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Stateless by Design: The Tragic Denial of Human Rights to the Rohingya Muslims

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Abstract

The Rohingya Muslims of Myanmar represent one of the most persecuted and stateless communities in the modern world. Despite centuries of settlement in the Rakhine region, they have been systematically denied citizenship, civil rights, and protection under Myanmar's legal framework. Since the 2017 military-led "clearance operations," over a million Rohingya have fled to neighboring countries, facing dire humanitarian conditions. This article explores the historical, legal, and geopolitical dimensions of the Rohingya crisis, highlighting the role of Myanmar's 1982 Citizenship Law, the failure of international mechanisms, and the broader implications for Muslim minorities globally. Drawing on recent scholarship and policy analysis, it argues that the Rohingya tragedy reflects both internal state-led exclusion and the global failure to uphold human rights norms.

Keywords: Rohingya, Statelessness, Myanmar, Citizenship Law, Human Rights, Refugee Crisis, ASEAN, Genocide, Muslim Minorities

Introduction

Human Dignity in Islamic and Universal Frameworks

The right to life, dignity, and freedom is a foundational principle in both religious and international legal traditions. Islam affirms the equality of all human beings, regardless of race, ethnicity, or creed. The Qur'an declares in Surah Al-Hujurat (49:13): "O mankind, We created you from a male and a female and made you into nations and tribes so that you may know one another. Verily, the noblest of you in the sight of Allah is the most God-fearing." This verse affirms that human worth is not determined by origin or identity, but by moral character.

The sanctity of life is further emphasized in Surah Al-Maidah (5:32): "If anyone kills a person, unless in retribution for murder or spreading corruption, it is as if he has killed all mankind; and if anyone saves a life, it is as if he has saved all mankind." These verses form the ethical bedrock of Islamic human rights philosophy, which aligns with the Universal Declaration of Human Rights (UDHR), particularly Article 1: "All human beings are born free and equal in dignity and rights."

The Prophet Muhammad's final sermon at Arafat reinforced this universalism: "No Arab is superior to a non-Arab, nor is a white superior to a black, except in piety and good deeds." His message was addressed not only to Muslims but to humanity at large, establishing a moral framework that transcends religious boundaries.

Historical Precedents of Inclusive Governance

Islamic history offers numerous examples of inclusive governance. Under Caliph 'Umar ibn al-Khattab, religious minorities (dhimmis) were granted civil rights and religious autonomy. They were allowed to practice their faith, organize public processions, and retain property. One notable incident involved 'Umar ordering the demolition of a mosque built on confiscated Jewish land, restoring it to its rightful owner a precedent of legal justice and interfaith respect (Al-Misriyyah, 2024).

Such examples challenge the modern narrative that religious governance is inherently exclusionary. In contrast, many contemporary secular states despite claiming to uphold human rights have been complicit in systemic violations. Nations such as Britain, France, Russia, and the United States have historically engaged in colonialism, warfare, and displacement, while simultaneously positioning themselves as global defenders of human rights. This paradox reveals a persistent gap between normative ideals and political practice.

The Decline of Muslim Political Power and Its Consequences

The erosion of Muslim political power has had profound implications for global human rights. The collapse of Baghdad in 1258, the fall of Andalusia in 1492, the dissolution of the Mughal Empire in 1857, and the disintegration of the Ottoman Caliphate after World War I marked the end of Muslim sovereignty across vast regions. These events were not merely political, they signaled the decline of a knowledge-based civilization that once led in science, law, and ethics.

Poststructuralist theorists argue that power produces knowledge, and knowledge reinforces power. The decline of Muslim empires coincided with a shift away from intellectual rigor toward cultural stagnation. As European nations advanced in science, technology, and governance, Muslim societies faced internal fragmentation and external domination. This imbalance has contributed to the marginalization of Muslim minorities worldwide, including the Rohingya, Palestinians, and Kashmiris.

Allama Iqbal, in his poetic reflection Ba'ng-e-Dara, captured this civilizational struggle:

ستیزہ کار رہا ہے ازل تا امروز --- چراغ مصطفوی سے شرار بو لہبی

("Since the beginning of time, the clash has persisted—between the light of Mustafa and the spark of Abu Lahab.")

Iqbal's metaphor underscores the enduring conflict between moral truth and oppressive power.

The Rohingya Crisis: A Case of Stateless Suffering

The Rohingya Muslims of Myanmar exemplify the tragic consequences of legal exclusion and geopolitical neglect. Despite centuries of settlement in the Rakhine region, they have been denied recognition as one of Myanmar's 135 official ethnic groups. The 1982 Citizenship Law stripped them of nationality, rendering them stateless and vulnerable to systemic abuse.

Before the 2017 military-led "clearance operations," over 1.4 million Rohingya lived in Rakhine State. Following the violence, nearly one million fled to Bangladesh, Indonesia, Malaysia, and other neighboring countries (Mutaqin, 2018). The global Rohingya population now exceeds 3.5 million, with the majority living in refugee camps under precarious conditions (Hossain & Hosain, 2019).

Their plight raises urgent questions: Why are these people homeless, stateless, and rightless in a world governed by international law? Are they not protected under the UN Charter, the Genocide Convention, and the Universal Declaration of Human Rights? Why has the global community failed to intervene meaningfully?

Despite widespread documentation of atrocities including mass killings, sexual violence, and village destruction, international responses have been limited. The ICJ issued provisional measures in 2020, and the ICC opened investigations, yet Myanmar's military junta remains defiant. Human rights activists continue to raise their voices, but enforcement mechanisms remain weak.

Methodology and Theoretical Framework

This article employs a qualitative, interdisciplinary approach grounded in legal analysis, historical interpretation, and normative ethics. It synthesizes primary sources , including international legal

instruments, UN reports, and Rohingya-led documentation, with secondary academic literature from law, political science, and postcolonial studies. The methodology is interpretive and critical, aiming to uncover the structural and ideological roots of Rohingya statelessness and persecution.

The theoretical framework integrates four complementary lenses:
• **Postcolonial Legal Theory**: This lens situates the Rohingya crisis within the legacy of colonial boundary-making and ethnic categorization. It explains how Myanmar's legal architecture inherited and weaponized exclusionary tools, transforming citizenship into a mechanism of control and erasure.
• **Critical Citizenship Theory:** This perspective interrogates the 1982 Citizenship Law as a tool of legal invisibility. It explores how citizenship functions not merely as a legal status but as a gatekeeping device that determines access to rights, protection, and recognition.
• **Genocide Studies and International Criminal Law:** This framework provides the legal scaffolding to assess Myanmar's "clearance operations" under the Genocide Convention and international humanitarian law. It highlights the gap between normative commitments and enforcement mechanisms in global governance.
• **Islamic Ethical Framework:** Rooted in Qur'anic teachings and prophetic traditions, this normative overlay emphasizes human dignity, equality, and justice. It offers a moral counterpoint to global inaction and critiques the silence of Muslim-majority states in the face of systemic persecution.
Together, these frameworks enable a multidimensional analysis that bridges law, history, and moral philosophy. They support the article's central thesis: that the Rohingya crisis is not only a legal failure but a civilizational challenge that demands renewed scholarly, political, and ethical engagement.

Who Are the Rohingya? Historical Identity and Legal Alienation
Ethnic and Religious Identity
The Rohingya Muslims constitute a distinct ethnoreligious and linguistic group primarily residing in the northwestern region of Myanmar's Rakhine State. Alongside the predominantly Buddhist Rakhine population, the Rohingya represent one of the two major communities in the region. Their identity is shaped by centuries of cultural and religious evolution, with historical roots tracing back to Arab, Moorish, and Persian traders who arrived in the 7th century and intermingled with local populations (Hossain & Hosain, 2019).

Subsequent waves of migration from Bengal, particularly during the British colonial period, further diversified the demographic landscape of Arakan (now Rakhine). The British administration did not establish rigid boundaries between Bengal and Arakan, facilitating the movement of Muslim Bengalis into the region for agricultural labor. This porous frontier contributed to the Rohingya's socio-cultural ties with Bangladesh, including linguistic affinities and shared religious practices (Wolf, n.d.).

Despite their long-standing presence, the Rohingya have been subjected to racialized narratives. They are often described as "dark-skinned" Bengali speakers, in contrast to the "fair-skinned" Burmese majority, a distinction that has fueled discriminatory attitudes and exclusionary policies (Ibid).

Etymology and Historical Recognition
The term "Rohingya" is derived from "Rakhanga" or "Roshanga," historical names for the Arakan region. The Rohingya refer to themselves as Ruáingga (/ɾuájŋga/), while Burmese speakers use "rui hang gya," and Bengali speakers use "Rohingga" (The Mujahid Revolt in Arakan Background, n.d.). Historical records, including Francis Buchanan's 1799 linguistic survey published in the SOAS Bulletin of Burma Research, document the term "Rohingya" as early as the late 18th century (Charney, 2003).
Although some historians dispute the term's usage during the British colonial period, official recognition was granted in the post-independence era. Prime Minister U Nu publicly acknowledged the Rohingya in a 1950 speech, and in 1959, both the Prime Minister and Defense Minister affirmed their status as equal to other ethnic groups such as the Kachin, Kayah, Karen, Mon, and Shan (Rahman, 2012). However, the term "Rohingya" remains politically sensitive and is banned in official discourse,

particularly in Yangon. The community is often derogatorily referred to as kalar, a racial slur used to demean their skin color and perceived foreignness (Habib, 2021).

Rohingya as an Alienated Community in Myanmar
Postcolonial Narratives and Ethnic Denial

Following Myanmar's independence in 1948, the Rohingya were increasingly portrayed as "unauthorized trespassers" from Bangladesh. The state narrative emphasized their alleged colonial-era migration and framed them as demographic threats to national identity. During World War II, the Rohingya aligned with British forces, while many Rakhine Buddhists supported the Japanese. This wartime allegiance further entrenched suspicions and accusations of disloyalty (Mutaqin, 2018).

Successive governments refused to recognize the Rohingya as one of Myanmar's 135 official ethnic groups. Instead, they were labeled as "Bengalis," a term used to delegitimize their historical presence and justify exclusionary policies. The Rohingya were increasingly viewed as a threat to Myanmar's ethnic homogeneity, economic stability, and political centralization.

Citizenship and Political Participation (1948–1962)

Ironically, the early post-independence period saw moments of inclusion. Under the 1948 Union Citizenship Act, Rohingya individuals were eligible for citizenship. During the administrations of Prime Ministers U Nu and U Ba Swe (1952–1960), the Rohingya were granted civil and political rights. They participated in national elections and held public office, affirming their status as legitimate citizens (Constantine, 2012; Gravers, 2015).

The 1964 government-published encyclopedia acknowledged that townships such as Maungdaw and Buthidaung were predominantly populated by Rohingya, comprising up to 75% of the local population. These acknowledgments were later erased from official records following the military coup of General Ne Win in 1962.

Institutionalized Marginalization: The Ne Win Era and Beyond

General Ne Win's regime marked a turning point in the Rohingya's legal and social status. Driven by anti-colonial nationalism and a vision of ethnic purity, Ne Win launched policies aimed at homogenizing Burma's population. The Rohingya, viewed as "foreigners" and "mixed heritage," became targets of state-led exclusion.

In 1977, the military-initiated Operation Nagamin ("Dragon King"), a nationwide campaign to verify citizenship. Rohingya residents were subjected to invasive scrutiny, and their National Registration Cards (NRCs) were confiscated. The operation led to mass violence and displacement, with over 222,000 Rohingya fleeing to Bangladesh to escape persecution (Zarni & Cowley, 2014).

Although 178,280 refugees were repatriated in 1979 with UNHCR assistance (Grundy-Warr & Wong, 1997), the cycle of displacement and return continued. The influx of returnees prompted nationalist groups to demand a new legal framework to exclude the Rohingya permanently.

The 1982 Citizenship Law: Legal Erasure

In response, Myanmar's parliament enacted the 1982 Citizenship Law, which redefined citizenship based on ethnic lineage and historical presence prior to 1823. The law created three tiers of citizenship—full, associate, and naturalized—but excluded the Rohingya from all categories. This legal maneuver effectively rendered them stateless.

The consequences were severe:
• Loss of legal identity and documentation
• Restrictions on movement, marriage, and childbirth
• Forced labor and land confiscation
• Denial of education, healthcare, and employment

As stateless undocumented immigrants, the Rohingya were stripped of protection under both domestic and international law. The state denied any duty toward them, and their existence was criminalized.

This legal exclusion violates multiple international instruments:
• Universal Declaration of Human Rights (UDHR), Article 15: Right to nationality
• Convention on the Rights of the Child (CRC): Access to identity and protection
• International Covenant on Civil and Political Rights (ICCPR): Non-discrimination and legal recognition

Recurring Cycles of Displacement
The Rohingya crisis has followed a pattern of cyclical violence and displacement:
• 1978: Operation Nagamin
• 1991–92: Renewed military crackdowns
• 2012: Communal violence in Rakhine
• 2017: "Clearance operations" leading to mass exodus

Each wave has been marked by state violence, legal disenfranchisement, and international inaction. The 2017 crackdown alone displaced over 740,000 Rohingya, prompting global condemnation but limited accountability.

Historical Perspective on the Rohingya of Rakhine (Arakan)

Historical Geography and Identity Formation
The Rohingya Muslims have long been associated with the Arakan region, now known as Rakhine State in western Myanmar. Contrary to claims that they are recent migrants from Bangladesh, historical and geographical evidence suggests deep-rooted settlement patterns that predate the formation of modern nation-states. The region's topography and administrative divisions played a significant role in shaping its demographic composition.

Prior to Myanmar's independence in 1948, the Akyab district (now Sittwe, the capital of Rakhine State) was geographically distinct from central Burma due to the Arakan Yoma mountain range. This natural barrier separated Arakan from the rest of the country, while rivers such as the Naf and Mayu facilitated north-south movement and trade. The Naf River, which now marks the border between Myanmar and Bangladesh, historically served as a conduit rather than a divider, linking communities on both sides (Alam, 1999).

The district was divided into two key administrative zones:
• Buthidaung, characterized by hilly terrain and the Mayu River valley
• Maungdaw, known for its fertile plains and agricultural productivity

These areas were historically populated by a mix of Muslim and Hindu communities who migrated freely between Chittagong (now in Bangladesh) and Arakan. Matrimonial unions and shared cultural practices further blurred ethnic boundaries. The collapse of the Kingdom of Arakan in 1785 and its annexation by the Burmese empire marked a turning point, but the region's ethnic and linguistic diversity persisted (Constantine, 2012).

The argument that the Rohingya are not indigenous to Rakhine overlooks the fluidity of precolonial borders and the historical integration of Muslim communities into the socio-economic fabric of Arakan. The formation of modern boundaries and nationalist narratives has retroactively redefined these populations as "foreign," despite their centuries-long presence.

Religious Tensions and Political Instrumentalization
The socio-religious divide between the Rohingya Muslims and Rakhine Buddhists has deep historical roots, exacerbated during the colonial and postcolonial periods. British colonial policies, which favored Muslim labor migration and administrative roles, sowed resentment among the Buddhist majority. During World War II, the British recruited Rohingya fighters to resist Japanese forces, while many Rakhine Buddhists aligned with Japan in opposition to colonial rule (Mutaqin, 2018).

This wartime polarization entrenched mutual suspicion and laid the groundwork for post-independence conflict. Buddhist leaders viewed both the British and the Muslim population as existential threats to their religious and cultural identity. The colonial administration's efforts to

promote Christianity through missionary activity further inflamed tensions, prompting Buddhist monks to mobilize against perceived Western and Islamic encroachment (Gravers, 2015).

The rise of Buddhist nationalist movements, particularly those influenced by Sri Lankan monastic activism, introduced a politicized interpretation of Dhamma—the moral and doctrinal foundation of Buddhism. These movements framed the Rohingya as agents of moral decay and demographic disruption. Intermarriage between Muslims and indigenous women was cited as evidence of cultural erosion, fueling calls for exclusion and homogenization (Alam, 1999).

Following Myanmar's independence, the Rohingya initially experienced a brief period of inclusion under military rule. They were granted civil rights and allowed to participate in elections. However, this changed dramatically under the leadership of Aung San Suu Kyi, a Nobel Peace Prize laureate once celebrated for her commitment to human rights. Despite her international reputation, Suu Kyi's government presided over severe persecution of the Rohingya, including mass displacement and denial of citizenship.

Her alliance with Buddhist nationalist groups—united in opposition to the military junta—compelled her to adopt exclusionary policies against the Rohingya. This political compromise undermined her human rights credentials and led to international condemnation. In 2019, Suu Kyi appeared before the International Court of Justice to defend Myanmar against charges of genocide. Her silence on military atrocities and endorsement of state narratives shocked global observers and further entrenched the Rohingya's marginalization (Rahman, 2012).

The Buddhist monastic movement continues to oppose the Rohingya, as well as broader trends of globalization and Westernization. Religion remains a potent political tool in Myanmar, used to justify exclusion, mobilize support, and suppress dissent. The Rohingya crisis cannot be understood in isolation, it is embedded in a complex matrix of historical grievances, religious nationalism, and geopolitical maneuvering.

Genocide and Exodus of the Rohingya (Post-2017)

The 2017 "Clearance Operations": A Turning Point

On August 25, 2017, Myanmar's military (Tatmadaw) launched a coordinated campaign in northern Rakhine State, described by the government as "clearance operations" targeting alleged insurgents. In reality, the campaign amounted to a systematic assault on the Rohingya civilian population. According to multiple investigations, including those by Human Rights Watch and the UN Fact-Finding Mission, the violence included:

• The rape of over 18,000 Rohingya women and girls
• The beating of 116,000 individuals
• The burning of 354 villages, confirmed via satellite imagery
• The killing of 36,000 civilians, many of whom were thrown into fires or executed

These atrocities were accompanied by widespread looting, destruction of homes, and gang rapes committed by military personnel and vigilante groups. The brutality of the campaign prompted mass displacement, with over 740,000 Rohingya fleeing to Bangladesh between August and December 2017 (Chowdhury & Khan, 2019).

The international response was swift but fragmented. UK Prime Minister Theresa May and US Secretary of State Rex Tillerson labeled the events as "ethnic cleansing," while French President Emmanuel Macron referred to it as "genocide" (Genocide They Wrote, 2019). The United Nations characterized the persecution as a "clear and classic example of ethnic cleansing."

In September 2017, the Permanent People's Tribunal, an independent Italian body, concluded that Myanmar's military and government were responsible for genocide against both the Rohingya and Kachin minorities. The tribunal's findings were based on survivor testimonies, forensic evidence, and legal analysis.

Despite mounting evidence, Myanmar's leadership, including State Counselor Aung San Suu Kyi, remained silent or dismissive. Her refusal to condemn the violence and her defense of military actions

before the International Court of Justice (ICJ) in 2019 drew global criticism. Suu Kyi's political alliance with Buddhist nationalist groups and her strategic positioning against the military junta complicated her stance, but did not absolve her of complicity.

In November 2017, Bangladesh and Myanmar signed a repatriation agreement, pledging to return refugees to Rakhine within two months. However, the plan lacked safeguards, transparency, and international oversight. As of 2025, no meaningful repatriation has occurred, and conditions in Rakhine remain unsafe.

Unfathomable Violations of Rohingya Rights

The 2017 genocide was not an isolated event—it was the culmination of decades of systemic abuse. According to Amnesty International, Rohingya Muslims have faced persecution since at least 1978, though earlier violations were less widely recognized (Amnesty International, 2012).

Key patterns of abuse include:

• Discrimination and harassment by Buddhist majority groups
• Enforced disappearances and extrajudicial killings
• Sexual violence, often ignored or facilitated by local authorities
• Forced labor, land confiscation, and denial of basic services

In 2012, the conviction of three Rohingya men for allegedly raping a Rakhine woman sparked communal violence, leading to mass displacement and the destruction of Rohingya neighborhoods. The incident was used to justify military crackdowns and further marginalization.

The refugee crisis intensified in 2015, when nearly 25,000 Rohingya and Bangladeshi asylum seekers fled by sea to Malaysia, Indonesia, and Thailand. Many were stranded in boats for weeks, denied entry, or subjected to trafficking and abuse. The lack of regional protection frameworks left them vulnerable to exploitation and statelessness.

Earlier waves of violence in 1978, 1992, and 2012 followed similar patterns:

• State-led operations targeting Rohingya communities
• Mass displacement into Bangladesh and Southeast Asia
• Limited international response and failed repatriation efforts

In host countries, Rohingya refugees are often treated as migratory laborers rather than protected persons. They face poverty, informal employment, and legal invisibility. The absence of refugee status or durable solutions perpetuates their vulnerability.

The UNHCR's 2024 Global Trends Report estimates that over 980,000 Rohingya remain in Bangladesh's Cox's Bazar camps, with no access to citizenship, education, or long-term resettlement. The camps are overcrowded, underfunded, and increasingly unstable due to political tensions and environmental risks.

Legal Framing and International Implications

The Rohingya crisis violates multiple international legal instruments:

• Genocide Convention (1948): Myanmar is a signatory and thus obligated to prevent and punish acts of genocide.
• Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): Violated through widespread sexual violence.
• Convention on the Rights of the Child (CRC): Breached through denial of education, healthcare, and legal identity.
• Universal Declaration of Human Rights (UDHR): Violated in nearly every article Srelevant to dignity, freedom, and protection.

In 2019, The Gambia filed a case against Myanmar at the ICJ, invoking the Genocide Convention. The court issued provisional measures in 2020, ordering Myanmar to prevent genocidal acts and preserve evidence. However, enforcement remains weak, and the military junta continues to defy international pressure.

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The Independent Investigative Mechanism for Myanmar (IIMM), established by the UN Human Rights Council, continues to collect evidence and prepare case files for future prosecution. Civil society organizations, including Rohingya-led NGOs, have intensified documentation efforts, using satellite imagery, survivor testimonies, and legal analysis to build accountability.

Legal and Policy Frameworks: Statelessness, Genocide, and International Accountability

Myanmar's Domestic Legal Architecture
The legal exclusion of the Rohingya is rooted in Myanmar's post-independence citizenship laws. The 1948 Union Citizenship Act initially recognized the Rohingya as eligible citizens, particularly those residing in Arakan prior to British annexation. However, this inclusive framework was dismantled with the passage of the 1982 Citizenship Law, which introduced a tripartite system of citizenship—full, associate, and naturalized—based on ethnic lineage and historical presence before 1823.

The Rohingya were excluded from the list of 135 recognized ethnic groups, effectively rendering them stateless. The law required documentary proof of ancestry, which many Rohingya could not provide due to decades of displacement and administrative neglect. As a result, they were denied:
• National Registration Cards (NRCs)
• Voting rights and political participation
• Access to education, healthcare, and employment
• Freedom of movement and legal protection

The 1982 law remains in force, and as of 2025, no amendments have been made to reinstate Rohingya citizenship. The military junta continues to enforce exclusionary policies, and the Rohingya are classified as "illegal immigrants" or "Bengalis," despite their centuries-long presence in Rakhine.

International Legal Instruments and Violations
The Rohingya crisis implicates multiple international conventions and treaties, many of which Myanmar has ratified or is bound by customary law:

In 2019, The Gambia filed a case against Myanmar at the International Court of Justice (ICJ), alleging violations of the Genocide Convention. The ICJ issued provisional measures in January 2020, ordering Myanmar to prevent genocidal acts and preserve evidence. As of 2025, Myanmar has failed to comply, and the case remains ongoing.

The International Criminal Court (ICC) opened a preliminary investigation in 2018, focusing on crimes committed in Bangladesh territory (e.g., forced deportation). However, no arrest warrants have been issued, and Myanmar's non-membership in the Rome Statute complicates jurisdiction.

Documentation and Evidence Collection
The Independent Investigative Mechanism for Myanmar (IIMM), established by the UN Human Rights Council in 2018, continues to collect evidence of international crimes. As of its 2025 annual report, the IIMM has:
• Compiled over 3 million documents and testimonies
• Verified satellite imagery of village destruction
• Documented patterns of sexual violence and forced displacement
• Prepared case files for future prosecution

Rohingya-led NGOs such as Fortify Rights, BROUK, and Rohingya Women's Network have played a critical role in survivor documentation, legal advocacy, and international outreach. Their work has informed UN reports, tribunal findings, and universal jurisdiction cases.

Universal Jurisdiction and Emerging Legal Strategies
In response to stalled international mechanisms, civil society groups have pursued universal jurisdiction cases in national courts. Notable developments include:
• Argentina (2021–2025): A case filed by BROUK seeks prosecution of Myanmar's military leaders

under Argentina's universal jurisdiction laws. The court has accepted preliminary filings and is reviewing evidence.

• Germany (2024): Legal scholars and human rights lawyers have initiated proceedings under Germany's Code of Crimes Against International Law (VStGB), focusing on genocide and crimes against humanity.

• Netherlands and Sweden: Legal teams are exploring jurisdictional pathways based on Rohingya asylum claims and cross-border crimes.

These efforts represent a shift toward decentralized accountability, bypassing geopolitical gridlock at the UN Security Council.

Policy Gaps and Enforcement Failures

Despite legal instruments and documentation, enforcement remains weak due to:

• Myanmar's military control and refusal to cooperate with international bodies
• Geopolitical protection from China and Russia, who block UN Security Council resolutions
• ASEAN's non-interference doctrine, which prevents regional pressure
• Donor fatigue and declining humanitarian funding, especially in Bangladesh

The 2025 Joint Response Plan (JRP) for Rohingya refugees appeals for $852 million, but funding remains below 40% as of October 2025. The lack of durable solutions—repatriation, resettlement, or integration—has left over 1 million Rohingya in protracted displacement.

Recommendations for Legal Reform and Accountability

To address these gaps, this article proposes:

• Amending Myanmar's 1982 Citizenship Law to reinstate Rohingya nationality
• Supporting ICJ and ICC proceedings through diplomatic and financial means
• Expanding universal jurisdiction cases in national courts
• Strengthening IIMM's mandate and funding for evidence collection
• Mobilizing ASEAN and OIC to adopt coordinated legal and humanitarian frameworks
• Establishing a Rohingya Legal Defense Fund, supported by international donors and diaspora networks.

Literature Review

Rohingya Crisis in Legal, Historical, and Humanitarian Scholarship

Statelessness and Legal Exclusion

Scholars have extensively examined the legal mechanisms that render the Rohingya stateless. Maung Zarni and Alice Cowley (2014) argue that Myanmar's 1982 Citizenship Law institutionalized ethnic exclusion, transforming the Rohingya into legal non-persons. Melissa Crouch (2020) expands this analysis by situating the law within Myanmar's broader constitutional framework, noting how legal ambiguity enables state violence.

Recent work by Khin Mar Mar Kyi (2023) critiques the performative nature of legal reform in Myanmar, emphasizing that citizenship remains a political tool rather than a rights-based entitlement. The IIMM's 2025 report reinforces this view, documenting how legal disenfranchisement facilitates genocide and impunity.

Historical Identity and Ethnic Narratives

The Rohingya's historical presence in Arakan has been contested in both academic and political discourse. Michael Charney (2003) and Francis Buchanan (1799) provide linguistic and archival evidence of Rohingya identity prior to British colonization. Azeem Ibrahim (2016) challenges revisionist narratives that portray the Rohingya as recent migrants, arguing that such claims serve nationalist agendas.

Greg Constantine (2012) uses photojournalism to humanize the Rohingya's displacement, while Mikael Gravers (2015) explores the role of Buddhist nationalism in shaping exclusionary state policies.

Genocide and International Accountability

The 2017 "clearance operations" have been widely analyzed as acts of genocide. Amnesty International (2018), Human Rights Watch (2019), and the UN Fact-Finding Mission (2018) documented mass killings, sexual violence, and village destruction. Chowdhury and Khan (2019) explore the geopolitical dimensions of the crisis, highlighting the role of regional actors and global inertia.

Legal scholars such as Payam Akhavan (2021) and Philippe Sands (2022) examine the ICJ case filed by The Gambia, arguing that it sets a precedent for genocide litigation by small states. The 2025 IIMM report confirms that Myanmar's military actions meet the threshold for crimes against humanity.

Humanitarian Response and Refugee Protection

The humanitarian literature focuses on displacement, camp conditions, and host country dynamics. UNHCR and IOM reports (2020–2025) detail overcrowding, funding shortfalls, and protection gaps in Cox's Bazar. Sarah Deardorff Miller (2021) critiques the global refugee regime's failure to address protracted displacement.

Ali Riaz (2023) and Nasir Uddin (2024) explore the politics of asylum in South Asia, noting how Rohingya refugees are treated as laborers rather than rights-holders. Fortify Rights and BROUK have published survivor-led research that challenges top-down humanitarian models.

Gaps and Contributions

Despite rich scholarship, key gaps remain:
• Limited integration of Islamic legal and ethical frameworks
• Underrepresentation of Rohingya voices in academic discourse
• Fragmented analysis across law, history, and humanitarian studies
This article addresses these gaps by:
• Bridging Islamic ethics and international law
• Synthesizing historical, legal, and geopolitical dimensions
• Offering actionable recommendations for reform and accountability.

Recommendations

To address the Rohingya crisis meaningfully, this article proposes a multi-level strategy involving legal reform, international accountability, regional cooperation, and civil society engagement.

Legal Reform in Myanmar

• Amend the 1982 Citizenship Law to reinstate Rohingya nationality.
• Recognize the Rohingya as an indigenous ethnic group with historical ties to Rakhine State.
• Restore access to documentation, education, healthcare, and employment.

International Accountability

• Support ICJ and ICC proceedings through diplomatic and financial means.
• Expand universal jurisdiction cases in national courts (e.g., Argentina, Germany).
• Impose targeted sanctions on Myanmar's military leadership and freeze assets.

Regional and Global Cooperation

• Urge ASEAN to adopt a coordinated refugee protection framework.
• Strengthen Bangladesh's capacity through sustained funding and resettlement programs.
• Mobilize the Organization of Islamic Cooperation (OIC) to establish legal aid and advocacy funds.

Civil Society and Diaspora Engagement
• Support Rohingya-led NGOs in documentation, education, and legal advocacy.
• Promote digital literacy and storytelling platforms to amplify survivor voices.
• Encourage academic institutions to fund Rohingya research fellowships and publish peer-reviewed work.

Strengthening the Role of the OIC
The Organization of Islamic Cooperation (OIC) must adopt a more active and decisive role in addressing the unresolved crises affecting marginalized Muslim communities, including the Rohingya, Palestinians, Uighurs, and others. This includes:
• Coordinating diplomatic pressure on host and origin states
• Establishing legal aid and documentation frameworks for stateless populations
• Mobilizing humanitarian resources and advocating for international accountability mechanisms

Reassessing the Role of the United Nations
The United Nations, particularly the Security Council, has become increasingly ineffective due to the veto power of the P5 members, which often obstructs action on humanitarian emergencies involving Muslim populations. This paralysis calls for:
• A structural reform of the UN system to democratize decision-making
• Alternatively, a coalition of Muslim-majority states could consider forming a parallel global institution, one that is values-aligned, responsive, and capable of enforcing international norms without geopolitical bias

Conclusion
The Rohingya crisis is not merely a humanitarian emergency, it is a legal and moral indictment of the global order. A community with centuries of history in Myanmar has been rendered stateless, persecuted, and silenced. Despite international conventions and legal mechanisms, justice remains elusive due to geopolitical inertia and institutional weakness.

Islamic principles of human dignity and equality offer a counter-narrative to exclusionary nationalism. Historical examples of inclusive governance contrast sharply with the modern-day treatment of Muslim minorities. The plight of the Rohingya echoes the suffering of Palestinians, Kashmiris, and other marginalized groups, revealing a pattern of global neglect.

Until Muslim-majority states elect principled leadership and international institutions uphold their mandates without bias, the Rohingya will remain a symbol of stateless suffering. This article calls for renewed legal, political, and scholarly engagement to restore their rights and dignity.

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