



Crimes Against Humanity and International Legal Responses to the Rohingya Crisis: A Normative Analysis of State Responsibility and Global Judicial Mechanisms

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Abstract: The humanitarian crisis experienced by the Rohingya in Myanmar represents one of the gravest human rights violations of the twenty-first century. This study aims to identify the forms of crimes against humanity committed against the Rohingya, analyze the Myanmar government's actions through the lens of international law, and assess the role of international judicial bodies in enforcing accountability. Employing a normative juridical method with a literature-based approach, this research draws on international legal instruments including the Rome Statute, UN Fact-Finding Mission reports, and global human rights documents supported by relevant theoretical frameworks in international criminal law. The findings reveal that mass killings, rape, forced deportation, and the systematic burning of villages constitute crimes against humanity under Article 7 of the Rome Statute and are reinforced by discriminatory state policies such as the 1982 Citizenship Law. Furthermore, the study highlights the critical roles of the International Court of Justice (ICJ) in adjudicating genocide allegations and the International Criminal Court (ICC) in pursuing preliminary investigations. This research concludes that the Rohingya crisis constitutes an international crime requiring collective intervention and legal enforcement. It recommends strengthening global judicial cooperation, enhancing accountability mechanisms, and ensuring sustained international oversight to protect victims and prevent recurrence.

Keywords: Crimes Against Humanity, International Court, International Law, Refugees Rohingya.

Introduction

The humanitarian crisis affecting the Rohingya in Myanmar is one of the most heartbreaking humanitarian tragedies of the 21st century. The Rohingya are a Muslim ethnic group who have lived for several centuries in Myanmar's Rakhine state (Arianta et al., 2020). However, the Myanmar government does not recognize them as citizens, making them legally stateless. Tensions between the Rohingya and the Buddhist majority of Rakhine have been longstanding, but have culminated in systematic violence and brutal attacks since 2012 and were most severe in August 2017, when the Myanmar military launched so-called "clearance operations" that allegedly targeted

militias, but in fact involved mass rapes, killings, and extensive village burnings (Siba & Qomari'ah, 2018).

The conditions experienced by the Rohingya are not just ordinary ethnic conflicts, but have reached the scale of gross human rights violations (Cheesman, 2017). Reports from various international organizations such as Human Rights Watch and Amnesty International stated that there were massacres, arbitrary detention, torture, rape, and systematic burning of Rohingya villages (Rosyid, 2019).

Not only that, the act of restricting access to food, education, and health services has also been part of the Rohingya's suffering over the years (Crouch, 2019). The Myanmar government also enacted a 1982 citizenship law that denied the Rohingya the right to citizenship, leaving them not only physically vulnerable, but also legally and politically marginalized. This situation forms a cycle of structural violence that perpetuates their suffering (Sigit & Novianti, 2020).

From an international law perspective, this crisis raises serious concerns about violations of fundamental principles of human rights and international humanitarian law. Under the Rome Statute of the International Criminal Court (ICC), the actions taken by the Myanmar military can be categorized as crimes against humanity and even genocide (Dafiryan, 2022; Salkiewicz-Munnerlyn, 2019; Van Schaack, 2019).

The UN has issued a report stating that the violence against the Rohingya was committed with "genocidal intent," i. e. to destroy, in whole or in part, a particular ethnic group. In international law, genocide is the most serious crime, regulated in the 1948 Genocide Convention, which is binding on UN member states, including Myanmar (Dewi & Najica, 2022). Therefore, this event is not only a domestic issue for Myanmar, but also a serious concern for the international community.

The significance of this issue in the context of international law also lies in the question of the effectiveness of international institutions in responding to gross human rights violations (Kim & Park, 2025). The International Court of Justice (ICJ) and the International Criminal Court (ICC) are expected to be fair and independent judicial bodies to examine Myanmar's actions (Kirabira, 2025; Rahman, 2025). However, jurisdictional limitations, political obstacles, and lack of cooperation from perpetrator states have made the enforcement process very slow (Holliday, 2014). For example, although Gambia has filed a lawsuit with the ICJ for alleged genocide against the Rohingya, the judicial process is still very slow. This raises profound questions about the effectiveness of the international justice system and how states can be held accountable for international crimes in real terms (Tampubolon et al., 2022).

At the global level, the Rohingya crisis also reflects the collective failure of the international community to prevent and address humanitarian crises early on. Despite international calls and pressure, including resolutions from the UN and arms embargoes from several Western countries, the international response is still considered very weak compared to the scale of the atrocities that occurred (Ambarwati, 2022).

Some countries still maintain close trade and diplomatic relations with Myanmar despite knowing the existence of gross human rights violations. In addition, the absence of a unified voice from UN Security Council member states hampered efforts to adopt stronger action (Doffegnies & Wells, 2021). This crisis shows that when political considerations and national interests dominate, humanitarian values are often sacrificed (Campbell & Prasse-Freeman, 2021).

In the regional context, especially ASEAN, the Rohingya crisis is a test of the non-intervention principle that has been upheld by the organization (Asmara & Syahrin, 2019). Myanmar, as a member of ASEAN, is de jure protected from the interference of

other countries, but the reality on the ground shows that the human rights violations that they do is transnational, as it has triggered refugee flows to neighboring countries such as Bangladesh, Malaysia, and Indonesia (Karina, 2020). Unfortunately, ASEAN has failed to issue a strong statement or take concrete action against Myanmar. This has led to criticism of ASEAN's effectiveness in addressing humanitarian crises and reinforces the notion that the principle of non-intervention has become an obstacle to the protection of human rights in the Southeast Asian region.

The Rohingya crisis is thus not just an ethnic tragedy or domestic political conflict, but a symbol of moral and legal failure at the international level. The world has a legal and humanitarian responsibility to protect vulnerable groups like the Rohingya from systematic suffering. International law must not just be a text on paper, but must be enforced visibly and firmly. If the global community fails to deliver justice for the Rohingya, it will create a dangerous precedent that crimes against humanity can occur without consequence. Therefore, the enforcement of international law on Rohingya rights violations is an imperative that cannot be delayed.

In this study there are several previous studies, namely first Aulia Salsabila et al in her research entitled "View of Humanitarian Law and International Criminal Law against Genocide Crimes in the Rohingya Ethnic Case". The genocide that befell the Rohingya ethnicity was studied through the perspective of international humanitarian law and international criminal law. The purpose of this research is to describe the definition and criteria of genocide, as well as outline its application in the case experienced by the Rohingya.

This research also examines the response of the international community, the role of international law in upholding justice, and the legal obstacles that arise in prosecuting the perpetrators of genocide. The approach used in this research is Human Rights Theory, which serves as a normative basis for assessing the fundamental rights of individuals such as the right to life, liberty, and protection from the crime of genocide. This theory is relevant in explaining the various forms of human rights violations experienced by the Rohingya community. Hopefully, the results of this research can enrich the understanding of the crime of genocide against the Rohingya ethnicity and its impact in the context of international law. In addition, this research also aims to provide policy advice that can increase the protection of vulnerable groups and strengthen justice enforcement mechanisms at the global level (Salsabila et al., 2025).

The second is Ng Surja Ningsih et al in her journal entitled "The Crime of Genocide against Ethnic Rohingya in Myanmar in the Perspective of International Criminal Law". The Rohingya are a Muslim minority group who live in one of the regions in the state of Myanmar. However, their existence is not recognized by the state, so this group often faces various problems, including acts of genocide that have increased since the enactment of the Citizenship Law in 1978.

This research uses a normative juridical approach with a literature study method. The research findings revealed that the violence experienced by the Rohingya in Myanmar falls into the category of serious international crimes and is within the scope of the jurisdiction of the International Criminal Court, so the perpetrators can be sanctioned in accordance with the provisions of international criminal law (Ningsih et al., 2025).

The third is Almira Rahma Harningtyas et al in her journal entitled "The Rohingya Crisis as a Crime against Humanity: A Juridical Review of Myanmar's International Responsibility". The crisis experienced by the Rohingya ethnic group is a major test for the applicability of international human rights law and the responsibility of the state

in providing protection to vulnerable groups. This study examines Myanmar's possible liability under international law for alleged human rights violations against the Rohingya community. It outlines the legal basis for international responsibility, including the principles of state sovereignty, the prohibition of impunity, and the rule of international law enshrined in instruments such as the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, and the Rome Statute of the International Criminal Court.

In addition, it examines accountability enforcement mechanisms through international institutions such as the ICC and ICJ, and highlights the contributions of the UN and regional organizations. The research also discusses legal and political obstacles in the law enforcement process, such as jurisdictional issues, state sovereignty, and global geopolitical interests. The study concluded that a comprehensive and integrated approach, encompassing legal, diplomatic and political measures to ensure justice, prevent recurrence of violations, and uphold the values of international human rights law is essential (Harningtyas et al., 2025).

The fourth reference is by Maung Zarni and Alice Cowley in their journal article titled *"The Slow-Burning Genocide of Myanmar's Rohingya."* Since 1978, the Rohingya a Muslim minority in Western Myanmar have been subjected to a state-sponsored campaign of destruction. Despite possessing deep historical roots in Rakhine State and having been officially recognized as citizens and an ethnic group by three successive post-independence Burmese governments, their status began to deteriorate following the 1978 military campaign. Under General Ne Win's regime, a large-scale operation was launched to expel the Rohingya, erase their ethnic identity, and legitimize their physical destruction. This process continued under the hybrid civilian-military government of Thein Sein, particularly after 2012, through orchestrated hate campaigns, violence, killings, and systematic exclusion aimed at permanently removing the Rohingya from their ancestral homeland. Based on three years of research, the authors concluded that the Rohingya have been subjected to a slow-burning genocide for more than 35 years. Both the Myanmar state and local communities have committed four out of the five acts of genocide as defined by the 1948 Genocide Convention. However, despite mounting evidence, the international community remains reluctant to legally classify these atrocities as genocide due to political and economic interests in Myanmar (Zarni & Cowley, 2014).

In contrast to previous studies that primarily focus on genocide classification, human rights violations, or general state responsibility, this research specifically examines crimes against humanity in relation to state responsibility and the effectiveness of international judicial mechanisms (ICC and ICJ) as instruments of global legal enforcement. This study also integrates normative legal analysis with assessments of judicial mechanisms at the international level an approach that has not been comprehensively explored in earlier research. Based on the three literatures above, this research has several main problem formulations, namely as follows: 1). What are the forms of crimes against humanity experienced by the Rohingya people from the perspective of international law? 2). How did the Myanmar government act against the Rohingya people in the perspective of international law? 3). What is the role of the international court in providing protection and upholding justice for the Rohingya?

Method

This study employs a qualitative normative-legal method supported by documentary analysis to examine crimes against humanity committed against the

Rohingya people and the international legal responses involving state responsibility and global judicial mechanisms (Cryer et al., 2019). The normative approach is used to critically analyze legal norms, treaty obligations, court decisions, and UN documents relevant to the Rohingya crisis. This method is chosen because the research aims to evaluate the coherence, adequacy, and applicability of international legal frameworks, rather than to measure social behavior or statistical trends.

The research relies primarily on secondary data drawn from authoritative international legal sources, including reports of the UN Human Rights Council, UN Fact-Finding Mission on Myanmar, official documents from the International Court of Justice (ICJ), the International Criminal Court (ICC), resolutions of the UN General Assembly, and ASEAN statements. These documents were collected through systematic searches of official databases such as the UN Digital Library, ICJ-ICC records, Human Rights Watch, Amnesty International, and peer-reviewed journal repositories (e.g., HeinOnline, JSTOR, Scopus). These sources were selected because they provide verified, legally relevant evidence of state actions, patterns of violence, and international responses.

To strengthen the reliability of the data, the research also incorporates legal expert interviews conducted online with two international law scholars focusing on genocide and crimes against humanity. The interviews were aimed at clarifying doctrinal debates, identifying gaps in enforcement, and validating the interpretation of legal principles. The selection of these experts was based on their publication record and involvement in Rohingya-related litigation or advocacy. Interview transcripts were triangulated with documentary data to avoid interpretive bias.

The data analysis followed a thematic legal analysis, beginning with the identification of legal elements of crimes against humanity under the Rome Statute, followed by the classification of documented acts against the Rohingya. The analysis then examined Myanmar's state responsibility using principles of customary international law and treaty obligations, and evaluated the role and limitations of global judicial mechanisms by assessing procedural developments at the ICJ, ICC, and other international forums.

Throughout the analysis, findings were cross-checked against independent reports to ensure consistency and credibility. This methodological framework ensures that the study systematically addresses the forms of crimes committed, Myanmar's legal responsibility, and the performance and challenges of international courts in protecting the Rohingya people.

Findings/Results

Forms of Crimes against Humanity against the Rohingya under International Law

Crimes against humanity are one of the most serious offenses in international criminal law (Prasetyo, 2020). In the context of the Rohingya people in Myanmar, various repressive actions carried out by the Myanmar military (Tatmadaw) can be categorized into forms of crimes against humanity as regulated in the Rome Statute of the International Criminal Court (Rome Statute) (Rahmi & Rahmiati, 2022).

These acts include murder, rape, torture, sexual slavery, forced displacement, and the systematic widespread burning of villages (Tran, 2023). These crimes were directed against a particular ethnic group, in this case the Rohingya Muslim community, which was systematically and widely persecuted by state forces (Thompson, 2021).

The Rome Statute, specifically Article 7 paragraph (1), details the types of crimes that fall into the category of crimes against humanity when committed as part of a

systematic and widespread attack against a civilian population with the perpetrator's knowledge of the attack (Sieto & Dewanto, 2023). Several important elements such as systematic intent and widespread scale are the determining criteria. In the Rohingya case, violations such as extermination, deportation or forcible transfer of population, persecution against any identifiable group, and other inhumane acts can be found. In fact, these actions are often accompanied by hate speech and discriminatory policies carried out by Myanmar authorities, such as denial of citizenship rights and restrictions on access to health services, education, and freedom of movement.

Evidence of gross human rights violations against the Rohingya has been collected and documented by various international organizations. The report of the United Nations Independent International Fact-Finding Mission on Myanmar (2018) states that there is sufficient evidence to state that the Myanmar military has committed genocide against the Rohingya (Salsabila et al., 2025).

Juridically, these actions can be categorized as meeting the elements of *actus reus* (physical act) and *mens rea* (malicious intent) as required under international criminal law. The *actus reus* element is reflected in the existence of concrete actions such as murder, rape, and expulsion (Kourtis, 2025). Meanwhile, the *mens rea* element is evident from the structured pattern of military orders and planning, as well as public statements from Myanmar officials that show hostility towards the Rohingya (Barton, 2024). These elements strengthen the allegation that the crimes committed were not incidental, but part of a deliberate state policy or institutional practice.

The actions also fulfill the category of persecution as a crime against humanity, which is specifically regulated in Article 7 paragraph (1) letter (h) of the Rome Statute, namely the systematic suppression of certain ethnic, religious or identity groups. The Rohingya have been *de jure* excluded through the 1982 Citizenship Law which denies them citizenship, renders them stateless, and paves the way for acts of expulsion and massacres. When a group is targeted with systematic violence and discrimination by the state, the element of persecution in international law has been met.

Thus, under international law, including provisions in the Rome Statute and international human rights conventions, the acts committed against the Rohingya are not just ordinary human rights violations, but have entered the realm of crimes against humanity (Togoo & Ismail, 2021). If proven in an international trial, such as at the International Criminal Court (ICC), the perpetrators can be held personally criminally responsible, including generals, civilian officials, and the highest authorities of the Myanmar state.

Table 1. Categories of Acts Against the Rohingya and Their Legal Elements under the Rome Statute

Category of Acts	Description of Acts (Based on International Findings)	Legal Basis: Rome Statute Article 7	Actus Reus Elements	Mens Rea Elements	Examples of International Evidence
Murder / Extermination	Mass killings of Rohingya civilians, extrajudicial executions	Art. 7(1)(a), 7(1)(b)	Direct killing, destruction of population	Pattern of military orders, systematic operations	UN FFM Myanmar (2018), HRW Reports
Rape & Sexual Violence	Rape, sexual assault, and sexual slavery	Art. 7(1)(g)	Sexual violence against	Perpetrated in an organized	Amnesty International (2017–2020)

			Rohingya women	manner by the military	
Torture	Torture during arrest, detention, and interrogation	Art. 7(1)(f)	Physical and psychological torture	Intent to inflict punishment	UN FFM, Reuters Investigations
Forced Displacement / Deportation	Mass expulsion to Bangladesh, burning of homes	Art. 7(1)(d)	Forced removal of population	Intent to clear Rohingya areas	UNHCR Reports
Persecution	Systematic discrimination based on ethnicity and religion	Art. 7(1)(h)	Targeted oppression of the Rohingya	Structured state policy	1982 Myanmar Citizenship Law
Other Inhumane Acts	Village burnings, aid blockade, deliberate starvation	Art. 7(1)(k)	Widespread inhumane acts	Intent to cause suffering	UN Fact-Finding Mission
Statelessness Policies	Denial of citizenship under the 1982 Law	Art. 7(1)(h)	Identity-based legal oppression	Discriminatory state policy	Myanmar Citizenship Law

The table above systematically categorizes the major forms of violations committed against the Rohingya and positions each act within the legal framework of crimes against humanity under Article 7 of the Rome Statute. Each category is described based on verified findings from authoritative international bodies, including the United Nations Fact-Finding Mission (UN FFM), Human Rights Watch, Amnesty International, and UNHCR (Karin et al., 2020).

By aligning the factual patterns such as mass killings, rape, torture, forced displacement, persecution, and other inhumane acts with their respective legal provisions, the table demonstrates that the Rohingya crisis meets both the *actus reus* and *mens rea* requirements to qualify as crimes against humanity. The incorporation of evidence such as mass graves, satellite imagery, survivor testimonies, and discriminatory legal frameworks (e.g., the 1982 Citizenship Law) highlights the consistency and reliability of the data supporting these classifications.

Furthermore, the table underscores the coordinated and state-driven nature of the violence, revealing a deliberate policy of oppression directed at an identifiable ethnic and religious minority. The repeated documentation of systematic military orders, institutional discrimination, and targeted deprivation of basic rights substantiates the presence of *mens rea*, indicating not only intent but an organized state apparatus behind the crimes.

By detailing each legal element and corresponding evidence, the table serves as a structured analytical tool for demonstrating Myanmar's potential state responsibility under international criminal law and for supporting proceedings before international judicial mechanisms such as the International Criminal Court (ICC) and the

International Court of Justice (ICJ). This comprehensive categorization therefore strengthens the argument that the Rohingya situation constitutes one of the most severe and well-documented cases of crimes against humanity in the contemporary era.

Table 2. Crimes Against Humanity Against the Rohingya

Type of Crime	Key Acts	Rome Statute Basis	Core Legal Elements
Murder & Extermination	Killings, mass executions	Art. 7(1)(a)(b)	Systematic killing, intent to destroy
Sexual Violence	Rape, sexual slavery	Art. 7(1)(g)	Coercive sexual acts, organized pattern
Torture	Physical/mental torture	Art. 7(1)(f)	Severe pain inflicted intentionally
Forced Displacement	Expulsion to Bangladesh	Art. 7(1)(d)	Forced movement, no legal grounds
Persecution	Targeting Rohingya identity	Art. 7(1)(h)	Systematic discrimination by state
Other Inhumane Acts	Village burning, starvation	Art. 7(1)(k)	Widespread inhumane treatment

The table provides a structured classification of the principal atrocities committed against the Rohingya population and situates each act within the legal parameters of crimes against humanity as defined in Article 7 of the Rome Statute. Each category ranging from murder and extermination to rape, torture, forced displacement, persecution, and other inhumane acts is mapped against its corresponding actus reus and mens rea elements. The descriptions draw from rigorously verified findings issued by authoritative international bodies such as the United Nations Fact-Finding Mission (UN FFM), Human Rights Watch, Amnesty International, and UNHCR (Hossain et al., 2023).

This alignment illustrates that the factual circumstances observed in Rakhine State meet the legal thresholds required for classification as crimes against humanity, particularly the systematic nature of the attacks, the targeting of civilians, and the discriminatory intent directed at the Rohingya as an identifiable ethnic and religious group (Shuvo et al., 2024).

Moreover, the table highlights the deliberate and coordinated policies underpinning these violations, reflecting a pattern of orchestrated state-led repression. Elements such as military command structures, the discriminatory 1982 Citizenship Law, and the widespread destruction of villages demonstrate a clear nexus between state policy and the perpetration of these crimes. The consistency and convergence of evidence ranging from survivor testimonies and mass grave documentation to satellite imagery and international investigative reports reinforce the conclusion that both the physical acts (actus reus) and the underlying criminal intent (mens rea) are present (Leider, 2018).

Consequently, the table serves not only as an analytical summary but also as a foundational evidentiary framework that supports the pursuit of accountability before international judicial institutions, including the International Criminal Court (ICC) and the International Court of Justice (ICJ). Through this structured presentation, the table strengthens the argument that the Rohingya crisis constitutes one of the most egregious and well documented cases of crimes against humanity in contemporary international law.

Table 3. Comparison Between Crimes Against Humanity and Genocide (ICC Elements)

Element	Crimes Against Humanity	Genocide	Application to the Rohingya Case
Target Group	A broad civilian population	A specific ethnic, racial, national, or religious group	The Rohingya constitute a clearly identifiable ethnic and religious group
Pattern of Conduct	Systematic and widespread attacks	Acts committed with the intent to destroy the group	Killings, rape, deportation, and widespread village burnings
Mens Rea	Knowledge of the broader attack	<i>Intent to destroy</i> (dolus specialis)	UN FFM findings indicate evidence of genocidal intent
Legal Basis	Rome Statute Article 7	Rome Statute Article 6	Both legal frameworks are relevant to the Rohingya case
Examples of Acts	Murder, torture, persecution, deportation	Killing members of the group, causing serious bodily harm, preventing births	Mass killings, sexual violence, and blockade of humanitarian access
International Status	Easier to prove before the ICC	More difficult due to requirement of special intent	UN FFM (2018) → evidence strongly suggests genocide
Qualification of the Rohingya Case	Fully satisfied	Strong evidence toward genocide (UN FFM)	Myanmar may be held responsible before the ICC/ICJ

The comparative table provides a structured analytical framework for distinguishing between crimes against humanity and genocide based on the legal elements formulated in the Rome Statute and ICC jurisprudence. It outlines the key components victim targeting, patterns of conduct, legal intent (*mens rea*), and evidentiary thresholds that differentiate the two categories of international crimes.

Crimes against humanity require evidence of widespread or systematic attacks directed against a civilian population, combined with the perpetrator's knowledge of the attack. In contrast, genocide demands the establishment of *dolus specialis* a specific intent to destroy, in whole or in part, a protected group defined by ethnicity, race, nationality, or religion. By juxtaposing these elements, the table clarifies that while crimes against humanity are generally easier to establish due to their broader evidentiary requirements, genocide necessitates a higher threshold of intent, making legal classification more stringent.

Applying these distinctions to the Rohingya case, the table demonstrates that the situation clearly satisfies the legal elements of crimes against humanity and strongly indicates genocidal intent. The Rohingya, as an identifiable ethnic and religious group, have been subjected to systematic acts mass killings, rape, forced displacement, village burnings, and restrictions on basic rights that fulfill both the *actus reus* and *mens rea* elements of crimes against humanity.

Concurrently, findings from the United Nations Fact-Finding Mission (UN FFM) point to patterns suggesting a deliberate attempt to destroy the group, thereby meeting the preliminary indicators of genocide. The table thus supports the argument that Myanmar may bear state responsibility under both Article 7 and Article 6 of the Rome Statute, positioning the Rohingya crisis among the most urgent and legally significant cases warranting adjudication before the ICC and possibly the ICJ (Mallick, 2020).

Analysis/Discussion

Myanmar Government's Actions against the Rohingya in the Perspective of International Law

The Myanmar government's actions against the Rohingya are a serious violation of the norms of international law, especially in terms of the protection of human rights and the elimination of racial discrimination (Alam, 2018; Islam, 2019; Ullah & Chatteraj, 2018). One of the main bases for the marginalization of the Rohingya is Myanmar's 1982 Citizenship Law, which explicitly does not recognize the Rohingya as one of the 135 official ethnic groups in Myanmar (Khurshid & Akram, 2023).

Consequently, they became a stateless group, deprived of basic civil and political rights. This discrimination is exacerbated by restrictive policies, such as prohibitions on marriage without government permission, restrictions on the number of children, restrictions on movement between regions, and prohibitions on access to formal education and health services. All of these actions violate the provisions of the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR), particularly the principles of non-discrimination and the right to citizenship.

In addition to discriminatory legal policies, the Myanmar government has also made systematic efforts to dehumanize the Rohingya community. The Rohingya community is consistently described as "illegal Bengali immigrants" by state officials, creating a narrative that they are not legal residents of Myanmar (Roy Chowdhury, 2020). This practice violates the principle of human dignity in international law.

Dehumanization is structured through media, education, and propaganda that fosters ethnic hatred, which in international law is often an early warning sign of genocide. By treating the Rohingya as "non-human", the state is paving the way for the justification of massive acts of violence. This is contrary to the spirit of the Convention on the Prevention and Punishment of the Crime of Genocide (1948), which emphasizes that treatment that degrades the humanity of ethnic groups can lead to acts of genocide.

According to the author, the Myanmar government's actions are not only limited to the omission of violence against the Rohingya, but also include the active participation of the military and state apparatus in the violence. The United Nations Independent International Fact-Finding Mission report concluded that there was genocidal intent by the Myanmar military through military operations designed to destroy the Rohingya community (Community., 2019). Village burnings, mass killings, and rapes were carried out systematically and with no intervention from the civilian government.

In fact, in some cases, local government officials and Buddhist religious leaders provided moral support to the military actions. In the perspective of international law, this is a violation of the principle of state responsibility and also a violation of International Humanitarian Law (IHL) which demands the protection of civilians, especially in situations of internal armed conflict (non-international armed conflict).

Myanmar as a member state of the United Nations (UN) and the Association of Southeast Asian Nations (ASEAN), has international legal obligations to respect, protect and fulfill basic human rights without discrimination (Arifin, 2022; Hidayah, 2023). In this case, Myanmar has violated a number of international commitments, such as the Responsibility to Protect (R2P) principle that obliges states to prevent crimes of genocide, crimes against humanity, ethnic cleansing, and war crimes (Güneş Gülal et al., 2022). Myanmar's failure to protect the Rohingya is exacerbated by its involvement as the main perpetrator. In addition, Myanmar has also ignored the principles of the ASEAN Human Rights Declaration (2012) which upholds the rights to life, liberty and security of person as part of the regional community.

Although the principle of non-intervention is one of the strong norms in ASEAN, gross violations of human rights like this can no longer be tolerated on the basis of state sovereignty alone. Myanmar has clearly undermined international and regional trust. The government's repressive actions against the Rohingya reflect a violation of the *jus cogens* principle in international law, a norm that cannot be deviated from such as the prohibition of torture, genocide, and racial discrimination. Therefore, the international community has the moral and legal legitimacy to take collective measures to stop the atrocities.

In the analysis of international law, a state's involvement in crimes against humanity whether through direct action or by acquiescence binds the state to accountability (state accountability) and paves the way for individual criminal responsibility for the perpetrators, including political and military elites. The International Criminal Court (ICC) may take action if there is jurisdiction or a referral of authority by the United Nations Security Council. In this context, the role of the UN and regional organizations is crucial in pressuring Myanmar to end impunity and ensure justice for the Rohingya ethnic group, who have been victims for decades.

The Role of the International Court in Providing Protection and Upholding Justice for the Rohingya

In the author's view, the International Criminal Court (ICC) plays a crucial role in enforcing justice against perpetrators of crimes against humanity targeting the Rohingya people. The ICC has jurisdiction over genocide, crimes against humanity, war crimes, and the crime of aggression, as stipulated in the Rome Statute of the International Criminal Court (1998).

Although Myanmar is not a party to the Rome Statute, the ICC has asserted jurisdiction on the grounds that some crimes against the Rohingya such as deportation were committed in Bangladesh, a state party to the Statute. In 2019, the ICC Prosecutor opened a preliminary examination into possible crimes against humanity committed against the Rohingya. However, this process has faced several obstacles, including a lack of cooperation from the Myanmar government, challenges in accessing conflict zones, and political resistance from member states of the [UN] Security Council. The UN Security Council, particularly its veto-wielding members, has indirectly hindered the investigation and prosecution process.

In addition to the ICC, the International Court of Justice (ICJ) has played a pivotal role in providing legal protection for the Rohingya through a case filed by The Gambia on behalf of the Organisation of Islamic Cooperation (OIC) in 2019 (Becker, 2020; Ramsden, 2022; Takemura, 2023). The lawsuit alleged that Myanmar violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide (1948).

As the UN's principal judicial organ for interstate disputes, the ICJ issued provisional measures, ordering Myanmar to take concrete steps to prevent further

genocidal acts against the Rohingya and to periodically report on its protective measures. Although the ICJ does not impose individual criminal liability like the ICC, its rulings are legally binding. This case marked a significant step in holding states accountable for crimes against humanity and reaffirmed that state responsibility for genocide cannot be dismissed.

Table 4. Key International Institutions Involved in Rohingya Protection and Justice

Institution	Legal Mandate	Role in the Rohingya Case	Limitations
International Criminal Court (ICC)	Rome Statute (1998) – Genocide, Crimes Against Humanity, War Crimes, Aggression	Investigating crimes against humanity; opened a preliminary examination in 2019	Myanmar is not a party; lacks cooperation; limited enforcement mechanisms
International Court of Justice (ICJ)	UN Charter & Genocide Convention (1948)	Issued provisional measures to prevent genocide after Gambia filed case in 2019	No individual accountability; lacks direct enforcement authority
United Nations High Commissioner for Refugees (UNHCR)	1951 Refugee Convention & 1967 Protocol	Humanitarian assistance, legal protection, coordination in refugee camps in Bangladesh and elsewhere	Budgetary constraints; no judicial power

In the realm of refugee protection, the United Nations High Commissioner for Refugees (UNHCR) plays a crucial role in providing humanitarian aid and legal advocacy for the hundreds of thousands of Rohingya refugees in Bangladesh and other countries. The UNHCR operates under the 1951 Refugee Convention and its 1967 Protocol, which guarantee the right to asylum, non-refoulement (the prohibition of forced return to a dangerous homeland), and access to international protection.

The agency assists in providing temporary shelter, healthcare, emergency education, and identity documentation for refugees. While the UNHCR lacks judicial authority like the ICC or ICJ, it remains essential in fulfilling its humanitarian mandate and safeguarding refugee rights worldwide. Its role also involves coordinating with host countries and urging the international community to take collective responsibility in finding sustainable solutions.

From a political standpoint, the involvement of major powers such as China and Russia both permanent members of the UN Security Council has frequently obstructed the adoption of strong resolutions against Myanmar due to geopolitical and economic interests. The veto power exercised by these countries has prevented the referral of Myanmar's case to the International Criminal Court (ICC) through the Security Council, which serves as a primary mechanism for pursuing justice against non-party states to the Rome Statute.

On the judicial front, the ICC's limited jurisdiction over non-member states, combined with challenges in evidence collection and witness protection in conflict zones, has further undermined the effectiveness of international judicial processes.

This situation highlights a persistent gap between international legal norms and their practical implementation in reality.

Furthermore, the gap between the mandates of international institutions and their available resources and authority complicates protection efforts and law enforcement. For example, while the International Court of Justice (ICJ) can issue binding rulings, there is no direct enforcement mechanism when states choose to ignore such decisions. Diplomatic sanctions and pressure often serve as the primary tools, though their effectiveness depends on the consistency and strength of international coalitions. In the case of UNHCR, despite having access to refugee camps, the agency frequently faces budgetary constraints and relies on voluntary contributions from member states, which limits its ability to optimally reach all victims. This situation creates significant protection gaps, particularly for communities that have endured structural violence for decades.

Thus, while the international legal system has established instruments and institutions to address crimes against humanity such as those suffered by the Rohingya people, implementation challenges remain substantial. A stronger global commitment is required to reinforce the principle of the rule of law in international relations. Future efforts must not rely solely on formal mechanisms, but also on political pressure, regional cooperation, multilateral diplomacy, and the active participation of civil society and global media. The protection of the Rohingya is not merely a humanitarian issue, but rather a test of the international community's commitment to justice, human dignity, and the supremacy of international law.

Conclusion

Based on the findings, crimes against humanity committed against the Rohingya are evidenced through systematic and deliberate actions, including mass killings, rape, forced deportation, destruction of settlements, and denial of citizenship status—demonstrating elements of persecution and discrimination based on ethnicity and religion. These acts fulfill the criteria of *crimes against humanity* under Article 7 of the Rome Statute and reflect a widespread and organized pattern of grave human rights violations. Second, Myanmar is proven to have violated its obligations under international law, particularly the principles of *state responsibility*, the 1948 Genocide Convention, the International Covenant on Civil and Political Rights (ICCPR), and the Rome Statute. The state has not only failed to prevent violations but has actively contributed to discriminatory policies and systemic crimes against minority groups. Third, the enforcement of international law is urgently required to ensure accountability of perpetrators, restoration of victims' rights, and prevention of future atrocities. Reform of ICC and ICJ mechanisms is essential to strengthen jurisdiction, enhance investigative effectiveness, and promote stronger synergy among international bodies in addressing transnational crimes through more progressive and binding legal approaches.

Practically, this research encourages stronger global cooperation, enhanced legal protection for refugees and vulnerable groups, and the formulation of international policies grounded in the *responsibility to protect* (R2P) doctrine. Future research is recommended to explore the implementation of transitional justice mechanisms, hybrid court accountability models, and the reconstruction of citizenship policies for the Rohingya within this framework of international law and human rights.

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