

Compliance and Enforcement Challenges of International Humanitarian Law: The Rohingya Crisis in Myanmar as a Case Study

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Abstract

In order to understand how International Humanitarian Law can be complied with and implemented, the Rohingya crisis provides a case study on how Myanmar violated its obligations under the Geneva Conventions, Customary IHL and the Genocide Convention; it was through Myanmar's military "clearance operations" in 2017 that the Rohingya suffered extreme violence, including mass killings, rape, and forced exile. Although Myanmar has signed relatively few treaties and has refused repeated requests by the International Court of Justice (ICJ) and the International Criminal Court (ICC) to collaborate, the UN Security Council has been unable to take action because of Myanmar's own geopolitical interests. The ICJ and ICC have made significant contributions to developing mechanisms for holding individuals accountable for violations of IHL through their jurisprudence, but enforcement of these mechanisms is made much harder by regional interests, such as those of China, India and Russia, and by ASEAN's policy of non-interference. As a result of Myanmar's actions, the lives of nearly one million Rohingya people currently living in refugee camps in Bangladesh continue to be at risk. The Rohingya do not want to go back to Myanmar until the humanitarian assistance they need is provided in adequate quantities. The author uses examples of Darfur, Rwanda, and Sierra Leone to demonstrate the broader problem of enforcing IHL and identifies the need for a coherent framework that will provide greater protection for humanitarian operations, improve regional cooperation, and strengthen mechanisms for legal accountability.

Keywords: *International humanitarian law, rohingya crisis, genocide convention, refugee protection.*

1. Introduction

The Rohingya crisis in Burma is currently an important international human rights law and humanitarian issue of the 21st Century; as such it has received great interest and concern from outside the country due to its breach of International Humanitarian Law (IHL) and human rights on a massive scale. The Rohingya people

are a stateless Muslim community in Rakhine State and they have been systematically persecuted for years. The 1982 Myanmar Citizenship Law did not grant them citizenship and therefore restricted their freedom of movement and ability to politically participate. This discrimination led to a significant amount of violence and also caused many individuals to flee

their homes. The clearances by the Burmese military in 2017 were characterized by the U.N. and many other human rights organizations as crimes against humanity and possibly even genocide, and thus exacerbated the problem. The subsequent humanitarian disaster created one of the largest refugee camps in the world when nearly a million Rohingya fled across the border into Bangladesh and established a refugee camp at Cox's Bazar [1].

Myanmar does not abide by established rules of international treaties including the Geneva Conventions (1949), the Convention on the Prevention and Punishment of the Crime of Genocide (1948), and customary IHL. The world has responded through several methods which include filing cases with the International Court of Justice (ICJ), allowing the International Criminal Court (ICC) to examine possible situations, and imposing specific sanctions by individual states. The political realities surrounding both the UN Security Council's ineffectiveness and ASEAN's unwillingness to engage with this issue have held up all of these options.

Between 2023 and 2025 the conditions in Myanmar have worsened. The ICJ has continued to hear testimony regarding Myanmar's obligation to the Genocide Convention while the ICC faces problems of jurisdiction, obtaining evidence, and receiving assistance from member states in its continued investigation [2]. As the military junta gains increasing control over the country the political environment remains unstable due to the coup. The instability increases the danger in the area where the Rohingya are living. In addition, the lives of the Rohingya refugees in Bangladesh continue to deteriorate. They receive less help from other states; they become increasingly unsafe; and fewer discussions occur regarding

repatriation. These examples illustrate that Myanmar continues to violate International Humanitarian Law (IHL), and that the existing framework for enforcing IHL is insufficient to protect vulnerable populations during long-term crises.

Against this background, this article will conduct an evaluation of the obstacles to the enforcement of International Humanitarian Law (IHL) relative to the Rohingya crisis. Specifically, it will evaluate the applicability of international law to the situation, the obstacles to accountability and the effect of global and regional actors on the development of remedies. Furthermore, the article emphasizes the urgent need for the creation of better frameworks which link legal responsibility to enforceable accountability to prevent similar atrocities and create lasting resolutions to the plight of the Rohingya, using as a focus contemporary issues occurring from 2023 to 2025.

2. Methodology

This paper uses a qualitative-doctrinal method of legal research that draws on the primary sources of international law (Geneva Conventions; Genocide Convention; case law). It further engages UN fact-finding reports, ICJ and ICC proceedings, and secondary academic literature. Comparative insights from Rwanda, Darfur, and Sierra Leone are used to contextualize Myanmar's persistent non-compliance with International Humanitarian Law.

3. The Legal Framework of International Humanitarian Law and its Relevance to Myanmar

International Humanitarian Law (IHL), also known as the law of armed conflict or the law of war, is a part of international law that tries to set

rules for how people should act during armed conflicts. Its main goal is to attain a balance between military needs and humanitarian concerns, which will keep people who are not or are no longer fighting safe. The four Geneva Conventions of 1949 and their Additional Protocols of 1977 and 2005 are the main parts of IHL. Customary international law also adds to these. They set basic rules, such as the rules of necessity, humanity, proportionality, and distinction [3]. Myanmar is a state party to the 1949 Geneva Conventions, which means that it is

legally obligated to protect civilians, the wounded and sick, prisoners of war, and civilian objects. However, Myanmar has not yet ratified the Additional Protocols of 1977, which go into more detail about how to protect victims of both international and non-international armed conflicts. Even though the delay is a problem, a lot of the rules in the Additional Protocols are now widely accepted as customary IHL. This means that Myanmar is still bound by them even if they don't ratify them.

Table 1: Myanmar's treaty commitments and obligations under international humanitarian and criminal law

Treaty / Instrument	Myanmar Ratification	Relevant Obligations
Geneva Conventions (1949)	Ratified	Protection of civilians, wounded, POWs, civilian objects; accountability for grave breaches
Additional Protocol I & II (1977)	Not ratified	Expanded protections for victims of armed conflicts; largely customary
Genocide Convention (1948)	Ratified	Prohibition of acts intended to destroy a national, ethnical, racial, or religious group

The Geneva Conventions specify that soldiers shall respect each other, not torture or punish groups, not assault civilians, and make sure that people may obtain aid. They also argue that those who commit heinous acts — including murder, torture and illegal deportation are guilty of war crimes as defined by international law. The Genocide Convention of 1948 also applies to Myanmar. It states that the destruction, in whole or part, of national, ethnical, racial or religious groups is forbidden. However, in practice, this obligation has not always been fulfilled. The UN Fact-Finding Mission on Myanmar (2018) found that the Tatmadaw (the Myanmar military) systematically and deliberately targeted Rohingya people through

mass killings, rape, and forced displacement — thus violating fundamental principles of IHL [4]. These findings demonstrate that not only are parties failing to comply with IHL, but they are also not providing mechanisms for enforcement within their borders. Myanmar's unwillingness to accept international responsibility has also led many to question whether the system works. For example, Myanmar has refused to fully cooperate with the International Criminal Court (ICC), and has demonstrated a dismissive approach to the proceedings of the International Court of Justice (ICJ) [5]. The International Criminal Court (ICC), International Court of Justice (ICJ), and the United Nations Security Council (UNSC) play

important roles in enforcing compliance with IHL globally. However, due to geopolitical factors, such as the support provided to Myanmar by China and Russia action cannot be taken regarding the Rohingya. This situation illustrates a structural limitation of the IHL framework; while the norms are legally binding and widely accepted, their enforcement is dependent upon the willingness of states to work together [6].

In terms of domestic law, Myanmar's laws are typically far removed from what is required of it under IHL. For example, Myanmar's 2008 constitution provides a high degree of autonomy for the Tatmadaw (Armed Forces of Myanmar), including the right to shape legislation via military appointed parliamentary representatives. On the other hand, Myanmar's 1982 Citizenship Law denies Rohingya full citizenship and therefore statelessness, restricting their access to fundamental rights (Myanmar, 1982). Domestic laws such as the Penal Code (1861) and the Criminal Procedure Code, have often been employed to render the presence of Rohingya people as illegal. Charges commonly include "illegal immigration", "sedition". In doing so, individuals frequently act in violation of IHL prohibitions on torture, collective punishment and attacks on civilians. Furthermore, emergency laws and regulations designed exclusively for the Tatmadaw have been used to legitimize military conduct, such as the forced relocation of Rohingya and the destruction of property [7]. Therefore, these domestic legal instruments collectively illustrate an enduring divergence between Myanmar's internal legal framework and its obligations under IHL, resulting in the continued impunity and abuses documented throughout the Rohingya crisis.

In summary, this case illustrates a long-standing discrepancy between law as it exists and as it is applied in reality. Despite Myanmar having legal obligations, including those established by the Geneva Conventions and customary IHL, the failure of the international community (including national governments) to enforce its own laws, and to protect those affected by violence and displacement, illustrates that when states with sufficient power ignore or disregard their obligations, and when geopolitical considerations are given precedence over humanitarian concerns, IHL fails to provide adequate protection for civilians.

4. Literature Review

It is clear that the Rohingya crisis has received considerable scholarly attention from various disciplines, especially in terms of international humanitarian law (IHL), international criminal law, human rights and refugee protection. A major concern in the literature is that the mechanisms used to implement international humanitarian law (IHL) do not provide adequate ways to ensure compliance. Although Dinstein posits that the principles of international humanitarian law (IHL) as codified in the Geneva Conventions are robust and unambiguous, the problem lies within the weakness of the mechanisms used to put them into effect. The primary obstacle in implementing IHL is the issue of state sovereignty in the field of international relations. Crawford elaborates on this notion through his analysis of the "enforcement gap," which provides a clear illustration of why international courts and tribunals are not functioning at optimal levels. The major reason is due to the lack of political will to implement IHL, and the jurisdictional limits imposed upon international

courts and tribunals, as well as the veto power held by the permanent members of the United Nations Security Council [8].

Further empirical documentation supports the critique presented by the authors. The United Nations Fact Finding Mission on Myanmar identified credible evidence demonstrating that the Tatmadaw (the armed forces of Myanmar) were responsible for large scale atrocities including mass killings, forced displacement and sexual violence, and categorized them as crimes against humanity and possible genocide (United Nations Human Rights Council [UNHCR] 2018). Additional documentation supporting these findings comes from non-governmental organizations (NGOs) such as Human Rights Watch and Fortify Rights, who detail systemic persecution and state complicity, and thus demonstrate Myanmar's consistent violation of IHL [9].

In addition to providing institutional documentation of the atrocities committed against the Rohingya, scholars have contextualized these events within the broader social and political structure of Myanmar. Cheeseman and Sadan suggest that the marginalization of the Rohingya is part of a long-standing system of ethnic exclusion in Myanmar, and was reinforced by the 1982 Citizenship Law, which left the Rohingya without citizenship status (Cheeseman, 2017; Sadan, 2016). As a result, the historical disenfranchisement of the Rohingya has led to ongoing violence and a lack of accountability.

An additional area of research in literature reviews the role of international courts and tribunals. The International Criminal Court (ICC) agreed to investigate the crime of deportation across the Myanmar-Bangladesh border in 2019. While some view the ICC's

decision as a positive step toward addressing the crisis, others believe the investigation will be limited in scope because Myanmar is not a party to the Rome Statute. The International Court of Justice (ICJ) declared that The Gambia's case under the Genocide Convention was a landmark case in 2019, demonstrating that even small states can utilize international legal remedies to address serious violations of IHL [10]. Nevertheless, Akhavan disputes the efficacy of international courts and tribunals arguing that while theoretically they may seem to be a viable means of achieving justice, they are plagued by issues related to delays, political obstacles and enforcement problems, limiting their ability to achieve swift justice for individuals [11].

From a regional perspective, Haacke suggests that ASEAN's reluctance to take action regarding Myanmar has limited the organization's ability to exert diplomatic pressure on Myanmar despite increasing amounts of evidence illustrating the extreme nature of the atrocities being committed. Geopolitical research has demonstrated that China, India and Russia view Myanmar as strategically and economically valuable and therefore pose an obstacle to the UNSC and other entities working collectively to assist Myanmar [12]. Authors contend that the political stalemate exemplifies how International Humanitarian Law (IHL) does not operate when powerful states protect perpetrators for their own strategic gain.

Finally, research within the refugee law literature highlights the precarious conditions in which displaced Rohingya populations find themselves in Bangladesh. Since Bangladesh is not a signatory to the 1951 Refugee Convention nor its 1967 protocol, the Rohingya depend solely on ad-hoc humanitarian initiatives, bilateral agreements and international assistance for legal

protection (Chimni, 2021). Scholars such as Chimni warn that the Rohingya experience increased risk due to the lack of a legal framework governing their circumstances. Additionally, the treatment of the Rohingya raises larger questions about how responsibility is distributed among actors under international law.

Based on the literature reviewed, the authors present three major conclusions: First, the atrocities committed against the Rohingya represent systematic and widespread violations of IHL; Second, institutional shortcomings, inaction of the UNSC and geopolitical rivalries create formidable barriers to enforcing IHL; Third, the lack of effective refugee protection frameworks exacerbate the crisis. This paper builds upon these conclusions by analyzing the Rohingya example to illustrate the fundamental structural, legal and political impediments to implementation and enforcement of IHL.

5. The Rohingya Crisis: A Historical Overview

The Rohingya crisis has been one of the most severe and prolonged humanitarian catastrophes in the 21st century. The crisis' origins are rooted in the historical development of Myanmar as a nation-state with an ethno-nationalist agenda and colonial legacy. The 2017 military crackdown in Rakhine State got a lot of attention from the world, but the Rohingya have been pushed to the edges of society for a long time before that.

5.1 Historical Background

The Rohingya are a Muslim ethnic group that lives in the Rakhine State of western Myanmar. Although the community traces its presence in the region to at least the 15th century, their historical legitimacy has been contested by

successive Burmese governments, especially following independence in 1948. During British rule from 1824 to 1948, the colonial government encouraged people from the Indian subcontinent to move to Burma. This caused ethnic tensions that got worse when the country became independent. Myanmar embraced a nationalist philosophy that connected citizenship with race when General Ne Win took over the military in 1962. The Citizenship legislation of 1982 made this principle of excluding people legislation. It took the Rohingya off of Myanmar's list of 135 recognized ethnic groups, which made them stateless and took away their political, civil, and economic rights. The statute established up three levels of citizenship. People who could show they had forebears in the nation before 1823 had full citizenship. Most Rohingyas had a hard time doing this because to documentation issues and official persecution (Burma, 1982). From the 1990s onwards, Myanmar carried out waves of state-sponsored violence, military clearance operations, and systematic denial of services. These included Operation Nagamin (1978), Operation Pyi Thaya (1991–92), and the more recent waves from 2012 onwards. Each campaign was characterised by forced displacement, mass killings, sexual violence, and destruction of villages.

5.2 The 2017 Crisis and International Response

Things got terrible in August 2017 when the Myanmar military (Tatmadaw) started a scorched-earth operation after the Arakan Rohingya Salvation Army (ARSA) attacked. In only a few weeks, more than 700,000 Rohingyas fled to Bangladesh, where they joined hundreds of thousands of other refugees in camps.

Satellite images and eyewitness accounts showed that several Rohingya communities were set on fire, there were mass graves, and there were planned acts of sexual abuse. The UN Office of the High Commissioner for Human Rights called the attacks "a textbook example of ethnic cleansing" (Office of the United Nations High Commissioner for Human Rights [13]. The UN Independent International Fact-Finding Mission on Myanmar said in 2018 that the military's actions were "genocidal" (United Nations Human Rights Council [14]. This caused big changes in the law and in diplomacy. The Gambia went to the International Court of Justice (ICJ) in 2019 under the Genocide Convention, saying that Myanmar continued to commit crimes of genocide. In its 2020 decision on temporary measures, the ICJ told Myanmar to do everything to stop genocide and protect evidence [15]. However, the execution has not been consistent, and access to Rakhine for humanitarian purposes is still very limited.

5.3 Current Conditions in Bangladesh and Myanmar

The world's biggest collection of stateless refugees' lives in Cox's Bazar, Bangladesh. There are almost a million Rohingyas living in refugee camps there. Bangladesh was hailed at first for opening its borders, but the camps have become worse over time. The humanitarian situation has become worse because to overpopulation, illness outbreaks, monsoon floods, and safety concerns including the growth of terrorist organizations and criminal networks. The situation has become worse since the military took power in Myanmar in 2021. The junta is back in charge and is increasing its activities in ethnic states, especially Rakhine. Humanitarian groups claim that access is still

limited, there is still a lot of red tape, and individuals are still being watched [16]. The World Food Program (WFP) and other agencies say that it is challenging to obtain even basic food to the Rohingya people who are still stranded in Myanmar. Most of the time, efforts to initiate voluntary repatriation have not worked. There haven't been any substantial changes since Myanmar and Bangladesh reached treaties in 2018 and 2019. Refugees still say they are terrified of being persecuted, not having citizenship, and not being safe. The UNHCR has been saying for a long time that people can't go back to Rakhine on their own because it's not safe [17].

6. Compliance Challenges in the Rohingya Crisis

Myanmar's Domestic Legal Framework and its Contradictions with IHL:

International Humanitarian Law (IHL) and Myanmar's laws are quite different. For instance, they don't allow specific groups of people become citizens. According to the Citizenship Law of 1982, the Rohingya are not one of Myanmar's "national races." This indicates that they don't have a legal nationality, hence they are stateless [18]. This legal exclusion not only breaches the concept of equality before the law but also hinders the Rohingya from getting protection under domestic legal systems, so undercutting the core aim of International Humanitarian Law (IHL) to protecting civilians during armed conflict. Although they are denied recognition as such, the legitimacy of their legal existence is therefore weak; this provides the opportunity for the system to limit their freedom of movement, deny them access to health care or education and put them in jail with no basis (Fortify Rights, 2014). Discrimination against

Rohingya is legally permitted in Myanmar due to its governmental structure. In that Myanmar does not accept the group's status as civilian, there is an absence of law that renders IHL rights meaningless.

The Role of the Myanmar Military and Its Actions On the Rohingya:

Myanmar's military (the Tatmadaw) is the main reason for non-observance of IHL. It has an undue influence on the legal and political environment of the country. The UN Fact Finding Mission found that the Tatmadaw carried out attacks on Rohingya people in a systematic and widespread manner including killing large numbers of people; committing rape against women; causing people to flee their homes; and destroying communities. In addition to violating the Geneva Convention in significant ways these acts may amount to crimes against humanity and genocide. The Tatmadaw claims its actions against the ARSA are part of Myanmar's anti-terrorism campaign. This lets it carry out assaults that are not in keeping with the IHL criteria of distinction and proportionality. The military's strong constitutional independence, which includes guaranteed seats in parliament and control over important ministries, also means that it is virtually fully immune from punishment at home. This is because there are no practical procedures to hold people accountable for significant violations of IHL in Myanmar [19]. The Tatmadaw is able to violate humanitarian laws with greater impunity than it would if the military and the government were separate entities. The Tatmadaw does not have to fear domestic consequences.

Limitations of International Legal Instruments in Compelling Compliance:

Myanmar only has a couple of agreements it will sign, and how the world is structured as well as the structure itself presents a barrier to making IHL a reality globally. Although Myanmar signed the Geneva Conventions in 1949, it has not yet ratified the 1977 Additional Protocols that would protect civilians in cross-border conflicts far better than the current conventions allow. Even though they have agreed to abide by the rules contained within the agreements they have signed, it has proven difficult for them to do so. The ICC did investigate the forced return of Rohingya Muslims to Bangladesh and referred to the part of this act that occurred across borders as a "jurisdictional connection." However, their ability to take action is limited due to Myanmar's refusal to ratify the Rome Statute. In addition, the ICJ has mechanisms to penalize individuals who commit violations of the Genocide Convention. However, these are long-term processes that depend upon states abiding by the laws they agree to and in this case, Myanmar has not consistently done so [20]. Furthermore, the UN Security Council cannot take any actions against Myanmar as China and Russia can veto any such decisions for political and economic interests, thereby protecting Myanmar. As such, it is increasingly difficult to pursue international legal options, such as going to court or imposing sanctions, etc. The above-mentioned structural constraints suggest that politics may create barriers to the enforcement of the law even when the path forward is clearly defined. The lack of options available to victims creates additional hardships and highlights the weakness of IHL in those situations where states do not choose to adhere to it.

7. Enforcement Challenges and International Response

7.1 The Role of International Bodies

United Nations, International Criminal Court, and International Court of Justice:

The international response to the Rohingya crisis is multifaceted and is subject to a number of political and structural constraints that limit its effectiveness. The U.N. has been unable to act through the Security Council due to opposition from China and Russia. Both of these countries have consistently blocked actions such as sanctions against Myanmar and the referral of Myanmar to the International Criminal Court (ICC) [21]. In 2019, the ICC announced a historic ruling that it may pursue the crime of deportation since it took place in part on the territory of Bangladesh, which is a member to the Rome Statute. This gives the ICC more authority, but Myanmar is not a member, so it can't do all it wants. The Court can't do anything about crimes that occurs only in Myanmar because of this. The International Court of Justice (ICJ) is an essential venue to discuss about The Gambia's case against Myanmar under the Genocide Convention, which tries to show that Myanmar is a state liable for genocide [22]. These groupings together exhibit a patchwork of legal actions that are essential in a symbolic sense but can't be carried out due to political and jurisdictional concerns.

Case Study: The Gambia v. Myanmar at the ICJ and Its Implications:

The Gambia's case against Myanmar at the ICJ in 2019 was the first time a state has been held accountable for genocide under the Convention on the Prevention and Punishment of the Crime of Genocide 1948 (United Nations, 1948). In its January 2020 provisional measures order, the ICJ told Myanmar to do things to stop genocide

against the Rohingya, keep evidence of crimes, and report on how well it was doing. This order was important for two reasons. It first established that The Gambia, which wasn't affected, could file the lawsuit. The decision by the I.C.J. strengthened the belief that all states are legally bound to the Genocide Convention as a whole. It also shows that the legal system may continue with an issue, regardless of whether the political system continues to struggle. While some believe that this case for the Rohingya is progressing, others disagree. Ultimately, while the ICJ can make binding judgments, the ICJ cannot enforce those judgments themselves. Therefore, the enforcement of these judgments falls upon the state. Additionally, while international public opinion has been clearly voiced to support the Rohingya and has increased global awareness of the situation in Myanmar, it has not provided the Rohingya with tangible security or economic aid [23].

7.2 Challenges in Enforcing International Rulings and Sanctions

The independence of Myanmar and the extent to which Myanmar has diplomatic relationships around the world limits the ability of others to impose penalties upon Myanmar and/or to require Myanmar to comply with international law. Thus, the ICJ will be dependent upon Myanmar's willingness to cooperate with them; however, thus far, Myanmar has cooperated with the ICJ only in a very limited and superficial manner [24]. Additionally, there are limitations to the ICC's investigation into alleged crimes in Myanmar. The ICC cannot conduct investigations at crime sites in Rakhine State, and as such, relies upon the assistance of Bangladesh and other nations to provide protection for witnesses and obtain evidence. In

addition to this, the U.S., the EU and other nations have placed economic sanctions on high-ranking military officials and businesses associated with the Tatmadaw. Despite these challenges, Myanmar continues to develop strategic alliances with China, India, and Russia. As such, the actions taken by the West will continue to have a diminished impact on both Myanmar's economy and its foreign relations [25]. Furthermore, as long as the five permanent members of the UN Security Council utilize their veto power, enforcement through the UN Security Council will remain virtually impossible. These limitations contribute to the difficulties in enforcing international law. There are laws and judgments, but they don't really make governments accountable or change how they act in the short term because they don't have any strong tools to do so, especially when big countries are involved.

7.3 Recent Developments and Ongoing Challenges (2023–2025)

The Rohingya crisis has highlighted how ineffective international humanitarian law enforcement is and how simple it is to breach humanitarian laws between 2023 and 2025. The ICJ case *The Gambia v. Myanmar* lawsuit is still going on. It tells Myanmar to cease perpetrating genocide, maintain proof, and tell the world how well it is doing. Reports suggest that the military junta has mainly violated these directives and is continuously carrying out operations that entail murdering people, forcing them to flee their homes, and burning Rohingya villages [26]. The humanitarian situation in Bangladesh is still quite bad. There are almost 1.3 million Rohingya refugees residing there. A lot of them are in packed camps in Cox's Bazar and Bhasan Char. The Joint Response Plan for

2025–26 needs roughly \$935 million to pay for food, lodging, school, and medical care. But only approximately a third of the money has been raised. This means that food rations have been curtailed, half a million kids have had to stay home from school, and vital health services have been placed on hold. This puts pregnant women and other populations who are already at risk in much more danger [26]. The long-term displacement has made things considerably harder for the towns that are hosting them, both socially and economically. This has made things more tense and made it difficult to support individuals who need it. It is still exceedingly hard to implement the law in the region because of political reasons. For example, China and Russia still support Myanmar in the UN Security Council, so foreign courts can't send cases or punish them. On the other hand, India's geopolitical and economic involvement makes it harder for the region to work together. Additionally, the Arakan Army and other armed groups, which are currently uniting in northern Rakhine and maintaining a high degree of instability along the borders, make it increasingly unsafe for both aid workers and refugees to return to their homes and exacerbate the refugee crisis [27]. The Government of Bangladesh plans to hold an international regional conference in late 2025 in order to attempt to advance diplomatic efforts on behalf of the international community. However, at this time, the ability of governments to enforce international law, and to protect the rights of refugees is limited. Consequently, despite the existence of obligations under international law, states may be unable to fulfill those obligations due to intransigence by governments; financial limitations; and the complexities associated with

geopolitical realities. Such inaction will only serve to further complicate the refugee crisis.

8. Case Studies of Enforcement Mechanisms

International Criminal Tribunal for Rwanda (ICTR): The International Criminal Tribunal for Rwanda (ICTR) was created through United Nations Security Council Resolution 955 in 1994 to try those accountable for the genocide in Rwanda in which approximately 800,000 Tutsis and moderate Hutus were murdered [28]. Although the tribunal convicted a number of high profile individuals including former Prime Minister Jean Kambanda, many continued to avoid prosecution due to the political instability of Rwanda and surrounding countries and the inability of authorities to work together to effectuate arrests. For a long time, many of the individuals involved in the atrocities remained at large and trials were repeatedly delayed as a result of the inability to ensure the safety of witnesses, gather forensic evidence and determine jurisdiction [29]. The experience of the ICTR is illustrative of the challenges that exist when international criminal tribunals attempt to function without access to defendants and cooperation from governments. Therefore, the success of criminal investigations into the crimes committed in Myanmar will depend on the support provided by the government of Myanmar as well as neighboring countries such as Bangladesh to facilitate investigations and apprehend those responsible.

Special Court for Sierra Leone (SCSL): In 2002, both the UN and the government of Sierra Leone decided to establish the SCSL so that those who were most accountable for committing war crimes and crimes against humanity throughout the civil war would be tried by the Court. However, while the Court could prosecute high-

ranking officials such as Charles Taylor, it would be much more difficult to prosecute individuals lower down in the hierarchy who did not have a similar level of influence. Much of the enforcement of the law by the SCSL was dependent upon cooperation from others including the gathering of evidence and agreements with local governments to enforce the law. The experiences of the SCSL demonstrate how difficult it is to ensure compliance with international law when there are weak laws or unstable governments. In Myanmar, this means that going after the top leaders is important as a signal, but it may not punish most of the people who did wrong, which would preserve a culture of not being accountable.

International Criminal Court (ICC) – Darfur, Sudan: The ICC issued arrest warrants for war crimes and crimes against humanity for high-ranking authorities in Darfur, Sudan, including President Omar al-Bashir [31]. Sudan didn't want to work with the Rome Statute, thus it was exceedingly hard to execute. Because access to combat zones was limited, it was challenging for the ICC to acquire evidence and capture suspects. In actuality, this case indicates that the ICC's power is limited when the state being attacked won't take responsibility. This is analogous to Myanmar, which is not a signatory to the Rome Statute and is still preventing investigations into atrocities against the Rohingya.

Special Tribunal for Lebanon (STL) – Lessons on Hybrid Mechanisms: The STL was created to look into the death of Rafik Hariri, who used to be the Prime Minister of Lebanon. The STL has shown the legitimacy and enforcement potential of bringing together international authority and local knowledge through bringing judges from

around the globe together with Lebanese law [32]. Combining ICC or ICJ law with local law through joint country efforts on the global and regional levels could help hold Myanmar accountable in the future.

These case studies demonstrate that the difficulty in enforcing IHL lies in many ways; including countries failing to collaborate, inadequate jurisdiction and political interference. They also demonstrate the need for the ICC, ICJ, UN, and regional organizations such as Bangladesh, ASEAN, etc., and significant countries to collaborate so the law works for the Rohingya issue. Also, people will be much more likely to adhere to the rule of law if they have a combination of local, sanctions based on the crime, and continuous monitoring. This will also benefit those who require it.

9. Recommendations for Strengthening IHL Compliance and Enforcement:

9.1 Strengthening Accountability and International Cooperation

The existence of a robust and layered system for holding people accountable for their wrongdoing against the Rohingya will require both the involvement of the international community, as well as the cooperation of other countries within the region. It is also clear that Myanmar's own legal and judicial systems have proven to be ineffective in ensuring accountability for wrongdoing committed by the military; and because of this it is important that the international community take action to hold accountable those individuals responsible for violations of IHL.

Regional Accountability Mechanism: International organizations such as ASEAN and neutral countries like Bangladesh, along with the South and Southeast Asian region's governments,

can work together to create a new South and Southeast Asian accountability platform. The South and Southeast Asian accountability platform will have its own institutional structure that includes an independent secretariat and investigation bodies which can also serve as a coordination body for the International Criminal Court (ICC) and the International Court of Justice (ICJ), while allowing for evidence collection on a systematic basis and providing protections for witnesses and coordinating laws.

A Unified Sanctions Regime: There should be one single sanctions regime globally for Myanmar's military leaders and groups with travel bans and asset freezes so that all jurisdictions have the same standards and procedures in place.

Monitoring ICJ Compliance: As seen in the Temporary Measures issued by the ICJ in *The Gambia v. Myanmar* regarding Myanmar's obligations under the Genocide Convention, it remains unclear whether Myanmar intends to implement those obligations. An independent monitoring commission comprising representatives from the United Nations, Bangladesh, ASEAN, and neutral states should oversee Myanmar's compliance with ICJ provisional measures. Regular public reporting would increase transparency and diplomatic pressure.

Supporting ICC Processes: Officially as a host state for ICC processes, Bangladesh can establish safe Tribunal Centers where witness testimony may be heard and evidence processed. This will ensure the most effective means of prosecuting international crimes are utilized.

9.2 The Role of Regional and Global Actors

Regional actors as well as those at the global level have to support the compliance of states with International Humanitarian Law.

ASEAN Humanitarian Intervention Framework: ASEAN should develop a flexible humanitarian intervention framework allowing collective response to mass atrocities while balancing its non-interference principle.

Engagement with Regional Powers: India and China, Myanmar's two main allies, should also be engaged via conditionality based on bilateral trade and investment agreements; the benefits of which will be contingent upon the demonstrable improvement of Myanmar's adherence to human rights and humanitarian obligations.

Bangladesh's Key Position: Bangladesh should enhance cross-border cooperation, humanitarian access, and evidence-sharing mechanisms with international institutions, given its central role as the primary host of Rohingya refugees.

9.3 Securing Sustainable Humanitarian Protection and Assistance

Governments and donors need to ensure legal enforcement of aid is supported by sustainable humanitarian assistance programs.

Multi-Year Funding Agreements: Countries and international agencies need to provide a guaranteed long-term funding frameworks so that people will always have enough food, shelter, education and healthcare. The goal is to reduce the uncertainty caused by annual budgeting gaps.

Private Sector Financing Options: We can explore private sector financing options in order to increase available funds, such as refugee bonds and corporate social responsibility (CSR) projects. We should also look at other ways to

raise additional funding beyond traditional humanitarian assistance programs.

Protection and Integration Programs: Humanitarian programs should be expanded to include education, livelihood opportunities, improved camp conditions, and mental health services. Additionally, a victim-centered justice approach should be incorporated, including reparations frameworks, participation of victims in justice processes, and psychosocial support for survivors of violence and trauma, thereby strengthening both humanitarian and legal dimensions.

9.4 Integrated Legal-Humanitarian Strategy

A full approach to peacebuilding will need to include both humanitarian support and accountability for past abuses.

Hybrid Justice Mechanisms: The use of hybrid justice systems, which combine international supervision with local participation, can provide a mechanism for accountability that is both legitimate and effective. This has been shown by the creation of the Special Court for Sierra Leone (SCSL), the Special Tribunal for Lebanon (STL), and other similar tribunals.

Balancing Legal and Humanitarian Strategies: International criminal law prosecutions and targeted economic sanctions are best when they work in conjunction with the delivery of humanitarian relief, and therefore do not compromise it.

Improved Monitoring and Documentation: The use of advanced technological tools should be strengthened, including digital documentation systems, satellite-based monitoring, and secure data preservation technologies. Coordination with international investigative bodies, including UN fact-finding missions and ICC mechanisms,

would significantly enhance evidence collection and accountability.

10. Conclusion

The Rohingya Crisis in Myanmar demonstrates the distance between International Humanitarian Law (IHL) and its implementation. Despite the Geneva Conventions, Customary IHL and the Genocide Convention establishing the prohibition of these actions, the actions continue to occur at the national and international level demonstrating failures in implementation. Experience from Rwanda, Sierra Leone and Darfur as well as ongoing cases in the ICJ and ICC demonstrate that State opposition, geopolitical considerations and the limitations of jurisdictions prevent effective enforcement. Regional powers such as China and Russia are weakening accountability for atrocities committed during conflicts while Bangladesh is bearing a disproportionate humanitarian burden. Cooperation, funding, hybrid mechanisms and civilian protection will be required to address the crisis. In conclusion, the Rohingya Crisis is an important opportunity for the international community to assess the ability of International Humanitarian Law (IHL) to enforce compliance with its provisions. The international community cannot rely solely upon the establishment of legal norms, but must take action to enforce the laws through punishment of violators, accountability of those who commit atrocities, and civilian protection. Enforcing compliance with IHL in Myanmar is not simply a matter of enforcing compliance with legal obligations. Rather, it represents a moral obligation to uphold the law and the rights of civilians in armed conflict. The lessons from the current crisis must provide guidance to future efforts to reduce the enforcement gap and increase the commitment

of States to protecting civilians in armed conflict.

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