

**A BRIEF AND INDEPENDENT INQUIRY INTO THE INVOLVEMENT OF THE
UNITED NATIONS IN MYANMAR FROM 2010 TO 2018**

Gert Rosenthal

29 MAY, 2019

Table of Contents

1. Introduction.....	1
2. The Context: Myanmar.....	2
2.1. Basic facts	2
2.2. Recent contradictory trends	3
2.3. The tragedy of Rakhine State.....	5
3. The UN presence in Myanmar	7
3.1 UN presence in the past.....	7
3.2 UN presence since 2008.....	8
4. The systemic and structural tensions and their dynamics.....	8
4.1 The root causes.....	8
4.2 The case of Myanmar.....	11
4.2.1 Interactions with the host Government.....	12
4.2.2 The dynamics of division rather than cohesion within the UN System.....	12
4.2.3 Interactions with the rest of the international community.....	15
5. The foundations of systemic and structural shortcomings in the UN's presence in Myanmar	15
5.1 Insufficient inter-governmental support	15
5.2 The absence of a clear and unifying strategy.....	17
5.3 The weakness of a clear nodal point for coordination.....	19
5.4 Dysfunctional actions at the level of the Country Team.....	19
5.5 Shortcomings of systematic and unified analysis from the field.....	20
6. Conclusions and Recommendations.....	21
End Notes.....	26
Annex.....	32

A BRIEF AND INDEPENDENT INQUIRY INTO THE INVOLVEMENT OF THE UNITED NATIONS IN MYANMAR FROM 2010 TO 2018

1. Introduction

When examining Myanmar for the first time, the novice is moved to recall Winston Churchill's emblematic metaphor, applied to Russia in 1939, as "a riddle, wrapped in a mystery, inside an enigma." Indeed, even veteran observers of Myanmar (formerly Burma, and since 2008 the Republic of the Union of Myanmar) attest to the multiple layers of complexity that characterize it.

And the consultant is, indeed, a novice on Myanmar; his still superficial understanding is derived from readings and secondary sources, rather than from any first-hand experience. But when asked to "conduct a comprehensive, independent inquiry into the involvement of the United Nations in Myanmar since 2011..."¹ he was advised that his lack of specific knowledge or presence in the country might be construed as an asset, given the importance that was assigned by the Secretary-General to an **impartial** and independent review on the other side of the equation: the performance of the United Nations in a specific instance which had given rise to conflicting demands upon the UN in carrying out its own responsibilities while at the same time supporting a host member state, leading to some major policy controversies – between the host country and the UN, and, more importantly for this review, within the UN System. He was informed that understanding the nature of those controversies, and the dynamics behind them might contribute to avoiding similar circumstances in the future.

It should be noted at the outset that this exercise is being compared by many knowledgeable people in the United Nations and the Human Rights community to the iconic internal review carried out in 2012 on the United Nations' actions in Sri Lanka by a panel under the leadership of Charles Petrie.² In fact, there are many commonalities to events that triggered the Organization's actions in Sri Lanka from 2007 to 2009 with those observed in Myanmar from 2010 to 2018, as well as to the manner in which different parts of the UN System responded to those events. However, the terms of reference for the present review, undertaken by a single independent outside consultant rather than a panel, and based solely on a desktop assessment, necessarily involve a narrower and less ambitious scope than the aforementioned undertaking, which focused on matters of accountability, especially during the final stages of the war in Sri Lanka, as well as on the lessons to be learned from what the panel described as "systemic failures" on the part of the United Nations in its foundational mandate to protect human rights.

The present review also explores the structural and systemic factors that, notwithstanding the lessons learned in previous cases – notably, in Sri Lanka – appear to have been repeated in Myanmar, despite the adoption in 2014 of the "Human Rights Up Front" initiative, designed precisely to avoid the repetition of the Sri Lankan experience.³ These factors include the overriding issue of accountability, in terms of the United Nations actions – or inactions – regarding the nature and scope of violations of international humanitarian and human rights law that occurred (and continue to occur) in Myanmar. While the brunt of the responsibility rests squarely on the Government of Myanmar, the question persists whether the United Nations could not have done more to avoid or mitigate the horrific events that progressively occurred between 2012 and 2017 (and are still ongoing), especially in Rakhine State. On the other hand, the consultant was not asked to evaluate the conduct of entities or individuals in the mode of personal or institutional accountability, a matter best left to the internal mechanisms of the Secretariat.

More broadly, while this review perhaps does not entirely do justice to the “comprehensive” part of the recommendation contained in the Report of the independent international fact-finding mission on Myanmar, it is intended to shed additional light on why the solemn collective commitment of the United Nations to “never again” tolerate mass atrocities after the last one took place, sadly is followed sooner or later by a new mass atrocity somewhere else in the world. The short answer (the real world is more nuanced, of course) is that in addition to the limits that the Charter imposes on the Organization in its relation with individual sovereign member states, those failures do indeed stem from systemic and structural obstacles to greater coherence on the part of the UN System in carrying out its very broad and multifaceted mandates, and those systemic and structural obstacles are precisely the ones that need to be overcome or at least mitigated. In that respect, the case of Myanmar brings out more starkly than many others the nature and scope of those obstacles, as well as the dynamics behind them. The analysis suggests, once more, how such obstacles should be addressed in the future.

This review is organized in six sections. These are: first, this introduction; second, some basic characteristics of Myanmar to offer some context; third, the key characteristics of the United Nations presence in the country; fourth, the dynamics of the systemic and structural tensions observed; fifth, the main elements of those systemic and structural shortcomings that came into play in Myanmar; and, sixth, some conclusions and recommendations on how to deal with this type of situation in the future.

Finally, the consultant wishes to thank the numerous interlocutors who generously shared their insights, which, together with the briefings, writings and documents provided by specialists on Myanmar, constituted the foundations of this review (see the attached Annex to the report).

2. The context: Myanmar

2.1 Basic facts

There is abundant literature available about the many facets of Myanmar.⁴ Only a very few aspects are highlighted here, inasmuch as they offer the context for the engagement of the United Nations with the evolving realities of the country since 2008. These are the realities that offer a new case study of some of the systemic and structural failings of the United Nations System, especially in the context of country-specific circumstances that, in this instance, tested to the limit the Organization’s capacity to react in a timelier and more coherent fashion to events taking place on the ground.

Myanmar had a population of some 54 million people in 2019, with a prolonged and conflictive colonial heritage from 1824 (British Burma) to 1948 (Independence), a strongly repressive and inward-looking military rule between 1962 and 2010, a rich and proud cultural tradition, and a population divided into some 135 recognized ethnic groups (classified under eight major national ethnic races, dominated by the Bamar, which comprise around two thirds of the population). The country has experienced long-standing internal conflicts driven by ethnic and geographical disputes, greatly complicated by 21 groups of armed ethnic minorities seeking to achieve greater autonomy and equality from the Union, all of which has led to one of the longest-running civil wars on the planet. This, in turn, offers a rationalization for the central role that the Tatmadaw, Myanmar’s army, has played since 1962, extending to the political arena (and arguably with high opportunity costs for the economic arena).⁵ One of the main issues at the center of political and ethnic strife revolves around the Muslim minorities, and particularly the Rohingya community, as expanded on below (section 2.3).

Indeed, bringing Myanmar's disparate groups under a common national vision is one of the major challenges the country faces. And to address the challenge, Myanmar is limited not only by internal divisions and inter-communal conflicts, but also by a high incidence of poverty: one third of the population lives below the poverty line (78% does so in Rakhine State), and almost two thirds depend on subsistence farming or fishing for its livelihood,⁶ while the country ranks 148 out of 189 countries contained in the UNDP's Human Development Index.⁷ In addition, due to its geographical location, Myanmar is susceptible to frequent natural disasters; in May of 2008 it was struck by Cyclone Nargis, devastating the Ayeyarwady Delta region, with an estimated 150,000 people killed and well over 2 million affected. Again, in July of 2015, great damage was caused by Cyclone Komen, which caused floods and landslides across 12 of the country's 14 states and regions. Finally, events in Myanmar are also strongly influenced by its immediate neighbors, including of course India and especially China.

2.2 Recent contradictory trends

Since around 2010, two contradictory tendencies added complexity to the analysis of events in Myanmar and to an understanding of the changing dynamics behind the country's engagement with the international community writ large, and the United Nations more specifically. The first tendency, which must be assessed as a positive trend, was launched by the army in 2008 with a view to holding a Constitutional Referendum as a first step towards a carefully controlled political process, seeking greater individual and civil liberties, an end to the internal sub-national and ethnic conflicts under the umbrella of national conciliation, and a gradual liberalization of the economy as well as a measured opening to international commercial and financial flows.⁸ As a result, a political process and an accompanying peace process were launched.

Regarding the political process, elections were held in 2010. In what many observers described as a flawed process, the disputed results gave a majority in the national parliament to the military-backed *Union Solidarity and Development Party* (USDP), but they also facilitated the release of pro-democracy leader Aung San Suu Kyi from house arrest. This, in turn, led to her *National League for Democracy* (NLD) Party winning 43 of the 45 available seats in the 2012 by-elections. Retired General U Thein Sein became President from March 2011 to 2016 in what has been described as a "quasi-civilian government," and was able to head a difficult transition that led to the parliamentary elections of 2015, where Aung San Suu Kyi's party obtained the majority of seats in both chambers. This opened the door to her subsequent designation in 2016 as the de facto leader (designated as the "State Councillor")⁹ of the civilian part of what in essence is a binary Government, in which the army still maintained effective control of the main levels of power, but which at least permitted a continuous interaction between the two parts of the Government, with each permanently testing the limits of the other's fluctuating positions. The most recent example of this "jockeying for space" can be found in the announcement made at the time of writing this review that the State Councillor and her party were launching an initiative to modify the 2008 Constitution, seeking, among other aspects, to improve the leverage of the civilian part of this binary system of governance. In short, the overall transition from a strongly authoritarian military-led Government to the prospect of a more democratic, albeit imperfect and constrained civilian leadership under Aung San Suu Kyi, changed the political landscape virtually overnight.

At the heart of this rapid change of perception on the part of the international community was the reputation of Aung San Suu Kyi, regarded by most of the population and important external players as a symbol of nonviolent resistance after many years under house arrest, which earned her the 1991 Nobel Peace Prize. Her standing only increased after her party's electoral triumphs in the 2012 by-

election for Parliament, and the lead-up to the 2015 elections. International sanctions were progressively dismantled, together with increasing recognition, to the point that the country moved in a time-span of two years from being perceived as an international pariah to being viewed as an emerging beacon of hope.¹⁰ In consequence, Aung San Suu Kyi presented herself, at least in Western circles – and perhaps unrealistically – as an icon of human rights and democracy, worthy of all the support she could garner. A rather striking example of the rapid transit from isolation to international recognition was the inclusion of Myanmar in US President Barak Obama's trip to Asia in November of 2012, where, while not endorsing the sitting government, he acknowledged that a hopeful process was underway which deserved international recognition. More importantly, he returned two years later to participate in the East Asia Summit held in Nay Pyi Taw and met with Aung San Suu Kyi.¹¹

As to the peace process, which gained traction from the political process, an initiative to negotiate a lasting peace with the disparate armed groups was launched in late 2011, and by 2012 a ceasefire agreement was signed with the Karen National Union after more than 60 years of civil war. But while several ceasefire agreements with other groups followed, the pre-existing 1994 truce with the Kachin Independence Organization in Kachin state broke down and the conflict resulted in several thousand deaths and more than 100,000 displaced persons. Tensions also flared in other areas in the North of Myanmar. In late 2013 the Nationwide Ceasefire Coordination Team was formed, and a Nationwide Ceasefire Agreement (NCA) was drawn up, merging into a single text the proposed implementation and monitoring of ceasefires, as well as a road map for the peace process. Up to the present, 10 of the 21 ethnic armed groups identified at the time have signed,¹² although some of the most numerous groups are among those that have not done so.

Added to these mostly positive trends were the tangible benefits of moving towards a more open, market-oriented economy. There was a rapid influx of foreign investment, an important expansion in infrastructure (the biggest novelty was the access to mobile telephones at affordable pricing) and increasing numbers of white-collar and blue-collar jobs.¹³ But for all these positive tendencies with their ups and downs over time, the pre-existing tensions persisted. First, the pervasive authoritarian culture that defines the Tatmadaw continued to shape much of public policy, especially as related to security and sovereignty issues, but extending to continuous and arbitrary violations of civic and political rights.¹⁴ Second, and as noted, the Nationwide Ceasefire Agreement continued to be "a work in progress," without leading to the desired goal of putting an end to the civil war. Many of the armed groups continue to provoke periodic attacks, even up to the time of concluding this review. And, third and most importantly, the long-festering discriminatory treatment accorded for decades to various minority populations, but most especially to the Muslim Rohingya, which during the period covered by this review escalated into periodic crises – with spikes in every year between 2012 and 2016, and especially in August of 2017 – to the point where this pattern seriously undermined progress in all other spheres, and particularly in the political and peace processes. It also had the indirect effect of increasingly calling into doubt the personal standing of Aung San Suu Kyi, if not domestically certainly among important sectors of the international community, including the mainstream media.¹⁵

In fact, although the Rohingya crisis affected a relatively small percentage of Myanmar's population (estimated at approximately 1.4 million people in 2014) and a limited geographical area (Rakhine State), the sheer scale and brutality of human rights violations inflicted on this minority immediately mobilized international attention, monopolizing media coverage of the events taking place in Rakhine State in the over-all reporting concerning Myanmar, especially in Western societies. This, even though events in Rakhine state were not limited to the plight of the Rohingya: the communal dimension was further complicated by long-standing grievances of the "Arakan" or Rakhine Buddhists

towards the Bamar majority and the central government, while conflicts also persisted in other states such as Shan and Kachin.

2.3 The tragedy of Rakhine State

The origin of the Rohingya community has deep historical roots in both Myanmar – mostly in the Rakhine State (Center, South and especially North), where they made up roughly a third of the population – and in neighboring Bangladesh. The vast majority are Muslims (a smattering is Hindu), living in a country where almost 90% of the inhabitants are Buddhist. The latter perceive the Rohingya as illegal and unwelcome foreigners – they call them “Bengalis” and reject using the term “Rohingya” to deny them their ethnic heritage and their collective identity – despite the latter being able to trace their presence in Myanmar back several centuries. Even worse, in direct contravention of international human rights law, the Rohingya are denied citizenship under the 1982 Myanmar nationality law, rendering them stateless since then.¹⁶ In addition, the Rohingya were and continue to be restricted from freedom of movement and access to social services, such as education and health care, and, in most cases, productive employment. They are even required to obtain permission for marriage. They have been totally disenfranchised from the 2015 elections; in fact, they were not allowed to self-identify themselves in the controversial 2014 census, being virtually excluded from same.¹⁷

Moreover, these measures appear to be politically popular among the greater part of Myanmar’s population, given the strongly anti-Muslim sentiment ingrained among the Buddhist majority, only enhanced by incitement by nationalistic hard-liner elements, including extreme Buddhist clerics.¹⁸ For example, well before the 2015 elections, hardliner Buddhist organizations like the Ma Ba Tha were publicly inciting against Muslim minorities without being limited in any sense by the authorities. Controversial legislation such as the four laws known collectively as the “Race and Religious Protection Laws” were adopted by Parliament and signed by President Sein even after the elections took place.¹⁹ Not only is there scant willingness on the part of the Government to be supportive of Muslim rights (not even of the Rakhine Muslims who are considered as citizens, not to mention the stateless Rohingya Muslims), but there is no political incentive to do so; rather, the contrary is the case.

Another dimension of the Rohingya plight is related to tensions developed over the year with the Rakhine Buddhists. Historically, the presence of the Rohingya among their Rakhine neighbors, Muslim and Buddhist alike, oscillated between periods of relatively peaceful (but tense) co-habitation in their hostile environment – such instances persist in some areas to the present – with sporadic episodes of violence, often fueled by hate speech and intimidation targeting the Rohingya. But a first serious episode of intra-communal violence since the new Government took over occurred in June of 2012 between Rohingya Muslims and ethnic Buddhist Rakhines, preceded by several weeks of sectarian incidents. This led to the destruction of villages, numerous dead and wounded, and the internal displacement of up to 140,000 people, mostly confined to IDP camps, which persist to the present (and under the most deplorable conditions). These events, apparently triggered by the assault of a Buddhist woman by a Muslim man, were followed by what is perceived by most observers as a disproportionate response by the military.²⁰ Since then, it has also become difficult to distinguish purely inter-communal conflicts such as the one that occurred in 2012 from pre-meditated assaults on the Rohingya by the Myanmar military, who occasionally used the argument of the former to pursue further isolation of the “Bengalis.”

The evolving situation led to an upward trend in migrations to countries as diverse as Saudi Arabia and United Arab Emirates, and increasing migrations by sea to Malaysia, Thailand and Indonesia.

These include the well-publicized plight of the “boat people” in 2015, as a result of irregular migration flows of Rohingya from Rakhine State to neighboring countries in barely seaworthy boats facilitated by trafficking and smuggling networks. It is estimated that some 130,000 Rohingya and Bangladeshis departed between 2014 and the first half of 2015, many drowning in the attempt, and subjecting themselves to continuous extortions from their smugglers.²¹

Another serious incident occurred in January 2014 in northern Rakhine involving the death of a policeman and what was reported as an army reprisal that led to the massacre of around 40 Rohingya. The Government and some witnesses denied that the massacre had ever taken place, but whether it was 40 or fewer victims, there is enough evidence that there was a violent reprisal for the dead policeman.²² The incident only added fuel to secular friction between Rakhine Muslims and Rakhine Buddhists, accentuated in recent years by the deep-seated perception among Rakhine Muslims that the United Nations favored the Muslim Rohingyas against the rest of the local population. This history of tensions boiled over in March 2014, when an organized group of Rakhine youth targeted the premises of the United Nations and some Non-Governmental Organizations (including *Medicins Sans Frontieres*, which had treated some of the Rohingya casualties from the January incident), causing destruction of property and intimidation of staff, as well as their temporary withdrawal from Rakhine State. Subsequent months gave rise to reports of continuous incidents, including a rising number of sexual violence victims among Rohingya women and girls.²³

On 9 October 2016, a much more serious incident occurred, when members of a small Rohingya insurgent group named the Arakhan Rohingya Salvation Army (ARSA) attacked border guards and security forces, causing the death of security personnel as well as civilians in three affected areas of Northern Rakhine. It was alleged that those groups had support from outside militant religious forces, and there is some evidence to that effect. Be that as it may, the attacks were met by what many observers described as a highly disproportionate response by the Myanmar military, which invoked national security concerns and launched an operation which resulted in over 70 Rohingya deaths and tens of thousands fleeing to Bangladesh.²⁴ Some of the human rights NGO’s subsequently described these events as an ominous prelude of what was to come in August of 2017.²⁵

It is noteworthy that these events were occurring simultaneously with the political process, and increasingly undermining it – actually, taking it as hostage – at least as perceived by Western observers. To address this apparent contradiction, State Counsellor Aung San Suu Kyi decided, with the encouragement of the international community, to establish in September of 2016 an Advisory Commission on Rakhine State, made up of six national personalities and three international experts, with the mandate to propose concrete measures for improving the welfare of all people in Rakhine State, including of course the Muslim minorities. The Kofi Annan Foundation was asked to assist in this endeavor, and Kofi Annan accepted to lead it. In August 2017, the Commission presented its final report, which covered humanitarian and developmental issues, access to basic services, legal questions including citizenship and the assurance of basic rights and security to all people in all communities. The final Report, presented in August of 2017, pointedly noted that “reintegration, not segregation, is the best path to long-term stability and development in Rakhine State,” and concluded with specific sequenced recommendations addressed to the Government of Myanmar.²⁶

The Report was well received by the Government, or at least by its civilian component. Upon its acceptance, State Counsellor Aung San Suu Kyi indicated that it would receive “our full consideration with a view to carrying out the recommendations to the fullest extent, and within the shortest timeframe possible, in line with the situation on the ground,” and she designated a ministerial-led

committee responsible for its implementation. However, it appears that the Myanmar military and powerful nationalists among the Buddhist clergy were openly opposed to the implementation of the Report, and there is considerable speculation that it was not accidental that the events unleashed in Rakhine State on 25 August 2017 coincided, almost to the day, with the planned public announcement of the Report's recommendations.²⁷

As to that fateful day: as serious as the abuse and repression against the Muslim minorities, and especially the Rohingya were in the past, and particularly since 2012,²⁸ they escalated to an unimaginable scale and intensity in the last week of August of 2017, when a group of the Arakan Rohingya Salvation Army (ARSA) attacked three police border posts, mostly in the town of Maungdaw, causing the death of nine border officials. This led to a new major military crackdown, reportedly pre-planned and pre-meditated,²⁹ involving repression and human rights violations, all on a massive scale. While different observers have offered varying interpretations on the detonators of these acts of violence,³⁰ no one denies the heavy hand of the military in dealing with what moved the UN High Commissioner for Human Rights to say that "the situation seems a textbook example of ethnic cleansing."³¹ A fact-finding mission designated by the Human Rights Council went one step further by alluding to "inference of genocidal intent."³² Labeling aside, there is little doubt that horrific mass atrocities aimed at a targeted population occurred, in spite of the Government's denials. Hundreds of Rohingya villages were burned and destroyed (captured in subsequent satellite imaging), there were estimates of some 7000 dead, acts of pillage and rape, and roughly 660,000 Rohingya people felt compelled to leave Myanmar, adding that number to the over 300,000 that had preceded them since 2012, and swelling the Rohingya refugee population in the Cox's Bazar's district in neighboring Bangladesh to around one million people, living in unspeakably dire conditions.³³ It is these events that have seriously undermined the political and peace processes,³⁴ and are at the very center of the dysfunctional presence of the United Nations in Myanmar, as described below.

There are three final relevant points to be made. First, there is an increasing criticism regarding the lack of leadership displayed by Aung San Suu Kyi, as well as her unwillingness to take distance from the military.³⁵ Second, new elections are planned for 2020. So, in addition to all the other factors at play, the political calculations of both the military and the civilian parts of the Government must be considered to understand the dynamics behind decision-making, including the content and scope of interaction with external actors. For example, as stated earlier, there is little public support, at least among the majority Buddhist population, to make any kind of concession to the Rohingya community. And third, the United Nations is certainly not the only external player, and not even the most important one. Magnusson and Pedersen remind us that "contrary to the hopes of some of the early advocates of the good offices, at the time of transition in Myanmar the UN does not seem to have arrived with a head start. In fact, when the door finally opened for peace in Myanmar, it was not the UN that stepped through, but Norway; and when economic reform became a priority, it was the IMF and the World Bank to which both the government and others looked for leadership."³⁶

3. The United Nations presence in Myanmar

3.1 UN presence in the past

The United Nations has had a presence in Myanmar since the 1950's, and even during the darkest days of the military dictatorship the Organization continued to provide some humanitarian assistance, albeit under a restricted mandate from 1993 to 2012, working directly with communities and individuals.³⁷ Myanmar has also been on the agendas of the General Assembly since 1993 and of the

Commission of Human Rights (now the Council of Human Rights) since 1992, originating periodic reports from a succession of special rapporteurs on the situation of human rights in Myanmar and, until 2016, yearly reports from the Secretary General on the implementation of each of the resolutions adopted, usually with little progress to report until the decisions adopted by the military post-2008.³⁸ And, finally, since the early 1990s, there was a discreet good-offices effort on the part of the Organization, through consecutive mediators,³⁹ to assist in bringing an end to the long-festering civil war and to promote democratization.⁴⁰

3.2 The UN presence since 2008

Subsequently, two moments marked an increased presence of the Organization, each due to a different circumstance. The first was the humanitarian assistance provided after the catastrophic damage caused by Cyclone Nargis in 2008, mostly through OCHA and the World Food Program. As a by-product this led to a closer interaction of the UN with the military authorities.⁴¹ The second was the much wider presence of the United Nations System that accompanied the political process launched in 2010 – but accelerated after the 2012 by-elections of Parliament – with a significant increase in development cooperation, which by 2013 led to a fully-fledged country programme.⁴² By 2014, the United Nations country team included 18 agencies. The two tendencies described in the previous section converged and overlapped not only in an expanded presence, but also in a more diversified presence of international actors, public and non-governmental; bilateral and multilateral, including the United Nations. On the other hand, the presence of a Special Adviser to the Secretary-General on Myanmar was abolished in 2016, in recognition of the progress achieved since the 2015 Parliamentary elections.

However, after the events of August 2017, the General Assembly again took up the agenda item on the Situation of Human Rights in Myanmar and adopted an unusually harsh resolution by a vote of 122 in favor, 10 against and 24 abstentions. Both the preambular and the operative paragraphs reflect a maximalist catalogue of demands of the international community; totally laudable and desirable, but at the same time unrealistic in today's domestic environment. It was therefore not surprising that Myanmar's delegate led the other dissenting delegations (Belarus, Cambodia, China, Lao People's Democratic Republic, Philippines, Russian Federation, Syria, Viet Nam and Zimbabwe), by arguing that the text was politically motivated and intended to exert unwarranted political pressure on the country.⁴³ It was this same resolution that requested the Secretary-General to designate a new Special Envoy, raising the dilemma whether the good offices were designed "to offer assistance to the Government of Myanmar" or rather to "address the concerns covered..." in the resolution.⁴⁴

In addition, other parts of the United Nations were invested in Myanmar, in different levels of intensity during the period covered by this review. These include, as developed in more detail below, a limited engagement of the Security Council; a much more robust engagement of the Office of the High Commissioner of Human Rights, and, indeed, of the Human Rights Council; the United Nations Office of the Coordinator for Humanitarian Affairs; a presence of the Special Representatives of the Secretary General on sexual violence and armed conflict, on children and armed conflict,⁴⁵ and on Genocide, as well as the multiple programmes and agencies that comprise the country team.

4. The systemic and structural tensions and their dynamics

4.1 The root causes

At the core of the matter examined in this review is the tension that is generated between the United Nations and those member states that systematically violate their international commitments enshrined in the UN Charter and the Universal Declaration of Human Rights, as well as a growing body of human rights and humanitarian laws and norms, added to the existence of global oversight mechanisms. The United Nations is armed with its moral authority, its values and principles, and its ample range of capabilities, but it has limited political space in countries whose Governments forcefully invoke sovereignty and non-intervention in their internal affairs as a cover for not meeting their commitments to abide by international humanitarian and human rights laws and norms. The conundrum, then, is how the United Nations can maintain some type of constructive engagement with individual member states where human rights abuses are systematically taking place, while at the same time pressing for those states to uphold their international commitments.⁴⁶

In the most egregious situations, the Organization's Secretariat can seek the collective support of its member states, represented in the Security Council, to act decisively to avert even more horrific outcomes, or reverse the carrying out of human rights abuses already committed. But in the absence of the support of the Security Council, which is frequently restrained due to its composition and system of governance, the options of the United Nations to address the challenge in a manner consistent with its values and principles is often rather limited. Limited, but not without alternatives, since even above and beyond binding Security Council resolutions, the United Nations can expand its leverage by partnering with other multilateral institutions, influential bilateral actors, and sometimes even non-governmental entities.

From a conceptual perspective, and exaggerating somewhat just to illustrate the point, historically there have been two basic alternative strategies that have emerged among senior management and staff of the Organization to function in such fraught situations (discarding as an "option" in this type of egregious human-rights violations the third alternative course of action: simply continuing with "business as usual"). The first revolves around exerting the maximum influence that the limited political space allows, in order to mitigate the human suffering being experienced by ordinary citizens through incremental, non-intrusive measures aimed at longer-term improvement in conditions, and to maintain access for the United Nations – albeit sometimes of a limited nature – to pursue continued active engagement with the host Government, including calling it out privately to push for the respect of international humanitarian and human rights legislation. This can be described as the "principled engagement" or the "quiet diplomacy" approach. The second revolves around a more robust advocacy to try and enforce compliance with international obligations, which might include more intrusive measures, such as external pressure through public denunciations of specific violations, punitive sanctions adopted by bilateral actors, and in general blandishing the prospect of lessening the country's access to international markets, finance, direct investment and tourism. This is described as "outspoken advocacy."

Neither of these two strategies can be characterized as "right" or "wrong;" exponents of each tend to have in common their full commitment to the moral values and principles of the United Nations, but at the same time they hold the firm conviction that their approach is the best tactical course of action to deal with what everyone readily acknowledges as difficult decisions that need to be made. Clearly, if purely ethical considerations are taken into account, the outspoken advocacy approach is preferable, indeed an imperative; if more practical or pragmatic considerations are brought into the picture, from a strictly conceptual vantage point a strong case can be made for the "quiet diplomacy" approach.

It should be acknowledged that these two conceptual alternatives rarely present themselves in black or white; in real life situations they tend to appear in different shades of gray, where some overlapping occurs between both options. Among the factors that demand nuance are: first, that there are always unique circumstances in each situation; second, personalities count, and the same policies executed by one official may have different outcomes depending on that person's outlook, skills, and background; and, third, there are often exogenous objectives that influence policy-making, such as the quest for increasing space or access to additional resources for the different entities that belong to the wider UN System. These caveats are equally valid for officials, staff and entities espousing the "quiet diplomacy" approach as they are for those calling for more robust public advocacy.

What makes quiet diplomacy and outspoken advocacy so different is the intensity of efforts to persuade host Governments to undertake actions they would rather avoid, but that, under pressure, they submit to in the interest of attaining broader objectives, such as access to external markets and financial resources, or even positive international recognition. In some situations, quiet diplomacy can complement outspoken advocacy, but often the proponents of quiet diplomacy are limited in their efforts by the permanent threat they face of losing access to the host government. In addition, the "quiet" part is not nearly as effective as public and transparent calling out of abuses, and it is difficult to surmise how "principled" the engagement between the United Nations and the Government really is when the conversations are held privately within four walls.

But perhaps the most important point that has to be made is that the two approaches described are not necessarily mutually exclusive, since it is possible to combine both so that they mutually reinforce each other, more-or-less in the framework of the recommendations that emerged from the review of the Sri Lanka experience, and which gave rise to the so-called "Human Rights up Front" initiative. Indeed, bringing the human rights perspective into the work of each of the three pillars of the United Nations' activities, so that work undertaken in the areas of development, peace and security as well as human rights are carried out in an integrated manner is the most desirable course of action.

Achieving this desirable amalgam involves some minimum requirements which, in the past, have been difficult for the United Nations to implement, and which have even raised questions regarding the implementation in real-world situations of HRuF. These are: first, having a central arbitrator (the Secretary-General or his designee) to promote a common over-all strategy, whereby the two approaches – quiet diplomacy and outspoken advocacy – mutually reinforce each other rather than provoke divisions among the different entities of the UN; second, an organizational structure which draws on the diversity of views and perspectives of the United Nations System to arrive at a common playbook that can accommodate, at least partially, the specific objectives of its different parts; third, the organizational structure to insure that decisions are properly transmitted to the system as a whole and particularly to the field, and subsequently monitored; fourth, and equally important, that the systematic information and analysis originating in the field be relayed in a timely and undiluted manner to Headquarters, since it is essential to have a common understanding of the nature of the situation to be addressed. Said differently, lines of communication and directives between the center and the periphery of the UN System must flow effectively in both directions.

To belabor the point, the United Nations, with its vast and diverse purview and multiple channels of engagement with member states, could conceivably reconcile the two alternative approaches, finding ways to criticize and prod Governments that engage in serious violations of international law while at the same time cooperating with them in delivering humanitarian and

development assistance, by utilizing the diversity of interlocutors the United Nations can put forward.⁴⁷ This would be the highly desirable objective to address the obvious dysfunctional performance of the UN System observed in both Sri Lanka and Myanmar. But recent experience, precisely in both countries, has gone in the opposite direction, with mindsets and specific actions representing the two approaches as competing, rather than complementing strategies. Thus, for example, those that promote constructive engagement sometimes incur the wrath of those that favor a more robust advocacy role and vice-versa, thereby poisoning the environment in which a unified United Nations is expected to work.

Finally, the consequences of alternative or even competing strategies co-existing in the same setting are further accentuated by the fragmentation of the United Nations in virtual silos, whereby senior officials and staff tend to view their activities through the lens of their narrower institutional mandates. To make a rough caricature, those that work in the “development pillar” prioritize support for the Government’s development efforts, implicitly leaving human rights considerations to others, despite the mantra that development, peace and security and human rights are inexorably intertwined and mutually reinforcing. They tend to favor the incremental, non-intrusive measures embodied in “quiet diplomacy,” permanently seeking opportunities to expand the political space for the United Nations, and sometimes even leveraging their development assistance activities to try and persuade Governments that meeting their international commitments in the area of human rights is to their own advantage in terms of promoting development and preventing violent conflict. However, sometimes this difficult balancing act reaches a breaking point.⁴⁸

Conversely, those that work in the “human rights pillar” and in the organization’s humanitarian activities naturally prioritize the Government’s complying with international law and norms in defense and protection of human rights, usually favoring more robust advocacy measures. Senior officials and staff that work in the “peace and security pillar” come down somewhere in-between (which might partially explain why DPA did not play a central role in the UN presence in either Sri Lanka or Myanmar, in addition to neither government wanting a strong political presence of the UN involved). This caricature of different approaches of UN officials and staff that are forged by narrow mandates (in contrast to the UN’s wider over-all responsibilities), differing operating cultures, diverse background of the persons involved, and many other factors that shape the sometimes dysfunctional presence of the United Nations System at the country level, appear with special intensity in Myanmar. The rather parochial perspective on the part of officials and staff working in each of the three main pillars (or “silos”) in which the Organization’s work is systematized, often loses sight of the essential point: that each of those pillars has the capacity to leverage the United Nations’ activities in the others. Naturally, there are individuals in each of the “silos” that defy this characterization, as was, indeed, the case in Myanmar, where even senior officials of the UNOHCHR prioritized access to the Government to taking robust positions, while some staff of the country team would have preferred robust advocacy to “quiet diplomacy,” but these are exceptions to the deliberate generalizations made above.

4.2 The case of Myanmar

The interaction between Myanmar and the United Nations posed some serious challenges with the enhanced presence of the Organization. Those challenges fall in three different categories: first, the interactions with the host government; second, the interactions of different bodies belonging to the UN System among themselves; and, third, the interactions with the rest of the international community, including the international NGOs.

4.2.1 Interactions with the host Government

As to the interactions with the host government, the challenges faced are common to situations the Organization encounters in different parts of the globe, but also hold some singular characteristics. To begin with, the system of governance set up in Myanmar since 2010 involved both military and civilian elements, both of which were in constant flux in their policy views on domestic and external events. On the frequent occasions where the civilian part's views were not aligned with those of the Tatmadaw, an internal dynamic came into play which outsiders can only speculate on, but which presumably has each of the parties involved permanently testing the limits of the other part. This situation poses risks as well as opportunities for the United Nations and its different entities by sometimes having to interact with two parts of the same Government, with the possibility that some interactions of the UN with one of those parts could either provoke the agreement of the other, or risk further bringing about of internal divisions. At any rate, this unique situation adds a layer of complexity to engagement between the UN and the host Government.

In the second place, given its colonial heritage, throughout the period of independence Myanmar has displayed a strong sense of nationalism and an entrenched mistrust of external actors, be they governmental, inter-governmental or non-governmental, including the United Nations.⁴⁹ To be sure, even the previous military regime belatedly reached the conclusion that in order to prosper, it needed to interact with the rest of the world and with the United Nations, but it did so with mistrust and some misgivings. This culture of mistrust seems to persist, including among the civilian components of the Government.

That ambivalence explains why, on the one hand, the Government has invited many UN agencies to set up offices in the country and even accepted in 2018 the designation of a new special envoy of the Secretary-General, while, on the other hand, officials and staff of the UN appear to feel under scrutiny, and occasionally are the object of harassment, if not outright intimidation (regarding the authorization for movement in the country, or the extension of visas, for example). As is well known, the United Nations normally values a partnership relation with every host Government where it is posted, but above and beyond this universal conduct, in the case of Myanmar the "trust deficit" created a complicated environment whereby the degree of access to the Government or the levels of harassment received gave National and State authorities sufficient tools to manipulate the Organization. It is safe to assume that it was the country team that felt the greatest need to prove their impartiality and objectivity in order to be able to carry out their core mandate. On the other hand, other entities, and especially the UN Office of the High Commissioner for Human Rights, had to fight for the authorization of every visa for its staff (the regional office was based in Bangkok) and some missions mandated by the Human Rights Council were denied access altogether.⁵⁰

It was this same environment that led many officials to reason that principled engagement was the best course of action to pursue in order to at least have the political space to exert some influence on the course of events, perhaps constraining their willingness to pursue more aggressively the promotion of human rights. It also appears that Government officials exploited the diverse narratives they were hearing from different UN entities to play one against another in terms of the above-mentioned incentives or obstacles they applied to each of them.⁵¹

4.2.2 The dynamics of division rather than cohesion within the UN System

The interactions of different bodies belonging to the UN System among themselves is a function of the inherent contradictions of supporting the peace and political processes, while at the same time condemning serious human rights violations, setting the stage for the dissimilar reactions within the UN to domestic challenges. The initial fascination on the part of the international community with the political transition, based in no small part on the almost legendary status that Aung San Suu Kyi had reached in preceding years, as well as the promise of a transition from authoritarian military rule to civilian-led democratization, became a magnet for international cooperation, including the work of the United Nations, especially in its development pillar. The gradual opening of the economy, added to Myanmar's favorable endowment of natural resources, was an additional factor in attracting international attention, manifested, among other aspects, in direct foreign investment.⁵² At the same time, equally significant challenges in the areas of peace and security – the peace process continued apace, as did the low-intensity armed conflict, especially in Kachin, Shan and Rakhine states – as well as in the areas of human rights and humanitarian assistance, called for a United Nations presence in the other pillars invested in the Organization's work in Myanmar; i.e., the peace and security and the human rights pillars.⁵³ But it was the institutionalized discrimination against Muslims in Rakhine State, especially of the Rohingya community, which was not only a core concern for the United Nations but had already become the center of attention of numerous member states, human rights advocates as well as important segments of the media.

This issue thus began to move to the front and center of international attention not only as an egregious human rights violation in its own right, but also as an issue that could seriously compromise the democratization process. The emerging human rights situation was of course unacceptable to all parts of the United Nations System, but most especially to those whose narrow mandates were directly linked to these matters, such as the UN Office of the High Commissioner of Human Rights, the Special Adviser of the Secretary-General on sexual violence in conflict, Special Adviser of the Secretary-General on children in conflict and the Office for the Prevention of Genocide and the Responsibility to Protect.⁵⁴ These bodies or entities generally tended to adopt a robust position to address the violation of basic human rights, seeking to mitigate or put an end to those abuses. That, after all, was their primary mandate, and they acted on it.

It was the United Nations High Commissioner of Human Rights who most consistently and eloquently called out the human rights violations taking place in Myanmar, especially after mid-2014, when Zeid Raad Al Hussein assumed the post.⁵⁵ In doing so, he no doubt provided a source of inspiration to the staff serving in the field to follow the narrative of their most senior authority (but also some unease among those in the UN who favored the "quiet diplomacy" approach).⁵⁶ The same can be said for the yearly reports of the Special Rapporteur on the situation of human rights in Myanmar. While the tone of those reports was respectful, especially during the first years of the political process, they became increasingly critical of human rights abuses allegedly being carried out by the Government, expressing growing alarm about the situation in Rakhine State and the political process in general.⁵⁷ Similar comments can be made about the Special Adviser of the Secretary-General on sexual violence in conflict, who persistently denounced wide-spread conflict-related sexual violence in Myanmar of Rohingya women and girls as well as other ethnic minorities in Kachin and northern Shan,⁵⁸ and even managed to persuade the Government to commit itself to complying with the provisions of Security Council resolution S/1820(2008) through the signing of a Joint *Communique* on prevention and response to conflict-related sexual violence.⁵⁹

These examples of an outspoken public advocacy role from areas of the UN were not surprising, given the interlocutors' narrow mandate. However, other parts of the United Nations System did not

back them up with any visible support. While they no doubt found the human rights situation equally deplorable, they were mindful of the extremely complex background in which the human rights violations were occurring and appear to have been especially concerned with the potential of the UN's response to aggravate divisions within the binary government (i.e., weakening the relative position of Aung San Suu Kyi) and even more so to the risk of upending a fragile but continuing political process. The officials of these bodies or entities of the system favored trying to expand the Organization's political space through quiet diplomacy, which, they reasoned, would at least offer a platform from which to advocate for the United Nations' values and principles.⁶⁰ In other words, certain parts of the UN System showed a preference for exerting their leverage (to the extent that they had any) through the quiet-diplomacy approach, and held up as an example of tangible results that the United Nations played a role in persuading the Government to set up the Advisory Commission on Rakhine State in 2016 (although that achievement turned out to be pyrrhic, at least up to the time of writing, since its implementation was upended by the events of August 2017).⁶¹

Another important point to make is that the different approaches to dealing with the contradictory trends in Myanmar were magnified as the events in Rakhine State became increasingly dire. Indeed, instead of seeking a common ground for the competing strategies, the differences between them appear to have led to a polarization of attitudes – institutional and personal – among officials and staff, at Headquarters and in the field, and even among the non-governmental organizations, as the intensity of the human rights violations escalated, reaching their apex in August of 2017 with truly catastrophic consequences. It appears that the increasing polarization among officials and staff was fueled, at least in part, by the emotional reactions to the horrific events taking place on the ground. The documentation reviewed suggests that instead of a generalized recognition that the overwhelming majority of officials and staff were committed to the principles and values of the United Nations and genuinely believed, rightly or wrongly, that by following their own tactical play-book they were acting in the best interests of the Organization in its support of the host country, serious recriminations surfaced among the proponents of the competing strategies being followed.

Consequently, in the lead-up to the events of August 2017, those that favored quiet diplomacy were reproached for complicity in allowing the abuses that were going on, and, even worse, of having deliberately kept quiet about the atrocities taking place in the hope of maintaining their access to the Government, as well as of skewing their reports to Headquarters in the direction of de-dramatizing the seriousness of the events in Rakhine State.⁶² Those that advocated for outspoken advocacy to prevent further atrocities were reproached for favoring perhaps well-intentioned but misguided proposals that would only have adverse unintended consequence or make the human-rights situation even worse in the long-run.⁶³ In fact, there appears to be some basis for each of these differing perceptions, and without question serious errors were committed and opportunities were lost in the UN system following a fragmented strategy rather than a common plan of action.⁶⁴ It goes beyond the scope of this review to try and adjudicate responsibilities to entities or personalities (they are, after all, accountable for their actions), but the consultant was left with the impression that the over-all responsibility was of a collective character; in other words, it truly can be characterized as a systemic failure of the United Nations.

The systemic failure was further magnified by some bureaucratic and unseemly infighting that ensued in some instances. And in the absence of a unifying and common strategy, these circumstances spun out of control, even trickling into the public domain,⁶⁵ and calling into question the discipline and loyalty of some staff not only to their supervisors, but to the Organization. So, added to the shortcomings of the United Nations in a specific country setting, there was an issue that falls more

properly in the domain of human resources management on how to channel and address concerns of individual staff members, rather than having them vent their frustrations in public, to the detriment of the image of the United Nations.

4.2.3 Interactions with the rest of the international community

Finally, the interactions of the United Nations with the rest of the international community, including the international NGOs, also merit a comment. While the UN has unique characteristics as a neutral and impartial partner, its capacity to leverage the outcome of the trends described above is by no means clear, and it hardly can claim a leadership role during the period under review. On the other hand, bilateral donors have rushed to Myanmar to have their own presence felt, while members of the international NGO community appear to have developed good interactions with civil society organization at the grass roots level, but less so with the UN country team in the period preceding August 2017.⁶⁶ Among the most influential bilateral actors, the People's Republic of China deserves special mention. The United States and the European Union have also played important roles; in the former's case, even under the present Administration. And among the multilateral organizations, the Government seems to display some level of confidence in ASEAN, which it joined in 1997. On the other hand, the Organization of Islamic Cooperation (OIC), which acts as the collective voice of the Muslim world and includes among its member states neighbors such as Malaysia and Indonesia, has pushed back on Myanmar as the situation in Rakhine State deteriorated. In sum, the significant presence of external players, despite the Government's practice of carefully parsing petitions for visas, occurs against the background of a strongly nationalistic state that tends to be suspicious of all international entities, but apparently more so of some than of others.

5. The foundations of systemic and structural shortcomings in the UN's presence in Myanmar

A selective perusal of internal documents – written instructions, minutes of meetings, and communications between staff members as well as official reports – reveals five basic elements that stand out as contributing to the systemic and structural shortcomings of the UN's presence in Myanmar. These are explored in the following paragraphs.

5.1 Insufficient inter-governmental support

Had the United Nations' Secretariat pursued a more robust course of action to address events occurring in Rakhine State, it clearly would have required the collective political support of the UN membership. But just as there were divisions between different parts of the UN system on the Secretariat's side, there were also profound divisions among the five permanent members of the Security Council regarding Myanmar. The United Kingdom took the lead early-on in promoting the Council's involvement in Myanmar, while the People's Republic of China argued that the situation in that country did not threaten international peace and security and should therefore be treated as a domestic issue. It was not until 2006 that China reluctantly agreed to include in the agenda of the Council an item on "The Situation in Myanmar," due to the deteriorating conditions in the country detected by the then-Special Adviser.⁶⁷ A debate was held, but nothing tangible came out of it.⁶⁸ When in 2007 the United States and the United Kingdom tried to table a resolution on the situation in Myanmar, it was vetoed by both China and the Russian Federation.⁶⁹

Two subsequent meetings were held that year, and a Presidential Statement actually emerged from one of them, calling for "national reconciliation" (it occurred in the aftermath of the so-called

“Saffron Revolution” and when calls for the liberation of Aung San Suu Kyi from house arrest were escalating).⁷⁰ In 2008, two further meetings were held to hear briefings from the Secretary-General’s Special Adviser and to take note of the announcement by the Government of Myanmar of a referendum on a draft constitution in May 2008 and elections in 2010.⁷¹ There was one additional formal discussion on this agenda item in 2009 when Secretary-General Ban Ki-moon informed the Council on his then-recent visit to Myanmar.⁷² After that, the matter was only addressed when receiving briefings from the Special Adviser (and, occasionally, from the Office of the High Commissioner for Human Rights,)⁷³ usually in informal settings and under the agenda item “any other business.”⁷⁴

This rather lengthy background is important to recall, because it highlights why it was not possible to achieve the single most potentially significant action that the United Nations could have undertaken to alter the course of events in Myanmar, at least those related to Rakhine State. Namely, the Secretariat’s initiatives would have benefitted enormously from the collective support of the Security Council to gain some sort of impartial UN observer presence in Rakhine State to deter the use of violence in general, but that support was not forthcoming, given the strong opposition of the host Government, and the support that China provided to Myanmar in this regard. One can only speculate whether the Secretariat could have been more forceful in exercising its Article 99 prerogative to push for a robust preventive action on the part of the Security Council, considering the progressively alarming warnings that were coming from some (but not all) areas of the UN System and external sources.

In fact, when Secretary-General Guterres took an extraordinarily strong position in his letter addressed to the Security Council on 2 September 2017 urging concerted efforts to prevent further escalation of the crisis in northern Rakhine state,⁷⁵ the Council did not respond in either a forceful or a timely manner (by then at least 400,000 displaced persons were on the move, not to mention the mass atrocities that had already been committed).⁷⁶ Moreover, in spite of the Secretary-General’s efforts behind the scenes, for reasons that can be gleaned from the historical cleavages within the Council, it took two weeks for it even to convene a formal meeting to address the matter,⁷⁷ and an additional 38 days to issue a perfunctory Presidential Statement.⁷⁸ In other words, in the consultant’s view, it was not only the Organization’s civil service and leadership that did not show its finest hour in Myanmar in the preceding five years or so, but member states collectively also bear part of the responsibility for the United Nations’ failures in addressing events in Rakhine State from 2012 up to the events of August 2017, the horrific consequences of which persist to the time of writing.

There has been some subsequent involvement of the Security Council related to Myanmar since those events took place, with four formal meetings (and an additional five informal ones) being held, but with no outcome documents.⁷⁹ It is also pertinent to mention that members of the Security Council visited Bangladesh and Myanmar from 28 April to 1 May of 2018 to gather first-hand information on the ground. As a result of that mission, a press statement was issued.⁸⁰ But upon returning to New York, the Presidents of the Council for the months of April and May encountered resistance to even issuing a Presidential Statement – not to mention a resolution – to reflect the Council’s conclusions of the visit.⁸¹ In short, at the time of writing, there does not appear much prospect for uniting the Council to adopt a more forceful joint position to support the Secretariat in dealing with the human rights issues that are undermining the political and peace processes in Myanmar.

To be sure, other inter-governmental organs ruled by majority voting have been more open in urging the Secretariat and specialized agencies to pursue reconciliation of the political and peace processes with the human rights violations occurring in Myanmar. As pointed out above, Myanmar was on the agenda of the General Assembly (Third Committee) for many years, and this practice was

suspended in 2016, with the advent of the civilian authorities elected to Parliament in 2015, only to be reinstated after the events of August 2017.⁸²

The former Human Rights Commission also had Myanmar on its agenda since 1992. And it is the Human Rights Council (where decisions are adopted by majority vote) that has taken a much more pro-active position, as was to be expected, and whose general thrust and more specific language in the past few years has tended to take on an increasingly critical tone as tensions rose in Rakhine State.⁸³ Among the specific actions taken, resolutions referring to the situation of human rights of Rohingya Muslims and other minorities in Myanmar were adopted.⁸⁴ In addition to the long-standing (since 1992) creation of a Special Rapporteur on the situation of human rights in Myanmar, the Council also adopted a resolution, creating "an independent international fact-finding mission...to establish the facts and circumstances of the alleged recent human rights violations by military and security forces...in Myanmar, in particular in Rakhine State..."⁸⁵ The final report produced by the fact-finding mission, which was not allowed by the Government to visit Myanmar, was presented on 12 September 2018.⁸⁶

The Human Rights Council, for its part, reacted to the report through its resolution 39/2 of 27 September 2018, "welcoming the work of the independent international fact-finding mission on Myanmar and its oral updates to the Human Rights Council, while deeply regretting that the Government of Myanmar has not cooperated with the fact-finding mission and urging the Government to grant it full, unrestricted and unmonitored access to all areas and interlocutors..." (pp 4), thereby setting the tone for the rest of the resolution. For example, op 1 states: "Expresses grave concern at the findings of the independent international fact-finding mission that there is sufficient information to warrant the investigation and prosecution of senior officials in the Tatmadaw chain of command so that a competent court may determine their liability for genocide in relation to the situation in Rakhine State..." The resolution was adopted with 36 votes for, 3 against and 7 abstentions. It may have had an impact on international public opinion but has served to little avail to sway the Government's position in Myanmar, except perhaps for creating additional international pressure to address the issue of the one million displaced Rohingya persons.

Finally, member states have also been generally supportive of the admirable humanitarian work undertaken by both OCHA and the Office of the UN High Commissioner for Refugees, with the support of UNDP.⁸⁷ The enormous scale of the influx of Rohingya refugees is putting an immense pressure on the Bangladeshi host community and existing facilities and services, adding an additional source of trans-national tension in the region.

5.2 The absence of a clear and unifying strategy

Even at the very highest levels of management of the Organization – commonly referred to in UN circles as "the 38th floor" – the oft-mentioned competing strategies were both represented until the end of 2016 in the persons of the Deputy Secretary-General and the Special Adviser on Myanmar; the latter concurrently also the *Chef de Cabinet* of the Secretary-General until March 2012. No one can fault either personality for their credentials and unquestionable integrity and respect for the United Nations. The Deputy Secretary-General had an impressive background in his country (Sweden) and in international circles, and was, among other aspects, a known human rights advocate. The Special Adviser also had a notable background in the foreign service of his country (India), and had two important additional assets: his proximity to the Secretary-General (at least when he exercised the post of CdC) and his deep knowledge and wide understanding of Myanmar and its neighboring countries (including China, where he had served as Ambassador of India). As can be surmised, the Deputy

Secretary-General favored a more robust posture of the United Nations to address the events in Rakhine State, while the Special Adviser argued for quiet diplomacy to exert increasing influence on the host Government.

It appears that there were several attempts during 2015 and 2016 to reconcile these different perspectives into a common position that could offer guidance to the entities that served in the different pillars of the Organization – so that development, peace and security and human rights would be mutually reinforcing – as well as to the system as a whole. These attempts took place in numerous informal settings and a few formal meetings of UN Headquarters principals as part of the Senior Action Group (SAG), but all these efforts proved to be inconclusive. One can only speculate that Secretary-General Ban Ki-moon was either unwilling or unable to arbitrate a common stance between these two competing perspectives, notwithstanding his deep personal commitment to provide Myanmar with UN support for the political and peace processes and for addressing the human rights abuses taking place in Rakhine State.⁸⁸

An additional complication resulted from the membership of the Senior Action Group, which prominently included the Administrator of the UNDP, who aligned herself with the strategy being espoused by the Special Adviser (with nuanced differences). While expressing dismay at the human rights abuses taking place, the Administrator believed that supporting development efforts in Myanmar would, in the long-term, create a favorable environment to facilitate resolving the human-rights issues. The position of the Administrator was especially significant, since the Resident Coordinator received guidance and instructions from UNDP rather than from the Secretariat, and it was the Resident Coordinator in turn that framed her coordination of the country team in terms of the guidance received from New York.⁸⁹ In sum, it is noteworthy that even at the highest level of the Organization there was no common strategy designed to leverage the work of each of the pillars of the United Nations to complement or even enhance the work of an integrated approach. The absence of a common approach just reinforced the historical trends of a deeply fragmented United Nations, with officials and staff within each pillar certainly aware of the broader situation but concentrated on acting within its narrower mandate.

An anecdotal example of the difficulty on the Secretariat's part of getting the System's act together can be found in the intensive discussions held among senior officials in June of 2016 on whether to continue to abide by the Myanmar Government's insistence on not using the word "Rohingya," as part of its broader policy of stripping this Muslim minority of all their rights, even including their ethnic heritage and their collective identity. Some visiting dignitaries had deferred to the host country and out of courtesy did not utter the forbidden word (that was the case of Pope Francis in November 2017);⁹⁰ others did not give in to the pressure (Barack Obama, November 2014).⁹¹ The United Nations staff and officials, and especially those on the ground, had also given in to this position, in spite of the fact that both the General Assembly and the Human Rights Council (as well as the High Commissioner) have alluded to the Rohingya community with their proper designation. Finally, as a result of the extended internal discussions, the UN special adviser on the prevention of genocide was authorized to publish an opinion piece on the matter.⁹² But more importantly, it was decided that Secretary-General Ban Ki-Moon would defy official policies and publicly use the term "Rohingya" in a speech during his last visit to Myanmar, in August of 2016. He did so, thereby breaking the silence of the United Nations Secretariat on a long-standing unofficial ban. But contrary to expectations that officials and staff would follow the leader once the dam had broken, this did not happen, and the UN system once more lapsed into using adjectives such as the "Muslim minority," in deference to – or cowed by – the host Government.

5.3 The weakness of a clear nodal point for coordination

Still another factor that seems to have been at play was the weakness of the organizational architecture as a clearing -house of shared information and as a platform for setting a common or at least coordinated policy. While some formal system-wide arrangements of coordination do exist – the United Nations System Chief Executive Board for Coordination –⁹³ in the past their effectiveness at achieving greater coherence has been limited and only of a general nature.

Successive Secretary-Generals have sought to put in place internal coordination mechanisms with varying degrees of success, usually gravitating around the Executive Office of the Secretary General. These included in the past the Senior Action Group (SAG), which brought together principals of Departments and Agencies as well as subsidiary working groups, added to the Regional Monthly Review. When the SAG met on Myanmar, it usually brought together the Deputy Secretary-General, the Chief of Staff/Special Adviser, the USG of DPA, the Administrator of UNDP, the Head of OCHA and other heads of specialized agencies. After reviewing selectively some of the minutes of the meetings of the Senior Action Group, the consultant was left with the impression that the tensions between different points of view did not lead to some type of consensus that could become the basis of a common system-wide strategy; rather, it seems to have led instead to stalemates, contributing to each of the entities involved to continue with their prior policy trajectories.

Concurrently, the development pillar had its own coordinating mechanism, in the form of the Development Group (today the Sustainable Development Group), chaired at the time by the Administrator of UNDP (today by the Deputy Secretary General, with the Administrator of UNDP as Vice-Chair), which unites over 32 UN funds, programmes, specialized agencies, departments, and offices that play a role in development at the global, regional and national levels (but which offers little cross-pillar coordination).⁹⁴

With the advent of the new Secretary-General's term, there appears to be renewed recognition of the crucial importance of improved coordination. The Executive Committee, both at principals' level and at deputies' level, and the establishment of a Strategic Coordination Unit under an ASG, supervised in turn by the Chef de Cabinet, certainly seem to be moves in the right direction.⁹⁵ In fact, it squarely addressed the question of Myanmar early on, in its meetings of 3 February and 5 May, 2017, creating for follow-up purposes a permanent monitoring group made up of senior officials. The same observation is pertinent for the development pillar, by having established a UN Development Coordination Office under an Assistant Secretary General for Development Coordination, and directly under the Deputy Secretary General. The functions previously executed at the level of the EOSG related to the Human Rights up Front initiative have been partially continued in the Political, Peacebuilding, Humanitarian and Human Rights Unit. While the architecture marks a significant improvement to previous arrangements, the consultant, after reviewing the staffing tables provided, was left with the concern that this new initiative to provide greater coherence and coordination to the United Nations System appears to be underfunded and understaffed in terms of the responsibilities assigned to each of the units.⁹⁶

5.4 Dysfunctional actions at the level of the Country Team

As mentioned above, the Resident Coordinator was put in what Richard Horsey characterized as an "impossible position." "As the most senior United Nations official in-country, the expectation of the UN system and donors is that the RC/HC will assume the political responsibilities of a leadership role on

Rakhine State and other crises, without the mandate, institutional authority or policy and political support to do so, or any government acceptance of such a broader role.”⁹⁷ But the impossible position did not only stem from a lack of mandate, but rather to a not unusual circumstance: the Resident Coordinator had been selected in 2014 based on a strong background and experience that made her an ideal candidate for the profile that the situation demanded in 2014, when the United Nations’ focus was on supporting the democratization process already evolving, and encouraged by the increasing likelihood that Aung San Suu Kyi would be assuming leadership positions (as indeed was the case, even before and certainly after the 2015 elections).

It should therefore not be surprising that during the period 2014-2016, the accent of the Resident Coordinator and the country team was clearly on matters that fell in the work of the development pillar. The Resident Coordinator, selected for her prior experience in working with host governments in similar settings, suddenly found herself embroiled in a situation with strong political overtones. Understaffed and without clear orientations from Headquarters, the RC also had occasional difficulties in coordinating a large and diverse country team which included entities that looked more to their respective headquarters than to the RC for guidance on their activities. At the same time, while human rights concerns were taken into account – the country team in Myanmar was one of those that formally embraced the HRuF initiative by taking some specific steps in the area of training and awareness in late 2014 and early 2015 – the basic element of the three pillars of the Organization working in a cooperative manner to mutually support each other was largely absent.⁹⁸

As the months went by, human rights concerns occupied an increasing space in the UN’s presence in Myanmar, crowding out somewhat the original focus of the UN, and putting into doubt whether the profile of the RC, well matched for the circumstances of 2014, was still as relevant for the situation of, say, late 2016. The incumbent RC came to that realization on her own, requesting more support from Headquarters in the form of a political advisor, a human rights officer, and a strategic communications officer, as well as opening a small office in Sitwee (the capital of Rakhine State) under a senior advisor. Subsequently, when the Secretary-General proposed upgrading the post of RC to designate a more senior officer with a political background – in line with the profile circumstances then warranted – the incumbent RC concurred with the decision (but the Government of Myanmar did not accept an upgrading of the post, presumably rejecting the presence of a higher-level personality linked to the political parts of the United Nations).

At the same time, the RC System was under the supervision of the UNDP, which had prioritized development objectives and was keen on building a relationship of trust and predictability with a host Government that was reaching out and asking for advice and assistance to solve the country’s many challenges. This placed the RC and the country team under the banner of the principled and constructive engagement strategy, in contrast to the work of other entities of the UN System; namely, the UN Office of the High Commissioner of Human Rights and, less so, the UN Office for the Coordination of Humanitarian Affairs. The divergence of views was amplified as the situation in Rakhine State worsened. Moreover, a critical function of the RC was to partner with other multilateral organizations (especially ASEAN and the World Bank), the local diplomatic community of bilateral donors, and the international non-governmental organizations, and some of these partners – notably the NGO human rights activists – felt at odds with the quiet diplomacy approach as demands for more robust advocacy were growing.

5.5 Shortcomings of systematic and unified analysis from the field

The two competing strategies frequently mentioned in preceding pages relied on different sources of information on the ground for the data and analysis that went into their own interpretation of events. Some official reports from the field suggested that the situation continued to be stable, with their natural ups and downs.⁹⁹ But others sent increasingly alarming warnings about a deteriorating situation, and even impending disaster, especially in Rakhine State. These warnings came from both within the UN System, and from independent analysts and international non-governmental organizations.¹⁰⁰ A revision of the material available is a reminder of the old dictum that people should be told what they need to know, not what they want to hear. Those that favored quiet diplomacy were happy to be reassured with the information that the situation was stable; indeed, they were the main sources of this type of analysis. On the other hand, those that advocated for more robust actions based their increasingly frantic messaging on data purporting to confirm their worst fears, as indeed turned out to be the case.

Given the limited time that the consultant had to examine all the communications and detailed data on the matter, it is hard to establish how much of the diverse reporting on the facts in the field were “wishful thinking” and how much was willful manipulation of the reality on the ground to bolster the position of the respective reporting agency. There appear to have been instances of deliberately de-dramatizing events in reports prepared by the Resident Coordinator, as well as instances of various UN entities, including OCHA, of not sharing their analysis with other entities of the UN System.¹⁰¹ But the main point to be made is that the United Nations must improve the quality and timeliness of a common understanding of events on the ground, and the analysis of their potential consequences. In the specific case of Myanmar, it appears that officials at Headquarters were receiving not one but two assessments regarding the point at which yellow lights could turn to red. While some assessments – made even as late as mid-2017 – have a “business as usual” quality about them, others had raised alarms much earlier, and those alarms were growing more intense by the middle of the year, from sources both within and outside of the UN system.¹⁰² While receiving conflicting analysis from different sources is not, in itself, a bad thing, it can lead to faulty decisions if there is no coordinating node to arbitrate among differing views and reach a common interpretation. One can only speculate whether the failure to act preventively at Headquarters in a more decisive manner was due to the mixed and incomplete signals coming from the field.

6. Conclusions and recommendations

Since 2012, and especially since August of 2017, the world has witnessed a wrenching spectacle of human rights violations on a massive scale. The statelessness and extreme deprivation of some 1.4 million Rohingya people, not to mention the grave abuses wrought on them and other Muslim minorities in Myanmar, are totally unacceptable and nothing less than an offence to humanity. Clearly, the main responsibility for this belongs to the Government of that country; sadly, in this it seems to count with the solid support of most of its population. Further, the human rights abuses are undermining an otherwise positive albeit imperfect political process of gradual democratization and (paradoxically) reconciliation. The United Nations System, despite the advocacy efforts from the Secretary-General’s personal involvement¹⁰³ as well as that of the most senior officials down to members of the country team, has been relatively impotent to effectively work with the authorities of Myanmar to reverse the negative trends in the area of human rights and consolidate the positive trends in other areas. Given the increasingly ominous events taking place in the first arena, especially in Rakhine State (but also in Kachin and Northern Shan), progress in Myanmar in other areas seems to have essentially bogged down at the time of writing.

This review explores some of the reasons behind this unsatisfactory state of affairs as seen from the vantage point of the role of the United Nations, which the consultant characterizes as one more case of systemic and structural failures. While it is difficult to assign responsibility for systemic failures to any single entity, and even less so to individuals (although individuals count in that they can either mitigate or aggravate the consequences of the systemic failures), clearly there is a shared responsibility on the part of all parties involved in not having been able to accompany the Government's political process with constructive actions while at the same time conveying more forcefully the United Nations' principled concerns regarding grave human rights violations; this, in spite of the initiative of Human Rights up Front, which was conceived in 2014 to address precisely such circumstances. It must also be said that the United Nations' collective membership, represented by the Security Council, bears part of that responsibility, by not providing enough support to the Secretariat when such backing was and continues to be essential. If there is one single action that might have altered the course of events in Myanmar it would have been the timely and impartial presence in Rakhine State of some type of United Nations observatory that would offer a measure of confidence to the oppressed minorities that their basic human rights would be respected, and that the root causes that led to their forced emigration would be addressed by the national authorities. Given the Government's strong nationalistic views, such an impartial observatory is difficult to conceive without a clear Security Council mandate (and even then it would be strongly resisted by the Host Government). On the other hand, it is conceivable that members of the Security Council who have steadfastly opposed any involvement in Myanmar could eventually be persuaded to do so, given what is at stake for all the major players concerned.

In the introduction to this review, the consultant referred to the multiple layers of complexity that characterize Myanmar and its interactions with the United Nations. Yet the conclusions of the review and the recommendations to be drawn from same in the mode of "lessons learned" are quite simple and straight-forward (and repetitive of conclusions drawn from similar previous exercises).¹⁰⁴ These are derived from the systemic and structural tensions described in preceding sections. Some of those tensions are susceptible to being overcome or at least allayed in order to enhance the performance of the Organization. The key is to foster an environment encouraging different entities of the UN System to work together in such a manner as to reconcile the narrow objectives of each entity in order to reinforce a broader system-wide strategy, whereby the three pillars of the Organization seek to mutually reinforce each other.¹⁰⁵ On the other hand, the difficulties of introducing coherence into the work of such a large and multi-faceted Organization cannot be underestimated, given the resistance coming from diverse quarters shown in the past to overcome the deeply entrenched fragmentation of the way the United Nations has carried out its highly diversified activities in the past.

Be that as it may, the reform proposals of Secretary-General António Guterres first announced in 2017 in the areas of management, peace and security, and the development system, generally move in the right direction in addressing some of the key circumstances that made a more coherent response in Myanmar so difficult in the past few years; **they certainly will be on trial in the ongoing developments in Myanmar at present and in the future.** Notable among the measures that form part of the reform process are: 1) the decision to place the Resident Coordinator system directly under the Secretary-General; 2) the establishment of what appears to be a more workable organizational architecture at the highest levels of the United Nations to improve coordination, monitoring, accountability, systematic analysis of unfolding crisis situations, and a more rapid response; and, 3) an improvement in the lines of communication – in both directions – between "Headquarters" and "the Field." The single most important hallmark of the management reform, to decentralize decision-making closer to the point of delivery by giving managers on the ground a greater delegation of authority, works in the same direction, subject to the coordination nodes being in place.

From the above general comments, the following specific points further elaborate each one of them:

1. Probably the single most transcendental decision taken in recent times regarding the UN presence in the field was the implementation of what was called "a new generation of United Nations country teams."¹⁰⁶ The separation of the functions of the resident coordinator from those of the resident representative of the UNDP has the obvious potential to improve coordination of system-wide goals in contrast to the narrower goals of each of the entities belonging to a country team. At the same time, it entails the risk of feeding the perception that the head of the country team is concerned with "political affairs" (despite the resolution indicating explicitly that the focus of the resident coordinator system should remain sustainable development), producing a potential cleavage between the activities of the three pillars, something the resolutions is precisely designed to preclude. This aspect strays far from the purpose of this review, but the consultant felt the need to underline the importance of "getting it right" when the new generation of country teams is put in place. If it is implemented properly, it certainly should help in addressing and managing complex situations in the future, such as the one encountered in Myanmar by, among other aspects, fostering trans-pillar coordination.
2. It hardly seems necessary to belabor the obvious point of how critically important it is to pick the right person for the right place at the right time, when selecting a Resident Coordinator under the "new generation" arrangement (and then hopefully secure the host country's agreement to the proposed designee). The effective use of the Inter-Agency Advisory Panel should be helpful in identifying suitable candidates for each specific situation. Perhaps less obvious is the need to be prepared for replacing a RC if circumstances in a specific duty station change significantly, in order to match the profile with the changing requirements. This should be done in a timely fashion, and without detriment to the career of the professionals affected. The need to adapt to changing circumstances held true in the past under the previous RC system, and is also relevant for the future.
3. It is equally important to get the new architecture of the Executive Office of the Secretary-General right, with the Executive Committee (at the Principles and at the Deputies levels), as the main decision-making nodal point on issues of strategic consequence requiring principal-level attention across all pillars of the Organization's work, coupled with the Regional Monthly Reviews (RMRs), and in close coordination with the UN Development Coordination Office. It is essential that the strategic coordination unit of the EOSG and its subsidiary units receive the staffing and funding necessary to do their work effectively. This would constitute a marked improvement over the preceding internal coordination arrangements.
4. It is also crucial that there be clear lines of communications, horizontally and vertically, so that system-wide decisions taken at the most senior levels be relayed downwards and understood by all members of the international civil service.
5. Closely related to the above, the United Nations needs to improve, systematize and share the gathering of data, information and analysis of events on the ground in real time, in order to provide Headquarters with the best and complete information available on which the Organization can take informed decisions. If there are diverse interpretations coming from different quarters, these should be shared system-wide, and an instance to try to arbitrate and reconcile those differences is required in order to at least understand the logic between them in order to facilitate decision-making.

6. The mandate adopted by the General Assembly to re-instate the figure of a special envoy on Myanmar also has implications for the new generation of United Nations country teams mentioned above. This decision has a mixed potential. On the one hand, if the incumbent special envoy gains the trust of the Government, it would offer a new channel of communication and dialogue between the Government and the United Nations that is separate from existing institutional structures. But, on the other hand, the existence of a special envoy might add some confusion regarding where his or her functions end and those of the Resident Coordinator begin. Still, a positive development which should be taken at face value is the Government's announced decision to cooperate fully with the Special Envoy and to have authorized the establishment of an office with a representative of the Special Envoy in Nay Pyi Taw.
7. The Secretariat should assume a more pro-active stance in taking advantage of its Article 99 prerogatives (not necessarily invoking that prerogative in an express manner, but acting on it) in trying to gain individual and collective support from elected and especially permanent members of the Security Council for initiatives where development objectives are threatened by human rights violations that can morph into threats to international peace and security. The consultant is cognizant of the fact that some of the permanent members would be very reluctant to even discuss the matter, and that, in general, the international environment for insisting on the respect for human rights and the rule of law is not at its most favorable moment at this juncture in time. Still, no one can fault the Secretary-General for pursuing the Security Council's involvement in getting Myanmar's political process back on track, and that inevitably requires finding a solution to the situation of the Rohingya people and of that of other Muslim minorities.
8. The United Nations has increasingly sought partnerships in promoting its diverse agenda all over the globe, and the selection of privileged partners can be especially important in country-specific situations. This holds true for both bilateral and multilateral partners, as well as for those that belong to the non-governmental sector. In the case of Myanmar, China, India and Indonesia are potential privileged bilateral partners, as is the Association of Southeast Asian Nations in the multilateral orbit. Rallying selected bilateral and multilateral actors around a UN initiative is even more important in the absence of formal Security Council support. The United Nations has a long tradition of cooperating with international NGOs, which is especially relevant for the present circumstances in Myanmar.
9. Regarding trans-pillar coordination, it is also pertinent to recall twin resolutions A/70/262-S/2282(2016), emphasizing that "sustaining peace requires coherence, sustained engagement, and coordination between the General Assembly, the Security Council, and the Economic and Social Council, consistent with their mandates as set out in the Charter of the United Nations." This is another way for calling once again for a reversal of the extreme fragmentation in which the United Nations has fallen over the years, to the detriment of a more effective and coherent response in situations like Myanmar.
10. In summary, the biggest challenge that the UN faced in Myanmar from 2010 to the present was seeking to engage the host Government in simultaneously undertaking initiatives to provide development and humanitarian assistance, while also taking the host Government to task for what are generally perceived as violations of international laws and norms regarding the protection of human rights. The UN possesses the capabilities to pursue both goals simultaneously, given its multiplicity of mandates and areas of expertise; it is a matter of calibration of these different components of the Organization to achieve what admittedly is a difficult balancing act.

A final and important point to be made is that while this review centers on events that occurred in the recent past, the root causes of those events persist and probably have even been aggravated up to the time of writing this review. By any metrics utilized, the treatment accorded to Muslim minorities in Myanmar is incompatible with the political and peace processes launched under the Constitution adopted in 2010. There simply is no way to reconcile the extreme limitations imposed on the Rohingya community with international humanitarian and human rights norms and legislation. Those grave limitations include statelessness, arbitrary and discriminatory restrictions on freedom of movement, discriminatory treatment in access to services and the means to a dignified livelihood, and now the vexing situation of repatriation and relocation of up to one million desperate people. These problems will not go away and pose huge challenges to Myanmar, its immediate neighbors and the United Nations. Indeed, not only Myanmar and Bangladesh are faced with the excruciating question of how to deal with so many refugees concentrated in the Cox's Bazar's district, it is a question faced by the international community in general. The recommendations contained in the Report presented in 2017 by the Advisory Commission on Rakhine State offer a minimum but insufficient platform on which to start building, and one can only hope that the on-going discussions taking place in Myanmar around the United Nations' Joint Response Plan for 2019 will at least alleviate the dramatic situation of the Rohingya people and other ethnic minorities.

END NOTES

¹ This was a recommendation contained in the *Report of the independent international fact-finding mission on Myanmar*, (A/HRC/39/64), 12 September 2018, paragraph 111, page 20, and supported by resolution A/HRC/39/2 of 25 September 2018, op 32. The Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee, also made a similar recommendation in her last formal report, as reflected in A/73/332, 20 August 2018, paragraph 80k, page 23.

² *Report of the Secretary General's Internal Review Panel on United Nations Actions in Sri Lanka*, November 2012.

³ The central premise of HRuF was that addressing human rights concerns should not be limited to one of the three main pillars of the Organization's activities but should be addressed horizontally as an integrated system in analyzing the situation of the ground and rallying around a common strategy which incorporates development, human rights and peace and security actions. See: <https://www.un.org/News/dh/pdf/english/2016/Human-Rights-up-Front.pdf>

⁴ See, for example: David I. Steinberg, *Burma: The State of Myanmar*, (Washington, D.C.: Georgetown University Press), 2001; and, Thant Myint-U, *The Making of Modern Burma*, (Cambridge: Cambridge University Press) 2001; and *Where China Meets India: Burma and the new cross-roads of Asia*, (London: Faber & Faber), 2011.

⁵ Much has been written about the mismanagement of the economy under military rule, citing, for example, the decline in rice production and the potential to recover a leading role in its production. See: The World Bank, *Myanmar: Capitalizing on rice export opportunities*, Report Number: 85804, February 28, 2014.

⁶ World Bank, *Myanmar-World Bank Group Partnership: Country Program Snapshot, 2016*.

⁷ UNDP, <http://hdr.undp.org/en/content/human-development-index-hdi>

⁸ In fact, the military announced in August 2003 a seven-step roadmap to usher in a "discipline-flourishing democracy." However, it was not until 2008 that this initiative began to be implemented.

⁹ According to Myanmar's Constitution, Aung San Suu Kyi was barred from the presidency due to her previous marriage to a foreign citizen. The position is akin to a Prime Minister, since it allows her to keep a place both in government and parliament.

¹⁰ Both the United States and the European Union applied asset block sanctions to selected army officials from 2007 until 2014, as well as some trade restrictions. These were progressively lifted even before the 2015 parliamentary elections, but again some asset block sanctions were reinstated in August of 2018 due to the severe violations of human rights in Rakhine State.

¹¹ See: <https://www.cfr.org/blog/obamas-visit-myanmar-mixed-result>

¹² These are: KNU, KNLA-PC, DKBA, ALP, ABSDF, CNF, PNLO, RCSS and the last two (in February 2018) NMSP and LDU. However, it is estimated that the negotiations only involve less than one third of the armed insurgents.

¹³ See: <https://www.forbes.com/sites/susancunningham/2016/08/10/myanmar-45-million-mobile-phones-and-the-19-3g-smartphone/#5134d1da4d4b>

¹⁴ Only one example is the much-heralded arrest in late 2017 of two Pulitzer Prize winning Reuters journalists condemned to 7 years in jail for allegedly breaching a law on state secrets. See, for example: "Censors close in on a tradition of speaking one's mind in Myanmar," *The New York Times*, Wednesday, April 17, 2019, page A7; and "Myanmar's Highest Court Upholds Conviction of Reuters Journalists" *The New York Times*, April 24, 2019, p. A4. The journalists were finally released in a general amnesty declared in early May, 2019.

¹⁵ An example: Hannah Beech, *What Happened to Myanmar's Human Rights Icon?* *The New Yorker*, October 2, 2017, <https://www.newyorker.com/magazine/2017/10/02/what-happened-to-myanmars-human-rights-icon>

¹⁶ Prior to 1982, most Rohingya had some form of identification that proved their citizenship. They were issued special cards allowing them to vote in the 2008 constitutional referendum, but that right was revoked for the 2015 elections. Moreover, Muslim candidates were disqualified for standing for elections.

¹⁷ See: <http://themimu.info/census-data> ; <https://thedi diplomat.com/2014/09/myanmars-controversial-census/> The United Nations was not exempt from the controversy, since UNFPA provided technical assistance to the Ministry of Immigration and Population in carrying it out.

¹⁸ It is important to note that Buddhism plays a crucial role in Myanmar's society not only as a religion, but as a cultural identity.

¹⁹ See, for example: <https://www.nytimes.com/2017/05/26/world/asia/myanmar-buddhist-yangon.html>, and, <https://www.amnesty.org/en/documents/asa16/1107/2015/en/>

²⁰ The International Crisis Group laid blame for the incidents more evenly between the military and insurgent groups. For example, it stated: "... the rape and murder of a Buddhist woman by Muslim men on 28 May 2012 was the trigger that led long-simmering tensions between the Buddhist Rakhine and the Muslim Rohingya communities to flare in Rakhine State in June." International Crisis Group, *Violence Against Muslims in Myanmar Asia Report* N°251 – 1 October 2013.

²¹ See: A/HRC/32/18, 29 June, 2016, Human rights violations and abuses against Rohingya Muslims and other minorities in Myanmar - Report of the United Nations High Commissioner for Human Rights, pp.1-4.

²² An unsuspected but reliable source is *Médecins Sans Frontières*, given their impartiality and neutrality as a respected humanitarian organization (see bibliography in Annex). They reported tending to 22 wounded Rohingya during the alleged events of January 2014, contradicting the government's version that nothing had occurred.

²³ See: Report of the Secretary-General on Conflict-related sexual violence, S/2017/249, 15 April 2017, op 51-53, p. 15; also: <https://www.un.org/sexualviolenceinconflict/countries/myanmar/>

²⁴ International Crisis Group, *Myanmar: A new Muslim insurgency in Rakhine State*, Report 283/Asia, 15 December 2016, <https://www.crisisgroup.org/asia/south-east-asia/myanmar/283-myanmar-new-muslim-insurgency-rakhine-state>

²⁵ That was the assessment, for example, of Human Rights Watch. See: <https://www.hrw.org/asia/myanmar-burma>.

²⁶ Advisory Commission on Rakhine State, *Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine*, www.rakhinecommission.org/the-final-report/

²⁷ See, for example: Sara Perria, *The Unmaking of Myanmar*, OpenCanada.Org, September 21 2017, <https://www.opencanada.org/features/unmaking-myanmar/>

²⁸ These events were carefully documented, among many other sources, in: Situation of Human Rights in Myanmar (A/69/398), 23 September 2014; Situation of human rights in Myanmar (A/70/412), 6 October 2015; Situation of human rights in Myanmar, (A/71/361) 29 August 2016, and Situation of human rights in Myanmar (A/73/332), 20 August 2018.

²⁹ As early as 11 August, a United Nations human rights expert had expressed alarm over reports that an army battalion has flown into Rakhine State in western Myanmar to help local authorities boost security in the region. See: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21968&LangID=E>

³⁰ Among the sources are the International Crisis Group (<https://www.crisisgroup.org/asia/south-east-asia/myanmar>), the International Red Cross (<https://www.icrc.org/en/where-we-work/asia-pacific/myanmar>), Amnesty International (*Myanmar: Rohingya trapped in dehumanizing apartheid regime*, 21 November 2017, <https://www.amnesty.org/en/latest/news/2017/11/myanmar-rohingya-trapped-in-dehumanising-apartheid-regime/>), and, of course, the United Nations' High Commissioner for Human Rights (<https://www.ohchr.org/EN/pages/home.aspx>).

³¹ Opening Statement by Zeid Ra'ad Al Hussein, United Nations High Commissioner for Human Rights to the 36th session of the Human Rights Council, 11 September 2017

³² The UN Fact-Finding Mission on Myanmar (A/HRC/39/64), 12 September 2018, p. 16. The High Commissioner on Human Rights himself asked the rhetorical question "can anyone rule out that elements of genocide may be present?" in an official statement at the Special Session of the Human Rights Council on the human rights situation of the minority Rohingya Muslim population and other minorities in the Rakhine State of Myanmar on December 5, 2017.

³³ Kristine Kolstad, Norwegian Refugee Council, *Cox's Bazar: The world's largest refugee settlement*, 24 August 2018, <https://www.nrc.no/news/2018/august/coxs-bazar-the-worlds-largest-refugee-settlement/>

³⁴ See, for example: International Crisis Group, *Myanmar's Stalled Transition*, Briefing 151/Asia, 28 August 2018, <https://www.crisisgroup.org/asia/south-east-asia/myanmar/b151-myanmars-stalled-transition>

35 " ...the biggest weakness has not been capacity, but rather lack of leadership from the top. Despite continued discussions among the parties, including the third Union Peace Conference in July 2018, a negotiated end to the country's interlocking conflicts remains out of sight. Indeed, the first half of 2018 has seen a major escalation in fighting in northern Myanmar, particularly northern Shan and Kachin states." International Crisis Group, January 2019 <https://www.crisisgroup.org/asia/south-east-asia/myanmar/b154-new-dimension-violence-myanmars-rakhine-state>

36 Anna Magnusson and Morten B. Pedersen, *A Good Office? Twenty Years of UN Mediation in Myanmar*, International Peace Institute, Policy Papers, November 5, 2012, p. 100.

37 See: www.mm.undp.org/content/myanmar/en/home.html

38 For a complete list of resolutions, see: <https://www.ohchr.org/EN/Countries/AsiaRegion/Pages/MMIndex.aspx>

39 Alvaro de Soto (1995–1999), Razali Ismail (2000–2005), Ibrahim Gambari (2006–2009), Vijay Nambiar (2010–2016).

40 For a detailed history of the presence of the United Nations in mediation efforts in Myanmar since the early 1990s up to 2012, see: Anna Magnusson and Morten B. Pedersen, *op. cit.*

41 The major expansion of the international aid presence in the country only occurred after tense negotiations with a government reluctant to accept assistance from long-hostile Western donors. Secretary-General Ban Ki-moon's visit to Myanmar from 22 to 23 May 2008, the first of any Secretary-General in 44 years, helped facilitate access for international aid workers and the setting up of a Tripartite Core Group coordination mechanism between the Government of Myanmar, the United Nations and the Association of Southeast Asian Nations (ASEAN) to facilitate effective large-scale humanitarian assistance. This, in turn, led to an ASEAN/UN-sponsored international donors' conference in Yangon on 25 May 2008.

42 UNDP Myanmar, *Annual Report 2017 and 2013-2017 Results Report, 2017*. Some might find it ironic that the Forward of the Report indicates that: "2017 was another auspicious year for Myanmar as the country took further steps on the path towards peace and democracy, and the National League for Democracy (NLD) Government led by Daw Aung San Suu Kyi celebrated its first year in office." In all fairness, the Forward was written before the events of August of that year took place.

43 See: Resolution 72/248, 24 December 2017, op. 10, and <https://www.un.org/press/en/2018/sga1802.doc.htm>.

44 Op 10 says: "Requests the Secretary-General to continue to provide his good offices and to pursue his discussions relating to Myanmar, involving all relevant stakeholders and including the concerns addressed herein, and in this regard to appoint a special envoy on Myanmar and to offer assistance to the Government of Myanmar."

45 See: *Report of the Secretary-General on children and armed conflict in Myanmar S/2018/956* 29 October 2018, https://www.un.org/en/ga/search/view_doc.asp?symbol=S/2018/956

46 For a more theoretical analysis of this question, see: Pedersen, Morten B. and David Kinley (eds.) *Principled Engagement: Negotiating Human Rights in Repressive States* (London: Routledge, Taylor & Francis Group) 2016.

47 The Internal Review Panel on United Nations Action in Sri Lanka eloquently makes this point: "The UN can face significant challenges in retaining the essential support of a Government to help in delivering assistance while at the same time responding to serious violations of international law that may require the UN to issue criticism of the same." (paragraph 75)

48 This occurred, for example, in Nicaragua in September of 2015 when the Government decided to halt all projects of the UN Development Programme (UNDP) due to alleged interference in the country's internal affairs. See: <https://confidencial.com.ni/ortega-accuses-the-un-development-programme-of-political-interference/> ; <http://www.latinamerica.undp.org/content/rblac/es/home/presscenter/articles/2016/02/16/el-pnud-rechaza-las-acusaciones-del-gobierno-de-nicaragua/>

49 An anecdotal but important point to make is that some of the most senior advisers in the Government know and understand the United Nations very well, and reportedly are not well disposed to the Organization. For example, Minister of the Office for the State Councillor Kyaw Tint Swe served as Myanmar's Permanent Representative to the United Nations from 2001 to 2010.

50 That was the situation of the independent fact-finding mission on Myanmar established by the Human Rights Council in its resolution 34/22, as well as the situation of the Special Rapporteur of the Human Rights Council on Myanmar during 2018.

51 See: Lyam Mahoney, *Time to break old habits: Humanitarian Protection and the Rohingya in Rakhine State*, March 2018, pp. 27 and 29.

⁵² See: <https://www.imf.org/en/Countries/MMR>, and <https://www.ceicdata.com/en/indicator/myanmar/foreign-direct-investment>

⁵³ However, the status as an observer of the peace process discussions that the former United Nations Special Adviser had secured (together with the envoy of China) was lost at the end of 2016 with the termination of this function, and it was not renewed after the new special envoy was designated in April of 2018.

⁵⁴ Perhaps the United Nations Refugee Agency should be included in this enumeration, but due to its purely humanitarian purview, the agency tends to embrace a more neutral profile in order to maintain its access to areas where its work is needed.

⁵⁵ For example, after the events of 9 October 2016, the OHCHR conducted interviews with Rohingyas fleeing from Myanmar and concluded that “very likely ...crimes against humanity” had been commissioned by Government Security Forces. See: United Nations Human Rights Office of the High Commissioner, *Flash Report*, 3 February 2017.

https://www.ohchr.org/_layouts/15/WopiFrame.aspx?sourcedoc=/Documents/Countries/MM/FlashReport3Feb2017.pdf&action=default&DefaultItemOpen=1

⁵⁶ In his opening statement to the 36th Session of 11 September 2017 of the Human Rights Council, the High Commissioner for Human Rights said the following about Myanmar: “Last year I warned that the pattern of gross violations of the human rights of the Rohingya suggested a widespread or systematic attack against the community, possibly amounting to crimes against humanity, if so established by a court of law. Because Myanmar has refused access to human rights investigators the current situation cannot yet be fully assessed, but the situation seems a textbook example of ethnic cleansing.”

⁵⁷ For example, in her most recent report, the Special Rapporteur on the situation of human rights in Myanmar observes the following: “While the historic election of a civilian government for Myanmar promised a new era of openness, transparency and the expansion of democratic space, the Special Rapporteur has only seen that space shrink, with journalists, members of civil society and human rights defenders placed in an increasingly perilous position. The repressive practices of previous military governments are returning as the norm once more.” (A/HRC/37/70), 9 March 2018, paragraph 12, page 4.

⁵⁸ For example, the most recent report of the Secretary-General on sexual violence in conflict countries indicates the following: “Violence was visited upon women, including pregnant women, who are seen as custodians and propagators of ethnic identity, as well as on young children, who represent the future of the group. The violence is linked with an inflammatory narrative alleging that high fertility rates among the Rohingya community represent an existential threat to the majority population.” S/2018/250) 16 April 2018. See:

<https://www.un.org/sexualviolenceinconflict/countries/myanmar/>

⁵⁹ See: https://www.un.org/sexualviolenceinconflict/wp-content/uploads/joint-communique/joint-communique-of-myanmar-un-on-prevention-response-to-crsv/Joint_Communique_of_Myanmar_UN_Prevention_Response_to_CRSV_2018.pdf

⁶⁰ This logic is well captured in an internal document attributed to Special Envoy Vijay Nambiar which extols, as a key principle: “that patience, perseverance and dialogue through quiet diplomacy are often key to ushering reform and bringing change to institutions and communities, and that such change can be brought about in a manner that works within the political realities of a country while inducing leaders and people to work more openly and cooperatively.” Statement attributed to Vijay Nambiar, Special Envoy for Myanmar.

⁶¹ Again, this is a general characterization, since at the individual level the consultant found staff working in the human rights pillar that favored the principled engagement approach, as well as staff working in the development pillar that favored more robust advocacy.

⁶² This is the position taken, for example, by Liam Mahony, *op. cit.*

⁶³ Andreas Indregard indicates: “Ironically, the democratization process may also have made it increasingly difficult for the government to push through unpopular pro-Rohingya policies, as they are likely to trigger stiff resistance from both the parliament and the general electorate.” *Violence in Myanmar’s Rakhine State: Reflections on the Approaches of the International Community*, September 2015, p. 19.

⁶⁴ A perhaps extreme speculation on “what might have been” is offered by Liam Mahoney, when he indicates: “The Myanmar government and the Burmese elite were....in the early stages of defining a completely new negotiated relationship with the international community. Myanmar needed the international community and wanted to reap the huge financial rewards accompanying this new relationship; and they understood that they must make some trade-offs to reap them. The UN and the international community in Myanmar were therefore

in a uniquely privileged position to contribute to defining that relationship and those tradeoffs. Through strategic choices and advocacy, they could signal to the Myanmar government what it can and cannot expect from the international organizations, and under what conditions support is forthcoming. They could show a firm and consistent commitment to principles, even when such commitment might result in government sanctions or punishments, and thus define a healthier long-term relationship with an evolving state. By instead choosing a singularly compliant approach, offering quiet and uncritical support without conditions, they missed opportunities to influence how the state redefined itself." Lyam Mahoney, *op. cit.*, p. 15.

⁶⁵ See, for example: BBC New, *UN failures on Rohingya revealed*, 28 September 2017, <https://www.bbc.com/news/world-asia-41420973>; <https://www.theguardian.com/world/2017/oct/12/top-un-official-to-leave-myanmar-amid-criticism-rohingya-approach>; and Myanmar Times, Guy Dinmore, "Big stick or softly-softly? UN split over tackling human rights in Myanmar," 11 June, 2015.

⁶⁶ Information based on conversations with several interlocutors who were consulted on the matter.

⁶⁷ S/PV.5526, 15 September 2006

⁶⁸ The outcome was a brief communique that came out of a "private meeting" of the Council. See: S/PV.5526 29 September 2006

⁶⁹ S/PV.5619, 12 January 2007.

⁷⁰ See: S/PV.5753 of 5 October 2007, S/PV.5757 of 11 October 2007, S/PRST/2007/37 of 11 October 2007 and S/PV.5777 of 13 November 2007.

⁷¹ See: S/PV.5854 of 18 March 2008 and S/PV.5885 of 2 May 2008.

⁷² S/PV.6161, 13 July 2009.

⁷³ High Commissioner Zeid Ra'ad Al Hussein made an impassioned briefing to the Council on 28 May 2015.

⁷⁴ In fact, the item on "the situation in Myanmar" only continues to appear on the Council's agenda today because the United Kingdom took the initiative in 2013 to prevent it from lapsing, in accordance with statutory rules that eliminate agenda items after five years of inaction.

⁷⁵ See: S/2017/753

⁷⁶ S/PV.8060, 28 September 2017. The Secretary General also made a strong public statement on the matter on September 5 in his opening encounter with the press: "I am deeply concerned about the security, humanitarian and human rights situation in Myanmar's Rakhine State. We are all aware of a long-standing history of discrimination, hopelessness and extreme poverty in that State. I have condemned the recent attacks by the Arakan Rohingya Salvation Army. But now we are receiving constant reports of violence by Myanmar's security forces, including indiscriminate attacks. This will only further increase radicalization. Nearly 125,000 people—victims of unbearable suffering and desperation -- have sought refuge in Bangladesh. Many people have lost their lives trying to flee the violence. The grievances and unresolved plight of the Rohingya have festered for far too long and are becoming an undeniable factor in regional destabilization."

⁷⁷ The Council received briefings on the situation in informal sessions, and under agenda item "any other business," on 30 August and 13 September.

⁷⁸ PRST/2017/22, 6 November 2017. Perhaps the strongest expression that the Council could muster in the PRST was to observe that "the reality on the ground demands action – swift action – to protect people, alleviate suffering, prevent further instability, address the root causes of the situation and forge, at long last, a durable solution."

⁷⁹ S/PV.8133 12 December 2017, S/PV.8333 28 August 2018; S/PV.8381 24 October 2018; and S/PV.8477, 28 February 2019.

⁸⁰ SC/13331 of May 9, 2018, which, among other aspects, the members of the mission invited the Government to "address the root causes of the crisis through implementation of the Rakhine Advisory Commission recommendations, including those related to human rights, citizenship, poverty alleviation and development."

⁸¹ Some of the elected members of the Council actually prepared a text to form the basis of a draft resolution, but the initiative never gained traction.

⁸² 72/248, 24 December 2017.

⁸³ For a complete list of resolutions adopted by the Human Rights Council on Myanmar, see: http://ap.ohchr.org/documents/dpage_e.aspx?b=10&c=125&t=11

⁸⁴ S-29/21, 3 July, 2015; and S-27/1, 5 December 2017, adopted by the Special Session on Human rights situation of the minority Rohingya Muslim population and other minorities in the Rakhine State of Myanmar, among which, among other aspects, the Council "Strongly condemns the alleged systematic and gross violations of human rights

and abuses committed in Myanmar, in particular in Rakhine State, notably against persons belonging to the Rohingya Muslim community and other minorities, including women and children.” See:

<https://www.ohchr.org/EN/HRBodies/HRC/SpecialSessions/Session27/Pages/27thSpecialSession.aspx>

⁸⁵ 34/22, Situation of human rights in Myanmar, adopted without a vote on 24 March 2018, op 11

⁸⁶ A/HRC/39/64 Report of the independent international fact-finding mission on Myanmar, 12 September 2018.

⁸⁷ See: <https://www.unhcr.org/en-us/rohingya-emergency.html>

⁸⁸ Secretary-General Ban Ki-moon made 5 visits to Myanmar in a period of 8 years.

⁸⁹ The then Resident Coordinator has written extensively on her assessment of events during her one year as a Fellow at the UNDP’s Oslo Development Center. For a summary of her reflections, see: Renata Lok-Dessallien, *A principled approach...*, November 2018.

⁹⁰ See: <https://www.theguardian.com/world/2017/nov/28/pope-francis-to-meet-aung-san-su-kyi-on-first-full-day-in-myanmar>

⁹¹ See: <https://www.cfr.org/blog/obamas-visit-myanmar-mixed-result>

⁹² See: <https://www.theguardian.com/global-development/2016/jul/04/myanmar-draw-inspiration-mandela-internal-rifts-buddhist-majority-rohingya-muslim-minority>

⁹³ See: <http://www.unsceb.org>

⁹⁴ See: <https://undg.org/about/>

⁹⁵ In the specific instance of Myanmar, the establishment of a Permanent Monitoring Group also seemed to be relevant, but in practice and due to permanently conflicting agendas on the part of the member Principals, it has rarely met.

⁹⁶ See: A/72/6 (Sect. 1), *Proposed programme budget for the biennium 2018-2019*, 24 April 2017.

⁹⁷ Richard Horsey, paragraph 10, p. 5.

⁹⁸ The RC subsequently even wrote a paper entitled “Why was the UN Unable to Prevent the Rohingya Catastrophe of 2017?” (18 August 20, 2018). The main conclusion: “HRUF raised expectations unrealistically high, and inadvertently moved the spotlight on to the UN and away from those with greater responsibility for preventing atrocity crimes.”

⁹⁹ In her post-mortem analysis, the former Resident Coordinator indicated that, regarding the events prior to August of 2017, “...everyone recognized that the situation was serious and could further deteriorate, **but no one seriously anticipated the overwhelming violence and exodus of hundreds and thousands of Rohingya** of August and thereafter.” Renata Lok-Dessallien, *A principled Approach with Constructive Engagement...* p. 40.

¹⁰⁰ For example, a group of seven INGO country directors send a formal letter to the RC on November 1, 2016 to express their deep concern about trends in Myanmar, which, in their view, were alarmingly similar to those observed in Sri Lanka leading up to the tragedy of 2009. While the report was labeled as confidential, it was copied to the Ambassadors of seven Myanmar-based missions, as well as to the head of OCHA, the Special Rapporteur on Human Rights in Myanmar, and to Kofi Annan, so its contents leaked early on. While the RC and most of the Ambassadors did meet with the signatories of the letter, nothing came of it, and the Country Team continued to transmit to Headquarters a message of prudence, rather than one of alarm. For his part, Richard Horsey, in his report entitled *The Role of the United Nations in Rakhine State: Recommendations for Strategy and Next Steps*, commissioned by the RC of the UN, and prepared on 8 May 2017 – i.e., well before the events of August of that year – indicated, presciently: “The UN must also be ready to quickly confront any serious deterioration in the situation in Rakhine State. For example, any new attack on the security forces by ... the Arakan Rohingya Salvation Army would be likely to provoke a similar heavy-handed and indiscriminate response as that seen following the October/November (of 2016) events.” (paragraph 50, page 20, and again reflected in the recommendations on page 26). Further, as already pointed out, similar warnings were emanating from some quarters within the UN System (see end note 102, below).

¹⁰¹ Lyam Mahoney, *op. cit.*, pp. 3, 14, 16, 36.

¹⁰² In general terms, the reports of the Special Rapporteur on Myanmar became more and more alarming with time, as did the tone of the resolutions of the Human Rights Council between 2014 and 2017. The political unit for Human Rights Up Front (HRUF) belonging to EOSG through 2016 also insisted on the growing risks of violence and human rights violations in Kachin, Shan and especially Rakhine States, embodied in the phrase “grave risk” in various internal documents.

¹⁰³ The Secretary-General expressed his concerns regarding the plight of the Muslim communities and particularly the Rohingya people to State Counsellor Aung San Suu Kyi in a meeting held in Beijing on 15 May 2017, and subsequently sent her a letter on 5 July 2017 regarding the question of citizenship of same.

¹⁰⁴ Namely, the 2012 *Report of the Secretary General's Internal Review Panel on United Nations Actions in Sri Lanka*, *op. cit.*

¹⁰⁵ See the Preamble of *Transforming our World: The 2030 Agenda for Sustainable Development* A/RES/70/1, 25 September 2015,

[https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Dev
elopment%20web.pdf](https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf)

¹⁰⁶ See: 72/279, *Repositioning of the United Nations development system in the context of the quadrennial comprehensive policy review of operational activities for development of the United Nations system*, 31 May 2018.

ANNEX

List of interlocutors

In addition to my conversation with Secretary-General António Guterres, in his present capacity as well as his former one as UN High Commissioner for Refugees, I reached out to the following persons, mostly in direct conversations, but, in some instances, through teleconferences or even virtual conversations in writing: Simon Adams, Sofia Busch, Louis Charbonneau, Helen Clark, Radika Coomaraswamy, Mark Cutts, Adama Dieng, Alan Doss, Oscar Fernandez-Tarranco, Jan Eliasson, Jeffrey Feltman, Andrew Gilmour, Jung Hwan Lee, Fabrizio Hochschild, Richard Horsey, Miroslav Jenča, Asif Khan, Yanghee Lee, Renata Lok-Dessallien, Ben Majehodummi, Susana Malcorra, Peter Mauer, Gustavo Meza-Cuadra, Ursula Mueller, Vijay Nambiar, Knut Ostby, Pramila Patten, Charles Petrie, Robert Piper, Zeid bin Ra'ad al-Hussein, Mariann Ruud Hagen, Christine Schamer Burgener, Paul Seger, Michael Shaikh, Bruno Stagno, Achim Steiner, Jens Wandel, Shin Umezumi, Teresa Whitfield and Mari Yamashita. I am grateful to all of them for their insights and narratives.

Bibliography

Adams, Simon, *If Not Now, When?: The Responsibility to Protect, the Fate of the Rohingya and The Future of Human Rights*, Global Center for the Responsibility to Protect, Occasional Paper Series, No. 8, January 2019.

Advisory Commission on Rakhine State, *Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine*, August 2017, www.rakhinecommission.org/the-final-report/

Aron, Gabrielle and David Gilmore, *Navigating Change: Crisis and Crossroads in the Rakhine State Context*, CDA Collaborative Learning Projects, April 2017

Albert, Eleanor and Andrew Chatzky, Council for Foreign Relations, *The Rohingya Crisis*, December 5, 2018, <https://www.cfr.org/backgrounder/rohingya-crisis>

Cunningham, Wendy; Munoz, Rafael, *Myanmar's Future Jobs: Embracing Modernity*. World Bank, Washington, DC. © World Bank
<https://openknowledge.worldbank.org/bitstream/handle/10986/30400/129754-4-9-2018-14-36-21-MyanmarFutureJobsMainReportfinal.pdf?sequence=1&isAllowed=y>

Lok-Dessallien, Renata, *A Principled Approach with Constructive Engagement: Application and Challenges for the UN in Myanmar (2012–2017)*, Internal paper, UNDP Oslo Governance Centre, February 2019.

Indregard, Andreas, *Violence in Myanmar's Rakhine State: Reflections on the approaches of the international community*, September 2015.

Horsey, Richard, *The Role of the United Nations in Rakhine State: Recommendations for Strategy and Next Steps*, 6 April 2017; revised 8 May 2017.

Kofi Annan Foundation, Advisory Commission on Rakhine State: *Lessons Learned*, June, 2018, www.kofiannanfoundation.org/app/uploads/2018/06/180530_Rakine_Lessons-Learned_final.pdf

Lintner, Bertil, *Land of Jade. A Journey from India through Northern Burma to China* (Bangkok, Orchid Press) 2011.

Mahony, Liam, *Time to break old habits: Humanitarian Protection and the Rohingya in Rakhine State*, Fieldview Solutions, March 2018

Magnusson, Anna and Morten B. Pedersen, *A Good Office? Twenty Years of UN Mediation in Myanmar*, International Peace Institute, Policy Papers, November 5, 2012

Médecins Sans Frontières, *International Activities Report, 2017, Myanmar*, <https://www.msf.org/international-activity-report-2017/myanmar>

Médecins Sans Frontières. 'No one was left' – Death and Violence against the Rohingya, Report, 9 March 2018, <https://www.msf.org/myanmarbangladesh-no-one-was-left-death-and-violence-against-rohingya>

Pedersen, Morten B. and David Kinley (eds.) *Principled Engagement: Negotiating Human Rights in Repressive States* (London: Routledge, Taylor & Francis Group) 2016

Petrie, Charles, Debating the definition of genocide will not save the Rohingya, *The Guardian*, 4 September 2018.

Rae, Bob, *Tell Them We're Human" What Canada and the World can do about The Rohingya Crisis*, Report of the Prime Minister of Canada's Special Envoy, Global Affairs, Canada, 2018.

Report of the Secretary-General's panel of experts on accountability in Sri Lanka (31 March, 2011), https://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf

UNDP Myanmar, *2017 Annual Report and 2013-2017 Results Report*, 2018

United Nations, *Report of the independent international fact-finding mission on Myanmar*, A/HRC/39/64, 12 September 2018

Toosi, Nahal, *The Genocide the US didn't see coming*, Politico Magazine, March 4, 2018.

World Bank Group, *Myanmar-World Bank Group Partnership: Country Program Snapshot*. World Bank, Yangon. World Bank, 2016, 47 pages.
<https://openknowledge.worldbank.org/handle/10986/24039> License: CC BY 3.0 IGO.

World Bank Group., *Myanmar Economic Monitor, May 2018: Growth Amidst Uncertainty*. World Bank, Washington, DC. World Bank., 2018, 78 pages.
<https://openknowledge.worldbank.org/bitstream/handle/10986/29917/126403-WP-v2-PUBLIC-MEM-MASTER-clean-with-cover.pdf?sequence=1&isAllowed=y>

United Nations (Yanghee Lee), *Report of the Special Rapporteur on the situation of human rights in Myanmar* (A/71/361), 29 August 2016

United Nations (Yanghee Lee), *Report of the Special Rapporteur on the situation of human rights in Myanmar* (A/72/382), 8 September 2017

United Nations (Yanghee Lee), *Report of the Special Rapporteur on the situation of human rights in Myanmar* (A/73/332), 20 August 2018
