# DECLARATION

I, the undersigned, do hereby declare that the work contained in this project is my own original

work, which all sources used or quoted have been acknowledged by means of complete references, and that this research was not previously submitted by me or any other person at any

other university for an award of an LL.B or otherwise.

# CERTIFICATION

I**, ALI UKI, LECTURER AT THE ZANZIBAR UNIVERSITY**, do certify that I have read this work between the lines and hereby recommend it for the award of a Bachelor’s Degree in Law and Shariah of Zanzibar University.

………………………….

Mr. ALI UKI

LECTURER

Dated this ……….day of………..2018.

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# DEDICATION.

I affectionately dedicate this research project to my parents, Mr. Mshali Hamisi Mshali and Mrs. Tima Shee Yusuf for sacrificing their priorities and making tireless efforts for me to be here today chasing my dreams. I cannot adequately thank you. May The Almighty Allaah grant you a happy, blessed and pious life.

# ACKNOWLEDGEMENT.

All praises and much gratitude are due to The Almighty Allaah for granting me the strength to successfully write this research. It is His endless blessings and multitude of assistance from all angles that have enabled this entire exercise to be fruitious.

As human beings, we cannot afford to live in isolation without the aid of others in one way or the other. With that said, am indebted to the following people who made the completion of this research a reality. First and foremost, I would like to express my profound appreciations to my parents for their valuable support throughout my LLB program. Secondly, my special gratitude to Mr. Ali Uki, my research instructor and supervisor who whole heartedly imparted to us the knowledge and skills of writing a good research. Likewise, this acknowledgement would be incomplete without mentioning Mr. Kassim Akida, an advocate of the High Court of Kenya who specialized in Public International Law, Mr. Ali Rajab whose answers to my questions that I constantly asked them had a great impact on this research. Similarly, my big vote of thanks to the dean of the faculty of Law and Shariah of Zanzibar University for his excellent academic advice.

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Last but not least, I cannot forget the support rendered to me by each and every person either directly or indirectly including *inter alia* my LLB class of 2018.

Thank you all and may Allaah The Almighty reward you abundantly!

LIST OF ABBREVIATIONS.

AI………………………………………………………………………….. Amnesty International

CSC………………………………………….…………………... Community Safety Committees

DPP………………………………………………………………Director of Public Prosecution

IBAHRI………………………………….International Bar Associations Human Rights Institute

ICCPR……………………………………… International Covenant on Civil and Political Rights

NGO…………………………………………………………… Non-Governmental Organization

OSISA…………………………………………….......Open Society Initiative for Southern Africa

UDHR……………………………………...…………….Universal Declaration of Human Rights

UN………………………………………………………………………………….United Nations

UNSC…………………………………………………………….United Nations Security Council

US………………………………………………………………...…………………..United States

WHO…………………………………………………………..………World Health Organization

VSU…………………………………………………………………….......... Victim Support Unit

**INTERNATIONAL LEGAL INSTRUMENTS.**

Charter of the United Nations, 1945.

Rome Statute of the International Criminal Court, 1998.

Universal Declaration of Human Rights, 1948.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Punishment, 2002.

**CONSTITUTION.**

Constitution of the Republic of the Union of Myanmar (2008).

**STATUTES.**

Pyidaungsu Hluttaw No.28/2015, Law for Healthcare Relating to Control of Population Growth (Myanmar).

Pyidaungsu Hluttaw No.50/2015 (Buddhist Women Special Marriage Law)

Pyidaungsu Hluttaw Law No.54/2015, Law on the Practice of Monogamy (Burmese).

Burma Citizenship Act of 1982.

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# 1.0 CHAPTER ONE: GENERAL INTRODUCTION.

## 1.1 INTRODUCTION

Myanmar, officially the Republic of the Union of Myanmar and formerly known as Burma is a sovereign state in Southeast Asia. The country has a population of 54 million of which 90% profess Theravanda Budhism, 4% Christianity, 4% Islam, 1% Hinduism and the remaining 1% consists of Mahayana Budhism, Vajrayana Budhism and Ammism. The country is predominantly a Budhist country and they view the 4% Rohingya Muslims as a threat to their Budhist values. The government has a history of discrimination against minorities in their country. In 1962 a military coup put the military in charge of the country which lasted until 2011. In 1982, the military prevented the Rohingya from having any form of citizenship and essentially rendered them stateless.

The Rohingya Muslims are regarded as the world’s most persecuted minority group. Over the years, there has been profound persecution of the Rohingya Muslims but on August 25th 2017 the situation escalated from bad to worse when violence broke out in the Rakhine state between the Myanmar arny and Rohingya fighters, after Rohingya fighters attacked the police and government soldiers. A Rohingya group called the Arakan Rohingya Salvation Army (Arsa) said it carried out the attack, which was its biggest so far. The Myanmar military fought back leading to violence in which hundreds of people were killed and tens of thousands were forced to flee from their homes. The Burmese soldiers raped and murdered Rohingys Muslims in the country’s Rakhine state. Indiscriminate shootings, summary executions, arbitrary arrest, enforced disappearances rape and other forms of sexual violence and torture happened to the Rohingya Muslims in Rakhine State. These acts of brutality against the Rohingya Muslims have instilled deep widespread fear and physical, emotional and psychological trauma in the Rohingya victims.

Despite all these inhumane acts amounting to crimes against humanity happening to the Rohingya Muslims, the United Nations Security Council as a body that is vested and mandated with the responsibility of ensuring that there is worldwide peace and security has not been effective enough in execution of its duties to curb the situation in Myanmar. There is dire need for the Security Council to take affirmative action to restore peace in the country. This instability in Myanmar is not something that is new on the face of the world. It has been there for a long time and the crimes against humanity have been committed ever since. As a member of the United Nations and a signatory to its Charter, it is high time for Myanmar to honor the objectives of the United Nations stipulated in the preamble of its Charter which is maintaining worldwide peace and security. But since the country has been adamant to uphold peace, then further steps have to be taken by the Security Council against Myanmar to ensure that peace prevails in the country once and for all.

Based on the foregoing, this research seeks to fill the gap on what role should the United Nations Security Council play to suppress the commission of crimes against humanity in Myanmar, a nightmare that has been going on for a long time and to further suggest some useful recommendations in relation to the subject matter.

## 1.2 BACKGROUND OF THE STUDY.

According to Chapter VI of the UN Charter, the United Nations Security Council has been mandated to call upon parties to a dispute to settle their dispute by pacific means stipulated in Article 33(1) of the Charter. The chapter also calls upon the Security Council to investigate any dispute or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of International peace and security.

Further, chapter VII of the Charter grants powers to the security council to recommend or decide what measures shall be taken to restore international peace and security. The measures include interruption of economic relations and of rail, sea, postal, telegraphic, radio, and other means of communication and the severance of diplomatic relations.

It is by virtue of the above that this research intends to find out and fill the gap of what necessary action should the United Nations Security Council take to ensure that it immediately suppresses the commission of crimes against humanity against the Rohingya Muslims in Myanmar.

# 1.3 STATEMENT OF THE PROBLEM

There is a history of persecution of Muslims in Myanmar that continues to the present day. According to Amnesty International, the Rohingya Muslim people have continued to suffer from human rights violations under the Burmese junta since 1978, and many have fled to neighbouring Bangladesh as a result. However, the reality is that the Rohingya people have been oppressed for many years prior to 1978, though perhaps not as significantly. They have lived in Myanmar for centuries but tensions with Myanmar's Buddhist majority have caused discrimination and harassment. Cases of rape, torture, arbitrary detention, and violence against Rohingya are commonplace, with many incidents going unreported as enforcement officers turn a blind eye. These perpetrators are not solely confined to the local population, but also include the authorities and law enforcers themselves. Tensions increased in 2012, when three Rohingya Muslim men were convicted of raping a local Rakhine Buddhist woman, which led to the 2012 Rakhine State riots. There are currently over a million Rohingya people living in Myanmar, however, systemic oppression has led to an increase in migrations. In early 2015 alone, around 25,000 asylum-seekers, consisting of Rohingyas and Bangladeshis, sailed out of the Rakhine State to seek refuge in neighbouring countries. Aside from Bangladesh, majority of asylum-seekers also set out to other South-east Asian countries such as Thailand but also to Malaysia and Indonesia, which are predominantly Muslim countries. Mass exoduses due to persecution and mass violence, such as the one in 2012, has happened before in 1978 and 1992, with many of the fleeing Rohingya people being marginalised and excluded in host States. They are often not recognized and not protected as refugees, and as a result, they live in extreme poverty, have to resort to illegal employment and are vulnerable to exploitation.

On the basis of short history, various crimes against humanity have been committed against the Rohingya Muslims in Myanmar. The Rohingya Muslims are being killed, raped and left victim of all sorts of sexual violations, they are persecuted and finally left stateless. Despite all this happening, nothing has been done to stop it. The United Nations Security is reluctant in executing its powers to ensure that peace and security is prevailing in Myanmar. Because of all this, this study will be focused on analyzing on what steps the United Nations Security Council should take to eliminate all the oppressions in Myanmar as soon as possible.

## 1.4 OBJECTIVES OF THE STUDY

### 1.4.1 General Objectives.

To examine the role of the United Nations security Council in promotion of international peace and security in countries that have been affected by gross human rights violations, specifically Myanmar.

### 1.4.2 Specific Objectives

1. To examine and study the causes of the Myanmar conflict.
2. To examine what steps have been taken so far by the international community in response to the gross human rights violations that has been committed against the Rohingya Muslims in Myanmar.
3. To examine the mandate of the United Nations Security Council in containing the situation in Myanmar as per Chapter VI and VII of the United Nations Charter.
4. To examine how Myanmar, not being a member of the Rome statute and the International Criminal Court can be held responsible for committing crimes against humanity which is an international crime.

## 1.5 SIGNIFICANCE OF THE STUDY.

The Myanmar saga is a humanitarian crisis that needs immediate attention from the international community, specifically the United Nations Security Council. This study will aid in unveiling what is the real story behind the Myanmar human rights violations crisis. It will further look at the effectiveness of the United Nations Security Council council in resolving the Myanmar conflict that has been existing for a long and what it should do with reference to the powers to the powers conferred upon it by the United Nations Charter to contain the situation in Myanmar.

This research sets out possible recommendations that might be of assistance in ensuring that there exists a peaceful Myanmar which will see the Rohingya Muslims freely enjoy their rights as citizens of Myanmar and most importantly as human beings.

## 1.6 HYPOTHESIS

The hypothesis of this research is that Myanmar is a member of the United Nations Organization which it’s sole objective is to ensure international peace and security. Despite Myanmar signing and ratifying various international instruments like the United Nations Charter and the Universal declaration of Human Rights that advocate for profound respect of human rights, it has been at the forefront to violate these rights hence amounting to commission of crimes against humanity. This research paper tests abilities and powers of the United Nations Security Council to contain the humanitarian crisis in Myanmar.

## 1.7 SCOPE OF THE STUDY

The study will cover and revolve around the crimes against humanity committed against the Rohingya Muslims in Myanmar and what the international community has done to remedy the humanitarian crisis prevailing in the country. More specifically, it will focus on the mandate of the United Nations Security Council to suppress the commission of crimes against humanity against the Rohingya Muslims in Myanmar which is an international crime.

In the course of this study, a lot of challenges are expected to be encountered with. Scarcity of books in the school library on the subject will be at the forefront. Most of the books that will be mostly relied on are online books which are also difficult to get to some extent. Even though the internet will play an imperative role in this study, it is hard to get up to date information about the current affairs of the situation in Myanmar the presence of which could have made this research a bit easier.

## 1.8 RESEARCH METHODOLOGY.

The completion and writing of this research will be made possible through reading library books, treaties, conventions, case laws, journals and articles written by various scholars related to the subject and absorbing information therefrom. The internet will also play a significant role in the preparation of this research as there will be difficulty in finding some of the information from books but they will be readily accessible and available on the internet. News from International broadcasting networks like Al-jazeera and BBC will also be imperative on the provision of current affairs and trends in Myanmar. To practically see the sufferings and tribulations the Rohingya Muslims are going through, videos from You-Tube on the same will have a great impact on my study.

In this study, I will not limit myself to the above methods only but will further take an initiative of consulting different experts who have expertise and experience on the subject of International law and international crimes. Furthermore, pieces of Myanmar legislation will also be looked into which will have a strong connection to this study.

I choose to follow the above given methodology because the research is specifically on Myanmar, a country which will be difficult for me to reach and get first hand information from the Rohingya Muslims themselves, who are the victims of crimes against humanity in the country.

## 1.9 LITERATURE REVIEW

Many scholars and authors have written various works on different topics with regards to international affairs ranging from Genocide in Myanmar, Rohingya Muslims fleeing to neighboring countries to seek refuge, human rights violation in Myanmar, the United Nations among. Various literature that have been consulted for the completion of this study do not specifically give an account on the subject of this research hence making it prudent to come up with an academic work to fill the gap on the same.

Penny Green and Thomas MacManus in their book “Countdown to Annihilation: Genocide in Myanmar,” discussed a lot about the genocidal acts transpiring in Myanmar against the Rohingya Muslims. The book further talked about roles played by the monks in the oppression of the Muslims in Rakhine state, touched on the June 2012 conflict and laws that discriminate and stigmatize the Rohinagya Muslims. Though the book focused on genocide, it did not look into the crimes against humanity that were inflicted upon the Rohingya Muslims. For that reason, in this study, focus will be directed on the crimes against humanity committed against the Rohingya Muslims in Myanmar.

Human Rights Watch in their book “Genocide, War crimes and Crimes against humanity: A digest of the case law of the International Criminal Tribunal for Rwanda,” touched on the different types of International crimes including crimes against humanity. But their attention was primarily concentrated on the 1994 Rwanda humanitarian crisis and how the outcome of the case turned out to be. The author did not enlighten anything on the Myanmar conflict that dates back from long ago and has seen a lot of Rohingya Muslims being the overall victims of the long term conflict in the country.

Andrew Guzman in his book “How International Works,” was interested in questions relating to compliance with international and cooperation in international affairs, an area which has been the subject of considerable work in political science, economics and law. The author did not address the mandate of the United Nations Security Council and its powers in ensuring that there is international peace and security in each and every country. Additionally the book did not explain how the Security Council will intervene in case there is massive violation of human rights in a country, something which is really significant for the well being of citizens in a politically unstable country.

David Luban in his book “A theory of crimes against humanity (2010),” explained a lot about crimes against humanity ranging from its history, the elements of the crimes, distinguishing features between crimes against humanity and genocide and how the crimes are prosecuted under international law. But the author did not enlighten us on how, a country like Myanmar which is not a member of the international criminal court can be prosecuted as massive violations of human rights have been seen and nothing has been done. Also, the author did not tell us how the United Nations Security Council is supposed to immediately in case there is a humanitarian crisis in a country like Myanmar.

The Asian Society in their report “Current Realities and Future Possibilities in Myanmar: Perspectives from Asia (2010),” the authors provided a comprehensive overview of current regional policy toward Burma and offered a rich compendium of policy of ideas for regional and international actors. Ahsan Ullah, in his Article “ Rohingya Migration: Is it a function of Persecution,” comprehensively argued how the Rohingyas have been excluded by its government through exclusionary policies against this fragile community, how it is marginalized, persecuted, deprived of basic rights and abused. The author also explained how the International community and local activists have made unsuccessful efforts to call for the government of Myanmar to stop the violence despite the fact there is no sign of stopping. Unfortunately both the report by Asian Society and the article by Ahsan Ullah did not enlighten us on the crimes against humanity that have been inflicted on the Rohingya Muslims and what exact measures should the United Nations Security Council do to curb the brutal violation of human rights in the country.

Warzone Initiative in their “Rohingya Briefing Report,” tried to examine whether the actions of the Myanmar’s government against the Rohimgya and whether they fall into the categories of crimes against humanity, ethnic cleansing and/or genocide. The author did not precisely answer this but rather concluded that regardless of the excat classification of these acts, it is clear that past and current treatment of the Rohingya is unjust, inhumane and must be changed. For that reason, this study will specifically focused on the crimes against humanity committed against the Rohingya Muslims pointing out the necessary elements of the crime as have manifested themselves in the country.

Abul Hasnat Milton, Mijanur Rahman, Sumaira Hussain and other authors in their article in the International Journal for Environmental Research titled “Trapped in Statelesness: Rohingya Refugees in Bangladesh,” talked in detail about the Rohingya people as being one of the most ill-treated and persecuted refugee groups in the world, having lived in a realm of statelessness for over six generations, and who are still doing so. The article touched on one among the crimes that constitute crimes against humanity which is being left stateless as a result of them being brutally and ill treated by their government hence being force to leave their country to seek refuge in Bangladesh. The authors of the article laid more emphasis on statelessness only but have left other crimes that are committed against the Rohinya like murder which also constitute crimes against humanity. As earlier noted, none of these literatures including this one could quench our desire for clarity on the subject of discussion.

As seen above, a lot of work by different authors has been written condemning the humanitarian crisis happening in Myanmar from different points of view. Despite of all these works, the examination and observation indicates that the literature above generally falls short of handling the topic of the research. Therefore there is a gap which hopefully this research will address.

# 2.0 CHAPTER TWO: HISTORICAL BACKGROUND OF THE STUDY.

## 2.1 INTRODUCTION

This chapter will be focused on looking at the historical background of this entire research starting from the history of the United Nations Security Council, history of crimes against humanity, history of Myanmar from pre colonialism, during colonialism and post colonialism. In addition, the chapter will look at the history of the Rohingya Muslims, the basis of the conflict between them and the Buddhists finally the effects of that conflict. The purpose of all this is to provide an understanding of what the study is all about to make an easy follow up.

## 2.2HISTORICAL BACKGROUND OF THE UNITED NATIONS SECURITY COUNCIL.

The Security Council is one of the principle organs of the United Nation as provided for under Article 7 of the United Nations Charter. Article 23 of the charter provides for the composition of the council which has a total of 15 members, 5 of which are permanent with veto power and the other 10 are elected from the General Assembly on a 2 year basis This is probably due to the nature of its role and the need to act promptly in situations of crisis endangering peace and security. It is charged with the responsibility of maintaining international peace and security and for restoring the peace when conflict arises, and it derives this power from Article 24 of the Charter. In order to achieve this important primary aim, Article 25 provides that the Security Council shall have enforcement powers so that in certain instances, it can make binding resolutions that are to be implemented by the member states.

There are various methods through which the council can maintain international peace and security under the charter. These include:

* Investigating any dispute or situation which might lead to international friction;
* Recommending methods of adjusting;
* Calling on members to apply economic sanctions and other measures not involving the use of force to prevent or stop aggression.

The Security Council is organised in such a way that it is able to function continuously whereby a representative of each member must be present at all times at the United Nations headquarters so that the Council can meet at any time should the need arise.

After the cold war, the Security Council became more active and started to fulfil the functions for which it was established, having lain dormant in the first few decades. This was a result of the political and ideological bilateralism that paralysed the United Nations and especially the Security Council during this time. It also created important opportunities for the council for instance the end of apartheid in South Africa and peace and reconstruction in Cambodia.With this development, many countries began to express their dissatisfaction with the unrepresentative character of the Security Council and its arrogant exercise of power.

In interpreting the relevant Charter provisions on what constitutes a threat to the peace and security, the Security Council has adopted a liberal approach so that a whole lot of issues come under what constitutes. For instance Schrijver argues that the Security Council has started to make general pronouncements without referring to a specific issue such as a threat to the peace arising as a result of large scale human right violation and the spread of diseases such as AIDS. One reason for the Security Council's liberal interpretation of the relevant Charter provision is that each organ within the United Nation determines its own power in accordance with the functions that it is expected to carry out.. Even though the International Court of Justice is the principle judicial organ of the United Nations, it is said to be unsuited to provide the check needed on the Council's exercise of power except for providing advisory opinion.

## 2.3 HISTORY OF CRIMES AGAINST HUMANITY.

The term “crimes against humanity” was used for the first time in 1915 by the Allied governments (France, Great Britain and Russia) when issuing a declaration condemning the mass killings of Armenians in the Ottoman Empire. However, it was only after World War II in 1945 that crimes against humanity were for the first time prosecuted at the International Military Tribunal (IMT) in Nuremberg. Both the [Charter establishing the IMT in Nuremberg](http://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.2_Charter%20of%20IMT%201945.pdf) as well as that establishing the [IMT for the Far East in Tokyo](http://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.3_1946%20Tokyo%20Charter.pdf) included a similar definition of the crime.

Since then, the notion of crimes against humanity has evolved under international customary law and through the jurisdictions of international courts such as the International Criminal Court, the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. Many States have also criminalized crimes against humanity in their domestic law; others have yet to do so.

Crimes against humanity have not yet been codified in a dedicated treaty of international law, unlike genocide and war crimes, although there are efforts to do so. Despite this, the prohibition of crimes against humanity, similar to the prohibition of genocide, has been considered a peremptory norm of international law, from which no derogation is permitted and which is applicable to all States.

The [1998 Rome Statute establishing the International Criminal Court](https://www.icc-cpi.int/resource-library/Documents/RS-Eng.pdf) (Rome Statute) is the document that reflects the latest consensus among the international community on this matter. It is also the treaty that offers the most extensive list of specific acts that may constitute the crime.

## 2.4 HISTORICAL BACKGROUND OF MYANMAR

### 2.4.1 PRE COLONIAL PERIOD.

The history of [Myanmar](https://en.wikipedia.org/wiki/Myanmar) (also known as Burma) covers the period from the time of first-known human settlements 13,000 years ago to the present day. The earliest inhabitants of [recorded history](https://en.wikipedia.org/wiki/Recorded_history) were a [Tibeto-Burman-speaking](https://en.wikipedia.org/wiki/Tibeto-Burman_languages) people who established the [Pyu city-states](https://en.wikipedia.org/wiki/Pyu_city-states) ranged as far south as [Pyay](https://en.wikipedia.org/wiki/Pyay) and adopted [Theravada Buddhism](https://en.wikipedia.org/wiki/Theravada).

Another group, the [Bamar people](https://en.wikipedia.org/wiki/Bamar_people), entered the upper Irrawaddy valley in the early 9th century. They went on to establish the [Bagan Kingdom](https://en.wikipedia.org/wiki/Bagan_Kingdom) (1044–1287), the first-ever unification of the Irrawaddy valley and its periphery. The [Burmese language](https://en.wikipedia.org/wiki/Burmese_language) and Bamar culture slowly came to replace Pyu norms during this period. After the [First Mongol invasion of Burma](https://en.wikipedia.org/wiki/First_Mongol_invasion_of_Burma) in 1287, several small kingdoms, of which the [Kingdom of Ava](https://en.wikipedia.org/wiki/Kingdom_of_Ava), the [Hanthawaddy Kingdom](https://en.wikipedia.org/wiki/Hanthawaddy_Kingdom), the [Kingdom of Mrauk U](https://en.wikipedia.org/wiki/Kingdom_of_Mrauk_U) and the [Shan States](https://en.wikipedia.org/wiki/Shan_States) were principal powers, came to dominate the landscape, replete with ever-shifting alliances and constant wars.

In the second half of the 16th century, the [Taungoo Dynasty](https://en.wikipedia.org/wiki/Taungoo_Dynasty) (1510–1752) reunified the country, and founded the largest empire in the history of Southeast Asia for a brief period. Later Taungoo kings instituted several key administrative and economic reforms that gave rise to a smaller, more peaceful and prosperous kingdom in the 17th and early 18th centuries. In the second half of the 18th century, the [Konbaung Dynasty](https://en.wikipedia.org/wiki/Konbaung_Dynasty) (1752–1885) restored the kingdom, and continued the Taungoo reforms that increased central rule in peripheral regions and produced one of the most literate states in Asia. The dynasty also went to war with all its neighbours. The [Anglo-Burmese wars](https://en.wikipedia.org/wiki/Anglo-Burmese_wars) (1824–85) eventually led to British colonial rule.

### 2.4.2 DURING COLONIALISM

British rule in Burma lasted from 1824 to 1948, from the Anglo-Burmese Wars through the creation of Burma as a province of British India to the establishment of an independently administered colony, and finally independence. After three Anglo-Burma Wars (1825, 1852 and 1885) Burma was conquered and transformed into a British colony. Burma became an official colony on January 1, 1886. The British ruled Burma as a part of India from 1919 until 1937. In 1937, Burma was made a crown colony of Britain. Britain in part used Burma as a buffer zone between India and the rest of Asia.

The British named the country Burma in honor of the Burmans, the dominant ethnic group. Initially the British called it “Further India.” The Burmese called it "myanma naing ngan"—the source of the name Myanmar—or more colloquially as "bama pyi" or "country of Burma." Both these usages persist, and the national anthem still refers to "bama pyi." The British "imperial tongue" stumbled over Myanmar and adopted Burma, reportedly similar to the name Birmania given to the country by Portuguese traders.

Different portions of Burmese territories were annexed at different times. Tenasserim and Arakan were taken in 1826 by the British after their victory in the First Anglo-Burmese War. The delta region including Rangoon (Lower Burma) was annexed in 1852 after the Second Anglo-Burmese War. The annexed territories were designated the minor province (a Chief Commissionership), British Burma, of British India in 1862. Upper Burma fell to the British and the Mandalay-based peacock throne was toppled after the Third Anglo-Burmese War in 1885. The last monarch, the cruel king Thibaw and his queen, were exiled to India: carried out of Mandalay in an oxcart. The following year, the province of Burma in British India was created, becoming a major province (a Lieutenant-Governorship) in 1897. This arrangement lasted until 1937, when Burma began to be administered separately by the Burma Office under the Secretary of State for India and Burma. Burma achieved independence from British rule on 4 January 1948.

Burma is sometimes referred to as the Scottish Colony, due to the heavy role played by Scotsmen in colonising and running the country – one of the most notable being Sir James George Scott, and the Irrawaddy Flotilla Company. George Orwell served in the Indian Imperial Police in Burma for five years, an experience that was the inspiration for his 1934 novel “Burmese Days.”

Divisions of British Burma: The province of Burma, after 1885 was administered as follows: 1) Ministerial Burma (Burma proper); 2) Tenasserim Division (Toungoo, Thaton, Amherst, Salween, Tavoy, and Mergui Districts); 3) Arakan Division (Akyab, Northern Arakan or Arakan Hill Tracts, Kyaukpyu and Sandoway Districts); 4) Pegu Division (Rangoon City, Hanthawaddy, Pegu, Tharrawaddy and Prome Districts); 5) Irrawaddy Division (Bassein, Henzada, Thayetmyo, Maubin, Myaungmya and Pyapon Districts); 6) Scheduled Areas (Frontier Areas); 7) Shan States; 8) Chin Hills; 9) Kachin tracts. The "Frontier Areas", also known as the "Excluded Areas" or the "Scheduled Areas", compose the majority of states within Burma today. They were administered separately by the British, and were united with Burma proper to form Myanmar's geographic composition today. The Frontier Areas were inhabited by ethnic minorities such as the Chin, the Shan, the Kachin and the Karenni.

2.4.3 POST COLONIALISM (1948 to present)

Following Burma’s release from colonial rule in 1948, U Nu, a prominent Burmese nationalist figure, was elected prime minister. With this came the association of the Burmese state with Buddhism, and Burmese nationalism became increasingly popular. Initially it was proposed that the majority Muslim part of Arakan be made into another country, but this was shot down almost immediately. U Nu was a devout Theravada Buddhist. He would go on to install many Buddhist policies within the government, such as the State Religion Promotion Act of 1961, which made Theravada Buddhism the official religion of the country. The U Nu regime, despite implementing Buddhist nationalist laws, still recognized the Rohingya as citizens with rights[[1]](#footnote-1). While there was still unequal treatment for Muslims and a level of ethnic tension, some of U Nu’s cabinet members and certain public officials were Muslim. Any amount of respect Burma had for its Muslims would quickly end in the years following the U Nu administration.

In 1962, the Burmese government was overthrown by a military uprising, and a military state was formed until 2011. This was a long, politically complex period, but the ruling powers almost universally kept their Theravada and Burmese Nationalist identity[[2]](#footnote-2). Overall it was fairly violent for almost everyone, and the state sponsored anti-Muslim violence began and reached its peak. This period also saw the beginning of specific anti-Rohingya government policy. In 1982, legislation was passed which stated that citizenship was only granted to ethnicities that had been in the country prior to the Anglo-Burmese Wars in 1823. Since many the origin of the Rohingya people is largely a debated subject (some believe they immigrated during colonialism), this effectively made it where the Burmese government considered all Muslims illegal immigrants. Officially, millions of people who could trace their lineage back at least 100 years were suddenly in the country illegally.

Since 2011, there has been a push for a representative government in Myanmar and a movement to essentially modernize the nation. In order to legitimize its rule, the government has tried to step away from state sponsored acts of violence. Other sources of violence and anti-Muslim sentiment, such as the 969 Movement, have emerged[[3]](#footnote-3).

## 2.5 THE ROHINGYA MUSLIMS.

The Rohingya population is concentrated in the historical region of [Arakan](https://en.wikipedia.org/wiki/Arakan), an old coastal country of [Southeast Asia](https://en.wikipedia.org/wiki/Southeast_Asia)[[4]](#footnote-4). By some accounts, they are descendants of Arab, Turkish or Mongol traders and soldiers who in the 15th Century migrated to Rakhine state, previously called the Kingdom of Arakan.  Other historians say they emigrated from Bangladesh in several waves, a widely held view among most Burmese. For centuries the small Muslim minority lived peacefully alongside Buddhists in the independent kingdom, some were even advisors to Buddhist royals, according to historians. Upheaval ensued from the late 18th century. In 1784 the kingdom was conquered by the Burmese and later by the British following the first Anglo-Burmese war of 1824-1826[[5]](#footnote-5). Under British rule, a large number arrived to work as farmers and later as military recruits. "In the 1830s there was a massive influx of Muslim peasants from neighboring Bengal, mostly to work in the agriculture sector," said Sophie Boisseau du Rocher, Southeast Asia expert at the French Institute for International Relations. By 1912, more than 30 percent of the populations of Arakan state were Muslim, up from five percent in 1869, according to British census data cited by historian Jacques Leider.

Tensions between the Rohingya Muslims and the Buddhist majority date back to the beginning of British rule in 1824. As part of their divide-and-rule policy, British colonists favored Muslims at the expense of other groups. They recruited them as soldiers during World War II, pitting them against Buddhists aligned with the Japanese as the war played out on Burmese soil. "Both armies, British and Japanese, exploited the frictions and animosity in the local population to further their own military aims," said Moshe Yegar, author of a book about Muslim communities in Southeast Asia[[6]](#footnote-6). Their status was fortified in 1947 when a new Constitution was drafted, enshrining them with full legal and voting rights which would be later stripped and render them stateless. Rakhine has a poverty rate nearing 80 percent, double the national average, kindling resentments over ethnic claims to the area.

A 1962 military coup ushered in a new era of repression and brutality. The country's ethnic minorities like the Rohingya did not fare well. Most were effectively rendered stateless in 1982 when the junta issued a new law on citizenship, requiring minorities to prove they lived in Myanmar prior to the first Anglo-Burmese war in 1823 to obtain nationality. After the junta was dissolved in 2011, the country saw a rise in Buddhist extremism which further sidelined the Rohingya and marked the beginning of the latest era of tensions. The 20th century saw a series of military crackdowns against the group: in 1978 and 1991-2, which prompted hundreds of thousands to flee to Bangladesh. Some were sent back by Dhaka, and the United Nations questioned the supposedly "voluntary" nature of the repatriations[[7]](#footnote-7).

They have been subjected to restrictions on movement, employment and access to basic services since another outbreak of violence in 2012. Tensions mounted again in October 2016, when a small and previously unknown militant group the Arakan Rohingya Salvation Army (ARSA)staged a series of deadly attacks on Burmese military forces. The army responded with a massive security crackdown, sparking a new wave of refugee arrivals into Bangladesh.On August 25, ARSA again launched an early morning attack on army installations in Rakhine, triggering a brutal military campaign in response. An estimated 391,000 Rohingya have fled to Bangladesh in the last three weeks, according to the United Nations, which has said the military crackdown amounts to ethnic cleansing of Rohingya Muslims[[8]](#footnote-8).

# 3.0 CHAPTER THREE: LEGAL FRAMEWORK OF THE STUDY.

## 3.1 INTRODUCTION.

This chapter will lay down the meaning of crimes against humanity based on different philosophers and international legal instruments. Furthermore, it will categorically explain each and every element of the crime so that the reader will gain a comprehensive understanding on what this crime is all about. As explained above in the previous chapter, this crime has not yet been codified in any international legal instrument except the Rome Statute of 1998 which reflects the latest consensus among the members of the international community on the same.

## 3.2 MEANING OF CRIMES AGAINST HUMANITY.

Crimes against humanity are criminal acts that target a group of people based on their religion, ethnicity, or some other trait, which is not a direct result of something that group has done[[9]](#footnote-9). The Rome Statute of 1998 defines crimes against humanity as any of the following acts when committed as part of widespread or systematic attack directed against any civilian population, with knowledge of the attack[[10]](#footnote-10):

1. Murder
2. Extermination.
3. Enslavement
4. Deportation or forcible transfer of population.
5. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law.
6. Torture
7. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity.
8. Persecution against any identifiable group or collectivity on political on political, racial, national, ethnic, cultural religious, gender or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the court.
9. Enforced disappearance of persons.
10. The crime of apartheid.
11. Other inhumane acts of a similar character intentionally causing great suffering or serious injury to body or to mental or physical health.

The above list of crimes against humanity does not contain every possible crime that can be so classified; however the acts specified in the above list are some of the more common acts defined by the term. Unlike war crimes, the crimes against humanity can be committed during peace or war. They are not isolated or sporadic events, but are part either of a government policy although the perpetrators need not identify themselves with this policy or of a wide practice of atrocities tolerated or condoned by a government or a de facto authority[[11]](#footnote-11).

## 3.3 LIST OF CRIMES AGAINST HUMANITY SPECIFICALLY COMMITTED AGAINST THE ROHINGYA MUSLIMS IN MYANMAR.

The Rohingya people have been described as among the world’s least unwanted and one of the world’s most persecuted minorities. It is a deeply traumatized population many of whom have seen horrific acts committed to them. Most of these horrific acts tantamount to crimes against humanity since they fall within the ambit of Article 7 of the Rome statute of 1998. This chapter will in a crystal clear way elucidate the specific crimes against humanity that have been witnessed and committed against this oppressed population.

1. Murder

Murder refers to the intentional killing of a person. Through attacks directed against the Rohingya Muslims, More than 6,700 Rohingya Muslims, including at least 730 children under the age of five, were killed in the first month of a crackdown that started in August 2017 in Myanmar’s northern Rakhine state, according to [Médecins Sans Frontières](https://www.theguardian.com/world/medecins-sans-frontieres). Some of the worst violence is believed to have occurred in [Tula Toli](https://www.theguardian.com/world/2017/sep/07/massacre-at-tula-toli-rohingya-villagers-recall-horror-of-myanmar-army-attack), in a village in Maungdaw township, where survivors say residents were rounded up on riverbanks and shot as they tried to flee[[12]](#footnote-12). Amnesty International believes, based on consistent, corroborating witness accounts, that soldiers massacred at least scores of Rohingya women, men, and children from Tula Toli on 30 August[[13]](#footnote-13).

In its report written in 2017. Fortify Rights documented and analyzed more than 80 testimonies of Rohingya women and men from more than 40 villages in Maungdaw, Buthidaung and Rathidaung Townships who witnessed or shared information about unlaeful killings by members of the Myanmar security forces and men wearing civilian clothing working in concert with the army and police during the clearance operation in Rakhine State. Myanmar Army soldiers and armed civilians working in apparent collaboration with the soldiers also committedmass killings in Chut Pyin village in Rathedaung Township on August 27. According to Rohingya survivors, soldiers shot rocket-propelled grenades (RPGs) at homes to burn them down and opened fire on civilians, while armed civilians slashed and stabbed Rohingya residents with knives and long swords.42 Soldiers corralled a group of men and boys into a thatch-roof hut and set the hut on fire, burning them alive.43 Soldiers also beheaded two children.

In addition to the above killings, it is also reported that Myanmar soldiers attacked Rohingya civilians including helpless children who were sitting at the bank of the Purma River situated in a village called Min Gyi in Maungdaw Township on 30th August 2017. A survivor of the attack named Mohammed Rafiq explains that there were approximately around 70 soldiers who were continuously shooting at the helpless and unarmed civilians without any mercy. As a consequence, everyone who was present died.

The Rome statute of 1998 stipulates that an attack has to be widespread and systematic directed against any civilian population with knowledge of the attack in order for such attack to amount to a crime against humanity. It is evident without fear of contradiction that these attacks by the Myanmar security were widespread and systematic. Furthermore, these attacks were intentional as indicated by the statements from the military and government. On September 16 , the Burmese army commander stated in a Facebook post that, “They have demanded recognition as Rohingya, which has never been an ethnic group in Myanmar. The Bengali issue is a national cause and we need to be united in establishing the truth.” He described the ongoing operations against the Rohingya as “unfinished business” dating back to World War II. In another statement by the same commander on 21st September 2017, referred to restoring destroyed villages of the “national races,” a reference to the official list of recognized indigenous ethnic groups – a list that does not include the Rohingya: “Regarding the rehabilitation of villages of our national races, for the national races [largely ethnic Rakhine] who fled their homes, first of all they must go back to their places. ...The important thing is to have our people in the region. It’s necessary to have control of our region with our national races. We can’t do anything if there are no people from our national races … that is their rightful place.”

All the above statements are a clear indication that the military and government were intending to destroy and kill the Rohingya Muslims but despite all these the United Nations security Council has been relunctat to do something about it.

1. Deportation or Forcible Transfer of the Rohingya Muslims

This also one among the crimes against humanity captured in the Rome Statute. The Statute defines deportation or forcible transfer as forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law. Both of these two relate to the involuntary and unlawful evacuation of individuals from the territory in which they reside. Yet, the two are not synonymous in customary international law. Deportation presumes transfer beyond State borders, whereas forcible transfer relates to displacements within a State.

The two important elements of these crimes are:

* Coercing movement to another location of people lawfully in the area. The coercion can be by way of death threats, destruction of their homes and other acts of persecution.
* Intent of permanently relocating them.

As noted, since late August 2017, more than 400,000 Rohingya have fled to Bangladesh, and tens of thousands have been forcibly displaced within Burma, along with members of other ethnic groups. In early September, Human Rights Watch interviewed more than 50 Rohingya refugees who had fled across the border to Bangladesh and obtained detailed accounts from about a dozen people. The Rohingya told Human Rights Watch that Burmese government security forces had carried out armed attacks on villagers, inflicting bullet and shrapnel injuries, and burned down their homes. They described the military’s use of small arms, mortars, and armed helicopters in the attacks[[14]](#footnote-14).

Since the late 1970s, nearly one million Rohingya have fled Myanmar due to widespread persecution. According to an available data of the United Nations, more than 168,000 Rohingya  [fled](http://www.unhcr.org/news/latest/2017/5/590990ff4/168000-rohingya-likely-fled-myanmar-since-2012-unhcr-report.html) Myanmar since 2012. Following violence that broke out last year, more than 87,000 Rohingya fled to Bangladesh from October 2016 to July 2017, according to the International Organization for Migration. Many Rohingyas also risked their lives trying to get to Malaysia by boat across the Bay of Bengal and the Adaman sea. Between 2012 and 2015 more than 112000 made the dangerous journey. Prior to the violence that began in late August 2017, the United Nations estimated that there are as many as 420,000 Rohingya Refugees in Southeast Asia. Additionally, it is said there were around 120000 internally displaced Rohingya.

1. Rape and Other acts of Sexual violence..

Rape and other acts of sexual violence are recognized as prohibited acts that may be prosecuted as crimes against humanity, including in the ICC statute. There are many reports of the military carrying out rapes, including gang rapes, of Rohingya women during the security crackdown in Burma in recent weeks, as well as in 2016. UN and other health workers said that after this most recent August 2017 military crackdown, they treated dozens of Rohingya women and girls who had escaped to Bangladesh for injuries consistent with violent sexual attacks.

One woman told Human Rights Watch that she and four other women were taken to a hut, slashed with knives, and sexually assaulted. The soldiers then set the hut on fire. She is the only one to escape alive. Another woman who was raped still has injuries from the machete attack and beatings that accompanied the rape, and said she also barely managed to escape from a burning house.

One man told Human Rights Watch that he witnessed an army soldier rape three women in Maung Nu village. Two other women from the same village told Human Rights Watch that soldiers stripped them and several other women who were hiding from the military naked and that they were “touched everywhere[[15]](#footnote-15).”

1. Persecution

Persecution is recognized as among the offenses that can constitute a crime against humanity. The ICC statute defines persecution as “the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity. The crime of persecution consists of an act or omission that:

* 1. entails actual discrimination and denies a fundamental human right, and
  2. Was carried out deliberately with the intention of discriminating on one of the recognized grounds. These include for political, national, ethnic, and religious reasons. Persecutory acts have been found to include murder, sexual assault, and beatings, destruction of livelihood, and deportation and forced transfer, among others.

Acts of violence, restrictions on fundamental rights, and other discriminatory actions such as depriving members of the population access to their livelihoods or to food might be considered acts of persecution that amount to crimes against humanity.

Evidence of government intent to commit the crime of persecution against the Rohingya can be found in both the actions and inaction of state security forces, combined with the longtime discriminatory state practices against them, such as restrictions on freedom of movement, marriage, childbirth, education, and employment.

For decades, the Burmese government has considered the Rohingya, most of who live in northern Rakhine State, to be foreign nationals from Bangladesh. Just over one million Rohingya lived in Burma before August 2017, and they make up a large portion of the country’s relatively small Muslim population. The Rohingya have long faced systematic discrimination in Burma based on their exclusion from citizenship under the 1982 Citizenship Law. As a result, the Rohingya are one of the largest stateless populations in the world.

Since the Rohingya lack citizenship, Burmese police, border guards, and local officials systematically subject them to numerous rights-abusing restrictions. Government laws, policies, and practices prevent Rohingya from freedom of movement to leave their villages; restrict their right to livelihoods; interfere with their privacy rights to marry and have children; and obstruct them from access to basic health services and education[[16]](#footnote-16).

Official restrictions and recurrent military operations against Rohingya communities have left the Rohingya highly dependent on food and other aid distributed by United Nations agencies and humanitarian aid organizations[[17]](#footnote-17).

Hostility against aid agencies has grown following government accusations that international aid workers supported the Rohingya militants because some high-energy biscuits distributed by the World Food Program were found in an alleged militant camp in July 2017. Some supply warehouses of international aid groups were reported looted in September, while national and international staff of the UN and international aid organizations have faced intimidation, according to the European Commission’s Directorate-General for European Civil Protection and Humanitarian Aid Operations.

## 3.4 MANDATE OF THE UNITED NATIONS SECURITYCOUNCIL TO SUPRESS THE COMMISSION OF CRIMES AGAINST HUMANITY IN MYANMAR.

As an organ of the United Nations, the Security Council has the universal powers of ensuring that worldwide peace and security prevails in each and every corner of the world. In case of massive violations of human rights, it is it that is supposed to immediately intervene to curb the situation. The charter of the United Nations in its chapter VI and VII has stipulated the measures that the Security Council has to take to restore peace and Security in places and situations where the same has been lost. These measures are the same ones that have to be imposed in Myanmar to stop the humanitarian crisis that has had its roots since the attainment of the country’s independence. The following are some of the measures to be taken by the council to address the human rights abuses and humanitarian catastrophe engulfing Myanmar’s ethnic Rohingya population:

1. Imposing sanctions on Myanmar.

Sanctions are actions taken by [countries](https://en.wikipedia.org/wiki/Countries) against others for political reasons, either [unilaterally](https://en.wikipedia.org/wiki/Unilaterally) or [multilaterally](https://en.wikipedia.org/wiki/Multilaterally). There are several types of sanctions such as:

1. [Diplomatic sanctions](https://en.wikipedia.org/wiki/International_sanctions#Diplomatic_sanctions) – the reduction or removal of diplomatic ties, such as [embassies](https://en.wikipedia.org/wiki/Embassy).
2. [Economic sanctions](https://en.wikipedia.org/wiki/Economic_sanctions) – typically a ban on [trade](https://en.wikipedia.org/wiki/Trade), possibly limited to certain sectors such as [armaments](https://en.wikipedia.org/wiki/Armaments), or with certain exceptions (such as [food](https://en.wikipedia.org/wiki/Food) and [medicine](https://en.wikipedia.org/wiki/Medicine))
3. [Military sanctions](https://en.wikipedia.org/wiki/International_sanctions#Military_sanctions) – military intervention
4. [Sport sanctions](https://en.wikipedia.org/wiki/International_sanctions#Sport_sanctions) – preventing one country's people and teams from competing in international events.
5. [Sanctions on Environment](https://en.wikipedia.org/wiki/International_sanctions#Sanctions_on_Environment) – since the declaration of the [United Nations Conference on the Human Environment](https://en.wikipedia.org/wiki/United_Nations_Conference_on_the_Human_Environment), international environmental protection efforts have been increased gradually.

The Security Council should place targeted sanctions on senior officers responsible for crimes against humanity or other serious human rights violations. Financial sanctions should target senior officers who ordered criminal acts or are liable as a matter of command responsibility We have seen as explained above in this study that the perpetrators behind these crimes against humanity committed against the Rohingya Muslims are mostly high profile government officials who have been at the forefront either directly or indirectly towards these atrocities experienced by the Rohingya Muslims in Myanmar. .

1. Imposing arms embargo on Myanmar

An embargo is similar, but usually implies a more severe sanction. It can mean can mean limiting or banning export or import, creating quotas for quantity, imposing special tolls, taxes, banning freight or transport vehicles, freezing or seizing freights, assets, bank accounts, limiting the transport of particular technologies or products. An arms embargo is an [embargo](https://en.wikipedia.org/wiki/Embargo) that applies to weaponry, and may also apply to [dual-use technology](https://en.wikipedia.org/wiki/Dual-use_technology). An arms embargo may serve one or more of the following purposes:

* to signal disapproval of behavior by a certain actor
* to maintain neutral standing in an ongoing conflict
* to limit the resources an actor has to inflict violence on others.

The arms embargo is established by paragraph 2 of Security Council resolution 1390 (2002) and reiterated in subsequent resolutions, including paragraph 1 (c) of resolution 2161 (2014), obliges Member States to[[18]](#footnote-18):

*Prevent the direct or indirect supply, sale or transfer, to these [the listed] individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities.*

The Security council should impose arms embargo against Myanmar’s military that covers the direct and indirect supply, sale or transfer, including transit and transshipment of all weapons, munitions, and other military and security equipment, as well as the provision of raining and other military and security assistance[[19]](#footnote-19). The most useful aspect of the arms of embargos is that they will give the perception of something being done about gross violations of international norms and their objectives is to set in motion a change in policy in Myanmar[[20]](#footnote-20).

1. Military Intervention

Chapter VII of the United Nations Charter states that the Security Council “may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security.” This broad mandate makes viable the option to utilize military force to create peace. This is of course not their first option as article 41 of Chapter VII discusses the initial use of sanctions.

Myanmar is failing to protect its citizens. As a body vested with the powers to establish worldwide peace and security, the Security Council has to step up and do something about it. Rohingya Muslims have been victims of grave violations of human rights and all sorts of abuses and this is something that has been going on for decades despite strong condemnations from the international community. Therefore, in order to stop these gross violations of human rights in Myanmar, the UNSC members have to unanimously agree on militarily intervening in Myanmar to forcibly restore peace and Security.

1. Referring Myanmar to the International Criminal Court (ICC)

The United Nations Security Council should refer [Burma](https://www.hrw.org/asia/burma) to the [International Criminal Court](https://www.hrw.org/topic/international-justice/international-criminal-court) (ICC) because of Burma’s failure to investigate mass atrocities against ethnic Rohingya, Human Rights Watch said today in [releasing a new question-and-answer document](https://www.hrw.org/news/2017/11/03/qa-road-justice-grave-crimes-burma). UN member countries should also pursue processes for gathering criminal evidence to advance prosecutions in the ICC and other courts.

Burmese authorities have failed to credibly investigate security force operations since late August 2017 that have resulted in mass arson, killing, rape, and looting, destroying hundreds of villages and forcing more than 600,000 Rohingya Muslims to [flee to neighboring Bangladesh](https://www.hrw.org/news/2017/09/08/burma-rohingya-describe-military-atrocities). Human Rights Watch field research found that Burmese military abuses amount to crimes against humanity[[21]](#footnote-21).

Justice is desperately needed for the Rohingya population targeted by the Burmese military’s campaign of ethnic cleansing. The UN Security Council should refer the situation in Burma to the ICC, which was created precisely to address situations in which grave crimes were committed without consequences.

The Burmese government’s support both for the military operations against the Rohingya and its repeated discounting and dismissal of alleged abuses make it extremely unlikely that the government will press for the credible investigation and prosecution of crimes against humanity. Historically, courts in Burma have tried soldiers for human rights violations only infrequently and have never held soldiers to account for war crimes. Civilian courts have rarely had jurisdiction over soldiers implicated in criminal offenses.

The ICC is a court of last resort and only acts when there are grave crimes and national authorities are unwilling or unable to prosecute and try those responsible. But the ICC only has jurisdiction over crimes committed by states parties to its founding treaty, the Rome Statute, and Burma is not a member. Only the UN Security Council can refer the situation to the ICC for further criminal investigation[[22]](#footnote-22).

Achieving an ICC referral in the current political environment in the council will be difficult, notably because of China and Russia’s likely opposition to referring the situation in Burma to the court. This difficult landscape highlights the importance of also pursuing parallel tracks to bring justice to victims of atrocities in Burma.

In the face of Security Council deadlock on justice in Syria and in North Korea, [the UN General Assembly](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/248) and the [UN Human Rights Council](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/082/32/PDF/G1708232.pdf?OpenElement) have each created bodies to collect information about human rights violations and to prepare case files for eventual prosecution in courts with jurisdiction to try these crimes. UN member countries should consider a similar initiative for Burma[[23]](#footnote-23).

UN member countries should explore concrete measures to build criminal files against those responsible for major crimes in Burma for eventual prosecution,” Singh said. “Identifying perpetrators can help raise the political cost of abusive military operations, and bring victims closer to the justice they deserve.

# 4.0 CHAPTER FOUR: ANALYSIS OF THE STUDY

## 4.1 INTRODUCTION.

This chapter will be focused on a critical analysis of our study. Specifically, the it will touch on the failures of the UNSC to invoke the powers granted to it by chapter VII of the UNC and being reluctant to refer the perpetrators behind the atrocities in Myanmar to the ICC. It will further talk about the need for amending the UNC with an aim of ensuring that situations like Myanmar’s are readily contained by the UN and the international community at large when dire need arises. The chapter will finally scrutinize some of the case studies that are of great significance to our study,

## 4.2 FAILURE OF THE SECURITY COUNCIL TO EFFECTIVELY EXECUTE ITS MANDATES.

As discussed above in chapter three, the UNC charter in its chapter VII grants the Security Council a wide range of powers which when executed, a humanitarian crisis like that we are witnessing in Myanmar will be immediately brought to an end. Unfortunately, despite having these wide range of powers, the Security Council has absolutely failed to remedy the situation in Myanmar by bringing to an the catastrophe. The Council has been defunct to execute its powers as captured in Chapter VII because of the veto power problem.

## 4.3 VETO POWER

Veto power refers to the power to the wielded solely by the [five permanent members](https://en.m.wikipedia.org/wiki/Permanent_members_of_the_United_Nations_Security_Council) of the [United Nations](https://en.m.wikipedia.org/wiki/United_Nations) [Security Council](https://en.m.wikipedia.org/wiki/United_Nations_Security_Council) ([China](https://en.m.wikipedia.org/wiki/China), [France](https://en.m.wikipedia.org/wiki/France), [Russia](https://en.m.wikipedia.org/wiki/Russia), [United Kingdom](https://en.m.wikipedia.org/wiki/United_Kingdom), and [United States](https://en.m.wikipedia.org/wiki/United_States)), enabling them to prevent the adoption of any "substantive" resolution. The United Nations Charter states that:

1. Each member of the Security Council shall have a vote.
2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members.
3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting

It is with regards to the power of veto that the Security Council is unable to execute the powers conferred upon it by chapter VII of its charter against Myanmar. This means that in order for the Security Council to impose sanctions, arms embargo, military intervention and referring Myanmar to the International Criminal Court, all members of the council have to vote in favor of such a resolution or decision. This is something that has been making the Security Council to be ineffective in situations where quick and immediate action is needed like what is experienced in Myanmar. Two of its members, that is China and Russia have always been voting against resolutions with regards to actions to be taken on Myanmar.

In 2007, [China](http://www.washingtonpost.com/wp-srv/world/countries/china.html?nav=el) and [Russia](http://www.washingtonpost.com/wp-srv/world/countries/russia.html?nav=el) blocked the Security Council from demanding an end to political repression and human rights violations in military-ruled Myanmar, rejecting a resolution proposed by the United States. The vote was 9-3 in favor of the resolution, with [South Africa](http://www.washingtonpost.com/wp-srv/world/countries/southafrica.html?nav=el) joining China and Russia in the opposition. Indonesia, Qatar and the Republic of Congo abstained. While they were in the minority, China and Russia were able to kill the resolution because they have veto power as permanent members of the council. The two argued that the U.N.'s most powerful body was not the proper forum for discussing the Southeast Asian nation because the country doesn't threaten international peace. China and Russia both have human rights records that have frequently been criticized. That 2007 resolution could been a strong and urgently needed statement by the Security Council about the need for change in Burma.

In March 2017, China and Russia blocked a proposed UN Security Council statement that would have expressed concern over the tense situation in Myanmar's Rakhine state. In September 2017 in a security council’s meeting to discuss on the actions to be taken to stop the atrocities in Myanmar, China and Russia again supported the Southeast Asian country's government while the U.S., Britain and France demanded an end to the oppression of its Rohingya Muslim minority[[24]](#footnote-24).

Based on the explanations seen above on the effect the veto power has over decisions of the Council, it is evident .that it is high time for China and Russia to cooperate with other members of the Council to bring to an end the humanitarian crisis and catastrophe in Myanmar. The two countries should uphold the objectives of the United Nations stipulated in its preamble among them being ensuring that peace and security is prevailing all over the world notwithstanding whether a breach is inter-state or intra state. The Council also has a role in responding to an intra-state situation where populations are at the risk of large-scale violence. The doctrine of responsibility to protect asserts that the Council is prepared on a case by case basis to adopt measures to protect a population from genocide, war crimes, crimes against humanity and ethnic cleansing when a state manifestly fails to protect its population[[25]](#footnote-25). Yet members like China and Russia objected to the resolution on the grounds that this is an internal affair or one best left to the Human Rights Council. If Myanmar is not an example of crimes against humanity or war crimes where the Council should be seized, then when would this responsibility be triggered? Could the Council establish mechanisms to make this determination?

Chapter VII of the UN charter has to be invoked on Myanmar. Action has to be taken against the government and all the persons responsible for the atrocities. All members of the Security Council have to unanimously agree with one voice to pass a resolution that will suppress the commission of crimes against humanity in Myanmar. This is the best way to stop the atrocities. By so doing, the Council will undoubtedly curb and contain the Myanmar Situation. A mere call cannot put enough pressure on the Myanmar government and military to stop atrocities against Rohingyas. The world body must take tougher actions like imposing sanction on Myanmar and for this support of China and Russia is a must. The duo should honour their commitment they made in 2014 along with other members of the Security Council and back the Security Council's move to take any strong action to end catastrophe in Myanmar. If they fail to do so, they will be blamed for the UN's failure to prevent the crimes against humanity in Myanmar as USA and France were held largely responsible for the global body's failure in Rwanda[[26]](#footnote-26). It will be seen later in this chapter how successfully forced was used to bring to an end various humanitarian violations in different parts of the world that were affected by gross violations of human rights similar to Myanmar’s.

## 4.4 NEED FOR AMENDMENT OF THE UNITED NATIONS CHARTER.

Ever since it was found, the Charter has undergone five changes. There is further need make some amendments in the Charter especially with regards to Article 23 which grants the exercise of veto powers to the permanent members of the Council. Various discussions have taken place in recent years over the suitability of the Security Council veto power in today's world. Key arguments include that the five permanent members no longer represent the most stable and responsible member states in the United Nations and that their veto power slows down and even prevents important decisions being made on matters of international peace and security. Due to the global changes that have taken place politically and economically since the formation of the UN in 1945, widespread debate has been apparent over whether the five permanent members of the UN Security Council remain the best member states to hold veto power. While the permanent members are still typically regarded as [great powers](https://ipfs.io/ipfs/QmXoypizjW3WknFiJnKLwHCnL72vedxjQkDDP1mXWo6uco/wiki/Great_powers.html), there is debate over their suitability to retain exclusive veto power.[[24]](https://ipfs.io/ipfs/QmXoypizjW3WknFiJnKLwHCnL72vedxjQkDDP1mXWo6uco/wiki/United_Nations_Security_Council_veto_power.html#cite_note-24)

A second argument against retaining the UNSC veto power is that it is detrimental to balanced political decisions, as any draft text needs to be approved of by each permanent member before any draft resolution can possibly be adopted. Indeed, several proposed draft resolutions are never formally presented to the Council for a vote owing to the knowledge that a permanent member would vote against their adoption. Debate also exists over the potential use of the veto power to provide "diplomatic cover" to a permanent member's allies . The United States has used its veto power more than any other permanent member since 1972, particularly on resolutions condemning the actions or policies of Israel.

In order to improve the effectiveness of the UNSC, there is need to: limit the use of the veto to vital national security issues; requiring agreement from multiple states before exercising the veto; and abolishing the veto entirely. However, any reform of the veto will be very difficult, if not impossible. In fact, Articles 108 and 109 of the [United Nations Charter](https://ipfs.io/ipfs/QmXoypizjW3WknFiJnKLwHCnL72vedxjQkDDP1mXWo6uco/wiki/United_Nations_Charter.html) grant the P5 veto over any amendments to the Charter, requiring them to approve of any modifications to the UNSC veto power that they themselves hold: it is highly unlikely that any of the P5 would accept a reform of the UN Charter that would be detrimental to their own national interests.

The Security Council is most of the time ineffective to execute its powers because of the veto power that its permanent members have. In the case of Myanmar as discussed above, it has been extremely difficult and impossible for the Council to take any strong action against Myanmar as provided to it by Chapter VII of the Charter because of the support that Myanmar gets from China and Russia. The two countries vouch for Myanmar because of their own national interests they have over the country. If the two decide to cooperate with the other three permanent members, then the situation in Myanmar could have come to an end long ago.

## 4.5 THE LAW ON HUMANITARIAN INTERVENTION.

The basic rule, as it stands, is that humanitarian intervention out with the collective security framework is illegal under international law. Any intervention, even if on humanitarian grounds, must take place within the framework of the Charter. This means that the UNSC must authorize the use of force or it be a legitimate action of self-defense in order to be legal.

The Charter prohibits the use of force unless there is legitimate self-defense under Article 51 or an authorization from the UNSC to use force under Chapter VII. It is rare that humanitarian intervention will be taken under the auspices of self-defense as it would require an armed attack on a state and if that happens then the resultant use of force can be classed as a simple self-defense mission, not humanitarian intervention. If there has been no armed attack then there can be no use of force. However, there has been an argument put forward that self-defense can be used to defend ‘common interests and values’ and thus an armed attack against another state would not be needed, but this view is disputed[[27]](#footnote-27).

Humanitarian intervention is more likely to come into play with an authorization by the UNSC to use force under Chapter VII. If the UNSC determines there is a threat to, or has been a breach of, international peace and security, then it can authorize states to use force to counteract it. Without this authorization to use force then any intervention will be illegal under international law. If a state chooses to go ahead and use force without authorization from the UNSC then not only would that state violate the prohibition on the use of force, but they would also violate the customary principle of non-intervention in the sovereign affairs of another state[[28]](#footnote-28).

### 4.5.1 The Responsibility to Protect

There is thus a necessity to attempt to bridge the gap between UNSC authorisations – as they are rarely approved where intervention is sought in politically sensitive situations – and violating the use of force principle in times of need. Kofi Annan, in his role as Secretary General of the UN, made desperate pleas to the international community following the bombing of Kosovo in 1999 to resolve the conflicting of norms and find legitimate means to take forcible action where necessary to protect individuals from mass human rights violations. [7] This is how the Responsibility to Protect was formed.

The Responsibility to Protect – or R2P as it is otherwise known – came about from a report from the International Commission on Intervention and State Sovereignty (ICISS) in 2001. In that report, the panel of 11 independent experts advocate a shift away from focusing on humanitarian intervention on those terms and instead wanted to focus on the responsibility of states to protect their populations. This would focus efforts on the needs of the individuals rather than the state which reflected the growing acceptance and application of the human security paradigm The report brought forward the idea that sovereignty is limited by the responsibility to protect populations from mass atrocities – essentially sovereignty is not a right, it is a responsibility.

If the state fails to protect [[29]](#footnote-29)their citizens then they lose the protection from non-intervention in the Charter and thus the international community has the duty to step up and do something to help. The report envisaged that when there have been grave violations of human rights or other widespread abuses and if the UNSC failed to take action then other states could collectively take action legitimately to combat it. Whilst the panel felt that the UNSC is the most legitimate gatekeeper to intervention, the international community could turn to the General Assembly under the Uniting for Peace procedure if the UNSC is deadlocked, and if there is still no consensus then unilateral or collective action could be taken under the auspices of R2P. The report broadened R2P to go beyond pure humanitarian intervention and encompass the responsibility to prevent, the responsibility to react and the responsibility to rebuild.

Therefore, the Charter should also be changed to incorporate a provision which authorizes humanitarian interventions from other actors besides the Security Council in situations whereby there are gross violations of human rights in a country like Myanmar and the Council is not yet ready to militarily intervene and remedy the situation. Such a provision would really aid in making quick decision in preventing the escalation of a humanitarian crisis from bad to worst.

There are case studies that will be discussed below which will show the importance of invoking Chapter VII of the UNC and humanitarian intervention to bring to an end humanitarian crisis. The same if applied to Myanmar then it would be a better peaceful country free from crimes against humanity and any other gross violation of human rights.

## 4.6 CASE STUDIES.

### 4.6.1 SUDAN

On 31 March 2005, the UN Security Council adopted [Resolution 1593](http://www.un.org/press/en/2005/sc8351.doc.htm) under Chapter VII of the UN Charter (relating to threats to international peace and security) and under Article 13 of the ICC Statute, referring the situation in Darfur-Sudan to the ICC. In its Resolution, the Security Council invoked, in particular, the conclusions of an international commission of inquiry which, upon verifying the gravity of the crimes committed in Darfur, recommended that the situation be referred to the Court.

After opening and completing a preliminary examination, the ICC Prosecutor announced on 6 June 2005 the [opening of an investigation](http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/2005/Pages/the%20prosecutor%20of%20the%20icc%20opens%20investigation%20in%20darfur.aspx) into the situation in Darfur-Sudan.

Since then, the ICC Office of the Prosecutor (OTP) has been undertaking investigative and prosecutorial activities. This resulted in the ICC judges issuing four arrest warrants against three high-level officials of the government of Sudan, and against one commander of the Justice and Equlity Movement (JEM). Confirmation of charges hearings took place for two suspects, charges were dropped for one of them, and confirmed for the other, who should be sent to trial.

On 27 April 2007, the ICC issued two arrest warrants against [**Ahmad Harun**](http://www.icc-cpi.int/iccdocs/PIDS/publications/HarunKushaybEng.pdf), former Minister for the Interior, Minister for Humanitarian Affairs and current governor of North Kordofan, and [**Ali Kushayb**](http://www.icc-cpi.int/iccdocs/PIDS/publications/HarunKushaybEng.pdf), alleged Janjaweed militia leader. Both men are charged with crimes against humanity and war crimes committed between August 2003 and March 2004 in Darfur. They remain at large.

On 4 March 2009, the ICC issued an arrest warrant against sitting President [**Omar Al Bashir**](http://www.icc-cpi.int/iccdocs/PIDS/publications/AlBashirEng.pdf), for crimes against humanity and war crimes. A second arrest warrant was issued on 12 July 2010 against him adding charges of genocide. ICC judges thereby decided that there are "reasonable grounds to believe" that Al-Bashir is responsible for the crimes against humanity and war crimes of murder, extermination, forcible transfer of population, torture, rape, intentionally directing attacks against the civilian population and pillaging, as well as for crimes of genocide, intentionally destroying in whole or in part ethnic groups as such by killing, causing serious bodily or mental harm and inflicting conditions of life calculated to bring about the group’s physical destruction[[30]](#footnote-30).

On 1 March 2012, the ICC issued an arrest warrant against [**Abdel Raheem Mohammad Hussein**](http://www.icc-cpi.int/iccdocs/PIDS/publications/HusseinEng.pdf), current Minister of National Defence and former Minister of the Interior, as well as former Sudanese President’s Special Representative in Darfur for crimes against humanity and war crimes. He remains at large.

The ICC also issued summons to appear against three suspects for war crimes linked to the United Resistance Front: Abu Garda, Abdallah Banda and Mohammed Jerbo. After confirmation of charges hearings held in October 2009, the charges against Abu Garda were not confirmed. Proceedings against Mohammed Jerbo were terminated after evidence pointing towards his death were received. After a confirmation of charges hearing in December 2010, in presence of the accused, charges against [**Abdallah Banda**](http://www.icc-cpi.int/iccdocs/PIDS/publications/BandaEng.pdf), commander-in-chief of the Justice and Equality Movement (JEM) Collective-Leadership, component of the United Resistance Front, were confirmed on 7 March 2011. He is accused of three counts of war crimes committed in an attack against the African Union Peacekeeping Mission at the Haskanita Military Group Site in Darfur-Sudan, that took place on the evening of 29 September 2007. In order to ensure the accused’s presence at trial, which date has not yet been set, an arrest warrant for war crimes was then issued on 11 September 2014[[31]](#footnote-31).

Just like Sudan, Myanmar is not a state party to the Rome Statute of 1998. But this does not mean that Myanmar nationals who are responsible for the atrocities that happened in the country should just be left like that. The Security Council should refer Myanmar to ICC the same way it did to Sudan in its Resolution 1593 (2005) on 31 March 2005. The ICC may exercise its jurisdiction over crimes listed in the Rome Statute committed on the territory of Myanma, or by its nationals.

### 4.6.2 SECURITY COUNCIL USE OF FORCE IN LIBYA

UN Security Council Resolution 1973 of 17 March 2011 is an example of the authorisation of the use of force by the UN Security Council. On the 17 February 2011, soon after the outbreak of protests in Egypt and Tunisia, which marked the beginning of ‘The Arab Spring’, Libyans in Benghazi joined in peaceful protests against the oppressive rule of Colonel Muammar Gaddafi. They demanded that he step down after 42 years of ruling Libya and called for an open, democratic and inclusive Libya. They demanded the end of an era of oppression and gross human rights violations in the country, such as those committed in 1996 in the Abu Salim prison. The response of Gaddafi to this protest with armed violence against civilian protesters ignited a civil war between the government forces in support of Gaddafi and the opposition armed forces formed by the rebels.

On 17 March 2011, the UN Security Council, acting under Chapter VII of the UN Charter, adopted Resolution 1973 authorizing member states ‘to take all necessary measures […] to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory[[32]](#footnote-32).

### 4.6.3 NATO’S INTERVENTION IN KOSOVO.

It is widely accepted that the action taken by NATO was unlawful given that the UNSC had not authorised the intervention and it could not be considered to be action taken in self defence. It was however considered to be a legitimate use of force given the need to prevent ongoing gross human rights violations. The late Antonio Cassese, a prominent legal scholar, said of the matter that "from an ethical viewpoint resort to armed force was justified. Nevertheless...I cannot avoid in the same breath that this moral action is contrary to current international law". The Independent International Commission on Kosovo also concluded that the intervention was illegal but legitimate based on an emerging international moral consensus. [15] It is also important to note that NATO’s intervention was never formally criticised which can be considered tantamount to widespread acceptance that it was the correct course of action in the circumstances, despite it amounting to a breach of international law at the time.

When the above given case studies are clearly examined, it will be seen that they is some similarities between the humanitarian crises that happened in the three countries above and what has been happening in Myanmar from past decades up to this moment. The actions taken against the above the above three states by the international community were of great success that brought to an end the atrocities that were happening in those countries at that time. From the case studies, it is either the UNSC directly intervened to curb the catastrophes in the above states or there was a humanitarian intervention as in the case of Kosovo. If the same methods that were applied in the states above are applied in Myanmar at the moment, the humanitarian crisis in the country could have been contained long time ago. Based on the above case studies, it is absolutely possible for the Security Council to bring to an end the atrocities that have been committed against the Rohingya Muslims. The Council has to bring into effective implementation the powers conferred upon it by Chapter VII of the Charter. If this is done the

same way it was done in Sudan, Libya and Kosovo, then the peace of Rohingya Muslims and Myanmar at large that had long been lost would be retrieved.

# 5.0 CHAPTER FIVE: CONCLUSION AND RECOMMENDATIONS.

## 5.1 CONCLUSION

This study has investigated the mandate of the United Nations Security Council in suppressing the commission of crimes against humanity in Myanmar. The Myanmar conflict is an internal one that started since 1948 between th Budhists and the Rohingya Muslims after the country attained its independence from the British. Over the years, the Rohingyas have been traumatized because of the inhumane acts inflicted upon them by the Budhists, who cover a large part of the country’s population. The situation deteriorated in late August 2017 when murder, rape, deportation and persecution were the order of the day for Rohingyas as they have been the victims of these atrocities. These entire acts amount to crimes against humanity as envisaged under Article 7 of the Rome Statute of 1998.

As a body mandated with the responsibility of ensuring that peace and security prevails in each and every corner of the world, the United Nations Security Council has been reluctant and defunct to curb the situation in Myanmar despite it having vast powers granted to it by chapter VII of the United Nations Charter. For this reason, I chose to come up with this study to elucidate on what the Security Council should do to curtail the oppressions against the Rohingya Muslims that have been witnessed for decades leaving thousands of them dead and hundreds of thousands of them left homeless and traumatized seeking refuge from neighboring countries like Bangladesh.

It is high time for the Council to impose sanctions, arm embargoes, and military intervention. This will absolutely aid in curtailing the atrocities that are witnessed in Myanmar. Talking alone and condemning the humanitarian crisis has proved to be inadequate and insufficient. Proper actions have to be taken. Provisions of Chapter VII of the UN Charter have to b implemented. These are the same measures that were taken in Sudan, Libya, Sierra Leone, Namibia and were fruitious. Why shouldn’t they be imposed on Myanmar and see the outcome of it? If implementation of Chapter VII becomes impossible with fear that China and Russia will exercise their veto power in support of Myanmar, then there will be need for humanitarian intervention as what NATO did in Kosovo. Protection of helpless civilians’ lives is more significant than the national interests that China and Russia has in Myanmar. It is undoubtedly possible for the Security Council to bring to an end the atrocities if it implements what is contained in Chapter VII of the UN Charter with regards to its powers.

## 5.2 RECOMMENDATIONS

In different situations countries have blamed the Security Council for being ineffective in carrying out its functions by ensuring that citizens from various states of the world enjoy everlasting peace and security. Gross violations of human rights are witnessed in different corners of the world but the Security Council has totally failed to contain these situations. Therefore, in order to address this serious problem, I recommend the following:

1. Amendment of the UN Charter to limit the powers of the permanent members of the Security Council as in some occasions which require serious action, the members exercise this right to suit their interests.
2. Reformation of the Council to allow new ideas from other countries.
3. Humanitarian intervention should be made lawful in situations where need arises.

1. <http://lukasodaniel.github.io/reli77-Burma/html/postcolonialism.html> [↑](#footnote-ref-1)
2. Ibid [↑](#footnote-ref-2)
3. Ibid [↑](#footnote-ref-3)
4. <https://en.wikipedia.org/wiki/Rohingya_people> [↑](#footnote-ref-4)
5. <http://www.philstar.com/world/2017/09/17/1740004/history-persecution-myanmars-rohingya-muslims> [↑](#footnote-ref-5)
6. Ibid [↑](#footnote-ref-6)
7. Ibid [↑](#footnote-ref-7)
8. Ibid [↑](#footnote-ref-8)
9. <https://legaldictionary.net/crimes-against-humanity/>. [↑](#footnote-ref-9)
10. Article 7 of the Rome Statute of 1998 [↑](#footnote-ref-10)
11. <https://en.wikipedia.org/wiki/Crimes_against_humanity> [↑](#footnote-ref-11)
12. <https://www.theguardian.com/world/2017/dec/14/6700-rohingya-muslims-killed-in-attacks-in-myanmar-says-medecins-sans-frontieres> [↑](#footnote-ref-12)
13. <http://edition.cnn.com/2017/11/12/asia/myanmar-rohingya-tula-toli-massacre-testimony/index.html> [↑](#footnote-ref-13)
14. <https://www.hrw.org/news/2017/09/25/crimes-against-humanity-burmese-security-forces-against-rohingya-muslim-population> [↑](#footnote-ref-14)
15. <https://www.hrw.org/news/2017/09/25/crimes-against-humanity-burmese-security-forces-against-rohingya-muslim-population> [↑](#footnote-ref-15)
16. Ibid [↑](#footnote-ref-16)
17. Ibid [↑](#footnote-ref-17)
18. Al-Qaida Sanctions Committee, Arms Embargo: Explanation of Terms ((2015), page 1. [↑](#footnote-ref-18)
19. <https://www.hrw.org/news/2017/12/12/un-security-council-meeting-chance-act-myanmar> [↑](#footnote-ref-19)
20. <http://www.aljazeera.com/indepth/opinion/arms-embargo-myanmar-save-rohingya-170924081030160.html> [↑](#footnote-ref-20)
21. <http://www.rohingyablogger.com/2017/11/un-security-council-refer-burma-to-icc.html> [↑](#footnote-ref-21)
22. Ibid [↑](#footnote-ref-22)
23. Ibid [↑](#footnote-ref-23)
24. <https://www.usnews.com/news/world/articles/2017-09-28/un-says-number-of-rohingyas-fleeing-myanmar-now-over-500-000> [↑](#footnote-ref-24)
25. <http://www.responsibilitytoprotect.org/index.php/crises/128-the-crisis-in-burma/793-burma-resolution-in-security-council-vetoed-by-russia-and-china-implications-for-r2p> [↑](#footnote-ref-25)
26. <http://www.thedailystar.net/world/rohingya-crisis-china-russia-united-nations-security-council-action-myanmar-1468975> [↑](#footnote-ref-26)
27. <https://publications.parliament.uk/pa/cm201314/cmselect/cmdfence/writev/intervention/int10.htm> [↑](#footnote-ref-27)
28. Ibid [↑](#footnote-ref-28)
29. Ibid [↑](#footnote-ref-29)
30. <https://www.fidh.org/en/region/Africa/sudan/the-icc-and-sudan-questions-answers> [↑](#footnote-ref-30)
31. Ibid [↑](#footnote-ref-31)
32. <http://www.open.edu/openlearn/society-politics-law/the-use-force-international-law/content-section-1.2> [↑](#footnote-ref-32)