

The Rohingya Predicament. Why Myanmar's Army Gets Away with Ethnic Cleansing

by Zoltan Barany

ABSTRACT

The atrocities against and the privations of the Rohingya Muslim minority in Myanmar are well documented. Much less awareness exists about the reasons why Myanmar's military, the *Tatmadaw*, has been able to get away with ethnic cleansing in an ostensibly democratising Buddhist state. The military has used the attacks of an insurgent group, the Arakan Rohingya Salvation Army, as a pretext for carrying out a brutal campaign of eviction, repressions and executions. This anti-Rohingya campaign is fairly popular among Myanmar's population, which further explains why the civilian government *de facto* led by Aung San Suu Kyi has no control over the *Tatmadaw*. Actually, at present there is no state or international organisation that can realistically rein in Myanmar's military. China and India have contentious relations with their own Muslim minorities and strategic and economic interests in Myanmar. They will support its regime. Neighbouring states have only modest influence over Burmese politics, as do international organisations. Yet the latter still represent whatever hope there is of holding the regime and its generals accountable.

Myanmar | National minorities | Human rights | Armed forces | Myanmar's domestic policy | Myanmar's foreign policy

keywords

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Introduction

This exchange took place at the United Nations Human Rights Council in Geneva on 4 July 2018: "[Myanmar is] committed to the defence of human rights" (U Kyaw Moe Tun, senior Myanmar diplomat). "[Your claim] almost creates its own level of preposterousness. Have you no shame, sir? Have you no shame?" (Zeid Ra'ad al-Husseini, UN High Commissioner for Human Rights).¹

On the morning of 25 August 2017, the Arakan Rohingya Salvation Army (ARSA) launched coordinated attacks on more than two dozen small security installations in Myanmar's northern Rakhine State. ARSA militants were lightly armed but they killed twelve uniformed personnel and escaped with some weapons from the armouries of the security outposts. According to an ARSA spokesman, the goal of the attack was to attract international attention to the plight of the Rohingya Muslim minority, money from benefactors in the Gulf – especially Saudi Arabia and the United Arab Emirates (UAE) – and young men to join ARSA's ranks.²

The response by the *Tatmadaw*, Myanmar's armed forces, was immediate and massively disproportionate. The army's tactics included mass murder, torture, gang-raping of women and girls, and burning down entire villages. By the beginning of December 2017, more than 688,000 Rohingya were forced to flee to neighbouring Bangladesh and 392 villages were partially or totally destroyed – before-and-after satellite images show that the villages simply vanished.³ The death toll was

¹ Cited in Nick Cumming-Bruce, "'Have You No Shame?' Myanmar Is Flogged for Violence Against Rohingya", in *The New York Times*, 4 July 2018, <https://nyti.ms/2KPMKdI>.

² "Rohingya Refugee Crisis", in *Scroll.in*, 11 December 2017, <https://scroll.in/latest/900276>.

³ Muhammad Abdul Bari, *The Rohingya Crisis. A People Facing Extinction*, Markfield, Kube Publishing, 2018, p. 26.

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conservatively estimated at 10,000. According to Médecins sans Frontières, nearly 70 per cent of the victims died of gunshot wounds and 9 per cent were burned to death in their homes.⁴ The persecution did not stop. By August 2018, altogether 723,000 Rohingya had left their home state of Rakhine. An average of 1,733 escaped to Bangladesh on a monthly basis.⁵ Evidence shows that the *Tatmadaw's* operation was premeditated and ARSA's attack was merely a convenient excuse to set off the army's campaign of ethnic cleansing or, according to some, genocide.

The privations of the Rohingya and the crusade to drive them out of Myanmar have received wide attention in the recent past from activists, historians and social scientists.⁶ Their predicament is impossible to properly understand, however, without the larger domestic and foreign political context that has allowed this tragedy to unfold while the world has looked on. Most critical is the question: Why has the *Tatmadaw* got away with ethnic cleansing?

1. Background

Myanmar has a population of 54 million and officially recognises dozens of ethnic groups – although not quite the “135 national races” that some authors mention.⁷ Yet the Rohingya are not among these. In fact, Myanmar authorities, including the country's *de facto* prime minister Aung San Suu Kyi, refuse to even use the term “Rohingya”. The Rohingya, however, are indisputably a distinct group with a long history in Myanmar. They are the descendants of people whom British colonial authorities, searching for cheap labour, encouraged to emigrate from eastern Bengal (contemporary Bangladesh) to the sparsely populated western regions of Burma from the first half of the nineteenth century (beginning in 1824) until the end of colonial rule.⁸

⁴ Hannah Beech, “At Least 6,700 Rohingya Died in Myanmar Crackdown, Aid Group Says”, in *The New York Times*, 14 December 2017, <https://nyti.ms/2kuucDL>.

⁵ “Burmese Generals Should Stand Trial for Atrocities against the Rohingya”, in *Economist*, 30 August 2018; and United Nations Human Rights Council (UNHCR), *Report of the Independent International Fact-Finding Mission on Myanmar*, 27 August 2018, p. 10, <https://www.ohchr.org/en/hrbodies/hrc/myanmarFFM/Pages/ReportoftheMyanmarFFM.aspx>.

⁶ See, for instance, Azeem Ibrahim, *The Rohingyas. Inside Myanmar's Hidden Genocide*, London, Hurst, 2016; Melissa Crouch (ed.), *Islam and the State in Myanmar. Muslim-Buddhist Relations and the Politics of Belonging*, New Delhi, Oxford University Press, 2016; Kazi Fahmida Farzana, *Memories of Burmese Rohingya Refugees. Contested Identity and Belonging*, New York, Palgrave Macmillan, 2017; Francis Wade, *Myanmar's Enemy Within. Buddhist Violence and the Making of a Muslim 'Other'*, London, Zed Books, 2017; Howard Adelman (ed.), *Protracted Displacement in Asia. No Place to Call Home*, London/New York, Routledge, 2016; Sabyasachi Basu Ray Chaudhury and Ranabir Samaddar (eds), *The Rohingyas in South Asia. People Without a State*, London/New York, Routledge, 2018; and Muhammad Abdul Bari, *The Rohingya Crisis*, cit.

⁷ See the discussion in Francis Wade, *Myanmar's Enemy Within*, cit., p. 47-52; and Bertil Lintner's review of Wade's book in *The Irrawaddy*, 4 September 2017.

⁸ The Rohingya's origins are an oft-debated subject; see for instance, Penny Green, “Islamophobia: Burma's Racist Faultline”, in *Race & Class*, Vol. 55, No. 2 (October 2013), p. 93-98; Mohammad Mohibullah Siddiquee (ed.), *The Rohingyas of Arakan. History and Heritage*, Chittagong, Ali

Today, there are around 2.5 million Rohingya, who constitute one of the world's largest stateless populations. Fewer than half a million currently reside in Myanmar; the rest have fled decades of repression and exclusion in several waves, most often crossing the border into Bangladesh, where they inhabit sprawling, squalid refugee camps. Those who can, move on to wealthier Muslim-majority countries. Those who have remained in Myanmar are a subset of the country's Muslim community, which constitutes 4.3 per cent of the population.⁹ The majority of Myanmar's Muslims live in urban areas, speak Burmese, have Burmese names and are Myanmar citizens. The Rohingya are quite different: most live in rural areas in Rakhine State in the country's northwest, speak a dialect of Bengali (Chittangongian), have Muslim names and have never received citizenship.¹⁰

British colonial administrators usually managed to maintain control over tensions between the Rohingya and the surrounding Buddhist and other communities. During World War II, however, the Buddhist population took the side of the invading Japanese while the Rohingya remained loyal to the British. The resulting conflict became more severe, culminating in major inter-ethnic violence.¹¹ No Rohingya were invited to the pre-independence negotiations or to the signing of the historic treaty that established the Union of Burma, the first iteration of post-colonial independent Myanmar.¹² After independence in 1948, the Rohingya situation became worse and deteriorated further following the 1962 military coup and establishment of a totalitarian, socialist-leaning government.

The military regime declared the Rohingya "aliens from Bengal" and refused to consider extending citizenship to them.¹³ It pursued an outright assimilationist policy and staged several major operations to evict them from the country. In 1978 at least 200,000 Rohingya crossed the River Naf that separates Burma and Bangladesh, escaping the violence visited upon them by Buddhist neighbours supported by the armed forces. A further 250,000 followed in 1991–1992.¹⁴ Following Bangladeshi–Burmese negotiations facilitated by the United Nations High Commissioner for

Publishing House, 2014; and Azeem Ibrahim, *The Rohingyas*, cit.

⁹ Myanmar's Ministry of Labour, Immigration, and Population, *The Union Report: Religion. 2014 Myanmar Population and Housing Census*, Naypyidaw, 2016, p. 4, <https://reliefweb.int/node/1619556>.

¹⁰ To appreciate the diversity of Myanmar's Muslim communities in various regions, see Jean A. Berlie, *The Burmanization of Myanmar's Muslims*, Bangkok, White Lotus Press, 2008.

¹¹ See, for instance, Clive J. Christie, *A Modern History of Southeast Asia. Decolonization, Nationalism and Separatism*, London, I.B. Tauris, 1996, p. 164–167; and Moshe Yegar, *Between Integration and Secession. The Muslim Communities of the Southern Philippines, Southern Thailand, and Western Burma/Myanmar*, Lanham, Lexington Books, 2002, p. 33–35.

¹² Abdur Razzaq and Mahfuzul Haque, *Rohingyas in Bangladesh*, Dhaka, Centre for Human Rights, 1995, p. 16.

¹³ For analyses of ethnic policies, see Curtis N. Thomson, "Political Stability and Minority Groups in Burma", in *Geographical Review*, Vol. 85, No. 3 (July 1995), p. 269–285; and Matthew J. Walton, "Ethnicity, Conflict, and History in Burma: The Myths of Panglong", in *Asian Survey*, Vol. 48, No. 6 (November/December 2008), p. 889–910.

¹⁴ Bertil Lintner, "Militancy in Arakan State", in *The Irrawaddy*, 15 December 2016, <https://www.irrawaddy.com/opinion/guest-column/militancy-in-arakan-state.html>.

Refugees (UNHCR), some of these refugees were repatriated. However, by March 1992 there were over 270,000 Rohingya scattered in camps along Cox's Bazaar in Bangladesh.¹⁵

The direct precursors of the *Tatmadaw's* 2017 ethnic cleansing campaign are the violent upheavals in June 2012 and October 2016. In the first instance, the alleged gang rape and murder of a Rakhine Buddhist woman by Rohingya men, and the ensuing killing of ten Muslims in retaliation, triggered a chain reaction that led to deaths and the burning down of houses on both sides.¹⁶ Influential Buddhist monks, among them the notorious firebrand U Wirathu, visited the area and delivered hate speeches to already wounded audiences.¹⁷ The authorities then got involved in order to, as they said, "control the intercommunal violence", but their operation was another attempt to uproot the largest number of Rohingya possible. In the end, according to government data (likely to be grossly underreported), the violence resulted in the death of 192 people, the destruction of 8,614 houses, and the displacement of more than 140,000 people. The vast majority of the victims were Rohingya.¹⁸ Some of the displaced were eventually allowed to go back to their area of origin. Since 2012, about 120,000 Rohingya have been interned in camps in central Rakhine State that they have described as resembling "concentration camps and ghettos".¹⁹

The situation in Rakhine grew even more tense in October 2016, when Rohingya insurgents killed nine members of the national border police. The *Tatmadaw* retaliated with extrajudicial killings, rapes and the burning of hundreds of villages. Hundreds of thousands of Rohingya fled to Bangladesh, where authorities say about 300,000 of their co-ethnics had already found refuge before the fresh exodus.²⁰ International human-rights organisations criticised Suu Kyi and her government for banning reporters from the troubled areas and seeking to discredit media reports of *Tatmadaw* atrocities. Information Minister Pe Myint rejected these criticisms, saying that the attack on the police was "like 9/11 in America, we were targeted and attacked in a huge way".²¹ Both the 2012 and the 2016 crises

¹⁵ Francis Wade, *Myanmar's Enemy Within*, cit., p. 93.

¹⁶ Muhammad Abdul Bari, *The Rohingya Crisis*, cit., p. 9.

¹⁷ John Reed, "Hate Speech, Atrocities and Fake News: The Crisis of Democracy in Myanmar", in *Financial Times*, 22 February 2018, <https://www.ft.com/content/2003d54e-169a-11e8-9376-4a6390addb44>.

¹⁸ See Natalie Brinham, "The Conveniently Forgotten Human Rights of the Rohingya", in *Forced Migration Review*, Vol. 1, No. 41 (December 2012), p. 40-41, <https://www.fmreview.org/node/1055>; and Nehginpao Kipgen, "Addressing the Rohingya Problem", in *Journal of African and Asian Studies*, Vol. 49, No. 2 (2014), p. 234-247.

¹⁹ Ashley Starr Kinseth, "Myanmar's Repatriation Plan Offers Little for the Rohingya", in *Dhaka Tribune*, 19 December 2017, <https://www.dhakatribune.com/magazine/2017/12/19/myanmars-repatriation-plan-offers-little-rohingya>; and Hanna Beech, "Myanmar and U.N. Agree to Aim for Repatriation of Rohingya", in *The New York Times*, 31 May 2018, <https://nyti.ms/2LMLTvg>.

²⁰ Peter Baker and Nick Cumming-Bruce, "U.S. Threatens to Punish Myanmar over Treatment of Rohingya", in *The New York Times*, 23 October 2017, <https://nyti.ms/2h2cjeH>.

²¹ Liam Cochrane, "Myanmar Official Compares Rohingya Militant Attack to 9/11", in *ABC News*

considerably exacerbated the oppression of the Rohingya.

Owing to their lack of resources and extreme vulnerability, the Rohingya have largely failed in their attempts at political mobilisation. As British India became independent, Rohingya community leaders formed an armed group and reached out to Muhammad Ali Jinnah, Pakistan's first leader, to incorporate the Mayu region of Rakhine into newly created East Pakistan. Jinnah refused because he was loath to interfere in Burmese domestic politics.²² In 1950–1954 an armed Rohingya resistance movement – they called themselves *Mujahids* and were supported by Pakistan – demanded citizenship and an end to discriminatory policies.²³ In the 1970s and 1980s small outfits such as the Rohingya Patriotic Front and the Arakan Rohingya Islamic Front struggled to mobilise and create networks sympathetic to their cause abroad, especially in the Muslim world.²⁴ All these efforts were squashed by the *Tatmadaw*.

ARSA, the most recent Rohingya group, was formed in 2013, following the large-scale communal unrest in Rakhine State described above.²⁵ Most of ARSA's leaders are of Rohingya heritage from Bangladesh or Pakistan, and some of them have received training from jihadist veterans of the wars in Afghanistan. The group's chief leader, Ataullah Abu Ammar Junjuri, was born in Pakistan and later became an imam to the Rohingya community of about 150,000 in Saudi Arabia. ARSA has fewer than 600 active members and is said to be mainly financed by the Rohingya diaspora. Myanmar officials consider it a "Bengali extremist terrorist organisation", but ARSA's combat effectiveness is at best modest, demonstrated by the fact that of the approximately 150 fighters who participated in its August 2017 raid at least 77 perished.²⁶ Although ARSA committed some abuses – e.g., it reportedly killed suspected informants and burned down one Rakhine village, Ah Htet Pyu Ma – its misdeeds are dwarfed by the government's crimes. They also occurred in the context of longstanding institutionalised discrimination and persecution.²⁷

(Australia), 26 April 2017, <https://www.abc.net.au/news/8474166>.

²² See Bilveer Singh, "ASEAN, Myanmar and the Rohingya Issue", in *Himalayan and Central Asian Studies*, Vol. 18, No. 1/2 (January-June 2014), p. 5-20, <http://www.himalayanresearch.org/journal-2014.html>.

²³ Hugh Tinker, *The Union of Burma. A Study of the First Years of Independence*, London/New York, Oxford University Press, 1957, p. 56; and U Nu, *U Nu. Saturday's Son*, New Haven, Yale University Press, 1975, p. 272.

²⁴ See A.F.K. Jilani, "The Resistance Movement of Rohingyas (1948-1961 A.D.)", in Mohammad Mohibullah Siddiquee (ed.), *The Rohingyas of Arakan. History and Heritage*, Chittagong, Ali Publishing House, 2014, p. 409-426; and Nicholas Farrelly, "Muslim Political Activity in Transitional Myanmar", in Melissa Crouch (ed.), *Islam and the State in Myanmar. Muslim-Buddhist Relations and the Politics of Belonging*, New Delhi, Oxford University Press, 2016, p. 107.

²⁵ Mike Winchester, "Birth of an Ethnic Insurgency in Myanmar", in *Asia Times*, 28 August 2017, <https://www.asiatimes.com/2017/08/article/birth-ethnic-insurgency-myanmar>.

²⁶ "Deadly Clashes Erupt in Myanmar's Restive Rakhine State", in *Al Jazeera*, 26 August 2017, <http://aje.io/a9dsc>.

²⁷ UNHCR, *Report of the Independent International Fact-Finding Mission on Myanmar*, cit., p. 11-12.

Perhaps the most troubling aspect of the *Tatmadaw's* campaign of ethnic cleansing is that it was undoubtedly premeditated. During the weeks prior to 25 August 2017, following a high-level meeting between Rakhine politicians and the *Tatmadaw's* Commander-in-Chief, Senior General Min Aung Hlaing, the army brought in battalions from two combat divisions and additional military equipment and engaged in "fast-track recruitment" into the local security forces.²⁸ Audio recordings obtained by Amnesty International expose military officers who warned residents that if they did not leave peacefully, "we got an order to burn down the entire village" and "we will destroy everything".²⁹

The international community, and particularly the United Nations, has traditionally encouraged the repatriation of those expelled from their homes. Bowing to international pressure, in November 2017 Myanmar signed a Chinese-brokered agreement with Bangladesh for the tentative repatriation of the refugees to newly constructed villages. In mid-2018 the UN and Myanmar struck another agreement on repatriation, the details of which were not publicised.³⁰ Implementation of such plans is at best highly irregular.³¹ On the one hand, as the intent of the Burmese regime has been to rid itself of the Rohingya, it is hardly surprising that it does its best to hamper the return process, let alone accede to the Rohingya's age-old demands for full citizenship, and freedom of movement and religion. On the other hand, understandably, few Rohingya wish to return to a country that has persecuted them for generations, as several surveys have confirmed.³²

What transpired in Rakhine State in August to December 2017 has been widely described by a myriad of public figures and officials, organisations and states as "ethnic cleansing" or, worse yet, "genocide" (e.g., Bangladeshi Foreign Minister Abul Hassan Mahmud Ali, Malaysian Prime Minister Najib Razak, French President Emmanuel Macron, Bob Geldof, eight Nobel Peace Prize Laureates, Allard K. Lowenstein International Human Rights Clinic at Yale University Law School³³) or

²⁸ Ibid., p. 10.

²⁹ Amnesty International, "We Will Destroy Everything". *Military Responsibility for Crimes Against Humanity in Rakhine State*, 27 June 2018, p. 8, <https://www.amnesty.org/en/documents/asa16/8630/2018/en>.

³⁰ Hannah Beech, "Myanmar and U.N. Agree to Aim for Repatriation of Rohingya", cit.; and Shibani Mahtani, "The U.N. and Burma Signed a Deal to Resettle Rohingya Refugees, But No One Knows What's in It", in *The Washington Post*, 12 June 2018, <https://wapo.st/2l2YUEB>.

³¹ Zoltan Barany, "Burma: Suu Kyi's Missteps", in *Journal of Democracy*, Vol. 29, No. 1 (January 2018), p. 14, <http://doi.org/10.1353/jod.2018.0000>; and Kazi Fahmida Farzana, *Memories of Burmese Rohingya Refugees*, cit., p. 71-74.

³² See for instance, Emma Larkin, "Burma's Forgotten Refugees", in *Bulletin of the Atomic Scientists*, Vol. 63, No. 6 (2007), p. 38, <https://doi.org/10.2968/063006009>; and Xchange Foundation, *Rohingya Repatriation Survey*, 23 May 2018, <http://xchange.org/?p=7137>.

³³ Zoltan Barany, "Where Myanmar Went Wrong. From Democratic Awakening to Ethnic Cleansing", in *Foreign Affairs*, Vol. 97, No. 2 (May/June 2018), p. 143, <https://www.foreignaffairs.com/articles/burma-myanmar/2018-04-16/where-myanmar-went-wrong>; Alina Lindblom et al., *Persecution of the Rohingya Muslims: Is Genocide Occurring in Myanmar's Rakhine State? A Legal Analysis*, Allard K. Lowenstein International Human Rights Clinic at Yale Law School, October 2015, <https://law.yale.edu/node/1379011>; Richard C. Paddock, Ellen Barry and Mike Ives, "Persecuted Minority in

akin to or “bearing the hallmarks of genocide” (numerous UN officials including Zeid Ra’ad al-Hussein and UN rapporteur Yanghee Lee³⁴). Heretofore only seven *Tatmadaw* soldiers have been punished (they received ten-year prison terms) for their involvement in an especially well-documented massacre. Thus far the generals and civilian authorities have not only been immune to prosecution but have continued their discriminatory policies. Why and how could Myanmar’s generals get away with their heinous crimes?

2. The domestic context

In order to understand why the military has acted with impunity we must be clear about the balance of political power in contemporary Myanmar. The two essential if unpleasant truths one must recognise are that Aung San Suu Kyi’s government has no control over the armed forces and that the vast majority of the population – and especially the ethnic Bamar (68 per cent) and the Buddhists (87.9 per cent) – strongly favour anti-Rohingya policies.

2.1 The *Tatmadaw*

Since the 1962 coup, the military has been the most powerful political actor in Myanmar, ruling it directly from 1962 to 2011 and indirectly from 2011 onward.³⁵ A combination of five factors render the Burmese military dictatorship unique – and uniquely disastrous – in the annals of modern praetorian rule. The first is the sheer longevity of the *Tatmadaw*’s rule, which has allowed it to penetrate all aspects of society, culture and even religious life. Second, unlike most military regimes elsewhere, the generals have wrested control of the national economy, which, under their rule, has gone from one of Southeast Asia’s richest to its poorest – in 2017 Myanmar’s GDP of 1,300 US dollars was the lowest in the region, about half that of Laos and one-fifth of Thailand’s. Third, the regime has faced enduring security threats (Chinese nationalists, and later communist incursions, socialist insurgencies and a number of ethnic-based armed organisations), which the army leadership could exploit to justify and tighten its hold on power. Fourth, the junta’s extraordinarily comprehensive and successful isolation of Burmese society from the outside world has helped prolong its rule. Finally, the *Tatmadaw*’s ruthlessness has weakened the political opposition.

Myanmar Is Escalating Its Armed Insurgency”, in *The New York Times*, 19 January 2017, <https://nyti.ms/2k2Ydsj>; and Adem Carroll, “Counterinterview: Analysing Rohingya Refugee Crisis through the Security Prism Is Troubling”, in *Scroll.in*, 16 December 2017, <https://scroll.in/article/861505>.

³⁴ Nick Cumming-Bruce, “Myanmar Generals Should Face Genocide Charges Over Rohingya, U.N. Says”, in *The New York Times*, 27 August 2018, <https://nyti.ms/2BPTQ1D>; and David Scott Mathieson, “Burma’s Lost Rapport on Rights Protection”, in *Tea Circle Oxford*, 2 April 2018, <https://wp.me/p6ODUn-KU>.

³⁵ Susanne Prager Nyein, “The Armed Forces of Burma: The Constant Sentinel”, in Marcus Mietzner (ed.), *The Political Resurgence of the Military in Southeast Asia. Conflict and Leadership*, London/New York, Routledge, 2011, p. 24–44.

A few years ago, the army's growing alienation from the domestic population and the outside world, as well as the Burmese economy's steady decline at a time when much of Southeast Asia was booming, induced the junta to rethink its rule. The generals subsequently developed a roadmap for a carefully managed and controlled political transition. Unveiled in August 2003, the plan became known as the "Seven-Step Roadmap to Discipline-Flourishing Democracy".³⁶ The first stage was to re-establish the National Convention, a legislative body that the junta had initiated in 1992 but suspended four years later when representatives of the main opposition organisation – the National League for Democracy (NLD), founded during an ill-fated uprising in 1988 – walked out. The second phase was the step-by-step introduction of what the generals conceived of as a "genuine and disciplined" democratic system. The third step was to draft a new constitution based on the principles laid down by the National Convention, and the fourth was to hold a national referendum to endorse that constitution. The fifth stage was to have free elections so that national legislative bodies could be formed.³⁷ The sixth phase was to convene the elected representatives of the bicameral Assembly of the Union (*Pyidaungsu Hluttaw*), and the seventh and final step was for government leaders and authoritative bodies elected by the *Hluttaw* to continue with the task of constructing a democratic state.

What best explains the *Tatmadaw's* ability to get away with its campaign of ethnic cleansing in the domestic context is the third step, the 2008 Constitution, because it ensured the generals' protracted domination of Burmese politics and unchallenged control of the state.³⁸ Article 6(f) enables "the Defence Services to be able to participate in the national political leadership role of the State". The Constitution guarantees 25 per cent of parliamentary seats to the armed forces' nominees – that is, 110 seats in the 440-seat House of Representatives (*Pyithu Hluttaw*) and 56 seats in the 224-seat House of Nationalities (*Amyotha Hluttaw*). These seats cannot be contested in the electoral process. Moreover, the Constitution requires just over 75 per cent of the legislators to approve constitutional amendments. The generals' intention was to create a veritable constitutional bunker for the military regime. Even if the opposition won every single seat it could compete for, it would still be unable to change the Constitution without military acquiescence.

³⁶ Andrew Selth, "All Going According to Plan? The Armed Forces and the Government in Myanmar", in *Contemporary Southeast Asia*, Vol. 40, No. 1 (April 2018), p. 1-26. For the notion of discipline in Burmese politics, see Matthew J. Walton, *Buddhism, Politics, and Political Thought in Myanmar*, Cambridge, Cambridge University Press, 2017, p. 167-174.

³⁷ The national-level bicameral legislature, the Assembly of the Union (*Pyidaungsu Hluttaw*), is composed of the lower house, the 440-seat House of Representatives (*Pyithu Hluttaw*), and the upper house, the 224-seat House of Nationalities (*Amyotha Hluttaw*). Elections are held every five years and representatives are not restrained by term-limits.

³⁸ Zoltan Barany, "Elections and Constitutional Constraints: How the Generals Have Stayed in Power in Myanmar", in *SAIS Review of International Affairs*, Vol. 38, No. 1 (Winter-Spring 2018), p. 105-117; and *Constitution of the Republic of the Union of Myanmar* (2008), available at http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=79572.

The basic law also gives control of the position of Commander-in-Chief to an active-duty general who is under no civilian oversight, thereby confirming the armed forces' supremacy in the state. In addition, three key ministries (Border Affairs, Home Affairs and Defence) are the exclusive remit of representatives from the armed forces. Significantly, the General Administration Department – a vast bureaucracy that runs every village, town and region – is overseen by the military-dominated Ministry of Home Affairs, and is overwhelmingly staffed by *Tatmadaw* appointees and retired employees.³⁹ The Constitution's Chapter V further safeguards the army's interests by allowing its commander-in-chief to name six of the eleven members of the National Defence and Security Council, the top executive body responsible for security and defence matters. Finally, Article 59(f) bars from the presidency anyone with a foreign spouse or foreign children. This provision was written with Suu Kyi in mind, since her late husband was British, as are her two sons.

The new Constitution was endorsed by a farcical referendum (the fourth step) held in May 2008, with no presence of foreign observers, just a few days after the devastation caused by cyclone Nargis, the largest natural disaster in Burmese history, which claimed nearly 140,000 lives. According to the regime, 92.48 per cent of the citizens (turnout was supposed to have been 98.18 per cent) "approved" the basic law – though these figures should be treated with much scepticism.⁴⁰ The fifth step of the generals' roadmap to democracy was "free and fair elections", which took place in November 2010. The election was denounced by the UN as unfair and rejected by Western countries as fraudulent.⁴¹ The NLD did not take part because the military regime did not satisfy its conditions – most importantly, constitutional amendments to reduce the army's political power. Two years later the NLD did participate in by-elections and scored a remarkable electoral triumph, winning 43 of the 44 seats it contested. The NLD won the 2015 national elections by an outright majority, even though – owing to the military preserve of one-quarter of the seats – it could only campaign for 75 per cent of the seats. Needless to say, as non-citizens, the Rohingya did not enjoy the right to vote.

Even after 2015, the military's continued power was guaranteed by the Constitution. The *Tatmadaw's* position has actually improved. By letting the results of the election stand, the generals gained a measure of legitimacy at home and abroad. The *Tatmadaw* has also gained economically, especially after the October 2016 removal, at Suu Kyi's request, of most US sanctions. The army remains entirely free of civilian oversight. Its budget is no longer secret, but the generals still decide how

³⁹ Kyi Pyar Chit Saw and Matthew Arnold, "Administering the State in Myanmar", in *Asia Foundation Discussion Papers*, No. 6 (October 2014), <https://asiafoundation.org/?p=27191>.

⁴⁰ Yeni and Min Lwin, "Massive Cheating Reported from Referendum Polling Stations", in *The Irrawaddy*, 10 May 2008, http://www2.irrawaddy.com/article.php?art_id=11923; and Donald M. Seekins, "Myanmar in 2008: Hardship Compounded", in *Asian Survey*, Vol. 49, No. 1 (January/February 2009), p. 166-173.

⁴¹ Ian Holliday, "Voting and Violence in Myanmar", in Lowell Dittmer, ed., *Burma or Myanmar? The Struggle for National Identity*, Singapore, World Scientific Publishing, 2010, p. 23-49.

big it is and how it is spent. The Defence Ministry receives a larger share (currently about 13 per cent) of the national budget than the Education and Health Ministries combined, even though the junta had long neglected these two policy areas.⁴² The *Tatmadaw* retains control over the sensitive matter of dealings with the non-Bamar ethnic groups and runs campaigns against ethnic armed organisations (EAOs) and the Rohingya as it wishes.

The army's head, Min Aung Hlaing (who decided to stay on past the usual retirement age of 60 in 2015), oversees the entire security-intelligence apparatus and promotes a starkly nationalist agenda.⁴³ As the military's commander-in-chief, he is responsible for the *Tatmadaw*'s provocative build-up prior to the events in Rakhine State in August 2017 and criminal actions thereafter. He has consistently denied that the army engaged in "ethnic cleansing", referring to its activities as "clearance operations". In December 2017 Min Aung Hlaing first promised that the army would investigate atrocities in Rakhine State, then claimed that his troops had "strictly followed orders and acted in accordance with the rules of engagement".⁴⁴ The senior general's protestations are unsurprising, particularly since there is no domestic institution that can hold him accountable. Besides, he and his army have only enjoyed increasing public support since their anti-Rohingya campaign intensified.

2.2 *Suu Kyi and the people*

The NLD won the 2015 national elections by a much larger margin than expected. It gained 135 seats (60.26 per cent of all seats, and 80.35 per cent of the 168 it could compete for) in the 224-seat upper house – recall that military representatives take 25 per cent of the seats (i.e., 56).⁴⁵ The turnout was slightly more than 80 per cent of the registered voters, or more than 32 million people. The NLD's victory was an all-too-rare democratic triumph for Myanmar. Aung San Suu Kyi, an internationally celebrated dissident who received the 1991 Nobel Peace Prize for her efforts to democratise Myanmar, became her country's *de facto* head of state. Support poured in from around the world and many hoped that Suu Kyi would lead Myanmar to democracy, as the severe restrictions imposed upon her by the 2008 Constitution were not widely appreciated.

⁴² Economist Intelligence Unit, *Myanmar: 2017/18 Budget: A Missed Opportunity*, 24 March 2017, <https://t.co/pbiH7rMIHk>.

⁴³ Richard C. Paddock, "Myanmar General's Purge of Rohingya Lifts His Popular Support", in *The New York Times*, 26 November 2017, <https://nyti.ms/2k11spD>.

⁴⁴ Nick Cumming-Bruce, "Myanmar's Rohingya Action May Be Genocide, U.N. Official Says", in *The New York Times*, 5 December 2017, <https://nyti.ms/2kn37WH>; and Hannah Beech and Saw Nang, "As Signs of a Mass Grave Emerge, Myanmar Cracks Down", in *The New York Times*, 19 December 2017, <https://nyti.ms/2D6aIOK>.

⁴⁵ Zoltan Barany, "Moving toward Democracy: The 2015 Parliamentary Elections in Myanmar", in *Electoral Studies*, No. 42 (June 2016), p. 75-77.

Suu Kyi has no power to amend the basic law nor any influence over defence and national security matters, but she has made a number of easily avoidable mistakes. Her government's economic record after two-and-a-half years is disappointing, and much-needed foreign investment has been sluggish and happens "in spite of, not because of the government".⁴⁶ Upon entering government, Suu Kyi made a tactical error by announcing that the ethnic peace process (the resolution of the decades-long civil war between the *Tatmadaw* and numerous EAOs), over which she has little control, was a national priority. Furthermore, she linked that process to constitutional amendments that would level the political playing field by ending the military's privileged position. This approach virtually guaranteed that the *Tatmadaw* would not go along. Not surprisingly, tangible progress has been elusive even on that front.

The most disappointing aspect of Suu Kyi's term in office is that it has been coterminous with stark setbacks for civil and human rights in Myanmar. Clearest among these has been the clampdown on the press and social media.⁴⁷ International human rights organisations have criticised Suu Kyi and her government for banning reporters from the troubled areas and seeking to discredit media reports of *Tatmadaw* atrocities. Courageous investigative journalists who defied the government have been sent to prison.⁴⁸

However, the Suu Kyi administration's stance on rights generally, and toward the Rohingya and Myanmar's Muslim minority more in particular, should not have come as a surprise. She largely avoided mentioning Muslims during the 2015 campaign, well aware that anti-Rohingya prejudice is so deep-seated among the country's Buddhist populace that being seen as a defender of Rohingya would have been a liability with the voters. The NLD failed to nominate a single Muslim among the more than a thousand candidates that it was then fielding to fill parliamentary seats and other offices, even though one of the party's founders, the popular and charismatic poet, satirist and former naval officer, Maung Thaw Ka, was Muslim.⁴⁹

Suu Kyi's past behaviour and remarks suggest that she may share the anti-Muslim sentiments of most of her fellow citizens. Her office uses the term "Bengali" when referring to the Rohingya and suggests that illegal immigration from Bangladesh – a questionable notion in itself – constituted "an existential threat to Myanmar". She has made worrisome remarks about "global Muslim power" and lost her composure during a BBC interview when she was overheard muttering, "No one told me I

⁴⁶ Thompson Chau, "Economy Increasingly Disappointing as Government Approaches Half-Term", in *Myanmar Times*, 30 August 2018, <https://www.mmtimes.com/node/106893>.

⁴⁷ Pete Vernon, "A Travesty in Myanmar", in *Columbia Journalism Review*, 4 September 2018, https://www.cjr.org/the_media_today/myanmar-reuters.php.

⁴⁸ "Myanmar Jails 2 Reporters. But It Can't Lock Up the Truth", in *The New York Times*, 5 September 2018, <https://nyti.ms/2NhhF76>.

⁴⁹ See Bertil Lintner, "A Tribute to Maung Thaw Ka", in *The Irrawaddy*, 12 December 2014, <https://www.irrawaddy.com/news/politics/tribute-maung-thaw-ka.html>.

was going to be interviewed by a Muslim”.⁵⁰ Her mocking Facebook dismissal of a Rohingya woman’s charges of sexual assault by soldiers as a “fake rape” story sparked outrage across the globe but likely scored high with many at home.⁵¹

To alleviate international criticism, Suu Kyi appointed a number of commissions to “study and investigate” the situation in Rakhine State. One of these commissions, headed by the late former UN Secretary General Kofi Annan, presented its report to the government in August 2017, and made a number of sensible recommendations, including to “focus specifically on citizenship verification, rights and equality before the law, documentation, the situation of the internally displaced and freedom of movement, which affect the Muslim population disproportionately” and to make “a ministerial-level appointment [...] with the sole function of coordinating policy on Rakhine State and ensuring the effective implementation of the Rakhine Advisory Commission’s recommendations”.⁵² Observers are deeply sceptical that the report recommendations will ever be implemented, chiefly because neither the military nor the state has any strong incentive stake to do so.⁵³ None of the commissions appointed by Suu Kyi have resulted in any serious actions, and a number of foreign diplomats who have been recruited to serve on them, among them former US ambassador to the UN (and long-time Suu Kyi supporter) Bill Richardson, have quit. Richardson stated he did not want to take part in a “whitewash” and “a cheerleading squad for the government”.⁵⁴ Indeed, it is difficult to disagree with *The Economist’s* assessment that these commissions have been “worthless”.⁵⁵

Extremists manipulated and tacitly supported by the military are one of the main engines that generate hatred among Myanmar’s deeply religious Buddhist majority. The best known and most influential monk, Ashin Wirathu, has been a key figure in two major organisations, the 969 Movement and MaBaTha, the Organisation for Protection of Race and Religion.⁵⁶ These groups propagate an exclusionary

⁵⁰ See Muhammad Abdul Bari, *The Rohingya Crisis*, cit., p. 25; Haroon Siddique, “Burma Sectarian Violence Motivated by Fear, Says Aung San Suu Kyi”, in *The Guardian*, 24 October 2013, <https://gu.com/p/3jz9h>; and Nicola Harley, “Aung San Suu Kyi in Anti-Muslim Spat with BBC Presenter”, in *The Telegraph*, 25 March 2016, <https://www.telegraph.co.uk/news/2016/03/25/aung-san-suu-kyi-in-anti-muslim-spat-with-bbc-presenter>.

⁵¹ The “fake rape” charge appeared as a banner on Suu Kyi’s official “Myanmar State Counsellor Office” Facebook page. See Jonah Fisher, “Hounded and Ridiculed for Complaining of Rape”, in *BBC News*, 11 March 2017, <https://www.bbc.com/news/magazine-39204086>.

⁵² See the final report of the Advisory Commission on Rakhine State: *Towards a Peaceful, Fair, and Prosperous Future for the People of Rakhine*, August 2017, <http://www.rakhinecommission.org/?p=1083>.

⁵³ Author’s interviews, Yangon, August 2017. See also “Myanmar Military Will NOT Implement Kofi Annan Commission’s Recommendations”, in *Zarni’s Blog*, 24 August 2017, <http://web.archive.org/web/20180128093724/http://www.maungzarni.net/2017/08/myanmar-military-will-not-implement.html>.

⁵⁴ Bill Tarrant, “Richardson Quits Myanmar’s ‘Whitewash’ Rohingya Crisis Panel”, in *Reuters*, 24 January 2018, <https://reut.rs/2n7nBB8>.

⁵⁵ Nick Cumming-Bruce, “Myanmar Generals Should Face Genocide Charges Over Rohingya, U.N. Says”, cit.

⁵⁶ See Matthew J. Walton, *Buddhism*, cit., p. 144-145.

brand of nationalism, call on the boycott of non-Buddhist shops and businesses, and intimidate Buddhists who dare to speak out against their agenda. During the electoral 2015 campaign, MaBaTha, a staunch *Tatmadaw* ally, repeatedly warned that voting the NLD into power would “destroy race and religion”.⁵⁷

Extremist Buddhists play to a receptive audience. The military, despised by the public it victimised for decades, has enjoyed a surge in popularity since its anti-Rohingya campaign.⁵⁸ Min Aung Hlaing’s Facebook page featured hundreds of comments like “Thank you for clearing all the Bengali terrorists”. In October 2017, tens of thousands rallied in numerous cities across the country to protest international criticism of the *Tatmadaw*’s ethnic cleansing campaign. The transition to democracy, such as it is, “is working beautifully for [the army], as remembrance of repression past fades within the general population”.⁵⁹

Suu Kyi’s advocates and apologists claim that speaking out in defence of the Rohingya would be suicidal for her political party. She is dealing with a society in which intense anti-Rohingya feeling is entrenched across all classes. Nevertheless, her public defence of the military provided a moral shield for possible war criminals and her Ministry of Information barred independent journalists from the area and ran a propaganda campaign “reminiscent of the days of full military rule”.⁶⁰ The NLD-appointed national-security advisor, Thaung Tun, keeps insisting that the military’s actions are “all legal”.⁶¹ Suu Kyi has been unwilling to pay the political price of doing the right thing by adding her voice to the effort to defend people under massive military pressure. As fellow Nobel Peace Prize laureate Bishop Desmond Tutu lamented, “If the political price of your ascension to the highest office in Myanmar is your silence, the price is surely too steep”.⁶²

3. The external political environment

Myanmar’s neighbours have a political and economic stake in maintaining friendly relations with the regime. China and India have good economic relations with it as well as problems with their own Muslim minorities, as Thailand does. China, Laos and Thailand are also authoritarian states unwilling to speak out against human

⁵⁷ Ibid., p. 181.

⁵⁸ Richard C. Paddock, “Myanmar General’s Purge of Rohingya Lifts His Popular Support”, cit.

⁵⁹ David Mathieson cited in “Myanmar Army Enjoys Popularity Surge Amid Rohingya Crackdown”, in *AP*, 17 January 2018; <https://www.apnews.com/61b769ea85164d2ca433371321a1e1a6>. See also Gerry van Klinken and Su Mon Thazin Aung, “The Contentious Politics of Anti-Muslim Scapegoating in Myanmar”, in *Journal of Contemporary Asia*, Vol. 47, No. 3 (2017), p. 353-375.

⁶⁰ Ben Dunant, “It’s Good to Be the *Tatmadaw*”, in *The Diplomat*, 11 May 2017, <https://thediplomat.com/?p=110594>.

⁶¹ Nyan Lynn Aung, “Military Action in Rakhine Legal, Says Security Chief”, in *Myanmar Times*, 30 August 2017, <https://www.mmtimes.com/node/101566>.

⁶² Naaman Zhou and Michael Safi, “Desmond Tutu Condemns Aung San Suu Kyi”, in *The Guardian*, 8 September 2017, <https://gu.com/p/76p33>.

rights violations. Bangladesh, the most affected by the Rohingya crisis, has little influence.

China has been content with turning a blind eye to human rights abuses in Myanmar and elsewhere. As the Burmese military dictatorship's closest ally and the largest investor in the country, following Suu Kyi's rise China quickly adjusted its policies to accommodate her regime, facilitating the attendance of theretofore reluctant EAOs at ethnic summits and a repatriation deal with Bangladesh. Foreseeing Suu Kyi's electoral victory, Chinese President Xi Jinping hosted her in Beijing already in July 2015. Following General Min Aung Hlaing's visit to China in November 2017, Xi described military relations between the two countries as being the "best ever".⁶³ Myanmar is China's gateway to the Indian Ocean and Chinese companies have invested billions of dollars in large-scale infrastructural projects, including roads, deep-water ports, hydroelectric dams and special economic zones.⁶⁴ Unsurprisingly, the Chinese government has resisted stronger involvement by the United Nations Security Council in addressing the crisis in Rakhine State and, along with Russia, has vetoed efforts to censure Suu Kyi's government.⁶⁵

India, China's regional rival, also has a long-term strategic and political-economic interest in Myanmar, including in Rakhine State. Myanmar is India's only physical gateway to Southeast Asia and is widely seen in New Delhi as a partner in the fight against insurgents in Northeast India. With access to Myanmar, India hopes to counter China's expanding presence in South and Southeast Asia.⁶⁶ New Delhi is building a major port and has been involved in oil and gas exploration and other development initiatives in Rakhine. Prime Minister Narendra Modi visited Myanmar's capital, Naypyidaw, in the midst of the expulsion of hundreds of thousands of Rohingya, not only to assure leaders there that India was on their side, but to praise them "for countering the violence".⁶⁷ A Hindu nationalist, Modi has indulged in rhetoric demonising Muslims and has allegedly abetted anti-Muslim domestic policies. In September 2017 he was sharply criticised by the UNHCR after he claimed he would deport 40,000 Rohingya who had taken shelter in India.⁶⁸ His government should not be expected to condemn Suu Kyi's regime.

⁶³ Jane Perlez, "In China, Aung San Suu Kyi Finds a Warm Welcome (and No Talk of Rohingya)", in *The New York Times*, 30 November 2017, <https://nyti.ms/2kcjHsb>.

⁶⁴ Azeem Ibrahim, *The Rohingyas*, cit., p. 73.

⁶⁵ "China Backs Myanmar at UN Security Council", in *The Irrawaddy*, 1 September 2017, <https://www.irrawaddy.com/news/burma/analysis-china-backs-myanmar-un-security-council.html>.

⁶⁶ See Rajiv Bhatia, *India-Myanmar Relations: Changing Contours*, New Delhi, Routledge, 2016.

⁶⁷ Muhammad Abdul Bari, *The Rohingya Crisis*, cit., p. 56; and Pema Tseten, "India, China, and the Rohingya Issue", in *Asia Times*, 24 March 2018, <https://asiaviews.net/india-china-rohingya-issue>.

⁶⁸ See Abdul Shaban (ed.), *Lives of Muslims in India: Politics, Exclusion, and Violence*, New Delhi, Routledge, 2012; Hartosh Singh Bal, "Is India Creating Its Own Rohingya?", in *The New York Times*, 10 August 2018, <https://nyti.ms/2OZiXBN>; and "UN Rights Body Slams India for Seeking Deportation of Rohingyas", in *Times of India*, 12 September 2017, <http://toi.in/bhqQWY/a24gk>.

Bangladesh has, of course, sharply criticised Myanmar's anti-Rohingya policies but it is a country with little economic or political clout. Bangladesh views the Rohingya refugee issue as one created by Myanmar. It is, therefore, not Dhaka's responsibility to take care of these people.⁶⁹ Bangladesh is not a signatory to the 1951 Convention Relating to the Status of Refugees – neither is Myanmar – which diminishes the UNHCR's ability to improve the situation in the region.⁷⁰

The Association of Southeast Asian Nations (ASEAN) discussed the Rohingya crisis in its September 2017 Manila summit, but the Final Statement made no mention of the issue. In September 2018, Thai police shut down a discussion on the UN report regarding the *Tatmadaw's* human rights abuses against the Rohingya at the Foreign Correspondents' Club in Bangkok in an efforts not to offend the Myanmar regime.⁷¹ Of ASEAN's three Muslim-majority states, only Malaysia has condemned the Myanmar government. Kuala Lumpur also finances and is home to several Rohingya aid organisations and a sizable Rohingya expatriate community.

After the election of Donald Trump as US President, Myanmar has lost the special place it enjoyed in the foreign policy agenda of the United States under Barack Obama. During a November 2017 visit to Myanmar, former US Secretary of State Rex Tillerson said that there had been "crimes against humanity", but he did not back the idea of new economic sanctions against Myanmar. Eventually the US, along with the United Kingdom, did suspend military-to-military engagement with the *Tatmadaw* and in August 2018 unveiled a new set of targeted sanctions against Burmese military officers believed to have directed violence against the Rohingya, although the move spared all the top brass.⁷² Still, restoring sanctions or placing new ones on the generals would likely just increase domestic support for the armed forces and drive them further into the welcoming arms of the Chinese, who are keen to fill the vacuum left by Washington's sagging interest.

The UN has monitored the Rohingya's situation since 1992, although it has seldom been successful in alleviating their suffering. An Independent International Fact-finding Mission on Myanmar was set up in 2017 to collect information through interviewing victims and witnesses in Bangladesh and other countries (as noted above, the government did not allow them to travel to Rakhine State), analysing documents, videos, photographs and satellite images.⁷³ The panel – composed of Christopher Sidoti, Marzuki Darusman and Radhika Coomaraswamy – presented its findings in Geneva in August 2018. It is important to mention that the credibility

⁶⁹ Kazi Fahmida Farzana, *Memories of Burmese Rohingya Refugees*, cit., p. 64-65.

⁷⁰ Emma Larkin, "Burma's Forgotten Refugees", cit., p. 36.

⁷¹ Lawi Weng, "Rohingya Discussion at Foreign Correspondents' Club Shut Down by Thai Police", in *The Irrawaddy*, 11 September 2018, <https://www.irrawaddy.com/news/rohingya-discussion-foreign-correspondents-club-shut-thai-police.html>.

⁷² Nick Cumming-Bruce, "Myanmar Generals Should Face Genocide Charges Over Rohingya, U.N. Says", cit.

⁷³ Stephanie Nebehay, "U.N. Calls for Myanmar Generals to Be Tried for Genocide, Blames Facebook for Incitement", in *Reuters*, 27 August 2018, <https://reut.rs/2wkBUH8>.

of their report, and those of human rights organisations, has not been unassailable. The key problem has been that these reports have been mainly based on the testimonies and recollections of the victims, who are not unbiased. In early 2019 I interviewed one of the members of a commission appointed by Suu Kyi and led by Vice President U Myint Swe. Between November 2016 and July 2017 this twelve-member group – its members were independent experts and retired international diplomats – visited dozens of villages and settlements in Rakhine and interviewed many residents. While establishing the army's culpability, it also concluded that the numbers of victims and cases of human rights violations reported in the international media – whose sources were almost exclusively human rights NGOs – were exaggerated.⁷⁴ Amnesty International (AI), one of the world's most highly respected human rights organisations, was heavily criticised by other organisations when its 2018 report on the Rohingya issue noted the atrocities committed by ARSA and its sympathisers in Rakhine State. Although AI has been a vocal critic of the Yangon government – in fact, it stripped Suu Kyi of an award it bestowed upon her in 2009 – its insistence on a balanced presentation of the crisis has earned it many detractors and resulted in the discrediting of its reports.⁷⁵

It was not only the military dictatorship that refused to cooperate with the UN special rapporteurs; Suu Kyi herself refused to allow UN personnel into Rakhine State, claiming that they would fuel further tensions there.⁷⁶ The most recent rapporteur to complete her term, the South Korean legal scholar Yanghee Lee (2014–2018), was barred from entering Rakhine by the Suu Kyi government and was viciously attacked by U Wirathu and other extremist monks in a number of rallies.⁷⁷ Lee's successor, Christine Schraner Burgener, a Swiss diplomat, had likely learned a great deal from the UN Fact-Finding Mission's August 2018 report, which not only detailed the ethnic cleansing campaign in Rakhine but also called for holding the culprits responsible. The report urged accountability within the UN as well, as it denounced the organisation for its failure to respond to abuses and put in place the UN's human rights policy while favouring developmental projects.⁷⁸

⁷⁴ Author's confidential interview, Yangon, 3 January 2019. See also Tin Maung Lwin, "Interview with U Tun Myat, Ex-Top Security Official for United Nations", in *Global New Light of Myanmar*, 13 December 2016, <http://www.globalnewlightofmyanmar.com/interview-with-u-tun-myat-ex-top-security-official-for-united-nations>; and Mratt Kyaw Thu, "Rakhine Committee Trumpets Achievements, Six Months after Annan Report", in *Frontier Myanmar*, 28 February 2018, <https://frontiermyanmar.net/en/node/8630>.

⁷⁵ See, for instance, Amnesty International, *Myanmar: New Evidence Reveals Rohingya Armed Group Massacred Scores in Rakhine State*, 22 May 2018, <https://www.amnesty.org/en/latest/news/2018/05/myanmar-new-evidence-reveals-rohingya-armed-group-massacred-scores-in-rakhine-state>; and Shafiur Rahman, "What Is Behind Amnesty's Burmese Military-Friendly Report?", in *The Quint*, 25 May 2018, <https://www.thequint.com/news/world/amnesty-international-report-rohingya-crisis-deaths-burmese-military-myanmar>.

⁷⁶ Muhammad Abdul Bari, *The Rohingya Crisis*, cit., p. 38.

⁷⁷ David Scott Mathieson, "Burma's Lost Rapport on Rights Protection", cit.

⁷⁸ UNHCR, *Report of the Independent International Fact-Finding Mission on Myanmar*, cit., p. 17.

Conclusion: What Can Be Done?

Thus far Myanmar's armed forces and its government have caused or abetted human tragedy on a monstrous scale with impunity. Is there any way to hold them responsible for their crimes or must the rest of the world continue to stand by while further calamity unfolds?

Domestically, no one will call the generals to account for their ethnic cleansing campaign, not just because there is no civilian oversight of the military but also because, more fundamentally and more disturbingly, the vast majority of the country's population agrees with the objective to rid the country of the Rohingya minority.

The situation is no brighter if we consider the international context. Myanmar's powerful neighbors, China and India, are not concerned with the Rohingya partly because they have been wrestling with their own Muslim minorities and due to their stake in maintaining friendly relations with Naypyidaw. Other actors in South and Southeast Asia – with the notable exception of Malaysia – are mostly authoritarian states of one hue or another with little interest in the Rohingya's fate. Faraway Western democracies have lately been vocal critics of Suu Kyi's regime but their condemnations have only pushed Myanmar toward Beijing, where no one is going to raise human rights issues.

Quite simply, the US, the UK, Australia and other democracies have few appealing policy options at their disposal. Reimposing economic sanctions against the Burmese government would be unlikely to work for a host of reasons. Neither Myanmar's main trading partners nor its Buddhist population would support sanctions, and their impact would probably be modest because the country is not well plugged into the world economy.⁷⁹ The recent UN report and a number of world leaders have recommended to take Myanmar to the International Criminal Court (ICC) or set up an international tribunal similar to those that investigated genocide and atrocities in Rwanda and the former Yugoslavia. This sounds like a satisfying solution but it, too, is impractical. Since Myanmar is not a signatory to the 1998 Rome Statute that established the ICC, referral to the Court would need the backing of all five permanent Security Council members, and China (and Russia) would almost certainly object.

It is both ironic and tragic that cancellation by Facebook's management of the accounts of twenty generals and organisations in August 2018 generated more anger in Myanmar – where Facebook is nearly synonymous with the Internet – than the UN report's genocide charge.⁸⁰ The government's spokesman, U Zaw

⁷⁹ Andrew Thomson, "Why Economic Sanctions Won't Help the Rohingya", in *Tea Circle Oxford*, 26 June 2018, <https://wp.me/p6ODUn-Pm>.

⁸⁰ Hannah Beech and Saw Nang, "In Myanmar, a Facebook Blackout Brings More Anger than a Genocide Charge", in *The New York Times*, 31 August 2018, <https://nyti.ms/2NBcCuW>.

Htay – who in the past dismissed well-documented accounts of sexual violence against the Rohingya as “fake rape” – said that “we worry that [Facebook’s] action will have an impact on national reconciliation”.⁸¹ The current state of affairs was aptly summed up by a UN investigator who noted that “Facebook is more helpful than the UN Security Council at the moment”.⁸²

Realistically, it seems that little can be done with immediate effect to punish the perpetrators of the crimes against the Rohingya or to prevent them from happening again. Referral to the ICC could proceed (even if it would ultimately fail on China’s veto) because of the moral victory inherent in the process. More generally, just because Western censure of the Burmese generals might “imperil the fragile democracy” – a label that itself might be wishful thinking – this should not be an excuse to stand by while crimes against humanity are being committed. There are surely measures that *can* be taken: expand assistance to Burmese non-governmental organisations that promote ethno-religious tolerance (e.g., Mosaic Myanmar), critically observe and study the armed forces (e.g., the Tagaung Institute of Political Studies), sponsor educational and cultural exchange programmes that enlighten, apply pressure on the *Tatmadaw*’s business empire, and more generally, continue to engage Myanmar’s regime and society, exploiting opportunities as they present themselves. The latter might arise as a result of a new generation of politicians entering the arena and as Myanmar’s economic diversification and societal changes create the need for growing international engagement.

Updated 28 March 2018

⁸¹ Ibid.

⁸² Cited in “The UN accuses the Burmese army of genocide”, in *Economist*, 1 September 2018.

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