

**Dr. Radhika Coomaraswamy on ‘Myanmar: The Rohingya Refugee Crisis,
Roots of Conflict and Possibilities for the Future’**

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INTRODUCTION

I want to thank Dinusha and the Lakshman Kadirgamar Institute for inviting me to speak today. This is going to be a somewhat long talk since Myanmar is one of my passions. I encourage you to sit back and relax. You are most welcome to fall asleep if you feel it is too tiresome.

Let me begin immediately by saying I am not going to focus in detail on the state of inquiries undertaken by the United Nations (UN) Fact-Finding Mission on Myanmar. I will speak only from open source material. My purpose today is to give you a background in which the events under consideration may be better understood. I will deal with incidents under consideration by the Fact-Finding Mission but as presented in our March 2018 Interim report.

As an aside I would like to point out that the military junta that ruled Burma changed its name to Myanmar in 1989, after it had ruthlessly suppressed the democracy movement. Today, however, the name Myanmar has been accepted by all including the democracy movement.

I have been an avid follower of developments in Myanmar after I visited Myanmar in 2007 and 2011 as the United Nations Special Representative on Children and Armed Conflict and now as a member of the United Nations Human Rights Council Fact-Finding Mission on Myanmar—though in the latter capacity we have not been granted access to the country. Myanmar is an enticing country with a rich tapestry, which makes the violence and abuse both intriguing and incomprehensible.

I will begin by giving a short history of the peopling of Myanmar, where there is a consensus among historians especially on areas that have relevance to the topic. I will also focus on General Aung San, the founder of the country, and Aung San Suu Kyi, the daughter of Aung San, the Nobel Laureate and the architect of Myanmar’s democratic movement. I will attempt to comment on the Myanmar security forces, the Tatmadaw, and its dominance even today of post-independence Myanmar. I will also try to look at Buddhist radicalisation, which has changed the landscape of Myanmar politics in recent times and has specific significance for the Rohingya population.

I will also attempt to give in simplified form the long history of conflict between the Tatmadaw and ethnic minorities, other than the Rohingyas, so as to give you a sense of the attitude of the armed forces to ethnic minorities in general—an attitude somewhat different from General Aung San and his daughter. The long history of conflict sets a pattern that has relevance to the events that have taken place in Rakhine state.

I will then turn to the contested history of western Rakhine state, once called Arakan state, where ethnic Buddhists and Muslim Rohingyas used to co-exist and where narratives rather than facts prevail. The ethnic Buddhist Rakhine who live primarily in the South were about 70% of the population and the Muslim Rohingyas who used to live in Northern Rakhine were about 25% of the population. There are running historical battles on the history of the Rakhine state, even the use of the term Rohingyas, their modern history and the body of legislation from independence that discriminates against them. This very contested history sets the stage for deeply held feelings and grievances that have eventually erupted in terrible violence.

Finally, there will be a short reflection on the future of the Rohingya refugees and the options that currently exist and also what we can expect from Myanmar democracy in light of all these developments.

PART 1: THE HISTORY OF MYANMAR

The Peopling of Myanmar

Except for Rakhine state and the Rohingyas, much of Myanmar history is uncontested. Unless we discuss it, we will not be able to understand the ideology and the fervor that guides modern Myanmar. The parallels with Sri Lankan history are remarkably similar.

Myanmar was first populated by a Tibeto Burman speaking people who adopted Buddhism and who were called the Pyu. Chinese records show that they were very idyllic, peaceful people with no appetite for war. The ninth century saw the arrival of “the swift horsemen” or the Bamar people who set up kingdom in Bagan and soon absorbed the locals. The Burmans of today find their origins in this historical development.

The thirteenth century saw the arrival of the Mongols, and their descendants are present today in the east, in Shan state and neighbouring provinces. While we speak of Rohingya cross border movements, one must also remember the “other” border, the border with China that was also porous over the centuries. An interesting fact of history is that the Kuomintang under General Li Mi sought refuge in Northern Burma when under attack from the Communists and with allied support made forays into Yunnan province. Many of the Kuomintang settled in Northern Burma while others went into Laos and Thailand. Throughout history there were many other migrations from lower Thailand, China, Bangladesh and India. The plural reality of Myanmar cannot be negated.

While the porousness of borders and the migrations and invasions of tribes and groups are part of the peopling of modern Myanmar, the ideology of the state that prevails even today was solidified in King Anawrahta's rule in the eleventh century. Elements of the ideology were always there but he brought them together in a concerted way. He introduced Theravada Buddhism at all levels, built 10,000 temples in Bagan alone, making it one of the most beautiful cities in the world, even today, strengthened agricultural canals and by the twelfth century there was near universal use of the Burmese language among the Burman ethnic group.

The government of Myanmar officially recognises 135 ethnic groups. These groups are then amalgamated into eight what are called "major national ethnic races." They are the Bamar or Burmans, who comprise 66% of the population, the Chin, the Kachin, the Kayin, or Karen, the Kayar or Karenni, the Mon, the Rakhine and the Shan.

All seven groups other than the Bamar or Burmans, who are the majority, have waged war against the Burmese and later the Myanmarese state. They include Christian Minorities such as the Chin, the Kachin, and the Karen, as well as the Mon and the Rakhine populations who are Buddhist and see themselves as indigenous minorities. In addition, there is the Shan who live near the Chinese border with the administrative district where the Wa state army operates. As it is in the golden triangle of opium production and full of natural resources, it has perhaps the most colourful warlords in the world. All of these have on again and off again ceasefires with the Myanmarese government but no final resolution to the conflict. Human rights groups have dossiers on all these conflicts that allow researchers to identify a particular pattern of behavior by the Myanmarese state in the conduct of civil wars. We are still examining this in detail and mentioned it in our interim report to the Human Rights Council.

The above are ethnic minorities recognised by the Myanmarese authorities. There are groups that are not recognized by the Constitution, for example, Burmese Chinese, Burmese Indians, Burmese Gurkhas, Burmese Pakistanis, Anglo Burmese and the Rohingyas. The Rohingyas are adamant that they should not be in this category because they see themselves as an ethnic, indigenous minority. However, successive Burmese and Myanmarese governments have referred to them as Bengalis.

In contrast to the plural reality, the ideology of the Burmese, put together by King Anawrahta, remains the dominant discourse in Myanmar. The ideology is very strong and anyone who does not share it is often looked upon as an outsider. Unlike India and Sri Lanka that have years of parliamentary history where pluralist elements of society have found expression, in Myanmar this eleventh century narrative has few alternatives. King Anawrahta's kingdom and dynasty went into decline in the thirteenth century and there were cycles of unification and disintegration under different dynasties. But his rule was the golden era and the template for rulers after him, even modern rulers.

Colonialism

Colonialism also marked Myanmar in a brutal way, as did World War II. British rule in Myanmar, driven by its competition with France in Indo-China, began with the arrest and exile of Thibaw, the last king of the Konbaung dynasty. This dethronement is beautifully portrayed by the novelist Amitabh Gosh in his book "The Glass Palace." Use of overwhelming modern technology and force allowed for the British to take over Burma.

Colonial humiliation and the treatment of their king are not easily forgiven in Myanmar where anti-colonial sentiments are extremely strong and are relevant because they have their modern manifestations. The British were brutal in Myanmar, crushing the northern insurgency in Burma in 1890. Social developments during the British period would have lasting impact and would be one of the root causes of conflict. They also allowed for free migration and importation of people from India from money-lenders to indentured labour that created new forms of social intolerance among the Burmans.

The nationalist movement against colonialism in Myanmar also took a peculiar turn that would also have major repercussions for modern Myanmar and would differentiate it and its leaders from their South Asian counterparts in India and Sri Lanka. It began with similar developments such as student protest and protests led by many young Burmese who had gone to university in England and returned to lead movements for reform and autonomy. In the end, however, it was leaders like General Aung San who took the independence project forward.

General Aung San

Let me just speak about General Aung San for whose legacy his daughter the Nobel Laureate has sacrificed her life. His life story will give us greater insights into what is happening today.

Aung San began life as a student leader and then during World War II created the Communist Party of Burma and the Freedom Bloc. Unlike Gandhi, Aung San and his comrades did not abstain from activities to allow British leeway in the fight against fascism. Instead Aung San fled first to China and then to Japan, returning to Burma to take back thirty comrades to be trained by the Japanese. This was the origin of the Burmese military, the Tatmadaw, and it was called the Burmese Independence Army that went back constantly into Burma for recruitment drives. As it became very chaotic it was later reorganised and trained again by the Japanese as the Burmese Defense Army.

Unlike its South Asian counterparts, the Burmese independence movement did not use non-violent people's force but military power to gain its end. Because of this the politics of post-independence Burma would be very different.

In 1943, Aung San became completely disillusioned with the Japanese and after about 250,000 Burmese were killed in confrontations with the Japanese, Aung San broke with the Japanese and formed the Anti-Fascist People's Freedom League. They joined forces with the Allied

Force, leading a massive rebellion against the Japanese on 27 March 1945, which until recently was called ‘Resistance Day.’ Now it is called ‘Armed Forces Day’ and therein lies a tale.

Independence

After negotiations with the British, Aung San secured independence for Burma in January 1947. Then came the challenge that would dog Myanmar for the rest of its post-independence history—the problem of ethnic minorities. He called the Panglong conference and negotiated with the ethnic minorities, including the Rohingyas, and created the Union of Burma. In that sense, Aung San was an exceptional historical figure with a vision for the long-term. This Panglong conference is legendary and the first thing his daughter did when she came to power was to call a similar one in the same place.

Aung San became a much-loved national figure. In the elections called in April 1947 Aung San won an overwhelming victory. By July he was assassinated along with his cabinet. It is said the plot was hatched by conservative politicians. After Aung San, U Nu who was with Aung San in the Anti-Fascist People’s League, took over as the first prime minister under the 1947 Constitution.

The death of Aung San deprived Burma of a unifying leader. A real crisis came in 1958. The 1947 constitution in Chapter X states that every state shall have the right to secede from the Union in accordance with the conditions herein prescribed.

The conditions were:

1. states cannot assert this right for ten years—until 1957;
2. 2/3 of the state council of the particular state must vote for it; and
3. it must be followed by a referendum in the state concerned.

This provision angered many conservatives. Without Aung San there to unite the country, when the due date came, many states began to ask for independence. Insurgencies and instability began to overwhelm Burma. So in 1958, U Nu asked Ne Win, the Chief of Staff of the army, to take over to stabilise the situation.

Tatmadaw

From that date onwards, many in the Tatmadaw or the Burmese security forces have seen it as their calling to keep the country together. They feel any loss of control will lead to anarchy.

Until 2012, except for a few periods here and there, they kept a firm grip on Burmese society. Even today they are the dominant force with a 25% quota in parliament and the complete control of the national security apparatus. They are the only real institution in the country that works and they are deeply suspicious of ethnic minorities in general and also of political dissidents who threaten the stability of the country. There was no Sandhurst tradition in the

Burmese army of deferring to democratically elected political leaders. The old guard of the Tatmadaw was trained by the Japanese during World War II.

The Tatmadaw like any other institution is not monolithic. When I was in Myanmar as Special Representative on Children and Armed Conflict I met with General Thien Sien, a moderate and a reformer, who was paving the way for democratic reforms and was later President. There was a lot of optimism in the country that until then was under the grip of Senior General Than Shwe, a very reclusive hardliner who held power from 1992-2012.

In contrast, General Thien Sien, from the adoption of the 2008 Constitution, and especially after he resigned from the army and became a civilian President, watched over the deregulation of the censored media, the release of political prisoners, the release of Aung San Suu Kyi from house arrest and reinstated her party, the National League for Democracy, to participate in the 2012 elections. There was such confidence in him that he was elected as the Chair of the Association of Southeast Asian Nations (ASEAN) in 2014.

His chosen successor was General Shwe Mann another reformer. Suddenly everything changed and at the time of the Rohingya incident in 2017 analysts have argued that the hardline position is back in power and that the present Commander in Chief, Senior General Min Aung Hlaing is of that view. When I asked about the whereabouts of General Thien Sien I was told that he had become a monk for a short period and was now living in retirement in his farm. I hope history does not forget him since he is rarely mentioned these days as one of the main architects of the democracy movement. General Thien Sien was not a liberal on the Rohingya issue but in my conversation with him, he mentioned in passing that he wanted to negotiate a resettlement agreement, perhaps like the Srimavo Shastri pact, with Bangladesh and India. I do not know whether that was the official position at that time.

Buddhist Radicalism

Buddhism has been a constant factor in Myanmar's history. But democracy in 2015 brought about unforeseen trajectories. There is also a great deal that has been written about Buddhist radicalism and its role in raising anti-Muslim furor during the Rohingya crisis including using Facebook to mobilise hate speech. At the recent Senate hearings Mark Zuckerberg was questioned specifically about the use of Facebook as a platform for hate in Myanmar He has made it clear that Facebook will soon have a policy and practice on hate speech and Myanmar was the initial eye-opener.

In Myanmar, The Association for the Protection of Race and Religion (MaBhaTha) in particular has received a great deal of negative publicity. The extremist views of the organisation are well known and have been publicised the world over. They were responsible for The Population Control Law of 2015 primarily aimed at the Rohingyas, The Buddhist Women's Special Marriage Law which requires a special registration process and which punishes the man if he attempts to convert his wife, The Religious Conversion Law that requires a special process for conversion from Buddhism—not the other way around—

including an interview with a special Board set up for this purpose, and the adoption of the Monogamy law. Most of these laws reflect a fear some Buddhists have of the Muslim presence in Myanmar.

Because of their influence, it would be wrong to caricature and dismiss the MaBaTha. It is a parallel phenomenon occurring in many of our societies all over South Asia and globally. These radical religious organisations belonging to different faiths, have widespread grass root support. MaBaTha feels that Buddhism is under threat in Myanmar, and despite its heated and unconscionable rhetoric, many Buddhists see it as providing protection and social services. Its intolerance of Muslims in particular is worrisome if we are seeking long-term solutions to the Rohingya problem.

The Sangha like the military is not monolithic. During my visits to Myanmar I used to visit the Shwedegon pagoda to pay my respects. On the first visit, the monk assigned to show me the temple asked me if I wanted to see the Emerald Buddha. It was a special showing and he was doing it because I was Sri Lankan. When we went into the chamber, he asked my aides and those from the government who came with me to stay outside. He let me worship the Buddha and then when I had finished asked “what is the United Nations doing? Why are you not helping to bring democracy to Myanmar?” I remember mumbling something incomprehensible—believe it or not it was something about sovereignty. A few months later there was the famous Saffron Revolution led by the Buddhist monks. Starting in September 2007 economic and political protests for democracy rocked the country. The monks of the Shwedegon led the way. The protests were suppressed and thousands arrested and detained. And yet they paved the way for the roadmap that eventually brought democracy to Myanmar. But for most Burmese—and I will deal with this later—democracy meant majority rule. It did not include pluralism.

Aung San Suu Kyi

Now let me turn to Aung San Suu Kyi, the daughter of Aung San, who sacrificed her whole life for his legacy. Having spent a lot of my young adult days campaigning vehemently for her release, I cannot think it was all in vain. Let us begin with the good points. For most of her life Aung San Suu Kyi was a liberal. Having gone to University in Delhi she always said she was deeply influenced by Mahatma Gandhi. She received her PPE in Oxford, a masters from LSE and she worked three years for the United Nations. She married Michael Aris, a democrat and Burma scholar and had two children.

In 1988 Aung San Suu Kyi returned to Myanmar to care for mother. At that time there was a major stirring of sentiment against army rule. She became completely involved, creating the National League for Democracy. She and her party contested the 1990 elections and got 81% of the seats. The military panicked. Unlike others, they could not physically harm her because she was the daughter of their founder, Aung San, whom they all worshipped. So they placed her under house arrest, and though she was released for short periods and once sent to jail, she

was under house arrest for the better part of fifteen years. Her credentials as a non-violent, democrat and political prisoner were impeccable when she won the Nobel Peace Prize in 1991.

As part of Thien Sien's roadmap to democracy she was released. Initially she did not contest the elections of 2010 because of the nature of the 2008 Constitution but in 2012 she made what some say was a Faustian contract. She temporarily decided to accept the 2008 Constitution until a new one was adopted. She contested and won a by-election in 2012, and in the general elections of 2015, her party swept to power. However, the Constitution reserved 25% of the seats of the Assembly for the military and the ministries of home, border and defense had to be headed by a serving military officer. One of the Vice Presidents also has to come from the military. As you can see the civilian authority has no control of the security apparatus.

In addition, the Constitution stopped anyone married to a foreigner or who has foreign children from being President so Aung San Suu Kyi could not be the head of state and had to have a special position carved out for her—the position of State Counselor. For all these reasons, many people were weary that she made what they deemed was a Faustian contract.

Others and most of the world, felt that she should grasp the opportunity and the space that had opened up to bring democratic reforms to Myanmar in a slow and gradualist way. Still despite all the horror, most people nationally and internationally identify Aung San Suu Kyi as the best democratic hope in Myanmar. Again for most Burmese, democracy means elections and majority rule. It does not mean accommodating minorities.

Aung San Suu Kyi's relationship with the ethnic minorities, other than the Rohingyas, is also interesting. Given her father's approachability, they campaigned hard for her, and when she came to power she did negotiate many ceasefires and began a peace process hoping to come to a settlement of their political demand through a new Constitution. That process is now stalled. The ethnic minorities lay the blame at the feet of the military. Despite her liberalism to other ethnic minorities, Aung San Suu Kyi seems to share hardline Burman views of the Rohingyas, refusing to call them by that name, and displaying a clear lack of sympathy and empathy when it comes to their condition. For a leader who claims she was influenced by Mahatma Gandhi this position seems particularly untenable. It was a tragic day when the heroine and the icon of the 1990s was faced with a crime against humanity lawsuit under universal jurisdiction when she landed in Australia recently to attend the ASEAN summit.

PART 2: THE CONTESTED HISTORY OF MYANMAR

Rakhine State and the Rohingyas

To understand what takes place today in western Myanmar we have to look at the very contested history of Rakhine state and especially northern Rakhine. It is so contested that one website up today will be countermanded by another website tomorrow and the battle is vicious and endless. Rakhine state is home to an indigenous ethnic Buddhist community who lay claim

to the heritage of what was once a powerful Arakan Kingdom. I will call them ethnic Rakhine. Until the 1990s, fifty years after independence, western Burma was called Arakan state. The Arakanese or the ethnic Rakhine claim to have an independent history to Burma with its heyday between the fifteenth and seventeenth centuries and this history often included east Bengal. The Rakhine are fiercely independent and claim that the Burmese only annexed the Arakan kingdom in the eighteenth century. The Chittagong Hill Tracts Buddhist people in Bangladesh descend from the ethnic Rakhine, escaping the Burmese invasion of the late 1800s.

The ethnic Rakhine population of western Burma, who claim they were part of an independent kingdom different from Burma, are part of the ethnic minorities that have often voiced the right to secede under the 1947 Constitution and at one time had a very powerful militant group, The Arakan State Army, fighting for them. Remnants of this force remain and still continue the struggle. Before the democracy movement succeeded, the military fought the ethnic Buddhist Rakhine and their separatist army with vigour. With democracy, the politicians and the military began to woo the ethnic Buddhist Rakhine civilian population to woo them from the militants. In addition, ethnic Rakhine parties began to be elected to the devolved bodies and asserted their power that became increasingly obsessed with the Rohingya presence in the state. Since democracy came to Rakhine State, the civilian conflict between the ethnic Buddhist Rakhine, who have strong state and military patronage and the Muslim Rohingyas who are stateless has led to the Rohingyas being called one of the most persecuted minorities in the world.

The Rohingyas, like the ethnic Rakhine, strongly support the historical reality of a powerful Arakan state independent of Burma. In that the Buddhists and the Muslims of the Rakhine are united. The Rohingyas, however, do not claim to be the rulers but argue that the Arakan state was a maritime center and that Arab traders used to come there regularly. They claim their origins from these Arab traders and their marriage with local women. They also state that the Arakan King had many Muslim nobles and settled them in the Northern Rakhine making it a Muslim majority area. There is some reference to Rohingyas in a few colonial documents dating from the eighteenth century by linguists. Also, there are Mughal records of Muslim nobles working in the Royal Court of Arakan state.

During the British period, labour from India was imported to Myanmar and many who came were Bengalis. To the vast majority of Myanmar today, all Rohingyas are Muslim descendants from this British phase of indentured labour from India. Despite historical evidence they will not accept that there were Muslim settlements before the British arrived. From 2015, the government has insisted that the term Rohingya can no longer be used by local people or the international community. Even UNHCR, so that it can continue to have humanitarian access, dropped the use of the term. That needless to say was a very controversial decision. Though the right to self-determination in certain contexts may be legally contested, the right to self-identify is surely a basic political right.

The present anomaly also points to the fact of what happens when we solidify national borders. As you can see, historically, ethnic Rakhine crossed over to Bangladesh, Assam, and Manipur and Bengalis and Indians crossed over to Myanmar. Before colonialism it was natural

movement or movement after conquest. With colonialism comes demographic shifts, importation of labour and imposed boundaries on what was a porous border.

Independence

Independence then brought a type of misery for the Rohingyas. General Aung San initially recognised them as an indigenous nationality. Rohingya leaders were part of the independence movement. But under Army rule from 1962, they have faced an accelerated deprivation of rights. The 1982 Citizenship law only gave citizenship to those ethnic groups that were in Myanmar before the British came. The Rohingyas according to the military did not qualify. The Citizenship Law of 1982 denied Rohingyas citizenship and therefore they became stateless.

An old woman I met at Cox Bazaar had a crumpled plastic bag which she carries with her at all times. In it was a green card, a citizenship card, given to her grandfather at independence. Then she pulled out a white card that was given in 1982 when her citizenship was taken away. She had access to government services with this white card. Then she pulled out a paper receipt that she was given in 2015 when the white cards had been cancelled. It was called a national verification card though it was only a piece of paper. To get it she had to agree to self identify as a Bengali. She left her possessions behind crossing the border to Cox Bazaar but she clutched these documents hoping one day she will return.

Democracy

Since democracy came to Myanmar human rights groups have chronicled restrictions placed on Rohingya freedom of movement, access to state hospitals, access to state education and appointment to civil service jobs. Under the watch of the democracy government the four laws I mentioned earlier on population control, the marriage of Buddhist women, conversions, and the Monogamy law came into effect. Amnesty International has condemned this network of laws and practices as a system of apartheid.

PART 3: EVENTS OF AUGUST 2017

Now let us move to the events of 25 August 2017 that have brought such international outrage and anger. There have been previous military operations in Rakhine state, 1978 and 1992 to be specific, during the time of the military junta that sent parts of the Rohingya population across the border to Bangladesh. About 200,000 fled in 1978 and a similar number in 1992. After both these events repatriation agreements were signed with Bangladesh and most of the Rohingyas returned. As I said strangely it was the rise of democracy that brought terrible insecurity to the Rohingyas as the government attempted to meet the grievances of the majority local Buddhist Rakhine population that had developed a terrible intolerance toward the Muslim Rohingyas.

In 2012 there were a series of conflicts, some called them riots, some call them pogroms, between the ethnic Rakhine and the Rohingyas. The situation occurred after the rape of a Rakhine Buddhist girl and a reprisal for that rape. Both sides engaged in violence, in the North where the Muslims were a majority and in the south where the ethnic Rakhines were a majority. These incidents alarmed both the local Buddhist population and the government. The government removed the Rohingyas from the census, classifying them as stateless Bengali Muslims, and declared a state of emergency. Under a state of emergency, the Rohingyas feared for their lives and we have since 2012 the boat people phenomenon where Rohingyas would hire boats and head for the high seas to seek asylum in neighbouring countries that were, initially, not very hospitable. Many also died at sea. Our Navy rescued Rohingyas in 2008, 2013 and 2017. Will not dwell on what happened to the very few who were saved by our Navy in 2017, when they were put up in safe houses. It was truly a dark moment in our history.

In October 2016, a new actor emerged on the scene in the Rakhine, a group called ARSA—the Arakan Rohingya Salvation Army. Their appearance took the crisis to another level. In October 2016, ARSA attacked three Burmese border posts armed with a few shotguns, knives, machetes and homemade slingshots. We still have to fully verify this but a large number of analysts have described this as the nature of the attack. Needless to say they did not succeed and though they killed a few policemen, they were slaughtered. They spurred a crackdown that was a sign of things to come. ARSA is led by Ataulah abu Ammar Jununi, the son of a Rohingya refugee born in Karachi but brought up in Mecca. He returned to Myanmar and using the all-pervasive WhatsApp began to organise a movement. International Crisis Group has a detailed account of all this in their reports.

After the October events, the Myanmar armed forces began what they called “clearance operations” moving some of their seasoned soldiers into the region. They also armed and trained Rakhine Buddhist civilians, according to military experts and media sources. On 25 August, ARSA struck again, asking its cells over WhatsApp to attack police stations. Again a few policemen were killed but there was a slaughter of their members.

Unlike in October 2016, this time the security forces were in a clearance operations mode supported by some ethnic Rakhine civilians. Within months, nearly 700,000 Rohingyas had fled to Cox’s Bazar in Bangladesh. Since 2015 it is estimated that around 900,000 Rohingyas have fled to Bangladesh. When we met them, they were tired, bloodied and traumatised. I was given the task of interviewing the victims of sexual assault. It was one of the worst experiences of my life.

Differing Narratives

Since the facts of what took place are in dispute, let me begin by telling you what the different narratives are. First, the government of Myanmar put the blame on ARSA, which it called a terrorist organisation. It claimed there may have been some incidents where their soldiers were responsible, but they were a very few. They insist that the burning of villages and mass exodus

was forced by ARSA to put the Myanmar government in a bad light. They also argue that ARSA attacked ethnic Buddhists and Hindus living in the region.

Aung San Suu Kyi, disturbed by the international responses to the earlier October attack, had set up a Commission led by Kofi Annan, to look at the issues in Rakhine state before the August attacks. It is not a human rights report but more a peace building report though it asks that the Rohingyas be given citizenship after a proper process and be listed as one of the ethnic groups recognised by the authorities. The Annan report was launched on 26 August the day ARSA attacked the police stations. In terms of long-term sustainability, the Annan report is an excellent report and its recommendations are salutary. It suggests development strategies and reconciliation efforts. It does not deal with justice efforts which it left to the organs of the Human Rights Council and also recommended that the Myanmar government to set up another mechanism.

Second, in contrast to the government, The Rohingya leaders in Cox Bazaar claimed that this violence a result of so called “clearance operations.” They do not mention ARSA. The purpose of the military, according to them, was to kill or drive out all the Rohingyas and in this they were hand in glove with some local ethnic Rakhine leaders and youth who accompanied the military in these clearance operations. They allege that whole villages were burnt down, which a BBC journalist actually witnessed when he broke away from his government minders, and there was murder, rape of the worst kind, torture, and forced deportation.

Third, human rights groups, working extensively in Cox Bazaar, generally confirm the Rohingya version of events. Though they accept that the ARSA attacks took place, they argue that the disproportionate response to shotguns, knives, machetes and slingshots is an outrage. Some civil society groups have called what happened in August 2017 genocide. The key to genocide as a crime is what is termed “genocidal intent,” the intent to commit genocide i.e. to destroy a people in whole or part for national, ethnic, racial or religious grounds. Because of this “intent” factor, genocide is a very hard crime to prosecute in a court of law.

Fourth, the UN system has also responded to the August 2017 events. The Secretary-General and the High Commissioner for Refugees have called what happened ‘ethnic cleansing,’ and the High Commissioner for Human Rights in his recent statement said that genocide could not be ruled out and asked for an accountability mechanism to follow the Fact-Finding Mission.

International Dynamics

At this juncture let me say something of Myanmar’s present isolation in the world. Myanmar has a staunch friend and it is China. India will never vote against it but it does sometimes abstain. Both these countries have strategic and economic interests in Myanmar because of its location. Myanmar has the support of ASEAN members in some of its struggles but the Muslim countries of ASEAN have publicly and privately spoken out on its actions. The rest of the Muslim world is very activated. Their aid agencies are there in large numbers in Cox Bazaar, in particular Turkey and Qatar.

The Organization of Islamic Co-operation brought a strong resolution against Myanmar in the General Assembly, in December 2017 supporting human rights investigations and it was passed 122 to 10 with 24 abstentions. At the recent Human Rights Council, a very strong human rights resolution that Myanmar categorically rejected was passed 35 to 5. For the first time Muslim countries have been very active on a human rights issue, even Pakistan which has a history of voting against country-specific resolutions voted against Myanmar. In addition to the anger over the violence, everyone is afraid that what happened to the Rohingyas will lead to radicalisation and jihadisation of Islamic youth in the Asian region.

Last week a 15-member United Nations Security Council team led by the President of the Security Council visited Cox Bazaar and Myanmar to “send a strong message that the situation was unacceptable.” Whether this will have any effect on the behaviour of the Myanmar Government, in particular the military, is something that has to be followed closely. The Security Council is the only international body that can refer matters to the International Criminal Court. With the presence of China and Russia this is unlikely though all members of the Security Council went on this mission.

UN Fact-Finding Mission on Myanmar

As a result of this broad ranging political support, The Fact-Finding Mission of which I am a part was set up by a resolution passed in the Human Rights Council in March 2017. We began work in August 2017 just when the attacks were being launched in Northern Rakhine. We were asked to “establish the facts and circumstances of alleged recent human rights violations by military, and security forces and abuses in Myanmar, in particular in Rakhine state.” We cannot prosecute, we can only gather facts. We have also been given adequate resources. We have a good team of seasoned investigators, and many are in the field for weeks at a time. We ourselves visit Cox Bazaar, Thailand and Malaysia to listen to the evidence they have gathered.

Myanmar has denied us access. In the beginning we thought this would be a huge problem but in an information savvy world it has not been so difficult to gather evidence. We have the testimony of eyewitnesses and our teams as well as ourselves were out there just after the events when the evidence was raw. I, for one, met victims of sexual violence who not only recounted horrific tales but showed me their mind-boggling scars. Anyone who has interviewed victims over a long period of time can tell when one is genuine and traumatised and when someone is making it up. These women we met, screened by our team, were very genuine.

In addition to witness testimonies, we have had some interactions with Myanmar officials, the diplomatic community in Geneva and Myanmar, journalists, civil society and Myanmar specialists living in or monitoring Myanmar and Rakhine state. We also have a very good military expert working with us and comprehensive videos, photographs and satellite imagery. The videos of course have to be verified. With the satellite imagery, which also has to be verified, you can just watch the burning of villages and also recently, as we said in our report, the bulldozing of the same villages so that nothing remains. Unlike when I began my human

rights work in the 1980s no-one today can really hide evidence—not even the US. As you know the prosecutor of the International Criminal Court (ICC) has requested authorisation to begin investigations on Afghanistan a few months ago. Afghanistan is a signatory to the ICC—part of good governance. A recent People’s Tribunal in Malaysia found President George Bush and Tony Blair guilty of the crimes of aggression and crimes against humanity in Iraq. The evidence presented by a whole array of young lawyers was very impressive. Evidence today can easily be gathered, but if, how and when there are prosecutions depend on political and judicial will at the national and international level. That is where double standards come in.

What have we found on the recent events in Myanmar? Let me say what we presented to the Human Rights Council in March this year. We have collected a concrete and overwhelming body of information and materials that point to the most serious kinds of human rights violations, and in all likelihood, leading to crimes under international law. The questions now are:

1. What is the nature of the crime committed, does the evidence point to genocide, crimes against humanity, war crimes or just large scale human rights violations? What are the relevant facts that need to be verified?
2. Was the response of the Government proportionate if indeed there was an attack? What are the relevant facts?
3. Who are the perpetrators? What are the relevant facts that need to be verified?
4. If there are perpetrators, how should they be held accountable?
5. Finally, have domestic remedies been exhausted?

The High Commissioner for Human Rights has suggested an independent investigative mechanism to prepare for prosecutions of the General Assembly, where there is widespread anger on the Rohingya issue and no Chinese veto. The prosecutor of the International Criminal Court has filed a submission that because Bangladesh has signed the ICC, the issue of forced deportation, which is a crime against humanity, can be looked at by the Court in The Hague. There is still no ruling on jurisdiction. We will examine and evaluate all these options and recommend what we feel is most appropriate. If such a mechanism is setup our report and its archives will be part of the investigation.

PART 4: FUTURE POSSIBILITIES

Let us now look at some of the future possibilities that face the Rohingyas in particular and Myanmar in general. Let us begin with the Rohingya population in Cox Bazaar. My sense is that like in the past Myanmar hopes that a repatriation agreement with Bangladesh will work and the some of the Rohingya population will return—the ones they want to return. A minister of the Myanmar’s civilian government has gone to Cox Bazaar to try and reassure the population.

However, there is a qualitative difference this time. The nature and scale of violence was unprecedented and the use of the civilian population in the campaign meant that your

neighbours were against you. Secondly, all the villages have been bulldozed including the trees and vegetation, so returnees will find it difficult to identify their homes and villages. This has been a very difficult situation for them, which was not the case earlier. Still some may return as evident from those clutching to their heart the ID and verification cards that give them some connection to Myanmar. Only a generous repatriation package with citizenship guarantees can truly entice them to return.

With regard to those who remain, we hope some will be resettled by Bangladesh, while those who have given so much political support to this cause will open their door and take a quota each. If about 15 countries agree this may occur. If not, there will be a permanent refugee population in Cox Bazaar like Gaza, Lebanon or Eastern Congo. Deprived of a state and access to higher education and jobs, it will become a breeding ground for disaffection and radicalisation. Something that has to be avoided. At the moment, non-Myanmarese military experts say that ARSA is a homegrown movement with few international connections. But as you know this can change overnight.

As for Myanmar in general, as long as the military does not co-operate, remains hardline and suspicious of reforms, nothing will happen in Myanmar. First, the military remains popular, and secondly, any uprising against them will result in unacceptable levels of violence. We must remember that democracy's reappearance was because reformists within the military helped broker a breakthrough. In the future too, reformers from the military must be able to give up power and transform Myanmar into a fully-fledged democracy.

I will, finally, come back to the question that has been a hard lesson for me to swallow. In the late twentieth century and the first part of the twenty-first century, we have understood democracy to mean inclusiveness and the participation of everyone on equal terms. However, for most of its history from Greek times, democracy has meant majority rule, sometimes seeing some minorities, ethnic or political, as toxic and anti-national.

Mukul Kesavan has written extensively on majorities in Asia, especially South Asia including Myanmar. He finds that majoritarian democracies that openly reject universal values and minorities, both ethnic and political, are becoming a terrifying new norm in place of cultures that used to be so tolerant of diversity. He actually calls them "murderous majorities." We also have "murderous minorities." A few of us in the women's movement just wrote a letter to the Indian Ambassador expressing concern over the brutal gang rape of an eight year-old girl by Hindu custodians in a temple to terrorize a nomadic Muslim community. So Myanmar for all the media hype is not an exception in the Asian region.

We are all being shouted at by voices that expect our silence. How do we then augment ideas of democracy with notions of diversity, pluralism and power-sharing? There is so much fear and insecurity and a sense that one's survival is at stake that it is sometimes difficult to even open the dialogue. It is the elephant in all our rooms. We must deal with it, we have to have those conversations and express our solidarity across ethnic, religious and political lines.

Solidarity not in detailed political programmes, though that will also be useful, but solidarity with regard to our values and the faith we have in each other's humanity. Thank you.

**This text has not been checked against delivery.*

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