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Asia in 2019: Escalating international tensions and authoritarian involution

Edited by
Michelguglielmo Torri
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Articles meant for publication should be sent to Michelguglielmo Torri (mg.torri@gmail.com), Nicola Mocci (nmocci@uniss.it) and Filippo Boni (filippo.boni@open.ac.uk); book reviews should be sent to Oliviero Frattolillo (oliviero.frattolillo@uniroma3.it) and Francesca Congiu (fcongiu@unica.it).

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libreria editrice
via delle Alpi, 32
I-00198 ROMA
tel. 06 84 17 758
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When this Asia Maior *issue was finalized and the Covid-19 pandemic raged throughout the world, Kian Zaccara, Greta Maiorano and Giulio Santi, all children of* Asia Maior *authors (Luciano Zaccara, Diego Maiorano and Silvia Menegazzi), were born. We (the* Asia Maior *editors) have seen that as a manifestation of Life, reasserting itself in front of Thanatos. It is for this reason that we dedicate this issue to Kian, Greta and Giulio, with the fond hope that they will live in a better world than the one devastated by the Covid-19 pandemic.*

Myanmar 2019: «The Lady and the generals» redux?

Matteo Fumagalli[*]

University of St Andrews, Scotland
mf29@st-andrews.ac.uk

The year 2019 has been extremely eventful for Myanmar, at home and abroad. Nearly three years have passed since the Myanmar military's 'clearance operations' in northern Rakhine state, which led to the exodus of hundreds of thousands of Rohingya refugees to neighbouring Bangladesh, where they are still temporarily settled in refugee camps south of Cox's Bazar. Despite several aborted repatriation attempts, there is still no sign of a process that would not only see Rohingya refugees return to Rakhine state, but also of a system that would force the Myanmar authorities to regularise their status, let alone kick-start a reconciliation process. Politics in the country remains in flux, with State Counsellor Aung San Suu Kyi («the Lady», as she is commonly known in the country) and the military (the «Generals») at times agreeing and coordinating their actions, whilst at others competing with each other. Throughout the year, this has taken the form of a multi-cornered struggle over constitutional reform, with the political conflict set to intensify as the campaign for the 2020 parliamentary elections gets underway.
Overall, three issues defined the year: first was the outbreak of a new insurgency in Rakhine state led by the Arakan Army, which later spread across the country's northern and eastern borderlands. Next was the start of pre-election manoeuvring, with different parties vying for popular support. Last but not least, was the hearing at the International Court of Justice in The Hague in December, where State Counsellor Aung San Suu Kyi represented Myanmar, accused of genocide and failure to prevent genocide against the Rohingya in August 2017.

1. Introduction

As the country gears up for the 2020 parliamentary elections, the ruling National League for Democracy (NLD), the military and its surrogate party the Union Solidarity and Development Party (USDP), ethnic parties and newly-established political formations are jockeying for influence and popular support.

As always, politics in Myanmar eschews easy binary categorizations. Constitutional reform debate is an arena where civilian actors are in a struggle against military power[1] and where the Lady and the Generals sit

* The author is grateful to the anonymous reviewers of the paper for their valuable comments. He would also like to express his gratitude to the UK's Arts and Humanities Research Council (Research Networking Grant AH/S00405X/1) for its support to research in Myanmar.

1. Khin Zaw Win, 'Twin authoritarianisms in Myanmar', *New Mandala*, 13 September 2019.

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on opposite sides of the political divide. So is economic reform. Unlike the simple narrative articulated in «The Lady and the Generals»,[2] though, this won't be a «morality play» in which a single «good» player fights against the «evil» seemingly all-powerful system. Rather, Myanmar is home to a competition between two illiberal versions of «reform», one promoted by the military and the other by the NLD and Aung San Suu Kyi.[3] This is what is being offered ahead of the 2020 parliamentary elections. Beyond parliamentary politics, a new insurgency is engulfing Rakhine state and the country's borderlands, this time sparked by the Arakan Army (AA) and the Northern Alliance, a loose grouping formed in December 2016 that alongside the AA includes the Kachin Independence Army, the Myanmar National Democratic Alliance Army and the Ta'ang National Liberation Army. Here the civilian government and the military are cooperating as they seek to reduce violence and curb the influence and capability of the ethnic armed organisations (EAOs).

Internationally, with international actors split over their assessment of the 2017 events, the key event of the year was the State Counsellor's appearance at the hearings in The Hague in December 2019, following the case brought by The Gambia to the International Court of Justice (ICJ), the UN body of which Myanmar – as a member state – is part, and therefore has to abide by its rules and attend the hearings.[4] Here, again Daw Suu[5] and the military share an interest in countering what they perceive to be misunderstandings and mis-characterisations of the domestic situation in the country. In other words, what emerges is a complex tension which is neither permanent nor immutable. It is very much context-dependent.

The article is structured as follows. First, I review the outbreak of a new insurgency in the western part of the country, led by the Rakhine state-based Arakan Army, from January onwards. Next I discuss the deepening conflict over constitutional reform which reignited in February through the summer. I subsequently turn to issues of economic reform, where progress has been slow and patchy despite some new and important government initiatives. I conclude the article with an expanded section on foreign policy,

2. Peter Popham, *The Lady and the Generals: Aung San Suu Kyi and Burma's struggle for freedom*, London: Rider, 2016.

3. Melissa Crouch, 'Illiberalism and democratic illusions in Myanmar, *New Mandala*, 20 November 2019. For a broader context of Myanmar's transition and its challenges see Roman David & Ian Holliday, *Liberalism and Democracy in Myanmar*, Oxford: Oxford University Press, 2018, and Thant Myint-U, *Race, capitalism, and the crisis of democracy in the 21st century*, New York: W.W. Norton, 2019.

4. Other countries, including Argentina, have tried to take Myanmar to other courts, national or international (such as the ICC), but Myanmar has refused to comply as it was not legally bound to do so.

5. In this article I use the names Aung San Suu Kyi, Suu Kyi and Daw Suu interchangeably, as the latter two expressions are widely used in the country to refer to the State Counsellor.

where I discuss the lead up and the unfolding of the proceedings of the ICJ trial in The Hague, before concluding.

2. Domestic policy

2.1. A new insurgency erupts

Violence in restive Rakhine state shows no sign of abating.[6] On 4 January 2019, militants of the Arakan Army launched attacks on four remote police outposts in northern Rakhine state, leaving 13 officers dead and nine injured, leading to an escalation of the conflict with the central authorities. Such clashes followed months of low-grade violence in the restive southwestern state.[7] In recent years the domestic and international spotlight on the Arakan Rohingya Salvation Army (ARSA) and the 2017 exodus have obscured the three-way nature of the conflict in Rakhine, which includes the government and the military (in this case acting as one as a result of the 2008 Constitution in which the Tatmadaw's dominant role in security matters is enshrined), the local Rakhines and the Rohingyas.[8] Far from being local pawns of the central government, the local ethnic Rakhines are at the same time the oppressors (from the Rohingyas' perspective), but are themselves victims of neglect by the Bamars and the central government in Nay Pyi Taw. The immediate trigger for the January attacks was not immediately clear.[9] Back on 21 December 2018, the Tatmadaw had declared a unilateral ceasefire in the country covering five military commands, with the notable exception of Rakhine state. The AA felt that the Myanmar military was re-directing resources from Kachin and Shan states to crack down on the group. The attacks signified a shift away from politics to insurgency as the primary means of addressing the grievances of local Rakhines.

The insurgency did not exhaust the nature of the conflict in Rakhine state, though, which is multi-dimensional. Historical grievances date back to the wars between the Arakan Kingdom and the Burmese kingdom, with the latter annexing the former in 1785.[10] The Anglo-Burmese wars that followed (1824–1826; 1852–1853; 1885) – which ultimately brought

6. For a brief background see International Crisis Group (ICG), *A new dimension of violence in Myanmar's Rakhine state*, Asia Briefing 154, 24 January 2019.

7. ICG, *A new dimension*, p. 1.

8. *Ibid*., p. 2. This simplification conceals a much more complicated local dynamic resulting from the complex ethnic tapestry and contested history of the region. Other Muslim communities were affected by the violence, such as the Kaman, which unlike the Rohingya are citizens of Myanmar. There are other minority groups, such as the Mro and the Maramagyi that were also affected.

9. *Ibid*., p. 4.

10. Thant Myint-U, *The River of Lost Footsteps--Histories of Burma*, New York: Farrar, 2006.

Burma under British control – changed the spatial geographies of the region. Migration was encouraged and was common, and identities were neither fixed nor built around notions of ethnicity. World War II brought to the fore contrasting local loyalties, with groups in the borderlands typically siding with the British, whereas the Bamars initially stuck with the Japanese Imperial Army. The collapse of the British Empire and the fragmentation of the Indian sub-continent, with the creation of East Pakistan, the emergence of independent Burma first and finally the secession of Bangladesh from Pakistan also super-imposed and crystallised Western concepts (nations, states, ethnicity, fixed borders) on a much more fluid reality. Ethnic Rakhines and Rohingyas could be found on either side of the Burma–Bangladesh border. Buddhist and Muslim communities straddled a recently-constructed state boundary.

Historically, the Rakhines had very few organisations that would represent and pursue their interests. The Arakan Liberation Party and its armed wing the Arakan Liberation Army never managed to win much support among the local population. Until recently, Rakhine state, whose territory only constitutes 5% of Myanmar's overall size and is home to 5% of its population, had not witnessed a powerful ethnic Rakhine insurgency group to give expression to their political aspirations, but since 2014 the Arakan Army (AA) has emerged as a powerful force to fill this void. The Arakan Army was formed in 2009 under the patronage of the Kachin Independence Organisation (KIO)[11] in Laiza, the location of the latter's headquarters on China's border. More than a decade after it was established in Laiza by 26 Rakhine youths in 2009, the AA has grown to about 7,000 militants.[12] In recent years, the AA has grown in capability and has enjoyed rising popular support in the state.[13] Initially mostly confined to KIA (Kachin Independence Army)-controlled territory in 2014, the AA – with funding from the KIA and the United Wa State Army (UWSA), topped up with drug smuggling – tried to infiltrate southern China, and then far northern Rakhine state, engaging in sporadic clashes with state forces. AA militants then moved south towards Buthidaung, Ponnagyun, Ratherdaung and Kyauktaw townships in northern Rakhine state and Chin state's Paletwa township.[14]

The ascent of the NLD and its sweeping electoral victories in 2015 have aggravated the underlying grievances in Rakhine. Oblivious to the support of local ethnic Rakhine parties, the NLD appointed a state chief minister from within its own ranks. Later on, it arrested Dr Aye Maung, a

11. On Myanmar's rebel politics see David Renner, *Rebel Politics. A political sociology of armed struggle in Myanmar's borderlands*, Ithaca, NY: Cornell University Press, 2019.

12. 'Analysis: Arakan Army – a powerful new threat to the Tatmadaw', *The Irrawaddy*, 8 January 2019.

13. ICG, *A new dimension*, p. 5.

14. Buthidaung and Rathedaung townships have traditionally had a strong Rohingya presence.

popular Rakhine politician and opened fire on protesters in Mrauk-U on 16 January 2019.[15] With local politicians targeted by the central government, the leadership vacuum among the Rakhine was successfully filled by the AA. Despite the victory of the Arakan National Party (ANP) in the state elections in 2015, the NLD government installed a minority NLD government.

Violence continued throughout the year. On 15 August, an alliance of ethnic armed groups staged coordinated attacks against strategic targets in northern Myanmar. With the three groups behind the attacks being largely excluded from the peace process over the past five years, the government has proposed unilateral ceasefires. However, as the situation escalated beyond the confines of Rakhine state (such as in Shan state), the Northern Alliance's three ethnic armed organisations involved rejected the terms of the proposed bilateral ceasefire terms. The Northern Alliance staged attacks in the Mandalay region and Shan state on 15 August.[16] The attacks hit a Myanmar military training academy, a bridge, a police post, a military battalion, and a narcotics control checkpoint. There was limited retaliation at first, as the Tatmadaw considered this to be a retribution for a recent raid on a drug production lab in northern Shan state and primarily focused on securing infrastructure. The military also extended the temporary ceasefire. The immediate goal of the attacks consisted in relieving pressure on the AA in Rakhine state, an area not covered by the ceasefire, but home to significant fighting since January 2019. The AA's attacks were deliberately provocative: they were notable for their intent, scale and impact. They were not aimed at acquiring new territory, but rather at inflicting maximum economic and strategic damage, with minimum use of force.

Actually the issue fits into the broader long-standing tensions among the Northern Alliance members in the national peace process. Only signatories to the nationwide ceasefire agreement of 2015 can take part in political negotiations with the government.[17] The Tatmadaw excluded these three groups by setting preconditions. The three EAOs recently shifted their position, signalling their openness to signing bilateral ceasefires. Over the past five years, the status of the AA, TNLA and MNDAA has been an important faultline in the peace process. The Tatmadaw tried to isolate the groups and exclude them from the national peace process. However, AA and TNLA have responded by strengthening their forces and expanding the territory under their control, whilst the MNDAA suffered a disabling defeat in 2009 and re-emerged in 2015.

Rakhine, Kachin and Shan states were far from the only parts of Myanmar where the government and the Tatmadaw's authority was visibly chal-

15. International Crisis Group, *Myanmar: A violent push to shape up ceasefire negotiations*, Asia Briefing 158, Yangon/Brussels, 24 September 2019.

16. Pauye Sone Win, 'Myanmar Ethnic Rebel Alliance stages coordinated attacks', *The Diplomat*, 16 August 2019.

17. International Crisis Group, *Myanmar: A Violent Push*.

lenged. In Wa state, the United Wa State Army (UWSA), Myanmar's largest non-state army of 30,000 troops, celebrated, on 17 April, the 30th anniversary[18] of the insurgency against the Myanmar government and the coup by the Wa against the Communist Party of Burma. The three-day celebrations were a colossal display of military might, Wa cultural identity, autonomy and even the rapid influx of Chinese political, economic and cultural influence. The UWSA's demands, also revolving around a confederal status, put the EAO at odds with the national ceasefire agreement.

2.2. The battle for constitutional reform: The country gears up for the 2020 elections

Beyond rebel politics and the protracted conflicts in the borderlands between the EAOs and the armed forces, political posturing and positioning has begun in the year leading up to the parliamentary elections scheduled for late 2020. The protracted pre-election period of political contestation is likely to exacerbate ethnic tensions and heighten conflict risks. The NLD-led government has very few accomplishments to present to the electorate, which is quite possibly the reason behind its surprise decision of 29 January 2019 to push forward with constitutional amendments. Constitutional change was a 2015 election campaign promise of the NLD.[19] The peace process has been particularly difficult to deal with. All political actors want some kind of constitutional change and want to take the credit for achieving it. In contemporary Myanmar, Crouch notes, «the struggle is not between liberal visions or liberal versus illiberal»,[20] rather, she contends, it is «between different versions of illiberal visions», all of which tend to favour exclusionary rule which excludes the Rohingya, but also a wide range of different «others».

Among the actors are the military, the USDP, ethnic political parties, and the NLD. The National League for Democracy was the first party to challenge the constitutional status quo in January, putting forward a motion to form a committee to consider constitutional amendments. The military-affiliated USDP responded by mounting opposition in the legislature and in the streets, emphasising how important it was (to them) to «retain the essence of the 2008 constitution», namely to keep a (veto) role for the military. NLD launched a process of constitutional amendment in February 2019, without the support of the unelected military representatives (who hold 25%

18. Dominique Dillabough-Lefebvre, 'The Wa art of not being governed', *The Diplomat*, 28 May 2019.

19. Melissa Crouch, 'Renewed calls for constitutional change in Myanmar's military-state', *East Asia Forum*, 13 March 2019.

20. Melissa Crouch, 'Illiberalism and democratic illusions in Myanmar', *New Mandala*, 20 November 2019.

of the seats). Taken as a whole, the politicking of each of these three groups made it clear that they will go their own way to capitalise on the rift ahead of the 2020 elections. According to the 2008 constitution, amendments must start in the legislature.[21] The required steps are the following: one, 20% of sitting MPs submit a bill, two 75% of MPS approve the bill, and lastly 50% of eligible voters approve it in a referendum in the case of more substantial reforms. As the government had set up the constitutional amendments committee in parliament, the military's representatives refused to vote in defiance. Protests broke out in Yangon in February, first by supporters of the military, followed by counter-rallies by pro-democracy protesters.[22]

In July, the committee completed its review; 3,765 recommendations – in a 353-page report – were submitted to the Union of Myanmar 2008 Constitution Amendment Joint Committee, 1,112 by the Shan Nationalities League for Democracy, 114 from the National League for Democracy, 858 from the Arakan National Party, 641 from the Mon National Party, none from the military, and ten from the Union Solidarity and Development Party.[23] It is worth recalling that no single bloc possesses sufficient votes to push through its own version of constitutional reform.[24]

In its political conflict with the ruling NLD, the USDP and the military focused their attention on Article 261, which regulates the appointment of chief ministers of states and regions. According to the 2008 constitution, the sub-national governments' powers are limited. The USDP's proposal was thus designed to allow the legislature and state and region level to appoint the chief minister. A measure towards decentralisation, this would have gone some way to alleviate one of the grievances in Rakhine, where the NLD appointed a chief minister from within its own ranks, despite the electoral victory of the Arakan National Party in state and national elections. It is clear that the USDP, like other domestic players, wants to boost its credentials for constitutional reform. The military proposed a new provision preventing Suu Kyi or anyone who has foreign citizenship or whose immediate family do to become a union minister, thereby seeking to broaden the scope of article 59(f) of the 2008 Constitution which bars the Lady from running for president. The same provision already exists in relation to the president, which is why Daw Suu has been unable to serve as president. In brief, the military's position on the constitution revolves around three key

21. Nyi Nyi Kyaw, 'Democracy first, federalism next? The constitutional reform process in Myanmar', *ISEAS Perspective*, Issue 93, 8 November 2019.

22. Nyi Nyi Kyaw, 'The constitutional protest cycle in Myanmar', *ISEAS Commentaries*, 29 July 2019.

International Crisis Group, *Peace and electoral democracy in Myanmar*, Asia Briefing 157, 6 August 2019.

23. San Yamin Aung, 'Constitution amendment committee returns nearly 4,000 recommendations', *The Irrawaddy*, 15 July 2019.

24. ICG, *Peace and electoral democracy*, p. 5

elements. First, is its ideology centred around three «national causes»: the non-disintegration of the union [the state of Myanmar], the non-disintegration of national solidarity, and the perpetuation of sovereignty, which the Tatmadaw regards as threatened by the ethnic insurgencies in the periphery. These three elements are the core of the military-state in Myanmar and the coexistence of the military and civilian authorities

The NLD seeks to demilitarise the constitution by reducing the Military's proportion of seats from 25% to 15%, then 10% and 5%, after 2020, 2025 and 2030 as well as to reduce the threshold for constitutional reform from 75% to 33%, de facto depriving the military bloc of its veto. Other proposals include that political leadership of the military will require a popular mandate, civilians will play a decisive role in the National Defense and Security Council (NSDC), and the commander in chief will lose his power over the executive, legislature and judiciary in emergencies, to be assumed by the president. And, unsurprisingly, the NLD proposed to remove 59(f) of the constitution.

The smaller ethnic parties were similarly active. In a blunt challenge to the military, the Arakan National Party called for amendments allowing the legislature to be made up of only civilians, including – crucially – the removal of section 6f of the constitution which accords the military the leadership role in politics.[25] Ethnic parties also sought a genuine restructuring of Myanmar into a federal state. The whole process did not result in constitutional change. Instead, the parties sought to capitalise on their proposals, and being perceived as playing a role in constitutional reform is a considerable source of political capital.

2.3. Gearing up for the 2020 elections: Party politics, radical ethno-religious organisations and the role of media in Myanmar society

Electoral politics has become more active and competitive since 2018, when the NLD – after the 2015 landslide – lost some by-elections.[26] The ruling NLD enjoys the dual advantage of being the incumbent party and the domestically unchallenged star power of Suu Kyi. That said, the party faces more competition than before,[27] although the NLD faces no real opposition that can challenge its hegemonic position.[28] The extent of the opposition, and its electoral strength, varies greatly depending on location. In central Myanmar, broadly speaking predominantly populated by Buddhist Bamar, the opposition is represented by the USDP. The party has fundamentally

25. ICG, *Peace and electoral democracy*, pp. 7-8.

26. Youngmi Kim, 'The 2015 parliamentary and 2016 presidential elections in Myanmar', *Electoral Studies*, 44, 2016, pp. 419-422.

27. Mary Callahan & Myo Zaw Oo, *Myanmar's 2020 elections and conflict dynamics*, Washington, DC: USIP, Peaceworks, 146, April 2019.

28. Aung Aung, 'Emerging political configurations in the run-up to the 2020 Myanmar elections', *Trends in Southeast Asia*, ISEAS, 1, 2019.

objected to anything the NLD has tried to do in policy terms.[29] Although it has tried to portray itself as not immediately equivalent to the Tatmadaw, the party poses no real threat to the NLD at the polls.[30] In recent months some new parties have been established, including the minor People's Civilian Party, but perhaps the most interesting of which is the Union Betterment Party,[31] founded by former general and Tatmadaw heavyweight and now «Lady-loyalist» Thura Shwe Mann, once ranked among the top three leading members of the junta, before being expelled in 2016. Designed to split the USDP vote, with its explicit focus on federalism and reform, it may instead end up competing with the NLD. The NLD's refusal to consider a coalition government and its increasing reliance on the Lady – more than it already has! – or the iconography of her father, General Aung San, serve as stark reminders of how fractious politics still is in the country and how short of successors the NLD really is.

What is not in short supply in Myanmar society is religious and ethnic nationalism. Political parties do not operate in a vacuum. Myanmar's society is impregnated with religious and ethnic nationalism, of which the «Organisation for the Protection of Race and Religion», or Ma Ba Tha as it is commonly known, is the most vivid representation.[32] Although the group has experienced a number of set-backs in recent years since the NLD came to power in 2016,[33] including an actual ban, Buddhist nationalism has become much more mainstream, with little – if any – open political contestation in parliament or across society. A ruling by the official monkhood organisation State Sangha Maha Nayaka Committee in July 2016 clarified that the Ma Ba Tha was not formed as an official Sangha (monkhood) organisation. Another ruling in May 2017 that outlawed the group's use of the name, and a similar order against new branding, Buddha Dhamma Parahita, followed in July 2018, after the Ma Ba Tha's renaming of itself. Overall, though, it has taken quite some time for the NLD government to distance itself from the Ma Ba Tha and what the group represents in society. Even then, the group staged an anniversary event on 17 June 2019 with 4,000 monks, nuns and laypeople in attendance, and releasing a two-page statement depicting the Rohingya issue as a matter of security.[34]

29. Nyi Nyi Kyaw, 'Old and new competition in Myanmar's electoral politics', *ISEAS Perspective*, Issue 104, 17 December 2019, pp. 4-5

30. International Crisis Group, *Peace and electoral democracy in Myanmar*, Asia Briefing 157, 6 August 2019.

31. *Ibid*., pp. 8-9.

32. The Ma Ba Tha emerged on the political scene in 2013, officially to defend Buddhist Myanmar against alleged islamisation. By 2015 it had promoted the drafting and passage of four antimuslim laws on race and religion in parliament.

33. Matthew J. Walton & Ma Kin Mar Mar Kyi, 'Is this the end of Ma Ba Tha?', *Tea Circle*, 2 December 2019.

34. Nyi Nyi Kyaw, 'The return of Ma Ba Tha to the political scene in Myanmar', *ISEAS Commentaries*, 20 June 2019.

Alongside a poisonous and fraught political atmosphere, media freedom continued to be under siege.[35] As Nyi Kyaw notes, the NLD is not directly cracking down on the press, but is softly repressing it while stigmatising the media outlets which it thinks are unfairly critical of the government.[36] Two issues stand out as disturbing in this regard. First is the government's widespread reliance on the criminal defamation law and the defamation clause in Section 66(d) of the 2013 Telecommunications Act. Citizens have been jailed for defaming Aung San Suu Kyi on Facebook. Another infamous case is that of the two Reuters journalists Wa Lone and Kyaw Soe Oo, detained in December 2017 and jailed in September 2018 under Section 3.1c of the 1924 Official Secrets Act (and later pardoned). The second is the emergence of an «anti-media populist narrative», fomented by Buddhist nationalists (including from the ranks of the former Ma Ba Tha), essentially accusing the media of pro-Muslim and pro-Rohingya bias. Myanmar's troubled record on free speech continues as a court sentenced five members of a traditional theatrical troupe, the Peacock Generation, to a year in prison for satire against the military. Members of the Peacock Generation were arrested and imprisoned in April.[37] In August, another court found a film-maker guilty of «defaming» the military with his postings on Facebook and he was sentenced to a year in prison. Film-maker Min Htin Ko Ko Gyi has also been jailed since April.[38]

Facebook, long criticised for being lenient on online hate speech and the spread of fake news, especially in the run-up and during the 2017 atrocities in Rakhine state, has finally – slowly – begun to respond. «Facebook is the internet in Myanmar», notes Nyi Nyi Kyaw, and has served as a platform for hate speech in recent years.[39] Belatedly, Facebook has removed hundreds of accounts and pages and has also hired more Burmese speakers to monitor local language pages and accounts.[40] Lastly, in line with the broad-

35. Nyi Nyi Kyaw, 'The hardening grip of Myanmar's soft media repression', *East Asia Forum*, 2 February 2019.

36. *Ibid*.

37. 'Myanmar court gives actors 1-year jail term for satire', *The Diplomat*, 31 October 2019.

38. 'Myanmar: filmmaker jailing highlights rising rights concerns', *The Diplomat*, 29 August 2019.

39. Nyi Nyi Kyaw, 'Facebooking in Myanmar: from hate speech to fake news to partisan political communication', *ISEAS Perspective*, 9 May 2019. Nyi Nyi Kyaw, 'Even Facebook gears up for the 2020 general elections in Myanmar', *ISEAS Commentaries*, 23 August 2019.

40. In August 2018, Facebook closed 18 Facebook accounts, one Instagram account and 52 Facebook pages, including that of the country's Commander in Chief Ming Aung Hlaing (Matteo Fumagalli, 'Myanmar in 2018: Botched transition and repatriation plan', *Asia Maior*, XXIX, 2019). Further 13 pages and 10 accounts were closed on 15 October that year, and additional 425 pages, 17 groups and 135 accounts and 15 Instagram accounts on 18 December.

er tendencies, the Myanmar Press Council (a quasi-governmental media adjudication and ethics body) defended the practice of using the term Bengali to refer to the Rohingya.[41]

3. Economy

High hopes, post the NLD victory in 2015, that the economy would take off have been dampened by a chronic economic slow-down, marked by a three-year consecutive decline in FDI, a weakening currency, high inflation, unstable government policies and, of course, armed conflict in Rakhine state and beyond.[42] Talks of «Suukyinomics» aside,[43] the NLD government has suffered from a lack of economic vision.

Throughout 2019, the authorities have sought to rid themselves of this reputation by launching two landmark initiatives: the Myanmar Sustainable Development Plan (MSDP), aimed to achieve a «peaceful, prosperous and democratic country», and the Myanmar Investment Promotion Plan (MIPP), designed to transition Myanmar to a middle income country status and also persuade foreign investors to invest US$ 200bn over the next 20 years. The MSDP is structured around three pillars, five goals, 28 strategies and 251 action plans and is aligned to the UN's Sustainable Development Goals.

Besides these two initiatives, the government has also focused on its anti-corruption efforts,[44] and it has modernised the Central Bank of Myanmar, allowing the exchange rate to float. Crucially for the economy and the country's competitiveness and attractiveness to foreign investors and its role

41. Shafiur Rahman, 'Myanmar's «Rohingya» vs «Bengali» hate speech debate', *The Diplomat*, 21 December 2019. As discussed earlier in this article and also elsewhere (Fumagalli, 'Myanmar in 2018'), the use of the ethnonym Rohingya is extremely contentious inside the country, and its legitimacy questioned by many, in politics and within society. Although this is the term used by members of the group to refer to themselves, Myanmar's political actors, and many social and religious movements have sought, with success, to impose the use of the term Bengali, implying that the Rohingya are, in fact, ethnically Bengali and therefore originally from neighbouring Bangladesh. I find this a non-sequitur as shared ethnicity does not tantamount to a shared place of origin. In addition, even if one accepted this argument, one would run into the problem that the languages spoken by the Rohingyas and the residents of the Chittagong Division in eastern Bangladesh are not mutually intelligible with Bangla/Bengali as they belong to different language groups, suggesting therefore that the Rohingya could well be many things, but not Bengali.

42. Nan Lwin, 'Myanmar's 10 key economic moments of 2019', *The Irrawaddy*, 18 December 2019.

43. Naing Ko Ko, 'The emergence of Suukyinomics', *East Asia Forum*, 1 March 2019.

44. Nyi Nyi Kyaw, 'Frying just a few new «big fish»? Combating corruption in Myanmar', *ISEAS Perspective*, 71, 9 September 2019.

on global supply chains, roads are being built and rail tracks upgraded. To this end, the NLD government has established an agency which acts as the backbone of public administration as part of its reform of PA.[45] The agency has been removed from under the control of the (military-controlled) Ministry of Home Affairs and has been placed into the Ministry of the Office of the Union Government, thus placing it in civilian hands and with civilian oversight. The move, already announced in December 2018, was important as it contributes to demilitarising the state apparatus.

Fundamental structural problems persist though, primarily the role of the military in the economy, a phenomenon referred to in the literature as «khaki capitalism».[46] Military enterprises were first established in the 1950s, the two most important of which are UMEHL (Union of Myanmar Economic Holding) and MEC (Myanmar Economic Corporation). These are profit-seeking military enterprises, constituting a major source of off-budget revenues, and are important employers of retired soldiers.[47] Historically, military capitalism has shaped Myanmar's political and economy development since independence.[48] Despite some timid government attempts to curb its economic influence, khaki capitalism is likely to remain a central feature of MMR political and economic systems as the off-budget revenues financially underpin the autonomous role that the military has crafted for itself.

Nay Pyi Taw has actively pursued foreign investment. A first-ever international investment summit was held in January 2019 in Nay Pyi Taw, showcasing 120 projects worth US$ 3bn in ten states and regions, from city development to ecotourism, economic zones, industrial parks, power plants, mines and airport upgrades. Singapore is currently the largest investor in the country (US$ 20bn), having overtaken China over the past five years.[49] About 305 Singaporean firms operate in the country, mostly in the ICT sector (73%), the remainder in manufacturing (14%) and real estate (4.6%).[50] China and Singapore account for about half of FDI flowing into Myanmar, with the next biggest players being Thailand and Hong Kong (14% and 10% respectively).[51] Northeast Asian countries are

45. Matthew B. Arnold, 'Why GAS reform matters to Myanmar', *East Asia Forum*, 24 August 2019.

46. Gerard McCarthy, 'Military capitalism in Myanmar: Examining the origins, continuities and evolution of 'khaki capital', *Trends in Southeast Asia*, 6, ISEAS 2019.

47. 'Military capitalism', p. 37

48. Marco Bünte, 'The NLD Military coalition in Myanmar: Military guardianship and its economic foundations' in Paul Chambers & Napisa Witoolkiat (eds.) *Khaki capital. The political economy of the military in Southeast Asia*, Copenhagen: NIAS Press, pp. 93-129.

49. Su-ann Oh, 'Singapore is currently the biggest foreign investor in Myanmar', *ISEAS Commentaries*, 16 May 2019.

50. *Ibid*.

51. *Ibid*.

similarly active. Seoul's Southbound Policy has paid particular attention to Myanmar.[52] President Moon Jae-in has focused on boosting bilateral economic ties between the two countries. He has visited Myanmar, launched a new southern policy and boosted trade and investment, offering US$ 100m during 2018–2022 to support economic development. A Myanmar-Korean Business Forum has been established, alongside a Korean Myanmar industrial complex in Hlegu, north of Yangon, where some 200 companies are expected to invest. Japan is playing a leading role in assisting financial reforms and attempts to achieve industrialisation and in order to defend its pre-eminent position as key donor and investor, cemented by the successful Thilawa Special Economic Zone (US$ 1.6bn), it has resorted to domestically welcome, but frankly uncalled for, expressions of support for the government's official denial of charges of genocide for its handling of the 2017 events in Rakhine.[53]

4. Foreign policy

Although international criticism of Suu Kyi's handling of the Rohingya issue predates the 2017 crisis, this was significantly compounded by the 2017 events and the lack of government action that followed.[54] Addressing the Rohingya crisis remains visibly in a «state of deadlock».[55] Two heavily-publicised repatriation efforts by the Bangladesh and Myanmar authorities, most recently on 22 August 2019, did not result in the return of any significant number of refugees. The 22 August date came and went, despite earlier announcements that 3,450 verified refugees were ready to return to Myanmar.[56] Radically different expectations between the relevant parties remain unbridged. While the Rohingyas demand legal visibility as citizens

52. Chaw Chaw Sein, 'A Memorable Train Journey to Celebrate Thirty Years of ASEAN-Korea Friendship', *Global New Light of Myanmar*, 30 October 2019. For background, see Matteo Fumagalli, 'The Making of a Global Economic Player? An Appraisal of South Korea's Role in Myanmar', Academic Paper Series, Korea Economic Institute of America, Washington DC, 16 February 2017 and Matteo Fumagalli 'South Korea in Myanmar: Missing the train to Nay Pyi Taw?', *The Diplomat*, 17 March 2017.

53. Tomoko Kikuchi & Takehiro Masutomo, 'Japan goes long on Myanmar', *East Asia Forum*, 21 June 2019.

54. Hnin Wint Nyunt Hman, 'Why foreign policy matters to Myanmar's democratic transition', *The Diplomat*, 22 October 2019.

55. Su-ann Oh, 'The Rohingya crisis, two years after: Impasses and deadlocks', *ISEAS Perspective*, Issue 65, 25 August 2019.

56. Moe Thuzar, 'Myanmar at the ICJ: Intent and implications', *ISEAS Commentaries*, 22 November 2019. A first batch of refugees was supposed to return in January 2018, but was postponed amid safety concerns. In June 2018, UNHCR, UNDP and Myanmar signed a Memorandum of Understanding on the return of the refugees, which lacked guarantees on citizenship. A second attempt at repatriation took place in mid-November 2018, but this also fell through.

of Myanmar and recognition of their ethnicity, the Myanmar authorities would only concede naturalisation as citizens on its terms (as «Bengalis», that is). The alternative of course, from Nayi Pyi Taw's point of view, is for the Rohingyas to stay in limbo in the camps.

A third repatriation attempt took place in August and, again, issues of citizenship and recognition as a separate group hindered progress. It appears increasingly likely that they will remain in Bangladesh, where their status is also disputed, with the government refusing to grant them refugee status, regarding them as temporarily resettled Myanmar nationals.

Overall, prospects for repatriation are bleak.[57] As the Bangladeshi authorities struggle with security challenges near the refugee camps, they are also confronted with domestic political pressure as the local population, especially in and around Cox's Bazar, are irritated by both the depressing effects of the Rohingyas' protracted presence on the local job markets and the lack of progress in their repatriation. Dhaka insisted on construing and dealing with this as a displacement crisis and as a short-term challenge.

4.1. Aung San Suu Kyi in The Hague

The key event of the year was the hearing at the International Court of Justice headquarters in The Hague in the Netherlands. The case was filed by The Gambia on 11 November.[58] The ICJ is the primary judicial organ of the United Nations and, since Myanmar is a UN member, it has to abide by this and take part in the proceedings. The significance of the hearings, however, was primarily symbolic, as the Court cannot enforce its rulings and its decisions are not legally binding.

The Gambia, relying on the provision that the ICJ can adjudicate disputes over such charges, brought this case on behalf of the 57-member Organisation of Islamic Cooperation (OIC). The allegations against Myanmar include «responsibility for genocidal acts and failure to prevent and punish genocide».[59] In its case, The Gambia asked the Court to order provisional measures. The charges «stem from atrocities committed by the military forces in northern Rakhine state which have forced over 700,000 Rohingyas to flee to Bangladesh from August 2017».[60]

57. International Crisis Group, *A sustainable policy for Rohingya refugees in Bangladesh*, 27 December 2019.

58. The Gambia's filing of the case on 11 November 2019 was merely the latest in a series of legal proceedings (attempts) against Myanmar. The International Criminal Court, which also sits in The Hague, had earlier authorised a full probe into the 2017 events; however, the Myanmar authorities rejected the ICC probe and ignored a lawsuit filed in Argentina.

59. Richard Horsey, 'Myanmar at the International Court of Justice', *International Crisis Group*, Q&A Asia, 10 December 2019.

60. 'Myanmar at the International Court of Justice'.

On 20 November, Myanmar announced that it would be represented by its State Counsellor, Daw Aung San Suu Kyi. She would head the team and formally take on the role of «agent» of Myanmar. This was an unusually senior appointment for this type of circumstance, as typically this role would be taken up by a country's legal team or less senior figures. However, Daw Suu's English fluency and her being used to being in the international spotlight, combined, arguably, with her feeling that she should represent the country in such a problematic circumstance led to such decision. Hearings were held on 10-12 December.

It is useful to revisit some excerpts of Suu Kyi's statement in The Hague:

> Regrettably, the Gambia has placed before the court an incomplete and misleading factual picture of the situation in Rakhine state in Myanmar. […] The troubles of Rakhine state and its population, whatever their background, go back past centuries. It cannot be ruled out that disproportionate forced was used by the members of the Defence Services. Please bear in mind the complete situation and the challenge to sovereignty and security in our country. Surely, genocidal intent cannot be the only hypothesis. Can there be genocidal intent on the part of a state that actively investigates, prosecutes and punishes soldiers and officers who are accused of wrong-doing?[61]

On the whole there was nothing new in Suu Kyi's statement. She repeated the mantra that the outside world fails to understand Myanmar and its complex history and inter-group relations. Failing to mention the ethnonym Rohingya apart from when she referred to ARSA was also in line with past practices and silences. The claim that a country that is conducting an investigation on its armed forces' actions cannot be charged of genocide, genocidal intent or failing to prevent genocide reached a new low in Suu Kyi's long record of denial and callousness.

Genocide denials were not restricted to Myanmar politicians. In unsolicited remarks, Japan's ambassador Ichiro Maruyama to the country also alleged that no such thing had occurred in Rakhine state in 2017,[62] adding that he hoped «the ICJ [would] reject the Gambia's request that provisional measures be taken against Myanmar». At the same time, Maruyama did not rule out «human rights violations».

The ICJ issued an order on 23 January 2020, in which it indicated four key measures in the dispute between the two parties. The decision was

61. 'Transcript: Aung San Suu Kyi's speech at the ICJ in full', *Al Jazeera*, 12 December 2019.

62. Nan Lwin, 'Japan backs Myanmar's claim that no genocide occurred in Rakhine state', *The Irrawaddy*, 27 December 2019.

taken unanimously, with all seventeen judges in favour of the operative part of the order.[63] In paragraphs 79-82 the Court ordered Myanmar

a) to take all measures to prevent the commission, against members of the Rohingya, of all acts listed in the Genocide Convention;

b) to ensure that its military, irregular armed units, or any organisations or persons subject to its control, do not commit genocidal acts;

c) to take effective measures to prevent the destruction and ensure the preservation of evidence related to the allegations of acts of genocide;

d) to submit a report to the court on all measures taken to give effect to the Order within four months, and thereafter every six months until the final decision of the case.[64]

On the whole, the case and hearing's international impact was broadly in line with earlier interpretations and framing of events. The views inside Myanmar remain diametrically opposed to those of much of the outside world. The predominant narrative inside Myanmar, once again articulated by Suu Kyi, is that «the world fundamentally misunderstands the country».

5. Conclusion

Although parliamentary elections are not going to be held until late 2020, government and political parties already started jockeying for positions. In fact, the main reason Aung San Suu Kyi elected to appear at the ICJ in The Hague in December 2019 had more to do with domestic political reasons than anything else, including any concern for the country's tarnished international image. A number of challenges remain, from tackling economic issues to mismanaging the peace process and confronting the ethnic armed insurgencies. While ethnic parties and EAOs are vocal and important players, the main plot is an uneasy co-existence of a dual authority system between the civilian government de facto led by Aung San Suu Kyi and the Tatmadaw. On matters of national security, such as confronting the ethnic armed organizations and on the «Rohingya issue» the NLD-led government and the military share common goals and thus coordinate their actions, with the former oftentimes delegating the initiative to the latter. With regard to constitutional and economic reform and parliamentary politics more generally, however, relations were more competitive, bordering on the confrontational.

63. Mauro Politi, 'Preventing the Rohingya Genocide in Rahkine: The ICJ Provisional Measure in the Gambia v. Myanmar', *T.note* 83, Torino, twai (Torino World Affairs Institute), 2 March 2020.

64. *Ibid*., p. 1.