What the ICJ's Judgment Means for Rohingya Women

Razia Sultana

23.11.2026 doi: 10.59704/01332a0f5cb70b85

On 19 November, the International Court of Justice delivered its judgment in *The Gambia v. Myanmar* at the Peace Palace in The Hague. It found that Myanmar committed genocide against the Rohingya in northern Rakhine State, by nine votes to six, and that Myanmar also violated its obligation to prevent genocide. Lawyers will now examine the Court's reasoning on intent, attribution and proof. I am reading for something different: what this judgment means for the women I have spent years listening to.

I was born in Maungdaw, in northern Rakhine State. My family moved to Bangladesh when I was a child, and I grew up in Chittagong, where I now practise law. I have never stopped thinking of myself as a Rohingya from Burma. I have done social work since I was young, but 2016 and 2017 were the turning point of my life. When Kaladan Press Network asked me, first in December 2016 and again after August 2017, to interview women who had just crossed the border, I agreed immediately; Kaladan is an independent, non-profit news agency founded in 2001 by Rohingya in exile in Chittagong, and it documents abuses against the Rohingya. I did not expect how hard it would be.

Rape by Command: What Women Told Us About 2017

The report that matters most for understanding sexual violence in this case is Rape by Command, published by Kaladan Press Network in February 2018. Between September and December 2017, we interviewed 36 refugees who had arrived after 25 August: 12 men and 24 women and girls, eight of them survivors of rape. I conducted every interview with the women myself, in person, in Rohingya, one by one in private in the camps in Cox's Bazar, with their consent.

Their accounts showed that soldiers raped well over 300 women and girls in or near at least 17 villages in Maungdaw and northern Buthidaung, and in Maungdaw town. More than 350 villages were attacked and burned in that period, so we believe this figure is only a fraction of the real total. By then, over 680,000 Rohingya had been driven into Bangladesh.

The testimonies showed a pattern that cannot be accidental. Rape took place at every stage: during the build-up of troops and so-called "anti-terror" raids before 25 August, during attacks on villages, during the lockdown of Maungdaw town, and against women fleeing across the Mayu Mountains. In five places, including Maungdaw town, women and girls were held in military camps and raped for up to two weeks, which only commanding officers could have authorised. Soldiers raped in groups, often in front of other troops and sometimes in front of civilians, showing no fear of witnesses. In eleven villages and in Maungdaw town, rape victims were killed or died of their injuries.

Tula Toli, on 30 August, shows why we called the report Rape by Command. Survivors described more than 400 troops entering the village at about 8 a.m. and killing hundreds of villagers. In the afternoon, the remaining women and children were held for about four hours in waist-deep water in a pond. Soldiers then took women away in turns to rape them; some were gang-raped and tortured, then shut inside houses that were set on fire. Survivors estimate that well over a hundred women and girls were raped there. An operation that drew troops from several camps, with air support, and moved from mass killing to mass rape, cannot be random. Our conclusion was that rape was planned and ordered, and that it constituted a war crime, a crime against humanity and a tactic of genocide.

These are the operations at the heart of the case the Court has now decided. The survivors' question was simple: was this the work of individual soldiers, or of a system that planned and directed it? The Court has found that the only reasonable inference from Myanmar's conduct is an intent to destroy a substan-

tial part of the Rohingya group, and that the military did not distinguish between militants and civilians. It has also described mass killing, the rape of women and girls, and the destruction of villages. Rape by Command gave our answer from the ground. Today, the world's highest court has given its own.

Where It Began: Witness to Horror

The 2017 operation repeated, on a far larger scale, what women had told us a year earlier. Witness to Horror, published in February 2017, recorded the testimony of 21 women from nine villages in Maungdaw about the 2016 clearance operation that followed the attacks on border police posts on 9 October 2016. 19 of the 20 married women had lost their husbands, who had been killed or were missing. 15 had experienced or witnessed sexual violence, pointing to at least 70 women and girls raped.

When women from other villages described the same pattern again in 2017, it confirmed what we had feared: this was not a set of isolated crimes. That consistency is what systematic conduct looks like from the ground.

Denial as a Second Injury

From the start, Myanmar's authorities publicly dismissed these allegations. After the 2016 operation, a presidential spokesman suggested that rape was implausible in a large village full of homes, and a government statement said inquiries had found no evidence. For the women, this was a second injury. They had survived the violence and crossed a border with nothing, and now they were being called liars. One woman described being made to say, on camera and in front of hundreds of soldiers, that others had burned her village.

Denial is not a footnote to atrocity; it is part of how atrocity is sustained. For that reason, the Court's findings of fact matter to survivors as much as its legal characterisation. A judgment that sets out, in the Court's own voice, what was done and by whom answers years of official denial. Myanmar argued that these were legitimate counter-terrorism operations. The Court rejected that defence.

Taking the Testimony to the Security Council

On 16 April 2018, I briefed the UN Security Council at its open debate on sexual violence in conflict, on behalf of the NGO Working Group on Women, Peace and Security. I was the first Rohingya woman to address the Council. I told its members that my message was not only for Rohingya women but also for my sisters from other ethnic communities in Myanmar who face atrocities too. I called on the Council to refer the crimes against the Rohingya to the International Criminal Court. The ICJ judgment is a different route to the accountability I asked for then, and it makes the Council's silence harder to defend.

What the Judgment Does and Does Not Do

The Gambia's case is a dispute between States. As the UN's investigative mechanism for Myanmar explains, the Court cannot prosecute individuals, and only States can bring proceedings. Rohingya survivors were not parties to the case. What the Court has done is hold Myanmar responsible under the Genocide Convention, the first time the ICJ has found a State responsible for committing genocide. It has held that Myanmar is under an obligation to adopt measures of restitution set out in the judgment, and that compensation and other reparation due to the Rohingya group and its members will be settled in a later phase. Myanmar must report to the Court within two years.

The Court had already set out what Myanmar had to do. Its provisional measures of January 2020 required Myanmar to prevent genocidal acts and to preserve evidence. Those orders were binding, yet the women I meet still live in crowded camps and cannot go home. The judgment now confirms that Myanmar failed in its duties. The question is whether anyone will make it comply.

Remedies Are Now the Real Test

As others have argued on this blog, remedies may prove the real test of this case. That test has now begun. The Court has reserved the amount and form of reparation for a later phase. From the perspective of

survivors, I would put three questions to every remedy that follows.

First, does it reach survivors? Reparation that stays at the level of declarations between States will mean little to a woman in a camp in Cox's Bazar. Remedies should be designed with survivors, and should include health and psychosocial care for victims of sexual violence.

Second, does it restore the ability to prove who we are? Many Rohingya lack the papers that show where they come from. The reports I have worked on repeatedly recorded the loss of those papers: in 2025, a religious teacher from Buthidaung told us he was made to hand over his family list and land tax document before being allowed to leave. Return without recognition and documentation is not return.

Third, does it protect the right to go home with dignity? The Rohingya's fundamental rights, including self-identification, must be restored; we must return to our places of origin with guarantees of protection; and any repatriation from Bangladesh must be voluntary, safe and dignified.

The Violence Did Not End in 2017

In September 2025, Kaladan Press Network published Kill Them All, based on interviews I conducted with nineteen Rohingya refugees from Buthidaung township. It documents the killing of hundreds of Rohingya civilians at Htan Shauk Khan village on 2 May 2024, and sexual violence, including women held as sex slaves at a military base. The alleged perpetrator in this report is not the Myanmar military but the Arakan Army. The findings rest on witness testimony, and the report calls for accountability, the release of detained civilians and independent monitoring.

I raise it not to widen the Gambia case, which concerned Myanmar's responsibility under the Genocide Convention and did not reach armed groups, but because it shows what Rohingya civilians face today. Armed groups are bound by international law, and their members can be held responsible for crimes against humanity and war crimes. A judgment, and the commentary around it, that treats the Rohingya crisis as a closed chapter misses the reality that the women in my reports describe.

What I Hope the World Hears

The Court has spoken, and three things remain true. The evidence of what happened to Rohingya women exists, in survivors' own words, and it will matter in every forum that follows. Survivors still need protection now, because a judgment on events in 2016 and 2017 cannot by itself protect a child in Buthidaung today. And the search for accountability must continue in other forums, including against individual commanders, through the ICC, national courts and any future tribunal.

The women who spoke to us in 2016 and 2017 told their stories in the hope that this might help end the persecution of their communities. That hope should be the measure of what follows the judgment. A judgment is not an ending. The real question is whether the world will keep listening to the women who were willing to speak.

Disclosure: The author assisted the UN Fact-Finding Mission and the Independent Investigative Mechanism for Myanmar and collected survivor testimony in the Bangladesh camps.

ABOUT THE AUTHOR

Razia Sultana

Razia Sultana is a Bangladeshi Rohingy human rights activist, educator and researcher based in Chittagong. She is Founder of RW Welfare Society and Director of Arkan Rohingya national organization (ARNO).Razia Sultana is a Bangladeshi Rohingy human rights activist, educator and researcher based in Chittagong. She is Founder of RW Welfare Society and Director of Arkan Rohingya national organization (ARNO).

SUGGESTED CITATION

Sultana, Razia: What the ICJ's Judgment Means for Rohingya Women, Verfassungsblog, 23.11.2026, doi: 10.59704/01332a0f5cb70b85.

Licensed under CC BY-SA 4.0.