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## **Human Rights Council (HRC)**

*Preserving the rights and autonomy  
of the Rohingya population in  
Myanmar*

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RESEARCH  
REPORT



**Forum:** Human Rights Council

**Issue:** Preserving the rights and autonomy of the Rohingya population in Myanmar

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## Introduction

Throughout human history there have been many atrocities that have taken place like war, genocide, slavery and many more. Following world war II, the United Nations (UN) was founded in order to maintain peace and published the Universal Declaration of Human Rights (UNDR) as a milestone document to guide all humanity and set universal standards of achievements for all people. Unfortunately, actions that we now consider to be against human rights still exist in the world even 73 years after the declaration was published. While different parties see the situation in their own ways, the situation of the Rohingya population in Myanmar is no doubt concerning. In times of global crisis such as the pandemic often human rights violations may be disregarded. It is the mission of the Human Rights Council to promote and protect the human rights of every human, including the Rohingya population in Myanmar.

## Definition of Key Terms

**Genocide:** “genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: Killing members of the group; Causing serious bodily or mental harm to members of the group; Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; Imposing measures intended to prevent births within the group; Forcibly transferring children of the group to another group.” (United Nations, “United Nations Office on Genocide Prevention and the Responsibility to Protect”)

**Ethnic Cleansing:** “a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas.” (United Nations)

**Immigrant:** “a person who has come to a different country in order to live there permanently.” (Cambridge Dictionary)

**Refugee:** “Refugees are persons who are outside their country of origin for reasons of feared persecution, conflict, generalized violence, or other circumstances that have seriously disturbed public order and, as a result, require international protection.” (United Nations)

**International Court of Justice (ICJ):** “The International Court of Justice (ICJ) is the principal judicial organ of the United Nations (UN). It looks at cases between states working with international law” (“The Court | International Court of Justice”)

**International Criminal Court (ICC):** “The International Criminal Court (ICC) investigates and, where allowed, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and the crime of aggression.” (International Criminal Court”)

**Ethnic group:** “a social group or category of the population that, in a larger society, is set apart and bound together by common ties of race, language, nationality, or culture.” (“Ethnic Group | Britannica”)

**Jihadist:** “a Muslim who advocates or participates in a jihad, a holy war started on behalf of Islam.” (“Merriam-Webster Dictionary”)

**Rakhine State (Arakan):** Rakhine State otherwise known as Arakan State is one of the seven states in Myanmar located in the Western part of the country, on the border with Bangladesh. Many Rohingya live in Rakhine State in Myanmar. (“Arakan | State, Myanmar | Britannica”)

## General Overview

While the Rohingya crisis in Myanmar attracted international attention in 2017, the roots of the crisis go much further back, and the crisis is much more complicated than it might seem at first glance. Myanmar, previously known as the Union of Burma, is a former British colony that gained independence in 1947. There are over 135 ethnic groups living in Myanmar among which are the Rohingya. There has always been some tension within Myanmar regarding ethnic groups. The Rohingya are a predominantly Muslim minority in a Buddhist majority country and they live mostly in the Rakhine state, but they are not the only Muslims in Myanmar. They are however one of the least assimilated ethnic groups in Myanmar as they have their own language, their own culture and generally a different religion than most of the country. Antonio Guterres, the Secretary-General of the UN, said “I have no doubt that the Rohingya people have always been one of, if not the, most discriminated people in the world, without any recognition of the most basic rights.” (“Jim Yong Kim”) while visiting a refugee camp in neighboring Bangladesh. While the persecution of the Rohingya has been going on for almost half a decade to be able to fully understand the issue we must look even further back.



## Historical Context

Before independence India, Bangladesh and Burma (Myanmar) were all considered to be a part of the British Empire and people moved as they wished throughout the regions. During World War II the Rohingya allied with the British and wanted the Rakhine state to be a part of Bangladesh, whereas the ethnically Burmese government allied with Japan and gained independence meaning that the Rakhine state where most Rohingya lived now became part of the Union of Burma. Since the Rohingya wished to be a part of Bangladesh and allied with the British, the Burmese Government viewed them as Bangladeshi immigrants and this began the tension in the region. However, they were still considered citizens of Burma under the 1948 Constitution.



Figure SEQ Figure 1\* ARABIC 2:  
What is now known as India,  
Bangladesh and Myanmar during  
colonial rule

This changed after the 1974 change in constitution. The Rohingya minority was no longer officially recognized by the Burmese Government. Following the ruling, tensions in the region rose and the Rohingya Mujahideen, jihadists (see definition of key terms), fought against the Burmese government. Following these events, the Burmese Government started operation “Dragon King” in Northern Rakhine which caused one of the first refugee crises in the region, an estimated 250,000 Rohingya fled to Bangladesh.

In 1982, the Rohingya completely lost citizenship because they were not one of the 135 ‘national races’ recognized by the government. This basically meant that the Rohingya were now seen as illegal immigrants in Burma and they had no state(country). This law took away the Rohingya’s right to vote and made access to education, health, and travel extremely difficult. The law could be seen as a violation to article 15 sub section 2 of the UHDR which states that “No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.” (“Universal Declaration of Human Rights”). In the 80’s the Rohingya Solidarity Organization was formed and later became the Rohingya National Army, which fought against the Burmese army. The fighting and operations by the Burmese Government went on for many years and even carried out to present day.

### **Current Situation**

In 2012, three Muslim men raped and murdered a Rakhine woman which caused the tensions in the region to rise and led the Myanmar Government to take action in the region once again. The UN Special Rapporteur for human rights in Burma, Tomas Quintana, who toured the country in October 2012, cited evidence of ‘systematic torture’ against Rohingya inmates(prisoners). Other reports indicated that many Rohingya prisoners had died in detention. (“Muslims and Rohingya - Minority Rights Group”). If true, both these actions could be seen as violations of UDHR articles 5 and 9.

The tipping point that led to the current crisis, however, arose in August of 2017, where over half a million of Rohingya fled to Bangladesh as violence in the region increased. There were claims of mass killings, burning of villages and rape of women and children. A refugee camp was built in Cox’s Bazar in Bangladesh where around 750,000 Rohingya still live in poor conditions. Many people in the camps live in cramped places, access to education is limited and healthcare is poor. People also are traumatized and do not know how to deal with the atrocities they witnessed.

The United Nations described the situation as a “textbook example of ethnic cleansing.” (BBC News). There was also great backlash in the international community as videos, photos and personal stories were published by the refugees that fled to Bangladesh. Currently the Rohingya are effectively trapped in Cox’s Bazar with nowhere to go and the resources of the Bangladeshi government are running out.

## **Major Parties Involved and Their Views**

### **Myanmar (Burma)<sup>1</sup>**

<sup>1</sup> the Union of Burma changed its name to Myanmar in 1989 to be more inclusive of ethnic minorities. Throughout this report both names have been used according to historic context. It must be kept in mind that they are the same country.

Myanmar completely rejects all claims that a genocide has taken place in Myanmar against the Rohingya. The government states that they have been protecting their sovereignty against militant groups that aimed to throw down their government. The leader of Myanmar, Aung San Suu Kyi said when she first addressed the issue that there was not conclusive evidence about why so many refugees fled to Bangladesh and said that “more than 50% of the villages of Muslims are intact.” She went on to say, “We must look at the areas where there are problems as well as the areas where there aren’t problems.” While speaking in the Hague at the International Court of Justice in 2019 she also admitted that the military may have used excessive force in the region and some crimes were committed but Myanmar should be allowed to persecute people within their own country because national security and the right to sovereignty are at stake. However, the leader states that the word genocide should not be used because it is way too harsh for this situation. The government also claims that the basic rights of people like education, shelter and health are met in the region. It is also important to note that the government still views the Rohingya as illegal immigrants from Bangladesh.

### **The Rohingya People**

The Rohingya people want justice to be served and protected after what has happened to them. They also want to return to Rakhine which they consider their home, yet they will not do it unless their safety is ensured. Even though the Rohingya are an ethnic minority in Myanmar they do not accept the accusations by the government that claims that they are illegal immigrants, instead they say their ancestors have lived in Rakhine state for centuries. They want ways to deal with the psychological trauma they have went through and for their rights to be protected.

### **Bangladesh**

Bangladesh is the country who took in the biggest number of Rohingya refugees in 2017. According to the International Organization on Migration there are currently 1,300,000 people in need at the refugee camp in Cox’s Bazar in Bangladesh. The conditions in the camps are not ideal because the government cannot provide more help however the aid provided by the Bangladeshi government is still very important to keeping the situation from getting worse. There have been many reports saying that it is not yet safe for the Rohingya to return to Myanmar and many of the refugees want to stay in Bangladesh because they are afraid to go home. However, Bangladesh is beginning to struggle to host over a million refugees within its borders especially as the coronavirus pandemic is affecting their economies negatively. Tensions between Bangladeshis and the Rohingya may rise as the economy gets worse. The International Criminal Court has also begun an investigation regarding this topic because the Bengali Government has signed the treaty needed.

### **The Gambia**

The Gambia submitted a case against Myanmar regarding the mistreatment of Rohingya. This was a groundbreaking case as no country had ever submitted a case that did not affect them directly to the ICJ. The Gambia presented a 46-page case against Myanmar that contained eyewitness testimony of crimes against humanity in Rakhine state. The case was based on the Genocide Convention that was signed by both Myanmar and the Gambia. The case passed in favor of the Gambia “on its face” meaning only generally speaking and for the time being however because cases regarding genocide are extremely

complicated the final decision may have different results. Nonetheless, the ICJ ordered Myanmar to stop the killing of the Rohingya and ordered them to be protected.

## China

While it does not have a direct role in the region China is a P5 member of the UN and a close ally of Myanmar. China has opposed the embargos on Myanmar submitted through the Security Council and has made it difficult for any issue regarding the Rohingya to be discussed there.

## Timeline of Events

<b>4 January 1947</b>	<i>Myanmar gains independence from the British Empire</i>
<b>10 December 1948</b>	<i>The Universal Declaration of Human Rights is established</i>
<b>1948</b>	<i>Burma's first constitution is established</i>
<b>1974</b>	<i>The Rohingya minority is no longer officially recognized by the Burmese Government under the 1974 constitution change.</i>
<b>6 February-31 July 1978</b>	<i>Operation Dragon King is launched by the government of Burma.</i>
<b>1982</b>	<i>The Rohingya are no longer officially recognized by Burma and lose citizenship.</i>
<b>1989</b>	<i>The official English name was changed by the country's government from the "Union of Burma" to the "Union of Myanmar" in 1989</i>
<b>1991-1992</b>	<i>Refugee camps are set up in parts of Bangladesh to host the influx of refugees.</i>
<b>2012</b>	<i>Tension rises in the region after a Rakhine woman is murdered.</i>
<b>August 2017</b>	<i>Over half a million of Rohingya people fled to Bangladesh as violence in the region increases.</i>
<b>23 January 2019</b>	<i>The ICJ rules on <b>Case 178</b> (the Gambia vs Myanmar).</i>

## Treaties and Events

### ➤ UN Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention)

The Genocide Convention was established in 1948 to prove the international community's commitment to never have such cruel behavior again. Most countries including Myanmar have signed the convention and must follow its rules or they can face charges in the ICJ.

### ➤ Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. (United Nations) The document establishes the rights of every human being and has been ratified by 193 member states of the United Nations. The declaration is seen as a guiding document for all member states and the rights established within the declaration are meant to be protected by every member state. The Human Rights Council in particular focuses on the importance of the UDHR and aims to ensure that any and all action taken by the Council is in alignment with the UDHR.

### ➤ Rome Statute of the International Criminal Court

The Rome Statute is a guiding document for the International Criminal Court and must be ratified by member states in order for a crime within an area to be taken to the court. The document also defines the jurisdiction of the ICC mentioning in detail what crimes they are able to prosecute along with the definition of the crimes. While Myanmar has not ratified the Rome Statute Bangladesh has. Because the conflict in the region has spilled over to Bangladesh, there have been attempts to take the people accused of crimes against the Rohingya in 2017 to the ICC.

## Evaluation of Previous Attempts to Resolve the Issue

The massive humanitarian crisis is trying to be tackled by Non-governmental Organizations such as the United Nations High Commissioner for Refugees (UNHCR) along with the Bangladeshi government. In February 2019, a Joint Response Plan was launched by the UN to provide humanitarian aid to the refugees yet, the situation in the region remains dire.

While UN Organizations are working hard to aid refugees in the region and both the General Assembly and Human Rights Council have expressed 'grave concern' for the situation in the region, the Security Council, a central UN organ that is needed for serious action to be taken, has not discussed the issue since 2017. The case has also been submitted to the ICJ which has led to some measures being taken. The ICC has also started an investigation on possible war crimes but without a Security Council Resolution the ICC cannot punish the Myanmar Government.



## Possible Solutions

For the time being there needs to be continued support for the refugees who are living in Bangladesh. Until issues between the Myanmar Government and the Rohingya population is solved, the rights of the people living in refugee camps should be kept. For example, adequate education should be provided to all children and the health and safety of the Rohingya should be ensured.

It is the wish of some Rohingya refugees to go back home, to Rakhine state where they have lived their entire lives. In order to make this wish a reality peace talks can be held between the people and the government. The people who would like to return should also be allowed to do so to protect their rights mentioned in UDHR Article 13. These people also wish that the Myanmar Government should pay for what they have done so the case could be sent to the ICC for further review. Of course, in order to do this the Security Council must pass a resolution on the issue.

A lot of the Rohingya do not trust the Myanmar Government and wish to stay in Bangladesh. There may be some measures to integrate them into Bangladeshi society such as providing jobs and housing as well as potentially helping them get citizenship. Although this may be difficult because of the wishes of the Bangladeshi Government.

It is important to consider that solutions to this issue should try to resolve issues regarding the citizenship of the Rohingya people, the threat of extremist terrorism from organizations like The Arakan Rohingya Salvation Army (ARSA), ways to prevent Myanmar from committing further human rights violations against the Rohingya and ways to encourage peaceful co-existence in the future between the Rohingya and Myanmar. (Bahrainwala)



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