



Genocide Denial and Recognition: A Contested Perspective of the Rohingya Crisis

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3.1 INTRODUCTION

Genocide, also called the crime of all atrocious crimes, is a complex issue in contemporary world affairs. It received its legal foundation through the *United Nations Convention on the Prevention and Punishment of Genocide* (UNGC) in 1948, the year Myanmar, formerly known as Burma, gained independence. After 70 years of independence, the Republic of the Union of Burma/Myanmar faced a genocide case before the International Court of Justice (ICJ) in 2019, brought by the Gambia, a small West African country with a Muslim population of more than 95%, concerning violence and genocide against the Rohingya, an ethno-religious-linguistics minority group that has historically been living in the

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Arakan region in north-western Myanmar. As a party to the UNGC, Gambia, not as a directly injured state but heavily influenced by its position in the *Organisation of the Islamic Cooperation* (OIC) and the personal role of Gambian Minister of Justice, Abubacarr Tambadou, who has experience of serving as an associate legal officer at the International Criminal Tribunal for Rwanda (ICTR), invoked Myanmar's responsibility for breaching its obligation under the Convention and for failing to prevent genocidal acts committed against the Rohingya community (Becker, 2020; Jeffrey, 2023).

After its initial hearing of the parties in December 2019, the Court recognised the vulnerability of the Rohingya community and issued provisional measures against Myanmar—requiring Myanmar to ‘take all measures within its power to prevent the commission of all acts’ against the Rohingyas (Article II of the Convention), to prevent its military and other agencies, institutions and bodies from committing acts (Articles II and III of the Convention), and to ‘take effective measures to prevent the destruction and ensure the preservation of the evidence’ (International Court of Justice, 2020a, pp. 29–30). The Court also directed Myanmar to report on these measures within four months, and thereafter every six months until the final decision is made in this case, thereby placing the legal recognition of the Rohingya genocide within the ICJ's deliberations.

Nevertheless, there are non-legal or beyond-legal aspects of understanding genocide, as scholars have often highlighted the limits of the legal definition set by the 1948 Convention (Dunkelberg, 2025; Kazyrytski, 2022). Genocide has been defined and codified as a legal term; yet, it also has a socio-political aspect, including cultural issues, which the UNGC negotiation process failed to persuade the then-powerful actors to accept (Moses, 2023, p. 284). Therefore, it has been a political phenomenon from the beginning, making the concept more critical. As a political concept, it, moreover, cannot be decoupled from the concepts of coloniality, modernity and development (Dunkelberg, 2025). Every conflict or act of violence has “political logics”, which generate agency power and drive its parties and followers to engage in violence, whether only to fight the opponent or to target with the intent to eliminate the other (Moses, 2023, p. 279).

When a group faces destruction, in part or in whole, due to its identity of being a national, racial, ethnical or religious group, as defined in the UNGC, it does not mean killing them physically, it means killing

“something more”, namely the “social figuration” and “dynamic relational network” that have been in practical social interaction for years, decades and centuries that breaks down forcefully to disentangle the group (Powell, 2007, p. 538). Such networks fall apart, people of the group get disentangled, and thus the group faces social death through genocide when it loses social vitality because of the forceful destruction of its relations with other social entities and processes (Card, 2010). Such socio-political and relational logics have often received less attention in the legal recognition of genocide, but more substance in denying violence and atrocities culminating in genocide. There have been numerous studies on the Rohingya persecution, violence, forced migration, and life in refugee camps in Bangladesh (Ibrahim, 2018). Some have characterised it as an evolving issue related to Myanmar’s reluctance to integrate into the national fabric—nation-building process—thereby affecting their citizenship rights, exacerbating ethno-political tensions that undermine their opportunities and potential, and rendering them a stateless population (Pugh, 2013).

Others, such as Mulaj (2025), Ibrahim (2018), O’Brien and Hoffstaedter (2020), Martuscelli, Ahmed, and Sammonds (2022) have considered the Rohingya case as a genocide, with various interpretations and focuses, beginning long before the 2016 and 2017 events that recently displaced over a million people from their homes and led them to seek refuge in neighbouring Bangladesh. The state, Myanmar and its fragmented nation-building process have pursued an “exclusionist nationalist ideology” that has considered the Rohingya community as “a threatening Other” and thus has culminated in their decades-long marginalisation, maltreatment, and persecution in their ancestral land in Arakan (Mulaj, 2025, p. 951).

While Mulaj (2025) contends that both the ‘intent to destroy’ and the severity of atrocity crimes have unfolded concomitantly in the Rohingya genocide, Ibrahim (2018) argues that, as an ethno-religious minority group, the Rohingya have not been recognised as one of the 135 ‘national races’ in Myanmar, nor have they been allowed to exercise citizenship rights since the 1982 Citizenship Law. They have experienced a severely restricted life, including restrictions on movement, marriage, and a range of abuses carried out by the state in collaboration with the Buddhist majority (Ibrahim, 2018). The exclusionist state policy developed over the period in an authoritarian setting that has prioritised state sovereignty over humanisation of its entire population, including the Rohingyas. While

the country is supposed to make a transition towards democracy, both the military and the democratic political party, the National League for Democracy (NLD), have shares in pursuing a genocide as they have the “same prejudices” towards Rohingyas that were overtly reflected when the NLD leader defended the military in the Hague (Ibrahim, 2023). Nevertheless, Rohingyas developed and adopted strategies, such as non-compliance with authority, not staying home but maintaining secrecy, moving from one area to another, studying and marrying, and hiding girls and remaining pregnant to avert sexual violence, etc., to form everyday resistance to genocidal acts in Myanmar before finally moving to Bangladesh under severe violence and atrocity (Martuscelli et al., 2022).

O’Brien and Hoffstaedter (2020) have argued that Rohingyas have experienced genocide, as the violence inflicted upon them targets their identity—both as a group and as a social unit—stemming from the ongoing destruction and disappearance of their culture, since they have been deprived of their right to education in their own language and denied their cultural and religious rites. However, little has been done on the issues and debates surrounding the denial and recognition of the Rohingya genocide. Therefore, this chapter has attempted to explore and analyse the Rohingya crisis through an analytical framework of genocide denial and recognition and elucidates this case through Stanton’s (2023) ten stages of genocide. It has been developed through an extensive review of secondary literature, including books and journal articles, and by drawing on cases of genocide and their processes of denial and recognition. Besides this, it has consulted the proceedings of the ICJ to understand the opposing positions of the Gambia and Myanmar, which have been dealing with the genocide case since 2019.

For clarity, we want to highlight that we explore the Rohingya case and emphasise non-legal interpretations of genocide, since a legal suit on this matter is in operation at the ICJ, which has legal authority to determine the nature and extent of genocide, if any such genocide has occurred against the Rohingya community. Nevertheless, we have used the ICJ proceedings to explain the contradictory positions of the parties, such as the Gambia and Myanmar, and connect them to the discourse of genocide denial and recognition. In doing so, we define genocide comprehensively in the next section, followed by an exploration of the Rohingya case through Stanton’s framework for explaining genocide. Afterwards, we explore the discourse of genocide denial and recognition in the following section. Thereafter, we present a detailed update on the

Gambia versus Myanmar case before the ICJ and explain how these parties have argued for their positions, demonstrating the importance of understanding the criticality of issues and the lengthy, evidence-based process of genocide recognition from a legal perspective, beyond the socio-political perspective on genocide.

3.2 GENOCIDE: A BEYOND-LEGAL CONCEPTUAL UNDERSTANDING

A conceptual understanding of genocide involves two main paradigms: legal and beyond legal, which complicate matters in a world where states are legally empowered to prevent genocide, while non-democratic regimes often use leverage to decide their actions within their borders, if not beyond, and design strategies to control populations and to take action(s) against other states when in conflict. Liberal scholars conceive of genocide as the “intended action of a coherent agent”, indicating states that have the intent or willingness to commit genocide, and post-liberal scholars argue that genocide is “a structural process” that does not need “any intending agents” but destroys “a social collectivity” (Powell, 2007, p. 528). The world we live in operates as a broader political system that connects states among themselves and ties each state to its population. Every state has its own political and social structures, thus linking every community and group, formally and informally, to the larger structure. While there is an “intent” clause associated with the legal definition of genocide, that “intent to destroy” does not mean only the physical killing or destruction of a group, it is more firmly embedded in the structure and in “long-term operation comprising multiple and varied offences” (O’Brien & Hoffstaedter, 2020, p. 4).

When social collectivity and social relations are targeted to be destroyed alongside the population of a group, this raises questions about the socio-political structures of those states involved in the genocidal process. These factors make the concept of ‘genocide’, as a political phenomenon and a discursive discourse, highly complex to understand because it includes numerous issues, actors, motives, and possibly their intentions and interests, as well as factors such as state, war, security, ethnicity, nationality, and faith—all linked to modernity and the socio-political transformation of the world. In such a changing world, genocide has appeared in different forms and has been carried out as a political act within the domestic political framework of the state, indicating a mindset that advocates “a simple

pattern of violence by a single ‘perpetrator’-state or -regime against a singular ‘victim’ population group”, although a competitive international system of nation-states underpins it, as those primary states consider their sovereignty more important than the unity of all their nations to survive in the system of states (Shaw, 2011, p. 647).

This political act or process is closely linked to the socio-economic and cultural background of society and associated with historical memories, which are manipulated by the state apparatus, including leaders, through various policies during the phases of state-building and nation-state formation, contributing to the development of a mindset that views others differently and seeks to destroy some of them, if not all (Horowitz, 2017). When social hierarchies and differences—such as in-group versus out-group, inferior versus superior, wanted versus unwanted, good versus evil—have fostered stereotypical mindsets and a dominant worldview that perceives targeted others as wrong groups or enemies, often trapped in hopelessness and vulnerabilities, are subject to exploitation, torture, killing, or eradication (Jones, 2024, pp. 4, 13). This represents a non-legal or extra-legal understanding of local contexts that underpins genocide, which the legal definition largely fails to encompass, as it neglects these deeply embedded backgrounds and issues.

The concept of ‘genocide’, legally popularised through the 1948 UNGC, commonly known as the Genocide Convention, after World War II (WWII), has brought an extraordinary moral positioning and an idea of saving people of different races, identities and diversities from persecution, slaughter and atrocities. Genocide, a term coined by Polish jurist Raphael Lemkin (1946, pp. 227–228), who was a Jewish refugee from Nazi-occupied Europe, originally defined it as “the crime of destroying national, racial or religious groups”, with the motivation or ‘intent’ of carrying out persecution, violence, and so on. Over the period, a ‘crime without a name’, as described by former British Prime Minister Winston Churchill, has been recognised as the ‘crime of all crimes’ because of its severity and intent to eliminate the ‘other’, the victims.

To define and describe ‘genocide’, Lemkin (1944, p. 79) initially emphasised several key issues as essential elements—“coordinated plan” to destroy “a national or an ethnic group”, regarded as a collective entity, aimed to dismantle “the political and social institutions of culture, language, national feelings, religion, and the economic existence of national groups”, and to ruin “the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups”,

which, although, were not fully realised in the legal definition of genocide. The definition of the UNGC that includes five specific “acts”—such as killing, causing serious bodily or mental harm, inflicting conditions of life that lead to physical destruction, measures to prevent in-group births, and the forcible transfer of children from one group to another—“committed with intent to destroy, in whole or in part”, of “a national, ethnical, racial or religious group”—has served as a useful policy document and an international treaty. However, it has attracted criticism on certain grounds, especially for not incorporating political groups and cultural genocides into its responsibilities (Dunkelberg, 2025; Kazyrytski, 2022). As a crime, genocide breaches the established rules of war and commits crimes against humanity because of violating the very “natural right of existence” of those groups against whom the perpetrators conspired to exterminate or annihilate (Lemkin, 1946, p. 229).

Beyond the legal definition, there are politico-contextual factors, as mentioned before, that create conditions for the unfolding of genocide. Genocide as a socio-political phenomenon develops and is orchestrated within a “political imaginary” context where one group perceives ‘the other’ as a future threat. As a result, they consider implementing various exclusionary policies that, intentionally, continue to destroy ‘the other’ group. Straus (2015) argues that the very ‘founding narrative’ of genocide is rooted in society, promoted by the higher elites, normalised through policies by leaders, and carried out by their followers, institutions, and extreme perpetrators. Aside from the role of elites and leaders, Mulaj (2017) and Straus (2015, p. x) emphasise the existence of ‘ideology’, which develops over time in connection with the social, political, and cultural history of the land and its people, who live side by side despite their differences, creating a binary condition of ‘us’ versus ‘them’. Mulaj (2017, pp. 128–129) argues that “ideology”—be that “nationalist, racial or religious”—through which perpetrators project the target group as “a threat”, dehumanise them, exclude them from their moral obligations for “purging and elimination” and portray them “as subhuman and evil” to justify their actions. A form of “subtle” coercion that often cannot be observed but is embedded at the very root of society and social hierarchy continues against the weak groups that face discrimination (Žižek, 2008).

Ideologies, however, “are not simply idealistic political” standpoints of the parties; instead, they are deeply connected to the political worldviews of individuals, groups, and organisations, which not only pursue their strategic interests collectively but also shape security and the politics of

power (Maynard, 2019, p. 637). Therefore, ideology becomes a mindset that develops through the trajectory of history and politics, sustained by an implicit hierarchical system that maintains structural inequalities, injustices, hatred, and prejudice. None can overcome these through policies alone, which, in fact, could be exclusionary, culminating in more deprivation and further denial of rights, thus creating an environment conducive to the long-term annihilation of groups at the bottom of a class-based society.

A narrow, conservative interpretation of genocide in the 1948 UNGC has rendered the concept more politicised by excluding key categories such as socio-political and cultural genocide, and by creating ambiguity about the need to prove ‘intent’, which is more a legal issue than a socio-political one (Dunkelberg, 2025). The ‘intent’ to kill or annihilate ‘others’, whether wholly or partly, who are different from the dominant group, has distinguished genocide from other crimes like war crimes and crimes against humanity, despite ambiguities within the international legal framework. Despite having a narrow focus on understanding the genocide from an international system perspective, the issue of genocide quickly becomes international when it is about preventing genocide and punishing genocidal atrocities, through either international intervention to prevent large-scale violence or legal mechanisms to prosecute perpetrators who violate international law (Shaw, 2011; Straus, 2012).

International law often “appears powerless” or overwhelmed when attempting to establish such intent, as no state or authority openly admits, clearly states, or acknowledges genocidal intent in legal proceedings (Dunkelberg, 2025, p. 2). Consequently, proving ‘intent’ or ‘genocidal intent’ remains difficult due to contrasting narratives of the violence, especially when the state and its legitimate authorities seek to justify it as serving the “intended function of security” (Mulaj, 2017, p. 129). This allows any state to interpret an event or episodes of genocidal violence arbitrarily, under different labels. The state acts as a mediator between war and genocide, as genocide frequently appears as a highly organised aspect of war targeting defenceless civilians who have little or no means of resistance (Mulaj, 2017). However, any understanding of the concept of genocide requires both legal and extra-legal perspectives; without these, any explanation or interpretation of genocide denial and (non-) recognition could be one-sided, as the legal definition is tied to legal texts, to the intent to destroy and judicious recognition of genocide, and social recognition depends on the socio-cultural-historical and political

contexts in which the genocide occurs and how a genocide is interpreted and explained within the prism of international political system.

3.3 STANTON'S TEN STAGES FRAMEWORK OF GENOCIDE AND THE ROHINGYA CASE

Genocide does not begin suddenly with mass killing alone. Genocide often develops gradually and unfolds through cumulative state practices over time through law, bureaucracy, and propaganda, with mass violence emerging as the culmination of a longer political and institutional process of group destruction. This is what Gregory Stanton (2023) has argued in his famous ten stages of genocide, although he has confessed that these stages do not mean any linearity in committing genocide, instead indicate their interconnectedness and simultaneous operations, leading to the completion of a genocide process that ends with the perpetrator's denial of any such crime. A targeted group is first marked as alien, denied equal belonging, stripped of rights, increasingly segregated, and represented as a threat to the nation or state. Such segregation not only leads to discriminatory practices but also contributes to the dehumanisation of members of that group, sustained through various formal and informal processes and institutions, and attracts community people to act against that targeted group and creates conditions for direct violence over the period (Spencer, 2012). However, over time, Stanton has revised his stages of genocide, prompting many to consider his latest ten stages as an analytical perspective for examining cases that have potential links to genocidal process.

The Rohingya case, therefore, has been looked through this framework, as its earlier version was applied to other cases, including the Holocaust (Barel et al., 2010), that does not consider only the final violent phase as genocide but links it with the earlier stages of denial of identity, imposition of restrictions, culminating in social isolation, and state-sponsored violence to carry out the physical and social destruction of a group. It helps us to explain Myanmar's policies and actions towards the Rohingyas, ranging from earlier socio-political and legal policies to the 2017 atrocity crimes and reflecting its subsequent responses and arguments, as placed in the ICJ. Table 3.1 connects the ten stages with the Rohingya case, its associated socio-economic conditions in Myanmar and their significance for a genocide claim.

Table 3.1 Stanton's ten stages of genocide and the Rohingya case

<i>Stages</i>	<i>Significant indicator</i>	<i>Appearance in the Rohingya case</i>	<i>Relevance to a genocide claim</i>
1. Classification	Society separates people into categories of "us" and "them"	Following the 1962 military takeover of Myanmar, the Rohingyas have been treated differently in public and state discourses and often considered as an unwanted group, denying their equal rights in national life, but seizing their citizenship documents/cards	Such exclusionism of the population means targeting a single group, a collectivity, for a longer-term process
2. Symbolisation	The targeted group is labelled, named, and sustained with hatred and prejudice, or administratively marked in ways that help in persisting such symbolisation	Other than recognising the Rohingyas as non-citizens of Myanmar or as illegal migrants, as Bengalis, the state distinguished and termed them as non-nationals, and provided the FRCs in 1974, and no one received colour-coded CSCs in 1989. Following international advocacy, they were issued white-coloured TRCs in 1995, which did not confer citizenship either. The TRCs were revoked in 2015	The state appeared as a dominant entity to define the identity of the Rohingyas differently and arbitrarily, leaving them detached from the national life, institutions, and participation

<i>Stages</i>	<i>Significant indicator</i>	<i>Appearance in the Rohingya case</i>	<i>Relevance to a genocide claim</i>
3. Discrimination	Using legal and political means to deprive civil and political rights and influence the safety and protection of the 'other' group	A formal, legal process of systematic discrimination of the Rohingyas began with the enactment of the 1982 Citizenship Law that made them stateless in their country, Myanmar. This Law affected their political rights as well as civil rights, including freedom of movement, marriage rights, birth registration, access to education, work, and services	Using an exclusionist ideology and materialising it through a stringent legal approach not only deprived citizenship rights of the Rohingyas but also weakened the group long before any mass atrocity takes place, like in 2016–2017. Broadly, it sets a foundation for the denationalisation process
4. Dehumanisation	Denying the target group's human identity but presenting them as anything 'less than human', like animals, alien to society, insects or diseases, etc. Hate speech and propaganda accelerate the dehumanisation process	A concerted anti-Rohingya hate campaign continued both in traditional and social media that portrayed them as a threat to Myanmar's 'national races', projected them as 'Bengalis', 'Muslim dogs' etc., which undermined their human potential and normalised their mistreatment, on the one hand, and provoked many local ethnic Rakhine Buddhists, including influential religious leaders, to stand against them, undermining their equal protection from the state	The dehumanisation campaign has been highly organised, pursuing the state narrative through the military and local elites, and using social media platforms like Facebook to rationalise the coercive action and atrocity against the Rohingyas, with the aim of outnumbering them and forcing them to leave the area, as the latest episode happened in 2016–2017

(continued)

Table 3.1 (continued)

<i>Stages</i>	<i>Significant indicator</i>	<i>Appearance in the Rohingya case</i>	<i>Relevance to a genocide claim</i>
5. Organisation	Genocide violence becomes structured through formal and informal institutions and networks, command, and logistics	Atrocities against the Rohingya population have been carried out through organised state structures, including its military, the Tatmadaw, border police, and other security forces. Besides the direct actions, other techniques of violence like sexual violence against women, burning villages, and displacing a huge number of them both inside the Rakhine and into Bangladesh indicate coordinated activities of the state	Myanmar's organised violent campaign against an organised Rohingya group, the Arakan Rohingya Salvation Army (ARSA) and terming them as insurgents or terrorists have been instrumental in orchestrating its actions and activities against the total Rohingya population in Rakhine state, allowing the state to interpret its actions and activities differently than genocide
6. Polarisation	Divisions are so deep that forbid coexistence, as the dominant group establishes total control through propaganda and emergency laws or decrees, which further isolate the target group	The segregation process that began at earlier stages continued to persist for the Rohingyas living in a polarised society, isolating them in camps, village confinement, and regulating them through checkpoints and movement restrictions	When polarisation continues, it breaks down the normal coexistence of diverse identity groups, as they live apart politically and socially. Keeping the Rohingyas vulnerable via separation and segregation allowed the state to identify and control them, as well as define its grounds and design actions

<i>Stages</i>	<i>Significant indicator</i>	<i>Appearance in the Rohingya case</i>	<i>Relevance to a genocide claim</i>
7. Preparation	Authorities create the conditions for large-scale destruction or expulsion and often use euphemism to hide their real intentions, justifying them through self-defence discourse	The conditions for Rohingya atrocities have been created over the period through denationalisation, controlling their life, marriages and birth, movement and services that weaken them. However, the 2016–2017 episodes of violence have been justified by Myanmar in the name of security, stability and defence of the state	Violence or atrocity does not emerge suddenly; there is an action and reaction chain, culminating in atrocities. Therefore, Myanmar has argued for counter-terrorism operations against the ARSA, justifying its actions, resulting in the destruction and expulsion of the Rohingya community
8. Persecution	The victim group suffers systematically—through different means—and severely, and experiences targeted harm, dispossession, confinement, deprivation and so on. The perpetrators often test the water to see how the international community reacts to their actions	Before the 2017 atrocities, many studies, including the UN Fact-Finding Mission report, observed that the Rohingyas have experienced systematic persecution over the years in a hostile environment, subjecting them to camp confinement, village isolation, deprivation of basic services, including food and education, and denial of ordinary life conditions	Deteriorating life conditions and persistent persecution have connections to Article II(c) of the UNGC, linking life conditions to the slow physical destruction of life and rapid death once violent atrocity begins

(continued)

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<i>Stages</i>	<i>Significant indicator</i>	<i>Appearance in the Rohingya case</i>	<i>Relevance to a genocide claim</i>
9. Extermination	The most brutal stage is when mass killing and other acts of destruction are carried out against the target group	Amongst the different episodes of violence, the 2016 and 2017 “clearance operations” have observably been the most brutal, as many Rohingyas were killed, women were raped, children were orphaned, civilians were attacked, villages were burned, and a mass exodus of Rohingyas happened towards Bangladesh to find a safe refuge	The destruction of a group, in part or in total, has relevance to Article II of the UNGC that specifies the killing and causing serious harm, both physical and mental. Although there is an ‘intent’ issue linked to these, such an extent of violence does not happen in isolation but is linked to earlier discriminatory policies and actions of the state
10. Denial	Perpetrators generate narratives to deny, cover up, justify, or reframe what has occurred; denial strategies continue throughout and post-genocide phases	Myanmar tends to define what has happened with the Rohingyas differently, refusing the genocide claim and characterising the actions as lawful operations against the ARSA. Besides challenging the UN report and other evidence and upholding the spirit of not recognising the Rohingya identity, it questions the framing of the legal suit that the Gambia filed against it that has stretched the UNGC far too long	Denial of the genocide claim has been a strategic option, not covering only the post-2017 period, but connecting to the past policies and standings of the state that denied the Rohingya identity and pursued diverse activities that have significance for accountability, justice and rights

Source The Authors, 2026

One of the key categories of classification is the creation of an artificial ‘us versus them’ mentality in national life, based on differences of any kind, including ethnicity, race, or religion, which serves as an impetus for long-term policies of deprivation, discrimination, destruction and the devouring of the other (Stanton, 2023). Over the decades, the Rohingyas had been treated differently in their homes in Rakhine state and have been considered with prejudice, as illegal ‘Bengalis’, foreigners, who are significantly different from the other races of Myanmar. Although the 1982 Citizenship Law finally restricted their civil and political rights, making them stateless, an imposed identity was given to them by different means, which denied their Rohingya identity. For example, in 1974, the state’s documentation process classified some Rohingyas as non-nationals and issued them Foreign Registration Cards (FRCs). No Rohingyas received the colour-coded Citizens Security Cards (CSCs), introduced in Myanmar in 1989. Due to international advocacy, the Myanmar government issued white-coloured Temporary Registration Cards (TRCs) to Rohingyas in 1995 (not as citizenship cards), which, however, were revoked in 2015.

Symbolisation and segregation are sources of distinguishing the Rohingyas from other races in Myanmar, culminating in a process of dehumanisation. One of the key aspects of Stanton’s framework is dehumanisation, which follows “a process”, evolving over time and not static to a particular event (Spencer, 2012, p. 49). Those who get involved in this process as part of the perpetrator group gradually socialise “into cruelty”, becoming “quite extraordinary” by altering their psychological framework to normalise harming the victims (Spencer, 2012, p. 50). The dehumanisation process of the Rohingyas has been rhetorical, on the one hand, as they were considered alien and a threat to social cohesion and national security, and practical, on the other hand, indicating those discriminatory policies that the state enacted and executed through its institutions, including the Tatmadaw and religious leaders, to maintain segregation and polarisation at the community level.

When marginalisation, polarisation, and persecution develop as a package, no one within the state or country dares to protest them; instead, they often decisively participate in those processes, either to satisfy their greed by supporting the perpetrator or remain passive because of fear generated by the regime in charge (Spencer, 2012). The condition in Rakhine state has not been an exception. Local people of other races, instead of standing against those policies, supported those processes as the state framed the ideology of Rohingya exclusion, connecting to the

conditions for the preparation phase of the framework (Mulaj, 2025). The Rohingyas were put under severe vulnerability, on the one side, through legally curtailing their political rights, keeping them confined to an area, denying their basic livelihood rights—education, movements, marriage, births, etc., and justifying any actions and events under the rubric of security and defence of the state.

Although Stanton's model has relevance in tracing a genocidal process, it must not be treated as a rigid, sequential framework, since most stages are complexly intertwined, some may occur simultaneously, and they reinforce one another. Persecution, for example, does not only mean arrests, isolation, discrimination, and deprivation, as discussed in earlier stages, but can cover up occasional direct and subtle, indirect violence. The UN Fact-Finding Mission report highlighted the decades-long systematic persecution and structural violence in a hostile environment in Myanmar, which culminated in the 2016–2017 direct violence. The 'clearance operations' were brutal, ruthless—arguably killed the Arakan Rohingya Salvation Army (ARSA) combatants and non-combatants—attacked civilians, violated women, injured many, orphaned children and intimidated millions of Rohingyas, leading to a massive influx of Rohingyas to cross the border to seek refuge in neighbouring Bangladesh (Ahmed et al., 2019).

The final stage of Stanton's framework is denial, which persists throughout the genocidal process and into the post-atrocity phase. Myanmar's position is strategic on this matter: on the one hand, it has throughout the trajectory of the crisis refused to recognise the Rohingya identity, and defines what happened to the Rohingyas in 2016–2017 differently, like interpreting it as lawful counter-terrorism operations, on the other hand. Moreover, it tends to emphasise the narrow legal definition of genocide and a limited time frame of atrocity in refusing the claim of genocide, which has significance for wider denial literature. Nevertheless, Stanton's framework does not imply a linear model for studying genocide; genocide is far more complex than this stage model suggests. Only a rapidly unfolding violent atrocity becomes observable, many other issues remain silent but contribute to discrimination, deprivation, persecution, exclusion, and so on (Jahan, 2012).

Henry C. Theriault (2021) has taken a critical perspective on Stanton's framework and argued for a comprehensive understanding of denial, which is not limited to the final stage of a genocide; denial can happen at any stage—before, during, and after the genocidal. It is a constant

process. Perpetrators may deny planned genocide, deny ongoing atrocities, and continue denial long afterwards. This is especially relevant to the Rohingya case, where denial did not appear only after the atrocities, but operated before, during, and after them through identity erasure, historical distortion, and the reframing of violence as counter-terrorism operations. Taken together, these two theories show that the Rohingya case is better understood as a dynamic, overlapping and continuous process, not as a simple step-by-step sequence in which denial appears at the end.

Therefore, Stanton's framework can be considered as an analytical tool, helping to analyse patterns and processes, and to understand how policies and actions unfold over times targeting a group. It is not a legal framework for defining and measuring the extent of genocide. The legal aspect of the definition of genocide lies with the UNGC, and legal recognition of genocide is a matter for the concerned Courts or Tribunals. Nevertheless, in summary, the Rohingya case appears as a cumulative genocidal process rather than a single outbreak of violence. The evidence relied upon by the Gambia suggests a progression from classification, discrimination, and dehumanisation to segregation, persecution, extermination, and continuing denial. This can strengthen the argument that the 2016–2017 atrocities were the culmination of a longer project of destruction and subsequent mayhem directed at the Rohingya.

3.4 DENIAL AND RECOGNITION: TWO SIDES OF THE GENOCIDE COIN

Denial and recognition are two sides of the same coin—in this chapter, it pertains to the term 'genocide'. Denial is a common language among perpetrators, whether in Cambodia, Rwanda, Srebrenica, or any other locations that experienced genocide, whereas the survivors' quest for recognition of genocide and their past losses is universal. Such recognition provides a sense of satisfaction to the families and friends of the victims and survivors. The cruel reality of world politics is that no perpetrators, whether involved in an in-group atrocity or an outgroup genocide, willingly admit their engagement in genocidal acts (Bilali et al., 2020; Leach & Cehajic-Clancy, 2013). Nevertheless, the history and memory of genocide "reflect an ongoing contestation and evolution, within both societies and individual hearts and minds", linking to selective commemoration of the atrocities, justification of the past events and acts, and

seeking the truth to address or mitigate one's guilt for a society enduring genocidal violence (Jones, 2024, p. 587). It indicates, unfortunately, that in human society, denial of genocide and the pursuit of recognition for genocide persist, albeit from opposing perspectives.

Denial, as a concept or a discourse, has become "an integral part of genocide" (Huttenbach, 1999, p. 216) since the perpetrator state or authority may develop a denial strategy along the line of unfolding the genocidal acts, if not before (Operation Broken Silence, 2023). Nor does the denialist narrative or tendency limit itself to the regime or authority involved in the genocidal massacre; it persists "long after the event by a variety of groups and people, including successor governments or successor enemies of the victim people" (Charny, 2000, p. 37). However, one of the key aspects of genocide denial is spreading strategic lies, which Smith (2014, p. 104) argued as a means of "deliberate distortion of the facts" for questioning both the intent and the occurrence of genocide, often to serve "some presumed advantages" for perpetrators. Therefore, a process of "falsification, deception, and half-truths" continues even after the physical destruction of people, intending to erase the memory of the victims and suffocate any remembrance of the events, victims, and survivors (Hovannisian, 1999, p. 202). Denial, therefore, constitutes "an obstacle to intervention against and prevention of genocide", suggesting elaborative objectives, as Theriault (2013, p. 47) further said, "'Denial' is a verbal strategy consisting of assertions that events that constitute genocide are not happening or did not happen or that the events in question are or were something other than genocide".

A new form of political narrative unfolds through an obsessive pursuit of denialist "fallacious arguments" and "erroneous facts" to distort historical truth and "eradicate the awareness of truth", aiming to prevent the revival of groups and people who experienced violence (Imbleau, 2005, p. 243). However, other than disputing the number of deaths (even though the number is not a significant indicator of genocide) and blaming the victims for the atrocity or projecting them as perpetrators, a process of generating denial narratives persists for many reasons, including preventing genocidal accountability and thus avoiding legal prosecution of both the state and individuals involved in committing genocide (Mulaj, 2017; Smith, 2014).

Genocide denial has long-term aims and a deeper significance than merely killing, posing an existential threat to both survivors and their society. Theriault (2013, p. 48) states:

Denial also functions to destroy further the victim group, by wiping out even the memory that they existed as they did before genocide; if there was no genocide, then the people who were killed in fact were not killed and their present nonexistence means they did not exist in the first place, that is, they never existed; the victims' cultural, social structures, economic wealth, political relevance, and so on that were destroyed were in fact not destroyed and their present nonexistence means that they in fact never existed; and so on. Denial transforms a partial success into a more total genocide, by denying the link of dispersed survivors, their culture, and social structures to the place where their group experienced genocide.

Denial is not straightforward; rather, it is "far more deeply entrenched, often representing a societal consensus" of diverse actors, who have material and political interests, since a prevailing status quo benefits the ruling authority and their allies (Jones, 2024, p. 601). Cambodia exemplifies a long-term denial of the Khmer Rouge (KR) genocide that occurred between 1975 and 1979. This denial benefited national political leaders with former ties to KR and served the interests of powerful Western states, including the US, which, even after the KR were ousted, continued to consider them the legitimate representatives of Cambodia at the UN (Grickevičiūtė, 2024, p. 28; Menzel, 2007). Meanwhile, these states condemned the Vietnamese invasion of Cambodia, whereas the KR, strategically, received direct regional support from Thailand, assistance from China, and indirect backing from the US, which was involved in the Vietnam War (Menzel, 2007, p. 216). Although the UN-backed hybrid tribunal finally recognised the Cambodian genocide in 2007 and prosecuted two top leaders of the KR regime, the involvement of powerful states in such roles raises questions about their stance on genocide and its recognition, especially when it unfolded in the 1970s.

"Diaspora activism", however, plays a crucial role in persuading other states to politically recognise a particular genocide (Armoudian & Smits, 2025, p. 92). In the case of the Armenian genocide, diaspora activism, including a coalition of Armenians, Assyrians, Greeks, and Kurds, and their strategies like lobbying, letter-writing, social media use, and petitions, have over the last three decades impacted political recognition of this genocide in the US, Germany and France, although some states, like Bolivia, Luxembourg and Slovakia, recognised it despite not having any strong Armenian diaspora presence (Armoudian & Smits, 2025). Such political recognition has been vehemently opposed by Turkey, which has justified the Armenian uprising as a threat to the territorial integrity of

the Ottoman Empire. Nevertheless, many powerful global states have previously shown a lack of interest in acknowledging this genocide due to Turkey's geo-strategic position in the Middle East and its NATO membership (Matossian, 2023).

While some other European governments and the European Parliament recognised the Armenian genocide, Sweden and its executive branch, despite being altruistic and human rights oriented and despite having recognition of this genocide from local bodies such as its unicameral parliament, the Riksdag in 2010, as well as several political parties, activists, and ethnic organisations, have adopted a tactical approach of "cautiously" avoiding recognition (Fittante, 2023, p. 392). From a geopolitically pragmatic perspective, it resisted recognition and did not want to antagonise Turkey, projecting that this could undermine its commitment to democratisation, while maintaining a strategic relationship to overcome challenges related to the Syrian refugee crisis (Fittante, 2023).

Such approaches to opposing political recognition by states that uphold the spirit of human rights standards not only encourage the denialist narrative of the state's responsibility but also discourage others from joining the quest for genocide recognition. Thus, denial is an aspect of genocide that requires distinct recognition apart from simply acknowledging the genocide itself. The victim group or community, including the surviving cluster who experienced the genocide but fortunately survived, provides the initial recognition of a genocide, even if they might not be aware of the legal definition of genocide. They clearly understand that they have suffered and endured persecution, atrocity, and extermination solely because of being the 'other', due to their racial, religious, or ethnic differences, which have been exploited by the dominant, powerful group against them. Therefore, they stand against the oppressors who obviously deny the genocide; in other words, they acknowledge the denial process too. One might question the extent or degree to which their recognition aligns with the legal criteria of genocide; such questions are less empowering for a group that becomes a victim due to the identity that the state or another group at first projected as a future threat. Therefore, victim and survivor recognition forms the foundation for other types of recognition, such as academic, public, political, and legal acknowledgement.

Regardless of the forms of recognition a genocide receives, perpetrators continue to deny not only the genocide itself but also the various forms

of recognition. Like the political recognition of the Armenian genocide refused by Turkey, the legal recognition of the Srebrenica genocide by two judicial bodies, namely the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Court of Justice (ICJ), has been challenged by local nationalist political leaders of the Republika Srpska (RS). They not only contested the legal proceedings and distorted the truth in a revisionist manner, calling Srebrenica a “fabricated myth”, but also celebrated convicted political leader Radovan Karadžić and sentenced army officer Ratko Mladić as war heroes, normalising genocide denial in public discourse through different glorification initiatives (Rahim, 2019; Simic, 2025, p. 500; Subotić, 2022).

However, the ineffective roles of international bystanders, including powerful states and international organisations like the UN, influenced by their geo-strategic interests and political reluctance, during the period of fomenting and orchestrating genocide, have a serious impact on genocide denial (Cohen, 2001, p. 18). For example, neither the UN nor powerful global states like the US took proactive steps to prevent genocide, nor did they even use the ‘G’ word in Rwanda in 1994 and in Srebrenica in 1995, until the violence was nearly over. This largely helped the genocidal processes conclude and denied them responsibility for their inaction (Theriault, 2013). Such avoidance of their roles during a crisis and the failure to recognise genocide may evoke feelings of “shame or guilt” in them, often leading them to create legal mechanisms, like the ICTY and ICTR, to acknowledge genocides through a legal process and to punish the perpetrators (Charnysh & Riaz, 2025, p. 3220).

Although genocide “benefit(s) the perpetrator” either to end the war with victory or to create space for a negotiated settlement, the post-war period benefits the victim community, which over time can claim and legitimise its demand for “recognition, accountability and redress” (Mulaj, 2017, p. 129). The victim and survivor community seeks recognition for what brutal atrocity and persecution happened to them, while the perpetrators aim to interpret the events and issues of genocide in their own way, with mystification, if not falsification, often denying their roles in the genocide process, even after legal recognition. Therefore, recognition sometimes does not end denial in the domestic context where a genocide occurred. The ever-evolving politics of denial and recognition in the RS of Bosnia and Herzegovina is an uncanny case of post-recognition denial that may manifest and persist differently across contexts. The ongoing nature of denial sustains the continuity of genocide itself as long

as it dismisses the responsibility for historical policies, acts, and atrocities, thereby fostering conditions for future intolerance and violence, if not systematic genocide.

3.5 THE GAMBIA AND MYANMAR ARE AT THE ICJ: DEBATE AND ARGUMENTS CONTINUE

The case concerning “Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)” began on 11 November 2019, when the Gambia, a country in West Africa, instituted proceedings before the ICJ, alleging that Myanmar had breached the Genocide Convention through its treatment of the Rohingya in Rakhine State (International Court of Justice, 2026; United Nations, 1948). On 23 January 2020, the Court ordered Myanmar to prevent Genocide acts, preserve evidence, and report regularly (International Court of Justice, 2020a). By rejecting Myanmar’s objection to the case on 22 July 2022, the Court allowed it to proceed. Both parties submitted their key arguments in writing, with evidence where possible, including The Gambia’s Memorial, Myanmar’s Counter-Memorial, The Gambia’s Reply, and Myanmar’s Rejoinder. The debate has continued, and there have been repeated exchanges on compliance and requests for provisional measures. The case gained further momentum once eleven other states joined under Article 63 of the ICJ Statute between 2023 and 2025 and intervened on issues concerning the interpretation of the treaty (Table 3.2).

As in many other cases at the ICJ, the continuity of the case has been shaped by two opposing narratives and perspectives, presented by The Gambia and Myanmar. The former has argued that Myanmar committed a systematic genocide against the Rohingya identity group, culminating in the highest levels of violence in 2016 and 2017, including torture, killings, sexual violence, torching houses, destroying villages, and forcibly displacing them (International Court of Justice, 2020b). The latter, on the other hand, has denied the genocide charge against the Myanmar state, interpreting those 2016 and 2017 events from a traditional state security perspective and defining those actions as counter-terrorism operations against the ARSA (International Court of Justice, 2023). However, the case has, in the meantime, attracted significant international attention, focusing on the facts and interpretations that the parties present, the evidence submitted, and, more importantly, the legal and broader

Table 3.2 Major developments in the ICJ case: *The Gambia v. Myanmar*, 2019–2026

<i>Date</i>	<i>Key development</i>	<i>Significance</i>
11 November 2019	The Gambia instituted proceedings against Myanmar before the ICJ under the Genocide Convention	This formally began the case on the Rohingya genocide
10–12 December 2019	The Court held hearings on the Gambia's request for provisional measures	The first public hearings focused on urgent protection for the Rohingya
23 January 2020	The Court indicated provisional measures, ordering Myanmar to prevent genocidal acts, preserve evidence, and submit regular reports	This was the Court's substantive order in the case
23 October 2020	The Gambia filed its Memorial	This was a major step in the merits phase, setting out The Gambia's full genocide case against Myanmar
20 January 2021	Myanmar filed preliminary objections	Myanmar sought to stop the case before it reached the merits
21–28 February 2022	The Court hearings on Myanmar's preliminary objections	This dispute at this stage concerned jurisdiction and admissibility
22 July 2022	The Court rejected all of Myanmar's preliminary objections	This allowed the case to proceed fully to the merits phase
2020–2025	Myanmar filed a series of twelve reports on compliance with the provisional measures, and The Gambia responded with written observations	These filings created an ongoing record on conditions in Rakhine, repatriation, accountability, and continuing risk to the Rohingya
24 August 2023	Myanmar filed its Counter-Memorial	Myanmar set out its full merits defence, denying genocide and framing the events as counter-terrorism operations against the ARSA
Late 2023–2025	Eleven States intervened under Article 63 of the ICJ Statute: Belgium, Canada, Denmark, France, Germany, Ireland, the Maldives, the Netherlands, Slovenia, the Democratic Republic of Congo, and the United Kingdom	The case has widened beyond the two parties and gained broader significance for the interpretation of the Genocide Convention

(continued)

Table 3.2 (continued)

<i>Date</i>	<i>Key development</i>	<i>Significance</i>
3 July 2024	The Court admitted the interventions of the Maldives and the joint group of Canada, Denmark, France, Germany, the Netherlands, and the United Kingdom	The Court confirmed that third States could participate in questions of treaty interpretation
23 May 2024	The Gambia filed its Reply	The Reply rebutted Myanmar’s Counter-Memorial and reinforced The Gambia’s genocide claim
30 December 2024	Myanmar filed its Rejoinder	This completed the written pleadings on the merits
25 July 2025	The Court admitted the interventions of Slovenia, the Democratic Republic of Congo, Belgium, and Ireland	This expanded the total number of intervening States to 11
12–29 January 2026	The Court held the merits hearings, including two rounds of oral argument, the examination of three witnesses and one expert called by the Gambia, and one witness called by Myanmar	This was the final oral phase before judgement
27 January 2026	The Gambia presented its final submissions	The Gambia asked the Court to find Myanmar responsible under the Genocide Convention and to order remedies
29 January 2026	Myanmar presented its final submission, the hearings concluded, and the Court announced that it would begin its deliberations	The case entered its final judicial stage, with judgement pending

Source ICJ, 2026; <https://www.icj-cij.org/case/178> (last accessed on 12 April 2026)

definitions of genocide and the burden of proving intent in this legal battle.

The most recent development (as of April 2026) is that the merits hearings ended on 29 January 2026, and the Court has now begun its deliberations. The next step will be the judgement on Myanmar’s responsibility, its compliance with the provisional measures order, and any remedies that may follow (see Table 3.2).

3.6 WHY THE GAMBIA ARGUES THE ROHINGYA CASE IS GENOCIDE?

The Gambia's framing of the Rohingya genocide case is comprehensive and can be grouped into a few connected themes. Broadly, it indicates that the arguments The Gambia presented are holistic, highlighting decades and generations of structural violence, discrimination and persecution directed towards the Rohingya community, carried out by Myanmar with the specific intent to harm or destroy them. It has not considered the 2016 and 2017 events only; instead, it has argued that those violent events are the culmination of earlier discriminatory policies and systematic violence (International Court of Justice, 2020b, 2024a).

The Gambia, primarily, presents that the Rohingyas—as an ethnic, racial, and religious group—are protected under the UNGC, but they have been chronically targeted collectively by Myanmar. It rejects Myanmar's non-recognition of the Rohingya identity and argues that the denial of identity of an identity group does not allow a state to revoke legal protection to it. Secondly, it argues that genocidal violence has been perpetuated through decades of formal and informal structural violence, referring to the 1982 Citizenship Law that repealed the Rohingya's citizenship rights, restrictions on their everyday affairs, like movement, marriage, education, services, etc., which collectively orchestrated an environment conducive to genocidal atrocity and destructive action against this identity group (International Court of Justice, 2020b, 2019a).

Thirdly, The Gambia has accused Myanmar of committing various acts prohibited by Article II of the UNGC, such as killing members of the target group, inflicting serious bodily or psychological harm, undermining life conditions, as well as controlling in-group births of the target, which have been closely linked to the legal aspect of the case (International Court of Justice, 2020b). Furthermore, it argued that the 2016 and 2017 'clearance operations', carried out against the Rohingya population by the Tatmadaw and other security forces, are the culmination of earlier policies and activities, and constitute genocidal acts at least from two perspectives: their intent to destroy the Rohingyas as a group, totally or partially, and the nature and extent of the massive violence of these events, such as mass murder, sexual violence, including rape, and the

burning of villages and houses (with inhabitants locked inside) (International Court of Justice, 2019a, p. 6). Those acts cannot be interpreted as counter-terrorism actions only.

Another crucial aspect of the Gambia's submission has been its strong emphasis on sexual torture and violence, including the rape and gang-rape of Rohingya women and girls, a heinous part of this genocide that has immediate and long-term consequences, including death and trauma, for survivors (International Court of Justice, 2020b). The Gambia has repeatedly highlighted these issues, with references in its memorial. The sixth component of the Gambia's position highlights various forms of denial—the denial of genocide, the denial of Rohingya identity, the denial of citizenship, the denial of human rights leading to discrimination, the denial of birth registration, and the denial of access to sustenance, including health care and food, all associated with Myanmar's denial of responsibility (International Court of Justice, 2020b). Beyond these denials, Myanmar has challenged the international evidence indicating a pattern of avoiding accountability for its policies and actions, as the Gambia perceives it. Such denials do not help address the Rohingya crisis as it has come to this stage; instead, they tend to sustain impunity for the process of discrimination, deprivation, persecution, violence and atrocities perpetrated against them and with the intent to destroy them, as a group, in part or in whole, by the state, Myanmar.

3.7 MYANMAR'S POSITION AND ITS CORE DENIALIST ARGUMENTS

Myanmar has taken a defensive position, and its presentation before the ICJ has been built on a comprehensive framework for rejecting a genocide claim, not meeting the very core aspect of the genocide definition—the intent (International Court of Justice, 2019b, 2023, 2024b). The primary foundation of Myanmar's position lies in defining the Rohingya crisis and the 2016 and 2017 events as parts of a complex internal armed conflict, not as genocide. For example, in the first public hearing, Aung San Suu Kyi, as the Union Minister for Foreign Affairs of Myanmar, presented the crisis as part of a larger Rakhine State problem—where Myanmar's defence forces were fighting an internal conflict with the Arakan Army—and claimed the 2016 coordinated attacks of the ARSA on police posts invited counter-operations from the state's forces (International Court of Justice, 2019b). She attempted to shift the legal framing

from genocide to internal conflict, connecting it with insurgency and “war crimes”, not genocide with any such intent, which “will be prosecuted through our military justice system, in accordance with Myanmar’s Constitution” (International Court of Justice, 2019b, p. 18). Nevertheless, whatever the ‘clearance operations’ Myanmar had carried out were not intentionally criminal or genocidal in nature but were standard military counter-operations immediately after the ARSA attacks (International Court of Justice, 2023).

The second point of Myanmar’s argument, as related to the first, concerns specific genocidal intent. It stressed that ‘the intent’ has not been proved, as it has envisioned genocide from a narrow perspective and argued that not all serious atrocities comply with the UNGC. Therefore, it has advanced the argument that the materials and evidence the Gambia presented to the Court may support claims of human rights violations, breaches of international humanitarian law, and individual war crimes. Nevertheless, apart from rejecting the Gambia’s comprehensive interpretation of the UNGC, Myanmar challenged the reliability and weight of the evidence it submitted, including the UN Fact-Finding Mission reports, reports from NGOs and media, witness statements, satellite imagery, etc., which are untested, methodologically weak, and advocacy-driven (International Court of Justice, 2024b).

Myanmar has also questioned the Gambia’s intention of stretching the UNGC, from a genocide defining instrument to a wider human rights instrument, covering a range of issues, such as discrimination, movement restrictions, life in camps, citizenship grievance, and statelessness, which it has perceived are not part of genocidal conduct. Moreover, it has a firm tendency to reject the Rohingya identity, both legally and politically; therefore, it has continuously referred to the Rohingyas as ‘Bengalis’ and objected to a long-standing notion of their historical presence in Myanmar (International Court of Justice, 2023). However, this form of identity denial has been a part of its positioning in the ICJ, indicating an attention to rejecting the Rohingya identity at the global level.

A similar narrative has operated in Myanmar. In a 2018 publication, the Tatmadaw supported this process by consistently labelling the Rohingyas as intruders or insurgents, sources of instability (*The Guardian*, 2018). Myanmar claimed that some 100,000 Bengali Muslims illegally migrated to Myanmar in 1971, when Bangladesh was liberated from Pakistan, and that this continued thereafter (International Court of Justice, 2023, p. 15). Bangladesh, which has been hosting more than a

million displaced Rohingyas in Cox's Bazar, a bordering district, claimed that Myanmar spreads disinformation and distorts the historical facts of its 1971 Liberation War, when people in Bangladesh also experienced genocidal violence committed by the Pakistani military and its local collaborators (The International Association of Genocide Scholars, n. d.; Spencer, 2012, p. 64). Bangladesh rejected the "false migrant narrative" that Myanmar mentioned in its submission to the ICJ, on the grounds that it is historically incorrect, and argued that portraying the Rohingyas as foreigners, Bengalis, and an internal security threat is nothing but an approach to deny the Rohingya identity and a diversion from the atrocity crime committed in 2016 and 2017 (BSS, 2026; Government of Bangladesh, 2026). Historical census data also show a long-established and significant presence of the Muslim community in Arakan/Rakhine long before Myanmar's independence on 4 January 1948 from British rule (LSE Archives, 1971). However, the overwhelming majority of Bangladeshi refugees, including Hindus, Buddhists and Muslims, who fled to India and Myanmar during the Liberation War, returned to Bangladesh following its independence from Pakistan on 16 December 1971 (LSE Archives, 1971).

Broadly, Myanmar's argument to the ICJ has been an attempt to disentangle the 2016 and 2017 atrocities from the historical background and structural context that perpetuated discrimination, deprivation and persecution against the Rohingyas. Putting the ARSA and its attack at the forefront, Myanmar has intended the ICJ to look into the case more from a narrow perspective than excluding the decades-long discriminatory policies and practices. The denialist narrative that Myanmar pursued has been linked to its wider and longer-term state narrative that seeks to recast the Rohingya crisis as a problem of migration, internal security, terrorism, border control, and bureaucratic verification. The advancement of a bureaucratic-security narrative that normalises verification and return without recognising the Rohingya identity, while Bangladesh, as the displaced Rohingya hosting country, has rebutted this very nationalist narrative of Myanmar, associated with the politics of refusal, non-recognition, historical distortion, and justification that has sustained the Rohingya crisis.

3.8 CONCLUSION

Genocide, as a concept and as a process, emphasises the ‘intent to destroy’, indicating the willingness and motives of the agents or perpetrators to pursue strategies, policies and actions to annihilate the ‘other’ group, both physically and collectively. This ‘intent to destroy’ is the foundation-stone of the legal definition of genocide and evolves within a specific socio-political context that questions acceptance, rejects diversity and targets a political imaginary threat, on the one hand, and raises the question of the moral responsibility of the genocide participants, who have been motivated by their so-called superior ideology and by sentiments of being a superior race to the group they target, as well as those who cannot act in time to prevent genocidal violence, on the other hand. Nevertheless, whatever the political or racial logic constitutes the foundation of committing that motive or intent to eliminate a racial, ethnical, national or religious group, partially or totally, genocide has to be understood both from the legal and beyond-legal framings due to its nature of targeting a group and dismantling its dynamic social networks and relations with other formal and informal groups and institutions, meaning to complete a social death of that particular group that has its own culture, language, religion, and institutions in the larger system of states, communities, and groups.

The Rohingya, an ethno-religious-linguistic identity group in Myanmar, have suffered diverse patterns of discrimination, deprivation and denial, solely because of their identity, and have experienced atrocity culminating in a large number of them taking refuge in Bangladesh in 2017. Stanton’s framing of the ten stages of genocide is significant in explaining the Rohingya case, as the process developed over a period during which they were subjected to deprivation of their identity and basic rights, and to living in a polarised society that restricted their movements, dehumanised them, and all of which created conditions for the forceful expulsion of many of them from the Arakan state in 2017. Their state, Myanmar, which though claims Rohingyas are illegal Bengalis, denies the Rohingya identity as well as the claim of genocide in the legal suit filed by the Gambia at the ICJ. While the Gambia argues in favour of a legal recognition of the Rohingya genocide, Myanmar argues against it and presents its argument, interpreting its actions as lawful, standard counter-terrorism operations against the ARSA. One of the signature features of the theoretical framing of denial is that the authority interprets it

differently from the issue or events in question, perhaps mixing it with deceptive arguments.

Like some other cases, the Rohingya case has received victim recognition, some academic recognition and rhetorical political recognition of the US in 2022 and several other countries, including Canada, the Gambia, Maldives, the United Kingdom, and the Netherlands, among others, have joined the ICJ case and pushed for legal remedies and actions. Yet, the legal recognition is the jurisdiction of the court that determines the nature and extent of genocide, which the Gambia has been pursuing to end decades-long structural discrimination of the Rohingyas, to end impunity and to bring justice for them; therefore, it seems it has framed the case broadly, supported mostly by secondary evidences while covering the wider spectrum of the Rohingya crisis that systematically evolved in Myanmar. Myanmar challenges that evidence and questions the framing of the case that covers a wide range of issues, covering human rights violations or breaches of international humanitarian law or individual atrocity crimes that do not qualify as genocidal. This politics of narrative may not influence the court's declaration, which relies on the parties' evidence; therefore, one must wait for the ICJ's final judgement in the Gambia vs Myanmar case. Nevertheless, one must not forget the theoretical framing of the politics of genocide denial and recognition, which implies that legal recognition does not entirely end denial, a point all should focus on as well to materialise the symbolised, philosophical commitment of 'never again'.

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