



STUDY GUIDE

EKMUN 2025

ICC

**The Rohingya Genocide in Myanmar: Prosecuting the
Military Junta and Addressing International Inaction
before the ICC**



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1- Letter From Secretary General

Dear Delegates,

As the Secretary-General of EKMUN'2025, it is my greatest honor to welcome you to this year's conference. Soon, we will come together to engage in discussions that mirror the complexity and importance of real-world diplomacy. Each one of you brings a unique perspective, a distinct voice, and an ambition to create change and it is exactly this diversity that makes Model United Nations such a powerful experience.

Over the upcoming days, you will find yourself not only debating international matters but also stepping into the shoes of world leaders, policymakers, and diplomats. The preparation, dedication, and curiosity you bring to this conference will shape not just your experience, but the overall atmosphere of cooperation and respect that defines EKMUN'2025

Throughout this conference, you will not only have the opportunity to discuss global issues but also to develop essential skills such as critical thinking, teamwork, and negotiation. Remember that Model United Nations is not just about reaching resolutions it is about understanding perspectives, fostering respect, and finding common ground among differences.

I strongly encourage each one of you to be bold, respectful, and solution-oriented during your sessions. Let this conference be a place where your voices are heard, and your ideas make an impact.

I wish you all productive debates and unforgettable memories.

Warm regards,

Ayliz Çolak

Secretary-General of EKMUN'2025

2- Letter from USG of ICC

Distinguished Advocates and Honorable Judges,

It is both a privilege and an honor to welcome you to the International Criminal Court Committee of this conference. You were not gathered here by mere coincidence, but by choice — a choice driven by your intellect, sense of justice, and passion for truth. Each of you represents the courage to question, the discipline to listen, and the will to act when silence would be easier. I have high expectations from all of you — not because I doubt your capabilities, but because I trust your potential. I expect elegance not only in your words but also in your manner. I expect self-awareness, because understanding one's own stance is the first step toward understanding others. I expect hard work, teamwork, and brilliance — because justice demands all of them. And above all, I expect integrity. Justice without integrity is nothing but noise. As a committee, we shall be strict and focused, yet open-minded and cooperative. Our discussions will be fierce but respectful, our ideas diverse but purposeful. There will be moments of challenge and disagreement, but I believe those very moments will define your strength as advocates and your unity as a committee. We are not here merely to simulate justice — we are here to feel its weight, to grasp its fragility, and to honor its essence. This MUN may not rewrite the injustices of history, but it gives us the rare privilege to imagine what a fairer future might look like. If history is written in ink, let us be the pens that choose the color of tomorrow. The cases you will face, the debates you will hold, the verdicts you will shape — they all carry meaning beyond these walls. So, write wisely, argue boldly, and speak with purpose. You may not know me personally but know this: I will lead this committee with unwavering reliability, transparency, and respect. My fellow board members, Defne Öcal and Ege Utku Bal, share this same commitment. Together, we will guide you through every proceeding, ensuring that this experience challenges you, shapes you, and ultimately strengthens you. One day, when this conference ends and our voices fade, I want you to remember one thing — you stood here when ideals met reality. You spoke when silence was easier. You stood for justice when convenience whispered otherwise. Whether or not we meet again, make sure that your presence here leaves a trace — one that time cannot erase. Because you are not only the future — you are the foundation that the next generations will live, build, and perhaps even die upon.

With sincerity, belief, and respect,
Batuhan Köseoğlu
Under-Secretary-General
International Criminal Court Committee

3. Rules of Procedure

Scope The regulations apply to the International Criminal Court (ICC) simulation during this Model United Nations conference. They are written in a manner to mimic a legal process and provide room for debate, presenting evidence, as well as creative interactions based on the Rome Statute

Authority of the Chair The Presiding Judge (Chair) shall have final control over procedure, rules of interpretation, and decorum. The Chair can exercise discipline, call recesses, and rule on objections and motions.

Composition of the Committee The ICC could consist of:

1. Judges
 2. Prosecution Team
 3. Defense Team
 4. Evidence Officer
 5. Witness Representative
- The Crisis Team and Chairboard (President Judges and Registrar) are not counted within these delegate roles due to them being external.

Official Language English shall be the only official working language of the committee during the sessions under the Chairboard authority. All statements, documents, and submissions must be made in English.

Decorum and Professionalism All delegates should observe courtroom decorum. There is no place for disrespect, disruption, use of slang, or personal insults.

3.1 Structure and Functions of the Court

Judicial Bench The Judicial Bench shall comprise: 1. One Presiding Judge (Chair) 2. One Vice President Judge

Responsibilities:

1. interpret and apply international law
2. Rule on procedure, motions and objections
3. Ask questions to the witnesses
4. Decide and render a final judgment by majority vote
5. Note: The Judges must remain objective and should not indulge in political debate.

Prosecution Team The Prosecution is the Office of the ICC Prosecutor and it has the mandate of establishing the guilt of the Accused to reasonable doubt. Members may include:

1. Prosecutors
2. Advocates
3. Witness Representative
4. Evidence Officer Roles:
 1. Present evidence and legal submissions
 2. Cross-examine and question witnesses
 3. Submit exhibits

Defense Team The Defense is the sworn representative of the Accused and under obligation to impeach the case for prosecution, uphold due process, and establish innocence or reasonable doubt. Membership may be:

1. Defendants
2. Advocates
3. Evidence Officer
4. Witness Representative Responsibilities:
 1. Deny the charge and factual foundation
 2. Evidence of exoneration
 3. Cross-examine witnesses for prosecution
 4. Protect the rights of the Accused ,
 5. Note: The Accused may testify or refuse to testify. No inference of guilt can be made from silence.

The Accused The person on court, charged with international crimes (ex. war crimes, crimes against humanity, genocide). Rights:

1. Right to remain silent
2. Right to legal counsel
3. Right to present a defense
4. Right to examine and be examined

Witnesses are individuals called by either side to provide testimony. Witnesses must:

1. Remain in character
2. Respond truthfully based on their brief
3. Be examined and cross-examined by both sides

3.2 Pre-Hearing Procedure

Opening of the Court The Presiding Judge will officially open the session and confirm the quorum. The Chair may give a brief orientation to set procedure and decorum. Judges and parties will introduce themselves by name and designation.

Reading of the Charges The Chair or Chief Prosecutor will read the charges preferred against the Accused. They can be war crimes, crimes against humanity, genocide or crime of aggression. The Accused will be questioned if they plead not guilty or guilty.

Statements Pre-Trial Both parties will give Opening Statements briefly (no more than 5 minutes to both sides): Prosecution reads aloud the allegations of the crimes, theory of the case, and a flavor of evidence. Defense states its most important refutations, legal shields, and stage-sets for strategy. Judges will not intervene.

Procedure Motions After the opening statements, the proceeding shall stand open for procedure motions, including:

1. Motion to adopt rules of time
2. Motion to introduce evidence
3. Motion to admit a witness
4. Motion to suspend/adjourn the session Motions will be decided by the Presiding Judge, with the guidance of the Chairboard if necessary Objections can be made by the opposing counsel and heard before determination.

. Disclosure of Witnesses and Evidence Both sides are required to provide a list of their intended witnesses (in sequence), subject to the course of events in the crisis. All pre-prepared evidence (documents, reports, films) has to be made available to the Court for reading. Evidence Officer (Defense or Prosecution) will introduce evidence through the use of accepted motions.

Examination of Witnesses A. Direct Examination Direct Examination is done by the party calling the witness (Prosecution or Defense). Questions should be open-ended (no leading questions). Exceptional circumstances allow judges to approve leading questions (e.g., hostile witness). B. Cross-Examination The adversary party performs the Cross-Examination, possibly with leading questions. Witnesses should stay in character and answer truthfully according to their brief or crisis updates.

Admission of New Evidence Either party may, at trial, request to introduce new or crisis-generated evidence by making a "Motion to Offer New Evidence." The evidence is:

1. Material to the charges
2. Authentic (can be challenged)
3. Newly undisclosed
4. The Judges will decide on admissibility after there has been a hearing of brief arguments and objections from both sides.

Closing Statements Both sides receive one uninterrupted speech wherein they can summarize their case. A. Prosecution Closing Statement (up to 5 minutes) Recaps evidence, recites the charges, and appeals to the burden of proof. B. Defense Closing Statement (up to 5 minutes) Brings to attention deficits in prosecution evidence, doubt about the law, and protecting rights of the accused. Judges will not ask questions in closing statements.

3.3 Deliberation and Judgment

Opening of Deliberation After closure of closing addresses, the hearing will be adjourned and closed for deliberation by the Chair. All those participating, except Judges, will be cleared from the physical or virtual court. Not more than three Judges can enter deliberation, led by the Presiding Judge.

Secret Deliberation Deliberation shall be secret and take place out of sight. Judges will deliberate on:

1. Witness credibility
2. Receptivity of evidence and weight thereof
3. Application of international law
4. The burden of proof: "Beyond a reasonable doubt"
5. Judges can fall back on applicable articles of the Rome Statute, case law precedent, and customary international law.

Judgment Form Judgment will be segmented into:

1. Summary of Charges
2. Summary of Proceedings
3. Findings of Fact
4. Legal Analysis
5. Final Verdict Judges can include individual opinions (concurring or dissenting) if they differ from reasons or findings.

A majority of the Judicial Bench rules a "Guilty" or "Not Guilty" verdict. The final ruling is made public by the Presiding Judge to the committee. Judges may also display additional sentencing upon a motion of guilty Accused:

1. Suggested sentencing (symbolic)
2. Orders of reparations or orders of further investigation The judgment reflects both majority and dissenting views if applicable. Dissenting opinions must be respectful and based on legal reasoning. The court may include recommendations for policy or institutional reform if necessary. Note: Since this is a Model UN simulation, sentences and penalties are symbolic and indicate committee closure.

3.4 Points, Motions, and Objections

3.4.1. Points

-Point of Order

To correct a procedural violation or misapprehension of rules. Can be raised against any speaker save the Judges. Disposed forthwith by the Presiding Judge. Point of Clarification For seeking clarification in respect of procedure, schedule, or ruling. Cannot be taken against a speaker and must be taken when the floor is available.

-Point of Personal Privilege (With Note-Paper)

Raised due to physical distress or technical snag (in online situations). May interrupt only in direct obstruction of the delegate to perform.

3.4.2. Motions

All motions shall be procedural, and not debatable, and is decided by the Presiding Judge unless expressly provided otherwise. The majority do not require any vote but could be objected to.

-Motion to Open the Session

Used as first use for opening of the committee formal meetings.

- Motion to Set Speaking Time

Used as calling for specified time for opening/closing remarks or examination session durations

-Motion to Introduce Evidence

Used to bring a document, video, or other evidence before the court for consideration. Must include: name, type, and relevance. The opposing party can protest.

-Motion to Recognize a Witness

Requests to have a listed or crisis-created witness brought in for examination. Must include: witness's name, side calling, and subject of relevance.

-Motion to Enter New Evidence

In the event of new or crisis-created evidence following initial disclosures. Must include the reason it was not brought earlier. Subject to Judge's discretion and objections

- Motion for a Recess / Suspension

Requested for breaks, private preparation, or judicial consideration. At the Judge's discretion; usually granted unless abused.

- Motion to Move into Judicial Deliberation

Requested to formally close hearings and begin Judges' private deliberation.

- Motion to Reopen the Courtroom

Requested to re-open the committee for the announcement of verdicts

3.4.3. Objections

Objections can only be made by legal counsels (Defense or Prosecution) during examinations or legal pleadings. Judges will decide right away: Sustained (approved) or Overruled (disapproved).

- Objection: Relevance Raised when the question or statement has no relation to the case or charges.

-Objection: Leading the Witness Raised on direct examination if counsel is filling the witness's mouth with answers.

-Objection: Speculation raised when a witness is being called on to assume facts not in evidence or speculate on unknowns.

- Objection: Hearsay Raised when a witness repeats a statement made out of court as fact.

-Objection: Asked and Answered Reserved when a question has already been properly posed and answered in the present examination.

-Objection: Badgering the Witness Reserved if the questioning becomes abusive, intimidating, or disrespectful

4. BACKGROUND SUMMARY

Myanmar is a Southeast Asian country that has long faced ethnic divisions and political turmoil. This has led to one of the most serious humanitarian crises of the 21st century. The Rohingya Muslim minority, mostly living in Rakhine State, has suffered from years of systematic discrimination, statelessness, and violence. In 2017, the Myanmar Armed Forces, known as the Tatmadaw, launched extensive "clearance operations" after attacks by Rohingya insurgents. These operations caused mass killings, widespread sexual violence, and the destruction of villages. Over 700,000 Rohingya fled to Bangladesh, resulting in one of the world's largest refugee crises.

The United Nations described these actions as a clear example of ethnic cleansing. Independent investigations found reasonable grounds to believe that crimes against humanity and possibly genocide occurred. Myanmar's government denied the accusations, claiming the military actions were legitimate counter-terrorism operations. However, satellite images, survivor accounts, and UN fact-finding missions contradicted these statements.

In 2019, The Gambia filed a case against Myanmar at the International Court of Justice (ICJ), accusing it of violating the Genocide Convention. The ICJ ordered provisional measures requiring Myanmar to prevent further acts of genocide. At the same time, the International Criminal Court (ICC) started an investigation into cross-border crimes, specifically the forced deportation of Rohingya into Bangladesh, which is a State Party to the Rome Statute.

The 2021 military coup made things worse. The junta increased repression against civilians, activists, and ethnic minorities while severely limiting humanitarian access to conflict zones. International bodies like the Independent Investigative Mechanism for Myanmar (IIMM) continue to gather and preserve evidence for future accountability.

Today, hundreds of thousands of Rohingya remain in refugee camps under harsh conditions, and accountability for the crimes committed is largely missing. The ICC's involvement aims to address impunity, uphold international criminal law, and provide justice for victims of crimes against humanity, war crimes, and possibly genocide.

5. TIMELINE OF KEY EVENTS

2012,

Communal violence breaks out in Rakhine State between the Rohingya Muslim and Rakhine Buddhist communities. Hundreds die, and thousands of Rohingya are displaced. This marks the start of increased segregation and movement restrictions.

2015,

Myanmar holds its first openly contested elections in decades. The National League for Democracy (NLD), led by Aung San Suu Kyi, wins. However, the Rohingya are largely excluded from voting due to citizenship restrictions under the 1982 Citizenship Law.

August 2017,

The Arakan Rohingya Salvation Army (ARSA) attacks several police posts. The Myanmar military launches massive "clearance operations." Entire villages are burned, thousands of civilians are killed, and over 700,000 Rohingya flee to Bangladesh. UN officials call the campaign a clear example of ethnic cleansing.

September–December 2017,

Reports from journalists, satellite images, and survivor testimonies expose widespread sexual violence, mass killings, and destruction of Rohingya villages. Human Rights Watch and Amnesty International demand international investigations.

2018,

The UN Fact-Finding Mission on Myanmar (FFM) concludes that there is enough evidence to warrant investigation and prosecution of Myanmar's top military leaders for genocide, crimes against humanity, and war crimes.

November 2019,

The Gambia files a case against Myanmar at the International Court of Justice (ICJ) under the Genocide Convention. The same year, the International Criminal Court (ICC) approved a preliminary investigation into crimes linked to the deportation of Rohingya to Bangladesh.

January 2020,

The ICJ orders provisional measures, requiring Myanmar to prevent genocide and to preserve evidence related to the alleged crimes.

February 2021,

The Myanmar military coup overthrows the elected NLD government. The Tatmadaw takes full control and declares a state of emergency. Civil protests are met with brutal force, resulting in thousands of civilian deaths and more internal displacement.

2022,

The UN establishes the Independent Investigative Mechanism for Myanmar (IIMM) to collect, analyze, and preserve evidence for future prosecutions in international courts. Evidence from digital, satellite, and witness sources continues to grow.

2023–2024,

Humanitarian conditions worsen. The military escalates attacks on civilian areas in Sagaing, Chin, and Rakhine States. Bangladesh continues to host nearly one million Rohingya refugees in critical conditions. The ICC's investigation remains ongoing, focusing on cross-border crimes like forced deportation, persecution, and related offenses.

2025 (Current Context),

Myanmar remains under military control with ongoing reports of atrocities. International accountability efforts continue, led by the ICC, ICJ, and IIMM. However, justice and repatriation for Rohingya refugees are still far from certain. The situation serves as a crucial case study for international criminal law concerning state sovereignty, jurisdiction, and accountability for mass atrocities.

6. LEGAL FRAMEWORK

The International Criminal Court (ICC) operates under the Rome Statute, which outlines four main international crimes: genocide, crimes against humanity, war crimes, and the crime of aggression.

Myanmar is not a State Party to the Rome Statute, but the ICC can still exercise limited jurisdiction because some crimes, such as the forced deportation of Rohingya into Bangladesh, a State Party, happened partly on Bangladeshi soil. This sets up a legal pathway for investigation and prosecution.

1. Genocide (Article 6, Rome Statute)

Genocide involves acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group. Relevant acts include killing group members, causing serious bodily or mental harm, deliberately inflicting conditions of life intended to destroy the group, preventing births, or forcibly transferring children.

Application to Myanmar:

The UN Fact-Finding Mission and the ICJ have identified evidence suggesting intent to commit genocide against the Rohingya. Patterns of mass killings, sexual violence, and village destruction may show an intent to destroy the group "in part." The ICJ case (*The Gambia v. Myanmar*) specifically focuses on Myanmar's violation of the Genocide Convention.

2. Crimes Against Humanity (Article 7)

Crimes against humanity are widespread or systematic attacks targeting a civilian population, with knowledge of the attack. They include murder, extermination, enslavement, deportation or forcible transfer, imprisonment, torture, rape, persecution, enforced disappearance, and other inhumane acts.

Application to Myanmar:

The Rohingya crisis clearly meets the "widespread and systematic" threshold. Evidence includes forced deportation, persecution based on ethnicity and religion, and sexual violence. These acts were part of a coordinated campaign by the Myanmar military and local authorities.

3. War Crimes (Article 8)

War crimes involve serious violations of laws and customs in armed conflict. They apply to both international and non-international conflicts.

Application to Myanmar:

Since 2017, internal armed conflicts have arisen between the Tatmadaw and various ethnic armed groups. Documented violations include intentional attacks on civilians, destruction of property, and using starvation as a method of warfare. These acts may qualify as war crimes if linked to armed conflict and committed with intent.

4. Jurisdictional and Procedural Basis

Territorial jurisdiction: Even though Myanmar is not a State Party, Bangladesh's territory provides legal grounds for ICC jurisdiction under Article 12(2)(a).

Personal jurisdiction: The Court may prosecute individuals (not states) responsible for planning, ordering, or carrying out crimes.

Complementarity principle: The ICC steps in only when national courts are unwilling or unable to prosecute. Myanmar's current judiciary is under military control, making accountability unlikely.

Ongoing investigation: The ICC Prosecutor continues gathering evidence, initially focusing on deportation and persecution, with the possibility of expanding to other crimes.

5. Related International Mechanisms

International Court of Justice (ICJ): Addresses state responsibility under the Genocide Convention.

Independent Investigative Mechanism for Myanmar (IIMM): Gathers and safeguards evidence for future ICC or national prosecutions.

UN Human Rights Council and OHCHR: Provide reports and testimonies supporting accountability efforts.

7. KEY ACTORS

Understanding the principal actors in the Myanmar crisis is essential for assessing both legal responsibility and political complexity. The following overview summarizes the main domestic, regional, and international stakeholders.

7.1 The Myanmar Military (Tatmadaw)

The Tatmadaw is the central perpetrator identified in multiple UN reports for committing mass atrocities against the Rohingya and other ethnic minorities.

It launched the 2017 “clearance operations” that led to killings, rapes, and forced displacement on a massive scale.

After the February 2021 coup, the Tatmadaw consolidated full control of the state, dissolving democratic institutions and suppressing dissent through violence.

Its top commanders — including Senior General Min Aung Hlaing — have been named in international reports recommending prosecution for genocide and crimes against humanity.

Legal relevance: The Tatmadaw's actions form the primary basis for ICC and ICJ investigations.

7.2 The Rohingya Population

The Rohingya, a Muslim minority concentrated in Rakhine State, have been systematically discriminated against for decades.

They are denied citizenship under Myanmar's 1982 Citizenship Law, leaving them effectively stateless.

Since 2017, over one million Rohingya have fled to Bangladesh; those remaining in Myanmar face restrictions on movement, education, and healthcare.

Legal relevance: Victims and witnesses of the alleged genocide and crimes against humanity. Their testimonies form much of the ICC's evidentiary base.

7.3 The National Unity Government (NUG)

Formed in opposition to the 2021 military coup, the NUG claims to be the legitimate government of Myanmar.

It includes members of the ousted National League for Democracy (NLD) and several ethnic representatives.

The NUG has expressed willingness to recognize ICC jurisdiction, in contrast to the junta, and supports international accountability efforts.

Legal relevance: Potential cooperative actor for ICC investigations if recognized by the international community.

7.4 Bangladesh

Bangladesh hosts nearly one million Rohingya refugees in camps such as Cox's Bazar.

It has borne a heavy humanitarian burden while calling for safe and voluntary repatriation.

Bangladesh's status as a State Party to the Rome Statute provides the territorial link that allows the ICC to investigate crimes connected to the deportation of Rohingya across its borders.

Legal relevance: Enables ICC jurisdiction; also a key humanitarian stakeholder.

7.5 ASEAN (Association of Southeast Asian Nations)

ASEAN has struggled to address the Myanmar crisis effectively due to its non-interference principle.

However, some members (notably Malaysia and Indonesia) have pushed for stronger regional responses.

The organization's limited unity has reduced its capacity to pressure the junta.

Legal relevance: Political actor with influence over humanitarian access and regional diplomacy.,

7.6 The Gambia and the International Court of Justice (ICJ)

The Republic of The Gambia, on behalf of the Organization of Islamic Cooperation (OIC), brought a case against Myanmar at the ICJ in 2019, accusing it of violating the Genocide Convention.

The ICJ's provisional measures require Myanmar to prevent genocidal acts and preserve evidence.

Legal relevance: Represents state accountability parallel to the ICC's focus on individual criminal responsibility.

7.7 The International Investigative Mechanisms

Independent Investigative Mechanism for Myanmar (IIMM):

A UN body collecting and preserving evidence of serious crimes for use in future prosecutions.

UN Fact-Finding Mission on Myanmar (FFM):

The earlier body that first concluded there were reasonable grounds to believe genocide occurred.

Legal relevance: Provide evidence and analysis to support ICC or national court cases.

7.8 The International Community

Actors such as the United Nations, European Union, and several Western states (e.g., USA, UK, Canada) have imposed sanctions on the military and supported accountability mechanisms.

China and Russia, however, have often blocked stronger UN Security Council action, citing sovereignty concerns.

Legal relevance: Their political stance determines the level of international pressure and cooperation with the ICC.

7.9 Background of the Situation

The Myanmar crisis, particularly the persecution of the Rohingya Muslim minority, stands as one of the most severe humanitarian tragedies of the 21st century. Beginning in 2017, the Myanmar military (Tatmadaw) launched a series of violent “clearance operations” in Rakhine State, claiming to target insurgents from the Arakan Rohingya Salvation Army (ARSA). In reality, these operations resulted in mass killings, widespread sexual violence, village burnings, and the displacement of over 700,000 Rohingya to neighboring Bangladesh.

The United Nations Fact-Finding Mission on Myanmar concluded that the actions of the Tatmadaw demonstrated genocidal intent, targeting the Rohingya population for systematic eradication. The International Criminal Court (ICC) and the International Court of Justice (ICJ) have since become focal points for accountability, with cases addressing crimes against humanity, war crimes, and potential genocide.

Despite global condemnation and extensive documentation of atrocities, justice remains elusive. Myanmar’s refusal to cooperate with international investigations, alongside geopolitical constraints within the UN Security Council, has hindered progress. The situation continues to challenge the international legal framework, testing the effectiveness of the ICC in addressing mass atrocity crimes committed by non-member states.

7.10 Legal Context

The International Criminal Court (ICC) faces complex jurisdictional challenges regarding Myanmar, as the country is not a State Party to the Rome Statute. However, in 2019, the ICC’s Pre-Trial Chamber ruled that it retains jurisdiction over crimes that partially occurred on the territory of a State Party — namely, Bangladesh, where the Rohingya were forcibly displaced. This legal interpretation allows the Court to investigate crimes against humanity, including deportation, persecution, and other inhumane acts.

The Office of the Prosecutor (OTP) opened a full investigation in 2021, focusing on evidence of mass displacement, sexual violence, and systematic persecution. Parallel to ICC proceedings, The Gambia filed a case before the International Court of Justice (ICJ), accusing Myanmar of violating the Genocide Convention. These dual processes represent a rare convergence of the ICC’s criminal accountability mechanisms and the ICJ’s state responsibility framework.

Despite these developments, significant obstacles remain. Myanmar’s lack of cooperation, the limited access of investigators to affected areas, and the protection of key military officials under national sovereignty continue to hinder progress. Furthermore, political divisions within the UN Security Council — particularly due to the positions of China and Russia — have prevented a referral under Article 13(b) of the Rome Statute.

Ultimately, the Myanmar situation raises critical questions about the reach and limits of international criminal justice when confronting non-member states and entrenched military regimes.

7.11 : Past International Actions & UN Involvement

7.11.1 UN Fact-Finding Mission on Myanmar (FFM, 2017–2018):

Established by the Human Rights Council to investigate alleged violations against the Rohingya. The mission concluded that there was a reasonable basis to believe that crimes against humanity and acts of genocide had been committed. Its reports provided critical documentation used in both ICC and ICJ processes.

7.11.2 Independent Investigative Mechanism for Myanmar (IIMM, 2018–present):

Mandated to collect, consolidate, and preserve evidence for future prosecutions at international courts. The IIMM works in coordination with the ICC and other judicial bodies, focusing on crimes against humanity, war crimes, and genocide.

7.11.3 International Criminal Court (ICC) Proceedings:

2019: ICC Pre-Trial Chamber determined it has jurisdiction over forced deportations of Rohingya into Bangladesh.

2021: Full investigation opened by the ICC Prosecutor, targeting Tatmadaw leaders and their role in cross-border crimes.

7.11.4 International Court of Justice (ICJ):

2019: The Gambia files a case against Myanmar under the Genocide Convention.

2020: ICJ orders provisional measures requiring Myanmar to prevent genocidal acts and preserve evidence.

The ICJ process focuses on state responsibility, complementing the ICC's individual criminal accountability mandate.

7.11.5 UN Security Council & General Assembly:

The Security Council has largely been paralyzed due to veto powers (China and Russia), preventing a full referral to the ICC.

The General Assembly has issued resolutions condemning atrocities, calling for humanitarian access, and urging cooperation with international courts.

7.11.6 Regional and International Responses:

Bangladesh: Provides humanitarian assistance and cooperates with ICC investigations.

ASEAN: Limited response due to the principle of non-interference, though some members advocate for humanitarian access.

Other States & NGOs: Countries such as the US, UK, and EU members have imposed targeted sanctions on Myanmar military leaders. Human rights NGOs continue to document violations and support evidence gathering.

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