

Time to break old habits: Shifting from Complicity to Protection of the Rohingya in Myanmar

Abstract: This study outlines the need for the international community in Myanmar to dramatically change gears in their approach if they are to break out of a cycle of passive complicity with ethnic cleansing and make a more lasting contribution to protecting the persecuted Rohingya Muslim minority in Myanmar. The article analyzes years of secrecy, self-censorship and silent compliance with government policies of abuse. It calls on all actors to engage in more forthright reporting and advocacy, confronting government harassment more boldly. It further urges donors and agencies to stop all support to ethnic detention centres and to strictly condition all their future contributions and programming in Myanmar – linking such support to the granting of freedom of movement and other rights to the Rohingya.

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Table of acronyms used

ARSA – Arakan Rohingya Salvation Army (Rohingya armed group first appearing in 2016)
HRUF – Human Rights Up Front
ICRC - International Committee of the Red Cross
IDP – Internally Displaced Person
INGO – International Non-governmental organization (NGO: non-governmental organization)
OCHA – United Nations Office for Coordination of Humanitarian Affairs
OHCHR – United Nations Office of the High Commissioner for Human Rights
RC – United Nations Resident Coordinator (RCO – Resident Coordinator Office)
UEHRD – Union Enterprise for Humanitarian Assistance, Resettlement and Development
UNDP – United Nations Development Program
UNHCR – United Nations High Commissioner for Human Rights
WFP – United Nations World Food Programme

Preface

This analysis is intended for humanitarians, development actors, donors, diplomats and other political actors concerned about the protection and well-being of the Rohingya people and other persecuted ethnic groups of Myanmar, or concerned about any minority facing abuses in this world as a result of state policies of discrimination and segregation. It addresses how international actors can be manipulated or intimidated into helping governments carry out policies of abuse and discrimination. The long and ongoing silence of the international actors inside Myanmar who watched this crisis develop over more than half a decade follows a similar pattern to the international fiasco in Sri Lanka a decade earlier. Whatever was attempted by the UN and others after the Sri Lanka debacle to prevent its repetition has clearly failed the Rohingya. Some new thinking is needed.

Fieldview Solutions, founded in 2008 by Liam Mahony¹ and Roger Nash, has been helping organizations that deploy staff in conflict zones and regions of significant human rights abuse for a decade. Its director, Liam Mahony, has been closely engaged with field protection work since the 1980s. In providing analysis, training and strategic advice, we have always aimed to be objective and critical – willing to ask questions that people working inside large institutions are often hesitant to voice openly.

The challenge of government manipulation and intimidation of international organizations has been an important area of study for us for some time. Mr. Mahony's 2006 book, Proactive Presence: Field strategies for civilian protection, addressed the issue, and Fieldview Solutions followed this up with consulting support to UN-OCHA's PROCAP² program and WFP's Protection project³. Fieldview Solutions' co-founder Roger Nash wrote two papers for the Norwegian Refugee Council in 2012 on the institutional challenges of supporting civilians subjected to state violence in Sri Lanka during the end of the war in 2008-2009.⁴

In August 2015, Liam Mahony was invited to Myanmar by the Office of the High Commissioner for Human Rights (UN-OHCHR) to assess the human rights impact of the international humanitarian efforts in Rakhine state. His report, "A Slippery Slope: Helping victims or supporting systems of abuse," outlined the difficult context faced by the humanitarian operation there, the unacceptable compromises resulting from intimidation by the state, and the negative human rights impacts of these compromises on the Rohingya. OHCHR did not distribute the study to its partners working on the ground in Myanmar, despite the expressed interest of many (in the UN, INGOs and donor community) in seeing its results.

Among those interested was the Myanmar UN Office for Coordination of Humanitarian Affairs (OCHA), which invited Mr. Mahony back to Rakhine State in June of 2017 to do an in-depth study on 'Strengthening principled humanitarian action in Rakhine State,' and to deliver briefings to OCHA staff and to the humanitarian country team. After three weeks of research involving scores of meetings and interviews in Yangon, Sittwe and Maungdaw, and visits to Rohingya communities, the briefings were delivered, and a report completed in July, a month prior to the August 25 launch of a full-scale ethnic cleansing campaign against the Rohingya by Myanmar's armed forces. The recommendations urged the humanitarian

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² PROCAP: This Protection Standby Capacity program was developed by the UN's Office for Coordination of Humanitarian Affairs (OCHA) during the 2005 Humanitarian reform. It sustains a roster of senior protection officers to assist the UN system with rapid onset crises or other temporary needs, as well as a protection training program for other protection officers working in the field.

³ WFP's Protection Project (2005-2008) developed and rolled-out protection trainings to WFP field staff all over the world, and helped to lay the groundwork for the WFP Protection Policy that was approved in 2012.

⁴ [Protecting or Facilitating? A review of the humanitarian response to IDP detention in Sri Lanka, 2009](#), Fieldview Solutions, 2012. The second and more detailed report remains confidential to NRC.

community to dramatically shift away from its quiet and compliant approach to advocacy, to stop quietly collaborating with illegal internment camps, and to stop assisting the government in its campaign to erase the Rohingya identity from public discourse, among others. Significantly, the report also urged the immediate development of emergency contingency plans⁵ and firmer advocacy to prepare for the next military crackdown against the Rohingya, which was not difficult to predict. OCHA never disseminated this report for broader consideration.

This reluctance to share or discuss self-critical analysis that might encourage institutions to change their habitual approaches is a systemic problem discussed in both papers. It is exacerbated by an excessive fear of not appearing to be “a team player”, even when those who suffer most from the resulting failure to learn from mistakes are the very victims these institutions exist to protect.

The analysis of both papers was constructive and intended to help the international community in Myanmar to begin a transparent and self-critical dialogue in order to find new strategies and change their approaches. This strategic debate is essential for all the international actors working on the ground in Myanmar, including the UN and the NGOs as well as the diplomatic and donor communities.

This criticism of these decisions by OHCHR and OCHA is in no way intended to detract from the vital positive roles that both institutions have played in this crisis. The High Commissioner for Human Rights, Zeid Ra’ad Al Hussein, deserves great credit for his consistently forthright and courageous defence of the human rights of the Rohingya in Myanmar ever since he took office in 2014. Inside Myanmar, UN-OCHA has been quietly raising some of the concerns discussed here.

Nevertheless, this debate must be taken on more broadly. These concerns and arguments need to be in the public sphere if the international institutions involved are to be persuaded to improve. This essay is written independently and under no contract to any UN agency. It avoids using any information from confidential documents shared with the author by the contracting UN agencies during the aforementioned consultancies. Everything stated here is the responsibility of the author. This analysis nonetheless draws from the lessons learned by the author on those two visits to Rakhine State. It also draws on years of experience with similar dynamics in many countries, including the international fiasco in Sri Lanka in 2007-2009. Internal institutional priorities and inter-agency diplomacy are not sufficient reason to inhibit strategic thinking and internal critique when lives and rights are at stake. This essay, which may be freely distributed to any interested party, aims to further promote that wider and deeper discussion.

The opportunity to serve together with the brave and committed people working in the humanitarian and human rights institutions in this world is one of the great privileges of my career. Thousands of these fieldworkers take daily risks out of a deep commitment to help people in need. So although this essay raises very pointed criticisms about failure and complicity, it is not intended to vilify the actors whose decisions are critiqued, nor the staff who implement them. On the contrary, the essay addresses how the pressures, intimidation and manipulations of bullying governments can put well-meaning humanitarians, development actors and diplomats in situations where it is very difficult to make the right choices. If the international community on the ground has been complicit with ethnic cleansing, or as some have described it, a ‘slow genocide’, it has been under duress. This essay aims to help all of us develop better defensive strategies for confronting state pressures and intimidation in order to sustain the humanitarian and human rights principles we stand for.

- Liam Mahony, Director, Fieldview Solutions

⁵ Some humanitarian donors had also been requesting such contingency planning, to no avail.

Chapter 1: Introduction and Executive Summary

The world has watched in horror as an obscene campaign of human rights abuse has unfolded in Myanmar: the nearly exhaustive ethnic cleansing of the persecuted Rohingya minority from their homes in the northern part of Rakhine state. After thousands of murders⁶, hundreds of rapes⁷, hundreds of villages burned,⁸ and upwards of 800,000 refugees forced into Bangladesh, the strategy of the Myanmar military and civilian government to rid themselves of the Rohingya is well underway, perhaps even nearly completed.

Now the governments of Myanmar and Bangladesh have negotiated a repatriation agreement, and more recently, the Myanmar government has signed a “secret” memorandum of understanding with the UN High Commissioner for Refugees (UNHCR) and the UN Development Program (UNDP) to assist with repatriations when they happen. Both governments are under pressure: Bangladesh is straining under the weight of hosting so many refugees, while Myanmar is facing a modest international human rights backlash for its atrocities. The media are showing the world the situation of refugees in Cox’s Bazar, Bangladesh. But the ongoing plight of the Rohingya who are still living in Myanmar has nearly disappeared off the world’s radar screen altogether.

This essay will focus on an aspect of this crisis that has been largely ignored: the extent to which key international players inside Myanmar watched this ethnic cleansing disaster coming and kept quiet. The goal of studying this dynamic is to provide analysis and recommendations that may help the UN and other international organizations, including NGOs, to avoid repeating these mistakes in the future, both in Myanmar and elsewhere, by taking more seriously the responsibility to fulfil a more active preventive advocacy role.

In fact, the United Nations, international humanitarian and development organizations and most of the diplomatic corps had for years been overseeing – and directly funding – a system of *apartheid* inside Myanmar⁹ in which over a hundred thousand Rohingya were held in internment camps (where they still

⁶ <http://www.msf.org/en/article/myanmarbangladesh-msf-surveys-estimate-least-6700-rohingya-were-killed-during-attacks>.

⁷ <https://www.hrw.org/news/2017/11/16/burma-widespread-rape-rohingya-women-girls>

⁸ Human Rights Watch reported 354 villages burned down by December. Shown graphically on this map from Reuters: <http://fingfx.thomsonreuters.com/gfx/rngs/MYANMAR-ROHINGYA/010060630DW/index.html>

⁹ See Amnesty International, “Caged Without A Roof: Apartheid in Myanmar’s Rakhine State.” <https://www.amnesty.org/en/documents/asa16/7484/2017/en/>

According to the International Convention on the Suppression and Prevention of the Crime of Apartheid:

“...the term “the crime of apartheid... shall apply to the following inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them:

(a) Denial to a member or members of a racial group or groups of the right to life and liberty of person:

(i) By murder of members of a racial group or groups;

(ii) By the infliction upon the members of a racial group or groups of serious bodily or mental harm, by the infringement of their freedom or dignity, or by subjecting them to torture or to cruel, inhuman or degrading treatment or punishment;

(iii) By arbitrary arrest and illegal imprisonment of the members of a racial group or groups;

(b) Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part;

(c) Any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including the right to work, the right to form recognized trade unions, the right to education, the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association;

d) Any measures including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof;

(e) Exploitation of the labour of the members of a racial group or groups, in particular by submitting them to forced labour;

(f) Persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid.”

remain). They knew that the Rohingya were suffering constant abuses from the military, police and the Buddhist majority, and that Rohingya children had been deliberately kept in an ongoing state of malnutrition.¹⁰

The international organizations on the ground and the diplomats in the capital keep silent as a general rule because they believe this silence to be a necessary condition of operating smoothly in the country. Humanitarians often apply the phrase “negative coping strategies” to certain self-destructive approaches chosen by populations and individuals under duress. A “negative coping strategy” is an equally apt description of how these organizations and bilateral donors chose to quietly sustain Myanmar’s internment camps for the Rohingya for over 5 years. The government also allowed humanitarians to provide a fraction of the food needs of a starved Rohingya population of northern Rakhine state for two decades, on condition that they stay mostly silent about one of the worst ongoing child malnutrition situations in the world, and they obeyed.¹¹ Adding insult to injury, Myanmar in recent years has demanded that the internationals inside Myanmar refrain from using the word “Rohingya” at all when speaking of this persecuted minority, and nearly all have consistently complied, thus assisting the state in erasing this minority’s identity. Such compliance and silence made ethnic cleansing easier.

A decade ago the UN and other humanitarian organizations’ exhibited similar obedience to the Sri Lankan government. First they kept quiet about mass killings and war crimes, and after the war they funded and managed state-run internment camps for ethnic Tamils. The subsequent scathing internal UN investigation prompted a new UN-wide doctrine called “*Human Rights Up Front*”,¹² imploring UN leaders and other international organizations to behave more courageously. In the ensuing years, many meetings were held, papers and manuals were published and countless powerpoint-based trainings were delivered to thousands of UN and NGO staff all over the world – including in Myanmar. But for Myanmar’s Rohingya, this doctrine can only be characterized as a complete failure. At their expense, the mistakes of Sri Lanka are still being repeated, and their suffering continues.

Although this paper will limit its analysis to Rakhine State and the situation facing the Rohingya, they are certainly not the only minority ethnic group to suffer from the abuses and discrimination of the Myanmar military. Civil wars and military crackdowns, including in Kachin and northern Shan states among others, have left a trail of abuses and victims. The Tatmadaw’s (Myanmar army) strategies of scorched earth and rape have not been reserved for the Rohingya. In a national context where very few other voices in Myanmar speak up on behalf of the Rohingya, the similarities of the atrocities have prompted some powerful statements. For instance, on International Women’s Day, 2018, the Karen Women’s Organization stated:

*Finally, we cannot ignore on this day of celebration the incredible abuse by the Burma Army of Rohingya women. The use of rape and murder by the Army is well documented. We have personally experienced rape as a weapon of war by the Burma Army. We had hoped we were one of the last groups of women to suffer at their hands. Sadly, we were not. It is time to put an end to that abuse and refer General Min Aung Haling to the International Criminal Court. It is time to place meaningful sanctions on the Army until real peace, democracy and human rights are established. **Their time is up. We have waited too long, our time is now. No women from Burma of***

¹⁰ <https://www.theguardian.com/world/2017/jul/17/rohingya-crisis-un-warns-80000-children-wasting-from-hunger-in-myanmar> . Some might question whether the regime inflicted child malnutrition and infant mortality with deliberate intention, or whether it was a side-effect of the generalized repression. However, restrictions on food, access to livelihoods and healthcare was sustained over decades even when the regime was regularly informed of the disproportionate impact on child health, suggesting premeditation and intention.

¹¹ <https://www.theguardian.com/world/2017/oct/17/un-report-on-rohingya-hunger-is-shelved-at-myanmars-request>. Food aid workers in the north consulted in 2015 believed that if they publicized anything about the people they were not allowed to give food to, they would be prevented from giving food to anyone.

¹² Human Rights Up Front will be discussed in greater detail in Chapter 5.

*any background should experience these attacks, not the Rohingya, not the Shan, not the Kachin and not the Karen. We should not suffer at the hands of our husbands and we should not suffer at the hands of the Burma Army.*¹³

Rakhine State undoubtedly poses a painful challenge to humanitarian, development and other international actors in Myanmar. Great credit is due to all the staff of UN agencies and NGOs working in central and northern Rakhine for facing up to the suffering and sadness around them on a daily basis, as well as to their committed colleagues working in Yangon. They are trying to help people in these desperate circumstances, and are deeply frustrated regarding the perceived prospects for positive change.

Despite the heartfelt commitments of individuals, the strategies that have been chosen by the highest levels of leadership, both in Yangon and in each institutions' global headquarters, have been deeply flawed, and have left them far too vulnerable to manipulation by the government. This vulnerability arises from a prolonged tendency to just keep moving forward with habitual approaches that prioritize smooth relationships with the state no matter how the context changes, showing a willingness to relinquish humanitarian principles in the process. Humanitarian principles exist for practical reasons: they have developed over time as a result of very hard lessons learned over the course of the history of the humanitarian movement. Sustaining them requires a willingness to confront powerful national actors.

To ease this process of compliance, the UN and humanitarian actors inside Myanmar latch on to the convenient analysis that it is an adequate system response if only the human rights voices outside the country call attention to abuses and protection challenges. They use external voices to justify their own silence, usually on the grounds that their ability to deliver services may be hindered if they do otherwise. A second convenient misconception is that an approach based purely on "quiet diplomacy" without any element of public exposure or pressure can be effective when dealing with a state that has no political will to protect the minority whose rights are at stake. These challenges will be dealt with in detail in this study.

The international organizations operating in Rakhine have dug themselves into a deep hole which will not be easy to climb out of, because they have so consistently for so many years confirmed the Myanmar government's expectations of docility and obedience. The coming of "democracy" to Myanmar was used paradoxically as an excuse to continue and even deepen this passive approach, always justifying it by expressing their political fear of undermining the new democratic actors.

In this manner, the international community in Myanmar became complicit in a process of preparation for ethnic cleansing, and all the organizations who fell into this trap need to do some serious soul-searching about how to turn this around.¹⁴ Such a reversal will inevitably demand that internationals inside the country start to do things that the Myanmar government and military do not want or expect them to do, such as sharing information publicly about what happens inside Rakhine State, such as insisting on human rights and humanitarian principles as prerequisites for actions, such as showing respect for the Rohingya and their own role as protagonists of their own story. Such changes of behaviour after so long will be a shock and will inevitably result in some backlash, perhaps even some expulsions, requiring defensive preparation.

This crisis is by no means over. There are still hundreds of thousands of Rohingya in Rakhine state, all either physically or virtually imprisoned, all suffering from inadequate food, shelter, medical services, livelihoods

¹³ <https://www.burmalink.org/international-womens-day-karen-womens-organization-statement/>

¹⁴ The United Nations Special Adviser on the Prevention of Genocide pointed out that "*despite numerous warnings I have made of the risk of atrocity crimes, the international community has buried its head in the sand.*" (March 2 statement of the Office on Genocide Prevention and the Responsibility to Protect, www.un.org/genocideprevention.) Meanwhile, the Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee, called for "*a review of actions by the United Nations system in the lead-up, during and after the events of 9 October 2016 and 25 August 2017 regarding the implementation of its humanitarian and protection mandates and within the Human Rights Up Front framework.*" Statement by Ms. Yanghee Lee at the 37th session of the Human Rights Council, 12 March 2018.

and education as well as constant human rights abuse and discrimination. Furthermore, it is not inconceivable that Bangladesh and Myanmar will eventually force hundreds of thousands of refugees back across the border into inhumane and terrifying conditions – it would not be the first time.¹⁵ And if that happens, if there has been no change in approach the humanitarian organizations may find themselves funding and servicing many more internment camps than they already are now.

The international community inside and outside Myanmar needs to try to get on the same page in changing their approach to this challenge. To do this, they need to understand what went wrong, and what part they played in it.

Summary and recommendations

After the introduction and review in this chapter, Chapter 2 provides contextual and historical background, describing the demography and conditions faced by the Rohingya in Rakhine State prior to the recent exodus, and reviewing some of the political and social history. In particular it calls attention to the centuries-long and legitimate residency of Rohingya in the country, (and thus the arbitrary nature of Myanmar denial of their citizenship). It also flags the long coexistence of the Rohingya with the ethnic Rakhine, and the diverse interactions of these communities with each other and the central state prior to the intense segregation imposed after 2012. The systematically discriminatory nature of central Myanmar state's treatment of the Rohingya can be traced back several decades.

The review then goes into more detail regarding the events since 2012, when deliberately manipulated riots were used as an excuse to imprison 120,000 Rohingya in detention camps. This led to a major expansion of the presence of humanitarian organizations, who sustained a very tense relationship with the government and the local ethnic Rakhine population, with a low point in 2014 when Rakhine gangs attacked many international offices in Sittwe. Notwithstanding the ups and downs of that relationship, the situation of the Rohingya was paralyzed and steadily deteriorating, with no state efforts to resolve it.

The situation worsened dramatically in October 2016, when a small Rohingya armed group known as ARSA attacked several police stations in northern Rakhine, giving the military an excuse for a massive crackdown on the entire population, resulting in the first recent ethnic cleansing episode, when 70,000 fled into Bangladesh. Ten months later, ARSA attacked police and border guard stations again on August 25, 2017, and a massive military counterattack drove nearly the entire Rohingya population across the border, killing thousands, raping hundreds of women, and burning most villages to the ground.

Chapter 3 maps out the overall approach of the international community inside Myanmar between 2012 and the present, and lays out the flaws in this approach. No matter how the government and military behaved, the international approach remained one of pure quiet diplomacy, constant calls for “partnership,” promises of development as a cure-all for inter-communal conflict, and a very standard humanitarian operation that treated detention camps like a normal situation of internal displacement. The specific flaws discussed include:

1. **A lack of public advocacy**, which might have inflicted greater political costs on the military and the government. Instead of using Myanmar's transition to democracy as an opening to address its deep internal problems of discrimination, the international community's hero-worship of Aung San Suu Kyi was used as an excuse to forgive all abuses and quietly support her party at all costs.

¹⁵ The current common belief among humanitarians is that a forced return will not happen because the conditions on the ground are below acceptable standards. The danger of this optimism is discussed under recommendations in Chapter 6. Repatriations can be inexorably propelled by political dynamics and power plays despite the conditions on the ground. Political pressures that might arise in Bangladesh, for instance, are unpredictable. Other countries hosting refugees might also face internal pressures. See for instance the statement by India's Home Minister, “Rohingya belong to Burma. They have to be deported: Rajnath”, United News of India, June 8. <http://www.uniindia.com/rohingyas-belong-to-burma-they-have-to-be-deported-rajnath/states/news/1255576.html>

2. **Keeping information secret:** The UN, and especially UNHCR, enforced a culture of secrecy which directly assisted the government in minimizing the political costs of its treatment of the Rohingya. Information that was gathered in Rakhine State was tightly controlled, and almost never saw the light of day in public reports. This collusion with the government in hiding the Rohingya reality from the world was perhaps the most serious problem justifying a conclusion of complicity.
3. **Subsidizing apartheid and paying for illegal prisons:** The UN, INGOs and donors have been subsidizing apartheid and detention camps imprisoning over 100,000 people for 6 years, thus facilitating the government's policy of segregation and ethnic cleansing. It is not a small subsidy: the internationals pay the bills for these prisons, and provide and pay for their staffing. When international staff in Rakhine refer to themselves cynically as "jailers," they wish they were joking. Worse yet, everyone conveniently refers to these prisons only as "IDP camps," normalizing an entirely illegal situation.
4. **Avoiding the word Rohingya, paving the way for ethnic cleansing:** The international actors inside Myanmar have for years accepted the government's demand to eliminate the Rohingya identity from their discourse, never saying the word "Rohingya" inside the country. The Rohingya are not only being pushed out of Myanmar geographically. They are being cleansed from the culture and the language, a common preparatory step for genocide, and the international community has been helping to pave the way.
5. **Deflecting accountability through misdiagnosis:** The crisis in Rakhine State is complex, but international actors have focused on a one-dimensional analysis focused on the aspect of local inter-communal conflict with the ethnic Rakhine, and deliberately underemphasized the more important and influential dynamic of the decades-long national and military strategy of segregation, confinement, deliberate impoverishment, and ethnic cleansing. While working on conflict sensitivity and improved ethnic relationships is a positive thing, this excessive focus does not address the root problem at the national level, and has assisted national leaders in avoiding accountability.
6. **Misusing "conflict sensitivity" approaches:** The excessive focus on inter-communal conflict was accompanied by pressure to appease the Rakhine community as much as possible through superficial 'conflict sensitivity' approaches – which were mostly comprised of spending money on Rakhine communities, and avoiding any sensitive discussion of Rohingya rights because neither the Rakhine population nor the government wanted to hear it. This silence was defended as "reducing friction," which contributed further to the disempowerment of the Rohingya.
7. **Offering unconditional development support to a discriminatory apartheid system.** The dominant approach emphasized development support in and of itself as a cure for conflict, with no acknowledgement that offering such support and funding without addressing structural inequalities would only strengthen the discriminatory system.
8. **Failure to adequately empower, involve and communicate with the Rohingya.** The relationship between the Rohingya and the international organizations in Rakhine is deeply dependency-driven, and these institutions have very little in place that enables them to listen to or understand this community's needs or opinion, or their own vision of their own future. The internationals pose as 'champions' of the Rohingya community but without adequate consultation, and then focus their negotiation approaches primarily on improving their own access and operations rather than on pressuring for Rohingya rights.
9. **Buying in to smokescreens:** the Rakhine Advisory Commission was a government strategy to deflect pressure and appear to be taking action, and the international community completely fell into this trap, using the Commission's existence as an excuse to delay advocacy or discussion for a year while the Commission deliberated. Although its recommendations contain important proposals that can be taken advantage of in continued advocacy, the government is manipulating the result for its own benefit, while the international community fails to take advantage of its possibilities.

Chapter 4 focuses on the biggest of these problems, the advocacy gap and the failure to share information about the real situation. The chapter outlines the weaknesses of the “pure quiet diplomacy” approach and the need for advocacy to be more public in order to create political costs that will change motivations and provoke some damage control action by the state. It outlines the unique role that humanitarian organizations in the field must play in this process of reporting and advocacy, because of their widely-respected credibility at the global level. It shows how instead they have fallen into a trap in which an excessive fear of “losing access” was used to justify all-embracing compliance with any government demands, no matter how unacceptable.

One of the primary justifications for this advocacy failure is hopelessness – the internationals too easily convince themselves that advocacy has no impact on Myanmar and is therefore not worth the bother. This attitude fails to grasp the complexity and long-term nature of political change, and the important incremental contributions of international pressure to impact that accumulates over time. Finally, the chapter goes into detail about how international organizations need to change their analysis and response to state intimidation, build up a tougher skin and defensive strategies that will enable them to act according to their principles and in the longer-term interest of the Rohingya.

Chapter 5 outlines the failure of the UN’s “Human Rights Up Front” doctrine in Myanmar, and the vital importance of human rights monitoring in Rakhine State. The UN and the diplomatic corps have not pushed hard enough to install a permanent office of the High Commissioner for Human Rights in Myanmar. The Myanmar military and government are thus far resistant to such a presence, and if they sustain this resistance, then the UN needs to find an alternative solution to fill the monitoring gap.

Recommendations (detailed analysis in Chapter 6)

The international community working in Myanmar faces a terrible choice. They can continue to quietly serve the remaining Rohingya in Rakhine, accepting the role of playing an assisting role in a long-term ethnic cleansing strategy that is now indisputable. Or they can break with their current paralysis and change their approaches, developing more vigorous protection strategies that confront human rights abuses, accepting the possible risk of state anger, harassment, retaliation and even expulsion. There is no middle ground left to them. The proposals below urge the UN and the wider humanitarian and development community to acknowledge the trap they are in, and to seize the moment to create a stronger, more coherent and effective approach to these tremendously difficult challenges.

Changing attitudes and breaking through inertia

1. **Confront the paralyzing hopelessness built on false assumptions** that the Myanmar government is impervious to influence. This is a self-serving over-simplification justifying inaction. The international actors need a more mature and long-term analysis of how political change results from the accumulated contribution of many efforts over long time-frames, and each actor has an obligation to do their share.
2. **Break out of the oversimplified assumption that sharing public information or doing advocacy is “someone else’s job.”** The humanitarian community and the entire UN system have system-wide commitments to protection and human rights, and unique access to field information, and under these extreme circumstances, information dissemination and protection advocacy is everyone’s job. They need to recognize that, like a cyclone or a flood, ethnic cleansing is a disaster that demands a change in plans.

Changing the analysis and narrative

3. **Refocus the problem analysis to place greater accountability at the national level**, acknowledging the need to change a long-term systemic and centrally-directed strategy of apartheid and segregation, rather than limiting itself to a local analysis of inter-communal conflict.

4. **Develop a consistent message** among actors inside and outside Myanmar that is **both quiet and public**. This message must be unabashedly in line with international law and stand up for the rights of the Rohingya and other Muslims. It should emphasize that the legitimacy of a new democracy is inextricably linked to its treatment of its minorities. Above all, this discourse needs to publicize and denounce human rights abuses, and create political costs for the government that will create “damage-control” pressure for changes.
5. **Empower and listen more to Rohingya voices in Myanmar**. These people need support to non-violently mobilize themselves and develop their own strategy and voice as a community. They need to be more engaged in the discussions and advocacy about their own fate. If the internationals listened more, “Humanitarian access” might not be the primary negotiation priority they hear.
6. **Use the word “Rohingya” consistently!** The compliance of the international community inside Myanmar with the restriction against this word is a direct collaboration with a genocidal strategy to eliminate the identity of a population. It was a demand that should never have been accepted and should be changed immediately despite the inconvenient government (and Rakhine community) reactions that may ensue.
7. **Control your own narrative**: The humanitarian, diplomatic and donor community need to pay greater attention to how the words and discourse they choose can play a role in assisting an ethnic cleansing strategy, and find the courage to use language that consistently supports the Rohingyas' right to live as human beings with human rights. Say ‘Rohingya’. Don’t call detention camps “IDP camps”. Don’t justify ethnic cleansing by calling it “counter-insurgency.” Don’t echo the government’s narrative of “camp closure” when imprisonment will continue. The right choices can help shift the approach from passive to proactive.

Public information and advocacy

8. **Launch a relentless and outspoken campaign for freedom of movement**. Given the long-term devastating humanitarian and human rights consequences of imprisonment and other movement constraints, this needs to be the primary focus of all international community efforts. The Rakhine Advisory Commission recommendations, which the government allegedly supports, open the door for this focus, but the international community is missing it. The demand must be comprehensive, for *immediate freedom of movement for all, an end to camp imprisonment, open access to health and educational facilities, free movement and access to markets and employment, farming and fishing, rescinding of local orders restricting movement between communities*, among other constraints.
 Security arguments cannot be allowed to justify imprisonment or delay rights. All Muslims in Rakhine have a right to movement *today* even if tensions exist. If security conditions create risks, it is up to the individual to decide what risks they take to exercise a right they should never have been deprived of.
 Unless and until freedom of movement is granted, the international organizations need to **stop calling prison camps “IDP camps” and acknowledge what they are**, and they need to make every effort to document and publicize the human rights and humanitarian consequences of restrictions. The humanitarian organizations on the ground need take much better advantage of their unique access to information and become a much more public source of documentation and analysis for the rest of the international actors, in particular by providing a detailed “mapping” of the restrictions and their impacts, as called for in the Rakhine Advisory Commission report.
9. **Demand and create an independent and professional human rights monitoring presence, throughout Rakhine State, with a public reporting mandate**. The international community, inside and outside Myanmar, need to be calling more firmly and repeatedly for a substantial human rights monitoring presence of either UN-OHCHR or a UN-DPA political mission. This should be demanded now, but also be a strict pre-condition for any United Nations involvement in a future repatriation. If Myanmar refuses to allow an OHCHR or DPA presence, the UN needs to develop alternative modes

of fielding qualified human rights monitors through agencies that are already in the field – but only through agencies willing to fulfil the public reporting role that is required.

Internal institutional steps

10. **Strengthen institutional advocacy and public reporting capacity.** If INGOs and UN organizations are to engage more effectively in public reporting and advocacy, they should also be investing in the necessary capacities to do so, and donors should be supporting this. Gathering information, producing reports, and firmer advocacy require dedicated staff time and skills. Some of the institutions are more versed in these skills than others. But all have a responsibility to engage more, so those who recognize a weakness in this area need to take steps to strengthen their capacity.
11. **Prepare defensive strategies and risk mitigation.** An expanded commitment to public information and advocacy may surprise and anger the government, which has grown accustomed to compliance. As the *Human Rights Up Front* doctrine insists, organizations need to support staff and managers who stand up for principles, and prepare in advance for hassles and threats. **The UN, INGOs and HOMs (Heads of Missions) Rakhine Initiative, should make a pact to stand up for each other in defence against such harassment as the Myanmar government adapts to the change.**
12. **Headquarters support, and changes in leadership:** The global leaders of each UN and INGO institution, and the UN Secretary General himself, need to give clear and supportive messages and instructions to their offices in Myanmar encouraging a more principled approach, encouraging information gathering and public advocacy, acknowledging the risks and guaranteeing support.
A positive message alone will not be enough. UN and INGO institutional headquarters leaders, their boards of directors and their donors need to recognize that many of the leaders currently deployed in Myanmar have established a compliant relationship with the government and wagered their own reputations on the current flawed quiet approach, and they will find it difficult if not impossible to reverse course. **The change that needs to happen in Myanmar will undoubtedly require some substantial changes in leadership on the ground.**
13. **Promote honest and difficult internal institutional advocacy.** This is not the first time these arguments have been presented to the UN and others, and the sad reality is that inertia and defensiveness tend to block most of these kinds of proposals and arguments from ever getting a hearing. Therefore, it is just as important to target advocacy and pressure at global institutions that are not adequately living up to their principles and mandates, and this pressure needs to come from within as much as from the outside. If after such dramatic events there has still been so little progress at changing the approach, then the UN, and in particular its Resident Coordinator, UNHCR, WFP, UNDP and other major agencies working on Rakhine, need to be put under much more pressure, by donors, states and by each other. International institutions need to have the courage to criticize and push each other. Staff and managers on the ground need to confront their superiors and their headquarters. And if the reaction is still too rigid, then there is a vital role to be played by whistleblowers on the inside who will hold their own institutions accountable.

Conditionality and sanctions

14. **Stop the double-talk on repatriation.** External media and politicians are constantly discussing “repatriation” and building up political momentum to make it happen, while humanitarian actors inside Myanmar seem to believe it will not happen because the conditions on the ground are not ripe. The harsh reality is that forced repatriations happen when states decide they will happen for their own internal political reasons, and the Rohingya have suffered this reality in the past, when Bangladesh, Myanmar and UNHCR agreed to force back 250,000 Rohingya refugees into northern Rakhine in the 1990s. **The international actors inside Myanmar need to be much more outspoken and unequivocal in insisting that the fundamental pre-condition for rights, safety and dignity for future repatriated Rohingya refugees can only be measured by the treatment of Rohingya and other Muslims currently still living in northern and central Rakhine State, and that until complete**

freedom of movement and other rights are guaranteed and implemented throughout the state, international actors should stop pressing for repatriation at all.

15. **Apply strict conditionality to all financing and program support.** The UN, INGOs and especially the donor community can only break out of their current complicity with ethnic cleansing by instituting strict pre-conditions on any current or future financial or programmatic investments. These conditions should be justified on the grounds that without them, ongoing support inevitably promotes further discrimination, contradicting their mandates and principles. This would include:
- a. As modelled in the ‘Principles of Engagement’ approach of the INGO community, all international actors, especially donors, should agree to **refrain from offering any programmatic or financial support to repatriations of refugees** if freedom of movement and other key rights conditions have not been implemented (not merely ‘promised’), and if ongoing monitoring with public reporting is not in place to ensure that rights conditions are sustained. This commitment should be announced publicly as an element of advocacy pressure for creating adequate conditions for return.
 - b. Development actors and donors should agree to **refrain from initiating any new programming or funding in Rakhine State**, until freedom of movement and other rights of Rohingya and other Muslims are restored and demonstrated in practice. This commitment should be announced publicly as an element of advocacy pressure for change.
 - c. Development actors and donors should **freeze funding for any ongoing development programs involving the government**, with continuation of such programming conditional on implementation of freedom of movement and rights for all Muslims.
16. **Stop funding detention/prison camps.** The humanitarian donor community and UN should announce and implement a withdrawal of all support to the central Rakhine detention camps, unless and until movement in and out of these camps is opened up by removing police controls and allowing unfettered access to health and education facilities, markets and livelihood opportunities. This should be accompanied by a clear public statement that subsidizing ethnic detention/prison camps is not consistent with their principles and mandates, and contrary to international law. Responsibility and accountability for sustaining and servicing illegal prisons must rest solely with the government.
17. **Promote sanctions.** Following the example of the recent report of the UK House of Commons report¹⁶, a broader discussion of **a range of international sanctions needs to be promoted among all bilateral and multilateral actors**, including ending all support to the military (arms, supplies, training, etc.), banning of investments in military-owned companies, visa bans, referral of military leaders to the International Criminal Court, among other options. The international actors on the ground need to be encouraging and providing analysis for this debate in global capitals.

Conclusion

The international community in Myanmar has allowed itself to be boxed in to a very small space, pressured and manipulated into silent complicity with ethnic cleansing and crimes against humanity, and it remains to be seen whether the UN and its humanitarian and development partners will find the courage and creativity to try to push that space open. In situations like this, international actors tend to bemoan how little political space and manoeuvrability they believe they have, and paradoxically use this as an excuse for not trying to expand it. But political space is very often self-constrained: the Myanmar government has learned that it can depend on UN and humanitarian self-censorship. However limited it may appear, that space has to be constantly contested, protected and expanded.

¹⁶ House of Commons, International Development Committee, “Bangladesh, Burma and the Rohingya crisis”, Fourth Report of Session 2017–19, 15 May 2018.

The UN and the wider humanitarian and development community in Myanmar need to dramatically change their approach to Rakhine state, not only to recuperate some credibility as principled institutions, but far more importantly because their approach since 2012 has failed abysmally – it has not helped to improve the respect for the human rights of the Rohingya, nor even the physical humanitarian conditions in which they live. One reason it has failed is because the UN and other international actors in Myanmar consistently imposed so few political costs on the government for its treatment of the Rohingya. The government has no political will to help any Muslims in Myanmar, least of all the Rohingya, and the Rohingya have no constituency that politically supports them inside Myanmar. After years of apartheid and terrible abuses, a full-scale ethnic cleansing was finally executed – successfully, but the silence of the international actors working closest to this beleaguered population inside Myanmar is deafening. International pressure is one of the only tools available to change the current equation. This pressure cannot only come from external voices. The credibility and legitimacy of the UN and humanitarian actors *inside* Myanmar is a vitally important lever that can be applied to strengthen the persuasive power of calls for respect for rights inside the country.

This powerful lever can only be applied by taking risks. The UN agencies and international humanitarian NGOs working with the Rohingya need to step up to the plate and do the protection advocacy their position and their principles demand, facing down risks of harassment and overcoming their hopelessness to do the right thing.

Chapter 2: Context and Historical Background

The Rohingya in Rakhine State

The situation in Rakhine State is one of long-term institutionalized state-directed discrimination and segregation, embodied in law, regulation, procedures and daily practice of both military and civilian authorities. A two-year study done by Amnesty International concluded, *“Amnesty International has, through a thorough legal analysis of this extensive body of evidence concluded, that the Myanmar authorities’ treatment of the Rohingya amounts to **apartheid**, defined as a crime against humanity under the Convention against Apartheid and the Rome Statute of the International Criminal Court...Myanmar is legally obliged to dismantle the apartheid system in Rakhine State, and must also ensure accountability for those responsible for committing acts that amount to crimes against humanity.”*¹⁷ The Rohingya and other Muslims in Rakhine State face severe constraints on their freedom of movement, limiting their access to livelihoods, education, health services and justice. Prior to the 2017 exodus, there were estimated to be over a million Rohingya in Rakhine State, and while their levels of acute suffering varied, they were all subject to severe rights abuses and restriction of movement.

This pre-exodus Rohingya population could be described in three very distinct categories:

- A majority of the population (700 to 800,000) lived in the northern townships of Maungdaw, Buthidaung and Rathedaung, where a very limited number of agencies or NGOs were functioning, few services were provided by the state, and the poverty resulting from state-imposed controls on movement (and consequent extortion) left people highly vulnerable, yielding some of the highest levels of malnutrition in the country – a situation which was widely agreed to have only become worse over several decades despite ongoing services since the 1990s from UNHCR, WFP and a few INGOs.
- In and around Sittwe, ever since the riots of 2012, 120,000 or more Rohingya were and still are kept in guarded internment camps with no freedom of movement and severely limited access to livelihood, health services or education.
- There were estimated to be an additional 200,000 Rohingya in other villages in various townships in Rakhine. These Rohingya in some cases had more room to manoeuvre and to develop better relationships with their Rakhine neighbours, but they still lived under the same discriminatory laws and practices. Some of these villages receive support from ICRC or international NGOs, but many do not, and their suffering and needs are relatively unassessed and under-supported. The level of repression and fear that they have been suffering since the late 2017 crisis remains largely undocumented.

The majority population in the central Rakhine region are not Rohingya Muslims but ethnic Rakhine and Buddhist. Rakhine state has the highest poverty rate in the country¹⁸, and the state as a whole suffers from underdevelopment and a historic pattern of neglect from the central government. The ethnic Rakhine have also suffered discrimination and repression from the Bamar-dominated Union government, although not of the same intensity as the Rohingya, and they have a long history of grievances against the state and the Tatmadaw (army). In fact, ethnic Rakhine resistance to the central state has been historically far more militant than any resistance from the Rohingya. The Arakan Army (an ethnic Rakhine armed resistance group) has been active and growing in recent years. The Tatmadaw and the government, however, have

¹⁷ Amnesty International report, “CAGED WITHOUT A ROOF”: APARTHEID IN MYANMAR’S RAKHINE STATE” 21 November 2017, Index number: ASA 16/7484/2017.

¹⁸ Rakhine poverty rate is 78 per cent, compared to 37.5 per cent nationally, according to a November 2014 report by the World Bank entitled “Myanmar: Ending Poverty and Boosting Shared Prosperity in a Time of Transition”.

consistently and effectively stoked anti-Muslim and anti-Rohingya sentiment among the ethnic Rakhine, focusing fears and attention on a perceived ‘Muslim threat.’¹⁹

Privations imposed on the Rohingya have historically been particularly severe in the northern townships near the border with Bangladesh, which have been militarized for decades with heavy presence of the Tatmadaw (Myanmar Army) and Border Guard. All movements were severely restricted there long before the 2012 riots in Central Rakhine, and various Local Orders restrict Muslim rights to marriage and limit the number of children in Muslim families. Several thousand children (any child born after the family already has 2) were denied any legal identity, further limiting access to services.²⁰

Historical context²¹

Pre-2012

The Rohingya communities have roots in Rakhine state pre-dating the British colonial era. A large portion of the Rohingya (or their parents) have had some form of legal citizenship in the past, which has been taken away from them by the state. Trade and migration has happened between what is now Rakhine and Bangladesh and India for hundreds of years.

The Rakhine and Rohingya populations have coexisted in Rakhine for many generations. It has been a tense relationship – for instance in World War II many Rohingya sided with the British, while many Rakhine and Burmans supported the Japanese invasion against the British. There have been sporadic but infrequent outbreaks of inter-communal violence, often alleged to have been provoked by a small minority of extreme chauvinists and/or government actors. Despite this, for the majority of this history, coexistence has been peaceful and substantial business and social relationships have existed between the two communities.

The ongoing structure of discrimination in Myanmar was eventually embodied in the 1982 Citizenship Law. This law defined three levels of citizenship in such a way that few Rohingya could qualify for any of the three. Myanmar laws links citizenship to specific Myanmar ethnicities that were deemed to be present in Burma prior to British colonisation²². The state later developed a list of 135 recognized nationalities or races, from which the Rohingya were excluded. The 1982 Citizenship Law effectively and intentionally prevents the Rohingya from being recognized as citizens.²³

¹⁹ Wade, Francis, *Myanmar's Enemy Within: Buddhist Violence and the Making of a Muslim 'Other'*, (Zed Books, London, 2017) provides a very useful history and analysis of relationships between Rakhine, Rohingya and the dominant Bamar-led state, showing how the state stokes fear and conflict as a means of social control, and how extremist Rakhine Buddhists and politicians use state support to sustain their own power and influence. Wade describes in detail the process of state-building in Burma, and how it deliberately played Buddhist commonalities and antipathy toward non-Buddhist influences (both Muslim and Christian) as a mobilizing theory and mechanism to promote and sustain Bamar/Buddhist dominance and control.

²⁰ “Local orders” are local regulations imposed by the national government which have been in place since long before the 2012 violence. They provide clear evidence of the systematic and institutionalized nature of discrimination in Rakhine. The impact of these orders on the Rohingya population’s access to rights is dramatic. For instance, when Rohingya families have more than two children, additional children are not granted any legal documentation: they cannot appear on the family lists as even existing, and therefore have no legal access to any services, including education. There is no national or international institution present in the northern townships focused on responding to the needs of these children. The denial of citizenship rights to children is one of the concerns emphasized by the Rakhine Advisory Commission led by Dr. Kofi Annan.

²¹ This section will only summarize a few key elements in the history. More detailed histories can be better found in other documents, especially, Wade, *Myanmar's Enemy Within*, cited above. See also, “Myanmar: The Politics of Rakhine State,” International Crisis Group, 2014. And, “Myanmar, A Political Economy Analysis”, by Kristian Stokke, Roman Vakulchuk, Indra Øverland. Norwegian Institute of International Affairs, 2018.

²² Many sources show a Rohingya presence in Burma prior to colonization; however, this is not the state view.

²³ The Rakhine Advisory Commission’s final report, for instance, points out that the 1982 Citizenship Law was inconsistent with the Convention of the Rights of the Child to which Myanmar is a signatory, and that the law and the way it was implemented, significantly narrowed the prospects for citizenship for Muslims in Rakhine.

One of the worst episodes of violence led to the flight of 260,000 Rohingya into Bangladesh in 1991 and 1992. Their villages and mosques had been deliberately destroyed, women raped, community leaders arrested, many civilians killed and other beaten or tortured or forced to act as porters for the military. The subsequent allegedly forced repatriation insisted upon by Bangladesh and facilitated by UNHCR marked the beginning of an ongoing humanitarian presence in the highly militarized northern townships.²⁴

During the first decade of the 2000s the democracy movement in Myanmar claimed the world's attention, especially the 2007 uprising and military clampdown. The subsequent decision by the military to embark on a process of incremental democratization led to the freeing of many political prisoners, the release from house arrest of Aung San Suu Kyi, a new constitution and parliamentary elections in 2010, eventually culminating in the landslide 2015 electoral victory of Suu Kyi's NLD party, dominated by the majority Bamar ethnic group. All Myanmar citizens had been suffering under the pressure of military authoritarianism for decades, and this change was hailed globally as powerful victory for democracy. However, issues of discrimination were never given a high priority within the democracy movement led by Suu Kyi, and the country's ethnic minorities could not count on the Bamar-led NLD government standing up for their rights. Despite an attempted but still incomplete peace process, armed conflict continued in many regions.

Of any ethnic group, the Rohingya benefitted the least from the political opening of Myanmar. On the one hand, political space opened up for Myanmar citizens in general, including spaces for free expression and assembly, or limited questioning of military excesses²⁵. The ceasefire negotiations and subsequent political dialogues may eventually become a long-term process through which Myanmar will come to grips with its multi-ethnic identity, including eventual developments in terms of anti-discrimination laws and policies. But the transition also facilitated an extremist Buddhist resurgence as well as a Rakhine nationalist resurgence, both of which threaten the Rohingya and other Muslim populations.

2012-2016

Violent riots in Sittwe and elsewhere in June and October of 2012²⁶ left scores of Rohingya dead, and over 140,000 displaced. Much lower numbers of ethnic Rakhine were also killed and displaced, but the mass violence was mostly comprised of orchestrated attacks against the Rohingya. Numerous respondents and documentation suggest police and military collusion as well.²⁷ Despite this, police subsequently arrested mostly Rohingya men for responsibility for the violence. Restrictions on movements of Rohingya were further tightened in all areas of Rakhine, even where no violence occurred.

The Rohingya displaced by this violence were forced into guarded internment camps. Elsewhere in Rakhine, additional forced displacement and subsequent movement control left all the other major towns in central Rakhine largely devoid of any Muslim population, and social and economic contact between the groups was much reduced. Long before 2017, these ongoing processes of forced movement had already been described

²⁴ This episode of humanitarian support for forced repatriation provides important lessons for the future, and will be discussed in more detail in chapter 6. See Petrusek, David, "Through Rose-colored glasses: UNHCR's role in monitoring the safety of the Rohingya refugees returning to Burma." In *Human Rights and Forced Displacement*, eds. A. Bayefski and J. Fitzpatrick. Kluwer Law International/Martinus Nijhoff Press, 2000. (pages 114-136)

²⁵ This opening with respect to criticizing the military is very limited. For instance, ethnic-Rakhine human rights defender Khaing Myo Htun was recently released after serving 18 months in prison for alleging the Myanmar Army used forced labor and tortured civilians in Rakhine State in 2016. (see <http://www.fortifyrights.org/publication-20180222.html>)

²⁶ For more detail, see: "The Government Could Have Stopped This: Sectarian violence and ensuing abuses in Burma's Arakan State." Human Rights Watch; 2012. "Burning homes, Sinking lives," Equal Rights Trust, 2012, among others. Also, Wade, *Myanmar's Enemy Within*, cited earlier. Some of these analyses cite evidence that the 2012 violence was planned in advance by key political actors, and with tacit or active support from security forces.

²⁷ An alleged rape of a Buddhist woman by Muslim men is generally cited as the first in a series of escalating attacks between the two communities in June 2012. However, the history of pogroms and communal riots shows a consistent pattern of extremist leadership taking advantage of such incidents – using them as excuses to mobilize organized violence against another group. The Rohingya were not massacred and displaced because a rape happened, but because certain key ethnic Rakhine actors mobilized gangs to kill and displace them, using an alleged rape of a Buddhist woman as a mobilizing message.

by some as deliberate ethnic cleansing.²⁸ Others suggested the existence of “pre-conditions” for crimes against humanity and genocide.²⁹ Rohingya both in camps and villages faced constant police harassment and extortion, and frequent arbitrary detention with no available legal services. In addition to lacking adequate medical services in camps and communities, travel restrictions inhibited access to emergency services in Sittwe or other major towns.

Two important developments in early 2014 contributed dramatically to the international community’s fears about a shrinking of the humanitarian and political space. First, multiple alleged killings and disappearances of Rohingya were reported by the UN Resident Coordinator (based on documentation provided by OHCHR with support from UNHCR) to have taken place at Du Chee Yar Than (DCYT), a village in northern Rakhine, and consequent concerns were raised internationally in many fora. When the government disputed the facts and denied the massacre, the Resident Coordinator took a more cautious approach, no longer standing by the original allegation. Subsequently, Medicines Sans Frontiers (MSF) stated publicly that it had treated 22 patients believed to be victims of that violence, including people with knife wounds, a gunshot wound and signs of beating, thus apparently contradicting the government’s version of events.³⁰ The government responded angrily by forcing MSF to temporarily suspend its operations in Rakhine. The ‘expulsion of MSF’ (albeit temporary) was viewed by most humanitarian actors as a clear message (threat) from the government to all of them to avoid public advocacy or information-sharing.

The sense of closing political space was further heightened shortly thereafter when Rakhine gangs attacked the installations of over 30 international organizations (UN and INGO) in Sittwe in March 2014. Although the attack was explained by some as having been ‘spontaneously provoked’ by an incident involving the removal of a Buddhist flag from an INGO building, many believe it to have been a pre-meditated organized mobilization intended to frighten the international community in Rakhine. It certainly succeeded. No staff were injured, but the fear was palpable. Offices suffered substantial damages and the UN and most INGOs temporarily evacuated from Sittwe.

While the government never investigated responsibility for the Sittwe attacks, it responded to subsequent criticism of these attacks by appointing a new Chief Minister to lead Rakhine State, and his job was to bring the situation under control and rebuild some broken relationships. He reopened the space in central Rakhine for humanitarian operations, but always holding to the same discourse: that the internationals were at fault for insufficiently caring about the ethnic Rakhine population, and many UN agencies and INGOs in Rakhine State expanded their operations to offer services to ethnic Rakhine communities. The UN and the Chief Minister took this discourse much further, into a strategy of moving from humanitarian support to development investment, with a clear implication that development investment would be a tangible benefit for the ethnic Rakhine population. In the next few years some efforts were made by international organizations to engage more and offer more support to Rakhine Buddhist communities. According to Rakhine NGOs consulted in 2015 and 2017, as well as some independent analysis,³¹ the ethnic Rakhine communities appreciated these efforts, as well as the flood response support received in 2015 and 2017. Between 2014 and 2016, the situation for humanitarian organizations in central Rakhine calmed down somewhat, although anti-Muslim political forces remained dominant and on the offensive in the country.

²⁸ See <http://uscampaignforburma.org/about-burma/conflict-and-human-rights/rohingya-ethnic-cleansing.html>; or <http://www.hrw.org/news/2013/04/22/burma-end-ethnic-cleansing-rohingya-muslims>, for instance.

²⁹ For instance: “*All you can do is pray: Crimes against humanity and ethnic cleansing of Rohingya Muslims in Burma’s Arakan State.*” Human Rights Watch report, April 2013.

³⁰ Some analysts question whether a massacre actually occurred in DCYT, or at the very least whether the initial reports provided by UNHCR and OHCHR staff were accurate. Disputes over its accuracy have been used to question the demand for a legitimate OHCHR monitoring presence in the country. However, given the military’s ongoing prevention of any adequate human rights monitoring by anyone, the events of DCYT could not be subsequently investigated further to confirm what really happened on the ground, and whether the violence and casualties reported were the result of a ‘massacre,’ or other causes.

³¹ Aron, Gabrielle (2016). *Reshaping engagement: Perspectives on conflict sensitivity in Rakhine state.* CDA Collaborative Learning Projects.

The Myanmar President in 2015 signed into law four “race and religion” laws initially advocated for by Myanmar’s most adamant anti-Muslim Buddhist organization, MaBaTha, further cementing the institutionalized discrimination of the country’s legal system against Rohingya and all other Muslims.³²

Although prior to 2016 a few flawed and propaganda-driven “IDP returns” were promoted by the government – and in some cases supported by UNHCR³³, when the next wave of violence hit in October 2016, there were still approximately 120,000 Rohingya imprisoned in the internment camps. They suffered from overcrowding,³⁴ inadequate sanitation facilities, inadequate educational opportunities, deliberately limited access to healthcare, and were prevented from most possibilities of livelihood or self-sufficiency due to the restrictions placed on them by the state. Not surprisingly, Rohingya continued to flee Rakhine State *en masse* during these years, and when authorities closed off some land routes it led to the 2015 Andaman Sea boat people crisis.

The 2012 riots had focused the humanitarian world on Sittwe. Numerous humanitarian organizations started operations in Rakhine state to serve the new “IDP camps,” while the Rohingya in the north continued to face a highly militarized and repressive reality, with harsh limitations on movement and livelihood imposed by military and Border Guard forces. The dramatic events of October 2016 and August 2017 would bring the attention back to the north.

October 2016 to August 2017

Rakhine state was shocked in October, 2016 by an attack on security forces in Maungdaw by a previously unknown Rohingya militant group calling itself Harakah al-Yaqin (also known by the acronym ARSA, Arakan Rohingya Salvation Army)³⁵ which left 9 police and Border Guard dead. The military in reply launched a devastating and disproportionate response against the civilian Rohingya population which dramatically changed the dynamics in the northern townships. Estimates of casualties in the ensuing months go as high as a thousand. Hundreds of houses were burned down in dozens of villages. There are allegations of scores of Rohingya women and girls having been raped or gang-raped by soldiers – often in front of others. Over 70,000 Rohingya fled across the border into Bangladesh.

The state allowed no rigorous assessment of the death toll or other human consequences of these military attacks against unarmed civilians. Rohingya who tried to transmit information about what had happened in their villages sometimes faced brutal retaliation.³⁶ A UN-OHCHR report released in February 2017, based on hundreds of interviews with refugees who had fled into Bangladesh, qualified the actions of the military as “very likely commission of crimes against humanity.”³⁷ After the OHCHR report was released, the state claimed its crackdown was finished. Nevertheless, extrajudicial executions, rapes and destruction of homes continued for months. The OHCHR report as well as a concurrent report by Special Rapporteur Yanghee Lee prompted a discussion and resolution in the UN Human Rights Commission to discuss proposals of a formal

³² These 2015 laws prescribe polygamy (practiced by some Muslims); require government approval for religious conversion, control the ability of Buddhist women to marry non-Buddhists, and allow the government to limit birthrates in regions it chooses.

³³ These limited returns were only allowed for a small number of those displaced in 2012 – and *only those who had been displaced less than one kilometer from their original home*. This effectively made permanent the areas to which others had been displaced.

³⁴ International Rescue Committee, “Poor Shelter Conditions: Threats to Health, Dignity and Safety - Analyzing overcrowded camp conditions in Sittwe and their impact on health and protection” (undated – Brief provided to HCT).

³⁵ Also sometimes called the Arakan Rohingya Salvation Army, or ARSA. For further analysis of the emergence of this new group, see *Myanmar: A New Muslim Insurgency in Rakhine State*, Crisis Group Asia Report N°283, 15 December 2016.

³⁶ For instance, some witnesses who have spoken to international delegations have been subsequently threatened, harassed and in some cases fled to Bangladesh.

³⁷ “Report of OHCHR Mission to Bangladesh: Interviews with Rohingyas fleeing from Myanmar since October 9, 2016.” <http://www.ohchr.org/Documents/Countries/MM/FlashReport3Feb2017.pdf>

Commission of Inquiry and eventually agree on launching an official fact-finding mission. The government of Myanmar has to date refused to allow this commission to visit the country.³⁸

When the October 2016 military crackdown began, the humanitarian organizations in the north were all forced to temporarily shut down their operations, and their international staffs were evacuated to Sittwe or Yangon for several months. During the first half of 2017, some humanitarian operations were reinitiated under tight military control, first with only Myanmar national staff, and eventually with the return of international staff as well. By summer 2017, many operations were back in action, and several additional international NGOs were beginning to expand their operations to the north.

The 2016-7 Rakhine Advisory Commission

In 2016, the Myanmar government established the Rakhine Advisory Commission led by former UN Secretary-General Dr. Kofi Annan. This government-sponsored commission, which included both international, Myanmar and specifically Rakhine commissioners, had a one year mandate to propose practical steps forward to address Rakhine state's challenges. Its final report was released in late August, 2017, but discussion of its recommendations and their implementation was overshadowed by the rapid escalation of violence that began in the early morning of the next day.

The Commission's report made several important recommendations, calling for a) an end to restrictions on freedom of movement, b) a deep review of the legal basis for Myanmar citizenship that has left the Rohingya stateless, and c) active participation of affected communities in the policy decisions that affect them. When the commission's Interim Report was released earlier in 2017, the government publicly declared its willingness to listen to and implement most of the recommendations of this commission. The government delegated a commission to follow up on the recommendations.

August 25, 2017 to the present: full-scale ethnic cleansing

On August 25, the Arakan Rohingya Salvation Army reared its head again³⁹, and carried out a string of small simultaneous attacks on 30 police posts in a single day, killing 14 members of security forces. The Myanmar armed forces responded quickly with a full-scale and ruthless campaign of village-burning, murder and rape of Rohingya effectively forcing the entire population out of the country⁴⁰. The estimated Rohingya population of the three northern townships of Maungdaw, Buthidaung and Rathedaung prior to the late 2016 violence was roughly 800,000⁴¹. By February, the UNHCR stated that over 688,000 had crossed into Bangladesh, a number that was still growing.⁴² Several humanitarian organizations evacuated their international staff after the attacks began. Those who remained faced severe restrictions of movement and access, limiting any possibilities of assessing how much of the population remained in the area, or what overall conditions the remaining survivors faced.

Many international voices outside Myanmar raised an outcry, including national leaders and global civil society groups as well as religious leaders (e.g. Pope Francis and the Dalai Lama), Nobel laureates and many others. Given the scale of the exodus, the UN Secretary General Antonio Guterres spoke out, and his use of

³⁸ "Myanmar Says it Will Not Grant Visas For UN Fact-finding Mission on Rakhine," <https://www.rfa.org/english/news/myanmar/un-visas-06292017165515.html>

³⁹ Between October 2016 and August 2017, there were numerous reports and rumours of ARSA assassinating alleged 'collaborators' within the Rohingya communities, but not attacking state security forces.

⁴⁰ By December 12, based on a rigorous survey process among refugees in Bangladesh, Medecins Sans Frontieres (MSF) published results estimating that over 6,700 Rohingya had been killed during the 'clearance operations.'

([http://www.msf.org/en/article/myanmarbangladesh-msf-surveys-estimate-least-6700-rohingya-were-killed-during-attacks.](http://www.msf.org/en/article/myanmarbangladesh-msf-surveys-estimate-least-6700-rohingya-were-killed-during-attacks))

⁴¹ Given the number who fled, and recent estimates of the remaining population, this was probably a significant underestimate of the pre-exodus population.

⁴² <http://www.unhcr.org/en-us/news/latest/2018/2/5a82feb94/restoration-rights-key-myanmar-refugee-return-unhcrs-grandi-says.html>

the term “ethnic cleansing” cleared the path for many others to finally apply this name to the problem.⁴³ Nobel laureate Aung San Suu Kyi has been targeted with intense criticism for her support of the military’s action. However, inside Myanmar, very few voices have called attention to the assault on the Rohingya⁴⁴.

The global humanitarian community and the people of Bangladesh have mounted an impressive support operation to help to sustain the huge number of Rohingya arriving in Cox’s Bazar. Such a huge and rapid exodus faces severe humanitarian challenges. There are many fears about the devastating impact that might result in these camps from disease or from the 2018 monsoon season. Meanwhile, since November the two countries (Bangladesh and Myanmar) have been engaged in a negotiation to facilitate a mass repatriation, with Myanmar insisting that only those who could prove their citizenship or residency status could return and announcing plans to build reception centres and resettlement communities. Some Rohingya leaders among the refugees have voiced opposition to a return unless adequate human rights conditions could be assured.

Recently, six months after the onslaught, human rights organizations using satellite imagery documented how the military is now bulldozing flat all the villages where the Rohingya once lived, destroying cultural landmarks, trees, vegetation, all evidence of the atrocities that were committed, and building additional military installations.

⁴³ The “ethnic cleansing” characterization had already been clearly voiced by High Commissioner for Human Rights. (<https://www.un.org/press/en/2017/sgsm18676.doc.htm>).

⁴⁴ Some of the few statements made by humanitarian groups inside Myanmar will be discussed in Chapter 3.

Chapter 3: The dominant approaches of the international community in Rakhine State

Ever since the mass repatriation of the late 1990s back into the northern townships, UNHCR, WFP and a few INGOs sustained a presence in the region. Their strategy in the face of an authoritarian government in a militarized region was consistently one of quiet humanitarian support and quiet diplomacy on certain protection issues. The population was in constant need of food support, which was constrained by authorities, and this combined with lack of access to health services and proper sanitation led to consistently high levels of malnutrition. Fearing that access for even this limited support might be curtailed, WFP and others providing food support generally avoided raising any public alarm about what was arguably a policy of controlled starvation. Meanwhile, since the Rohingya were stateless and many were also returnees through UNHCR-facilitated repatriation, UNHCR had a specific oversight role regarding their conditions and protection needs. This also was carried out through strategies of delicate local interventions for specific needs and quiet diplomacy at the national level.

After the 2012 riots, many more humanitarian organizations descended on Sittwe and launched a classic “IDP camp” operation. Although they were quickly and painfully aware of the *internment* reality of the camps they were serving, this issue was barely raised publicly. After MSF’s suspension of Rakhine operations and the attacks on other Sittwe offices in 2014, any appetite for confronting government-sponsored abuse was reduced even further.

Two distinct analytical responses emerged within the international community after those 2014 events. One was that the attacks were organized and manipulated by Buddhist extremists, that the state’s failure to step in and control the situation showed a possible level of collusion, concluding that the UN should have called attention to the state’s failure to protect, and demanded government guarantees of protection for continued operations. The second analysis, insisted upon by the government, assented to by the UN Country Team leadership and followed by many others in the INGO and diplomatic community, was that the attacks were a symptom of a deep failure on the part of the international community to build a mutually respectful relationship with the Rakhine Buddhist population, and that the UN and INGOs needed to develop a much more ‘conflict sensitive’ approach to an inter-communal conflict, providing greater support to the Rakhine in order that their presence and work be accepted, or at least tolerated.⁴⁵

During this period, an initiative called the HOMs (‘Heads of Missions’) Rakhine initiative brought together selected ambassadors, certain heads of UN agencies and a few INGO representatives. This emerged as an influential advisory group ostensibly aimed at providing some leadership and coordination to the overall international approach to Rakhine State. The dominant diplomatic voices in this group allied themselves closely with the UN Resident Coordinator to firmly promote a continuation of the approach outlined below, and to some extent operated to shut down alternative suggestions.

The approach chosen reflected a desperate attempt to “win back” the favour of the governments at both the national and Rakhine state levels, and included:

- A continued commitment to quiet friendly diplomacy in Nay Pyi Taw by a limited number of actors, combined with an intense aversion towards any public advocacy or information-sharing at the Yangon/Nay Pyi Taw level.⁴⁶

⁴⁵ This was a very a contentious choice. In fact a substantial majority of international actors consulted by the author insisted *privately* that they disagreed with the Resident Coordinator’s approach, but officially, once the UNCT chose its approach, most other organizations went along. Some humanitarian workers in INGOs were particularly upset that after they were attacked and their offices destroyed, they felt that the Resident Coordinator apologized for the international community’s lack of conflict sensitivity, rather than holding state authorities to account for failing to protect them.

⁴⁶ The UN generally affirms the importance of both public statements and quiet advocacy in combination. In practice, however, the public advocacy regarding Myanmar is consistently left to other actors operating outside the country, while the UNCT in-country approach focuses on quiet diplomacy.

- A “partnership” emphasis on quiet support for both the national and Rakhine state governments, encouraging government ownership of solving the Rakhine problem. A special emphasis was put on improving political relationships with the Rakhine State government through the establishment of a new UN Resident Coordinator’s Special Adviser and office in Sittwe. This special advisor office was also aimed at improving coherence and sensitivity in the analysis and actions of international actors in Rakhine.
- The UN Country Team (UNCT) espoused an “integrated approach” aimed at leveraging development, political and humanitarian approaches together towards solutions. This approach explicitly tried to make the overall international effort appear ‘less humanitarian,’ since the dominant and most visible presence, especially in Sittwe, are humanitarians. It was tacitly understood that development activities with the Union government and Rakhine state government would primarily service the ethnic Rakhine community.
- A tendency to present the camp confinement situation as a classic “IDP problem” which could be resolved eventually by closing camps and facilitating returns. The UN’s leadership professed a willingness to work with the government to facilitate “returns of IDPs” even after those who were initially relocated continued to suffer the same freedom of movement restrictions and other rights denials.
- An emphasis on the Sittwe area ‘camp’ population over the larger Rohingya population in the northern townships and those living outside camps in other townships.
- An analysis that identified “communal tensions” as the main source of problems in Rakhine with a much lesser focus on state policies of discrimination and confinement of the Rohingya.
- An emphasis, firmly insisted upon by the government, on a limited concept of “conflict sensitivity” which focused primarily on providing benefits to Rakhine populations in the hopes of creating a better relationship between the Rakhine and the international organizations.

This package was attractive to many international actors, because on the one hand most of its elements seem individually justifiable, while at the same time the package as a whole conveniently left human rights out of the equation, thus minimizing confrontation with the Myanmar government. It seemed “reasonable” to suggest that a government take ownership of solutions, that there was a need for integrated development in Rakhine, that there was communal conflict, or that friendly relationships were a good thing. The emphasis on the Sittwe “IDP” camps and on the inter-communal relationship in Central Rakhine corresponded neatly to the ongoing investments and presence of the majority of the humanitarian organizations. This passive approach was also consistently defended on political grounds both before and after the 2015 election as minimizing conflict and friction and thus contributing to a calm democratic transition. Some argued – arguably naively - that the Rohingya problem would subsequently be resolved constructively by Aung Sang Suu Kyi’s new government.

However, this package was also a masterful stroke of misdirecting attention away from the fundamental reality that this is not a humanitarian crisis, but a human rights crisis with humanitarian consequences. The focus on development and conflict sensitivity towards the Rakhine community took attention away from dealing with human rights abuses and discrimination and the citizenship challenge facing the Rohingya. The focus on Sittwe kept attention off the bigger problem in the north. The focus on quiet diplomacy and smooth relationships justified the avoidance of advocacy or public information sharing. The argument for ‘protecting’ the democratic transition made the policy of silence sound like a positively good thing. It was all very convenient for everyone, serving neatly to avoid tougher problems.

A fundamental problem was that this approach treated the state actors as partners in responding to a humanitarian crisis, rather than perpetrators of the human rights abuses causing that crisis. This distinction is critical because the internalisation of a ‘partnership’ model left the international actors utterly unprepared to manage the fundamental incompatibility of interests between perpetrator and victim. The Resident Coordinator’s ‘government leadership’ mantra was so firm that it served as a justification for the UN’s lack of any formal strategy for Rakhine state.

Even though many humanitarian and development actors acknowledged discrimination as “a long-term problem requiring a long-term approach” the consequence in most cases was to develop no institutional approach at all. “Long-term” became the excuse for a “wait-and-see” attitude, continuing to provide humanitarian band-aids without confronting the underlying problem of discrimination/apartheid.

The negative impact of this misdirected approach was exacerbated by several years of serious internal dysfunction within the UN and the humanitarian system,⁴⁷ resulting in highly restricted flow of information and a consistent lack of critical strategic discussion. There was an unhealthy dynamic of mistrust among the international organizations, and the resulting lack of shared information and analysis further limited advocacy and action on abuses. The Humanitarian Country Team and Protection Working Group were not effective discussion spaces serving a strategic function, and were instead seen by many as serving to control and reduce strategic discussion. As a result there was no united protection strategy being implemented for Rakhine State. Many INGOs started participating in a parallel process of strategic discussion separate from the United Nations.

After the first round of massive violence after October 9, 2016, one might have expected the international community and the UNCT to try to ramp up its presence and protective capacity in the north. Shockingly, though, the UN response was the opposite. UNHCR initially proposed during this time period to completely remove northern Rakhine State from the Humanitarian Response Plan and to scale back its own operations. The Resident Coordinator and UNHCR essentially declared northern Rakhine State a ‘no go zone’ for OCHA. After the few humanitarian institutions operating in the north regained their access and saw how much the need for protection and accompaniment had increased, they faced active discouragement from UN leaders of any additional expansion to the north by other agencies and INGOs, much to the consternation of some of the other institutions on the ground there who saw a dire need for more help.

In one dramatic critique of the dominant approach, a group of INGO country directors who had previously served as country directors in Sri Lanka during the end of its civil war wrote a confidential letter to Kofi Annan in November 2016, copied to selected diplomatic and UN leadership. The letter called attention to the disturbing parallels between the Sri Lanka debacle and the warning signs present in Myanmar. The letter spoke of the *urgent need to avert a crisis of atrocity*, calling attention to the risk of war crimes against civilians trapped in the middle of security operations, not only in northern Rakhine but also in Kachin and Shan states. A subsequent confidential presentation by the same authors to the Rakhine Heads of Missions (HOMs) group went in to greater detail about the **preconditions and crisis points leading to mass atrocities that were all in evidence already in Myanmar, and the need to urgently change course**. The reaction of the Resident Coordinator and the HOMs group was to resist and silence this message, and sustain their dominant quiet track despite all evidence of its failure. Nevertheless, the INGO authors also still stuck with the quiet approach, and did not share their letter more widely.

Key problems

In the end the approach of the international community between 2012 and 2017 failed to improve the lot of the Rohingya, and the flaws in this dominant approach need to be examined more closely. For the protection of the Rohingya remaining in Myanmar, or those who return, a future strategy needs to avoid repeating them.

Problem 1: The advocacy gap

With this ongoing UN approach of sporadic and reactive quiet diplomacy, many advocacy opportunities were lost. The UNCT and the INGOs consistently failed to take adequate advantage of the unique historical

⁴⁷ See, for instance, <https://www.theguardian.com/global-development/2017/jul/18/un-influence-myanmar-at-low-aung-san-suu-kyi-cold-shoulders-envoys>, and the BBC report: “Myanmar top official to be changed” <http://www.bbc.com/news/world-asia-40256083>. The authors own interviews both in 2015 and 2017 overwhelmingly confirmed the critique that the UN was failing to manage information, internal communication and advocacy coherently.

moment in Myanmar. The Myanmar government, armed forces and the Burmese elite were (and still are, despite recent events) in the early stages of trying to define a new negotiated relationship with the international community. They needed the international community and they wanted to reap the huge financial rewards accompanying this new relationship and the lifting of international sanctions. They understood that they had to 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 approach⁴⁸, offering quiet support without conditions, they missed opportunities to influence how the state redefined itself. **Worse yet, the message this compliance after October 2016 sent to the Myanmar government and the military was that they had a free hand to deal with the Rohingya as they chose. In other words, when planning the subsequent ethnic cleansing campaign, the Myanmar government had no reason to believe they would face any resistance or protest from the international community in the country.**

The UNCT and the INGOs in Myanmar remained largely silent as the first round of war crimes were committed starting in October 2016 – a practice run for the more thorough ethnic cleansing soon to come. Their only firm demand was to regain humanitarian access after their evacuation from the north. They apparently believed that their only chance of regaining that access was to continue to keep quiet about the ongoing abuses.

In February, 2017, OHCHR published its scathing report based on interviews in Cox's Bazaar, and not long thereafter the military announced (falsely) that its 'clearance' campaign was over. The public report had a positive advocacy impact. Shortly thereafter, humanitarian organizations also regained access to the north. Some of them believed that it was the release of the OHCHR flash report and subsequent global discussion of a Fact-finding Commission that created the necessary pressure on the government to open access again to the northern townships. Nevertheless, the few organizations working in the north in 2017 were still highly intimidated and feared sharing information about the situation around them. Rapes, murders and home destructions continued, but these seldom appeared in humanitarian reports.

The overall failure to switch gears and engage in more public advocacy should be the most important lesson of the last six years, and the next chapter (Chapter 3: Strategic Advocacy) will analyze why this kind of shift towards more public preventive advocacy tends not to happen, and what we can learn from it.

Problem 2: Systemic self-imposed constraints on the flow of information

Human rights action and advocacy depends on access to dependable information. It must be gathered, and then efficiently shared with all actors who can use it to contribute to human rights advocacy or programming. According to both INGO and UN sources there was not enough information or analysis being shared to support better advocacy (and there still isn't). More concerning still, people were often aware that crucial information was available within another institution but that there was a refusal to share it.

The organization with the most information about protection realities in Rakhine was UNHCR, resulting from the protection monitoring of various partners that it coordinated, its substantial deployment, its long-term presence and its network of contacts. But few other organizations were benefitting from this information. In

⁴⁸ It is worth noting that both the UN Resident Coordinator and the head of UNHCR had served previously in China, where a similar compliant approach is the norm. The fact that their institutions deployed leaders to Myanmar with that experience was arguably a strong signal from their headquarters about what approach was expected.

many other conflict settings, UNHCR as protection lead manages a protection monitoring process which produces regular public summaries of data on protection incidents and trends to assist all protection cluster members with their planning and advocacy. This was not happening for Rakhine State, and especially not for the north. On the contrary, there was a high-level (RC and UNHCR) policy of hiding information, which is part of the reason OCHA was constrained from having a presence in the north. Scores of NGO staff gather data on incidents of abuse or other humanitarian protection gaps, and feed this into UNHCR's highly secret data system – a system with many inputs but few outputs. This has been the quietest, most invisible Protection Monitoring System this author has ever encountered.

A similar dynamic seemed to exist with analysis. A number of relevant analytical studies were done or commissioned over the years by different institutions, but then never shared. Analysis that is only produced for internal use by a single organization may be of some use, but it is also a lost opportunity to assist the work of partners and allies. Trends analyses or legal analyses are vital for all partners to understand in order to plan better program strategies or do more careful advocacy. In each case there was undoubtedly an internal institutional reason that such analysis was not shared, but the cumulative impact hurts everyone.

These inhibitions and mistrust have a huge cost. There is no organization in Myanmar with adequate capacity to work alone on human rights: Not the Resident Coordinator, not UNHCR and certainly not OHCHR which could not get formal authorization to operate. More voices and actors needed to be engaged, and this requires that information be shared more effectively.

This problem was an open secret for years, and the critique and concern was transmitted to the UNCT and the Resident Coordinator many times to no avail. The problem was not a lack of awareness, nor an alleged 'coordination weakness.' The secrecy and control of information was apparently a deliberate policy at the highest level of the UN in Myanmar, sustained in a disciplined manner that even punished and undermined those who pushed to get more information out. The UN and the international community in Myanmar need to end this approach and open up blockages so that more information about incidents, abuses and trends can be gathered and circulated – safely and promptly - by various actors with substantial field deployment.

Problem 3: Using “IDP” euphemisms to justify subsidizing ethnic internment ghettos/prisons

The UN and the humanitarian community have a well-oiled machinery and discourse for dealing with “IDPs” and “camps” that surged into gear and churned inexorably forward over the last six years in Sittwe. Many institutional mandates, jargon, analysis, and habitual ways of working inherently skewed their attention towards “IDPs in camps” even though the far larger number of Rohingya in the northern townships faced greater abuses and needs. This dynamic was further reinforced by government pressures which encouraged services to these camps and discouraged contact with other communities, so other Muslim villages in Central Rakhine outside of the camps were also undersupported. The humanitarian community's “IDP” habits tend to leave behind suffering people who are not IDPs.

Even worse, for the people in the camps, the application of a standard “IDP” model served to normalize a situation that should never have been considered normal. The humanitarian community in Rakhine State is not supporting IDP camps; it is subsidizing ethnic ghettos and prisons which are illegal under international law. The use of standard IDP terminology is very convenient for both the international institutions and the government, because it diverts attention from the illegality of the situation. The very presence of international humanitarian actors quietly treating this as a normal IDP situation is a further source of legitimacy for the government. Some in the humanitarian community would prefer to use stronger language, but point out that the operating environment and pressures from the government make this difficult. This is a challenge that needs to be taken on. Both the government and the

One humanitarian INGO worker engaged in camp management in the Sittwe camps described herself with great frustration as “a jailer.” The humanitarian organizations engaged in these camps need to take this description seriously, as it may not be an exaggeration: if you are paying for a jail, and staffing the jail, are you not one of the jailers? Is that an appropriate job for a humanitarian organization?

humanitarian actors themselves need to be constantly reminded of illegality of the situation they are supporting. Normalizing this abnormal situation is one of the dynamics that has reinforced the advocacy silence of the entire humanitarian community.

The international community needs to take ownership of the precedents it sets and the lessons it teaches to governments. They have been perfectly well aware all along that these are illegal internment camps, but they have again in this instance taught the Myanmar government not to expect any resistance. Given how willing the humanitarian institutions and donors have been to quietly invest in internment camps in Sittwe for six years, is there any reason why the government of Myanmar would not expect them to be willing to expand this investment if they decide to similarly imprison any Rohingya refugees who return?

Problem 4: Avoiding the word “Rohingya”: assisting in the destruction of ethnic identity.

The UN’s international and principled commitment to self-determination and identity rights is clear: the Rohingya self-identify as Rohingya, and in international settings outside of Myanmar, key UN leaders refer to them as Rohingya. In contrast, inside Myanmar nearly the entire international community has tacitly and collectively removed the word Rohingya completely from its vocabulary, instead using only the word “Muslim.” This terminology shift was a direct response to intimidation. At a certain point both the government and the extremist Buddhist leaders began harassing internationals whenever they used the word Rohingya, and insisted that it was a partisan terminology proving their bias. The government even sent written instructions to the diplomatic missions to refrain from using the word. At first the government tried to get the internationals to use its own term, “Bengali,” which most Rohingya find insulting. The internationals settled on “Muslim” as a compromise to reduce the friction they were experiencing.⁴⁹

International actors in Myanmar point out that if they use the word *Rohingya* in discussions with government they just get stuck in heated debates about the word, and can’t shift the focus to the people’s real needs. The author was warned multiple times before meetings, “Please don’t use the ‘R’ word!” The label shift became so ingrained that international actors in Myanmar go so far as to avoid the word even when talking only among each other about the Rohingya, and when talking to the Rohingya themselves.

Another contributing factor is that international organizations are fearful of the reactions of their own national staff if they start using the word, since the Myanmar Buddhist population has also been socialized and browbeaten to avoid and oppose it. This is part of a broader challenge that needs to be confronted more transparently: the international organizations need to have a more respectful and honest dialogue with their own staff, on the one hand listening more to national staff’s concerns, and on the other hand ensuring that staff understand and internalise what their institutions stand for and what it means to work for a humanitarian or UN institution. The internationals need to respect and understand their staff, but they also need to need to persuade their staff to create a more united front in support of the humanitarian and human rights mission that their institutions exist to promote.

With an ethnic cleansing policy now so visibly out on the table, and with ongoing discussions of genocide, **the darker implications of having succumbed to the pressure of this terminology shift really need to be discussed.** Ethnic cleansing and genocide strategies have many facets. The Rohingya are not only being pushed out of Myanmar geographically. They are also being cleansed from the culture, from the national discourse and from the language. Their identity is being vigorously erased. The international community inside Myanmar, albeit under duress, is assisting actively in this process by following instructions.

⁴⁹ Some internationals even defend replacing the term “Rohingya” with “Muslim,” explaining that it more adequately calls attention to the frequently-ignored discrimination against other Muslims in Rakhine, such as the Kaman, and the suffering of other Muslims elsewhere in Myanmar who face discrimination. Others go farther and defend the terminology decision as an appropriate exercise of conflict sensitivity, since it avoids giving offense to some ethnic Rakhine interlocutors. Most acknowledge they avoid the term to avoid friction and anger.

On the other hand, some donor agencies made the argument at the time that using the term “Muslim” posed a risk of reinforcing the religious divide in the country, which would have consequences for other Muslims as well as Christians.

The international community inside Myanmar needs to stand up for the identity of the Rohingya, even if this causes serious inconveniences for some individuals and their organizations. To do so they will need to start again using the word Rohingya that so terrifies them at present. It will not be easy, because for years now they have shown the government that they will comply with its terminology demands. State authorities will inevitably get angry when their expectations are not met.

Problem 5: Inter-communal conflict was the wrong emphasis.

It seems indisputable now after the implementation by national-level actors of a policy of ethnic cleansing, that friction with the Rakhine Buddhist community was not the major problem facing the Rohingya, nor the main causal factor behind the abuses they faced. State policies of discrimination and human rights abuse were and are controlled by political and military leadership in Nay Pyi Taw. Tension and mistrust between Rohingya and Rakhine reinforce these policies, and provide an additional political constituency for them.

Propaganda about ‘terrorism’ and other deliberate manipulation have undoubtedly further increased ethnic Rakhine animosity towards the Rohingya after October 2016 and August 2017. Nevertheless, the alleged crimes against humanity and ethnic cleansing in the northern townships are not a function of communal friction, but a direct result of military action⁵⁰. The Rohingya remaining inside Myanmar still can’t move, not because they are afraid of the Rakhine Buddhists, but because the central Union government through its administrators and security forces will not permit them to move. Other rights infringements the Rohingya face are centrally imposed by the government as well. No matter how much the international community improves its communication with the ethnic Rakhine, neither the Rakhine population nor the Rakhine state government has the authority or political power to change these central government policies of discrimination and ethnic cleansing even if they wished to.

Myanmar is a fragmented state with many conflicts, but not a failing or weak state. It is strong enough to control the situation in Rakhine how and when it chooses to. Even the episodes of apparently communal violence did not erupt spontaneously. They were actions promoted by and carried out by organized forces led by a small number of individuals in leadership positions, who need to be held accountable. This is not to say that ethnic tensions between Rohingya and ethnic Rakhine are not a problem. These tensions are a tinderbox that is easily manipulated by the government or other extremists to promote violence. Rakhine politicians and leaders can be spoilers in the event of any promising developments for the Rohingya.

Local peacebuilding, social cohesion or peaceful coexistence efforts to reduce communal tensions can be important and valuable in and of themselves. Such initiatives have been shown in some other contexts to have positive security outcomes in small communities where they have been rigorously implemented over extended periods. In terms of bigger picture impact on a situation of larger-scale tension, however, such efforts often remain symbolic, as best-practice models of what might be done. This is largely because they tend to require very labour-intensive and skill-intensive programs that are usually only implemented in a small number of communities. The international community would have to invest a great deal more in these efforts to reach a greater portion of both ethnic populations if it is to have a more systemic peacebuilding impact between the two communities.

“Inter-communal violence” is a popular phrase, but the overwhelming focus on this dynamic between 2012 and 2017 deflected attention from real accountability, which lies with the national government and military.

Even an exhaustive roll-out of local peacebuilding at its most successful, however, would not have gone far towards solving the problems without a much heavier emphasis placed on creating political will in Nay Pyi Taw to change the laws, structures, regulations and policies that sustain and reinforce discrimination and

⁵⁰ Specifically, the military and border guard personnel deployed in Rakhine state are explicitly *not* Rakhine Buddhist, but brought in from other parts of Myanmar.

confinement. These policies in fact undermine the possibility that local peacebuilding between Rohingya and Rakhine communities could achieve positive objectives. Worse yet, peacebuilding efforts that tacitly accept discrimination and segregation as an unchangeable given (“politically unfeasible to confront”) are likely to strengthen the discriminatory structures and patterns they don’t explicitly try to change.

Problem 6: Using “Conflict sensitivity” to downplay human rights issues.

After the attacks on international offices in Sittwe in 2014, the government insisted firmly that international “favouritism” towards the Rohingya had offended the Rakhine, and that the solution was to spend more money on the Rakhine communities. Under the heading of “conflict sensitivity” a system-wide commitment was made to better address the needs of the ethnic Rakhine. Services and programs for the ethnic Rakhine population were increased, state-wide development plans were discussed and the UN Resident Coordinator established a satellite office to improve relationships with the Rakhine government and community leaders – and to try to keep all the different international actors on the same page with the new strategy. The ethnic

“Conflict sensitivity” does not mean appeasement of the strong at the expense of the weak.

Rakhine population appreciated some of these efforts, as well as the UN’s rapid response to their needs when natural disasters (floods, cyclone) struck (although impartial response to natural disaster was already standard practice.)

It is a widely-accepted tenet of good humanitarian or development programming to consider the needs and perspectives of multiple communities, looking beyond the initial ‘population of concern’, and especially considering the frictions that can be caused by feelings of envy or perceptions of unfairness in an already conflicted setting.⁵¹ If the reaction to the 2014 Sittwe attacks prompted a more adequate investment in understanding the ethnic Rakhine communities, this in itself would be a positive thing. Rakhine state is very poor, with many needs, and the increase in programming for the Rakhine should ideally demonstrate the impartiality and even-handedness of international humanitarian principles and institutions. Various respondents (including Rakhine NGOs, INGOs and independent studies) suggested that the relationship between international organizations and central Rakhine communities was much improved by 2017, although there is still much to be done.

Unfortunately, “conflict sensitivity” has become a slogan that was superficially instrumentalised by the government and by UN leadership. By focusing solely on providing services to Rakhine communities, the approach downplayed the importance of real and effective conflict sensitivity and caused misunderstanding about what conflict sensitivity is. It also risked increasing resentment among the Rakhine, who are well aware they are being used.

Conflict sensitivity is more complicated and nuanced than simply trying to buy the good will of one population group through community investments or service delivery. Conflict sensitivity also does not mean conveniently avoiding discussion of human rights abuses faced by the Rohingya out of fear that loud voices in the ethnic Rakhine community will get angry. Conflict sensitivity is not about appeasement of the strong at the expense of the weak.

A real commitment to conflict sensitivity helps institutions “do no harm.” It helps to reduce conflict. But this requires careful relationship-building and analysis with both communities. The current approach is in most cases a one-sided over-reaction, doing damage-control with one relationship (the internationals and the ethnic Rakhine) in a vacuum. When it bends over backwards to avoid offending the extremists among the ethnic Rakhine (or in Nay Pyi Taw), the international community is adding to the constant pressure on the Rohingya to passively accept the ongoing denial of their own rights and identity. This is the opposite of the “do no harm” commitment that conflict sensitivity approaches are supposed to reflect.

⁵¹See, for instance, Mary Anderson, Do No Harm: How Aid can Support Peace – or War, Lynne Reiner Publishers, 2010 (originally published 1999).

Problem 7: Development support to a discriminatory system reinforces the discrimination

Although UN leadership acknowledge the entrenched discrimination in the country, the dominant approach leaned heavily on the oversimplified assertion that economic development for the whole population of Rakhine State would in itself reduce tensions and discrimination. Development investment implemented through a discriminatory state apparatus, however, is more likely to reinforce discrimination than weaken it, especially if there is no social movement of Myanmar people advocating concurrently for the necessary changes in attitudes and policies. Without access to rights, the Rohingya are the least likely to see any benefit from economic development initiatives.

“Conditionality” is a controversial in the development and humanitarian worlds. But in this crisis development support is either conditional or complicit. The international community needs to insist that it will neither assist nor legitimize development efforts in areas where one ethnic group is denied its rights. As development programs are designed, they need to be far more than ‘conflict sensitive’ in terms of whether they are adequately serving both populations. They need to have a strict lens of ‘discrimination sensitivity’. Just as the UN and many donors and INGOs have globally invested considerable resources and effort in insisting in ‘gender sensitivity’ at every level of programming: In Rakhine State, similar programming rigor is required with respect to discrimination. Every aspect of every development program initiative needs to answer the question: *will it reinforce existing discriminatory structures or help to weaken them?* If the question is not taken seriously, development investment is doomed to strengthen discrimination against the Rohingya, and development actors should be held accountable for their contribution.

The first condition for enjoying the fruits of development is freedom of movement. Development institutions need to make a clear and open invitation to the government: *“We are ready to offer substantial support for development in Rakhine, as soon as human rights and full freedom of movement are restored to the whole population. With freedom of movement, these economic and social development investments will bring great benefits to all the ethnic groups in Rakhine, and to Myanmar as a whole.”*

But the condition has to be fulfilled first. The government would gladly say “Sure let’s get started now with the investments, and we promise to start studying the idea of freedom of movement.” That trap and manipulation is one the internationals have to learn to stop falling for.

Problem 8: Inadequate participation of the Rohingya

The relationships between the international organizations and the Rohingya population are mostly very dependency-driven, with inadequate mechanisms for truly listening to the diverse voices of the community or encouraging their own role as protagonists in their own fate. International organizations provide services to the Rohingya, and they do advocacy and negotiation for the Rohingya. Internationals are speaking and negotiating in settings where the Rohingya have no voice, but they are generally doing so based on a very limited understanding of what the Rohingya actually think.

The humanitarian and development community have a range of principles and standards and best practices around the concept of participation, which insist that the system and each of its institutions are supposed to be accountable to the populations they serve, and are expected to put in place mechanisms to facilitate such accountability and participation⁵². It is undeniably difficult here: the government has systematically undermined the Rohingya community’s ability to mobilize and speak for itself, through a variety of classic tools of repression ranging from denial of movement and a systematic pattern of arrests of Rohingya leaders, to systems of spies and informants, and hand-picked government-imposed community leadership and corrupted camp management committees.

⁵² Unfortunately, the tendency in humanitarian operations is to limit participatory exercises to program-focused needs assessments, evaluations or complaints mechanisms, rather than really involving the affected populations in decision-making.

Thus the international community poses itself as the champion of this community and negotiates on its behalf, yet its negotiating approach is willing to take a weak stance towards some of the Rohingyas' rights while taking firmer stands to protect the international organizations' access to carry out their own operations. If there were a true strategic partnership with dialogue and participation within which the Rohingya themselves could wrestle with these thorny dilemmas and trade-offs, the international organizations might have some legitimacy in making such compromises together with the affected community. Without such engagement, the internationals simply have no right to decide which rights and needs are more important to the Rohingya, which will be sacrificed and which prioritized.

The international organizations need to consider much more seriously the negative impact this process has on the dignity and future of the Rohingya population. Every time the international community prioritises access (for themselves) over rights of the Rohingya, without their consent, the underlying impact is to echo and reinforce discrimination, deny identity and promote a feeling of powerlessness.

The Rakhine Advisory Commission's call for increased participation of the affected populations in government and in policy discussions may not get the greatest attention, but it is very important. The humanitarian community should build on this to open doors and initiate new structures of engagement and empowerment to support Rohingya participation and decision-making.

Problem 9: Buying in to smokescreens – The Rakhine Advisory Commission and the UN's new "Strategic Framework"

The international community has wholeheartedly supported the Rakhine Advisory Commission, starting with Aung San Suu Kyi's first announcement of its creation. As mentioned above – the Commission's report contains important and substantially useful recommendations regarding the rights of 'Muslims' in Rakhine State, including freedom of movement and the need for a path to citizenship, among others. Since the government has publicly "owned" this report and created a new commission to follow its implementation, the good text it contains can be a useful 'hook' for advocacy.

However, when using this approach, the international community needs to avoid traps and appreciate the true nature of this commission. It was a mechanism designed by the state, not to resolve the Rohingya crisis, but to deflect the pressures they faced about this crisis. It served that purpose right from the start: the existence of the commission gave the international community an oft-repeated excuse to relax all pressure for the entire year of its investigation – a year in which the government launched the first stage of its ethnic cleansing campaign (in October 2016). Rather than speak out between October 2016 and August 2017, key international players kept saying "Let's wait for the Annan Commission's report." The Commission's work therefore effectively reduced pressure, lowering the political cost of the first campaign of attacks, and this arguably may have affected the Tatmadaw's calculation that it could equally successfully get away with the second ethnic cleansing campaign after August 2017.

Still, after full-scale ethnic cleansing, the international community continues to cite the Commission's work as if it were a sign of hope, even after one of the most illustrious members of the follow-up advisory commission, former US diplomat Bill Richardson, resigned in protest in January calling it a "whitewash."⁵³

The problem is not the content of the report's 88 recommendations. On the contrary, the Commission is to be congratulated for some of the clarity they contain. The problem is that the international community should not be crediting the government for any political will to implement the most crucial rights-focused recommendations. The government is consistently using and abusing these recommendations to its own advantage without changing any of the abusive conditions suffered by the Rohingya.

⁵³ Reuters, January 24, 2018. <https://www.reuters.com/article/us-myanmar-rohingya-richardson-exclusive/exclusive-richardson-quits-myanmars-whitewash-rohingya-crisis-panel-idUSKBN1FD2OJ>

- Recommendation 11 states *“The Government should immediately ensure that those who are verified as citizens enjoy all benefits, rights and freedoms associated with citizenship.”* Yet hundreds of the Kaman Muslim citizens are still imprisoned in the Myebon camp nearly a year later.
- Recommendation 38 calls for all communities to have equal access to health facilities. So the government has now placed big signs in front of each hospital in Rakhine proudly affirming equal access, knowing full well that freedom of movement constraints prevent most Rohingya from getting close enough to even see the sign.
- Recommendation 24: *“[the] Government of Myanmar should prepare a comprehensive strategy towards closing all IDP camps in Rakhine State. The strategy should be developed through a consultation process with affected communities...”* The government has now launched its “Camp Closure” process, with no consultation at all, which does nothing but alter some of the shelter conditions. It builds a few additional houses and renames camps as villages, but leaves all freedom of movement restrictions in place, with no voluntary choices made by the Rohingya. It amounts to a slight alteration of the shape of the prison. The pretension that it is “a solution” is dangerous, as the government will claim credit for implementing the recommendations and resolving the IDP problem.
- The government has gone so far as to establish a new entity, the “Union Enterprise for Humanitarian Assistance, Resettlement and Development in Rakhine,” (UEHRD), which claims it will function to “complement the work of the committee on implementing the recommendations of Dr. Kofi Annan’s Rakhine Commission.”⁵⁴ A broad array of tasks are delegated to this new “public-private-partnership” including distribution of humanitarian aid, setting up reception centres for returnees, planning construction of new model villages, building schools, and more. But no mention is made of citizenship, rights or movement in the defining document of the UEHRD.

As long as it is not held accountable, the government will choose to implement only the steps which it sees some benefit from while ignoring those which it does not like, and still claim to be making progress.

The UN’s Resident Coordinator’s office has now developed a new “Strategic Framework” for Rakhine, using the Rakhine Commission report as a blueprint. This document suffers a similar weakness. It contains many laudable aspirational phrases and commitments, but it is nevertheless another in a series of long lists of optimistic papers that the UN has produced over years which do not acknowledge the obvious lack of political will, and therefore do not place adequate emphasis on insisting on a very strict implementation sequence, such that freedom of movement and rights are in place before other investments are made. Such documents encourage UN agencies and INGOs to cherry-pick, choosing from the list according to their own strength or expertise, avoiding any that are politically challenging. The most fundamental pre-conditions are freedom of movement and respect for rights. Conveniently, and sadly, these pre-conditions do not correspond to the strengths and expertise of any of the agencies present in Myanmar, as there are no operational human rights actors in the system (such as OHCHR) – and the UN’s Strategic Framework document does not call for their deployment, nor explain how it will fill the gap.

⁵⁴ “The Way Forward: Union Enterprise for Humanitarian Assistance, Resettlement and Development.” Government of Myanmar, November 2017.

Chapter 4: Strategic Advocacy

The quiet approach taken towards advocacy inside Myanmar by the international community is not unique. On the contrary it is the most common approach, which can be found in most countries where these organizations work, regardless of their level of crisis. What the Rakhine crisis illustrates starkly is just how badly this common approach can go wrong. This chapter will analyze some of the underlying dynamics of this aversion to advocacy, and present some arguments for changing it. The discussion here will deal with both the general institutional approaches more widely than Myanmar, as well as the specific incarnations of these approaches with respect to Rakhine.

As the last chapters have described, due to an approach focused on quiet diplomacy operating within a “partnership” model (which was greatly reinforced after the elections), many advocacy opportunities were lost that could have illustrated to the Myanmar government the potential political cost of human rights abuse. Myanmar’s political transition was a moment when the international community could have taught new lessons about its own identity and principles and created a new relationship. The electoral victories of the NLD were also a historic opportunity for Aung San Suu Kyi and the NLD to use their unquestioned legitimacy to promote tolerance and universal values, something international allies could have much more actively promoted. But the international actors instead chose to increase their level of compliance with state demands even as political space opened, allowing themselves to be used and manipulated by political forces who were polarizing the Bamar and Rakhine communities against Muslims and Rohingya. The OHCHR 2017 Flash report was an example of public reporting making a difference, but no one else followed this model. Many actors inside Myanmar saw disaster coming, but they didn’t change gears. We need to understand why this happened, because they need to change gears now.

What is strategic advocacy?

For the purpose of this analysis: Advocacy is a form of persuasive communication. It involves the strategic use of information, analysis, and argument for the purpose of changing behaviours, policies or practices. Because of this clear objective of changing behaviour, advocacy is simultaneously an exercise in education and an application of power. Advocacy comprises both private and public communication, ideally synchronized towards the same objectives. Advocacy is a complex and long-term process involving multiple actions over time by multiple actors who may or may not be on the same page, and who often will not see any direct or prompt results from their actions.

Advocacy is not:

- Advocacy is not synonymous with public denunciation, nor with “naming and shaming”, but these approaches can be vital elements of an advocacy strategy.
- Advocacy is not a one-time grudgingly-emitted public statement issued as damage control by institutions under pressure for being too silent, although damage control can be an important element of an advocacy strategy.
- Advocacy is not a self-righteous or self-serving public statement to help us feel good about ourselves or our institution. It aims at promoting specific changes.
- Advocacy is not just “raising concerns” or “consciousness-raising,” although these may be elements of a strategy. It aims at promoting specific changes.
- Advocacy is not a one-time event or response. Achieving results from advocacy takes time and persistence.
- Advocacy is not just “someone else’s job.”
- Advocacy is not begging for favours, but exercising power and influence.

The insufficiency of ‘quiet diplomacy’

The UN and many other organizations claim to value in principle both quiet diplomacy and public advocacy. Quiet diplomacy is a key element of a good complex advocacy strategy, but not a sufficient approach in

itself, and it is an especially weak approach when state authorities lack political will to change. The Myanmar experience demonstrates some of the weaknesses of an exclusive focus on this approach:

- A rich wealth of information about what is really happening to the Rohingya is never being used to its fullest possible effect. Information filters up to a very few actors who have very limited direct contact with authorities. They can raise only a small number of the issues they get information about.
- When the few who are carrying out this quiet diplomacy have committed themselves to a “partnership” strategy and fear the result of any friction, there is a risk that key information or concerns will not be transmitted or will be skewed to create a more positive image of the reality.
- Many states, including Myanmar, deliberately control and minimize how much access international organizations and diplomats have to the highest level authorities who have the power to implement changes, and then “manage” these rare discussions spaces so as to prevent criticisms from coming up.
- Other partners who are not directly engaged in this diplomacy have no quantifiable way to measure how much is really happening. The in-country UN leaders and diplomats may defend their quiet advocacy as adequate both qualitatively and quantitatively, but they are the only ones in the room where it happens. Their “partnership” approach with the government, their expressed aversion to public advocacy, and the lack of tangible positive outcomes all raise reasonable doubts about how firm their quiet diplomacy actually is.
- The proponents of a quiet diplomacy approach often defend it as being more ‘sensitive’ and somehow better than any public approach. But once this approach is firmly in place it is very hard to break out of. The efficacy of quiet diplomacy at times appears to be an article of faith, remaining unquestioned regardless of whether it achieves anything. The persistence of this limited quiet approach in Myanmar even after the October 2016 crackdown is remarkable.
- Some argue that “there can be no leverage without engagement” and that the quiet approach is the only way to sustain engagement with an intransigent government. But engagement does not require a servile and passive approach - engagement is possible while sustaining self-respect and institutional principles. In this case the state’s approach was to say, “You can only have engagement if you promise not to apply any leverage,” and this was accepted, contradicting the logic of diplomacy. That kind of quiet engagement is not only complicity; it is a loud advertisement of weakness.

The focus on quiet diplomacy is business as usual for many UN and humanitarian leaders around the world. It is politically logical to build a good relationship with a host government and use that relationship and non-confrontational persuasion to try to change damaging state practices, and then escalate the pressure and the “sticks” only after first giving a non-confrontational “carrots” approach a chance to work. But part of why this strategy can be effective is because a government knows that if they don’t respond adequately to the quiet approach, a different approach is available to the international actors, one that involves more active pressure and political costs. If there is no risk of greater pressure, a government which lacks political will has no motivation to respond to quiet diplomacy urging it to do something it has no desire to do.

The current Myanmar government has thus far exhibited very little political will to resolve the Rakhine situation in a way that fully respects Rohingya rights. Before August 2017, Aung San Suu Kyi was still getting credit from diplomats and analysts for establishing the Rakhine Advisory Commission, but the government was under no internal political pressure to stop repressing the Rohingya, who have no political allies in Myanmar. In spite of government inaction and ongoing abuses, the international community in Myanmar has unfortunately shown repeatedly to the government that it is unwilling to apply much pressure. As a result the government correctly sees the UN and INGO humanitarian community as weak and easy to manipulate. This manipulation has been going on for years, and quiet diplomacy had very limited positive impact for the Rohingya, while the overall situation the Rohingya live deteriorated. It is long past the point where the quiet approach needed to have the weight of stronger public advocacy behind it.

Myanmar, like any government, is going to be willing to bear certain political costs to proceed with something it wants to do. It may limit humanitarian access, expel organizations, carry out ethnic cleansing, etc. knowing that these choices come with costs. But these costs must be inflicted even if we are not going to see an immediate result, because costs are not irrelevant. Costs accumulate, and influence is sometimes only seen much later as a range of contributing costs start to tilt the scale.

Those who don't want to risk advocacy will often oversimplify and say "Oh, but if we make life difficult they will just turn to China for all their support." Perhaps that will happen to some extent, *but that is also a cost to them*. Keep in mind that reducing Chinese influence was one of the motivations of the military for allowing the democratic transition in the first place. If they are forced to depend more on China, they do not do so lightly.

The unique political function of the in-country UN and humanitarian actors

One of the reasons that these institutions inside a country carry out so little advocacy is that they tend not to believe in their own influence, and they don't see how unique their voice is compared with others speaking outside the country. The UN and humanitarian actors in the field, when they do their job right, possess a unique kind of credibility. They have close access to ground-level information; they are perceived as well-meaning and neutral; they have the moral legitimacy that arises from their commitment to humanitarian principles and international law; and in the UN's case they have the political legitimacy of the world's pre-eminent multilateral institution. Combining all this, when these actors say something about what they witness on the ground, it has a special power and credibility that no one else has.

When this legitimacy is taken advantage of by adequately sharing information and speaking out, other actors (diplomatic, external international, media, etc.) can use and re-use the information and statements of the UN and the humanitarians. External human rights groups call attention to UN and INGO pronouncements because it strengthens the political weight of their message. Diplomats use UN and INGO information and statements, not only because of their own limited access to field-based information, but also because it is politically useful for them to cite other sources in their diplomacy rather than take direct responsibility. The UN in Geneva and New York, and all the international bilateral and multilateral actors also appreciate and take advantage of these unique field-based information and pronouncements.

But this potential is lost when the UN and humanitarian actors in-country are silent and do not adequately share information. It is much easier, for instance, for the Myanmar government to dismiss the strong statements of the High Commissioner for Human Rights when the UN voices inside the country are not backing him up. He has the legitimacy of his UN position, but he lacks the legitimacy of the field truth that only those in-country can offer. Similarly, Myanmar can dismiss bilateral pressure from other states as "purely political" because it lacks the principled basis of neutrality, impartiality and commitment to international law that the UN and humanitarian actors on the ground are supposed to stand for.

Ideally, the quiet approach works as part of a combined strategy together with a firm and open commitment to principles and law and a clearly transparent willingness to use this uniquely powerful voice when the situation demands it. The external voices may be louder than those on the inside, but they still are strongest when they are on the same page, and when the government knows that the external pressure is based on grounded field realities and UN principles. Instead, what we seem to have had in Myanmar is a contradiction in which the different parts of the system are sometimes working against each other.

The “humanitarian imperative” and the access trap⁵⁵

One of the major self-imposed barriers that gets in the way of humanitarian organizations fulfilling this powerful informative role they could play is an exaggerated emphasis on ‘the humanitarian imperative’ and a single-minded focus on achieving access for delivering their own services. ICRC/IFRC principles state that “The humanitarian imperative comes first... the need for unimpeded access to affected populations is of fundamental importance... the prime motivation is to alleviate human suffering.”⁵⁶ This axiom drives all humanitarian work, and the way it is interpreted has powerful political implications.

The linkage between the concepts of “access” and “alleviating suffering” is unquestioned in the humanitarian community. But it must be questioned: if humanitarian organizations are compromising other key principles to keep governments happy in order to sustain access, and colluding quietly with underlying dynamics of abuse solely to keep delivering their goods or services, then they have to constantly and self-critically assess whether they are really alleviating suffering in the long run.

The problem is that the humanitarian vision is extremely short-term. The suffering staring us in the face today is self-evident, but the suffering of these same beneficiaries or others later on is seldom considered. Therefore, investments in actions like advocacy that are aimed at changing dynamics of political will to help alleviate suffering in a more long-term sense are nearly always sacrificed.

“Imperative,” after all, is a powerful and superlative word, misused constantly to imply that delivery today always trumps all other considerations. The objective of alleviating today’s suffering is sought at the expense of preventing tomorrow’s suffering – even if those alleviating investments sustain the abuses of tomorrow.

The debates in these sorts of moments is nearly always framed as “principles versus pragmatism,” in which those who promote ‘principled’ stances and the importance of addressing underlying causes, rights, and accountability are dismissed as unrealistic – not pragmatic. The “pragmatic” approach is seen as that which accepts the status quo and maximizes delivery of services within whatever constraints are imposed, regardless of a loss of independence, or other human rights impacts.

But humanitarian and human rights principles are pragmatic! This is the reason for their existence: they have been developed over more than a century of painful learning from the fiascos that resulted when they were not applied. They exist to help the humanitarian community avoid repeating its errors. They help avoid complicity and collusion with human rights abuses and contributing to suffering. They help to ensure that the humanitarian effort is taking into account its impact on future suffering. Pushing to address problems of citizenship, movement restrictions, segregation and discrimination in Rakhine State, for instance, is entirely pragmatic in the humanitarian sense once the humanity of future victims is taken into account.

There could hardly be a more heartrending sign of the failure of this short-term thinking than to sense the sadness with which those who worked in the northern townships of Rakhine State acknowledge that despite all the services they have provided, nothing improved for the Rohingya population there in over 20 years.

Failure to apply basic principles of negotiation: the importance of conditionality

The UN and any humanitarian or development institution are essentially involved a constant negotiation with the state, in which each party is trying to secure certain objectives. It is a basic axiom that any party to a

⁵⁵ Nash, Roger, “*Protecting or Facilitating – When Humanitarian Response Facilitates State Abuses: A Review of the Humanitarian Response to IDP Detention in Sri Lanka, 2009.*” Roger Nash, Pub: Fieldview Solutions, 2012.

(www.fieldviewsolutions.org/publications). This section draws substantially from this earlier Fieldview Solutions study which applied many of these same ideas in detail to the crisis of the forced detention of the Tamil population in Sri Lanka.

⁵⁶ *The Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief*

<http://www.ifrc.org/Docs/idrl/1259EN.pdf>

negotiation can only secure its objectives if it has the power to walk away from a bad deal. If I think I have no choice but to buy an item, I can be forced to pay any price. But the UN and especially humanitarian organizations seem unable to walk away from a bad deal. Rather than negotiating access under certain conditions, they tend to beg the state for access, which they will accept under any conditions whatsoever. Any astute host state perceives this weakness, and can demand and obtain any conditions it desires by simply threatening to withhold access to beneficiaries. The condition most often demanded is silence. Why? Because the state knows that the humanitarians and the UN, through their voice, have power to influence, even if they don't seem to know it themselves.

Over time, this dynamic of begging for access to work under unacceptable conditions does not increase access. On the contrary it rewards the state for denying access. When the state knows that the threat of access denial keeps everyone quiet, it must use that threat often enough to sustain the fear. This dynamic can only be overcome if international organizations insist on certain conditions being met before agreeing to provide services which are actually the state's responsibility. Freedom of movement for IDPs, for example, would be a logical condition. But demanding a condition requires a commitment not to cooperate if the condition is not met. You have to be able to walk away from a bad deal. The international organizations need to recognize that the state has an interest in keeping them present in the country, and the state loses something if they are not engaged. Conditions have to be explicitly framed and announced such that the state sees that it will pay a steep political price if the conditions are not fulfilled.

The Sri Lanka experience again provides a powerful example, painfully relevant to central Rakhine detention camps today: after the UN and INGOs had obediently paid for and serviced camps forcibly detaining 300,000 Tamils for nearly a year, *"It was only in October [2009] after donors flagged that they would no longer fund food for IDPs while they remained detained that major steps were made towards restoring freedom of movement for IDPs. This could have happened much earlier. The need for the donors to take the lead was an indictment of the general passivity of the humanitarians, who should have been far more proactive in this process."*⁵⁷

It is notable that the Sri Lankan government did not wait for the humanitarian community to stop feeding and servicing the camps: they released Tamils from detention after the donors and WFP announced that they planned to stop support. This reaction illustrated the deep miscalculation in the humanitarian assumption that there was no leverage. Their use of "humanitarian imperative" arguments had arguably sustained imprisonment for months, when in fact they had considerable power to influence.

Shifting from hopelessness to longer-term thinking

Hopelessness is one of the most frequent sentiments echoed or implied by humanitarian actors inside Myanmar, as well as by Rohingya people. Humanitarians working on the ground foresee very little possibility that the Rohingyas' situation will improve. This hopelessness was echoed at many levels from many institutions. After all, the obstacles are daunting.

This hopelessness is understandable but it has damaging strategic implications. If key players do not believe in the possibility of change, they cannot develop a strategy to make change happen. If those ostensibly engaged in diplomacy have no hope of impact, their persuasive efforts are likely to be half-hearted, and more focused on damage control for their institution than on changing the situation for the Rohingya.

This is not only a problem for the high-level leadership, but also for field actors and INGOs and the diplomatic corps. Sharing information and doing advocacy in such circumstances will always have associated risks, for individuals and institutions. If people don't believe they can influence a situation, it is not logical to take those risks. Self-censorship is a logical consequence of hopelessness, and is the norm on the ground.

⁵⁷ Nash, "Protecting of Facilitating..." p.7 www.fieldviewsolutions.org/publications.

The international actors have no crystal ball to predict the future, and they need to stop dismissing every demand for Rohingya rights in Myanmar as “politically unfeasible.” In such a situation we can’t settle for aiming only for the objectives we are certain we can achieve in the short run. Despite evidence of obstacles, this hopelessness is not just an analytical conclusion from facts. It is an emotional choice. And even when the visible evidence in the short term reinforces pessimism, we need to be conscious that hopelessness is a convenient choice that justifies inaction. It is also a destructive choice, because the negative attitude and messaging of the international community send a constant demoralizing and disempowering message to the population it ostensibly seeks to support.

If current strategies (or absence of strategy) aren’t working, this does not mean there are no strategies that might work. Those who want to change the situation need to make a different choice, one that commits to a long-term, creative and constant search for new options and routes of influence. It is an ambitious choice that will demand a deeper political analysis of the many different actors whose efforts could combine to produce a more positive impact. Such a choice would empower people to engage more productively in developing effective long-term advocacy strategies. Conversely, clearer joint strategies might help people see a more positive direction forward.

Power is never impervious to influence, but those in power will always try to convince you that they are. The history of political change in which a repressed population earned greater rights has shown over and over again that what seems impossible at one point in time can become possible later. More importantly, concerted strategic action can make it become more possible. South African apartheid seemed hopeless to affect for many decades, but those who sought to change it had long-term strategies that kept breaking down barriers, creating alliances, and mobilizing new political forces to force the apartheid government eventually to accept that it had to change. Military rule over most of Latin America was not changed in a day but over decades of constant internal and external pressure, mobilized by people with long-term strategic approaches. The international community’s role of internal quiet diplomacy and public pressure are just one element of such strategies and transitions, but it is an important one.

Despite this crisis, Myanmar’s democratic transition after decades of military rule still represents a unique opening for positive change. It is a transition still underway that will morph and adapt over the coming years in unexpected ways. It is a dynamic political space. The international actors do not know what is possible and not possible, but they need to explore every avenue to keep prying open the windows of possibility to find ways to include the Rohingya. Ambitious objectives are not necessarily “politically unfeasible” just because they get negative reactions at such an early stage in the process.

The NLD and the Tatmadaw have something in common: they both crave international recognition and legitimacy as a “success.” The Tatmadaw wants the world to thank them for the transition they have allowed and they want to be respected as a “modern army”. The NLD want international support for building a historic new democracy, and they are very savvy about how the international community functions and how important its support and voice are. Both the NLD and the Tatmadaw want to take continued advantage of the massive current and future economic potential of the transition. Neither one wants this transition to be stalled or reversed, nor do they want it criticized as a failure. The confinement and repression of the Rohingya are a challenge to them, because there is no internal Myanmar constituency supporting the Rohingya, and yet the international attitude towards the problem is a thorn in their side.

Many inside Myanmar cite the international reaction to the recent ethnic cleansing as further justification for their hopelessness. They argue that even with such a loud international outcry there has been no protective impact or sensitivity from the government, so why bother? This argument is naïve and short-sighted. For one thing, there has been an outcry in words, but as yet there has been very little real sanction applied. This pressure is still building.

According to former US Ambassador to the UN Samantha Powers,

“Right now they think the benefits of destroying the Rohingya population exceed the costs. The only way that gets changed is through dealing with their sources of revenue, and through them feeling such concerted and sustained diplomatic pressure...”⁵⁸

A recent report of the UK House of Commons International Development Committee⁵⁹ pointed to the need for a full review of UK aid to Burma (through DFID), suggesting a need to consider returning to the kinds of sanctions regime sustained during the military dictatorship. This report lists several of the options available to the UK and the EU, including, a) a UN-mandated global arms embargo; b) referral of Burma to the ICC; c) banning supply of all equipment to the military; d) ban investments and dealings with military-owned companies; e) EU visa ban for members of the Burma military; f) review of all EU cooperation and support with the government of Burma in light of its ongoing human rights abuses of the Rohingya; g) ending all military training and cooperation programmes. Of these steps, the UK had only ended training and supplying the army, and the EU had only suspended training. ***In other words, there are still many types of pressure available which have not yet been applied.***

The intense violence since August 2017 represents a dramatic setback for Myanmar’s international credibility and legitimacy, but it does not mean that they have no sensitivity. On the contrary, even the limited pressures these events have provoked open a window for greater advocacy about Rohingya rights and the search for longer-term solutions. In terms of the internal debate, despite its weaknesses, the Rakhine Advisory Commission report remains an opportunity, but one that can only be taken advantage of by focusing on its calls for opening up freedom of movement and re-opening discussion of Myanmar’s legally corrupt citizenship laws.

All of these dynamics are invitations for concerted long-term strategic advocacy campaigns that keep the repression of the Rohingya loudly on the agenda both inside and outside the country. Both the NLD and the Tatmadaw must be constantly reminded that their own international objectives are not going to be fulfilled if they do not respect the rights of the Rohingya. They do not want it on their agenda for both financial and reputational reasons. They do not want global discussion of sanctions or criminal prosecutions. So it should be no surprise that they react negatively to advocacy. Negative reactions to advocacy do not imply a lack of impact – sometimes quite the contrary.

Advocacy, intimidation and political space

Influence is always a two-way street. A state we try to influence also has its own carrots and sticks available to influence us, and Myanmar is no exception. Governments will often seek ways to manipulate, intimidate, control or sanction international organizations who deal with protection or human rights issues on their territory. The mistake that these organizations often make is to conclude that if government authorities get angry it must mean the organization has made a mistake, or ‘gone too far’. Errors are of course possible, but an angry government response to accurate and appropriate advocacy is also entirely normal. The negative response is a deliberate tactic to dissuade the organization from repeating such behaviour. Even while a government sanctions criticism it is sometimes simultaneously adapting its behaviour to avoid renewed criticism in the future, because it knows that each critique carries political costs. The government knows from experience that the same criticisms will still be out there in international circles repeated by many voices. It also knows that if it punishes international organizations too harshly or publicly, that punishment will itself provoke more criticism.

⁵⁸ ‘Benefits of destroying the Rohingya population exceed the costs’ for Myanmar, former UN ambassador warns: Samantha Power calls for diplomatic pressure to be applied on government,’ June 10, 2018. The Independent Online.

⁵⁹ House of Commons, International Development Committee, “Bangladesh, Burma and the Rohingya crisis”, Fourth Report of Session 2017–19, 15 May 2018.

If the UN and the INGOs inside Myanmar are to take on a more active role in public advocacy, they need to have a clear political understanding of how the state uses intimidation, and how to resist it. INGOs and others, for instance, were spooked by the expulsion of MSF in 2014. But in the end Myanmar let MSF back in to the north, not only because it needed their medical services, but because it wanted to show the world it was willing to let MSF back, to earn legitimacy. The general impression in mid-2017 was that the international community working on Rakhine had much more political space available to them than they had a few years previous. Since the escalation of violence after August 2017, there are still many forms of intimidation, such as blocking visas for new positions, slowing down approvals of MOUs or travel authorizations and other harassments that are less likely to generate a public negative reaction.

There have been various positive examples of organizations publishing critical reports without serious retaliation consequences. In 2015 Action Contre La Faim (Action Against Hunger – ACF) published a detailed “*SMART Nutrition Survey*” of Maungdaw and Buthidaung townships clearly showing the lack of improvement of the areas dismal child nutrition situation. In 2017, the International Rescue Committee published “*Poor Shelter Conditions: Threats to health and safety*” documenting the risks associated with inadequate shelter in the Sittwe area detention camps.⁶⁰ After the August 2017 exodus began, Save the Children published a report from Cox’s Bazar, “*Horrors I will never forget: the stories of Rohingya children.*”⁶¹ Oxfam also published a report from Cox’s Bazar, “*I still don’t feel safe to go home: Voices of Rohingya refugees.*”⁶² Staff in Myanmar sometimes report having been “called in” by authorities to explain themselves after such reports were released, but no other substantial negative consequences.

MSF gave its humanitarian colleagues in Myanmar another powerful example of taking a risk to claim political space and make a difference when they issued their report in December 2017 estimating the number of fatalities during the military’s ‘clearance operations.’ This was a dramatically important report covering a vital human rights aspect of the onslaught that no one else was measuring. Before issuing the report, MSF considered the potential risk of retaliation against their operations inside Myanmar before publishing, but they did it anyway. And according to those consulted to date, their operation inside Myanmar was not singled out for any specific retaliation.

Frequently a government chooses control tactics against international institutions that will result in the smallest political cost to itself. Those who are targeted need to distinguish between small threats that do not represent a significant infringement on the work of the organization nor unacceptable suffering for its beneficiaries, (such as being called in for questioning or being scolded or insulted, or even having to do extra administrative work to keep the work moving forward) as opposed to serious attacks that cause significant suffering to beneficiaries or staff (institutional expulsion of vital service providers, physical attacks against staff or retaliation against local partners, etc.)

In some cases, small hassles can escalate into more serious threats, but very often they do not. To ratchet threats up to a more serious level, the government has to be willing to pay a higher political cost. Private scolding costs nothing. Anonymous threats for which no one can be held accountable cost nothing. Blocking visas or expelling individual mid-level staff members is usually achieved very quietly. When the stakes are higher, they might “PNG” higher level management,⁶³ knowing this might cost them something politically.

⁶⁰ Report available at: <https://www.rescue.org/report/poor-shelter-conditions-threats-health-safety-and-dignity>

⁶¹ November 7, 2017 report available at: <https://reliefweb.int/report/myanmar/horrors-i-will-never-forget-stories-rohingya-children>

⁶² December, 2017 report available at: <https://policy-practice.oxfam.org.uk/publications/i-still-dont-feel-safe-to-go-home-voices-of-rohingya-refugees-620398>

⁶³ PNG – declaring an individual ‘*persona non grata*,’ i.e. insisting they leave the country, is not an uncommon tactic when a state wishes to exercise a particularly strong punishment. Yet if an institution provides adequate support to staff who are forced to leave, and replaces them with equally qualified and principled leadership, even this punishment should not necessarily have an inordinate negative impact on the institution, its beneficiaries or programs.

But, despite all the fears so frequently expressed by UN and INGOs, it is extremely seldom that a government expels an entire reputable institution.⁶⁴ The cost is usually too high to be worth it to them.

In critical circumstances like these, advocacy and information sharing is essential even if the risk of expulsion were real. MSF suffered real costs from its expulsion in 2014, and risked it again in 2017. Institutions sometimes need to be willing to take these risks, but they need to also be aware that they are not the sole saviours of the beneficiary population. The world does not end when one institution has to leave a country.

An organization committed to principled protection work in such a setting (be it the UN, a humanitarian or development organization or NGO)⁶⁵ therefore needs to develop a thick skin to accustom itself and its staff to minor harassments, and it needs procedures and fall-back strategies to facilitate ongoing work in the face of potentially debilitating administrative harassments. Otherwise it will be too easily controlled and manipulated by threats and harassments that represent low political cost to the government.

Beyond this they must also be prepared to address severe human rights abuses even if the institutional cost is likely to be higher. The strength of sentiment against international organizations in Myanmar and in the military may be high enough that they will choose to bear the costs – some international actors in Myanmar believe that expulsions of institutions or even the entire UN are not inconceivable. This real risk demands that each institution develop political strategies and alliances to respond firmly to more serious attacks against itself *or others*. Each time the state engages in a serious harassment or retaliation, it should receive heavy pressure – it needs to suffer a dissuasive political cost that it would not want to have inflicted often.

Organizations also need to train their staff and management to understand and prepare for these risks of harassment and threat. Staff being hired should be warned and encouraged to make a conscious choice about whether they wish to work for an organization that takes on sensitive issues such as protection. They should be helped to prepare their own responses to possible harassment and intimidation. And they should be guaranteed that if they are under threat, their organization will stand by them 100%.

This challenge is complicated by the troubled relationship that many of these organizations have with their national staff. International organizations depend heavily on their senior national staff to manage nearly all communication with national authorities and local communities, but rarely is there any transparent understanding between expatriate management and national staff about the strategy and principles underlying their institutional approach to the Rohingya challenge. The dominant discourse in Myanmar against the Rohingya is often presumed to represent the majority (perhaps wrongly), and Burmese or Rakhine staff who may be more supportive of the rights of the Rohingya are inhibited from expressing this. This has led in some cases to stereotyped assumptions or suspicions by expatriates that their national staff are unsupportive of the mandate of their institution to help the Rohingya. Some staff, for instance, have been found to maintain Facebook pages with anti-Rohingya hate speech. On the other hand, other national staff who fully grasp the humanitarian and human rights principles of their employer are frustrated with this presumption of mistrust of their commitment, and with the lack of acknowledgement that the national staff are the ones facing the most local harassment from the anti-Rohingya extremists in their own communities.

⁶⁴ An oft-cited counter-example is the 2009 expulsion by Sudan of several INGOs working in Darfur. Fortunately, given the large numbers of international institutions present in Darfur, these expulsions led to some rapid planning adjustments in which other institutions filled most of the humanitarian gaps left open. The expelled INGOs may have suffered substantial institutional costs, but the nightmare scenario that beneficiaries would all be left without services did not play out. Sadly, one of the worst consequences of those expulsions was that the entire international community was far more inhibited and self-censoring afterwards, failing to stand up adequately for the protection needs of the people in Darfur.

⁶⁵ Taking into account the Human Rights Up Front framework, and the *cross-cutting* protection commitments of the humanitarian system of the last two decades, (Humanitarian Reform, Transformative Agenda, Centrality of Protection, etc.), *all* of the UN and humanitarian actors fall within this category: they are engaged in protection work even if it is not their primary program area.

Ideally, a humanitarian organization has a right and a need to selectively ensure that its staff are in agreement with its principles, in particular the principle of non-discrimination, and will implement them. At the same time, national staff who do ascribe to these principles have a right be consulted, respected, and engaged in strategic discussions about how the institution will achieve its objectives in a country that they know far better than their expatriate colleagues. Right now, neither of these things are happening in most organizations, and much more needs to be done to overcome these divisions.

The managers, country directors, and heads of offices or others involved in high-level decision-making need an additional and more subtle kind of preparation: they need to learn to recognize that the institutional and managerial pressures for smooth operations and efficient delivery processes create a powerful bias towards self-censorship and giving in to any pressures from the state. Unless managers are encouraged from above and offered incentives to show courage in their leadership to counter-act this bias, almost any large organization will be less forthright than it ought to be, and very susceptible to pressure.⁶⁶

The logical corollary to positive incentives for courageous leadership is to also apply negative incentives or sanctions for failures to stand up to pressure that leave an institution silently complicit with mass abuses. When an institution fails to release facts or reports about serious abuse for fear of upsetting the host government, or out of exaggerated or misplaced fears of embarrassing other actors or partners, it damages its own credibility and that of the entire humanitarian community. Organizations and leaders that are complicit or performing poorly in this respect should feel both internal and external pressures to change, including from other partners and their donors.

If international organizations have such strategies in place they may be better positioned to make principled strategic choices about their programming and advocacy actions, and less constrained by state intimidation. Very few organizations in Myanmar have done this. The majority seem relatively unprepared and entirely habituated to being easily bullied and manipulated.

Protection of sources

This analysis argues that humanitarian institutions need to take greater political risks, although they may face harassment, even expulsion. But there are other much worse risks which require careful consideration. There is a well-documented pattern of retaliation by Myanmar security forces against people (and not only Rohingya) who provide sensitive information to international organizations regarding human rights abuses. Some witnesses who spoke to the Special Rapporteur or other allege they received threats and retaliation. Police have come to the offices of NGOs in Maungdaw and collected data and photos of all the national staff, implicitly threatening them to watch what they do and say.

⁶⁶ From the very top, there have been some encouraging words. For instance, in the report of the former Secretary General Ban Ki Moon on the World Humanitarian Summit, he states: *“Remaining silent while serious violations of international law are unfolding is morally unacceptable and undermines the legal obligations of States. Our common humanity demands that we do everything we can to prevent and end violations and hold perpetrators accountable. Gathering facts, taking preventive and protective action, including speaking out against violations, recognizing the suffering of victims and advocating for proactive solutions are among the most basic duties owed to people enduring the effects of armed conflict.”* He also stated: *“Whenever serious violations of international humanitarian and human rights law occur, Governments, global leaders and other relevant individuals must systematically condemn them. Even where we may not be able to stop violence and suffering immediately, we have a minimum responsibility to speak out and ensure that the facts are known. The experience of the United Nations has shown that speaking up earlier usually strengthens its role. In the context of my Human Rights Up Front initiative, I have asked all United Nations senior officials to do so and I encourage all United Nations staff to act with moral courage in the face of early, serious and large-scale violations. I also exhort all relevant actors and stakeholders to end the double standard of condemning the violations of some but not of others. This weakens the collective resolve to prevent conflicts and our credibility in demanding compliance with the law.”*

However, political statements like this are not in themselves adequate management incentives. The key question is: which kind of behavior is most likely to lead to the next managerial promotion: speaking out for human rights or keeping a low profile and doing what the host government bids? At the Headquarters of each agency or other UN entity, what are the field managers being told on a daily basis regarding the use of the UN’s voice and the possible friction it can cause in relationships with the host government? What are they told by their superiors when they are initially selected for a sensitive post about what lengths they should go to a please their host government?

Human rights monitoring operations have long experience dealing with these kinds of threats. The answer to this challenge is not to avoid collecting or distributing information, but to painstakingly develop secure methodologies for communication with individuals and for data management. Those who speak with local community members on sensitive issues need to understand the concept of informed consent, which demands a conversation with the source about how their information might be used and whether they are comfortable with the risks they may be taking in providing it. It requires awareness and monitoring of the modalities of surveillance and spying in each community, so that information gathering does not create risks unknowingly. Once sensitive information is gathered, it may need to be carefully ‘cleaned’ of detail that might identify the source and provoke retaliation, before being referred to in reports.

An environment of retaliation demands further steps as well: just as the Rohingya communities deserve an empowered role in decisions about their rights, they should also be the key protagonists in decisions about the risks they take. Informed consent discussions are not only about minimizing or avoiding risk. They also serve to allow people to clearly articulate what risks they are willing to take. If those who gather information have trusted information networks, and implement such discussions, they will find that in any community facing repression there will be people who understand the importance of getting the information out, and who are willing to take personal risks to help.

Finally, rigorous information gathering requires a commitment to respond to retaliation against staff or sources when it happens. Retaliation is a serious human rights violation in itself, sometimes requiring denunciation and advocacy in order to reduce the risk of its repetition. In other cases the organisations need capacities in place to protect sources who are facing such risks.

INGOs and advocacy

The inhibiting dynamics discussed above have been affecting nearly every actor working in Rakhine. Even those who are fully aware of how damaging the overall system’s silence is are mostly still very quiet themselves. The INGOs and others who privately express concerns about advocacy gaps in UN performance still mostly keep waiting for the UN to do the job for them. They should be doing more of the necessary information dissemination and advocacy themselves, even if this requires some staffing changes and skills development.

Humanitarian organizations sometimes hide behind the oversimplification that all advocacy is too risky and “political”. But some advocacy does not really represent a substantial risk. The dynamic of excessive self-censorship has to be examined more rigorously, so smart choices can be made to do more. Beyond this, **more advocacy needs to happen even if it does represent a risk to the institutions**. Different INGOs will have different levels of risk aversion, so all organizations will not be on the same page. If ‘joint advocacy’ requires universal participation it will not happen, so it will need to be coordinated in a more ad hoc fashion, pulling together ‘coalitions of the willing’ on specific issues at specific times.

Several INGOs in Myanmar have been talking among themselves about these dilemmas and gaps for several years now, convening their own strategy discussions and considering joint advocacy independent of UN-coordinated structures. One outcome was the “INGO Rakhine Initiative,” a collaborative project aimed at producing an evidence base for advocacy on key access barriers, including structural and non-structural barriers. The initiative has produced informational notes on access to Sittwe General Hospital and educational services in central Rakhine, a gender and age analysis of Rakhine and Rohingya communities, and an examination of livelihood barriers in Rakhine’s fish and agricultural sectors. Unfortunately, given concerns about government reaction, none of these reports are shared publicly, but like other information gathering in the system, have only fed into quiet advocacy by a limited number of other actors.

After the attacks began in August 2017, a substantial majority of the INGOs operating in Rakhine issued three joint public statements. The first “Joint INGO’s statement in Myanmar” was released only a few days

after the onslaught began.⁶⁷ Facing a situation in which no details about the violence could yet be verified, and concerns that INGO national staff present in the area could be at risk, the statement limited itself to calling for an end to the violence, and defending the INGOs themselves from accusations and misinformation that had been spread against them. It made no mention of the severity of the violence going on nor who was perpetrating it. It did not mention of refugees, nor any ethnic dimension of the crisis.

In late September a second statement came out with additional signers, “Statement of INGOs in Myanmar...Humanitarian organizations call for immediate access to those in need.”⁶⁸ As the title suggests, it focused on the INGO’s concern about their access to northern Rakhine State having been blocked, and called for increased access for their services. It does mention 480,000 refugees and 27,000 internally displaced people, but does not mention any killings or rapes. Once again there is no mention of any perpetrators, nor any mention of ethnicity as a factor. This statement called attention to ongoing challenges facing those remaining in Rakhine, “...the delivery of humanitarian aid to the 120,000 internally displaced persons who have been in camps in central Rakhine State since 2012 and are heavily dependent on assistance due to restrictions on their freedom of movement, has also been severely curtailed,” and does so in a way that links humanitarian privations to freedom of movement. And it went on to call for lifting of all movement restrictions. Neither of the first two statements specifically mentions human rights abuses or discrimination.

A third statement in December went much farther: “Humanitarian organizations call for guarantee of safety and rights for refugees before return to Myanmar commences.”⁶⁹ It urged that the “rights, safety and protection of returnees must be guaranteed before any returns process commences.” It cites the refugees demand for “guarantees that the violence and human rights abuse from which they fled will not continue and they will enjoy full and equal human rights and freedoms upon their return.” It goes further to demand “verifiable information about the conditions and locations of return,” and “unfettered access to all areas of Rakhine State for independent third parties, including journalists and human rights observers,” and even calls for an “independent fact-finding mission into allegations of human rights violations and a judicial process to hold perpetrators to account...” This statement is also more specific about rights: “The full and equal rights of returnees must be guaranteed. This includes ensuring full and equal rights to freedom of movement, freedom of religion, freedom of expression and association, rights to work and own land and property, education, including higher education, health care and other basic services.” And it even called attention to the Rakhine Advisory Commissions recommendations on citizenship and human rights.

The first two statements were important, but they are more notable for all that they don’t mention – illustrating how troubling joint advocacy was for the INGOs. The December statement on returns, constructed after workshops on principles and analysis, represented an important step forward, because it emphasized the explicit linkage between respect for human rights and humanitarian suffering. The INGOs also constructed a joint “Principles of engagement in Rakhine State” document through which a majority committed themselves to refraining from providing services in new camps of returnees until a rigorous monitoring process could guarantee that freedom of movement and other minimal conditions were in place.

⁶⁷ <https://reliefweb.int/report/myanmar/statement-ingo-s-myanmar-31-august-2017-enmy>, signed by Consortium Dutch NGOs, Danish Refugee Council, CARE International, International Rescue Committee, Action Contre La Faim, Lutheran World Federation, Malteser, Mercy Corps, Norwegian Refugee Council, Oxfam, Plan International, Relief International, Save the Children, Solidarités International, World Vision International, Church of Sweden.

⁶⁸ <https://reliefweb.int/report/myanmar/statement-ingos-myanmar-27-september-2017>, signed by Consortium Dutch NGOs, Danish Refugee Council, CARE International, International Rescue Committee, Action Contre La Faim, Lutheran World Federation, Malteser International, Mercy Corps, ADRA Myanmar, Norwegian Refugee Council, Oxfam, Plan International, Relief International, Save the Children, Solidarités International, People In Need, World Vision International, DCA-NCA.

⁶⁹ <https://reliefweb.int/report/myanmar/humanitarian-organizations-call-guarantees-safety-and-rights-refugees-return-myanmar>, signed by CARE International, Consortium Dutch NGOs, Action Contre La Faim, Church of Sweden, Lutheran World Federation, Mercy Corps, Norwegian Refugee Council, Oxfam, Save the Children, Solidarités International, World Vision International, Medecins Du Monde, Action Aid Myanmar, Danish Church Aid, Handicap International.

Using field-based information for greater advocacy influence

Joint statements are one of the many tools. Keeping in mind their unique credibility and access to field-based information, humanitarians have an even greater potential influence when they link advocacy messaging to real humanitarian data and analysis methodologies. What made the MSF report on the death toll in December so influential was the fact that it came from an institution that the world believes to have credible access to victims, and MSF chose to carry out a rigorous survey and analysis applying the epidemiological methodologies that they are known for. They didn't just share an opinion like "Stop the killing." Instead, the data spoke for itself.

Each humanitarian institution has its own expertise and access to data, and can therefore do reporting and information-sharing that would contribute to overall advocacy. It requires a willingness to be a source of analysis, and an investment of time and expertise in data-gathering and producing rigorous reports that reflect the professional skills of the institution. The box below lists examples of how humanitarian institutions might engage more in **public** reporting and information-sharing while still being able to justify each initiative as fitting squarely within their professional fields of expertise.

BOX: Using humanitarian and development analysis skills to promote protection: potential initiatives to stand up for the Rohingya remaining in Rakhine State

1. The Rakhine Advisory Commission called for a "mapping" of freedom of movement constraints and for a relaxation of those constraints. Humanitarian actors are an important source of data and analysis for such a mapping, and could make an influential independent contribution to the implementation of the Commission's recommendations by providing a thorough (public!) analysis of the specific humanitarian consequences of different constraints on freedom of movement.
2. Health sector actors and others could collaborate to expand the 2017 INGO Rakhine Initiative study done on access to Sittwe hospital to assess other health access challenges throughout the state caused by different police practices, local orders, extortion and other dynamics. A further advance would be to document and tabulate cases of complications suffered by individuals who were unable to access prompt medical attention.
3. Education sector actors could more thoroughly map out and quantify the education deficits that have resulted from the obstacles places on students attending schools at various levels in different geographic areas (camps, townships, etc.).
4. Despite years of food support, children in the northern townships still suffer dramatically unacceptable rates of severe malnutrition. WFP is capable of mobilizing the kind of careful political economy research skills that could map out and quantify the cause and effect relationships between state policies and practices (including movement restrictions on livelihood, economic pressures from extortion, etc.) and this long-term food security failure.
5. With careful and sensitive data collection, WFP and health actors could publish regular assessments of the number of deaths and other health impacts resulting from this epidemic of malnutrition, and give these much greater visibility than such information has gotten to date.
6. UNDP, the World Bank, USAID or others who have capacities for assessing or measuring the impacts of corruption could carry out a detailed study of how extortion and bribery is functioning in Rakhine state. This is a vital gap, since without such analysis it is hard to know how much those who are benefitting from this corruption are likely to be *spoilers* who get in the way of any changes or solutions in the long run that might reduce the illegal incomes they currently reap from freedom of movement restrictions.
7. Institutions capable of mobilizing technical studies in political economy could carry out a detailed study that enumerates the economic costs of segregation for the ethnic Rakhine and for the Myanmar economy as a whole.

Such analyses could provide important support for advocacy as well as for clearer long-term strategies.

In conclusion, international organizations who face these inhibiting obstacles to advocacy need to recognize the causes, and the habits they have developed that reinforce them, and face up to them. There are many things they can do once they get past these blockages. More specific ideas about how to move forward with advocacy strategies now in Myanmar will be discussed in chapter six.

Chapter 5: *Human Rights Up Front* and human rights monitoring in Myanmar and Rakhine State

Human Rights Up Front (HRUF) is a UN initiative of former Secretary-General Ban Ki Moon aimed at implementing the recommendations of the Independent Review led by Charles Petrie which qualified the UN's response in 2008-9 in Sri Lanka as a "systemic failure."⁷⁰ According to HRUF doctrine: "...[to] achieve the standards set out in the Universal Declaration of Human Rights... the UN System uses all the resources at its disposal, including its moral authority, diplomatic creativity and operational reach." It further demands the UN use "the full breadth of its mandates and activities to protect the people it is meant to serve."

HRUF doctrine also lays out a specific set of required action steps, including: 1) Human rights training for UN staff; 2) Providing Member States with candid information with respect to peoples at risk of, or subject to, serious violations of human rights or humanitarian law; 3) Ensuring coherent strategies of action on the ground and leveraging the UN System's capacities to respond in a concerted manner; 4) Enhancing communication between Headquarters and the field to facilitate early, coordinated action; 5) Strengthening the UN's human rights capacity; 6) Developing a common UN system for information management on serious violations of human rights and humanitarian law.

While the UN in Myanmar has provided basic 'human rights up front' training to its staff, on most of the other action points, the results have been decidedly weak. Most major UN agencies have an advocacy mandate, but they have been inhibited to execute it. Sharing of information has been very restricted and external UN actors who provide candid information (such as the Special Rapporteur) have sometimes been undermined by key UN actors inside Myanmar. Advocacy is limited to very few actors. The UN human rights presence on the ground has varied between entirely inadequate and non-existent. It would be very difficult to argue that the UN is fully "leveraging its potential influence," as called for in its Human Rights Up Front doctrine.

The HRUF doctrine goes on to point out, "*The success of Human Rights up Front depends on leadership at every level – to show the courage to speak up for the values in the Charter and the Universal Declaration of Human Rights, to back staff demonstrating such courage, to encourage teamwork and collaboration and to harness the diverse mandates of the UN System to the achievement of the UN System's core purposes.*"

The High Commissioner for Human Rights and the Special Rapporteur for human rights in Myanmar have shown the most consistent leadership in this respect, speaking out regularly and forcefully. The (former) Resident Coordinator and UNHCR, among others, have engaged in quiet diplomacy and sporadic public statements addressing Rohingya concerns. The former Secretary General raised concerns publicly a few times, and the current one did not speak publicly until after the August 2017 crackdown. These approaches were not coherent. UN leaders inside Myanmar consistently left the public advocacy role to a few externally-based human rights mandate-holders, without visibly supporting or backing them up.

In short, while the humanitarian system in Myanmar was subsidizing apartheid by paying for ethnic ghetto/prisons, and keeping too silent in the face of serious human rights crimes, as it did in Sri Lanka, the HRUF doctrine established to prevent exactly this situation from happening again was failing. The deeply ingrained and well-practiced habit of self-censorship remained too powerful, even when the worst of violence struck in 2016 and 2017.

⁷⁰ http://www.un.org/News/dh/infocus/Sri_Lanka/The_Internal_Review_Panel_report_on_Sri_Lanka.pdf.

The human rights monitoring gap

The Rakhine state situation has been a human rights emergency for a long time and Myanmar has never allowed any kind of adequate human rights monitoring operation⁷¹. OHCHR started negotiating with the government soon after the democratic transition was first announced regarding the possibility of establishing an office in the country. However, the best that was achieved was that for a few years Myanmar granted visas to a few OHCHR office staff to work in the country. This was not an official OHCHR office, and it had no mandate for monitoring or reporting. Its staff were highly limited in their ability to travel in Rakhine state. During much of this period, OHCHR had one of these staff-persons dedicated to Rakhine State, who travelled in the field as much as travel permits allowed, and participated in the Protection Cluster. OHCHR also participated in the UN Country Team.

The only public reports issued by OHCHR about Rakhine state in this period were based on interviews with refugees in Cox's Bazaar rather than monitoring inside Myanmar. OHCHR's February 2017 report and Yanghee Lee's reports were effective and influential, and they angered the Myanmar government. For most of the rest of 2017 and into 2018, OHCHR staff have been unable to obtain visas to work in the country any more. Despite the drastic nature of the Rohingya human rights crisis, OHCHR has only a small team in Bangkok and Geneva who work on it, although this team is currently being expanded.

Lacking a human rights monitoring presence, UNHCR and others in the humanitarian Protection Cluster have gathered information about the suffering of the Rohingya. This information gathering is not the same as human rights monitoring, nor has it been used effectively to seek remedies.

Human rights monitoring is essential in this context, but it is a highly skilled task, and OHCHR is the only trained institution in the UN system with the capacity to do it correctly and responsibly.⁷² OHCHR staff are trained in interview techniques, in assessing information reliability, in verification of facts, in protection of sources, in legal analysis and report-writing that enables them to produce vital assessments and recommendation regarding human rights challenges, while also providing technical assistance to states in developing solutions to human rights problems in policy and practice.⁷³ The UN cannot truly fulfil its Human Rights Up Front commitments without having this capacity on the ground. Myanmar and other states know this, which is why they put barriers in the way.

The UN and all its allies need to take advantage of the world's attention currently focused on Myanmar, and redouble their advocacy efforts to deploy a fully operational OHCHR country office with a public reporting mandate. After ethnic cleansing, Myanmar has a lot to hide, and more reason than ever to block such a presence. But Myanmar is also under more human rights pressure than it has been in a long time, and thus also has more to gain than before from allowing an OHCHR office, and should pay a cost for refusing it.

Unfortunately, the demand on Myanmar to open its doors to OHCHR has been very weak. Neither the prior nor the current Resident Coordinator, nor the UN Secretary General have called attention to this gap. The current Strategic Framework developed by the UN makes aspirational demands for "monitoring" but contains no mention of the need for the UN's only expert human rights monitoring institution.

⁷¹ The need for human rights monitoring in Myanmar extends far beyond Rakhine state, as the government and military approaches to ethnic minorities and to armed conflict in other regions have also consistently employed systematic abuse as political and military strategies. In addition, there is frequent repression of civil society and journalists.

⁷² Human rights monitoring is a very distinct operation from the "protection monitoring" carried out by humanitarian actors. Humanitarian protection monitoring gathers data primarily for the purpose of ensuring adequate service responses, whereas human rights monitoring data is gathered in such a way as to facilitate reporting, persuasion, advocacy and other interventions aimed at changing abusive behavior.

⁷³ For a thorough analysis of the potential role of an OHCHR field presence see: [Influence on the Ground: Understanding and strengthening the protection impact of United Nations human rights Field Presences](https://www.fieldviewsolutions.org/publications), (Fieldview Solutions, 2012).

If the Myanmar government continues to block an OHCHR office, however, the UN system needs to develop a creative alternative that will deploy this necessary monitoring capacity through a different entity that already has permission to function on the ground. Human Rights Up Front is a “Whole of system” commitment, so if OHCHR cannot be present, the UN system has an obligation to find a different institution with permission to function inside the country which can deploy an adequate number of professionally trained human rights monitors in the field. The UN body selected for this difficult role must collaborate closely with OHCHR at the headquarters level and in Myanmar to field an experienced, trained, in-country human rights monitoring capacity, managed and administered through an entity on the ground but closely supervised by OHCHR experts.⁷⁴

UN-OCHA should be considered for this function of partnering with OHCHR on human rights monitoring. Like OHCHR, it is part of the UN Secretariat, and it has fewer operational activities and conflicts of interest than the larger agencies on the ground.⁷⁵ Its core functions of information management and advocacy and state support correspond well to the need. Such a responsibility would require recognition at the HQ level of both institutions that circumstances on the ground demand that OCHA take on this unusual role. There will inevitably be negative knee-jerk institutional reactions (in OCHA, OHCHR and elsewhere) against such mandate flexibility. The author has already been told “*This is just not how the UN works!*” But to be frank, when it comes to human rights monitoring, “how the UN works” in Myanmar, hasn’t worked at all. In a post-“Human Rights Up Front” reality, stepping in to try to fulfil a vital preventive role in a situation of active ethnic cleansing is a necessary level of flexibility to act according to UN principles.

No UN entity will relish the idea of taking on another’s job, least of all OHCHR’s, and OHCHR hates to relinquish its role to anyone else even when host states won’t allow it to do its job. In addition to the political challenge, this idea represents an administrative, financial and technical challenge, requiring substantial negotiation, human resource collaboration and training. But in extreme circumstances the UN needs to be more creative about institutional mandates and task distribution, and find the resources and skills to fill vital gaps. If OHCHR and other UN entities don’t find ways to break out of business as usual and help to fulfil this need, any state’s decision to block entry to OHCHR will continue to be the *Achilles heel* of the UN’s Human Rights up Front commitments.

⁷⁴ OHCHR already has a well-developed collaboration with DPKO to co-supervise human rights monitoring in many countries, so such collaboration is not an entirely new concept.

⁷⁵ The current UN Secretary General gave a high-level illustration of this perceived conflict between advocacy and operations when he was in charge of UNHCR. UNHCR was a key player in the systemic failure in Sri Lanka. Later, after Human Rights Up Front was developed, he hosted a December, 2013 conference in Geneva on the Protection of IDPs, during which UNHCR faced considerable critique for its weak advocacy approach as the Global Protection Lead – especially in the post-Sri Lanka reality. His only response to this critique was to promise in his closing presentation that he would collaborate more with OHCHR so that OHCHR could take on more advocacy and UNHCR could stick to its ‘operational’ tasks. Guterres is no stranger to the Rohingya crisis, as he was still in charge of UNHCR over the last several years, but there is little evidence of a deeper collaboration with OHCHR to counter-act UNHCR’s quiet operational approach in Myanmar.

Chapter 6: What now? Recommendations for supporting the rights of the Rohingya in Rakhine State and maximizing the possibility of an eventual repatriation with their rights respected.

The international community working in Myanmar faces a terrible choice. They can continue to quietly serve the remaining Rohingya in Rakhine, accepting the role of playing an assisting role in a long-term ethnic cleansing strategy that is now indisputable. Or they can break with their current paralysis and change their approaches, developing more vigorous protection strategies that confront human rights abuses, accepting the possible risk of state anger, harassment, retaliation and even expulsion. There is no middle ground left to them. The proposals below urge the UN and the wider humanitarian and development community to acknowledge the trap they are in, and to seize the moment to create a stronger, more coherent and effective approach to these tremendously difficult challenges.

Changing attitudes and breaking through inertia

There are certain attitudes and arguments that arise in humanitarian and development institutions when the latter choice of addressing human rights issues is presented to them, which need to change.

1. Overcoming hopelessness

The most frequent attitude is to dismiss Myanmar and its military as being beyond influence. *“They don’t care, and our voice will make no difference!”* This argument, discussed in detail in chapter four, can appear very persuasive when a state has gone so far as to engage in wholesale ethnic cleansing, but it is nevertheless a deceptive oversimplification. Even when a state has such an extreme strategy, there are no political absolutes. They are still trying to minimize damage and reduce costs even while they take such drastic measures. This is why they need to describe it as an ‘anti-terrorist’ campaign, and then engage in a bogus negotiation about repatriation. Given the global critique they are facing, Myanmar may be more sensitive to internal humanitarian critique now than before, and it would be more difficult to publicly retaliate against humanitarians who choose to share information and raise concerns.

A revised analysis needs to acknowledge that the approach applied prior to the crisis failed to achieve positive results for the Rohingya because the central Myanmar government had such limited political will or interest to help and was under such little political pressure to do so. It needs to map out all the possible incentives and sources of influence that could be mobilized to change this calculation of political costs and benefits to persuade the central government to seek real solutions that respect the rights and respond to the needs of all ethnic populations in Rakhine. This approach needs to take into account that political change comes as a complex result of many forces over long time periods. The international community on the ground is one of these forces, and has an important role to play.

The humanitarian actors and diplomats inside Myanmar need to push hard now for substantial rights improvements for the Rohingya and other Muslims inside Myanmar, both for those still in Myanmar right now, and as a precondition for humanitarian support to any future repatriation. This is an important and opportune moment to change the approach: There is a new UN leadership in Myanmar,⁷⁶ the Rakhine Advisory Commission report contains useful recommendations and the Secretary General Guterres and the global diplomatic community are paying more attention to Myanmar.

2. Each institution needs to take responsibility for its role in confronting rights abuses

When under pressure to address rights issues, humanitarian and development actors sometimes argue, *“This is not our job.”* This was addressed in Chapter five: the ‘Human Rights Up Front’ commitment of the

⁷⁶ In June 2017, the UN announced that it would be upgrading the RC/HC position in Myanmar to the status of ASG (Assistant Secretary General). This change was resisted by the Myanmar government. Instead, Resident Coordinator Renata Lok Dessalieu stepped down in the fall of 2017 and was replaced by a temporary RC/HC, Knut Ostby.

system clearly makes human rights protection everyone's responsibility, and the specific mode of fulfilling that responsibility must adequately take into account that Myanmar deftly prevents OHCHR from relieving other institutions of that burden. Chapter four explained how vital the humanitarian voice is, further adding to that responsibility.

A weaker version of this argument, heard often from humanitarian managers, is that *"We don't have time for advocacy, because we are too busy responding to urgent humanitarian needs."* This similarly implies that protection engagement is extraneous to the 'real job', and or that advocacy is not a priority strategy for responding to needs. A useful comparison to point out here: every time a cyclone or a flood hits, humanitarian managers, however busy they are, are impressively capable of rearranging work plans, human and financial resources to respond to the changing needs of the context. **What the international organizations need to recognize in order to transform this failure to prioritize is that in the context of the Rakhine state crisis, discrimination, segregation and ethnic cleansing are a permanent cyclone with similar impacts, and demand a similar level of management planning to respond adequately to the need.**

Changing the analysis and the narrative

3. Shift the analysis to place greater accountability at the national level

First of all, the dominant analysis discussed above needs to more explicitly take into account how much the Rakhine crisis is controlled by the NLD leadership and the Tatmadaw rather than the Rakhine Buddhists, and therefore pressure for solutions needs to focus on Nay Pyi Taw. This should be more than evident after the ethnic cleansing was launched – entirely under Nay Pyi Taw military control and only tangentially related to communal frictions. Rather than focusing so heavily on local Rakhine state actors and politics, the international actors need an analysis that better understands which decision-makers in Nay Pyi Taw are responsible, in both negative and positive ways: which are responsible for deciding on policies of abuse and ethnic cleansing, and which are capable of mobilizing constructive change to reverse these policies.

This analytical change also needs to recognize that the state has been committed for decades to the objectives of discrimination, abuse and containment of the Rohingya, and has thus far given no signal whatsoever of any willingness to change this objective. A frank recognition of this bleak reality has to have an impact on how much the international community can offer to work in "partnership" with this government, and may help to avoid being manipulated so easily in the future.

4. Consistent messaging: quiet and public, inside and outside Myanmar

Quiet diplomacy and public advocacy should have consistent messages, always emphasizing the humanitarian and development community's positive willingness to assist the government as an ally in developing solutions to the human rights, humanitarian and development challenges facing all ethnic groups in Rakhine, while also transparently calling attention to ongoing human rights challenges both in confidential meetings and through public information and public advocacy. The message approach should include clear and measurable human rights targets, holding the state accountable for progress towards those targets, offering assistance, but conditioning that assistance on good faith progress. The community inside Myanmar should not be contradicting or undermining the UN, humanitarian and human rights voices being raised externally.

The humanitarian community's credibility and influence is greater when its approach is predictably and transparently consistent with international law and humanitarian principles. This consistency generates respect, even if some government actors may at first react angrily to hearing public critiques. The civilian government and the Tatmadaw need to be convinced through persistence and consistency that the critiques will not go away until the problem is solved. They can reduce the political costs associated with public pressure by using their considerable political power to change policies and practice towards the Rohingya. The Rakhine challenge is a relatively small one within the bigger picture of Myanmar, one that the central government has the authority and political power to resolve, once it makes a decision to do so.

Clear public reporting and critique regarding rights is not inconsistent with building a constructive relationship with a rights-abusing government. In the long run it is an essential element of such a relationship.⁷⁷ The humanitarian community needs a messaging approach that emphasizes the legitimacy of a new democracy and the consequent importance for the new Myanmar to develop policies and practices coherent with international law. It emphasizes how rights-respecting policies have beneficial economic implications for all populations and facilitate investment and global relationships. It must also clearly and persistently denounces crimes against humanity, ethnic cleansing, apartheid and the imprisonment and confinement of a population on the basis of its ethnicity.

To strengthen the impact of this messaging, and taking into account their unique access to field truths and legitimacy, UN agencies and other international humanitarian institutions in Rakhine need to efficiently use their substantial information gathering and analytical capacity to create coherent reports and analysis of the humanitarian and human rights consequences of the current policies and practice towards the Rohingya. This analysis and reporting should be combined with ramped-up advocacy and shared with a wide range of actors who can use them in their own advocacy efforts.

5. Empower and listen more to Rohingya voices

The UN and other international agencies on the ground need to establish systematic mechanisms of participation, communication and empowerment aimed at creating a healthier listening relationship with the Rohingya communities, in order to better facilitate the engagement of the Rohingya themselves in strategic discussion regarding their own future. This participatory relationship will reduce the risk of paternalism in which internationals make decisions for the Rohingya without their consent. They need to engage more in an ongoing discussion with Rohingya communities about longer-term citizenship solutions that respect their identity. This process must be done carefully, since there is a long history of state repression against any Rohingya who are perceived to be politically active in any way.

The Rakhine Advisory Commission report points out clearly how “obstacles to participation and representation are particularly far-reaching for Muslims in Rakhine.”⁷⁸ There are no Muslim CSO’s, and historically, Muslim leaders who have tried to organize have often ended up in jail. The Commission recommends broadly that the government promote participation, but the humanitarians who work most closely with the Rohingya are in an important position to help to make this real by supporting those Rohingya who choose to participate non-violently in public debate.

6. Use the word “Rohingya” consistently

The international actors inside Myanmar must reintroduce the term Rohingya into their vocabulary when referring to the Rohingya Their compliance with the restriction against this word was a direct collaboration with a genocidal strategy to eliminate the identity of a population. It was a demand that should never have been accepted and the approach be changed immediately despite the inconvenient government (and Rakhine community) reactions that may ensue.

⁷⁷ See, for instance, “Chapter 5: Relationships with the State”, in [Influence on the Ground: Understanding and Strengthening the Protection role of United Nations Human Rights Field Presences](#), by Liam Mahony and Roger Nash, Fieldview Solutions, 2012. Also, OHCHR/DPA/DPKO are currently completing a joint study soon to be released: [Public Reporting on Human Rights by United Nations Peace Operations: Good practices, lessons learned and challenges.](#), which through several case studies demonstrates how the public reporting function strengthens the UN’s credibility and advances the good offices work of a UN mission.

⁷⁸ “Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine: Final Report of the Advisory Commission on Rakhine State.” August 2017. Page 47.

7. Take control of your own narrative: Words and discourse matter

The humanitarian, diplomatic and donor community need to pay greater attention to how the words and discourse they choose can play a role in assisting an ethnic cleansing strategy, and find the courage to use language that consistently supports the Rohingyas' right to live as human beings with human rights.

- Avoiding 'Rohingya' for the sake of convenience helps pave the way for ethnic cleansing.
- Calling an internment or prison camp an "IDP camp" helps to justify imprisonment.
- Referring to the military campaigns of 2016 and 2017 as "counter-insurgency" or "anti-terrorist" serves to justify and legitimize mass attacks on unarmed civilians whose target was not a tiny militant organization, but an entire ethnicity.
- Discussions of future repatriations that speak only of "safety and dignity" without specifically insisting every time on complete respect for human rights as a precondition, (including citizenship and freedom of movement) are invitations to a range of powerful actors to force the Rohingya back into the same abusive reality they fled. It has already happened before.
- Speaking about freedom of movement and improving security conditions in the same breath helps the state justify sustaining movement restrictions indefinitely -- because 'it is not safe enough yet.'
- Accepting the government's discourse on "camp closure" when no changes in freedom of movement are foreseen further cements the imprisoned status of the Rohingya, while giving the government credit for pursuing "solutions."

Public information, public advocacy

8. Launch a relentless and outspoken campaign for freedom of movement

Movement constraints have a devastating humanitarian impact on all Muslims in Rakhine, and for ethnic Rakhine as well, as the Rakhine Advisory Commission report made very clear. That report called on the government to "*ensure freedom of movement for all people in Rakhine State, irrespective of religion, ethnicity or citizenship status.*"⁷⁹ It also called for the prohibition of informal restrictions, unofficial payments, and arbitrary roadblocks and for a simplification of the travel authorization system. Finally it called for a mapping and legal review of all local regulations and orders restricting movement.

The UN, the INGOs and their allies should develop a coherent, concerted and persistent campaign around the demand for *immediate* freedom of movement for *all*, including not only free movement in and out of camps, but also the rescinding of local orders restricting movements in northern townships, between townships and between states, among other constraints. This should be a precondition for all future engagement.

As a first and minimal step, the humanitarian community and the UN need to **stop reinforcing the government's false justifications for sustaining the imprisonment and impoverishment of the Rohingya**. A frequent version of this unwitting reinforcement, heard from many UN and INGO voices alike, is to mention the importance of freedom of movement but in the same breath suggest that it cannot happen until tensions between Rohingya and ethnic Rakhine are resolved or reduced.⁸⁰ Such statements imply that the movement constraints are justified by the situation. This implicitly invites the government and the extremist xenophobes to continue to justify segregation and confinement by exacerbating tensions. The international community needs to be much more careful in avoiding any implication that the imprisonment of an ethnic group is somehow a logical or necessary approach to an alleged security challenge.

⁷⁹ Ibid, page 34.

⁸⁰ Many actors echo this sort of idea. For instance, the UN Emergency Relief Coordinator after visiting Rakhine stated publicly, "*Freedom of movement is clearly what is needed most. Without this, people are going to remain dependent on humanitarian aid. But for this to happen, more work needs to be done to build trust between the communities...*" "UN HUMANITARIAN CHIEF CALLS FOR STRENGTHENED HUMANITARIAN ACTION TO SUPPORT THE PEOPLE OF MYANMAR," Press statement released by Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Stephen O'Brien, (Yangon, 14 October 2016).

Muslims in Rakhine have a human right to freedom of movement today, even if tensions exist and their movements are threatened by others. If that right is respected, but security conditions in some circumstances make exercising it dangerous, then each individual will have a right to assess their own safety, and they may choose to limit their own movement accordingly. It is up to the individual to decide what risks they take to exercise a right they should never have been deprived of.⁸¹

As part of a coherent campaign, the international actors need to make freedom of movement a firm *prior* condition for any international support for IDP returns or closures of camps, or for supporting repatriations. Similarly, support for any development projects in Rakhine state should be strictly conditioned on prior freedom of movement that will allow the Rohingya population to benefit from development efforts.

Unless and until freedom of movement is granted, the humanitarian actors and the UN need to explicitly acknowledge that prisoners are not normal IDPs and that subsidizing guarded ethnic ghettos is not normal or even acceptable humanitarian work. The discourse and approaches need to change to transparently reflect the absolute incoherence of the status quo with international law and humanitarian principles.

9. Demand and create a real human rights monitoring presence, throughout Rakhine

Prior to the 2017 crisis, key UN actors were restricting the flow of information, promoting a reduction of presence in the north, discouraging new institutions from establishing a presence in the north, and complaining about the frequency of international delegations visiting the region. After the crisis forced the international presence out of the north entirely, there have been many calls for renewing access. These calls must of course continue, but the humanitarians have to avoid the trap this time of accepting access in return for their own silence. The demands for access for humanitarian services *and* human rights monitoring with a public reporting mandate must go hand in hand. Without human rights monitoring, the humanitarians are going to find themselves quietly servicing more internment camps than they already support. This time, when access is regained, it has to include a transparent function of information gathering, public advocacy and protection.

The human rights monitoring function is needed throughout Rakhine, not just in the north. *And it is needed even if Myanmar does not allow an official presence of OHCHR.* Humanitarian institutions – in the UN and NGOs - that have access to information about abuses need to find their own ways to fill this gap.

Internal institutional steps

10. Strengthen institutional advocacy and public reporting capacity

If INGOs and UN organizations are to engage more effectively in public reporting and advocacy, they should also be investing in the necessary capacities to do so, and donors should be supporting this. Gathering information and producing reports requires dedicated staff time and skills. Some of the institutions are more versed in these skills than others, but if they recognize that this will be an ongoing demand on all of them, then those who recognize a weakness in this area need to take steps to strengthen their capacity.

11. Prepare defensive strategies

The UN and INGOs need to prepare for the inevitable negative blowback from the Myanmar government to any expanded commitment to public information and advocacy. Most of the international actors on the ground have consistently led the government to believe that they will remain docile and easy to manipulate. If this changes, the government may react angrily and try to prevent them from sustaining a commitment to

⁸¹ It has been argued that allowing freedom of movement to the Rohingya might very likely result in renewed large-scale attacks on them from the Rakhine, and that the government has the right and obligation to protect everyone's security by preventing this from happening. But when the Myanmar government has no will or interest in protecting the Rohingya, speaking theoretically of its rights and obligations in this manner only fuels their arguments for sustaining apartheid.

a more public approach, through harassment of various types. As the Human Rights Up Front doctrine insists, institutions need to support staff who stand up for principles and prepare their staff and management for harassment, potential threats, risk of the state making an example by declaring a few leaders *persona non grata*, etc. **The UN and INGOs, supported by the HOMs Rakhine initiative, should make a pact to stand up for each other in defence against such harassment as the Myanmar government adapts to the change.**

12. Headquarters support for change, and changes in leadership

The changes in strategy suggested here will be stronger and more possible to execute, if the leadership in the field have support from their respective global headquarters for taking more risks, and for developing the necessary defensive strategies. It must be remembered that the fiasco that heads of offices facilitated in Sri Lanka had the full support of most of their headquarters' leadership. Similarly, the silent approaches in Myanmar have so far also had their headquarters support, both in the UN and the INGOs.

The UN Secretary General Guterres, as former head of UNHCR, was fully aware of the Rohingya crisis of apartheid, internment camps and discrimination for many years before the current crisis, and his approach both in UNHCR and in his first year as secretary General was consistently one of avoidance or quiet diplomacy. Public advocacy was not his preferred strategy until full-scale ethnic cleansing forced his hand. As this violence recedes, the Secretary General needs to continue to keep the Rakhine State crisis visible on the Security Council agenda and on the global agenda. Myanmar is a situation where both the UN's credibility and the survival and future of an entire ethnic group are at stake, and it calls for a very outspoken and closely engaged Secretary General. He should be actively trying to negotiate a human rights monitoring presence in Myanmar, and he needs to be prepared to publicly defend any humanitarian organizations (UN or INGO) whom the Myanmar government chooses to harass or expel in the future.

The leaders of UN humanitarian institution and INGO also need to give clear and supportive messages to their field offices in Myanmar, encouraging a principled approach, encouraging information gathering and advocacy, acknowledging the risks, and guaranteeing support.

In addition to changing attitudes at headquarters, it will be very difficult to implement new institutional approaches in Myanmar without replacing the leadership on the ground. After an agency head or country director has spent a few years dealing with the Myanmar government, they tend to lose hope and energy – if they didn't start with a passive approach they gravitate towards one. Once they have established such a compliant relationship with the government, their professional reputation requires they continue to justify the approach, and it becomes very difficult to reverse their position. Each UN agency and INGO needs to seriously consider whether replacing the leadership they have in place currently in Myanmar might put them in a stronger position to make the necessary changes in their approach to this crisis.

Once heads of agencies have established such a compliant relationship with the government, their professional reputation requires they continue to justify the approach, and it becomes very difficult to reverse their position.

In choosing new leadership, careful consideration needs to be given to selecting leaders who have the political skills and stamina to sustain engagement without sacrificing a much firmer stance on rights.

13. Promote honest and difficult internal institutional advocacy.

This is not the first time these arguments have been presented to the UN and other international institutions, and the sad reality is that internal inertia and defensiveness tend to block most of these kinds of proposals and arguments from ever getting a hearing. It is therefore essential to target advocacy and pressure not only at governments but at global institutions that are not adequately living up to their principles and mandates, and this pressure needs to come from within as much as from the outside. If after

such dramatic events there has still been so little progress at changing the approach, then the UN, and in particular its Resident Coordinator, UNHCR, WFP, UNDP and other major agencies working on Rakhine, need to be put under much more pressure, by INGOs, by donors, by states and by each other. International institutions need to have the courage to criticize and push each other. Staff and managers on the ground need to confront their superiors and their headquarters. And if the reaction is still too rigid, then there is a vital role to be played by whistleblowers on the inside who will reveal internal failures to hold their own institutions accountable.

Conditionality and Sanctions

14. Stop the double talk about repatriation

The discussion Myanmar is holding with the Bangladesh government about repatriation is a sham, and yet key international actors continue to speak as if repatriation is always the obvious solution to a big refugee crisis, constantly saying things that suggest that as long as UNHCR is involved the process will be OK. And even when those actors point out that it must be voluntary and there must be conditions of safety and security, these points are being made in dangerously sloppy ways, because they are not consistently pointing out that there is NO chance that the Rohingya in Cox's Bazar can be repatriated in safety and dignity unless Myanmar fully and satisfactorily changes the conditions of human rights abuse suffered by the Rohingya who have stayed in country prior to any repatriation. Since Myanmar is doing nothing yet to change these conditions in a positive direction, and in fact continues to deny that any rights abuses happen at all, there is no chance that conditions for repatriation will exist for many years.

UNHCR and others risk getting trapped in their own pro-repatriation propaganda, manipulated into assisting a forced repatriation into a situation of continued dire human rights abuse.

The international community, therefore, should stop talking as if repatriation is a good idea that only requires a little tweaking of the internal conditions. This is extremely dangerous. When one talks privately with humanitarians in Myanmar they all rush to assure that “repatriation isn't really going to happen any time soon, because conditions don't allow it.” But publicly, the institutions and the

diplomats keep speaking as if it will. No one can predict what political changes and pressures may happen in the coming months and years in Bangladesh, and it is entirely possible that Bangladesh's willingness and ability to host this burdensome refugee population could come to an end, perhaps even abruptly due to unforeseen political changes or natural disasters. If this happened, and Bangladesh and Myanmar start pushing the refugees back across the border, .

It has happened before. In the early 1990s, 250,000 Rohingya were forced across the border into Bangladesh by state-sponsored violence. Between 1994 and 1999, under considerable pressure from Bangladesh, UNHCR actively facilitated a massive repatriation of 230,000 of these Rohingya back to Rakhine, into a situation of continued human rights abuse, denial of freedom of movement and lack of citizenship. UNHCR persistently claimed this repatriation was voluntary, but this was highly dubious. An NGO 'awareness survey' of 11 refugee camps in March 1995 found that only 9% considered it safe to return to Myanmar, and 65% were unaware they had any option of saying 'no' to the repatriation. UNHCR not only actively encouraged this return, but also established a monitoring operation for the returnees back in Rakhine, an operation which was run from Burmese government compounds, did not hold the Burmese government accountable to human rights standards, and did not report publicly on the ongoing abuses they suffered. Admittedly operating under Burmese military control at that time was a major challenge. But UNHCR's role was particularly disturbing, as its reports to its own donors were consistently expressed in positive terms about its success in intervening to protect the Rohingya. Meanwhile, during this period, tens of thousands of Rohingya were steadily fleeing back in to Bangladesh – in many cases the same ones who had been repatriated, and UNHCR backed up the Bangladesh government in qualifying these new arrivals only as 'economic migrants' without even doing thorough Refugee Status Determinations.

An independent study of this UNHCR 1990s operation⁸² pointed out, ‘A refugee’s right to demand international protection abroad is based on articulating a fear of persecution or threats to life and livelihood that can only be objectively measured against the standards of human rights law... If the basis for flight is anchored in human rights standards, respect for human rights must be the basis for return.’ “Whereas an objective assessment of the degree of respect for human rights in Burma should have been the motor driving forward (or backward) the repatriation process, in fact it has been the other way around.” This study concluded, “In Burma, UNHCR has monitored through the lens of repatriation, which has a distinctly rosy hue, “seeing” those factors that are positive to continuing the repatriation and downplaying or ignoring (at least in public) those factors which call into doubt the repatriation exercise.”

Today’s repatriation discourse is slightly more promising, so far. On February 12, 2018 UNHCR Chief F. Grandi issued a statement which pointed out, “The causes of their flight have not been addressed, and we have yet to see substantive progress on addressing the exclusion and denial of rights that has deepened over the last decades, rooted in their lack of citizenship.” Grandi also mentioned the 120,000 Rohingya still in their sixth year of confined encampment. He highlighted that finding solutions for them would also help build confidence among refugees.⁸³ The INGO statement on returns discussed earlier also expressed a strong link between human rights and eventual returns.

Nevertheless there are still very worrying signs, because the discussion of supporting an eventual repatriation is constantly associated with vague terminology about “improvements” or “progress” in human rights conditions, without explicit minimum conditions about full respect for rights. Is the humanitarian community going to strictly refuse to legitimize a repatriation until the structural and legal conditions of discrimination against the Rohingya in Myanmar are fixed? It would be highly unusual for them to be this strict. Instead, if Bangladesh and Myanmar reach a point where they agree it is mutually convenient to force the Rohingya back across the border, Myanmar is likely to make some vague symbolic promises about eventual human rights “progress” or “improvements,” and with that sort of duplicitous statement, humanitarian organizations may keep following habits of demanding only their own physical access to provide services as a sufficient condition to start facilitating a well-financed forced repatriation back into a continued human rights crisis.

The international actors *inside Myanmar* need to be much more outspoken and unequivocal in insisting that the fundamental pre-condition for rights, safety and dignity for future repatriated Rohingya refugees can only be measured by the treatment of Rohingya and other Muslims currently still living in northern and central Rakhine State. Until complete freedom of movement and other rights are guaranteed and implemented throughout the state, international actors should stop pressing for repatriation at all.

15. Apply strict conditionality to all financing and program support.

The UN, INGOs and especially the donor community can only break out of their current complicity with ethnic cleansing by enforcing strict conditions on any current or future financial or programmatic investments. These conditions should be justified on the grounds that without them, ongoing support inevitably promotes further discrimination, contradicting their mandates and principles. This would include:

- a. As modelled in the ‘Principles of Engagement’ approach of the INGO community, all international actors, especially donors, should agree to **refrain from offering any programmatic or financial support to repatriations of refugees** if freedom of movement and other key rights conditions have

⁸² Petrusek, David, “Through Rose-colored glasses: UNHCR’s role in monitoring the safety of the Rohingya refugees returning to Burma.” In *Human Rights and Forced Displacement*, eds. A. Bayefski and J. Fitzpatrick. Kluwer Law International/Martinus Nijhoff Press, 2000. (pages 114-136).

See also, C.R. Abrar, “Repatriation of Rohingya Refugees.” <http://www.burmalibrary.org/docs/Abrar-repatriation.htm> This article also describes the mass exodus of Rohingya into Bangladesh in 1978, which was also followed promptly by a forced repatriation.

⁸³ <http://www.unhcr.org/en-us/news/latest/2018/2/5a82feb94/restoration-rights-key-myanmar-refugee-return-unhcrs-grandisays.html>

not been implemented (not merely 'promised'), and if ongoing monitoring with public reporting is not in place to ensure that rights conditions are sustained. This commitment should be announced publicly as an element of advocacy pressure for creating adequate conditions for return.

- b. Development actors and donors should agree to **refrain from initiating any new programming or funding in Rakhine State**, until freedom of movement and other rights of Rohingya and other Muslims are restored and demonstrated in practice. This commitment should be announced publicly as an element of advocacy pressure for change.
- c. Development actors and donors should **freeze funding for any ongoing development programs involving the government**, with continuation of such programming conditional on implementation of changes in freedom of movement and rights for the Rohingya.

16. Stop funding detention/prison camps.

The humanitarian donor community and UN should announce and implement a withdrawal of all support to the central Rakhine detention camps, unless and until movement in and out of these camps is opened up, removing police controls and allowing unfettered access to health and education facilities, markets and livelihood opportunities. This should be accompanied by a clear public statement that subsidizing ethnic detention/prison camps is not consistent with their principles and mandates, and contrary to international law. **Responsibility and accountability for sustaining and servicing illegal prisons must rest solely with the government. It is essential that this commitment to withdraw support be announced in advance in such a way that the onus is on the government to take action** to prepare for the change. The UN should, however, insist on sustaining a protection monitoring presence, observing and publicizing conditions in the detention camps to ensure that the government is fulfilling its support responsibilities.

This proposal will undoubtedly be the most controversial among the humanitarian organizations. It potentially implies shutting down a large portion of some of their operations and dramatic reductions in their budgets and staffing. Some will raise the concern that the population will suffer much more, since they don't trust the government to do the job.

But it is very possible that these prison camps have only been able to be sustained by the government *because* the international community is paying the bill. In that case, international funding is doing great harm, year after year, and the humanitarian community is partly responsible for prolonged imprisonment.

The example of the Menik Farm detention centre for Tamils in Sri Lanka in 2009 is a very important illustration: when the donor community announced a plan to stop funding WFP food deliveries, stating clearly that it was the government's responsibility to feed detention centres, the Sri Lankan government reacted by opening up the camps *before the threat was even implemented*. The government faced a difficult choice: a) close the camps, b) spend a whole lot of its own money to continue to support the detention camps, or c) have the world hold them accountable for the deteriorating conditions of 300,000 Tamils.

This is the choice that must be forced on the Myanmar government. There must be a firm decision to pull out, accompanied by a public commitment to continue to closely monitor the

health and well-being of the population, holding the government accountable, firmly and persistently, both for the illegal imprisonment and for the conditions the population is forced to endure. And if the government puts obstacles in the way of this monitoring, it needs to be held accountable for that as well.

As the humanitarian community and donors ponder this difficult choice, they should try honestly to avoid exaggeration. Yes, there will be transitional suffering as the government responds to their decision, and that suffering is a valid moral concern. But it is also the case that camps are always porous, and there are always

The international community is not responding to a humanitarian crisis, but rather they are supporting a government policy with devastating human consequences. Changing the policy ends the crisis. Supporting and funding the policy prolongs it.

resources going in and out of every refugee or IDP camp in the world that are not solely from humanitarian aid. Some people get support from family members outside the country. Others work in the black market. People have survival skills and international support is only one of them. The humanitarian organizations have sometimes been blocked from serving these camps for months at a time in the past. And yes, there was pain, but not famine. Life went on. The international actors would benefit from having a more accurate political economy assessment of all the sources of income in the camps -- it would assist these difficult judgment calls.

This is not an easy choice. But the humanitarian community and the donors need to look beyond the short-term suffering they see in front of them, and recognize that they are doing harm. Reduction of suffering in the longer-term is also following the humanitarian imperative, but it requires very difficult choices.

17. Promote harsher sanctions.

Following the example of the recent report of the UK House of Commons report⁸⁴, a broader discussion of **a range international sanctions needs to be promoted among all bilateral and multilateral actors**, including ending all support to the military (arms, supplies, training, etc.), banning of investments in military-owned companies, visa bans, referral of military leaders to the International Criminal Court, among other options. The international actors on the ground, including the UN, humanitarian INGOs and development actors, need to be encouraging and providing analysis for this debate in global capitals.

⁸⁴ House of Commons, International Development Committee, "Bangladesh, Burma and the Rohingya crisis", Fourth Report of Session 2017–19, 15 May 2018.

Chapter 7: Conclusion

Over many years the UN agencies, their INGO partners on the ground, their donors and much of the diplomatic community have progressively accustomed themselves to each anti-humanitarian demand and constraint the Myanmar government subjected them to, to the point where they have now accepted the role of paying to sustain an apartheid system of ethnic ghettos/internment camps that illegally imprison the Rohingya population, while also keeping far too quiet in the face of alleged crimes against humanity happening around them. The attacks against the Rohingya are horrific, and it is the Myanmar government and military, and radical Rakhine and Buddhist extremists, not the UN or other humanitarians, who must be held directly accountable for those attacks. While some global UN voices outside the country have spoken out, the in-country humanitarian leadership has been consistently critiqued for insufficient public advocacy, and their diplomatic counterparts – with some exceptions – have not done much better. This quiet internal approach is by no means unique to Myanmar. Nevertheless, the horror of the ethnic cleansing of the Rohingya, like the events of Sri Lanka nearly a decade ago, needs to serve as a wake-up call. **There are times when business as usual is inadequate.**

The international community in Myanmar has boxed itself in to a very small space, pressured and manipulated into silent complicity with ethnic cleansing, and it remains to be seen whether the UN and its humanitarian partners will find the courage and creativity to try to push that space open. In situations like this, international actors tend to bemoan how little political space and manoeuvrability they believe they have, and paradoxically use this as an excuse for not trying to expand it. But political space is often self-constrained: the Myanmar government has learned that it can count on UN and humanitarian self-censorship. Limited as it may appear, that space has to be constantly contested, protected and expanded.

Although this analysis is seriously critical of some of the weaknesses the UN and other international organizations have shown, it also aims to be hopeful and positive. It *is* possible to negotiate more respectful relationships with host governments, but it requires that the institutions show that they are worthy of that respect, by showing consistency with their principles and holding the government accountable for the international agreements it is party to. It *is* possible to develop coherent strategies with complementary prongs of quiet diplomacy and public advocacy. It *is* possible to find new ways to relate to and engage with the Rohingya in a participatory fashion, so they can take steps towards being masters of their own fate. Many things may be possible: they require great care and caution, but they also require experimentation and risk. Unfortunately, the international institutions have persistently taught the government to expect their compliance, so they need to be prepared for some friction when they choose to behave differently.

The UN, humanitarian and development community need to dramatically change their approach to Rakhine state, not only to recuperate some credibility as principled institutions, but far more importantly because their approach since 2012 has failed abysmally – it has not helped to improve the respect for the human rights of the Rohingya, nor even the physical humanitarian conditions in which they live. One reason it has failed is because the UN and its humanitarian partners in Myanmar consistently imposed so few political costs on the government for its treatment of the Rohingya. The government has no political will to help any Muslims in Myanmar, least of all the Rohingya, and the Rohingya have no constituency that politically supports them inside Myanmar. After years of apartheid and terrible abuses, a full-scale ethnic cleansing was finally executed – successfully, but the silence of the humanitarian and development actors working closest to this beleaguered population inside Myanmar is deafening. International pressure is one of the only tools available to change the current equation. This pressure cannot only come from external voices. The credibility and legitimacy of the UN and humanitarian actors *inside* Myanmar is a vitally important lever that can be applied to strengthen the persuasive power of calls for respect for rights inside the country.

This powerful lever can only be applied by taking risks. International organizations working with the Rohingya need to step up to the plate and do the protection advocacy their position and their principles demand, facing down risks of harassment and overcoming their hopelessness to do the right thing.