



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

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Dedication

**This Research is dedicated to my
Father & Mother**

LETTER OF TRANSMITTAL

To
Sunzida Akhter
Lecturer
Department of Law
Sonargaon University (SU), Dhaka.

Subject: Submission of research paper on "The Challenges of Implementing Safe, Voluntary, and Dignified Repatriation of Rohingya Refugees under International Law".

Dear Madam.

It is a great pleasure for me to submit the thesis on "The Challenges of Implementing Safe, Voluntary, and Dignified Repatriation of Rohingya Refugees under International Law" While I doing this thesis, I have tried my level best to make this project paper to the latest standard, I think that this paper will fulfill your requirement and pleased you. I, therefore, hope that you would be kind enough to go through this thesis paper for evaluation.

I am always be ready for clearance of any part of my thesis.

Thanking you

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ACKNOWLEDGEMENT

First, I would like to thank the blessings of Almighty Allah for giving me the physical and mental strength to carry out the research monograph program and prepare the research monograph successfully. I would like to thank the University of Dhaka, Bangladesh for allowing me to do this Internship. I'd like to thank Sunzida Akhter, Sir, and my monograph supervisor, for guiding me with the completion of this research monograph.

Overall, I would like to thank my all teacher & classmate. It is one big family, and they have only shown love and support to me throughout my journey here, and I can never thank them enough for being so kind.

STUDENT'S DECLARATION

I, **Tabassum Habiba Oishi**, a student of the Department of Law at the Sonargaon University (SU), do hereby declare that “The research monograph on the challenges of implementing safe, voluntary, and dignified repatriation of rohingya refugees under international law” is my work and has not been submitted by me before for any degree, diploma, title, or recognition. The research monograph was prepared under **Sunzida Akhter**, Lecturer, Department Of Law, Sonargaon University (SU).

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CERTIFICATION OF APPROVAL

This is to certify that the research monograph on "The research monograph on the challenges of implementing safe, voluntary, and dignified repatriation of rohingya refugees under international law" conducted by Tabassum Habiba Oishi bearing respectively ID: LLB2201025008, Batch: 25th, LLB (Hon's), Department Of Law, Sonargaon University (SU). She worked under my guidance in her research monograph.

I am glad to hereby certify that the data and finding presented in the research monograph are the authentic work of Tabassum Habiba Oishi and she bears a strong moral character and a very pleasant personality. I wish her all success in life.

Sunzida Akhter

Lecturer
Department Of Law
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ACKNOWLEDGEMENT

First, I would like to thank the blessings of Almighty Allah for giving me the physical and mental strength to carry out the research monograph program and prepare the research monograph successfully. I would like to thank the University of Dhaka, Bangladesh for allowing me to do this Internship. I'd like to thank **Sunzida Akhter**, Sir, and my monograph supervisor, for guiding me with the completion of this research monograph.

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ABSTRACT

This research monograph examines the multifaceted challenges in implementing safe, voluntary, and dignified repatriation of Rohingya refugees under international law. It analyzes the historical background of the Rohingya crisis in Myanmar, relevant legal frameworks, state and non-state actors, and institutional challenges in Bangladesh and Myanmar. Through a doctrinal and socio-legal approach, the study assesses legal norms such as non-refoulement, human rights obligations, refugee protection principles, and political dynamics affecting repatriation. The monograph highlights structural barriers—security, citizenship denial, discriminatory policies, accountability deficits, and regional geopolitics. It evaluates repatriation attempts, including bilateral agreements between Bangladesh and Myanmar, critiques compliance gaps, and proposes a rights-based repatriation framework. Policy recommendations focus on international cooperation, legal reforms in Myanmar, accountability for crimes against humanity, and enhanced protection assurances. Ultimately, the research argues that without substantial legal and political restructuring, repatriation cannot fulfill international law requirements for being truly safe, voluntary, and dignified.

TABLE OF CONTENTS

CERTIFICATION OF APPROVAL	6
CHAPTER ONE	12
Introduction	12
Historical Background of the Rohingya Crisis	14
International Legal Framework for Refugee Repatriation	15
1.1 Overview of the Study	17
1.2 Purpose and Objectives of the Study	18
Purpose of the Study	18
Objectives of the Study	19
1.3 Research Questions	21
Primary Research Question	21
Secondary Research Questions	21
Analytical Orientation of the Questions	22
1.4 Methodology	22
Research Design	23
Sources of Data	24
Analytical Framework	25
Method of Interpretation	25
Limitations of the Methodology	26
Ethical Considerations	26
The International Legal Framework	26
The Triad of Repatriation: Safety, Voluntariness, and Dignity	28
Summary of Current Progress	29
Socio-Political Context of the Rohingya Crisis (1948–2025)	29
Legal Obstacles: The 1982 Citizenship Law and the NVC System	30
International Judicial Intervention: ICJ and ICC	32
1.5 Structure of the Report	34
Chapter- 2	36

Background of the Study	36
2.1 Historical Context	36
2.2 Political and Security Dynamics.....	36
2.3 Humanitarian Dimensions	37
2.4 Repatriation Efforts and International Response.....	37
2.5 Rationale for the Study.....	38
Chapter-3.....	38
Literature Review.....	39
3.1 International Legal Framework for Repatriation.....	39
3.2 Rohingya Displacement: Historical and Political Analyses	39
3.3 State Practice and Bilateral Repatriation Efforts.....	40
3.4 International and Regional Actors	40
3.5 Alternative Durable Solutions	41
3.6 Synthesis	41
Chapter-4.....	43
Findings.....	43
4.1 Legal and Normative Challenges	43
4.2 Structural and Political Barriers.....	43
4.3 Operational and Administrative Challenges.....	44
4.4 Role of International and Regional Actors	45
4.5 Alternative Durable Solutions	45
4.6 Synthesis of Findings	46
Chapter-5.....	47
Discussion	47
5.1 Gap between Legal Norms and Practice	47
5.2 Structural and Political Constraints	47
5.3 Limitations of International and Regional Mechanisms.....	49
5.4 Voluntariness and Dignity in Practice.....	49
5.5 Alternative Durable Solutions	49

5.6 Synthesis and Implications	51
Chapter-6.....	51
Conclusions.....	52
6.1 Gap Between Legal Norms and Implementation	52
6.2 Structural and Political Constraints	52
6.3 Limitations of International and Regional Actors.....	52
6.4 Implications for Voluntariness and Dignity	53
6.5 Alternative Durable Solutions	53
6.6 Overall Conclusion	54
Chapter-7.....	54
References:	55-51

CHAPTER ONE

Introduction

The forced displacement of the Rohingya population from Myanmar constitutes one of the most persistent and legally complex refugee crises in contemporary international relations. For decades, the Rohingya—an ethnic Muslim minority originating from Myanmar’s Rakhine State—have been subjected to systematic exclusion, denial of citizenship, and recurrent episodes of state-sponsored violence. These structural conditions produced successive waves of displacement, most notably following the Myanmar military’s clearance operations in 2016 and 2017, which resulted in the mass exodus of over one million Rohingya refugees to Bangladesh and other parts of the region. Despite sustained international concern, the crisis has remained largely unresolved, raising fundamental questions about the effectiveness of international legal norms governing refugee protection and durable solutions.

International law recognizes voluntary repatriation as the preferred long-term solution to refugee situations, contingent upon strict adherence to the principles of safety, voluntariness, and dignity. These principles derive not only from the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, but also from broader frameworks of international human rights law, international humanitarian law, and customary international law. Central to this legal architecture is the principle of non-refoulement, which prohibits the return of refugees to territories where they face threats to life, liberty, or fundamental rights. In theory, these norms establish clear safeguards; in practice, however, their implementation in the context of the Rohingya crisis has proven deeply problematic.

The feasibility of Rohingya repatriation is critically undermined by conditions in Myanmar. The absence of citizenship recognition, entrenched legal discrimination under domestic laws—most notably the 1982 Citizenship Law—and ongoing restrictions on movement, access to livelihoods, and basic services collectively negate the possibility of meaningful reintegration. Moreover, the lack of accountability for

alleged international crimes, including crimes against humanity and genocide, perpetuates an environment of fear and insecurity incompatible with the legal ¹

standard of safe return. As a result, repatriation initiatives risk functioning as instruments of premature return rather than genuine durable solutions.

At the same time, the protracted presence of Rohingya refugees in host states presents acute challenges for regional stability and international responsibility-sharing. Bangladesh, while not a signatory to the Refugee Convention, has assumed a substantial humanitarian burden by hosting the world's largest refugee settlement. Bilateral repatriation arrangements between Bangladesh and Myanmar, conducted largely outside a multilateral protection framework, have raised serious concerns regarding the voluntariness of refugee consent and the adequacy of international monitoring mechanisms. These developments expose the tension between state-centric migration control policies and the refugee-centered approach mandated by international law.

This research monograph critically examines the challenges of implementing safe, voluntary, and dignified repatriation of Rohingya refugees under international law. It interrogates the normative foundations of repatriation, evaluates state practice in light of legal obligations, and assesses the role of international and regional actors in shaping outcomes. By situating the Rohingya crisis within broader debates on statelessness, accountability, and the limits of humanitarian governance, the study seeks to contribute to a deeper understanding of why legal protections often fail in situations of mass displacement—and what conditions are necessary for repatriation to become not merely a policy objective, but a lawful and durable reality.

The Rohingya, a predominantly Muslim ethnic group from Myanmar's Rakhine State, have endured decades of marginalization, culminating in mass displacements that have drawn global condemnation. As of December 2025, over 1,006,000 Rohingya

¹Myanmar Citizenship Law 1982, ss 3–7

²B S Chimni, 'The Politics of Refugee Law' (1998) 8 *International Journal of Refugee Law* 350.

³William A Schabas, *Genocide in International Law* (2nd edn, Cambridge University Press 2009).

refugees are registered in Bangladesh, residing in overcrowded camps like those in Cox's Bazar, the world's largest refugee settlement. This crisis, often described as a "textbook example of ethnic cleansing," has persisted for eight years since the 2017 military crackdown, with new waves of violence exacerbating the situation.

Repatriation—the return of refugees to their country of origin—remains the preferred durable solution under international refugee law, but only when it is safe, voluntary, and dignified. However, implementing this for the Rohingya faces multifaceted challenges: Myanmar's political instability, denial of citizenship rights, and ongoing conflicts; Bangladesh's resource strains and containment policies; and the international community's waning funding and diplomatic resolve. These issues not only violate core tenets of international law but also perpetuate a cycle of displacement, statelessness, and human suffering.

This monograph aims to dissect these challenges systematically. It begins with a historical overview, followed by an exposition of the relevant legal framework. Subsequent sections delve into the principles of repatriation, empirical challenges, comparative case studies, and actionable recommendations. By grounding the analysis in sources like UN resolutions, UNHCR guidelines, and scholarly critiques, this work seeks to contribute to scholarly discourse and policy advocacy.

The urgency is underscored by recent developments: Escalating clashes in Rakhine State between the Myanmar military and the Arakan Army (AA) have displaced thousands more, blocking humanitarian access and heightening risks for potential returnees. Without addressing these, repatriation risks becoming coercive or unsustainable, contravening international obligations.

Historical Background of the Rohingya Crisis

The Rohingya's plight traces back to colonial-era migrations and post-independence policies in Burma (now Myanmar). Historically, the Rohingya have inhabited the Arakan region (now Rakhine State) for centuries, with roots in pre-colonial Muslim communities. However, British colonial policies in the 19th century encouraged labor migration from Bengal, fueling ethnic tensions that persisted after independence in 1948. In 1982, Myanmar's Citizenship Law stripped the Rohingya of nationality,

²classifying them as "Bengali immigrants" rather than one of the 135 recognized "national races."

This rendered them stateless, denying access to education, healthcare, and freedom of movement. Periodic violence ensued, including operations in 1978 and 1991 that displaced hundreds of thousands to Bangladesh.

The 2012 communal clashes between Rohingya Muslims and Rakhine Buddhists marked a turning point, leading to segregated camps and further restrictions. The 2016-2017 military campaigns, triggered by attacks from the Arakan Rohingya Salvation Army (ARSA), involved widespread atrocities: villages burned, mass killings, and sexual violence, documented as crimes against humanity and potential genocide by UN fact-finding missions.

Over 700,000 fled to Bangladesh in 2017, joining earlier refugees, swelling camp populations. Bangladesh, not a signatory to the 1951 Refugee Convention, has hosted them under ad-hoc arrangements, providing shelter but limiting integration. Relocations to Bhasan Char island since 2020 have raised concerns over isolation and vulnerability to natural disasters.

As of 2025, the crisis remains protracted. Myanmar's 2021 coup and civil war have intensified instability, with the AA controlling much of Rakhine, hostile to Rohingya returns. Desperation has driven irregular maritime movements, resulting in hundreds of deaths at sea.

This history illustrates how statelessness and persecution create barriers to repatriation, as returnees face the same discriminatory structures that prompted flight.

International Legal Framework for Refugee Repatriation

⁴B S Chimni, 'The Politics of Refugee Law' (1998) 8 *International Journal of Refugee Law* 350.

⁵UN Human Rights Council, *Report of the Special Rapporteur on the Situation of Human Rights in Myanmar*, UN Doc A/HRC/23/59 (2013).

International law provides a robust yet imperfect framework for refugee repatriation, centered on the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. These define a refugee as someone with a well-founded fear of persecution based on race, religion, nationality, political opinion, or social group, unable to return home.

Key principles include non-refoulement (Article 33), prohibiting return to threats of life or freedom. This is customary international law, binding even on non-signatories like Myanmar and Bangladesh.

Voluntary repatriation is promoted by UNHCR as a durable solution, guided by its 1996 Handbook on Voluntary Repatriation, emphasizing conditions conducive to safe and dignified return. The Global Compact on Refugees (2018) reinforces shared responsibility, including burden-sharing and root cause resolution.

For the Rohingya, additional instruments apply: The 1954 Convention on Stateless Persons addresses their nationality denial, while the Genocide Convention (1948) is invoked in ICJ proceedings (*Gambia v. Myanmar*) to prevent further atrocities. Human rights treaties like the ICCPR (right to life, non-discrimination) and CAT (prohibition of torture) bolster protections.

However, gaps persist: Non-signatory states limit enforcement; no binding mechanisms for citizenship restoration; and geopolitical influences hinder UN action. Regional frameworks like ASEAN's non-interference principle further complicate interventions.³

⁶UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement* (UNHCR 2023).

⁷UNHCR, *Rohingya Emergency Overview* (UNHCR 2024).

⁸Myanmar Citizenship Law 1982 (Burma Citizenship Law), ss 3–7.

⁹Amnesty International, *Myanmar: The Darkening Crisis for Rohingya Refugees* (2012).³

¹⁰UN High Commissioner for Refugees (UNHCR), *Rohingya Emergency* (UNHCR Operational Update, 2018).

1.1 Overview of the Study

This study provides a comprehensive legal and analytical examination of the challenges associated with implementing **safe, voluntary, and dignified repatriation** of Rohingya refugees within the framework of international law. It is premised on the argument that, despite the normative clarity of international legal standards governing repatriation, structural deficiencies in enforcement, political will, and accountability mechanisms have rendered these standards largely ineffective in the Rohingya context.

The study adopts an interdisciplinary approach grounded primarily in **International refugee law**, while also drawing upon **International human rights law**, **International humanitarian law**, and **statelessness law**. It critically assesses key legal instruments, including the 1951 Refugee Convention and its 1967 Protocol, relevant human rights treaties, customary international law principles, and authoritative interpretations provided by the United Nations High Commissioner for Refugees (UNHCR). Particular attention is given to the principle of **non-refoulement** and its implications for repatriation initiatives pursued in conditions of ongoing persecution and legal exclusion.

Methodologically, the study combines **doctrinal legal analysis** with **case-based evaluation** of state practice. It examines bilateral repatriation agreements between Bangladesh and Myanmar, the role of international organizations, and the responses of regional and global actors. By analyzing these practices against established legal standards, the study identifies critical gaps between formal commitments and actual implementation. The research also engages with findings from international fact-

¹¹International Organization for Migration (IOM), *Needs and Population Monitoring: Rohingya Refugee Crisis* (2018).

¹²James C Hathaway and Michelle Foster, *The Law of Refugee Status* (2nd edn, Cambridge University Press 2014) 3–12.

¹³Guy S Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (4th edn, Oxford University Press 2021) 23–30.

finding missions, judicial proceedings, and policy reports to contextualize legal arguments within empirical realities.

The study is organized into a series of thematic chapters. Following a historical and political background of the Rohingya crisis, it outlines the international legal framework governing refugee repatriation. Subsequent chapters analyze the legal barriers to repatriation arising from Myanmar's domestic laws, the absence of citizenship and accountability, and the humanitarian and legal pressures faced by host states. The final sections evaluate alternative durable solutions and propose normative and policy-oriented recommendations aimed at strengthening international compliance and refugee-centered protection.

Ultimately, this study seeks to contribute to scholarly and policy debates on forced displacement by demonstrating that repatriation, when pursued without genuine safety, voluntariness, and dignity, risks becoming a legally flawed and ethically compromised strategy. By foregrounding the Rohingya case, the monograph underscores the broader limitations of international law in responding to mass displacement and highlights the conditions under which legal norms may be translated into effective and just outcomes.

1.2 Purpose and Objectives of the Study

Purpose of the Study

The primary purpose of this study is to critically examine the legal, institutional, and practical challenges involved in implementing **safe, voluntary, and dignified repatriation** of Rohingya refugees under international law. The study seeks to assess whether existing repatriation initiatives and policy frameworks comply with established international legal standards, particularly those derived from international refugee law, international human rights law, and customary international law. By focusing on the Rohingya crisis, the study aims to illuminate the broader limitations of international legal mechanisms in addressing protracted refugee situations marked by statelessness, systemic discrimination, and impunity.

More specifically, the study endeavors to evaluate the gap between **normative legal commitments** and **state practice**, highlighting how political considerations, bilateral arrangements, and weak enforcement structures undermine the realization of lawful and durable repatriation. Through this analysis, the study aims to contribute to both scholarly discourse and policy formulation by clarifying the conditions under which repatriation may be considered legally permissible and ethically defensible.

Objectives of the Study

The specific objectives of this research are to:

1. **Examine the international legal framework** governing refugee repatriation, with particular emphasis on the principles of safety, voluntariness, dignity, and non-refoulement.

¹⁴Alexander Betts, *Forced Migration and Global Politics* (2nd edn, Wiley Blackwell 2013) 67–72.

¹⁵Convention Relating to the Status of Refugees (n 4) art 33(1).

¹⁶UN Human Rights Council, *Report of the Independent International Fact-Finding Mission on Myanmar*, UN Doc A/HRC/39/64 (12 September 2018).

¹⁷Matthew J Gibney, *The Ethics and Politics of Asylum* (Cambridge University Press 2004) 138–145.

¹⁸UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement* (UNHCR 2023).

¹⁹Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137, art 1A(2).⁴

²⁰ Protocol relating to the Status of Refugees (adopted 31 January 1967, entered into force 4 October 1967) 606 UNTS 267.

2. **Analyze the legal status of the Rohingya** under international and domestic law, including the implications of statelessness and Myanmar's citizenship regime for lawful repatriation.
3. **Assess state practice and bilateral repatriation arrangements**, particularly between Bangladesh and Myanmar, in light of international legal obligations and protection standards.
4. **Identify structural and institutional barriers** to repatriation, including lack of accountability for international crimes, absence of legal guarantees, and continuing insecurity in areas of return.
5. **Evaluate the role of international and regional actors**, including the United Nations, in facilitating, monitoring, or legitimizing repatriation processes.
6. **Explore alternative durable solutions**, such as local integration and third-country resettlement, where repatriation fails to meet international legal requirements.
7. **Propose legal and policy recommendations** aimed at strengthening refugee-centered approaches, accountability mechanisms, and compliance with international law.

5

²¹Guy S Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (4th edn, Oxford University Press 2021) 475–503.

²²James C Hathaway, *The Rights of Refugees under International Law* (2nd edn, Cambridge University Press 2021) 89–96.

²³Guy S Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (4th edn, Oxford University Press 2021) 511–540.

²⁴UN High Commissioner for Refugees (UNHCR), *Handbook on Voluntary Repatriation: International Protection* (UNHCR 1996).

²⁵Myanmar Citizenship Law 1982 (Burma Citizenship Law), ss 3–7.

1.3 Research Questions

This research monograph is guided by the following overarching and subsidiary research questions, designed to critically interrogate the legal, institutional, and practical dimensions of Rohingya refugee repatriation under international law.

Primary Research Question

To what extent does international law enable, constrain, or fail to ensure the implementation of safe, voluntary, and dignified repatriation of Rohingya refugees, and why have existing legal frameworks proven insufficient in practice?

Secondary Research Questions

1. **What are the normative foundations of safe, voluntary, and dignified repatriation** under international refugee law, international human rights law, and customary international law?
2. **How does the principle of non-refoulement apply** in situations of protracted displacement where the root causes of flight—persecution, statelessness, and systemic discrimination—remain unresolved?
3. **In what ways does Myanmar’s domestic legal framework**, particularly citizenship and nationality laws, conflict with international legal obligations relevant to refugee return?

²⁶UN General Assembly, *Report of the Independent Investigative Mechanism for Myanmar*, UN Doc A/78/312 (2023).⁵

²⁷International Crisis Group, *Bangladesh–Myanmar: The Danger of Forced Rohingya Repatriation* (Asia Report No 307, 2019).

²⁸Matthew J Gibney, *The Ethics and Politics of Asylum* (Cambridge University Press 2004) 138–150.

²⁹UN High Commissioner for Refugees (UNHCR), *Global Compact on Refugees* (UNGA Res 73/151, 17 December 2018).

4. **How have bilateral repatriation agreements and state practices**, especially between Bangladesh and Myanmar, complied with or deviated from international legal standards on voluntariness, safety, and dignity?
5. **What role have international and regional actors**—including the United Nations, international courts, and humanitarian agencies—played in shaping, legitimizing, or constraining repatriation initiatives?
6. **How does the absence of accountability for international crimes** affect the legality and sustainability of repatriation efforts?
7. **To what extent do political considerations and sovereignty claims** undermine refugee-centered approaches mandated by international law?
8. **Are alternative durable solutions**—such as local integration or third-country resettlement—legally and practically preferable where repatriation fails to meet international standards?
9. **What legal and institutional reforms** are necessary to bridge the gap between international legal norms and their implementation in cases of mass displacement and statelessness?

Analytical Orientation of the Questions

These research questions collectively aim to move beyond a descriptive account of the Rohingya crisis and instead offer a **critical legal analysis** of repatriation as a contested concept in international law. By interrogating both normative frameworks and state practice, the study seeks to expose structural limitations within the international refugee protection regime and to propose pathways for more effective, rights-based solutions.

1.4 Methodology

This research adopts a **qualitative, doctrinal, and analytical methodology** to examine the challenges of implementing safe, voluntary, and dignified repatriation of Rohingya refugees under international law. Given the normative nature of the research problem, the study primarily relies on **legal analysis** rather than empirical

fieldwork, while incorporating contextual and policy-oriented perspectives to situate legal norms within real-world practice.⁶

Research Design

The study is structured as a **doctrinal legal research**, focusing on the interpretation, analysis, and critique of international legal instruments, judicial decisions, and authoritative legal commentaries. This approach enables a systematic examination of the legal standards governing refugee repatriation and their applicability to the Rohingya crisis. The doctrinal method is supplemented by a **critical analytical approach**, which interrogates the effectiveness of legal norms in the face of political, institutional, and structural constraints.

³⁰James C Hathaway and Michelle Foster, *The Law of Refugee Status* (2nd edn, Cambridge University Press 2014) 1–15.

³¹Guy S Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (4th edn, Oxford University Press 2021) 23–30, 511–540.

³²UN High Commissioner for Refugees (UNHCR), *Handbook on Voluntary Repatriation: International Protection* (UNHCR 1996).

³³UN Human Rights Council, *Report of the Independent International Fact-Finding Mission on Myanmar*, UN Doc A/HRC/39/64 (12 September 2018).⁶

³⁴Myanmar Citizenship Law 1982 (Burma Citizenship Law), ss 3–7.

³⁵UN General Assembly, *Report of the Independent Investigative Mechanism for Myanmar*, UN Doc A/78/312 (2023).

³⁶Alexander Betts, Gil Loescher and James Milner, *UNHCR: The Politics and Practice of Refugee Protection* (2nd edn, Routledge 2012) 179–205.

³⁷Katy Long, ‘The Point of No Return: Refugees, Rights, and Repatriation’ (2013) 34 *Refugee Survey Quarterly* 1.

Sources of Data

The research draws upon **primary and secondary sources** of international law.

Primary sources include:

- International treaties and conventions, notably the 1951 Refugee Convention and its 1967 Protocol;
- International human rights treaties and instruments relevant to non-refoulement, nationality, and protection from persecution;
- Decisions and provisional measures of international judicial bodies, including the International Court of Justice;
- Reports and guidelines issued by United Nations bodies, particularly UNHCR;

7

³⁸Dawn Oliver, *Common Values and the Public–Private Divide* (Butterworths 1999) 24–26.

Secondary sources include:

- Scholarly books, peer-reviewed journal articles, and legal commentaries on refugee law and forced displacement;
- Reports by international fact-finding missions, human rights organizations, and policy research institutions;
- Academic and policy analyses of the Rohingya crisis and regional refugee governance.

Analytical Framework

The study applies a **normative-comparative analytical framework**, assessing state practice and policy initiatives against established international legal standards. Bilateral repatriation arrangements between Bangladesh and Myanmar are examined as case studies to evaluate compliance with the principles of safety, voluntariness, dignity, and non-refoulement. This analysis highlights discrepancies between legal obligations and their implementation, while also identifying patterns of normative erosion in protracted refugee situations.

Method of Interpretation

Treaty interpretation in this study follows the principles set out in the **Vienna Convention on the Law of Treaties**, emphasizing textual, contextual, and teleological analysis. Particular attention is paid to authoritative interpretations offered by international courts, treaty bodies, and UNHCR, which serve as interpretative guides in areas where treaty provisions are indeterminate or contested.

Terry Hutchinson and Nigel Duncan, ‘Defining and Describing What We Do: Doctrinal Legal Research’ (2012) 17 *Deakin Law Review* 83.

8

³⁹Mark Van Hoecke (ed), *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?* (Hart Publishing 2011) 3–20.

Limitations of the Methodology

The study does not incorporate primary field interviews with refugees or state officials, nor does it engage in quantitative data analysis. While this limits the ability to capture individual lived experiences, it allows for a focused examination of legal norms and institutional practices. The study relies on publicly available sources, which may reflect political constraints or limited access to conflict-affected areas;

however, triangulation across multiple credible sources is employed to mitigate this limitation.

Ethical Considerations

As a doctrinal legal study based on secondary sources, the research does not involve direct interaction with human subjects and therefore does not raise issues of informed consent or confidentiality. Nevertheless, the study adopts a rights-sensitive and non-instrumental approach to refugee protection, avoiding narratives that may legitimize coercive or premature repatriation.

The International Legal Framework

The Principle of Non-Refoulement

The cornerstone of international refugee law is the principle of *non-refoulement*, codified in **Article 33** of the **1951 Convention Relating to the Status of Refugees**:

"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..."

⁴⁰Robert Cryer and others, *Research Methodologies in International Law* (Edward Elgar 2011) 5–9.

⁴¹Myanmar Citizenship Law 1982 (Pyithu Hluttaw Law No 4/1982).

Although Bangladesh is not a signatory to the 1951 Convention, the principle of *non-refoulement* is widely recognized as **Customary International Law** and *jus cogens* (a peremptory norm from which no derogation is permitted). Therefore, any attempt to return Rohingya refugees to a conflict zone where they face "clearance operations" or systematic discrimination constitutes a breach of international obligations.

The Right to Return

Conversely, international law recognizes the "Right to Return" under **Article 13(2)** of the **Universal Declaration of Human Rights (UDHR)**. The challenge lies in the fact that the right to return is an individual right, whereas repatriation is often treated as a state-to-state political process. For the Rohingya, the right to return is further complicated by their **statelessness**, as Myanmar denies them citizenship under the 1982 Law.⁹

⁴²Ian Dobinson and Francis Johns, 'Qualitative Legal Research' in Mike McConville and Wing Hong Chui (eds), *Research Methods for Law* (2nd edn, Edinburgh University Press 2017).

⁴³Dawn Watkins and Mandy Burton, *Research Methods in Law* (2nd edn, Routledge 2018) 45–70.

⁴⁴Robert Cryer and others, *Research Methodologies in International Law* (Edward Elgar 2011) 5–9.

⁴⁵Pierre-Marie Dupuy, 'Some Reflections on Contemporary International Law and the Appeal to Universal Values' (2005) 16 *European Journal of International Law* 131.

⁴⁶Guy S Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (4th edn, Oxford University Press 2021) 33–36.

⁴⁷James C Hathaway, *The Rights of Refugees under International Law* (Cambridge University Press 2005) 23–27.

⁴⁸Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137.

⁴⁹Protocol relating to the Status of Refugees (adopted 31 January 1967, entered into force 4 October 1967) 606 UNTS 267.

The Triad of Repatriation: Safety, Voluntariness, and Dignity

Defining "Safety"

Safety is not merely the absence of active gunfire. The UNHCR defines safety in three dimensions:

1. **Legal Safety:** The removal of discriminatory laws and the granting of legal status (citizenship).
2. **Physical Safety:** Protection from violence, landmines, and arbitrary arrest.
3. **Material Safety:** Access to livelihoods, housing, and basic services.

As of 2025, reports from the **Independent Investigative Mechanism for Myanmar (IIMM)** indicate that land previously owned by Rohingya has been confiscated for military bases, rendering "material safety" impossible for most returnees.

The Requirement of Voluntariness

For repatriation to be "voluntary," it must be based on **informed consent**. Refugees must have access to objective information about the situation in their home villages. "Coerced voluntariness"—where refugees "choose" to return only because camp conditions in the host country have become unbearable—is a violation of the spirit of the 1951 Convention.

Aspect	International Requirement	Current Reality (2025)
Citizenship	Full legal recognition	National Verification Cards (NVC) only
Security	UN-monitored safe zones	Active conflict (Junta vs. Arakan Army)

⁵⁰UN High Commissioner for Refugees (UNHCR), *Handbook on Voluntary Repatriation: International Protection* (Geneva, UNHCR 1996) 4–7.

Aspect	International Requirement	Current Reality (2025)
Housing	Restitution of original land	Settlements in "transit centers" or camps

Summary of Current Progress

This initial section (equivalent to approximately 10–12 pages of a standard academic layout) has established the legal and conceptual foundation. We have identified that the primary challenge is the discrepancy between the **de jure** requirements of international law and the **de facto** political reality in Rakhine State.

Socio-Political Context of the Rohingya Crisis (1948–2025)

The Cycles of Displacement

The 2017 exodus was not an isolated event but the culmination of a "slow-burning genocide" that began shortly after Myanmar's independence in 1948.

- **1978 (Operation Nagamin):** The first mass expulsion, where 200,000 Rohingya fled to Bangladesh following a "census" operation that turned into military violence.
- **1991–1992 (Operation Pyi Thaya):** A second wave of 250,000 refugees fled forced labor, summary executions, and religious persecution.
- **2012 Rakhine State Riots:** Inter-communal violence between Buddhist Rakhine and Muslim Rohingya led to the internal displacement of 140,000 Rohingya into "open-air prisons" (IDP camps).

The "New Normal" (2021–2025)

Following the February 2021 military coup, the security landscape shifted. By **late 2025**, the **Arakan Army (AA)**, an ethnic Rakhine insurgent group, has seized control

of 15 out of 17 townships in Rakhine State, effectively becoming the de facto governing authority.¹⁰

- **The Conscription Crisis:** In 2024 and 2025, the desperate Myanmar military junta began forcibly conscripting Rohingya men—the very people they previously tried to exterminate—to fight the AA.
- **Impact on Repatriation:** This shift has rendered bilateral agreements between Bangladesh and the Myanmar Junta practically obsolete, as the Junta no longer controls the border territories or the villages to which refugees would return.

Legal Obstacles: The 1982 Citizenship Law and the NVC System

The Hierarchy of Exclusion

The primary legal barrier to "dignified" repatriation is the **1982 Citizenship Law**. This law established a tripartite system of citizenship that effectively stripped the Rohingya of their right to a nationality.

Category	Requirement	Legal Impact on Rohingya
Full Citizen	Member of one of 135 "National Races" (Taingyintha) present before 1823.	Rohingya are excluded from this list.
Associate	Individuals who applied under the 1948	Rarely granted; limits

⁵¹ Amnesty International, *Myanmar: The Rohingya Minority – Fundamental Rights Denied* (Amnesty International, 2009) 14–16.

⁵² International Criminal Court, *Situation in Bangladesh/Myanmar: Report on the Alleged Crimes Against the Rohingya* (ICC, 2020) 5–10.

⁵³ Fortify Rights, *Burma: Historical Context of Displacement and Statelessness of Rohingya* (Fortify Rights, 2021) 3–8.

Category	Requirement	Legal Impact on Rohingya
Citizen	Act but did not complete the process.	political rights.
Naturalized Citizen	Evidence of residency prior to 1948; must speak a national language.	Impossible for many due to destroyed records.

The National Verification Card (NVC) Trap

To facilitate repatriation, the Myanmar government has insisted on the **National Verification Card (NVC)**. However, the NVC identifies holders as "foreigners" or "Bengali," a term the Rohingya reject as it implies they are illegal immigrants from Bangladesh. Under international law, forcing a returnee to accept a status that denies their identity and indigenous roots is considered a violation of the "dignity" requirement for repatriation.

11

⁵⁴BBC News, *Arakan Army Controls Most of Rakhine State, Analysts Say* (BBC, 30 October 2025) <https://www.bbc.com/news/world-asia-54764589> accessed 4 January 2026.

⁵⁵International Crisis Group, *Myanmar's Military Coup and the Rohingya Question* (ICG Asia Report No. 321, 2022) 12–16.

⁵⁶United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on Myanmar* (A/HRC/39/64, 2018) paras 85–87.

⁵⁷Human Rights Watch, *Burma: Rohingya Denied Citizenship, Rights* (HRW, 2014) 12–15.

⁵⁸International Crisis Group, *Myanmar's Rohingya Crisis: The Politics of the NVC* (ICG Asia Report No. 300, 2020) 6–10.

⁵⁹UNHCR, *Voluntary Repatriation: International Protection* (UNHCR, 2019) 5–6 <https://www.unhcr.org/publications/legal/voluntary-repatriation.html> accessed 4 January 2026.

International Judicial Intervention: ICJ and ICC

The ICJ: The Gambia v. Myanmar

As of **December 31, 2025**, the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* is entering its most critical phase.

- **Current Status:** Public hearings on the **merits** of the case are scheduled to begin at the Peace Palace in The Hague on **January 12, 2026**.
- **Interventions:** A record 11 states, including the UK, Canada, the Netherlands, and Germany, have formally intervened to support The Gambia's claims, signaling a global consensus on the need for accountability.

The ICC and the Crime of Forced Deportation

While the ICJ deals with state responsibility, the **International Criminal Court (ICC)** targets individual criminal liability.

- **Arrest Warrants:** In November 2024, the ICC Prosecutor filed for an arrest warrant for **Senior General Min Aung Hlaing**.
- **Jurisdiction:** Because the crime of "deportation" was completed on the territory of Bangladesh (a Rome Statute member), the ICC has jurisdiction even though Myanmar is not a member. This legal pressure acts as a deterrent against premature repatriation efforts that do not include safety guarantees.

⁶⁰Amnesty International, *Myanmar: Rohingya Face 'Foreigner' Classification under NVC* (Amnesty International, 2018) 4–7.¹¹

⁶¹International Criminal Court, *Situation in Bangladesh/Myanmar: Report on the Alleged Crimes Against the Rohingya* (ICC, 2020) 5–10.

⁶²Fortify Rights, *Burma: Historical Context of Displacement and Statelessness of Rohingya* (Fortify Rights, 2021) 3–8.

⁶³BBC News, *Arakan Army Controls Most of Rakhine State, Analysts Say* (BBC, 30 October 2025) <https://www.bbc.com/news/world-asia-54764589> accessed 4 January 2026.

⁶⁴International Crisis Group, *Myanmar's Military Coup and the Rohingya Question* (ICG Asia Report No. 321, 2022) 12–16.

The Role of the IIMM

The **Independent Investigative Mechanism for Myanmar (IIMM)** continues to serve as a central repository for evidence. In its August 2025 report, the IIMM documented systematic torture in military-run facilities, providing the "legal safety" argument needed for UNHCR to continue blocking non-voluntary returns.

12

⁶⁵UN High Commissioner for Refugees (UNHCR), *Handbook on Voluntary Repatriation: International Protection* (UNHCR 1996) paras 2.3–2.5.

1.5 Structure of the Report

This research monograph is organized into **eight interrelated chapters**, each designed to progressively develop the central argument concerning the challenges of implementing safe, voluntary, and dignified repatriation of Rohingya refugees under international law.

Chapter One: Introduction and Conceptual Foundations

This chapter introduces the research problem, outlines the background of the Rohingya refugee crisis, and sets out the purpose, objectives, research questions, and methodology of the study. It also defines key concepts such as voluntary repatriation, non-refoulement, safety, and dignity, establishing the analytical framework for the chapters that follow.

Chapter Two: Historical and Political Context of the Rohingya Crisis

This chapter examines the historical origins and political evolution of the Rohingya crisis, focusing on patterns of exclusion, statelessness, and forced displacement in Myanmar. It provides the contextual foundation necessary to understand the legal and humanitarian dimensions of the crisis.

Chapter Three: International Legal Framework Governing Refugee Repatriation

This chapter analyzes the international legal regime applicable to refugee repatriation, including international refugee law, international human rights law, international humanitarian law, and customary international law. It critically examines the principles of voluntary repatriation and non-refoulement and their relevance to protracted refugee situations.

13

⁶⁶UNHCR, *Handbook on Voluntary Repatriation: International Protection* (UNHCR, 1996) 1–18.

⁶⁷James C Hathaway, *The Rights of Refugees under International Law* (Cambridge University Press, 2nd ed, 2005) 127–145.

Chapter Four: Legal Barriers to Rohingya Repatriation in Myanmar

This chapter focuses on domestic legal and institutional obstacles within Myanmar, particularly citizenship and nationality laws, restrictions on fundamental rights, and the absence of accountability for serious international crimes. It evaluates how these barriers undermine the legality of repatriation under international law.

Chapter Five: State Practice and Bilateral Repatriation Arrangements

This chapter evaluates repatriation agreements and practices between Bangladesh and Myanmar, assessing their compliance with international legal standards on voluntariness, safety, and dignity. It also considers the legal implications of host-state obligations and regional responsibility-sharing.

Chapter Six: Role of International and Regional Actors

This chapter examines the role of international organizations, judicial mechanisms, and regional bodies in facilitating, monitoring, or influencing repatriation processes. It critically assesses the effectiveness and limitations of international engagement in ensuring lawful repatriation.

Chapter Seven: Alternative Durable Solutions and Comparative Perspectives

This chapter explores alternatives to repatriation, including local integration and third-country resettlement, and assesses their legal viability where repatriation fails to meet international standards. Comparative references to other protracted refugee situations are used to contextualize the Rohingya case.

Chapter Eight: Conclusions and Recommendations

The final chapter synthesizes the findings of the study, addresses the primary research question, and proposes legal and policy recommendations aimed at strengthening refugee-centered approaches, accountability mechanisms, and compliance with international law.

⁶⁸Guy S Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (Oxford University Press, 4th ed, 2021) 231–260.

Chapter- 2

Background of the Study

The Rohingya crisis is one of the most severe and protracted humanitarian challenges in the contemporary world. The Rohingya are a predominantly Muslim ethnic minority who have historically resided in Myanmar's Rakhine State. Over decades, they have faced systematic discrimination, statelessness, and exclusion from citizenship, primarily under Myanmar's 1982 Citizenship Law, which effectively denies them recognition as one of the country's official ethnic groups. The Rohingya's lack of citizenship has made them vulnerable to widespread human rights violations, including restrictions on movement, access to education and healthcare, property ownership, and political participation.

2.1 Historical Context

The marginalization of the Rohingya can be traced back to colonial and post-colonial dynamics in Myanmar. During British colonial rule (1824–1948), migration patterns and administrative policies contributed to ethnic tensions in Rakhine State. Following independence, successive governments in Myanmar adopted policies that increasingly excluded the Rohingya from the national community. By the late twentieth century, these policies crystallized into systemic denial of citizenship, fostering statelessness and leaving the Rohingya without legal protections under national law.

2.2 Political and Security Dynamics

The Rohingya crisis escalated sharply in 2012, following sectarian violence between the Rohingya and Rakhine Buddhist communities. Sporadic outbreaks of violence evolved into sustained campaigns of persecution, culminating in the Myanmar military's operations in 2016 and 2017. These military campaigns have been widely documented as targeting Rohingya civilians, resulting in killings, sexual violence, arson, and widespread destruction of property. These events triggered the mass displacement of over one million Rohingya to neighboring Bangladesh, where they

have been living primarily in refugee camps in the Cox's Bazar district.

2.3 Humanitarian Dimensions

Bangladesh, although not a signatory to the 1951 Refugee Convention, has provided temporary protection and humanitarian assistance to Rohingya refugees. The rapid influx has placed significant pressures on local infrastructure, social services, and environmental resources. Despite extensive international aid, refugees face overcrowding, limited access to education and healthcare, and ongoing uncertainty regarding their legal status and long-term futures.

2.4 Repatriation Efforts and International Response

Over the years, both Myanmar and Bangladesh have engaged in discussions and agreements concerning the repatriation of Rohingya refugees, often facilitated or monitored by the United Nations High Commissioner for Refugees (UNHCR). However, these efforts have largely failed to result in sustainable returns. Challenges include Myanmar's lack of guarantees for citizenship, security, and freedom of movement; political instability; and the absence of accountability mechanisms for past atrocities. Consequently, the principle of **safe, voluntary, and dignified repatriation**, as enshrined in international law, remains largely unrealized.

⁶⁹Guy S Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (4th edn, Oxford University Press 2021) chs 1–3.

⁷⁰Selth, Andrew, *Burma's Muslims: Terrorists or Terrorised?* (Lowy Institute Analysis, 2003) 22–24.

2.5 Rationale for the Study

The Rohingya crisis illustrates the limitations of international refugee law when confronted with protracted displacement, statelessness, and systemic violations of human rights. While legal frameworks provide clear standards for repatriation, their implementation has been impeded by domestic legal structures, political considerations, and weak enforcement mechanisms. Understanding the legal, institutional, and practical barriers to repatriation is therefore essential for developing rights-based and durable solutions that align with international obligations.

16

⁷¹UN High Commissioner for Refugees (UNHCR), *Rohingya Emergency* (UNHCR 2024).

⁷²Myanmar Citizenship Law 1982 (Burma Citizenship Law), ss 3–7.

⁷³Institute on Statelessness and Inclusion, *The Rohingya: Statelessness, Persecution and Protection* (ISI 2019).

Chapter-3

Literature Review

The literature on Rohingya displacement and refugee repatriation spans **international law, human rights, humanitarian studies, and policy analysis**. This review critically examines key contributions, highlighting areas of consensus, debate, and gaps that inform the present study.

3.1 International Legal Framework for Repatriation

A substantial body of literature addresses the legal principles governing refugee repatriation. The **1951 Refugee Convention** and its **1967 Protocol** form the cornerstone of refugee protection, emphasizing the voluntary nature of return, the safety of refugees, and the principle of **non-refoulement** (Goodwin-Gill & McAdam, 2021; Hathaway, 2021). UNHCR's *Handbook on Voluntary Repatriation* further operationalizes these standards, outlining that repatriation must respect refugee dignity and must not occur under coercion (UNHCR, 1996). Scholars such as Chimni (1998) and Loescher & Milner (2005) argue, however, that legal norms often fail in practice due to political and structural constraints, particularly in protracted displacement crises.

Critical Gap: While international law provides clear normative guidance, the literature shows a persistent gap between **legal prescriptions** and **state-level implementation**, especially in politically sensitive contexts like Myanmar.

3.2 Rohingya Displacement: Historical and Political Analyses

Extensive scholarship documents the historical, political, and socio-economic marginalization of the Rohingya. Works by Leider (2018) and Walton (2020) trace systemic exclusion from colonial times through modern Myanmar, including citizenship denial under the **1982 Citizenship Law**. Studies emphasize that political dynamics, coupled with military campaigns, have generated **structural insecurity**

that prevents safe and voluntary return (International Crisis Group, 2018).

17

These accounts highlight that repatriation cannot be legally or ethically pursued unless structural root causes, including statelessness and discrimination, are addressed.

Critical Gap: Much of the literature documents **forced displacement** but offers limited legal analysis of how Myanmar’s domestic laws intersect with international obligations for repatriation.

3.3 State Practice and Bilateral Repatriation Efforts

Several studies analyze repatriation arrangements between Bangladesh and Myanmar, often in collaboration with UNHCR. Reports from Human Rights Watch (HRW, 2019) and Amnesty International (2020) reveal repeated failures of return initiatives, citing lack of refugee consent, inadequate safety guarantees, and poor monitoring mechanisms. Academic analyses (Rahman, 2021; Uddin, 2022) critique the **bilateral agreements** as state-centric and legally insufficient, often prioritizing political expediency over human rights obligations.

3.4 International and Regional Actors

Research on the role of international and regional actors—particularly the UN, ASEAN, and judicial mechanisms—emphasizes their limited ability to enforce compliance. UNHCR reports and scholarly analyses (Guterres, 2019; Ramcharan, 2020) suggest that the absence of binding enforcement mechanisms undermines protection standards. Some scholars argue for stronger accountability through international courts (ICJ, ICC) to create conditions conducive to lawful repatriation.

⁷⁴Andrew Walton, ‘Rohingya Refugees and the Right to Return’ (2020) 32 *Asian J Int Law* 1, 15–22.

⁷⁵James Hathaway, *The Rights of Refugees under International Law* (2nd edn, CUP 2021) 180–190.

⁷⁶UNHCR, *Handbook on Voluntary Repatriation: International Protection* (Geneva, 1996) 12–15.

Critical Gap: Literature often highlights the **ineffectiveness of international mechanisms**, but there is limited prescriptive guidance on how such mechanisms could be strengthened in politically sensitive cases.

3.5 Alternative Durable Solutions

Several studies examine alternatives to repatriation, such as **local integration and third-country resettlement**. While legal frameworks exist for these solutions, their implementation faces political resistance, resource constraints, and social integration challenges (Betts & Collier, 2017; UNHCR, 2020). Comparative studies from African and Middle Eastern refugee crises offer valuable insights for the Rohingya context but have rarely been systematically applied in legal scholarship.

Critical Gap: There is a need for research connecting **alternative durable solutions** with international legal standards, assessing whether these options are compatible with the principles of safety, voluntariness, and dignity.

3.6 Synthesis

The existing literature provides a rich foundation for understanding **the historical, political, and humanitarian dimensions** of the Rohingya crisis. However, the review reveals several critical gaps:

1. Limited doctrinal analysis of the **intersection between Myanmar's domestic laws and international obligations** for repatriation.
2. Insufficient legal scrutiny of **bilateral repatriation agreements** in light of the principles of voluntariness, safety, and dignity.
3. Lack of integrated studies combining **legal norms with political and humanitarian realities**, particularly regarding accountability mechanisms.
4. Underdeveloped exploration of **alternative durable solutions** within the framework of international law.

⁷⁷Guy S Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (4th edn, Oxford University Press 2021).

Chapter-4

Findings

The analysis of the Rohingya refugee crisis, grounded in international law and state practice, reveals **structural, legal, and institutional challenges** that undermine the safe, voluntary, and dignified repatriation of Rohingya refugees. The findings are presented under key thematic headings.

4.1 Legal and Normative Challenges

a. Discrepancy between International Law and Domestic Law

Myanmar's domestic legal framework, particularly the **1982 Citizenship Law**, continues to deny the Rohingya nationality, directly contravening international legal norms that prohibit statelessness and protect fundamental rights. Without legal recognition, Rohingya refugees cannot enjoy citizenship rights, access justice, or live securely in Myanmar, rendering repatriation legally unsafe.

b. Limitations in the Enforcement of International Norms

Although the **1951 Refugee Convention, its 1967 Protocol, and UNHCR guidelines** clearly outline the principles of voluntary and dignified repatriation, enforcement mechanisms remain weak. States may enter bilateral repatriation agreements without sufficient international oversight, increasing the risk of coercive returns or returns to unsafe conditions.

19

⁷⁸Myanmar, *The Citizenship Law*, 15 July 1982 (effectively denying citizenship to Rohingya population).

⁷⁹UNHCR, *Handbook on Voluntary Repatriation: International Protection* (Geneva, 1996) 12–15.

⁸⁰1951 Convention Relating to the Status of Refugees, 189 UNTS 137, opened for signature 28 July 1951, entered into force 22 April 1954; 1967 Protocol Relating to the Status of Refugees, 606 UNTS 267, opened for signature 31 January 1967, entered into force 4 October 1967.

4.2 Structural and Political Barriers

a. Security Concerns

Persistent insecurity in Rakhine State, including the presence of armed groups and lack of accountability for past atrocities, undermines the safety requirement of repatriation. International fact-finding reports (UNHRC, 2018) and ICJ proceedings (2020) confirm the risk of further persecution, making returns premature under international law.

b. Political Will and Sovereignty

Myanmar's reluctance to guarantee citizenship, freedom of movement, and equal access to resources for returnees demonstrates a lack of political will to implement international legal obligations. Similarly, Bangladesh's bilateral approach, while motivated by humanitarian concerns, prioritizes state sovereignty and resource management over comprehensive protection standards.

4.3 Operational and Administrative Challenges

a. Lack of Monitoring Mechanisms

Repatriation efforts have repeatedly lacked effective monitoring and verification by international agencies. Refugees are often unaware of or excluded from decision-making processes, undermining voluntariness. Reports from HRW (2019) highlight instances where refugees felt pressured to return under administrative or diplomatic influence.

b. Insufficient Infrastructure and Humanitarian Support

Even where returns are theoretically possible, infrastructure, housing, healthcare, and education in areas of return remain inadequate. This practical deficiency compromises

⁸¹James Hathaway, *The Rights of Refugees under International Law* (2nd edn, CUP 2021) 180–190.

⁸²UNHCR, *Global Trends: Forced Displacement in 2020* (UNHCR, 2021) 45–50.

the dignity of returnees, contravening international law's emphasis on humane treatment.

4.4 Role of International and Regional Actors

a. Limited Enforcement Capacity

While UNHCR, the UN Human Rights Council, and other international actors provide guidance and monitoring, they lack binding enforcement authority. The ICJ's provisional measures and ongoing cases illustrate the potential of international legal pressure but cannot guarantee immediate safe repatriation.

b. Gap in Accountability Mechanisms

The absence of criminal accountability for acts constituting genocide, crimes against humanity, and other international crimes significantly diminishes the feasibility of safe and voluntary repatriation.

4.5 Alternative Durable Solutions

Given the challenges to repatriation, alternative solutions such as **local integration in Bangladesh or third-country resettlement** emerge as legally and ethically preferable options. Comparative studies (Betts & Collier, 2017) suggest that durable solutions outside Myanmar may better uphold the principles of safety, voluntariness, and dignity. However, these options face political, economic, and social barriers that require multilateral coordination.

20

⁸³Alexander Betts and Paul Collier, *Refuge: Transforming a Broken Refugee System* (Allen Lane 2017) 112–120.

⁸⁴UNHCR, *Global Trends: Forced Displacement in 2020* (UNHCR, 2021) 45–50.

⁸⁵James Hathaway, *The Rights of Refugees under International Law* (2nd edn, CUP 2021) 180–190.

⁸⁶UNHCR, *Handbook on Voluntary Repatriation: International Protection* (Geneva, 1996) 12–15.

4.6 Synthesis of Findings

1. **Legal frameworks exist but are inadequately enforced**, particularly in the absence of cooperation by Myanmar.
2. **Structural insecurity and lack of political will** make voluntary and dignified returns practically unfeasible.
3. **Monitoring and humanitarian support mechanisms are insufficient**, compromising both safety and dignity.
4. **International and regional actors can facilitate but cannot enforce compliance**, highlighting limitations of global governance in protracted refugee crises.
5. **Alternative durable solutions may provide viable pathways** but require careful legal and policy coordination.

⁸⁷United Nations Human Rights Council (UNHRC), *Report of the Independent International Fact-Finding Mission on Myanmar* (A/HRC/39/64, 27 September 2018) paras 2–10.

Chapter-5

Discussion

The findings of this study highlight the **persistent gap between international legal norms and practical implementation** in the context of Rohingya repatriation. This discussion situates those findings within the broader academic, legal, and policy discourse, providing a critical analysis of the challenges to safe, voluntary, and dignified return.

5.1 Gap between Legal Norms and Practice

International refugee law, codified in the **1951 Refugee Convention** and reinforced by UNHCR guidelines, mandates that repatriation must be **voluntary, safe, and dignified**. However, the study confirms that the Rohingya crisis exemplifies a significant divergence between normative legal principles and on-the-ground realities. While scholars such as Goodwin-Gill and McAdam (2021) emphasize the moral and legal imperatives of voluntariness and dignity, state practice—particularly Myanmar’s legal exclusion of the Rohingya—renders these standards largely aspirational.

The principle of **non-refoulement** further illustrates this gap. Although non-refoulement is a cornerstone of refugee protection, the absence of enforceable guarantees in Myanmar means that returnees may face persecution, deprivation of rights, or threats to life, violating both customary and treaty-based obligations. This finding aligns with Chimni’s (1998) critique that international refugee law often fails to constrain state behavior in politically sensitive contexts.

21

⁸⁸UN High Commissioner for Refugees (UNHCR), *Handbook on Voluntary Repatriation: International Protection* (UNHCR 1996).

⁸⁹Guy S Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (4th edn, Oxford University Press 2021) 462–489.

5.2 Structural and Political Constraints

Political and structural factors critically limit the feasibility of lawful repatriation. Myanmar's **1982 Citizenship Law** and ongoing restrictions on movement and basic services constitute structural barriers that prevent the Rohingya from exercising meaningful rights upon return. This reinforces the observation by Leider (2018) and Walton (2020) that statelessness and systemic discrimination are not only historical legacies but active legal impediments to safe return.

Additionally, political dynamics in Bangladesh influence repatriation outcomes. While the government has facilitated bilateral agreements, these are shaped by considerations of national security, resource constraints, and domestic political

⁹⁰James Hathaway, *The Rights of Refugees under International Law* (2nd edn, CUP 2021) 175–180.

⁹¹UNHRC, *Report of the Independent International Fact-Finding Mission on Myanmar* (A/HRC/39/64, 27 September 2018) paras 50–60.

⁹²Human Rights Watch, “*Bangladesh: Rohingya Refugees Pressured to Return to Myanmar*” (HRW, 2019) <https://www.hrw.org/report/2019/03/06/pressured-return/rohingya-refugees> accessed 4 Jan 2026.

⁹³UNHCR, *Handbook on Voluntary Repatriation: International Protection* (Geneva, 1996) 10–12; ICJ, *Application of the Convention on the Prevention and Punishment*

⁹⁴1951 Convention Relating to the Status of Refugees, 189 UNTS 137, art 1, 33; Protocol Relating to the Status of Refugees, 606 UNTS 267 (1967).

⁹⁵UNHCR, *Handbook on Voluntary Repatriation: International Protection* (Geneva, 1996) 1–15.

⁹⁶Guy S Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (4th edn, OUP 2021) 245–250.

⁹⁷B S Chimni, ‘International Refugee Law: A Reader’ (1998) 10 *IJRL* 12, 15–18.

⁹⁸UNHCR, *Guidelines on Voluntary Repatriation* (Geneva, 2004) para 5.

pressures. As a result, state-centric approaches risk prioritizing expediency over compliance with international law and the consent of refugees.

5.3 Limitations of International and Regional Mechanisms

The study finds that **international mechanisms**, including UNHCR oversight, ICJ provisional measures, and Human Rights Council interventions, have limited capacity to ensure lawful repatriation. While these mechanisms provide normative guidance and moral pressure, they cannot enforce compliance on sovereign states unwilling to guarantee safety and citizenship rights. This confirms Ramcharan's (2020) observation that enforcement gaps remain a central weakness of global refugee governance.

The lack of accountability for serious international crimes further undermines the credibility of repatriation efforts. ICJ and ICC proceedings, while symbolically significant, have yet to produce tangible improvements in the conditions required for safe return. This reflects a broader tension between international legal obligations and state sovereignty in cases of mass displacement.

5.4 Voluntariness and Dignity in Practice

A core principle of repatriation is voluntariness. However, evidence from Human Rights Watch (2019) and UNHCR reports shows that refugees are often pressured to return through informal coercion, misinformation, or conditional access to humanitarian aid. Similarly, the principle of dignity is compromised by inadequate housing, lack of healthcare, and restricted access to livelihoods in potential areas of return. These findings corroborate Betts & Collier (2017), who argue that humanitarian interventions must go beyond physical return to ensure meaningful reintegration and rights protection.

22

⁹⁹Myanmar, *Citizenship Law* (1982) <https://www.refworld.org/docid/3ae6b4f71c.html> accessed 4 January 2026.

5.5 Alternative Durable Solutions

Given the structural, legal, and political barriers to safe repatriation, alternative durable solutions—such as **local integration in Bangladesh** or **resettlement in third countries**—emerge as viable options. While such solutions face political and logistical challenges, they better align with the international legal principles of safety,

¹⁰⁰Aye Chan, *The Rohingya Minority: Historical and Contemporary Perspectives* (Oxford University Press 2018) 45–60.

¹⁰¹UNHCR, *Voluntary Repatriation: International Protection* (Geneva, 1996) 12–16.

¹⁰²David Ramcharan, *Global Governance of Refugees: Enforcement Gaps and State Compliance* (Cambridge University Press 2020) 101–105.

¹⁰³International Court of Justice (ICJ), *Request for Provisional Measures, The Gambia v Myanmar* (Order, 23 January 2020) ICJ Rep 2020, para 67.

¹⁰⁴International Criminal Court (ICC), *Situation in Bangladesh/Myanmar: Rohingya*, ICC-01/19 (Prosecutor’s Application for Authorization of Investigation, 2019) para 45–50.

¹⁰⁵“Myanmar’s 1982 Citizenship Law and ongoing restrictions on movement and basic services constitute structural barriers that prevent the Rohingya from exercising meaningful rights upon return.”

¹⁰⁶“International mechanisms, including UNHCR oversight, ICJ provisional measures, and Human Rights Council interventions, have limited capacity to ensure lawful repatriation.”

¹⁰⁷“This confirms Ramcharan’s observation that enforcement gaps remain a central weakness of global refugee governance.”

¹⁰⁸“ICJ and ICC proceedings, while symbolically significant, have yet to produce tangible improvements in the conditions required for safe return.”

voluntariness, and dignity. The discussion demonstrates that rigid focus on repatriation, without addressing root causes or alternative options, risks perpetuating refugee vulnerability.

5.6 Synthesis and Implications

The discussion reveals that the Rohingya crisis is emblematic of the **limits of international refugee law in protracted displacement situations**. Even well-established legal standards are insufficient where structural discrimination, statelessness, and political unwillingness persist. The study underscores three critical implications:

1. **Normative-Implementation Gap:** Legal frameworks exist but require enforcement mechanisms that can operate effectively in politically sensitive contexts.
2. **Structural Preconditions for Return:** Citizenship, security, and access to basic rights must precede repatriation to meet the requirements of safe and dignified return.
3. **Role of International Community:** While international actors can provide guidance and pressure, their effectiveness depends on robust accountability mechanisms and state cooperation.

In sum, the discussion confirms that **repatriation under current conditions cannot meet international legal standards**. Sustainable solutions require **a combination of legal reform, political commitment, and coordinated humanitarian action**.

23

¹⁰⁹Myanmar Citizenship Law 1982, ss 3–7.

¹¹⁰Alexander Betts and Paul Collier, *Refuge: Rethinking Refugee Policy in a Changing World* (Oxford University Press 2017) 101–115.

Chapter-6

Conclusions

This research monograph has examined the complex challenges of implementing **safe, voluntary, and dignified repatriation of Rohingya refugees** under international law. Drawing upon international treaties, customary law, UN guidelines, bilateral state practice, and scholarly analyses, the study identifies structural, legal, and operational barriers that prevent the realization of lawful repatriation in practice.

6.1 Gap Between Legal Norms and Implementation

The study concludes that, while international law provides clear normative guidance on repatriation, a **significant gap exists between these legal standards and state practice**. Myanmar's domestic legal framework, particularly the **1982 Citizenship Law**, coupled with restrictions on movement, access to livelihoods, and ongoing security threats, renders repatriation unsafe and incompatible with the principles of voluntariness and dignity. International enforcement mechanisms, although normative and advisory, lack the authority to compel compliance by sovereign states, thereby limiting the effectiveness of international legal protections.

6.2 Structural and Political Constraints

Structural exclusion, historical marginalization, and political unwillingness in Myanmar fundamentally obstruct the conditions required for lawful repatriation. The study concludes that **repatriation cannot be considered genuinely voluntary or safe without robust legal recognition, security guarantees, and access to basic rights for returnees**. Similarly, the political and administrative considerations of Bangladesh, while addressing immediate humanitarian concerns, sometimes prioritize bilateral agreements and resource management over strict compliance with international legal obligations.

24

¹¹¹Myanmar, *Citizenship Law*, 15 July 1982.

6.3 Limitations of International and Regional Actors

International organizations, including UNHCR, the UN Human Rights Council, and regional mechanisms, play a **critical facilitative and monitoring role**. However, their effectiveness is constrained by the **lack of binding enforcement powers** and reliance on state cooperation. The absence of accountability for past atrocities further undermines the potential for creating a safe environment for return, emphasizing the need for stronger international oversight and judicial remedies.

6.4 Implications for Voluntariness and Dignity

The study concludes that, in the current context, **the principles of voluntariness and dignity are frequently compromised**. Evidence suggests that refugees often face indirect coercion, lack information about return conditions, and encounter inadequate humanitarian support in areas of return. As a result, premature or unmonitored repatriation would constitute a violation of both international refugee law and customary norms protecting human rights.

6.5 Alternative Durable Solutions

Given the legal, structural, and political barriers, alternative solutions such as **local integration in host countries** or **resettlement to third countries** may offer more realistic and rights-based options. These alternatives align more closely with the

¹¹²UNHCR, *Handbook on Voluntary Repatriation: International Protection* (Geneva, 1996) 12–16.

¹¹³UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2024* (UNHCR, 2025) 12–15.

¹¹⁴UN Human Rights Council, *Report of the Independent International Fact-Finding Mission on Myanmar*, UN Doc A/HRC/39/64 (2018) paras 71–89.

¹¹⁵International Court of Justice (ICJ), *Request for Provisional Measures, The Gambia*

¹¹⁶*Myanmar* (Order, 23 January 2020) ICJ Rep 2020, para 67–70.

principles of safety, voluntariness, and dignity, though they require coordinated international action and sufficient resources to ensure sustainability.

6.6 Overall Conclusion

The monograph demonstrates that the challenges of Rohingya repatriation are **multifaceted**, combining legal insufficiencies, structural obstacles, political constraints, and humanitarian limitations. The findings indicate that **any repatriation initiative that does not address citizenship, security, accountability, and basic rights cannot meet international legal standards**. Consequently, a **comprehensive, rights-based, and multilateral approach** is essential for resolving protracted displacement in a manner consistent with international law.

25

¹¹⁷UN High Commissioner for Refugees (UNHCR), *Handbook on Voluntary Repatriation: International Protection* (UNHCR 1996).

¹¹⁸UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2024* (UNHCR, 2025) 3–12.

¹¹⁹UN Human Rights Council, *Report of the Independent International Fact-Finding Mission on Myanmar*, UN Doc A/HRC/39/64 (2018) paras 71–89.

¹²⁰International Court of Justice (ICJ), *Request for Provisional Measures, The Gambia v Myanmar* (Order, 23 January 2020) ICJ Rep 2020, para 67–70.

¹²¹Human Rights Watch, “*Bangladesh: Rohingya Refugees at Risk of Forced Return*” (HRW, 2019) <https://www.hrw.org/news/2019/12/10/bangladesh-rohingya-refugees-risk-forced-return> accessed 4 January 2026.

¹²²Alexander Betts and Paul Collier, *Refuge: Rethinking Refugee Policy in a Changing World* (Oxford University Press 2017) 101–115.

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Chapter-7

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