

## **Daw Aung San Suu Kyi and Her Struggle for Democracy at The Hague**

It is all too frequently, but quite erroneously alleged in the West that Daw Aung San Suu Kyi travelled to the International Court of Justice in The Hague in December 2019 in order to defend the Myanmar military, known as the Tatmadaw, against charges of genocide against the Arakan Muslim minority who wish to be known as “Rohingya”, **although the name has been used internationally only since their second exodus in 1991-92.**

Indeed, a close analysis of **her address to the Court on 11 December 2019** reveals basic elements of her policy and objectives which are anathema to the Tatmadaw and which are likely to have irritated them intensely, adding to their determination to remove her from power as soon as there was a convenient excuse. This they found in the allegedly fraudulent conduct of the elections held on 8 November 2020, **though their allegations of election fraud have been dismissed as both ridiculous and baseless by the overwhelming majority of independent observers.**

A major criticism of the Tatmadaw is her reference in paragraph 24 of her address to the challenges of cooperation between the Tatmadaw and the civilian government in Myanmar “in the context of a Constitution that needs to be amended to complete the process of democratization.” It is well known that the military had, during the years since the Constitution was approved in 2008, been adamantly opposed to any changes of substance of the kind proposed by the National League for Democracy. Daw Suu dared to challenge the military on this at The Hague. One important aspect of essential constitutional change is her reference in paragraph 35 to the building of “the Democratic Federal Union for which our people have aspired for generations”. Though the junta toys with the concept of “a Union based on federal and democratic systems” (National Objectives of the 77<sup>th</sup> Union Day 2024), on no occasion have they suggested that Constitution needs amendment for this to be achieved.

Another pointed criticism of the Tatmadaw at The Hague was the regret expressed in paragraph 21 that four officers and three soldiers sentenced to ten years’ imprisonment for their role in the massacre of ten Muslims in the village of Inn Din were pardoned after only a short period of detention. “Many of us in Myanmar were unhappy with this pardon.” This was as far as she dared to go in criticising the Tatmadaw, though she was also able in this way to emphasize the civilian government’s powerlessness to intervene in the military justice system which she describes in Paragraph 17.

The several references throughout her address to the need for an investigation of Tatmadaw responsibility for “the disregard of international humanitarian law” (paragraph 15), “human

rights violations” (paragraph 23), and “war crimes” (paragraph 28) were unwelcome to the Tatmadaw who have long denied any responsibility in this context. But the civilian government had control over the presentation to the Court and they used the opportunity to highlight the fraught military-civilian diarchy which existed in Myanmar and over which the civilian government had only marginal control as regards military actions and policies.

We should finally note the compassion which Daw Suu showed “for the sufferings of many innocent people whose lives were torn apart as a consequence of the armed conflicts of 2016 and 2017, in particular those who have had to flee their homes and are now living in Cox’s Bazar” (paragraph 4).

The peoples of Myanmar are well used to reading between the lines of official pronouncements and well understood the narrow space for manoeuvre available to Daw Suu in presenting Myanmar’s case without unduly disconcerting the Tatmadaw. At all events, by no means can it be said that Daw Suu’s presentation was an apologia for Tatmadaw breaches of international humanitarian law, which she all but acknowledged, though not on the particular issue of genocide.

In short, she used the occasion of her speech at The Hague to highlight her democratic aspirations, her problems in coexisting with the Tatmadaw and the complexity of Rakhine State, its several peoples and convoluted history. Her subsequent article about [the findings of the International Commission of Enquiry \(ICOE\)](#) printed in [the Financial Times on 23 January 2020](#) complemented and completed her statement at the Court on 11 December 2019:

“I stated at the ICJ that there would be domestic investigations and prosecutions if the ICOE presented further evidence of violations in Rakhine. The ICOE has done that, concluding that war crimes were committed during the internal armed conflict with the Arakan Rohingya Salvation Army by members of Myanmar’s security forces and civilians. The report details killing of civilians, disproportionate use of force, looting of property, and destruction of abandoned homes of Muslims. The ICOE found no evidence of genocide.”

**Derek Tonkin**

09 February 2024