# Lorraine Bergeron : Rohingya Crisis


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This paper aims to answer the question presented in its title by investigating whether and how a peaceful resolution to the Rohingya crisis can be imagined anytime soon, considering the deep-rooted nature of the conflict between nationalist Buddhists and Rohingya Muslims in the Rakhine State. If there is to be a resolution, I put forth the idea that ASEAN may be the most well-suited institutional actor to promote such a resolution because of its past successes in dealing with the Myanmar government and because it is in its best interest as well as in the interest of Myanmar, its fellow member. I will explain the root and direct causes of the Rohingya problem, a local problem that has deteriorated to become a humanitarian disaster. I will also show how this national problem is leading to a regional security crisis. Finally, I aim to demonstrate that the Rohingya crisis is challenging the international community since neither the national polity, nor the regional association have so far been willing or able to protect the Rohingya community from crimes against humanity. My paper will consist of two distinct parts, each aiming to tackle the above issues and to answer a main question: 1) How is the Rohingya crisis to be explained or understood? 2) Who or what can bring a peaceful resolution to a national conflict which has regional and international implications?


## Introduction

### A contemporary problem with centuries-old causes and multilevel consequences

Myanmar, known as Burma before 1989, has a rich history that one must turn to in order to explain the present crisis affecting the Rohingya Muslim community. This Southeast Asian country of about 55 million people (Lee 2014, 322), enjoys an important coastline on the Bay of Bengal and the Andaman Sea. In the fourth century, it was under the strong influence of India and China, but also of Tibet and Thailand (Skidmore 2005, 2), thus explaining the adoption of Theravada Buddhism by the great majority of its population. The ubiquitous presence of Buddhism impacts culturally, socially, and politically modern Myanmar, and has long term consequences on those minorities who do not identify with the national ethnico-religious Burman Buddhist majority that "has been continually recruited to the tasks of resistance, rebellion, memorialization, and nation-building” (Skidmore, 2005, 3). The said nation-building process following decolonization was influenced by a strong sense of Burman patriotism, which Thant Myint-U explains by a “[l]ocal dissatisfaction at the large-scale immigration of labourers and money-lenders from far-away parts of India” encouraged by the colonial master during the 19th century (2001, 253).

The destruction of traditional socio-political institutions under the British rule and the strong Buddhist Burmese nationalism of a Myanmar engaged in a statebuilding process in the 1950s, "excluded not just 'Indians' [...], but also many other people living within the boundaries of British Burma" (Myint-U 2001, 254). Colonial policies relating to minority groups had a profoundly destructive effect on the cohesion of the polity resulting in a contemporary political and social climate too often characterized by disunity" (Ganesan and Hlaing 2007, 51), of which the "Rohingya crisis" is a most germane example.

Rohingya Muslims are persecuted by nationalist Rakhine Buddhists living in the same Rakhine State (former Arakan State, also know as Rohang State). The violence between the two groups is not new, but reached alarming peaks in the 1990s, in 2012, 2013, and again in 2017. The government has shown little political will to end the plight of the Rohingya and is in fact accused of being the persecutor through its police and military forces (OHCHR 2018). As for the Association of Southeast Asian Nations (ASEAN), the main regional organization, it has hidden behind its usual norm of non-intervention to avoid confronting directly Myanmar. The international community, through the United Nations (UN), has observed, been appalled, but has remained largely passive, leaving non-governmental organizations (NGOs) and humanitarian agencies to deal with hundreds of thousands of Rohingya living in internally displaced people (IDP) camps within Myanmar, or in refugee camps outside of Myanmar, mainly in Bangladesh.

This paper aims to answer the question presented in its title by investigating whether and how a peaceful resolution to the Rohingya crisis can be imagined anytime soon, considering the deep-rooted nature of the conflict between nationalist Buddhists and Rohingya Muslims in the Rakhine State. If there is to be a resolution, I put forth the idea that ASEAN may be the most well-suited institutional actor to promote such a resolution because of its past successes in dealing with the Myanmar government and because it is in its best interest as well as in the interest of Myanmar, its fellow member. I will explain the root and direct causes of the Rohingya problem, a local problem that has deteriorated to become a humanitarian disaster. I will also show how this national problem is leading to a regional security crisis. Finally, I aim to demonstrate that the Rohingya crisis is challenging the international community since neither the national polity, nor the regional association have so far been willing or able to protect the Rohingya community from crimes against humanity. My paper will consist of two distinct parts, each aiming to tackle the above issues and to answer a main question: 1) How is the Rohingya crisis to be explained or understood? 2) Who or what can bring a peaceful resolution to a national conflict which has regional and international implications?

# Part I. How is the Rohingya crisis to be explained or understood?

## A. How can the past explain the present disunity of modern Myanmar?

A brief history of Myanmar is necessary to contextualize the arrival of the Rohingya community within the country characterized by a patchwork of more than 100 ethnic groups (Church 2006, 108). The Irrawaddy Valley and its lowlands concentrate the Buddhist Burman majority population, as where the ethnic minorities live in the Northern and Western hilly and mountainous regions (Church 2006, 109). From memorial times, Burman rulers were in constant conflict with princes of Shan, Mon, Kachin, Kayin (Karen), Palaung, Pao and Wa populations (Owen 2005, 83). Before the British conquest, Burma was never a united country. It was a land of kingdomships, the most well-established being the Pagan empire that fell to the hands of the Mongols at the end of 13th century (Church 2006, 110). None of the successive kingdoms was able to reunite the Burmese, except for the Ava kingdom, but it too declined at the beginning of the 19th century. It was nevertheless able to control the Arakan region where most Rohingya live within Myanmar (Church 2006, 11). Three Anglo-Burmese wars led to the capture of the last Burmese king at Mandalay in 1885 (Church 2006, 112). From then on, Burma was part the British Indian empire.

Indian models of administration were imposed on Burmans, which meant that Burma had not only lost its sovereignty, but also its traditional regional and local elites, breeding resentment within the Burman majority. This carried heavy consequences on contemporary conflicts as it caused "a strengthening of the division between the Burmese and the ethnic minorities, with the latter developing a stronger sense of identity under British rule" (Church 2006, 113). Colonial authorities encouraged migrant labour to come into Burma. As a result, ethnic and religious diversity increased in Burma with an important immigration of Indians from Bengal and Madras as well as Chinese from Malaya and Singapore (Church 2006, 113). Both came to dominate the administration and the economy of British Burma. Between 1871 to 1911, the immigration of Muslims tripled (Hossain 2017), which contributed to a strong nationalist Burmese movement, and to equally strong anti-Indian, anti-Chinese and anti-Muslim feelings.

Another factor of disunity is that, in the 1930s, nationalist leaders, among which U Aung San, Suu Kyi's father, turned to Japanese support in Burma's quest for its independence (Church 2006, 115). During WWII, the Rohingya supported the British against the Japanese. After the war, Rohingya were rewarded by the British with prestigious government offices, but they never did receive the promised "Muslim National Area" (Hossain 2017). In fact, in the 1950s, armed factions of Buddhist Rakhines and Rohingya Muslims were seeking autonomy for their respective group from the central government (Southwick 2015, 139),

which neither obtained. U Aung San had convinced "many of Burma's various ethnic groups to collaborate in outlining a 'principle of equality' between the majority Burman people and the other nationalities" and

proposed a federal union that would include political autonomy for ethnic nationality areas (Pinheiro and Barron 2012, 261). But following Aung San's assassination in 1947, U Nu led Burma to independence and adopted a federal union between the large Burmese territory, reserving four states for ethnic minorities (Church 2006, 116), but refusing to give them the promised autonomy. After Independence in 1948, a mutual suspicion solidified between the Buddhist Burmese population and ethnic minorities. The suspicion lingers on today. It is thus possible to advance that there lies the root causes of discord between nationalist Buddhist Burmese and Rohingya Muslims, as well with other minority groups. From then on, the future of Burma was marked by regional insurrections and intercommunal conflicts.

Ne Win's military coup in 1962 started an era of political repression and systematic human-right abuses against minorities (Pinheiro and Barron 2016, 261). The imposition of a Burmese culture, language, tradition, and religion threatened minorities and raised violent opposition against the central government. In retaliation, Ne Win cut all resources for food, money, information, and reinforcements to minorities (Pinheiro and Barron 2012, 261). These events crystallized the animosity between Burmans and minorities. In the 1960s, as the Westernized Anglo-Burmese elites and the Indo-Chinese economic power fled the country, Myanmar found itself under the total control of the army, the *Tatmadaw*, that closed the country to foreign investment and outside influence (Church 2006, 118). The only organization that kept some independence from the *Tatmadaw* is the *sangha*, the community of Buddhist monks, who consider the presence of Muslims as an obstacle to a homogenous Buddhist Myanmar. From 1982 till 2011, Myanmar was under the rule of a junta particularly brutal against minority groups (Weatherbee 2005, 228), that became "a target for a government intent on removing all non-Burmese elements from society" (Church 2006, 118), in particular the Muslim community living in the North Rakhine State. The State Law and Order Restoration Council ran elections in 1990, but refused to hand over the power to Aung San Suu Kyi putting her in house arrest for more than fifteen years. ASEAN relying on a "constructive engagement" policy let the pariah state into its organization in 1997, knowing it would tarnish its reputation (Weatherbee 2005, 227), but hoping Myanmar would eventually conform to its democratic norms and economic liberalism values. Pressure did eventually force the junta to soften its control and install a hybrid civil-military government, now at the head of Myanmar since 2011.

The transition from military authoritarianism to civil democracy remains fragile. Dissension, violence, and brutality in the Northwest regions of the Myanmar, particularly in the Rakhine State, became

so intense that many of the persecuted were forced to find refuge in bordering states refugee camps or in IDP "concentration" camps. In Asia, Southeast Asia, notably Myanmar, is the most affected by present refugee crises. As one of the world's most vulnerable populations (Ullah 2016, 285), Rohingya's plight has

made the front lines of the news worldwide in the fall of 2017. The crisis has shed an unwanted light on Myanmar's government, on ASEAN's inaction, and on the UN's inefficiency to deal with yet another human disaster.

## B. What is the role of divergent historical versions of Rohingya's arrival in Myanmar?

North Rakhine concentrates between 1 to 1.5 million Rohingya in the townships of Maungdaw, Buthidaung, and Rathedaung (Ullah 2016, 286). The group is distinct by its religion, social customs and physical features from the majority of Burmese society and other minorities (Balazo 2015, 6). The word *Rohingya* is used to identify the Muslim Arakanese group that live in the Rohang State, now called Rakhine State (Ullah 2016, 286). Arakan was also called *Rovingaw* by Muslims who settled there in the 1400s and called themselves *Roiinga,* meaning natives of Arakan, supporting the Rohingya's long term establishment in the country (Balazo 2015, 7). In fact, Arakan was once an independent Islamic kingdom until it was conquered by Bodawpaya, a Burmese king, and integrated into his kingdom in 1784. This event led the Arakan State to be depleted of two-thirds of its Muslim population, but in 1826 Arakan became a British territory and was re-integrated into Burma (Balazo 2015, 7). This is when Bengali farmers were encouraged to come back to re-settle in Arakan, during the British rule. Balazo explains "this movement of Bengali farmers into Arakan obscures the Rohingyas's historical presence in the region" (2015, 7), and gives weight to those who claim the term refers to temporary labourers that came to Burma from Bengal during colonial times, thus after 1823 (Mahmood *et al.* 2017, 1841). What seems of trivial importance will become a major element to dispossess Rohingya of their right to a Myanmar citizenship. In fact, the government does not even recognize the term *Rohingya*, and calls them *Bengali migrants* (Mahmood *et al.* 2017, 1841). Pro-Rohingya consider the Muslim community as one of the many original groups that settled in Myanmar during the ninth century, mixing with Bengalis, Persians, Moghuls, Turks and Pathans living within the Arakan State. Rohingya organizations claim there is "a strong historic basis for the Rohingya's modern claim to be long term, if not now indigenous, peoples of Rakhine State" (Lee 2014, 324).

Those who are anti-Rohingya hold a very different historical view of Rohingya's arrival in Myanmar. They claim that Rohingya are *Chittagonian Bengalis* who immigrated illegally during the colonial rule, after 1823, (Ullah 2016, 286). Their recent establishment in the country does not make them true citizens of Myanmar. "When denied one's citizenship and nationality, the stateless person descends into a state of

bare life, unable to secure any semblance of rights, guilty of existence, and confined to and exploited by the very system of which they are no longer part" (Balazo 2015, 9). This is exactly the situation in which most Rohingya now find themselves, justifying Myanmar's government to use various forms of persecution against them: from economic, social, and political marginalization to physical and psychological abuse to

forced displacement and migration with the end goal of making them leave the country (Balazo 2015, 8). The most obvious means to succeed in this endeavor was to render them stateless. Even though, "statelessness is a contravention of both human dignity and humanity's inalienable rights [...] under the United Nations Universal Declaration of Human Rights (Balazo 2015, 8), Myanmar government stripped the Rohingya of their citizenship through incremental steps.

## C. How did the Myanmar government make the Rohingya stateless?

Before 1962, under U Nu's democratic leadership, a list of 144 official ethnic groups was established, a list that was shortened to 135 under Ne Win's socialist government. The Rohingya people were among the excluded groups because "the citizenship law recognizes as citizens those whose families had settled in the country before independence in 1948" (Ullah 2016, 286). In 1974, the government identified Rohingya as *Bengali migrants* that had arrived after 1948 (Mahmood *et al.* 2017, 1842). They were given a *resident foreigners* status. Then, in 1978, the Arakan State was renamed Rakhine State as a means to solidify the Rakhine people status and obliterate Rohingya's presence in the State, forcing the *illegal foreigners* to leave, which 200,000 Rohingya had to do in order to escape the violence of military operations (Mahmood *et al*. 2017, 1842). Finally, in 1982, an even more restrictive law, the *Burma Citizenship Law,* established three groups of Myanmar citizens, matching each group with a color coded card: pink for citizens, blue for associate citizens, green for naturalized citizens; as for foreigners, they received a white card (Ullah 2016, 286). Unable to produce the necessary documents to "meet the requirements of proving their forefathers settled in Burma before 1823" (Mahmood *et al.* 2017, 1841), most Rohingya became non-citizens of Myanmar, therefore stateless people.

Nyi Nyi Kyaw argues that policies and practices put in place by Myanmar governments since the late 1970s are responsible for Rohingya's chronic statelessness (2017, 282). Although they had been identified as an official indigenous group, given full rights and privileges during U Aung San regime, and recognized as Burmese nationals by the British colonial master (Ullah 2016, 287), the 1982 Law explains why one in every seven stateless person in the world is a Rohingya (Mahmood *et al.* 2017, 1841). Furthermore, in recent years, non-governmental actors, such as the *Ma Ba Tha* (Organization for the Protection of Race and Religion) supported by the wider Burman society, question the legal and cultural

rights of *all Muslims* to be recognized as Myanmar citizens (Kyan 2017, 283). In a country where nationalists call for a “Burma for the Burmans” and Buddhist monks claim that “to be Burman is to be Buddhist”, the Indian origin and Muslim religion of the Rohingya population makes the group an easy target for persecution and marginalization. In 1978, the military launched “a campaign of murder, rape, and torture targeted specifically at the Muslim population” (Ullah 2016, 289). Other accounts of mistreatments such as forced labor, arbitrary detention and physical assaults of all kinds forced 250,000 Rohingya in the 1990s to leave Myanmar to find refuge in Bangladesh (Hossain 2017).

In 2012, violence erupted again between Rohingya and Rakhine Buddhists leaving 200 people dead, 140,000 homeless, and forced thousands of Rohingya to flee. The UN High Commissioner for Refugees (UNHCR) estimated to 500,000 their number in 2014; those unable to leave the country live in IDP camps where their conditions are said to be “worse than animals” (Kingston 2015, 1163). The UN human rights chief, Zeid Ra‘ad al-Hussein, declared that “[T]he situation seems a textbook example of ethnic cleansing”.[1] In February 2018, the UN News Center reported that what are supposed to be "military and security operations are actually an established pattern of domination and aggression against ethnic groups”. It also mentions that Bangladesh is hosting nearly 900,000 Rohingya refugees”.[2] These figures indicate that two out of three Rohingya live in another country than their homeland that no longer considers them citizens, and that temporary host countries do not want as citizens, making them the world's most unwanted population. Deliberately isolated socially, economically, and politically and rendered stateless, Rohingya are subject to a state-sponsored violence (Ullah 2016, 289) best described by Yanghee Lee’s words: “Recent reports of attacks against civilians; against homes and places of worship; forcible displacement and relocation; the burning of villages; land grabbing; sexual violence; arbitrary arrests and detention; torture and enforced disappearances; are acts that have been alleged against the military and security forces for generations".[3] Myanmar’s historic transition from authoritarianism to democracy comes with human rights concerns denounced by some observers, but seen by others as a realistic compromise to obtain democracy (Southwick 2015, 137).

[1] https://news.un.org/en/story/2017/09/564622-un-human-rights-chief-points-textbook-example-ethnic-cleansing-myanmar Accessed February 21, 2018

[2] https://news.un.org/en/story/2018/02/1001741 Accessed February 21, 2018

[3] http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22620&LangID=E Acc. Feb. 21, 2018

## Part II Who or what can bring a peaceful resolution to a national conflict with regional and international implications?

### A. At the national level: Aung San Suu Kyi?

Aung San Suu Kyi has remained silent about the systemic persecution of the Rohingya. How is her silence to be explained? A possible answer, offered by Ronan Lee, is that Aung San Suu Kyi is now a politician and no longer the icon of democracy, freedom and human rights she used to be (2014, 321). Her active political role in Myanmar is limited in many ways. As the leader of the National League for Democracy (NLD), she aims for her party to take the head of a civil democratic government and to realize her father's dream of a democratic Myanmar. The present hybrid military-civil government is still under the strong hold of the military officials who retain 25% of the seats in the parliament for themselves. The ministries of Defence, Home Affairs and Border Affairs are headed by serving military officers (Subedi 2017), which means they hold the key to the resolution of the Rohingya crisis. If pushed to hard, the military could decide to reverse or slow down the process towards democratization, or worse re-impose martial law. Thus, unwilling to confront the military directly, Suu Kyi is adopting a pragmatic approach because of the political environment in which she evolves (Lee 2014, 322). She hides behind the primacy of the rule of law to circumvent or deny the Rohingya problem.

Within Myanmar, Buddhist Rakhines form about 4% of the population representing about 2.5 million people, as where most Rohingya, now stateless and disenfranchised, have lost their right to any form of electoral participation (Lee 2014, 323). As a politician, she must play her cards wisely and cannot alienate voters. Ronan Lee puts it bluntly: "Suu Kyi's apparent determination to be politically pragmatic does not easily lend itself to public support for the Rohingya" (2014, 327). In other words, the political cost is not worth defending the Rohingya. She is willing to forego her image of an international icon of human rights to become the leader of a democratic Myanmar. Even the Dalai Lama's call to stop the attacks of Muslims by the Buddhist monks (Mahmood *et al.* 2017, 1842) - of the 969 Movement, a radical movement whose leader, Ashin Wirathu, spreads a discourse of hatred against Muslims, (Azad 2017) - has not weakened Suu Kyi's determination to remain silent about the state-sponsored and structural violence againt Rohingya (Subedi 2017). When Suu Kyi declares that many countries like her own fear the "global Muslim power", she is aware that the "laden imagery and narratives associated with 'radical Islam' take on new potency" in Myanmar (Prasse-Freeman 2017, 2). Nevertheless, some hope is possible. In 2016, Suu Kyi asked a committee "to examine the *complex challenges facing Rakhine State* and to propose answers

to those challenges".[4] The commission made important recommendations that depend on the good will of the military wing of the government. Interestingly, the word *Rohingya* is never used in the report, unless it is part of the name a formal association. A committee was formed *to implement* the recommendations, which will likely take some time to give results. Meanwhile, Rohingyas are suffering.

## B. At a regional level: ASEAN?

Myanmar's democracy might therefore be achieved at the expense of Rohingya who always supported the NLD party. Other minorities might assess whether they should continue to support the NLD, or to take up more radical and violent means to defend their own interests. Also, Muslim persecution could have important consequences for the region considering radical Muslim politics since 2001. To add fuel to the fire, "opportunistic political entrepreneurs, including Buddhist monks, have explicitly associated the Rohingya with transnational jihadists" (Prasse-Freeman 2017, 2). This could have implications for ASEAN members that have Islam as the main religion (Lee, 2014, 331). The local political issue carries disastrous consequences on the security of ASEAN members and neighbouring countries of Myanmar. At a time when Myanmar is trying to normalize its relations with the international community and when the military government is slowly giving way to a civil parliament, the transition process remains fragile. Years of patient *constructive engagement* are finally yielding hopeful results, which can explain why ASEAN has refrained from confronting directly Myanmar on the Rohingya issue.

It is necessary at this point to say a few words about the Association and its functioning to better understand its position in the Rohingya crisis. In 1967, the leaders of Thailand, Malaysia, Indonesia, Singapore and The Philippines created an association "to promote regional cooperation contributing toward peace, progress, and prosperity while being determined to ensure the members's stability and security from external interference" (Weatherbee 2005, 69). Collaboration and cooperation were meant to ensure the collective political security to allow the prosperity of all members after years of conflicts between them and of proxy wars in the region. In the Cold War era, "[T]hrough ASEAN the five states sought to present a nonconfrontational image to the potentially hostile forces in Southeast Asia" (Weatherbee 2005, 70). By 1999, five more Southeast Asian countries had joined the Association and ASEAN has tightened its relations with other states in Asia. The Association has developed a unique understanding of how relations between the members should be conducted. The *ASEAN way* is based on two very important elements: mutual respect for sovereign authority and the non-use of force toward each other (Weatherbee 2005, 121.

[4] http://www.rakhinecommission.org/

Most interests are managed through consultation and consensus, "a conflict avoidance system relying on informal friendly negotiations in structurally loose settings as opposed to adversarial modes in legally grounded institutions" (Weatherbee 2005, 121). The main point I wish to convey is that ASEAN refuses to intervene in one of its member internal affairs. But the Rohingya crisis "has reached a stage of spill-over with potential security inference for the entire region" (Chhibber 2017). It is feared that persecuted Rohingya could become "soft targets for terrorist recruiting and terrorist-related activities" (Chhibber 2017). The specter of terrorist activity and growth of insurgencies could hinder the economic growth in the region, affect the intense trade exchanges, frighten away foreign investors with enormous consequences for ASEAN members that rely heavily on regional and international trade. It is therefore important that "the crisis is contained without further threat to the people, regional cohesion and extra-regional security ramifications" (Chhibber 2017). The scenario described by Parnini *et al.* is not a happy one: "this [Rohingya crisis] could potentially trigger non-traditional and transnational security threats, such as terrorism, illegal drugs and human trafficking, illegal logging, environmental degradation, maritime piracy, deadly violence and crimes (2013, 141).

Within ASEAN, Thailand, Indonesia, and Malaysia are directly affected by the crisis as refugees are trying to enter their territories through more or less legal methods. Bangladesh, India, Pakistan are also hosts to thousands of Rohingya refugees that they consider "temporary guests". Yet, Myanmar is not hiding its intention to drive away Muslims from its territory. Myanmar's President Thein Sein said in 2012 that: "the solution [to the Rohingya problem] was either to send millions of Rohingya to another country or to have the UN look after them" (Lee 2014, 328). Bangladesh has done more than its share in hosting Rohingya refugees. The crisis has also strained relations between Myanmar and Bangladesh at a time when they were trying to increase their business relations. As for India and China, they consider Myanmar an "investment hub waiting to be explored"; the humanitarian help they offer and the sober attitude they adopt towards Myanmar's government are made with strategic and useful future economic prospect in mind (Azad 2017). The refugee crisis has also become a regional affair due to high numbers of Rohingya falling prey to organized human trafficking rings (Subedi 2017). As a non-traditional security threat, managing the refugee crisis is problematic for ASEAN members because they are ill-equipped to protect refugees, lack the proper instruments and mechanisms as only Cambodia and The Philippines have signed the Geneva Convention of Refugees (Subedi 2017). Humanitarian issues, security promotion, conflict prevention and preventive diplomacy are issues that must be dealt with among ASEAN members (Subedi 2017), but the ASEAN way is slowing things down. Malaysia and Indonesia have helped Myanmar, but in accordance with the non-intervention norm of the Association, most members are still reluctant to get

involved in what they consider an internal affair. For the moment, “efforts are still largely fragmented, uncoordinated and led by individual countries rather than by the ASEAN community” (Subedi 2017). As a result, ASEAN is judged severely by some: “ [...] the negligent approach of ASEAN towards the crisis proves the weakness of the regional body to have a strong hold in the region and explicitly contradicts its principle of shared responsibility as a community” (Askali, 10). Others suggest that ASEAN must admit the Rohingya issue has become a regional security matter (Subedi 2017). Bringing the case to the UN as an R2P case is making its way: “When a state like Myanmar is unwilling or unable to protect the human rights of the Rohingyas, or is actively involved in violating those rights on a significant scale, then the world community has a responsibility to step in and ensure that these rights are protected” (Parnini et al. 2013, 144).

## C. At an international level : UN’s R2P ?

Introduced by the International Commission on Intervention and State Sovereignty (ICISS) in 2001, the “responsibility to protect” (R2P) norm was institutionalized, transformed and redefined under the paragraphs 138 and 139 of the World Summit Outcome Document (WSOD) in 2005 (Ercan 2016, 1). It gave the UN the means to intervene in order to end genocide, war crimes, ethnic cleansing and/or crimes against humanity, and only in these exceptional situations. More than humanitarian aid, the R2P enables the UN to take action to protect a population facing appalling conditions when the national entity, holding primary responsibility, and regional organization(s) proved unwilling or unable to do so (Carter and Malone 2016, 278). The five permanent (P5) members of the UN Security Council (UNSC) hold a major veto decision power in the case-by-case use of the R2P. This means that sometimes defenders of persecuted populations will agree to overcome the state sovereignty principle, as where at other times sovereignty may prevail, depending on the stakes and interests of the P5 members (Carter and Malone 2016, 292). According to Ercan, “ten years of R2P experience [...] demonstrate that the Security Council is not the most appropriate authority to assume the mandate over the responsibility to protect” (2016, 147). Furthermore, Cunliffe notes the paradox of the R2P doctrine: it has been assimilated into institutional and state practice, but its implementation suffers from a true commitment of international intervention (2017, 466), which may be explained by R2P's perception of being associated with military intervention (Kingston 2015, 1172), which most states prefer not to be dragged into. For Alan Bloomfield “a norm is not entrenched until the behaviour required by it has become essentially normal "(2017, 167). I will use the case of the Rohingya crisis to concretize some of the above assertions, and show that “[I]mplementation [...] or act of fulfillment” (Luck 2012, 85) is what truly challenges the R2P.

Several experts have used terms such as crimes against humanity, ethnic cleansing and a high-risk of genocide to describe the Rohingya's dreadful situation, all of which should justify the UN's legal obligations to act (Southwick 2015, 137). Because genocide and ethnic cleansing are more delicate to prove, and since Myanmar is not in a war situation, it is of my opinion that it leaves the possibility to advance crimes against humanity in order to invoke R2P to end the plight of the Rohingya. Southwick reminds us of the definition of a crime against humanity given by the International Criminal Court: "Some of the acts include murder, forcible population transfer, torture, rape, persecution, or other inhumane acts causing serious bodily or mental harm" (2015, 143). It is safe to say that such acts have been committed against Rohingya and documented by many INGOs, NGOs, and UN envoys to Myanmar. The crisis has reached levels of mass atrocities that could justify the UN to invoke the R2P. As the R2P carries three forms of "responsibility"-to prevent, to react and to rebuild- and because all three phases are necessary for a situation to be completely resolved, I will analyze how this pertains to the Rohingya crisis.

a) Responsibility to prevent. The reports on the situation in Myanmar relating to Rohingya show that it is probably to late to *prevent* crimes against humanity that have already been committed, but at least avoid more of such crimes to be committed. Pinheiro and Barron consider that "the invocation of the doctrine in the aftermath of Cyclone Nargis may have poisoned the water when it comes to the international community's willingness to consider the doctrine's application to Burma in particular", and they continue "an invocation of RtoP appears politically doomed unless there is a high-profile outbreak of mass atrocities which provides the opportunity to give the situation a fresh look" (2012, 277). I believe that the 2017 Rohingya crisis answers to such an outbreak that must be recognized by Myanmar's government, if not by regional states or by the international community in order to move on to the next phase of R2P.

b) Responsibility to react. At this point, state leaders must deal with the "complex interaction between morality and politics in international decision-making" (Jarvis 2018, 107). In December 2017, the UN general assembly was presented with a resolution put forth by the Organisation of Islamic Cooperation. There were 122 votes in favor of the resolution.[5] The resolution demanded that Myanmar end the military campaign against Muslim Rohingya, allow access for aid workers, ensure the return of all refugees, and grant them full citizenship rights. China and Russia, two of the UNSC P5 members, and Cambodia, Laos, the Philippines, Vietnam and Myanmar, five ASEAN members, voted against the resolution, confirming their

[5] https://www.theguardian.com/world/2017/dec/24/china-russia-oppose-un-resolution-myanmar-rohingya-muslims

caution of confronting Myanmar.[6] It also proves that unless the five permanent members of the UNSC are all motivated "to define their interests in ways which lead them to authorize efforts to pressure deviant states on behalf of the international community (Bloomfield 2017, 176), the R2P will never be implemented. China, that has economic stakes in Myanmar, proposed a "three-phase solution that starts with a ceasefire in Rakhine, is followed by continued talks between the countries, and concludes with a long-term solution focused on poverty alleviation".[7] China would rather see a non-binding diplomatic proposal rather than an open international confrontation against Myanmar by the enactment of R2P. Furthermore, China's own relations with its Hui and Uyghur Muslim populations, that account for 20% of its minority groups living on its territory, are extremely tensed (Lee 2015, 3). Seen as a threat to its political stability, any secessionist or terrorist activities, be they Tibetan Buddhist or Xinjiang Muslim, are quickly suppressed. In China as in Myanmar, there is a lack of "political trust and imagination to draft new policies aimed at appeasement, inclusiveness and reconciliation" (Lee 2015, 10).

c) Responsibility to build: In the event that citizenship was given back to Rohingya, and that a majority of them were to be repatriated in the Rakhine State, "it will be necessary [...] to address the collective Burmese perception of Rohingya ethnicity as allochthonous and their religion as incompatible with Burmese society" (Prasse-Freeman 2017, 1). Serious reconciliation and peacebuilding processes would have to be put in place, bridges between the two communities will need to be (re)built for a sustainable peace to be possible between the Rakhine Buddhists and Rohingya Muslims after decades of inter-communal hatred and conflict. Direct, structural, and cultural violence will have to end. The ACRS's recommendations such as increased investments in Rakhine State, the resolution of the problem of citizenship rights and deficiencies, the restoration of freedom of movement, closure of IDP camps, a calibrated response to root causes of violence[8] would allow resolution or short term solutions to the problem. According to Leaderach, to be effective and long term, the reconcialiation process must involve relational aspects and be held at local context first and considered a major element of peacebuilding. It will have to be embedded in the three townships level (grassroots) before it can be transferred at the Rakhine State level (middle) and the Myanmar Union level (top) (Fetherston 2000, 204). If Rohingya's three basics human needs -identity, security, and distributive justice presently denied- were met, in accordance with Burton's idea of "provention" (Fetherston 2000, 203), an "emancipatory transformation" may be a guarantor of a long term conflict resolution (Fetherston 2000, 204), and not just a conflict management

[6] https://www.csmonitor.com/World/2017/0929/UN-Security-Council-split-on-Rohingya-crisis
[7] http://www.dailymail.co.uk/wires/afp/article-5151665/China-says-UN-resolutions-solve-Rohingya-crisis.html
[8] http://www.rakhinecommission.org/app/uploads/2017/08/final_report-20170822-Overview-of-key-points-and-recommendations_For-Web.pdf

quick fix. The challenge will be to open the possibility of a "[C]ommunicative action [that] does provide a means of renegotiating the bases of mutual existence" (Fetherston 2000, 212) for Muslims Rohingya and Rakhine Buddhists within their townships, the Rakhine State and the Myanmar Union.

## Conclusion: A possible peace to make, to (re)build and to maintain?

Since the beginning of an independent Myanmar in 1948, the country has experienced continuous struggles between the central government and minorities groups. Intercommunal conflicts between Rakhine Buddhists and Rohingya Muslims have been particularly severe. The stripping of the Rohingya's citizenship in 1982 and the mass atrocities committed against them have resulted in major internal and external migrations, causing regional and international security issues. The invocation of the R2P to end the Rohingya plight has remained theoretical at best. The responsibility to prevent implies dealing with the root causes of the conflict that dates back to colonial times, not an easy thing to do, especially since the military government added a direct cause to the Rohingya problem by making them stateless, forcing them into an experience of bare life. The responsibility to react would mean using appropriate measures, from diplomatic to humanitarian and, if all fails, to coercive and military measures, but the international community has not been able to rally the necessary support to go beyond words of good intention in a society of self-interested states. Finally, the responsibility to rebuild implies assistance with repatriation, reconstruction and reconciliation to ensure a sustainable peace once the crisis is resolved. Partly because R2P "lacks legally binding powers either over individual states or over the international community", there may not be much to expect from R2P in its current form (Ercan 2016, 148). Yet, the resolve of "never again", out of which was borne the 2005 UN's commitment to the R2P norm, offers the international community an opportunity to show it can walk the talk in matters of human security and human rights violations. For maximum results and in an ideal R2P type resolution, the crisis should involve a tripartite action of the government of Myanmar, ASEAN and the UN (Ibrahim and Nordin 2015, 10).

Considering the political implications relating to the problem, I tend to agree with Ercan that hope will come from regional organizations, (2016, 148), in the present case, ASEAN. It is most probably the best facilitator to convince and assist Myanmar in adopting measures to prevent further suffering of the Rohingya. Through its ASEAN way and its constructive engagement, the organization has persuaded the military junta to adopt a more democratic means of government. It was also successful in resolving the previous invocation of R2P against Myanmar during the Cyclone Nargis event. ASEAN must now persuade Myanmar that some events happening within a country's borders cannot be considered as internal affairs if they have trans-boundary consequences (Bellamy and Drummond 2012, 249). Such is the case with the

Rohingya crisis. ASEAN could increase its legitimacy if it uses a "more flexible understanding and application of non-interference (Bellamy and Drummond 2012, 248). It was "seen as the vehicle through which a humanitarian response should be organised" in the Cyclone Nargis case (Bellamy and Drummond 2012, 254). It could very well play again that role in assisting Myanmar and the international community to

end the Rohingya crisis, but much "moral imagination" will be needed because to (re)weave "the social fabric of relationships torn apart by decades and generations of hatred remain significant challenges" (Lederach 2005, 42). This is one of the great challenges Myanmar must face if it aims to become a respected nation within the international community of nations. (6353 words)

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