The Legal Legibility of Genocidal Suffering

ABSTRACT As the most violent and grievous form of human rights violation, genocide participates in the human rights discourse as an articulation of the most profane and profound experience of human suffering. However, in practice, as a normative legal term which names an atrocious crime for accountability, genocide is considered from a jurisprudential perspective to be empirically concerned with value-free facts of legal violation under international law. Therefore, genocide is at once engaged with the moral and emphatic discourse on the human experience of suffering and the legal discourse on the kind of suffering the law views as legible. Given the empirical impulse of the law to legally align narratives of suffering with categories of human rights violation to punish perpetrators of violence, and the moral imperative of giving voice to survivors of human rights abuse to undo their silencing and guard against collective amnesia, what is the implication of fitting human suffering within the legal category of genocide and what is lost and gained when human suffering is made legally legible? By focusing on witness testimony as a form of legal narrative of suffering that is legible to the law, this paper contextualizes its analysis to international accountability mechanisms for the Rohingya genocide perpetrated by Myanmar to examine how the law choreographs suffering. It argues that the internal tensions exhibited in the creation of narratives of suffering through witness testimony demand the counter-positioning of subjectivity and empirical accuracy, which creates instrumentalised accounts of human rights violation that reinforce regimented taxonomies of suffering in genocide determination processes.

"We are in the presence of a crime without a name."
–Winston Churchill on August 24, 1941

Introduction

Before Raphael Lemkin coined the term "genocide" in 1943, the unspeakable evil of systematically annihilating a people was without a name (Spencer, 2012). In 1946, out of the shattered moral and political landscape of World World II, the United Nations codified genocide as a crime under international law. Resolution 96 of the United Nations General Assembly, titled "The Crime of Genocide", defined genocide as "a denial of the right of existence of entire human groups" and asserted that "such denial of the rights of existence shocks the conscience of mankind, [and] results in great losses to humanity" (A/RES/96, Preamble). When evoked, the political, moral, and emotive force of the word "genocide" condemns the most extreme form of violence perpetrated by human beings to their fellows that violates humane moral standards in its totality, laments the tainting of humanity's collective moral decency, and compels a moral and political imperative to act against impunity. As the most violent and grievous form of human rights violation, genocide participates in the human

rights discourse as an articulation of the most profane and profound experience of human suffering (Freeman, 1991). However, in practice, as a normative legal term which names an atrocious crime for accountability, genocide is considered from a jurisprudential perspective to be empirically concerned with value-free facts of legal violation under international law (Williams and Levy, 2019; Satterthwaite, 2013). Therefore, genocide is at once engaged with the moral and emphatic discourse on the human experience of suffering and the legal discourse on the kind of suffering the law views as legible.

In "The Appeal of Experience; the Dismay of Images: Cultural Appropriations of Suffering in Our Times", Arthur and Joann Kleinman asserts that “there is no single way to suffer; there is no timeless or spaceless universal shape to suffering” and cautions against “essentialising, naturalising, or sentimentalising suffering” (Kleinman and Kleinman 1996: 2). Yet in the judicial space of international law, genocide is functionally essentialised into five distinct categories of violence that produce corresponding legal taxonomies of suffering for genocide determination (A/RES/260). Given the empirical impulse of the law to legally align narratives of suffering with categories of human rights violation to punish perpetrators of violence, and the moral imperative of giving voice to survivors of human rights abuse to undo their silencing and guard against collective amnesia, what is the implication of fitting human suffering within the legal category of genocide?

Human rights literature in intersecting disciplines have explored how narratives of victimization which attempts to render the suffering of victims of violence intelligible through the human rights and humanitarian discourse contribute to the reframing of suffering under Western liberal forms of power. In “Casualties of Care”, Miriam Ticktin criticizes the instrumentalization of the suffering of sexual and ethnic “others” to locate “morally legitimate suffering bodies” deserving of legal recognition (Ticktin, 2011). In a similar vein, in “Humanitarian Reason”, Didier Fassin criticizes humanitarianism for instituting inequality and perpetrating violence by rendering some lives more valuable than others in its priority of narratives of suffering which creates the liberal subject (Fassin, 2011). Central to Ticktin and Fassin’s analysis of the humanitarian ethic and human rights discourse is their recognition that the human rights corpus constructs regimented narratives of suffering which it posits as the indisputable truth and ultimate source of legitimacy.

My aim in this paper is to examine how the law choreographs suffering and the kind of suffering viewed by the law to be legally true and legitimate. By focusing on genocide, the most atrocious of human rights violation, I ask questions of how the legal recognition of particular forms of suffering function in the global moral economy of humanitarianism: How does the law deconstructs and constructs human rights in its judicial procedures? What is gained and lost when we try to make human suffering legally legible? What does it mean to legally bear witness to human suffering? By focusing on witness testimony as a form of legal narrative of suffering legible to the law and contextualizing my analysis to the Rohingya genocide perpetrated by Myanmar, I argue that the internal tensions exhibited in the creation of narratives of suffering through witness testimony demands the counter-positioning of subjectivity and empirical accuracy which creates instrumentalised accounts of human rights violation that reinforce regimented taxonomies of suffering in genocide determination processes.

I begin my analysis by situating genocide under international legal regime to examine the legal necessity of genocide determination to morally and politically legitimize suffering. Then, I offer a summary of the Rohingya genocide and a brief history of testimony through the framing of the Eichmann trial which sets legal precedence for the use of testimonial in subsequence transitional justice mechanisms, including the International Independent Fact-Finding Mission in Myanmar. I proceed to examine the tension between the experiential and evidential truth of testimony and how the genre of human rights reports attempts to codify the subjectivity of testimony for legal legibility. Finally, I conclude with a case-study analysis of the United Nations' fact-finding report on atrocity crimes against the Rohingya to demonstrate the human rights corpus' instrumentalization of testimony for the purpose of genocide determination.

The Genocide Convention and International Law

The 1948 Convention on the Prevention and Punishment of the Crime of Genocide ("Genocide Convention") was the first human rights treaty adopted by the United Nations General Assembly and has been ratified by 152 States, including Myanmar in 1956 (A/HRC/39/CRP2). The Genocide Convention codified genocide as a crime in demonstration of the international community's commitment to "never again" after the atrocities committed during World War II. As an instrument of international law, the Genocide Convention has a very particular definition of genocide that when evoked demands punishment for perpetrators (A/HRC/39/64).

The obligations and rights defined by the Genocide Convention under international law is managed by a network of international institutions such as human rights treaty bodies, international commissions of inquiry bodies, and criminal tribunals (UNHCR, 2016). Human rights fact-finding missions play an important role in this intricate network of accountability by documenting atrocities and collecting evidence of violations for criminal proceedings (Patel, 2012). The documentation of human rights violation by fact-finding mechanisms are often framed by international human rights and humanitarian law (Satterthwaite, 2013).

Under international law, genocide means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group (A/RES/260):

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group.

To fulfil the legal threshold for genocide determination, human rights abuse has to be of (i) genocidal intent and (ii) fit any of the five categories of violation. As international tribunals only recognize particular taxonomies of genocidal violence as defined by international law, fact-finding mechanisms which collect evidence of the most serious violation of the human rights treaties are compelled to construct accounts of violation according to choreographed categories of suffering that are legally legible (Patel, 2012). These accounts of violation, also known as testimony, are used as legal evidence in files prepared by fact-finding missions during transitional justice processes[1]. For the purpose of this paper, I will be focusing my analysis on the testimony complied by the United Nations fact-finding mission that documented atrocities committed in Rakhine state against the Rohingya people, which are used as evidence in legal proceedings against perpetrators of genocide.

[1] The United Nations (UN) defines transitional justice as "the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof." (UN document S/2004/616, The rule of law and transitional justice in conflict and post-conflict societies, available at: http://daccessods.un.org/access.nsf/Get?Open&DS=S/2004/616&Lang=E).

Atrocity Crimes Committed Against the Rohingya

Since 1978, the Rohingya, a Muslim minority population in Myanmar's Rakhine State, has been persecuted by the government through state-sponsored violence and official state policy that denies them of citizenship and associated rights, restricts their freedom of movement, and limit their access to food, health, and education (PILPG, 2018; A/HRC/39/CRP2). Myanmar state media, politicians, and public sentiment justify the systematic and institutionalised oppression of the Rohingya by "othering" the Rohingya people as "illegal immigrants" and "terrorists" who threaten the national security of Myanmar and the existential security of ethnic Rakhines (PILPG, 2018; A/HRC/39/CRP2). In August 2017, Myanmar's military and security forces ("Tatmadaw Army") launched a "clearance operations" against the Rohingya, leading to the genocidal acts that are the subject of this paper. According to the United Nations, the military campaign constituted a "human rights catastrophe" (A/HRC/39/CRP2). Thousands of Rohingyas were killed or grievously injured in aerial bombardments, mass shootings, gang rapes, and severe beatings perpetuated by the Tatmadaw Army. The military operation also caused more than 700,000 Rohingya to flee their homes and seek refuge in refugee camps in Cox's Bazar in Bangladesh (PILPG, 2018).

In response to the atrocity crimes committed against the Rohingya people in Myanmar, in 2017, the United Nations established the Independent International Fact-Finding Mission on Myanmar ("IIFFMM") "to establish the facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar, in particular in Rakhine State…with a view to ensuring the full accountability for perpetrators and justice for victims" (A/HRC/39/CRP2). In the context of a genocide determination after the escalation of grievous violence against the Rohingya during the "clearance operation", the information collected by the IIFFMM was handed over to the Independent Investigative Mechanism for Myanmar (IIMM) to prepare files for criminal prosecution.[2]

Currently, fact-finding documentation reports produced by the IIMM are used as evidence in the International Criminal Court ("ICC")'s inquiry into the deportation of the Rohingya, in

[2] According to its mandate, the IIMM "collect evidence of the most serious international crimes and violations of international law, prepare files in order to facilitate and expedite fair and independent criminal proceedings in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes, in accordance with international law".

Gambia's case against Myanmar on the crime of Genocide, heard by the International Court of Justice ("ICJ"), and in a case filed by Rohingya and Latin American human rights groups against Myanmar state perpetrators in Argentina under the principle of "universal jurisdiction"[3]. The documentation of human rights violation by fact-finding mechanisms are often framed by international human rights and humanitarian law and rely heavily on testimony from survivors in its investigation and evidential documentation of international law violation. The accounts of individuals are central to transitional justice mechanisms as often, "international tribunals base their factual determinations virtually exclusively on eyewitness testimony" (Combs 2010: 14).

[3] According to the Global Policy Forum, "The doctrine of universal jurisdiction allows national courts to try cases of the gravest crimes against humanity, even if these crimes are not committed in the nation"

The Advent of the Witness during the Eichmann Trial

In 1961, one hundred and eleven witnesses were called to the stand during the trial of Adolf Eichmann in a "litany of testimonies" that marked "the advent of the witness" in international human rights law (Wieviorka 2016: 85, 57). The importance of the hermeneutical participation of survivors in transitional justice processes is posited by American literary critic, Shoshana Felman, who argues that the Eichmann trial allowed for the "conceptual revolution in the victim" as adjudicators of how collective trauma should be remembered in history (Felman 2002: 126). As representatives of systemic suffering, individual testimony is contextualised in the local yet connected to a broader system of structural oppression. According to historian Annette Wieviorka, the Eichmann trial "conferred on the witnesses the social identity of survivor and transformed them into bearers of history" (Wieviorka 2016: 88). As a "survivor", the act of testifying grants voice to those who personally experienced and witnessed the atrocities committed. As "bearers of history", the survivor's act of testifying is a monument to history which imprints in the collective consciousness vows of "never forget" and "never again". The metamorphosis of the witness from "survivor" to "bearers of history" maps the transference of trauma and memory from the individual who suffered to the collective who bears witness retrospectively to monumental and historical suffering.

It is the testimonial form that allows for the specific and localised lived reality of the survivor to be inscribed into the ledger of the global discourse on international human rights. As a liberal subject of rights, for a survivor's testimony to be viewed as judicially legitimate and in accordance with the rule of law, the survivor must be legally legible as an autonomous self that participates in the creation of a liberal order through the act of testifying. In the words of German sociologist Jürgen Habermas, "the modern legal order can draw its legitimacy only from the idea of self-determination: citizens should always be able to understand themselves also as authors of the law to which they are subject as addressees" (Habermas 1996: 449). As a liberal subject, the witness' narrative authority and autonomy is privileged as legal "truth". As Israeli poet Haim Gouri explains in the context of the Eichmann trial, "The numerous witnesses…testified in order to illuminate the destruction in all its detail…they were the very center of the trial, because they served as faithful proxies of the Holocaust. They were the *facts*" (Gouri 2004:85). Gouri's representation of the witness' subjective interpretation of their suffering as empirical "facts" reveals that at the heart of the human rights tribunal system's methodology of "truth" is a commitment to the testimonial agency and credibility of survivors.

The commitment to stay true to the witness testimony has led to certain "disciplinary, moral, and practical dilemmas in human rights fact-finding" (Satterthwaite 2013: 63).

The Empirical Force and Subjective Resistance of Testimony

As a primary source of information on human rights crises, testimonies ground human rights fact-finding reports in the local context and play a central role as evidence for the determination of human rights violation according to international law (Rothenberg, 2016). While testimonies are political in revealing mechanisms of repression and judicial in guarding against impunity, they are also profoundly personal and subjective as they are personal narratives that express trauma (Rothenberg, 2016; Patel, 2012). Through testimony, survivors recreate the lived experience of violence and make meaning of the brutality inflicted upon them. The internal tension in the translation of testimony from the subjective, contextual, and local reality within which human rights violation are lived and experienced into the language of accountability within the judicial space of international human rights law and the global moral economy of humanitarianism is exemplified in the dichotomous demands of testimony as both "experiential truth" and "evidential truth". According to Aston, as "experiential truth", testimony need "to convey the complex specificity, emotional demand, and subjective impact associated with violations", while as "evidential truth", testimony is used "as evidence to prove that specific legal violations were committed" (Rothenberg 2016: 193). The instrumentalization of testimony counter-positions subjectivity and empirical accuracy, which poses the question: what is lost and what is gained when human suffering is made legally legible?

Methodologically, testimony is a mode of direct data collection based on personal interviews with survivors, who recount their experience of human rights violation. To be legally legible, testimony are mined for "evidentially significant facts" to acquire proof of human rights violation (Wilson 2013: 105). As German philosopher Aleida Assmann explains, "the economy of the trial demands that biographical aspects [of victims] are invoked only to the extent that they help to probe and to ascertain the testimony" (Assmann 2006: 265-266,). Lived experiences of suffering are relevant in so far as instances of violence can be extracted from the narrative to establish whether the claims of human rights violation recounted in testimony meet internationally accepted legal definitions of particular violations. The tribunal system's instrumentalization of testimony for the sole purpose of legal determination is exemplified in the limitation ICC's Victims Participation and Reparations Sections ("VPRS") places on

witness testimony. To engage victims in the ICC's inquiry into the forced deportation of the Rohingya from Myanmar to Bangladesh, the VPRS sought the "representations" of victims, who had the "right" to "provide their views, concerns and expectations" to the ICC judges, as per the ICC's legal framework (ICC-01/19). However, the VPRS qualifies that the purpose of the victim representation process "is not to collect individual and detailed stories of what happened to each and every victim represented in the forms, but that a summary of all alleged crimes committed against the victims would suffice" (ICC-01/19-22-Anxl-Red, Article 25). Here, individual voices are subsumed under the collective as a representative case to maintain a coherent narrative. As a result of condensing and codifying testimonies into categorical types of human rights violation in accordance to the legal genre of human rights report recognised by the tribunal, testimonies become bureaucratically pragmatic and impersonal.

The Legal Codification of Testimonial Subjectivity in Human Rights Report

Strict adherence to convention is often what gives testimonial legal legitimacy (Wilson, 2013). To deconstruct the genericity and particularity of testimony which makes it legible to the law, I analyse the "Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar" ("the Report") released by the IIFFMM in august 2018 to conceive of testimony as a genre with recognisable practice of writing and predictable textual reception. To document the atrocity crimes committed against the Rohingya for criminal proceedings, the IIFFMM made "*factual* determination" on the Tatmadaw Army's "*patterns* of conduct" based on "*multiple credible sources* of *first-hand information*, which are *consistent with* and *collaborated by* the overall body of credible information made" (A/HRC/29/CRP2, Article 11). The testimonies it collected were processed and streamlined to produce a factual findings report, which will be analysed for its formal style and content in this section. Since fact-finding is the aim, IIFFMM's emphasised the empirical accuracy and coherence of the witness testimony it has collected and curated to establish facts most pertinent to the judicial institution's final decision. The IIFFMM's compiled report of human rights violation represents a meditated form of testimony which adjudicates the narrative of suffering presented to the court.

From the perspective of narratology, testimony derives its authority from the autonomy of the author. The narratological perspective privileges the subjectivity of the author who makes meaning of events. However, from a jurisprudence perspective, testimony must be legalistic, establish facts, and downplay its subjective qualities, in order to distance itself from fiction. If

testimonies are evidence for human rights abuses, which are catalogued to meet the legal threshold for legal action, the authority of testimony as a legal genre and legible document of the tribunal depends on "witness accounts that tell the same story and suppress individual differences" (Schaffer and Smith 2004: 137). As the genre of testimony is defined by coherence and empirical verifiability, individual testimonies become homogenous when filtered through human rights reports to invoke the act of collective remembering and prevent deviation from the expected narrative.

In presenting findings on the acts of sexual violence against the Rohingya, the Report conveys in a summative exposition that (A/HRC/29/CRP2):

> "There was a high incidence of mutilation related to sexual violence. Women were beheaded after being raped (RKMS150), had their breasts cut off (NEOO03; 1EGN11; 1WOO10; 14KW01), eyes gauged out (03RK07), or vaginas cut or stabbed (NEOO03; 1EOO02; 1WOO10; JAPN71). In some instances, "half-dead" bodies of rape victims were thrown into the river (2WSM28) or wells (NEOO03)."

Here, the atrocities perpetrated by the Tatmadaw Army are communicated concisely and objectively with a focus on the specific act of violence instead of on the suffering, trauma, or memory of the victim. To ensure the documented human rights abuse are factually accurate, each instance and specific act of violence is coded to reflect the original witness testimony the Report references. Often, witness testimony is corroborated through forensic analysis . (A/HRC/29/CRP2, Article 926):

> "During rapes, women and girls were frequently bitten on the cheeks, neck, breast and thigh (EI-011, EI-014, EI-022, EI-076, EI- 094, XI-001). The bite marks were still visible months afterwards to members of the Mission, United Nations doctors and counsellors."

Occasionally, the documenter of human rights violation links evidential truth to experiential truth in order to express the consequence of the acts of violence on the lived experience of the survivor . (A/HRC/29/CRP2, Article 926):

> "The bite-marks and other mutilations have left permanent scars on the survivors and serve as a constant reminder to them, their husbands, family and community of the violations and humiliations they have been subjected to.

By emphasising the effect of the biological scarring on the biographical life of the survivors, the documenter translates the evidence of violence ("bite-marks") into the lived experiences of suffering ("humiliation"). The authorial choice of the documenter reveals an ethical commitment to understanding the nature of these human rights violation on the survivor. Yet ultimately, the purpose of witness narratives is to prove that genocidal acts were committed beyond the legal threshold for prosecution. Therefore, the Report's section on sexual violence concludes with an analysis of the genocidal intent of the use of sexual violence by the Tatmadaw Army as part of a deliberate strategy to destroy the Rohingya as a group (A/HRC/29/CRP2, Article 1397):

> Even without such permanent and disturbing reminders, rape and sexual violence are steps in the destruction of a group: "the destruction of the spirit, of the will to live, and of life itself" (ICTR, *Prosecutor v. Akayesu,* ICTR-96-4-T, Judgment, 2 September 1998, para. 732). It has been recognized as demonstrating an intent to destroy a group "while inflicting acute suffering on its members in the process" (ICTR, *Prosecutor v. Akayesu*, ICTR-96-4-T, Judgment, 2 September 1998, para. 733).

For the testimony of acts of sexual violence to be legally useful and recognised, the documenter has to translate narratives of violence into violation of international law. To do so, the documenter cites the legal precedents which recognises rape as a tactic of war in customary law.

The reading of victim testimonies through a system of quantitative and legal analysis is technically accurate and a result of the expectation of the judicial readership as required by international guidelines on human rights law. Arguably, there is a legal necessity for the categorisation and coherence of testimony. However, when the testimonial narratives of survivors are culled by human rights practitioners to curate its meaning and categorise accounts of suffering according to the normative understanding and requirement of the law, it can be said that "hermeneutical injustice", in which a person is "written out of the deliberative process

by which norms are instituted and meaning constructed", is committed by the legal system. (Fricker, 2007; Patel 2012: 248). Witness representation documented by the VPRS reveals a general sentiment from victims that witness testimony alone could not sufficiently convey to the court the nature of the suffering they have endured (ICC-01/19-22-Anxl-Red, Article 65b):

> "In the ICC Offices, Court, we want to share sufferings directly."
>
> "We would like if possible that the judges come here to see us, to see by themselves the situation, otherwise in the writing it won't reflect effectively the opinions and the impact of the crimes."
>
> "We would like to invite the ICC judges to come to refugee camps to meet and talk to us, to see with your eyes our suffering, to hear our voices, to see our problem."

The repeated petition from victims for the judges of the ICC to personally visit the refugee camps in Cox's Baazar and directly witness the suffering of the Rohingya reveals the limitation of testimony as a curated form in representing the lived reality of trauma.

Conclusion

As a moral imperative, the discourse on human rights locates the universal and inalienable nature of human rights in the existential condition of being human and unifies human rights conceptually as the guarantee of dignity, liberty, and equality (DRMC, Article 1; UDHR, Article 1). However, in application for accountability, human rights are a "collection of norms and abstract designates and categories" (Patel 2012: 238). The legal alignment of categories of violence with specific human rights laws produces corresponding groups of victims that testify to that specific form of abuse for every type of human rights violation catalogued. Consequently, the legal recognition of particular taxonomies of suffering in the genocide determination process generates regimented and instrumentalised accounts of human rights violation that focus more on the acts of violence on the part of the perpetrator than the survivor's lived experience of suffering. Hannah Arendt represents this viewpoint in her analysis of the Eichmann trial (Arendt 1997: 9):

> "A trial resembles a play in that both begin and end with the doer, not with the victim…In the center of the trial can only be the one who did—in this respect, he is like the hero in the play—and if he suffers, he must suffer for what he has done, not for what he has caused others to suffer".

While testimony focuses on the victim, international human rights law focuses on the guilt of the perpetrator. In the eyes of the law, accountability is seen as justice for the victim. As Stover suggests, "War crimes trials, at their best, can create an aura of fairness, establish a public record, and produce some sense of accountability by acknowledging the losses victims have suffered and punishing the perpetrators" (Stover 2005: 129). More often than not, survivors who experience mass atrocity are lost in the formalised procedures of the international justice system.

References

Arendt, Hannah. *Eichmann in Jerusalem: A Report on the Banality of Evil*. Revised and Enlarged Ed. New York: Penguin Books, 1997.

Assmann, Aleida. "History, Memory, and the Genre of Testimony." *Poetics Today* 27:2 (Summer 2006): 261-273.

Combs, Nancy Amoury. *Fact-finding Without Facts: The Uncertain Evidentiary Foundations of International Criminal Convictions.* Cambridge: Cambridge University Press, 2010.

Fassin, Didier. *Humanitarian reason: a moral history of the present*. University of California Press, 2011.

Felman, Shoshana. *The Juridical Unconscious: Trials and Traumas in the Twentieth Century*. Cambridge: Harvard University Press, 2002.

Freeman, Michael. "Speaking about the Unspeakable: genocide and philosophy." *Journal of applied philosophy* 8.1 (1991): 3-18.

Gouri, Haim. *Facing the Glass Booth: The Jerusalem Trial of Adolf Eichmann*. Trans. Michael Swirsky. Detroit: Wayne State University Press, 2004.

Habermas, Jürgen. *Between Facts and Norms : Contributions to a Discourse Theory of Law and Democracy*. W. Rehg (trans.) Cambridge: Polity Press, 1996

Human Rights Council. *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*. UN Doc. A/HRC/39/CRP.2 (Sept. 17, 2018)

International Criminal Court. *Final Consolidated Report on Victim's Representations (public redacted version)*. ICC Doc. ICC-01/19-22-AnxI-Red (Nov. 11, 2019)

Kleinman, Arthur, and Joan Kleinman. "The appeal of experience; the dismay of images: Cultural appropriations of suffering in our times." *Daedalus* 125.1 (1996): 1-23.

National Assembly of France. *Declaration of the Rights of Man*. 1978.

Patel, Ian. "The role of testimony and testimonial analysis in human rights advocacy and research." *State Crime Journal* (2012): 235-265.

Public International Law and Policy Group. *Documenting Atrocity Crimes Committed Against the Rohingya in Myanmar's Rakhine State.* 2018.

Rothenberg, Daniel. "The Complex truth of testimony: A case study of human rights fact-finding in Iraq." *The transformation of human rights fact-finding* (2016): 191-212.

Satterthwaite, Margaret. "Finding, verifying, and curating human rights facts." *Proceedings of the ASIL Annual Meeting*. Vol. 107. Cambridge University Press, 2013.

Schaffer, Kay, and Sidonie Smith. "Conjunctions: life narratives in the field of human rights." *Human Rights and Narrated Lives*. Palgrave Macmillan, New York, 2004. 13-33.

Stover, Eric. *The Witnesses: War Crimes and the Promise of Justice in The Hague*. Philadelphia: University of Pennsylvania Press, 2005.

Spencer, Philip. *Genocide since 1945*. Routledge, 2012.

Ticktin, Miriam. *Casualties of care: Immigration and the politics of humanitarianism in France*. University of California Press, 2011.

United Nations. *Universal Declaration of Human Rights.* 1948.

Wieviorka, Annette. *The Era of the Witness*. Trans. Jared Stark. Ithaca: Cornell University Press, 2006.

Williams, Paul, and Jessica Levy. "Atrocities Documented, Accountability Needed: Finding Justice for the Rohingya through the ICC and Independent Mechanism." *Harvard Human Rights Journal* (2019).

Wilson, Katherine, "Genocide Genres: Reading Atrocity Testimonies" (2013). *Theses and Dissertations*. 326.