

## Challenges in protecting Rohingya refugees: Pathways for international intervention

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Article Info	Abstract
<p><b>Research Article</b></p> <p>Received: 19 February 2024 Revised: 17 March 2024 Accepted: 19 March 2024</p> <p><b>Keywords:</b> Human rights violations, Ineffective mechanisms, International law, Rohingya refugee</p>	<p><i>This study examines the efficacy of international legal frameworks in preventing human rights abuses against the Rohingya in Myanmar. Despite global human rights conventions, the ongoing crisis highlights a stark disconnect between international norms and their enforcement. The study scrutinizes the limitations of key international bodies, particularly the United Nations Security Council (UNSC), and the challenges posed by national sovereignty and geopolitical dynamics that hinder effective human rights protection. Utilizing qualitative analysis of existing literature, this research identifies the systemic shortcomings within international mechanisms and the inadequate application of the Responsibility to Protect (R2P) principle in Myanmar's context. The findings suggest an urgent need for reform within international legal frameworks and the implementation of more effective measures to uphold human rights universally and ensure the safeguarding of vulnerable groups like the Rohingya. The paper concludes with recommendations to strengthen international legal measures, increased accountability for human rights violators, and a more assertive global stance against violations, aiming to bridge the gap between international legal commitments and real-world implementation.</i></p>

### 1. Introduction

The ongoing plight of the Rohingya, a Muslim minority group in Myanmar's northwestern Rakhine State, epitomizes one of the most dire human rights crises of the modern era (Fuad & Dadan, 2022). The systematic persecution of the Rohingya has called into question the efficacy of the international community's commitment to human rights protection (Ahmed & Emtiaz, 2020; Faisal, 2020). Historically marginalized and stateless, the Rohingya's struggle has intensified amid Myanmar's political transition, exposing critical shortcomings in global human rights advocacy and intervention (Masood & Uddin, 2020).

This study scrutinizes the paradox where international legal frameworks, ostensibly designed to prevent human rights abuses, have fallen short in the context of the Rohingya crisis. It interrogates the inertia of global powers and international organizations that, due to competing interests, have contributed to the persistence of the crisis rather than its resolution (Sabir et al., 2022). The core problem this research addresses is the evident disconnect between the established international norms for human rights protections and their tangible enforcement, particularly within the UN Security Council (UNSC), against a backdrop of complex geopolitical dynamics (Islam, 2024).

The justification for this inquiry lies in the critical need to understand why existing international mechanisms are failing to protect the Rohingya. Despite the high-profile nature of their predicament, marked by severe human rights violations, the international response has been lackluster (Chowdury, 2018; Faisal & Ullah, 2020). With the humanitarian situation deteriorating, there is an urgent need to reassess and reinforce the mechanisms for international intervention (Md Mostafa & Zobayer, 2023; Syed Magfur & Nasruzzaman, 2020). This study seeks to comprehensively analyze the barriers to effective international intervention and generate insights that could inform a more robust and responsive human rights protection regime. Thus, The study aims to contribute to the scholarly

\* This research primarily involves the analysis of secondary source data, focusing on non-behavioral and non-psychological aspects of the Rohingya protection issue. Therefore, Ethics Committee Approval is not required. All responsibility belongs to the researchers.

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discourse on international human rights law and offer policy-relevant recommendations that address the gap between international commitments and on-the-ground realities.

The article is methodically structured to facilitate a comprehensive understanding of the challenges in protecting the Rohingya and the pathways for international intervention. Following this introduction, the paper proceeds with a detailed Literature Review that canvasses existing academic discourse and identifies gaps in the field. The subsequent Methodology section elucidates the qualitative research approach, underscoring the analytical methods applied to secondary data. We then present an in-depth discussion of the Mechanisms of International Law, dissecting global entities' various tools and methods to confront human rights abuses. The article continues to analyze the Limitations of International Bodies, focusing on the UNSC and its veto power, economic challenges, and the inefficiencies of current legal instruments. The article culminates in a Conclusions and Recommendations section, which not only synthesizes the findings but also proposes strategic measures for strengthening international human rights protection and intervention mechanisms. By providing a clear roadmap of the article's progression, we aim to guide the reader through the complex layers of international law, geopolitical considerations, and the humanitarian imperatives that define the quest for justice and security for the Rohingya people.

## **2. Literature review**

An in-depth analysis of academic research in this field demonstrates a comprehensive analysis of the connection between human rights violations and international law. These studies cover various topics, including fundamental human rights principles, complex international humanitarian law, and broader global legal frameworks. Some evaluations have explored the inefficiencies in international legal frameworks that limit the successful prevention of human rights violations. However, a gap is evident in the comprehensive study of these deficiencies on a global scale, pointing towards an area ripe for further research.

One particular research by Chit and Kean (2017) investigates the actions of the Myanmar government and its legislative approach to the Rohingya rights issue. This study points out the predominant role of executive power in perpetrating these violations. From an international viewpoint, several scholars have concentrated on the crucial matter of Rohingya citizenship, a key factor in the ongoing humanitarian crisis. These academics assert that the Rohingya's claim to citizenship is valid and cannot be justifiably denied by Myanmar, based on historical evidence and international law standards (Kipgen, 2014). Furthermore, refusing citizenship is seen as a breach of international civil and political rights despite the precarious nature of these rights (Holliday, 2014).

In summary, this literature review uncovers substantial research addressing the intersection of human rights violations and international law. While studies are exploring the ineffective aspects of international law globally, more research is needed in this area. The work by Chit and Kean (2017) offers insights into Myanmar's legislative response to the Rohingya situation. Other studies have underlined the importance of acknowledging Rohingya citizenship rights and the resultant violation of international civil and political rights due to the denial of these rights (Kipgen, 2014). The Rohingya people are entitled to basic human rights, yet the Myanmar government has consistently refused these rights, invoking the 1982 citizenship law. This denial of rights is not restricted to the Myanmar government but extends to Bangladesh as well (Sohel, 2017). In a broader context, discussions about the R2P and human rights abuses in Myanmar (Trihartono, 2018) reveal that the Myanmar government's actions amount to violations of international law, including genocide, war crimes, and crimes against humanity. The study "The Rohingya in South Asia: People Without a State" (2018) demonstrates that the Myanmar government, military, and Rakhine state residents have perpetrated genocide against Rohingya Muslims as part of a policy to establish a single nation, language, and religion. This genocide has been described as having progressed through several stages, culminating in 1917. To safeguard the Rohingya, international intervention in Myanmar's affairs is necessary, either by regional organizations or individual states.

Non-interference policies can themselves constitute a breach of the UN's Genocide Prevention principle of R2P when dealing with governmental malpractices against citizens (Othman et al., 2015). However, the concept of the duty to safeguard, often perceived as a principle of soft law, lacks enforceable legal authority for nations. In his work, Nishikawa (2020) probes into whether this duty constitutes a legal mandate for the global community, concluding that it holds moral weight but lacks legal compulsion. Ibrahim and Nordin (2015) examine the extreme challenges experienced by the Rohingya, including genocide, ethnic cleansing, and significant human rights abuses., proposing the principle of Responsibility to Protect (R2P) as a viable resolution to this humanitarian crisis. Meanwhile, Szurlej (2016) uncovers the systematic execution of genocidal acts by Myanmar, identifying them as crimes against humanity and war crimes under the Genocide Convention's Article II while highlighting the necessity for safeguarding human rights without specifying the means to achieve it. The implementation of international

legal standards is further hindered by Myanmar's absence from key international agreements like the 1951 Refugee Convention and its 1967 Protocol, as noted by (Rana & Riaz, 2023), thereby complicating the pathway to resolving such crises. Despite International law, neighboring states should protect vulnerable groups like the Rohingya, but often, these refugees are not welcomed by these countries (Khairi et al., 2018). This review highlights that most academic inquiries have concentrated on breaches of international human rights norms, with a subset of studies examining failures to uphold the R2P principle. Yet, there's a discernible void in the literature concerning the inefficiencies within the international legal system, marking a crucial avenue for in-depth investigation within this paper.

### **3. Methodology**

This research primarily involves the analysis of secondary source data, focusing on non-behavioral and non-psychological aspects of the Rohingya protection issue. Therefore, Ethics Committee Approval is not required. All responsibility belongs to the researchers.

This study's qualitative research approach was strategically chosen to achieve its goals. This approach is known for its deep and adaptable nature, ideal for the aims of this research. The focus was to explore the shortcomings of international law's mechanisms. The study primarily relied on secondary data, drawing from authentic sources such as scholarly journals, articles, newspapers, periodicals, and reports. A qualitative strategy was employed to analyze the data using descriptive and analytical methods. This approach facilitated an in-depth examination and interpretation of the topic. Importantly, the qualitative basis of this research sets a foundation for further studies in the future (Corominas et al., 2014).

### **4. Operational definitions**

#### *4.1. Human rights*

The Universal Declaration of Human Rights (UDHR, 1948) "defines human rights as inherent entitlements belonging to every person irrespective of race, gender, nationality, ethnic origin, language, religion, or any other status. These rights encompass a spectrum of freedoms including, but not limited to, the rights to life, liberty, freedom from slavery and torture, expression, work, and education." These rights are universally applicable and should be experienced by everyone without discrimination.

#### *4.2. Human rights violation*

A violation of human rights occurs when there is an infringement or denial of the basic rights that are universally entitled to all individuals, irrespective of any discriminatory factors.

### **5. Mechanism of international law**

Under international law, mechanisms are the varied tools and methods global entities use to prevent human rights abuses. These include a range of diplomatic and non-violent strategies, targeted sanctions like asset freezes and travel restrictions, implementation of arms embargoes, potential military or humanitarian interventions, and the involvement of the International Criminal Court (ICC) and other tribunals through actions by the UNSC for addressing serious human rights violations.

#### *5.1. Mechanism under international arrangements*

With its charter-driven mandate, the UN implements various mechanisms to maintain international peace and uphold human rights. The SC, under Chapter V of the UN Charter, plays a pivotal role. It has the authority to address breaches of peace and security as per Article 39. This includes referring cases to the ICC, imposing targeted sanctions, and enforcing arms embargoes on countries threatening peace. In instances where the SC is inactive, alternative mechanisms come into play under the auspices of the General Assembly (GA) or the Human Rights Council (HRC). These entities are responsible for gathering and analyzing evidence of violations of international law, thereby facilitating criminal proceedings in various legal forums.

Peaceful conflict resolution is central to the UN's approach, as outlined in Chapter VI, Articles 33-38 of the Charter. This chapter emphasizes the importance of negotiation, mediation, arbitration, and other non-violent methods in dispute resolution. The SC and the International Court of Justice (ICJ) play significant roles in facilitating these peaceful resolutions. When peaceful measures are insufficient, Chapter VII, Articles 39-51 of the

Charter, allows for the use of force. This includes non-military measures like economic sanctions and communication restrictions, escalating to military interventions coordinated by the SC and the Military Staff Committee, if necessary.

The UN Charter also establishes various bodies focused on human rights issues, such as the HRC and the CSW. These charter-based bodies are instrumental in promoting and protecting human rights. Additionally, the Resolution 1503 mechanism, established by ECOSOC in 1970, enables individuals and NGOs to report systematic human rights violations. These reports are thoroughly examined by the appropriate UN committees, ensuring that grievances are addressed effectively. Through these diverse and comprehensive mechanisms, the UN strives to address global conflicts, protect human rights, and foster international cooperation, thereby significantly preserving worldwide peace and security.

### *5.2. Mechanism under regional arrangements*

Chapter VIII of the UN Charter, particularly Articles 52-54, emphasizes the importance of regional arrangements and agencies in maintaining international peace and security. These regional initiatives are crucial, especially when they align with the UN objectives and principles. The SC is responsible for encouraging the development of peaceful settlement mechanisms within these regional frameworks. Initiatives can be undertaken by the states or through SC referrals.

The SC's ongoing awareness and involvement in activities conducted by these regional entities are critical for ensuring cohesive global efforts in conflict. Article 52 specifically acknowledges various regional organizations, "including the Council of Europe, the Organization of American States (OAS), the African Union, the Organization of Islamic Cooperation (OIC), the Arab League, the Commonwealth of Independent States (CIS), and the Association of Southeast Asian Nations (ASEAN). Significant human rights conventions have been adopted by these regional organizations, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950), the Inter-American Convention on Human Rights (1969), the Arab Charter on Human Rights (1994), the African Charter on Human and Peoples' Rights (1981), and the Charter of the Commonwealth of Independent States (1991)."

The Committee on the Rights of the Child (2012) also recommends that states collaborate with the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children. This collaboration aims to further the implementation of the Convention on the Rights of the Child and other human rights instruments across ASEAN member states. Through the stipulations of Chapter VIII of the UN Charter, the significance of regional entities in contributing to global peace, security, and human rights advancement is established.

### *5.3. Mechanisms under different treaties and conventions*

Various international legal instruments have been established to support and enhance human rights globally. These instruments provide a robust foundation for universal human rights recognition and enforcement:

- *United Nations Charter:* As a member of the UN, Myanmar is obligated to uphold the principles outlined in the UN Charter, which emphasizes the safeguarding and advancement of human rights and basic freedoms for every individual, regardless of their race, gender, language, or religious beliefs. Despite this, there have been occurrences indicating that the government of Myanmar has not consistently met these commitments. Reports have surfaced suggesting involvement in breaches of human rights and an absence of responsibility among government military and security forces.
- *Universal Declaration of Human Rights:* This Declaration, notably in Article 15, affirms the right of every individual to a nationality and guards against arbitrary deprivation of nationality. It also outlines the rights of aliens, including security, privacy, equality before the law, marriage rights, and freedom of thought and expression.
- *1954 UN Convention on the Status of Stateless Persons & 1961 UN Convention on the Reduction of Statelessness:* These conventions align with the UDHR in protecting stateless individuals and ensuring they are not arbitrarily deprived of nationality. They emphasize the rights of aliens, including personal security, privacy, and equality before the courts.
- *International Covenant on Economic, Social and Cultural Rights (1966):* This Covenant, along with its counterpart on civil and political rights, sets a standard for human rights as a key principle in international relations, promoting a culture of peace.

- *General Assembly resolution 40/144 (1985)*: This resolution serves as a directive for countries to establish and enforce legal frameworks to safeguard the human rights of individuals who are not citizens. This resolution emphasizes the importance of ensuring that these protections are free from discrimination related to an individual's race, gender, language, or religious beliefs.
- *Convention on the Rights of the Child (CRC)*: Myanmar, as a signatory, is obligated to protect Rohingya children's rights, including non-discriminatory access to birth registration and nationality.
- *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*: Myanmar is bound to ensure gender equality in nationality rights, as per Article 9 of CEDAW, and protect Rohingya women from discrimination.
- *Convention on the Rights of Persons with Disabilities (CRPD)*: Ratified by Myanmar, this Convention in Article 18 recognizes the rights of disabled persons to movement freedom, choice of residence, and nationality.
- *Statute of the International Criminal Court (Rome Statute)*: Although Myanmar has not ratified the Rome Statute, its principles regarding crimes against humanity are recognized as a standard within international law, holding universal applicability.
- *Convention on the Prevention and Punishment of the Crime of Genocide*: Genocide, as defined in this Convention, is a crime under customary international law, binding on all states, including Myanmar.
- *Treaty-Based Bodies*: The establishment of six principal committees, each dedicated to particular aspects of human rights, has been a direct outcome of numerous global accords. These committees concentrate on areas including civil and political liberties, economic, social, and cultural entitlements, issues of racial bias, practices of torture, gender-based discrimination, and the rights of children. These international instruments and committees collectively work towards upholding and enforcing human rights standards globally, ensuring protection and justice for all individuals regardless of nationality, gender, or other statuses.

Table 1. Mechanism of international law: At a glance

Mechanism under international arrangements	Mechanism under regional arrangements	Mechanism under different treaties and conventions
UN Charter	Chapter VIII of UN Charter	Universal Declaration of Human Rights
Security Council (SC)	Council of Europe	UN Convention on the Status of Stateless Persons
International Criminal Court (ICC)	Organization of American States (OAS)	UN Convention on the Reduction of Statelessness
General Assembly (GA)	African Union	International Covenant on Economic, Social and Cultural Rights
Human Rights Council (HRC)	Organization of Islamic Cooperation (OIC)	General Assembly resolution 40/144
International Court of Justice (ICJ)	Arab League	Convention on the Rights of the Child (CRC)
Military Staff Committee	Commonwealth of Independent States (CIS)	Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
Commission on the Status of Women (CSW)	Association of Southeast Asian Nations (ASEAN)	Convention on the Rights of Persons with Disabilities (CRPD)
ECOSOC Resolution 1503		Rome Statute of the International Criminal Court Convention on the Prevention and Punishment of the Crime of Genocide

#### 5.4. Principle of responsibility to protect (R2P) and its application in Myanmar

The principle known as the R2P is called upon during extreme human rights crises, including significant loss of life or acts of ethnic cleansing. The ICISS has elucidated that R2P comes into play when a state fails to safeguard its population or is directly involved in committing such violations. This shifts the paradigm from a state's right to humanitarian intervention to an obligation of response (Haacke, 2009). Under this principle, the state is primarily responsible for safeguarding its citizens. This includes actions taken and not taken by state authorities (Evans, 2004). The concept of state sovereignty, intertwined with human rights norms and the broader discourse on human security, underscores this responsibility.

In his 2009 report, Ban Ki-Moon, the then UN Secretary-General, underscored the commitment made during the General Assembly's World Summit on the R2P, highlighting the obligation of states to shield their citizens

from severe crimes, including genocide, war crimes, ethnic cleansing, and crimes against humanity. The international community is expected to support states in achieving this responsibility. The application of R2P begins with utilizing peaceful strategies, such as diplomatic and humanitarian efforts, under Chapters VI and VIII of the UN Charter, all within the UN's purview. Should these measures prove insufficient, the SC may contemplate more assertive responses, potentially involving military action under Chapter VII, on an individual basis (Gowlland-Debbas, 1994). Nevertheless, the invocation of R2P is subject to ongoing discussions, particularly regarding concerns over the infringement of national sovereignty and the justification of using military force to uphold human rights (Pandiaraj, 2016). General Assembly resolutions, often termed "soft law," are not legally binding, which further complicates the enforcement of R2P (Olivier, 2002).

In practice, R2P was first referenced in Security Council Resolution 1674 (2006), affirming the primary responsibility of conflict parties in protecting civilians. The principle saw notable application in Libya with Resolution 1970, where the SC acknowledged the Libyan authorities' R2P and its population. This led to Resolution 1973, authorizing force for humanitarian protection without the consent of the Libyan government – a historic first (BELLAMY & WILLIAMS, 2011). Contrastingly, the situation in Syria presents a different scenario. Despite attempts to apply R2P, the SC has not reached a consensus, mainly due to opposition from Russia, emphasizing Syria's sovereignty (Negrón-Gonzales & Contarino, 2014). The case of the Rohingya Muslims in Myanmar presents a dire need for rapid R2P intervention, with the UN and international community highlighting potential ethnic cleansing and crimes against humanity. The denial of access to Myanmar hints at the necessity of R2P to alleviate the worsening situation. However, challenges in applying R2P persist, especially considering the veto power in the SC and the contrasting positions of Russia and China, as evidenced in the Syrian crisis.

## **6. Analyzing the limitations of international bodies in protecting human rights**

The ineffectiveness of international mechanisms in protecting fundamental human rights can be attributed to various factors, including the limitations of the UN SC and its veto power.

### *6.1. Security Council and its veto power*

For instance, the SC's inadequate response to the Rohingya crisis in Myanmar highlights these shortcomings. Despite the urgent need for action in the face of ethnic cleansing, which resulted in over half a million refugees within a month, the council failed to implement a comprehensive arms embargo that might have pressured the Myanmar military to halt their actions. The military, led by Senior General Min Aung Hlaing, launched a violent campaign against the Rohingya, characterized by extreme brutality and scale, purportedly as a reaction to attacks on police and army posts by the Arakan Rohingya Salvation Army. This led to a widespread scorched-earth strategy aimed at driving the Rohingya from their homes and country (Callahan, 2018).

Such a systematic attack against civilians is considered a crime against humanity. However, the SC chose inaction over decisive measures. This failure raises serious questions about the council's effectiveness in preventing ethnic cleansing. The absence of a UN-wide embargo places the responsibility on individual nations to exert pressure on Myanmar's military. Countries concerned about the situation in Rakhine State should halt all military assistance, arms transfers, and cooperation with Myanmar. In addition to the arms embargo, the Council should leverage its influence to demand an end to human rights violations and crimes against humanity in Myanmar, ensuring unrestricted access to the region for humanitarian workers, the UN, journalists, and human rights observers. This will prevent the atrocities from being ignored (Zahed, 2021). The international community must send a clear message against the ethnic cleansing campaign in Myanmar. Given the extensive destruction, killings, and displacement of hundreds of thousands, remaining passive is not a viable option.

### *6.2. Economic challenges*

The UN, tasked with addressing global human rights issues, faces significant financial challenges. The organization's peacekeeping budget has escalated, reaching approximately \$3.2 billion in October 2010. A significant hurdle is the irregular payment of dues by over half of its member states. Larger, more influential countries often justify their non-payment or delayed contributions to the UN's budget, sometimes disputing the legitimacy of the organization's expenses (Cetindamar, 2007).

### *6.3. Time-consuming process*

Its protracted and complex procedures often hinder the UN's approach to addressing human rights violations. An example is the 1503 procedure involving multiple action stages against states accused of severe human rights

abuses. Initially, a complaint is received at the Geneva office, which is then forwarded to the implicated country, allowing 12 weeks for a response. Following this, the complaint is reviewed by the Working Group on Communications, which convenes annually. If severe human rights issues are indicated, the matter is escalated to the Working Group on Situations, which meets annually. In cases of substantial evidence of violations, the issue is finally brought before the HRC, which examines the situation in a confidential session once a year. This lengthy process and the UN's inability to maintain a readily available peacekeeping force significantly hampers rapid and effective responses in crises (Hampson, 2007).

#### *6.4. Limited binding power of international legal instruments*

International resolutions, like those from the SC, are often considered ‘soft law’ and don’t carry mandatory legal obligations for member states. Yet, these non-binding documents can have a significant influence on international law. They may serve as evidence of existing laws or contribute to the formation of ‘*opinion juris*,’ a principle where a state acknowledges certain customs as legal obligations. This can lead to the development of new international customs recognized as law under Article 38 of the Statute of the ICJ. The widespread acceptance of such soft-law instruments can legitimize certain behaviors and make it challenging to justify opposing actions legally (Goldmann, 2012). An example is Resolution 1674 from 2006, where the concept of R2P was first acknowledged by the SC, underlining the primary duty of conflict parties to protect civilians (Hunt, 2019). However, the enforcement of these laws is often perceived as weak due to the lack of robust mechanisms ensuring compliance. International law largely consists of treaties between sovereign states who voluntarily join and adhere to these agreements. States can withdraw, ignore, or find loopholes in these agreements. While enforcement at the sovereign level is generally lacking, some states do rigorously uphold international laws, such as those against piracy, which is enforced by many navies. This shows that while sovereign states can circumvent international law, they can also strongly enforce it within their jurisdiction.

#### *6.5. Ease of withdrawing from international agreements*

Withdrawing from international treaties is relatively straightforward, posing challenges in holding countries accountable. In a notable instance, President Vladimir Putin of Russia decided to pull out from the ICC following a judgment related to Russia’s activities in Crimea. Although Russia was a signatory, it had not formalized its commitment to the Rome Statute that established the ICC. This decision places Russia among other countries, such as the United States, Sudan, and Israel, which have either chosen to leave or have not completed the ratification process of the statute. Additionally, nations like China and India have decisively opted out of joining the ICC. Countries such as South Africa, Burundi, and The Gambia have moved to exit the ICC amid broader critiques regarding the court’s perceived disproportionate attention to African states (Groenleer, 2016).

#### *6.6. Terrorism propaganda*

Accusations of terrorism are often employed globally to achieve political objectives, frequently overlooking the basic human rights of those labeled as terrorists. For example, the Myanmar government’s labeling of the Rohingya as terrorists following an ARSA attack provided a pretext for military operations against them, which evidence suggests were pre-planned. This approach infringes on fundamental human rights, including the right to life and a fair trial.

#### *6.7. Global politics*

Global politics, especially the division between East and West, is crucial in resolving international issues. Often, a consensus on global problems is unachievable due to the differing interests of world powers. Superpowers tend to prioritize their interests, overlooking the actual issues at hand.

#### *6.8. Silence of the east*

Rakhine, recognized as one of the most underdeveloped regions in Myanmar, serves as the backdrop for a major economic venture spearheaded by China. This initiative encompasses a deep-sea port in Kyaukpyu valued at \$7.3 billion, pipelines linking Rakhine with China’s Yunnan province, and an industrial park costing \$2.3 billion. While China’s engagement in Myanmar’s domestic affairs has been evident in areas like the Kachin and Shan states, its focus on Rakhine is largely motivated by economic pursuits. According to Nick Marro of The Economist Intelligence Unit, China’s hefty financial commitments in Rakhine, which lies at the epicenter of ongoing conflict, significantly shape their strategic moves in the area. The Kyaukpyu Special Economic Zone, covering over 4,000 acres and is a pivotal element of China’s Belt and Road Initiative, emerged in 2013 from a collaborative effort

between the Chinese and Myanmar governments. The persistent unrest in Rakhine poses potential risks to the progression and stability of these Chinese-led infrastructure endeavors (Groenleer, 2016; Tritto & Camba, 2022).

#### *6.9. Silence of the West*

A probe by the UN into the military actions in Myanmar, resulting in the exodus of close to 700,000 Rohingya Muslims, has called for legal action against the military chiefs for allegations of genocide, human rights abuses, and war crimes. Ms. Aung San Suu Kyi, who holds a leading position in Myanmar's government, has not publicly addressed these matters, including the hardships faced by the Rohingya community and the targeting of journalists. Brad Adams from Human Rights Watch notes a complete transformation in Suu Kyi's stance compared to her former image as a human rights advocate. This shift has unsettled the Western approach towards Myanmar, which was traditionally based on supporting Suu Kyi as a symbol of resistance against the military. Western countries are now struggling to develop an effective strategy to assist the Rohingya, who number nearly a million refugees in Bangladesh. Despite the Myanmar army's actions, which include murder, rape, arson, and ethnic cleansing, resulting in thousands of missing and presumed dead Rohingya, the response from countries like the USA, Canada, and the EU has been limited to financial sanctions and travel bans on a few generals involved in these operations (Fair, 2018).

### **7. Conclusions and recommendations**

The ineffective mechanisms of international law in preventing human rights violations against the Rohingya in Myanmar are a complex issue, highlighted by various academic works. One significant aspect is the non-interference principle of ASEAN, which limits its effectiveness in addressing the crisis, suggesting that international human rights law could offer an alternative foothold. NGOs play a crucial role in advocating for international human rights standards in Myanmar, as they bridge the gap between legal frameworks and on-the-ground realities. The UN SC's response to the Rohingya crisis has been critically analyzed, revealing shortcomings in aligning with international human rights laws. The complexities of international law principles applied to such crises are further discussed, emphasizing the legal intricacies involved. Additionally, the role of international law in regulating information operations is explored, especially in the context of online aspects of the genocide against the Rohingya. These papers collectively underscore the challenges and potential pathways for more effective legal mechanisms in protecting vulnerable communities like the Rohingya.

The UN, representing the international community, must utilize all available peaceful means, including diplomatic and humanitarian efforts, to support Myanmar in protecting its people from genocide, crimes against humanity, and war crimes, collaborating as per the UN Charter when necessary.

- Updating the veto mechanism within the SC is necessary to enhance its functionality and effectiveness.
- The SC needs to ensure that those responsible for violations of international law in Myanmar are held accountable, either by referring the situation to the ICC or by establishing a specialized international criminal tribunal.
- The Council should enact specific sanctions targeting individuals implicated in serious breaches of international law, including imposing travel bans and freezing assets.
- Instituting an arms embargo against Myanmar is crucial to prevent the misuse of weapons. Without a resolution from the SC, individual countries should independently cease arms transfers to Myanmar.
- Should the SC fail to act, alternative bodies such as the GA or the HRC should create entities dedicated to collecting and evaluating evidence of violations of humanitarian and human rights laws. This effort would aid in assembling documentation essential for unbiased legal proceedings at various levels of the judiciary.
- A thorough examination of the UN engagement in Myanmar since 2011 is warranted to assess its success in averting or mitigating crises, to derive lessons to enhance future interventions and establish accountability frameworks.
- The repatriation of refugees and the resettlement of displaced persons should be conditional upon assurances of safety, voluntariness, dignity, and robust human rights protections. Given the current circumstances, such returns are not advisable.
- States should halt operational support to Myanmar's security forces until there is evidence of reform, international support for such reform, and cooperation with global mechanisms for accountability.
- The UN should establish a trust fund for victim support, offering psychological, legal, and livelihood assistance designed with victim consultation.

- International mechanisms need to operate independently of global politics.
- In some instances, these mechanisms should have the authority to override national laws and sovereignty to protect human rights.
- The UN should maintain a ready peacekeeping force to intervene in cases of human rights violations when national efforts fail.

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### **Author contribution statements**

The authors equally contributed to the research design and implementation, analysis, and the manuscript's writing.

### **Disclosure statement**

The authors reported no potential competing interest.

### **Ethics committee approval**

This research primarily involves the analysis of secondary source data, focusing on non-behavioral and non-psychological aspects of the Rohingya protection issue. Therefore, Ethics Committee Approval is not required. All responsibility belongs to the researchers.