

Myanmar's Rohingya: Human Rights Abuses and Systemic Violence

William J. Jones⁺ (Thailand)

Abstract

This paper will consider the structural nature of human rights regarding Rohingya as well as a discussion of the failure of transformative peace. The paper will proceed first by considering the national standing of Rohingya regarding citizenship/nationality then consider the context of Myanmar being an ASEAN member state and avenues for redress at the regional level. Next will be an analysis of Myanmar's international human rights obligations and lastly consider peace or the lack thereof from Galtung's theory of cultural and structural violence.

Keywords: *Rohingya, Myanmar Conflict, Cultural Violence, Structural Violence*

⁺ William J. Jones, Senior Lecturer, Mahidol University International College, 999 Buddhamonthon 4 Road, Salaya, Nakorn Pthom, 73130 Thailand. voice: 6694-791-4151 email: william.jon@mahidol.ac.th.

Introduction

Large scale violence in Myanmar's Rakhine state directed at the Rohingya Muslim minority group can be traced to March 1997 where allegations of the rape of a Buddhist woman by a Muslim man led to Buddhist monks instigating violence which led to the burning of entire Muslim neighborhoods in Mandalay. This coincided with the Mahamuni Buddha incident where Muslims were accused of stealing a large ruby from the sacred Buddhist site of pilgrimage (Schober 2007, 58). Alleged rapes of Buddhist women by Muslim men have led to major violence in June 2012 which left hundreds dead in Sittwe Rakhine state as well as 2013 and 2014 in other areas of Myanmar (BBC 2014). Increasing tension between ethnic groups and frequent outbreaks of violence led the military junta to create 'safe' villages for Rohingya Muslims. In effect this forced ethnic enclaving on the part of the government led to camps where Rohingya were sealed off from other communities and could not engage in economic, social or other activities outside of their patrolled villages. The latest round conflict erupted in late 2016 and continues at present with massive destruction of over 400 Muslim villages in Rakhine state being burned due to military operations against this minority group (Human Rights Watch 2017) and tens of thousands being displaced (Barry 2017). At present UN Special Rapporteur Yanghee Lee is being denied access to Muslim villages in Rakhine state during her investigatory visit and is instead reportedly being allowed access to government vetted and approved individuals (Al-Jazeera 2017). The paper seeks to analyze the context of violence against the Rohingya from Galtung's perspective of structural and cultural violence. In particular the author will detail the internal and external plight of the Rohingya and identify mechanisms which have failed to protect these people and finally provide some insight into drivers of this conflict and some possible pathways to peace.

Citizenship and Nationality

Internally, the Rohingya situation can be framed within the context of constitutional citizenship and rights thereof to be supported and protected by authorities of the Myanmar state. Citizenship or minority rights (applicable to the Myanmar case as many of its ethnics have a large degree of negotiated autonomy) are intimately tied to individual and groups ability to flourish within their culture and exercise the full range of accordant rights which stem from being part of a recognized and legitimate community with legal standing and protection (Kymlicka 2011: 22, Raz 1994). Kymlicka (2011) argues that minority rights protection serves to protect a group against external forces that might seek to threaten or undermine a particular group, in particular economic and/or political power of a majority group to exercise destructive actions upon a minority. This stands as a central point regarding citizenship and minority rights with regard to Rohingya as they are vulnerable group and have had all their rights violated by majority populations in their proximity that enjoy protection of the state via citizenship whereas they have no viable avenue for exercising defense nor protection from the state (Adjami and Harrington 2008). Notwithstanding the governments allowance for Rohingya repatriation in 1992 and issuing vote in temporary resident cards in 1994 and 2008 as well as allowing them to form political parties in 1990 and vote in 2008 and 2010 (Zawacki, 2013: 20) their lack of legal citizenship stands as a marker of their 'illegal' status vis-à-vis other ethnics which serves to alienate them and

contribute to both structural and cultural violence. Furthermore, the clear demarcation of the 'accepted' members of the Myanmar national community served to 'other' those who were not recognized which in turn undermined the Rohingya community identity (Farzan, 2015:298).

Citizenship in Myanmar is defined by its constitution which refers to 'national races' (CRUM, 2008: Article 15) and further delegates citizenship confirmation to organic legislation (CRUM, 2008: Article 346). Organic legislation specifically refers to the eight major ethnicities as entitled to citizenship "Kachin, Kayah, Karen, Chin, Burman, Mon, Rakhine or Shan" (BCL, 1982: Article 3). The Central Body composed of three ministers decides on citizenship applications (BCL, 1982: Article 67) based on Council of State decisions of whether an ethnic group is a national group (BCL, 1982: Article 4). These state institutions in 1982 conferred citizenship to 135 ethnic groups (Zawacki, 2013: 18) of which the Rohingya were not included thereby effectively taking away all legal citizenship/nationality rights and making them stateless, even though their ancestral lineage predates 1823 as stipulated by the Citizenship law (BCL, 1982: Article 3, CORE, 2012: 23). Citizenship and nationality confer legal identity to groups and provide the basis for aggregate rights of a civil, political, cultural and economic nature. Without nationality individuals and groups are put in an asymmetric position with the state and a socially and culturally inferior position with other national groups automatically creating the basis for othering. Coupled with latent discrimination, othering of an official nature provides the stimulus for negative stereotyping and violent behavior. Nationality and citizenship is a national issue which is a key marker of sovereignty in determining who is and who is not a part of your community as such it is very difficult for the international community to intervene on the basis of citizenship laws. The purpose of 1982 Citizenship Law was laid bare by then Chair of the New National Democracy Party who in defense of the law stated "the citizenship law is intended to protect our race' by not allowing those with mixed blood from making political decisions [for the country], so the law is very important for the preservation of our country" (Green 2013: 96). More pointedly Lewa has argued that "deprivation of citizenship has served as a key strategy to justify arbitrary treatment and discriminatory policies against the Rohingya" (Lewa, 2013:12).

Statelessness and International Law

As the Rohingya are stateless their situation according to international law would fall under the Convention Relating to the Status of Stateless Persons. But as Zawacki argues, this convention is vague as it applies for those deemed to be residing legally in a territory (Zawacki 2013: 20, UNHCR 1954: Article 1). Furthermore, given the nature of statelessness and displacement of Rohingya's to neighboring states the argument concerning legal obligations of neighboring states is moot given that neither Myanmar nor its neighbors have signed nor ratified the CRSSP (UN 1954). This does not infer that Myanmar and its neighbors have no obligations to mankind simply due to non-ratification, they most certainly do have obligations to uphold the highest of rights embodied in the right to life articulated in the Universal Declaration of Human Rights (UDHR: Article 3). The problem with this

line of logic is that the UDHR is a part of customary law which is dependent on general and consistent state practice and *opinio juris* and as such both practice and declaration would point to an unwillingness to grant nationality to this ethnic group (Malanczuk 1997: 39). That said the obligation to protect life is then both a national concern as well as an international concern.

The most applicable international treaty would be the Convention on the Reduction of Statelessness which clearly obligates states not to undertake measures which would aggravate the situation towards a group of people which would otherwise be stateless (UN 1961) but once again neither the focal state nor any of its neighbors are parties to this treaty thus rendering a strict legal reading moot (*Ibid*). Ullah (2016) has also argued the lack of a legal framework at the national level as well as being a non-signatory to the 1951 Refugee Convention as exacerbated the plight of the Rohingya due to the lack of historic recognition of their status and exclusionary practices (Ullah, 2016). It can be argued that Myanmar has ratified CEDAW and CRC and that its obligations under these respective treaties include but are not limited to recognizing the right to acquire nationality (CEDAW: Article 9, CRC: Article 7) and rights to services such as education and medical care (CEDAW: Article 10, CRC: Article 24c, 28). These rights target the elimination of discrimination based on nationality which finds its source in the UDHR which states unequivocally that “everyone has the right to a nationality” and will not “be arbitrarily deprived of his nationality nor denied the right to change his nationality” (UDHR: Article 15). However, the struggles which the Rohingya people must endure to obtain citizenship are via marriage which is hamstrung by intransigence of state authorities thus rendering them essentially at the mercy of state officials which are against them (Fortify Rights 2014).

The internal structural situation regarding Rohingya and their lack of nationality points to the precarious nature of their existence and vulnerability vis-à-vis the state as well as other antagonistic ethnic groups wishing them harm. The very fact that they are stateless and are not accepted as suitable candidates for citizenship either in Myanmar or Bangladesh leaves them without standing before national jurisdictions and mechanisms for justice aside from that of the international community which is not willing to prioritize their plight. Effectively within the Burmese case the 1982 Citizenship law erases their history and rights to live in peace in their ancestral lands due to non-recognition of their existence prior to 1823 as well as places them in a disproportionately vulnerable situation with other groups in Rakhine state.

Regional Mechanism for Support of Human Rights

Rohingya displacement due to organized and widespread violence has led to spillover of a domestic situation onto the regional scene as fleeing persons have entered both Thai and Malaysian waters and territory seeking refuge from persecution (Bangkok Post 2014, Reuters 2014). The spread of Myanmar's Rohingya problem would thus warrant an explanation of regional mechanisms, namely ASEANs failure to deal effectively with abuses perpetrated upon these people.

Countries affected by the Rohingya situation are member states of ASEAN and as such it is prudent to consider its regional human rights mechanism, AICHR, and the underlying norms that guide behavior which will impact significantly the attention given to the problem. AICHR is within the larger structure of ASEAN itself and as such is guided by its norms of behavior. ASEAN is an intergovernmental organization guided by the so-called “ASEAN Way” which denotes its operational procedures and norms that inform member states regarding intergovernmental relations in ASEANs regimes (Acharya 1997, 2001, 2005, Ba 2009). ASEANs constitutive norms are composed of regulative norms consisting of integrity of state sovereignty and independence, no external interference or subversion (TAC Article 10), non-interference in internal affairs and peaceful settlement of disputes (TAC Article 2, 11, 13) and procedural norms of consultation and consensus in decision-making process of (Narine 1997: 365, 1999: 360, Sebastian and Lanti 2010: 155). When put together this essentially means that any problem, decision or initiative is subject to member state vetoes. Put within the context of larger regional issues and problems it means that for ASEAN to deal with the Rohingya problem, Myanmar would have to censure itself and allow for regionalization and internationalization of its Rohingya problem. Given that this will not happen the opportunity for engaging in a substantial and public fashion at a regional organizational level that would address the Rohingya issue is less than slim.

The ASEAN Charter stipulates the formation of a human rights body (ASEAN 2007: Article 14) with Terms of Reference adopted in 2009 within the framework of the Political-Security Community. Since AICHR is situated within this community, structurally this leads to state control over final decision-making authority as it is a purely intergovernmental pillar with no room for final decisions outside of the purview of states (ASEAN 2009a: supra 15, Petcharamesree 2013). AICHRs ToR mandate provide for among others, developing common positions regarding regional HR issues along with promotion and protection of human rights (ASEAN 2009b: supra 4). But given that AICHR is guided by ASEAN norms its ability to address the Rohingya is constrained structurally. Furthermore, due to Thein Sein’s classification of Rohingya as a “national security threat” (DVB 2012) the ability of ASEAN, its member states or any of its organs to deal with the issue is beyond consideration.

Conflict: Structure and Culture

This section will draw on Johan Galtung’s theoretical framework of violence in order to provide clarity for analysis of the deeper context of violence against Rohingya people. The author will first outline Galtung’s triangular model of conflict analysis by describing the structural characteristics of violence then move to aspects of latent cultural violence directed towards Rohingya in Myanmar.

Galtung argues that latent violence occurs as a direct result of structural and cultural characteristics of societies that aggravate situations into full blown violence (Galtung 1996). Direct violence according to Galtung is violence which we can see perpetrated and is a result of structural characteristics that can include legal, economic and political inequalities and cultural characteristics bound in stereotypes and perceptions of others. Structural violence is composed of the structures which

organize society such as laws, institutions and mechanisms and is seen as easy enough to alter. Galtung argues that cultural violence are “aspects of culture, the symbolic sphere of our existence - exemplified by religion and ideology, language and art, empirical science and formal science (logic, mathematics) - that can be used to justify or legitimize direct or structural violence” (Galtung 1990, 291). Cultural violence is seen as deeply embedded in psyches of individuals and groups which are far more difficult to change whereby “cultural violence makes direct and structural violence look, even feel, right – or at least not wrong” (Galtung 1990, Graf, Krammer and Nicolescu 2007). The UDHR states unequivocally that rights shall not be distinguished based on “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (UDHR: Article 2). It goes further stating that family is “the natural and fundamental group unit of society and is entitled to protection by society and the State” and that both genders have the right to marry and found a family without discrimination based on “race, nationality or religion” (UDHR: Articles 16.1, 16.3). However, in the case of the Rohingya, state authorities have refused to issue birth certificates for children since the early 1990’s and making it compulsory for couples to register their marriages with the Myanmar Border Guard Force often time waiting years and having to pay heavy fees for processing (Human Rights Watch 2013, The Arakan Project 2011). Furthermore, and most disturbing is the 2005 law restricting Rohingya family births to no more than two children per family (Ibid). This is clearly discriminatory and targeted at Rohingya’s of Buthidaung and Maungdaw townships in Rakhine state. This is only compounded by Bangladesh’s now official policy of banning marriages between its nationals and Myanmar Rohingya due to fears of them gaining citizenship (The Indian Press 2014).

The ability to freely move is highly curtailed, often needing permits to travel outside townships and Rakhine state opening up this population to systematic abuse and exploitation to those who have the means to travel. This practice stems from their disenfranchisement with the 1982 Citizenship law and inability to register as foreign residents thus relegating them to illegal immigrants (UNESCO 1995). This is in direct contravention of Article 13 of the UDHR which states “everyone has the right to freedom of movement and residence within the borders of each state” (UDHR: Article 13.1). A pointed case from 2005 was when “the wife and three children of U Kyaw Min, a Rohingya MP of the National Democratic Party for Human Rights (NDPHR) were sentenced to 17 years each for travelling and residing in Yangon (Rangoon) without a permit” (MRGI 2008). Currently, no such restrictions on movement are applicable to any other ethnic group in Rakhine state nor Myanmar and as such this policy specifically targets for discrimination and control of only one population (Fortify Rights 2014).

The Myanmar government does not provide education past primary schools to Rohingya as with other ethnicities which are entitled to state sponsored secondary education. This coupled with the inability to travel freely have dire consequences for this population in terms of educating themselves to know their rights or enter occupations other than forced or manual labor due to the structural impediments of not being able to access education or other basic services which also in contravention of Article 26.1 (UDHR: Article 26.1).

In 2015, former president Thein Sein signed into law four highly controversial laws known as the “Four Race and Religion Protection Laws” which some see as targeting the Rohingya minority specifically and religious minorities in general (Zaw 2015). The first law is the Monogamy Law which prohibits polygamous marriages among both men and women. This is seen as targeting the Muslim community as the Muslim faith allows for polygamous marriage by men under specific conditions even though this is not generally practiced but does occur specifically among displaced populations (Radio Free Asia, 2017). The Religious Conversion Law and Interfaith Marriage Law has two aspects which are of consequence. The first is the Religious Conversion Law which prohibits forced conversion and libel to the consent of the Registration Board for religious conversion which operate at the township level. This board has the right to deny conversions as well as engage in religious teaching subject to time prescribed official interviews. The second Interfaith Marriage Law is governed by the Myanmar Buddhist Women’s Special Marriage Law which allows for the denial of marriage if anyone [sic] has any objection to the union and is specifically intended to regulate the marriages of Buddhist women to non-Buddhist men. Lastly, the Population Control Law allows for governments of divisions and states have the authority “to request a presidential order limiting reproductive rates if it is determined that population growth, accelerating birth rates, or rising infant or maternal mortality rates are negatively impacting regional development,” to space pregnancies for a period of 36 months (Rahman and Zeldin, 2015).

These laws are seen as targeting ethnic minorities and disproportionately impacting Rohingya and targeting them for discrimination by authorities due the nature of the content and intent which is based on the stigmatization of stereotyping which is often the basis for large-scale current othering and discriminatory practices (Amnesty International, 2015; Caster, 2015),

Citizenship and identity are closely intertwined both the legal sense as providing legal basis for the claiming and recognition of rights but also as solid marker of recognized ethnic identity with which to draw upon. The most recent census undertaken by the Ministry of Immigration and population in 2014 refused to allow for the categorization and recognition of a Rohingya population in Rakhine state (The Republic of the Union of Myanmar, 2015). Hudson-Rodd (2014) has argued that this exclusionary practice constitutes a denial of the groups very existence as a distinct people or even people worthy of state recognition as humans (Hudson-Rodd, 2014). It is also worth noting that the government had offered to allow this Muslim minority group to self-identify as Rohingya it quickly changed its position after threats to boycott the census by Buddhist nationalist, instead allowing the Muslim minority to register only if they registered as “Bengali” (Albert, 2017). This is instructive as it a highly exclusionary, politicized and demeaning term used to refer to Rohingya as demonstrated by Daw Aung San Suu Kyi refusal to allow for the usage of the term Rohingya in official meetings with foreign governments instead insisting on the term Bengali (Paddock, 2016). The term Bengali has two direct reference points to the Muslim Rohingya’s origins as a foreign immigrant population which migrated from modern day Bangladesh during the period of

British colonization, thus effectively 'othering' their origins but by extension their history and identity as members of Myanmar's legitimate ethnic tapestry (Peng 2017). The second being seeded in the 1960 constitution which enshrined Buddhism as the state religion which was further reinforced after the 1962 military coup where the military tended to "equate Muslims with colonial rule and the exploitation of Burma by foreigners" (Green, 2013:95).

This was further mirrored in government policy in 2015 when President Thien Sein announced that Rohingya who had been issued temporary "white cards" as identification documentation would be allowed to vote in the 2015 general elections popular outrage and demonstrations by Buddhist aligned groups forced President Sein to reverse his policy and strip Rohingya with white cards and downgrade their documentation status with so-called 'green cards' that incidentally would not be a springboard recognized as a path to citizenship (Albert, 2017). This downgrading of recognized identification has had dual effects. Firstly, it effectively purged some 600,000 to perhaps 1 million from voter rolls in Rakhine state (International Crisis Group 2014, Raymond 2015, The Carter Center 2015). Secondly, it had the effect of disenfranchising would be candidates for running in elections as the validity of their identity documents had now come into official question and were disqualified as was evidenced by the disqualification of Shwe Maung, Khin Khin Lwin and Abdul Rasheed along with others (Fortify Rights, 2016).

Dislike and hatred of Muslims in Myanmar has a long lineage which predates its independence. This deep seeded antipathy towards members of an ethnic minority is an expression of cultural violence which is embedded within religious organizations and monks and Buddhist nationalist sentiments. The best known instigators of anti-Muslim sentiment are Buddhist monk Ashin "Wirathu" who is well known for advocating violence against Muslims and taking a strong political position vis-à-vis political parties and persons (Sherwell 2015) and the Buddhist nationalist '969' movement colloquially known as the "MaBaTha". The discourse these Buddhist monks engage in is one which (Win 2015) analyzes as "protecting religion, race and motherland from threats" which includes boycotting Muslim businesses and criminalizing interfaith marriage. However, as Fink has noted various military governments have "used the spectre of a Muslim takeover to whip up nationalist sentiments...with pamphlets allegedly written by Muslims encouraging fellow Muslims to marry Buddhist women" (Fink 2001, 225).

Win (2015) translation of a pamphlet widely distributed just prior to communal violence in 2013 is highly indicative of the deep seeded cultural discourse of violence and deserves to be quoted in full.

"To, Ashin Bawana Thunama

President of Township Sanga Organisation, Meikthila City.

Subject: We are writing to report that the Burmese Buddhist have been living under threat.

1. According to the above subject mentioned, Muslims in Meikthila, those "Tiger Kalar" are wearing their Kalar Mosque's Dresses and going around in the town more than ever before.

2. In those Muslim people (Kalar) there are some Stranger Kalars who we have never seen before.
3. Although the time is not for Kalar's Eid al-Fitr or Eid al-Adha period, they have been attending meetings at mosque (day and night).
4. Using money from Saudi which has been distributed to mosques, Muslims have been buying lands, farms and houses both in and out of the city with incredible amount of money under the Burmese broker's names.
5. Two Burmese women from North Pyi-Tharyar were married off to two Kalar under the responsibility of the mosque.
6. Kalar are urging each other that only 'Halal' labeling branded kids products are edible for Kalars.
7. Money received from Saudi, construction materials shop (Kalar shop) is selling construction materials to the City's officials with credits.
8. Some officials from government offices that buy from Kalar's shops pretend they do not see those Kalar's activities.
9. Military lookalike mosques are willing to become a power over Buddhists' monastery.
10. The religion will be destroyed by bribery.
11. Please investigate the above problems
(Buddhist who feels helpless)

This is highly instructive as it allows a glimpse into the strains of discourse surrounding not only Buddhist nationalism but also specific references to sources of cultural violence and its justifying position for violent behavior towards Rohingya Muslims. Buddhist religion is under threat from subversive actions and intentions of Muslims in two regards; interfaith marriage and mosques as a source of communal convergence and overseas (foreign) influence. The loss of land and economic opportunities is highlighted as foreign money is leading to dispossession of Buddhist holdings while enriching and emboldening Muslims. Foreign money and economic influence is being used as a subterfuge in government administration and application of law, order and security. In short everything about Muslims is suspicious from their dress, place of worship, businesses and being part of the Umma. They exist as an existential threat to the Buddhist community, women, faith and nation and as such by harnessing a discourse wrapped in religion, nationalism and rape an oppressed and threatened image is portrayed to justify lashing out and destroying Muslims. It is instructive that many other examples of pamphlets as well as vcd's and dvd's which have been distributed in mass and social media exhibit similar language and discourse. Lewa has articulated this binary distinction strongly by stating that "Buddhist nationalism means that there is strong anti-Muslim feeling here...they are frightened by the change and fearful of losing traditional superiority" (Green, 2013:96).

It must be noted that since Suu Kyi's party's (National League for Democracy) overwhelming electoral victory in 2015 Aung Mye Thaw and the Buddhist led Ma Ba Tha movement has been under pressure from the government and Wigneswaran argue that the movement and its defunct partner the 969 movement are indeed in decline, having been delegitimized and increasingly marginalized (Wigneswaran, 2016). The rapid decline of the Ma Ba Tha movement can be demonstrated in four

primary episodes. With the NLD victory in 2015 the movement was cut off from lobbying via the former governing party the Union Solidarity and Development Party (USDP) which it had significant influence (Adikari, 2017). The movement was denounced by Chief Minister of Yangon, Phyo Min Thein in July 2016 calling the group “unnecessary and redundant” as there was already a body to handle religious affairs. This was quickly rebuked by Ma Ba Tha who called for the party take action against officials such as the Chief Minister to which NLD spokesperson U Win Htein ignored Wirathu’s demand. “Religion and politics must be divided. We will not stand for using religion for political benefit, or mixing religion and politics in any way. So we will not follow whatever they demand” (Palatino, 2016). Later in July the State Sangha Committee disowned the movement by stating “this is to clarify the confusion among the public: Ma Ba Tha is not a Buddhist organisation that was formed in accordance with the basic Sangha rules, regulations and directives of the State Sangha authority” it went further in banning members of township Sangha’s from engaging in Ma Ba Tha affairs or activities (Min and Mang, 2016). This effectively dealt the movement a large blow by delegitimizing the group as a religious arbiter in religious affairs as it had previously claimed it was a certified and recognized religious group accorded by the state. The State Sangha Maha Nayaka Committee has even gone so far as to recently ban Aswin from speaking on the grounds that his speeches are inflammatory and often filled with hate speech with the Ministry of Religious Affairs and Culture stating that “the monk leader would face legal action if he goes against or criticizes the ban” (Radio Free Asia 2017) as well as ban the group (Asia News 2017). This has led the embattled monk to claim that “new civilian government is stepping forward to target me as enemy No.1.” (Peng, 2017).

However, while the group appears to be on the defensive in terms of its prior prestige it is still understood to be a powerful group within Buddhist civil society enjoying much support and sympathy among Myanmar’s 90% Buddhist population and its more fringe nationalist elements and elements of the former ruling party and Army (Adikari, 2017; Peng, 2017).

Perhaps the most glaring example of cultural violence is demonstrated by actions of Nobel laureate Aung San Suu Kyi who has insisted that UN Special Rapporteur not use the term “Rohingya” in official settings and instead refer to them as Bengali’s or Muslims of Rakhine State (Gowen 2016, The Guardian 2016). Her framing of the recent trigger for violence with the death of nine borer police in October 2016 was the result of people with clear intentions of waging jihad (Ibid). During an interview with BBC in early 2016 Ms. Suu Kyi became irritated by questions regarding Myanmar’s Muslim minority and their treatment. After the interview with Mishal Husain she was heard to say “no one told me I was going to be interviewed by a Muslim” (Saul 2016).

Conclusion

What is shown above is the structural nature of violence via law which specifically discriminates against Rohingya alone. The consistent pattern of discrimination dates back at least to 1993 when the Burmese SLORC began issuing Regional

Orders to curtail movement, marriage, procreation, education, health services and the like to this one single ethnic population. It can be assumed by the rhetoric of Myanmar's leaders pertaining to the illegal alien nature of these people that they have created second class humans which are in close proximity to other ethnic groups. As such it is easy to understand the othering taking place with regard to cultural markers, stereotyping and cultural asymmetry between different ethnic groups. When authorities purposely place a group of people in a subservient position and allow other groups to take advantage of them due to government instigation all that is needed is a trigger for direct violence to occur. This occurred in 2012 when three Rohingya men allegedly raped and murdered a Buddhist woman and led to major rioting where some 70 plus Rohingya men were selectively killed and thousands of homes burned. Cultural violence was demonstrated as finding its source largely in religion and nationalism but also in the charismatic individual. This deep seeded aversion and hate for Muslims is very pervasive and plays a significant role in justifying the continued violence towards the Rohingya.

The nature of this direct violence is instructive in that an assault on one person led to a massive outpouring of hate and violence against an entire group people. This indicates that underlying this violence was a large degree of pent up anger and hate towards Rohingya which indicates a large degree of cultural violence already existing. The circular nature of cultural violence leading to structural violence which sparks direct violence which creates more of the same is not only disturbing but instructive in how discrimination and state policy mix to create desperate situations. At the base of this is both cultural discrimination and human rights abuses coming together to prevent the establishment of peace as they are both consistently feeding off of one another to create deeper animosities and marginalization.

Conflict transformation is dependent on the so called A-B-C approach of changing and correcting attitudes of people which is highly dependent on mutual understanding and integration of ideas and perspectives of others so as to engage human emotions of empathy and kindness. Behavioral change is dependent on having attitudinal changes which self-reinforce different behaviors which change and do away with the underlying contradictions of action to allow for structural autonomy and self/cultural realization. Put another way, if you take away and continually abuse a groups rights to such a degree that their best hope is to live in a refugee camp in Bangladesh you have effectively created a situation where these people have no dignity, are disgraced, unwanted and de-humanized. By doing this not only is state policy de-humanizing Rohingya but it is creating a cultural model where anyone can abuse them with impunity. By creating a stateless population of over 2 million the Myanmar government has effectively put this entire group into the void of the international community as there is no country with the capacity or willingness to take this many people thus leaving them to the mercy of the state, other state authorities, human traffickers and other ethnic groups in their own homeland. With the state's consistent reference to these people as 'illegal' border crossers of a historical nature the only thing left is expulsion or existence in an environment which is intolerant of them. This said, how is it possible to

transform the conflict from conflict to integrative peace? It is currently impossible without avenues for legal citizenship and identity protection, regional and global frameworks which cannot address effectively the scope of this problem as it is part and parcel both state and private individuals that are responsible for the violence.

It may be going too far to state that peace is prohibited by the lack of human rights for Rohingya. Rather it would be more pointed to state that the lack of human rights and consistent undermining of human rights of the Rohingya are leading to conflict. The conflict was born and bred out of a cultural of discrimination which was fostered in large part by state authorities which exploited underlying tensions rather than fostering an environment of empathy and integration. This is the central point which needs to be addressed and it can only be done by providing some basis of protection perhaps by protecting their human rights which would engender a structural transformation of equality which would slowly foster cultural change. Given that Myanmar is now 'reforming' and 'democratic change' is intertwining with economy opportunities it is unforeseeable that the international and/or regional political climate will allow redress.

With the dire and blight situation of the Rohingya people there are at least some encouraging signs from both the international community and within ASEAN. With the latest round of violence and large-scale state repression there has been condemnation from Bangladesh and the UN with UN human rights body reporting that "soldiers committed mass killings and gang rapes in a calculated policy of terror" (Bangkok Post 2017). There has been consistent reporting by the UN Special Rapporteur which details at length the systematic human rights violations and lack of government response which is getting increasingly strong and vocal (Bangkok Post 2017, UNGA 2016, UN 2017a, 2017b). In an uncharacteristic break with tradition, norms and ASEAN diplomacy Malaysia's PM Najib Razak condemned Myanmar's actions against the Rohingya and even went so far as to accuse Myanmar of engaging in genocide, threatening regional stability and calling for a review of Myanmar's ASEAN membership (Channel News Asia 2016, Jozuka and Maung 2016, The Nation 2016). While this is modest in comparison to the suffering of the Rohingya people it is encouraging that an ASEAN member state has breached the diplomatic impunity and organizational cover which Myanmar has been using to oppress the Rohingya and systematically engage in gross human rights violations.

References

Acharya, Amitav. "Ideas, Identity, and Institution-building: From the 'ASEAN Way' to the 'Asia-Pacific Way'?" *Pacific Review* 10, no. 3 (1997): 319-46.

Acharya, Amitav. *Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order*. 1st ed. London: Routledge, 2001.

Acharya, Amitav. "Do Norms and Identity Matter? Community and Power in Southeast Asia's Regional Order." *Pacific Review* 18, no. 1 (2005): 95-118.

Adikari, Dinith. "Is Ma Ba Tha Really in decline?" *New Mandala*. January 11, 2017. www.newmandala.org/ma-ba-tha-really-decline/ (accessed June 25, 2017).

Adjami, M., and J. Harrington. "The Scope and Content of Article 15 of the Universal Declaration of Human Rights." *Refugee Survey Quarterly* 27, no. 3 (2008): 93-109.

Albert, Eleanor. "The Rohingya Migrant Crisis." The Council on Foreign Relations. January 12, 2017. www.cfr.org/backgrounder/rohingya-migrant-crisis (accessed June 20, 2017).

Al-Jazeera. (2017). "UN's Yanghee Lee Denied Access to Rohingya Villages." Myanmar News | Al Jazeera. January 15, 2017. www.aljazeera.com/news/2017/01/yanghee-lee-denied-access-rohingya-villages-170115074431631.html (accessed February 07, 2017).

Amnesty International. "Myanmar: Scrap 'Race and Religion Laws' that Could Fuel Discrimination and Violence." Amnesty International. March 3, 2015. www.amnesty.org/en/latest/news/2015/03/myanmar-race-and-religion-laws/ (accessed June 25, 2017).

ASEAN. *Treaty of Amity and Cooperation in Southeast Asia*. Jakarta. 1976.

ASEAN. *The ASEAN Charter*. Jakarta. 2007.

ASEAN. *ASEAN Political-Security Community Blueprint*. Jakarta. 2009a.

ASEAN. *Terms of Reference of ASEAN Intergovernmental Commission on Human Rights (AICHR)*. Jakarta. 2009b.

Asia News "Ultrationalist Ma Ba Tha Movement Banned for Spreading Ethnic-religious Hatred." Asia News. June 27, 2017. <http://m.asianews.it/news-en/Ultrationalist-Ma-Ba-Tha-movement-banned-for-spreading-ethnic-religious-hatred-40857.html> (accessed June 25, 2017).

Ba, Alice D. 'Regionalism's Multiple Negotiations: ASEAN in East Asia.' *Cambridge Review of International Affairs* 22, no. 3 (2009): 345-67.

Barry, Ellen. "'There Are No Homes Left': Rohingya Tell of Rape, Fire and Death in Myanmar." *New York Times*, January 10, 2017.

Bangkok Post. "Thai Treatment of Rohingya Highlighted." *Bangkok Post*, May 1, 2014.

Bangkok Post. "Myanmar 'in Denial' Over Rohingya Crimes." *Bangkok Post*, February 7, 2014.

BBC. "Why is There Communal Violence in Myanmar?" BBC News. July 03, 2014. (www.bbc.com/news/world-asia-18395788 accessed February 07, 2017).

Burma Campaign UK. (2013). *Burma Briefing: Examples of Anti-Muslim Propaganda*. No. 21, March 2013.

Burma Citizenship Law. (1982). Rangoon.

Caster, Michael. "The Truth About Myanmar's New Discriminatory Laws." *The Diplomat*. August 26, 2015. <http://thediplomat.com/2015/08/the-truth-about-myanmars-new-discriminatory-laws/> (accessed June 25, 2017).

Channel NewsAsia. "Malaysia PM Opens Thorny Debate in Accusing Myanmar of Genocide." Channel NewsAsia. www.channelnewsasia.com/news/asiapacific/malaysia-pm-opens-thorny-debate-in-accusing-myanmar-of-genocide/3355028.html (accessed February 07, 2017).

Community Organizing and Rights Education. (2012). *Excluded: Ethnic Nationalities on the Margins of Democracy & Development*. Thailand.

Constitution of the Republic of the Union of Myanmar. (2008). Ministry of Information. Naypyidaw.

DVB. "Gov't Will Not Recognise Rohingya: Thein Sein." DVB Multimedia Group. July 12, 2012. www.dvb.no/news/gov%E2%80%99t-will-not-recognise-rohingya-thein-sein/22875 (accessed August 2, 2014).

Farzana, Kazi Fahmida. "Boundaries in Shaping the Rohingya Identity and the Shifting Context of Borderland Politics." *Studies in Ethnicity and Nationalism* 15, no. 2 (2015): 292-314.

Fink, Christina. *Living Silence: Burma Under Military Rule*. Bangkok: White Lotus, 2001.

Fortify Rights. "Policies of Persecution: Ending Abusive State Policies Against Rohingya Muslims in Myanmar." www.fortifyrights.org/downloads/Policies_of_Persecution_Feb_25_Fortify_Rights.pdf (accessed August 2, 2014).

Fortify Rights. "Supporting Human Rights in Myanmar: Why the U.S. Should Maintain Existing Sanctions Authority." May 2016. www.fortifyrights.org/downloads/Fortify_Rights_and_UEG_Supporting_Human_Rights_in_Myanmar_May%202016.pdf (accessed June 16, 2017).

Galtung, Johan. "Cultural Violence." *Journal of Peace Research* 27, no. 3 (1990): 291-305.

Galtung, Johan. *Peace by Peaceful Means: Peace and Conflict, Development and Civilization*. London: Sage, 1996.

Gowen, Annie. "Aung San Suu Kyi Defends Herself Against Claims She's Ignored Rohingya Muslim Persecution." *Independent*. October 21 2016. www.independent.co.uk/news/world/asia/aung-san-suu-kyi-rohingya-muslims-burma-humanitarian-crisis-a7371626.html (accessed February 07, 2017).

Graf, Wilfried, Gudrun Kramer, and Augustin Nicolescu. 2007. "Counselling and Training for Conflict Transformation and Peace-Building The TRANSCEND Approach." In *Handbook of Peace and Conflict Studies*, 1st ed., 123-142. New York: Routledge.

Green, Penny. "Islamophobia: Burma's Racist Fault-line." *Race & Class* 55, no. 2 (2013): 93-98.

Hudson-Rodd, Nancy. "Rohingya: Denied the Right to be Human." *New Mandala*. June 15, 2014. <http://asiapacific.anu.edu.au/newmandala/2014/06/15/rohingya-denied-the-right-to-be-human/> (accessed June 20, 2017).

Human Rights Watch. "Burma: Revoke 'Two-Child Policy' For Rohingya." Human Rights Watch. May 30, 2013. www.hrw.org/news/2013/05/28/burma-revoke-two-child-policy-rohingya (accessed February 07, 2017).

Human Rights Watch. "Burma: Massive Destruction in Rohingya Villages." Human Rights Watch. November 15, 2016. www.hrw.org/news/2016/11/13/burma-massive-destruction-rohingya-villages (accessed February 07, 2017).

India, Press Trust of. "Bangladesh Prohibits Marriage with Myanmar's Muslim Rohingyas." The Indian Express. July 11, 2014. <http://indianexpress.com/article/world/asia/bangladesh-prohibits-marriage-with-myanmars-muslim-rohingyas/> (accessed February 07, 2017).

International Crisis Group. "Myanmar: The Politics of Rakhine State." Report No. 261. October 22, 2014. www.crisisgroup.org/asia/south-east-asia/myanmar/myanmar-politics-rakhine-state (accessed June 17, 2017).

Jozuka, E., & Maung, M. "Malaysia: Myanmar's Rohingya Crisis a Threat to Regional Stability." CNN. <http://edition.cnn.com/2016/12/19/asia/rohingya-crisis-myanmar-asean-amnesty> (accessed February 07, 2017).

Kymlicka, Will. *Politics in the Vernacular: Nationalism, Multiculturalism, and Citizenship*. Oxford, UK: Oxford University Press, 2011.

Lewa, Chris. "North Arakan: An Open Prison for the Rohingya in Burma." *Forced Migration Review* 32 (2009): 11-14.

Malanczuk, Peter. *Akehurst: Akehurst's Modern Introduction to International Law*. London: Routledge, 1997.

Minority Rights Group International. (2008). "World Directory of Minorities and Indigenous Peoples - Myanmar/Burma: Muslims and Rohingya." www.refworld.org/docid/49749cdcc.html (accessed August 4, 2014).

Min, Aung Kyaw, and Lun Min Mang. "State Sangha disowns Committee for the Protection of Nationality and Religion." Myanmar Times. July 13, 2016. www.mmtimes.com/index.php/national-news/21344-state-sangha-disowns-committee-for-the-protection-of-nationality-and-religion.html (accessed June 25, 2017).

Narine, Shaun. "ASEAN and the ARF: The Limits of the 'ASEAN Way.'" *Asian Survey* 37, no. 10 (1997): 961-78.

Narine, Shaun. "ASEAN into the twenty-first century: Problems and prospects." *Pacific Review* 12, no. 3 (1999): 357-80.

Paddock, Richard C. "Aung San Suu Kyi Asks U.S. Not to Refer to 'Rohingya.'" New York Times. May 6, 2016. www.nytimes.com/2016/05/07/world/asia/myanmar-rohingya-aung-san-suu-kyi.html (accessed June 19, 2017).

Palatino, Mong. "Myanmar's Radical Buddhist Group Gets Rebuked." The Diplomat. July 20, 2016. <http://thediplomat.com/2016/07/myanmars-radical-buddhist-group-gets-rebuked/> (accessed June 25, 2017).

Peng, Darwin. "Understanding Aung San Suu Kyi's Silence on the Rohingya." *Harvard Political Review*, February 21, 2017. <http://harvardpolitics.com/world/understanding-aung-san-suu-kyis-silence-rohingya/> (accessed June 19, 2017).

Petcharamesree, Sriprapha. *ASEAN Socio-Cultural Community-ASCC*. Remarks at ASEAN Community: Challenges, Problems and Prospects. Thammasat University, Bangkok. February 22, 2013.

Radio Free Asia. "Marriage an Uncertain Path to Citizenship for Rohingya Refugees in Bangladesh." *Radio Free Asia*. January 27, 2017. www.rfa.org/english/news/myanmar/rohingya-marriage-01272017085033.html (accessed June 25, 2017).

Radio Free Asia. "Myanmar's Ma Ba Tha Nationalists Slam Government Over Wirathu Speech Ban." *Radio Free Asia*. March 13, 2017. www.rfa.org/english/news/.../mabatha-03132017174632.html. (accessed June 25, 2017).

Rahman, Shameema, and Wendy Zeldin. "Global Legal Monitor." Library of Congress, September 14, 2015. www.loc.gov/law/foreign-news/article/burma-four-race-and-religion-protection-laws-adopted/ (accessed June 25, 2017).

Raymond, Russell. "Myanmar's Muslim Minority: The Plight of the Rohingya." *Freedom House*. September 8, 2015. <https://freedomhouse.org/blog/myanmar-s-muslim-minority-plight-rohingya> (accessed June 17, 2017).

Raz, Joseph. "Multiculturalism: A Liberal Perspective." *Dissent*. Winter, (1994): 67-79.

Reuters. *Trafficking Abuse of Myanmar Rohingya Spreads to Malaysia*. March 6, 2014. UK.

Saul, H. (2016). "Aung San Suu Kyi Made Angry 'Muslim' Comment after Tense Exchange with BBC Presenter Mishal Husain, it is Claimed." *The Independent*. www.independent.co.uk/news/people/aung-san-suu-kyi-reportedly-said-no-one-told-me-i-was-going-to-be-interviewed-by-a-muslim-after-a6951941.html (accessed February 07, 2017).

Schober, Juliane. "Buddhism, Violence, And The State in Burma (Myanmar) And Sri Lanka." In *Religion and Conflict In South And Southeast Asia: Disrupting Violence*, 2007, 51-69. New York: Routledge.

Sebastian, Leonard C. and Irman G. Lanti. "Perceiving Indonesian Approaches to International Relations Theory." In *Non-Western International Relations Theory: Perspectives On And Beyond Asia*, New York: Routledge, 2010.

Sherwell, Philip. "Burma's Radical Monks Pray for Holy Intervention in Historic Election." *The Telegraph*. www.telegraph.co.uk/news/worldnews/asia/burmamyanmar/11910768/Burmas-radical-monks-pray-for-holy-intervention-in-historic-election.html (Accessed February 07, 2017).

The Arakan Project. "Issues to be Raised Concerning the Situation of Stateless Rohingya Children in Myanmar (Burma)." www.oxfordburmaalliance.org/uploads/9/1/8/4/9184764/arakan_project_report_2012.pdf (accessed August 2, 2014).

The Carter Center. "Preliminary Findings of The Carter Center Expert Mission to Myanmar December 2014 – February 2015." The Carter Center. www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/myanmar%20-033015-en.pdf (accessed June 17, 2017).

The Guardian. "Aung San Suu Kyi tells UN that the term 'Rohingya' will be avoided." The Guardian. June 20, 2016. www.theguardian.com/world/2016/jun/21/aung-san-suu-kyi-tells-un-that-the-term-rohingya-will-be-avoided (accessed February 07, 2017).

The Nation. "Review Myanmar's Asean membership, urges Malaysia minister." The Nation. November 30, 2016. www.nationmultimedia.com/news/breakingnews/30301146 (accessed February 07, 2017).

The Republic of the Union of Myanmar. Ministry of Immigration and Population. Rakhine State Census Report. Nay Pyi Taw: Ministry of Immigration and Population, 2015.

Ullah, A. K. M. Ahsan. "Rohingya Crisis in Myanmar Seeking Justice for the 'Stateless.'" *Journal of Contemporary Criminal Justice* 32, no. 3, 285-301.

UN. *Convention Relating to the Status of Stateless Persons*. New York. 1954.

UN. *Convention on the Reduction of Statelessness*. New York. 1961.

UN. *Convention on the Elimination of All Forms of Discrimination Against Women*. New York. 1979.

UN. *Convention on the Rights of the Child*. New York. 1984.

UN. "Myanmar: UN Rights Expert Condemns Killing of Prominent Muslim Lawyer." UN News Center. January 30, 2017. www.un.org/apps/news/story.asp?NewsID=56067#.WJmEjNJ96Co (accessed February 07, 2017).

UN. "UN Report Details 'Devastating Cruelty' Against Rohingya Population in Myanmar's Rakhine Province." UN News Center. February 03, 2017. www.un.org/apps/news/story.asp?NewsID=56103#.WJmFidJ96Co (accessed February 07, 2017).

UN Economic and Social Council. *Report on the Situation of Human Rights in Myanmar, Prepared by Mr. Yozo Yokota, Special Rapporteur on the Commission on Human Rights, in Accordance with Commission Resolution 1995/72*. E/CN.4/1996/65. 1996.

UN High Commissioner for Refugees. *Guidelines on Statelessness No. 1: The Definition of "Stateless Person" in Article 1(1) of the 1954 Convention Relating to the Status of Stateless Persons*. HCR/GS/12/01. 1954

UN Human Rights Council. *Situation of Human Rights of Rohingya Muslims and Other Minorities in Myanmar*. A/HRC/32/18. 2016.

Wigneswaran, Thulasi. "Managing a Declining Threat." New Mandala. December 6, 2016. www.newmandala.org/managing-declining-threat/ (accessed June 17, 2017).

Win, Ye. The Rise of Anti-Muslim Hate Speech Shortly Before the Outbreaks of Mass Violence Against Muslims in Myanmar. *International Conference on Burma/Myanmar Studies*. Chiang Mai, Thailand. 2015.

Zaw, Hnin Yadana. "Myanmar's President Signs Off on Law Seen as Targeting Muslims." Reuters. August 31, 2015. www.reuters.com/article/us-myanmar-politics-idUSKCN0R011W20150831 (accessed June 25, 2017).

Zawacki, Benjamin. "Defining Myanmar's "Rohingya Problem." *Human Rights Brief* 20, no. 3, (2013): 18-25.