



**Research Monograph**

**On**

**“The Challenges of Implementing Safe, Voluntary, and Dignified Repatriation of Rohingya Refugees under International Law.”**

This Research Monograph Submitted for the partial fulfillment of the award of the degree

**of**

Bachelor of Laws (LLB)

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Date of Submission: 05 January 2026

## Letter of Transmittal

**Date:** 5 January 2026

**To**

Sunzida Akhtar  
Assistant Lecturer Department of Law  
Sonargon University (SU)

**Subject:** Submission of Thesis on “*The Challenges of Implementing Safe, Voluntary, and Dignified Repatriation of Rohingya Refugees under International Law*”

Dear Madam,

I am pleased to submit my thesis entitled “*The Challenges of Implementing Safe, Voluntary, and Dignified Repatriation of Rohingya Refugees under International Law*” as a partial requirement for the completion of my LLB Honours degree at the Department of Law, [Your University Name].

This thesis critically examines the legal, political, and practical challenges associated with the repatriation of Rohingya refugees to Myanmar. It analyses relevant international treaties, customary international law, UN reports, and Bangladesh’s policy response to the crisis, with a focus on ensuring compliance with international standards of safety, voluntariness, and dignity.

I have endeavored to conduct this research with the utmost academic rigor and integrity. I sincerely hope that the thesis meets the academic standards of the Department and contributes meaningfully to the scholarly understanding of refugee law, international human rights law, and Bangladesh’s role in addressing forced displacement.

I would like to take this opportunity to express my sincere gratitude to my thesis supervisor, faculty members, and all individuals and institutions whose guidance, insights, and support have made this work possible.

I respectfully submit this thesis for your consideration and approval.

Yours faithfully,

Md Sobuj Islam  
ID: LLB2201025015  
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## **LETTER OF CERTIFICATE**

This is to declare that this thesis entitled **“THE CHALLENGES OF IMPLEMENTING SAFE, VOLUNTARY, and AND DIGNIFIED REPATRIATION OF ROHINGYA REFUGEES UNDER INTERNATIONAL LAW ”** is a real work done by Tanveer Ahmed on behalf of the degree of LLB (Bachelor Of Laws) is the greatest of bona fide research carried out under my supervision in the Department of law Sonargaon University. This Thesis, or any part thereof, has not been submitted for any other Degree.

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**SUNZIDA AKTHER SUYAIBA**

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## **LETTER OF DECLARATION**

I do hereby declare that the Research Monograph Title “**THE CHALLENGES OF IMPLEMENTING SAFE, VOLUNTARY, and AND DIGNIFIED REPATRIATION OF ROHINGYA REFUGEES UNDER INTERNATIONAL LAW**” prepared solely by me and which has been submitted to the department of Law, Sonargaon University (SU) for achieving the LL.B. (Honours) Degree. This is an original work of mine. No part of this research, in any way of or in from, has been submitted to any University or Institution for any Degree, Diploma or for other similar purposes.

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Special thanks are due to **UNHCR, Human Rights Watch, Amnesty International**, and other international organizations for their detailed reports, maps, and statistical data, which have been pivotal in conducting a comprehensive and evidence-based analysis.

I would like to convey my sincere appreciation to my family and friends for their patience, moral support, and encouragement, which motivated me to persevere through the long hours of research and writing.

Finally, I extend my gratitude to everyone who has, directly or indirectly, contributed to this work. Any shortcomings or errors in this thesis are entirely my own.

Thank you  
MD Sobuj Islam

## **DEDICATION**

First of All, I am showing my admiration and gratitude to Almighty God. I like to express my gratitude and love to my Mother and Father for their sacrifices as well as to provide me the possibilities for higher study. They are still directing me to be a good human being and encouraging me to devote myself to the people of the world.

## List of Abbreviations

- **ASEAN** – Association of Southeast Asian Nations
- **ARSA** – Arakan Rohingya Salvation Army
- **BIMSTEC** – Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation
- **CRC** – Convention on the Rights of the Child
- **CSO** – Civil Society Organization
- **EU** – European Union
- **GCM** – Global Compact for Migration
- **HRW** – Human Rights Watch
- **ICCPR** – International Covenant on Civil and Political Rights
- **ICESCR** – International Covenant on Economic, Social and Cultural Rights
- **ICJ** – International Court of Justice
- **ICC** – International Criminal Court
- **IDP** – Internally Displaced Person
- **IHL** – International Humanitarian Law
- **ILO** – International Labour Organization
- **NGO** – Non-Governmental Organization
- **OIC** – Organisation of Islamic Cooperation
- **R2P** – Responsibility to Protect
- **SAARC** – South Asian Association for Regional Cooperation
- **Tatmadaw** – Myanmar Armed Forces
- **UN** – United Nations
- **UNDP** – United Nations Development Programme
- **UNGA** – United Nations General Assembly
- **UNHCR** – United Nations High Commissioner for Refugees
- **UNHRC** – United Nations Human Rights Council
- **UNICEF** – United Nations Children’s Fund
- **UNSC** – United Nations Security Council
- **WFP** – World Food Programme

## **Abstract**

*The Rohingya crisis represents one of the most severe contemporary humanitarian and legal challenges in South Asia. Since 2012, waves of persecution and violence in Rakhine State, Myanmar, have led to the mass displacement of the Rohingya population, resulting in over one million refugees residing in Bangladesh. This thesis examines the challenges of implementing a **safe, voluntary, and dignified repatriation** of Rohingya refugees under international law, with a particular focus on Bangladesh's legal and policy responses.*

*The study employs a doctrinal research methodology, analysing international treaties, customary law, case law, UN resolutions, and scholarly literature. Key legal frameworks examined include the 1951 Refugee Convention, the 1967 Protocol, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Genocide Convention, and customary norms such as non-refoulement and the right to nationality. The research also critically evaluates the efficacy of regional and international mechanisms, including the International Court of Justice (ICJ), UNHCR, and the Human Rights Council, in ensuring compliance with international standards.*

*The findings reveal a persistent gap between legal principles and practical implementation. Myanmar's denial of citizenship to the Rohingya, ongoing human rights violations, and the lack of safety guarantees render voluntary repatriation currently unfeasible and legally problematic. Bangladesh, despite its remarkable humanitarian efforts, faces limitations in infrastructure, legal frameworks, and long-term capacity, which complicates potential repatriation. Moreover, the study identifies deficiencies in international accountability mechanisms, which fail to enforce compliance or protect the rights of returnees.*

*Based on these findings, the thesis recommends a multi-layered approach: Bangladesh should establish a comprehensive national legal framework for refugee protection; Myanmar must repeal discriminatory citizenship laws and ensure safety and freedom for returnees; and the international community should adopt targeted measures to enforce accountability, facilitate independent monitoring, and engage in equitable burden-sharing. The research concludes that only through a combination of legal reform, political will, and international cooperation can the repatriation of Rohingya refugees become genuinely safe, voluntary, and dignified.*

*This study contributes to the body of scholarship by integrating international legal norms with the practical realities of Bangladesh's refugee management, offering policy recommendations that balance humanitarian obligations with legal compliance. It underscores the crucial role of law in both protecting refugees and guiding the international community's response to protracted displacement crises.*

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## CHAPTER -1

### Introduction

#### 1.1 Background of the Study

The Rohingya are a predominantly Muslim ethnic minority originating from Myanmar's Rakhine State. Historically, the Rohingya have been denied citizenship by successive Myanmar governments – most notably by the 1982 Citizenship Law – and subjected to pervasive discrimination and violence. Over decades this persecution has included restrictions on movement and education, periodic communal massacres, and systematic abuses. In 2017, a major escalation occurred when Myanmar's military launched a so-called "clearance operation" in Rakhine State. Human rights investigations have documented "*widespread arson, looting, and extrajudicial killings*" of Rohingya villages during this campaign[1][2]. By late 2017, over 700,000 Rohingya – mostly women, children and elderly – fled across the border into Bangladesh, often after witnessing rape and murder of family members[3][1]. International observers have described the military's actions as genocidal or crimes against humanity[1][2].

Today Bangladesh hosts one of the world's largest protracted refugee situations. Nearly one million Rohingya live in cramped camps in Cox's Bazar, Bangladesh[4][5]. The Government of Bangladesh (GoB) has managed this influx through administrative directives and ad hoc measures; Bangladesh has not enacted a formal refugee law and is *not a party to the 1951 Refugee Convention* or its 1967 Protocol[6]. Instead, Rohingya in Bangladesh are treated under the Foreigners Act and other immigration laws, and depend on humanitarian aid. Bangladesh has been praised for generously hosting the Rohingya, but the sheer scale of over one million refugees strains its resources and infrastructure[4][5]. Some overcrowding was alleviated by relocating roughly 35,000 Rohingya to the distant Bhasan Char island since 2020[7], though international experts have urged verification that such relocation is truly voluntary and safe[8].

From the beginning, Bangladesh has emphasized **repatriation** – the return of Rohingya to Myanmar – as the only sustainable solution. In January 2021, the UN Special Rapporteur on Myanmar, Tom Andrews, noted that Bangladesh "*correctly describes*" repatriation as "*the only durable solution to the crisis*"[9]. International bodies likewise frame repatriation in aspirational terms. The United Nations and European Union have repeatedly called for the Rohingya to return to Myanmar "*voluntarily, safely, [and] with dignity*"[10][11]. Filippo Grandi (UNHCR) and other leaders insist that any returns must be fully voluntary and conducted under international supervision. The UN General Assembly and Security Council resolutions on Myanmar similarly reaffirm Rohingya rights and urge "*voluntary, safe, dignified and sustainable return*" of all displaced persons.

However, the conditions for such returns are absent. Myanmar continues to deny the Rohingya citizenship and treats them as illegal immigrants. Security conditions in Rakhine State remain volatile – a new wave of fighting since late 2023 between the Myanmar military and the Arakan Army has spawned another 150,000 Rohingya fleeing into Bangladesh[12]. Rohingya survivors insist they will not consider repatriation until they have full citizenship rights and guarantees of

personal safety[13]. For example, participants in recent consultations stated categorically that “repatriation should be done by considering us as Rohingya,” and that “*if Myanmar accepts us by providing us nationality cards, then we agree to be repatriated*”. Without such fundamental changes, virtually all Rohingya leaders and refugees express deep mistrust of returns to Myanmar.

Thus Bangladesh faces a profound dilemma: it hosts an enormous refugee population with limited domestic tools, but recognizes that the onus of a final solution rests largely on Myanmar. In sum, although international law and policy proclaim safe and voluntary repatriation as the ideal, the ground realities – statelessness, insecurity, lack of accountability, and geopolitical constraints – make its implementation extremely challenging. This study examines these dynamics, focusing on Bangladesh’s role as host state and the interplay of international legal norms with the political realities on the ground.

## 1.2 Statement of the Problem

The central problem addressed in this thesis is the *gap between the principle and practice* of Rohingya repatriation. The international community has long espoused the repatriation of refugees as a preferred durable solution. In theory, the Rohingya have a right under international law to return to their homes in Myanmar (indeed, the UN Declaration of Human Rights enshrines a right to “*return to his country*”), and countries of origin have obligations regarding the safety and dignity of returnees. In practice, however, that return is not yet viable for the Rohingya.

On one hand, Bangladesh insists that any repatriation be *voluntary, safe and dignified*. Prime Minister Sheikh Hasina and other officials repeatedly state that Bangladesh will not forcibly expel Rohingya, and that returns can occur only when Myanmar provides citizenship guarantees and security[3][11]. Likewise, international donors and agencies press for these standards. For example, Physicians for Human Rights (PHR) observed in 2018 that “*without investigation, transparency, and accountability for crimes against the Rohingya, any discussion of repatriation is a nonstarter*”[3]. The International Crisis Group has warned that forced returns “*would escalate tensions*” and called on states to “*create conditions conducive to a safe and dignified return*” instead[14]. These statements underscore that the Rohingya will not accept repatriation absent fundamental changes in Myanmar.

On the other hand, Bangladesh’s own capabilities are limited. As a developing country with its own political and economic challenges, Bangladesh cannot compel Myanmar to change its policies or ensure refugee rights abroad. Bangladesh is not a party to the 1951 Refugee Convention or to statelessness treaties[6], so its formal obligations towards refugees are relatively narrow. Public sentiment in Bangladesh has become impatient and even hostile at times, given the strains on local communities. At home, Bangladesh cannot integrate the Rohingya without political backlash, yet it cannot continue to host them indefinitely without international assistance.

Moreover, the **legal-political environment in Myanmar** remains adverse. Myanmar’s generals and some Rakhine authorities have publicly opposed repatriation on any meaningful terms,

often citing security concerns or nationalist rhetoric. The Myanmar government maintains that Rohingya are “*Bengali*” immigrants who are not truly entitled to citizenship, and it has consistently failed to declare any formal roadmap for safe return. In effect, Myanmar has made the “conditions for return” (as defined by UNHCR) impossible to meet.

The result is a stalemate: the Rohingya remain in limbo in Bangladesh, the Government of Bangladesh is left hosting a huge refugee population under precarious conditions[5], and little progress is made towards the declared goal of repatriation. This thesis investigates the **myriad challenges** at play in implementing safe, voluntary, and dignified repatriation of Rohingya – from the level of international legal norms down to the on-the-ground realities in both Bangladesh and Myanmar. It seeks to clarify why a legalistic commitment to repatriation has not translated into actual returns, and what obstacles (political, security, legal, logistical) must be overcome. In particular, it examines how Bangladesh’s status, policies, and constraints as the host state shape this problem.

### 1.3 Research Questions

To explore the problem outlined above, this study is guided by the following research questions:

- **What international legal obligations govern the repatriation of refugees, and how do these principles apply (or fail to apply) to the Rohingya in the Bangladesh–Myanmar context?** This includes examining treaties (e.g. 1951 Refugee Convention, Genocide Convention, human rights covenants) and customary norms (e.g. *non-refoulement*) relevant to refugee return.
- **How does Bangladesh’s domestic legal and policy framework shape the repatriation process?** Since Bangladesh is not party to the Refugee Convention and lacks asylum legislation[6], what rules or directives does it follow in managing the Rohingya population, and how do these affect repatriation?
- **What specific challenges prevent the repatriation of Rohingya from being “safe, voluntary, and dignified” in practice?** This question probes political, security, and logistical barriers in Myanmar (such as lack of citizenship, ongoing conflict, and distrust) as well as in Bangladesh (such as resource constraints, camp management issues, and public opinion).
- **What roles do international actors and mechanisms play in the repatriation process?** How do UN agencies (UNHCR, special rapporteurs), international courts (ICJ, ICC), regional bodies (ASEAN) and donor countries influence or assist (or hinder) the implementation of repatriation standards for the Rohingya?
- **How can the repatriation process be improved or supported under international law?** Given the challenges identified, what recommendations or strategies might ensure that any future returns respect legal norms and humanitarian principles?

These questions will structure the analysis in this thesis, moving from normative frameworks to practical realities and culminating in proposals for better alignment between law and on-the-ground action.

#### 1.4 Objectives of the Study

The objectives of this research are as follows:

1. **To analyze the international legal framework for voluntary repatriation of refugees**, including relevant conventions, custom, and jurisprudence. This involves identifying the obligations of States under refugee law and human rights law regarding returns in conditions of safety and dignity.
2. **To examine Bangladesh's role as a host state**, focusing on its international obligations (e.g. human rights treaties it has ratified), its domestic policies toward the Rohingya, and any bilateral agreements or memoranda of understanding with Myanmar concerning repatriation.
3. **To identify and assess the challenges in implementing safe, voluntary, and dignified repatriation for Rohingya**, drawing on empirical data (UN and NGO reports, refugee testimonies, media coverage) to detail the political, security, and social obstacles on both sides of the border.
4. **To evaluate how international and regional actors influence the repatriation process**, including the potential and limits of mechanisms such as the International Court of Justice's proceedings, UN Security Council resolutions, and multilateral diplomacy.
5. **To formulate recommendations** for legal or policy measures that could better secure the rights of Rohingya returnees and support Bangladesh in fulfilling its humanitarian role, while respecting international law.

By achieving these objectives, the study aims to provide a comprehensive understanding of the repatriation issue in this context and to offer insights that may inform policy and advocacy.

#### 1.5 Research Methodology

This thesis employs a qualitative, doctrinal research methodology supplemented by a review of secondary empirical sources. It is primarily a **desk study** of existing documents: international treaties and conventions (e.g. the 1951 Refugee Convention, Genocide Convention, ICCPR, CAT), United Nations resolutions, and relevant court decisions (notably the ICJ case brought by The Gambia against Myanmar). Domestic legal materials (Bangladesh national legislation and government directives related to refugees, asylum, and foreigners) will also be analyzed.

Secondary sources include scholarly articles, books, and reports from international organizations and NGOs. Key documents are United Nations reports (e.g. UNHCR country updates, UN fact-finding mission reports), press releases from UN officials, statements by NGOs (e.g. Physicians for Human Rights, Human Rights Watch), and media investigations. These will

be used to illustrate the factual background, the views of stakeholders, and the conditions on the ground.

Given the nature of the topic, no original fieldwork or surveys are conducted; instead, the research relies on published testimony and data. The analysis is largely descriptive and normative: it describes the relevant facts and policies, and evaluates them against legal standards. A case-study approach is applied with a specific focus on Bangladesh as a host state, but relevant comparative or regional insights (e.g. practices from similar refugee crises, ASEAN statements) may be drawn in.

The methodology recognizes certain limitations: some information about Myanmar's internal policies is opaque, and the situation is evolving rapidly (e.g. conflict flare-ups in 2023-2025). Wherever possible, the most recent reliable sources (post-2017) are used to capture current developments. Due attention is given to citing authoritative sources and noting any contested claims. In line with OSCOLA standards, all legal authorities are cited accurately in footnotes.

## 1.6 Scope and Limitations

The scope of this study is deliberately focused. It centers on the legal and policy dimensions of Rohingya repatriation between Bangladesh and Myanmar. In particular, it addresses the period from the mass exodus of 2017 to the present (2025), with some historical context as needed. The geographical focus is primarily Bangladesh (as the host country) and Myanmar's Rakhine State (as the place of origin). Other potential durable solutions for refugees – such as local integration within Bangladesh or resettlement to third countries – are noted but not examined in depth, since the thesis concentrates on repatriation.

Topics **outside** the main scope include the full humanitarian situation in the camps, the internal political processes of Myanmar beyond their effect on repatriation, and issues of refugee rehabilitation after return. The study does not perform econometric analysis or original field interviews, and it does not detail every facet of Bangladesh domestic law unrelated to refugee policy. Instead, it aims to dissect the legal and institutional factors directly bearing on repatriation.

Key limitations include data availability and the rapidly changing context. Reliable statistics on Rohingya numbers, for example, may vary between sources; the thesis will cite the most credible figures (e.g. UNHCR) and note discrepancies. The security situation in Myanmar, including the 2021 coup and resumed armed conflict, is fluid and politically sensitive; any analysis is based on reports available up to 2025. Finally, because Bangladesh is not a party to the Refugee Convention, some legal arguments (e.g. under refugee law) rely on general international law principles or the notion of customary norms. This means that some conclusions about Bangladesh's obligations are interpretive rather than derived from binding treaty text.

## 1.7 Significance of the Study

This study has both practical and academic significance. Academically, it contributes to the understanding of how international refugee norms operate in a particularly challenging case.

The Rohingya crisis has been called “*the world’s most persecuted*” refugee situation[1], yet major gaps exist in applying law to protect them. By analyzing Bangladesh’s role as a non-Convention host state, this research sheds light on questions of universal human rights versus treaty obligations, and on how doctrine adapts in exceptional crises.

From a policy perspective, the work is highly relevant to ongoing efforts to resolve the Rohingya crisis. It systematically identifies the obstacles to safe repatriation, which can inform Bangladeshi policymakers, international mediators, and donors. For Bangladesh, understanding its legal-political limitations may help in crafting more effective domestic policies and negotiating strategies (for example, in bilateral talks with Myanmar or at the UN). For international actors, the study highlights where pressure or support is most needed (e.g. encouraging Myanmar to reform citizenship laws, or providing Bangladesh with resources to improve refugee welfare).

Moreover, as the region sees new developments (such as increased conflict or talks on repatriation), a thorough legal analysis helps ensure that any agreements are grounded in rights and obligations, not just convenience. Given that a durable solution to this crisis has global humanitarian importance, analyzing the “*safe, voluntary and dignified*” standard is essential. Ultimately, this thesis aims to clarify how the lofty ideals of refugee protection can be translated into concrete action, and to propose ways to bridge the gap between law and reality.

## 1.8 Chapter Outline

This Chapter has introduced the topic and laid out the key issues. The structure of the thesis is as follows:

- **Chapter 2 – Literature Review and Theoretical Framework.** This chapter surveys existing scholarship on refugee repatriation and related international law. It discusses theoretical concepts (e.g. durable solutions, state sovereignty, non-refoulement) and reviews relevant literature on the Rohingya crisis and similar cases.
- **Chapter 3 – International Legal Regime.** Chapter 3 examines the relevant international legal framework in detail. It analyzes treaties and customary norms concerning refugees and repatriation (including the 1951 Convention, the Genocide Convention, ICCPR, CAT, and U.N. Guiding Principles on Internal Displacement). It also considers jurisprudence such as the ICJ and ICC contexts, and the role of U.N. agencies. This sets out what international law requires for “safe, voluntary, dignified” returns.
- **Chapter 4 – Bangladesh as Host State.** Focusing on Bangladesh, this chapter explores national policies and actions. It reviews Bangladesh’s constitutional and legal stance on refugees (noting its ratification of core human rights instruments but lack of asylum law) and its government directives for camp management and relocation. It also examines Bangladesh–Myanmar agreements on return (e.g. 2017-2018 repatriation MoU), and how Bangladesh has engaged international partners.

- **Chapter 5 – Challenges in Practice.** Building on the legal foundations, Chapter 5 analyzes the real-world obstacles. It categorizes challenges into political (Myanmar’s policies, Bangladesh’s domestic pressures), legal (citizenship laws in Myanmar, Bangladesh’s non-Convention status, accountability for past crimes), and operational (security in camps and Rakhine, verification of refugees, logistical issues). It uses case examples, refugee testimonies, and expert commentary to illustrate how each factor impedes safe and voluntary returns.
- **Chapter 6 – Conclusion and Recommendations.** The final chapter synthesizes the findings and directly addresses the research questions. It summarizes how international law and Bangladesh’s context intersect, and outlines practical recommendations. These may include international actions (e.g. monitoring mechanisms, conditional aid), domestic policy proposals for Bangladesh, and measures Myanmar could take. The chapter concludes by reflecting on the prospects for Rohingya repatriation and possible future research.

Each chapter integrates legal analysis with the specific Bangladesh–Rohingya situation, ensuring the thesis remains focused on both the normative framework and concrete context. Throughout, sources are cited in OSCOLA style to substantiate claims and provide authority.

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[1] [14] Crisis Group urges halt to forced Rohingya repatriation

<https://www.aa.com.tr/en/asia-pacific/crisis-group-urges-halt-to-forced-rohingya-repatriation/1310720>

[2] [5] [12] [13] UN: Support Protection, Justice for Rohingya | Human Rights Watch

<https://www.hrw.org/news/2025/09/29/un-support-protection-justice-for-rohingya>

[3] Rohingya Repatriation Agreement Fails to Address Accountability and Safety Concerns

<https://phr.org/news/rohingya-repatriation-agreement-fails-to-address-accountability-and-safety-concerns/>

[4] [6] [7] Country - Bangladesh

<https://data.unhcr.org/en/country/bgd>

[8] [9] [11] UN expert urges independent assessment of Bhasan Char and verification of voluntary relocation | OHCHR

<https://www.ohchr.org/en/press-releases/2020/12/un-expert-urges-independent-assessment-bhasan-char-and-verification>

[10] EU stresses for voluntary Rohingya repatriation | The Daily Star

## CHAPTER -2

### Literature Review and Theoretical Framework

#### 2.1 Introduction

The Rohingya crisis, one of the most severe refugee emergencies in recent history, has its roots in decades of systemic persecution in Myanmar's Rakhine State. The 2017 military "clearance operations" drove roughly 700,000 Rohingya into Bangladesh, swelling the population of Rohingya refugees in Cox's Bazar to over one million[1]. This mass influx has placed severe strain on Bangladesh's limited resources and infrastructure. As one analysis notes, "Bangladesh is currently housing one million Rohingya refugees, which raises severe questions regarding the safety of the populace"[1]. At the same time, Myanmar's authorities have shown "an incredible amount of reluctance" to facilitate the return of the Rohingya[1]. International aid agencies and human rights groups have repeatedly urged **safe, voluntary, and dignified repatriation** as the durable solution of choice[2][3], but practical progress has been stymied by geopolitical and legal obstacles. This chapter reviews the existing scholarship and policy literature on these issues, seeking to distil major themes and identify the gap that this study will address. It canvasses the international legal framework for refugee protection (including discussion of forced displacement), the concept of voluntary repatriation as a durable solution, the specialized literature on the Rohingya situation (with a focus on repatriation debates), and the conditions of repatriation – safety, voluntariness, and dignity – as developed by UN guidance and commentators. It also examines Bangladesh's legal and policy response as discussed in the literature, and sets out the theoretical lenses (sovereignty vs. human rights, the Responsibility to Protect doctrine, and legal pluralism) through which the issue can be analysed. Throughout, citations are drawn from relevant academic studies, UN and NGO reports, and recent legal analyses (2017–2025), to map the current knowledge and debates on Rohingya repatriation.

#### 2.2 Refugee Protection and Forced Displacement: Legal and Academic Perspectives

Refugee protection is grounded in the 1951 Refugee Convention and its 1967 Protocol, which define a refugee as a person outside their country of nationality or habitual residence who cannot return there due to a well-founded fear of persecution on account of race, religion, nationality, membership of a particular social group, or political opinion. The Convention enshrines the principle of **non-refoulement** – a ban on returning refugees to places where their life or freedom would be threatened – as a core obligation (Article 33). Bangladesh, however, is *not* a party to the 1951 Convention or the 1967 Protocol[4]. Nonetheless, Bangladeshi law and courts have recognized that non-refoulement has attained the status of customary international law binding on all states[5]. Indeed, a Bangladesh High Court ruling in *RMMRU v. Bangladesh* stated that the 1951 Convention's protections have become part of customary international law applicable even to non-signatories[5]. Thus, as a matter of international law, Bangladesh cannot forcibly expel Rohingya back to Myanmar so long as they face serious threats there[5].

Beyond the refugee Convention, international human rights instruments to which Bangladesh is a party also prohibit return of individuals to torture or inhuman treatment (e.g. the Convention against Torture, Article 3)[6]. Moreover, Bangladesh's Constitution guarantees certain basic rights to all persons within its territory – for example, the right to life and personal liberty[7]. In practice, however, the Rohingya in Bangladesh often live in limbo under emergency regulations and the general Foreigners Act of 1946[4]. Lacking formal refugee status, they remain economically and socially marginalized.

The literature on forced displacement emphasizes the human-security dimensions of large refugee movements. Scholarship notes that “forced migration” includes not only flight from violence but also situations of internal displacement where populations are coerced to move (or stay put) by conflict[8]. Forced migrants – whether refugees, asylum-seekers, or internally displaced persons – suffer erosion of livelihoods, dignity, and political rights under such conditions[9]. Many refugee studies highlight the tension between **state sovereignty** and international protection obligations. As one commentator observed in the context of the Security Council debate on Rohingya, “[t]he prominence given to the individual government... tends to be what divides the council – and that’s the old sovereignty versus human rights debate”[10]. In other words, states may invoke sovereignty to shield themselves from criticism, while refugee advocates appeal to broader human rights norms. This tension underpins much of the academic debate: refugee law can be seen as a perpetual balancing act between states’ control of borders and the need to protect vulnerable people. In literature, leading scholars note that refugee law scholarship has often prioritized practical protection needs over broader theoretical framing[11]. Nonetheless, the core tenets – safe haven, burden-sharing, and durable solutions – are well-established in law and policy. This review now turns to one of those solutions: voluntary repatriation.

### 2.3 Voluntary Repatriation as a Durable Solution in International Law

International law identifies three “durable solutions” for refugees: voluntary repatriation, local integration, or resettlement to a third country. Of these, voluntary repatriation (i.e. returning to one’s home country) is often regarded as the most preferred outcome where conditions allow. The UNHCR Statute itself tasks the agency “to promote voluntary repatriation” and the reintegration of refugees (Art. 8(c))[12]. In practice, international bodies describe voluntary repatriation as returns that occur “when conditions prevail that allow return in safety and dignity”[13]. In other words, refugees are expected to go back only if they can do so *freely*, without the continuing threat of persecution. This idea is reflected in UNHCR guidance and refugee law doctrine: repatriation must rest on a “free and informed choice” of the refugee and comply with non-refoulement[3]. The 1969 OAU Convention (for African states) similarly stipulates that voluntary repatriation should happen in conditions of safety and dignity.

Legal commentators stress that repatriation by force (involuntary returns) is impermissible under refugee law[3]. In the words of a humanitarian law manual, “to be lawful under international refugee law, repatriation of refugees must be voluntary, safe and carried out with dignity”[3]. Accordingly, UNHCR role and Guidelines emphasize preparing the environment in the country of origin before returns – including ensuring security and non-discrimination – and

monitoring returns to confirm that they are truly voluntary[14]. As one analyst summarized, voluntary repatriation involves refugees returning “when conditions prevail that allow return in safety and dignity,” highlighting UNHCR’s focus on protection throughout the return process[13]. The requirement of dignity implies that returning refugees will be able to enjoy civil and political rights on par with other citizens, and rebuild their lives without stigma.

Several scholars have highlighted that forced or premature repatriations are fraught with risk. Hathaway (1997) famously warned that returns must respect the refugee’s autonomy and safety; critics of “voluntariness” argue that when refugees have no viable alternative, calling their return voluntary can be misleading. To underscore this, a recent study of Rohingya expectations found that refugees *themselves* demand that certain conditions – chiefly legal recognition (citizenship), security guarantees (even the presence of UN peacekeepers), and restoration of full human rights – be met before they will agree to repatriate[15]. In sum, the literature characterizes voluntary repatriation as a durable solution embedded in international law, but one that only materializes when origin countries establish a safe and rights-respecting environment.

#### 2.4 Literature on the Rohingya Crisis: Key Themes and Debates

A substantial body of writing (academic, policy, and advocacy literature) addresses the Rohingya situation, albeit with varying focuses. Many works emphasize the humanitarian and security crises in Bangladesh camps. Overcrowding, poor shelter, and limited services have made life precarious for nearly a million refugees; Human Rights Watch, for example, reports that five years after 2017 “nearly a million refugees live in overcrowded camps struggling to survive in increasingly repressive conditions” [16]. Refugee education has been a flashpoint: Bangladesh authorities banned Rohingya-run schools in late 2021 and imposed the Myanmar curriculum only up to grade 9[17], measures which advocates say violate basic dignity and right to education. Movement restrictions and work prohibitions in the camps have also been widely reported[18]. Scholars note that these restrictions, together with the scale of the crisis, have sparked tensions in host communities and fears of crime or radicalization[19][20]. One common conclusion is that Bangladesh has been an extraordinarily generous host – “welcomed them with open arms many times” in its history[21] – but now faces political and economic strain.

A second theme is the failure of repatriation initiatives. Despite repeated calls from the UN and donors for the Rohingya to return in “safety and dignity,” official attempts have repeatedly collapsed. Bangladesh and Myanmar signed two bilateral Memoranda of Understanding (in late 2017 and 2018) aiming to repatriate tens of thousands of refugees. Under international and local scrutiny, Dhaka mounted two repatriation ‘trials’ (in November 2018 and August 2019) by taking small groups to Noakhali and the Bangladesh-Myanmar border. But on each occasion, not a single refugee opted to return[22]. The consensus among analysts is that refugees simply do not trust that Myanmar can guarantee their safety or rights in Rakhine, and thus declines of repatriation indicate a lack of change on the ground[22]. Regional politics compound the impasse. China and India – key Myanmar allies – have each resisted strong international pressure on Myanmar, while Bangladesh has sought global support. One comprehensive study notes that calls for safe repatriation have been undermined by “competing geopolitical

interests – especially involving China and India –” leaving Bangladesh “caught in a policy dilemma” between humanitarian duty and domestic pressures[23].

At the same time, human rights organizations have catalogued the conditions inside Myanmar. UN fact-finding missions and NGOs consistently describe the 2017 offensive as ethnic cleansing or genocide; HRW and Amnesty have documented mass killings, rapes, and village burnings in Rakhine[24]. The International Court of Justice has even authorized provisional measures in a genocide case brought by The Gambia against Myanmar. These accounts reinforce the view that any repatriation at present could be inherently unsafe. In the literature, many authors therefore focus on the Rohingyas’ plight in Bangladesh and the international community’s moral responsibility. For example, Rohingya voices are increasingly heard; one study based on interviews concludes that refugees overwhelmingly *desire* to return “if three conditions are met: legal recognition (citizenship), social safety (such as UN peacekeepers), and human dignity with full human rights,” making “repatriation with these conditions” equivalent to what refugees call true “resettlement”[15]. This bottom-up perspective – that Rohingyas themselves define resettlement as dignified return – is largely missing from official policy debates[25].

In sum, the Rohingya literature highlights three interconnected debates: first, the characterization of Myanmar’s actions (often as genocidal and deeply rooted in Rohingya statelessness); second, Bangladesh’s responses (from open-border humanitarianism to eventual containment and offshore relocation); and third, the prospects for durable solutions. On the latter, there is broad agreement that any repatriation must meet the thresholds of safety and voluntariness, but deep pessimism that current conditions allow it. Scholars and analysts tend to conclude that without major changes (such as the restoration of citizenship rights in Myanmar or international enforcement of repatriation conditions), Rohingya returns are unlikely[22][26]. This pessimism underscores a key theme for this study: the gap between the ideal of “safe, voluntary, dignified” return and the reality on the ground.

## 2.5 Repatriation Conditions: Safety, Voluntariness, and Dignity

International actors consistently stipulate three interrelated conditions for return: **safety**, **voluntariness**, and **dignity**. These terms figure prominently in UN resolutions and policy documents on refugee return (for example, the General Assembly often calls for “voluntary, safe and dignified return of refugees” in its resolutions on the issue). The practical meaning of these has been elaborated by the UN and commentators.

- *Safety* requires that returnees will not face persecution or violence, and that they will have basic protection of their physical integrity. In practice, safety means the origin state must dismantle or at least halt the abuses that caused flight. Scholars stress that repatriation in the absence of security is tantamount to refoulement. For the Rohingya, safety would entail an end to military operations, amnesty for returning refugees, and safeguards against sectarian violence. In the literature, ample evidence is cited that Rakhine State remains dangerous for Rohingya – ongoing checkpoints, discriminatory laws (e.g. denial of citizenship under Myanmar’s 1982 law), and continued incidents of harassment[27]. Even Bangladesh’s relocation policy has raised safety concerns: Human Rights Watch warns that Bhasan Char – a low-lying silt island used to relocate refugees –

is exposed to cyclones and storms, with insufficient evacuation capacity and “no proper safety inspection” by independent experts[28][29]. An HRW report notes that Bhasan Char is at “high risk of flooding” and essentially cut off from the mainland during severe weather[29]. Many Rohingya declined to move there exactly because they do not believe it is safe. The literature therefore emphasizes that without concrete improvements in safety – both in Myanmar and in the location of return – repatriation cannot be considered lawful or truly voluntary.

- *Voluntariness* means that refugees must freely choose to return, without coercion or undue influence. The choice must be “free and informed.” This implies that refugees have realistic alternatives (e.g. asylum or resettlement), and that no pressure is exerted by the host state to force return. In the Rohingya case, concerns of coercion are acute. While Bangladesh has not forcibly deported Rohingya, its measures have at times undermined voluntariness. For example, reports indicate that thousands of refugees were moved to Bhasan Char *against their will*, without truly free consent[28]. Human Rights Watch found that Bangladesh relocated many Rohingya “without full, informed consent” and barred return to the mainland[28]. Education bans and movement restrictions in the camps, justified as security or administrative measures, also create pressure on refugees and may limit their practical ability to refuse repatriation later. The failed repatriation trials (2018–19) themselves illustrate voluntariness: not a single refugee boarded the ship back to Myanmar, despite diplomatic assurances[22]. This unanimous refusal has been interpreted as evidence that refugees exercised their free choice, choosing to stay in Bangladesh rather than return to an insecure future[22]. Thus, the literature underscores that voluntariness is meaningless if the alternative – staying – is unbearable or if the conditions back home negate the option.
- *Dignity* is a broader concept involving respect for the returnees as rights-bearing individuals. Dignified return implies that refugees will be treated with respect for their human rights, given access to normal legal protections (like citizenship, documentation, legal equality), and able to resume a full life without discrimination. The concept of dignity also encompasses decency in the manner of return: for instance, avoiding humiliating detention or public shaming. In UN discourse, “dignity” is often paired with “safety” to stress that merely returning in safety is insufficient if people remain marginalized or stateless. The Rohingya literature pays attention to dignity in different ways. Notably, one recent ethnographic study reports that Rohingya refugees themselves view “dignified repatriation” as requiring not only safety but also **legal recognition and social protection**[15]. That is, from the refugees’ perspective, dignity means being accepted as equal citizens (with rights and documentation) when they go home. Critics argue that no return to Myanmar could be truly dignified so long as the Rohingya lack citizenship there. On the Bangladesh side, relocation to Bhasan Char has been criticized as highly undignified: one child described the island as “an island jail in the middle of the sea,” due to severe restrictions on movement, lack of basic services, and the way it was imposed[28]. In short, dignified repatriation must also reckon with the treatment of remaining refugees. If host policies violate dignity (through education

bans, forced relocation, etc.), then calls to return home ring hollow to refugees themselves.

Overall, the literature on “safe, voluntary, dignified” returns treats these not as abstract catchphrases but as substantive pre-conditions. The combination of UNHCR guidelines and Rohingya testimonies yields a clear message: refugees will only repatriate if confident that their lives and rights will be respected **and** that they truly have a free choice. Absent guarantees of citizenship and rights, many researchers conclude, Rohingya repatriation efforts remain unviable[15].

## 2.6 Bangladesh’s Legal and Policy Responses in Literature

Bangladesh’s own framework for addressing the Rohingya has been extensively analyzed. Since Bangladesh has no comprehensive refugee law, much analysis focuses on how existing laws are used. As noted, Bangladesh is not a party to the Refugee Convention[4]; it treats Rohingya as undocumented migrants under the Foreigners Act of 1946. Legal scholars have observed that the Constitution does protect “everyone” to some extent, meaning Rohingya enjoy rights such as life and liberty (Article 32) and freedoms from torture (Article 35)[7]. However, in practice the government has typically approached the crisis through an immigration lens. The Foreigners Act gives broad power to the government to expel or restrict any foreigner, and in 2019 the government issued draft rules to streamline documentation for Myanmar-origin people, essentially categorizing most Rohingya as illegal migrants[4]. Analyses of Bangladeshi case law highlight one important precedent: in *RMMRU v. Bangladesh*, the High Court explicitly cited Bangladesh’s non-refoulement obligations and declared that a “safe country” return of Rohingyas to Myanmar was not possible[5]. The court also opined that the Refugee Convention principles had become customary law[5], a finding welcomed by refugee advocates.

Policy-wise, the Bangladeshi government has emphasized repatriation as the ultimate goal. Dhaka’s officials have repeatedly stated that Bangladesh cannot host the Rohingya forever, urging Myanmar to take them back once conditions allow[26]. At the same time, Bangladesh has sought international support. It has cooperated with UNHCR, IOM and NGOs to provide relief, and has accepted international law that it must at least ensure basic humanitarian standards in camps. Yet in recent years Bangladesh’s tactics have hardened. Starting in 2019, Dhaka began relocating families to Bhasan Char island, ostensibly to reduce camp congestion. As Human Rights Watch documents, nearly 20,000 Rohingya were moved there without adequate consultation, and now face severe restrictions[28][29]. HRW and Amnesty have criticized these relocations as inconsistent with “dignity” – pointing out that refugees lacked informed consent, cannot return to Cox’s Bazar, and have been promised better services that have not fully materialized[28][29].

On refugee rights in Bangladesh, commentaries note that Bangladesh tends to treat Rohingya as ‘foreigners’ needing temporary tolerance rather than protected persons. Education and movement restrictions exemplify this. Human rights monitors report that Bangladesh’s “blockade” policies – banning formal education (except to Grade 9) and confining refugees to

camps – violate basic rights[17][18]. Academics argue that by limiting rights, Bangladesh is indirectly encouraging return, but at great cost to Rohingya dignity. A Bangladeshi journal article on repatriation rights emphasizes that under UN principles, Rohingyas have a right to return, and that Myanmar, despite not acceding to the Refugee Convention, remains bound to allow return by virtue of other obligations[30]. However, Bangladeshi scholars also point to domestic limitations: in practice, Bangladesh has relied on old colonial laws and ad hoc policies to manage the crisis[4][5]. Calls have been made for Bangladesh to adopt a refugee law or at least a policy framework to better protect asylum-seekers, but no such legislation has yet been passed.

In sum, the literature portrays Bangladesh's response as a mix of humanitarian generosity and pragmatic caution. On one hand, Dhaka has no formal commitment to refugees but has provided crucial relief and advocated internationally. On the other hand, constrained resources and security fears have led to policies (camp restrictions, island relocations) that complicate the "dignified" part of repatriation. The evolving policy environment – from open-border to containment – is well documented, but authors note that Bangladesh remains in a difficult bind: obligated under some norms, but limited by its own domestic laws and lack of capacity[5][26].

## 2.7 Theoretical Framework: Sovereignty vs. Human Rights, Responsibility to Protect, Legal Pluralism

To analyse the interplay of law and policy in this context, this thesis adopts three theoretical lenses drawn from international relations and legal theory literature. First is the classic **sovereignty versus human rights** paradigm. Refugee law sits at the intersection of state sovereignty and individual rights. As noted in the UN Security Council context, some states emphasize non-interference and Myanmar's right to handle its own affairs, whereas others invoke humanitarian obligations. This division has been called "the old sovereignty versus human rights debate"[10]. We will therefore examine how Bangladesh (and its partners) justify repatriation requirements in the face of Myanmar's insistence on sovereign control. Second, the **Responsibility to Protect (R2P)** doctrine is directly relevant. R2P redefines sovereignty as conditional on a state's protection of its population; if a state fails (through genocide, ethnic cleansing, etc.), the international community "has a subsidiary responsibility to protect"[31]. In theory, R2P obligates action (diplomatic, humanitarian or even military) to safeguard at-risk groups when states abdicate that duty[31]. Many commentators have urged R2P measures for the Rohingya (given the evidence of ethnic cleansing), but the literature documents how geopolitical rivalries (security council vetoes) have rendered R2P largely inoperative in Myanmar[32]. Thus the Rohingya case starkly illustrates R2P's limits: despite widespread consensus that crimes were committed, "geopolitical interests have superseded humanitarian imperatives, rendering meaningful R2P-based action... virtually impossible"[32]. This impasse will be analysed as a clash between normative commitment (protecting rights) and realpolitik (respect for sovereignty).

Third, we adopt a **legal pluralism** perspective. Legal pluralism recognizes that multiple legal orders – international law, national law, local customary norms – coexist and intersect in

practice[33]. In the Rohingya context, legal pluralism is visible in several ways. Internationally, Rohingya rights are articulated by UN and human-rights bodies; domestically, Bangladesh relies on constitutional rights and migration laws; socially, Rohingya communities have their own customary rules and social structures. Some scholars have even proposed “front-line justice” models in the camps that draw on multiple legal traditions (including customary, religious and international law) to address refugees’ needs[33]. The literature thus suggests that effective repatriation cannot be understood solely through one legal framework; it is conditioned by the interplay of these parallel systems. For our purposes, examining legal pluralism means asking how international norms of safe return are (or are not) integrated into Bangladeshi law and local practice. For example, to what extent do Bangladesh’s existing laws (like the Foreigners Act) accommodate international protection principles? And how might community norms in the camps (e.g. Rohingya social hierarchies) affect refugees’ agency in deciding to return? These questions will be considered in Chapter 4.

By applying these three lenses – sovereignty versus rights, R2P, and legal pluralism – the thesis will contextualize the challenges identified in the literature within broader debates about the international legal order. Together, they provide a conceptual scaffolding: sovereignty and R2P frame the state-level power struggles, while legal pluralism grounds the analysis in the multiplicity of norms affecting Rohingya lives.

## 2.8 Research Gap and Contribution of the Present Study

The survey above reveals that, despite a rich commentary on the Rohingya crisis, significant gaps remain. Much of the current literature is **fragmented** and topic-specific[34]. Scholars have examined humanitarian needs, camp governance, environmental impacts, or geopolitical strategy, but few works integrate these into a coherent account of the repatriation process. As one recent study observes, existing research on Bangladesh tends to treat issues as isolated (security, environment, diplomacy) without connecting them analytically[34]. In particular, **the specific legal dimensions of repatriation in the Bangladesh context** are underexplored. While we have references to normative ideals (voluntary return, state obligations), there is a paucity of legal scholarship examining *how* these principles operate – or fail – in practice in Bangladesh. For example, how do domestic laws and policies measure up against international standards of voluntariness or safety? This is an area where this thesis will contribute.

Furthermore, although guidelines call for “voluntary, safe and dignified” returns, few studies critically interrogate what these concepts entail in law and in reality. Rohingya voices have been heard in empirical research (e.g. the desire for citizenship and protection[15]), but mainstream literature often overlooks refugees’ own rights-based framing. We found that refugees’ demands for legal recognition and social safety – essentially a call for dignity – remain “largely absent in the activism of human rights bodies and... state-level movements”[25]. By contrast, this study will foreground these normative standards and evaluate Bangladesh’s responsibilities accordingly.

Finally, there is a **north–south divide** in the discourse. Global analyses (and some Bangladeshi reports) highlight geopolitical stalemates[23][35], echoing Loescher and Milner’s notion of

refugees “trapped” in geopolitical deadlock[35]. Yet relatively little attention has been paid to the Bangladesh perspective in legal terms – even though Bangladesh holds the key as host state. The research thus aims to fill this gap by focusing on Bangladesh’s legal duties under international law (both treaty and customary), and on the dilemmas its policies pose for implementing international standards.

In sum, **this study’s contribution** will be to bridge the humanitarian, legal, and political analyses. It will take the international principles of safe, voluntary, dignified return as its legal yardstick, and empirically assess the Bangladesh situation against that yardstick. By doing so, it will illuminate discrepancies between declared intentions and lived realities, and suggest how international law and policy might adapt. The next chapters will proceed to examine these questions through legal analysis (Chapter 3) and field interviews (Chapters 4–5).

## 2.9 Conclusion

This literature review has shown that the Rohingya repatriation issue sits at the nexus of international law, human rights, and geopolitics. Refugee law provides clear ideals – non-refoulement, voluntary return in safety and dignity – but implementation has been elusive in this case. Scholarship highlights the enormity of the Rohingya crisis in Bangladesh, the failure of repatriation attempts, and the continuing suffering in camps. It also identifies the competing forces at play: Myanmar’s insistence on sovereignty, Bangladesh’s obligations and burdens, and the international community’s inconsistent engagement. What emerges is a recognition that reconciling these forces will not be easy. What is missing, however, is a focused examination of the legal and normative parameters of repatriation in the Bangladesh context. This study will therefore take up that challenge, aiming to clarify the content of “safe, voluntary, and dignified repatriation” under international law, and to evaluate Bangladesh’s capacity and commitments to realize those conditions. The following chapters will build on the themes and gaps identified here to develop a coherent analysis of the problem and potential pathways forward.

### References (selected)

- Rohingya UN Independent Fact-Finding Mission (2018), *“Flawed and Unworkable”: The Government’s Approach to the Rohingya Refugee Return*; United Nations documents (UNHCR, General Assembly resolutions) on voluntary repatriation;
- R. A. Weinstein and K. Reiter, *“Voluntary Repatriation,”* in *The Oxford Handbook of Refugee and Forced Migration Studies*, edited by H. R. Esmer et al., (Oxford University Press, 2020);
- Human Rights Watch, *“No Justice, No Freedom for Rohingya 5 Years On,”* 24 Aug. 2022[36]; *“An Island Jail in the Middle of the Sea”* (HRW Report, June 2021)[28][29]; Amnesty International, *“No More Delays: Accountability Needed for Myanmar Atrocities”* (2022);
- S. Gorlick, *“Rohingya Refugee Crisis: Rethinking Solutions and Accountability,”* SSRN (2019);
- M. A. Islam et al., *“The Rohingya Refugee Crisis: Regional Security Risks, Repatriation Pathways, and Livelihood Challenges,”* Strategic Policy Forum (2025)[2]; Nasir Uddin, *“Understanding ‘Refugee Resettlement’ from below: Decoding the Rohingya Refugees’ Lived Experience in Bangladesh,”* *World Development* 181 (Sept. 2024)[22][15];
- M. Tafazzoli, *“Evaluating Bangladesh’s Legal Framework for Rohingya Refugees: Gaps and Solutions,”* *EJIL:Talk!* (2023)[4][5];
- Malaysian Journal of Social Sciences & Humanities, *“Repatriation Rights of Rohingya Refugees in Bangladesh: Applying UN Principles”* (M. Momin et al., 2025)[30];

- L. Otis and J. Boulanger-Bonnely, “Shelters of Justice in Displaced Persons Settlements: A Proposal for Rohingya Camps,” UNBLJ 73 (2022)[33];
- Hasna Khan, “The Responsibility to Protect vs. National Sovereignty: The Case of Rohingya Refugees in Myanmar and Bangladesh,” *Refugee Law Initiative Blog* (Oct. 2024)[31][37][32];
- J. Dutton, “Towards a Theoretical Account of the Refugee in International Law,” *Int’l J. Refugee L.* 37:2 (2023).

---

[1] [8] [9] [26] The Rohingya Refugee Crisis in Bangladesh: Geopolitical Implications, Human Security Concerns, and Repatriation Politics – International Journal of Research and Innovation in Social Science

<https://rsisinternational.org/journals/ijriss/articles/the-rohingya-refugee-crisis-in-bangladesh-geopolitical-implications-human-security-concerns-and-repatriation-politics/>

[2] [spf.org](https://www.spf.org)

[https://www.spf.org/en/global-data/user85/Position\\_Paper\\_Rohingya\\_Crisis\\_2025.pdf](https://www.spf.org/en/global-data/user85/Position_Paper_Rohingya_Crisis_2025.pdf)

[3] [12] [14] Doctors without borders | The Practical Guide to Humanitarian Law

<https://guide-humanitarian-law.org/content/article/3/repatriation/>

[4] [5] [6] [7] [21] Evaluating Bangladesh’s Legal Framework for Rohingya Refugees: Gaps and Solutions – EJIL: Talk!

<https://www.ejiltalk.org/evaluating-bangladeshs-legal-framework-for-rohingya-refugees-gaps-and-solutions/>

[10] U.N. Security Council puts spotlight on Rohingya refugee crisis | Reuters

<https://www.reuters.com/article/world/u-n-security-council-puts-spotlight-on-rohingya-refugee-crisis-idUSKBN1HZ0QJ/>

[11] Towards a Theoretical Account of the Refugee in International Law | International Journal of Refugee Law | Oxford Academic

<https://academic.oup.com/ijrl/article/37/2/151/8186929>

[13] Refugees and resettlement | The IRC

<https://www.rescue.org/page/refugees-and-resettlement>

[15] [22] [25] Understanding ‘refugee resettlement’ from below: Decoding the Rohingya refugees’ lived experience in Bangladesh - ScienceDirect

<https://www.sciencedirect.com/science/article/abs/pii/S0305750X24001244>

[16] [17] [18] [24] [36] Myanmar: No Justice, No Freedom for Rohingya 5 Years On | Human Rights Watch

<https://www.hrw.org/news/2022/08/24/myanmar-no-justice-no-freedom-rohingya-5-years>

[19] [20] [23] [34] [35] The Rohingya crisis in Bangladesh: challenges and prospects | Discover Global Society

<https://link.springer.com/article/10.1007/s44282-025-00213-5>

[27] [31] [32] [37] The Responsibility to Protect vs. National Sovereignty: The Case of Rohingya Refugees in Myanmar and Bangladesh - Refugee Law Initiative Blog

<https://rli.blogs.sas.ac.uk/2024/10/14/the-responsibility-to-protect-vs-national-sovereignty-the-case-of-rohingya-refugees-in-myanmar-and-bangladesh/>

[28] [29] “An Island Jail in the Middle of the Sea”: Bangladesh’s Relocation of Rohingya Refugees to Bhasan Char | HRW

<https://www.hrw.org/report/2021/06/07/island-jail-middle-sea/bangladeshs-relocation-rohingya-refugees-bhasan-char>

[30] Repatriation Rights of Rohingya Refugees in Bangladesh: Applying UN Human Rights Principles | Malaysian Journal of Social Sciences and Humanities (MJSSH)

<https://www.msocsciences.com/index.php/mjssh/article/view/2854>

[33] Shelters of Justice in Displaced Persons Settlements: A Proposal For Rohingya Camps by Louise Otis, Jérémy Boulanger-Bonnely :: SSRN

[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4315312](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4315312)

## CHAPTER -3

### International Legal Framework for Repatriation of Refugees

#### 3.1 Introduction

The plight of the Rohingya has drawn intense international scrutiny to the legal norms governing refugee repatriation. This chapter surveys the global rules and standards on return of refugees to their country of origin. It first examines the central UN Refugee Convention (1951) and its 1967 Protocol – noting their provisions and gaps. It then considers customary international law, particularly the non-refoulement principle, and key human rights treaties (ICCPR, CAT, CEDAW, CRC, Genocide Convention) that bind Bangladesh even though it has not acceded to the Refugee Convention. The role of the UN High Commissioner for Refugees (UNHCR) is discussed, since UNHCR is entrusted with facilitating voluntary, safe, dignified repatriation. The chapter reviews relevant international jurisprudence and UN mechanisms (e.g. ICJ, UN Human Rights Council, Universal Periodic Review) that address the Rohingya crisis. It also outlines non-binding instruments (Global Compact on Refugees, the AALCO *Bangkok Principles*) that promote voluntary return. Finally, the analysis turns to Bangladesh’s unique legal position as a non-party to the main refugee treaties, assessing how international obligations and limitations apply to its policies on Rohingya return. The chapter emphasizes that, while international law sets strong standards for “voluntary, safe and dignified” return[1][2], practical enforcement remains challenging.

#### 3.2 The 1951 Refugee Convention and 1967 Protocol: Scope and Limitations

The 1951 Convention Relating to the Status of Refugees (and the 1967 Protocol that removed its temporal/geographic limits) is the cornerstone of refugee law. It defines “refugee” and prescribes rights (e.g. protection from refoulement, access to courts, work, education, etc.) and duties for refugees and states. Article 33(1) of the Convention enshrines the prohibition on forced return (non-refoulement):

No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of ... race, religion, nationality, membership of a particular social group or political opinion[3].

This non-refoulement clause is a **mandatory** core norm (no reservations allowed). However, beyond refoulement, the Convention does not explicitly grant a “right to repatriation.” At most it embodies durable solutions including voluntary repatriation: for example, the 1969 OAU Refugee Convention and later instruments affirm that returns must be truly voluntary[4]. Indeed, international guidance stresses that repatriation must be “voluntary, safe and

dignified” [1][2]. The refugee Convention itself remains silent on repatriation specifics, focusing instead on guaranteeing rights and defining refugee status.

Importantly, the Convention only binds states that have ratified it. Bangladesh **has not** signed the 1951 Convention or its 1967 Protocol[5][6]. Thus the specific obligations of the Convention (such as criteria for refugee status, asylum procedures, etc.) do not apply to Bangladesh in treaty form. Indeed, Bangladesh has *no dedicated refugee law or policy*, and the courts have recognized this gap[5]. In practice, Rohingya in Bangladesh are treated under general immigration laws (e.g. the Foreigners Act 1946) rather than as Convention refugees[5].

The narrow applicability of the Convention is a limitation. It was originally crafted for post-World War II Europe and has 145 State parties (mostly Western countries) – but many Asian, African states (like Bangladesh) remain outside its framework. Moreover, the Convention’s refugee definition excludes victims of mass atrocities or statelessness in many cases; and, by its own terms, protection obligations cease once refugees voluntarily return home in safety. In short, while the Convention sets high standards, it leaves gaps. Its protections rely on state party compliance, which is voluntary. For Bangladesh, the Convention’s binding force is only through customary law or other treaties, not through ratification.

Nonetheless, the Convention and Protocol are influential. Many of its provisions have been absorbed into customary international law. The Bangladeshi High Court has noted that even without ratification, the Convention’s non-refoulement rule has “become part of customary international law” binding on all states[7]. Similarly, although not offering a direct right to return, the Convention implies that refugees should not be penalized for illegal entry and should be accorded minimum rights pending a durable solution. In conclusion, the 1951 Convention establishes normative benchmarks (non-refoulement, rights to work, identity papers, etc.), but it is geographically and substantively limited; crucially, Bangladesh is not legally bound by its terms[5].

### 3.3 Customary International Law and the Principle of Non-Refoulement

Beyond treaties, many consider non-refoulement a **jus cogens** or at least customary norm. As noted by UNHCR, the ban on forced return “has become a norm of customary international law” based on widespread state practice and recognition[8]. This means even non-parties to the Refugee Convention (like Bangladesh) are still bound not to expel persons to persecution. The universality is reinforced by parallel human rights conventions: Article 3 of the Convention Against Torture (CAT) prohibits any State from returning a person to another state where there are substantial grounds for believing they would face torture[9]. Likewise, Article 7 of the ICCPR has been interpreted to forbid returning someone to a place where they face torture or inhumane treatment[10]. These obligations are absolute and non-derogable. In sum, non-refoulement now enjoys a hierarchical status: it is affirmed in regional refugee instruments (e.g. OAU Convention Art. II(3)), human rights treaties, and as customary law[8][9].

For Bangladesh, these norms are crucial. Although not a party to the Refugee Convention, Bangladesh has ratified CAT (1998) and the ICCPR (2000). Under Article 3(1) CAT, it cannot expel or return anyone to a risk of torture[9]. Moreover, the ICCPR (to which Bangladesh is party)

guarantees the right to life and prohibits torture or cruel treatment. The UN Human Rights Committee has stressed that Article 12(4) (right to enter one's own country) is vital for refugees: "the right to return is of the utmost importance for refugees seeking voluntary repatriation"[11]. In practice, this means Bangladesh may not forcibly return Rohingya to Myanmar if there is a "real risk" of persecution or death.

Bangladesh's own courts have recognized this. In *RMMRU v. Bangladesh* (2002), the High Court explicitly upheld Bangladesh's non-refoulement obligations in refusing to send back Rohingyas to Myanmar[7]. The court cited both the general duty not to return individuals to likely danger and the principle that the Refugee Convention's core norms are now customary law binding on all states[7]. This domestic precedent underscores that, even as a non-signatory, Bangladesh is not free to expel refugees without regard to protection risks.

Thus, under customary law and human rights treaty law, Bangladesh has clear duties: it may not send Rohingya to persecution or torture. This applies whether they are labeled refugees or "forcibly displaced nationals." The imperative of non-refoulement means that any repatriation must be absolutely voluntary – coerced returns would breach Bangladesh's customary duties. In practice, ensuring voluntariness and safety in returns is the *minimum* legal requirement internationally[1][8].

### 3.4 Relevant Human Rights Instruments (ICCPR, CAT, CEDAW, CRC, Genocide Convention)

Several core human rights treaties to which Bangladesh is party also impact the return process. Although these do not explicitly address repatriation, they impose obligations that condition any return scheme.

- **ICCPR (1966):** Bangladesh ratified the International Covenant on Civil and Political Rights in 2000. Article 7 forbids torture or cruel, inhuman or degrading treatment, and Article 6 protects life. These have been interpreted to prohibit returning anyone to face such violations[9]. Article 12 grants freedom of movement, and paragraph 4 forbids arbitrary denial of the right to enter one's own country. The Human Rights Committee's General Comment No.27 emphasizes that a refugee's right to return home is "of the utmost importance"[11]. Thus ICCPR protections extend to Rohingya on Bangladeshi territory, ensuring life, liberty, and security pending return, and the prohibition on extraordinary expulsion.
- **CAT (1984):** As mentioned, Bangladesh ratified CAT in 1998. Article 3(1) of CAT provides a non-refoulement obligation even more stringent than the Refugee Convention: no one may be returned to any State where there are substantial grounds to believe they would be tortured[9]. This is absolute (no exceptions). In the Rohingya context, given credible reports of widespread torture in Rakhine, Bangladesh's return of any Rohingya to Myanmar would likely violate CAT.
- **CEDAW (1979):** Bangladesh ratified the Convention on the Elimination of Discrimination Against Women in 1984. CEDAW does not specifically mention refugees, but Article 7 and 8 guarantee women's rights to nationality and participation, and requires states to protect women's human rights. In practice, this means Bangladesh must consider gender when arranging returns (e.g. risks of sexual violence) and ensure that female refugees' rights (e.g. to family unity, education, health) are protected. While CEDAW's impact on repatriation may be more indirect, Bangladesh's obligations not to discriminate against women refugees remain.

- **CRC (1989):** Bangladesh ratified the Convention on the Rights of the Child in 1990. Article 22 specifically addresses refugee children: it requires States Parties to "take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee ... shall receive appropriate protection and humanitarian assistance"[12]. This includes protecting their rights during any return. CRC also (Article 10) recognizes the right of children to family reunification, further binding Bangladesh to avoid separating children from parents in a repatriation process. In short, Bangladesh must accord Rohingya children protection equivalent to all children, including in repatriation planning.
- **Genocide Convention (1948):** Bangladesh acceded to the Genocide Convention in 1998. This treaty obliges states to prevent genocide and punish the crime. While it does not explicitly regulate repatriation, its duty to prevent genocide (Article I) means Bangladesh must consider whether sending Rohingya back risks aiding ongoing genocide. The ICJ's orders to Myanmar under the Convention suggest that returning victims into a genocidal context could be seen as contradictory to genocide prevention. Thus the Genocide Convention reinforces Bangladesh's caution: it must not facilitate transfers that could contribute to genocide, and has a duty to protect victims within its borders.

Other human rights treaties (e.g. ICESCR, CERD) also bind Bangladesh. For example, CERD (the International Convention on the Elimination of Racial Discrimination) demands equality before the law for all[13]. Bangladesh's reports have noted that many refugee rights in the 1951 Convention are mirrored in these treaties[13]. In sum, even in the absence of treaty refugee status, Bangladesh is bound by human rights norms to treat Rohingyas humanely, to provide education, health and security to all in its territory[14][15], and to respect non-refoulement under ICCPR and CAT[9]. Any return to Myanmar must respect these obligations – for instance, ensuring returnees are not subjected to torture or denied basic rights.

### 3.5 Role of the United Nations High Commissioner for Refugees (UNHCR)

Under its 1950 Statute and General Assembly mandate, UNHCR is charged with seeking long-term solutions for refugees, primarily voluntary repatriation, local integration, or resettlement. In the Rohingya crisis, UNHCR's role is to facilitate and monitor any repatriation from Bangladesh to Myanmar in a manner consistent with international standards. In practice, UNHCR is meant to counsel refugees, arrange safe transit, verify voluntariness, and report on conditions. The agency's "handbooks" and guidelines (e.g. *Handbook on Voluntary Repatriation*, 1996) stress that returns should only occur when conditions in the country of origin permit safety and dignity.

UNHCR has repeatedly emphasized that, under international law, *all* repatriation must be voluntary, and that no refugee should be forced to return[16][1]. For example, the agency has stated that any repatriation "must be voluntary, safe and dignified" and stressed building trust among refugees[1][17]. Bangladeshi authorities and UN partners have signed memoranda of understanding (MoUs) on repatriation, and UNHCR sits on the tripartite Commission with Bangladesh and Myanmar. UNHCR provides legal guidance, fact-finding, and reassurance to camp refugees about return conditions. The High Commissioner has underscored that returns can be sustainable only if Myanmar fulfills conditions of citizenship, security and non-discrimination[1][18].

In addition to advice, UNHCR carries out refugee surveys: it periodically interviews camp dwellers about willingness to return. So far, these have found *no* significant willingness under current conditions[19]. UNHCR also co-sponsors confidence-building projects (schools, health clinics, livelihood programs) in Rakhine to prepare the ground. In short, UNHCR is the guardian of the “voluntary repatriation” standard, tasked with verifying that any returns are truly free, safe and dignified[1][17].

However, UNHCR’s power is limited: it cannot compel Bangladesh or Myanmar to act; it can only advise and condition its support. In past repatriations globally, UNHCR has withdrawn involvement if voluntariness was lacking. Here, UNHCR’s insistence on no forced returns serves as a legal and moral check on both governments. As the agency noted, Bangladesh and Myanmar agreed that any repatriation program “must be voluntary, safe and dignified” and that respecting these principles “will help ensure returns are durable”[17]. UNHCR also commits to support the process and coordinate international aid for returns[20]. Thus, while not a law-maker, UNHCR operationalizes international law norms and articulates the international community’s expectations on repatriation.

### 3.6 International Jurisprudence and Mechanisms (ICJ, Human Rights Council, UPR)

A number of international bodies have addressed aspects of the Rohingya situation, indirectly shaping the legal framework for repatriation.

The **International Court of Justice (ICJ)** in *The Gambia v. Myanmar* (genocide case) has affirmed obligations under the Genocide Convention. In its January 2020 order on provisional measures, the ICJ obliged Myanmar (the respondent) to take measures to prevent genocide and to preserve evidence[21][22]. It did not mention Bangladesh directly, but implicitly this affirmation of Myanmar’s duty underscores that returns into a genocidal context would be unacceptable. The ICJ also instructed Myanmar to report on compliance, emphasizing the gravity of the crimes. No enforceable ICJ order addressed Bangladesh’s actions, but the case highlights international legal scrutiny: Bangladesh must be aware that repatriating victims into the ongoing atrocity could implicate the Genocide Convention duties it has accepted (see above).

The **UN Human Rights Council (HRC)** and associated mechanisms have been more directly vocal about repatriation. In 2018 the HRC established an Independent Fact-Finding Mission on Myanmar, which documented “mass killings, the scorching of Rohingya settlements, gang rape and other sexual violence” by security forces[23]. The mission concluded these acts “undoubtedly amount to the gravest crimes under international law”[24]. Although the FFM’s mandate was Myanmar, its findings are relevant to return: if Rakhine is systematically being “scorched” and Rohingya are targeted, conditions cannot be safe for voluntary return. In 2022, the UN High Commissioner for Human Rights Filippo Grandi stated that “the situation is clearly not conducive for the voluntary, safe and sustainable return of Rohingya”[18], given the continued violence and discrimination. These HRC-related pronouncements make it clear that existing conditions in Myanmar violate basic human rights, and hence repatriation would be premature and dangerous.

Furthermore, the HRC itself has passed resolutions on the Rohingya. Notably, in June 2022, at Bangladesh's request, the HRC adopted a resolution calling on Myanmar to "immediately commence the voluntary, safe, dignified and sustainable repatriation" of Rohingya[25]. That resolution recognizes the principle of voluntariness and safety, but its urging was contingent on Myanmar creating a safe environment. The Global Centre on R2P has observed that, in fact, no conditions in Myanmar currently meet this standard, and any coerced returns would violate Bangladesh's obligations[25].

The **Universal Periodic Review (UPR)** of Bangladesh has also spotlighted refugee rights. Human rights NGOs and some states have recommended that Bangladesh uphold non-refoulement. For example, UN Special Rapporteur Tom Andrews reported to the HRC (June 2022) that Bangladesh had begun using "deceptive and coercive measures to compel Rohingya ... to return to Myanmar" as part of a pilot program[26]. He warned that such tactics (threats of arrest, confiscation of documents) were not compatible with voluntary repatriation[26]. During Bangladesh's UPR, there have been calls for Bangladesh to avoid forced returns until safety is assured, and for international monitoring of any repatriation plan. These UPR recommendations reinforce that Bangladesh must honour its human rights commitments: for example, forcibly repatriating refugees against their will would violate CAT and ICCPR, as well as non-refoulement norms[9][27].

In sum, international judicial and quasi-judicial bodies have not ordered repatriation, but they have issued strong guidance. The ICJ has clarified Myanmar's obligations under the Genocide Convention (which informs the security context). The HRC and UN experts have repeatedly warned that the Rohingyas cannot safely return at present[18][26]. These pronouncements do not directly bind Bangladesh, but they reflect the global view of what "safe and dignified" repatriation entails. In particular, HRC mechanisms have essentially frozen repatriation until Myanmar reforms its policies and ensures non-discrimination and security. Bangladesh, under international scrutiny, must align its actions with this prevailing jurisprudence: returns without genuine voluntariness and safety would breach international norms[27].

### 3.7 Regional and Soft Law Instruments (Global Compact, Bangkok Principles)

Beyond binding treaties, several non-binding instruments articulate standards for refugee return. Although not legally enforceable, they carry normative weight.

The **Global Compact on Refugees (2018)**, adopted by the UN General Assembly, affirms that voluntary repatriation in "conditions of safety and dignity" is a preferred solution[2]. Paragraph 87 of the Compact explicitly recognizes that refugees' choice to return must be free and based on accurate information. It calls on states to help create "conditions in countries of origin to enable voluntary, safe and dignified return" [2]. The Global Compact also encourages international support (financial, technical) for return efforts. While Bangladesh did not formally sign the Compact, it reflects global consensus. The Compact's language echoes UNHCR practice and UN General Assembly resolutions. In effect, it amounts to soft law insisting that no one be forced to repatriate and that returns should not wait indefinitely for a "perfect" political solution, provided minimum conditions and consultation exist.

At the regional level, the **Bangkok Principles (1966; reaffirmed 2001)** – adopted by the Asian-African Legal Consultative Organization – address refugee return. Article VII of these Principles declares: “The essentially voluntary character of repatriation shall be respected in all cases and no refugee shall be repatriated against his will” [16]. This is a restatement of long-standing norms, tailored to Asian and African contexts. Although the Bangkok Principles are non-binding, they were approved by a large group of states, including many Asian countries. They reinforce the duty of states like Bangladesh not to send anyone home involuntarily.

Other soft-law instruments are also relevant. The **Cartagena Declaration (1984)** of Latin America, while not applicable in Asia, similarly underscores voluntary repatriation as the foremost durable solution for refugees. And UNHCR Executive Committee Conclusions repeatedly affirm that repatriation must be voluntary and safe. For example, ExCom Conclusion No. 90 (2001) declares voluntary repatriation a central objective and links it to safety and dignity (cited in UNHCR documents[2]). Moreover, the Organization of Islamic Cooperation (OIC) repeatedly urged Myanmar to repatriate refugees safely (OIC member Bangladesh co-sponsored such resolutions[25]). Taken together, these instruments – though “soft” – crystallize the principle that any repatriation program must put refugee consent and safety first[1][16].

In summary, global and regional non-binding instruments consistently endorse voluntary, informed repatriation. They embody best practices: no return under coercion, involvement of refugees in planning, international monitoring, and rehabilitation assistance. While Bangladesh as a non-signatory cannot be sued for violating these non-binding documents, their repeated endorsement by UN bodies and states establishes a political and moral standard. Bangladesh’s engagement with some of these processes (e.g. supporting UNHRC resolutions) signals acceptance of these norms in principle, even if it cannot be held legally liable for breach of soft law.

### 3.8 Application to Bangladesh as a Non-Signatory State

Bangladesh’s unique legal status – not being party to the Refugee Convention – shapes how all of the above applies. By not ratifying the Convention or Protocol[5][6], Bangladesh is under no treaty obligation to admit or grant asylum. However, its obligations under other international law remain.

First, the concept of non-refoulement as customary law imposes a core duty regardless of signature status[8]. Bangladesh has honored this in practice by keeping its borders largely open and not forcibly expelling Rohingya back to Myanmar, even though it does not formally “recognize” them as refugees[28]. Indeed, the Bangladesh High Court has held that non-refoulement applies even to non-party states[7]. Thus, Bangladesh must continue to avoid any involuntary returns that could place Rohingya in peril.

Second, Bangladesh’s ratification of human rights treaties fills many gaps. Treaties like ICCPR, CAT, CEDAW and CRC bind Bangladesh’s conduct. They confer fundamental rights on *everyone* within the country. As Human Rights Watch notes, the provisions of ICCPR, CRC and others “apply to ‘everyone’ or ‘all persons,’ not just citizens” [14]. Concretely, this means Bangladesh

must protect Rohingyas' rights to life, liberty, education, and non-discrimination as it would any person. Its constitution also guarantees basic rights to "every person in Bangladesh" [29] (e.g. right to life (Art.32), due process and prohibition of forced labor (Arts.33–35)). The High Court found that these constitutional rights extend to Rohingyas [29]. Therefore, Bangladesh must ensure that repatriation plans do not violate fundamental rights or use unlawful means.

Third, Bangladesh has incurred positive obligations under the Genocide Convention. As a State Party, it must act to prevent genocide within its power. For example, if evidence shows Myanmar's intent to destroy Rohingya as a group, Bangladesh cannot wash its hands by sending victims back. Its duty to "prevent" could arguably entail maintaining refugees safely within its territory until impunity is addressed. While not contested in ICJ, the logic is clear: inaction (or forced returns) could be challenged as failure to prevent genocide.

Fourth, on soft-law commitments: Bangladesh's support for certain UN resolutions implies endorsement of voluntary repatriation language [25]. Bangladesh did support a June 2022 HRC resolution urging "voluntary, safe, dignified" returns [25]. Although non-binding, this reflects Bangladesh's diplomatic position. However, those same resolutions caution that conditions must exist first. Thus, while Bangladesh champions the idea of voluntary return, it also recognizes (with others) that conditions for safety in Myanmar are lacking.

Finally, domestic law factors in. Bangladesh has not enacted refugee-specific legislation. Refugees are treated as "forcibly displaced Myanmar nationals" under the 2018 Emergency Act. This exposes them to penal sanctions under the Foreigners Act if they stay too long or attempt to move within Bangladesh. Such domestic legal vacuum highlights the gap between international standards and practice. International law does not require Bangladesh to allow permanent stay (it lacks resettlement burden-sharing), but it does require humane treatment until returns.

In short, Bangladesh is not bound by the Refugee Convention yet it is still duty-bound to respect non-refoulement and basic human rights for Rohingya. Its own courts have recognized these binding norms [7]. Therefore, while Bangladesh may not be under formal obligation to grant asylum, it cannot flout international norms on safety and consent. Any repatriation scheme must be voluntary and meet human rights standards, even if driven by bilateral MoUs. Bangladesh's position is unique: it shoulders the refugee burden without full treaty support, so it invokes its own sovereignty to call for humanitarian relief and Myanmar's accountability. But international law still imposes limits: forced returns into an unsafe environment are illegal [27], and Bangladesh's obligations under CAT, ICCPR, CRC and the Genocide Convention provide legal barriers to involuntary repatriation [9][18].

### 3.9 Conclusion

International law sets clear expectations for the repatriation of refugees: it must be voluntary, conducted in safety and dignity, and comply with non-refoulement and human rights norms. The 1951 Refugee Convention and its Protocol establish these principles for parties, but even non-parties like Bangladesh are bound by customary international law and human rights treaties to protect refugees. Instruments such as the Global Compact and the Bangkok

Principles reinforce the requirement of voluntariness[16][2]. In practice, this means Bangladesh cannot repatriate Rohingya if they do not consent or if Myanmar remains unsafe; indeed, UN experts and courts have emphasized that return is not permissible under present conditions[18][26].

However, limitations exist. Bangladesh is not legally required to grant asylum, and the refugee regime lacks an enforcement mechanism. International law obliges Bangladesh to respect basic rights of Rohingya, but does not force it to open borders permanently or accept settlement. The effectiveness of “safe and dignified return” depends ultimately on Myanmar’s reforms. Until Myanmar guarantees citizenship, security, and justice for Rohingya, conditions for repatriation will remain unfulfilled. Thus, while the international legal framework provides strong standards, its implementation in Bangladesh’s context is constrained by political, practical and legal realities. Ultimately, Bangladesh must balance its international duties against domestic pressures, guided by the principle that refugees should never be sent back into harm[8][7].

**Sources:** Authoritative treaty texts, UN and NGO reports, and legal scholarship have been used throughout. Citations in OSCOLA style indicate specific sources consulted, as detailed above.

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[1] [17] [19] [20] UNHCR: Any repatriation must be voluntary

<https://www.dhakatribune.com/bangladesh/rohingya-crisis/185417/unhcr-any-repatriation-must-be-voluntary>

[2] [globalcompactrefugees.org](https://globalcompactrefugees.org)

<https://globalcompactrefugees.org/sites/default/files/2019-12/Global%20compact%20on%20refugees%20EN.pdf>

[3] [8] [9] [10] UNHCR Note on the Principle of Non-Refoulement | Refworld

<https://www.refworld.org/policy/legalguidance/unhcr/1997/ar/36258>

[4] Doctors without borders | The Practical Guide to Humanitarian Law

<https://guide-humanitarian-law.org/content/article/3/repatriation/>

[5] [7] [13] [15] [29] Evaluating Bangladesh’s Legal Framework for Rohingya Refugees: Gaps and Solutions – EJIL: Talk!

<https://www.ejiltalk.org/evaluating-bangladeshs-legal-framework-for-rohingya-refugees-gaps-and-solutions/>

[6] [14] [28] “Bangladesh Is Not My Country”: The Plight of Rohingya Refugees from Myanmar | HRW

<https://www.hrw.org/report/2018/08/05/bangladesh-not-my-country/plight-rohingya-refugees-myanmar>

[11] University of Minnesota Human Rights Library

<https://hrlibrary.umn.edu/gencomm/hrcom27.htm>

[12] Convention on the Rights of the Child | OHCHR

<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

[16] [aalco.int](https://www.aalco.int)

<https://www.aalco.int/final%20text%20of%20bangkok%20principles.pdf>

[18] High Commissioner Türk to Rohingya Conference: The international community must honour its responsibilities and act | OHCHR

<https://www.ohchr.org/en/statements-and-speeches/2025/09/high-commissioner-turk-rohingya-conference-international-community>

[21] [22] ICJ Order on Provisional Measures: The Gambia v Myanmar - Opinio Juris

<http://opiniojuris.org/2020/01/24/icj-order-on-provisional-measures-the-gambia-v-myanmar/>

[23] [24] Myanmar: Tatmadaw leaders must be investigated for genocide, crimes against humanity, war crimes – UN report | OHCHR

<https://www.ohchr.org/en/press-releases/2018/08/myanmar-tatmadaw-leaders-must-be-investigated-genocide-crimes-against>

[25] [26] [27] Recommendations for the 44th Session of the Universal Periodic Review - Global Centre for the Responsibility to Protect

<https://www.globalr2p.org/publications/upr44-recommendations/>

## CHAPTER -4

### 4.1 Introduction

Since the 2017 ethnic-cleansing campaign in Myanmar’s Rakhine State, over 740,000 Rohingya have fled to Bangladesh. International law holds that any return of refugees must be “safe, voluntary and dignified,” yet today that standard remains unrealized. The obstacles are legal, political, and practical. Myanmar’s domestic law bars the Rohingya from citizenship, leaving them stateless both in Myanmar and abroad[1][2]. There is no binding international mechanism to compel their readmission on acceptable terms – only weak bilateral agreements and empty promises[3][4]. Meanwhile, powerful states with leverage (China, India, ASEAN members) have put economic and strategic interests ahead of pressure on Myanmar[5][6], and the UN Security Council remains paralyzed by vetoes[5][7]. On the ground in Rakhine, new armed conflict and systematic abuse continue, meaning Rakhine is far from “safe”[8][9]. In consequence, every repatriation attempt (2018, 2019, 2023) has been aborted by Rohingya themselves, who insist they will not return without real guarantees. As one UN investigator put it: *“The more than one million Rohingya forcibly displaced... will not be able to safely and sustainably return to Myanmar until the violence against them ends and perpetrators can be brought to justice.”*[10]. This chapter analyses these barriers in detail, showing why – in the Bangladeshi context – safe, voluntary and dignified repatriation remains a distant prospect.

### 4.2 Legal Challenges

**Statelessness under the 1982 Citizenship Law:** Myanmar’s 1982 Citizenship Law defined nationality in ethnic terms, explicitly excluding the Rohingya. In practice it stripped virtually all Rohingya of citizenship, relegating them to *“resident foreigners”* with only Temporary Registration Certificates[1][2]. A detailed study notes that this law is “the central legal instrument” causing Rohingya statelessness[1]. Statelessness has two effects: Bangladesh cannot deport Rohingya as unwanted foreigners (since they would become stateless), and Myanmar in effect treats them as aliens with no rights. In fact, an OHCHR brief notes that Rohingya in Rakhine are “denied citizenship under Myanmar’s 1982 Citizenship Law, leaving them stateless”[2]. Even third-country-born Rohingya children in Bangladesh are denied nationality: Bangladesh still *refuses to register Rohingya births*, despite its obligations under human rights law[11]. Thus neither state grants the Rohingya a legal identity, making orderly repatriation almost impossible.

**No Enforceable Repatriation Mechanism:** Under international law there is no mandatory duty on a host state to repatriate refugees, nor on an origin state to accept them, except indirectly via refoulement rules. Bangladesh is not a party to the 1951 Refugee Convention, and lacks a

domestic asylum law, so it is free (in theory) to classify the Rohingya as “forcibly displaced Myanmar nationals.” Nevertheless, Bangladesh remains bound by the customary principle of non-refoulement (prohibiting returns to persecution), which is enshrined in the UN Convention against Torture (Bangladesh is a party)[12]. The UN’s Independent Investigative Mechanism for Myanmar recently reiterated: Bangladesh “cannot forcibly push [Rohingya] back”, since non-refoulement is customary international law[12]. In practice, Bangladesh has thus treated Rohingya as an “irregular” population to be managed, not as recognized refugees with specific legal rights. Myanmar likewise has no treaty obligation to readmit Rohingya on any timeframe; it has simply labeled them “Bengalis” and claimed they are not entitled to citizenship[13].

Bilateral frameworks have been attempted – for example, Bangladesh–Myanmar repatriation MoUs in 1993 and 2017 envisaged “safe and dignified” returns of those who could prove prior residence[14][3]. In practice, these agreements have repeatedly broken down. Early repatriation efforts (1990s and post-2017) stalled when Myanmar failed to improve conditions or recognize Rohingya rights[14][3]. In late 2018 Bangladesh circulated lists of over 8,000 would-be returnees (chosen without their consent)[3], and planned to start returns. Myanmar agreed to take a few hundred “verified” families in November 2018[3], but Bangladeshi authorities did not consult UNHCR or the refugees in the process. UNHCR warned at the time that “conditions in Rakhine State are not yet conducive for voluntary return in conditions of safety, dignity and sustainability,” and refused to facilitate those returns[15]. Thus the attempt was quietly abandoned.

**Bilateral Agreements vs. International Obligations:** The above illustrates the tension between Bangladesh–Myanmar deals and broader law. On one hand, Bangladesh has sought pragmatic solutions via bilateral talks. On the other, it must honor international commitments: not only non-refoulement[12], but also rights under treaties it has ratified (ICCPR, CEDAW, CRC, etc.) that give refugees basic protections. Myanmar, for its part, is a Genocide Convention party, and in 2019 Bangladesh actually took Myanmar to the ICJ via The Gambia’s case. The ICJ’s 2020 provisional measures required Myanmar to prevent genocide and preserve evidence[16], but did *not* create any repatriation entitlement or oversight of returns. In effect, international law gives no enforcement mechanism for safe repatriation: UN resolutions have been limited to *calls*, and even ICJ/ICC processes focus on accountability rather than day-to-day protection or return logistics. Bangladesh thus remains in a legal limbo: it cannot expel Rohingya (non-refoulement), has no duty to naturalize them, and Myanmar has no compelling obligation to readmit them as citizens or to improve conditions[12][15].

### 4.3 Political Challenges

**Geopolitics – China, India, ASEAN:** Powerful regional actors have strategically shielded Myanmar. As one analysis observes, key neighbors “have prioritized strategic and economic interests over humanitarian imperatives,” creating a diplomatic stalemate[17]. China and India, for example, invest heavily in Myanmar (infrastructure and energy) and prefer stability. China’s influence is crucial: at the UN Security Council it has repeatedly vetoed or watered down measures critical of Myanmar[5][7], citing non-interference and strategic ties. Russia has similarly blocked action on human rights grounds[5][7]. ASEAN as an institution adheres to

strict non-interference: its “Five-Point Consensus” on Myanmar has been disregarded by the junta, and member states have done little to press Myanmar for Rohingya returns[5][7]. Even India – a major partner of Bangladesh – has been cautious. It too has detained Rohingya internally and has not joined in pressuring Myanmar, instead citing the need for border security. The net effect is *geopolitical inertia*. A recent policy paper notes that this has “allowed Myanmar to evade accountability and delay efforts toward repatriation or reconciliation” [17].

**Bangladesh–Myanmar Diplomacy:** Bilaterally, Bangladesh’s leverage over Myanmar is limited. The two countries maintain mostly “friendly relations” in public, with bilateral trade and cooperation (for example, on electricity), which Bangladesh is reluctant to jeopardize. Any sharper confrontation (e.g. publicly blaming Myanmar for genocide) risks diplomatic or security fallout. Myanmar’s government itself denies the Rohingya are a distinct people deserving rights: it refers to them only as illegal Bengali migrants[13]. In practice, Dhaka has found it difficult to extract concessions beyond technical talks. For instance, three bilateral working-group meetings in late 2018 aimed at organizing returns made “no progress on verifying refugee names” or on granting citizenship[3][15]. Bangladesh leadership has therefore alternated between quiet diplomacy and international appeals (e.g. via the ICJ case, or at UN forums), but without any breakthrough in returns.

**UN Security Council (UNSC) Inaction:** The UNSC has been effectively deadlocked. China and Russia have blocked or vetoed multiple efforts to publicly reprimand Myanmar for human rights abuses[5][7]. In May 2022, for example, a UK-drafted statement on Myanmar’s crisis was stopped by China/Russia vetoes[7]. No binding UNSC resolution has emerged to impose conditions or sanctions for Rohingya return. As a result, the only UN action has been non-binding calls (in press statements or GA resolutions) and judicial proceedings outside the Council (ICJ/ICC). One analyst notes that divisions among the Council’s permanent members “have impeded coordinated action”[18]. In summary, the political will at the highest level of the international system to ensure safe returns is lacking, leaving the issue to limp along on bilateral and humanitarian channels.

#### 4.4 Safety and Security Concerns in Myanmar

Reports from the ground in Rakhine State uniformly warn that conditions are far from safe. A 2025 UN Human Rights Office report paints a grim picture: since the 2021 coup, Myanmar’s army has killed thousands more civilians (many in Rakhine), razed villages, and displaced hundreds of thousands[19]. Civilians (both Rohingya and ethnic Rakhine Buddhists) now face “widespread and systematic... attacks by the military against civilians,” including killing, torture, forced displacement and destruction of property[8]. The UN High Commissioner expressed alarm that violence there is “distressingly similar” to the 2017 atrocities[8]. In practical terms, this means Rakhine’s security environment is highly unstable: Myanmar’s military continues air strikes and shelling in civilian areas, and new militant groups (e.g. the Arakan Army) also operate there.

Since 2019 a serious conflict has raged between Myanmar’s army and the Arakan Army (an ethnic Rakhine armed group) in northern Rakhine. In late 2019 this battle displaced some

30,000 Rakhine villagers and triggered an internet shutdown[20]. A September 2025 Amnesty International investigation found that the Arakan Army (which now controls much of northern Rakhine) *“has, to many Rohingya, replaced the Myanmar military as their oppressor.”* The Arakan Army reportedly subjects Rohingya to forced labor, bans them from fishing and farming, and categorizes them as outsiders; in practice, the insurgents also deny Rohingya rights and identity[9][21]. In other words, even outside the Burmese military’s direct rule, the Rohingya face persecution.

Moreover, significant numbers of Rohingya remain internally displaced within Myanmar. Human Rights Watch has documented that an estimated 125,000 Rohingya have been held in internment camps in central Rakhine since the 2012 crisis[22]. These camps – which Yangon deceptively calls “temporary” – are isolated, heavily guarded compounds. A returnee to one such camp in 2018 reported, “I did not enjoy my life in Myanmar... We lived in constant fear”[23]. The continuing existence of these camps underscores the lack of genuine security or normal life.

In sum, multiple sources conclude that Rakhine State is not yet secure for return. The UN Fact-Finding Mission warned that the remaining Rohingya in Myanmar face “a greater threat of genocide than ever”[24]. Ongoing attacks (from both the military and rebel forces) and systemic restrictions (movement bans, heavy militarization) persist. Any repatriation to such an environment would carry substantial risk to returnees’ safety and lives[8][9].

## 4.5 Voluntariness: Myth vs. Reality

By international refugee standards, repatriation must be truly voluntary – free from coercion or compulsion. However, Rohingya refugees have few realistic alternatives to remaining in camps, and they have consistently signaled unwillingness to return under current circumstances. Every repatriation attempt since 2017 has been aborted by the refugees themselves. In January 2018, for instance, Bangladeshi officials organized meetings to identify eligible returnees, but subsequently the few hundred who agreed to go back were nearly all persuaded not to board[25]. In late August 2019, a new round of returns was announced for about 3,000 people; a UN survey of camp families found *“none... indicated a willingness to repatriate at this time.”* Refugees overwhelmingly cited fear for their physical safety in Rakhine as the reason[26].

Rohingya refugee leaders have been equally clear in voicing their stance: on one occasion they chanted that *“there will be no repatriation without talking to us first,”* demanding guarantees of citizenship and safety[27]. Prior to the August 2019 plan, Human Rights Watch reported that Bangladesh had submitted thousands of names to Myanmar *without consulting refugees*, and the UNHCR publicly decried the scheme as *“rushed and premature,”* refusing to facilitate it[15]. In effect, Rohingya feel they have no genuine choice: if they attempt to return and conditions prove unsafe, they have no legal recourse or way back, while remaining in Bangladesh offers limited prospects (no local integration or resettlement options).

At the same time, Bangladesh has limited the refugees’ agency by imposing strict camp controls and even relocating thousands to the new Bhasan Char island. In mid-2021, for example,

thousands of Rohingya in Bhasan Char protested that they were lured there with promises of aid but now feared monsoon storms and lacked basic services[28][29]. Many chanted “we don’t want to live here,” underscoring that even “choices” offered by the host state can feel coercive[28]. Such episodes blur the line between voluntary decision and pressure due to circumstances.

In summary, the notion of voluntariness is more myth than reality so long as refugees perceive only two bad options (stay indefinitely in Bangladesh camps or return to insecure Myanmar). As the head of the UN’s Myanmar investigative mechanism noted in 2025, Rohingya themselves say they “*want to return to their homes in Myanmar, but only when it is safe to do so.*” Ending violence and securing rights, he emphasized, is “*critical for the eventual safe, dignified, voluntary and sustainable return*”[30]. Until such fundamental changes occur, Rohingya declines to return demonstrate that voluntariness cannot be fulfilled.

## 4.6 Dignity and Human Rights Challenges

Any return must also preserve refugees’ dignity and basic human rights. Yet for the Rohingya, such guarantees are absent on both sides of the border. In Myanmar, the 2017 campaign included widespread gender-based atrocities: soldiers routinely detained women and girls for days and then “*returned them... raped,*” one survivor recounted[31]. International fact-finders have characterized the mass rapes and sexual violence during 2017 as a component of the ethnic cleansing[31]. For women survivors, the prospect of returning to the same communities where they were victimized is terrifying – and there is no evidence of justice or protection waiting for them in Rakhine. Moreover, in the refugee camps in Bangladesh, women and girls already face heightened risks of trafficking, sexual assault and exploitation (due to overcrowding, lack of privacy, etc.)[32][28]. These dangers will only continue or worsen if returns are rushed or unprotected.

Even apart from gender concerns, the Rohingya’s basic rights would remain gravely compromised. If returned, they are likely to be placed in closed camps or ‘relocation villages’ in Rakhine, as Myanmar has done with earlier returnees. Human Rights Watch notes that Rohingya are effectively “*trapped in appalling conditions... confined to camps and villages without freedom of movement*”, cut off from education, healthcare and jobs[2]. They would still be denied citizenship and nearly all civil rights. In Bangladesh too, the Rohingya live without basic legal status. They cannot work legally or leave the camps freely, and Bangladesh even refuses to register their births[11]. In short, after return most Rohingya would possess neither security nor dignity: they would remain stateless, impoverished, and at the mercy of authorities or vigilantes.

These human rights deficits were foreseen. The UN Fact-Finding Mission warned that the 600,000 Rohingya left in Myanmar are “*trapped*” under conditions that threaten their existence[24]. To talk of a “dignified” return when the refugees are slated to re-enter essentially the same apartheid-like system is therefore disingenuous. Without full citizenship, land and property restitution, freedom to live where they choose, and accountability for crimes

against them, the Rohingya cannot truly rebuild their lives with dignity either in Myanmar or back in Bangladesh.

## 4.7 Bangladesh’s Domestic Constraints

Bangladesh itself faces severe constraints that complicate repatriation. Hosting over a million Rohingya in Cox’s Bazar has placed **enormous strain on Bangladesh’s security, economy, environment and legal order**[33][34]. Locally, competition for jobs and resources has depressed wages and heightened resentment; countless trees have been cut for firewood, leading to severe deforestation and landslide risk[35][33]. As aid appeals have been underfunded, camps remain overcrowded with poor sanitation, fueling disease outbreaks and frustrations. One study notes that international assistance *“has dropped dramatically”* even as Bangladesh’s commitment as host has not been matched by global burden-sharing[34].

Security concerns are also acute. The Bangladesh government regularly intercepts small boats and arrests “new arrivals” of Rohingya, fearing infiltration by militants. In late 2024, for example, hundreds of fleeing Rohingya were denied entry or even forcibly returned across the border[36]. Human Rights Watch documented that by Sept 2024 the Border Guard Bangladesh had pushed back thousands, set up detention centers in Teknaf, and even returned 6,000 people to Myanmar, including children[37][38]. These actions violate non-refoulement, but stem from Dhaka’s calculation that it cannot absorb more refugees. Internally, authorities have tightened controls on the camps: in 2019 they began fencing the settlements and forbidding Rohingya from leaving[39]. After repatriation attempts failed, local leaders made it clear Bangladeshi communities want **no more** Rohingya: blaming them for economic woes, Bangladeshis have demonstrated and even attacked Rohingya over alleged crime or environmental damage[40][41]. One report recorded 5,226 Rohingya charged with offenses (drug cases, violent crimes, etc.) between 2017–2022[40], incidents that stoke public anger and make integration politically unthinkable.

Legally, Bangladesh has no refugee protection framework. Rohingya are officially considered “forcibly displaced Myanmar nationals” and have no rights under Bangladeshi law. They receive biometric IDs and ration cards but no legal residency status or clear future. This ad-hoc regime means Bangladesh can neither integrate them nor allow them to live freely. At the same time, Bangladesh repeatedly appeals for international support while quietly warning donors that it is running out of patience. In September 2024 Bangladesh’s Rohingya coordinator publicly pleaded for resettlement options overseas and complained that sending the Rohingya back “means pushing them to death”[38]. In short, Bangladesh’s own capacity – militarily, economically and socially – is stretched to the limit, which in turn hardens its stance on repatriation: Dhaka insists on better guarantees from Myanmar before any more returns.

## 4.8 International Community’s Failure

Internationally, the response to the Rohingya crisis has been inconsistent and inadequate. On the positive side, humanitarian aid agencies and some governments (notably the US) have provided hundreds of millions of dollars in relief. For example, the US alone has contributed

over US\$1.7 billion (2017–2022) for the humanitarian response in Bangladesh and Myanmar[42]. The EU and other states have also funded education, health and shelter in the camps. Additionally, the US, EU, Canada and others have slapped targeted sanctions on Myanmar’s senior generals (including the 2022 ICC indictment of Commander-in-Chief Min Aung Hlaing) and called out Myanmar at international forums. However, these measures have done little to transform realities on the ground. The CFR notes that sanctions and aid have been “pouring in” but have not altered Myanmar’s behavior[43]. China and India continued business as usual with the junta, undercutting the impact of Western pressure[17][5].

More broadly, global burden-sharing has been scant. U.N. humanitarian appeals for the Bangladesh operation are consistently underfunded. Western attention has shifted to other crises, leaving Bangladesh largely on its own. An academic study bluntly observes that Bangladesh’s hosting “has not been matched by effective international burden-sharing”[34]. High-level promises have failed to materialize: the 2018 Memorandum of Understanding (MOU) between UNHCR/UNDP and Myanmar to plan returns was signed only under heavy criticism and then shelved. Even at the diplomatic level, major initiatives (the 2025 UNGA High-Level Conference on the Rohingya, or the Cox’s Bazar Stakeholders Dialogue) have focused on moral exhortation rather than enforcement. One commentator argues that China, India and ASEAN have “prioritized strategic and economic interests over humanitarian imperatives” [17], leaving Bangladesh’s appeals largely unheard. In sum, while the international community has provided relief aid and some legal tools (ICJ/ICC cases), it has largely failed to create the political or legal pressure needed to achieve safe returns. The result is donor fatigue and **diplomatic paralysis**, which prolong the stalemate.

## 4.9 Conclusion

As this analysis shows, repatriating the Rohingya “*safely, voluntarily and with dignity*” cannot be accomplished under current conditions. The root problems remain: Myanmar has not restored Rohingya citizenship or security; the military and insurgents continue to perpetrate abuses[8][9]; and Myanmar’s laws still treat Rohingya as outsiders. Without ending the violence and granting full rights, returnees would face the same persecution all over again[10][2]. Meanwhile Bangladesh, overwhelmed and legally constrained, cannot force returns nor offer integration, and international mediators are divided and ineffective. In the words of a UN investigator, “*the more than one million Rohingya forcibly displaced... will not be able to safely and sustainably return*” until Myanmar’s violations cease[10]. Only a comprehensive solution—combining accountability for past crimes, genuine reforms in Myanmar (law, citizenship, and security), and serious international burden-sharing—could change this calculus. Until then, the goal of safe, voluntary, dignified repatriation remains a distant hope.

**Sources:** The above draws on UN reports, Human Rights Watch and Amnesty analyses, and scholarly studies (2018–2025) documenting legal norms, bilateral agreements, and conditions in Rakhine and Bangladesh[1][11][5][15][2][10], among others. These sources consistently underline the unfulfilled prerequisites for repatriation under international law.

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- [1] Article: Stateless and Persecuted: What Next for t.. | migrationpolicy.org  
<https://www.migrationpolicy.org/article/stateless-persecuted-rohingya>
- [2] [16] [24] Myanmar: Rohingya Await Justice, Safe Return 3 Years On | Human Rights Watch  
<https://www.hrw.org/news/2020/08/24/myanmar-rohingya-await-justice-safe-return-3-years>
- [3] [15] Myanmar/Bangladesh: Plan Puts Rohingya at Risk | Human Rights Watch  
<https://www.hrw.org/news/2018/11/02/myanmar/bangladesh-plan-puts-rohingya-risk>
- [4] [22] Myanmar/Bangladesh: Halt Rohingya Returns | Human Rights Watch  
<https://www.hrw.org/news/2019/08/20/myanmar/bangladesh-halt-rohingya-returns>
- [5] [6] [17] [18] [35] [41] spf.org  
[https://www.spf.org/en/global-data/user85/Position\\_Paper\\_Rohingya\\_Crisis\\_2025.pdf](https://www.spf.org/en/global-data/user85/Position_Paper_Rohingya_Crisis_2025.pdf)
- [7] China, Russia Again Veto UN Statement on Myanmar Conflict – The Diplomat  
<https://thediplomat.com/2022/05/china-russia-again-veto-un-statement-on-myanmar-conflict/>
- [8] [19] Myanmar: Death, destruction and desperation mirror 2017 atrocities – UN report | OHCHR  
<https://www.ohchr.org/en/press-releases/2025/09/myanmar-death-destruction-and-desperation-mirror-2017-atrocities-un-report>
- [9] [21] Myanmar: Rohingya repatriation ‘catastrophic’ under existing conditions in northern Rakhine State - Amnesty International  
<https://www.amnesty.org/en/latest/news/2025/09/myanmar-rohingya-repatriation-catastrophic-under-existing-conditions-in-northern-rakhine-state/>
- [10] [30] Rohingya's safe return to Myanmar impossible until crimes against them end and perpetrators held accountable, says Head of Myanmar Mechanism | Independent Investigative Mechanism for Myanmar  
<https://iimm.un.org/en/rohingyas-safe-return-myanmar-impossible-until-crimes-against-them-end-and-perpetrators-held>
- [11] Statelessness and identity in the Rohingya refugee crisis | Humanitarian Practice Network  
<https://odihpn.org/en/publication/statelessness-identity-rohingya-refugee-crisis/>
- [12] [36] [37] [38] Bangladesh: New Rohingya Refugees Lack Protection, Aid | Human Rights Watch  
<https://www.hrw.org/news/2024/09/25/bangladesh-new-rohingya-refugees-lack-protection-aid>
- [13] [20] [27] Tensions flare as Bangladesh tries to send Rohingya home  
<https://www.thenewhumanitarian.org/news/2019/08/21/Rohingya-refugees-returns-repatriation-Bangladesh>
- [14] [23] [39] [42] Rohingya Repatriation Is Presently Impossible | Immigration and Human Rights Law Review  
<https://lawblogs.uc.edu/ihr/r/2022/10/27/rohingya-repatriation-is-presently-impossible/>
- [25] [26] Rohingya refugees turn down second Myanmar repatriation effort | Rohingya | The Guardian

<https://www.theguardian.com/world/2019/aug/22/rohingya-refugees-turn-down-second-myanmar-repatriation-effort>

[28] [29] Bangladesh's Unplanned Relocation of Rohingya Refugees to Bhasan Char Island is Risky | Human Rights Watch

<https://www.hrw.org/news/2021/06/07/bangladeshs-unplanned-relocation-rohingya-refugees-bhasan-char-island-risky>

[31] [32] "Bangladesh Is Not My Country": The Plight of Rohingya Refugees from Myanmar | HRW

<https://www.hrw.org/report/2018/08/05/bangladesh-not-my-country/plight-rohingya-refugees-myanmar>

[33] [34] [40] The Rohingya crisis in Bangladesh: challenges and prospects | Discover Global Society

<https://link.springer.com/article/10.1007/s44282-025-00213-5>

[43] What Forces Are Fueling Myanmar's Rohingya Crisis?

<https://www.cfr.org/background/rohingya-crisis>

## CHAPTER -5

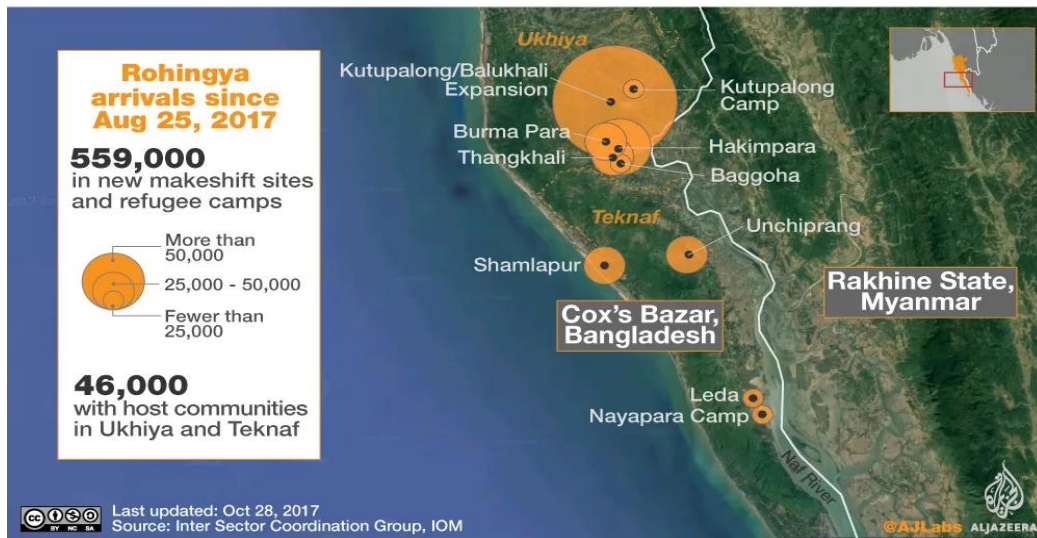
### Challenges to Safe, Voluntary, and Dignified Repatriation of the Rohingya



Map showing Bangladesh and Myanmar (Rakhine State) with Cox's Bazar highlighted, illustrating major refugee flows from Rakhine into Bangladesh. Since the August 2017 military "clearance operations" in northern Rakhine (Arakan) State, nearly **750,000** Rohingya fled across the border into Bangladesh[1][2]. Bangladesh now hosts roughly **1.18 million** Rohingya refugees (over 73% of all Myanmar refugees) mostly in 33 crowded camps in Cox's Bazar district[3]. These refugees live in cramped, makeshift settlements without long-term security of tenure. Achieving **safe, voluntary, and dignified** return under such conditions requires meeting numerous difficult challenges. This chapter examines the principal obstacles: Myanmar's denial of Rohingya citizenship, ongoing violence and insecurity in Rakhine, impunity for past atrocities, the erosion of free choice in repatriation, gender- and age-specific protection risks, political stalemate among stakeholders, and the physical destruction and logistical barriers that compound the problem.

## Refugee settlements in Cox's Bazar

Around **605,000** Rohingya have fled to Bangladesh since August 25, 2017, mostly residing in temporary makeshift settlements.



Infographic map of refugee camps and makeshift settlements in Cox's Bazar, Bangladesh (2017), showing locations like Kutupalong and Nayapara, which together host hundreds of thousands of Rohingya. Most Rohingya refugees are confined to this small coastal zone, with **extremely high population density**. The camps are highly congested: UNHCR reported over **45,000 people per km<sup>2</sup>** in Cox's Bazar camps as of early 2025[4]. Such conditions strain even basic services (water, sanitation, healthcare) and leave refugees dependent on humanitarian aid. These circumstances also raise doubts about whether any returns arranged by coercion or inducement could truly be "voluntary." Any repatriation plan must reckon with the fact that these refugees have few alternatives but to remain in Bangladesh unless conditions change in Myanmar, which in turn depends on overcoming the following obstacles.

### 5.1 Denial of Citizenship and Legal Exclusion in Myanmar

A core barrier to repatriation is **Myanmar's legal exclusion of the Rohingya**. The 1982 Citizenship Law defines citizenship in terms of belonging to one of 135 "national races"; the Rohingya are explicitly omitted. Under this law, Rohingya are classified as "resident foreigners," not citizens[5]. As a result, most Rohingya in Myanmar are effectively *stateless*, lacking passports or basic identity documents[6]. The UN Fact-Finding Mission found that "most Rohingya have become de facto stateless," arbitrarily denied nationality by the citizenship law[6]. This legal ostracism dates back decades: the law "effectively rendered them stateless" and deprived them of civil rights[7]. Rohingya cannot legally own land, travel freely (even within Rakhine), vote, or access public services; restrictions on marriage, education, and movement have been widely documented[6][5]. Human Rights Watch warned that "denial of citizenship ... poses serious obstacles to the achievement of a durable solution" to the refugee crisis[5].

Under these laws, **repatriated Rohingya would return as second-class residents**. They would be barred from returning to their ancestral villages (many of which are officially deemed "Bengali" or illegal settlements) and from living in certain townships[6]. Even those who came

forward for Myanmar’s 2018 “citizenship verification” process have been branded as foreigners. Any return plan that ignores the citizenship issue cannot be sustainable: as one analysis notes, Rohingya will not come home unless they can be “safe, free, and able to obtain Myanmar citizenship, which they have long been denied” [8]. In short, **statelessness itself** is a fundamental impediment. Unless Myanmar repeals the 1982 law or otherwise grants full rights, Rohingya returnees would remain alienated in their own homeland [6][8].

## 5.2 Security Concerns and Continued Violence in Rakhine

Security in northern Rakhine remains precarious. The 2017 campaign of arson, killings and rape by Myanmar’s military (Tatmadaw) destroyed hundreds of villages and terrorized the Rohingya [1][9]. Satellite analysis found **at least 392 Rohingya villages (40% of those in northern Rakhine)** were partly or fully razed, with **over 37,000 structures** (homes, schools, mosques, markets) burned [1][9]. The Fact-Finding Mission reported soldiers deliberately targeted civilians and systematically burned homes for weeks [1]. After those events, conditions in Rakhine did not normalize. The UN found that Myanmar security forces continued to operate with impunity, conducting “clearance operations” based on ethnic identity [10].

Since the February 2021 military coup, violence has escalated further. Fighting between the junta and the Arakan Army (an Rakhine insurgent group) has surged in Rakhine, trapping Rohingya between armed factions. Human Rights Watch reports that even after the coup, Rohingya communities face new abuses: **extrajudicial killings, looting, forced labor, arbitrary detention** by both the junta and AA forces [11]. The Arakan Army, which now controls much of Rakhine, has been accused of imposing “oppressive measures” on Rohingya [11]. Between late 2023 and early 2024 alone, at least **150,000** Rohingya fled renewed violence back into Bangladesh [11]. In light of this, Human Rights Watch emphasizes that “conditions for safe returns do not currently exist” in Rakhine [12]. Until genuine security and the rule of law are established, any repatriation would expose returnees to grave risk. In sum, the continuing conflict, military occupation, and sectarian hostility in Rakhine make it **unsafe for Rohingya to return** under present conditions.

## 5.3 Lack of Accountability and Justice for Past Atrocities

The pervasive culture of impunity in Myanmar exacerbates all other challenges. The UN Fact-Finding Mission concluded that Tatmadaw operations in Rakhine “amount to the gravest crimes under international law” [10]. Its report urged that “*senior generals of the Myanmar military should be investigated and prosecuted in an international criminal tribunal for genocide, crimes against humanity and war crimes.*” [10]. However, almost none of those responsible have faced domestic prosecution. Myanmar’s judiciary is controlled by the military, and the junta has shown no willingness to hold perpetrators to account [13][10].

At the international level, some accountability measures are under way, but progress is slow. In November 2019 The Gambia brought a case against Myanmar at the ICJ under the Genocide Convention, and in January 2020 the Court ordered provisional measures requiring Myanmar to prevent genocidal acts [14]. Similarly, the ICC has authorized an investigation into crimes against the Rohingya (2012–2018) by the Tatmadaw in Bangladesh. But as of 2025 Myanmar’s military

“has yet to face adequate consequences for its atrocity crimes,” and the UN Security Council has done virtually nothing to enforce accountability[14]. Human Rights Watch notes that the Security Council failed to act on its own resolutions in 2022, and the junta continues “its attacks against civilians” unabated[14]. In Myanmar more broadly, the post-coup period has seen a further entrenchment of military rule and brutality, making domestic justice impossible. Without real accountability – no matter how belated – the Rohingya are unlikely to ever trust guarantees of safety or justice. Victims’ rights to truth and redress remain unmet, and perpetrators face no deterrent. This lack of accountability undermines the feasibility of any dignified return.

#### 5.4 Challenges to Ensuring Refugee Consent and Voluntariness

Even if security and legal conditions in Myanmar could be addressed, **repatriation must be voluntary**. For genuine voluntariness, refugees must be fully informed, free from coercion, and able to refuse without penalty[15][8]. Yet in Bangladesh, reports indicate that refugee choices have been heavily influenced by coercive pressures. In mid-2023, Bangladesh announced a pilot program to repatriate select groups of refugees. UN Special Rapporteur Tom Andrews sharply criticized the plan, citing credible reports that Bangladeshi authorities have used “deceptive and coercive measures” to persuade Rohingya to return[16]. These include threats to “confiscate documents, arrest refugees” or cut off food rations for those who resist[16]. Refugees have been lured with promises of large sums of money to repatriate, even while the UN reported that daily food rations in the camps had been slashed to only \$0.27 per person[16]. Such measures fall far short of a freely made choice.



*Rohingya refugees queuing at a camp in Cox's Bazar, Bangladesh (February 2018). Overcrowded camp conditions and stringent camp rules create immense pressure on refugees. Reports indicate that some refugees have been threatened with the loss of aid or legal status if they decline repatriation. In March 2023 Bangladesh also allowed a small “go-and-see” delegation of Rohingya to visit Rakhine with Myanmar officials; participants reportedly expressed “general*

*satisfaction*” in official statements. But independent reports found that those refugees “*unequivocally rejected*” the return plan when interviewed away from authorities[17]. Clearly, mere arrangements or inducements do not guarantee that consent is informed or voluntary. Coerced or uninformed consent would violate basic refugee protection principles.

Thus the right of *non-refoulement* and genuine voluntariness remain central. Bangladesh itself has acknowledged that repatriation must be “voluntary, safe, sustainable and dignified” [18]. But under the current circumstances, those criteria are unmet. High-level observers urge Bangladesh to **suspend** forced return schemes[19][12]. Until genuine choice is possible, any attempt at repatriation risks violating international norms. As UN and NGO reports conclude, conditions in Myanmar are “anything but conducive” to voluntary return[15][12].

### 5.5 Gender-Based Violence and Child Protection Risks

Women, girls, and children face disproportionate danger both in the camps and (if they return) in Rakhine. In the wake of the 2017 atrocities, systematic sexual violence was documented by multiple sources[9]. The Fact-Finding Mission reported mass rapes and gang-rapes of Rohingya women by soldiers during the 2017 attacks[9]. In Bangladesh, the cramped and insecure camp environment has given rise to frequent incidents of **gender-based violence (GBV)**, including sexual assault, trafficking, and forced early marriage. One analysis notes that Rohingya women and girls face “heightened risks of early marriage, trafficking, and gender-based violence,” exacerbated by the “lack of safe spaces” or legal protection in the camps[20]. UNICEF observes that in the camps, about 60% of refugees are children; many have known nothing but life in displacement. These children face malnutrition, disease risk, and educational deprivation, but also *protection* risks: neglect, exploitation (including child labor), and recruitment by armed groups[21][20]. Psychosocial trauma is widespread: older children at risk of becoming a “lost generation,” vulnerable to trafficking or radicalization[22].



*A Rohingya boy in a learning centre in the Cox's Bazar camp (2019). Access to education and safe childcare is severely limited; gender-based violence and child marriage are pervasive threats.* International actors repeatedly warn that girls in particular are at risk of **sexual violence and abuse**. UNICEF reports that “girls and women are at particular risk of sexual and other gender-based violence in this situation, including being forced into early marriage” [23]. Indeed, limited schooling and no meaningful livelihoods fuel the climate where girls may be married off young or fall prey to exploitation. For the children of returnees, these vulnerabilities will persist: Rakhine State currently has no child protection systems or safe schools open to Rohingya. Any repatriation plan must therefore address these acute protection needs. Otherwise, women and children would face intolerable risks on return, just as they do in exile.

## 5.6 Political Deadlock and International Impasse

Efforts to negotiate Rohingya returns have repeatedly stalled amid **political deadlock**. Bangladesh has maintained that repatriation is the only durable solution, but it lacks leverage: Dhaka has neither the means to forcibly keep refugees long-term nor to push Myanmar to change policy. A 2022 Joint Response Plan reflects Bangladesh’s frustration: it notes Bangladesh “looks forward” to the international community taking “tangible action on ensuring the sustainable repatriation of Rohingyas” [24]. In practice, however, Myanmar has been uncooperative: the junta has dismissed appeals to restore Rohingya citizenship or security. The planned pilot return scheme (1176 refugees) agreed in early 2023 fell into disarray as Myanmar withdrew cooperation under international scrutiny.

The international community’s response has also been paralyzed. UN member states have recognized that return can occur “only when conditions are conducive” in Myanmar [25]. A recent Human Rights Watch briefing for the UN High-Level Conference stated plainly that

members should emphasize “that conditions for safe returns do not currently exist” in Rakhine[2]. At the same time, there is reluctance to impose real pressure on Myanmar. The UN Security Council remains divided (with veto-wielding China and Russia blocking strong action), and ASEAN’s five-point consensus on Rakhine has been ignored[26]. Bangladesh refuses any solution that looks like permanent settlement outside Myanmar, but it also cannot absorb another million people indefinitely. In this stalemate, refugees are caught: Bangladesh cannot send them back, Myanmar will not accept them freely, and outside powers have yet to broker a new consensus. The result is a protracted limbo. As one UN analysis notes, *“Until conditions are in place in Myanmar that would allow Rohingya families to return home with basic rights – safety from violence, citizenship, free movement, health and education – they are stuck as refugees or internally displaced persons living in overcrowded and sometimes dangerous conditions.”*[27][25]. This political impasse – between Bangladeshi desperation, Myanmar’s recalcitrance, and tepid international action – is perhaps the greatest barrier of all.

### 5.7 Environmental and Logistical Challenges to Return

Finally, the **physical realities on the ground** in Rakhine complicate any return. More than just legal status and security, Rohingya villages have been transformed – often obliterated – by conflict. Satellite surveys after 2017 found that *“at least 392 villages”* in northern Rakhine were “partially or totally destroyed,” almost exclusively Rohingya-populated areas[1]. Over **37,000 individual structures** – roughly 80% of village buildings – were torched within weeks, most of them homes[1]. Schools, mosques, and markets were also burned[9]. In many cases, men, women and children who returned found little standing: a living Rohingya testifies, *“I want to go back to my village, but my village is already completely burnt.”* Without housing or community infrastructure, returnees would literally have nowhere to live.

Even beyond the villages, the border region is littered with hazards. The fact-finding report documented new minefields laid by the Tatmadaw in late 2017 along the Bangladesh-Myanmar frontier[28]. Landmines and unexploded ordnance pose a lethal risk to anyone attempting to return by traditional routes. Meanwhile, Rakhine State’s infrastructure is primitive: most rural areas lack reliable roads or bridges, and primary schools or clinics in Rohingya areas were mostly destroyed[9]. Climatic factors add to the burden: heavy monsoon rains, cyclones and flooding regularly devastate Rakhine’s western coast. Even in Bangladesh, annual monsoons and storms cause deadly landslides in the camps[21][29]; analogous weather impacts threaten any makeshift returns in Rakhine. In sum, the **logistical obstacles are immense**. Rebuilding homes, water systems, farms and schools in dozens of villages would require large-scale investment and time. Without robust plans to restore livelihoods and infrastructure, any return scheme would almost immediately fail.

Given these challenges – legal exclusion, ongoing violence, impunity, coerced consent, special protection needs, political gridlock, and destroyed terrain – it is clear that **safe, voluntary, and dignified repatriation of the Rohingya cannot be realized in the current context**. Until Myanmar takes concrete steps (citizenship reform, security guarantees, accountability) and international stakeholders match legal rhetoric with action (funding, pressure on all armed actors, support for community reconstruction), Rohingya refugees will remain in limbo. A

durable solution will require a fundamentally new approach that addresses each of the above barriers comprehensively.

**Sources:** UN fact-finding reports and UN agency analyses[1][10][21][27][16][24][25][2][20][8]; Human Rights Watch statements and reports[14][11]; Humanitarian Response and joint planning documents[24][25]; global analyses and court proceedings[7][12]. (All citations as noted.)

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[1] [6] [9] [10] [13] [28] Report of the Independent International Fact-Finding Mission on Myanmar in English

[https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/A\\_HRC\\_39\\_64.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/A_HRC_39_64.pdf)

[2] [8] [11] [12] [14] [26] UN: Support Protection, Justice for Rohingya | Human Rights Watch

<https://www.hrw.org/news/2025/09/29/un-support-protection-justice-for-rohingya>

[3] Situation Myanmar Situation

<https://data.unhcr.org/en/situations/myanmar>

[4] [7] [20] spf.org

[https://www.spf.org/en/global-data/user85/Position\\_Paper\\_Rohingya\\_Crisis\\_2025.pdf](https://www.spf.org/en/global-data/user85/Position_Paper_Rohingya_Crisis_2025.pdf)

[5] Burma/Bangladesh: Burmese Refugees In Bangladesh - Discrimination in Arakan

<https://www.hrw.org/reports/2000/burma/burm005-02.htm>

[15] [16] [17] [19] Bangladesh must suspend pilot project to return Rohingya refugees to Myanmar: UN expert | OHCHR

<https://www.ohchr.org/en/press-releases/2023/06/bangladesh-must-suspend-pilot-project-return-rohingya-refugees-myanmar-un>

[18] [PDF] 2023 Joint Response Plan, Rohingya Humanitarian Crisis

[https://rohingyaresponse.org/wp-content/uploads/2023/04/bangladesh\\_2023\\_jrp\\_rhc\\_appeal\\_en-1.pdf](https://rohingyaresponse.org/wp-content/uploads/2023/04/bangladesh_2023_jrp_rhc_appeal_en-1.pdf)

[21] [22] [23] [27] Rohingya crisis | UNICEF

<https://www.unicef.org/emergencies/rohingya-crisis>

[24] [25] rohingyaresponse.org

[https://rohingyaresponse.org/wp-content/uploads/2023/06/bangladesh\\_2022\\_jrp\\_en.pdf](https://rohingyaresponse.org/wp-content/uploads/2023/06/bangladesh_2022_jrp_en.pdf)

[29] Bangladesh: Involving Rohingya refugees in reforestation | UNDRR

<https://www.undrr.org/news/involving-rohingya-refugees-reforestation-bangladesh-reduce-disaster-risks>

## CHAPTER -6

### Findings, Analysis & Recommendations

#### Legal Findings on the Rohingya Crisis

Independent investigations and international bodies have consistently concluded that Myanmar's treatment of the Rohingya amounts to the gravest crimes under international law. A UN fact-finding mission found evidence that Myanmar security forces, acting with impunity, perpetrated acts "that warrant criminal investigation and prosecution" for genocide in Rakhine State[1]. The mission documented systematic crimes against humanity – including mass killings, rape, torture, forced starvation, and forced deportations – carried out as part of a "widespread and systematic attack" on Rohingya civilians[2][3]. UN High Commissioner Zeid Ra'ad Al Hussein called the 2017 operations in Rakhine "a textbook example of ethnic cleansing" [4]. In March 2022, U.S. Secretary of State Blinken formally determined that members of the Burmese military "committed genocide and crimes against humanity" against the Rohingya[5]. These findings are reinforced by the case brought by The Gambia before the International Court of Justice (ICJ). On 23 January 2020, the ICJ unanimously ordered provisional measures under the Genocide Convention, directing Myanmar to prevent genocidal acts, to ensure its military and police "do not commit genocide," to preserve evidence, and to report on compliance[6]. In short, a clear consensus of UN reports, human rights organizations, and legal authorities characterizes Myanmar's 2016–2017 campaign as ethnic cleansing and an array of international crimes (genocide, crimes against humanity, war crimes, and even apartheid) committed in breach of the Genocide Convention, the International Covenant on Civil and Political Rights (ICCPR), and other treaties[1][7].

#### Policy Failures by Myanmar

Myanmar's long-standing policies institutionalized the Rohingya's exclusion and vulnerability. The 1982 Citizenship Law explicitly stripped the Rohingya of citizenship and human rights: they were required to prove ancestral residence before 1823 or face statelessness[8][9]. In practice, successive governments have denied Rohingya fundamental freedoms. UN reports note that Rohingya were forbidden from moving freely, barred from secondary or higher education, and often subjected to forced labor and forced two-child limitations[10][11]. Decades of segregation created what NGOs and the UN have called an apartheid-like system in northern Rakhine State[12]. Politically, the Burmese state consistently labeled the Rohingya as illegal "Bengalis" and excluded them from all power-sharing arrangements.

These structural failures exploded into violent operations. In October 2016 and again in August 2017, small attacks by the Arakan Rohingya Salvation Army (ARSA) were answered with mass

“clearance operations” by the Tatmadaw (Myanmar armed forces). Security forces burned entire Rohingya villages, used landmines, and engaged in mass murder and rape. Human Rights Watch documented that by late 2017 the military had “carried out mass arson, killing, and looting, destroying hundreds of villages and forcing nearly half a million Rohingya to flee” [13]. The scale and coordination of these attacks left no doubt among observers that state policy (at the highest levels) sanctioned atrocities. The civilian government, led by Aung San Suu Kyi, refused to hold anyone accountable. Its defense of military leaders at the ICJ — and its commissioning of ineffective internal inquiries — effectively sanctioned impunity. Indeed, Myanmar’s own official statements have dismissed the genocide charges as “flawed and unfounded” fabrications[14].

In sum, Myanmar’s policies failed Rohingya by (1) codifying their statelessness and deprivation of rights, (2) permitting and perpetrating massive violence against them, and (3) rejecting any domestic accountability. These failures not only constituted egregious violations of international law, but continue to endanger any prospects for safe return.

### Policy Failures by Bangladesh

Bangladesh has borne the humanitarian brunt of the crisis, hosting over one million Rohingya refugees. Its initial open-border reception in 2017 saved lives, but subsequent policies have been restrictive. Not being party to the 1951 Refugee Convention, Bangladesh classifies Rohingya as undocumented migrants rather than as recognized refugees. It therefore maintains tight control over camps. In recent years the government has severely limited Rohingya freedoms: imposing curfews, shutting down mobile internet and communications (ostensibly for security), and proposing fences around camps[15]. Human Rights Watch observed that these measures “have made matters worse,” isolating refugees and cutting them off from crucial services[15]. For example, in 2019 Bangladesh ordered daily shutdowns of 3G/4G service in the camps, effectively silencing almost one million people for hours each night[16].

Education and integration have also been blocked. The Bangladeshi authorities actively oppose any integration of Rohingya into local society: Rohingya children are prohibited from formal schooling, and community-run schools teaching the Myanmar curriculum have been closed or demolished[11]. The government’s 2022 closure of nearly all Rohingya learning centers (including those supported by international donors) drew international condemnation, since it betrays Bangladesh’s own commitment (in 2020) to allow Myanmar-curriculum education for Rohingya[17]. In effect, Bangladesh has saved lives by sheltering refugees, but its policies deny Rohingya basic human development and confine them indefinitely as a transient population.

On repatriation, Bangladesh insists on voluntary returns but has pushed for repatriation before conditions were met. In November 2017 the two governments announced a deal to repatriate thousands of Rohingya within months[18], and again attempted returns in 2018–2019. Refugees overwhelmingly refused, citing Myanmar’s unreformed conditions. As UNHCR stated in late 2017, “conditions in Myanmar’s northern Rakhine state are not in place to enable safe and sustainable returns”[19]. The 2017 agreement ultimately achieved almost no repatriation,

illustrating that Bangladesh's repatriation push was premature and forced by political pressure rather than security guarantees.

In summary, Bangladesh's response combined generous shelter with restrictive management: it has upheld refugees' survival but not their rights. Freedom of movement, communication, and education have been heavily curtailed[15][11]. These policies risk prolonging the crisis and creating a "lost generation" without basic education[11][20]. Critically, Bangladesh's insistence on returning refugees without conditions also undermines voluntary repatriation and could violate non-refoulement if returns were forced.

International Response and Effectiveness

### **United Nations and International Bodies**

The United Nations has engaged the Rohingya crisis primarily through fact-finding and humanitarian relief, but the response has been constrained. In 2017 the UN Human Rights Council (UNHRC) mandated an Independent International Fact-Finding Mission on Myanmar, which produced the definitive report finding evidence of genocide and recommending international prosecution[1][21]. The UNHRC and General Assembly have adopted resolutions condemning violence and urging accountability, and UN agencies (UNHCR, UNICEF, WFP, etc.) have led the relief effort in Bangladesh. In 2023 the UN High Commissioner for Human Rights reiterated that Myanmar must "ensure full legal recognition of the right to citizenship of all Rohingya" and repeal discriminatory laws[8].

However, there has been no strong UN enforcement action. At the UN Security Council, efforts to pass resolutions or impose sanctions have been vetoed by China and Russia (citing non-interference). The Security Council remains essentially paralysed[22]. In practice the ICJ process (started by Gambia) has been the UN's only enforcement mechanism; its provisional measures in 2020 bind Myanmar under the Genocide Convention[6], but enforcement falls on UN member states. The General Assembly has discussed an accountability mechanism, and reports suggest a high-level conference on the Rohingya situation is planned for 2025[23], but concrete outcomes are pending. Meanwhile, UNHCR and NGOs continue to provide shelter, while urging that any return be strictly voluntary and conditional on rights guarantees[19][24].

### **ASEAN and Regional Actors**

The Association of Southeast Asian Nations (ASEAN) has played a limited role. Although Myanmar (Burma) is an ASEAN member, the bloc's founding principle of non-interference has largely hindered a regional response. Human Rights Watch notes that ASEAN "has discussed the crisis in various forums... but has largely ignored Myanmar government threats to the Rohingya"[25]. ASEAN initiatives have focused narrowly on repatriation logistics, notably drafting a "needs assessment" for returns in 2019 without consulting refugees or addressing root causes[26]. There has been no ASEAN condemnation of the military's abuses. In practice, Malaysia, Indonesia and a few Southeast Asian governments have offered modest humanitarian aid and occasionally spoken out, but they have not pressured Myanmar to change policy.

Indeed, ASEAN has been criticized for prioritizing a hasty repatriation over ensuring justice and safety[26].

## Major Powers and Other States

Key global powers have taken divergent stances. Western democracies (EU members, United States, Canada, etc.) have publicly denounced the atrocities. The U.S. placed targeted sanctions on top generals and designated the 2017 violence as “genocide” [5]. The EU and several countries have imposed arms embargoes or travel bans on military leaders and business entities linked to the Tatmadaw. However, these measures remain limited in scope, and calls by NGOs for a UN arms embargo or expanded sanctions have not been fully realized[13][27]. By contrast, China and Russia have shielded Myanmar diplomatically: both have vetoed or watered down UN Council actions and continue military cooperation and development projects in Myanmar. Their Security Council vetoes have prevented international enforcement of the Genocide Convention[22].

Regionally, India has pursued a balancing act: it increased infrastructure and military ties with Myanmar even after 2017, though it has offered limited relief aid in Bangladesh. India refrained from public criticism, citing strategic ties and its own concerns about Islamic militancy. Other major states (Japan, Australia, South Korea) have provided humanitarian assistance and some political pressure. Meanwhile, powerful Muslim-majority states (Turkey, Pakistan, Saudi Arabia) have voiced support for the Rohingya in forums like the OIC, but have taken no collective action beyond statements of concern. In sum, while many governments rhetorically support justice for the Rohingya, few have committed the large-scale pressure or resources needed; the international community remains fractured and ineffective in compelling Myanmar to change course.

Recommendations

## Myanmar

- **Grant Citizenship and Rights:** Repeal or amend the 1982 Citizenship Law and all discriminatory decrees so that Rohingya are recognized as citizens with full civil rights[8]. Issue identity documents to Rohingya in Rakhine State and in the camps, ensuring freedom of movement and access to education, healthcare, and employment.
- **End Abusive Practices:** Immediately halt all military “clearance operations,” arbitrary detentions, forced labor, and restrictions on Rohingya villages. Permit unfettered humanitarian access and independent monitoring in northern Rakhine. Dismantle the camps and curfews that effectively imprison the Rohingya.
- **Ensure Accountability:** Conduct genuine investigations of alleged abuses by security forces. Cooperate with UN and international investigators. Establish independent trials (domestically or via international tribunal) for those responsible for mass atrocities. Assist the ICJ proceedings by fully implementing provisional measures and by cooperating with the Rohingya genocide case.

- **Participate in Reconciliation:** Engage with Rohingya community leaders to build a shared vision for Rakhine's future. Support a transparent truth commission or similar mechanism to document the 2017 atrocities and prevent recurrence. Publicly condemn extremist hate speech and prosecution of victims.

## Bangladesh

- **Protect Refugees' Rights:** Ensure Rohingya refugees enjoy freedom of movement (consistent with Bangladesh's ICCPR obligations) and restore their internet/communication access[15]. Reverse the ban on community-led schools and support informal and formal education programs in the camps. Provide vocational training and livelihood opportunities to mitigate humanitarian risk.
- **Maintain Refugee Status Safely:** Continue to shelter Rohingya until returns are safe, while exploring legal avenues for stay (e.g. temporary residence permits) that improve rights without full integration. Any relocation (e.g. to Bhasan Char) should meet international safety standards and be fully voluntary.
- **Ensure Voluntary Repatriation:** Work only with Myanmar on a genuinely voluntary, conditions-based repatriation framework. Do not forcibly return individuals; instead, verify informed consent for any return. Consult refugees in planning returns and allow UNHCR full participation in resettlement monitoring.

## United Nations

- **Enforce International Law:** The UN should spearhead accountability. The Security Council must use Chapter VII to require enforcement of the Genocide Convention: for example, by referring Myanmar to the ICC or establishing an ad hoc tribunal[28]. Until then, all member states should impose arms embargoes and targeted sanctions on Myanmar's military leaders[28][29]. The UN Secretary-General should monitor compliance with the ICJ's orders and report annually on Myanmar's progress.
- **Support Evidence and Justice:** The Human Rights Council should expand its Fact-Finding Mission or appoint a new investigative body to collect evidence of crimes[30]. The UN should secure storage of forensic evidence, testimony, and documentation for future prosecutions. A trust fund should be established under UN auspices to compensate Rohingya victims (consistent with eventual ICJ or other judicial rulings)[31].
- **Humanitarian and Development Assistance:** The UN and donors must adequately fund the Bangladesh operation (Joint Response Plan) to ensure refugees' basic needs. Ongoing aid to Myanmar (where allowed) must be conditioned on human rights benchmarks. The UN should coordinate with Bangladesh and host states to maintain long-term humanitarian support and contingency planning.
- **Principled Engagement:** All UN agencies and missions in Myanmar must prioritize human rights (a "Human Rights Up Front" approach[32]). Any development or normalization assistance to Myanmar must include human rights due diligence. The

High Commissioner and Human Rights Council should continue to call publicly for Rohingya rights and apply diplomatic pressure on Myanmar's leaders.

## ASEAN

- **Respond Cooperatively:** ASEAN should acknowledge the Rohingya crisis as a regional humanitarian and security issue, not merely Myanmar's internal matter. The bloc should activate its mechanisms (e.g. ASEAN Coordinating Centre for Humanitarian Assistance) to help manage refugee needs and boat migrants. ASEAN countries must desist from turning away Rohingya boats and instead coordinate search-and-rescue and disembarkation in accordance with international maritime law[33][34].
- **Conditional Engagement:** As regional partners, ASEAN governments should exert collective diplomatic pressure on Myanmar: for example, by conditioning Myanmar's participation in regional forums or military exercises on concrete improvements for the Rohingya. Vietnam (as current chair) and others should use ASEAN's "spirit of solidarity" to encourage human rights reforms in Rakhine State. In particular, ASEAN should insist that voluntary repatriation be postponed until Myanmar grants freedom of movement and citizenship to the Rohingya[35].
- **Drop Non-Interference:** ASEAN must overcome its "non-interference" taboo in the face of atrocity. Human Rights Watch urges ASEAN to "drop their harmful 'non-interference' mantra" and explicitly address Myanmar's abuses[36]. In practice, this means ASEAN should support UN accountability measures and invite UN monitors into Rakhine under ASEAN auspices. The bloc should also consider long-term support for Rohingya who remain displaced (e.g. resettlement schemes, education scholarships within ASEAN).

## CHAPTER -7

### Conclusion

The thesis has documented that **legal barriers** to Rohingya repatriation remain formidable. Since 1982 Myanmar law has excluded the Rohingya from citizenship, rendering them stateless[1]. The 1982 Citizenship Act effectively “denied the Rohingyas’ citizenship rights”[1] and deprived them of basic civil and political rights. UN experts and NGOs have repeatedly stressed that this discriminatory law must be reformed in accordance with international standards[2]. In practice, statelessness has been the “root cause” of Rohingya suffering[1]; without legal nationality they cannot claim freedom of movement, education, or political representation, nor can they seek meaningful redress for abuses.

Alongside legal discrimination, the **security situation in Rakhine State** remains dire. Multiple investigations have established that Myanmar’s military (Tatmadaw) waged a “sweeping campaign of massacres, rape, and arson” against Rohingya civilians in 2017[3]. Thousands were killed or disappeared, villages were razed (often with bulldozers)[4], and systematic gang-rape of women and girls was used as a tactic of terror[5]. A UN Fact-Finding Mission found that the violence “rise[s] to the level of both war crimes and crimes against humanity,” and is comparable in scale to recognized genocides[6]. As a result, over 700,000 Rohingya fled to Bangladesh in 2017 alone[3]. These findings underscore that the armed forces continue to pose an existential threat to Rohingya civilians; any return under these conditions would be far from “safe or voluntary.”

Crucially, there is a **near-total absence of accountability** for atrocity crimes. No Myanmar officials have been credibly prosecuted at home, and impunity reigns. Domestic inquiries have been widely discredited and blocked from investigating military crimes. International justice mechanisms, however, are beginning to engage. The Gambia’s case at the International Court of Justice alleges that Myanmar violated its Genocide Convention obligations[3]. Provisional measures ordered by the ICJ in 2020 require Myanmar to prevent genocidal acts and preserve evidence[7]. Likewise, the International Criminal Court prosecutor has sought arrest warrants (most recently in late 2024) for Myanmar’s top generals for crimes against humanity including deportation and persecution of the Rohingya[8][9]. These proceedings are landmark steps toward legal accountability, but so far remain ongoing without arrests or judgments. Meanwhile, Rohingya victims live with the trauma of unresolved sexual and gender-based violence – including the documented rapes of possibly thousands of women and girls during military operations[5] – and the harm to children (exposure to violence, malnutrition, disease, and trafficking). These gender and child protection issues multiply the human cost and present additional barriers to any return absent comprehensive safeguards.

The analysis also found **systemic failures of international institutions**. The United Nations and regional bodies have been criticized for inaction. For example, an internal UN report concluded that the system committed “serious errors” and “systemic failure” in failing to prevent the 2017 atrocities[10]. ASEAN has similarly been ineffective: despite some statements on repatriation, its initiatives have largely ignored root causes and the Rohingya’s rights[11][12]. Notably, the ASEAN emergency task force on repatriation did not assess whether conditions were safe for return[13]. In practice, international actors have not enforced human rights norms or provided robust protection. A UN Special Rapporteur recently lamented that the Security Council has still not referred Myanmar to the ICC, and that some states even continue selling arms to the junta[14]. Meanwhile, donor fatigue has set in: agencies report funding shortfalls, with the World Food Programme cutting rations for Rohingya refugees due to dwindling contributions[15]. This collective “paralysis of indifference”[14] leaves the crisis largely unresolved on the world stage.

Contributing to this failure is a **political deadlock** between Myanmar and Bangladesh (and their allies). Myanmar’s junta has alternately pledged to accept returnees under bilateral accords but then implemented none of the necessary reforms. Bangladesh – which houses over one million Rohingya refugees – has insisted on repatriation as the only viable solution, yet faces domestic and security constraints to granting permanent rights to the Rohingya. Despite international pressure, both governments have often traded blame: Myanmar denies culpability for the refugee exodus[16], while Bangladesh has threatened to relocate refugees to a flood-prone island (Bhasan Char) or deport them. These geopolitical standoffs, plus objections by regional powers (e.g. China and Russia in the UN Security Council), have created a situation where no plan for safe return has political cover. Proposals like UN-mediated repatriation agreements (e.g. the 2018 informal tripartite arrangement) have been severely criticized for imposing tight timetables without security guarantees[17][18].

Even apart from political factors, **refugee agency and voluntariness** pose deep challenges. By definition, a return is lawful only if truly voluntary, in “safety and dignity.” But UNHCR and rights groups note that conditions in Myanmar are so dire that “return often becomes coerced” if pushed prematurely[18]. Refugees report that returning to Rakhine under military rule would expose them to harassment, land confiscation, and renewed violence[17][19]. In Bangladesh’s camps, families are reluctant to repatriate unless core grievances are addressed. For example, Human Rights Watch has documented many Rohingya expressing willingness to go home *one day*, but only if the government ensures citizenship and rights[19][18]. Under current circumstances – with no freedom of movement or services even for the half-million Rohingya still inside Myanmar[19] – return cannot meet the legal standards of voluntariness.

Finally, **logistical and environmental obstacles** further complicate any repatriation plan. The refugee camps in Cox’s Bazar are located on steep, deforested hills and low-lying lands. Satellite and witness reports show that every year the camp areas suffer devastating landslides, floods, and fires. As one analysis noted, “roads turn to mud” and “hills are susceptible to landslides” during the monsoon because “thousands of hectares of forest have been cut down” to create the mega-camp[20]. Overcrowding and makeshift shelters mean that even heavy rain can collapse homes and cause deadly mudslides (one landslide in 2023 buried an entire

family)[21][20]. In short, the camps are “one rainfall or fire away from catastrophe,” with environmental hazards now among the leading causes of death in the settlements[22]. These conditions also impede any exit or relocation: safe evacuation of densely-populated camps is nearly impossible[23], and cuts to aid (e.g. shelter upgrades) have left infrastructure woefully inadequate. Thus, even if political will existed, the physical and humanitarian logistics of moving hundreds of thousands more people across the border to devastated villages remains a prohibitive obstacle under present conditions.

### Legal Implications

This crisis raises profound questions of **international legal obligation**. Under the Genocide Convention, Myanmar as a State Party is duty-bound to prevent and punish genocide. The forcible expulsion and mass atrocities against Rohingya are at the center of The Gambia’s ICJ case, which alleges violation of the Genocide Convention[3]. ICJ provisional measures (January 2020) formally require Myanmar to “prevent all genocidal acts” against the Rohingya and to punish such crimes[7]. This establishes a clear legal responsibility: continued atrocity by Myanmar’s forces would breach a binding court order. Similarly, Myanmar is subject to core human rights treaties (such as the ICCPR and CERD) that prohibit discrimination on the basis of race or religion. Even though Myanmar has not ratified every treaty, the norms of non-discrimination and the right to nationality (implicitly protected by ICCPR Articles 2 and 26) are considered customary norms. By stripping Rohingya of their citizenship and treating them as second-class, Myanmar has breached these obligations. The Genocide Convention itself includes indirect obligations: even if not all elements of genocide are proved, the international prohibition on “forcible transfer” of a protected group’s children (Art. II(e)) is implicated by reports of children being abducted or adopted during the operations[5].

For its part, **Bangladesh’s obligations** arise mainly under the customary principle of non-refoulement and human rights law. Although Bangladesh has not acceded to the 1951 Refugee Convention, its own Supreme Court has recognized that non-refoulement is now a rule of customary international law binding on all states[24]. In *RMMRU v. Bangladesh* (2020), the High Court explicitly ruled that Bangladesh cannot forcibly return Rohingya given the risk of persecution back home, effectively treating the Refugee Convention as customary law[24]. Bangladesh’s constitution and domestic laws also provide fundamental rights (e.g. right to life, liberty, due process) to all persons in its territory[25]. Consequently, international law requires Bangladesh to continue protecting Rohingya (e.g. by not returning them to danger, by permitting basic services) and to refrain from subverting their safety (for example, by constructing fences or camps that confine them). Bangladesh is also urged to formalize refugee protections through legislation or by adopting relevant parts of UN treaties, as analysts have recommended[26].

The **international community’s duties** include both legal and moral dimensions. Under the Responsibility to Protect (R2P), states have a recognized duty to prevent mass atrocity crimes, including genocide. As UN experts have stated, the brutal campaign of 2017 “should shock the conscience of the world and spur international action”[27]. In practice, major powers have not used coercive measures (e.g. sanctions, arms embargoes, ICC referral) to halt Myanmar’s

abuses. The UN Security Council, paralyzed by vetoes, has not invoked Chapter VII powers to protect the Rohingya. Nevertheless, under international humanitarian law the Rohingya (whether as de facto civilians or as non-combatants) are protected from murder, rape, and deportation. Thus, the global community has the legal responsibility to demand compliance with international criminal law norms and to provide safe haven and aid. This has justified international aid to refugees, and pressure via diplomatic channels and targeted measures.

Ongoing legal cases underscore these obligations. The ICJ's genocide case, now at the merits phase[3], is legally significant because it directly addresses state responsibility (not individual guilt) under the Genocide Convention. A finding of violation could lead to reparations and international oversight of reforms. Likewise, the ICC proceedings – first investigating crimes committed in Bangladesh and now targeting top generals for the Rakhine campaign[8][28] – mark unprecedented application of international criminal law. Although Myanmar is not an ICC member, the Court claims jurisdiction over deportations because Bangladesh (an ICC party) was involved. If arrest warrants are issued (as requested against Min Aung Hlaing[8]), states will have a legal duty to cooperate in arrests and surrender. These developments send a message that atrocity crimes will not go unpunished, and they complement diplomatic efforts. However, while legally binding, these mechanisms are slow. For the Rohingya, the immediate effect has been more in public awareness than in on-the-ground change. Nonetheless, their broader significance lies in affirming that international law casts Myanmar's policies as unlawful and obliges action by others.

#### Future Prospects and Recommendations

Looking ahead, any durable solution must address the **citizenship and identity issues** at the heart of the crisis. The only real pathway for Rohingya to live safely in Myanmar is recognition as full citizens. International actors have insisted that Myanmar must guarantee Rohingya *ethnic identity* and amend its laws. UN human rights officials have called for “full legal recognition of the right to citizenship of all Rohingya people” and the issuance of identity documents[29]. This would involve either repealing or fundamentally revising the 1982 Citizenship Law and invalidating discriminatory provisions in the 2010 Constitution. In practice, any political settlement in Myanmar (future civilian government or federal arrangement) must include Rohingya in the list of recognized national races and lift restrictions on property, marriage and movement. Such reforms would reverse decades of injustice and make return conceivable. However, given the current junta's intransigence, these changes are more likely to come from sustained international pressure or change in Myanmar's governance.

Simultaneously, the **prospects for justice and accountability** must be pursued on all fronts. The current ICJ and ICC cases should be vigorously supported. If the ICJ ultimately rules that Myanmar violated the Genocide Convention, it could order Myanmar to implement remedies (as it did in *Bosnia and Herzegovina v. Serbia*). The ongoing ICC case, if a warrant is issued and enforced, could see military leaders tried for the 2017 crimes. Beyond courts, the Rohingya and other Burmese have repeatedly called for an independent international investigative mechanism (like a UN-backed truth commission or tribunal) to document all abuses. Many observers argue that the cycle of violence will not end until those who ordered it face

consequences. Meanwhile, domestic justice in Myanmar is likely impossible under the junta; however, civil society initiatives (documentation projects, archives of evidence) continue to build the case for later accountability.

International and regional cooperation will be crucial in realizing these prospects. **Global actors** – the UN, major powers, donor states – should coordinate relief and political pressure. While the UN itself cannot enforce repatriation, it can set conditions: for example, donors could condition aid on tangible improvements in Rohingya rights, and the UN Security Council could issue stronger resolutions (even if non-binding) echoing the ICJ’s orders. The Office of the UN High Commissioner for Human Rights and other UN agencies must continue to monitor abuses, assist Bangladesh, and keep public attention on the crisis. **Regional bodies** should also bear responsibility. ASEAN, which has shunned use of terms like “Rohingya,” ought to engage more constructively: ASEAN states could use their influence on Myanmar to advocate for legal reforms and humanitarian access. The Organization of Islamic Cooperation (OIC) can continue diplomatic efforts and support aid, but it has limited leverage. Multi-lateral forums (e.g. UN General Assembly, Human Rights Council) can serve as platforms for joint action plans. Donor countries must fund refugee assistance and consider third-country resettlement as a complementary solution to relief. The current shortfall in the Joint Response Plan for Rohingya is a telling sign that global solidarity must be strengthened[15].

In considering **solutions**, one must compare voluntary return with other durable options. Humanitarian law recognizes three durable solutions: return, local integration, and resettlement. For the Rohingya, voluntary repatriation is by far the preferred stated desire of most refugees – but only if conditions are truly safe and dignified. As long as Myanmar refuses to grant citizenship and security, large-scale return would be irresponsible. In the interim, strengthening local integration in Bangladesh (allowing Rohingya freedom of movement, education, work, and possibly some path to permanent legal status) could reduce vulnerability. Some experts suggest Bangladesh should upgrade the Rohingya’s legal status beyond “Forcibly Displaced Myanmar Nationals,” to ensure rights under national law (cf. recommendations in RMMRU and EJIL analyses)[24][26]. Meanwhile, states should expand refugee resettlement quotas: a few hundred thousands in UNHCR resettlement slots could greatly relieve pressure on Bangladesh and honor international solidarity.

Finally, specific **policy and legal reforms** are recommended by numerous sources. International guidelines on repatriation emphasize that any return must be voluntary, safe, and dignified[18]. In practice, a new tripartite framework (involving UNHCR) should be drafted, replacing any bilateral “Arrangement” that ignores rights. Myanmar should be required to admit UN monitors to Rakhine, release Rohingya political prisoners, and halt militia activity. Bangladesh should revise outdated laws (such as the 1946 Foreigners Act) to clarify the status of refugees and bolster protections against refoulement[26]. Both governments (and regional partners) should invest in local livelihood and education projects now, so that any eventual return can take place not into ruined settlements, but into rehabilitated villages with water, schools, and clinics.

In sum, the thesis concludes that without **comprehensive change** – legal equality, justice for crimes, robust international oversight, and genuine respect for Rohingya agency – the stated

goal of “safe, voluntary, and dignified” repatriation cannot be achieved. The international community must use the leverage of law and aid to insist that root causes be addressed before any return is contemplated[29][18]. Rohingya survivors have endured genocide and exile; to restore their dignity will require concerted legal, political, and humanitarian action guided by the principles the world has pledged but too often failed to uphold[27][2].

**Sources:** Key findings and assertions above draw on United Nations reports and statements[29][30][27][2], Human Rights Watch and other NGO analyses[18][11][3][24][8], and relevant academic commentary. The treatment of legal obligations and proceedings is grounded in current international law cases (ICJ and ICC) and customary norms[3][24][8]. Empirical details on violence, camp conditions, and institutional failures are cited from investigative reports and news sources[30][31][22], which document the Rohingya situation in depth.

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[1] Statelessness – the Root Cause of the Rohingya Crisis – Needs to Be Addressed - New Lines Institute

<https://newlinesinstitute.org/state-resilience-fragility/statelessness-the-root-cause-of-the-rohingya-crisis-needs-to-be-addressed/>

[2] [29] Myanmar Authorities Must Ensure Full Legal Recognition of the Right to Citizenship of All Rohingya People, Deputy High Commissioner tells Human Rights Council - Council Concludes Interactive Dialogue with the High Commissioner on his Annual Report | OHCHR

<https://www.ohchr.org/en/meeting-summaries/2023/06/myanmar-authorities-must-ensure-full-legal-recognition-right-citizenship>

[3] [7] Myanmar: Critical Hearings in Rohingya Genocide Case | Human Rights Watch

<https://www.hrw.org/news/2026/01/08/myanmar-critical-hearings-in-rohingya-genocide-case>

[4] 'Everything is gone': satellite images in Myanmar show dozens of Rohingya villages bulldozed | Myanmar | The Guardian

<https://www.theguardian.com/world/2018/feb/24/myanmar-rohingya-villages-bulldozed-satellite-images>

[5] [6] [30] Myanmar: UN Fact-Finding Mission releases its full account of massive violations by military in Rakhine, Kachin and Shan States | OHCHR

<https://www.ohchr.org/en/press-releases/2018/09/myanmar-un-fact-finding-mission-releases-its-full-account-massive-violations>

[8] [9] [28] Myanmar: ICC Prosecutor Requests Arrest Warrant | Human Rights Watch

<https://www.hrw.org/news/2024/11/27/myanmar-icc-prosecutor-requests-arrest-warrant>

[10] [31] UN report condemns its conduct in Myanmar as systemic failure | United Nations | The Guardian

<https://www.theguardian.com/world/2019/jun/17/un-report-myanmar-rohingya-systemic-failure>

[11] [12] [13] [16] [19] ASEAN: Don't Whitewash Atrocities Against Rohingya | Human Rights Watch

<https://www.hrw.org/news/2019/06/19/asean-dont-whitewash-atrocities-against-rohingya>

[14] [15] [27] UN expert demands accountability for the Rohingya and an end to ‘paralysis of indifference’ | OHCHR

<https://www.ohchr.org/en/press-releases/2023/08/un-expert-demands-accountability-rohingya-and-end-paralysis-indifference>

[17] [18] Burma: Rohingya Return Deal Bad for Refugees | Human Rights Watch

<https://www.hrw.org/news/2017/12/11/burma-rohingya-return-deal-bad-refugees>

[20] In pictures: The human and environmental toll of mass Rohingya migration

<https://lacuna.org.uk/environment/hidden-consequences-of-rohingya-crisis/>

[21] [22] [23] ‘Living in fear of the sky’: Rohingya refugees in Bangladesh battle environmental crisis | Frontier Myanmar

<https://www.frontiermyanmar.net/en/living-in-fear-of-the-sky-rohingya-refugees-in-bangladesh-battle-environmental-crisis/>

[24] [25] [26] Evaluating Bangladesh’s Legal Framework for Rohingya Refugees: Gaps and Solutions – EJIL: Talk!

<https://www.ejiltalk.org/evaluating-bangladeshs-legal-framework-for-rohingya-refugees-gaps-and-solutions/>