



ASIA JUSTICE COALITION

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Fifth Year Of ‘Never Again’: Rohingya Await Justice Amidst International Inaction

In August 2017, more than 730,000 Rohingya were forced to flee the Myanmar military’s so-called ‘clearance operations’ from Rakhine State to Bangladesh. Five years later, there has been little progress in furthering their cause for justice and accountability.

In February 2021, the military junta staged a coup, declared a state of emergency, and imposed martial law across the country. The current post-coup situation in Myanmar has only furthered the impunity enjoyed by the Myanmar military. The illegal action of the military was met with nationwide protests calling for the restoration of civilian government. Myanmar’s army responded to the situation with excessive and lethal force. Since then, they have committed widespread and systematic attacks against civilians amounting to [crimes against humanity and war crimes](#). Over [2,239 people have been killed, and more than 12,119 are currently detained](#) by the military junta. Military-perpetrated violence in Myanmar continues to escalate, with [the highest violence](#) committed against civilians by the state forces since the coup witnessed in the first half of 2022.

Current Situation of the Rohingya in Myanmar and in Refugee Camps

Approximately 600,000 Rohingya remain in Myanmar despite the atrocities committed against them by the Myanmar military. The February 2021 coup has further exacerbated the discrimination, violence, and crimes against the Rohingya. Last year, the junta imposed systematic and unjustifiable restrictions on the exercise of freedom of movement, arbitrary arrest, and stricter punishments concerning alleged migration-related offences. Rohingya children are also often used as forced labour by the junta-supported Arakan Army. The harsh living conditions, social exclusion, and threats to the physical security of Rohingya may amount to crimes against humanity of persecution and an apartheid-like situation.

The Rohingya who fled to Bangladesh face heightened risks in the refugee camps. The availability of limited means to earn a livelihood, restrictions in accessing education and public health services, and rising security threats have brought misery to the refugees. Moreover, the transfer of Rohingya from Cox’s Bazaar to Bhashan Char, a remote island in the Bay of Bengal that faces regular floods and cyclones has further aggravated the situation. The Rohingya have been further alienated from the host country’s population and face food and water shortages. This vulnerability and desperation often push Rohingya to flee to neighbouring countries despite the risks of arrest, detention, and death. The coup has made women and girls, especially from ethnic minorities like Rohingya vulnerable to the risks of violence, trafficking, and exploitation.

Over the past year, the Government of Bangladesh has significantly intensified its focus on the repatriation of Rohingya to Myanmar. Recently, the Bangladesh Prime Minister [informed](#) the UN Human Rights High Commissioner of the urgent need to repatriate refugees to Myanmar. However,

the Rohingya must be recognized legally as full and equal citizens of Myanmar, and any repatriation must be safe, dignified, and voluntary.

Earlier this year, the [US State Department formally determined](#) the acts committed against the Rohingya in Rakhine State by the Myanmar military in 2016–2017 constituted ‘genocide and crimes against humanity’. While such condemnation is welcomed, the US government must follow up with strict diplomatic and economic isolation measures.

International Legal Proceedings regarding the Rohingya

The international proceedings against Myanmar at the International Court of Justice (ICJ) and the ongoing investigation by the International Criminal Court (ICC) are important measures for accountability but remain a distant and slow process. These legal proceedings are built on the credible and painstaking advocacy and documentation work led by Rohingya.

In July 2022, the ICJ rejected Myanmar’s preliminary objections to the jurisdiction of the Court and proceeded to the merits stage under the Genocide Convention (*The Gambia v. Myanmar*). Two years ago, the ICJ issued binding obligations on Myanmar through its [provisional measures order](#), namely to prevent commission of genocidal acts; to ensure its military, police and other forces within its control do not commit genocidal acts; to preserve all evidence of genocidal acts; and to submit compliance reports every six months until a final judgment by the Court. However, the [facts on the ground](#) reflect the blatant disregard and violation of these binding obligations by the military junta.

While proceedings at international courts are moving forward, the international community has failed to take sufficient action against the ongoing impunity in Myanmar and is complicit in maintaining the status quo. States such as the United States and the UK should formally intervene and support the genocide proceedings before the Court. [Canada and The Netherlands](#) have already expressed their intention to intervene and must take the next steps.

The repeated refusal of the UN Security Council to hold a public meeting, pass a resolution and refer the situation in Myanmar to the ICC for a wider investigation, goes against the essence of the UN Charter of maintaining international peace and security. The adoption of the recent resolution – ‘[Standing mandate for a General Assembly debate when a veto is cast in the Security Council](#)’ must guide the Council to act regardless of the potential exercise of a veto and it must take urgent stock of the situation in Myanmar and mandate concrete actions.

Similarly, States must actively facilitate the investigation and prosecution of Myanmar officials under the principle of universal jurisdiction such as in the case of [Argentina](#). In doing so, the Rohingya and their voices must be at the forefront.

The Asia Justice Coalition expresses its deep concern and disappointment with the lack of international action in providing redress to the Rohingya and the people of Myanmar. It calls upon:

- The military junta to immediately end all violations of international law against Rohingya and all others in Myanmar.
- The military junta to facilitate safe, rapid, and unimpeded humanitarian access including full protection, safety and security of humanitarian and medical personnel especially in ethnic minority areas.
- The Bangladesh government to stop forcible relocation of refugees to Bhasan Char Island and forcible repatriation of Rohingya to Myanmar.
- The United Nations, donors, and foreign governments to call on Bangladesh to respect the freedom of movement, livelihood, and education of the Rohingya.

- The US, UK, EU, and other like-minded states / international organizations to formally intervene in *The Gambia v. Myanmar* before the ICJ, and Canada and The Netherlands to take formal steps towards their intention to intervene.
- The UN Security Council to impose a global arms embargo on Myanmar's security forces including a prohibition on security assistance and the sale of dual-use technology, and targeted sanctions on junta leaders, military-owned companies such as timber, oil, and natural gas companies.
- The UN Security Council to urgently hold a public meeting, pass a resolution, and refer the situation in Myanmar to the International Criminal Court for a full investigation.
- Neighbouring countries, including India, Thailand, Indonesia, Bangladesh, and Malaysia to provide protection, support, and humanitarian and legal aid to all refugees including Rohingya fleeing Myanmar.
- All countries to use all avenues and diplomatic channels at their disposal in pursuit of justice and accountability for Rohingya, including civil and criminal legal actions based on the principle of universal jurisdiction.
