

Annex I
Public Redacted

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I. Approach implemented

1. The victim representation process pursuant to article 15(3) of the Rome Statute (“Article 15 process”) was carried out by the Victims Participation and Reparations Section (“VPRS”) of the Registry. The process commenced with the decision of 28 June 2019 of Pre-Trial Chamber III (“Chamber”) on the Registry’s request for extension of notice period and submissions on the Article 15(3) process (“Decision of 28 June”)¹ and ended on 28 October 2019.² During this period, the VPRS conducted four missions to Cox’s Bazar district, Bangladesh, and reached out to a multitude of different actors located mainly in Bangladesh, but also in other countries, in order to assert victims’ views on a potential investigation by the Prosecutor as outlined in her request for authorization of an investigation pursuant to article 15 of the Statute (“Prosecution’s Request”)³ and her notice to victims.⁴ The VPRS engaged with victims directly, as well as with individuals and organizations that have extensive knowledge of the context of the Situation in the People’s Republic of Bangladesh/Republic of the Union of Myanmar (“Situation”) and pre-established relationships with victims and victim communities.

A. Support received and challenges encountered

2. At the outset and throughout the Article 15(3) process, the VPRS liaised with relevant sections of the Registry in order to evaluate the security situation in and around the 34 Rohingya camps in Cox’s Bazar district. Risk assessments

¹ Pre-Trial Chamber III, “Decision on the ‘Registry’s Request for Extension of Notice Period and Submissions on the Article 15(3) Process’”, 28 June 2019, ICC-01/19-6.

² Decision of 28 June 2019, para. 15 and page 8.

³ Office of the Prosecutor, “Request for authorisation of an investigation pursuant to article 15”, 4 July 2019, ICC-01/19-7.

⁴ Office of the Prosecutor, “Public Notice of the ICC Prosecutor: Victims who have been allegedly forcibly displaced from Myanmar to Bangladesh since at least 9 October 2016 have until 28 October 2019 to send their views to the ICC in the Hague on the opening of an investigation”, 4 July 2019, <https://www.icc-cpi.int/itemsDocuments/2019-07-04-otp-public-notice-bangladesh-myanmar-eng.pdf> (accessed on 16 October 2019).

were carried out in order to determine the risks that might arise for all of those involved in the process, namely victims and their representatives, International Criminal Court (“Court” and “ICC”) staff members, interlocutors and any other third persons or organizations directly linked to the representation process.

3. Based on all available information, the Registry concluded that missions to Bangladesh could be securely carried out and that direct meetings with victims and other interlocutors on the ground were possible for the proper implementation of the VPRS mandate.
4. Throughout the Article 15(3) process the Government of Bangladesh cooperated with the Registry and facilitated and supported the VPRS’ activities in the country. Privileges and immunities, as well as visas and necessary authorizations to access the camps were granted in a timely manner. [Redacted]. Informative sessions [Redacted] were also organized in order to ensure that the ICC Registry activities are fully understood and supported.
5. When designing its approach, the Registry conducted comprehensive consultations [Redacted]. In particular, it took into account the following aspects: (a) the scale of the situation and the language and communication challenges; (b) the absence of a permanent field presence of the Court; (c) the focus of the existing projects supporting the Rohingya which is predominantly humanitarian in nature and accountability initiatives have remained scarce; (d) the overarching objective of reaching out to as many victims linked to the Situation as possible within the timeframe of the Decision of 28 June 2019 without endangering anybody related to the process; (e) the low literacy levels; (f) the extreme poverty of the Rohingya communities; and (g) the logistical challenges (e.g. lack of access to telephones and other technological

equipment, poor internet connection etc.)⁵ in the camps where these communities are confined.

6. Given the extremely high number of potential victims⁶ and the substantial interest to participate in the process on one hand, and the Court's limited resources on the other, the Registry commenced the Article 15(3) process with the identification of [Redacted] victims and their representatives in submitting representation forms. This collaboration was considered key in order to conduct the victim representation process in a way which would ensure that a meaningful sample of representations⁷ is collected and that the highest possible amount of victims is given the opportunity to present their views to the Court within the timelines given by the Chamber. Simultaneously, as of the day of commencement of the notice period, the representation form alongside relevant guidelines and information material was available on the Court's website. Translations of these documents into Burmese and Bangla, as well as audio files translated into Rohingya (the latter being a language without script) were also made available on the website, alongside an online representation form.
7. [Redacted].^{8 9 10 11 12}
8. [Redacted].
9. [Redacted].
10. [Redacted].^{13 14}

⁵ For more details, please see "Registry's Request for Extension of Notice Period and Submissions on the Article 15(3) Process", 26 June 2019, ICC-01/19-3-Conf, paras. 15-32. A public redacted version of the document was notified on the same date, ICC-01/19-3-Red.

⁶ According to a population factsheet published by the UNHCR on 30 September 2019, the total camp population amounts to 914,998 individuals, living in 34 camps located in Ukhia and Teknaf sub-districts of Bangladesh's Cox's Bazar district, as well as outside formal camp boundaries. See <https://data2.unhcr.org/en/documents/download/71790> (accessed on 27 October 2019).

⁷ In order to achieve this goal, based on all consultations, the VPRS aimed to reach out to [Redacted] all 34 camps, as well as [Redacted].

⁸ [Redacted].

⁹ [Redacted].

¹⁰ [Redacted].

¹¹ [Redacted].

¹² [Redacted].

11. [Redacted]^{15 16 17}

12. [Redacted]^{18 19}

13. [Redacted]

14. VPRS staff members on the ground also encountered difficulties and large delays in reaching out to their interlocutors inside the camps and in organizing meetings due to the restrictions on communications. They also had to travel to all camps where interlocutors reside in order to collect representations filled in by the latter or assist in the completion of forms. Despite the challenges reported, during its four missions, the VPRS managed to travel to or meet individuals from all 34 Rohingya camps.

B. Activities implemented by the Registry to reach out to victims concerned by the Situation

15. The Registry implemented both an open and a targeted approach to ensure that it would reach out to as many victims linked to the Situation as possible.

a. Open approach

16. The open approach consisted of making the victim representation form approved by the Chamber immediately available in English on the website of the Court starting on 4 July 2019, in a PDF format, at the same time as the Prosecution's Notice to Victims.²⁰ On 22 July 2019, the victim representation form was also made available in an online format²¹ on the Court's website, to

¹³ [Redacted].

¹⁴ [Redacted].

¹⁵ [Redacted].

¹⁶ [Redacted].

¹⁷ [Redacted].

¹⁸ [Redacted].

¹⁹ [Redacted].

²⁰ <https://www.icc-cpi.int/bangladesh-myanmar> (accessed on 16 October 2019). The form was made available as a downloadable PDF document.

²¹ The online form enables the user to fill in and send the form online through the Court's website without having to print out or fill in any information by hand. The Registry was fully aware of the poor internet penetration and the quality of the internet connection inside the camps, as well as the

further facilitate the collection of victims' views and concerns in relation to the Prosecution's Request. Translations of the PDF form in Burmese, Bangla and Rohingya (the latter translation in audio format) were also posted on the website, as well as guidelines on how to fill in the form and a questions and answers document ("Q&A") in English, Burmese, Bangla and Rohingya (again, the latter translation in an audio format).

b. Targeted approach

17. In order to enhance its capacity to interact with victims and collect as many victims' representations as possible in a secure and efficient manner, the VPRS also developed in parallel a targeted strategy including the organisation of four missions to Cox's Bazar, Bangladesh, between 2 July and 28 October 2019 ("VPRS missions").²² The key objective of the VPRS missions was to meet with victims [Redacted].²³ These meetings served to: (i) explain the mandate of the Court and the Article 15(3) process; (ii) solicit views on best ways to conduct the victim representation process; (iii) [Redacted] (iv) develop and test materials (e.g. representation form, key messages, etc.); (v) [Redacted] establishing secure and effective systems for the VPRS to collect/receive representations; (vi) [Redacted]; and (vii) assist victims and victim groups in filling in representation forms.

1) [Redacted]

18. [Redacted].²⁴

19. [Redacted].²⁵

scarce resources of victims. However, it considered important to make the online form available for individuals and organizations assisting victims [Redacted], where the internet connection and access to computers and internet is very good, or for Rohingya individuals who were deported from Myanmar to Bangladesh and who then relocated to other countries.

²² [Redacted].

²³ [Redacted].

²⁴ [Redacted].

²⁵ [Redacted].

20. [Redacted]
21. [Redacted]
22. [Redacted]^{26 27 28}
23. The VPRS was also in contact with individuals and organizations working with Rohingya who relocated to third countries after having been deported from Myanmar to Bangladesh in the relevant timeframe. The VPRS provided an informative session on how to fill in the representation form *via* videoconference [Redacted].

2) Preparation and dissemination of simplified key messages

24. The very first VPRS mission to Cox's Bazar confirmed that there was massive interest amongst the Rohingya people to "see a justice process" and to engage with the Court. It was, however, very clear that the concepts of "justice" and "rights" were highly diverse²⁹ and that the level of knowledge of the Court, its mandate and processes was extremely low. Moreover, the VPRS believes that accurate information about the differences between the Court and other accountability efforts and initiatives aimed at preserving evidence and victims' testimonies (e.g. the UN Fact Finding Mission, the activities of the Special Rapporteur on Myanmar, the Independent Investigative Mechanism for Myanmar, and more recently proceedings before the International Court of Justice initiated by The Gambia against Myanmar) is needed in order to avoid confusion in the future.
25. The VPRS was aware that victims' expectations might not have been realistic and that misconceptions about the Court and the Article 15(3) process existed, including that the ICC would solve the multiple problems the Rohingya community is facing. In all its interactions, the VPRS explained the mandate of

²⁶ [Redacted].

²⁷ [Redacted].

²⁸ [Redacted].

²⁹ In VPRS' experience, the concept of 'justice' is equated by most of the Rohingya with the safe and dignified return to Myanmar with full citizenship rights.

the Court and the Article 15(3) process highlighting that the ICC is not a humanitarian organization; and that engagement with the Court is strictly voluntary, free of charge and based on informed consent. In order to manage expectations and to ensure that the limitations of the process are understood, the Registry conveyed from the outset that the Article 15 process, and any potential future judicial process: i) can take a long time and even if an investigation is authorized may not result in someone being found guilty for any crimes that victims may have suffered from; ii) is not related to and does not aim to ensure that the Rohingya people's rights will be restored, or that they will be safely repatriated to Myanmar; iii) will not impact on the Rohingya people's access to aid and assistance in Bangladesh; iv) that particularly the current process only aims at providing an opportunity for Rohingya to give their views and concerns to the ICC Judges on the Prosecutor's request for an investigation into the Situation; and v) that the purpose of the Article 15(3) process is not to collect individual and detailed stories of what happened to each and every victim represented in the forms, but that a summary of all alleged crimes committed against the victims would suffice. Importance was placed on the victims' views on the investigation and on any other views and concerns that they would like to share with the ICC Judges at this stage.

26. The Registry circulated these simplified key messages about the Article 15(3) process and potential ICC proceedings more generally as widely as possible in order to ensure that the circulation of rumours, as well as of attempts to influence the process based on any such misconceptions are kept at a minimum.
27. However, despite the messages circulated and all efforts to ensure that these messages are well understood and that the victim representation process is based on informed consent, the VPRS is not in a position to guarantee that this was always the case. The task of conveying information about a complex

justice process to a largely illiterate population³⁰ living in difficult conditions, in an oral language without a standardized and universally recognized written script,³¹ in a very short period of time³² and with limited resources was often daunting. [Redacted] brought to VPRS staff members' attention how challenging it was for the audience to understand terminology such as "consent", "scope of investigation", "views and concerns", etc. In the same vein, many people reported that in the Burmese translation of the victim representation form, despite all efforts made to use easy to understand vocabulary and avoid legal terminology, the wording used for certain questions³³ was extremely complex. Rohingya people who can read Burmese also had difficulties in understanding the questions and providing appropriate answers, requiring repeated efforts to explain the content of relevant questions in other words and collect relevant information.³⁴

3) Organisation of meetings in the camps

28. The VPRS' targeted approach also included the organisation of several meetings in the camps. [Redacted].
29. The VPRS conducted more than 60 meetings in the camps. The approximate number of people met is 1,700 individuals. During meetings, the following information was provided: i) overview of the ICC and proceedings to date; ii)

³⁰ Internews, "Information Needs Assessment: Cox's Bazar – Bangladesh", November 2017, page 14, <https://internews.org/resource/information-needs-assessment-coxs-bazar-bangladesh> (accessed on 25 October 2019).

³¹ See Translators without Borders, "The language lesson: What we've learned about communicating with Rohingya Refugees", November 2018, https://translatorswithoutborders.org/wpcontent/uploads/2018/12/TWB_Bangladesh_Comprehension_Study_Nov2018.pdf (accessed on 23 October 2019).

³² The VPRS could only spend a limited amount of time per day in the camps considering the travel time from Cox's Bazar to the camps and the curfew for leaving the camps.

³³ This pertains in the first place to questions 4, 12 and 14: question 4 reads as follows: "If you are a person/organization representing victim(s), are you acting with the consent of all victims represented in this form?"; Question 12 reads as follows: "If you answered "yes" to Question 11, what do the victim(s) think the investigation should include?"; Question 14 reads as follows: "Do the victim(s) have any additional views or concerns that they want to share with the Court?"

³⁴ The VPRS became aware of this issue very late in the process and was not in a position to circulate an amended version of the translation.

the different functions of various organs of the Court and their independence from each other; iii) that VPRS staff members are not part of the Office of the Prosecutor; iv) that unless and until authorization is given by the Chamber, no investigation by the ICC Prosecutor can take place; v) explanation of the participation rights victims have before the ICC; vi) explanation of the Article 15(3) process; vii) the fact that victims' views on the potential investigation are sought by the ICC Judges; viii) that submitting representations to the Court is entirely voluntary and free of charge; ix) that victim representations are not evidence and will only be shared with the Judges; x) that victims can submit representations individually or collectively; xi) that representations can be submitted to the VPRS until 28 October 2019; xii) that representations can be made in writing or in video/audio format; xiii) that the Court will keep the representations confidential; xiv) that it is important [Redacted] to maintain the confidentiality of information provided through this process, [Redacted]; xv) explanations on how to fill in and submit representations; xvi) that the Registry will [Redacted] explain the Judge's decision. Information materials explaining the process were distributed during the meetings, in various languages, including Burmese and Rohingya (audio version).

30. [Redacted].

31. [Redacted].^{35 36}

32. [Redacted].

II. Information received

A. Information gathered during meetings in the camps

33. The victim consultation process was greatly welcomed in the camps, as it has provided a unique opportunity for the Rohingya to speak about what

³⁵ [Redacted].

³⁶ [Redacted].

happened to them and their views on justice.³⁷ It was reported that the Rohingya had never before experienced having their views sought by a court of law, the ICC process being the first direct opportunity to access a legal system of any sort. The VPRS was also told by many Rohingya that “the ICC process brought hope to our hopeless situation and gave us a reason to wake up in the morning and continue our quest for rights and justice.”³⁸

34. All the individuals and groups met insisted that every single Rohingya in the camps wants an investigation by the Court into all potential crimes committed against them. One Rohingya said that “if there is no investigation, just drop a bomb in the camps and kill us all at once,”³⁹ whilst another stated that without an investigation “we will all just run into the sea and drown.”⁴⁰ They emphasized how important justice is for the Rohingya, after having been persecuted for decades on account of their ethnicity and religion. Many of the Rohingya met believe that only justice and accountability can ensure that the perceived circle of violence and abuse comes to an end and that the Rohingya can go back to their homeland, Myanmar, in a dignified manner and with full citizenship rights.
35. An investigation by the Court was considered by many of the individuals met to be, at this stage, the only avenue to justice for the Rohingya. They all insisted that the proceedings before the Court must move quickly. When the length of potential international judicial proceedings and their other limitations were explained, Rohingya interlocutors maintained that slow justice is better than no justice at all.
36. Some interlocutors highlighted that, despite the extension of time granted by the Chamber for the Article 15(3) process, the time allotted for victims to make submissions proved insufficient in light of all the difficulties and challenges

³⁷ There is consensus [Redacted] that there can be no solution to the Rohingya crisis without the full and active participation and consent of the Rohingya themselves.

³⁸ [Redacted].

³⁹ [Redacted].

⁴⁰ [Redacted].

on the ground.⁴¹ They also emphasized that the relatively small number of individual representations submitted is in no way related to a low level of interest amongst the Rohingya community to participate in the process.⁴²

37. [Redacted].⁴³

38. Some victims said that all Rohingya should be made aware about the Court and that information sessions for everyone, especially for the illiterate population, should be organized.

39. Many victims insisted that the Court should keep them directly informed about all the developments in proceedings and should continue its interactions with victims. Some said that many high level people came to the camps to talk to them directly, and so should the ICC.

40. A series of other issues not necessarily within the Court's remit of competence was raised during various meetings and VPRS staff members explained to its interlocutors that they cannot be resolved by the Court. However, the Registry included these topics in the present sub-section of the report because it was clearly the wish of the Rohingya to have these messages conveyed to the Judges, and because these views may be of assistance to the Chamber in understanding the circumstances and perspectives of Rohingya victims.

41. Many of the individuals met emphasized how important it is for them to be recognized as and called "Rohingya" instead of other denominations.⁴⁴ They insisted to convey to the ICC Judges how important it is to them to have an acknowledgement that the Rohingya as a recognised and recognisable group by virtue of a common culture, identity and religion were victims of atrocious crimes exclusively based on their ethnicity and religion.

⁴¹ See supra, paras. 9-17.

⁴² [Redacted].

⁴³ [Redacted].

⁴⁴ Some of the terms mentioned in discussions were "Bengali", "Khola" – a derogatory Burmese term, "Non-Myanmar national Bengali", "immigrants", "illegal immigrants", "criminals", "terrorists", etc.

42. A related issue raised was the submission that the long ‘de-humanization’ campaign against the Rohingya⁴⁵ must be brought to an end. Some of the Rohingya consulted highlighted how important it is for them that the ICC Judges and the entire world be told that the Rohingya are humans worthy of a name, dignity, rights and justice. They insisted that justice will help restore their dignity and respect as human beings and it will give them the opportunity to reunite with their family members and communities left in Myanmar.

43. [Redacted]^{46 47}

B. Information gathered through the representation forms and videos

a. Statistical information on the representation forms and videos received

1) Number, format, means of receipt and language of victim representations

44. The total number of victim representations received by the Registry in the context of the Situation is 328.⁴⁸

45. 301 representations were submitted on the standard representation form or on a different written format,⁴⁹ whilst 27 victim representations were put forward

⁴⁵ See, *inter alia*, Fortify Rights, “Tools of Genocide”, September 2019, <https://www.fortifyrights.org/downloads/Tools%20of%20Genocide%20-%20Fortify%20Rights%20-%20September-03-2019-EN.pdf> (accessed on 24 October 2019); and <http://docs-eu.livesiteadmin.com/dc3e323f-351c-4172-800e-4e02848abf80/19-16578-burma-report-lr-typos-fixed.pdf> (accessed on 24 October 2019).

⁴⁶ [Redacted].

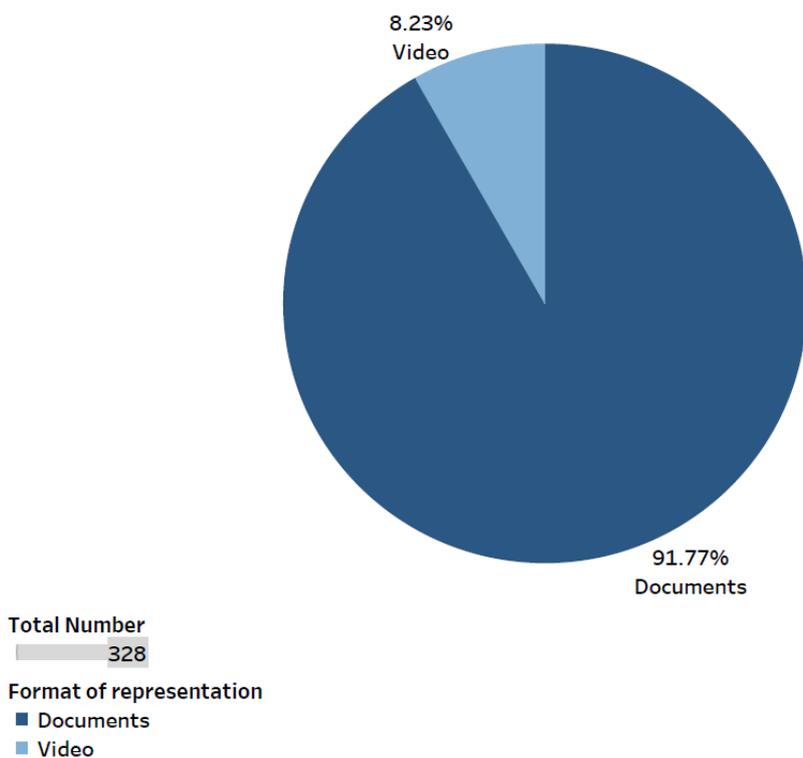
⁴⁷ [Redacted].

⁴⁸ The Registry notes that this total number includes 27 videos, out of which 25 videos in Rohingya received on 28 October 2019. The 25 videos are presently being translated into English. Once translations are ready, the Registry will be in a position to assess all 25 videos and report to the Chamber accordingly.

⁴⁹ Word documents, Excel tables, emails, online representations (through the standard online form on the ICC website), etc.

in video format.⁵⁰

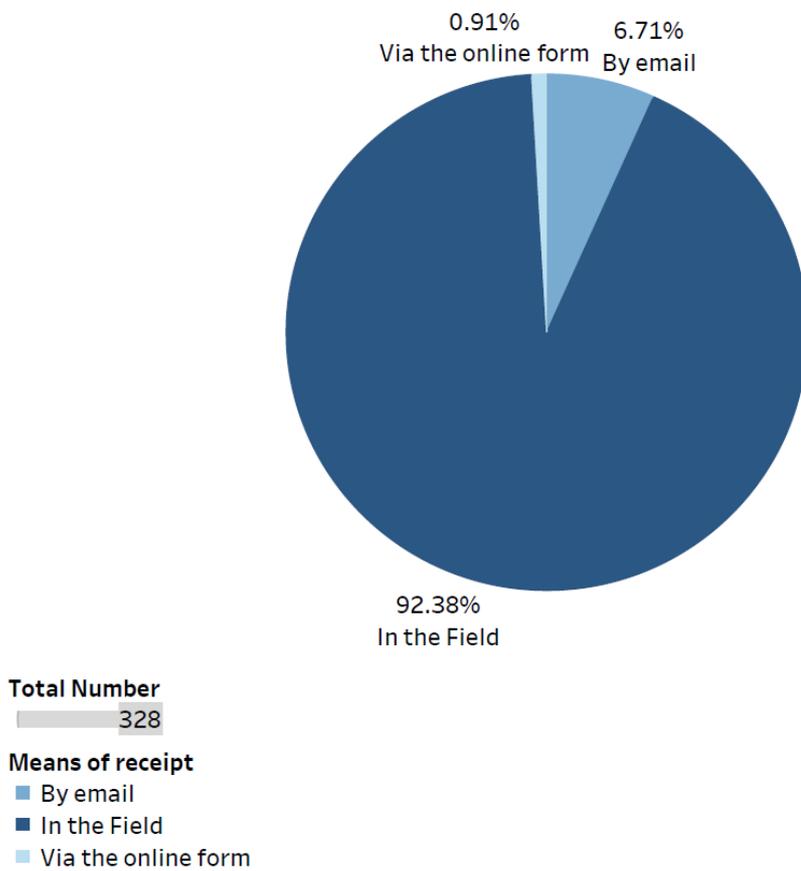
Format of representations



⁵⁰ See supra, fn. 49.

46. 303 representations were received in the field, three *via* the online form and 22 *via* email.⁵¹

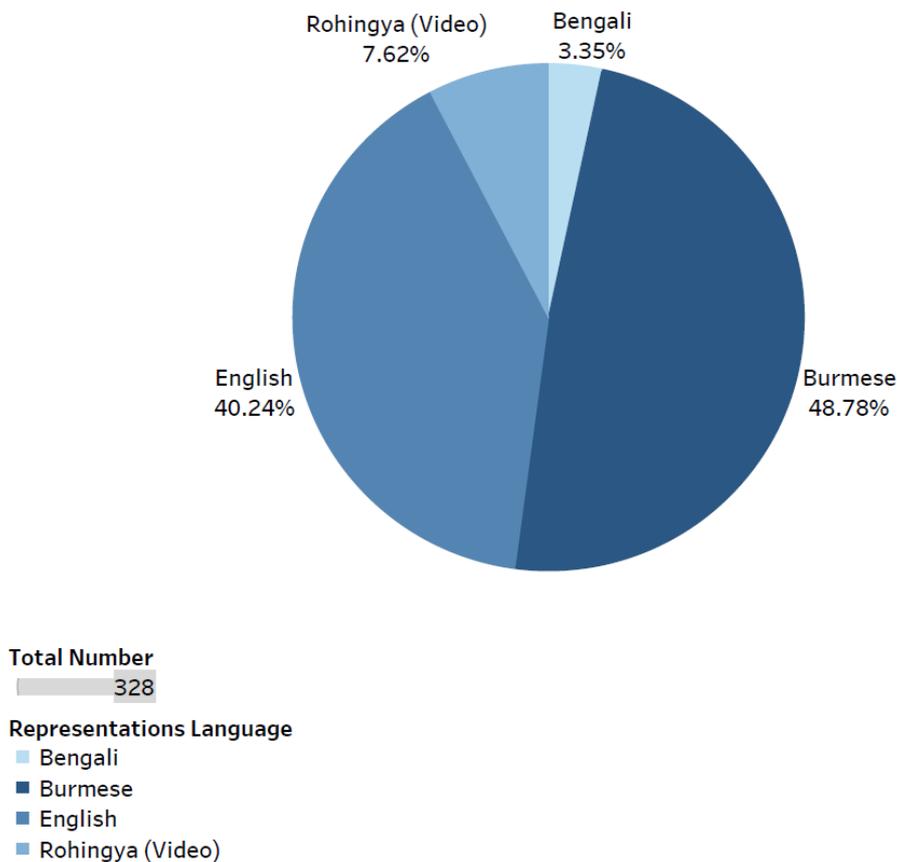
Means of receipt



⁵¹ The representations were received either on the VPRS.Information@icc-cpi.int email address or on alternative email addresses created on secure email servers for various interlocutors.

47. 131 representations were submitted in English, 161 in Burmese, 11 in Bengali and 25 (videos) in Rohingya.

Representations Language



48. On 11 October 2019, 29 representations and the preliminary legal assessment of each representation pursuant to rule 85 of the Rules of Procedure and Evidence (“Rules”) were transmitted to the Chamber.⁵²

49. Between 11 and 28 October 2019, 299 more representations were received, out of which 112 were in English, 151 in Burmese, 11 in Bengali and 25 (videos) in Rohingya.

50. Considering that 91.15% of the total number of representations was received in the last 18 days of the consultation process and that 62.54% of these

⁵² Registry, “First Registry Transmission of Victims’ Representations Pursuant to the Pre-Trial Chamber’s Decision ICC-01/19-6 of 28 June 2019”, 11 October 2019, ICC-01/19-14 (“First Transmission”); Registry, “Fourth Registry Report on Victim Representations Pursuant to the Pre-Trial Chamber’s Decision ICC-01/19-6 of 28 June 2019”, 11 October 2019, ICC-01/19-15-Conf-Exp-AnxI.

representations required translation into English before being processed and legally assessed, only a further 176 representations out of the total 299 received after 11 October 2019 are presently transmitted to the Chamber alongside their legal assessment.⁵³

51. All details and statistics provided in this final consolidated report are based on the information contained in the total number of 205⁵⁴ representations transmitted to date to the Chamber in the Situation (“Transmitted Representations”),⁵⁵ in line with the Decision of 28 June 2019, according to which “[...] the received victims’ representations should be integrated into the Final Consolidated Report *to the extent possible in light of the deadlines established in this decision* [emphasis added].”⁵⁶
52. The VPRS will transmit to the Chamber the remaining 123 representations which could not be integrated in this report in the given time frame once they are translated into English and legally assessed, as envisaged by the Chamber in the Decision of 28 June 2019.⁵⁷

⁵³ Registry, “Second Registry Transmission of Victims’ Representations Pursuant to the Pre-Trial Chamber’s Decision ICC-01/19-6 of 28 June 2019”, 11 October 2019, ICC-01/19-21 (“Second Transmission”).

⁵⁴ 29 representations transmitted in the First Transmission and 176 transmitted in the Second Transmission.

⁵⁵ All representations were assessed as falling inside the temporal, territorial and material scope of the Situation.

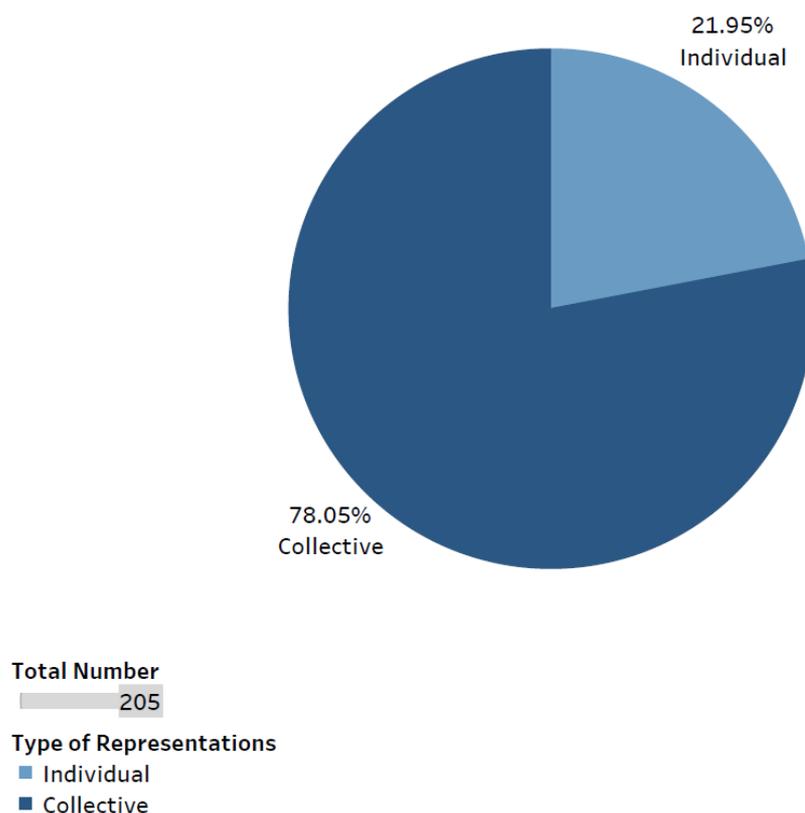
⁵⁶ Decision of 28 June 2019, para. 15.

⁵⁷ Decision of 28 June 2019, para. 15, where the Chamber indicated that “[t]hose representations which cannot be integrated in the Final Consolidated Report due to time constraints should simply be transmitted to the Chamber with a brief assessment”.

2) Type of representations

53. Out of the 205 Transmitted Representations to date, 45 were assessed by the Registry as individual, and 160 representations were assessed as collective.⁵⁸

Type of Representations



54. The representations assessed as individual were either submitted by direct victims who exclusively referred to the harm they suffered personally as a result of crimes within the Court's jurisdiction in which at least one element occurred on the territory of the People's Republic of Bangladesh ("Bangladesh") and within the context of the violence in Myanmar, or by representatives on behalf of only one victim. For individual representations introduced on behalf of individuals who were allegedly killed, arrested or victims of other crimes committed exclusively on the territory of Myanmar and who were never deported to Bangladesh, the Registry only considered as victims within the scope of the Situation their relatives introducing the

⁵⁸ Including 35 individual and 141 collective representations transmitted in the Second Transmission.

representations, as the information provided in the form showed that these relatives were deported and currently reside in the camps in Cox's Bazar.

55. The VPRS assessed as collective those representations which include either *i*) a number or a list of victims in the answer provided to question 3 of the representation form;⁵⁹ or *ii*) information, contained anywhere in the form, that other individuals connected to the person who submitted the representation have also suffered harm as a result of crimes within the jurisdiction of the Court as described above.
56. When representations were submitted on behalf of families and the information provided was insufficient to assess with certainty the number of family members, the Registry retained only the number of families represented by the forms.

3) Number of victims represented

57. The Registry notes that out of the 205 Transmitted Representations, 202 representations were introduced on behalf of approximately 470,000 individual victims, two were submitted on behalf of a total of eight families and one representation was introduced on behalf of one village.
58. The Registry notes that, in some representations, victims were grouped based on their current residence in the camps, whilst in other instances representations were made on behalf of groups of victims based on their original place of origin in Myanmar (villages or village tracts).⁶⁰ [Redacted]. The Registry thus cannot exclude, also in light of the restrictions on communications and movement between the camps, that there might be a certain level of duplication of victims represented in the different

⁵⁹ Question 3 reads as follows: "If a collective representation, for how many victims is this form submitted?" When it was clear that the number of victims represented in the form included individuals who were allegedly killed, arrested or who were victims of other crimes committed exclusively on the territory of Myanmar and who were never deported to Bangladesh, the Registry deducted them from the total number of victims represented.

⁶⁰ The VPRS was informed that the Rohingya were not necessarily grouped in the camps in Bangladesh according to their places of origin in Myanmar.

representations received. However, considering the information available to it for the preparation of the present report, the Registry was not in a position to identify - let alone determine an approximate percentage of - overlap between the victims and victims' groups represented in the Transmitted Representations.

59. Some representations were introduced on behalf of large numbers of individual victims and in some cases forms were submitted on behalf of the population of entire camps. [Redacted]. This variety of representatives in turn leads to the potential of overlap in representations.⁶¹ As also reported,⁶² the vast majority of the individuals met told the VPRS that consultation [Redacted] is crucial before submitting representations. However, as also outlined,⁶³ considering all the challenges and limitations as well as the relatively short time frame for the Article 15 process considering the size of the potential victim community, the Registry cannot exclude the possibility that not all victims represented understood the process. For all these reasons, the VPRS encouraged [Redacted] to reach out to as many potential victims as possible, security allowing, in order to inform them of the representations submitted, and to ensure that the Article 15 process is as meaningful as possible for all victims on behalf of whom representations have been submitted.

4) [Redacted]

60. [Redacted]^{64 65}

b. Victims' views and concerns

⁶¹ See supra, para. 59.

⁶² See supra, para. 32.

⁶³ See supra, para. 27.

⁶⁴ [Redacted].

⁶⁵ [Redacted].

61. This section is not intended to replace the original representations, which were transmitted for the Chamber's consideration. Rather, the objective of this section is to provide an overview which draws out the major themes mentioned by the victims in their representations, in the interests of assisting the Chamber to identify some patterns in the views presented by the victims.

1) Views on the Prosecutor's request

62. The Registry notes that all victim representations state that the victims represented therein want the Prosecutor to start an investigation in the Situation. A large number of representations state that the ICC is the only avenue for justice for the Rohingya. The main motivating factors invoked are: bringing the perpetrators of crimes to justice; ending impunity; preventing future crimes; knowing the truth about what happened to the victims; allowing for victims' voices to be heard; and obtaining recognition that what happened to the victims was wrong. Justice and accountability are considered by many victims essential for the Rohingya to be able to return to Myanmar with equal rights and full citizenship. A sample of relevant quotes is provided below.

- "The Rohingya need justice in order to be able to safely return to their homeland in Myanmar. The abuses against the Rohingya need to stop, we suffered enough. [...] Justice is important because seeing one's daughter being gang raped and killed in front of one's eyes is wrong!"⁶⁶
- "Keeping trust in Allah, we hope this Court will bring us justice. And once we get justice we want to go back to our homes. [...] The ICC is our only avenue for justice; we have been waiting for justice for a very long time."⁶⁷
- "We want the perpetrators to be brought to justice and be punished for

⁶⁶ r/00002/19.

⁶⁷ r/00003/19.

all the crimes. [...] We want justice for all these atrocities not to happen again.”⁶⁸

- “We know [the] ICC is the only hope. Let the Prosecutor come [to] Bangladesh, [to] Cox’s Bazar, to investigate the genocide. Please allow us justice.”⁶⁹
- “Justice is important for [the Rohingya] as they need to show the world that it is not right to kill or displace in the name of religion, ethnicity or business as usual.”⁷⁰
- “Justice for us is exposing the truth about all the crimes committed against us and bringing the perpetrators to justice. [...] We are educated; we read about the ICC, about what the Court can do and what it cannot. Despite its limitations, the ICC is the only Court that can look into what happened to the Rohingya and we strongly believe that if the Court opens an investigation, the perpetrators will think twice about committing these crimes again.”⁷¹
- “ICC is the highest criminal court in the world and it needs to act in order to ensure that crimes like those committed against the Rohingya are prevented. We want justice, peace and happiness for us and for the future generations. ICC is our only hope for justice.”⁷²
- “Even if it takes long time to resolve the victims' case and to get justice [...] we want the ICC to get our justice.”⁷³
- “We want [the perpetrators to be] punished and we want to prevent this kind of crimes in our community in the future.”⁷⁴
- “We don't want to lose our loved ones anymore! So, we want justice

⁶⁸ r/00004/19.

⁶⁹ r/00017/19.

⁷⁰ r/00018/19.

⁷¹ r/00019/19.

⁷² r/00020/19.

⁷³ r/00021/19.

⁷⁴ r/00028/19.

from the ICC of genocide case. [...] we want safety in our lives.”⁷⁵

- “We had dreams before [the deportation], but they stopped. ICC is our future at the moment.”⁷⁶
- “We are looking at the ICC for the hope of justice.[...] We are not looking for revenge. We want to prevent that this happen again.”⁷⁷
- “We urge ICC to prosecute those who committed crimes so that it could not happen again anywhere in the world.”⁷⁸
- “We, all Rohingya, are requesting more support from the ICC. [...] We are hungry for peace, justice and equality.”⁷⁹
- “There are three eras: past, present and future. The past is already. We are living the present. For the sake of security and our future, it is important to continue the justice process.[...] The represented victims said that they want to be heard.”⁸⁰
- “We Rohingya are requesting the upmost support of the ICC to help solve our conflict and bring about justice as soon as possible through a sincere and effective avenue. We are not hungry for ration, but rather we are hungry for peace, justice, equality and freedom. [...] Finally we can say that our government's step was to destroy our community, Rohingya. Now we are willing to get justice and we hope ICC will start the investigation on our case and we will get the fair justice soon.”⁸¹
- “We Rohingya need justice through ICC before repatriation and sustainable and permanent solution in Myanmar.”⁸²

2) Views on the scope of the investigation

⁷⁵ r/00030/19.

⁷⁶ r/00090/19.

⁷⁷ r/00115/19.

⁷⁸ r/00119/19.

⁷⁹ r/00219/19.

⁸⁰ r/00227/19.

⁸¹ r/00268/19.

⁸² r/00242/19.

63. The Registry notes that a large number of representations requested that all crimes falling under the Court's jurisdiction committed against the Rohingya in Myanmar after 1 June 2010 should be covered. A large number of representations specifically stated that the investigation should cover sexual and gender based crimes; a number of representations mentioned the crime of genocide; and some specifically requested an investigation into the crime of ethnic cleansing. A sample of relevant quotes is provided below.

- "We want the ICC to investigate all crimes committed against the Rohingya and the crimes committed against women should not be forgotten."⁸³
- "The sexual crimes committed by the military, the mentality and techniques are the same as those used during WWII."⁸⁴
- "By denying our citizenship rights, our religion and our identity, our names and all our chances for a future, they committed genocide against us."⁸⁵
- "ICC Court to please take action on the basis of genocide."⁸⁶
- "The victims think the investigation should include [...] all events occurred in Arkan."⁸⁷
- "We really want ICC investigate and prosecute all perpetrators."⁸⁸
- "The perpetrators must be taken action in the ICC for the Genocide to our people and for the Crime against humanity as soon as possible."⁸⁹
- "We want ICC to fully investigate these [grave] crimes Myanmar committed against us within a year and charge them [...] accordingly."⁹⁰

⁸³ r/00004/19.

⁸⁴ r/00017/19.

⁸⁵ r/00019/19.

⁸⁶ r/00078/19.

⁸⁷ r/00097/19.

⁸⁸ r/00117/19.

⁸⁹ r/00128/19.

⁹⁰ r/00164/19.

- “In summary and conclusion, therefore, it is the view of the victims herein that it would be in the interests of justice to permit the prosecutor to investigate all crimes disclosed within the jurisdiction of the court, rather than impose any further temporal or labelling limitations.”⁹¹
- “Especially they focus to beautiful girls and women in villages for sexual harassment and the used the tool as technic of raping to drive out from houses.”⁹²
- “Extreme sexual violence and rape against mainly [women], but also men, irrespective of age. [...] Victims also reported that women became impregnated after being raped by security forces and delivered the babies in Bangladesh camps. Women also contracted venereal disease like HIV because of rapes.”⁹³
- “Women suffered more because we have been placed in a cage for protection; we are an easy target for the military, police and for all those who hate us, the Rohingya. They know that if they rape us, we, as Rohingya, suffer and they can break us. [...] We kept silence to survive. We made ourselves ugly for protection, so the military would not chose us when they detained us for their pleasure and gang raped us, for days and nights, they tortured and many were killed.”⁹⁴

64. With respect to the alleged perpetrators, the vast majority of representations named the Myanmar military (Tatmadaw), the Border Guard Police, the Myanmar Government, police and other local authorities, local population and monks. [Redacted]. A sample of relevant quotes is provided below.

⁹¹ r/00220/19.

⁹² r/00228/19.

⁹³ r/00268/19.

⁹⁴ r/00303/19.

- [Redacted].⁹⁵
- [Redacted]. On the next day, the Army, Border Guard Force, Rakhine Extremists came, fired gun and drove us out of the house. Having nowhere to live, we left for the country on the other side."⁹⁶
- "In August 2017 after the accusation of attacking Border watch police stations, the responsible officers from Tatmadaw army [Redacted] ordered to conduct a major operation and forced people to escape to Bangladesh. Now those people are living in 33 temporary camps and [Redacted] is responsible for forcing us to become stateless."⁹⁷
- "We hope that ICC will punish genocide perpetrators but at the same time, very much concerned about Myanmar denial of ICC."⁹⁸

3) Other issues raised by victims in their representations

65. The Registry notes that a series of other issues and concerns were raised in victim representations. A non-exhaustive list of these views and concerns, classified by major themes, and samples of relevant quotes are provided below.

a. Request for expeditious proceedings:

- "We want the Judges to authorize the investigation as soon as possible and we want the ICC process to be fast."⁹⁹
- "I want to have justice through ICC as soon as possible."¹⁰⁰
- "We have concerns about the fact that the Myanmar generals responsible for the crimes are old and if the ICC process does not start immediately and does not advance quickly, they might die before

⁹⁵ [Redacted].

⁹⁶ r/00164/19.

⁹⁷ r/00165/19.

⁹⁸ r/00171/19.

⁹⁹ r/00002/19.

¹⁰⁰ r/00005/19.

justice is made. ICC is our only hope for justice.”¹⁰¹

- “We wish the case to be heard properly and in a short period of time.”¹⁰²
- “Judges must take not a long time to take action.”¹⁰³
- “We are worried as we heard that the ICC's justice can take a long time. We request that it takes the quickest response possible to the Rohingya crisis. We deserve that.”¹⁰⁴
- “[The Rohingya] need quick access to justice. We want that the future generations are able to access education and have opportunities.”¹⁰⁵
- “We are really concerned that if ICC takes time to investigate Myanmar Tatmadaw, the entire Rohingya populations will suffer more.”¹⁰⁶
- “We concern for continuous genocide and children education. We want ICC that not to delay this matter and prosecute perpetrators as soon as possible.”¹⁰⁷
- “Please don't take long time taking action to perpetrators.”¹⁰⁸
- “We are very much concerned that ICC investigation and prosecution may prolong and, if repatriation happen before final hearing of ICC. [...] Please try as early as you can, otherwise, we will lose our generation in this camp.”¹⁰⁹
- “Investigation should start immediately and should be completed before repatriation. Investigation should start by January 2020.”¹¹⁰
- “We want justice; we have been calling it for years. [Redacted].”¹¹¹

¹⁰¹ r/00020/19.

¹⁰² r/00077/19.

¹⁰³ r/00089/19.

¹⁰⁴ r/00090/19.

¹⁰⁵ r/00115/19.

¹⁰⁶ r/00123/19.

¹⁰⁷ r/00125/19.

¹⁰⁸ r/00132/19.

¹⁰⁹ r/00169/19.

¹¹⁰ r/00226/19.

¹¹¹ r/00303/19.

b. Security concerns and the need for victims and their families to be protected, by, *inter alia*, keeping their personal details and other information confidential/fear of retaliation:

- “Because I [Redacted] submit to the court, I am concerned of being imprisoned for long time and having my life at risk.”¹¹²
- “I am worried that it will take a long time and that Myanmar government would revenge after repatriation.”¹¹³
- “By submitting the case to ICC, I am concerned that I would get lifetime imprisonment if I go back to Myanmar as well as that I would get killed in refugee camp through broker.”¹¹⁴
- “I worry [that] when I go back to Myanmar, the Government will arrest me because we open our voices to the ICC. [...] If we make a representation and complain to the ICC, I am worried that Myanmar will not take us back [...]”¹¹⁵
- “We are aware of knowing our details by Myanmar Government that they will revenge us for claiming to ICC. And [our personal information] also has to be confidential.”¹¹⁶
- “It was the villager who informed me about this ICC form and they fear to come up and represent for the village. They ask me to be their representative.”¹¹⁷
- “In the ICC Offices, Court, we want to share sufferings directly. But we are afraid of and worrying of being arrested in Myanmar.”¹¹⁸
- “Keep [it] confidential, because of if Myanmar [Government] saw it

¹¹² r/00046/19.

¹¹³ r/00053/19.

¹¹⁴ r/00058/19.

¹¹⁵ r/00090/19.

¹¹⁶ r/00129/19.

¹¹⁷ r/00171/19.

¹¹⁸ r/00245/19.

when we go back to Myanmar, they arrest us that time.”¹¹⁹

- "Everyone wants the ICC but some are afraid of the repercussions to them if they get involved. [Redacted].”¹²⁰

c. Direct interactions between ICC representatives, including Judges, and the victims over and above the Prosecutor’s investigation:¹²¹

- “We want the judges to come here and see how we live. We cannot come to The Hague because we don't have passports and we cannot leave the camps. We want to show the judges that Rohingya are peaceful people who deserve rights.”¹²²
- “The judges should come here and see for themselves how the Rohingya are and how they live. Their communication with the world is being cut, the ICC needs to hurry and collect evidence as soon as possible.”¹²³
- “The case to be tried correctly, to finish it in a short time and the team passing the judgement is invited to come to the refugee camp to share the concerns.”¹²⁴
- “We share the concerns with the court by inviting the judge to make a temporary visit to the camp.”¹²⁵
- “We would like if possible that the judges come here to see us, to see by themselves the situation, otherwise in the writing it won't reflect effectively the opinions and the impact of the crimes.”¹²⁶

¹¹⁹ r/00255/19.

¹²⁰ r/00304/19.

¹²¹ Victims’ primary desire is the commencement of an investigation, and linked to that, interaction with the Prosecutor; *see* r/00127/19 (“[the] Office of the Prosecutor should meet us in person”).

¹²² r/00004/19.

¹²³ r/00018/19.

¹²⁴ r/00071/19.

¹²⁵ r/00077/19.

¹²⁶ r/00115/19.

- “According to me, many people from ICC should be sent in Myanmar and bring out the realities which occurred by Myanmar government. Also, ICC should have a team in Bangladesh to explain ICC.”¹²⁷
- “The investigation should be taken place especially in the refugee camps, by having interviews with the survivors.”¹²⁸
- “The represented victims said that they want to be heard. They said that they have a lot of information and evidence to share and that if the ICC moves to the next stage, they can provide that information.”¹²⁹
- “Visit us to get real victims sufferings”.¹³⁰
- “We would like to invite the ICC judges to come to refugee camps to meet and talk to us, to see with your eyes our suffering, to hear our voices, to see our problem. We are restricted, can't leave the camps, we can't call, we can't send emails, can't use the tele-communication. We are as zoo.”¹³¹

d. Rohingya identity and equal rights:

- “We have been denied our identity and our rights for decades. We were called Bengali, illegal immigrants or even terrorists. They denied our ethnicity, our name, they tried to exterminate us. This needs to stop! We are Rohingya and we want to be recognized as such, as people with our own name - Rohingya. We deserve justice to ensure that the atrocities will end.”¹³²
- “Justice is about recognition of the Rohingya identity. We are natives of our land and we should have rights in our land.”¹³³

¹²⁷ r/00191/19.

¹²⁸ r/00217/19.

¹²⁹ r/00227/19.

¹³⁰ r/00228/19.

¹³¹ r/00242/19.

¹³² r/00020/19.

¹³³ r/00018/19.

- “People ask for justice and for the Rohingya name.”¹³⁴
- “For decades the Rohingya people had no rights, they were silenced and killed like insects. [...] Animals have more rights than the Rohingya.”¹³⁵
- “We want full citizenship rights before we return to Myanmar. All the Rohingya want this.”¹³⁶
- “We need education and we need the ability to practice our religion. We need rights like other ethnic groups. We want to be able to work in government. When we were in Myanmar our children were blind because they did not have proper education. Due to movement restrictions and ongoing persecution we suffered and are now traumatized. [...] We don’t need rations or support. We just want our rights back. [...] We want equal rights.”¹³⁷
- “They started to torture and discriminate us everywhere: in the markets, on the roads to schools, in the government offices. We were told: 'It's not your nation, you are from Bangladesh, Bengali, go back to Bangladesh. [...] If the Muslim women were delivering a boy, the boy would be killed. If it was a girl she would survive. [...] They will also infect us with other diseases intentionally by using old infected needles and materials. To get medical treatment, we had to go to Bangladesh. By doing so, we became illegal. [...] We were also asked a lot of money to be allowed to marry according to the law. Those of us who were not able to pay would be punished of 5 years jail. For this reason we had to flee Bangladesh. [...] After 2012, all the mosques were locked and we could not enter into them anymore. [...] Only the Buddhists could work. We had no jobs, no possibility to trade, to hide. They increased

¹³⁴ r/00017/19.

¹³⁵ r/00017/19.

¹³⁶ r/00059/19.

¹³⁷ r/00060/19.

prices for the Rohingya. Among us, the poorest families had to flee. [...]”¹³⁸

- “[The authorities] delivered the message to the other groups that we were Kalla¹³⁹. We were told ‘You are Bengali, go away’. They hated us.[...] We would like to get Rohingya identity recognised, this is our view about justice.”¹⁴⁰
- “We want to go back quickly to Myanmar with equal rights [...] we want to prevent that our girls are subjected to rape again.”¹⁴¹
- “They want to get back their rights. They want to get back their property; they want to get back their Rohingya identity and citizenship in their country.”¹⁴²
- “[...] as you are Muslim, this is not your country, we will do whatever we want to you. Your country is Bangladesh, you need to go back. As long as you are still here, we will do whatever we want to you. If you can bear whatever we are doing to you then you can stay, but if you cannot, you will have to leave.”¹⁴³
- “They want to be seen as ‘Rohingya’ and not as ‘Bengali’. As one represented victim explained: ‘Myanmar considers us as Bengali but we’re not Bengali, We are Rohingya belonging to Myanmar’.”¹⁴⁴
- “Our country government have been systematically and politically trying to annihilate our entire Rohingya minority community just because we have been Islamic.”¹⁴⁵
- “We want to recover our dignity; we lost it many years ago. We want to be treated with respect again. We want to be recognized as Rohingya

¹³⁸ r/00089/19.

¹³⁹ “Kalla” or “Khola”, see supra, fn. 45.

¹⁴⁰ r/00090/19.

¹⁴¹ r/00115/19.

¹⁴² r/00204/19.

¹⁴³ r/00220/19.

¹⁴⁴ r/00227/19.

¹⁴⁵ r/00233/19.

people. [...]We are the youth of the Rohingya, we want to exist and rebuild our future. We want to be educated; we want to create an Arkan State that respects human rights and different beliefs. We are asking for help to be able to exist. It is our duty to keep trying but without the ICC [it] will not be possible.”¹⁴⁶

e. Repatriation:

- “We don't want to live outside of our homeland.”¹⁴⁷
- [Redacted]¹⁴⁸
- “We are concerned about the conditions if we return. We have to get sustainable solutions for peace, safety and security.”¹⁴⁹
- “We cannot return to our country. Our remaining family there cannot access equal rights, discriminations are still going on. Now the borders between the two countries are closed. They feel trapped. [...] The government has declared that if we want to return, we have to accept the NVC card which is considered as illegal immigrant document. [...] If we go back, we are afraid we will be put in a closed area. We are worried for our generations. [...] We request to open the resettlement doors to the third countries.”¹⁵⁰
- “We fear to go back to Myanmar right now because the conditions are not changed. Still atrocities are being committed to remaining Rohingya people.”¹⁵¹
- “We want the violence to stop in Myanmar so we can return. [...] ICC can help us.”¹⁵²
- “The victims want justice from ICC and full citizenship rights in

¹⁴⁶ r/00304/19.

¹⁴⁷ r/00026/19.

¹⁴⁸ [Redacted].

¹⁴⁹ r/00089/19.

¹⁵⁰ r/00090/19.

¹⁵¹ r/00132/19.

¹⁵² r/00239/19.

Myanmar (Burma). And, the victims want to return home with full protection.”¹⁵³

f. [Redacted]

- [Redacted].¹⁵⁴
- [Redacted].¹⁵⁵
- [Redacted].¹⁵⁶
- [Redacted].¹⁵⁷
- [Redacted].¹⁵⁸
- [Redacted].¹⁵⁹
- [Redacted].¹⁶⁰

g. Psychological state of the Rohingya people:

- “Feelings of mentally agitated upon remembering events, suffering from ailments, unable to eat, unable to sleep and shaken.”¹⁶¹
- “All victims are suffering depression, anxiety and other psychological problem due to the harassment, torture and land confiscation. They also suffer trauma from becoming stateless.”¹⁶²
- “Due to forced expulsion, confiscation of lands we became stateless. We were forced to become stateless. We are suffering psychological depression and stress.”¹⁶³
- “As a result of the event the victims are mentally very depressed. When

¹⁵³ r/00258/19.

¹⁵⁴ [Redacted].

¹⁵⁵ [Redacted].

¹⁵⁶ [Redacted].

¹⁵⁷ [Redacted].

¹⁵⁸ [Redacted].

¹⁵⁹ [Redacted].

¹⁶⁰ [Redacted].

¹⁶¹ r/00077/19.

¹⁶² r/00116/19.

¹⁶³ r/00119/19.

they remind the incidence and crimes which happened before them then they cry.”¹⁶⁴

- “In terms of psychological harm the victims report trauma and depression from death of family members. Many children have become orphaned resulting in lonely, depressed, feelings of hopelessness amongst children. Elderly people continue to spend their days mourning about the past, and mothers have become psychotic from losing their children.”¹⁶⁵
- “According to the victims, there is a level of fear and anxiety upon hearing sounds that are similar to a gunshot. Physical disabilities, injuries and sickness have led to depression, trauma and anxiety. Children who have been orphaned suffer from loneliness, neglect and depression. People continue lamenting over their losses. Noted as well were difficulties sleeping; depressed mood; and severe hopelessness due to constrained living arrangements, dependency on food assistance, obstacles to pursuing livelihoods and living a life in limbo filled with uncertainty and fear.”¹⁶⁶

h. Other issues/questions:

- “How will the ICC arrest the perpetrators since ICC does not have an army or police?”¹⁶⁷
- “We are worried also about how the perpetrators will be arrested in Myanmar.”¹⁶⁸
- “Why is the Myanmar Government escaping the ICC’s membership? We heard that the ICC has a lot of members, but why is Myanmar not part of it? [...] If the country we are residing in at the moment

¹⁶⁴ r/00204/19.

¹⁶⁵ r/00226/19.

¹⁶⁶ r/00268/19.

¹⁶⁷ r/00004/19.

¹⁶⁸ r/00089/19.

discontinues its [ICC] membership, what would be for us to otherwise obtain justice for the deportation and the other crimes we have suffered from? [...].”¹⁶⁹

- “We would like to request that the ICC collaborates with the ICJ if Myanmar is not cooperating.”¹⁷⁰
- “We are concerned that Myanmar, China and Russia are constantly using Veto power in this matter to protect main perpetrators.”¹⁷¹
- “We think that the [ICC] and international organizations should collaborate together in carrying out the investigations.”¹⁷²

III. Conclusion

66. In conclusion, the Registry found that victims unanimously support an investigation into crimes falling under the Court’s jurisdiction allegedly committed against the Rohingya when the latter were moved from Myanmar to Bangladesh. With respect to the temporal scope of the potential investigation, the Registry notes that many victims report crimes committed against the Rohingya “for decades”, with a number of them requesting the investigation to cover all crimes committed after 1 June 2010 when the Rome Statute entered into force with respect to Bangladesh.

¹⁶⁹ r/00090/19.

¹⁷⁰ r/00090/19.

¹⁷¹ r/00121/19.

¹⁷² r/00153/19.