in Myanmar, whilst all focus group discussion participants were survivors or witnesses of SGBV in Myanmar. The research confirmed that survivors' and witnesses' accounts of SGBV were in line with the broader patterns of SGBV against Rohingya in Myanmar found in the desk research. All participants were screened to verify their identity and suitability to participate in the research, and for any protection concerns that may result in the prospective participant being exposed to further harm as a result of them sharing their experiences of violence.

Phase 2 (November 2022)

Exploratory mission

The exploratory research in Cox's Bazar was undertaken by an expert psychologist to test the appropriate methods for the research, which could elicit the widest array of features of the current subjectivity of the participants and the multi-dimensional impact of their experience over time in an emotionally safe manner. Following this, a template of reporting was conceptualised to consistently capture the clinical documentation of the current psychosocial functioning of the participants interviewed. In parallel, KII were initiated with service providers. Individuals who work(ed) with the key UN agencies, humanitarian organisations, and I/NGOs which are responsible for implementing sexual and reproductive health programmes for the Rohingya community, and at the community healthcare clinics set up in Cox's Bazar since 2017, were identified for the KII. They were selected based on their roles, which *inter alia* involve antenatal care, clinical management of rape, supervising reproductive health operations, midwifery, supporting the sexual and reproductive health and rights program, and community-based health outreach program for the Rohingya. The names and affiliations of the individuals with whom KII were conducted are not disclosed in the report for security reasons.

Phase 3 (January – February 2023)

Data collection

Data collection was undertaken by psychologists through semi-structured interviews and focus group discussions alongside the ongoing KII.

Phase 4 (March – April 2023)

Analyses

Clinical analysis of the data collected by psychologists and review of the information on physical injuries by a medical doctor was done along with data coding and qualitative analysis to prepare the findings. This was followed by the legal analysis of the findings.

The data collection comprised of the following:

- Four focus group discussions with eight women, 11 men and 15 *hijra* individuals who are survivors or witnesses of SGBV;
- Thirty in-depth interviews with survivors of SGBV (22 female, six male and two *hijras*). Prior to undertaking interviews and focus group discussions, the research team received training on informed consent procedures, Do No Harm practices and interviewing techniques.
- Seven KII, including with doctors, psychologists, and community health workers that currently or previously worked with Rohingya survivors of SGBV in Cox's Bazar during or subsequent to, the influx of Rohingya into Bangladesh in 2017.

A team of four expert psychologists conducted the focus group discussions and the 30 in-depth interviews in Cox's Bazar. They assessed the psychological and social impacts of SGBV on survivors and the community. Also, a medical doctor reviewed the medical information collected from participants. This expert analysis was supplemented by two external researchers and a team of Rohingya refugees who coded the raw data for qualitative analysis and compiled a glossary of key Rohingya constructs based on the interview transcripts. Additionally, KII were carried out by the legal team, focusing on early responders in the Rohingya crisis and assessing the findings in terms of genocide.

The expanded methodology is further detailed in **Annexe 1.**

Snapshot of participants interviewed

22 - 59

current age range of participants

21 of 22

female participants were of childbearing age (15-49 years old) at the time of the SGBV

20 of the 30

participants experienced SGBV by multiple perpetrators, who are either Myanmar military or security forces

10 of 30

participants, mainly men, also experienced SGBV in years prior to the 2017 'clearance operations'. **All interviewees experienced SGBV during the 2017 'clearance operations'**

23 of 30

participants experienced torture and other violent acts alongside SGBV

9

participants experienced SGBV in the presence of family members, partners, or children

8

female participants lost their husbands (separated and killed) and were then raped.

4

participants witnessed violence toward their children during SGBV

In undertaking this research, the principles below were followed:

- **Do No Harm –** A Do No Harm approach was applied throughout the research. All efforts were made to ensure that no participant or prospective participant was exposed to further harm as a result of the research undertaken or their participation in the research. Steps were taken to avoid or minimise any adverse effects of the intervention, including the risk of exposing people to increased danger or abuse of their rights.
- **Trauma-informed and survivor-centric –** The research was grounded in a trauma-informed approach, fundamentally intertwined with a survivor-centric approach. The principles underpinning this were informed by key references in the field, including the World Health Organization (**'WHO'**) ethical and safety recommendations for researching, documenting and monitoring sexual violence in emergencies;[190] Substance Abuse and Mental Health Services Administration (**'SAMHSA'**) principles;[191] Inter-Agency Standing Committee (**'IASC'**) Guidelines on Mental Health and Psychosocial Support in Emergency Settings,[192] and Recommendations for Conducting Ethical Mental Health and Psychosocial Research in Emergency Settings;[193] International Protocol on the Documentation and Investigation of Sexual Violence in Conflict,[194] Global Code of Conduct for Gathering and Using Information about Systematic and Conflict-Related Sexual Violence,[195] and the UN High Commissioner for Refugees (**'UNHCR'**) cultural and contextual analysis of Rohingya refugees' mental health.[196]
- **Openness and transparency –** The purpose of the interviews and how information gathered will be used was made clear to all participants during their pre-screening interviews, which were held prior to their in-depth interviews with the psychologists.
- **Voluntary participation and informed consent** All participants in this research were informed about its purpose and how it would be used before they gave consent to participate. Participants were informed about their right to withdraw their consent to participate, whether during or after the interviews. No participant was paid for their involvement in this research. All participants consented to having their accounts included in the research.
- **Confidentiality and anonymity –** Survivors interviewed as part of this research are not named, and their right to privacy, dignity and confidentiality has been respected.
- **Ensuring appropriate referral to available survivor services –** Participants were informed about available services following the interviews for those who wished to be referred. LAW assisted and continues to assist them in accessing these services.

Part 3

Summary of Applicable Law

Crime of Genocide

The crime of genocide was codified in 1948 by the Genocide Convention in the aftermath of the Second World War and, more specifically, the Holocaust. The Genocide Convention defines genocide as '...any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group'.[197]

Article 6 of the Rome Statute replicated this definition of genocide.[198]

The Genocide Convention recognises that genocide can be committed through either lethal or non-lethal acts - as only the first of the five constitutive acts of genocide require killing. Prior to the ratification of the Convention, the concept of genocide, as defined by Raphael Lemkin was applied in practice by The Supreme National Tribunal in Poland in trials of war criminals between 1946-1947.[199] This tribunal found that reproductive experiments conducted on detainees in concentration camps were intended as elaborate methods of destruction of reproductive capabilities. The findings of the tribunal and, in particular, their practical application of the early concept of genocide, contributed significantly to the consideration of SGBV in the definition of genocide under the Convention.

SGBV as a genocidal act

Over the past sixty years, domestic and international courts have added helpful guidance on interpreting these acts of genocide, showing how they can include a broad range of SGBV, including rape, acts of sexual violence, and regulations against births.

For instance, at the domestic level, the Eichmann trial in Germany in the early 1960s, upheld the conviction of Eichman for 'imposing measures intended to prevent births among Jews' because Eichman had directed that births should be banned and pregnancies terminated among Jewish women in the Terezin Ghetto, with the intent to exterminate the Jews.[200] More recently, in Guatemala, in the re-trial of Jose Mauricio Rodriguez Sanchez, a former head of military intelligence, despite acquitting the defendant, the Court held that the military's attacks on Mayan Ixil people amounted to genocide, and that in relation to 'imposing measures intended to prevent births', it held that rapes, mutilations, feticide, forced nudity, and other forms of sexual violence were measures aimed at preventing births within the group, affecting their reproductive organs, which also led to trauma and terror, and to ostracism, creating social and personal barriers to reproduction.[201]

On the international level, courts and tribunals are consistent that SGBV can be acts of genocide. The ICTR and ICTY have recognised the second prohibited act of genocide – 'causing serious bodily or mental harm' – as inclusive of physical or mental torture,[202] cruel, inhumane or degrading treatment or punishment,[203] persecution,[204] deportation and forcible transfer,[205] as well as rape and other acts of sexual violence.[206] The ICTR also recognised the fourth prohibited act of genocide – 'imposing measures intended to prevent births within the group' – as inclusive of sexual mutilation, sterilisation, forced birth control, separation of the sexes, prohibition of marriages, deliberate impregnation during rape of another group, and rape when the person raped refuses subsequently to procreate.[207] The ICTR and ICTY have repeatedly and increasingly recognised SGBV as a measure that can be, and has been, perpetrated with intent to physically or biologically destroy, in whole or in part, a national, ethnic, racial or religious group, thus constituting genocide.[208]

As recognised by the ICC's Office of the Prosecutor, in relation to genocide under the Rome Statute, all the underlying genocidal acts may have a sexual and/or gendered element.[209] If committed with intent to destroy a national, ethnic, racial, or religious group, in whole or in part, such acts may amount to genocide. The ICC's Office of the Prosecutor further confirms that the serious bodily or mental harm associated with rape and other forms of sexual violence among targeted groups, can cause significant and irreversible damage to individual victims and to their communities. Thus, acts of rape and other forms of sexual violence can be an integral component of the pattern of destruction inflicted upon a particular group of people, and in such circumstances, may be charged as genocide.[210]

Sexual violence, including acts that inflict physical, mental, or sexual harm or suffering, thereby 'causing serious bodily or mental harm', can constitute a genocidal act regardless of the victim's gender if committed with the requisite intent. Gender-based violence committed against members of a particular national, ethnic, racial, or religious group, such as an attack on a girl's school,[211] can constitute a genocidal act if committed with the requisite intent.

Whilst an act does not need to have been contemplated by the drafters of the Convention, it must satisfy the definition's special intent requirement, namely the 'intent to destroy' the protected group in whole or in part, in order to constitute a genocidal act. The drafters of the Convention indicated,[212] and international jurisprudence has upheld, that the special intent requirement encompasses the intent to destroy the protected group either physically or biologically. Importantly, the perpetrators do not have to succeed in destroying the group – rather, they must commit a genocidal act with the intent to destroy the group in whole or in part.

Part V on Legal Analysis explains genocide jurisprudence in further detail and applies it to the Myanmar military's conduct against the Rohingya documented in this research.

Part 4

Physical and Psychosocial Findings

A clinical approach to examining the medium and long-term physical, psychological and social consequences of SGBV for the survivors has provided a unique window into the violence that the Myanmar military perpetrated against the Rohingya during the 2017 'clearance operations'. The analysis of the survivors' physical and psychological functioning over time and nearly six years after their experiences, and across gender identities, offers crucial insights into their individual experiences of extreme violence and how the Rohingya community as a whole was simultaneously injured. Psychologists who conducted the interviews analysed survivors' accounts and testimonies, beyond the initial clinical observation of the impact on individuals, to understand the collective impact on the social fabric of the Rohingya community.

Key findings:

1. The scale of physical injuries from SGBV committed during the 2017 'clearance operations' resulted in long-term consequences, including permanent damage to survivors' genitalia, which has impacted their ability to procreate.

2. All survivors described severe psychological injuries which has left them in a state of extreme emotional distress.

3. The SGBV also damaged individual survivors' intra-familial relationships including their ability to be intimate with their partner, their relationship with extended family networks, and with the broader community. In particular, the use of sexual violence negatively impacted survivors' parent-child relationships and their psychological capacity to procreate.

4. The systematic nature of the SGBV was destructive to the social fabric of the community in at least three ways. Firstly, severe ostracisation of the female survivors from family and kinship resulted in the loss of their cultural identity. Second, the real and symbolic emasculation of men by instilling powerlessness and diminishing their social role. Thirdly, the forced reorganisation of the Rohingya family unit and lineage, and erosion of future social alliances such as marriage within the community.

Section 1: Physical injuries

Summary Overview

Survivors interviewed described multiple acts of SGBV causing substantial physical injury and their acute and long-term consequences in a manner that is highly consistent and well-documented in the medical and psychological literature. Their accounts are particularly consistent with the existing documentation of immediate and chronic physical effects of actions reported to have been carried out by the Myanmar military against Rohingya civilians (Annexe 2).

The survivors experienced intense physical injuries to their genitals and secondary sex organs during the acts of SGBV, which were often accompanied by other violent acts. For many, injuries to the genitals and secondary sex organs have a lasting impact today, including a negative impact on their ability to have sex and reproduce.

This finding is corroborated by the medical doctor's analysis, who notes that infertility has been associated with a history of SGBV, for both women and men, due to a variety of reasons, including sexual dysfunction (e.g., loss of libido) or erectile dysfunction related to the psychological impact of the violence, as well as the physiological impact related to fistula formation, sexual organ injuries, genital mutilation, and pelvic inflammatory disease due to untreated sexually transmitted infections.[213]

In addition, the SGBV caused serious injury to survivors' other external and/or internal organs, which has a long-lasting impact on individuals' ability to lead a normal and constructive life.

This section illustrates the depth and breadth of the physical injuries of Rohingya SGBV survivors interviewed, including the impact on their ability to procreate. It is important to note that the physical injuries suffered cannot be viewed in isolation from the psychological impact.

1.1 Scale of serious bodily harm inflicted

All survivors who were interviewed reported that the Myanmar military or security forces committed acts of violence whilst perpetrating the SGBV. Often, multiple perpetrators committed SGBV on a single Rohingya individual. The survivors experienced intense physical injuries to their genitals and secondary sex organs during those violent acts, as well as to other parts of the body.

For many, injuries to the genitals and secondary sex organs have had a lasting impact today, as have the chronic pain and recurrent reproductive tract infections believed to be linked to the SGBV. Upon fleeing Myanmar into Bangladesh, the immediate medical and humanitarian response available struggled to provide urgent care during the influx, let alone specialised care for SGBV survivors. Whilst the most pressing medical issues, such as bleeding either from gunshot wounds or rape were treated during the 2017 influx of Rohingya survivors into Bangladesh, specialised healthcare services in the camps remain limited till today, leaving many long-term injuries or sufferings unresolved.

1.1.1 Serious physical injuries to the genital and secondary sex organs

Twenty-two out of the 30 survivors interviewed reported physical injuries to their genitals and secondary sex organs. Among the female survivors interviewed, injury to their vagina, uterus, abdomen, and breasts, including genital mutilation, was commonplace. Women who were pregnant at the time of 2017 'clearance operations' described difficult births afterwards due to vaginal pain and prolonged labour. Men suffered injuries to their penis and anus with lasting effects.

The serious physical injuries to the genital and secondary sex areas include:

- **Injuries to the vagina, uterus, and abdomen:** Survivors interviewed were raped violently and forcefully, with 20 of the 22 female survivors interviewed revealing that the rape was committed by multiple perpetrators at a time. The survivors reported experiencing severe pain in their vagina [*shorom zaga* (inside the private parts)] contemporaneous to these rapes, which continues today, with some describing the ongoing pain as 'burning from the inside'.
- **Excessive bleeding, immediately after the SGBV:** Six of the 22 female survivors interviewed stated that they suffered from continuous and excessive bleeding for several days after the rape, which has been described as a common acute medical effect of SGBV by the medical doctor who reviewed the survivors' testimonies. The excessive bleeding caused some to

lose consciousness and weakened their bodies, making difficult to walk. One survivor stated,

'one (perpetrator) held me down while another raped me, then the next did the same, then the third did the same. I felt so much pain on my body and [suffered] severe bleeding. I cannot describe anything worse`.

- **Genital mutilation and injuries to the breasts:** At least five of the 22 female survivors interviewed experienced injuries to their breasts or genital mutilation during the SGBV. One survivor reported that she has experienced pain in her breasts ever since the SGBV in Myanmar because of the brutal force inflicted on her when she was being raped. Another reported that she was cut under her breasts whilst being raped, and the perpetrators threatened to kill her if she screamed. Another survivor reported that after the rape, she experienced extreme pain in her chest and breasts that prevented her from breastfeeding her baby. One survivor continues to feel extreme pain in her abdomen and breasts nearly six years later, preventing her from moving her body too much. One survivor described the constant and daily pain in her lower abdomen area and genitals, which intensifies when she urinates or has sexual intercourse (dyspareunia).

'My sister and I were taken outside to the paddy field and raped there. I was raped by two military men, and when I was screaming, they cut my lips and face with a knife. My sister died after the rape`. I saw some girls were mutilated, had genitals and breasts cut, and the military showed them to us as a warning. Many other women our age were in the paddy field and similarly raped`.

M, female SGBV survivor

Another survivor who regained consciousness after being raped saw her young sister-in-law being raped, and the perpetrators mutilated her vagina. Another survivor reported witnessing a relative who had a three-month-old baby pleadinig with the military not to be tortured as she had to breastfeed her baby. The military ignored her pleas, raped her, cut her breasts, and then killed her. According to the medical doctor, the intentional mutilation and amputation of body parts outside of a medical facility, without anaesthesia, and using non-sterile tools, such as knives and machetes, can cause severe pain, bleeding, hemorrhagic shock, and death in the immediate period. It can also cause infection, possibly leading to gangrene and sepsis (disseminated infection).

- **Injuries whilst pregnant:** Four out of 22 female survivors interviewed were pregnant at the time of the SGBV. One survivor who was at an advanced stage in pregnancy during the 2017 'clearance operations' suffered significant physical injuries due to the rape she experienced. This caused her body to become very swollen, which made her physically immobile at the time, and she was unable to flee the violence on her own. Another survivor described the acute pain in her vagina since the incident and believes that this injury has had negative implications on her ability to give birth. She stated that her labour lasted for five days, and the doctor who assisted her expressed concerns about her ability to give birth, considering her physical injuries. The medical doctor who reviewed the survivors' testimonies confirmed that pregnancy, labour, and delivery complications, as well as adverse birth outcomes such as low birthweight and preterm delivery, have been associated with SGBV in multiple scientific and medical studies.[214]

- **Injury to penis and anus:** Two of the five male survivors interviewed reported injuries to their penis and anal area during rape and sexual torture, which led to severe consequences in the immediate aftermath. For example, a male survivor was raped by the military whilst he was fleeing Myanmar, causing him to lose consciousness. After that, he felt pain all over his body, and experienced severe pain in the anal area for five days. There was blood in his faeces, and he was in severe pain, making it difficult to go to the toilet. Another male survivor described how he bears a scar on his penis due to the burning of his penis with cigarettes by the perpetrators in Myanmar. The male survivors, and to a certain extent the *hijra* survivors, reported being forcibly detained or enslaved, for varying lengths of time, where they underwent various forms of sexual violence throughout their enslavement. The torture endured usually included degrading treatment and physical injuries to the genital areas. For example, burning of the penis with a melted plastic pen, firecrackers lit in their private areas, and insertion of a bamboo stick in their urethra. The physical injuries of the male and the *hijra* survivors resulted in long-lasting effects on their sexual reproductive organs that sometimes radiated through their internal organs, their lower back, rectum, and anus and resulted in what most likely were, according to the medical doctor, infections from their descriptions. During the focus group discussions and interviews, several *hijra* survivors also disclosed suffering from bleeding when they urinate and defecate, usually following sexual intercourse.

1.1.2 Serious physical injuries to other body parts

Survivors interviewed experienced injuries in nearly all parts of the body due to the severe beatings and torture by the Myanmar military during the SGBV. Frequently mentioned injuries include pain in their hands, wrists, and chest from being forcibly restrained during the SGBV event, as well as pain in their abdomen, kidneys, back, and neck that is often attributed directly to the SGBV and other violence experienced.

Survivors also suffered from serious injuries to the head or had broken teeth, as the Myanmar military beat or kicked them in the head. Beyond that, many survivors' accounts also noted that the military inflicted cuts and mutilated their victims.

Some of the physical injuries to other body parts include:

- **Chest pain, lower back, abdomen, and kidneys:**[215] Seven of the 30 survivors interviewed described having pains in their chest, lower back, abdomen, and kidneys as a result of acts carried out in the course of the SGBV against them. One described experiencing chest pain [*zuhum*] due to pressure on her from the Myanmar military men who pinned her down so she could not move. Several survivors described how pain in these areas persists today due to the pressure the perpetrators inflicted on their bodies. One survivor who was gang-raped by the Myanmar military during the 2017 'clearance operations' (and pre-clearance operations was held captive for almost six months by an ethnic Rakhine village chairperson and raped, leading to her forced pregnancy) described the pain she experienced in her abdomen to date as 'unbearable', particularly in the early mornings and when she sits down. Though she was able to undergo surgery for the tear in her vagina upon arrival in Bangladesh, she described lower back and upper thigh pain since she was raped had affected her ability to move or straighten both of her legs. Another male survivor experienced deteriorating back pain since the SGBV, which also affected his breathing.

  For some, the pain is not localised to particular body areas. For example, one survivor experienced pain in both the abdomen and chest areas, which has obstructed her breathing. The pain continues today despite seeking treatment in the camp health facility, as she was only provided with painkillers

- **Upper back and neck:** One male survivor who was subjected to sexualised torture by the Myanmar police during his imprisonment in Myanmar described having severe pain in the neck and the back, specifically in the top right shoulder on the upper side of his back. He can no longer move his right arm and shoulder. He believes the pain is a direct result of the torture, including severe beating and insertion of an iron rod into the anus, and forced labour that he endured in prison in Myanmar for nearly two years without any access to medical care. Another survivor suffered from wounds on the neck when the perpetrators who gang-raped her attempted to slice her neck as she tried to escape.

- **Face and head injury:** One survivor, who was raped and subjected to forced nudity in detention, had broken teeth as a result of being hit in the head by the military. Another, who was detained for 10 days and raped in a military outpost after trying to flee, said that during this detention, she was violently struck on the head and then suffered a stroke, causing her face to be paralysed. Today, her mouth remains partially distorted, and it is suspected that she suffered a concussion when she was hit. She has never received any medical care. One survivor who was kicked in the head by the perpetrators continues to experience frequent headaches today.

- **Pain in the hands and wrists:** Two survivors described how the rape happened very forcefully, with their hands tied and their eyes covered. As a result, they still suffer from pain in their hands and wrists.

- **Cutting and mutilation:** One survivor described how she and her sister were raped, and as she screamed, the perpetrators cut her face and lips with a knife so she would stop resisting them. Another survivor was stabbed during the rape, and she now bears a 7cm length, 2cm wide scar in her lower abdomen.

Survivors reported their mental distress presenting itself as numerous psychosomatic symptoms. They attribute these physical manifestations to the idea of a brain-body connection. The psychosomatic complaints described by the survivors are listed in Box 2 under Section 2 below.

1.2 Physical injuries and impact on reproductive capacity/ability to procreate

The SGBV experienced during the 2017 'clearance operations' by survivors interviewed had significant and long-lasting impacts on the sexual and reproductive health of survivors, affecting their ability to have and care for children, their sex life, and their personal health. For survivors who could still conceive post-SGBV, pregnancy was often complicated and dangerous or they faced difficulty breastfeeding due to the pain or physical injury inflicted on their chests during the rape.

As noted above, survivors experienced physical injuries resulting in chronic pain and infections in their genitals and secondary sex organs. For female survivors, menstrual irregularities have also been common since the SGBV. These problems have had direct impacts on their sexual

relations with partners and their marriages, which affected procreation. Sex is often painful and, therefore, avoided, which has caused marital problems. Male survivors expressed struggling with erectile function. Moreover, inadequate access to sexual and reproductive healthcare in the camps has left many of these conditions untreated, causing some of them to deteriorate over time.

- **Difficulties in post-SGBV pregnancy and childbirth:** Three of the 22 female survivors interviewed experienced difficulties or complications with their pregnancy or during childbirth since the SGBV. As noted earlier in Section 1.1.1, the medical doctor who reviewed the survivors' testimonies confirmed that SGBV could result in 'pregnancy, labour, and delivery complications, as well as adverse birth outcomes such as low birth weight and preterm delivery'. One survivor who was violently gang raped by being pinned down by two men and was also shot in the arm for trying to resist, described constant pain daily in her lower abdomen and genitals. Her pregnancies (with her husband) after the SGBV and earlier abortion post-SGBV were extremely difficult: *'After the rape, for first six months of both pregnancies, I could not walk properly, I could not eat, I was very weak. I could not even sit. The doctors convinced me to be on contraceptives after the fourth pregnancy, as my physical condition now puts me at high risk'.*

  Another survivor who was gang raped and suffered vaginal bleeding and painful swelling in her genitals en route to Bangladesh, described her current pregnancy as complicated due to the constant vaginal infections that she has faced since SGBV. *'I used to take a lot of medicine for the infection, but since I am pregnant, I cannot take this heavy medication...I am now almost eight months pregnant. My husband has left me because of my (rape) incident and because I had diseases in my private parts'.*

- **Difficulty breastfeeding:** Three of the 22 female survivors stated that they had difficulties breastfeeding since experiencing SGBV due to injuries suffered on their chest and breasts. One survivor shared how she had to feed her newborn baby with formula milk instead as her breasts were 'damaged' and ached.

- **Chronic pain in genitals and/or secondary sex organs:** Eleven of the 30 survivors interviewed are still experiencing chronic pain as a result of injuries to their genitals or secondary sex organs. One survivor continues to take painkillers for recurring pain in her private parts since the SGBV. Another survivor said he is still experiencing pain in the anal area and is no longer able to have an erection. Yet another survivor also shared how her chest and lower back/hip pain would also trigger abdominal pain to this day, which affects her daily life, including her ability to defecate.

- **Difficulty or pain during sexual intercourse:** At least six of the 11 survivors mentioned above shared how the severe pain in their genitals, as a result of the SGBV, prevented them from having sexual intercourse with their partners (dyspareunia). One survivor shared how she did not experience such pain in Myanmar prior to the SGBV; thus, this has now caused unhappiness and confusion in her marriage. Another survivor shared how she would refuse sex due to the pain she experiences, and as a result, her husband would beat her out of frustration. One survivor recounted how she was raped, tortured, and kicked in her belly, and to date, feels intense pain in her private parts. *'Even though I want a child, I do not want to be intimate because of the pain...I never told my husband about the rape; he would kill me, he would blame me that I was raped by the military men and that's why I can't bear children because of my injury'.*

  Yet another survivor shared how the 'burning pain' in his genitals prevented him from sexual intercourse with his wife.

- **Sexually transmitted disease or infection:** At least four of the 30 survivors have sexually transmitted diseases or infections as a result of the SGBV. Female survivors have experienced recurring yeast infections since the SGBV, leading to spousal abandonment due to unhappiness in their marriage. The medical reviewer states that the chronic effects of intentional genital trauma and mutilation (not associated with harmful cultural practices) carried out by combatants from Myanmar against Rohingya civilians include difficulty with survivors' normal genitourinary function, chronic urinary tract infections and kidney dysfunction. Further, male survivors shared that they experience a discharge during urination, which they believe to be a semen loss. The discharge experienced among the male survivors reported in this research could be a result of an infection, although further medical tests are needed for any conclusion. According to the medical reviewer, however, it is unlikely to be semen discharge. This perception of semen loss among male survivors has been understood to be associated with psychological/emotional distress by psychologists – also known as Dhat syndrome in South Asia (see Section 2.2 below).

'She is still complaining of infections in her private parts, where she needs to pour hot water with salt in order to urinate, she feels her genitals are itchy, which led her second husband to abandon her as he was not happily sexually with her`.

PSS evaluation report for L, female SGBV survivor

'Around eight or 10 days after he was detained, he started to experience an enduring injury in his urethra where he lost his ability urinate without the presence of a white discharge`.

PSS evaluation report for NB, male SGBV survivor

- **Loss of libido/erectile dysfunction:** Two of the five male survivors have experienced loss of libido or erectile dysfunction since the SGBV. One survivor recounted how he lost all sexual desire and could not maintain an erection since his sexual torture, which included his penis being burnt several times with a cigarette. He also shared how he currently has no sexual relationship with his wife due to the loss of libido. Another survivor shared how he is deeply affected by his injured and now scarred penis, as it prevented him from having an erection. As a result, he is unable to have sexual intercourse with his wife. Further, several *hijra* survivors and some male survivors disclosed during focus group discussions that they are suffering from erectile dysfunction as a result of the violence inflicted onto their penis, which is consistent with the medical doctor's analysis that erectile dysfunction can result as a psychological or physiological impact of SGBV.[216]

Section 2: Psychological injuries

Summary Overview

The Myanmar military's use of SGBV during the 2017 'clearance operations' resulted in identifiable long-term psychological harm to survivors across all gender identities. This long-term impact on their mental health is varied based on their experiences and idioms of distress. The psychological impact of being systematically persecuted in Myanmar before the 2017 'clearance operations' had already led the survivors to live in a state of fear and hypervigilance. The cruel and public nature of the SGBV during the 2017 violence instilled further fear and severe psychological harm to those who survived it.

Many survivors describe being in a state of paralysis or numbness due to their emotional distress, the extent of which has made the performance of the tasks necessary for their subsistence extremely difficult to complete. Notably, the witnessing of SGBV perpetrated on others caused psychological trauma for the witness-survivors, and psychologists have noted its impact on their sense of everyday safety.

The extreme psychological distress documented in this research evidences severe post-traumatic reactions as well as predominantly depression-like signs that emerged after the SGBV experiences in Myanmar, which frequently continue, even today. Related studies covering a wide range of extreme violence, including sexual violence perpetrated against the Rohingya and the impact of those acts on individual survivors, corroborate the specific narratives and impact shared by the survivors interviewed in this research. For instance, a 2019 study that interviewed 114 Rohingya refugees (mainly those with physical sequelae) noted that survivors described 'persistent post-traumatic symptoms such as insomnia, intrusive thoughts, strained relationships, depression, and anxiety'.[217] Other reports studying the impact of exposure to direct and indirect trauma (based on experiencing and witnessing violence) on mental health outcomes among Rohingya living in Bangladesh note 'PTSD and depression'[218] and 'impaired mental health and everyday functioning'[219] as outcomes.

Further research would be required to be able to provide a culturally valid psychiatric diagnosis. In the absence of the latter, the conclusion that can be drawn from this research is that clinical observations documented draw very strong similarities with the clinical diagnosis of PTSD.[220]

Systematic rape remains a terror tactic deployed to instil fear in victim communities across the globe. Whilst the effect of such acts on the human body and the acute physical injuries is well understood, the ultimate goal of perpetrators is often to destroy human dignity and profoundly disrupt human psychology.[221] Considering the importance of studying the psychological impact on survivors in discussing systematic sexual crimes, this section illustrates how the Myanmar military's use of severe SGBV during the 2017 'clearance operations' resulted in identifiable long-term psychological harm to survivors across gender identities.

2.1 Psychological impact of systematic discrimination of the Rohingya prior to 2017 'clearance operations'

The psychological impact recorded during the interviews was first grounded on the atmosphere of fear across genders that pre-dated the 2017 'clearance operations' and built up over many years within Myanmar. Most survivors repeatedly reported the psychological impact of living in a chronic state of fright for a sustained period of time, with the constant fear that the threat of the complete destruction of their community may imminently materialise. They explained feeling extreme fear of being sexually harassed, killed, or tortured, which was also fuelled by daily instances they had witnessed, threats they had heard, harassment they had experienced with disproportional fines and

penalties, and cruel stories of rape and torture they had heard through their close social networks.

The very heavy restrictions around Rohingyas' daily lives in Myanmar made it impossible for survivors to live safely. They were restricted or deprived from accessing places of worship (e.g., roadblocks to prevent accessing mosques) and from maintaining their livelihood (e.g., being prevented from accessing the markets to sell their products), which are crucial dimensions of their resilience and well-being, spiritual and financial safety. Prior to the 'clearance operations', many survivors would hide with their families in their homes by remaining in the dark with the hope that the military forces would not knock at their doors and abuse them. Several survivors, across gender identities, articulated their fear in similar ways: *'We lived in the fear that the violence would become true, and finally, it became a reality!'.*

Living in a chronic state of fear for one's life manifested itself through a post-traumatic clinical presentation of a diminished sense of safety, hypervigilance, physiological reactions (e.g., profuse shaking or sweating), sleep disturbances such as nightmares, and a diminished capacity to envisage a safe future, particularly as their ultimate fear materialised during the 'clearance operations'.

2.2 Cultural and gender-specific idioms of distress to describe survivor experiences

Idioms of distress within a culture enable the communication of distress through a common language; offer an acceptable way to explain collective suffering and offer a way out of a shaming experience.

For example, during the Indian-Pakistan partition, men who had endured extreme violence developed their own idioms of distress to express their suffering. In contrast, during the same period, female victims of SGBV were unable to have their community accept the reality of the abuse they had undergone and to take responsibility for the suffering they were continuing to endure.[222] The victims were unable to find an acceptable expression of their distress, not because they were too traumatised and unable to speak, but rather, because no language (or idioms) was available for them to make the expression of their suffering acceptable to the wider community.[223]

Similarly, in this research, the data highlighted gender-specificities in the experience of psychological distress. Male SGBV survivors[224] were able to reframe their individual suffering through cultural idioms of distress that represent collectively endorsed ways of suffering, but this was not available to female survivors whose only outlet is through physical pains and numbness.

Much of the suffering shared during the interviews around the idioms of distress was usually accompanied by a narrative **related to the experience of sexual violence, particularly involving the physical consequences of severe injuries to sexual reproductive organs.**

Rohingya survivors used two phrases to explain their emotions, suffering, and overall unhappiness:[225]

- ***Dil or mon* [heart-mind]:** is the area of their mind or experiential system used to designate the seat of the range of their emotions.

- ***Demage* [brain]:** is the area of the mind located in the head that encompasses the cognitive functions of the individuals such as memory, processing of thoughts, their connection to the outside world and their consciousness. The experiences of suffering involving demage are usually indicative of a mental illness.

A glossary of common Rohingya terminologies used by survivors and witnesses to convey emotions and experiences of suffering has been developed through this research. **See Annexe 3.**

The idioms of distress documented with male survivors were namely:

- **Stroke (said in English):**[226] was explained as originating from the heart-mind [*dil*] and the brain [*demage*] when there is a block of painful thoughts that causes the build-up of too much psychological pressure within the individual, particularly when they cannot share their suffering with others. This makes them feel as if their brain has stopped, similar to symptoms of a neurological stroke during which clots in the brain actually interrupt blood flow. The survivors described one side of the body becoming numb, paralysed, and/or paraesthesia (i.e., tingling, pins and needles) lasting until today.

- **Semen-loss' (known across South Asia as *Dhat* syndrome):** the emotional distress associated with the perceived (or fear of) semen being lost. In the case of Rohingya male survivors of SGBV, the issue was described as the experience of white discharges associated with sperm, usually when passing urine. The physiological cause for the physical discharges is most likely related to an untreated infection and unlikely to be sperm. Nonetheless, the male survivors interpret the white discharge through the prism of severe emotional consequences of their SGBV experience and the devastating loss of their masculinity, virility, and strength following the event(s).

The small *hijra* sample in this research makes it difficult to establish a possible formulation indicative of a cultural idiom of distress among *hijra* survivors. However, in their narratives of their suffering from SGBV perpetrated during both pre-2017 and the 2017 'clearance operations', the underlying themes were the feelings of being degraded, being relegated to the status of 'half-men', being belittled or considered 'as nothing'. Violence and dehumanising attacks took place whilst they were being gang raped by the military alongside other *hijras* from their village during the 2017 'clearance operations'. For example, forcibly

cutting their hair post-rape, ripping apart their nose-ring and jewellery, and attempting to slash their throat which damaged their sense of integrity and dignity.

With a few exceptions, women did not make use of the cultural idioms of distress that men endorsed. Their experience of distress mostly took a somatic form with an overall sense of paralysis, numbness, and lethargy. Many complained about suffering from chronic physical and emotional pain with an overall difficulty to physically function to the extent of leaving them bedridden at times (the psychosomatic symptoms documented amongst survivors are detailed in Box 2 below) – symptoms which continue today.

2.3 Beyond suffering: emotional distress from 2017 'clearance operations' resulting in paralysis

The findings suggest that the survivors across gender identities have been suffering from an extreme state of emotional distress as a result of their SGBV experiences and witnessing extreme violence in 2017. This was described as 'beyond suffering' and takes an overarching shape of a paralysis of the individual.

The clinical presentations documented during the interviews evidenced an extreme state of psychological distress common among the survivors across gender identities:

- During, and immediately after the incident(s): an extreme mental anguish so intense that the survivors described becoming numb, not feeling anything, losing consciousness, or becoming mad, senseless, and incoherent. For example, one survivor reported a traumatic dissociation with short-term amnesia for five days that required his hospitalisation in a psychiatric unit in a Bangladeshi hospital for several weeks.

- Many survivors reported how the extreme emotional and physical pain they have endured has led them to experience forms of physical paralysis or psychological numbness, even today. Since they left Myanmar, they have suffered from the following complaints: their body or one part of their body becoming unconscious or numb, also expressed as their blood becoming 'frozen' [*besut*], feeling that they are losing their mind or their brain [*demage*] stopped functioning properly, which led them to lose their senses or to become unconscious, feeling they have to withdraw from the interactions with the outside world, and many mentioned specifically feeling that their mind had 'already died after the rape'.

- Several survivors also shared experiencing 'beyond (emotional) suffering' in a context where the extent of their psychological distress is such that it has become unbearable to them. In this instance, many explained they had contemplated committing suicide as an exit strategy to be able to withstand their sorrows. Their descriptions suggest a desperate attempt to find a way to assert some agency over their overwhelming sense of powerlessness in the face of their extremely distressing situation. Many survivors shared passive thoughts of suicide[227] with quite precise plans (e.g., poisoning, hanging, using a knife). With two exceptions reported during the female focus group discussions, however, the survivors interviewed seemed to have no intent and no history of acting upon these thoughts. The protective factors cited were mostly their feeling of responsibility towards their children since they had often become the sole carers for their children (e.g., not wanting them to become orphans), as well as their attachment to the moral-religious principles of Islam that prohibits the act of suicide and states the erasure of all of the good deeds of one's life as a punishment for such act in the afterlife.

'Often, whenever I remember what happened to me, I cry when I am by myself. It happens more when I go to sleep. Sometimes, I can't even go out of my bed. I only forget when I speak with people... When I am alone, the scenario comes in front of my eyes. Every day, I remember my life is destroyed because I have no husband (...) We lost our home, my family members were killed, we had to leave our country, I was raped in my own land, and I still can't even live there'.

S, female SGBV survivor

'I cannot stop worrying, I cannot stop the tension. I keep seeing my husband, and a lot of painful memories, I think that I become crazy. I see again all the scenarios. It's not so much my body. It's the Demage. I cannot express with words how painful that is. I'm stuck in my head. Sometimes I want to bang my head on the wall to make it stop because it is so painful'.

FK , female SGBV survivor

BOX 1 Psychological distress resulting from the SGBV during the 2017 'clearance operations'

An array of clinical signs of psychological distress were documented during the interviews with the survivors, many of which resonate with typical signs of post-traumatic stress. The psychologists who conducted the interviews argue that an attempt to formulate a clinical diagnosis of PTSD raises several challenges in this context. There are significant issues around cultural validity that have been extensively documented in the literature, and formulating a clinical diagnosis of PTSD would not only truncate the reality of the depth and complexity of the survivors' suffering, but it would also fail to encapsulate their experiences of suffering as a community post-event. In other words, a clinical diagnosis in itself cannot seize the collective dimensions of the impact of the violence perpetrated towards the social fabric of a community. This is the reason why the findings use the term 'post-traumatic psychological distress' instead of PTSD in order to avoid any misunderstanding with the diagnosis itself.

Survivors reported feelings of guilt, shame, anger, sleep disturbances, dissociation, and intrusive thoughts after the SGBV. Some of the clinical signs, such as nightmares, flashbacks, and intrusive thoughts, referred explicitly to the sexual violence experienced during the 'clearance operations', with many stating that they constantly relive the violence endured. Other psychological reactions have a unique cultural framing, such as the experience of 'mental death' [*Antu soit no assil*]. This feeling of senselessness comes from physical and psychological exhaustion that is rooted in a profound emotional state of 'peacelessness' [*Ashanti*] related to the trauma they have experienced. The glossary in Annexe 3 details the Rohingya terminologies and categories of experiences of distress gathered during the interviews.

Below are examples of post-traumatic reactions documented, which, taken individually together with a cluster of specific signs, could often be consistent with an individual clinical diagnosis:

- **Flashbacks and intrusive thoughts:** Most survivors described the experience of vivid and overwhelming memories of their experience of SGBV, with often uncontrollable intrusions of the memories of the extreme violence they underwent unfolding 'before their eyes' as if this was still happening to them during unexpected moments of their everyday lives such as when completing their household chores. Some survivors described at times feeling like they are 'losing their minds' and suffering incessant headaches, which for some last for 15-20 days continually. They described continuing to feel physically and psychologically exhausted by the recurrence of these intrusive thoughts and a sense of helplessness in navigating the intensity of these emotions.

- **Sleep disturbances:** Survivors suffer from severe sleep difficulties, such as experiencing recurrent nightmares, which, at times, replayed in a repetitive manner the extreme violence they endured in Myanmar.

> 'I have dreams, sometimes I see the exact scenarios of the day and suddenly wake up and I believe it will only stop when I die`.
>
> *AB, female SGBV survivor*

- **Guilt, shame and anger:** Survivors narrated feelings of extreme shame and guilt as a result of experiencing rape in Myanmar. Female survivors believe that their SGBV experiences led to their husbands abandoning them or to the destruction of their children's future, as they are no longer 'clean' or pure women since they have been 'touched' by Myanmar men. Extreme anger and a desire for revenge was reported among survivors.

- **Anxiety, disassociation and "mental death":** Survivors narrated moments where they often feel dull or emotionless in their daily lives and in social situations. They also described how they have had a tough time processing cognitively some of the information due to an overall feeling of emotional numbness, which could resonate with a process of disassociation (i.e., a coping mechanism to disconnect yourself from emotions and/or from your body or from the outside world causing the sorrow).

> 'Mentally, I have died inside because of the rape and torture`.
>
> *RK, female SGBV survivor*

- **Post-traumatic reactions in survivors' children:** Of the 30 survivors interviewed, nine shared how they were raped in front of family members, which included children. Survivors shared how their children are possibly affected as well. One survivor shared how her daughter has vivid nightmares of the violence she witnessed and would often shout and cry in her dreams.

BOX 2 Psychosomatic complaints reported by the SGBV survivors following the 2017 'clearance operations'

Survivors described extensive experience of ongoing suffering that, according to the psychologists, takes a shape similar to a form of traumatic anhedonia or a reduced ability to experience pleasure. The distress reported among the survivors interviewed resonates with depression, takes a somatic shape, and is rooted in their experience of trauma and loss. Notably, a study examining the accounts of 26 healthcare workers who cared for the Rohingya survivors of sexual violence between August 2017 and August 2020 found that survivors 'commonly presented to healthcare workers with psychosomatic complaints (which) upon further probing, were presumed to stem from trauma'.[228]

In this research, the physical or somatic manifestation of survivors' emotional distress is attributed to the idea of a brain-body connection. The survivors described the extent of their distress as being such that they can no longer function physically in their everyday lives, making the performance of the tasks necessary for the survival of their household extremely difficult to complete, particularly when they no longer have their spouse or their in-laws to support them. Some survivors express this ambiguously, stating that their emotional distress has made them feel physically sick. Others shared bodily complaints more explicitly when reporting a loss of appetite, chronic fatigue or physical pain, difficulty sleeping, and lightheadedness. Male survivors seemed more likely to report experiencing 'stroke'-like symptoms, such as numbness or a sense of loss of control over their body. Intense headaches and migraines are also very common among all survivors. These physical manifestations of their mental distress have caused many survivors to feel 'peaceless', 'hopeless', purposeless, and useless in the community, and 'depressed', to have difficulty leading a productive life, and, in some instances, to experience suicidal ideation.

- **Brain-body connection:** Some survivors expressed how keeping the pain inside their brain [*demage*] and having no one to talk to affects them severely. One survivor expressly verbalised that she holds on to the belief that the pain she keeps inside affects her brain and, therefore, her body.

- **Lightheadedness, headaches, and migraines:** Many female survivors expressed feeling intense pressure in their brain (side of their head), making them constantly dizzy. This impacted their vision and their ability to focus, do daily work, sleep, and eat. Headaches and migraines are common, particularly among the male survivors, all of whom described feeling severe pain in their head that is intolerable, lasting several days. One female survivor shared how the intense pain in her head sometimes made her lose consciousness, and she believes her brain has become unstable and abnormal [*balba*]. The survivors attribute the source of such headaches or migraines to the stress whenever they remember their experience of sexual violence.

> 'Sometimes after a lot of headaches, I feel my brain [demage] is not working properly. I feel not peaceful [ashanti] in my body. I become senseless if I feel more pressure of [household work] when I have to go to the distribution centre and deal with all the things by myself at home or in the family. I feel pain in the side of my head that is intolerable, and I do not feel good. My brain [demage] becomes unstable'.
>
> *MK, female SGBV survivor*

- **Chronic physical pain:** Many survivors shared how the extent of the mental pressure experienced in their brain-mind and the overwhelming emotional sorrows took a physical manifestation of chronically diffused forms of physical pain in different parts of their body since being their SGBV experience in Myanmar. For them, the distinction between an emotional and physical pain is irrelevant and counter-productive. In the case of Rohingyas, they suffer from different forms of physical pains that may or may not have a neurological correspondence from a biomedical point of view. Both physical and emotional dimensions of their extreme pain appeared to be the result of their SGBV experience in Myanmar. They often sought help to alleviate their pain in the health camp facilities, where the treatments accessed were usually limited to pain relief.

- **Loss of appetite:** Many survivors shared how their pain, constant worry and stress relating to their experiences of SGBV made them lose their appetite. One female narrated how she felt her life was ruined; she could not eat or sleep, hence why she sometimes feels that it would be easier if her life ended. Another female survivor similarly shared that she has had a low appetite since she fled Myanmar due to her traumatic experiences.

> 'Because of the tension, I cannot eat or sleep; that's why I think that it would be easier for me to kill myself)'.
>
> *RK, female SGBV survivor*

- **Feeling like one is having a stroke:** As noted earlier in Section 2.2, male survivors expressed feeling uncontrollable symptoms of 'stroke', manifesting as eyes feeling 'heavy' and feeling numbness or being 'frozen' [*besut*] in parts of their body. Survivors believe this 'stroke' and the associated stress or depression may eventually lead to their death.

2.4 Psychological trauma: Instilling fear within survivors

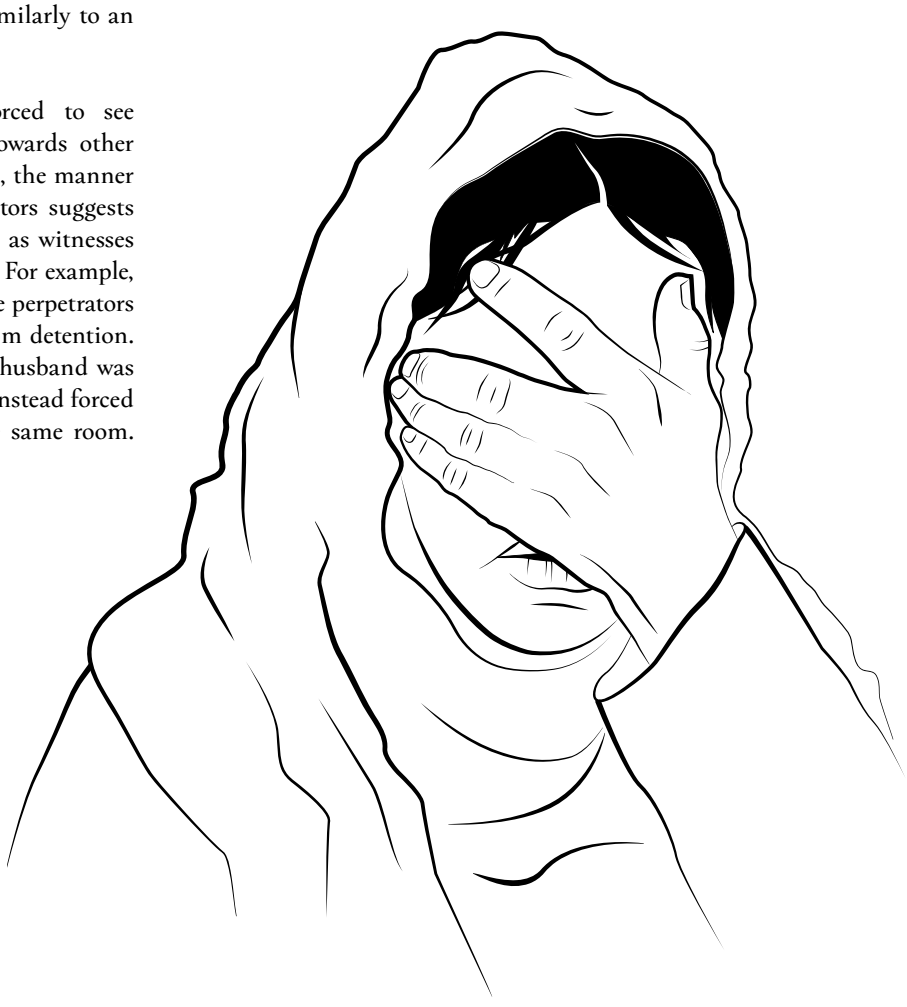
The witnessing of SGBV and other extreme violence perpetrated on others caused psychological trauma for the witness-survivors, prolonged and exacerbated by the intense fear it instilled in them. All the survivors described witnessing the cruelty of the open violence conducted against them during the attacks on their villages and as they fled towards Bangladesh. The perpetrators' methods instilled extreme fear within the witnesses of this violence.

- All the survivors reported having witnessed extreme violence during the 'clearance operations' perpetrated towards members of their community in public and/or in a way that they could see it. For example, they described: women being raped, tortured, and killed in front of them; babies being burnt alive or thrown in the field; shooting and throwing of bodies in mass graves or paddy fields; and mass executions or men's throats being slit. One male survivor shared how he was deeply affected by being raped by multiple Myanmar perpetrators, and how he shook with fear whilst witnessing other women being raped and then killed before his eyes.

- Many survivors reported that their immediate post-traumatic reaction was 'shutting down' to protect themselves from the unbearable acts they had witnessed or endured themselves, usually as the event unfolded or very soon afterwards. Some survivors fainted or lost consciousness, and some thought they were already dead, but they were not, similarly to an altered state of consciousness.

- Several survivors were deliberately forced to see and/or hear the violence perpetrated towards other community members. In some instances, the manner of the violence enacted by the perpetrators suggests that the presence of selected individuals as witnesses of the violent acts was purposely sought. For example, a husband and wife were extorted by the perpetrators in exchange for the husband's release from detention. When the wife brought the money, the husband was not released immediately, but they were instead forced to watch each other being raped in the same room. In other instances, survivors recalled how a daughter was raped, killed, and burnt in front of her own mother; male survivors in detention centres witnessing the rape of other fellow Rohingyas; or public executions in some of the military camps. Thus, the psychological impacts and trauma resulting from the forced witnessing of SGBV against others damaged the various psychosocial relationships of the participants involved in the scene, such as: the relationship between parent and child; the relationship between partners (if still alive); and the relationship between members of the Rohingya community.

- Across all survivors, the interviews documented typical post-traumatic reactions (as noted above in Box 1) not only linked to their individual experiences of sexual violence but also from their witnessing of the same, which many have been suffering from for several years since including at the time of the interview: intrusive thoughts and memories of these events, reoccurrences during their dreams, and, for some, a survivor's guilt. Additionally, a major psychological impact recorded was the experience of a chronically overwhelming sense of fright that has coloured the survivors' and witnesses' sense of safety for themselves, as well as for the Rohingya community, in their everyday life, and in their capacity to envisage a future.



Section 3: Impact of the SGBV on survivors' families and extended kinship

Summary Overview

The interviews with survivors and the analysis by psychologists reveal how their relationships within their families and extended kinship were destroyed as a result of their SGBV experiences. The injuries sustained to their reproductive organs, the psychological distress, along with the negative impact on the social status of the women, in particular, impaired survivors' ability to be intimate with their partner, thereby impacting their capacity to procreate to sustain their family line. These SGBV-related consequences also impacted survivors' ability to support the healthy early development of their children due to difficult labour and delivery, difficulty in breastfeeding, or the poor psychological state of Rohingya mothers.

Further, the family structure of the Rohingya was affected by the SGBV inflicted, for example, through the birth of children following the sexual violence. These children are viewed by the community as no longer having the cultural-religious identity of Rohingya-Muslim but 'polluted' with that of the ethnic Rakhine or Myanmar military perpetrators. Moreover, survivors' experiences of domestic violence and spousal abandonment caused dramatic losses or shifts in the caring figures of the children, further destroying the Rohingya family unit. The ostracisation of survivors and their children also led to the inability of female survivors to remarry, which in turn affected their children's marriage prospects, damaging the future alliances within the Rohingya community.

This section demonstrates the ways in which the parent-child relationship, or filiation,[229] of the survivors interviewed, was particularly destroyed in relation to the continuity of the Rohingya community. In this research, filiation is understood as the relationship between a child and their parents, which establishes an ancestral unit and bond over generation(s). The way in which the sexual violence was perpetrated in Myanmar reshaped the survivors' biological filiation in multiple ways, which forced a reorganisation in the familial organisational structure of their direct lineage.

The section further demonstrates how the Rohingya kinship structure was severely damaged. Kinship is understood in this research as the network of relationships between members of the same family, including extended family networks such as the in-laws, grandparents, and other significant members.[230] The sexual violence perpetrated against the survivor destroyed their relationships with the extended family network and obliterated the possibility of establishing the necessary social alliances (through marriage) and, thus, the continuation or genealogy of the community.

3.1 Destruction of capacity to procreate or maintain parent-child relationship (filiation)

The findings demonstrate that, across gender identities, the sexual violence perpetrated in Myanmar severely destroyed many of the survivors' biological relationships through forced pregnancies, through their inability, following the SGBV experiences, to procreate and maintain children, as well as through the difficulty they have to sustain intimacy and engaging in sexual intercourse.

- **Unwanted pregnancies and abortions:** Many female survivors interviewed across all ages reported that the sexual violence endured in Myanmar during the 'clearance operations' led to unwanted pregnancies and the need to perform abortions. Some survivors described explicitly that the rapes resulted in them conceiving a child. Several survivors narrated having undergone abortions when they could; some accessed abortive pills offered in emergency clinics in the refugee camps upon arrival in Bangladesh, and others improvised abortions with traditional medicine. One survivor, who was seven months pregnant when she was raped, was asked to perform an abortion by her husband since her foetus was subsequently perceived as having the biological filiation of the non-Rohingya perpetrators. However, she could not go through with the abortion due to the lack of clinical facilities. Other survivors also mentioned that they kept the baby as they became too advanced in their pregnancy or due to the health facilities being inaccessible to them at the time in the camps in Bangladesh.

- **Impact on the capacity to procreate:** Most survivors interviewed reported injuries to their sexual reproductive organs that affected their capacity to conceive. As detailed in the above Section 1 on physical injuries, 22 out of the 30 survivors interviewed reported that the sexual violence led to severe injuries to their sexual reproductive organs. These injuries caused reproductive tract infections that resulted in a loss of libido across all genders, which impaired the survivors' ability to be intimate with their partner, thereby negatively affecting the necessary conditions to conceive in order to sustain their family line.

  Additionally, the data also highlighted that the overall capacity to procreate was, in many cases, (15 out of 22 women interviewed) affected by the social status of women after the assaults, which prevented the possibility for them to access a sexual partner to be able to conceive. Some young women were unmarried, and their husband was killed or abandoned them following their SGBV experiences. Across these social scenarios, the survivors became single or have kept their single status since the cultural barriers prevented them from establishing a partnership that could have allowed them to establish their biological filiation

- **Impact on the survivors' ability to support their child from birth:** The findings also showed the impairment in women's ability to support the healthy early development of their offspring, from pregnancies and

births, to the survival of their infant through their breastfeeding capacities.[231] Three out of the 22 female survivors interviewed explained that the injuries to their sexual reproductive organs, such as vaginal tears, inflammation and swelling, and excessive bleeding, were such that they subsequently struggled to give birth safely. Their labour was unusually long, they often had difficulty with having a vaginal delivery, and in some instances, the doctors considered their labour was placing them at very high risk of harm altogether. As noted earlier in Section 1.1, the medical doctor who reviewed the survivors' testimonies confirmed that pregnancy, labour, and delivery complications, as well as adverse birth outcomes such as low birthweight and preterm delivery, have been associated with SGBV in multiple scientific and medical studies. In fact, a few survivors reported having to remain bedridden for several months after giving birth.

- One survivor who was raped when she was seven months pregnant narrated how she had failed to follow her husband's request to abort the foetus whose paternal identity was redefined as the Rakhine perpetrators; she recounted how her husband became verbally and physically abusive as a result and how he continued the abuse during her contractions and labour.

- A few survivors interviewed revealed how their physical and psychological injuries seriously affected their psychological state and specifically concurred in how the injuries affected their ability to establish breastfeeding with their infant.

3.2 Destruction of the familial organisational structure and intra-familial relationships

The findings show that the SGBV perpetrated on Rohingya women often damaged or undermined their status in the familial organisational structure. The psychologists' clinical analysis of the survivors' experiences is that due to severe cultural barriers, the SGBV 'stained' Rohingya bodies which often harmed parent-child relationships and diminished their physical and psychological capacities to care for their children.

- **Undermining of cultural identity and parent-child relationship (filiation):** As mentioned in Section 3.1 above, the rapes perpetrated by Myanmar military and security forces, including ethnic Rakhine, sometimes led to pregnancies and to children being born when abortions could not be performed. The cultural-religious identity of the child within the patriarchal Rohingya-Muslim cultural system is provided through the paternal bloodline. As a result, the children conceived through rape reshape the bloodline of the mother and her family unit, as they are perceived to have become children of the 'Rakhine' or 'Myanmar militaries'. The findings documented five female survivors (often mothers) who were severely ostracised after being raped in Myanmar, thereby damaging their cultural identity. This was particularly the case in instances where children were conceived from rape: the women, not only became the mothers of the children now perceived to belong to a different biological line, but were considered 'unholy', 'dirty', and 'impure' within their original community. These women were denied a parent-child relationship within the Rohingya community and excluded from their perpetrator's culture, thereby depriving them of a cultural identity with which to raise their children.

- **'Contamination' by the perpetrators:** The clinical data underlined crucial cultural constructions around the perpetrators' semen. The psychologists' clinical analysis of the five female survivors' experiences is that the perpetrator's semen, which belonged to another cultural-religious identity than the Rohingya, operated as a 'contaminating' or 'polluting' agent when touching and occupying the uterus of Rohingya women. In other words, the substance had the social power to 'stain' women's bodies with the group identity of the perpetrator, thus creating a fracture within the Rohingya community.

'They (the neighbours) are saying: Oh, she is the raped woman from the Rakhine military. She is not "holy" [impure, not religiously in a good position] because I was raped by another religion`.

S, female SGBV survivor

This effect can be evidenced through the severe social ostracisation of female survivors after the perpetration of the SGBV.

'My husband, when he was violent with me, was saying 'Don`t tell anyone, or don`t seek justice (about the rape)! It is (source of) shame for me, why are you seeking justice!?`.

S, female SGBV survivor

'Even in Bangladesh, women around me can do multiple jobs and volunteer with organisations. I cannot participate in anything because people say 'she`s not a good woman!` or I have a bad character [ibettu beda loibar dosh ase (meaning morally dirty or corrupted, has different tastes of men). If I work, I would ruin the environment. So, I have no earnings. Life is really difficult and in poverty`.

RK, female SGBV survivor

Similarly, becoming the mother of the perpetrators' child appears to have further contaminated the bodies of their children. As reported by three of the female survivors interviewed, the children born of rape were largely denied their natural affiliation to the Rohingya community. The children became reduced to being the children of the enemy (e.g., 'son of the Rakhine'), but since they do not have a recognised affiliation from the paternal line and their mothers have largely been disaffiliated from their community, they are often left without any possible affiliation, as is often the case in other post-conflict settings.[232] Most children will never have access to a filiation of substitution; therefore, there will not be an established relationship between the previous and future generations.

- **'Contagion' of perpetrators and impact on children:** In the five instances where female survivors were already pregnant during the rape, the psychologists have clinically analysed from the survivors' experiences that the semen of the perpetrators is viewed by the broader community as having 'polluted' the women's bodies and thus the uterus holding the foetus, opening up the original biological paternity of the foetus to questioning. The contagious property attributed to the semen often appeared to have attributed a sense of impurity to the children conceived after sexual violence as well, resulting in their social ostracisation by the Rohingya community. Whilst these children's biological identities might not have been completely lost or reshaped, making it possible for some female survivors to marry or remarry Rohingya men after experiencing SGBV, the contagion of the perpetrators has had a far-reaching impact.

  This can be evidenced by the children born from a subsequent marriage after the SGBV experience in Myanmar. The filiation of the father within the new family unit was also 'contaminated' (affected) by association through their mother's SGBV experience prior to the marriage. In this instance, the children were also subjected to verbal abuse from their peers and from the wider Rohingya community that associates them with their mother, her alleged moral qualities, and her (forcefully) undermined cultural identity. Their mothers are referred to derogatorily as 'the woman who was raped by the Rakhine'. Some survivors also referred to this to explain the abandonment of their children by their second husbands and usually by their in-laws, leaving them in a social vacuum.

'They used to call me and my son "You are the monks!" or "You are a raped woman!". They refused to accept me. Because of that, I could not work, and I couldn't meet people. It was so suffocating'.

RK, female SGBV survivor

'It hurts in my heart [dil]. If the military had not raped me, my husband would have not left us... The neighbours got to know about my rape because sometimes my husband, when beating me, would say: "You are a raped woman", so they could hear it through the hut as they are close to each other. My suffering is too much, and as a woman, it is not easy to survive alone with three children'.

S, female SGBV survivor

- **Abandonment by husbands post-SGBV:** In addition to the killing and enforced disappearances of men during the 2017 'clearance operations', the paternal identity within the family unit was also damaged, and sometimes destroyed, in other ways. Where their husbands remained alive, eight female survivors narrated that their husbands abandoned them after their arrival in Bangladesh, when their SGBV experiences in Myanmar were exposed.

'[He always shouts] that 'I told you to have an abortion! Why did you keep the baby?! That is why I cannot help you'.

R, female SGBV survivor

In the rare situations where their husbands did not leave the household, many survivors reported experiencing significant domestic violence. Some survivors described their husbands emotionally disinvesting their role as fathers, and, in those cases, it appeared that the paternal role of fathers in the filiation was ruptured.

'When my husband knew I was raped, he reacted badly, and I was not able to have normal sexual relations like before. He would scream at me, and he was ashamed of me. So there are a lot of issues in my family, and he is looking for other women for a second marriage. I cried every day because my husband would abuse me verbally and physically, especially when I refused a sexual relationship with him. He would force himself on me, and it is painful'.

RK, female SGBV survivor

- **Filiation of *hijra*:** As for the *hijra* survivors interviewed, they do not have children of their own. Due to the small number of *hijra* survivors interviewed, further study is needed to explore this.

3.3 Impact on children

In addition to the typical inversion of the parent-child role often observed in the context of displacement, the data highlighted major consequences on the parent-child relationship as a result of children witnessing sexual violence against their parent in Myanmar, the destruction of the family unit and the impact of the violence on parental mental health.

- **Trauma from witnessing and enduring violence during SGBV acts against their parent:** Although the research did not include direct interviews with the children of the survivors, the interviews conducted with their parents provided important insights into their psychological state. They suggested their children were suffering from significant psychological traumas as a direct result of the extreme violence they had endured or witnessed during the 'clearance operations'. Some children directly experienced violence themselves, for example, by being hit with a gun, being violently pushed across the house, being thrown away from their mother's arms as infants into the paddy fields and left to die, or being forced to witness the SGBV acts on their mothers and female family members. The children also witnessed what was being perpetrated in the open for all to see during the attacks of their villages, as well as during their journey to the Bangladesh border with all the threats and consequences of the violence (e.g., dead bodies, blood, people screaming and crying of pain). The traditional roles in the parent-child relationship were forcibly reversed as children witnessed their parents being harmed, sexually violated and, thus, being helpless in performing their expected role of protecting their own children and themselves. This was particularly an issue when, as some survivors narrated, their children had tried to save them or to look after them after the sexual violence, for example, by dragging their unconscious mother out of their house that had been set on fire or by drying the blood on their mother's body. Several interviews described the perpetrators' reprisals against children who tried to save their parents during the violence.

  The exposure of children to such extreme violence (endured directly or by way of witnessing) resulted in psychological trauma and instilled fear within them. In fact, the parents interviewed reported they noticed an array of signs suggesting severe psychological trauma in their children immediately after the event and that have often lasted through the time of the interview, five to six years later. The signs of trauma ranged from: often feeling very fearful, significant sleep disturbances (including nightmares of the events), feeling very low in mood (e.g., often crying a lot), separation anxiety (e.g., feeling very scared to leave their parent), hypervigilance to the possible hurt or disappearance of their mother (who has often become their sole carer), and the reshaping of their view of the future as an uncertain and scary prospect. The severe impact on their mental health is also possibly exacerbated by the insecurity and difficult conditions of life they endure at a young age in the refugee camps.

- **Impact of the destruction of family unit on children:** The clinical findings stressed that the magnitude of survivors' children's psychological difficulties was also intertwined with the destruction of their family unit that followed the violence since it led to the very painful reorganisation of their relationships and positions in that social unit. Indeed, interviews with 18 of the female survivors with children during the 2017 'clearance operations' suggest that their children had undergone traumatic grief and dramatic losses and/or shifts in the closest attachment and caring figures[233] who were the most significant in their lives. Their father had been either killed or made to disappear during the 'clearance operations', had permanently abandoned the household after their arrival in Bangladesh, or had become emotionally and physically abusive towards their mother; their father's family (i.e., paternal uncles/aunts, paternal grandparents, cousins) often stopped any engagement with them because of the societal stigma inflicted upon them due to the rape of their mother). In one example, a female survivor narrated that when she remarried, she gave away her children to her sister living in the nearby camp to protect herself and her children from the domestic violence of her second husband.

- **Impact of parental mental health:** The severe physical and mental health impact of the experiences of SGBV and other extreme violence on the survivors also had negative implications on their abilities and ways of parenting their children, which, in turn, had an effect of reversing further the traditional roles in the parent-child relationship. As mentioned in Section 3.1 and earlier discussed in detail under Sections 1.2 and 2, the parent-survivors interviewed reported how their physical and psychological injuries frequently impaired their physical functioning in their daily lives, which was necessary to maintain the survival of their household and to provide care for their children. A key feature of their narratives was that, in addition to often being sole carers for their children, their physical and psychological traumas, their grief, and their low mood had the effect of making their minds overwhelmed with these complex emotions.

  Research in the field of child development and child psychology, particularly after conflicts, has for the past 70 years documented the severe impact of poor parental mental health and traumatic experiences in disrupting the quality of parent-child interactions that are necessary to the psychological grounding and emotional bonds of the healthy development of children.[234] These constructs provide useful lenses through which the findings pertaining to Rohingya survivors' children can be understood. The medical doctor who reviewed the survivors' testimonies in

this research confirmed that mental health conditions due to having experienced sexual violence, such as depression, anxiety, and PTSD, could have effects on the survivor's coping, interactions and relationship-building with others, including children. This, in turn, could have an impact on children's development. The inversion of the traditional roles in the parent-child relationship due to SGBV-related trauma has been a key finding in the research, which manifested itself in (as understood through the survivors' narratives): significant separation anxiety with their carer; taking over the logistics of running the household chores; looking after their younger siblings (in a disproportionate manner in contrast to the expected norm); frequently fearing that their parent would get hurt or would disappear; and taking over their parents' responsibility towards them by positioning themselves in the role of the guarantor of the protection and the well-being of their parent through a very protective attitude towards the (emotionally) struggling parent. In instances where children were born out of rape, and this was known to the family and to their community, the narratives shared indicated a very strong, almost fusional attachment between the child and their mother. The narratives from the survivors indicated that their severe ostracisation from their family and their community reinforced their need to protect one another.

'I get sick. I have a lot of pain in my body. I can't eat anything. My head is very bad. Sometimes, I can't get out of bed for five days, and I can't do anything. (...) I think about my husband and my sons, and the life we should have had. I worry so much that I become sick in my head [matha horaf oizagoi/ matha ham nogore - lit (my brain doesn't function well - my brain becomes crazy)]. I become dizzy, and I can't sleep; everything becomes dark. My kids worry a lot for me in these moments. (...) I am having such a difficult time with my children. When I die, the sorrow will end. It's the only option. I can't provide for them. My older daughter is helping a lot; she takes care of her sisters. She is doing everything. But, they all worry a lot about the future'.

NK, female SGBV survivor

'When I cry, my daughter asks if someone has beaten me up. I tell her that nobody did, and she wipes the tears from my cheeks. (...) I felt worried/anxious [chinta] sometimes, I get high blood pressure [mathat maze loo uri zagoi (the pressure goes up on my head)] and get sick, so then I try to seek help from my mum to look after the children'.

S, female SGBV survivor

3.4 Destruction of the relationships with the extended family network and kinship structure

The interviews evidenced that, whilst the SGBV endured had dramatic and long-standing social consequences for men, women, children, and *hijra*, important features of the Rohingya social fabric were specifically destroyed through the sexual violence perpetrated towards women during the 2017 'clearance operations'. The SGBV against women damaged women's individual *izzot* [social honour],[235] which, in turn, threatened their collective family *izzot* and seriously damaged the relationship between women and their extended family network.

As a result, the findings indicate that SGBV experienced by women has often severely fragmented their household structures by creating a rift with their families, which has resulted in the creation of newly organised single women-led households alone with their children.

- **Loss of social honour [*izzot*] of female SGBV survivors and their children:** The women SGBV survivors interviewed lost their individual *izzot* and perceived sexual purity as a result of: having (forced) sexual intercourse outside their marriage, experiencing sexual violence, and having their body and their uterus 'polluted' by non-Rohingya perpetrators. This has had devastating consequences on their physical and psychological health, as well as on their relationship with their children. Six female survivors reported experiencing frequent domestic violence from their husbands once they found out about the SGBV experienced in Myanmar, often blaming the women for what happened and shaming them for having sex with Myanmar military men. Physical violence against the female survivors was usually perpetrated by their husbands and actively encouraged by the husband's siblings and parents. The interviews suggested that the damage to the women's individual *izzot* often had similar consequences on their children's social standing. They reported that their children, both born and not born of rape, had also been 'morally polluted', which meant that they had also lost their collective family *izzot* through their mother's inherited lineage. This can be evidenced in the way they were ostracised and verbally abused by their extended family and by their peers after their mother's experience of SGBV.

'My in-laws used to say negative things at the time, that's when my husband would become rude to me and misbehave (...) His parents used to tell him "You should not live with this woman because she was raped by the military"'.

S, female SGBV survivor

'I wanted my eldest daughter to marry someone in the camp, but the other people said not to marry her because I was raped and her family is (therefore) bad'.

J, female SGBV survivor

'People even say to my children that if they go to play with them, they should not interact with other children because they are the children of the Rakhine!'.

J, female SGBV survivor

- **Social honour [*izzot*] of male SGBV survivors:** The experience of SGBV faced by male survivors resulted in serious consequences for them individually and in their relationship with the wider Rohingya society, mainly in terms of loss of virility, tremendous social shame, and a severe sense of emasculation. However, the interviews with male survivors were not indicative of a direct impact on the social fabric of the Rohingya community as a whole in the way they were with female survivors. The context of the sexual violence perpetrated against men (i.e., usually during their stay in Myanmar detention facilities where sexual violence was used as a form of torture) contributed in part to a different framing than for the women in terms of their experience within Rohingya society. Nevertheless, a gendered analysis of the data demonstrates that, although the male survivors experienced tremendous suffering individually and socially that resulted in a strained position within the community, the consequences endured did not have the damaging ramifications on the social fabric itself as it had with female survivors. For example, although there is a lack of data from the experiences of the spouses of male survivors to confirm this, the male survivors suggested that the collective family *izzot* of their wives and of their children did not fundamentally shift after their SGBV experience, nor did the wider household structure or their extended kinship. Further research is needed to explore this area.

- **Social honour [*izzot*] of *hijra* SGBV survivors:** The *hijra* survivors interviewed, on the other hand, already had a fragile relationship with their household members and with their community. They are viewed as individuals who are transgressing the behavioural norms within the Rohingya society. The *hijra* survivors mostly continued to share the household with their parents and siblings, as per the Rohingya patriarchal structure, and none of the *hijra* survivors had children. Despite this, *hijra* survivors often experienced increasingly strained relationships with their families. Their existing vulnerability and SGBV experiences in Myanmar led to severe ill-treatment from their community or repeated experiences of sexual violence in the refugee camps, which often created significant rifts within their households. They narrated increased conflicts with their immediate families that have led them, on occasion, to encourage their departure from their family household in order to protect the rest of the family members. One interviewee narrated the frequent abuse, neglect, and rejection within the household. Another mentioned that these tensions had forced her to move into her current 'real (*hijra*) sister' household.

In sum, the destroyed individual and collective social honour [*izzot*] that most female SGBV survivors interviewed and their children are believed to have brought to their households have fundamentally destroyed the relationships within the Rohingya kinship network, as has the killing of many Rohingya men. This has resulted in many fragmented households with a single women-led family unit along with their children, parted from their extended family relationships and, thus, from the necessary protection and support that they would have otherwise received. *Hijra* survivors have heightened vulnerabilities that create rifts within the household.

3.5 Destruction of future alliances and the continuity of the community

The data suggests that the SGBV perpetrated towards women and the killing of men also had severely damaged the Rohingyas' kinship structure by obliterating the possibility for them to establish social alliances with the extended social networks, such as marriage, that are necessary for pursuing the genealogy of their community.

- **Ostracisation leading to inability to remarry:** A crucial consequence of the SGBV experience for women has been the reduced possibility to create the social alliances, such as marriage, necessary to restore and extend their social networks.
  - **Women SGBV survivors:** Many female survivors explained the significance of creating new family alliances as a crucial social coping mechanism for them to access physical, social, and emotional protection, support for their children, economic opportunities, and a means to restore, at least in part, their social status framing them as 'impure' and 'polluted'. Some used this social coping mechanism for themselves after the loss of their husbands with success, depending on whether they had managed to maintain the secrecy around their past SGBV experience in Myanmar. Indeed, several survivors interviewed had not been successful in finding a partner when their experience had become public knowledge, whether they were single at the time of the assaults or whether their husbands had abandoned them in Bangladesh. On one occasion, the inability to find a partner was reinforced by their neighbours or their in-laws' active discouragements of the social

alliance due to the survivors' history of sexual impurity and highly damaged individual *izzot*. As a result, several survivors shared deep feelings of loneliness and longing for an emotional connection with a partner with whom they could share their worries and sorrows, particularly when they would see other couples in their neighbourhood.

- **Children of SGBV survivors:** Many female survivors, often with older children, reported the consequences of their SGBV experiences on their children's marriage prospects. Where a father was killed by the Myanmar military or had abandoned the family due to their wife's SGBV experiences, the family lost not only the main breadwinner of the family but also the socially needed presence of an emblematic male figure that could have expanded the collective family prestige or honour [*izzot*]. Further, the women's experience of SGBV has meant that the family is deemed lacking 'purity'.

"The community knows that I was raped. They ignore or tease or say bad things about my children. They say: "Oh, they are the daughters of the woman who was raped". If someone comes and visits to propose to the eldest, the community will talk them out of it; they gossip. They would say, "They are unholy, the mother was raped". So, the shame has passed to my daughters. It's not only about me'.

NK, female SGBV survivor

Section 4: Impact of the SGBV on the Rohingya social existence

Summary Overview

The clinical analysis of the survivors' testimonies demonstrate that the sexual violence perpetrated against men, women, and *hijra* has impacted the foundations of Rohingya society. Male survivors felt their social position as protectors and providers was diminished, whilst the female survivors felt trapped in their identities as 'rape survivors', with no exit from their current state of suffering, leaving them in a state of 'social death'. For the female survivors, the loss of social honour ('*izzot*') inflicted upon them by the society impaired the honour of their spouse and children.

The psychologists note that such real and symbolic emasculation of the Rohingya men and the erasure of the female survivors from their cultural affiliation has lasting consequences on the wider community. Female survivors in particular were seen as a constant reminder of the horrors experienced, resulting in their severe ostracisation and thereby reflecting the diminished capacity of the Rohingya community to offer support to the survivors, and heal itself. The findings documented the collective psychological state of 'beyond suffering', that the community believes will lead to their inevitable extinction.

This section illustrates how the sexual violence perpetrated against men, women, and *hijra* has resulted in devastating consequences for the survivors as well as the rest of the Rohingya community and its social existence and architecture.

4.1 Destruction of the social existence within the community

The Rohingya society is patriarchal, where the traditional gender roles mean that 'the men are the breadwinners and decision-makers of the household, while the women are absent from public spaces and hold responsibilities limited to childcare, food preparation, cleaning, laundry and caring for the elderly'.[236] The consequences of SGBV on survivors and the community documented in this research are intrinsically linked to the breakdown of these traditional roles in the Rohingya society.

- **Male SGBV survivors:** Through a process of emasculation of their role as protectors and as providers for the community, the extreme SGBV perpetrated on Rohingya men in Myanmar attacked and impaired their social position, if not their very existence.
  - Men's potency was attacked by the Myanmar military's perpetration of SGBV and other acts of violence. The male survivors, and to a certain extent the *hijra* survivors, who were interviewed, reported being forcibly detained and enslaved for varying lengths of time, where they underwent various forms of sexual violence throughout their confinement. The extreme violence endured usually included degrading treatments and physical injuries to the genital areas (e.g., burning of the penis with a melted plastic pen, firecrackers lit in their private areas, insertion of a bamboo stick in their urethra). The physical and psychological injuries of the male and the *hijra* survivors resulted in long-lasting effects on their sexual reproductive apparatus that sometimes radiated through their internal organs, their lower back, rectum, and anus and resulted in what most likely were infections from their descriptions. As mentioned in Sections 1.3 and 2.2, the continued discharges when they urinate and defecate, as well as the difficulty in sexual intercourse, serve as an unavoidable traumatic reminder of their powerlessness and their diminished sense of virility.
  - The narratives collected by male SGBV survivors in this research suggest that the violence endured had seriously affected Rohingya men's core masculinity by obstructing their ability to perform their crucial social role of guarding, enhancing, and protecting the collective (family) *izzot*; thus, intrinsically injuring their role as provider of the family *izzot* [social standing]. In fact, the intrusion of outsider males into the family compound and the acts of physical and sexual interaction with the women's bodies during the 'clearance operations' constituted a direct attack on men's social function as guardians of the practice of purdah[237] so intrinsic to the upholding of the Rohingya collective identity. The attack on the sexual purity of women and their families constituted an unimaginable transgression of the cultural practice that men's social role is to preserve. In doing so, the collective (family) *izzot* was damaged at the same time that men's core social function was seriously injured.[238] As noted in Section 3.2, the SGBV perpetrated against the women led to spousal abandonment, which also damaged the paternal identity within the family unit. Additionally, the resulting psychological trauma described in Section 2.4, such as forcing Rohingya to witness extreme violence of their loved ones, enforced powerlessness among male survivors and constituted a crucial dimension of the process of emasculation by the perpetrators. For example, one of the male survivors interviewed was forced to witness the rape of his wife and was himself raped in front of her. Survivors reported that this trauma and sense of impotence manifested for them in various ways, including: semen-loss anxiety, erectile dysfunction, physical paralysis and numbness (e.g., '*stroke*'), and 'frozen' blood ('*betur*').

- Rohingya men's substantial emasculation, which is magnified for male SGBV survivors, was evidenced in their inability to perform their social and family roles following the violence in Myanmar. The conditions of forced displacement in the refugee camps have meant that women have had to take on roles that men were traditionally assigned.[239] In addition, studies have indicated that Rohingya men's difficulties pertain to: their inability to develop or complete their education, the loss of their land and their wealth when they were forcibly displaced,[240] and their inability to remain breadwinners or, at least, to provide for their families (particularly in instances where men continued to sustain physical impairments to their functioning). The interviews highlight how this emasculation is exacerbated for male SGBV survivors due to not being able to elevate their own social honour [*izzot*], which is derived from religious piety, financial wealth, and educational achievement. The male survivors resonated with the loss of virility as central to their struggles. As a result, many men no longer have a social role through which they can contribute to the family or the Rohingya society as a whole.

- **Women SGBV survivors:** The findings documented that the presence of Rohingya women in the public spaces after they had been raped by members of the Myanmar military operated as a traumatic reminder to the community of their collective injury that it needs to be purged. Women who have survived sexual violence may be considered 'defiled', especially in societies in which the perception of 'sexual purity' is corrupted by the stigma around rape.[241] Considering this, the societal treatment of the female survivors after experiencing SGBV provides crucial insight into the sociological consequences of the perpetrators' acts.

  - All survivors converged in their description of intense and persistent social ostracisation from most of their community whenever they occupied public spaces (i.e., outside their tent, in their neighbourhood within the camps). They reported severe verbal abuses that ranged from nagging and insults, being banned from social and family events (e.g., celebrations, weddings, funerals), to enforced physical distancing where the survivors and their children are forbidden to touch other community members and their belongings. The content of the derogatory comments has mostly referred to: their 'stained' moral-religious status and, thus, to the 'sinful' nature of the sexual experiences they have now come to embody; them having become emblematic of the persecutions done to the community in Myanmar; and their loss of cultural affiliation 'polluted' by the perpetrators' group. The content of the verbal abuses implies that many survivors are no longer viewed as being the 'pure' members of the Rohingya community that they were before the SGBV was perpetrated against them. (note Section 3.2 above for relevant excerpts from survivors' testimonies)

    Survivors have narrated that when they occupy the public space, they have become emblematic of a painful reminder to the community of their collective wound: its destruction that culminated with the 2017 'clearance operations'. Their extreme social marginalisation reflects this, and how the female survivors became, for the community, a reminder of the traumatic memories of the extreme violence they had to endure, and the consequences all have had to suffer.

  - The increased rates of domestic violence in the aftermath of conflicts, particularly of men towards their spouses, is an extensively documented phenomenon[242] and has been widely analysed in scholarly literature,[243] although to a lesser extent in its relationship with the experience of SGBV. Notwithstanding that the pre-existing Rohingya gendered social norms have been grounded in a rigid patriarchal structure that has placed Rohingya women and girls in a disempowered position within domestic power dynamics,[244] the accounts of the survivors interviewed demonstrate the progression of violence by the extended Rohingya family unit (e.g., husbands, parents, and siblings-in-law) towards the women as a direct consequence of the women's SGBV in Myanmar.

    Thus, the targeting of women during the 2017 'clearance operations' was a precursor to the destruction of the Rohingya community as a whole, as it resulted in continued victimisation and destruction of the social fabric of Rohingyas even after fleeing Myanmar. As explained in Section 3.2, the semen of the perpetrators in Rohingya women's bodies acted as a contagion which emasculated their partners. The psychologists' clinical analysis of the survivors' experiences is that the female survivors' reproductive system appeared to be a symbolic extension of the social body of the community and, thus, a marker of the social-religious ownership and identity of the wider community. The sperm inside female Rohingya bodies not only negated the women's previous social affiliation/cultural identity but also, in the process, impaired or destroyed their partners' social honour, belonging and ownership through their wives' bodies. Several survivors illustrated this in their narratives when they were pressured by their husbands to undergo abortions, and even if they had the procedure performed, most of them were still subsequently either abandoned by their husbands or victims of a newly developed or enhanced dynamic of domestic violence. In the latter instance, the shift in the intimate relationship manifested itself through an increase in verbal abuse

(e.g., humiliation, insults), physical abuse (e.g., heavy battering) and minimal physical contact limited to irregular visits for the purpose of violent sexual intercourse. The upsurge in domestic violence from female survivors' spouses after their SGBV experience suggests men's sense of emasculation in the face of the experience of their wives.

'My husband is blaming me because I was raped by the military and saying, "Your body was touched by others, you were used, I feel ashamed to touch you"'.

M, female SGBV survivor

'My husband is abusive to me because of the rape I experienced and has now remarried and is living with another wife. (...) He visits our children sometimes but he is not supporting us financially. Whenever he comes to our house, I face a lot of verbal and physical abuse. He insults me in front of others and tells everyone about what happened to me'.

M, female SGBV survivor

The continuous emotional and physical violence that some of the survivors reported indicates that they became reduced within the Rohingya community to a traumatic emblem of the community's powerlessness and failure to protect itself. The female survivors became a constant reminder to the community of something, which they did not want to see, hear, or be reminded of. As a result, the suffering described by many survivors seems to be related to what they came to represent for the community rather than what the women experienced or their lived experience of suffering.

'In the camp, I cannot go to anyone or anywhere, even if I touch something, they say that this becomes "unholy" [Nafaak (impure, in a religious way)] because I was raped. (...) My life is destroyed; there is no peace any more [ashante and gom nalage] in my life. I cannot remarry because people hate me and would never marry me. (...) I cry every night, and I cannot make any friends because they don't want to be my friends'.

J, female SGBV survivor

'Even in Bangladesh, women around me can do multiple jobs and volunteer with organisations. I cannot participate in anything because people say, "She's not a good woman!" or I have a bad character [ibettu beda loibar dosh ase (meaning morally dirty, has different tastes of men)] or if I work, I will ruin the environment. So I have no earnings. Life is really difficult and in poverty... 'Everyone [my children] them that their mother is not a good person because she was kept by the monks. They also witnessed their mother's house burning. All these things are behind the stress [In begginor harone chinta goredde]. Sometimes I feel like my life is ruined, so it would be better if I died so everything would be ended'.

RK, female SGBV survivor

Such a community dynamic indicates that the damage to the social fabric of the community is so extensive that it is no longer able to empathise, receive, and take into consideration the survivors' experiences of extreme suffering. Importantly, the domestic violence enacted following the SGBV experiences (or its disclosure) is indicative of a symptom of men's extreme frustration when facing their destroyed masculinity through their loss of power, place, and purpose in Rohingya society.

- Further, the analysis of the narratives highlighted that the blaming and social ostracisation of the female survivors reveal the impossibility for the community to offer them the status of victim and, therefore, to engage with their suffering. The necessity for the community to exclude many female survivors with such resolve demonstrates how much the SGBV survivors have come to represent something extremely triggering and unbearable to the wider Rohingya community. The social process captures the necessity for the community to use extreme mechanisms, such as repudiating survivors no matter their pre-existing relationship with them, to enable its survival or, rather, to protect the survival of the rest of the community. The daily verbal abuses received from the community demonstrate how much the members of the community actively seek to be seen as different from the survivors and their children. Indeed, the interviews suggested that the female survivors became emblematic of the trauma that took place in Myanmar for Rohingyas and that the community has not had the capacity to hear or to receive these experiences. Instead, the women are blamed, scapegoated and kept at a distance, similar to what has been documented with SGBV survivors from other conflicts or genocides in India, Cambodia, and Rwanda.[245]

'My personal life is not good, and my husband cannot accept me, for six years, he (...) always blames me and makes me feel low, always quarrels with me and beats me; there is no peace in my home'.

M, female SGBV survivor

'When I gave birth to my baby girl, I had to hear a lot of negative comments from my in-laws, like "You are a raped woman!" (or to my husband) "Why did you marry her?! She is a dirty [fo*sa (dirty, not holy, she is used-like a prostitute - woman by another man not Muslim)] girl'.

S, female SGBV survivor

4.2 Destruction of the physical and symbolic architecture of social life

The ways in which the Myanmar military targeted the Rohingya community through SGBV destroyed the physical and symbolic architecture of the Rohingya social life. Data from the survivors interviewed, across gender identities, underscored the feelings of being 'trapped' in their living conditions, bound to a cycle of violence caused by the Myanmar military and without an exit, destined to endure suffering and death.

- An important finding among SGBV survivors interviewed has been their collective feeling of entrapment and the vicious cycle of the social death and alienation that ensued from their experiences.

  - The extreme social ostracisation of the female survivors interviewed led to them feeling trapped in their bodies and in their shelter in the camp, unable to live within their community; *'Everywhere I go, I am a rape victim!'* one interviewee stated. The survivors shared the impossible socially oppressive position in which they have found themselves: they could not leave their tent or the camp without being insulted; many could not remarry; and they and their children are verbally abused and reminded not only of their traumatic experiences in Myanmar but also of their 'polluted' social honour [*izzot*]. The survivors' descriptions indicate that they were severely ostracised by their larger Rohingya community - which the community did to protect itself (See Section 4.1). Faced with the impossibility of accepting the fate of these raped women and their inaction in protecting them, the community members excluded them.

    The survivors were not only blamed for what had happened to them, but also reduced to a position of being perceived as radically different from the rest of the community. The effect of this process of rejection through the creation of a category of 'radical otherness' is devastating for these women and for the future of the community as a whole. Indeed, by seeking to protect itself through the exclusion of these women, the community has exacerbated the impact of the Myanmar military's SGBV against these women by further challenging the community's survival.

  - Consequently, many of the survivors interviewed explicitly depicted a social positioning that has trapped them in a vicious cycle of discrimination, with no exit, that has bound them to an enduring state of suffering from which the only alternative is death.

> 'When I remember the rape and the negative comments, I feel like I should die`.
>
> *J, female SGBV survivor*

> 'Sometimes I feel like killing myself with a knife, or I feel like taking some poison to kill myself [bish hai (feel like taking poison) suri hai (suicide with a knife)]. (...) When I hear negative comments from my community saying that I am a raped woman, so I should not be there with them, it really hurts me!`.
>
> *MK, female SGBV survivor*

  - This psychosocial state is evidenced in the survivors' somatic complaints (see also Box 2 under Section 2 on Psychological injuries). For example, many survivors interviewed described their ill-being with the use of metaphors of paralysis with diffuse chronic physical pains and metaphors of being locked or trapped in their (raped) body and in their pain. Their community has forced them into a social position where their femininity, sense of belonging, and recognition of their family lineage have been severely undermined. In this instance, many of the female survivors contemplated suicide, as described in Section 2.2. In addition to the severe physical and psychological injuries they have had to endure, their extreme suffering is further exacerbated by their social alienation. This psychosocial state captures their experience of helplessness in the face of the inescapable violence they continue to endure, with no exit in sight.

    Some survivors captured this emotional state in their clinical presentation when they were being interviewed for the research. They presented with emotional disinvestment of their bodily and physical appearance and a disconnect from their emotional lives or unfelt emotions (i.e., very sad and careless demeanour, appearing hopeless and 'battered' or defeated by life). In fact, a few survivors were able to verbalise this psychological state as 'feeling beyond crying' or '(since) having cried so much that I no longer have tears in my eyes to cry'. Others went further in explaining their experience of persecution in formulating that their emotional heart-mind [dil] had already died inside themselves: 'We have already mentally died'.

- A similar theme of social death dominated the narratives of the *hijra* survivors interviewed and, to a certain extent, of the male survivors. With life in the refugee camps described as 'worse than prison', the *hijra* survivors complained about an overwhelming feeling of fright that resulted from not having a safe place to exist and no escape from their fate. They expressed feeling not only social death but also being locked inside their male bodies, inside their tents, and inside and outside their camp, with the pending (objective) threat of being sexually violated again. Several survivors stated that their suffering was so agonising that they 'had lost the meaning of life' and constantly anticipated their death to be imminent. As a result, a few of the survivors explained that they had already prepared their will and had shared it with their children, since they were often unsure whether they would wake up and remain alive the following morning. Other male survivors explained that their children were afraid that the unbearable suffering or the 'stroke' of the heart-mind they witnessed their father enduring might actually kill them.

- Lastly, some of the survivors interviewed described how much they have felt locked in their pains, their minds, their bodies, and their social existence, unable to heal: 'We live together, but we are separated'. Many disclosed that no one would listen to them because each community member was too preoccupied with their own tremendous sorrows. The informal healing mechanisms are unavailable and have contributed towards the destruction of their social life and the community itself. These findings underscore the extent to which the violence perpetrated against the Rohingya community fundamentally impaired the community's capacity to heal collectively. When a community undergoes extreme violence and collective traumas of various natures (e.g., armed conflicts, earthquakes, pandemics), crucial functions of the community that are often shattered are the informal social coping mechanisms (e.g., solidarity, informal gatherings), the social resources (e.g., rituals), and the healing mechanisms (e.g., access to spiritual or religious healers) that the community and its members were previously using to recover from their sorrows.[246] These informal mechanisms are not only seriously damaged during the extreme violence, but the collective system is usually overwhelmed by the volume and the seriousness of the psychosocial needs presented by its members.[247]

4.3 Destruction of the collective fate of the community

The Myanmar military's SGBV against Rohingyas impacted the architecture of the community by threatening its collective fate.

- The findings documented survivors' perception that the violence against them destroyed their collective fate as a community, as the violence shaped its future as existing within an unending state of suffering that will lead to their inevitable extinction.

  - The survivors' interviews evidenced that the various levels of destruction brought against the survivors and their community severely damaged their ability to project themselves into a collective destiny. As previously detailed, the survivors described their lives as being suspended in space and time and in a state of unbearable suffering that has no ending and no solution in sight. Although each gendered trajectory had some specificity, the finding was predominant across the survivors interviewed – in that there was no future for themselves or for their descendants. This perception was further exacerbated by their various injuries that seriously damaged their capacity to procreate, to bring their children up (safely) into the world, and to provide them with a future outside the camp with land to live on, an education, and without being ostracised.

  - One male survivor stated during the focus group discussions: 'The life of our children is like death'. In fact, the impact of the violence endured similarly destroyed survivors' ability to envisage a transgenerational transmission of the community. Section 3 described the various attacks on their filiation and kinship that had obstructed possibilities for them to set up the necessary social alliances (marriages) for their children, and this underpins the inability for them to continue their lineage that would constitute the next generation and, therefore, a future for the Rohingya community.

  - Furthermore, the psychological state of feeling 'beyond suffering' often reported during the research was also intertwined with the survivors' loss of capacity to imagine an end to their and the community's suffering. They described feelings of extreme helplessness, loss of agency in their fate, and their inability to envisage a place for Rohingya to exist. All concurred for them to perceive that they (as Rohingyas) are bound to become extinct. Consequently, the survivors' narratives highlighted that the process of destruction undermined the foundations of the collective construction of a common future.

- The findings concurred in evidencing a collective experience of a state of perpetual and extreme agony without a possible exit for Rohingyas other than a collective fantasy of suicide to alleviate the community's unbearable suffering.

    - Across focus group discussions conducted with men, women, and *hijra*, as well as some of the interviews, the survivors disclosed a shared fantasy of collective suicide to end their agonising suffering. Some have mentioned all Rohingyas being killed (with no specificity of means), whilst others have referred to the idea of a collective intake of poison or to the idea of a bomb being dropped above the refugee camps to decimate all Rohingyas once and for all. The scenarios have also been contemplated by the survivors when they have felt the threats of a forced repatriation to Myanmar, where their death would have very likely awaited them. In this instance, it is the three expert psychologists' clinical analysis of the survivors' experiences that the survivors' rumination around the community's suicide is not linked to a depression-like state or a form of melancholia.

      The collective fantasy around the death of Rohingyas was a way to express the impasse in which the community finds itself with no solution to end the community's unbearable suffering caused by the Myanmar military and is a way to feel empowered to be able to live differently. Therefore, suicide, when shared through this collective framing, demonstrates that alternative solutions were unavailable within the collective functioning of the Rohingya community.

Part 5

SGBV as Genocide: Legal Analysis

The physical and psychosocial findings in Part IV above are analysed within the international legal framework applicable to the crime of genocide. This section examines how SGBV has been considered under international criminal law, specifically as an act of genocide, showing how several domestic and international courts and tribunals (ICTR, ICTY, ICJ, ICC) and mechanisms (IIFFMM, Syrian COI) have found that SGBV can constitute different genocidal acts. Through its foreseeable and long-term health and psychosocial impacts, the Myanmar military's commission of SGBV against the Rohingya constitutes the following two genocidal acts: causing serious bodily or mental harm to members of the group, and imposing measures intended to prevent births within the group.

The ICTR and ICTY jurisprudence supports the analysis that the serious bodily or mental harm endured by Rohingya SGBV survivors and witnesses constitutes an act of genocide. The survivors and witnesses suffered serious injuries, including those to the genital area, and from psychological trauma, which appear to have significant and long-term ramifications on their ability to lead a normal and constructive life. Survivors described the continuing impact on them as 'beyond suffering'. The data gathered was consistent and corroborates available documentation that the Rohingya were targeted for their ethnic and religious identity, and with genocidal intent by the Myanmar military, as shown by the systemic nature of the violence inflicted upon them.

The perpetuation of SGBV by the Myanmar military to deliberately prevent births is evidenced in the findings of the destruction of the physical capacity of many Rohingya to reproduce, the psychological damage affecting their ability to maintain procreative relationships, separation and killing of Rohingya men and the forcible impregnation of Rohingya women by non-Rohingya men, and unsafe abortions sought by Rohingya women.

The ICTR, ICJ, and ICTY jurisprudence support the analysis that such severe procreative implications as a result of the SGBV perpetration on a community can constitute an act of genocide.

5.1 Standard of Proof

This research applies the 'reasonable grounds to believe' standard in reaching its legal conclusions. This standard is typically used by UN fact-finding missions, commissions of inquiry, and in the preliminary stage of criminal investigations.[248] The psychosocial findings detailed in this research clearly show that the Myanmar military met each of the genocide elements listed below during its 2017 'clearance operations' targeting Rohingya, including through the use of SGBV.

5.2 Genocide

Genocide is an international crime with a foundation in both international treaty law and customary international law. It is a peremptory norm of international law, from which no derogation is permitted. First codified under the Genocide Convention[249] and then the Rome Statute,[250] it is defined as '...any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group'.

Myanmar signed the Genocide Convention in 1949 and further saw its ratification on 14 March 1956.[251] Accordingly, Myanmar has been, and remains, bound by its legal obligations under the Genocide Convention to prevent and punish genocidal acts, whether committed in peacetime or war. Pursuant to Article 3 of the Genocide Convention, Myanmar must also prevent and punish the conspiracy to commit genocidal acts, direct and public incitement to commit them, attempts to commit them, and complicity in committing them. In January 2020, the ICJ held that Myanmar must, in accordance with its obligations under the Genocide Convention, take all measures within its power to prevent the commission of all acts of genocide in relation to members of the Rohingya group.[252] Notably, Myanmar is also bound by its obligations under customary international law to prevent and punish genocide.[253]

5.3 SGBV as a genocidal act

As detailed earlier in Section I, comparative historical analysis shows that SGBV is an integral part of genocidal plans across time. This pattern exists despite the prohibition of rapes in early sources of international humanitarian law.[254] Military codes and treaties such as the 1863 Lieber Code, the Hague Convention of 1899, Article 46 of the Hague Convention IV of 1907, and Article 3 of the 1929 Geneva Conventions were early authorities implicitly outlawing sexual violence, though they did not end impunity for these crimes.[255]

Sexual violence only began to be seriously investigated and prosecuted as an international crime after World War II. Whilst the International Military Tribunal at Nuremberg (1945-1946) did not expressly prosecute sexual violence, and the Tokyo Tribunal (1946-1948) ignored the Japanese army's enslavement of 'comfort women',[256] the UN War Crimes Commission (1943-1948)[257] broke ground in pursuing prosecution[258] for conflict-related sexual violence.[259] The national trials supported by the UN War Crimes Commission resulted in the successful prosecution of 'rape' and 'enforced prostitution' as war crimes.[260] Furthermore, the landmark Geneva Conventions in 1949 stated: 'Women shall be especially protected ... against rape, enforced prostitution, or any form of indecent assault'. One important domestic trial from World War II touching on genocide was the Eichmann trial in Israel in the early 1960s, whose conviction was upheld for 'imposing measures intended to prevent births among Jews' because he directed births be banned and pregnancies terminated among Jewish women in the Terezin Ghetto, with the intent to exterminate the Jews.[261] Later in the 1990s, the ICTR and ICTY developed jurisprudence on the prohibition of rape and sexual violence, with Akayesu[262] being the first case to render a charge of sexual violence as a component of genocide. It is noteworthy that in both the ICTR and ICTY statutes, whilst rape is enumerated as a crime against humanity, the broader crime of sexual violence is absent such that this behaviour was sometimes prosecuted as an 'other inhumane act'.

The Akayesu judgment at the ICTR was ground-breaking in that it held that rape and sexual violence could constitute genocide, in the same way as any other act, as long as those acts were committed with the specific intent to destroy, in whole or in part, a particular group, targeted as such.[263] The ICTY in Furundzija confirmed rape could be an act of genocide and considered the Akayesu definition of 'rape', ultimately convicting the defendant of the war crimes of torture and outrages upon personal dignity for aiding and abetting the rape of a female detainee.[264] The ICTY in Kunarac prosecuted rape as a crime against humanity.[265] At the ECCC, rape during forced marriage was not prosecuted as an element of genocide.[266] The ICJ in Croatia v. Serbia found that sexual violence could constitute genocide by 'imposing measures intended to prevent births' but found that there was insufficient evidence in that case to make such a finding.[267]

At the ICC, the holding in Akayesu was solidified in the Elements of Crimes for Article 6(b) of the Rome Statute - the genocidal act of causing serious bodily or mental harm – which recognises that such harm may be caused by torture, rape, sexual violence, or inhuman or degrading treatment.[268] Whilst several cases at the ICC have sought charges or charged SGBV as crimes against humanity or war crimes (See, e.g., Bosco Ntaganda,[269] Dominic Ongwen,[270] Jean-Pierre Bemba,[271] Joseph Kony,[272] Al-Hassan,[273] and Germain Katanga[274]) charges including rape as genocide have only been brought against Omar Hassan Ahmad Al Bashir for his conduct in Darfur.[275]

Whilst killings of Rohingya women and children during acts of SGBV are well-documented and analysed within the framework of genocide,[276] this research focuses its legal analysis on SGBV against Rohingya – through its perpetration and enduring impact - as a genocidal act under the second prohibited act, 'causing serious bodily or mental harm to members of the group', and the fourth prohibited act, 'imposing measures intended to prevent births within the group'.

5.3.1 Causing serious bodily or mental harm to members of the group

The data gathered clearly shows that the Myanmar military inflicted serious bodily harm and mental harm on Rohingya civilians of all genders, including through SGBV, as part of their genocidal plan. Under the ICC's Elements of Crimes Article 6(b), genocide by causing serious bodily or mental harm includes the following four elements:

1. **the perpetrator caused serious bodily or mental harm to one or more persons;**
2. **such person or persons belonged to a particular national, ethnical, racial or religious group;**
3. **the perpetrator intended to destroy, in whole or in part, that national, ethnical, racial or religious group, as such; and**
4. **the conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction.**

Notably, this fourth element is not part of the customary international law definition of genocide or the definition under the Genocide Convention – a relevant factor to consider, for example, at the ICJ or in domestic courts under the principle of universal jurisdiction. Specifically, in Croatia v. Serbia, the ICJ determined that evidence of intent can alternatively be found in an explicit state policy or inferred from a pattern of conduct, thus allowing cases to proceed without such a pattern.[277] Regardless of jurisdiction, the psychosocial findings detailed above clearly show that the Myanmar military met each of these four elements during its 2017 'clearance operations' targeting Rohingya, including through the use of SGBV.

Element 1: Causing serious bodily or mental harm

The ICTR found that 'serious bodily harm' refers to serious injury to health, disfigurement, or serious injury to the external or internal organs, or senses.[278] In the landmark Akayesu case, the ICTR found rape could constitute a genocidal act and confirmed that causing serious bodily or mental harm does not require the harm to be permanent and irremediable.[279] This was reaffirmed by the Chamber in the Prosecutor v. Rutaganda and Prosecutor v. Musema judgments, which both noted that serious bodily or mental harm includes 'acts of bodily or mental torture, inhumane or degrading treatment, rape, sexual violence, and persecution'.[280] Rape and sexual violence have been recognised as steps in the destruction of a group: the 'destruction of the spirit, of the will to live, and of life itself', and recognised as demonstrating an intent to destroy a group 'while inflicting acute suffering on its members in the process'.[281]

In the Rohingya context, the data gathered corroborates the depth and breadth of the SGBV survivor's physical injuries, including those to their genitals that impact their ability to procreate. Additionally, it evidenced the physical injuries resulting from SGBV that were witnessed by survivors of now-deceased SGBV victims. The serious bodily harm endured was the result of brutal sexual violence, torture, and inhuman or degrading treatment.

Whilst Akayesu has confirmed that causing serious bodily or mental harm does not necessarily mean that the harm is permanent and irremediable,[282] in the case of the Rohingya, the SGBV's impact clearly has significant long-term ramifications. Many survivors suffer from prolonged or chronic pain today, as well as infections that were unable to be properly treated. The extreme state of emotional distress was described by survivors interviewed as 'beyond suffering', leaving them in a 'state of paralysis, overall numbness', unable to function in their daily lives, making the performance of the tasks necessary for their household survival extremely difficult. Notably, the ICTY recognised that the fear and uncertainty of fate, the appalling conditions of the journey, the continuation of profound trauma, and the emotional difficulties faced by the survivors of the 1995 Srebrenica killings in their drastically changed lives, supported the conclusion of having suffered serious mental harm.[283] The Rohingya survivors, especially women who faced SGBV and had a particularly difficult journey to Bangladesh, had drastically changed lives upon arrival in Bangladesh. They continue to suffer psychological trauma not only on account of their SGBV experiences but also as a result of being severely ostracised from familial relations and future social alliances. The survivors' 'diminished capacity to envisage a safe future', as documented in the findings above, reflect the 'fear and uncertainty of fate' and constitute serious mental harm.

The ICTY in Prosecutor v. Krstić observed that serious harm must go 'beyond temporary unhappiness, embarrassment or humiliation' and result 'in a grave and long-term disadvantage to a person's ability to lead a normal and constructive life'.[284] In the Rohingya context, in addition to the lasting impact on the female survivors' psychosocial well-being, as explained above, targeted torture and sexual humiliation impacted men's long-term well-being. The Myanmar military reasserted their own supremacy whilst instilling a sense of powerlessness in Rohingya men, which further contributed to their psychological emasculation.[285] As such, it reaches the Krstić threshold of mental harm, going 'beyond temporary unhappiness, embarrassment or humiliation' and resulting 'in a grave and long-term disadvantage to a person's ability to lead a normal and constructive life'.[286]

The ICTY further held that the abrupt separation of men from women and children could result in serious mental harm.[287] The findings in this research acknowledge (through the survivors' accounts) that Rohingya children were suffering from significant long-term psychological trauma as a result of SGBV their parents endured or witnessed, as well as the trickle-down impact of parental mental health and their ongoing conditions of life in Bangladesh. There are ongoing challenges around children assuming a parental role and, in some instances, looking after their mothers as SGBV survivors, intertwined with the destruction of their Rohingya family unit. Such long-term mental harm to the next generation of Rohingya necessarily impacts the group's future hopes and prospects and can sow the seeds for future intergenerational trauma in the community.

This research's findings on genital mutilation and other injuries inflicted on reproductive areas, as well as the psychological trauma manifesting in nightmares and flashbacks, provide clear evidence of the substantial and long-term impact of SGBV on the Rohingya's intimate relationships and ability to procreate, both physically and mentally. This mirrors the Rwandan comparative context and Akayesu in SGBV's 'destruction of the spirit, of the will to live, and of life itself'.[288]

Element 2: Membership in a national, ethnic, racial, or religious group

It has been well documented that the persons targeted during the 2017 'clearance operations' were members of a (Rohingya) ethnic and (Muslim) religious group – in this sense, targeted for their intersectional identity.[289] The evidence collected from survivors in this research clearly shows that survivors were part of this group, and that the Myanmar military targeted them because of their membership to this group.

Element 3: Perpetrator intended to destroy that group in whole or in part

The ICC Pre-Trial Chamber in Bashir[290] considered the mental elements of the crime of genocide – the general requirements of 'intent and knowledge' under Article 30 of the Rome Statute, and the additional intent specific to genocide under Article 6 of Elements of Crime whereby it must be committed with intent 'to destroy, in whole or in part, a national, ethnical, racial or religious group, as

such'. Special intent has historically been inferred from the scale and nature of atrocities committed and perpetrators' conduct, including statements directed at one group to the exclusion of others.[291] For example, it can be inferred from the perpetrators' 'deeds and utterances considered together, as well as from the general context of the perpetration of other culpable acts systematically directed against that same group'.[292] Relevant conduct can include the physical targeting of the group, the use of derogatory language towards them, and the methodological way of planning violence against them.[293] Case law has associated intent with the existence of a State or organisational plan or policy as an important factor, though not a legal ingredient of the crime.[294]

In the Rohingya context, an analysis of genocidal intent must consider the totality of the violence committed by the Myanmar military, the systematic nature of the violence and its direction at the Rohingya as a specific protected group. Each violent act, such as SGBV, does not need to have been carried out with specific intent; instead, genocidal intent can be reflected in the existence of a larger plan. In the years preceding the 'clearance operations', Myanmar had already established a very targeted atmosphere of extreme fear among Rohingya, with the incitement of anti-Rohingya sentiment and the State laws and policies designed to coerce Rohingya to identify as 'Bengali' (through the National Verification Card initiative in 2012), and severely limit their freedoms, including their marriage and reproductive rights,[295] to marginalise them further in Myanmar society. During the 'clearance operations', Rohingya were subjected to extreme forms of SGBV in conjunction with other forms of widespread violence, including mass arbitrary executions and unlawful killings, torture, arbitrary detentions, and destruction of property.[296] Thus, the SGBV carried out by Myanmar were varied acts used in different manners and against different genders in the context of a broader plan to annihilate the Rohingya population, specifically.

Evidence of the military's genocidal intent can also be found in their methods of SGBV used on Rohingya men, women, and *hijra* victims that demonstrate a broader plan to physically or biologically destroy the Rohingya population. For example, the Myanmar military's acts of SGBV were intended to and did, in fact, cause biological destruction by negatively impacting many Rohingya's reproductive capacities. By deliberately and systematically carrying out extreme acts of SGBV against the Rohingya population specifically, leaving Rohingya women, girls, men and *hijra* physically mutilated and unable to reproduce or so traumatised that they can no longer contemplate a procreative relationship even if they were accepted in the Rohingya community, there is reasonable cause to believe the Myanmar military knew of the consequences of their conduct and intended to prevent the continued existence of the Rohingya population.[297] In committing this violence, the perpetrators were aware of their Rohingya neighbours' social and cultural constructs and were aware that in the ordinary course of events, their acts of SGBV would result in severely negative social and reproductive implications for the group. The military's intent to commit widespread and systematic SGBV and its awareness of its long-term consequences, should be viewed in light of the Myanmar authorities' explicit and premeditated plans to control Rohingya population growth. A review of thousands of pages of Myanmar government documents 'set out at length a series of plans to control every facet of the lives of the Rohingya, restricting their physical movement and reproductive freedoms, emphasizing the use of pre-existing policies to restrict marriage and imposing contraception amongst Rohingya women were put in place'.[298] Moreover, it is noteworthy that '[d]ocument after document revealed the intrinsically bureaucratic character of the Tatmadaw, where senior commanders maintained a detailed awareness of all subordinate activity, controlling every aspect of decision making and operating procedures. Lower-level commanders were not trusted to make improvised decisions on the battleground, meaning that actions were always approved by the highest echelons of the armed forces. [...] The documents showed that senior military officials met frequently with their subordinates, where they would propose, discuss, adopt and assign security measures as part of the clearance operations, discipline subordinates who disobeyed such orders and remain well-informed of actions and results during operations'.[299] Given the large scale and widespread nature of the SGBV committed during clearance operations, there is reasonable cause to believe that the SGBV against Rohingya was controlled and overseen as part of the formal command structure with the intent to bring about their physical destruction.

The brutality of the military's violence, in particular, shows an intent to cause the destruction of the Rohingya group through both physical and mental harm. Trauma from the SGBV resulted in many survivors being unable to contemplate a procreative relationship is further evidenced by survivors' reports of witnessing brutal SGBV against others. They report many instances of being forced by members of the Myanmar military to watch or listen to this conduct, such as rapes of loved ones, including children. Many survivors expressed the severe resulting psychological trauma they continue to endure, which in many cases has damaged psychosocial relationships, including between parents and children, partners, and community members. The fact that most of the violence was performed by the Myanmar military in the open and in a way that the Rohingya group would most likely have to witness is indicative of the perpetrators' knowledge that severe psychological trauma on the witness-survivors would occur in the ordinary course of events, which underlines a strategy of physical destruction. In a similar manner to some comparable contexts, the Myanmar military knowingly used SGBV on a large scale (in combination with other severe forms of physical violence, including murder and deportation) in order to destroy Rohingya family structures. The Srebrenica massacre is another classic case of how gender-based violence can result in damage to the future reproductive capacity of the group. In Krstić, the ICTY Appeals Chamber Judge Shahabuddeen affirmed in a separate opinion that the long-term impact of the elimination of the men and transferring the women and children of a group of Bosnian Muslims from Srebrenica was sufficient proof of the intent to destroy the group in whole or in part, due to the detrimental consequences for

the community's physical survival.[300] As detailed in Section V (Section 3.2) above, this research provides reasonable grounds to believe the Myanmar military's use of violence, including SGBV, against Rohingya had similarly disastrous consequences on the family structures of the Rohingya group.

In addition to the murder and deportation of civilians, forced pregnancies of Rohingya women and girls demonstrate the Myanmar military's intent to significantly change the demographics of and, ultimately, biologically destroy a protected group.[301] By systematically raping and impregnating Rohingya women and girls, the Myanmar military forcibly increased the population of Rohingya women who would no longer be allowed to procreate with Rohingya men.[302] Even in circumstances where these pregnancies did not continue to term, the biological impact on the group was severe given its patrilineal culture, where ethnicity and religion are strictly derived from the biological father. Sexual violence deployed against Rohingya men, including causing harm to their genitals, also impacted the reproductive capacity of the group. Aware of the crucial social and cultural constructs in which the Rohingya operate, the Myanmar military's acts of SGBV against the Rohingya were specially intended to destroy Rohingya's capacity to regenerate.

The Myanmar military's deliberate policy of utilising SGBV against the Rohingya population on a massive scale left the group with the sense of their inevitable extinction. The overriding context of the SGBV acts,[303] coupled with the large-scale and brutal nature of the SGBV and other atrocities committed in the context of a larger plan,[304] provides reasonable grounds to believe that the Myanmar military knowingly and systematically carried out these acts against the Rohingya population to target their future regenerative abilities and, therefore, their destruction. These physical and psychological injuries caused by Myanmar's SGBV against the Rohingya were foreseeable, based on the Myanmar military's knowledge of the crucial social and cultural constructs in which the Rohingya operate[305] and on a common sense understanding of how, in the ordinary course of events, systematic and brutal identity-based violence can impact a group both physically and mentally. The foreseeability of the impact of their conduct illustrates the Myanmar military's use of SGBV as an integral part of their attack on the Rohingya[306] and an incremental and deliberate step in effectuating long-term psychosocial and physical destruction of the individual, family, and ultimately the group,[307] 'while inflicting acute suffering on its members in the process'.[308]

Element 4: Conduct took place in the context of a manifest pattern of similar conduct directed against that group, or was conduct that could itself effect, such destruction

The fourth contextual element laid out in the ICC's Elements of Crimes (that is not part of the customary international law definition or the definitions at the ICJ, ICTY or ICTR) indicates that genocidal acts must be connected to a larger scale or pattern of conduct against a group. The Pre-Trial Chamber's decision in Bashir marks a departure from the ICTY approach[309] by acknowledging that recognition of the contextual element in the Elements of Crimes remains controversial but interpreting the requirement of a 'context of a manifest pattern' to indicate that 'the crime of genocide is only completed when the relevant conduct presents a concrete threat to the existence of the targeted group, or a part thereof', and that the threat must be 'concrete and real, as opposed to just being latent or hypothetical'.[310] Although the Pre-Trial Chamber in Bashir initially declined to issue an arrest warrant for genocide (instead issuing one for war crimes and crimes against humanity only), the Appeals Chamber found the Pre-Trial Chamber incorrectly applied the 'reasonable grounds to believe standard' and remanded for the correct application of the standard of proof.[311] In doing so, the Pre-Trial Chamber confirmed Bashir's conduct was part of this larger manifest pattern and issued a warrant for acts of genocide, including SGBV.[312]

Whilst this element is part of the ICC's definition of causing serious bodily or mental harm as a genocidal act, it is important to note that it does not have to be met under customary international law. Nonetheless, there are clear grounds to believe it has been met in the Rohingya context. It has been well documented that the Myanmar military committed SGBV against the Rohingya in the 2017 'clearance operations' as part of a larger genocidal campaign of violence – and thus, in the context of a manifest pattern of conduct directed against them.[313] The Myanmar government's conduct before the 2017 'clearance operations', as detailed above in Part I on background, also demonstrates the long-standing and thorough legalised oppression the Rohingya faced in Myanmar that in and of itself could constitute a manifest pattern of similar conduct. These decades of oppression culminated in the 2017 'clearance operations', where the Myanmar military used widespread and systematic violence against the Rohingya civilian population that targeted them on the basis of their ethnicity and religion.[314] The SGBV used during the 2017 'clearance operations' was one component of the larger pattern of violent conduct directed against the Rohingya, which also included killings, torture, detention, deportation, forcible transfer, property destruction, and other crimes.[315]

In sum, as the above findings illustrate, there are reasonable grounds to believe that the Myanmar military's brutal SGBV against the Rohingya during the 2017 'clearance operations' constitutes serious bodily or mental harm as an act of genocide under the Genocide Convention, customary international law, and the ICC Elements of Crimes for Article 6(b). The perpetrators left permanent, dehumanising, physical reminders of the crimes on the Rohingya survivors and on their families and community. The psychosocial findings in this research further evidenced a pattern of significant cruelty in the SGBV acts that manifested in long-term physical and mental scars. Long-term physical consequences for survivors include injuries to reproductive organs and chronic pain, whilst the lasting post-traumatic reactions include disassociation and depression, lending to what survivors describe as a state

of 'mental death'. Through SGBV, the Myanmar military damaged various familial and interpersonal relationships of the Rohingya survivors. Rohingya survivors were hurt in the multiple spheres of their psyche, their self, and their family lives, and in their position in the greater community. Lastly, this organised violence took place in the context of a manifest pattern of similarly violent conduct, including decades of violence and disenfranchisement, directed at the Rohingya before the 2017 'clearance operations'.

5.3.2 Imposing measures intended to prevent births within the group

The findings clearly show that Myanmar imposed measures intended to prevent births within the Rohingya group, meeting the threshold of the conditions in the elements of genocide under Article 6(d) of the Rome Statute. Under the ICC Elements of Crimes, genocide by imposing measures intended to prevent births contains the following elements:

1. **the perpetrator imposed certain measures upon one or more persons;**
2. **such person or persons belonged to a particular national, ethnical, racial or religious group;**
3. **the perpetrator intended to destroy, in whole or in part, that national, ethnical, racial or religious group, as such;**
4. **the measures imposed were intended to prevent births within that group; and**
5. **the conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction**

Only the first and fourth elements are dealt with below, as the remaining elements are analysed above, with respect to the genocidal act of causing serious bodily or mental harm. The psychosocial findings detailed in this research clearly show that the Myanmar military met each of these elements during its 2017 'clearance operations' targeting Rohingya, including through the use of SGBV.

Elements 1 and 4: Perpetrator imposed certain measures upon one or more persons, and those measures were intended to prevent births within the group

The physical and psychosocial findings above demonstrate reasonable grounds to believe that during the 2017 'clearance operations', the Myanmar military imposed certain measures on Rohingya that were intended to prevent births within the Rohingya group. Preventing the targeted group from procreating is often a 'fixation of genocidaires',[316] and the IIFFMM correctly identified Myanmar's 'obsession with the procreation of the Rohingya'.[317] Historically, Article 6(d) has not been utilised as a basis for the criminal prosecution of genocide in international tribunals. Yet, in terms of measures to prevent births within the Rohingya community, Akayesu[318] and subsequent ICTR cases confirmed that this could include acts such as sexual mutilation, forced birth control, separation of the sexes, prohibition of marriages, impregnation of a woman to deprive her of group identity and mental trauma resulting in a reluctance to procreate.[319] The IIFFMM found that Myanmar authorities actively propagated a narrative of 'uncontrollable' Rohingya birth rates, claiming that they constituted a threat to the nation. For years prior to the 'clearance operations', Myanmar's policies placed significant legal restraints on Rohingya marriage and reproductive rights,[320] thereby limiting the community's reproductive capacity. Given the severe legal consequences of any Rohingya pregnancy, many women felt obliged to take long-term contraceptives to prevent conception, often with little choice but to use them unmonitored.

The Myanmar military imposed the following measures against the Rohingya population that were intended to inhibit their capacity to procreate (and did, in fact) prevent births: restrictions on marriage and spacing of children, rape and sexual assault, causing serious physical injury to sex organs and other parts of the body, causing serious mental harm through experiencing or witnessing sexualised or gender-based violence, detention and sexualised torture, unsafe abortions, extensive physical and/or psychological trauma that has made sexual intimacy impossible and ruined chances of success for fundamental social alliances like marriage. The Appeals Chamber in Krstić[321] confirmed the trial findings that the physical destruction of one-fifth of the men in the group had severe procreative implications for the Srebrenica Muslim community, potentially consigning the community to extinction. In the Rohingya context, the targeting of men for killings and disappearances during the 'clearance operations' has been well-documented by the IIFFMM.[322] In this research alone, eight female survivors lost their husbands (separated and killed) and were then raped. The psychologists' analysis of the survivors' accounts in Section 3.4 above captured the negative impact of the killings of men on future social alliances and kinship structure.

Further, as detailed above in Part IV - Sections 1 and 3.1, the Myanmar military's acts of SGBV impaired female survivors in their physical capacity to create and maintain life across all stages. Women and girls reported severe injuries to their sexual reproductive organs, to the extent that doctors discouraged some from conceiving due to their risk to life. The findings evidence impact on women's capacity to conceive and struggle to safely give birth, making reproduction impossible or highly dangerous. The findings also documented the impact on their capacity to care for infants. For example, as a result of injuries such as bitemarks on their breasts, coupled with their deteriorated psychological state, women reported an impact on their ability to establish breastfeeding with their infant. The brutal SGBV at the hands of the Myanmar military during the 2017 'clearance operations' – destroying the physical capacity of many Rohingya to reproduce, damaging the psychological willingness of many Rohingya to form procreative relationships, separating Rohingya men and

women through mass killing and detention, and forcibly impregnating Rohingya women by non-Rohingya men, thereby damaging community support of remarriages within the community, as detailed in Part V – constitutes a clear pattern of SGBV intentionally imposed to prevent births within the Rohingya community.

As found by a court in Guatemala, the military's rape, mutilation, feticide, forced nudity, and other forms of sexual violence committed against Mayan Ixil people were genocidal measures aimed at preventing births within the group, affecting their reproductive organs, which also led to trauma and terror, and to ostracism, creating social and personal barriers to reproduction.[323] Similarly, the Myanmar military's extensive use of SGBV against Rohingya civilians, including rape, gang rape, mutilation, forced nudity, and other forms of sexual violence, constitutes the genocidal act of imposing measures intended to prevent births within the Rohingya group. As detailed above, survivors are still suffering both the physical and psychosocial consequences. When considering the same SGBV's psychological consequences, the findings evidence a diminishment in survivors' emotional availability as parents to respond to their children's needs in a way that would enable the emotional containment and reciprocity needed for healthy psychological development.

'I get sick. I have a lot of pain in my body. I can't eat anything. My head is very bad, the dimage. Sometimes I can't get out of bed for five days, and I can't do anything. (...) I think about my husband and my sons, and the life we should have had. I worry so much that I become sick in my head [matha horaf oizagoi/ matha ham nogore - lit. my brain doesn't function well - my brain becomes crazy] I become dizzy, and I can't sleep; everything becomes dark. My kids worry a lot for me in these moments. (...) I am having such a difficult time with my children. When I die, the sorrow will end. It's the only option. I can't provide for them. My older daughter is helping a lot; she takes care of her sisters; she is doing everything. But they all worry a lot about the future'.

NK, female SGBV survivor

'When I cry, my daughter asks if someone has beaten me up. I tell her that nobody did, and she wipes the tears from my cheeks. (...) I feel chinta [worried, anxiety] sometimes, I get high blood pressure [mathat maze loo uRi zagoi (the pressure go up on my head)] and get sick, so then I try to seek help from my mum to look after the childre'.

S, female SGBV survivor

Article 6(d) has often been presumed, in practice, to be mainly concerned with the reproductive capacity of women and girls to the exclusion of the lived experiences of men, boys and individuals with diverse SOGI.[324] However, the Myanmar military inflicted severe physical injuries on Rohingya men and *hijra's* genital areas, as well as psychological humiliation and emasculation. While the IIFFMM has not explicitly linked the acts of SGBV against men with the Myanmar military's alleged intention to prevent births, the consistent findings in this research demonstrate this SGBV had such an effect on men and *hijra* survivors. These findings further justify analysing all Rohingya survivors' testimonies with a gender-expansive understanding of the genocidal SGBV. In arguing the same, one analyst notes that the analysis of the IIFFFM Sexual Violence Report (2019) shows that 'nearly identical acts of sexual violence—for instance, gang rape or genital mutilation—can be labelled as "genocidal" for cis-gender women and "non-genocidal" for other people. Such an omission discounts the suffering of victims and needlessly weakens attempts to identify, prevent, and punish the crime of genocide'.[325] Men and *hijra* survivors reported long-lasting conditions resulting from the SGBV, such as erectile dysfunction and being left unable to reproduce. Male survivors interviewed asserted that the SGBV they endured by the Myanmar military led to the destruction of their masculinity and their potency or virility.[326]

'I told my wife about what happened to me. We don't have a sexual relationship anymore. I would have had four or five more children if we were sexually active. (...) I can barely have an erection'.

H, male SGBV survivor

'I felt very bad when he came to me, I couldn't share my feelings to anyone. I was scared and used to cry, I used to cry loudly, and I used to refuse him, but he did all this at gunpoint. (...) They (my family) don't know about my rape, nor does my wife'.

SA, male SGBV survivor

'My mental health is not good. I told my family and my wife what happened to me, but I can't share it with anyone else. If I did, people will look at me in a bad way'.

AU, male SGBV survivor

The Syrian COI determined that the perpetration of rape could constitute a measure to prevent births within a group where Yazidi survivors were too traumatised to engage in procreative relationships.[327] Akayesu outlined how SGBV may act as a measure to prevent births where individuals are so traumatised that they develop anxieties around any sexual contact or an unwillingness to procreate.[328]

As demonstrated in Section 3.1, across all Rohingya gender identities, the SGBV seriously impaired survivors' abilities to sustain intimacy and engage in sexual relationships with their partners, thereby negatively affecting the necessary conditions to conceive.

The overall capacity to procreate was further negatively affected by the diminished social status and rejection of many women SGBV survivors. This communal rejection often manifested in increased rates of domestic violence from their husbands and extended family unit and precluded them from restoring social alliances, continuing in existing marriages or engaging in new ones, and consequentially accessing a sexual partner. The IIFFMM specifically noted that perpetrators, namely members of the Myanmar military and their commanders, would be aware of this dynamic of cultural barriers,[329] and there may be strong arguments to support a finding of genocide where survivors would not be permitted to form relationships through which the protected group could regenerate.[330] Female survivors interviewed felt they had entirely lost their individual *izzot* and perceived sexual purity, which in turn impacted their collective family *izzot* and wider social networks. The ICTY Trial Chamber in Popović found that the killing of male members of a population sufficed to infer the intent to biologically destroy the entire group and have a detrimental impact on the group's physical survival.[331] Where a child's ethnic and religious identity is inherited from its father, this very act of separating men and women through mass killing can have 'severe procreative implications', as acknowledged in Karadžić,[332] and constitute a measure to prevent births. As similarly observed in Krstić, this may consign the protected community to extinction.[333] It is not surprising, then, that female Rohingya SGBV survivors report similar feelings, including those whose husbands were killed during the 'clearance operations'.

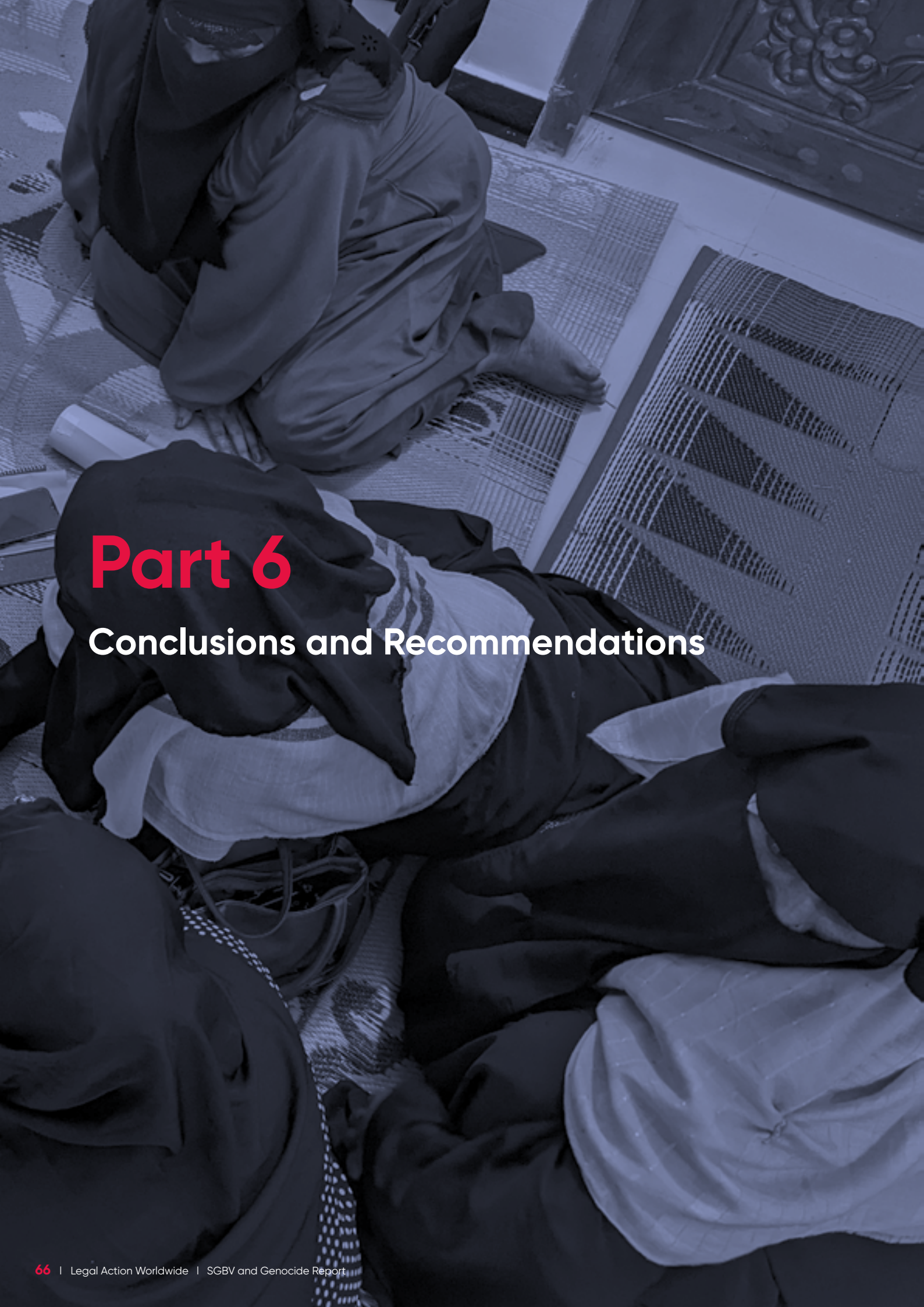
As observed by the ICTR in Akayesu, in patriarchal societies where membership of a group is determined by the identity of the father, when a woman is deliberately impregnated by a man of another group with the intent to have her give birth to a child who will consequently not belong to its mother's group, this amounts to a measure intended to prevent births within that protected group.[334] The survivors' accounts detailed above indicate that some Rohingya women had the same experience. The breadth, scale and systematic nature of rape of Rohingya women and girls in the context of the Myanmar military's 'narrative of 'uncontrollable' Rohingya birthrates that constitute a threat to the nation', in addition to the Myanmar government's legal measures to restrict Rohingya procreation, indicate an intention to prevent births within the Rohingya community in part through SGBV.[335] Many women impregnated as a result of the SGBV sought unsafe abortions.

Others were too advanced in their pregnancy or unable to access appropriate health facilities in either Myanmar or Bangladesh. The resulting births of children born from SGBV and their biological filiation are perceived by survivors and the wider community as reshaping and limiting future Rohingya lineage. With the cultural-religious identity of the child within the patriarchal Rohingya Muslim system provided through the paternal bloodline, the perpetrators were aware that in the ordinary course of events, children conceived through SGBV would be inherently perceived as biological children of the Rakhine, Buddhists or Myanmar militaries.

> 'They used to call me and my son 'You are the monks!' or 'You are the raped woman!' They refused to accept me'.
>
> *RK, female SGBV survivor*

The SGBV's multigenerational impact can already be evidenced, with the findings highlighting impediments from loss of *izzot* to loss of marriage prospects for SGBV survivors' children. Myanmar's attacks obstructed possibilities for creating the necessary social alliances for their children's marriages. Blockages also arise in relation to dowries and inheritance, with land and property ownership following the paternal lineage. This further hinders Rohingyas' ability to re-establish social roots for their children and grandchildren, and ensure appropriate procreation to protect the wider group's continuity.

In sum, as the above findings illustrate, there are reasonable grounds to believe that the Myanmar military's brutal SGBV against the Rohingya during the 2017 'clearance operations' constitutes the imposition of measures intended to prevent births within the Rohingya group under the Genocide Convention, customary international law, and the ICC Elements of Crimes for Article 6(d). This pattern of SGBV deployed by the Myanmar military had the marked consequence of preventing the birth of children in two key ways. The first was through physical and psychological injuries that impaired the ability of the group to procreate. For instance, the findings document that 22 out of 30 survivors suffered injuries to their genitals/secondary sex, resulting in a range of consequences in the long term, such as difficulty in sexual intercourse, reproductive tract infections, and loss of libido. At least six Rohingya expressly shared having great difficulty in sustaining intimacy and engaging in the sexual intercourse necessary to procreate. The second was by forcing the births of children the Rohingya community would not identify and accept as Rohingya. The findings document how biological and societal filiations of survivors and their offspring have been severely impaired, if not destroyed, through both the initial acts of violence and the arising forced conceptions. The intergenerational impact of SGBV appears to ensure the ongoing preclusion or restriction of marriage and, accordingly, the reproductive abilities of Rohingya generations to come. Well aware of the crucial social and cultural constructs in which the Rohingya operate, and thus the foreseeable impacts of their acts in the ordinary course of events on the individual, familial, and communal levels, there are reasonable grounds to believe the perpetrators' SGBV against the Rohingya population was deliberately carried out to prevent births within the group, and thus aided in the physical and biological destruction of the group.



Part 6

Conclusions and Recommendations

This research's findings demonstrate reasonable grounds to believe that the Myanmar military's perpetration of SGBV during the 2017 'clearance operations' amounted to acts constitutive of genocide, as set out in Article 2 of the Genocide Convention, to which Myanmar is a party. Through its long-term physical, psychological and social impacts, documented nearly six years later, the SGBV committed against the Rohingya constitutes the following two genocidal acts: (1) causing serious bodily or mental harm to members of the group, and (2) imposing measures intended to prevent births within the group.

Understanding the historic state-sponsored persecution and violence against the Rohingya is an important part of understanding the genocidal intent behind the perpetrators' acts in 2017. The extent and scale of the violence in 2017 alone, however, and its foreseeable impact on the individual, familial, and communal levels, demonstrates an intent to destroy the Rohingya group in whole or in part.

This research's findings on SGBV and genocide against Rohingya in Myanmar and the ongoing barriers to care and justice for survivors require immediate and sustained action. In line with state and international actors' responsibilities and legal obligations to support justice and accountability for survivors, LAW recommends the following to support the Rohingya community:

1 Efforts to hold Myanmar accountable for the serious international crimes against the Rohingya including SGBV, must be advanced on an urgent basis.

- States must call upon Myanmar to immediately fulfil all provisional measures issued by the International Court of Justice in *The Gambia v. Myanmar* case on Application of the Convention on the Prevention and Punishment of the Crime of Genocide, including prevention of rape or other forms of sexual violence against Rohingya. Interim reporting by Myanmar on compliance with provisional measures should be made public and available to survivors, and an ad-hoc committee should be created/considered by the ICJ to monitor the implementation of the provisional measures by Myanmar.

- Additional states should file interventions in The Gambia v Myanmar case at the ICJ to support the interpretation of the Genocide Convention that leverages the developments in the international criminal law, and accounts for the systematic SGBV against the Rohingya as satisfying the elements of genocide.

- The UN Security Council should immediately refer Myanmar to the International Criminal Court for investigation into violations of international criminal law against the Rohingya, including SGBV and genocide, that occurred fully on the territory of Myanmar.

- In light of the long-term consequences of SGBV on survivors' physical, reproductive, and psychological health, and the resulting destruction of their biological relations and family unit, SGBV should be a key part of any prosecutorial strategy to hold the Myanmar military and individual officials accountable for the crime of genocide against Rohingya.

- States should utilise principles of universal and extraterritorial jurisdiction, as in Argentina, and initiate structural investigations against the Myanmar military for its genocidal campaign against the Rohingya, paying special attention to the experiences of SGBV survivors.

2 Improved protection measures are necessary to ensure Rohingya SGBV survivors' continuous engagement in international justice proceedings.

- For SGBV survivors to participate in international justice proceedings safely, effective witness protection measures are essential. States and relevant institutions must ensure protection of identity, access to safe houses in countries of asylum, and fast-track third-country resettlement as necessary.

- Alongside witness protection, the Rohingya SGBV survivors must have access to accurate legal information, assistance, and representation that is trauma-informed, in order for survivors to effectively participate in international justice proceedings, and provide valuable evidence.

3 Fund and establish quality and long-term specialised support for Rohingya SGBV survivors across genders.

- Donors, humanitarian agencies, and service providers should engage with SGBV survivors across genders. The SGBV experiences of the Rohingya men and *hijra* in Myanmar, and its long term-impact in displacement should be mainstreamed.

- Donors, humanitarian agencies, and service providers must prioritise and adequately fund specialised sexual and reproductive health services and psychological support to tackle the lack of comprehensive care available for Rohingya SGBV survivors.

- International justice mechanisms must pursue transformative reparations within judicial processes for survivors of SGBV and their communities. Survivor-centred approach should be adopted in the design and implementation of reparations programmes. This includes but not limited to access to appropriately trained (gender and sexual orientation and gender identity - competent) medical staff, and instituting psychological therapy programmes for victims and survivors.

Afterword

Destruction in Genocide: The case of SGBV against Rohingyas

By Prof. Richard Rechtman
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Since the publication of the Genocide Convention, the notion of destruction has become part of the legal language to designate the objective intent and effects of genocidal violence. It is found at all levels of the penal definition of the crime of genocide, specifically to describe the requisite intention of the perpetrator(s) and the physical or psychological damages, after-effects, or harm.

Unlike wounds, even the most serious ones, destruction leaves a blank, a void, a 'nothingness', instead of a scar. And it is precisely these traces of destruction that constitute the proof of the actualisation of the extermination process, whether completed or not. This ultimate form of radical violence constitutes the basis of genocidal intent.

The intent to destroy can be difficult to evidence; conducting an empirical observation of destruction is not straightforward since it involves being able to evidence how the violence inflicted on individuals was intended to destroy the group as a whole. In this respect, the case of Rohingya is one of the most exemplary. It demonstrates that the radical destruction of a group does not necessarily involve the physical elimination of an entire population. Even if a large number of individuals are murdered, tortured, and mutilated, the targeted and extensive SGBV (particularly on women or young mothers, in front of their families, and the accompanying sexual mutilations) reflected the perpetrators' desire to transform the surviving women into means of dramatic social decomposition. As such, the long-term consequences of SGBV could be likened to a kind of 'secondary weapon' used at a distance by their torturers to destroy the community as a whole.

The rejection of the already heavily traumatised women by their group of origin is not merely a result of pre-existing cultural sexism that accuses sexually abused women of being 'impure'. Whilst it is true that Rohingya society, like many other cultural groups, is grounded on highly conservative patriarchal gendered social norms that have resulted in cultural obstacles imposed on women through the framing of sexually 'morally polluted' women as 'impure', the extent of the rejection, discrimination, and violence inflicted upon female survivors of the 2017 'clearance operations' is clearly the product of a distinct phenomenon. As the research demonstrates, the impurity that is associated with female survivors is not limited to the assumed 'defilement' of their own bodies or of their offspring but, rather, extended to the transmittable defilement that they are believed to carry, and to have the capacity to spread through anything they touch or approach. They are not only considered 'polluted', but also carriers of defilement to anyone in their vicinity.

Whilst pre-existing male-dominating discriminatory norms may have played a role, the new wave of violence reported is driven by a different and more complex dynamic. Research demonstrates that other victimised populations have faced similar rejection by their communities at a time where sexual violence in conflicts was not yet recognised as a serious issue in the international scene. For instance, the Vietnamese 'boat people', who were repeatedly raped by pirates in the China Sea, were never accepted back into their communities and faced, at a smaller scale than for the Rohingya female survivors, a fear of contagious defilement.[336] This pattern has also been observed more recently following the genocide of the Yezidis by ISIS, which was accompanied by widespread sexual violence.[337] The surviving women were abandoned by their original group, including their children, and were further distanced from other refugees for the sake of the same fear of contamination. In each scenario, the issue is not simply linked to pre-existing gender discriminatory norms but, rather, to a genocidal strategy of instilling the poison of defilement into each victimised body, transforming each woman into a 'fantasised' vehicle for the ultimate destruction of the targeted group across the generations to come.[338] Such strategy was also documented in the genocidal contexts of Rwanda, in Iraq under the domination of ISIS, and during massacres of Muslim populations by Serbian nationalists. The aim was to destroy the future of a given group of people through the generalised 'defilement' of women's bodies.

The Rohingya population in the vast Cox's Bazar refugee camps is undoubtedly experiencing a dire situation of radical subalternisation. The term 'subaltern' was first coined by post-colonial philosophers following the work of Spivak (1988),[339] in order to describe populations who have been completely marginalised due to the violence, exclusion, and poverty they face. The Rohingya women who have 'survived' the sexual violence in Myanmar also face a form of secondary subalternisation within their own community afterwards. This form of subalternisation is not solely the product of the refugee condition but is a direct consequence of the genocidal sexual violence they endured. They lack a social existence and collective support.

The individual consequences of sexual violence on men and *hijra* among the Rohingya population are similar to those of women. The violence endured not only causes physical and psychological damage but also destroys their prospects. Men lose their position as males, both through physical alteration and through symbolic emasculation. As a result, whilst men and *hijra* who were victims of SGBV

also experience subalternisation in a similar manner to the rest of the Rohingya refugee group in Cox's Bazar, female survivors also suffer from a secondary subalternisation that is more severely detrimental to both them and their community. Such secondary subalternisation is a direct result of the large scale of extremely violent SGBV perpetrated against them as well as, more importantly, a result of the genocidal intent behind the acts that were likely to have been carried out through a planned and organised execution of the violence.

The data collected in this research provides crucial evidence as to destruction and the genocidal intentionality it reveals. It is noteworthy to present the methodological principles adopted to inquire into the elements constituting genocidal intent based on psychological investigations.

1. **The process of destruction is continuous and still empirically observable.** Empirical observation over time and across all spheres of their lives is crucial. From a psychological point of view, the Rohingya survivors interviewed as part of this research remain the object of the process of destruction, even in the refugee camps in Bangladesh, far from the Myanmar military and security forces. The destruction did not stop with their deportation and escape; it continues every day, instilling the same effects on their bodies and on their environment. It is not just the consequences of what happened to them on the other side of the border, but more fundamentally, an extension of the destruction process itself. The difference between consequences (which indicates the idea of a time that has passed) and the continuation of a process is essential, since it is precisely the continuation of this process that evidences the implementation of the ambition to destroy. The process of destruction is still empirically observable in the daily lives and narratives of the survivors. This is what this research is all about.

2. **The clinical notion of psychological trauma is important but insufficient for analysis in this context.** As the research will demonstrate, the magnitude of the traumatic signs and the extent of the violence experienced by the Rohingya are indisputable across the sample of survivors, particularly in the direct aftermath of their experience of SGBV. Nevertheless, the traumatic signs elicited at the individual level alone are not sufficient to demonstrate the genocidal nature of the violence perpetrated during the 2017 'clearance operations'. There are several reasons for this, which have to do with the clinical definition of PTSD on the one hand, and the social history of the recognition of these disorders on the other. Forged at the end of the 19th century but only recognised as proof of an encounter with an extraordinary event from the 1970s onwards, the use of psychological trauma (i.e., PTSD in the Diagnostic and Statistical Manual of Mental Disorders) remains problematic.[340] Furthermore, the construct only provides information on the individual and singular consequences for each victim, and accounts very little for the extent of the violence inflicted on a population.[341] Whilst this research highlights the reality of individual traumas, the analysis goes beyond the initial observation to demonstrate the collective destruction of the entire social fabric of Rohingyas. This is based on accounts, testimonies, and clinical observations of the psychological after-effects that extend far beyond the signs of PTSD. The narratives collected during this research are filled with crucial information about the desired outcome underlying the violence, which this research seeks to highlight.

3. **Factual accounts and expressed emotions can provide insight into the extent of Destruction of a group.** Beyond the wounded bodies and the psychological or traumatic after-effects onto individuals, the research highlights the direct effect of genocidal violence onto the social fabric of Rohingya. Even within their original group, the suffering of the female survivors is not recognised. On the contrary, the women and their children now find themselves facing cultural obstacles and thus excluded. The violent reaction of their husbands and their family-in-law, as well as of the entire neighbourhood, does not simply tell us about the existence of condemnable norms and practices reflecting male domination. Rather, at a deeper level, all these violent reactions and rejections indicate the extent of the disintegration of the social space, which proves it is no longer capable of providing the support that it would usually offer to its members to recover. The issue for this research, therefore, was to focus on eliciting the traces of the destruction through the analysis of factual accounts and expressed emotions. The latter permeated through the entire social fabric and translated into an internal corrosion, intentionally induced through the magnitude of the SGBV perpetrated towards Rohingyas in Myanmar.

In conclusion - whilst we anticipated that these victims would have difficulty in confiding in us and, thus, in exposing their intimate wounds, all the women, men, and *hijra* survivors interviewed agreed to speak freely and at length, stipulating that no one else wanted to listen to them. For women in particular, the lack of possibility to express their suffering within their community, whilst their pain is clearly visible and known by all creates a subcategory of subalterns.[342] The violent social ostracisation of the group towards the female survivors, as captured in the findings of this research, uncovers crucial elements concerning what was intended to be attacked through the perpetration of the SGBV. This continuing process of 'secondary subalternisation' of survivors exacerbates the already subaltern nature of the Rohingya refugee community and demonstrates how the SGBV was used as a weapon to destroy the community as a whole.

Annexes

Annexe 1: Expanded Methodology

This research is the result of a multi-disciplinary study undertaken between August 2022 and March 2023 into the long-term consequences of SGBV experienced by Rohingya in Myanmar, with reference to the crime of genocide. The research's methodology is explained in-depth below.

A. Research team

The following individuals formed the team responsible for producing this research.

- LAW's legal team included lawyers with extensive experience in sexual and gender-based violence and international criminal law. The team was comprised of five lawyers, including ***inter alia*** Antonia Mulvey, LAW's Executive Director, Nick Leddy, LAW's Head of Litigation, and Ishita Kumar, LAW's Programme Manager responsible for the overall research and coordination, analysis, drafting, internal review, and proofreading of the report. The legal team was also responsible for the identification and screening of Rohingya individuals to be interviewed for the research and conducting KII. Additionally, two consultants, Marissa Kardon Weber and Catherine Dunmore, who were engaged in this assignment, provided valuable support to the drafting and editing process for the report. The team was assisted by LAW's programme officer, Afroja Bulbul, who provided coordination support for the research. LAW's trained Survivor Advocates assisted with client identification and peer support.

- The team of clinical experts included four psychologists (Emilie Medeiros, Lauriane Pfeffer, Dina Al Shafie, and Cynthia Grguric) and a psychiatrist/professor of anthropology who provided clinical supervision (Richard Rechtman). Members of this team have extensive clinical experience practising in various humanitarian crisis contexts or have worked with survivors of extreme violence (including genocide and crimes against humanity). In addition to their educational background, clinical training, and extensive work experience, the deployed psychologists received additional training from Justice Rapid Response to qualify as an expert on their roster of psychologists who assess and treat survivors of human rights violations and international crimes.

- A medical doctor (Ranit Mishori) conducted an expert review of the underlying data produced during this research. She has extensive experience at the intersection of medicine, public health, and human rights, including experience in forensic documentation of sexual violence in the Rohingya context since 2017.

- A team of four interpreters assisted during the screenings, interviews, and focus group discussions. All had significant knowledge of the Chittagonian or Rohingya languages and were experienced in performing translations with the Rohingya population, including with SGBV survivors.

- Two researchers with significant experience with the Rohingya (Andrew Riley and Haley Ritsema) developed a coding framework to analyse the raw data collected for the research through individual survivor interviews and provided qualitative and quantitative analysis within the Rohingya context. The research team also provided a glossary of the Rohingya terminologies based on the data, through local consultations.

Three international criminal law and SGBV experts (Patricia V. Sellers, Sareta Ashraph, and Erin Rosenberg) were consulted in the drafting of the research. All three experts have extensive experience in the investigation and documentation of sexual and gender-based violence and the legal analysis of the crime of genocide. The experts provided their views in a personal capacity, and these do not necessarily represent the views of their respective organisations.

B. Phases of research production

The research was developed in four phases:

Phase 1 (August - November 2022)
Desk research, participant identification, and screening

Desk research was conducted to study the existing literature linked to understanding the long-term consequences of SGBV experiences by Rohingya in Myanmar, with reference to the crime of genocide. Publicly available materials from the UN, NGOs, and academic materials related to SGBV against Rohingya in Myanmar and its impact, mental health outcomes among Rohingya refugees living in displacement in Cox's Bazar, the medium and long-term impact of SGBV on survivors' mental health, reproductive health impact, and physical impact in other genocidal contexts were reviewed. Participants for the interviews were identified and selected through a 'purposive sampling' approach, meaning these participants were known to have experienced SGBV in Myanmar. Participants for the focus group discussions were selected through a 'convenience sampling' approach, i.e., based on their availability to participate in the discussions. All interview participants were survivors of SGBV in Myanmar, whilst all focus group discussion participants were survivors or witnesses of SGBV in Myanmar. The research confirmed that survivors' and witnesses' accounts of SGBV were in line with the broader patterns of SGBV against Rohingya in Myanmar found in the desk research. All participants were screened for suitability to participate in the research, and for any protection concerns that may result in the prospective participant being exposed to further harm as a result of them sharing their experiences of violence.

Phase 2 (November 2022)
Exploratory mission and data collection

Exploratory research was conducted in November 2022 in Cox's Bazar by one psychologist to test the appropriate methods for the research, which could elicit the widest array of features of the current subjectivity of the participants and the multi-dimensional impact of their experience over time in an emotionally safe manner. Whilst context and preliminary

information were provided by LAW, further data to inform the interview process and direction of the research was obtained through the following:

i) **Three individual clinical interviews and three focus group discussions with Rohingya participants. The interviews also captured cultural-psychological constructs of distress shared in the Rohingya language to form the preliminary mental health and psychosocial support ('MHPSS') findings.**

ii) **Meetings conducted with key professionals in the field of MHPSS and SGBV within Cox's Bazar's humanitarian response to strengthen the existing referral pathways and to find ways to address existing gaps to ensure safe engagement with each survivor.**

Following the above, a template of reporting was conceptualised to consistently capture the clinical documentation of the current psychosocial functioning of the survivors interviewed and the impact of the experiences of violence in Myanmar over time in the realms of physical health, psychological health and social well-being. The template was reviewed and validated by the clinical supervisor (see template in **Annexe 4**).

Phase 3 & 4 (February to March 2023)
Data collection and analysis

In total, 30 semi-structured interviews (22 female, six male and two *hijras*) and four focus group discussions (eight women, 11 men and 15 *hijras*) were conducted in Cox's Bazar by four psychologists. The psychologists undertook a clinical analysis of the information collected on the psychological impact and social consequences for survivors and the community as a whole. Alongside this, the medical doctor reviewed the medical information collected through survivors' testimonies. This analysis by the psychologists and medical doctors was supported by the data coding and qualitative analysis by the two external researchers who, along with their team of Rohingya refugees, also refined the understanding of key Rohingya constructs from the transcript of the interviews.

Seven KII were conducted by the legal team for insight into the experiences of humanitarian actors serving as early responders in the Rohingya crisis, focusing on survivors of SGBV. Individuals who work(ed) with the key UN agencies, humanitarian organizations, and I/NGOs which are responsible for sexual and reproductive health programmes for the Rohingya community, and at the community healthcare clinics set up in Cox's Bazar since 2017, were identified for the KII. They were selected based on their roles, which *inter alia* involve clinical management of rape, antenatal care, supervising reproductive health operations, midwifery, supporting the sexual and reproductive health and rights program, and community-based health outreach program for the Rohingya. Individuals in these specific roles were able to give contextual information about the kind of injuries observed at the time of influx and subsequent common health complications amongst the Rohingya (mainly, pregnant women) whom they have attended to over the years since 2017. In parallel, the legal team undertook a legal analysis of the findings in relation to the crime of genocide.

C. Principles and Approach

In undertaking this research, the principles mentioned in Part II Methodology above were followed.

D. Limitations

Burden of proof: The interviews were conducted by psychologists whose aim was to elicit an understanding of the long-term physical and mental health consequences. As noted above, all interviewees were selected based on purposive sampling, meaning the research participants were known to have experienced SGBV in Myanmar. The survivors were not asked to recount all events that took place in Myanmar also to prevent re-traumatisation, and as these events were already widely documented by various fact-finding efforts, including the IIFFMM. Notably, this research applies a 'reasonable grounds to believe' standard used in the preliminary stage of criminal investigations[343] in reaching its legal conclusions on whether, through its long-term health and psychosocial impacts, the SGBV against the Rohingya constitutes genocide. It also notes where the evidence collected clearly demonstrates or supports a particular conclusion.

Survivor participation challenges: Whilst many Rohingya survivors of SGBV are keen to participate in international justice efforts in hopes of seeing the Myanmar perpetrators brought to justice, some are hesitant to participate in this research due to safety concerns, the associated cultural barriers and obstacles, reluctance as the events in Myanmar took place nearly six years ago and worry that discussing their experiences again will affect their chances of marrying or their spouses finding out. This affected the quantitative interviews that could be carried out, though the interviews sought to gain an in-depth perspective on the long-term consequences suffered at an individual and collective level.

Camp security: Violence and security incidents inside the Cox's Bazar refugee camps have significantly risen since late 2022. As such, Rohingya refugees, including those interviewed for this research, faced movement restrictions in the camps and escalation of harassment at checkpoints and, in some cases, were not able to attend interviews due to security concerns.

Medical records access: UN statements and studies in the aftermath of the 'clearance operations 'and the KII during this research indicate the high incidence of births in the second quarter of 2018, suggesting large-scale SGBV during August-September 2017. However, due to the confidentiality obligations of the relevant agencies, the KII were not able to offer medical records of the SGBV survivors (either of the interviewees or of the larger community). Although it is understood that in most cases, the cause of pregnancy was not necessarily recorded due to the focus on delivering life-saving assistance when attending to survivors, these records would have been useful in analysing the sexual and reproductive health ('SRH') and birth rates of the community.

Annexe 2: Immediate and chronic effects of actions reported to have been carried out by combatants from Myanmar against Rohingya civilians and their documented impact on individuals and communities.

Prepared by Dr Ranit Mishori (Senior Medical Advisor, Physicians for Human Rights)

Type of Intentional Trauma	Acute medical effects	Chronic medical effects	Chronic mental health effects	Individual vocational, family effects	Societal Effects
Burning	• **Pain** • **Disfigurement** • **Infection** • **Death**	• Difficulty range of motion • Scarring • Chronic infections • Disfigurement	• Anxiety • Depression • PTSD • Isolation due to cosmetic effects	• Loss of work due to inability to use limbs normally	• Isolation • Fear
Dismemberment, disembowelment; mutilation of body parts (breasts, abdomen)	• **Bleeding, hemorrhage** • **Severe pain** • **Psychological trauma** • **Infection, gangrene, sepsis** • **Death**	• Difficulty range of motion • Scarring • Chronic infections • Disfigurement • Infertility	• Anxiety • Depression • PTSD • Isolation due to cosmetic effects	• Loss of income, ability to work, due to chronic medical effects; • Inability to reproduce • Challenges accessing medical/mental health services	• Instill Fear • Stigma • Isolation • Societal Branding
Castration and intentional genital trauma and mutilation (not associated with harmful cultural practices)	• **Bleeding** • **Infection** • **Death** • **Pain** • **Humiliation**	• Chronic pain • Scarring • Need for surgical follow-up • Difficulty with normal genitourinary function • Chronic urinary tracts infections • Kidney dysfunction • Infertility • Humiliation	• Depression • Anxiety • PTSD	• Loss of income, ability to work, due to chronic medical effects; • Inability to reproduce • Challenges accessing medical/mental health services	• Stigmatisation
Rape, sexual assault associated with violent physical assault	• **Pain** • **Bleeding** • **External genital injuries (lacerations, tears and bruises of the vulva)** • **Internal genital injuries including fistula** • **Urinary tract injuries** • **Skin, musculoskeletal injuries** • **Psychological trauma** • **STIs, including HIV** • **Unwanted pregnancy**	• Chronic pain • Chronic infections • Chronic scarring • Dyspareunia • Vaginismus • Infertility • Sexual dysfunction	• Depression • Anxiety • PTSD	• Exclusion • Stigma • Discrimination against survivor and offspring • Economic exclusion • Inability to reproduce • Challenges accessing medical/mental health services	• Exclusion, isolation • Shame and stigmatisation
Amputation and mutilation of limbs	• **Bleeding, haemorrhage** • **Severe pain** • **Psychological trauma** • **Infection, gangrene, sepsis** • **Death**	• Chronic pain • Phantom pain • Scarring • Need for surgical follow-up • Difficulty with ambulation • Difficulty w normal limb function	• Depression • Anxiety • PTSD	• Cannot work; loss of income, poverty • Cannot provide for family • Need for rehabilitation and prosthesis	• Exclusion and isolation • Lack of access to rehabilitation needs • Lack of access to pain specialists

Annexe 3:
Rohingya social constructs and terminologies

	Rohingya Term	Definitions
A	**Ada fol**	"Half mad". Deranged, Becoming quite demented, Crazy *Other: Mental deficiency. Imbecile remark/behavior*
	Affeen beshi horaf loiggil	"I felt very bad". Expression of very bad feeling/deep depression, felt so sad
	Ai besut ashilam	"I was at senseless/unconscious state" *(See the definitions of 'Anttu suth No Achill')*
	Ai bihush oi giyilam goi	Felt senseless, being unconscious. *Other: Expression of craziness*
	Ain Beshi doror maje asilam	"I was so afraid to say something". Being in fearful situation, in a scary moment, be terrified of... *Other: Refer to being under pressure*
	Ambure Ambure	"By crawling" (Amburon: Crawl). By crawling, became too weak to move. *Other: Also used to refer physical weakness.*
	Anrttun julum son sara ar ki goittam	"What could I do except seeing/bearing the violation".
	Anttun mori jaito mone hoil	"I wished/wanted to die". Extreme feeling of psychological/ mental pain which forces someone to want to end their life. When suicidal ideation comes to someone's mind due to extreme psychological pain.
	Antu soit no assil	"Numb". Become senseless, become unconscious, comatose. *Other: Refers to Numb/ numbness*
	Ar beshi shorom lage ai nijor hota in hoiyi	Expression of shyness, discomfort. *Other: Feel embarrassed*
	Ara bicharollai hota hoili itara aro beshi hosh to debo, arare mari felaibo	"If we raise our voice for justice, they will make more troubles for us, will kill us". Feeling of worry, anxiety, fear
	Arnttu hush nuaish shil	"I was unconcious or I became senseless". (See above)
	Ashanti	Shantid nai -"Sad, not at peace". Disappointed, Despondent, Depressed, Saddened, Dejected, not at peace *Other: Downhearted, worry, upset*
	Ashanti gom nalage	"Not feeling peace and happy anymore". Expression of being spoiled/ ruined/ devastated
	Attun beshi shorom lage iyan.	Expression of shyness, being ashamed
	Attun dor laggil beshi:	"I was so scared ". Being so scared, shocked, appalled *Other: Frightened, afraid, feeling of panic*

	Rohingya Term	Definitions
A	**Attun monot laggil de itara arey mari felaibo arr Kundi Kundi gori felaibo**	"I felt that they will kill me and cut me into pieces". Feeling of desperate and fearful situation, hopelessness
	Attun oshanti lage	Feeling sad, feeling sorry, feeling unhappy
	Attun mori jaitogoi mone hoiye, beshi sorom laigge, aatun nigore Hingsha laiggil. Attun laiggil de an-dilla sorom loi ziyanta takatuare mori Jon goi gom oibo.	"I wished I could die, felt very shameful, I hated myself, I felt it would be better dying than living with such shame".
B	**Besut**	Become numb, frozen (See more at "Anttun Suth No Achill")
	Beshi dom laito, dukhi laito ar shinta goittam ar ware keallai in hoiye.	"I was so scared, felt bad and was thinking why did this happen to me."
	Beshi dor laigge, beshi Chita goijji.	(Beshi dorlaigge, beshi Sinta goijji). Expression of fear and anxiety
	Biosh (Bihush)	Unconscious, senseless, crazy (See the meaning of "Ai bihush oi giyilam goi")
	Bish hai	A suicidal feeling (Expression of feeling to die by suicide, feeling of desire to drink/ take poison)
	Biyush oizaigoi	(Bihush oizaigoi) Becoming unconscious, losing senses
	Biyush oigiyigoi	Becoming unconscious (See the meaning of "Ai bihush oi giyilam goi")
	Bol beggun harai felailam	"I lost all the strength". Refers to a physically weak position, vulnerable, emaciated, exhausted *Other: Poverty. This also used to express becoming empty handed/poor.*
	Burai gore	(Burai: Being bad) (Gore: Use to do). Torture, rape, if someone was being raped, he/she would say 'anre burai gojje,' I was raped) *Other: Refer to someone's bad habits.*
	Burmar Military arar foati beshi karf goijje	"Myanmar military did all things very badly to us".
C	**Chinta**	(Sintha) Worry, Anxiety, Depression *Other: Sad*

	Rohingya Term	Definitions
D	**Dhor**	Fear, Worry, Terror, Horror *Other: Cringe, being scared, afraid*
	Dil	Heart, mind, heartmind
	Dimagh	Brain
	Dimaghe	State of brain, brain, brain-mind, mentality, soul *Other: Failed brain, mentally ill*
	Doro oi taikki	Frozen mood, caused to be immobile with terror *Other: Feeling shocked.*
E	**Eilla hilla vabitum ar ware jin oiye in loi**	"Thinking like this and that about what has happened to me."
F	**Farane shoit gore**	Experiencing severe agitation and anxiety. Expression of unrest inside heart, increase heartbeat, palpitations in heart *Other: To feel uneasy in heart. Excitement.*
	Folen doilla	Like a fool, like a crazy man, like mentally insane person *Other: Refer to eagerness, wanting something too much.*
	Foran hosho Da/Ra	Refers to express discomfort in chest/heart. *Other: It's kind of a feeling of disgust came out from heart, mind, chest that caused to vomit or stool.*
G	**Gom no laga**	Not feeling good , self-blame, being ashamed of something
	Gujuri hander	Crying loudly, Screaming out, Shouting
H	**Hafedde giri gir**	Trembling with fear, the whole body shaking with anger. *Other: Caused by addiction*
	Halha	(also use as "Halka") Dull mind, light, torpid *Other: Also use to express feeling of relief.*
	Hamsha dilot kujon de	Stored in heart, Keeping saved in heart
	Harahare	Chopping, killing, butchery, massacre *Other: cutting*
	Hedun jala hin shoi nofaijjilam	Expression of unbearable pains

	Rohingya Term	Definitions
H	**Hede keo modot gorib-alla no asil**	"No one was there to help". Expression of helplessness
	Hingsha Gore	Abhor, hate, disdain, looking down to other people
	Hode loi jaibo, kigor-ibo, ki oibo hono dish no aissil	**Hode loi zaibo** - "where would we be taken", **Kigoribo** - "what would they do", **Kioibo** - "what will happen", **Hono dish no achill** - "nothing was certain"
	Horaf lage	(Similar meaning of 'Gom no lage' and also see the meaning of 'Atteen beshi horaf laiggil') Feeling bad
	Hoilla gila musori ude/ure	Her heartmind, heart, liver, had become shocked and turned upside down with severe anxiety when remembering the incident. Occurring a sudden bad feeling from inside heartmind (same word as liver)
	Hoilla sikkut sikkut gore	Heartbeat become faster /palpitations
	Hotahin mathat goli thaikke/mathat gati roiye	Stuck in mind, stored in mind, memorized, sticking in head
K	**Karf goijje**	Victimized *Other: Used to express any bad commitment*
	Kicchu buji No	Confused, perplexed *Other: Refer to immaturity*
	Kisu gom nalage	Feeling not good at all (See 'Gom no laga') Feeling unwell, frustrated, not at peace
L	**Loo Udi zagoi**	(Blood pressure goes up) Feeling a raise in blood pressure.
M	**Maghreb**	(Moghrib is an Arabic word but generally Rohingya also use this similar term for same meaning which is "Mowgorif") Referring to a specific time of evening - sunset, dusk, evening
	Mata haraf lage	Mental suffering, feeling disturbed, getting headache *Other: Irritant, tension coming from anxiety, halfwit*
	Mata Shanti nalage	"My head is not at peace". Suffering in brain, headache
	Matha kuitta de	Suffering in head, headache *Other: Used to express being under pressure*

	Rohingya Term	Definitions
M	**Mog golaiye**	"Slept with Rakhine". Morally to blame (the term is used to abuse or cause discrimination or hate)
	Mon	(mawn). (dimagh = brain , Dil = heart , Mon = desire) Desire, will, wish *Other: Heartmind, heart*
N	**Nafaak**	Impure, unholy, sinful *Other: A belief, a negative perception that someone is impure/sinful*
	Norcom	(Norom - "I feel weak"). Weak, soft *Other: Poor*
O	**Oshanti**	Sad (See 'Oshanti' at 'Ashanti' above)
P	**Pain in her Dil**	"Heartmind" (See Dil above) Trauma, distress, worry, felt hurt
	Paksaf	(Opposite of Nafaak -"I was raped and shouldn't marry as I am not pure") Pure, clean *Other: Related to someone's dignity*
S	**Shinta goittam ar ware keallai in hoiye**	"I was thinking, why did this happen to me?".
	Shok lage	Disgusting, loathsome, abhorrent *Other: Discriminate, hate.*
	Shorom laga	(See 'Anttu beshi shorom lage iyan' and 'Ar beshi shorom lage ai nijor hota in hoiyi')
	Shorom zaga bish/ tolfeth	"Still suffers from pain in low abdomen in her hips, because the rape was very brutal" Vaginitis, pain at lower abdomen
	Sikkut gori ure	Feeling shock, shocked in a quiet way, feeling bad inside (See more at 'Hoilla sikkut sikkut gore'. A sudden feeling of shock, excitement in heart
	Suri hai	Suicide with knife stab. A suicidal intent, intent to die by suicide by stabbing oneself with a knife
V	**Vamgiye**	Broken down, heartbroken
Z	**Zuhum**	Wounds, pain (both mental and physical)
	Zulum	Any kind of violations including rape, cruelty, power abuse, physical torture, etc.

Annexe 4: Psychosocial Report Template

Psychosocial Report

1. Identifying data		
Name/Identification:		
Age:	**Gender identity:**	**Date/time of meeting(s):**
Address/Current living arrangement:		
Names and roles of all present: - **Name here (Job title)** - -		

2. Interview context	
2.1 Information made available from LAW pre-screening	
2.2 Consent ☐ Provided (verbal/ written) ☐ Withdrawn ☐ Did not consent	
2.3 Availability of clinical records ☐ Existing ☐ With NGOs ☐ Private clinical care	

3. Information provided around the crimes (Extracts from verbatim written retrospectively from notes and triangulation from the interpreter)

4. Physical health
4.1 Condition prior to SGBV incident in Myanmar
4.2 Condition post-SGBV incident in Myanmar
4.3 Current condition

5. Social context
5.1 Condition prior to SGBV incident in Myanmar
5.2 Condition post-SGBV incident in Myanmar
5.3 Current condition

6. Physical health
6.1 Condition prior to SGBV incident in Myanmar
6.2 Condition post-SGBV incident in Myanmar
6.3 Current condition
6.4 Mental Status Examination

General appearance and behaviour		
Physical presentation	☐ Adapted ☐ Not adapted	Explain:
Eye contact	☐ Sustained ☐ Partially sustained ☐ Avoidant	Explain:
Interaction	☐ Appropriate ☐ Partially difficult ☐ Difficult to sustain	Explain:
Cooperation	☐ Engaged ☐ Reluctant	Explain:
Mood and affect		
Level of distress	☐ Low ☐ Partial ☐ Significant	Explain:
Affect /Mood	☐ Congruent ☐ Partially congruent ☐ Dissonant	Explain:
Cognitive functioning		
Speech	☐ Adequate ☐ Partially adequate ☐ Inadequate	Explain:
Attention and concentration	☐ Appropriate ☐ Partially appropriate ☐ Limited	Explain:
Long and short-term memory	☐ Adequate ☐ Partially adequate ☐ Difficult(ies)	Explain:
Orientation in time, space, person, or situation	☐ Adequate ☐ Partially adequate ☐ Difficult(ies)	Explain:

Thoughts and Perception		
Clarity and relevance of thoughts (logic)	☐ Adequate ☐ Partially adequate ☐ Inadequate	Explain:
Detachment from immediate surroundings	☐ None ☐ Partially detached ☐ Detached	Explain:
Hallucinations	☐ None ☐ Partially present ☐ Present	Explain:
Insight and Judgment		
Insight into their difficulties	☐ Insight ☐ Partial insight ☐ None	Explain:
Judgment – ability to make decisions	☐ Capable ☐ With difficulty	Explain:

7. Conclusion

7.1 Interview conducted

☐ Completed ☐ Partly completed ☐ 2nd interview ☐ Not completed

7.2 Recommendations for referrals

For interviewee

☐ Protection ☐ Medical ☐ MHPSS ☐ Legal

For other family members

☐ Protection ☐ Medical ☐ MHPSS ☐ Legal

Name: _____	**Job title:** _____
Signature:	**Date:** _____

Endnotes

1 The ICC definition of rape is a mixture of the ICTY and ICTR jurisprudence. The ICC definition combines *Akayesu* (the ICTR Trial Chamber defined rape as 'a physical invasion of sexual nature, committed on a person under circumstances which are coercive) and *Furundzija* (the ICTY Trial Chamber defined rape as vaginal or anal penetration, or oral penetration with the perpetrator's penis, obtained by 'coercion or force or threat of force against the victim or third person'). In jurisdictions that do not recognise the Rome Statute definition, the customary law definition of 'rape" put forward in the *Kunarac* appeals decision is instructive in that it confirms there is no requirement to show that a victim resisted, or that a perpetrator used force or the threat of force – rape can occur because of the coercive circumstances in which the penetration is committed (ICTR, Prosecutor v. Akayesu, ICTR-96-4-T, *Judgment*, para. 598 (2 September 1998) ('Akayesu, 1998'); ICTY, Prosecutor v. Anto Furundzija, IT-95-17/1-T, *Judgment*, para. 184 (10 December 1998); ICTY, Prosecutor v. Kunarac, IT-96-23 & 23/1, *Appeals Judgement*, para. 129 (12 June 2002) ('Kunarac, 2002'). *See also* Patricia Viseur Sellers, *The Prosecution of Sexual Violence in Conflict: The Importance of Human Rights as a Means of Interpretation* (2018).

2 Wilson Center, *One Year On: The Momentum of Myanmar's Armed Rebellion*, page 3 (May 2022).

3 *See*, IIFFMM, *Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar*, A/HRC/39/CRP.2, page 1 (17 September 2018) ('IIFFMM, Detailed Findings, 2018').

4 *See*, IIFFMM, *Sexual and gender-based violence in Myanmar and the gendered impact of its ethnic conflicts*, A/HRC/42/CRP.4, para. 96 (22 August 2019) ('IIFFMM, SGBV, 2019').

5 *See, for instance*, IIFFMM, SGBV, 2019 *supra* note 4; Amy Rosenberg, *Sexual and Gender-Based Violence in the Rohingya Genocide: A Feminist Situational Analysis*, LSE INTERNATIONAL DEVELOPMENT REVIEW 2(2) (April 2022); Annekathryn Goodman & Iftkher Mahmood, *The Rohingya Refugee Crisis of Bangladesh: Gender Based Violence and the Humanitarian Response*, OPEN JOURNAL OF POLITICAL SCIENCE 9(3) (July 2019).

6 *See, for instance*, Andrew Riley *et al., Systematic human rights violations, traumatic events, daily stressors and mental health of Rohingya refugees in Bangladesh*, CONFLICT AND HEALTH 14 (August 2020); Lindsey Green *et al., Most of the cases are very similar: Documenting and corroborating conflict-related sexual violence affecting Rohingya refugees*, BMC PUBLIC HEALTH 22 (April 2022); Haley Ritsema & Mari Armstrong-Hough, *Associations among past trauma, post-displacement stressors, and mental health outcomes in Rohingya refugees in Bangladesh: A secondary cross-sectional analysis*, FRONTIERS IN PUBLIC HEALTH 10 (January 2023).

7 In 1978, General Ne Win's military junta launched the infamous military operation, 'Nagamin' (Operation Dragon King) to purge Burma's Rakhine State of foreigners. Nagamin resulted in 200,000 Rohingya fleeing into neighbouring Bangladesh reporting widespread army brutality, rape and murder. It is noteworthy that within three years of the mass return of the Rohingya to Myanmar, who had fled in 1978, the 1982 Citizenship Law was promulgated (See Human Rights Watch, *Burmese Refugees in Bangladesh: Still No Durable Solution* (2000), https://www.hrw.org/report/2000/05/01/burmese-refugees-bangladesh/still-no-durable-solution).

8 Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, *Report of the Special Rapporteur on the Situation of Human Rights in Myanmar*, E/CN.4/1993/37, para. 235 (17 February 1993).

9 See IRIN, *Myanmar's Rohingya Crisis* (16 November 2012), https://www.refworld.org/docid/50bf11d32.html.

10 The IIFFMM found that the 2016 'area clearance operations' triggered by an ARSA attack on three Border Guard Police posts in October 2016 involved extreme SGBV and were a precursor to the 2017 violence (IIFFMM, SGBV, 2019, *supra note* 4, at para. 84).

11 *See generally* UN High Commissioner for Human Rights, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar,* A/HRC/32/18 (20 June 2016); Special Rapporteur on the situation of human rights in Myanmar, *Progress Report of the Special Rapporteur on the situation of human rights in Myanmar*, A/HRC/19/67 (7 March 2012); Special Rapporteur on the situation of human rights in Myanmar, *Situation of human rights in Myanmar*, A/66/365 (16 September 2011); Human Rights Watch, *All You Can Do is Pray - Crimes Against Humanity and Ethnic Cleansing of Rohingya Muslims in Burma's Arakan State* (22 April 2013), https://www.hrw.org/report/2013/04/22/all-you-can-do-pray/crimes-against-humanity-and-ethnic-cleansing-rohingya-muslims.

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13 Human Rights Watch, *supra* note 12.

14 IRIN, *supra* note 9; IIFFMM, SGBV, 2019, *supra* note 4, at para. 69.

15 IIFFMM, SGBV, 2019, *supra* note 4, at paras. 90-92.

16 *Id.*, at paras. 14, 84-88.

17 IIFFMM, Detailed Findings, 2018, *supra* note 3, at para 808.

18 *Id.*, at para 884.

19 IRIN, *supra* note 9; IIFFMM, Detailed Findings, 2018, *supra* note 3, paras. 472-476.

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21 Fortify Rights, *Policies of Persecution: Ending Abusive State Policies Against Rohingya Muslims in Myanmar* (25 February 2014), https://www.fortifyrights.org/mya-inv-rep-2014-02-25.

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25 *Id.*, at para. 463

26 *Id.*, at paras. 596-598; Human Rights Watch, *Burma: Revoke 'Two-Child Policy' for Rohingya - Coerced Birth Control Reflects Broader Persecution of Muslim Minority* (28 May 2013), https://www.hrw.org/news/2013/05/28/burma-revoke-two-child-policy-rohingya.

27 IIFFMM, Detailed Findings, 2018, *supra* note 3, at para. 1409

28 UN High Commissioner for Human Rights, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*, A/HRC/43/18, para. 17 (11 November 2020). *See also* Library of Congress, *Burma: Four "Race and Religion Protection Laws" Adopted* (14 September 2015), https://www.loc.gov/item/global-legal-monitor/2015-09-14/burma-four-race-and-religion-protection-laws-adopted/.

29 IIFFMM, Detailed Findings, 2018, *supra* note 3, at para. 1409.

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35 IIFFMM, Detailed Findings, 2018, *supra* note 3, at paras. 749, 1068.

36 Only one investigation was launched by Myanmar in relation to select events, such as the 'clearance operations' launched across Inn Din led by the Myanmar military, which saw the destruction of Rohingya settlements, mass murder and gang rape; Reuters, *Seven Myanmar soldiers sentenced to 10 years for Rohingya massacre* (11 April 2018), https://www.reuters.com/article/us-myanmar-rohingya-military/seven-myanmar-soldiers-sentenced-to-10-years-for-rohingya-massacre-idUSKBN1HH2ZS. However, there are significant questions over the credibility of the investigation and subsequent court-martial, and whether any Myanmar military perpetrators are actually being held to account after reports of prisoner releases; Al Jazeera, *Myanmar soldiers jailed for Rohingya massacre freed after months* (27 May 2019), https://www.aljazeera.com/news/2019/5/27/myanmar-soldiers-jailed-for-rohingya-massacre-freed-after-months. Meanwhile, two Reuters journalists covering the massacre were detained for over 16 months (See IIFFMM, Detailed Findings, 2018, *supra* note 3, at para. 1616; Simon Lewis & Shoon Naing, *Two Reuters reporters freed in Myanmar after more than 500 days in jail*, REUTERS (7 May 2019), https://www.reuters.com/article/us-myanmar-journalists-idUSKCN1SD056; Human Rights Watch, Myanmar's Investigative Commissions: A History of Shielding Abusers (September 2018); Al Jazeera, *Myanmar Finds War Crimes but No Genocide in Rohingya Crackdown* (31 January 2020), https://www.aljazeera.com/news/2020/1/21/myanmar-finds-war-crimes-but-no-genocide-in-rohingya-crackdown.

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