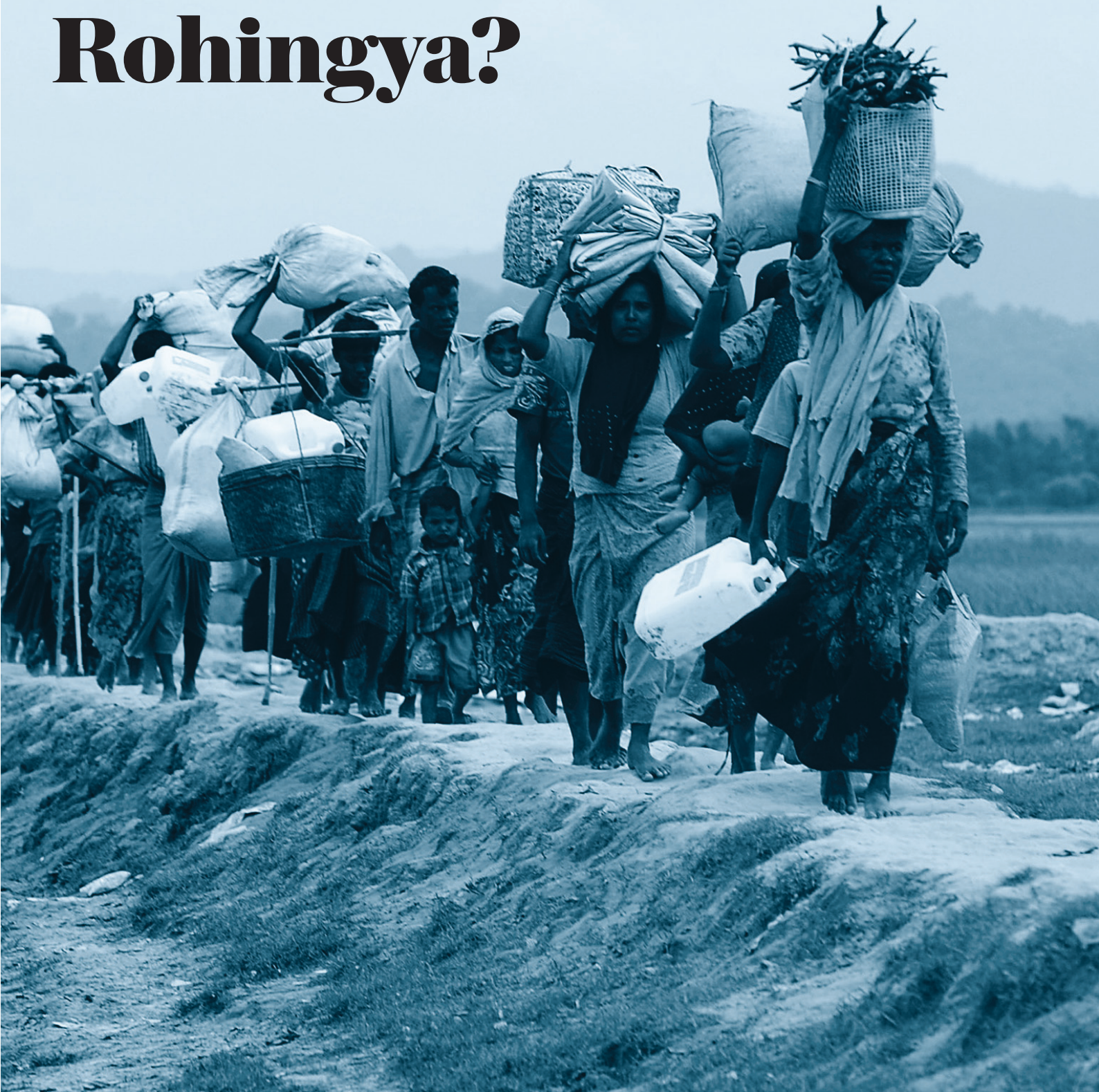


# What next for the Rohingya?





# The world must hold 'democratic' Myanmar to account for its persecution of the Rohingya



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## EXECUTIVE SUMMARY

The Rohingya people have faced sustained persecution in Burma/Myanmar since it gained independence in 1948. At the core of this discrimination lies the false narrative that they have no place in the ethnic mix of the country because, it is alleged, they migrated from what is now Bangladesh in the 19th century.

At its most benign, this falsity resulted in them being denied full citizenship in 1948 (though they were granted conventional civic rights). By the 1970s, the country's military dictatorship began taking a series of steps to strip them even of this limited status and, as a result of several campaigns of violence, expelled many to Bangladesh.

By the time a limited democracy was restored to Myanmar in 2010, the remaining Rohingya had lost all of their civic rights.

Since this return to democracy, the Rohingya have faced murderous persecution. As a result of the violence in 2012 and 2013, about 600,000 fled (mostly to internal camps). The military onslaught in 2017 drove out a further 1 million, who fled to Bangladesh where they eke out an existence in the largest refugee camps in the world.

If their plight is not resolved by concerted efforts to guarantee a safe and protected return to their homes, the Rohingya face a future in which they are denied citizenship in their own state and lack proper refugee status

in the places to which they fled.

So far, Western policy has been too supportive of the National League for Democracy (NLD), the governing party in Myanmar. The persecution of the Rohingya has largely gone unremarked upon, as Western nations take the simplistic view that Myanmar is on a bumpy road to democracy, and fear that any pressure they apply might push it into China's arms.

This has to stop. The NLD and Myanmar's military are in perfect accord over the status of the Rohingya, and 60 years of state-sponsored lies means there is no widespread sympathy in the country for their plight.

As long as the West fails to press the NLD, and its leader Aung San Suu Kyi, the Rohingya will remain stateless and persecuted. The situation facing those still in Myanmar is so bad that the International Court of Justice has demanded (but not yet received) a statement from the NLD explaining how they intend to protect this "extremely vulnerable" community.

There is no meaningful form of democracy that is based on expulsion, incarceration and the denial of basic human rights to 1.6 million of a state's citizens. Treating Myanmar as a true democracy leads only to silence in the face of genocide, and so can no longer be considered an acceptable response by any external state or agency.



*Here is a real risk that the Rohingya will end up suffering the same fate as the Palestinians*

## INTRODUCTION

**S**ince the return of partial democracy in Myanmar in 2010, the Rohingya have been the target of persecution, ethnic cleansing and genocide. As of now, about 1 million Rohingya are living as refugees in the area around Cox's Bazaar in Bangladesh,<sup>1</sup> having fled the military violence of 2017. A further 600,000, having been displaced by ethnic violence in 2012 and 2013, are held in internal camps in Rakhine state, completely at the mercy of the military authorities.<sup>2</sup>

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The Government of Myanmar has been accused at the International Court of Justice (ICJ) of genocide,<sup>3</sup> where Aung San Suu Kyi sought to defend the military violence and

avoided using the name Rohingya.<sup>4</sup>

The ICJ has been sufficiently concerned about the fate of the Rohingya that remain in Myanmar that it has ordered the government to show how it will protect this “extremely vulnerable”<sup>5</sup> community from the risk of further violence.

While this does not indicate that the ICJ will find the 2017-18 attacks to have been an act of genocide, it is a clear statement of concern and also means that any violence toward the remaining Rohingya will be considered an act of genocide.

With this warning in place, Myanmar can no longer use the defence that it was unaware of what was happening or that it did not reflect deliberate state policy.<sup>6</sup>

## INTERNATIONAL COURT OF JUSTICE CASE

The ICJ hearing follows a number of critical UN reports<sup>7</sup> into the failings of previous policy initiatives to protect the Rohingya, and the extent to which they are victims of systemic persecution. At the core of this is almost 60 years of propaganda, first by the military dictatorship and then from the National League for Democracy (NLD), that the Rohingya have no place in Myanmar because they are really immigrants from Bangladesh.<sup>8</sup> That this immigration supposedly happened in the 19th century under British rule is seen as no obstacle to denying them basic human rights in the 21st century.<sup>9</sup>

However, this domestic consensus between the military and the NLD frames Myanmar's

response. Most citizens from the Buddhist Burman majority now believe the Rohingya are foreigners.<sup>10</sup> There is no domestic pressure on the NLD to stop the persecution, and every reason to suspect that it actually agrees with the expulsion of the Rohingya.<sup>11</sup>

Given this, the challenge to the international community is how to respond. Bangladesh does not wish to host the Rohingya indefinitely and is notionally negotiating with Myanmar to return them.

However, to do so would be to return them to a country that denies them basic citizenship and has just burned their villages to force them to flee (as well as using rape and murder to force them out).

## GLOBAL CONSTRAINTS

To date, much of the international response has been constrained by two attitudes. One is that Myanmar is on the road to a conventional democracy and that is important not to push the NLD on issues over which it will come into conflict with the military.<sup>12</sup> The other is a fear that pushing the regime over human rights will lead it to rely more on China.<sup>13</sup>

In reality, however, the NLD and the military are in perfect alignment and Myanmar has already accepted substantial Chinese influence. Djaouida Siaci, a lawyer specializing in cross-border litigation and international criminal investigations, who has worked on the Rohingya's legal case, noted that China has already threatened to use its veto at the UN if the situation in Myanmar is raised.<sup>14</sup>

In this situation, there is a real risk that the Rohingya will end up suffering the same fate as the Palestinians. Denied any right of return, denied citizenship in their host countries and in a permanent limbo of statelessness, they risk their effective destruction as a community.

Bangladesh has the most to gain from pressuring Myanmar but has contradictory motives. On one level, embarrassing Myanmar is useful on the international stage and it is most likely that Bangladesh provides some support to the Rohingya armed group now active in Rakhine. Equally, it clearly wants the Rohingya to go but is unable to ensure a safe return.

## RETURN TO MYANMAR

Such a return can happen only if there are significant changes in Myanmar. This will not be easy, not least because the persecution of the Rohingya has been going on for almost 60 years. At its heart are the various ethnic categories that form the core of Myanmar's internal structures,<sup>15</sup> which have to be replaced with a concept of basic citizenship based on international norms.



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This cannot happen unless the government of Myanmar is directly challenged, but citizenship and inclusion in wider society are fundamental to preventing further persecution.<sup>16</sup> Therefore the international community must drop its optimistic view that in some way the situation will correct itself, if only Myanmar is given time and space to adapt. It has no such intention and all external interaction must start from this basic assumption.

## GENOCIDE RULING

The ICJ's preliminary ruling is a powerful tool. It will be many years before the court case is concluded and it is possible that this will not yield a charge of genocide for the events of 2017. For such a charge to be upheld, not only must a given group have been destroyed but the regime must be shown to have been both complicit and actively involved.<sup>17</sup> This is a substantial threshold that implies a degree of active planning.

However, the 2020 ruling that Myanmar must report on how it will protect the remaining Rohingya changes the stakes. While it is worth noting that so far Myanmar has not actually responded, the intent is clear: if there are attacks on the Rohingya in the internal camps, the regime cannot use this defence of a lack of intent.

So far, the ICC/ICJ have been slow but thorough in dealing with war crimes and charges of genocide from conflicts such as those in Yugoslavia and Rwanda. But the implication is clear. Neither the generals nor Aung San Suu Kyi will be able to evade a charge of genocide if there is more violence.

Such a charge could bring only a small degree of justice after the events. So for humanitarian reasons the immediate need now is both to stop any more internal violence and safely return the Rohingya to their homes.





## RECOMMENDATIONS

This suggests a series of actions:

**1** It is vital that the name Rohingya is used by all international bodies engaged in Myanmar. Pandering to its sensitivities on this point could only be justified if it would lead to a better outcome — and all the evidence suggests it has no intention of stopping the persecution.

**2** Citizenship and civic inclusion for the Rohingya must be part of any discussion with Myanmar about its electoral processes. Anything less allows it to carry on systemic exclusion while claiming to be building a democratic regime.

**3** Pressure must be put on Myanmar for the safe return of the Rohingya. In this context, safe return must include restitution of lands stolen since 2010 and protection for the Rohingya community. Again there is no reason to believe that Myanmar will do this without substantial pressure.

**4** Those Rohingya in the internal camps must be given access to education and health care and allowed to work. Reinstating UN involvement in running the camps is also important.<sup>18</sup>

## ARAB NEWS

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The documentary filmmaker Shafiur Rahman, who has spent considerable time reporting on the Rohingya, has stressed that ending genocidal policies in Myanmar is not going to be easy but is essential if the persecution is to end.<sup>19</sup> The Rohingya have paid a high price for Western tolerance of the NLD since 2010, and resolving the situation will mean real challenges for Myanmar in turn.

If it fails to meet those challenges then Myanmar will be a democracy in name only. Having elections every five years while disenfranchising substantial numbers of your citizens is not democracy.

Equally, there is a risk that Myanmar becomes more reliant on China for protection but that is uncomfortable for the regime too. It has long-standing fears of Chinese influence stretching back to the immediate post-independence period<sup>20</sup> and may well not wish to become even more reliant on the Chinese — not least at a time when most of the rest of the world is challenging Chinese policies in Xinjiang, Hong Kong and South-East Asia, and over its response to the Covid epidemic.

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