Leave No One Behind

– But What About the ‘Scum of the Earth’?

A Discourse Analysis Based on Theories by Arendt and Agamben on Rohingya and Statelessness

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“Once they had left their homeland they remained homeless, once they had left their state they became stateless; once they had been deprived of their human rights they were rightless, the scum of the earth.”

(Arendt 1966:349)
Abstract

The aim of this study is to understand the situation of Rohingya through the concept of statelessness and to illustrate the importance of citizenship in relation to human rights. The Rohingya minority has for a long period of time been victims of violence and discrimination by the Myanmar government and military. In 1982, all Rohingyas were deprived their Myanmar citizenship through a domestic law, which is in conflict with international human rights law. Various military operations, attacks, and attempts have been made to drive the Rohingya population out of the country. Consequently, as of 2019, nearly one million stateless Rohingyas are living in overcrowded camps in neighbouring Bangladesh. By applying the philosophical understandings and conceptualisations of Hannah Arendt and Giorgio Agamben, this study seeks answers to how it is possible to perform such acts of breaching human rights. Furthermore, a number of official conventions and principles are analysed to seek answers to how the international community are obligated to act prior, during, and after atrocities on humanity are performed. The main findings of this study are that these acts of violence have been possible due to the Rohingya populations’ statelessness. The sustainable development goals aim to ‘leave no one behind’ and several universal documents and principles are in place to protect humanity from such atrocities. Nevertheless, the international community has clearly failed when it comes to protect the Rohingya population. One important and significant step towards preventing future genocides and ethnic cleansings has been identified through this study – all individuals need to be ensured their fundamental human rights.
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Glossary

**ARSA** – Arakan Rohingya Salvation Army. A Rohingya insurgent group active in the Rakhine State in south west of Myanmar.

**Biopower** – Power mechanisms and tactics performed by government focusing on life (health and biological life of individuals and populations) as a concern of sovereign power.

**Homo Sacer** – A figure of Roman law. The life of homo sacer (sacred man) is a bare life, who may be killed and yet not sacrificed.

**Ma Ba Tha** – Nationalist Buddhist group, initiated the ‘Race and Religious Protection Laws’.

**Rakhine** – A Buddhist ethnic minority.

**Rakhine State** – A state in south west Myanmar where the Rohingya and the Rakhine mainly reside.

**Rohingya** – A Muslim ethnic minority.

**Stateless** – Someone who is not considered as a national by any state under the operation of its law (Article 1 of the 1954 Convention relating to the Status of Stateless Persons).

- *de jure stateless* – A person “not considered as nationals by any state under the operation of its law” (UNHCR 2018:52).
- *de facto stateless* – A person “outside the country of their nationality who are unable or, for valid reasons, are unwilling to avail themselves of the protection of that country” as well as “a person who do not enjoy the rights attached to their nationality” (UNHCR 2010).

**Tatmadaw** – The Burmese name for the military.
List of Abbreviations

ARS - Arakan Rohingya Salvation Army.

CDA – Critical Discourse Analysis.

NGO – Non-governmental Organisation.

NLD – National League for Democracy.

OCHA – United Nations Office for the Coordination of Humanitarian Affairs.

SDG – Sustainable Development Goals.

UDHR – the Universal Declaration of Human Rights, 1948.

UN – United Nations.

UNHCR – United Nations High Commissioner of Refugees.
Map of Myanmar and Rakhine State
1. Introduction

The United Nations High Commissioner for Refugees (UNHCR) estimates that there are 10 million stateless people worldwide. According to the Universal Declaration of Human Rights (UDHR), everyone has the right to a nationality. Moreover, the Sustainable Development Goals (SDG) emphasise the urgent need to ensure every individual a citizenship. Additionally, the aim of the SDG’s is to “leave no one behind”, and by granting citizenship to every individual we are taking a first step in the right direction. Citizenship is addressed in the SDG’s goal number 16, target 9, as “by 2030, provide legal identity for all, including birth registration” (UN, n.d.). In addition, a more substantial attempt to end statelessness is the ongoing campaign by UNHCR called ‘I Belong’, which aims to end statelessness within a decade (2014-2024).

According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), there were over 909,000 stateless Rohingya refugees in March 2019. The majority live in overcrowded camps in neighbouring Bangladesh, and although Bangladesh shows great hospitality towards Rohingyas, the situation is unsustainable. The Government of Bangladesh refers to the Rohingya minority as “forcibly displaced Myanmar nationals” whereas the Myanmar government has entitled the population as Bengalis or Bangladeshis. In addition, the term ‘Rohingya’ is denied by the Myanmar government. The United Nations (UN) system refers to the population as “Rohingya refugees”. Although the situation is referred to as a refugee crisis, the majority of the Rohingya have not obtained legal protection through UN-designated refugee status. Due to the great number of Rohingyas fleeing to Bangladesh, they are unregistered refugees, leaving them without any legal protection on either side of the border to Myanmar.

The ethnic minority of Rohingya in Myanmar have been persecuted and discriminated against for decades, and through the Citizenship Law in 1982 they were all excluded from full Myanmar citizenship, leaving them without any legal protection. Being denied or deprived of one’s nationality is an infringement of one’s basic human rights. Moreover, the violence and discrimination the Rohingya population has experienced, and still experiences today, further violate their rights and privileges, and the situation has been called a textbook example of ethnic cleansing. This study investigates this issue through theories of citizenship, exclusion, and banality of evilness to find reasons and explanations of how it is possible to perform such atrocities against humanity today.
1.2. Structure
The subject of this thesis is complex and wide, involving many perspectives and actors. This study begins with a descriptive summary of the situation of Rohingya, followed by a theoretical framework which is based on theories and conceptualisations of Hannah Arendt and Giorgio Agamben. This section concludes with a theoretical argument, later followed by an analysis and conclusion. The reader should bear in mind that the study has been focused on only one part of the topic, from one viewpoint. The background information given is relatively comprehensive to give the reader a general idea of the topic.

1.3. Research Question
Statelessness is a central concept of this study. Through this concept, this study aims to try to understand the situation of Rohingya. Therefore, the question is as follows:

To what extent can the Rohingya situation be understood in relation to statelessness?

When talking about the situation of Rohingya, this study considers the possibilities of the Myanmar government and military to carry out military operations, attacks, and attempts to drive the Rohingya population out of the country.

1.4. Operationalisation
When talking about statelessness, there is a difference between de jure statelessness and de facto statelessness. Stateless per se is defined as “someone who is not considered as a national by any state under the operation of its law” in Article 1 of the 1954 Convention Relating to the Status of Stateless Persons. The definition is the same for a person who is de jure stateless. A de jure stateless person does not have a citizenship in any state and consequently there is no state to ensure this person his or her fundamental human rights. Conversely, de facto stateless people have a citizenship, but the citizenship is ineffective, leaving the person without the possibility to benefit from his or her human rights attached to their nationality (UNHCR 2010).

2. Background
To understand the different components of this study, some brief and relevant background information is henceforth presented.
2.2. Human Rights

The human rights as we know them today, are said to have emerged from the *Magna Carta* of 1215, a contract accepted by King John of England, which guaranteed rights for the free man (Clapham 2015:6). Subsequently, several declarations and documents emerged and among them was the *Social Contract* by Rousseau in 1762, which was a precursor to the French Revolution of 1789 and resulted in the French *Declaration of the Rights of Man and of the Citizen*. In addition, the 1776 *American Declaration of Independence* stated “[...] all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty and the pursuit of happiness” (Clapham 2015:9). The American and French revolutions clarified notions of human rights through these declarations, although the outcome excluded groups of society, which resulted in further revolutions and demonstrations (e.g. the Civil Rights Movement in the U.S. in 1950-1960s) (Hunt 2016:328). Throughout the nineteenth century, a general agreement led to the conclusion that human rights had to be called upon whenever individuals needed protection against the sovereignty of the state (Arendt 1966:380). The outcome of the Nazi regime, i.e. the Holocaust, made it clear – human rights need to be ensured through international law.

Following the Second World War, the Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly in 1948. The UDHR aims to ensure all human beings their fundamental human rights regardless of nationality, religion, and sex through various conventions which the member states of the UN have undertaken to comply with. Some examples relevant to this study are: the *International Convention on the Elimination of All Forms of Racial Discrimination* (1969); the *Convention on the Elimination of All Forms of Discrimination against Women* (1981); the *Convention against Torture and Other Cruel; Inhuman or Degrading Treatment of Punishment* (1987); and the *Convention on the Rights of the Child* (1990). Treaties and conventions signed and ratified by Myanmar can be seen in annex I (page 38).

2.3. Statelessness

Article 15 in the UDHR states that “everyone has the right to a nationality” and that “no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality” (UN, 1948). Furthermore, there are a number of conventions that defines nationality as a right of an individual, e.g. the *International Covenant on Civil and Political Rights* (article 24), and the *Convention on the Rights of the Child* (article 7). Nevertheless, the 10 million stateless
people UNHCR estimates exist worldwide are mainly de jure stateless, i.e. “those not considered as nationals by any state under the operation of its law” (UNHCR 2018:52). However, due to lack of data, UNHCR are unable to provide comprehensive statistics on both de jure and de facto stateless people globally (ibid.). According to the UNHCR report on statelessness, approximately 75 percent of the world’s known stateless people in 2016 belonged to religious, ethnic, or linguistic minority groups (UNHCR 2017:1).

There are several reasons to become stateless, and the majority of all stateless people have never had a citizenship or nationality to begin with (Burki 2017:1384). The first reason is to be born into statelessness and this could be due to the parents not having a nationality to pass on, or that a child is born in a country which do not grant citizenship by birth (ibid.). For example, Syria is one of the 26 countries that does not allow women to pass on their nationality to their children. Due to this, the number of stateless people will probably increase as a consequence of the Syrian civil war and the millions who have fled the country, resulting in broken families where the father himself may be stateless, unknown, or dead. If a child is born in a country that does not grant citizenship by birth, by a mother who is not allowed to pass on her citizenship by law and an absent father, the child is born (de jure) stateless (ibid.).

Secondly, statelessness can occur due to the collapse of a state, the creation of another, or changes of national borders (Burki 2017:1384) with the dissolution of the Soviet Union 1991 and the disintegration of the former Socialist Federal Republic of Yugoslavia 1992 being two examples.

The third reason to become stateless is due to poor administration and lack of documentation of inhabitants during, for example, the period of state formation which have caused numerous stateless people along with difficulties registering births (ISI 2019). Further examples are the inability to acquire documents that prove one’s nationality – such as birth certificates or passports – due to high costs or inaccessible administration services. Loss or deprivation of one’s nationality due to living abroad for too long, or by discriminatory criteria based on race or religion are further reasons of statelessness (UNHCR n.d.).

Stateless people suffer from the consequences of discrimination and repression administered by the state on a daily basis (Weissbrodt & Collins 2006:263). Without identity documents, such as a birth certificate or a passport, it is difficult to attain education, employment, healthcare, and property rights according to Burki (2017:1384), which is fundamentally all the rights and privileges that one as a citizen of a nation can enjoy. Furthermore, it is not only the stateless people that suffer from these issues, exclusion and marginalisation have negative developmental effects on society as a whole (UNHCR 2017:46).
Poverty, low economic development, bad health conditions (due to stateless people not reaching out for medical help in fear of being deported etc.) are examples of other consequences affecting society negatively (ibid.).

2.4. Geo-Political Context
The situation of Rohingya is not new, however, the situation has become more intense during the last few years and has been given a lot of attention in international media. In order to better understand the situation of Rohingya, this section will present a short background on the history of Myanmar and its politics since the independence from Britain in 1948. This study will henceforth use the name Myanmar to refer to the country as it exists today, although the country was named Burma before 1989.

2.4.1. Political History of Myanmar
Myanmar is an ethnically diverse country where the majority is identified as ethnic Burmese and predominantly Buddhist of which the government and military (known as the Tatmadaw1) are dominated by. The minority groups of Myanmar have been marginalised and discriminated against through lack of influence in politics, absence of socioeconomic development in their areas, repression of cultural rights and religious freedom (Kramer 2015:355). Fighting for independence with such a diverse population was difficult, however, not impossible. General Aung San, one of the leading figures against the British colonial power, promised ethnic minorities a federal arrangement at the time of independence in 1948. However, the general was soon assassinated and neither the civilian government nor the military government in power accepted other ethnic groups beyond ethnic-Burmese (Barany 2018:9). Ahsan Ullah (2016:294-295) refers to the period after independence as a second phase in Myanmar’s history, in which Prime Minister U.Nu adopted an ethnic based national identity of Myanmar. This resulted in ethnic groups taking up arms which consequently led to decades of violence (Ahsan Ullah 2016:294-295). In 1962, General Ne Win, whom earlier had been the chief of the defence forces, staged a coup and took over the parliament in the name of a military Revolutionary Council and arrested the previous cabinet members and set the constitution aside (Trager 1963:309). The military-dominated socialist government ruled the country for decades ahead.

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1 This study use ‘the Tatmadaw’ to refer to the military of Myanmar. The Tatmadaw represent Myanmar’s strongest political institution (Barany 2016:6).
In 1988, General Aung San’s daughter, Aung San Suu Kyi, became the leader of the Four-Eights Democracy Movement. A movement initiated by pro-democracy students in an attempt to bring down the military government (Hlaing 2007:362). Suu Kyi called for peaceful demonstrations on democratic reforms and free elections, but the demonstrations were disrupted by the army who seized power in a coup later on the same year. The following year, 1989, Suu Kyi was placed under house arrest and the military government changed the name of the country from Burma to Myanmar. Suu Kyi was released in 2010 and in March 2016, Suu Kyi and her party NLD joined the Myanmar (military) government after democratically winning a majority in the election of 2015 (Mahmood, Wroe, Fuller & Leaning 2017:1848). However, due to the former ruling junta’s written constitution, the Tatmadaw has a leading role in politics. There is a military veto on several constitutional amendments, for instance the Tatmadaw controls 25 percent of all parliamentary seats and chosen political areas, like border control and national defence, are reserved for the Tatmadaw (Barany 2018:6). According to Barany (2018:6), there has not been any transfer of political power from generals to elected civilians despite the NLD winning democratically and the only authority to change the military’s power is the Tatmadaw itself. Therefore, Suu Kyi must carry out her politics in a military designed political system.

2.4.2. The situation of Rohingyas
In 1990, the military junta identified and classified 135 groups as national races of Myanmar, from which Rohingyas was excluded (Cheesman 2017:468). This idea of genealogy has been in place since the British colonial period. The national-race identity has functioned as a representation to exclude intruders claiming to be members of the political community of Myanmar (ibid:473). From the regime’s viewpoint, any claim to be Rohingya is “not only to insist upon a falsehood, but also to be at once dangerous and illegal: it is an identity that is both politically and juridically unacceptable” (Cheesman 2017:474).

The Rohingya population mainly resides in the Rakhine State in the south west of Myanmar along with the Rakhine population. Rohingya and Rakhine are both ethnic minorities in Myanmar. However, the Rohingya is a Muslim minority whereas the Rakhine and most of the inhabitants of Myanmar’s are Buddhist. The government does not recognise Rohingyas as citizens of Myanmar but claims them to be illegal immigrants and refers to their ethnic group as Bengalis or Bangladeshis (Farzana 2015:293), which are neighbouring countries and areas.

The Rohingya minority have been victims of violence for a long period of time. Since a military coup in 1962, the Rohingya peoples’ security, freedom, and rights have been
at risk, making hundreds of people flee to neighbouring countries (Mahmood et.al. 2017:1842). In 1982, all Rohingyas where stripped of their citizenship through the military government’s Citizen Law (Cheesman 2017:471). One of the requirements of the law was to demonstrate evidence of ancestral residency in Myanmar 160 years earlier. However, whether Rohingyas could prove it or not is contested, although the government has chosen to deny the ethnic minority their citizenship ever since (Mahmood et.al. 2017:1842). In addition, various operations have been carried out by the military government violating human rights and privileges of Rohingyas. The ‘Operation King Dragon’ in 1978 and the ‘Operation Clean and Beautiful Nation’ in 1991-1992 forced 200 000 respectively 260 000 to flee Myanmar. Consequently, in 2017, there were nearly one million stateless Rohingya people, of which only 82 000 people had legal protection through UN-designated refugee status (Mahmood et.al. 2017:1841).

In 2012, violence between the two ethnic minorities in the Rakhine State, the Rohingya and the Rakhine, arose, which forced the government to action and the Tatmadaw was sent to the region. However, according to Mahmood et. al. (2017:1842), the Tatmadaw eventually joined the Rakhine group in the killing and looting of Rohingyas. The following year, Buddhist monks gave anti-Muslim speeches leading to further violence against the Rohingya minority. In 2014 legal restrictions banned Rohingyas from travelling and working outside their village without previous authorisation, which required fees up to over US$1000. These restrictions on freedom of movement have affected basic rights to access livelihoods, food, water, sanitation, and education, according to Mahmood et.al. (2017:1845). In addition, a series of four ‘Race and Religious Protection Laws’ created by the nationalist Buddhist group Ma Ba Tha extended the anti-Muslim and anti-Rohingya approaches outside the Rakhine state when the law became a national law in 2015. The laws include the Religious Conversion Bill, the Buddhist Women’s Special Marriage Bill, the Population Control Healthcare Bill, and the Monogamy Bill of which non correspond to international human rights law and standards, this also includes the legal obligations of Myanmar as a state party to the UN Convention on the Elimination of all Forms of Discrimination Against Women and the UN Convention on the Rights of the Child (AI & ICJ 2015), among others, as seen in annex I on page 38.

In the election of 2015, in which Suu Kyi and her party NLD won the majority in government, Rohingya people were not allowed to vote (Mahmood et. al. 2017:1843). Although the Rohingya crisis is not due to Suu Kyi and her party, the situation is now their to address. However, during the 2015 campaign Suu Kyi avoided mentioning Rohingyas, and according to Barany (2018:13) this was a strategic choice due to the deep prejudices against the Rohingya
population and it could have cost Suu Kyi numerous votes. Some progress has after all been made regarding the Rohingya situation during Suu Kyi’s time as a state counsellor. She has established a commission to address the human rights issues in relation to the Rohingya situation. However, according to Barany (2018:13), many are sceptical that the report’s recommendations will be implemented due to the Tatmadaw’s unwillingness to do so. Media has reported on Suu Kyi’s indifferent attitude on her muted response to the Rohingya crisis and her rather fair criticism of the Tatmadaw’s way of handling the situation (BBC 2018). While some Western actors have recognised Suu Kyi as the best hope for Myanmar’s potentially future democracy, others have criticised her for not mediating democratic values (Steinberg 2019:185). Violence and persecution on Rohingyas have, despite some progress, continued in Myanmar after Suu Kyi and the NLD’s entry to government, and the situation has become, as the UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein stated, “a textbook example of ethnic cleansing” (UN News 2017).

2.4.3. Escalation of Violence
In addition to assimilation policies and constitutional changes, the government also strengthened the military border control in areas such as the Rakhine state. The increased military presence and surveillance in the area has had a huge impact on a daily basis of many Rohingyas. This has also been a method for the government to create boundaries among social groups, separating the minorities from the national Burmese majority (Farzana 2015:298).

In October 2016, around 300 Rohingya men attacked border posts like these in the Rakhine state, killing nine national policemen. The group who claimed responsibility for the attack were later called the ‘Arakan Rohingya Salvation Army’ (ARSA). The military’s response to the attacks included killing, raping, and burning hundreds of villages forcing hundreds of thousands Rohingyas to flee (Barany 2018:14). The government banned reporters to visit the areas, a decision criticised by international human rights organisations. In August 2017, additionally twelve security officers were killed by ARSA (CNN 2017). The Tatmadaw describes ARSA as an extremist Bengali terrorist group and according to Barany (2018:14-15), the Tatmadaw is using a “war on terror” rhetoric to justify military excesses on the whole population of Rohingya. Barany (2018:14-15) describes ARSA as violent, although, he argues that the Tatmadaw’s definition of ARSA is exaggerated. One of the main criticisms towards Suu Kyi is that she has not condemned the Tatmadaw’s violence against the Rohingya people.

The situation is today (as of May 2019) referred to as the ‘Rohingya genocide’, and Al Jazeera have reported on, among other things, the revelation of mass graves estimating
400 bodies of Rohingyas killed mainly by the Tatmadaw (Al Jazeera 2018). Furthermore, Amnesty International (2017a) have reported on a mass-scale scorched-earth campaign in which the Tatmadaw, alongside with vigilante mobs, have burned down entire Rohingya villages and are shooting people as they try to flee. The Myanmar government are driving the Rohingya population out of the country, and at the same time the government is attempting to restrict Rohingya population numbers from growing through natural increase within Myanmar. Reproductive rights of Rohingyas are violated by a two-child policy and a minimum of 36 months between pregnancies. Moreover, Rohingya children born in Myanmar are denied citizenship (Mahmood et.al. 2017:1847). Nonetheless, the Myanmar Government’s treatment of the Rohingyas is well documented by the international community and humanitarian organisations. The infringements of human rights mean violations of all major provisions of international human rights law, including basic human rights and freedoms such as the right to life, a home, and freedom of movement. A great majority of these treaties has not been signed or ratified by the Myanmar Government, however, Myanmar is “bound by international customary law to uphold their provisions” (Mahmood et.al. 2017:1847).

The situation is unsustainable and additional reports emphasise the difficulty of the Bangladesh government to ensure the Rohingya refugees protection and decent living standards in refugee camps due to the amount of people (Amnesty International 2017b). Chronic malnutrition, waterborne illnesses, diarrhoea, poor nutrition, lack of maternal and infant health care are consequences many Rohingyas have to endure due to overcrowded and poor living conditions. Furthermore, humanitarian aid organisations have been restricted access to Rohingya villages and detention camps by hostile neighbours and Buddhist monks accusing them of favouring Rohingyas (Mahmood et.al. 2017:1845). In addition, two Reuters journalists were jailed after investigating and criticising the Tatmadaw’s acts on Rohingyas in 2017 and subsequently released in early May 2019 (Reuters, 2019). Due to a range of repressive laws, it has for many years now been possible to silence critical opinions and curb the human right to freedom of expression.

3. Theoretical Framework
This section deals with statelessness and the right to have rights. First, previous research will be discussed followed by theories and conceptualisations by Hannah Arendt and Giorgio Agamben. To conclude this section, a theoretical argument is formulated about the relationship between theories of citizenship, exclusion, and banality of evilness in the context of Rohingyas.
3.1. Previous Research

Previous research is henceforth discussed to further elaborate how this study will contribute to the research field.

3.1.1. Statelessness

The issue of statelessness is, according to Laura van Waas (2014), an old, a new, and a timeless problem. *Old,* since it has been of a concern as an international issue to ensure all individuals a nationality before it was recognised as a human right. Conflicts of nationality laws and the power of denying and depriving people of nationality performed by states has caused situations of statelessness since the early 1900s (van Waas 2014:342). The issue is *new* since the awareness of statelessness has been raised internationally through campaigns by UNHCR and the SDG’s, and other initiatives to elucidate the issue. Additionally, statelessness is a *timeless* issue because of the nature of humankind to organise ourselves into inclusive groups, and thereby also create an exclusiveness that in worst case scenario can lead to statelessness (ibid.).

In addition to reports written by the UN and other international organisations, there is extensive previous academic research in the field of statelessness. However, most research is essentially juridical investigating international law, examining the legal bond between the individual and the state. Research and scholars on statelessness and human rights often emerge from Hannah Arendt’s theory regarding the dependency on citizenship for human rights. Arendt means that for an individual to benefit from one’s human rights, one must be a citizen of a country that can ensure these rights and privileges. Although other authors agree that citizenship is the only way to provide full protection of human rights (e.g. Ahsan Ullah 2016:287), some expand on the idea of human rights further. For example, Amartya Sen argues in his book *Development as freedom* (2001) that human rights should be considered as ethical and moral obligations of society rather than a legal framework ensured by the international community and national leaders. Additionally, Dina Kiwan argues in her article *Human Rights and Citizenship: an Unjustifiable Conflation?* that the conflation of human rights and citizenship may possibly interfere with individual citizens’ empowerment and active participation in local communities (2005:47). Kiwan argues that human rights give citizens a universal identity, whereas a citizenship fundamentally guarantees membership of a community, and therefore should rights and freedoms be guaranteed to each individual irrespective of legal nationality. However, the issue of how to ensure human rights without any
legal protection still remains. Faith in morality has proven to not be enough, leaving humanity at risk several times (as, for instance, with the Holocaust and the Rwandan genocide). Kaveri (2017) calls for a wider debate on issues of democracy, peace, and inclusive citizenship and brings up the importance of international actors and communities to push for universal principles as well as refugee and stateless laws.

3.1.2. Rohingya and Statelessness
The research area of Rohingya in relation to statelessness covers different reasons why Rohingyas have become stateless. Ahsan Ullah (2016) argues that Rohingyas have become stateless due to being deliberately excluded by the Myanmar government. Burmese nationalism, as well as racial and xenophobic plans brought out by politicians are reasons that made it possible to create such social division. Additionally, Ahsan Ullah elucidates the problems with politicised ethnicity of which “has always been detrimental to national unity” (Ahsan Ullah 2016:297). Cheesman (2017) further argues that the conflicts in Myanmar are due to the concept of national races that has been used as a standard for acceptance in society and the political community of Myanmar. One is denied citizenship in Myanmar if one belongs to another race than the national Burmese ones, which Rohingya are excluded from (Cheesman 2017:461).

While previous research investigates the importance of citizenship in relation to human rights and what happens when one is indeed stateless, it is still under-examined how it is possible to perform such atrocities and breaches on human rights. My attempt will be to bridge this gap by looking at the Rohingya situation through their statelessness as well as the frameworks and conceptualisations of Arendt and Agamben.

3.2. The Right to Have Rights
When talking about human rights and statelessness, Hannah Arendt’s name is inevitable. Arendt was born into a secular family of German Jews in the early 1900s in Germany. She later lost her German citizenship, which made her a spokesperson of matter on this subject. In her book, The Origin of Totalitarianism, first published in 1951, Arendt assigned a chapter to these issues of human rights; The Decline of the Nation-State and the End of the Rights of Man, where she formulates the concept of the “right to have rights”.

To Arendt, statelessness is not only the loss of one’s government’s protection of rights and freedoms. Being stateless also implies the loss of a home, and more importantly, the impossibility of finding a new one (Arendt 1966:384). This also means that there is no territory
where stateless people can “start over” and form a new community of their own. Once a person “left their homeland they remained homeless, once they had left their state they became stateless; once they had been deprived of their human rights they were rightless, the scum of the earth” (Arendt 1966:349).

Arendt argued that we are not born equal, but we become equal as members of a community on the strength of our decision to ensure ourselves mutually equal rights (Arendt 1966:394). Equality before law, freedom of opinion, liberties, and rights were formed to solve problems within countries and communities. Hence, a stateless person whom does not belong to such community has therefore no law to be equal before (Arendt 1966:386-387).

Statelessness was not something new when Arendt first wrote about it, however, it became prominent after the first world war (Arendt 1966:362). Attempts to solve the problems failed due to neither the country of origin nor any other agreed to accept that amount of stateless people. States insisted on their sovereign right of expulsion (Arendt 1966:370-371). Before, asylum had been offered to those who had been persecuted by their government for political reasons. However, the issue grew bigger when new categories of persecution arose, such as being born into a specific race, class, or religion. Moreover, as the number of stateless and asylum-seeking people increased, they were given less attention (Arendt 1966:385) and yet the problem and root causes were never solved.

The right to have rights imply the right to belong to a community where one’s rights function as protection against a government’s possible violence against a community or the individual person. However, in order to gain these rights, we need to be part of such community. If we are not part of it (i.e. a state) we are left without any legal protection from it. This is the paradox of human rights and have been from the very beginning of the UN declaration in 1948 – as a stateless individual one cannot benefit from one’s fundamental human rights and freedoms.

3.3. Banality of Evil

In order to try to understand how breaches of human rights can occur, Hannah Arendt’s book *Eichmann in Jerusalem: A Report on the Banality of Evil* (1963) will hopefully contribute. Eichmann, a German Nazi leader during the Second World War, was brought to court in Jerusalem for his acts during the war. ‘Eichmann in Jerusalem’ is Arendt’s report on the trial of Adolf Eichmann in 1961.
Eichmann fled to Argentina after the Second World War to escape punishment in Europe. He was captured in Buenos Aires in 1960, and subsequently flown to Israel and brought to trial in 1961. Eichmann himself had the status of a stateless man at the time of the trial. As a refugee in Argentina, living under an assumed name, he had denied himself the right to government protection. Although Eichmann was still a legal national of Germany, neither Germany nor Argentina claimed Eichmann before the trial (Arendt 1963:240). Eichmann’s de facto statelessness enabled the Israeli arrest, trial, and (eventual) execution.

On trial were Eichmann’s deeds, committed with others, against Jewish people and against humanity, as well as war crimes during the period of the Nazi regime (Arendt 1963:21). However, as Arendt writes, Eichmann claimed he did not do anything wrong since he acted under the existing Nazi legal system. What he was accused for were not crimes, but acts of state, of which Eichmann said was his duty to obey (Arendt 1963:21). Furthermore, Eichmann denied the indictment of murder and argued that he could be accused only of “aiding and abetting” the annihilation of the Jews (Arendt 1963:22). One of Eichmann’s work tasks was defined as ‘forced emigration’ and according to Arendt he often bragged about how many Jews he personally had sent to death (Arendt 1963:46-47). Arendt focuses on the question of moral and found Eichmann’s lack of remorse fascinating. Arendt writes “[…] and for his conscience, he remembered perfectly well that he would have had a bad conscience only if he had not done what he had been ordered to do – to ship millions of men, women, and children to their death with great zeal and the most meticulous care” (Arendt 1963:25. emphasis added). In addition, Eichmann said “Repentance is for little children” (Arendt 1963:24. emphasis added) during the trial. Several psychiatrists though declared him as ‘normal’ and as no exception within the Nazi regime at the time of the trial (Arendt 1963:25).

Eichmann called himself an idealist, described by himself as a man who lived for his idea as well as being prepared to sacrifice everything and everyone for it (Arendt 1963:42). Arendt saw Eichmann as a fanatic in the context of the Nazi totalitarian movement, which in his case has been normalised. However, it is in his way of talking, his clichéd speeches and being caught up with the Nazi ideology, that he is somewhat shielded from reality and responsibility. Eichmann separated his own persona from the Nazi ideology, and by doing so he is distancing himself from personal responsibility.

The Holocaust would not have been possible if it was not for the planning and administration that Eichmann was very much involved in. Activities that produced the evilness were not the murders of Jews in itself, but the organisation of transports, decisions on how many Jews that should be deported, and the planning of the ‘Final solution’. The train
destinations and the fate of those aboard was well known by Eichmann, though he argued that he never realised what he was doing or contributing to (Arendt 1963:287). Whether it was lack of imagination or a justification of doing his duty, Arendt meant that these actions were the origin of evil which under the totalitarian Nazi regime had become normalised – banal.

In order to accomplish such crimes against humanity, and for us to understand Eichmann’s beliefs that he was not doing anything wrong, the committed crimes must be carried out under circumstances that make it seem and feel like the actions are not reprehensible (Arendt 1963:276). The Nazi regime created such circumstances. Arendt wrote that the trouble with Eichmann was that he, like so many others, were “terribly and terrifyingly normal” (Arendt 1963:276), and this normality was in a way more terrifying than all Nazi’s atrocities put together. The difference between the ones doing evil, and the ones being evil, would be that for the ones only doing evil there is a convincing belief that the crimes and acts performed is not in fact evil. The activities are committed within a normalised social order in which they are engaged in, and this is what characterise the banality of evil. After having witnessed the trial of Eichmann, Arendt argued that Eichmann did not have evil intentions, although he performed evil actions (Arendt 1963:287). However, this did not make him less of a guilty man.

The title of Arendt’s book, ‘Banality of Evil’, does not refer to a theory nor a doctrine, but fits “a phenomenon which stared one in the face at the trial” (Arendt 1963:287. emphasis added). Arendt describes that the concept of ‘banality of evil’ does not refer to Nazism’s evil as a whole, and the banality does not directly apply to the agents carrying out orders. In contrast to banal evil there is radical evil in which one acts with evil motives and intents. Banal evil is characterised by a normalised human wickedness. The totalitarian evil behind Eichmann’s crimes, and the fact that he had not simply been a subordinate but played an active role in the expulsion, concentration, and killing of Jews, made Eichmann an exemplary case of ‘banality of evil’.

3.4. Bare-Life and State of Exception
The Italian philosopher Giorgio Agamben presents a figure of Roman law, namely the Homo Sacer, in his book Homo Sacer – Sovereign Power and Bare Life (1998). What defines the condition of a homo sacer is “the double exclusion into which he is taken and the violence to which he finds himself exposed” (Agamben 1998:52). Agamben discusses Rudolf Kjellén’s coined terms of biopower and biopolitics, which Michael Foucault further developed.
Foucault’s theory of “biopower” draws on the assumption made by himself that a transformation in the exercise of power occurred in the eighteenth century where life itself became an object of concern for power (Genel 2006:43). Agamben describes this as focus went from a “territorial state” to a “state of population”, and more focus were given to health and biological life of the nation as a concern of sovereign power (Agamben 1998:10). Biopower distinguished such mechanisms from those that exert their influence within the legal and political spheres of sovereign power (Genel 2006:43). Agamben uses ‘biopower’ as a thesis rather than a hypothesis, and in his book, he re-establishes it in the field of sovereignty. Agamben argues that sovereign power is covertly related to a “bare life”, which is vulnerable to violence by sovereign power. Agamben’s thesis on biopower is “… concerning the very structure of power, the origin of which is directly related to life. The logic of sovereignty is a logic of capturing life, a logic of isolating a ‘bare life’ as an exception. This life is exposed not only to the sovereign’s violence and power over death but also, more generally, to decision that qualifies it and determines its value. Sovereign power establishes itself and perpetuates itself by producing a ‘biopolitical body’ on which it is exercised” (Genel 2006:43-44. emphasis added).

Agamben draws on Carl Schmitt’s definition of sovereignty; “sovereign is he who decides on the state of exception” (Agamben 1998:13. emphasis added). However, there is a paradox of sovereignty according to Agamben, which is that the sovereign is both outside and inside the juridical order simultaneously (Agamben 1998:17). The sovereign who has the juridical capacity to suspend the validity of the law, can judicially place himself outside the law, which would mean that the law is outside itself (Agamben 1998:17). In addition, according to Agamben, the sovereign is deciding on the inclusion of the living in the sphere of law (Agamben 1998:22).

In order to better understand the concept of homo sacer, one must divide life into two parts; zoë and bios. Zoë represents the biological body and bare life, whereas bios represent the political body and qualified life (Agamben 1998:103). The biological body is common to all living beings, humans as animals. The political body illustrates the way of living aptly in a community (Agamben 1998:9). The life of a homo sacer (sacred man) is a bare life, who “may be killed and yet not sacrificed” (Agamben 1998:12. emphasis added), whose part in modern politics we intend to proclaim. As a homo sacer one is excluded from law itself, however, one is included at the same time. Agamben explains it as “bare life remains included in politics in the form of the exception, that is, as something that is included solely through an exclusion” (Agamben 1998:13. emphasis added). The homo sacer, for Agamben, represents the “originary
figure of life taken into the sovereign ban”, so far as “the sovereign sphere is the sphere in which it is permitted to kill without committing homicide and without celebrating a sacrifice, and la vita sacra (sacred life) – that is, life that may be killed but not sacrificed – is the life that has been captured in this sphere” (Agamben 1998:53).

Agamben argues that the two analyses of juridico-institutional and biopolitical models of power cannot be separated, that the inclusion of bare life in the political sphere forms the original core of sovereign power (Agamben 1998:11). Furthermore, Agamben claims that the construction of a biopolitical body is the primary activity of sovereign power, which in this context means making biopolitics as old as the sovereign exception (ibid.). In addition, Agamben argues that by gaining power over the “bare life”, the juridical body has made it a subject of political control. By the power of law, it has become possible to actively separate the citizens from the bodies, i.e. to separate bios from zoé. Such political techniques made it possible to both protect life and to authorise a holocaust (Agamben 1998:10).

3.5. Theoretical Argument

This study will draw on the separate work of two key theorists with two different disciplinary backgrounds; Hannah Arendt and Giorgio Agamben. Through their theories and conceptualisations, this study will try to seek answers to how it is possible to perform such acts of breaching human rights – have we not learned from our dark past? Saying ‘never again’ after the Holocaust in Europe, after Apartheid in South Africa, and after the genocide in Rwanda (to name a few) have never really meant never again. The international community has failed numerous times to see patterns and warnings of such barbarities.

To illustrate the importance of the right to have rights in today's society and politics, Arendt’s theory of citizenship and human rights will be applied on the situation of Rohingyaas and Myanmar. Why is it so important that we assure all individuals human rights? In addition, Arendt’s concept of ‘Banality of Evil’ will be applied in order to try to understand how such crimes against humanity can take place. The work of Agamben will also contribute to this area with his notion of exception in politics, including the concept of homo sacer. The situation of Rohingyas will try to be further understood through the concept of statelessness.

3.5.1. Research Question

The aim of this study is to illustrate the importance of citizenship in relation to human rights. As a member state of the UN, Myanmar has signed and ratified several conventions and treaties
which condemn atrocities and other acts such as those performed on Rohingyas by the Tatmadaw. Hence, the research question of this study is:

To what extent can the Rohingya situation be understood in relation to statelessness?

The philosophical understandings and conceptualisations of Agamben and Arendt will contribute considerably to this study in an attempt to answer this question.

4. Research Design

This study uses Myanmar and the situation of Rohingyas as a single case study to apply and analyse the situation through the conceptualisations of Arendt and Agamben. In order to perform this study and to understand the situation of Rohingyas through the concept of statelessness, the qualitative methodology of critical discourse analysis (CDA) is applied on several central official documents and principles. The philosophical understandings and conceptualisations of Agamben and Arendt have formed a framework from which the CDA will build upon.

4.1. Choice of Method

Although several UN conventions and treaties are signed and ratified by the country in question as well as by other actors of the international community, the persecution and harassment of Rohingyas has continued. A content analysis of chosen international conventions could be one way to search for answers and explanations. However, a critical discourse analysis might give us an even better understanding when building upon theories and conceptualisations of Arendt and Agamben.

Text analysis in general is about separating the meaning from a text by reading it thoroughly to be able to understand the underlying meaning of the text that is not distinctly written (Esaiasson et. al. 2017:211). A discourse analysis, however, is a broader type of text analysis which analyses the chosen material in a specific context and framing (Bergström & Boréus 2012:353). Discourse analysis focuses on the linguistic phrasing in a text. The language does not directly reflect the reality, but it helps to form it (ibid.:354). The CDA should however be looked upon as an orientation on its own. The CDA is, as cited by Bergström and Boréus (p.373), “[…] an instrument whose purpose is to expose veiled power structures”. The authors refer to Fairclough’s orientation of CDA, in which Fairclough argues that the ‘critical’ in CDA
only exists because social systems are built upon fundamental contradictions. This is what makes CDA applicable (ibid.:374).

In order to illustrate how CDA is applied, Fairclough’s analytical model is used. The starting position of CDA of a text is the language and phrasing, and how texts are produced, distributed, and consumed (Bergström & Boréus 2012:375-377). This is later integrated in a social context where it is applied with other discourses, and critical arguments and analyses can be expressed. The CDA’s aim is to study what the relationship between discourses and social structures looks like (ibid.).

Due to time limitations, this study will only use the CDA as an inspiration source. The text box of the figure above will be of most significance when analysing the chosen official documents and principles. The theories and conceptualisations of Arendt and Agamben will be analysed mainly through the discursive practice box. Furthermore, Rohingyaas and Myanmar works as a single case study to have a substantial social context to apply the analyses to.

4.2. Units of Analysis
Arendt’s and Agamben’s philosophical understandings and conceptualisations, presented in the theoretical framework, will contribute to this study’s analysis on how to understand the Rohingya situation through statelessness and how it is possible to perform such acts of breaching human rights.

In addition, three central official documents and principles will be analysed. The first chosen document is the Universal Declaration of Human Rights (UDHR) from 1948. UDHR is chosen because it is a universal and essential framework that came into existence in
the aftermath of the Second World War. The UDHR ensures all human beings their fundamental human rights and freedoms disregarding nationality, religion, race, and sex.

The second chosen document is the UN Convention on the Prevention and Punishment of the Crime of Genocide, which was published in 1948 and came into force 1951. The Convention was signed by Myanmar (in the name of Burma) in 1949 and ratified in 1956 (Global Justice Center 2012:4). The Convention recognises genocide as a crime under international law irrespective of being committed during peace or war.

The third chosen document, or rather a principle, is the Responsibility to Protect. At the 2005 high-level UN World Summit meeting the member states committed to the principle by including it in the outcome document of that meeting. The principle is regarding the responsibility to “protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity” (General Assembly 2005:30).

4.3. Limitations
A strategic selection of universal documents and principles has been made which could limit this study’s potential to be generalised. However, the chosen components of analysis are essential within this subject and therefore one could argue that the strategic selection in fact is the best selection of universal documents and principles.

Another limitation to this study is the fact that it only investigates subjects conducted by the UN. Without time limitations, it would have been interesting to investigate what local non-governmental organisations (NGO’s) are doing and how they work in this area.

5. Results and Analysis
This section will build upon the background information given together with the previous theoretical frameworks mentioned. The analysis is separated into two parts; it begins with the theories and conceptualisations of Arendt and Agamben, followed by three chosen official documents and principles.

This study is not a matter of whether Myanmar is following international conventions and treaties or not. Myanmar has signed and ratified the obligations of a number of international treaties (as seen in annex I, page 38), and by ratifying a treaty they are obligated under international law to comply and cannot justify any failure by domestic laws (Global Justice Center 2012:1). To get a picture of Myanmar’s position in relation to various UN treaties
and declarations, it should be mentioned that Myanmar became a member state of the UN in 1948 (UN n.d.).

The situation of Rohingyas has, as mentioned earlier, been called a schoolbook example of ethnic cleansing. Arendt’s theory of the importance of citizenship to benefit from one’s human rights has proven to coincide with one another. Who is to ensure the Rohingyas’ right to have rights, when neither Myanmar nor Bangladesh want them? Myanmar becomes an interesting single case study since it is led by the Nobel Peace Prize winner Aung San Suu Kyi and claims to be moving towards a more democratic governance.

5.1. Understanding the Rohingya situation through Agamben and Arendt

When reading Arendt and Agamben, respectively written in the 1950s and 1990s, it is fascinating how up-to-date their work appears. The Rohingya population is stateless and has been since the Citizen Law came into force in 1982. Several violent attacks on the Rohingya population have been performed, mainly by the Tatmadaw, with a few prominent events such as the ‘Operation King Dragon’ in 1978, the ‘Operation Clean and Beautiful Nation’ in 1991-1992, and in 2016 when the military attacked the whole Rohingya population as a response to ARSA’s killing of nine police men. Consequently, nearly one million Rohingyas have been forced to flee Myanmar to neighbouring countries where they now live in overcrowded refugee camps with poor living standards and health conditions. To return to Myanmar is at this point not an alternative, as the root causes have not been eliminated so a return would bring the Rohingyas back to where they started – with discrimination, repression, and persecution. With this in mind, Arendt’s more detailed definition of being stateless can properly be adapted; being stateless implicate not only the loss of a home, but the impossibility of finding and creating a new one.

Amnesty International have, among others, reported on the “vicious system of state-sponsored, institutionalised discrimination that amounts to apartheid” (Amnesty International 2017d). The violence and discrimination that initially started in the Rakhine state between the two minority groups, the Rohingya and the Rakhine, intensified as anti-Muslim and anti-Rohingya attitudes extended outside of the Rakhine state through the Race and Religious Protection Laws in 2015. The laws were said to protect race and religion; however, several human rights organisations have criticised them due to discriminatory provisions, specifically on religious and gender grounds. Moreover, the laws are likely to deepen the discrimination of minorities in the country. The Race and Religious Protection Laws are an
example of biopower and Myanmar’s attempt to separate Buddhist from non-Buddhist (i.e. Rohingyas). By doing this, they are creating a sphere in which the Rohingya minority is excluded, however yet included. As Agamben wrote, the sovereign (the former ruling military junta) has decided the inclusion in the sphere of law. The government gains sovereign power by taking control over the bare life, i.e. Rohingyas.

The Tatmadaw has a long and well-documented history of violating human rights and privileges of minority groups in general, Rohingyas in particular. Furthermore, most of the violence against the Rohingya population is performed by the Tatmadaw. With this in mind, together with the Race and Religion Protection Laws, we can relate to Arendt’s writings. Her books were written on the grounds of the Nazi regime and the Jews’ situation at that time, and one can argue that the Race and Religious Protection Laws are similar to the Nuremberg Laws of 1935, which prohibited intermarriage and sexual intercourse between Jews and Germans. Although the Race and Religious Protection Laws are not targeting Rohingyas by name, implicitly, the laws cover Muslims in Myanmar despite it only saying ‘non-Buddhist’. Through forbidden interfaith marriages, birth spacing (i.e. rules for the time elapse between one child’s birth until the next pregnancy), and other population control measurements, the Race and Religious Protection Laws aim to curb the population and thereby are similar to the Nuremberg Laws in that both aim to separate the minority from the majority.

The paramilitary organisation Schutzstaffel (SS) was the primary group performing atrocities on Jewish people during the Nazi regime. The primary actor to perform atrocities on Rohingyas is likewise authoritarian; the Burmese military the Tatmadaw. By implementing discrimination and segregation as a law, one can imagine that the actions carried out to extinguish Rohingyas and prosecute the common belief that Rohingyas are not worthy nationals of Myanmar, can be seen as banal just as Arendt describes Eichmann’s actions during the Nazi regime. The ones performing atrocities are merely acting under the existing legal system and could therefore not be accused of any crimes of domestic laws. The systematic and institutionalised discrimination of Rohingyas serves as an example of a similar act to that of what Eichmann and the Nazi regime did towards the Jews. As Arendt states, to be able to perform such crimes against humanity, the committed crimes must be carried out under circumstances which make it seem and feel like the actions are not crimes. Just as the Nazi regime created such an atmosphere, likewise has the Tatmadaw. One can argue that Arendt’s concept of ‘Banality of Evil’ therefore can be applied on actors within the social order created by the Tatmadaw.
As mentioned in the section of Agamben’s theories, the biological (zoé) and political (bios) body together represent life, wherein homo sacer represents the biological body and bare life. The life of a homo sacer is a bare life, excluded from law itself but remains included in politics in the form of its exception. Rohingyas as stateless are in this meaning excluded from law as they do not belong to Myanmar according to the sovereign body; the Tatmadaw. However, the Rohingya (bare life) population is included in politics through its exclusion and captured in the sphere of sacred life. Furthermore, Agamben argues that it has become possible through the power of law to actively separate the political body from the biological one. By these political techniques it has become possible to both protect and to authorise a genocide. Through the Race and Religious Protection Laws the government has made it easier to separate non-Buddhists (i.e. Muslims, Rohingyas among others) from Buddhists, creating a division in society of ‘we and them’, representing ‘them’ less valuable. When this new social order is implemented in society it is made possible to dehumanise the ‘other’, making way for an authorised genocide. In addition, when atrocities are performed by authorities such as the Tatmadaw, several steps have been taken in the direction towards such a humanitarian crisis. If it is acceptable to perform such barbarity on the ‘other’, there must be something wrong with them, right?

5.2. Universal Declaration of Human Rights

Arendt argues that we are not born equal, but we become equal as members of a community on the strength of our decision to ensure ourselves mutual equal rights. This assumption requires that we all belong to such a community. The Universal Declaration of Human Rights (henceforth referred to as UDHR), does the same, i.e. assumes that we are all citizens in a state. The fact that the UDHR did not mention nor address the problems of statelessness makes it imperfect to begin with. Although there are articles stating that everyone has the right to a nationality and that no one shall be deprived one’s nationality nor denied the right to change it (article 15), the declaration does not further consider the impossibility to gain the remaining human rights, such as the right to life, liberty, and security if one is indeed deprived one’s nationality. Arendt clarifies this problem by stating that as a stateless person, one has no law to be equal before, hence this makes it much easier to violate one's basic human rights. The paradox of human rights is that the right to have rights imply the right to belong to a community, and if one is not part of such a community, one’s rights are non-existent.
In the preamble of the UDHR it is said that the human rights *should* be protected by the rule of law, and the declaration emphasises that member states of the UN have pledged themselves to achieve the promotion of respect and observance of fundamental human rights. However, it does not say what happens if it is not protected by the rule of the law, or what happens if member states do not respect and promote observance of human rights. Having this in mind, one might argue that the UDHR is fairly naïve, trusting all member states to comply with the UDHR.

The declaration’s aim is to protect the rights of all members of the human family. Furthermore, it is said that these human rights are a common standard where recognition is secured through people of member states and people of territories under their jurisdiction. However, if it is argued within a country that a minority is not worthy citizenship (like Rohingyas in Myanmar), who is to ensure them their human rights? They are within the territory of Myanmar and under their jurisdiction, but Myanmar refuses to recognise Rohingyas as citizens and to ensure them their human rights. In a case like this, the UDHR is not very helpful.

The UDHR was developed in the aftermath of the Second World War and has not been revised since. The declaration is, as of 2019, 71 years old. A revision and update would be appropriate considering a lot has happened during the last decades in several areas of this problematic issue.

5.3. Convention on the Prevention and Punishment of the Crime of Genocide
The Convention on the Prevention and Punishment of the Crime of Genocide (henceforth referred to as PPCG or ‘the convention’) states that the act of “imposing measures intended to prevent births within the group,” is an attempt to commit genocide. Furthermore, genocide is stated to be a crime under international law. The Race and Religion Protection Laws in Myanmar intend to, among other things, curb the Rohingya population through birth spacing and limited child policies. Therefore, according to the PPCG, Myanmar has performed genocide on Rohingyas.

Even though Myanmar has signed and ratified the PPCG, the Tatmadaw has created an atmosphere in which it is acceptable to commit atrocities on Rohingyas, relating to Arendt’s coined phenomena of *banality of evil*. The ones performing these violations are doing it in an atmosphere in which it is acceptable to perform them. Furthermore, when interfaith marriages and birth spacing (for example) is regulated by law, it is likely to expand into ideas
like the ‘other’ as not being as valuable as the majority, leading to an acceptance of discrimination of Rohingyas within the whole society.

On the other hand, how can such an atmosphere be created in a country that has signed and ratified this convention? According to the PPCG, a state responsible for a genocide can be submitted to the International Court of Justice (article 9). However, it does not say who is to supervise and determine who is, or when one should be, submitted to the court of justice. In the case of Myanmar, an intent to destroy an ethnic minority has been practiced, which is in line with the definition of genocide according to the convention. Then what? Why is the Tatmadaw not brought to justice for their actions?

There is an underlying contradiction of the PPCG, i.e. that the contracting parties of the convention are to undertake the prevention and punishment of the crime of genocide. However, if Myanmar is convinced that Rohingyas do not belong to the population of Myanmar, then they are not doing anything wrong towards their own population. Furthermore, if Myanmar does not recognise these actions as genocide, they cannot provide penalties for people guilty of genocide, as the contracting parties of the convention has undertaken to enact (article 5). However, a further contradiction is that as a contracting party to a convention, they are obligated under international law to comply and cannot justify any failure by domestic laws. With this in mind, it should be seen as a failure by the international community that Myanmar has accomplished to create the Race and Religion Protection Laws and carry through a genocide on the Rohingya population without any hindrance.

5.4. Responsibility to Protect

The Responsibility to Protect (henceforth referred to as R2P) is presented in the General Assembly’s resolution from the UN World Summit meeting in 2005. However, it is only paragraph 138-140 that covers the R2P, as these were the only topics the international community could agree on.

The R2P clarifies that “each individual state has the responsibility to protect its population from genocide, war crimes, ethnic cleansing, and crimes against humanity” and that the international community should encourage and help states achieve this. In addition, the international community should, according to the R2P, through support from the UN establish an early warning capability and assist those who are under stress before a crisis or conflict breaks out. Moreover, together with regional organisations, the international community should be prepared to take collective action through the Security Council. They are also to interfere if
national authorities fail to protect its own population. With this in mind, the R2P appear to be an altruistic principle. However, what if the vulnerable population in fact is not the population of the country that performs atrocities against them? What if the crimes are committed without any further knowledge of them? Furthermore, what if the country insists on their sovereignty, refusing other countries to investigate subjects of their country’s concern. As Agamben argues, the construction of a biopolitical body is the primary activity of sovereign power. This could be a primary argument for states to refuse interference from the international community.

The R2P further states that the General Assembly intend to commit themselves, if necessary, to help states build capacity to protect populations from genocide. When talking about countries of the global south, this statement can be problematic. Who is the UN to believe that they know best what a state needs and how to manage their concerns? This neo-colonial perception is abundant in the numerous treaties made by the UN. While the thought is morally pleasing, it might be understood in a different way.

6. Conclusion

In an attempt to understand the situation of the Rohingya population, the concept of statelessness has been applied. The fact that the Rohingya population lost their Myanmar citizenship through the Citizenship law in 1982 has contributed to further discrimination and persecution of this ethnic minority. Due to their statelessness, no one can ensure them their fundamental human rights. Arendt’s theory of the dependency on citizenship to ensure one’s human rights is in this case very illustrative. As unregistered refugees in neighbouring Bangladesh, or as stateless in Myanmar, Rohingyas are left without any legal protection on either side of the Myanmar border.

According to this study’s understanding of the concept of biopower, the Myanmar government has distinctly separated non-Buddhist (among them the Rohingyas) from the Buddhist majority by various laws on interfaith marriages and birth control measurements, which made the persecution and genocide of the Rohingya population possible. The Rohingyas have been defined as a minority group not worthy citizenship or residence within Myanmar’s borders. Rohingyas can therefore be seen as an example of homo sacer created by the Myanmar government and the Tatmadaw. Through the political procedure of separating bios from zoé, arguably done by the authorities of Myanmar, made it possible to both protect life (Buddhist) and to authorise genocide (on Rohingyas).
However, the R2P, UDHR, and PPCG are central and universal components in place to protect humanity from such barbarities. These three documents and principles are frameworks on how to relate to issues on human rights, protection from genocide, and other atrocities on humanity. Nonetheless, they are relatively naïve and do not include clear examples of punishments and sanctions if one does not comply with them. How can we ensure that we discover atrocities in time and create early warning systems as those mentioned in the R2P? The international community has clearly failed when it comes to Rohingyas. One possible solution could be to collect data through various NGOs and international organisations to create some sort of database, which could be used as a foundation to statistical analyses. Perhaps something similar to artificial intelligence could be an alternative to solve this issue created by humans; however, it might seem daring. We have obviously not learned from our past but maybe statistical analyses can help us see the patterns that we have missed before and warn before crises and conflicts break out. Furthermore, existing human rights frameworks do not respond to new human rights issues. Various types of analyses might be a way to discover what is needed in order to adapt future revisions of UDHR.

The sustainable development goals aim to “leave no one behind” and mentions the importance of everyone’s right to a nationality as one of its goals. However, there is a lack of clear solutions on how to reach this goal. Furthermore, what if we do ensure all individuals a citizenship, then marginalised groups and minorities might just go from being de jure stateless to de facto stateless, i.e. the state continues to ignore them although they are citizens, and their human rights are yet not secured.

Human rights are fragile due to the dependence on political institutions, laws, and norms. Considering it is not within an individual’s control and potential to ensure oneself one’s rights and freedom, collective actions must be taken to create better conditions for everyone, including marginalised groups and minorities. Solving the complicated issue of statelessness and to ensure all individuals their fundamental human rights is one important and significant step towards preventing future genocides and ethnic cleansings. We must reach a point in the near future when we can say ‘never again’ and really mean it this time.
7. References

Articles


**Books**


**Conventions and Resolutions**

[https://www.refworld.org/docid/3ae6b3ac0.html](https://www.refworld.org/docid/3ae6b3ac0.html) (2019-04-26)


[https://www.refworld.org/docid/3ae6b3840.html](https://www.refworld.org/docid/3ae6b3840.html) (2019-04-26)

**Pictures**


**Reports**


**Web Pages**


Annex I

Relevant Conventions and Treaties Signed by Myanmar.

Treaties signed before 1989 were signed in the name of Burma.

<table>
<thead>
<tr>
<th>Title</th>
<th>Signature</th>
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<tr>
<td><strong>International Humanitarian Law Treaties</strong></td>
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<td>Wounded and Sick in Armed Forces in the Field (1st Geneva Convention)</td>
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<td>Sick and Shipwrecked Members of Armed Forces at Sea (2nd Geneva</td>
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<td>Convention)</td>
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<td>Geneva Convention relative to the protection of civilian persons</td>
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<td>in time of war (4th Geneva Convention)</td>
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<td>Treaty on the Non-Proliferation of Nuclear Weapons (Washington, 1 July 1968)</td>
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<td>2 Dec. 1992</td>
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<td><strong>International Human Rights Treaties</strong></td>
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<td>Convention on the Elimination of All Forms of Discrimination against</td>
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<td>Women (New York, 18 Dec. 1979)</td>
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<td>International Convention for the Suppression of the Traffic in Women</td>
<td>13 May 1949</td>
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<td>and Children (New York, 12 Nov. 1947)</td>
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<td>Convention for the Suppression of the Traffic in Persons and of the</td>
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<td>Exploitation of the Prostitution of Others (New York, 21 March 1950)</td>
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<td>Protocol to Prevent, Suppress and Punish Trafficking in Persons,</td>
<td>30 March 2004</td>
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<td>Especially Women and Children, supplementing the United Nations</td>
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<td>Convention against Transnational Organized Crime (New York, 15 Nov.</td>
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<td>2000)</td>
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<td>Dec. 2006)</td>
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<td>Freedom of Association and Protection of the Right to Organize, ILO</td>
<td>4 March 1955</td>
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<td>Convention 87 (4 July 1950)</td>
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<td><strong>Other Treaties</strong></td>
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<td>Charter of the United Nations and Statute of the International Court</td>
<td>19 April 1948</td>
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<td>of Justice (San Francisco, 24 Oct. 1945)</td>
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Global Justice Center (2012)