

The Ongoing Genocidal Crisis of the Rohingya Minority in Myanmar

Journal of Victimology
and Victim Justice
1(1) 4–24

© 2018 National Law
University Delhi
SAGE Publications

sagepub.in/home.nav

DOI: 10.1177/2516606918764998

<http://journals.sagepub.com/home/vvj>



John P. J. Dussich¹

Abstract

The serious plight of the Rohingya ethnic group's extreme victimization in Myanmar has finally emerged on the international stage. They are mostly a stateless Muslim minority from the state of Rakhine which, over recent decades, have been abused by severe and repeated multiple human rights violations. There are now approximately 850,000 displaced Rohingya refugees mostly in Bangladesh and surrounding countries with thousands more waiting in peril between Myanmar and Bangladesh. The saga of the Rohingya dilemma has been fraught with complex ethno-religious conflicts between Buddhist, Muslim and Hindu factions exacerbated by the scale of people involved, rapidity of events, recency of occurrences, abject poverty, racial hatred, linguistic differences, confused ancestral rights, severe humanitarian violations, genocidal policies, surrounded by nations themselves struggling with few resources. The present-day conflicted leadership in Myanmar between the military and the democratically elected leader of her government, Aung San Suu Kyi, has been severely criticized for their brutal continued ethnic cleansing.

Keywords

Rohingya, Myanmar, Bangladesh, ethnic cleansing, genocide, Muslim, Buddhist, human rights, refugees, Aung San Suu Kyi

A genocide begins with the killing of one man—not for what he has done, but because of who he is. A campaign of 'ethnic cleansing' begins with one neighbour turning on another. Poverty begins when even one child is denied his or her fundamental right to education. What begins with the failure to uphold the dignity of one life, all too often ends with a calamity for entire nations.

—Kofi Annan, Nobel lecture (2001)

¹ California State University, Fresno, California, USA.

Corresponding author:

John P. J. Dussich, 341 Cedar Hill Drive, Birmingham, Alabama, USA 35242.

E-mail: jdussich@csufresno.edu

Introduction

Disclaimer

As has been the case with the analysis of most severe ethnic conflicts, the sources of information bias vary according to the authors' organizational allegiance, political orientations, nationality, religion, culture and language. In the search for verifiable truths, it is difficult to gather and analyse empirical evidence of this nature. Although it is obvious that the findings of this article are vulnerable to variations in interpretation, a serious attempt was made at being honest and avoiding exaggerations using only reliable sources such as from reputable non-profit organizations, scholarly publications and trustworthy media. To further confound the search for truth, there is an almost overwhelming degree of complexity involved in this particular dilemma. Also, noted, especially with the reporting about the Rohingya minority in the media, was a type of selective 'reframing'.¹ In an attempt to try to offset some of the bias, this author has tried to balance the perspectives with always representing opposing sides. My own professional bias is that I am victimologist from the USA and tend to slant my perspective in defence of victims. Thus, if erroneous generalizations have been made, I accept full responsibility for them.

Genocide

The definition of genocide used throughout this article is 'the use of deliberate systematic measures (as killing, bodily or mental injury, unlivable conditions, prevention of births) calculated to bring about the extermination of a racial, political, or cultural group or to destroy the language, religion or culture of a group' (p. 947).² The criteria for using the word genocide in this text are imbedded in the aforementioned definition and especially in the Genocide Convention (refer for more details under the following section Human Rights Issues below). It is the conviction of this author and competent legal international scholars that there is 'strong evidence that genocide is being committed against the Rohingya people' (p. 1)³ and thus this is an appropriate term to use in the case of the ongoing victimizations of the Rohingya minority from Myanmar.

¹ N. Afzal, *Elements of Pathos and Media Framing a Scientific Discourse: A Newspaper Perspective on Rohingya Crisis*, 3(10) International Journal of Advanced and Applied Science. 89–99 (2016), available at <http://www.science-gate.com/IJAAS.html> (last visited 20 November 2017).

² M. Webster, *Webster's Third New International Dictionary of the English Language Unabridged* (Springfield, MA, USA: G. & C. Merriam Company, Publishers, 1971).

³ A. Lindblom, E. Marsh, T. Motala, & K. Munyan, *Persecution of the Rohingya Muslims. Is Genocide Occurring in Myanmar's Rakhine State? A Legal Analysis* (Allard K. Lowenstein, International Human Rights Clinic, Yale Law School, Prepared for Fortified Rights, October 2015): 1–65, available at http://www.fortifyrights.org/downloads/Yale_Persecution_of_the_Rohingya_October_2015.pdf (last visited 28 November 2017).

Current Situation

The awareness of the Rohingya's plight is just recently emerging on the international stage. At the time of this writing, Pope Francis is visiting Myanmar (known as Burma prior to 1989) to speak about the Rohingya people, with the *de facto* leader of Myanmar, Aung San Suu Kyi and the Myanmar's commander-in-chief, Senior Gen. Min Aung Hlaing and he then will travel to neighbouring Bangladesh to meet with a small group of newly arrived Rohingya refugees.⁴ The Rohingya are mostly a stateless Sunni Muslim minority (with also some Hindu present) coming from the southwestern coastal part of Myanmar in the state of Rakhine, which, over recent decades, have slowly and significantly been abused by multiple human rights violations including: forced labour, removal of citizenship, depopulation of their communities, severe abuse of children, elders and women (including use of rape as a weapon), prohibition of freedom of movement, confiscation and destruction of property (including schools, homes and religious centres), denial of education, religious and ethnic discrimination, restrictions on marriage, systemic persecution and racism, mass rapes, massacres, ethnic cleansings and forced expulsions. It is these grievous human rights violations which clearly justify the use of the term genocide.⁵ Recently, within a 3-month period since 25th of August 2017, between 500,000–600,000 Rohingya have escaped *en masse* from their homeland in the northern part of the state of Rakhine in Myanmar to Bangladesh (mostly to Cox's Bazar in the south-eastern corner of that country).⁶ Prior to that date, as far back as 1990 approximately, 300,000 Rohingya had already escaped into Bangladesh, primarily focused in the two upazilas (analogous to counties) of Ukhia and Teknaf. Additionally, many refugees went to the seas (Bay of Bengal) mostly in boats and make-shift rafts trying to find refugees especially in Malaysia, Thailand and Indonesia. In many instances, they were harshly turned away with many not surviving.⁷ This recent surge of escaping refugees was in response to the military crack-down on the Rakhine State after a small group of Rohingya militants attacked some police posts in retaliation to the extreme oppression they were enduring at the hands of their government. During the last week in August 2017 at the Myanmar/Bangladesh boarder in no-man's land along the Naf River, 20 Rohingya bodies were retrieved, 12 were children. The United Nations observers estimated that about 50,000 crossed in that same area in about one

⁴ BBC, Pope in Myanmar: Francis Faces Tricky Trip. *BBC News* (2017a), available at <http://www.bbc.com/news/world-asia-42132594> (last visited 27 November 2017); B. Westcott, Pope Francis Walks Religious, Diplomatic Tightrope in Myanmar. *CNN World*. (2017), available at <http://www.cnn.com/2017/11/26/asia/pope-francis-rohingya-myanmar/index.html> (last visited 27 November 2017).

⁵ S. Hug Omi, *I Am Rohingya* (Amsterdam, The Netherlands: Schilt Publishing, 2018).

⁶ R. Watkins, *Forward*. In 2017 Humanitarian Response Plan September 2017–February 2018. (October 2017), available at https://reliefweb.int/sites/reliefweb.int/files/resources/2017_HRP_Bangladesh_041017_2.pdf (last visited 26 November 2017).

⁷ F. Tan Thiam Kim, ASEAN Politics: Playing Pass—Who Should Accept Responsibility for the Rohingya Refugees at Sea? (ICAS Working Paper A144, SIM Global Education, 2015), available at <http://www.pbic.tu.ac.th/main/sites/default/files/ICAS%20Paper%20A144%20-Felix%20Proofread.pdf> (last visited 3 December 2017).

weeks' time.⁸ Many more thousands are still stranded trying to flee from the extreme violence now ongoing. Those that have arrived in Bangladesh are mostly women and children traumatized by their experiences, many with wounds from bullets, shrapnel, fire and landmines.⁹

This is a humanitarian emergency of major proportions requiring a significant international response to prevent further loss of life. To date there are approximately 850,000 displaced Rohingya in Bangladesh with thousands more waiting in peril in the isolated space along the Naf River between Myanmar and Bangladesh. This situation 'has triggered the largest and fastest flow of destitute people across a border since the 1994 Rwandan genocide' (p. 1).¹⁰ The BBC reports that the UN is calling this the 'world's fastest growing refugee crisis'.¹¹

Historical Comments

Timeline

Since about the seventh century, the indigenous people from Arakan (now Rakhine State) have lived in the northern part of the state of Rakhine, which is on the south-western coast of Burma (now Myanmar). The ancient ancestors of the Rohingya were a mix of people from what was then the eastern most part of India called Bengal and people of the Tibeto-Burman race who came afterwards from the north of Burma.¹² The following is a timeline that documents some of the key events leading up to the current situation of the Rohingya people:

1. Third century CE—1406 AD—Colonists from other lands settled with indigenous people along the coastal region of Kala Mukh (Arakan) using Sanskrit from India as the written language and having local religious beliefs prevalent there at that time.¹³

⁸ R. Wright & E. McKirdy, Bodies of 20 Rohingya Muslims Pulled from River on Bangladesh Border. *CNN World* (31 August 2017), available at <http://www.cnn.com/2017/08/31/asia/myanmar-bangladesh-rohingya-bodies/index.html> (last visited 4 December 2017).

⁹ UNOCHA, Rohingya Refugee Crisis (United Nations Office for Coordination of Humanitarian Affairs' Report, 2017), available at <https://www.unocha.org/rohingya-refugee-crisis> (last visited 26 November 2017).

¹⁰ W.L. Swing, Why We Must Intervene to End the Suffering of Rohingya Refugees in Cox's Bazar (International Organization for Migration (IOM), The UN Migration Agency, 2017), available at <https://www.iom.int/news/why-we-must-intervene-end-suffering-rohingya-refugees-coxs-bazar> (last visited 26 November 2017).

¹¹ BBC, Myanmar Rohingya: What You Need to Know About the Crisis. *BBC News* (2017b), available at <http://www.bbc.com/news/world-asia-41566561> (last visited 27 November 2017).

¹² A. Ullah, The Rohingyas Are Indigenous Race of Burma. *Rohingya Vision* (1 June 2016), available at <http://www.rvisiontv.com/the-rohingyas-are-indigenous-race-of-burma/> (last visited 4 December 2017); P. Gutman, *Burma's Lost Kingdoms; Splendours of Arakan* (Bangkok: Weatherhill, 2001).

¹³ Bahar, A. Burma's Rohingya Origin in the Ancient Kingdom of Arakan: Understanding the Arab—Chandra Synthesis (Kaladan Press, 2012), available at <http://www.kaladanpress.org/index.php/report/rohingya/3772-burmas-rohingya-origin-in-the-ancient-kingdom-of-arakan-understanding-the-arab-chandra-synthesis.html> (last visited 27 November 2017).

2. Fourth to tenth centuries—The Anand Chandra Inscription, an 11-foot monolith in a Nagari script close to the Bengali and northeastern Indian languages is built and the Dhannawadi and Vasali (Brahminical and Mohayana Buddhist civilizations) emerged reflecting the early presence of Hindu, Buddhist and Muslim cultures.¹⁴
3. 1044–1077—Rise of the Burmese Pagan king Anwardhta in Burma properly with Theraveda political Buddhism, diminished North Arakan from a kingdom to a province of Burma. Rohingyas (Arakani Hindus and Muslims) left Arakan for Chittagong (a large port city on Karnaphuli River on the coast of Bangladesh bordering Burma). Chakma Royal history says that in this war against the Burmese, Chakmas sided with the Bengalis (the Chandras) from Bangladesh but were defeated.¹⁵ The Kingdom of Pagan (also Bagan) emerged from a small ninth-century settlement (in the 1050s).¹⁶ In 1057, eventually the first unified Burmese state was established at Bagan,¹⁷ which lasted approximately 250 years over the Irrawaddy Valley laying the early foundation of the Burmese language and culture.¹⁸
4. 1210–1287—The Mongols, originating from north central Asia under Kublai Khan, founder of the Yuan dynasty of China, conquered the Kingdom of Pagan. Under his rule, the Arakanis were again revived as a kingdom.¹⁹
5. Eleventh century—1430—Tibeto-Burman rule with two separations: Rakhine Mogh and Rohingya Muslim; however, the Arakan began to look east towards its mongoloid Buddhist neighbours and were influenced by them. In the year 1430, the Arakan king Noromi Kla was deposed by the Burmese invasion and he took shelter in the ancient medieval city of Gaur of Bengal to the west of present-day Bangladesh in India.²⁰
6. 1431—The last Rakhine kingdom was founded under King Noromi Kla and was supported by the Sultan of Bengal with its capital in Mrauk U. Situated on the border between Buddhist and Muslim Asia, the city became one of Asia's richest of its time and became an autonomous province of Bengal paying taxes to the Sultan.²¹
7. 1785—The last Rakhine kingdom in Burma came under the control of the Burmese King Bodawpaya, a fervent Buddhist under whose reign began the conflict with the British.²²

¹⁴ *Supra* note 14.

¹⁵ *Id.*

¹⁶ Wikipedia, *The Free Encyclopedia* (2017a), available at https://reliefweb.int/sites/reliefweb.int/files/resources/2017_HRP_Bangladesh_041017_2.pdfhttps://en.wikipedia.org/wiki/Aung_San_Suu_Kyi (last visited 20 November 2017).

¹⁷ K. Hunt, Rohingya Crisis: How We Got Here. *CNN World* (12 November 2017), available at <http://www.cnn.com/2017/11/12/asia/rohingya-crisis-timeline/index.html> (last visited 27 November 2017).

¹⁸ *Supra* note 17.

¹⁹ *Supra* note 14.

²⁰ *Id.*

²¹ *Id.*; *Supra* note 18.

²² P. Green, T. MacManus, & de la Cour Venning, *Countdown to Annihilation: Genocide in Myanmar* (London: International State Crime Initiative, 2015); *Supra* note 18; Encyclopædia Britannica, Bodawpaya: King of Myanmar (Encyclopædia Britannica Inc., 2017), available at <https://www.britannica.com/biography/Bodawpaya> (last visited 3 December 2017).

8. 1824–1848—The state of Rakhine (Arakan) came under British Rule and the legacy of colonialism lasted for over a century (to about 1948). During these colonial times, the Muslim community in Rakhine expanded rapidly mostly because the Muslim workers from neighbouring Bengal were used for the cultivation of rice in southern Burma.²³
9. 1871–1911—‘According to census records’ ... ‘the Muslim population tripled’ during these years (p. 1).²⁴
10. 1942–1943—During the early years of the Second World War, pro-British Muslims and pro-Japanese Rakhine Buddhists had violent clashes with massacres perpetrated by both sides which fuelled a long-lasting hatred by both and contributed greatly to the subsequent segregation of these two ethnic groups.²⁵
11. 1948—Independence. After the Second World War, Burma achieved independence from Britain.²⁶ Shortly after Myanmar achieved independence from British rule, violent conflicts broke out among various segments of its more than hundreds of ethnic and racial groups (which included a Muslim rebellion that erupted in most of the Buddhist Rakhine), demanding equal rights and autonomy. This rebellion was eventually defeated (p. 1).²⁷
12. 1950—Rebellion. Shortly after independence and frustrated with not having their own state, as the British had promised, ‘some Rohingya staged a rebellion against the policies of the Myanmar government’ ... ‘demanded citizenship’ ... and ‘asked for the state that had been promised them’. However, ‘the army crushed the resistance movement’ (p. 1).²⁸
13. 1959—Sao Shwe Thaik, Burma’s first president declared that the Arakan Muslims belong to Burma’s people.²⁹
14. 1960—The Rohingya are allowed to vote in government held elections.³⁰
15. 1962—Military *coup d’état* conducted by Dictator General Ne Win ended the democratic government and fostered discrimination towards many ethnic minorities.³¹ He maintained power until 1988. The rights that Rohingya had enjoyed before the *coup* were eventually eroded away.³²
16. 1970–2017—The Diaspora. Due to widespread persecutions in Myanmar, the year 1970 started a 47-year period of significant numbers of Rohingya fleeing to other near-by countries: Saudi Arabia 200,000; United Arab

²³ *Supra* note 18.

²⁴ E. Abdelkader, The History of the Persecution of Myanmar’s Rohingya. *The Conversation* (20 September 2017), available at <https://theconversation.com/the-history-of-the-persecution-of-myanmars-rohingya-84040> (last visited 27 November 2017).

²⁵ *Supra* note 23; *Supra* note 18.

²⁶ *Supra* note 23.

²⁷ *Supra* note 18; *Supra* note 25.

²⁸ *Supra* note 25.

²⁹ *Supra* note 23.

³⁰ *Id.*

³¹ *Id.*

³² *Supra* note 18.

- Emirates 10,000; Pakistan 350,000; India 40,000; Bangladesh 890,000; Thailand 5,000; Malaysia 150,000; and Indonesia 1,000.³³
17. 1978—The year of the infamous Dragon King Operation of the Tatmadaw (military), which mostly targeted civilians, not insurgents and which caused about 200,000 Rohingya people to escape from widespread killings, rape and other violent crimes to Bangladesh.³⁴
 18. 1982—A new law, known as

The Citizenship Act of Myanmar, formally denied the Rohingya citizenship rights. This law required that a person's ancestors belong to a national race or group present in Myanmar prior to British rule in 1823, to become a citizen. The Rohingya were still classified as illegal immigrants allowed in by British colonizers. (p. 1)³⁵

The Citizenship law was passed which identified 135 national ethnic groups; however, the Rohingya were not included, thereafter, rendering them stateless and without any form of identification.³⁶
 19. 4 October 1988, the National League for Democracy (NLD) was cofounded by Aung San Suu Kyi, U Tin Oo and Aung Gyi.³⁷
 20. 1989—The name of the country of Burma is changed to Myanmar and the name of the state of Arakan is renamed to Rakhine. Citizenship scrutiny cards are distributed to Myanmar nationals but not to most Rohingya people.³⁸
 21. 1991–1992—As the result of the harsh military operation Pyi Thaya in northern Rakhine State, approximately 250,000 Rohingya Muslims escaped into Bangladesh (p. 1)³⁹ because of forced labour, 'summary executions, torture and rape' (p. 292).⁴⁰
 22. 1993–1995—Those Rohingya who escaped because of the Pyi Thaya operation are repatriated and supervised by the United Nations High Commissioner for Refugees.⁴¹
 23. 1994—The government of Myanmar stops issuing birth certificates to the children of Rohingya parents.⁴²
 24. 2001—In and around the town of Maungdaw, 28 mosques and Islamic schools were destroyed.⁴³

³³ Aljazeera, *Myanmar: Who are the Rohingya?* (28 September 2017), available at <http://www.aljazeera.com/indepth/features/2017/08/rohingya-muslims-170831065142812.html> (last visited 27 November 2017).

³⁴ K.M. Atikur Rahman, *Ethno-Political Conflict: The Rohingya Vulnerability in Myanmar*, II(I) International Journal of Humanities and Social Science Studies. 288–295 (2015).

³⁵ *Supra* note 25.

³⁶ *Supra* note 23; *Supra* note 18.

³⁷ Resource Information Center, Myanmar, Chronology of Burmese Major Opposition Groups (Washington, DC: Resource Information Center, 17 August 2000).

³⁸ *Supra* note 23.

³⁹ *Id.*; *Supra* note 25.

⁴⁰ *Supra* note 35.

⁴¹ *Supra* note 23.

⁴² *Id.*

⁴³ *Id.*

25. 2008—The Myanmar government grants temporary registration cards to the Rohingya people, which allow them to vote in the Myanmar Constitution referendum.⁴⁴
26. 2010—Government elections take place and the Rohingya are again allowed to vote.⁴⁵
27. 2012—In the state of Rakhine, violence erupts between the Muslims and the Buddhists.⁴⁶
28. 10 November 2013—Opposition leader and Nobel peace prize winner Aung San Suu Kyi is released from house arrest.⁴⁷
29. June 2012—Religious violence leaves more than 200 dead and close to 150,000 homeless in Rakhine—predominantly Rohingya. Violence flares again in October. Between 2012 and 2015, more than 112,000 Rohingya flee, largely by boat to Malaysia.⁴⁸
30. 2014—In the state of Rakhine, nationalists attack international offices in Sittwe in April. In this same year, the government conducts its first census in more than three decades, but Rohingya are excluded.⁴⁹
31. February 2015—Parliament of Myanmar issues temporary white registration cards mostly to Rohingya so they can vote in the planned constitutional amendment. Some days later, the President reverses this decision and announces these cards are no long valid.⁵⁰ June—the UNHCR reports that over 150,000 people have escaped from the Myanmar to the Bangladesh border.⁵¹ November—In the first democratic elections since the end of military rule, the Rohingya are not allowed to participate as candidates, nor as voters. Aung San Suu Kyi’s party wins, and she becomes *de-facto* leader in a power-sharing agreement with the military.⁵²
32. 9 October 2016—According to state media, approximately 300 Rohingya militants attack border police posts in Rakhine State, killing nine officers. These attacks trigger an intense clampdown by the Myanmar military and cause the flight of roughly 87,000 Rohingya to Bangladesh. The Rohingya insurgent group, known as Arakan Rohingya Salvation Army (ARSA), claims responsibility for the border police post-attacks.⁵³
33. 25 August 2017—Myanmar’s state media reports that 12 border officers were killed by ARSA insurgents during a series of coordinated attacks targeting at least 20 police outposts and an army base in Rakhine State. The military responds with what they described as ‘clearance operations’,

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Supra* note 18.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Supra* note 23.

⁵¹ *Id.*

⁵² *Supra* note 18.

⁵³ *Id.*

burning down villages and triggering a mass exodus of about 509,000 Rohingya to Cox's Bazar in Bangladesh.⁵⁴

34. 19 September 2017—In a televised speech, Aung San Suu Kyi condemned general human rights violations throughout the country but was widely criticized by the international community for failing to acknowledge the specific Rohingya atrocities by the military. 'Myanmar's military has repeatedly denied conducting atrocities, saying it is targeting terrorists' (p. 1).⁵⁵
35. 23 October 2017—Since 25th August, slightly more than 600,000 Rohingya refugees arrived in Bangladesh after fleeing violence in Myanmar.⁵⁶
36. 27 November 2017 to 2 December 2017—Pope Francis made the first visit to Myanmar ever by a pope by visiting its capital for four days and then visiting a few of Bangladesh's Rohingya refugee camps. While in Myanmar, he does not use the name 'Rohingya' and does not publicly discuss their plight; however, when he travels to Bangladesh to visit the many refugee camps he meets a small group of Rohingyas, uses their name and blesses them publicly.⁵⁷

Statement

The history of the Rohingya dilemma has been fraught with deep complex ethno-religious conflicts primarily among Theravada Buddhist, Sunni Muslim and Hindu factions exacerbated by the scale of people involved, rapidity of events, recency of occurrences, abject poverty, racial hatred, linguistic differences, confused ancestral rights, severe humanitarian violations, surrounded by struggling neighbours and the unwillingness of the Myanmar government to find an equitable solution without persecution.

Human Rights Issues

The UN Convention

The Genocide Convention adopted by the United National General Assembly in 1948, which was entered into force in 1951, stipulates that genocide is a crime under international law.⁵⁸ Furthermore, it states that all nations, even those which have not ratified the Convention, are bound by the principle of

⁵⁴ *Id.*; *Supra* note 7.

⁵⁵ *Supra* note 18.

⁵⁶ *Id.*

⁵⁷ Vatican Ratio, Schedule of Pope Francis' Apostolic Visit to Myanmar, Bangladesh. *Vatican Radio: The Voice of the Pope and the Church in Dialogue with the World* (2017), available at http://en.radiovaticana.va/news/2017/10/10/pope_myanmar_bangladesh_schedule/1341938 (last visited 27 November 2017).

⁵⁸ Convention, *Convention on the Prevention and Punishment of the Crime of Genocide* (1951), adopted 9 December 1948, 78 U.N.T.S. 277 (1951) [Genocide Convention].

jus cogens,⁵⁹ a peremptory norm which 'is a fundamental principle of international law accepted by the international community of states as a norm from which no derogation is permitted'.⁶⁰ It is important to note that the International Criminal Court (ICC) based in The Hague, Netherlands is the appropriate court with jurisdiction to prosecute the crimes which are now being perpetrated in Myanmar. It is the role and the time for the UN Security Council to step up to their responsibility and refer this matter to the ICC with all haste.⁶¹

The Context

In 1948 Myanmar, which was one of the poorest nations in Asia, gained independence from England and declared recognition of their ethnic diversity. At that time, all ethnic minorities were given the same rights as the other ethnic majority group. However, in 1962, General Ne Win, the leader of the military (known as the Tatmadaw), came to power, and 20 years later, his government enacted the Citizenship Act (also known as the Burma Citizenship Law), which refused to officially recognize the roughly 500,000 Rohingya people (living in the State of Rakhine) as part of the nation's 135 national races.⁶² The tensions between the Rakhine Buddhists and the Rakhine Muslims (Rohingya) have been longstanding. In June and October of 2007, violence flared up between these two groups and approximately 250 were killed and 100,000 persons were displaced resulting in the forced segregation of these two ethnic minorities. In the October violence, the villages of roughly 3,000 Kaman Muslims, a group which are officially recognized as part of the Muslim 'national race' (but not Rohingya), were burnt out completely indicating that the Rakhine Buddhist aggression was against Muslims in general.

It is important to know there is a very wide variety of religious groups dispersed throughout Myanmar: Theravada Buddhists, Christians (mostly Roman Catholics and Baptists, Anglicans and some other Protestant denominations), Jews, Hindus, Animists, Muslims (mostly Sunni),⁶³ traditional Chinese (which embrace Buddhism, Taoism, Confucianism, Christianity or Islam) and other indigenous religions as well with Buddhists (mostly Theravada) being the largest. It is estimated by the US government that the population of Myanmar in 2012 was 54,584,700. For the most part, the Myanmar constitution allows all religions to worship as they wish; however, and in contradiction to itself, despite these written freedoms, today limitations and restrictions are still imposed against certain groups.

⁵⁹ *Supra* note 4.

⁶⁰ M.C. Bassiouni, *International Crimes: 'Jus Cogens' and 'Obligatio Erga Omnes'*, 59(4) *Law and Contemporary Problems*. 68 (1996).

⁶¹ Reuters Staff, Does Myanmar Violence Amount to Human Rights Crimes? *Reuters World News* (14 September 2017), available at <https://www.reuters.com/article/us-myanmar-rohingya-qa/does-myanmar-violence-amount-to-human-rights-crimes-idUSKCN1BP0P9> (last visited 5 December 2017).

⁶² A. Trihartono, *Myanmar's Worsening Rohingya Crisis: A Call for Responsibility to Protect and ASEAN's Response*. In *Sustainable Future for Human Security: Society, Cities and Governance* (Benjamin McLellan ed., Singapore: Springer Nature, 2018).

⁶³ *Supra* note 35.

The Muslim Rohingya are not protected by any anti-discrimination 1982 Citizenship Laws because they are not considered as official citizens.⁶⁴

The fundamental definition of human rights is: 'those rights to which all human beings are entitled because of their humanity and not because of their social status or individual merit' (p. 1).⁶⁵ Human rights are divided into three categories: material integrity and freedom of political function; solidarity, including environmental and developmental rights; and language and religious entitlement of minorities to use without harassment from the dominant group.⁶⁶

After independence from British rule in 1948, Burma's (now Myanmar) parliamentary government ruled for 14 years allowing representative democracy to thrive. Burma was internationally recognized as a full democratic nation and the United Nations elected Burma's representative, U Thant to become its Secretary General. One might refer to this short period as the golden age of Myanmar democracy. However, and ironically, in the face of multiple ethnic conflicts, corruption, a poorly organized military, widespread human trafficking and threats from communist China, on 9 March 1962, the commander of military forces, General Ne Win, led a *coup d'état* and ousted the standing government and established an authoritarian military dictatorship. Since then there have been widespread accusations of severe human rights violations by the military mostly against all Muslims, both the Rohingya and the Kamein (also an indigenous Burmese Muslim minority but recognized as an official group with full citizenship which continues to thrive with a variety of hybrid modifications to this day). These conditions have caused the multiple exoduses of Rohingya refugees to many surrounding nations (where many were killed at sea and others continue to suffer persecution as stateless persons where they were often vulnerable to human trafficking, especially in Thailand).⁶⁷

The current Myanmar government still denies full citizenship to the Rohingya. Therefore, most of them do not have legal documents identifying them as citizens of Myanmar.

The Role of the Myanmar Armed Forces (Tatmadaw)

The Beginning

Although starting as a small, disorganized, poorly equipped and weak military force divided by many religions, varying political affiliations and multiple racial groups are vulnerable to violence and unrest, mostly focused on counter-insurgency. Over

⁶⁴ Burma 2012 International Religious Freedom Report, Executive Summary (Washington, DC: United States Department of State, Bureau of Democracy, Human Rights and Labor, 2012).

⁶⁵ R.M. Abdul & A.S. El-Fatih, Glossary of Political Science Terms: Islamic and Western (Singapore: Thomson Publishers, 2005).

⁶⁶ A.A.-R. Mudathir, Human Rights and the World's Major Religions the Islamic Tradition (Westport, CT: Praeger Publishers, 2005).

⁶⁷ A.A. Ahmad, *The Principle of Non-interference and the Question of Human Rights Violation: The Case of the Rohingya Minority*, 3(4) Asian Journal of Social Sciences and Management Studies. 287–292 (2016).

a period of about six decades, it has evolved into a conventional large, well-trained, united, technologically sophisticated strong entity. Since Myanmar's independence in January 1948, in the face of often competing fragmented interests and lacking national unity, the Tatmadaw became largely responsible for establishing internal security and maintaining peace and stability. However, its political role has changed over time as a result of competing forces involving the Buddhist clergy, civilian democracy and military rule.⁶⁸

As a Junta

Myanmar's first military rule was under General Ne Win from 1962 to 1988. He was successful in the suppression of communists, separatists and removing foreign aggressors from the country. The second military rule was under General Than Shwe from 1992 to 2011. He was successful in reducing some government controls over the economy and made significant impacts on reducing corruption.⁶⁹

The Post-junta Period

The last of the military rulers was ex-general Thein Sein, who became Myanmar's first civilian president in 2011 (after almost fifty years of junta rule), led the way to a 'semi-civilian' government and served until 2016.⁷⁰ He served for 5 years and was responsible for many reforms. After retiring, he became a Buddhist Monk and promised to support the new civilian national leader (but not president) Aung San Suu Kyi.⁷¹

In the November 2015 elections, the NLD led by Aung San Suu Kyi took almost 80 per cent of the national votes, while the Union Solidarity and Development Party (USDP) created by the Tatmadaw's General Min Aung Hlaing and led by outgoing president (and retired general) Thein Sein, only received 8 per cent. Despite this amazing defeat of the military-led USDP party, a flawed constitution, created prior to this last election, allows for the Tatmadaw to nominate 25 per cent of the members of parliament; it also grants the Tatmadaw to have veto power of all constitutional changes and it permits the Tatmadaw to

⁶⁸ M.A. Myoe, *Building the Tatmadaw; Myanmar Armed Forces Since 1948* (Institute of Southeast Asian Studies, Singapore: Utopia Press Pvt. Ltd, 2009).

⁶⁹ Wikipedia, *Than Shwe* (2017b), available at https://en.wikipedia.org/wiki/Than_Shwe (last visited 4 April 2018).

⁷⁰ P. Masina, *Myanmar: 2015: Political Turning Point, Economic and Social Challenges*. In *The Chinese-American Race for Hegemony in Asia* (M. Torri & N. Mocci eds, *Asia Maior; The Journal of the Italian think tank on Asia*, Vol. XXVI/2015, 2015), available at http://www.burmalibrary.org/docs22/Masina-2015-Myanmar_2015-political_turning_point.pdf (last visited 30 November 2017); Wikipedia, *Thein Sein*. (2017c), available at https://www.google.com/search?ei=iKwgWqegGOSYjwSi_4yABQ&q=Thein+Sein+in+Myanmar&oq=Thein+Sein+in+Myanmar&gs_l=psy-.12...8191.13791.0.16955.11.10.0.0.0.1965.3523.8-2.2.0...0...1c.1.64.psy-ab..9.1.1964...0i7i30k1j0i67k1.0.rzHY4vfID0U (last visited 30 November 2017).

⁷¹ J. Fisher, Myanmar: Thein Sein Leaves Legacy of Reform. *BBC News* (30 March 2016), available at <http://www.bbc.com/news/world-asia-35916555> (last visited 30 November 2017).

appoint the Minister of Defence, the Minister of Border Affairs and the Minister of Home Affairs. Under these ministers are the National Police Forces and the General Administration Department both of which *ipso facto* allow the Tatmadaw to control all local administrative governments and the borders. Finally, this military created constitution also contains a clause that prohibits the election of Aung San Suu Kyi to the presidency. Thus, although most of the population rejected the military's influence (by their votes), the Tatmadaw (by virtue of its earlier ratified constitution) in fact still maintains controlling power to run many important aspects of the country.⁷²

Abuses of Power

Keeping in mind that about 40 per cent of the population of Myanmar is composed of minorities, each have different interests and some use armed insurgency to cope with their disagreements with the central government. Conflicts between ethnic rebels (primarily from Kachin, Karen, Northern Shan and Rakhine) and the Burmese Army (at the urging of ultra-nationalistic Buddhist monks) increased in 2016. The most systemic human rights violations have resulted from brutal over-reactions by the Tatmadaw in Maungdaw district in northern Rakhine state involving the stateless Muslim minority, known as the Rohingya. These military actions have adopted the practice of punishing the many for the sins of a few. Credible reports indicate that government security operations against many Rohingya villagers have produced grave abuses including: 'summary killings, rape and other sexual violence, torture and ill-treatment, arbitrary arrests, and arson' (p. 1).⁷³ In November of this year, satellite imagery clearly showed a total of 430 buildings were burned and destroyed from three villages also in Maungdaw district, which have come at the hands of the Tatmadaw forces.⁷⁴ The army claims that they have been 'fighting Rohingya militants and denies targeting civilians'.⁷⁵

To understand the scope of the Tatmadaw's human rights violations committed since mid-2016 by groups involved in the internal armed conflicts in only Kachin and Shan States, it is instructive to see the list of violations by the Myanmar Army against the Rohingya taken from the table of contents from a recently published book by Amnesty International⁷⁶: Arbitrary Arrest and Torture; Extrajudicial Executions and Enforced Disappearances; Forced Labour and Related Abuses; Indiscriminate Shelling of Civilian Areas; Denial of Free Movement, Clearance of Villages; and Restrictions of Humanitarian Access. While the aforementioned two states are different than Rakhine, the abuses of the Rohingya people are even more severe and clearly include clear elements of 'ethnic cleansing' with indications of genocidal intent. 'The Myanmar government has yet to ratify most international

⁷² *Supra* note 71.

⁷³ Human Rights Watch, *Burma: Events of 2016* (New York, NY: World Report, 2017), available at <https://www.hrw.org/world-report/2017/country-chapters/burma> (last visited 3 December 2017).

⁷⁴ *Id.*

⁷⁵ *Supra* note 12.

⁷⁶ Amnesty International, *All the Civilians Suffer: Conflict, Displacement, and Abuse in Northern Myanmar* (London, UK: Amnesty International Ltd, 2017), available at <https://www.amnestyusa.org/wp-content/uploads/2017/06/Myanmar-report-FINAL-VERSION.pdf> (last visited 3 December 2017).

human rights and humanitarian law treaties, but the vast majority of violations documented by Amnesty International contravene customary international law norms. Many amount to war crimes' (p. 9).⁷⁷

Historically, Tatmadaw soldiers have been able to commit crimes against the civilian population with impunity. Not only 'institutional-scale' thefts and/or confiscations with little or without any compensation for thousands upon thousands of farmland acreage but these government abuses are including the most serious of violent crimes. Recently (in late 2016), the Tatmadaw did hold some of its soldiers accountable for their crimes and went public with their prosecutions.⁷⁸

The Role of Aung San Suu Kyi

Background

For her years of non-violent struggles on behalf of peace and human rights, Aung San Suu Kyi received the Nobel Peace Prize in 1991; and, with others, and with her father's support, founded the NLD in 1988 in which she now serves as its current president. Because of the November 2015 elections, she is now the *de facto* president of Myanmar.⁷⁹ After taking office when her party overwhelmingly won the elections (80% of the votes), one of her first acts was to appoint 'an international advisory committee on the Rakhine atrocities, chaired by Kofi Annan [former Secretary-General of the United Nations and a diplomat from Ghana] and tasked with developing possible solutions to the conflict' (p. 1).⁸⁰ This was a very positive sign for many; however, this committee has met with enormous confrontations from the nationalistic Buddhist ethnic majority in Rakhine (the 'Arakan') that typically oppose all outside interference. Aung San Suu Kyi herself slighted the international community early on, by asking the US ambassador (and thus all international actors) to refrain from using the term Rohingya.⁸¹

Her Dominant Challenges

Because of the strange clause in the flawed Myanmar military created constitution (still in effect) which prohibits her ('the Lady') from becoming president, an initial

⁷⁷ *Id.*

⁷⁸ Z. Barany, *Armed Forces and Democratization in Myanmar: Why the U.S. Military Should Engage the Tatmadaw* (Center for Strategic and International Studies, 13 September 2016), available at <https://www.csis.org/analysis/armed-forces-and-democratization-myanmar-why-us-military-should-engage-tatmadaw> (last visited 3 December 2017).

⁷⁹ F. MacGregor, *Why Is Aung San Suu Kyi Silent on Abuses Against the Rohingya in Myanmar?* *The National* (23 February 2017), available at <https://www.thenational.ae/arts-culture/why-is-aung-suu-suu-kyi-silent-on-abuses-against-the-rohingya-in-myanmar-1.41012> (last visited 3 December 2017); *Supra* note 79.

⁸⁰ M. Kreibich, J. Goetz, & A.M. Murage, *Myanmar's Religious and Ethnic Conflicts: No End in Sight*, *Heinrich Böll Stiftung* (The Green Political Foundation, 24 May 2017), available at <https://www.boell.de/en/2017/05/24/myanmars-religious-and-ethnic-conflicts-no-end-sight> (last visited 27 November 2017).

⁸¹ *Id.*

major challenge was to find a way to around this impediment. Ultimately, she created a new position called 'State Counselor' (like a Prime Minister), thus allowing her to assert leadership in her country.⁸² Although Aung San Suu Kyi has earned some admiration from international leaders for improving foreign relations with the USA and its human rights' agenda, she has been severely criticized for her silence about the recent Rohingya killings by her government's military giving the appearance that she was approving the 'ethnic cleansing'. To look beyond her silence, it is important to consider the two largest political entities in Myanmar: the military and the Buddhist nationalists. This Buddhist movement has greatly expanded its influence with the Buddhist Burmese, which is Myanmar's largest population group mostly accountable for the anti-Rohingya attitude prevalent now in the country. Also, although the military relinquished much of its power after Aung San Suu Kyi's electoral victory, it is still a dominant force, and it has exploited the issue of the Rohingyas to preserve their power. Thus, rather than intentional silence reflecting complicity in these continued Rohingya victimizations, her behaviour is more likely an attempt to maintain a carefully crafted standoff between her Myanmar's military and the Buddhist nationalists.⁸³

The Role of the International Community

Dominant Governmental Influences

It is important to mention that China has had a long and highly influential relationship with Myanmar: first, because of the presence of the mostly Han Chinese minority living in the Kokan region of Myanmar in the northern part of the Shan State just inside its eastern border with Yunnan Province in China; second, because China has been a regular financial supporter of infrastructure projects (some of which have been controversial); third, China is Myanmar's primary international trading partner with regard to the importation of natural resources; and fourth, China is the major importer of consumption goods. There have been significant conflicts between these ethnic Chinese and the Buddhists for many centuries partially due to their affiliation with the illegal Communist Party of Burma and the insurgency that it has used against the Buddhist nationalist majority supported by the Myanmar military. Despite the anti-China sentiments harboured by the Burmese military, the last president, Thein Sein, had been successful in his efforts to advance better relations with China; subsequently, Aung San Suu Kyi also greatly added to this much improved climate.⁸⁴ China is still today a dominant influence in Myanmar.

By virtue of their sharing borders, Bangladesh, Thailand and Laos also have important influences; however, the other giant neighbour, India continues to exert a major influence economically, politically and culturally. With regard to the Rohingya

⁸² *Supra* note 79.

⁸³ D. Peng, *Understanding Aung San Suu Kyi's Silence on the Rohingya*. Harvard Political Review. (21 February 2017), available at <http://harvardpolitics.com/world/understanding-aung-san-suu-kyis-silence-rohingya/> (last visited 3 December 2017).

⁸⁴ *Supra* note 71.

situation, the most affected (and accommodating) neighbour has been Bangladesh which, in spite of its paucity of resources and its vulnerability to annual major disasters, has accepted roughly one million refugees over the past two decades.⁸⁵

Non-governmental Influences

Some of the major international non-governmental organizations (NGOs) now involved on site are as follows: the UNHCR, UNFPA, UNOCHA, UNIOM, UNICEF and BRAC (a Bangladesh human rights and legal aid organization serving the advocacy needs of their region), Food for the Hungry/MTI, Handicap International, Doctors without Borders, ACF-IRC, Mercy Malaysia, RTM International (a Bangladesh advocacy organization focused on alleviating poverty and enhancing equal opportunity affiliated with the John Snow, Inc. firm in the USA), Save the Children and WHO—CDPDC. Prior to the recent influx, there were a total of 15 humanitarian partners present in the Cox Bazar area alone (just inside Bangladesh); today, about 45 NGOs are now operating there.⁸⁶

Condemnations and Sanctions

Recent international condemnation of Myanmar's actions have been sparse and/or neutral; however, actual sanctions have been almost absent. This is a sample of some of the key players:

- **The UN Security Council** appealed to Myanmar to stop the violence, but no sanctions have been imposed.
- **The US government** urged Myanmar's troops to 'respect the rule of law, stop the violence and end the displacement of civilians from all communities'.
- **China** says the international community 'should support the efforts of Myanmar in safeguarding the stability of its national development'.
- **Bangladesh** plans to build more shelters in the Cox's Bazar area but also wants to limit their travel to allocated areas.
- **Myanmar** urged displaced people to find refuge in temporary camps set up in Rakhine state but added that Myanmar would not be able to allow all those who fled to Bangladesh to return.
- **The UK** Disasters Emergency Committee launched an appeal for funds to help the refugees and their overstretched host communities. The UK Prime Minister Theresa May also said the military action in Rakhine had to stop. The UK has suspended training courses for the Myanmar military.⁸⁷

⁸⁵ *Supra* note 34.

⁸⁶ Humanitarian Response Plan, 2017 Humanitarian Response Plan September 2017–February 2018 (October 2017), available at https://reliefweb.int/sites/reliefweb.int/files/resources/2017_HRP_Bangladesh_041017_2.pdf (last visited 26 November 2017).

⁸⁷ *Supra* note 12.

Contemporary Situation

Current Magnitudes

Approximately 43 per cent of the Rohingya are refugees and about 87 per cent of them do not have basic needs.⁸⁸ The present religious composition of Myanmar is 89.9 per cent Theravada Buddhist; 6.3 per cent Christian; 2.3 per cent Sunni Muslim; 0.8 per cent Animist; 0.5 per cent Hindu; 0.2 per cent other; and 0.1 per cent as having no religion.⁸⁹ The estimated distribution of Rohingya people across the region is Saudi Arabia: 500,000; United Arab Emirates: 50,000; Pakistan: 350,000; India: 40,000; Bangladesh: 947,000; Thailand: 5,000; Malaysia: 150,000; Indonesia: 1,000; Myanmar: 484,000; and Internally Displaced Persons: 120,000; giving a regional estimated total of: 2,647,000.⁹⁰ It is also important to recognize that countries outside this southeastern region have also accepted smaller numbers of Rohingya in recent years.

Recent Adaptations

This minority is now being referred to as the most persecuted people in the world.⁹¹ The government of Bangladesh has recently initiated a major response to accommodate these refugees across many of its agencies including their military. They have allocated a 2,000 acre piece of land to establish a new camp for this huge recent influx of Rohingya. The local communities around this new camp have borne the brunt of providing water, food and other basic services. Also, recently arrived have been national and international humanitarian agencies.⁹²

Persistent Dilemmas

The role of the present-day leadership of Myanmar continues to be problematic. The criticisms linger against Aung San Suu Kyi as the *de facto* president and political leader of Myanmar for her silence, lack of concern and negligence in acting to protect the Rohingya ethnic Muslim minority from the brutal ethnic cleansing that have been ongoing in recent years. She has also been criticized by the United Nations, two notable Nobel Peace Laureates Archbishop Desmond Tutu and Malala Yousafzai, and many other well-known human rights activists

⁸⁸ *Supra* note 35.

⁸⁹ K. Ye Lynn, *Census Data Shows Myanmar Muslim population Has Fallen* (Anadolu Agency 21 July 2017), available at <http://aa.com.tr/en/asia-pacific/census-data-shows-myanmar-muslim-population-has-fallen/612764> (last visited 2 December 2017).

⁹⁰ *Supra* note 34; BBC, Arakan Project, *BBC News* (2017c), available at <http://www.bbc.com/news/world-asia-41566561> (last visited 28 November 2017).

⁹¹ *Supra* note 6.

⁹² *Supra* note 7.

across the globe. Also, many of her prestigious prior awards have been withdrawn in protest to her inaction.⁹³

From the perspective of the international humanitarian organizations operating in the region, the situation is frustrating because access to those who are suffering is severely blocked. This leaves tens of thousands cut-off from receiving the basic needs, including medical care that is available. Recently, the Myanmar government has selected a small group of these aid organizations to provide assistance which will help some but not all those with major needs.⁹⁴

Future Considerations

How to Anticipate

Whenever venturing to foretell the future, I have often warned myself that the accuracy of a prediction is proportional to the length and accuracy of the historical data evaluated. From this process, one might try to project logical trends. One excellent treatise on the current situation and direction of the Rohingya was published just 2 years ago, titled *Countdown to annihilation: Genocide in Myanmar*.⁹⁵ This book applies Feierstein's six stages of genocide: (a) Stigmatization, (b) Harassment, (c) Isolation, (d) Policies of Systematic Weakening, (e) Extermination and (f) Symbolic Enactment,⁹⁶ to the unfolding Rohingya situation. Furthermore, it clearly and convincingly documents how the first four stages have been already accomplished: The International State Crime Initiative findings suggest strongly that we are 'witnessing Feierstein's fourth stage of genocide—the stage prior to mass extermination' (p. 23).⁹⁷ Now, 2 years later, considering the dramatic violence in the aftermath of the 25th August Myanmar military's brutal responses, this prediction appears to be on the verge of realization.

Grim Trend

The rapidity and scale of the incursion to these areas 'has resulted in a critical humanitarian emergency' without an immediate, coordinated and comprehensive response 'there will be massive loss of life' (p. 1).⁹⁸ This recent revelation is suggestive of Feierstein's fifth state of Genocide, as Green and her colleagues

⁹³ *Supra* note 17.

⁹⁴ Doctors Without Borders, *Bangladesh: Hundreds of Thousands of Rohingya Seek Refuge From Violence in Myanmar* (21 November 2017), available at http://www.doctorswithoutborders.org/article/bangladesh-hundreds-thousands-rohingya-seek-refuge-violence-myanmar?source=ADD170U0U00&utm_source=AdWords&utm_medium=ppc&utm_campaign=Google&utm_content=nonbrand&gclid=EAlaIQobChMI7qyFw-fw1wIV3brACh13pAWkEAAYyAAEgJDMfD_BwE (last visited 3 December 2017).

⁹⁵ *Supra* note 23.

⁹⁶ D. Feierstein, *Genocide as Social Practice: Reorganizing Society Under the Nazi and Argentina's Military Juntas* (New Brunswick, NJ: Rutgers University Press, 1967).

⁹⁷ *Supra* note 23.

⁹⁸ *Supra* note 87.

predicted, 'extermination'. These are grim and shocking predictions; however, they are credible and based on a careful analysis of the facts.

Plans in Place

As recent as 30 September 2017, in Bangladesh, there were two large established refugee camps, four makeshift camps and five spontaneous sites (some of which have recently merged). More have been planned. On 23 November 2017, news broke when a spokesperson for Aung San Suu Kyi announced that a memorandum of understanding had been signed with copies distributed to the media by the Bangladeshi Foreign Ministry. This agreement was made between the Bangladesh and Myanmar governments 'to repatriate potentially hundreds of thousands of Rohingya to their homes in Rakhine State' (p. 1).⁹⁹ Furthermore, the agreement said, 'Myanmar will take all possible measures to see that the returnees will not be settled in temporary places for a long period of time and their freedom of movement in the Rakhine State will be allowed in conformity with the existing laws and regulations' (p. 1).¹⁰⁰

In the face of this enormous and complex problem, it must be realized that the animosity towards the Rohingya has been ingrained in the Burma/Myanmar society for hundreds of years. Thus, to expect immediate and sweeping change of a society that has believed that Muslims are not part of their society would be a near impossible task.¹⁰¹ This cannot be done overnight; however, it can be done, one step at a time. Trust is a major issue as the wounds of the many are still fresh, and the horrors are still recent.

Conclusions

Prophecies and Responsibilities

As victimologists, activists and leaders in the realm of human rights and restorative justice, it is very difficult to ignore such profound prophecies based on theoretical and empirical considerations and apply them to this extremely complex crisis. In my subjective judgement, it is our moral obligation to take whatever immediate action is available to us. In this case, response delayed means suffering and death continue on a massive scale. I implore each of you who read these words to inform yourselves by finding and reading at least the key reference documents used for this article; and then, without delay, take purposive action by writing and/or speaking to those of influence in high office government and non-government positions at national and international levels.

⁹⁹ B. Wescott, K. Olarn, & R. Wright, Bangladesh–Myanmar Agreement on Rohingya Refugees Revealed, *CNN World* (27 November 2017), available at <http://www.cnn.com/2017/11/27/asia/rohingya-myanmar-bangladesh-agreement/index.html> (last visited 4 December 2017).

¹⁰⁰ *Id.*

¹⁰¹ *Supra* note 8.

In June of 2015, the Simon-Skjoldt Centre of America's Holocaust Memorial Museum, which tries to prevent genocide, warned that the Rohingya are 'at grave risk of additional mass atrocities and even genocide'.¹⁰²

Many persons have written about this compelling Rohingya situation, mostly journalists, some activists especially representing humanitarian organizations and a few research scholars who have taken the time and effort to collect hard data. Alarming words, such as ethnic cleansing, genocide, massacres, extermination, annihilation, human rights violations, have been used, explained and justified. Most writers have documented the facts about: numbers of people displaced, political motives manipulated, religious conflicts converted to violence, indiscriminately tortured victims, numerous villages burned to the ground, escaping women refugees gang raped, brutally injured and killed, and even mere infants shot, beaten, thrown into fires or into the Naf river. Some of these writers have made fervent pleas for assistance on behalf of the Rohingya victims, especially by some neighbouring democratic countries, which despite having ample resources and recognizing the dire needs that exist, have further victimized these helpless and stranded refugees. One such writer calling out to his own country India is Dr Nehginpao Kipgen, Assistant Professor and Executive Director of the Centre for Southeast Asian Studies, at O. P. Jindal Global University, who recently wrote on behalf of the Rohingya people, 'New Delhi must show some magnanimity' (p. 1).¹⁰³

Recommendations

The Simon-Skjoldt Centre for the Prevention of Genocide in Washington, D.C. has made two compelling recommendations:

THE GOVERNMENT OF MYANMAR should immediately cease its attack on Rohingya civilians and investigate and prosecute those responsible for human rights violations and atrocity crimes. The government should condemn attacks on all civilians in Rakhine State and urgently work to counter anti-Rohingya rhetoric and sentiment within the Myanmar public. The government should also provide humanitarian organizations, human rights monitors, and journalists with immediate and unfettered access to all affected areas of Rakhine State.

THE INTERNATIONAL COMMUNITY has an important role to play in halting and averting atrocities. Individual governments and institutions, including the UN Security Council and UN General Assembly, should use all available leverage to end mass atrocities. Their options include (a) condemning the ongoing attacks on the civilian population; (b) demanding unfettered access for the UN-mandated fact-finding mission, which was established in March 2017; (c) enacting targeted sanctions on the individuals responsible for crimes in Rakhine State; and (d) instituting an arms embargo on Myanmar. The UN Security Council should also seriously consider referring the situation to the

¹⁰² Simon-Skjoldt Centre of American's Holocaust Memorial Museum, *They Tried to Kill Us All; Atrocity Crimes against Rohingya Muslims in Rakhine State, Myanmar* (Washington, DC, 2017), available at <https://www.ushmm.org/confront-genocide/cases/burma/introduction/the-plight-of-the-rohingya> (last visited 30 November 2017).

¹⁰³ N. Kipgen, Can India Ignore the Rohingya Crisis? *The Hindu* (15 September 2017), available at <http://kukiforum.com/2017/09/can-india-ignore-the-rohingya-crisis/> (last visited 30 November 2017).

International Criminal Court, which was established to investigate, try, and prosecute those responsible for atrocity crimes. (p. 3)¹⁰⁴

Final Words

After all is said and done, this is above all a moral issue requiring moral decisions. To be aware and to ignore these realities makes us complicit; acting on behalf of this crisis and utilizing the resources at our disposal makes us a part of the solution. I think we (meta-victimologists) need to develop a series of algorithms that are physically, legally, psychosocially, politically and morally valid, realistic and acceptable to the community of nations so that all human rights violations are brought to a formal and public accounting of those behaviours, which would arrive at a restorative resolution in a timely humane manner.

I say to all those leaders: Do not look the other way, do not hesitate ... It is within your power to prevent a genocide.

—Nelson Mandela

¹⁰⁴ *Supra* note 103.