

Crimes against Rohingya Muslims before the International Criminal Court and the International Court of Justice

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DOI: 10.22096/HR.2021.526025.1300

[Received Date: 27/02/2021 Acceptance Date: 01/08/2021]

Abstract

Since 2017, the Republic of the Union of Myanmar has carried out severe repressions against the Rohingya people. These atrocities resulted in numerous international reactions from the States, international organizations, NGOs as well media. This article evaluates the proceedings of the International Court of Justice (ICJ) in the Gambia v. Myanmar case and the Bangladesh/Myanmar situation in the International Criminal Court. The International Criminal Court (ICC), with its extensive interpretation of the 1998 Rome Statute, found the cross-border element necessary for the perpetration of certain crimes, and despite Myanmar's non-membership in the Statute, the ICC found its jurisdiction over the crimes committed during the deportation of the Rohingya from Myanmar to Bangladesh. Meanwhile, the ICJ for the first time is facing a Case which is brought before it by an indirect victim State i.e. Gambia who has based all its allegations on the mysterious concept of violation of obligations erga omnes partes. This paper first provides summarized information on both pending proceedings and then will examine the challenges that international law has to find a proper solution for the Rohingya crisis through these judicial and criminal adjudication processes.

Keywords: Rohingya; Erga Omnes Partes; Myanmar; Bangladesh; Gambia; Provisional Measures; Genocide.

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