

Beyond State Lines: Mapping Justice For The Rohingya

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Faculty Adviser: Michael Forman, Ph.D.

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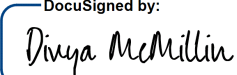
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Introduction

Few crises expose the limits of the modern political order as starkly as that of the Rohingya. Systematically excluded from citizenship in Myanmar and denied recognition across national and international frameworks, the Rohingya exist in a condition where the very structure meant to guarantee rights instead renders them unattainable. Their plight is not only a humanitarian emergency, but a political problem rooted in the organization of justice and human rights.

Contemporary frameworks of justice- whether focused on distribution, recognition, or humanitarian response- presume the existence of political membership within a bounded community. Yet for stateless populations, this presumption collapses. Without recognized membership, there is no mechanism through which rights can be claimed, enforced, or realized. As Hannah Arendt observed, the loss of political belonging entails the loss of the “right to have rights.”

This paper argues that the Rohingya crisis reveals a fundamental limitation within the modern political order: because justice is structured around state-based membership, those excluded from citizenship are simultaneously excluded from the conditions under which justice can be realized. Drawing on Nancy Fraser’s framework of distribution, recognition, and representation, it contends that the Rohingya’s statelessness constitutes a structural injustice of political misframing. In response, justice must be reimagined beyond the confines of Westphalian sovereignty, such that political membership- and the rights it secures- is no longer contingent upon national belonging. Although this paper centers on the Rohingya, the dynamics it reveals are not unique; rather, they reflect a broader structural tension within a global system in which access to rights remains contingent upon recognized political membership.

The Rohingya Case

Despite their centuries long presence in the Rakhine state in Myanmar, the Rohingya have been juridically excluded from citizenship since the 1982 Citizenship Law. Section 3 of this law says, “Nationals such as the Kachin, Kayah, Karen, Chin, Burma, Mon, Rakhine or Shan and ethnic groups as have settled in any of the territories included within the State as their permanent home from a period anterior to 1185 B.E., 1823 A.D. are Burma citizens.”¹ The law officially recognizes 135 “national races” eligible for full citizenship. Left off the list, the Rohingya are excluded. While there is a pathway for Rohingya to gain naturalized or associate citizenship, it requires providing “conclusive evidence” that they resided in Myanmar before the state succeeded from the British on January 4th, 1948. Because most Rohingya lack the necessary documentation, they are effectively excluded from both naturalized and associate citizenship.² This tension is complicated by the legacy of British colonial rule, which redrew borders across South Asia and facilitated cross-migration between present-day Bangladesh and Myanmar. Newly drawn boundary lines hardened ethnic distinctions that later informed how post-independence governments defined who “belongs.” In fact, the government does not even recognize Rohingya as an ethnic group from Myanmar but as “Bengali immigrants.”³ The Rohingya have become “others” in Myanmar- stripped of the basic benefits of being members of a political community such as proper documentation, freedom of movement, education, land

¹ Pyithu Hluttaw, *Burma Citizenship Law*, Ch. 2, A. 3 (1982), <https://www.networkmyanmar.org/ESW/Files/1982-Citizenship-Law.pdf>.

² Burmese Rohingya Organisation UK. 2014. *A Briefing by Burmese Rohingya Organisation UK*. Accessed November 28, 2025. <https://burmacampaign.org.uk/media/Myanmar%E2%80%99s-1982-Citizenship-Law-and-Rohingya.pdf>.

³ Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, 39th sess., 10–28 September 2018, A/HRC/39/CRP.2 (United Nations, 2018).

rights, health care, and political participation. They have become politically homeless, or legally stateless.

As of 2025, the United Nations High Commissioner for Refugees (UNHCR) documented 4.4 million stateless persons, although there is believed to be more because most countries do not report stateless data. Since the conclusion of WWII, statelessness has proved to be a difficult issue that has left millions vulnerable because they lack the protection of a state. In response, the global community banded together to create the 1954 Convention relating to the Status of Stateless Persons followed in order to provide a framework that would provide protection for the stateless at the international level. It's most notable contribution is that the convention presented a legal definition for statelessness. The convention defines "stateless persons" as the following: "someone 'who is not considered as a national by any State under operation of its law.'⁴ This is a problem because in the modern world, the state is the enforcer of human rights. If people do not have a state, they do not have a guarantor of rights. Hannah Arendt calls this concept the "right to have rights." Arendt states that the problem is not that they (stateless persons) are unequal under the law, but that there is no law for them.⁵ The right to nationality is included in the Universal Declaration of Human Rights (UDHR) article 15, and similarly, the right to be recognized under the law is outlined in Article 6. The Rohingya face even greater vulnerability because Myanmar, their country of origin, is not a state party to the 1954 Convention. Although the goal of international law is to be as such, states that do not ratify conventions and statutes cannot be forced to uphold international law. In light of Myanmar's resistance to sign critical human rights documents as well as their lack of citizenship, the Rohingya have been effectively

⁴ United Nations High Commissioner for Refugees, "Stateless People," accessed November 2, 2025, <https://www.unhcr.org/about-unhcr/who-we-protect/stateless-people>.

⁵ Hannah Arendt, *The Origins of Totalitarianism* (New York: Meridian Books, 1958), 296–97.

stripped of many basic human rights. This reality is compounded by Myanmar's military-dominated authoritarian system, in which power is concentrated in the Tatmadaw and avenues for legal or political recourse are severely constrained.

For generations, Muslim Rohingya have been in conflict with the Rakhine Buddhists, but since the 1980s, the conflict has significantly escalated. The conflict began with military operations carried out by Myanmar's national armed forces, the Tatmadaw, which prompted the first wave of Rohingya refugees to flee to neighboring Bangladesh. Skirmishes between the ethnic Rakhine Arakan Army and the Rohingya Arakan Rohingya Salvation Army (ARSA) have also been common, further complicating security and displacement dynamics in Rakhine State. The situation took a drastic turn for the worst in August of 2017, when widespread attacks were conducted by the Tatmadaw for "security reasons" against Rohingya sending another 742,000 to Bangladesh running for their lives. Hundreds of villages were burned, thousands were killed, and even more were raped. In the 2018 Human Rights Council's Independent International Fact-Finding Mission on Myanmar, detailed reports are included of the mass violence, listing the horrors village by village. In Section 772 "A survivor described how she was taken together with her sister, her mother, two neighbours and her young daughter and son to one of the houses. When she entered the house she saw women being raped."⁶ Many of the surrounding testimonies describe violence with far greater explicitness and severity.

As of April of 2025, United Nations Refugee Agency (UNHCR) data reported 1,272,081 Rohingya refugees.⁷ Over one million of these currently reside in Cox's Bazar, Bangladesh in

⁶ Human Rights Council, *Detailed Findings on Myanmar*, 180, para. 772.

⁷ United Nations Office at Geneva, "UNHCR Underscores Plight of Rohingya Refugees Amid Alarming Reports," May 23, 2025, <https://www.ungeneva.org/en/news-media/news/2025/05/106682/unhcr-underscores-plight-rohingya-refugees-amid-alarming-reports>.

the Kutupalong–Balukhali expansion site which is the largest refugee camp in the world. The humanitarian situation in Cox’s Bazar is as dire as it is in Myanmar. Other large populations of Rohingya are found in Malaysia, India, and Thailand.⁸ Large numbers of Rohingya have attempted dangerous journeys across the Bay of Bengal from both Myanmar and Cox’s Bazar, a decision that reflects not irrationality but the absence of safe and sustainable alternatives. The perceived risk of death at sea was, for many, less severe than the conditions they sought to escape.

From the denial of rights to the internal conflict where numerous crimes against humanity are being committed, to the creation of over one million refugees and deplorable conditions for them, the crisis is vast and dire. Although there has been statements from many entities across the international community about the crisis, little to no change has been enacted for the peace, dignity or equality of the Rohingya. This stark reality requires careful analysis of where current international entities have failed in their commitments to humanity, specifically within the Rohingya crisis.

Erosion of Citizenship- Erosion of Rights

The atrocities in Myanmar have persisted for over fifty years, but this process to see meaningful change has been slow. The international community’s failure to protect the Rohingya is often attributed to a global system that is sovereignty-bound, politically unequal, and procedurally slow. While this diagnosis captures important institutional limitations, it remains incomplete, as it overlooks a more fundamental issue: the Rohingya’s exclusion from political

⁸ USA for UNHCR, “Rohingya Refugee Crisis Explained,” August 22, 2024, <https://www.unrefugees.org/news/rohingya-refugee-crisis-explained/>.

membership itself. As their citizenship erodes, so too do the conditions under which rights can be claimed, protected, and enforced.

In previous centuries, rights were thought to be upheld by social, spiritual, or religious forces- assured by man's equality before God- but as the world secularized there became a need for these rights to be accessed apart from any higher authority. Thus, the guarantor of the rights of man became man himself. "No special law, moreover, was deemed necessary to protect them because all laws were supposed to rest on them."⁹ The Rights of Man were intended to be independent of citizenship, nationality, or religious affiliation, because all men are members of some kind of political community, however complexities ensue when communities deny membership.¹⁰ Arendt expresses that for the "rightless", the first right that is vanquished is the loss of their homes. Subsequently, is the loss of government protection and, to an even greater detriment.¹¹ She famously states: "The calamity of the rightless is not that they are deprived of life, liberty, and the pursuit of happiness, or of equality before the law and freedom of opinion... but that they no longer belong to any community whatsoever. Their plight is not that they are not equal before the law, but that no law exists for them."¹² Citizenship functions as the legal and political gateway through which rights are accessed and protected; when citizenship is eroded or denied, the enjoyment of rights becomes contingent, fragile, or altogether impossible. In the case

⁹ Hannah Arendt, *The Origins of Totalitarianism* (New York: Meridian Books, Inc., 1951), 291.

¹⁰ The Rights of Man: Arendt doesn't explicitly reference one speaker or document but refers to the basic universal rights of all humanity. Key arguments of the Rights of Man include natural rights (life, liberty, and property), universality and inalienability, and equality. This shift began during the Enlightenment with thinkers such as John Locke, Thomas Hobbes, Jean-Jacques Rousseau, Immanuel Kant, and revolutions across Europe and America with documents such as the Rights of Man and of the Citizen and Declaration of Independence.

¹¹ Hannah Arendt, *The Origins of Totalitarianism* (New York: Meridian Books, Inc., 1951), 293-294.

¹² Hannah Arendt, *The Origins of Totalitarianism* (New York: Meridian Books, Inc., 1951), 295-296.

of the Rohingya, the erosion of citizenship in Myanmar functioned as a structural precondition for the widespread violations that followed.

Additionally, this poses a problem in a globalizing world where the boundaries of political communities are no longer clearly cut. Trans-territorial non-state actors such as intergovernmental organizations, transnational corporations, international non-governmental organizations, and trans-national social movements further complicate the definition of sovereignty. As issues like climate change, forced migration, and AI use transcend national borders, human rights must be re-envisioned beyond the national sphere. This tension reveals a crucial paradox: although human rights are meant to be universal, their enforcement still hinges on the capacity and will of sovereign states.

Human rights are considered universal because they are grounded in the inherent dignity and equal moral worth of all individuals, regardless of citizenship, nationality, or cultural context. However, the application of these rights often encounters resistance from states such as Myanmar, which characterizes the international human rights regime as politically selective and as an infringement on state sovereignty through external interference.¹³ This demonstrates that even rights considered universal can become contingent on political recognition and state consent, highlighting the structural challenges of enforcing rights across contested or noncompliant states.

The primary reasons the Rohingya have been in the global spotlight are the horrific atrocity crimes they have suffered, the accusations of genocide, and the massive refugee crisis

¹³ Myanmar Ministry of Foreign Affairs, "Myanmar Rejects Misconduct of Country-Specific Human Rights Mechanisms by UN Human Rights Council," *Government of Myanmar*, accessed April 17, 2026, https://myanmar.gov.mm/news-media/news/latest-news/-/asset_publisher/idasset354/content/myanmar-rejects-misconduct-of-country-specific-human-rights-mechanisms-by-un-human-rights-council.

that ensued. However, these atrocities did not transpire overnight. Gregory Stanton's "Ten Stages of Genocide" identifies classification as the first step toward annihilation, a process institutionalized in this context by the 1982 Citizenship Law. By formally classifying the Rohingya as non-citizens, the Myanmar state did more than just exclude them from the census; it effectively placed them outside the "regime of sense" that governs international protection. As Benjamin Meiches argues in his book *The Politics of Annihilation*, the modern drive to reduce complex destructive processes to a "cage of legal terminology" often reifies static identities while ignoring how "rules of formation" normalize the marginalization of those who do not fit dominant political categories.¹⁴ Consequently, while the ongoing refugee crisis is of immediate urgency, a gaping fissure in justice will remain unless we address the root issue of statelessness. If statelessness constitutes the foundational injustice from which subsequent violations emerge, then prevailing approaches to justice that focus on punishment or aid alone are insufficient to address a crisis rooted in the structural "misframing" of political membership itself.

Conditions of Justice: Distribution, Recognition, and Representation

It is vital that justice be defined within the context of political theory. Justice is more than retribution for crimes, systems, and law. Justice has long been a central concern in political theory. It was formalized in ancient Roman law. According to the *Institutes of Justinian*, a compilation of Roman law that was codified in sixth century A.D., justice is "the set and constant purpose which gives to every man his due."¹⁵ In her book, *Scales of Justice*, Nancy Fraser draws two distinct pictures of justice. The first picture is a balance, which is

1. ¹⁴ Benjamin Meiches, *The Politics of Annihilation: A Genealogy of Genocide* (Minneapolis: University of Minnesota Press, 2019), 41.

¹⁵ Justinian, *The Institutes of Justinian*, trans. J. B. Moyle, Title I, "Of Justice and Law," Project Gutenberg, <https://www.gutenberg.org/files/5983/5983-h/5983-h.htm>.

representative of how we traditionally think of justice. In the same way that the *Institutes of Justinian* define justice as “giving each man his due”, the balance stands for impartiality.¹⁶ It asks, under what conditions can there be equality in a society? The second picture, however, moves beyond the “what” and “who” of justice and asks the question of how. It is a picture of a map that “stands for the problematic framing, [asking]: What, if anything, should delimit the bounds of justice?”¹⁷ Both images are essential when addressing justice in a globalizing world where inequality, crisis, and participation are now transnational. Taken together, these two dimensions provide a framework for assessing how modern theories of justice function in practice, especially within and beyond political membership.

Modern theories of justice have traditionally focused on impartiality, which Fraser links to distribution and recognition, reflecting the equilibrium emphasized by the balance. Representation, expounds upon these, and addresses the structural and procedural conditions that determine who counts as a member and whose claims are recognized, echoing the broader framing concerns captured by the map.¹⁸ Additionally, in light of this, statelessness reflects a misrepresentational injustice that has implications for distribution and recognition by extension. Together, these three dimensions provide a framework for assessing both the substance and the reach of justice, particularly in cases where political membership is contested or denied.¹⁹ section will analyze the

¹⁶ Nancy Fraser, “Scales of Justice, the Balance, and the Map,” in *Scales of Justice: Reimagining Political Space in a Globalizing World* (New York: Columbia University Press, 2009), 1.

¹⁷ Nancy Fraser, “Scales of Justice, the Balance, and the Map,” in *Scales of Justice: Reimagining Political Space in a Globalizing World* (New York: Columbia University Press, 2009), 2.

¹⁸ Nancy Fraser, “Reframing Justice in a Globalizing World,” *New Left Review* 36 (November–December 2005): 69–88.

¹⁹ Nancy Fraser, “Reframing Justice in a Globalizing World,” *New Left Review* 36 (November–December 2005): 69–88.

response of the national, regional, and international communities and underscore where gaps exist as a part of ensuring justice for the Rohingya.

Distribution: Allocating Without Inclusion

The theory of distribution seeks to answer the question: “Who gets what?” It seeks to ensure equality and fairness in the allocation of social goods. John Rawls’s theory of justice as fairness offers the most influential modern account of distributive justice within a liberal society. Rawls locates justice in the “basic structure” of society- the major political, legal, and economic institutions that distribute rights, opportunities, income, and social recognition. Because institutions shape individuals’ life prospects in profound and enduring ways, Rawls argues that their distributive outcomes must value all citizens- regardless of race, gender, class, sex etc.- as free and equal.²⁰

Rawls begins from the premise that social and natural advantages such as wealth, class of birth, race, or talent are morally arbitrary. Therefore, they cannot serve as legitimate grounds for unequal claims to the benefits of social cooperation. Justice therefore requires a presumption of equality in distribution, permitting inequalities only when they are arranged to the greatest benefit of the least advantaged members of society. This requirement, known as the difference principle, reflects Rawls’s commitment to reciprocity: social cooperation must work to everyone’s advantage, and especially to the advantage of those worst off. In this sense, distributive justice is not merely about efficiency or charity, but about structuring institutions so

²⁰ John Rawls, *Justice as Fairness: Justice within a Liberal Society*, in “John Rawls,” *Stanford Encyclopedia of Philosophy*, <https://plato.stanford.edu/entries/rawls/#JusFaiJusWitLibSoc>.

that inequality itself becomes justifiable to those who bear its greatest burdens.²¹ In the context of the Rohingya, two primary themes of distributive justice can be seen.

First, is the distribution of humanitarian aid. Widespread violence committed by the Tatmadaw in the Rakhine state of Myanmar, the ancestral land of the Rohingya, created over one million refugees and even more internally displaced persons (IDPs).²² When the conflict in the Rakhine state escalated in 2017, UNHCR was quick to act by providing aid. They immediately appealed with neighboring Bangladesh to open their borders and went to work expanding Kutupalong and Nayapara, the two existing refugee camps in Cox's Bazar. In the first 100 days, UNHCR "provided emergency aid including 93,000 tarpaulins for shelters, 178,000 blankets and 36,000 sets of kitchen utensils to refugees. It... provided access to water and latrines to over 100,000 people, and to nearly 60,000."²³ Additionally, they took documentation of as many families as possible in order to further address needs. In true humanitarian fashion, the UNHCR quickly and even somewhat effectively (within their means) met basic needs to increase the "outcomes" for Rohingya refugees. On Rawls's account, this kind of humanitarian aid resembles a duty of assistance owed to burdened societies: it is meant to secure basic needs and help establish the conditions for decent political institutions, but it does not amount to a global difference principle or a demand for equal distribution across peoples. In this sense, the UNHCR's response, while morally significant, remains limited- it alleviates urgent deprivation

²¹ John Rawls, *Justice as Fairness: Justice within a Liberal Society*, in "John Rawls," *Stanford Encyclopedia of Philosophy*, <https://plato.stanford.edu/entries/rawls/#JusFaiJusWitLibSoc>.

²² An internally displaced person is someone who was forced to flee their home because of violence, conflict, human rights abuses, or disasters but remains within the borders of their home country.

²³ UNHCR Staff, "100 Days of Horror and Hope: A Timeline of the Rohingya Crisis," *UNHCR The UN Refugee Agency*, December 1, 2017, <https://www.unhcr.org/news/stories/100-days-horror-and-hope-timeline-rohingya-crisis>.

without addressing the deeper structural conditions that produce the Rohingya's vulnerability in the first place.²⁴

The second way Rawls's theory of distribution can be applied to the Rohingya case is in their relationship with the Myanmar government. Although their current standing is dire, the exclusion of the Rohingya was not an immediate process but a slow erosion of their rights in the context of political membership in Myanmar. Over the years, some Rohingya have rejected the label of "stateless" because they "insist on their longstanding membership of Myanmar's political community, pointing to access to education, healthcare, and social services as proof of their citizenship."²⁵ These Rohingya recognize levels of distributional justice they received in Myanmar but resent the label of "stateless" because it makes them more susceptible to political erasure that denies them recognition and the protections that come with political belonging. However, this access is limited in regard to who resources are distributed too, as well as the fairness of the resources distributed. On Rawls's view, however, the issue here is not merely unequal distribution but the denial of the minimal human rights that any "decent hierarchical society" must secure for all persons within its territory. By excluding the Rohingya from citizenship and restricting access to basic goods, the Myanmar state places them outside the bounds of legitimate political membership altogether, illustrating a failure not simply of fairness but of the basic rights that ground any just system of distribution.²⁶

²⁴ John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999), 106–107.

²⁵ Natalie Brinham, "We Are Not Stateless! Rohingya Resistance and the Stateless Label," in *Statelessness, Governance, and the Problem of Citizenship*, eds. Tendayi Bloom and Lindsey N. Kingston (Manchester: Manchester University Press, 2021), 346.

1. ²⁶ Rawls, *The Law of Peoples*, 64–65, 79–80.

Although the international community has made meaningful efforts toward distributive justice through refugee aid, these efforts operate outside the structure of a sovereign political community and therefore remain limited. Because the Rohingya lack full membership in any political community, they ultimately fall outside the scope of Rawls's framework of justice. In Myanmar, the inequalities they face fail to satisfy the difference principle, which requires that social and economic inequalities benefit the least advantaged members of society. Because Myanmar does not recognize the Rohingya as members of its political community, they are excluded from equitable participation in its institutions. This exclusion underscores that distributive justice is ultimately contingent on recognition, as equitable participation in institutional distribution presupposes the acknowledgment of identity and political belonging.

Recognition: Naming Without Belonging

While distributive justice concerns the allocation of social goods, theories of recognition answers the question of “who?” Justice in recognition addresses who can make a legitimate claim of justice in the first place. Nancy Fraser argues that many forms of injustice cannot be reduced to maldistribution alone, because they stem from institutionalized patterns of value that deny certain groups equal social standing. Misrecognition, in this sense, is not merely a matter of prejudice or cultural misunderstanding, but a structural condition in which groups are positioned as inferior, abnormal, or illegitimate within social and political institutions.²⁷

For Fraser, justice requires what she terms “parity of participation”, which can be defined as social arrangements that permit all members of society to “interact with one another as

²⁷ Nancy Fraser, “Reframing Justice in a Globalizing World,” *New Left Review* 36 (November–December 2005): 16.

peers.”²⁸ Recognition, on this account, is not about affirming identity or cultural difference, but about securing equal political and social standing within institutional frameworks. Axel Honneth likewise treats recognition as foundational to justice, arguing that experiences of injustice arise when individuals or groups are denied social respect, thereby suffering moral injury that undermines their ability to relate to themselves and others as equals.²⁹ However, Honneth departs from Fraser in locating the core of injustice primarily in ethical and intersubjective relations rather than in institutional structures. Fraser critiques this approach as insufficiently political, insisting that misrecognition must be understood as a structural condition embedded in law, policy, and governance, where it determines who can make claims, whose grievances are intelligible, and whose suffering registers as injustice.³⁰ While they diverge on where injustice is rooted, both ultimately converge on a shared insight: without recognized standing, individuals are excluded from meaningful participation, and justice becomes unattainable.

I want to highlight two gaps of recognition in the case of the Rohingya that are both social and institutional. First, is the erasure of the Rohingya as members of Myanmar. In the 1982 Citizenship Act, the government of Myanmar effectively excluded Rohingya from one of the recognized ethnicities of Myanmar that are citizens and went further to label Rohingya as “Bengali Immigrants.”³¹ Meanwhile, in Bangladesh, UNHCR partnered with the government to issue temporary registration documents- white cards- to Rohingya as a from data collection, identification, and access to rations. The Bangladeshi government strategically used the cards to label Rohingya as “Forcibly Displaced Myanmar Nationals,” which was then later changed to

²⁸ Nancy Fraser, “Reframing Justice in a Globalizing World,” *New Left Review* 36 (November–December 2005): 16.

²⁹ Axel Honneth, “Recognition and Justice: Outline of a Plural Theory of Justice,” *Acta Sociologica* 47, no. 4 (2004): 351–352.

³⁰ Nancy Fraser, *Scales of Justice: Reimagining Political Space in a Globalizing World* (New York: Columbia University Press, 2009), 19–21.

³¹ Human Rights Council, *Report on Myanmar*, 12.

“displaced persons from Rakhine state” under pressure from the government of Myanmar.³² It is important to note the politics of language. The first term identified Rohingya as members of Myanmar's political society, establishing a claim to treatment as such, while the second term minimized them to residents of the land removing the accountability of membership. Here, the injustice is evident in the institutional and structural exclusion by both governments, as well as in the otherization that came through labeling. These effectively subjugate the Rohingya to an inferior social status that inhibits them from participating in Myanmar and Bangladesh as equals in society.

This leads to the second gap in recognition, which is committed at the international level. Often, in humanitarian instances, there is the “helped” and the “helpers,” the “saved” and the “saviors.” Although honest labelling promotes the most effective response, the terms “refugee” or “stateless” put the Rohingya in an outsider position even in the international community—especially if they are within the jurisdiction of nation-states that are not state parties to international conventions such as the 1951 Refugee Convention and its 1967 Protocol and the 1954 Convention Relating to the Status of Stateless Persons.³³ Bangladesh, in addition to Myanmar, is not a state party to this Convention. This is the case because these conventions seek to promote peace, dignity, and equality by protecting the human rights of the most marginalized

³² Human Rights Watch, “Rohingya Identity Is More Than Words on a Card,” *Human Rights Watch*, August 15, 2018, <https://www.hrw.org/news/2018/08/15/rohingya-identity-more-words-card>.

³³ These are the United Nation’s documents that provide definitions and the proper protocols for the treatment of refugees and stateless. For nations that are signatory, the conventions are legally binding; however, due to state sovereignty, the enforcement of these documents is difficult. Myanmar has not signed the 1951 Refugee Convention and its protocol, the 1954 Convention relating to the Status of Stateless Persons or the following 1961 Convention on the Reduction of Statelessness.

within the international community.³⁴ These conventions intend to uphold justice for these groups in both distribution and recognition. While recognition determines who is acknowledged as a legitimate claimant to justice, we must go even further because just as with distribution, if individuals are not members of a political community, they have no claim to justice or to receive what is due to them. Thus, we must move beyond distribution and recognition and ask the question of “how” we determine “who is included in, and who is excluded from, the circle of those entitled to a just distribution and reciprocal recognition.”³⁵ This structural exclusion is reinforced by the fact that nearly all land, with the exception of Antarctica, is territorially governed by states, meaning access to rights under international conventions is mediated through state membership and jurisdiction.

Representation: The Boundaries of Justice Itself

To understand why we must move past theories of distribution and recognition, we must understand that these theories operate under the assumption that individuals are members of a political community with sovereign jurisdiction. This stems from the Treaty of Westphalia in 1648, which “enshrined the principle that each state and each sovereign had absolute and exclusive authority within a specific territory and total control over everything (people, air, land, water, currency, etc.) there.”³⁶ ³⁷ Sovereignty refers first to the monopoly of violence within a

³⁴ UNHCR, “The 1951 Refugee Convention,” *UNHCR*, <https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention>.

³⁵ Nancy Fraser, *Scales of Justice: Reimagining Political Space in a Globalizing World* (New York: Columbia University Press, 2009), 17.

³⁶ The Treaty of Westphalia followed the Thirty Years’ War in Europe and made way for the modern state. It established principles of state sovereignty, territorial jurisdiction, and conduct between states such a non-intervention.

³⁷ Michael Forman, “Reading and Study Guide for Fraser,” *International Human Rights*, University of Washington Tacoma, Canvas page, accessed January 26, 2026.

state to promote order and prevent chaos. The entire world is now divided into territories and nation-states with sovereign rulers. There is no new land to claim, so people must settle within an already established state. The concern of statelessness is not that they do not have land to inhabit, but that the stateless are excluded from the protection of the sovereign on the land in which they reside and are excluded from the protection of the sovereigns of any other nation-state. This is why Fraser's key argument in *Reframing Justice in a Globalizing World* is that both theories of distribution and recognition are incomplete without political representation. She conceptualizes these three dimensions of justice as interdependent, forming a structure in which the absence of any one undermines the whole framework. Achieving justice in a globalized world requires addressing not only economic and cultural injustices but also ensuring marginalized groups have a voice beyond the confines of territorial borders and traditional Westphalian sovereignty.

The theory of representational justice seeks to answer the question: "How?" or more fully, "Who is recognized as a member of the political community with the capacity to participate in decisions that affect their lives, and how is that decided?"³⁸ Unlike theories that are solely focused on distribution or recognition, Fraser's addition of representational justice centers on political voice and membership- the conditions under which individuals and groups are granted legitimate standing and influence within governing structures. Fraser argues that justice cannot be fully achieved through fair distribution of resources or cultural recognition alone if marginalized groups remain excluded from political representation. Political representation is a prerequisite that shapes the very possibility of claims for justice being heard, acted upon, or even

³⁸ Nancy Fraser, "Reframing Justice in a Globalizing World," *New Left Review* 36 (November–December 2005): 17.

seen as legitimate.³⁹ Without representation, claims of injustice risk remaining invisible or dismissed.

The core principle of representational justice lies in boundary setting: it determines who belongs within a political community and who remains outside. These boundaries establish legal and institutional standing, defining the scope of responsibility for governance and the protection of rights. They determine who is affected by a political decision and, thus, who ought to have a voice. In this framework, political voice is not simply about speaking, but about being heard and having one's interests reflected in decision-making processes. And so, "injustice arises when the community's boundaries are drawn in such a way as to wrongly exclude some people from the chance to participate at all in its authorized contests over justice."⁴⁰

This theory challenges the traditional Westphalian model of sovereignty, which ties political belonging strictly to citizenship within nation-states. It demands expanding the scope of justice beyond territorial borders to include those who are governed without representation. For these groups, such as the stateless Rohingya, the absence of representation translates into profound vulnerabilities: their claims cannot effectively shape laws, policies, or protections that impact their lives. Thus, representational justice is about securing the right to have rights- the political belonging necessary for all other rights and forms of justice to be realized. It calls attention to the structural gaps in contemporary global governance that exclude entire populations from meaningful participation, challenging the foundations of justice in an interconnected, yet politically fragmented world. Furthermore, in a world where the protection

³⁹ Nancy Fraser, *Scales of Justice: Reimagining Political Space in a Globalizing World* (New York: Columbia University Press, 2009).

⁴⁰ Nancy Fraser, "Reframing Justice in a Globalizing World," *New Left Review* 36 (November–December 2005): 19.

and preservation of rights is contingent upon political membership, representation is the vessel that renders distribution and recognition possible.

The most extreme injustice faced by the Rohingya is not simply exclusion from electoral democracy, but exclusion from political representation in Fraser's broader sense- namely, exclusion from the processes and institutions that determine who counts as a subject of justice in the first place. They lack effective representation at national, regional, and international levels, which limits their ability to contest the conditions of their own status. As a result, their political fate is largely shaped by external actors operating within asymmetric power structures and competing geopolitical interests.

At the national level, the Rohingya have been systematically stripped of citizenship and political rights by the Myanmar government, which controls the legal boundaries of membership and excludes them from any meaningful political participation. Many Rohingya are caught in a tension between Myanmar and Bangladesh. They want to return to their ancestral homeland yet have no feasible or safe way to pursue repatriation while finding themselves with no freedom of movement or legal participation in Bangladesh. The absence of Rohingya representation within Myanmar and Bangladesh's political institutions means their voices are absent from the decision-making processes that dictate their lives, fueling ongoing persecution and marginalization. Similarly, regional actors like the Association of Southeast Asian Nations (ASEAN) have upheld principles of non-interference and sovereignty, limiting their response to humanitarian aid rather than political intervention.⁴¹ This reflects the broader regional reluctance to challenge Myanmar's

⁴¹ Asia-Pacific Centre for the Responsibility to Protect, *ASEAN and the Rohingya Crisis Since 2017* (Brisbane: Asia-Pacific Centre for the Responsibility to Protect, 2022), https://r2pasiapacific.org/files/9005/2022_ASEAN_Rohingya_Crisis_Since_2017.pdf.

treatment of the Rohingya, further entrenching the representation gap. ASEAN's norms often prioritize state sovereignty over human rights, constraining collective action in crises like the Rohingya plight.

At the international level, the Rohingya remain underrepresented despite efforts by some states and institutions to hold perpetrators accountable. The United Nations Security Council (UNSC) has repeatedly faced deadlock due to vetoes by China and Russia, preventing decisive political action.⁴² Consequently, the Rohingya lack direct political representation on the global stage and must rely on others to advocate for their rights. For example, The Gambia's 2019 genocide case against Myanmar at the International Court of Justice (ICJ) is an instance where an external actor has taken up their cause, symbolizing the Rohingya's inability to bring claims themselves due to statelessness and political invisibility.⁴³ Though notably, after seven years, the case received its hearing from January 12th through January 29th, 2026. Fact-finding missions by the UNHCR and subsequent reports have paved the way for such legal action, but enforcement remains constrained by geopolitical realities.

In addition, the International Criminal Court (ICC) might offer a judicial avenue targeting individuals responsible for atrocities. According to Jamie Mayerfeld, "the central purpose of the ICC is the protection of individuals from genocide, war crimes, and crimes against humanity."⁴⁴ A request for an arrest warrant was placed on November 27th, 2024, for Myanmar's Senior General and Acting President Min Aung Hlaing, Commander-in-Chief of the Myanmar Defense

⁴² China is perhaps the biggest advocate for non-interference principals- even in the case of vile human rights violations.

⁴³ The International Court of Justice is the UN judicial branch that handles disputes between countries.

⁴⁴ Jamie Mayerfeld, "Who Shall Be Judge?: The United States, the International Criminal Court, and the Global Enforcement of Human Rights," *Human Rights Quarterly* 25, no. 1 (February 2003): 95, <https://www.jstor.org/stable/20069655>.

Services, for alleged deportation and persecution of the Rohingya in Myanmar and parts of Bangladesh.⁴⁵ The difficulty lies in the complex nature of international prosecution, where accountability often requires state cooperation or the departure of high-level officials from their country, since attempting to arrest a sitting head of state or military commander with control over armed forces risks severe political instability or armed conflict; this contributes to the slow pace of proceedings and leaves the Rohingya largely excluded from participating in the legal processes addressing their own persecution. The trouble is that because Myanmar is not a state party to the ICC, perpetrators cannot be punished unless they fall out of power- this is a difficult predicament when national leaders are those guilty of crime. Furthermore, this prosecutorial approach further highlights the Rohingya's political exclusion: they cannot directly represent themselves but must depend on international legal mechanisms that are slow and limited in scope. The Rohingya's plight thus exemplifies a structural gap in global justice where those most affected by injustice remain voiceless in the institutions designed to protect them, underscoring the urgent need to expand representational justice beyond traditional frameworks.

Justice requires more than fair distribution of resources and cultural recognition; it fundamentally depends on political representation. While distribution addresses what is owed and recognition affirms social value, representation determines who is included in the political community and who can legitimately claim justice. The Rohingya's exclusion at national, regional, and international levels illustrates how the absence of representation silences their voices and denies them membership, rendering distribution and recognition insufficient. Without political inclusion, claims to justice remain ineffective. Thus, representation reframes justice by

⁴⁵ International Criminal Court, "Bangladesh/Myanmar," *International Criminal Court*, accessed January 26, 2026, <https://www.icc-cpi.int/bangladesh-myanmar>.

ensuring marginalized groups have the power to participate in decisions that affect them, completing the conditions necessary for true justice.

Conclusion

The Rohingya crisis demonstrates that the failure to secure justice is not merely the result of insufficient intervention, but of a deeper structural limitation within the modern political order. As this paper has shown, approaches centered on distribution and recognition, while necessary, remain inadequate when individuals are excluded from political membership altogether. Without representation, the capacity to claim rights, shape decisions, and hold institutions accountable is fundamentally absent.

Through the lens of Nancy Fraser's framework, the Rohingya's condition is best understood as a form of political misframing: they are excluded not only from resources or recognition, but from the very boundaries within which justice is defined. This exclusion renders humanitarian aid partial, legal recognition unstable, and accountability mechanisms slow and contingent. The implications extend beyond the Rohingya case. In a global system still organized around Westphalian sovereignty, any population denied political membership risks falling into the same condition of rightlessness described by Hannah Arendt. If justice is to be meaningful in an interconnected world, it cannot remain tethered exclusively to state-based belonging. Rather, political membership itself must be reimagined such that the right to have rights is secured independently of nationality. Until such a shift occurs, the Rohingya will remain emblematic not only of humanitarian failure, but of the structural limits of justice in the modern international system.

References

- Arendt, Hannah. "The Decline of the Nation-State and the End of the Rights of Man." In *The Origins of Totalitarianism*. New York: Meridian Books, 1951.
- Asia-Pacific Centre for the Responsibility to Protect. *ASEAN and the Rohingya Crisis Since 2017*. Brisbane: Asia-Pacific Centre for the Responsibility to Protect, 2022.
https://r2pasiapacific.org/files/9005/2022_ASEAN_Rohingya_Crisis_Since_2017.pdf.
- Brinham, Natalie. "We Are Not Stateless! Rohingya Resistance and the Stateless Label." In *Statelessness, Governance, and the Problem of Citizenship*, edited by Tendayi Bloom and Lindsey N. Kingston, 332–350. Manchester: Manchester University Press, 2021.
- Burmese Rohingya Organisation UK. *A Briefing by Burmese Rohingya Organisation UK*. 2014.
 Accessed November 28, 2025.
<https://burmacampaign.org.uk/media/Myanmar%E2%80%99s-1982-Citizenship-Law-and-Rohingya.pdf>.
- Forman, Michael. "Reading and Study Guide for Fraser." *International Human Rights*, University of Washington Tacoma. Canvas page. Accessed January 26, 2026.
- Fraser, Nancy. "Reframing Justice in a Globalizing World." *New Left Review* 36 (November–December 2005): 69–88.
- Fraser, Nancy. *Scales of Justice: Reimagining Political Space in a Globalizing World*. New York: Columbia University Press, 2009.

Honneth, Axel. "Recognition and Justice: Outline of a Plural Theory of Justice." *Acta Sociologica* 47, no. 4 (2004): 351–364.

Human Rights Council. *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*. 39th sess., 10–28 September 2018. A/HRC/39/CRP.2. United Nations.

Human Rights Watch. "Rohingya Identity Is More Than Words on a Card." August 15, 2018. <https://www.hrw.org/news/2018/08/15/rohingya-identity-more-words-card>.

International Criminal Court. "Bangladesh/Myanmar." Accessed January 26, 2026. <https://www.icc-cpi.int/bangladesh-myanmar>.

Justinian. *The Institutes of Justinian*. Translated by J. B. Moyle. Title I, "Of Justice and Law." Project Gutenberg. <https://www.gutenberg.org/files/5983/5983-h/5983-h.htm>.

Mayerfeld, Jamie. "Who Shall Be Judge?: The United States, the International Criminal Court, and the Global Enforcement of Human Rights." *Human Rights Quarterly* 25, no. 1 (February 2003): 93–129. <https://www.jstor.org/stable/20069655>.

Meiches, Benjamin. *The Politics of Annihilation: A Genealogy of Genocide*. Minneapolis: University of Minnesota Press, 2019.

Myanmar Ministry of Foreign Affairs. "Myanmar Rejects Misconduct of Country-Specific Human Rights Mechanisms by UN Human Rights Council." *Government of Myanmar*. Accessed April 17, 2026. <https://myanmar.gov.mm/news-media/news/latest->

news/-/asset_publisher/idasasset354/content/myanmar-rejects-misconduct-of-country-specific-human-rights-mechanisms-by-un-human-rights-council.

Pyithu Hluttaw. *Burma Citizenship Law*. Ch. 2, A. 3. 1982.

<https://www.networkmyanmar.org/ESW/Files/1982-Citizenship-Law.pdf>.

Rawls, John. "Justice as Fairness: Justice within a Liberal Society." In *The Stanford Encyclopedia of Philosophy*.

<https://plato.stanford.edu/entries/rawls/#JusFaiJusWitLibSoc>.

Rawls, John. *The Law of Peoples*. Cambridge, MA: Harvard University Press, 1999.

Stanton, Gregory H. "The Ten Stages of Genocide." *Genocide Watch*. Accessed January 23, 2026. <https://www.genocidewatch.com/tenstages>.

UNHCR Staff. "100 Days of Horror and Hope: A Timeline of the Rohingya Crisis." *UNHCR: The UN Refugee Agency*. December 1, 2017. <https://www.unhcr.org/news/stories/100-days-horror-and-hope-timeline-rohingya-crisis>.

United Nations High Commissioner for Refugees. "Stateless People." Accessed November 2, 2025. <https://www.unhcr.org/about-unhcr/who-we-protect/stateless-people>.

United Nations High Commissioner for Refugees. "The 1951 Refugee Convention." <https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention>.

United Nations Office at Geneva. "UNHCR Underscores Plight of Rohingya Refugees Amid Alarming Reports." May 23, 2025. <https://www.ungeneva.org/en/news->

[media/news/2025/05/106682/unhcr-underscores-plight-rohingya-refugees-amid-alarming-reports.](#)

USA for UNHCR. “Rohingya Refugee Crisis Explained.” August 22, 2024.

[https://www.unrefugees.org/news/rohingya-refugee-crisis-explained/.](#)