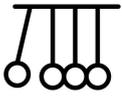


# **The Statelessness of the Rohingya in Myanmar and Its Legal Consequences**

**LAW**

**AHSEN ORUÇ**

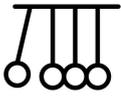


## Abstract

This study examines the process of statelessness imposed on the Rohingya Muslims living in Myanmar and its humanitarian, social, and legal consequences. Within Myanmar's ethnically and religiously diverse social structure, the Rohingya have long faced serious human rights violations such as discrimination, violence, and forced displacement. Stripped of citizenship under the 1982 Citizenship Law, the Rohingya have experienced severe restrictions in accessing fundamental rights, including education, healthcare, employment, and security. In particular, military operations and intercommunal clashes in the Rakhine State have forced hundreds of thousands of people to flee to neighboring countries, most notably Bangladesh. This article examines the historical background of the Rohingya, the concept of statelessness, and the implications of these events from the perspective of international law.

## Myanmar

You may have heard of the country of Myanmar before, either directly by its current name or by its former name, "Burma"; however, I would like to begin my writing by briefly discussing the country itself in order to prevent any possible confusion. Having gained independence from the United Kingdom in 1948, this country is the second-largest nation in Southeast Asia. Although the fact that it achieved independence might suggest otherwise, Myanmar's history has long been associated with ethnically driven conflicts, civil war, weak governance, and deprivation. In a country of approximately 57 million people, where the majority of the population is Buddhist, the presence of more than 135 minority groups and over 100 languages forms the foundation of these tensions. In the country where the



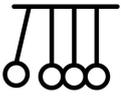
government was overthrown by a military coup in 2021, the most widely known of these events is the statelessness imposed on the Rohingya, more commonly referred to as the “Rakhine Genocide.”

## Who Are the Rohingya?

If you research the Rohingya, you will find that many articles refer to them with different descriptions, such as “the world’s largest stateless population” or “one of the most persecuted communities in the world.” Contrary to what might be assumed, the majority of the country’s population is not Muslim but Buddhist. Although there is ongoing debate about how far back their presence in the region dates and where they first originated, according to many historians and some Rohingya accounts, they have lived in the lands of Burma since the 12th century. Their population of approximately 1.1 million constituted about 4 percent of the country’s total population. However, especially after the military coup of 1962, the treatment of the Rohingya in this country, characterized by significant religious, linguistic, and ethnic diversity, became markedly different from that of the majority population. Following the tragic massacres, rapes, and persecution they faced in 1978, four years later, they encountered a system that excluded them from the more than 135 officially recognized ethnic groups in the country and rendered them stateless.

## What is *Statelessness*?

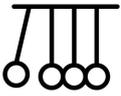
Before delving into the depth of the main events, I believe there is a concept whose meaning must first be understood: what statelessness means and the conditions into which it pushes individuals. According to the United Nations High Commissioner for Refugees (UNHCR), the term "statelessness" is defined as “not being considered as a national by any



state under the operation of its law.” In short, being stateless means not belonging to the nationality of any country; it means being without a legal identity. While some individuals are born stateless, others become stateless later in life. The Rohingya living in Rakhine are among the most prominent examples of communities that have been rendered stateless. Regardless of the reason for statelessness, it leads to very serious problems because it removes individuals’ access to many rights. Individuals without a homeland or a legal identity largely lose access to many fundamental rights necessary for sustaining life, such as receiving education, working, securing shelter, getting married, and accessing healthcare services. This situation clearly demonstrates the seriousness and underlying causes of the events that I will now discuss.

## Rakhine Genocide - Statelessness

Forty-four years ago, after the Rohingya, who had lived for centuries in the lands of Rakhine, were officially declared stateless by the state, the scale of the suffering and persecution they endured became immeasurable. From the beginning of these events to the present day, nearly every year, hundreds of thousands of Rohingya have been forced to leave their homes because of the hardships associated with their “stateless” identity, migrating by sea, particularly to Southeast Asian countries such as Bangladesh, Thailand, and Malaysia, which are neighboring states of Myanmar. The justification presented for labeling them as stateless was that the migration of the Rohingya during the period of British rule, before Myanmar gained independence, was considered “illegal.” As can be seen in many interviews, those who fled had a single wish: not to be sent back to Myanmar. Meanwhile, those who could not migrate due to relations with neighboring countries and were forced to remain in Rakhine became the focal point of attention during the outbreak of intercommunal violence in 2012. As a result of these events, approximately 168,000 more people were displaced.

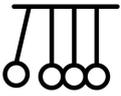


However, this represents only the tip of the iceberg. The deeper dimension of the crisis is connected to the genocide that took place in Rakhine in 2016, where most of the Rohingya who remained in Myanmar were living.

The events began toward the end of 2016 when several armed individuals attacked a Rakhine border police post located near the Bangladesh border, an area already affected by migration tensions. The attack resulted in the deaths of approximately nine personnel and the serious injury of four others. As the attackers were believed to be Rohingya Muslims, pressure and repression against the community gradually intensified. In response, the Myanmar military carried out numerous operations against Muslims in Rakhine. During these operations, 230 people were arrested, and dozens were killed. As a result, tens of thousands of Rohingya were once again forced to abandon their homes. Following these developments, the situation began to be examined internationally and was taken up by the United Nations.

### From the Perspective of the Rohingya

There are many personal stories that can be examined in order to understand the hardship experienced by those who lived through these events. In an article published by the BBC four years ago, Rohingya Muslims who migrated to India were quoted as saying: “Kill us if you must, but do not send us back to Myanmar, the place we fled.” Rehman, one of the hundreds of thousands of Muslims who escaped, was forced to flee to Bangladesh together with his wife. One year later, when their daughter Yasmin was born, they believed that leaving Bangladesh would offer a better future because of the harsh conditions of what they described as an “island prison.” In 2020, they moved to India, where it is estimated that between 10,000 and 40,000 Rohingya were living. However, when the Hindu government labeled them as “illegal refugees,” they once again found themselves trapped in a situation

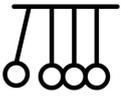


that repeated their fate from the very beginning. Fearing deportation back to the place they had fled, reliving the suffering they had already experienced, and seeing his child's future destroyed, Rehman expressed his despair in the following words: "My child's future looks bleak. The Indian government does not want us either, but I would rather they kill us than deport us back to Myanmar."

## Legal Consequences

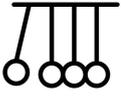
The persecution that continued for many years began to be addressed by the United Nations (UN) starting in 2016. The United Nations Human Rights Council described the genocide in Rakhine as "nauseating" and stated that such violence cannot be considered acceptable. It was further emphasized that characterizing the situation as a "clearance operation" could not be regarded as legitimate, and the leadership of Myanmar was called upon to immediately halt these operations.

Finally, in order to better understand the legal dimension and the gravity of these events, we can examine the articles of the European Convention on Human Rights. Article 2, the Right to Life; Article 3, the Prohibition of Torture; Article 5, the Right to Liberty and Security; and Article 7, No Punishment without Law, demonstrate that Myanmar's military operations against the Rohingya, the restriction of their security, the deaths that occurred, and the conditions forcing them into displacement are prohibited under international law and indicate that Myanmar has disregarded these legal obligations.



## Conclusion

In conclusion, the experience of the Rohingya Muslims in Myanmar clearly demonstrates how severe the consequences of statelessness can be for both individuals and societies. After being stripped of their citizenship, the Rohingya largely lost access to fundamental rights and were forced to live under conditions of violence, forced displacement, and insecurity. The events that took place in Rakhine and the mass migrations that followed revealed that this situation is not only a regional issue but also a serious human rights concern that has drawn the attention of the international community. Evaluations made by the United Nations and the legal provisions examined within the framework of international law further demonstrate that these events are incompatible with fundamental human rights. Therefore, the situation experienced by the Rohingya can be considered an important example illustrating the destructive effects of statelessness and discrimination on human life.



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