

Six Years After the Myanmar Military Committed International Crimes Against the Rohingya, Survivors are Still Seeking Justice in Courts Around the World

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Six years ago, in August 2017, the Myanmar military began a deadly operation in Rakhine State targeting the Rohingya group. This “Clearance Operation” caused incredible suffering and destruction including the loss of civilian life, widespread use of sexual and gender-based violence (SGBV), and the demolition of Rohingya villages. The [UN’s Independent, International Fact-Finding Mission on Myanmar \(IIFFM\)](#) conducted in-depth field investigations and found reasonable grounds to believe that during this operation, the Myanmar military committed [war crimes, crimes against humanity, and genocide against the Rohingya](#), not least of which is the deportation of over 700,000 Rohingya from Rakhine State into neighboring Bangladesh.

To this day, over one million Rohingya survive in one of the world’s largest refugee camps in Cox’s Bazar, waiting for conditions to allow for their safe, voluntary, dignified, and sustainable return to Myanmar in accordance with international law. With the UN’s World Food Programme [cutting their food rations](#), and with the [deteriorating security situation inside the camps](#), many Rohingya find themselves in a dire situation with impunity being but one of many pressing concerns. Through its offices in Cox’s Bazar, Legal Action Worldwide (LAW) provides legal assistance and support to Rohingya survivors in these refugee camps.

Having been deported *en masse* to Bangladesh, and without a fair legal remedy available within Myanmar, Rohingya survivors are forced to rely on pathways for justice outside of Myanmar. A variety of efforts on the international level have yielded some results, but so far, no court has found any individual or state responsible for crimes against the Rohingya. For example, the Pre-Trial Chamber of the International Criminal Court (ICC) granted the Office of the Prosecutor’s [request](#) to open an investigation into crimes against humanity committed, at least in part, on the territory of Bangladesh such as [deportation, persecution, and other inhumane acts](#). LAW has submitted statements of several Rohingya survivors for the consideration of the OTP in their ongoing criminal investigation. Although the OTP’s investigative activities in this situation are [ongoing](#), to date, no arrest warrants have been announced.

The International Court of Justice (ICJ) is also conducting litigation brought by The Gambia against Myanmar alleging breaches of the 1949 Genocide Convention, to which Myanmar is a party, in particular, Myanmar’s failure to prevent and punish those responsible for genocide against the Rohingya. Despite some logistical challenges, in December 2019 LAW supported three Rohingya survivors to travel from Cox’s Bazar to The Hague to attend an oral hearing at the ICJ on provisional measures, where they joined The Gambian delegation in the courtroom. In a unanimous decision on 23 January 2020, the ICJ granted [The Gambia’s request for provisional measures](#), ordering Myanmar to prevent genocidal acts against the Rohingya group, preserve any evidence of these acts, and to report regularly on its implementation of the order. On August 24th, Myanmar military was due to submit its counter-memorial to the International Court of Justice (ICJ) in the only ongoing case on genocide in the world. LAW is supporting this litigation through providing witness statements and other evidence to The Gambia’s legal team. An upcoming report from LAW, that combines both in-depth psychological interviews with cutting-edge legal analysis, will demonstrate reasonable grounds to believe that the Myanmar military’s use of SGBV during the 2017 Clearance Operation constituted acts of genocide under the Genocide Convention.

The [UN’s Independent Investigative Mechanism for Myanmar \(IIMM\)](#), supports these important international efforts, as well as domestic efforts, through providing evidence in accordance with its mandate to collect, consolidate and analyze evidence of international crimes committed in Myanmar,

and to prepare files to facilitate fair and independent criminal proceedings in national, regional, or [international courts or tribunals](#).

In parallel, there are several initiatives in domestic courts seeking to hold members of the Myanmar military accountable for their crimes under principles of universal jurisdiction. These efforts seek to initiate structural investigations that will examine the military apparatus and eventually result in criminal responsibility for individual perpetrators. In Argentina, for example, federal prosecutors into allegations of genocide and crimes against humanity the Myanmar military committed against the Rohingya based on a [complaint filed on the basis of universal jurisdiction](#). In Germany, Fortify Rights submitted a [complaint earlier this year](#) under the principles of universal jurisdiction, alleging the Myanmar military has committed crimes against humanity and genocide against the Rohingya, as well as crimes against humanity against civilians after their 2021 *coup d'état*. In 2022, [another criminal complaint was filed in Turkey](#) under principles of universal jurisdiction alleging the Myanmar military committed crimes against humanity, including the torture of civilians after the *coup*. In Indonesia, LAW also participated in a [lawsuit brought in 2022](#) to change a domestic law to allow for non-citizens to bring human rights claims against foreign perpetrators, with an eye towards achieving justice for Rohingya survivors in a fellow ASEAN state. Unfortunately, the Constitutional Court in Jakarta dismissed this case in April 2023, finding that their human rights law only applied to Indonesian citizens.

LAW has assisted with several of these initiatives in different ways. For example, LAW's Executive Director has testified in one case. In another case, LAW helped review the draft complaint. In yet another case, LAW provided logistic, financial, and material support to a group of Rohingya witnesses to travel and to testify in a proceeding about their experience being persecuted Myanmar. LAW assisted by obtaining witnesses' informed consent, preparing them for their testimony, and establishing extensive individualized security and protection plans. Over months-long conversations with ministries from various governments, LAW faced significant challenges in securing travel documentation given Myanmar has effectively revoked their citizenship through decades of legal and political discrimination. This difficulty was not just for the travel documents for the destination country, but for every stop along the flight path. While their live testimony was indeed impactful, and added value to the case in ways that remote testimony simply cannot, future proceedings should consider having at least some Rohingya witnesses testify via a secure audio-visual link, given the incredibly complex political and security challenges LAW and victims faced.

Despite these numerous and important international efforts, there has been no final determination by a court that an individual or state is responsible for the crimes committed against the Rohingya. For the over one million Rohingya refugees around the world, and the 600,000 Rohingya who remain in Myanmar – including over 120,000 [in conditions of mass detention](#) - it is more important than ever that justice actors across the world keep the pressure on the Myanmar military in each of these legal fora to ensure an end to impunity for their crimes.

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