**The Role of Internationals in Progressing Human Rights Attainment in Myanmar**


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This thesis is dedicated to my late father, Steve Dowall.

# **Abstract**

*State crimes such as the violation of human rights eclipse all other forms of violent crime in scale and seriousness. International agents can play a key role in challenging state crimes and building the necessary supports for human rights to progress. However, the political climate of realpolitik, which bases decision-making on state-interest rather than moral premise, significantly complicates any international interventions. Against this backdrop, human rights are often compromised to fulfill economic, strategic or political motives, giving rise to cultures of mistrust.*

*The case of Myanmar presents an opportunity to advance thinking about preventing state crimes and the 'costs' associated with advancing human rights norms. Transitioning states like Myanmar, where the military maintain a dominant role in government, demonstrate that human rights must be flexibly engaged. This thesis shows that while human rights played a key role in catalysing the transition, they became a liability once the transition began. In this context, internationals saw that human rights reform depends upon building relationships and creating opportunities for the redistribution of power and legitimacy through compliance rather than coercion, especially given the role of the military. This requires a long-term strategy by internationals that is socio-culturally responsive and politically attuned.*

**<u>Acknowledgements</u>**

*forge a life-long friendship. You're a force to be reckoned with and I hope our Government knows what they're in for!*

*And then of course Dad. How I wish you could be here so I could see your eyes light up with pride. A humanitarian at heart, you taught me the importance of working by principles of integrity and compassion. And I hope that this thesis is a testament to that.*

**List of Abbreviations and Other Terms**

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| AFPFL | Anti-Fascist Peoples Freedom League |
| ASSK | Aung San Su Kyi (Burmese politician, diplomat, and author, and winner of a Nobel Peace Prize. She is the leader of the National League for Democracy and the first and incumbent State Counsellor, a position akin to a Prime Minister) |
| BSPP | Burma Socialist Programme Party |
| CIC | Commander in Chief |
| CTFMR | Country Task Force on Monitoring and Reporting on Grave Violations Against Children |
| DAP | Direct Aid Program |
| ECC | Emergency Coordination Centre |
| FIDH | International Federation for Human Rights |
| HRW | Human Rights Watch |
| ICC | International Criminal Court |
| ICRC | International Committee of the Red Cross |
| ILO | International Labour Organization |
| NGO | Non-Government Organisation |
| OBA | Oxford Burma Alliance |
| OHCHR | Office of the High Commissioner for Human Rights |
| PKO | Peace-Keeping Operations |
| PMSA | Prime Minister's Scholarship for Asia |
| SLORC | State Law and Order Restoration Council |
| SPDC | State Peace and Development Council (Myamar) |
| UN | United Nations |
| UNCDP | United Nations Committee for Development Policy |
| UNDP | United Nations Development Programme |
| UNHCR | United Nations High Commissioner for Refugees |
| UNRCO | United Nations Resident Coordinator Office |
| WHO | World Health Organisation |
| WWII | World War Two |

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**Preface**

This thesis has been undertaken over the course of two and a half years. The process of defining it began almost five years ago, in my time working on forced labour and child soldiers in Myanmar. It was my intention to work in-country before developing a research focus that I felt responded to a key issue. Shortly after returning to Wellington and commencing this study, my father was declared missing on Mount Cook. Several months later, my fiancé and I were surprised to find out that we were expecting. While at the time, everything seemed to collide - and I felt the day of finishing this thesis slipping further away – I can now see that it has all added to this research. Although the number of breaks taken through this study has stretched its timeframe, many significant events have taken place that have had deep implications for its key debates. Most notably, the way in which the violations against the Rohingya people have culminated across this period.

At the time of the interviews for this research, the plight of the Rohingya was well known as reports documented their persecution (see: International Human Rights Clinic, 2014; Green, McManus and Venning, 2015). While this caused much discomfort for the international community, Myanmar was surging with hope and ambition as November elections were just around the corner. People were optimistic about the fact that as the democratic transition progressed, the situation for the Rohingya would eventually too. As one of the latest 'hubs' of international aid, millions of dollars were being poured into Myanmar through state-building initiatives - I remember the excitement reflected in my father's face as he announced he would be accepting a contract in Myanmar, as it presented such an amazing opportunity to use his experience to improve the agricultural livelihoods of many people. This is the kind of excitement that was in the air as fingers were crossed for the Democratic Party, despite the overwhelming possibility that the military administration could yet prevail.

Following my return to Wellington, the Democratic Party won the elections. Soon after, I took several breaks from study for childbirth and maternity leave. During this time, the plight of the Rohingya intensified. I was surprised to realise that while the presence of international agents and human rights institutions were at an all-time high, mass killings, rape, and displacement continued to intensify 'under their nose'. While I struggled to believe that the situation of human rights was getting worse despite the progress I had encountered during my time working in Myanmar, it was even harder to come to terms with the fact that all the

work that had been done to help build state legitimacy effectively evaporated in the face of wide-condemnation toward the sad reality that is currently taking place. In summary, while the interview period and its subsequent data could render this thesis dated, it provides a timely illustration of how the failings of international actors - to understand local histories and cultures within a transitional state or to confront the issue of human rights, head-on and in a concerted manner - can lead to devastating outcomes.

# Chapter One: Introduction

As global politics become increasingly tense, there is a growing need to place international intervention under scrutiny. Civil society including international non-government organisations play a critical role in resisting state crimes and violations of human rights. The case of Myanmar presents an opportunity to understand why mass killings continue to escalate in the face of significant international presence and aid. Over the course of nearly six decades, Tatmadaw (Myanmar Armed Forces) interests have become entrenched into Myanmar life. The continuation of power has been achieved through a series of political transformations to essentially 'rebrand' military rule. Central to all is the issue of legitimacy. While the government[1] has made the commitment to transition to democracy, this decision has emerged in response to a 'loss of legitimacy'. With impunity, Tatmadaw continue to engage in 'lawful' counterinsurgency campaigns and asserting their sovereignty against those they deem 'illegitimate'. In light of recent events, it becomes clear that legal reforms, international assistance, and even the democratic transition itself, is insufficient in developing respect for human rights.

Internationals have played a key role in developing the necessary supports for human rights to develop in Myanmar. There has been much progress on multiple fronts: international cooperation, democratic reforms, release of political prisoners, addressing the issue of child soldiers, changes to law, freedom of association, economic development, and a peace process. These developments have taken place since the military administration sought to engage with internationals. There was a period of hope and optimism leading up to the most recent elections. But ongoing 'ethnic cleansing' has been a rude awakening as Tatmadaw remain driven by 'fixed' preferences in their objectives. These are underpinned by cultures of fear and mistrust.

After decades of repression and careful planning, cultures of denial have also had a significant impact on the people. Tatmadaw have manipulated ethnic conflict for their own benefit and today, as human rights violations are concentrated in areas of hightened conflict, there also

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[1] At present, given the power still held by Tatmadaw and their continued position in government, the term 'government' refers to both Tatmadaw (more specifically their elite) and the new democratic administration. The term 'democratic government or administration' is used when excluding Tatmadaw.

needs to be a shift in racism that has been fuelled by the regime. For the military, everything is justified or 'legitimised' in the name of national unity and sovereignty. This is to avoid accountability. For state crime scholars, it is crucial to challenge these notions of legitimacy in order to label state actions as deviant and hold them to account. 'Deviancy' then, is not bound to legal desciptions but to social norms. For others, the measures employed by Tatmadaw exceed 'universal' standards of human rights. As long as realpolitik governs decision-making, there is little internationals will do to intervene for they too are bound to principles of sovereignty. This explains why genocidal policies and systematic violations persist.

The following Chapter Two draws out the state crime framework on which these realities are examined. It draws particularly on Green and Ward's definition of state crime as organizational deviance involving the violation of human rights, and considers the crucial role of legitimacy in understanding how state crimes emerge, are sustained, and also how they might be resisted or prevented. It provides a preliminary overview of the actors involved in resisting state crime, and the barriers to taking action, especially given the nature of *real politik*. From here, Chapter Three develops an overview of Myanmar's history of colonisation and transition. It establishes that the military in Myanmar have become entrenched through three significant processes: (i) an agenda of national unity; (ii) continued violence and terror against civilians; and, (iii) the control of economic power. The military have long relied upon cultures of denial to dismiss allegations of state crime, and to reassert their power through the country. Nonetheless, they remain a 'lynchpin' organisation in Myanmar's governance and in the country's future.

Following this literature review, Chapter Four sets out the methodology and methods that have guided the primary research for this thesis. Taking a critical approach, it establishes the value-laden basis of this work, and it highlights the methodological impetus to hear from those who are often silenced in a bid to create human rights-conscious change. This chapter also provides the reader with an overview of how this research, with thirteen internationals in Myanmar, has been conducted. It has not been an easy piece of work to undertake – in political or personal terms – and the chapter highlights some of the issues that emerged on the journey to completion.

In the first of two original data chapters, Chapter Five explores the institutional context in which internationals seek to prevent state crimes and build human rights cultures. It sets out how institutional agendas, biases and timeframes can often undermine internationals' abilities to develop progressive programmes and relationships. Further, it sets out the challenging

context in which internationals work – where the military remain entrenched in most aspects of political, social, legal and economic life. Military interests continue to dominate, and internationals have had to develop careful, respectful relationships with Tatmadaw to make any progress on the ground. Nontheless, drawing upon the examples of forced labour and child soldiers, the chapter demonstrates how progress to prevent violations can be undertaken. Chapter Six further unpacks these issues, by considering the ways in which internationals have sought to flexibly engage and integrate 'human rights' into the Government agenda. It discusses how human rights reform depends on building sustainable relationships and creating opportunities for the redistribution of power. Trust is shown to be a key factor in these relationships, and internationals have to be attentive to building changes that are beneficial to government, military and local communities. Finally, Chapters Seven and Eight provide a discussion and conclusion to this thesis. This work considers how, in states like Myanmar, the language of human rights can become a liability. It demonstrates how resisting state crimes can have multiple costs, and it considers how effective change might be developed for the future.

Overall, this thesis demonstrates that international agencies have begun to take a significant role (alongside local organisations and civil society actors) in developing democratic standards and human rights norms. Those working for international agencies must carefully redistribute power and stop violence. An essential part of this process is to engage violatory state actors in ways that are progressive, and human rights conscious, but that minimise opportunities for further conflict (or even the re-engagement of violent rule) in any transition to 'democracy'.

We must be mindful, however that (like nation-states) international organisations have a strong interest in self-preservation or 'organisational survival' (Batley, 2011) and are therefore subject to pressures which may undermine or compromise their mandate. In exposing these problems of institutional cultures and processes, this thesis shows how interanationals can also inhibit opportunities to advance human rights (and may even foster conditions under which serious violations occurred). It provides a salient lesson for international agencies that still have relatively little power to intervene in domestic, 'sovereign' state affairs or to provide protection to those being victimised within their state.

**Chapter Two: Challenging State Crimes**

*Criminology has traditionally focused on the state as an enforcer of rules, rather than as an observer or breaker of rules. A cursory glance at world events suggests, however, that genocide, torture, and war crimes which are legally classed as 'international crimes,' punishable by any state regardless of where they occur, eclipse all other forms of violent crime. Together with the predatory activities of regimes…they constitute (even by the most conventional of definitions) a major proportion of all serious crime. Such crimes are generally committed by or with the complicity of state agencies, or by state-like entities (such as the Taliban regime in Afghanistan) that have not achieved international recognition as states. If criminology is to break away from its parochial obsession with the behaviour of poor people in rich countries, it urgently needs an adequate conceptual framework for thinking about state crime (Ward & Green, 2000: 76).*

When thinking about how we can more effectively protect millions of lives, this powerful statement brings to light several key issues to contend with. First, it calls for the need to re-evaluate the way states function, as the consequences or implications of their actions (from serious violent crimes to predatory regimes) can be obstructed from view. Second, that the nature of state crime sits on a spectrum, ranging from commissions (direct or indirect involvement) to omissions (failing to act). Third, that states will regularly commit crimes through their relationships with third-party groups, including militias, corporations or others. And fourth, there is a need for criminology to move beyond a 'domestic' conceptual framework which serves to perpetuate a narrow-minded obsession with criminality and individual culpability. This excerpt sets the tone for advancing the discussion on how such crimes might be resisted or prevented.

Comprised of two sections, this chapter seeks to reflect on key debates in challenging 'state crime'. The first section considers definitions of state crimes. In particular, it draws upon Green and Ward's (2000) definition of state crime as 'state organisational deviance' involving

the violation of human rights. Central to this definition is the issue of legitimacy – after all, the attribution of deviance is generally linked to a loss of legitimacy for certain acts or institutions. Thus, legitimacy is crucial to understanding how state crimes emerge, are sustained, and also how they are resisted or prevented.

The history of state crime is, sadly, a history of impunity. Many examples have demonstrated the reality that, as long as *realpolitik* governs decision-making, other states will only intervene if it serves their interests (Rothe, 2009-10). At the same time, international institutions, like the United Nations (UN), have relatively little power to intervene in domestic, 'sovereign' state affairs. While there are significant human rights institutions, laws and provisions, there is often relatively little that *internationals*[2] can or will do to provide protection to those being victimised within their state. These discussions shape the argument in this thesis that efforts to hold states accountable, to challenge what some states deem 'legitimate' violations, or to develop human rights-based practices, can be fundamentally hampered by state institutional power and strategic interests. In these conditions, violations can become normalised in organisational settings, and universal values (such as those enshrined in human rights laws) can be delegitimised through a stance of 'moral relativity' (Cohen, 1993).

In light of this, it will be argued that the dominant framework for thinking about state crime is challenged by the face of *realpolitik* and the self-serving nature of international and national forces. Due to the inability of international law to effectively deliver accountability in most cases, an emphasis on human rights that solely prioritises 'justice' is not always useful as a form of resistance in transitional states or states with an unusual set-up. As future chapters show, this is especially the case in Myanmar where the military remain in power indefinitely. Logically, this leads to the question of how state crime might be resisted in ways that move beyond the law. This key question represents the pretext for the primary research focused on how internationals might progress human rights in Myanmar.

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[2] The term 'Internationals' will be used throughout this thesis to refer to organised workers from 'foreign' civil society organisations, international bodies (such as UN bodies) or external state workers (for example, diplomatic agents).

<u>Defining state crime</u>

Criminology has regularly ignored the state as an actor, or represented it as a neutral force, 'despite the centrality of the state in crime and justice issues' (Stanley & McCulloch, 2013:1). However, for large parts of the world's population, state agents (or paramilitary groups, vigilantes or terrorists) are, as Cohen said, 'normal violators of your legally protected interests' (1993:101-102). By viewing the state or corporations as an actor, it becomes possible to move past the ongoing focus on conventional crime or individual actors. More importantly, it enables the recognition of the state (its entities, and corporate relationships both individually and collectively) as an offending entity (Kauzlarich & Kramer, 1998; Rothe, 2009) - capable of affecting whole communities (Perrucci & Potter, 1989), particularly through the police and military where the ability 'to kill, maim, exploit, repress and cause widespread human suffering is unsurpassed' (Stanley & McCulloch, 2013:1).

Drawing on Marx, Ward and Green (2000:76) define the state as a 'public power' comprising of personnel organised and equipped for the use of force. The state and its agencies share a 'criminologically crucial characteristic in that they claim an entitlement to do things that, were anyone else to do them, would constitute violence and extortion' (ibid:77). Thus, states have an entitlement to commit violence and engage in predatory behaviours. This issue is further intensified in states that are governed by militaries. Within the state crime literature, 'mainstream states' that have the usual frameworks of politicians, civil service, and law, backed by military/policing forces are the dominant focus. However, military governance is understandably quite different to civilian forms of state rule, in the sense that militaries are purpose-built for combat. They are equipped and prepared to deploy the most violent measures to advance its own ends. Further, the hierarchical structure of militaries restricts autonomy and freedom of expression.

The modern age has given rise to human rights and humanitarian ideals and, with this, a growing belief in the power of law to deliver safety and justice (Williams, 2013). This preoccupation with law is a clear theme across criminology literature, and characterises the dominant discourse. However, given the vast numbers of crimes committed by heads of state, commanders, and other high ranking officials, very few cases actually result in prosecution[3]

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[3] Recent examples include Slobodan Milosevic, Charles Taylor, as well as Sudan's Head of State Omar el Bashir.

(Rothe, 2009-2010). Violating states regularly commit great harms legitimately and, often, lawfully. This entitlement is evident within the ways that laws are constructed to focus on individual culpability, which subsequently makes it difficult to bring state actors to account. Given this problem of law, Ward and Green (2004) engage a definition of 'state organisational crime involving the violation of human rights' that goes further, to consider actions that breach law as well as the norms and values that underpin those laws. This definition engages the fact that as states create laws they will rarely seek to criminalise themselves. As Muller (1991) points out, this discourse of legality is used in even the most extreme regimes.

### Organisational deviance

Defining 'state crime' then, it not an easy task given the obviously paradoxical results of adopting the state's own legal criteria (Green & Ward, 2000). One example of this is how the bombing of civilians is sanctioned and accepted as a normal act despite its inherent deviant and devastating nature (Kramer, 2010). Diane Vaughn (1996), put this well in her explanation of how deviant cultures emerge:

> [T]he normalization of deviance occurs when actors in an organisational setting, such as a…government agency, come to define their deviant acts as normal and acceptable because they fit with and conform to the cultural norms of the organisation within which they work (in Kramer, 2010:79).

This argument lends itself to Ward and Green's (2000) definition of state crime as 'state organisational deviance involving the violation of human rights'. This definition is comprised of both a '*descriptive* and *(committed) normative'* component (ibid:3). The difference between these two components is that 'descriptive' statements refers to the reaction of an audience. These statements may also be used in a hypothetical sense in describing how an audience might react if they knew, or how the actor might perceive the audience to react if they knew (Ward & Green, 2000). In contrast, committed normative statements refer to actions that are perceived as 'evil or unjust'. To understand why such distinctions are made, the concept of

legitimacy must be discussed as it sets the pretext for understanding why and how states (and others) sanction inherently deviant behaviour. 'Legitimacy' underpins, for example, what states define as 'crimes' and why some states break their own rules despite the formal or informal sanctions such behaviour attracts (Ward & Green, 2000).

Beetham (1991) argues that legitimacy, as a social-scientific concept, must be distinguished from 'belief in legitimacy' and 'legitimacy' in the philosophical sense of a morally justified claim to obedience (Campbell, 1999). In other words, there is a difference in believing something to be 'legitimate' and something being morally 'legitimate'. What is considered 'legitimate' may, however, vary between states, societies, and individuals as each may have a different set of beliefs and principles - this is why some state actions can lead to protests, riots and, in some cases, revolutions. This however only begins to illustrate how ambiguous the concept of legitimacy is[4]. Yet, making distinctions within a concept like 'legitimacy' is integral to locating the nature and development of state crimes. For Lasslett, 'state criminality begins when a government employs political practices that exceed the normative limits upon which rule is legitimated, thus exposing the state to a significant risk of social sanction if exposed' (2012:127). If normative limits mark a threshold whereby political practices begin to impede or breach standards of human rights, significant social sanctions can be expected to follow. Therefore, 'illegitimate' behaviour should be defined by that which is at odds with the fundamental needs of human life which universal standards of human rights embody.

Ward and Green's (2000) definition of 'state organisational crime' rightly lends itself to viewing the state as a non-homogenous actor (Friedrichs, 2010; Green & Ward, 2004). As Foucault (2007) asserts, the state would be better seen as a strategic field made up of competing power networks which are tied to specific governmental projects. This diversity is also evident across 'internationals' as a group - some will have significant power, resources and ability to influence, and some will abuse that power. Broadly speaking, internationals are also located in competing networks, they are subject to their own politics as well as broader global economic politics.

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[4] For example, many ethical issues are raised with cultural practices (such as male circumcision) that are perceived as harmful by some, but a necessary rite of passage (and perhaps even a desirable one) by those undertaking the practice.

The case of Myanmar provides a good example of the dichotomous structure of state institutions, where the new government is comprised of the existing authoritarian military network working alongside the democratic party. Lasslett (2012) argues that the power of these networks are relative to one another and shaped by positions within the state. Some networks will assume positions of particular privilege and have more capacity to win the support of the dominant class. However, while this may be true for most Western liberal democratic states, for those with an unusual set up like Myanmar, 'support' is coerced through the use of force, just as dissent is supressed. Lasslett goes on to explain how this advantage naturally forms a political power bloc, where it 'becomes apparent that the state crime event must be related to the strategically defined interests of specific power networks' (Lasslett, 2012:128). This reflects the way in which specific power blocs have the ability to manipulate what is 'legitimate' in order to perpetuate strategically defined interests or organisational goals.

*Tensions between Human Rights and State Sovereignty*

As indicated above, human rights violations have the ability to cause great harm to people and their communities, which in turn can elicit significant *social* sanctions, irrespective of whether the action is rendered legal or not. Thus, 'crime' can be defined independently of the state and civil law. This has become a vital tenet of state crime literature as it extends the definition of 'crime' to include 'ethical' forms of categorisation (Cohen, 1993; Green & Ward, 2000).

Extending the criteria of crime in this way takes into account the previous discussions on the inherently ambiguous nature of 'legitimacy' and the ability for states to perpetuate sovereign interests in law and policy that undermine basic human rights. While international law protects and upholds principles of human rights, as discussed earlier, its ability to provide legal protection to those within state borders is compromised by the principles of state sovereignty (Williams, 2013). This demonstrates the need to find ways of upholding human rights that move beyond the law.

As realpolitik is bound to principles of state sovereignty, bystander states often accept literal denials under the premise of respecting the right of states to manage its domestic affairs. Criticisms, sanctions and international interventions that override the sovereign right of

nations are regularly perceived as 'meddling' (Cohen, 1993). This explains why international agencies and bystander states allow state sovereignty to reign even when that state is engaged in serious forms of harm. Further, state sovereignty is crucial to understanding why states also resist 'unwelcome though well-intentioned external intervention' (Kent, Armstrong & Obrecht, 2013:6). This in turn can cause governments to be more 'insistent on determining whether or not external assistance is required and, if so, what will be provided, by whom, when, where, and how' (ibid).

The ability of states to define or manage what is 'legitimate' also enables them to commit crime through their relationships with third party groups including militias and corporations. Take for example the case of the Rohingya people in Myanmar. The government's decision to declare them as 'illegitimate citizens' has been used to fuel ethnic conflict and religious hate between Buddhists and Muslims, resulting in genocide (Green et al., 2015). Myanmar's state policy has led to the destruction of Rohingya families and a refugee crisis by the hands of both state and non-state agents as they flee from persecution from the government and those they used to live among as 'brothers' (ibid). These actions have led to a renewed delegitimisation of the Myanmar state by the international community. In response, the Myanmar government has claimed that human rights norms are not applicable in a country that faces 'special problems' (Cohen, 1993). They condemn 'the condemners for being ethnocentric and imperialist' (ibid:111), trying to impose 'values and standards [that] are Western…individualistic, alien' (ibid).

With the ability to mobilise force, state agencies like the military are able to coerce support and compliance, and to suppress dissent. This is the organisational setting in which state crimes are normalised. With an ability to define what is 'legitimate', states are also best placed to avoid legal sanction for violence and harms. As Cohen (1993) shows, 'deviance' is rejected or obscured through state denials and deflected under the premise of having the right to run sovereign affairs. However, states regularly exceed the normative limits upon which rule is legitimised (Lasslett, 2012; Green & Ward, 2004). These limits are represented by international standards of human rights and the values that underpin them; and exceeding these limits can elicit significant social sanctions. In these circumstances, as Green and Ward (2004) have persuasively argued, civil society and international actors play a key role in labelling state actions as deviant, and thereby 'delegitimise' state actions and prevent state crime in the future. In the case of Myanmar, interventions from the international community have been

relatively slow. Even in the face of genocidal killings, the onus to protect state sovereignty has dominated. There has been little consideration of holding this state accountable. This turns the discussion to subsequent means of resistance – what is required in these circumstances?

## Resisting state crime

For Stanley and McCulloch (2013:1), 'resistance is underdeveloped and unanalysed as a fundamental aspect of state crime scholarship', and resistance should be a core aspect of study if we are to challenge state power and impunity. Failure to do so would, in effect, perpetuate state crime by facilitating passivity and undermining people's confidence to act. The following discussion will examine some key debates surrounding state crime *resistance*, and will highlight the central barrier of *realpolitik*. It shows that, in most cases, criminological scholarship must look toward preventing state crimes in ways that moves beyond the law. To this end, an overview of the practical issues or 'the challenges on the ground' will be discussed.

### *The role of civil society and internationals*

> *In the middle of even the most grotesque of state crimes, such as genocide, there are extraordinary tales of courage, rescuing and resistance. Acts of altruism, compassion and pro-social behaviour are woven into the social fabric (Cohen, 1993:113).*

Green and Ward (2004) highlight the importance of the role of civil society in disseminating a common moral language to drive resistance. They refer to 'the space between large-scale bureaucratic structures of state and economy on the one hand and the private sphere of family, friendship, personality and intimacy on the other' (citing Adamson 1987-8:320). Organisations, including pressure groups (e.g. Amnesty International), voluntary associations, religious bodies, the mass media and academic institutions, are what occupies this 'space'. It is these associations that enjoy real independence from the state, and can generate and catalyse opinions and goals that influence the public and challenge not just the state, but also existing structures and rules. Civil society plays a crucial role in legitimising the state and are

therefore vital actors in defining state actions as illegitimate (Green & Ward, 2004). Civil society groups can label state actions as deviant.

In countries where the capacity of national civil society has been repressed, like in Myanmar[5], the role of internationals (whether they be external states, UN bodies, or international civil society groups) becomes increasingly important in upholding shared moral beliefs. As previously discussed, there are certain norms of conduct or human rights that states cannot violate with total impunity (Green & Ward, 2004) – despite the onus on sovereignty, the pressure of domestic and international opinion, economic sanctions, boycotts, and so on, are not to be discounted (Risse et al. 1999). These efforts play a powerful role in collectively setting the precedent for what is considered unacceptable and intolerable behaviour. They disseminate a normative moral language, or common consciousness that challenges impunity and encourages others to rise above the sense of powerlessness and despair. They uphold and promote human right standards to ensure that the voices and interests of the most vulnerable are considered.

While the presence of international human rights law remains integral to resisting state crimes (seen, for example, in the development of the International Criminal Court), it is not sufficient in bringing about progressive change. As detailed above, state officials are in the privileged position of being able to mobilise significant resources to conceal or justify their activities from legal and social sanctions. For criminologists, then, prevention is the key to resisting state crime (Friedrichs, 2010; Lasslett, 2012). This is also the case for human rights agencies, among others, involved in challenging and responding to violations. While some respond to state criminality front-on, by advocating for accountability (such as the work of Amnesty International or Human Rights Watch [HRW]), or working to provide justice (through the International Criminal Court), others pursue alternative measures of prevention by building the necessary supports for human rights to develop by working with governments on top-down political reform (seen in the work of the Office of the High Commissioner for Human Rights [OHCHR] or the Institute for Security and Development Policy [ISDP]). Others engage in bottom-up initiatives, working with national civil society organisations to develop capacity so they may,

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[5] Due to the military dictatorship eliminating fundamental freedoms, including the freedom of expression and association (including freedom of the press); and freedom of movement (including forced relocation) (Yokota, 1996)

in turn, hold their governments accountable (seen, for example, in the work of the International Labour Organization [ILO]).

These efforts exemplify the various ways internationals collectively squeeze the space in which state crimes can occur or minimise the ability for states to engage in organisational deviance. By having these supports established at the top-level (through policy developments), at the ground-level (with an empowered national community) and at a global-level (with a watchful international community), the cost of offending (or the ability to offend) can begin to outweigh the benefit as there are more controls in place. Thus, the work internationals do to respond to, prevent, and secure justice for state crimes, plays a crucial role in regulating and influencing the behaviour of states.

*Barriers in 'resisting': the challenge of Realpolitik and outside interests*

With the proliferation of human rights laws, mechanisms and bodies, there has been a growing belief in the power of law to deliver safety and justice (ibid). Yet, as detailed above, the law and trials are by no means 'just'. In light of this, Rothe (2009-10) argues that realpolitik is the most significant impediment to resisting state crime. Realpolitik is a framework that serves as a guide for policy and decision-making, based on state interests rather than moral premise[6] (Rothe, 2009-10). As discussed earlier, realpolitik can explain why atrocities take place and internationals refuse to intervene, or why heads of states responsible for war crimes are able to walk away from filed lawsuits (Rothe, 2009-10; Friedrichs, 2010). Furthermore, economic interests and priorities are significant components of the international political community and the decision making of states (Rothe, 2009-10). While international players 'may provoke justice…they may also be more willing to make compromises about justice to fulfil economic, strategic, or political motives' (Stanley, 2008:16).

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[6] Realpolitik dates back to the 19th century and is associated with the school of realism as a political theory of power and neo-realism as an interest-based theory. While more recent conceptualisations note it does not regard self-interest by any means necessary, or to solely express power, it does acknowledge that military, economic, and political interests may at times, be at odds with one another (Rothe, 2009-10).

Most state crimes do not result in a formal response, with the overwhelming majority of perpetrators of large-scale victimisation enjoying total impunity (Bassiouni, 2008; Rothe, 2009-10). Cohen (1993:98-102) argues that:

> *The political discourse of atrocity is designed to hide its presences from awareness. This is not a matter of secrecy, in the sense of lack of access to information, but an unwillingness to confront anomalous or disturbing information.*

In Myanmar, for example, the new democratic administration deny reports of killing, rape, and arson in northwest Rakhine, despite some 34,000 people having fled across to Bangladesh due to such allegations and despite satellite images showing evidence of burned villages (International Human Rights Clinic, 2014). Instead, the Government claims that Tatmadaw is 'engaged in a lawful counterinsurgency campaign' (New York Times, 2017). Following the release of a disturbing video of police brutally beating Rohingya villagers in November 2016, the government responded by saying 'legal action was being taken' (New York Times, 2017). Similarly, Tatmadaw have relied on strategies of denial to ensure impunity[7].

As Green and Ward (2004) show, the nature of government-military relationships is crucial to understand, as states attempt to 'co-opt the essence of power' reflected in *perceived* organised crimes in order to 'bolster their own organisational goals'[8] (Ibid:99). State actors are driven by 'thick' rationality, or 'fixed' preferences in their objectives and calculations on how to maximise their power or how to increase their status in an international environment governed by 'democratic' norms and civilian institutions (Dimitrova, 2013). The logic of denial appears crucial to the ability of violating state institutions to navigating through international

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[7] However, Tatmadaw's most recent case of admitting responsibility for the murder of ten Rohingya captives, demonstrate that a change has taken place if they are prepared to finally admit some wrongdoing in the Rohingya issue. This example is interesting as it represents a very small admittance within a broader context of ongoing systematic, and historical abuses.

[8] For example, in 1996, the military regime finally challenged the reign of Burma's drug lord (Khun Sa) as he controlled much of the territory along the Thai border. In order to fund the assault, the regime aggressively took control of the opium trade in the area and 'transformed Khun Sa from rival warlord into a key economic asset' (McCoy, 1999:160).

law or normative rights standards, and to maintaining legitimacy. The careful management of discourse and international relationships are vital to state power.

At the same time, organisations such as the United Nations, while benevolent in theory, are also subject to economic, strategic, or political motives; being comprised of, and run by member nations who each have their own agenda. As Rothe (2009-10:113) points out, 'in many situations [the international political community]...has proved incapable of applying existing law by distancing itself from geopolitical or ideological contingencies'. The UN, like other groups and bodies, is also constrained by the reality of realpolitik. The use of humanitarian action or rhetoric as a tool to pursue political, security, military, development, economic and other non-humanitarian goals have been well documented. Walker and Donini (2012) refers to this as the way internationals have 'instrumentalised humanitarianism'. Like nation-states, international organisations have a strong interest in self-preservation or 'organisational survival' (Batley, 2011) and are therefore subject to pressures which may undermine or compromise their mandate. For Kent, Armstrong and Obrecht (2013:8), this is attributed to their 'economic rationalist agenda', which concerns the issue of funding. As the 'persistent search for funds, perceived as necessary for NGOs to maintain their influence', undermines potential partners' sense of trust (ibid). The notion of building trust re-emerges as a key area of contention for humanitarian assistance.

Thus, in a world where historical and current tensions exist between the demand for human rights and the interests of political actors (including the humanitarian sector), untangling the two can result in a disenchanting outlook for state crimes. This is demonstrated by a key example of how realpolitik can undermine the integrity of important institutions, such as the International Criminal Court (ICC)[9] as states promoted and advanced their own agenda even in the creation of a remarkable step toward justice for all. Similarly, if we look toward the UN, the influence and power of certain states (particularly those in the Security Council) overshadows other members, and calls into question the impartiality of 'common consciousness' the UN is meant to represent (Rothe, 2009-10:117).

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[9] During initial negotiations, the U.S. sought to shape the ICC according to their interests. This meant that without the consent of the U.S., violations of international law that occurred by U.S. actors would not come under the jurisdiction of the court's power or authority to prosecute.

In the same way, international NGOs are often prone to insist upon the sorts of assistance that they believe is needed, through 'well-tried and tested operational modalities' (Kent et al., 2013:5). While humanitarian norms are portrayed as universal, their application is far more ambiguous in practice. Western NGOs are regularly found to perpetuate Western assumptions about humanitarian principles (ibid:11). Minear (2012:43) argues that the instrumentalisation of humanitarian action, 'on the giving and receiving ends alike, takes place in the context of political frameworks and is rarely, if ever, totally free of political impetus or effects'.

In truth, realpolitik is present across all actions towards human rights or humanitarian assistance. International actors appear, however, to find it difficult to move beyond their traditional systems and approaches to accommodate new paradigms or changing contexts (Kent et al., 2013). Subsequently, this can serve to delegitimise them through the way potential risks and solutions are identified, but also through the assumptions they make about the context in which such risks and solutions might occur (Green et al., 2015:11). In turn, international assistance can be blocked or rejected by receiving countries due to a clash of agenda or values.

### Implications of realpolitik: challenges on the ground

The implications of realpolitik emerge in various ways. In particular, they present 'challenges on the ground' or practical issues that can have a significant impact on delivery. Realpolitik creates an environment where 'trust' is difficult, making it increasingly harder for internationals to establish legitimacy with potential partners. In a review of the future of NGOs in the humanitarian sector[10], Kent, Armstrong and Obrecht (2013) provide some useful insight on dimensions that international NGOs must meet to operate effectively. They outline that internationals must engage in a process of negotiation to establish legitimacy with potential partners (Kent et al., 2013). This is a common struggle for internationals (i.e. UN and other

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[10] NGO focus is on those international non-governmental organisations, typically organised around a normative aim or social or moral goal, predominantly from Western Europe and the United States, with the status of a charity, and structurally not answerable to anyone other than their own governing bodies and those who give them money.

NGOs) and the presumption that legitimacy is based upon principle, or that activities are justified on the basis of humanitarian values, is increasingly difficult to maintain - for example, states like Brazil, China, Saudi Arabia or Turkey gain their legitimacy through 'consultative and collaborative approaches' that identify what is acceptable to potential partners, rather than any prioritisation of human rights (Ibid:7). This demonstrates the value of establishing trust and mutual benefit as a means of bringing about change.

Internationals are having to establish their legitimacy by demonstrating their ability to develop 'non-traditional capacities'. Their attempts to embed human rights values in states cannot be undertaken through blunt force, but require much more innovative approaches, especially when funds are limited. For Kent et al., (2013) this reveals a continuing blind spot, whereby internationals struggle to move beyond their traditional systems and approaches. In these circumstances, realpolitik creates an environment where 'trust' between violating states and international actors is difficult. Take for example the reaction of the Myanmar elders (ECC) in charge of 'facilitating' the delivery of humanitarian assistance in Rakhine (Green et al., 2015). These individuals had little trust in internationals, so much so that the ECC blocked assistance from the International Committee of the Red Cross (ICRC) to Rakhine[11]. Although the ICRC was distributing their aid in accordance to perceived emergency need, they struggled to fully comprehend or navigate the sensitivities on the ground. This highlights the importance of understanding local perspectives to ensure assistance is delivered in a way does not exacerbate harms. It also demonstrates how multiple local and international actors must be 'on board' to facilitate assistance.

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[11] The dispute arose from perceived 'unequal' distribution of aid, in this case, the ICRC distributed only 200 bags of fertilizer to five Rakhine villages, and 180 bags of fertilizer to three 'Bengali' (Rohingya) villages (Green et al., 2015:37-38).

## Chapter Three: Myanmar's Journey

*Wherever suffering is ignored, there will be seeds of conflict, for suffering degrades and embitters and enrages -Aung San Su Kyi in her Nobel lecture, 2012.*

It is hard to believe that these resounding words were spoken by Nobel Peace Prize winner Aung San Su Kyi (ASSK), in light of recent denials and silence on the genocidal policies that persist under the new government (Monbiot, 2017). 'Textbook ethnic cleansing' is how the UN describe what has swept across Northern Myanmar (Safi, 2017). A symbol of 'human rights', patience and resilience in the face of suffering, ASSK also represented 'hope' and 'courage' (Steinberg, 2010). Her complacency in turn, has served to 'delegitimise' her to the international community (Monbiot, 2017), highlighting an inextricable link between 'legitimacy' and 'power'. The disappointment directed at ASSK could also be directed towards internationals. Despite significant international presence and aid, mass killings continued to escalate. The Tatmadaw rejected human rights and sidelined the relatively few internationals who exposed violations. With military interests consolidated into civil law (i.e. Myanmar's constitution), many internationals chose to put human rights to one side and instead sought to engage with Tatmadaw and government along different issues. In some respects, this legitimised a disregard for rights cultures.

The following chapter puts this into perspective by placing Myanmar' history of violations in historical context. The first section demonstrates how, following independence, civil unrest and a weak government created a power gap which the military took to establish itself as a legitimate political player. Understanding how Tatmadaw built and consolidated its power will demonstrate how repression has been sustained. To this end, it will be argued that the military sought to build its legitimacy through: (i) increasing discrimination against perceived 'outsiders' and an emphasis on national unity; (ii) violence/terror; and, (iii) economic controls. At the same time, it will be shown how the process of 'delegitimising' the opposition is key to perpetuating power and advancing organisational goals.

## The Struggle toward Unity and Democracy

From the late 1940's, Myanmar, formerly known as Burma[12], has grappled with enduring ethnic conflict, which has impacted upon every part of the country. The issue of sovereignty characterises the conflict between central government and the various minority ethnic groups, fighting for autonomy and for their interests to be recognised. Home to 50 million people and 135 ethnic groups[13], Myanmar has never been ruled as a coherent entity. Over the last century, the conflict has evolved into a constant struggle as the regime fuelled discrimination toward ethnic minorities and put in place genocidal policies which have resulted in the refugee crisis we see today. Many groups continue to fight head-to-head with Tatmadaw, in a desperate plight for recognition, autonomy and national resources. At the same time, Tatmadaw are undertaking a national peace process, while engaged in a systematic 'cleansing' of Rohingya from the country after essentially 'wiping' them from Myanmar history (Green et al., 2015).

For centuries, Myanmar was a major player in Southeast Asia due to its geographically strategic position between India and China. Prior to WWII, Myanmar was a leading regional economy and global exporter of rice (Steinberg, 2010). But following WWII, much of the country's infrastructure was destroyed and the economy devastated (Singh, 2006). Since 1987, Myanmar has remained on the Least Developed Country list (United Nations Committee for Development Policy [UNCDP], 2017). Prior to the regime, ethnic groups like Rohingya were considered citizens of Myanmar that participated in democratic elections. This came to an end in 1977, when Ne Win issued a crackdown on 'illegal immigration'. Then in 1982, Rohingya were officially stripped of their citizenship, and genocidal policies ensued (Green et al., 2015). Today, with the international spotlight shining on Myanmar, the plight of Rohingya serves to delegitimise not just ASSK, but the new Democratic government.

Since independence, Myanmar's military (Tatmadaw) has had an honoured position in Burmese society. Serving in the military was a desirable career[14] (Steinberg, 2010). In 1945, the Tatmadaw sided with World War II allies and fought off several rebellions that threatened

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[12] The term Burma will be used to refer to Myanmar before the ruling junta declared the change.

[13] including: Bamar/Burmese, Shan, Kachin, Kayin, Mon, Rakhine.

[14] So much so that, in the 1940s, General Ne Win commanded over 110,000 men.

national security. On 27 January 1947, through Burma's main political alliance, the Anti-Fascist People's Freedom League (AFPFL Party), General Aung San[15] negotiated the country's independence with British Prime Minister Clement Atlee, calling for it to be granted within one year (Oxford Burma Alliance [OBA], n.d.). The following month, Aung San met with other national and ethnic leaders who unanimously agreed to join the Union of Burma with the signing of the Panglong Agreement[16]. General elections were held in April 1947, with AFPFL winning a landslide victory, setting Aung San to be Prime Minister. But, before any inauguration, Aung San and six others on the Executive Council were assassinated, on 19 July (Steinberg, 2010). The AFPFL quickly called upon U Nu, who had previously served as foreign minister, to succeed Aung San as Chief Councillor. U Nu reorganised the government and finalised the Independence agreement which was granted on 4 January 1948 (Silverstein, 1977). Following the transfer of power, U Nu became Burma's first Prime Minister.

In line with the hierarchical culture of Asian societies, power was, and remains, highly personalised in Burma (Ganesan & Hlaing, 2007). The assassination of Burma's most trusted personality saw the prospect of national unity gradually deteriorate as it was Aung San who held the confidence of the various peoples of Burma. Aung San was heralded as *the* architect of national independence and unity. His loss, at a critical juncture, left a power gap in Burma's politics which not only brought a power struggle within the leading AFPFL party[17], but also a loss of confidence among the Peoples of Burma to be fairly represented in any future Union (Silverstein, 1977; Steinberg, 2010). This was clear upon U Nu's return to Burma after finalising independence. Nation-wide insurrection had broken out. U Nu had inherited the hefty task of managing an insurgency problem, rebuilding an economy devastated after the war, and tending to the damaging legacies of colonialism which had left the country in a state of civil unrest (Butwell, 1963; Myat Thein, 2004).

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[15] Father of Nobel Peace Prize Laureate, Aung San Su Kyi [ASSK])

[16] The Panglong Agreement of February 1947 was a union composed of essentially Burman areas, and a Shan, Kachin, Kayah, and later Karen State. In addition there was a Chin Special Division (province). Under the 1947 Constitution, minorities could opt to leave the Union after ten years and a plebiscite (Steinberg, 2010).

[17] The AFPFL was a broad-based coalition open to all, regardless of ethnicity, religion or political belief. It comprised both communists and socialists, and was susceptible to internal rifts and dissent, an issue that became evident over the negotiations for independence (Ganesan & Hlaing, 2007).

While Burma's colonial period was one of the shortest experienced in Southeast Asia (1885-1948), its impact left a tremendous legacy. WWII had greatly devastated Myanmar's economy, and had destroyed about half of Myanmar's capital. Half of the cultivable land became uncultivable, and the war's disruption of export routes further led to a drastic decline in production (Myat Thein, 2004). Indigenous Burmese had benefited very little from profits during colonial rule. Moreover, the British-imposed abandonment of traditional systems of government and Buddhist education led to the breakdown of social ties that bound communities together, which resulted in a rise in community violence[18] (Silverstein, 1977). Rebellions mushroomed, including from the Kuomintang (ousted Chinese Nationalists) who essentially wanted to exploit narcotics production and trade to fuel their own fight against communism (Steinberg, 2010).

While the impact of colonialism on Burma's institutions and patterns of power was significant, its more profound legacy lay in the strong nationalist reaction to foreign dominance. Given the bitter experiences under colonial rule, a 'strange mixture' of nationalism, socialism and the market system emerged (Steinberg, 2010:85). This is significant as it demonstrates how certain cultures (i.e. fear and mistrust) were normalised into society and consolidated by law. While some room was left for private sector participation including foreign trade, key industries and companies were nationalised or developed under state-ownership[19], especially those that had previously come under foreign monopoly (Myat Thein, 2004). In 1958, just as the economy may have picked up momentum for further development, the ruling AFPFL party split into factions which led to political instability (ibid). With many leaders jockeying for position, the Tatmadaw feared further civil war (Singh, 2006). As the

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[18] The British replaced the traditional system of government with one based on the Indian model which made authority territorial instead of personal. Local chieftains who could exercise real power over the people were replaced with functionaries who lacked prestige and the means of persuading people to obey the laws. These functionaries were named village headmen and were responsible to the central government rather than to the local community. The British eliminated the monarchy which resulted in the deterioration of religious orders that bound the people together. In turn, monks lost their traditional roles as educators, as the British favoured government training and commercial employment over righteous behaviour. This gave rise to internal commercial migration which resulted in social dislocation, unrest, and violent crimes (Silverstein, 1977).

[19] For example, key industries such as timber and rice were brought under state ownership, including the Scottish-owned and operated, Irrawaddy Flotilla Company which boasted over 600 vessels at its peak in 1920 (REF).

'national guardians', the Tatmadaw appealed to government to stage a coup, which they claimed was necessary to preserve the Union. Presented with little choice, Prime Minister U Nu was forced to invite the military to govern constitutionally for six months or face an illegal coup (Steinberg, 2010).

Although the first coup in 1958 (aka the 'constitutional coup' or the 'coup by consent') was very different from the later coups of 1962 and 1988, it marked the beginning of the military redefining their role in Burmese politics (ibid). With clearly articulated objectives of their transitory government, the military sought to restore law and order, eliminate 'economic insurgents' and prepare the country for civilian elections. According to Steinberg (2010), the military performed well in the first eighteen months, reaching quick decisions with professionalism and discipline. Some border agreements were negotiated and opium was outlawed. Corruption was not yet evident, cities were clean and organised, and prices in the market places were driven down due to a belief that foreign merchants were overcharging the people. By co-opting the essence of power of its oppositions from across the board, the Defence Services Institute which operated the military post was expanded and became Burma's first conglomerate, with fourteen different successful corporations in trade, media, and finance[20]. This process of corporatisation was crucial in the development of military power. By putting in place the supports needed to protect military interests, Tatmadaw were better able to fund its campaign and normalise its interests into Myanmar society.

Consolidating Tatmadaw Rule through 'National Unity'

The Tatmadaw's role and image of itself evolved from Burma's 'national guardians' to 'Burma's most effective organisation' (Steinberg, 2010). With a newly instilled confidence in their abilities, the military came to believe they could manage the whole country. This was illustrated in their publication, 'Is Trust Vindicated? (1960) which as David Steinberg (2010:56) put it, compared their work to 'Hercules cleaning out the Augean Stables'. With the 1958 coup lasting a year longer than the negotiated six months, the military voluntarily withdrew and allowed a free election to take place which brought U Nu back to power, despite military favour

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[20] Including: an international shipping line, a bank, a printing press, department stores, trading companies, and a restaurant.

for the opposition. Although autocratic, the 1958 coup, was applauded for its rational, goal-oriented, uncorrupted, nationalistic and seemingly superior performance over a civilian government (ibid). These events were significant because they established Tatmadaw as a legitimate political player, and set the pretext for their 'justified' claim to power.

During the parliamentary democracy period (1948-62), U Nu faced the significant task of managing insurgency problems while attempting to (re)build a democratic nation. The 1947 Constitution called for the protection of minorities, however minorities, such as those in Burma states, did not enjoy equal rights and privileges (Silverstein, 1977). Restlessness intensified after U Nu promised to make Buddhism the state religion (Steinberg, 2010). Various minorities gathered to discuss their options of leaving the Union (Silverstein, 1977; Steinberg, 2010), which the government had no desire to allow (ibid). In the name of 'national unity', Tatmadaw accused the civilian government of straying from the socialist path set by Aung San. Silverstein (1977:61) identified this as a theme, where the military would carefully invoke Aung San's language 'to suit their political needs' at the time; selectively quoting him to demonstrate the legitimacy of a particular policy or action. As the only institution they believed to be capable of ensuring state sovereignty, Tatmadaw falsely represented U Nu as being agreeable to dissolution and used it to legitimise another coup, in order to 'preserve the Union' and prevent 'chaos' (Steinberg, 2010:60).

On 2 March 1962, military commander and Chief of Staff, Ne Win staged a second coup and assumed his position as head of state and Chairman of the Revolutionary Council, a junta consisting of seventeen officers. Each time Tatmadaw has taken over, it did so through the formation of a small group of military officers, which in the following decade evolved into a mass-party. The effects of this coup were not just felt immediately but over the course of generations, and into the foreseeable future. The regime's policies set forth from this 'socialist period' between 1962-88, turned one of the richest countries in Asia into one of the world's poorest (Dimitrijevic, 2017; OBA, n.d.; Myat Thein, 2004). As Steinberg (2010:62) highlights, the 1962 coup was designed to accomplish four objectives that could never be achieved in any credible sense:

> *Ensure that the Union of Burma would not be dismantled through minority secession, free Burma from what the military regarded as incompetent and corrupt civilian rule, strengthen the socialist base of*

*the economy (thus eliminating foreign dominance), and provide the foundation for the perpetuation of military hegemony over the state either directly or indirectly through a civilian front government control.*

This passage demonstrates how Tatmadaw were essentially ruled by 'fear': fear of minorities; civilian rule; and of 'foreigners'. These fears served to have an isolating impact on Myanmar society, as Tatmadaw would later ban media and shut itself off from the rest of the world, re-ordering Myanmar as one of the most repressive states. The threats presented above illustrate how Tatmadaw 'validate' the need to perpetuate its rule and further this goal using a 'civilian front' government (i.e. Revolutionary Council [RC]). This also provides an indication of the planning that has taken place and how the junta intended on making parliament their home. To this end, the regime sought to penetrate every aspect of Myanmar's social, political, and economic life (ibid).

Under military rule, conditions conducive to the widespread violation of human rights have become normalised. As discussed below, this has included: murder (extrajudicial killings in ethnic minority areas and against political opposition, genocide); imprisonment (arrest, arbitrary detention, and disappearance); torture (against civilians in ethnic minority areas, and of political prisoners); enslavement (forced labour, child soldiers); forced relocations; and mass rapes (National Council of the Union of Burma [NCUB], 2003; International Federation for Human Rights [FIDH], 2009). The following section will discuss how these violent measures were used to build political legitimacy and ensure impunity. This in turn served to consolidate Tatmadaw in government, and normalise military interests and practices into society.

Consolidating Tatmadaw Rule through Violence and Terror

The violence and terror directed at political oppositions was derived from a deep-seated sense of mistrust toward civilian rule. The regime saw politicians as 'corrupt and incompetent' (Steinberg, 2010:62). As the Revolutionary Council did not trust civilian ability to effectively manage Burma's future as *a Union*, the ruling junta dismissed parliament, suspended the constitution, and dissolved the legislature. Instead, the RC formed their own political party, declaring that 'parliamentary democracy was not suitable for Burma' (OBA,

n.d.).  In July 1962, the Burma Socialist Programme Party (BSPP) was established and all opposing political leaders were arrested.

Student protests were the first evidence of dissent, and the junta's response was to bomb the Student Union building at Rangoon University (RUSU) on 8 July 1962 (Singh, 2006). Approximately one hundred student demonstrators were also killed through open military fire. Two years later, the ruling junta banned all political parties except its own, arguing that this would speed the country's development (Singh, 2006). They further sought to 'delegitimise' civilian institutions as a means of advancing their position in Myanmar politics. Using discourses of legality, they justified their actions, and ensured impunity by removing those capable of opposition. Normalising state interests (Green & Ward, 2000), Tatmadaw sought military hegemony over the state.

Military fear and paranoia meant that only to those loyal to Ne Win were appointed roles. This set the stage for further political crisis as the entire responsibility of running the government was placed in the hands of army officers that knew nothing of education, welfare programmes, economics, politics or international relations (Singh, 2006). This handicapped the capacity of civil institutions, which in turn perpetuated Tatmadaw rule. The effects of this are still felt today as the government's administrative ability has been severely affected by the legacy of rigid hierarchies, cultures of fear, and corruption (Steinberg, 2010).

'Rule of law' was absent. In practice, the junta's definition of 'law and order' meant 'forcing the people to obey the law provided by the military regime whether they are just or not' (NCUB,2003:14). By propagating law for its own benefit (for example, banning political parties except its own), law was for the observance of people, and not for the military regime or its authorities (NUCUB, 2003:14-15). To this end, the ruling junta dismissed the press and relied heavily on the censorship board to suppress public views (FIDH, 2009).  While the population feared these legal, administrative and cultural controls, the junta itself feared and mistrusted civilians and foreigners. The Tatmadaw believed that a return to civilian rule would lead to the break-up of the state, and saw foreigners as a key threat of invasion (Steinberg, 2010).

By 1988, economic and political frustrations had culminated, causing civil-military conflict to escalate. As inflation rose, primary schooling became too expensive and internal

debt escalated[21]. Unemployment grew and, at the same time, social mobility was tightly controlled (ibid). There ensued a series of demonstrations, known as the Popular Uprising or the Peoples' Revolution. Over the course of the year, thousands of monks, children, students, women and doctors took to the streets and three thousand were reportedly killed (OBA, n.d.). Even those that thought they would be safe to protest in front of the American embassy were shot down in front of the ambassador himself (Steinberg, 2010). The military acted with total impunity, while the international community treated Myanmar's case as a matter of internal politics.

In a desperate cry for help, ASSK made an appeal to the UN and other international bodies, 'I would like every country in the world to recognise that the people of Burma are being shot down for no reason at all' (ibid). However, following her political ascent, the image of her father Aung San was intentionally downplayed. His ubiquitous pictures were removed from office and the Myanmar currency, but also from homes to 'prevent the aura of AS being transferred to ASSK' (Steinberg, 2010:61). This demonstrates how Tatmadaw sought to delegitimise the opposition in order to perpetuate military interests, even if it meant an attempt to wipe their very own 'hero' from history.


As a result of its over-reliance on coercion, Tatmadaw lost much of its domestic legitimacy and credibility as a so-called patriotic institution. Following the Popular uprising, Ne Win called the BSPP to an emergency meeting (23 July 1988) to once more discuss the prospect of changing the constitution to allow a multiparty political system (Singh, 2006). The BSPP refused and Ne Win stood down as their leader, causing many to interpret his decision as an attempt to avoid blame or be held accountable for the mass violations that placed Myanmar in the spotlight. In an attempt to resuscitate power after a significant loss of legitimacy post-1988, BSPP essentially 'rebranded' itself, this time as the State Law and Order Restoration Council (SLORC). Co-opting 'the essence of power', the junta became a 'civilianised' political party (Green & Ward, 2004:62) and sought to re-establish legitimacy as a patriotic institution integral to the survival of the regime.

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[21] On 15 August 2007, the junta made an unannounced decision to remove fuel subsidies which powers everything from transport to essential generators, while the cost of gas increased five-fold in less than a week (OBA, n.d). This was a significant factor that contributed to the Saffron Revolution.

Despite the Uprising, the ongoing persecution of opposition groups continued,[22] demonstrating little had changed in Tatmadaw practice. In 2007, the Saffron Revolution took place, where over 12,000 monks peacefully took to the streets in protest and prayer. The military responded again with brutal force, killing hundreds and detaining an estimated four thousand (refer to the OBA for detailed descriptions of all accounts). These aggressive and violent measures were a result of the military's desperation to reassert control after a significant loss of legitimacy. By demontrating in the most physical sense that the power ultimately lies in Tatmadaw's hands, the task of consolidating the regime would be easier if the people were immobilised by fear. Dismantling the opposition and discounting rule of law ensured that Tatmadaw could push on with impunity. Indeed, the very institution thought capable of perserving 'national unity' produced unprecedented displays of national unity; only it was against them.

## Consolidating Tatmadaw Rule through Economic Power

Under Ne Win's rule, the advocation of socialism was better described as xenophobia and controlled economy (Odaka, 2016). With a distrust of the open market system, the regime compelled the nationalisation of foreign and domestic companies, and established an elaborate bureaucracy to operate the controlled economy (Hla Myint, 1971). The considerable red tape that followed set forth inefficiency and delays which gave rise to corruption. Land rights were terminated, along with its landlord system; tenants became 'state tenants' and people were no longer permitted to collect rent. For the agricultural sector, this deprived farmers of the incentive to increase production, and as a result the cost of rice surged (Odaka, 2016). For an economy dependent on the export of primary products such as rice and teak, these changes had a disastrous effect on Myanmar's economy (Steinberg, 2010). As all legal exports were under state control, the smuggling of certain goods (e.g. medicine and textiles) proliferated, which in turn deprived the government of significant revenue (Odaka, 2016).

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[22] For example, on 30 May 2003, the National League for Democracy Party (NLD), was violently ambushed in Depayin by a well-prepared regime-backed group who intended to assassinate ASSK and NLD leaders. While the numbers killed varies between sources, at least 274 known victims were recorded as dead, arrested/sentenced, or disappeared (for full list, refer to FIDH, 2009:32-36).

In the last days of the BSPP, the government announced its most stringent demonetisation since the regime took power; declaring about two thirds of circulating bills[23] illegal. This was the third time the regime demonetised the Burmese currency since 1962 and was believed to play a significant role in the Uprising (Karthikeyan, 2017). Farmers would refuse to sell rice for money, out of fear that the Burmese currency would be demonetised again. While its purpose was to destroy the black market, it essentially 'broke the backs' of those who depended on small business and trade and served to punish an already struggling economy.

Despite the government being fervently anti-communist, their socialist policies set the scene for significant contradictions which intensified conflict and oppression. In 2000, Burma's defence expenditure amounted to over 40% of public sector spending (Steinberg, 2010, meaning the country was subject to a crises of distribution (Steinberg, 2010). During this time there was a clear effort by the miitary to expand its numbers, improve equipment, and increase its actual budget, rather than improve the quality of life or standard of living for the Burmese people (Steinberg, 2001; UNCDP, 2017). The regime ignored the responsibility to address issues such as poverty or healthcare, under the guise of 'temporary governance to preserve the Union'. In 2000 the World Health Organization (WHO) placed Myanmar's health system as second worst in the world; spending less than five dollars a year per citizen on healthcare. This situation has barely improved since 2011 despite significant economic development, a point that demonstrates how Tatmadaw remain preoccupied with military power (Gravers and Ytzen, 2014).

To strengthen their economic base, Tatmadaw took advantage of its populace through forced labour. People were expected to provide nearby regiments with scarce provisions, land was confiscated, villagers were used for portage, as mine sweepers on front line areas, on military-owned plantations and rice fields, and children were recruited as soldiers. These practices were considered 'normal' by Tatmadaw (and prescribed by their socialist doctrine) as they were underpinned by the belief that the people had a duty to contribute to national development. Despite having ratified the Forced Labour Convention in 1955 and the International Labour Organization's (ILO) requesting legislative changes in 1964, Tatmadaw

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[23] All currency bills over the value of US$2.50 were declared illegal which was estimated to be around two thirds of the total value circulating (Steinberg, 2010).

continued the practice of forced labour to build economic power. This was legitimised by pre-colonial laws such as the Towns Act and the Village Act (dating from 1907), which required headmen to 'assist government officials in the performance of their duties, including by providing villagers as guides, messengers, porters, or to provide transport' (bid, 2011:8). These Acts however also stipulated that officials were to pay for such services, which clearly was not the case with Tatmadaw. As serious allegations increased, the ILO responded again, this time with a Commission of Enquiry[24]. The nature of forced labour in Myanmar was determined to be long-standing, state-imposed, and serious as they were generally accompanied by other human rights violations such as landgrabbing, forced relocation, and forced recruitment of villagers including children into the military.

After more than two decades of disatrous socialist rule under Ne Win, SLORC/SPDC was determined to bring unity and development to the country. Many socialist economic policies were reversed and the government embarked on an ambitious infrastucture programme. Roads, bridges, dams and airports were built to enhance the capacity of the military to reach remote areas. Ceasefire deals were offered to ethnic minority insurgent groups, and ambitious plans to modernise and expand the military ensued. While there was significant effort to liberalise the economy, brutal suppression of dissent and tightened restrictions on civil liberties continued. The SLORC/SPDC decision to emerge from self-imposed isolation, remained underpinned by self-reliance rather than international engagement (Horsey, 2011).

Transitioning to 'Democracy'

Following the protests against the government (BSPP at the time), and the subsequent carnage that followed, SLORC's take over (from the coup of 19 September 1988) set forth fundamental changes to government (Myat Thein, 2004). This coup was not intended to shift power, but to continue military rule by other means (Steinberg, 2001). In turn, the military government constituted a smaller National Unity Party (NUP) out of the former BSPP to give

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[24] An ILO Commission of Inquiry is an independent, quasi-judicial body, set up to investigate violations by states on Conventions they have ratified. Facts are ascertained through 'on the spot' visits and hearings of witnesses and to make recommendations on the steps necessary to remedy the situation (Horsey, 2011).

the illusion of (or more explicitly demonstrate) a transition to democracy (ibid). And, the 'seven-step plan' for transition to democracy was annouced (Myat Thein, 2004).

Since the transition, Myanmar has become increasingly receptive to international assistance to progress development and demonstrate a commitment to meaningful change through a 'controlled democracy' (see Khin Maung Kyi et al. 2000:10 and Myat Thein, 2004:7 in Odaka, 2016). Although this has not gone hand-in-hand with much progress on the front of human rights, it was believed to set Myanmar on the right trajectory and was an 'opportunity to be seized' (Aung Hla Tun, 2008). With 1990 elections confirmed, NLD were allowed to emerge as the 'opposition' along with a number of other pro-democratic groups. In spite of this, the military then proceeded to destablise the opposition and it became evident that the military had no intention of reliquishing power - for example, opposition leader ASSK was excluded from contesting the election along with other pro-democratic leaders[25] (Singh, 2006). Following the Saffron Revolution in April 2008, the military government released a draft constitution, that had been developed without input from NLD or ethnic political parties. Soon after, in May 2008, Tatmadaw manipulated a referendum on this draft Constitution, which subsequently legitimised the continuation of military power, indefinitely. Twenty-five percent of the seats in parliament were now legally reserved for the military, along with the right to appoint Ministers[26].

Following another series of fraudulent elections, the USDP (created by a faction of former NLD members including several high ranking generals in government) was eventually brought to power. This instated Thein Sein  as Prime Minister on 4 February 2011. During USDP's term, Myanmar began to make great strides in the eyes of many internationals (Yueh, 2013). For example, following US President Obama's visit in 2012, Tatmadaw demonstrated their cooperation on addressing key concerns such as the use of forced labour, and the elimination of child soldiers (Horsey, 2011). Legislative reforms were fast-tracked. In 2016 Tatmadaw intiated a peace process, and internationals flocked to take advantage of the

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[25] According to Myanmar's (1989) Election law, 'those who were imprisoned and sentenced could not contest election' (Singh, 2006:90).

[26] For example, the defence minister, the home affairs minister, the board affairs minister and their deputies, and the right to appoint other key roles such as the securities minister to the each of the regional parliaments (NCUB, 2003).

opportunities presented by 'Asia's last frontier'. Myanmar was perceived to be 'opening up', with the 'generals loosening their grip', and engagment with the Myanmar government increased as Myanmar was seen to be determined to 'play catch-up' (Callahan, 2012; Yueh, 2013). Much of the legitimacy the government established during this time, sadly, amounts to little in the face of the humanitarian crises that face Myanmar today.

<u>The Contemporary Situation</u>

The tremendous legacy left by the regime has meant many violations are ongoing, even under the new democratic administration. Maynmar's current crisis has evolved out of long-established genocidal policies and practices, and state denials, that have become entrenched and normalised over the course of six decades (Green et al., 2015). The government's decision to drive Rohingya from Myanmar is an attempt to deny their historic existence in the country[27] (Green et al., 2015). Under colonial rule, groups immigrated from Bangladesh to Rakhine, enlarging the pre-existing Rohingya community (ibid). In spite of this, the government continues to use the origins of Rohingya community in Myanmar to deflect attention from the state's 'undeniable and systematic persecution of Rohingya' (Green et al., 2015:28). The ISCI's detailed research found,

> *…ample evidence that Rohingya have been subjected to systematic and widespread violations of human rights, including killings, torture, rape and arbitrary detention; destruction of their homes and villages; land confiscation; forced labour; denial of citizenship; denial of the right to identify themselves as Rohingya; denial of access to healthcare,*

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[27] The first President of Burma, Sao Shwe Thaike, claimed in 1959 that the 'Muslims of Arakan certainly belong to the indigenous races of Burma' also stating that 'If they do not belong to the indigenous races, we also cannot be taken as indigenous races' (Green et al., 2015: Rohingya were issued citizenship/ID cards and granted the right to vote under Burma's first post-independence Prime Minister, U Nu, and Rohingya held important government positions as civil servants. In the 1960s, the official Burma Broadcasting Service relayed a Rohingya-language radio programme three times a week as part of its minority language programming, and the term 'Rohingya' was used in journals and school text-books until the late 1970s

*education and employment; restrictions on freedom of movement, and*

*State-sanctioned campaigns of religious hatred (ibid:15).*

These serious violations are denied by government and even by ASSK, stating that the situation is simply the product of 'inter-communal violence'. For Green et al (2015), this was part of the government's long-term strategy by national and regional bodies to 'remove the already persecuted Rohingya minority from the state's realm of political, social, moral, and physical obligation' (ibid:19). Instead, the government has sought to brand Rohingya as terrorists,[28] 'intent on Islamising Rakhine state through a campaign of population growth' (ibid:28). These labelling strategies have been employed by the state to polarise the two communities: with Rakhine representing the 'indigenous' majority, the Buddhist 'us'; and Rohingya the minority 'interloper', the Muslim 'them' (ibid). These ingroup/outgroup distinctions have fostered a dangerous social landscape, manipulated by the state's policies of identity denial and language of exclusion. During a meeting in London, [Myanmar's former Prime Minister] Thein Sein declared that 'we do not have the term Rohingya'. Similarly, ASSK asked the former UN Secretary General, Kofi Annan to not use the term 'Rohingya' in his reporting (Safi, 2017).

In the face of tension and potential rebellions, Tatmadaw have continually sought to suppress ethnic resistance by maintaining national borders and asserting their sovereignty. Also targeting Chin, Kachin, Karen (Kayin State), Karenni (Kayah State), Mon, and Shan ethnic nationality areas, Tatmadaw have long attacked those perceived as 'outsiders' – they have destroyed their harvests, burnt their villages, forcibly relocated villagers and arrested, tortured and killed them (NCUB, 2003; FIDH, 2009). These attacks repressed the fearful people but were also used as a means to sustain compliance within Tatmadaw. Incriminating evidence is held against senior members in case they 'fall out of favour or need to be disciplined' (Kyaw Yin Hlaing, 2009). This approach prevents senior officers from acquiring sufficent power to challenge those higher up the hierarchy. Regardless of external pressures, the military remains the most organised institution in Myanmar and appears to be more unified now than ever.

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[28] This notion of Rohingya as 'terrorist' draws upon historic grieveances where Rohingya fought with the British and the Rakhine with the Japanese.

International Involvement

Despite the recent influx of internationals, there has always been tension between [post-colonial] Myanmar's need for foreign asisstance, and its dependence on external influences[29]. For Steinberg (2001:253), such assistance has had to be 'couched in language and attributes that were not perceived to undercut the sovereignty of any regime', and had to be offered in a manner that essentially preserved their pride or 'saved face'. For example, although the U.S. require an official request for foreign assistance, with Myanmar they compromised and subtly extended the invitation in the form of an inquiry that the military government would accept. Similarly, when Myanmar people were sent abroad for training, they were selected by a state organ rather than the foreign trainers (ibid).

In 2007, Kinley and Wilson (2007) argued that neither inclusionary or exclusionary approaches have 'had any discernable impact on the attitude of the military government or on the plight of its people'. Some states, such as China, have placed an emphasis on sovereignty, promoting engagement rather than isolation or punishment (Kinley and Wilson, 2007; Steinberg, 2001; 2010). However, the Western responses toward the military government have ranged from diplomatic condemnation, to economic sanctions, and the withdrawal of aid and international cooperation. These responses have sought to undermine Tatmadaw power and legitimacy (Pedersen, 2008). And, to some extent, they have had success. These external pressures, and their accompanying human rights discourse, were useful in propelling the democratic transition and supporting the momentum behind ASSK and the Democratic Party. These international pressures have played a significant role in addressing particular violations such as political prisoners, forced labour, and prison conditions (ibid).

At the same time, Western policy makers and activists - eager to ramp up pressure on the regime - have also managed to reinforce the reactionary elements of the military's traditional insular outlook. Running the government 'like a military campaign', Tatmadaw Generals do not respond rationally to international demands and they are 'not inclined to negotiate with the enemy' (ibid:222). If anyone thinks the generals will 'blink' under pressure, it is worth remembering that they are all battle hardened veterans who have waged wars

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[29] After independence Burma took aid in a balanced, neutral manner. During regime, most aid programs were suspended except from the UN and Japanese.

against many different 'insurgents'. They are tough, often ruthless men; not easily intmidated, they are seemingly confident to the point of arrogance in their ability to overcome any adversity.

Steinberg (2001) identified some important lessons from past international engagement that not only corroborate the above points, but also present several points critical for progressing human rights in Myanmar in ways that are meaningful or sustainable. First, initiatives for change must be 'organic' in the sense that change is perceived to emerge from within (i.e. inside the regime). For the Tatmadaw, foreign and economic policy suggestions are regarded as undue interference in state sovereignty and internal affairs. Second, the military 'will continue its strong interventions in the economy and society' (ibid:265). Thus, human rights narratives and efforts to redistribute power may compromise key military objectives that are underpinned by perserving the Union and state sovereignty. Further to this, too much economic assistance may 'backfire' as it could undermine political stability (ibid).

Australia's 'innovative, albeit modest', human rights training programme for Myanmar government officials[30] presents an example of new 'inclusive' strategies (or 'third-way' approaches) that are emerging to address the long-standing nature of human rights (Kinley and Wilson, 2007). The central objective of this programme was to influence those people who would go on to have leading roles in any future human rights implementation or monitoring systems. This approach sought to prioritise Myanmar officials as the developers of human rights, by exposing them to human rights law and practitioners. It was significant, particularly as it engaged military officials from an 'illegitimate' government, however it was discontinued due to the political situation that prevailed after 2003[31]. Sadly, no detailed *public* report or evaluation of the programme followed (Kinley & Wilson, 2007).

Since independence, there have been a handful of significant international players on Myanmar's agenda, including the World Bank, Asian Development Bank (ADB), International Monetary Fund (IMF), and UN agencies. While some of these institutions have suspended

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[30] Running from 2000-2003, the human rights training programme for government officials sought to provide traning on human rights law to officials and lawyers in the relevant government agencies and quasi-civil society organisations.

[31] 30 May 2003 Depayin incident, in which pro-government groups coordinated by the government attacked opposition leader Daw Aung San Su Kyi and her NLD supporters (HRW, 2005).

engagement during certain periods[32], many have maintained a long-standing presence. These include the ADB, the ICRC, and UN agencies such as UNDP, WHO, UNHCR, and ILO. Recently, the Myanmar Information Management Unit listed 645 different entities (UN agencies, non-governmental organisations, donors, and embassies) operating in the humanitarian and development sectors across Myanmar; in 2015, the number was 425 (MIMU, 2014-2017). Although this list may include entities that may have recently retracted, it provides a useful indication of the influx of international assistance. Organisations like the ILO can run up to five programmes/projects simultaneously. If each of the 645 entities had just two programmes running, Myanmar would be looking at well over 1,000 programmes/projects, with an impressive pool of funding to support initiatives.

At the same time, under a global capitalist system, many businesses and corporations have sought to reap the benefits of a more open Myanmar and have flocked to the economic opportunities. The underpinning concern is put well by Kent et al., (2013) as the humanitarian ethos has been lost to an 'economic rationalist agenda'. Internationals have, in many ways, sought to reassert their strategic, economic and political power over human rights or democratising interests.

## Conclusion

The military has continually relied upon significant narratives – drawing upon nationalism, buddhism, socialism, military force, and elections/democratic transition – to legitimise their various governments (Steinberg, 2001:43). Unity has been a key enduring focus since the struggle for independence. The success of the military in co-opting or destroying most of Myanmar's civil institutions, compounded by general underdevelopment and a massive 'brain drain', greatly diminishes the prospects of a smooth transition from military to democratic rule (Pedersen, 2008:208; Green & Ward, 2004).

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[32] For example Asia Foundation, from 1958 to 1962, provided wide-ranging support for the country's political, economical, and educational insitutions. In 2013, it re-established a country office in Yangon. Until the socialist policies began to fade, the World Bank became active, providing a total of US$804 million, and by the 1980s was providing policy advice on taxes, revenue, macroeconomic policy, exchange rate information and private sector development. While some of the sector-specific recommendations were followed, major structural changes did not take place.

The regime's decision to transition to democracy was rationalised by the need for economic growth, international cooperation, and a consitutional government. To this end, Tatmadaw's core values remain centered on sovereignty, territorial integrity, and national solidarity. These values are underpinned by the overarching objective of mantaining national security and the belief that Tatmadaw, as Myanmar's most patriotic and organised institution, is the only organisation capable of preserving the Union. While the West has been unwilling to accept the Burmese concept of 'disciplined democracy' and wishes to see the military removed from power, mistrust toward internationals is amplified and increasingly illustrates how Tatmadaw must be part of the solution to any of Myanmar's problems (Steingberg, 2010). This reality is well depicted  by a local analyst in his analogy of the way Tatmadaw have become entrenched in Myanmar society and indefinite future:

> *Our country is like an old house. The foundation has long since crumbled. It is only held together by the creepers [the military]. If you remove them, the whole house will collapse (Pedersen, 2008:208).*

As highlighted in the research for this thesis, this tension has underpinned how internationals have operated to develop human rights agendas within Myanmar. The implications of this context are explored in significant detail further below. However, the following chapter details how the research has been developed and undertaken.

**Chapter Four: Research Theory and Process**

This thesis is underpinned by a critical social research agenda, which seeks to create knowledge that is persuasive in identifying 'social problems' and presenting solutions to them (Goodwin & Goodwin, 1996). In relation to the primary research, the following chapter discusses the research design and rationale, and the overarching framework of human rights and social harms which informs how the issues are viewed. The rationale behind this critical research agenda is to look specifically at state crimes, including their systems, structures, and institutions (Crotty, 1988). But, more pointedly, it seeks to question state legitimacy. After all, this project (like all social research) is positional and political.

Research as a value-laden process

Becker (1967) asserts that all research pertains to unavoidable biases which inevitably affect its outcome. Indeed, this research is a direct product of my upbringing. Having been raised by a Cambodian mother, who escaped the Khmer Rouge with the help of my New Zealander father, has meant that I have grown up experiencing first-hand the impact that humanitarian assistance can have. Crotty (1988) highlights the importance of acknowledging such influences to our intellectual enquiry. For this personal background has played a major role in shaping my desire to examine how international agents implement strategies to prevent and address violations of human rights. I believe there is much to gain through careful international assistance, for the connections that are established in helping one another close the divide between cultures, and have a powerful ripple effect on future generations. The present study is a testament to that and these life experiences have shaped the principles and beliefs that underpin this study.

This argument is vital to thinking about international assistance in resisting and preventing state crimes in transitional states like Myanmar. This is because research processes and subsequent knowledge can be used in ways that worsen situations for populations who are already struggling (Muncie, 2006). This study seeks to avoid producing research that is concerned with the technocratic, managerialist, and individualist spheres of developing human rights (that ignore critical structural and socio-cultural relations) (Crotty, 1998). It is also attentive to how government discourse and actions can demonise groups in ways that

legitimise 'crackdowns' (Muncie, 2006). It is also careful to acknowledge that the progressive language of human rights can also become an ideological form of control, being used by internationals in way that can only be seen as self-promoting and self-empowering.

This study therefore seeks to move beyond the focus on 'law' to investigate the cultures (i.e. 'fear' and 'mistrust') that gives rise to violations and sustain harmful practices. Although uncovering 'what works' in past efforts of international engagement remains a key objective of this study, Pitts (2001) emphasises the way a lot of research can be selectively used to fit government agendas. As decision-making is governed by realpolitik, these initiatives are also value-laden, and driven by political, institutional, and economic imperatives.

## Methodology: A Critical Research Agenda

Critical criminology asserts that knowledge is often produced to serve particular power structures that fuction to maintain elitist control and create oppression (Crotty, 1998; Ugwudike, 2015). Thus, research must question what knowledge or ideas are labelled as legitimate by states and other international powers, in order to bring about change. Critical research therefore aims to oppose oppressive social structures, rather than producing knowledge that serves to perpetuate them, representing a commitment to create a more humane society (**Scraton, 2002;** Stanley & McCulloch, 2013).

A critical perspective attempts therefore to confront societal injustices (Denzin & Lincoln, 2011) and to acknowledge the assumptions that underpin research realities and process (Crotty, 1998; Scraton, 2002). From this stance, research becomes a transformative endeavour, unembarrassed by its principles and values in the struggle for a better world (Denzin & Lincoln, 2011). This critical stance establishes that:

- Power relations are socially constructed, and fundamentally mediate all thought;
- Facts can never be isolated from the domain of values or removed from some form of ideological inscription;
- There are no traditionally defined objects of research. By involving the people being studied as key informants in the research process, it becomes possible to learn and

think at a more critical level as the researcher is able to recognise the structural, institutional and social forces that shapes lives (Freire, 2005);

- Language is central to the formation of conscious and unconscious awareness (Saul, 1992);

- Due to wide-ranging reasons, certain groups (including particular societies) are privileged over others. The oppression that characterises contemporary societies is most forcefully reproduced when subordinates accept their social status as natural, necessary, or inevitable (Stanley & McCulloch, 2013);

- Oppression has many faces, and focusing on only one at the expense of others (e.g. class oppression versus racism) often overshadows the interconnections between them (Scraton, 2002);

- Mainstream research practices are generally (although most often unwittingly) implicated in the reproduction of structural systems of class, race, and gender oppression (ibid.)

Critical research aims therefore to connect personal experiences with structural relations of power and socio-cultural contexts. A key element of this approach is to challenge the official management of knowledge, for 'the possession, use, and control of knowledge have become [the ruling elite's] central theme – the song of their expertise' (Saul, 1992:8). For Saul, so long as language is not controlled by military, political, religious or financial systems, then the public's imagination can move freely (ibid). The power of the ruling elite therefore depends on the effectiveness with which they control knowledge, a point clearly seen in the Tatmadaw's extreme censorship policies. However, while the Tatmadaw have been able to control political, religious, and financial systems, they could not control language. The Popular Uprising by the Myanmar people reflected a philosophy that interpreted the world differently to that of the Tatmadaw, with the intent of challenging them. Their protests and actions for change were derived from the concrete social reality in which they lived, not abstract ideas about the world (Marx, 1961). Their language denounced the regime as illegitimate. These local civil society groups also often act as the intermediaries and navigators to the internationals who arrive on the scene.

Internationals in Myanmar often work closely then with civil society groups. However, their remit has also focused on developing cooperation with the Tatmadaw and, from these relationships, to foster cultures of human rights and to build more democratic institutions. As a result, this research has often been dynamic – involving consideration of the view from 'above' (i.e. external stakeholders such as UN), to 'below' (i.e. national civil society), to 'within' (i.e. the concerned state), and to 'without' (i.e. international civil society/NGOs).

In doing so, it has become clear that while the government has made much progress on its transition to democracy, and has given space to international organisations to implement various rights-based initiatives, widespread violations persist (New York Times, 2017; Van Hagen, 2017). At the start of this research, I might have assumed that internationals have the power to define, to produce knowledge, and to respond to illegitimate behaviour (Crotty, 1998; Ugwudike, 2015). In reality, on the ground, the situation and its accompanying power relations are far more complicated. Taking a critical perspective has allowed me to challenge the 'taken for granted' belief in society that presumes state (or UN) legitimacy and power (Schwendinger & Schwendinger, 1970; Ugwudike, 2015).

## Methods

This thesis takes a qualitative research approach in a bid to draw out the meanings that people attribute to their experiences, and to gain knowledge from a particular cohort's lived reality (Grbich, 2013; Johnson, 2009). Critical qualitative research therefore attempts to prevent misconceptions, voice previously silenced populations, and empower emancipatory knowledge, by challenging the status quo (Crotty, 1988; Schwendinger & Schwendinger, 1970). These qualities are particularly useful in the context of exploring the way powerful international agents think about human rights reform, how they develop policies and practices to achieve that goal, and how these impact those 'on the ground'.

Qualitative research is also a reflexive process. Reflexivity refers to a thoughtful and self-aware approach where the researcher turns a 'critical gaze towards themselves' (Finlay & Gough, 2003:3). It places the researcher within their context. As a methodological tool, reflexivity is used to legitimise research by accepting the researcher as a central figure who 'actively constructs the collection, selection and interpretation of data' (ibid:5). It is a way of

being honest and ethical in conducting research. This sense of transparency takes accountability for the way personal values and beliefs impact the research (Crotty, 1988). Being 'reflexive' is acknowledging 'we are always on some corner' (Richardson, 1992:104), and to give an account of the story behind the research. Failing to acknowledge these interests implicit in a critical agenda, or to assume that research is value-free or neutral, is to assume `an obscene and dishonest position' (Shacklock & Smyth, 1998: 6).

Anderson (1989) argues that reflexivity is crucial in keeping research findings openly creative in the generation of ideas by preventing the research data from being poured into a given theoretical mould. This is important because dominant ideas and positions can have a significant impact if there is no self-reflective problematising of the 'taken-for-grantedness' of attitudes toward things like: the researcher's constructs; the informant's common-sense constructs; the research data; the researcher's ideological biases; the structural and historical forces that inform the social construction under the study; and the significance likely to be attached to the text by the reader of the account (in Shacklock & Smyth, 1988:6). Below, a brief overview of my cultural background and upbringing will be provided to show how these methodological considerations above are relevant to the present study. As the researcher, it would be wrong to assume that my personal experiences have not played a role in what this thesis explores; the problems it seeks to understand, and the objectives that define its purpose. To this end, I will discuss how my personal story has shaped the present study and how my work experience enabled me to establish the legitimacy needed to access key contacts, and build the trust needed to access sensitive information.

### *Background to the Fieldwork*

Having a Cambodian mother has meant I have grown up sensitive to the issues in Southeast Asia. I have heard many stories of how repressive conditions affected my mother and her family, as well as those in the wider community. My father, after meeting my mother, dedicated his life to alleviating these harsh conditions in the best way he could. Over the course of my life, I watched him help the rural people of Cambodia, Thailand, and Myanmar to name a few, to develop their livelihoods through sustainable farming. I saw the impact this had on the people, and I saw him struggle through countless levels of bureaucracy. He had a strong desire to help those in need, and a deep understanding of the people through years of

immersion in the Asian culture. He even became fluent in Khmer and Thai. But his desire to help was often limited by the interests of the organisations for which he worked, specifically by those who sat at their desks from afar giving formulaic direction. I saw the tension this caused in him, but he showed me the importance of persevering, for the difference such work had on the lives of people was worth the struggle. He instilled in me the importance of responding to need, despite bureaucratic challenges and obstacles.

As I reflect upon my criminological journey, I realise this played a major role in the research process, and directly shaped its form. Initially unsure of what to research, I had a strong desire to focus my study on responding to need. Undeniably, this 'need' had to be ensured through extensive interaction with those 'on the ground' rather than from the comfort of my New Zealand home. Hence my predisposition toward qualitative research. At the time, my father worked for UNDP in Yangon. So I successfully applied for an internship at the International Labour Organization (Nov 2013 - Aug 2014) where I held three (ultimately-successful) objectives for my time in Myanmar: (1) Attain experience in the field of international assistance; (2) Develop a professional network; and, (3) Identify gaps in research that would serve as a relevant Master's thesis drawing upon (1) and (2).

During my professional interactions, across various UN agencies, general concerns came to light about the lack of independent research that evaluated the impact of international assistance. My return to academia to undertake this study was motivated to address this gap in some way. I enrolled, refined my research focus, submitted the proposal and began applying for ethics. Fortunately I had successfully applied for the Prime Minister's Scholarship for Asia (PMSA), which covered my flights, insurance and a contribution toward living costs for the eight-week programme (total of $3850). However, one month into my study, my father passed away on his annual climbing expedition. At this point I suspended study for three months. Upon my return to study, I had intended to reside with him during the fieldwork as financing the eight-week research phase was difficult. After informing the scholarship fund of my loss, they kindly amended their offer to include accommodation costs, giving me another $2800, which enabled me to pursue the research. I also successfully applied for a $1070 Faculty grant, from the Faculty of Humanities and Social Sciences, at Victoria University, which paid for most of my travel and communications costs, plus a little extra for gifts to show appreciation to my participants.

Having this support to follow through with my research was more than just financial. During a time when I so easily could have walked away indefinitely, those two grants made it simply a matter of whether or not I could physically take myself back to Myanmar to carry out the data collection, in a place I shared exclusively with my father. I decided to push forward as I was determined to complete my journey. In Yangon, I stayed at a small hotel in the central business district for eight weeks (1 June – 26 July 2016). This was a challenging period. I was grieving for my father and it was the first time I had lived in solitude, without friends or family. But, I was committed to remain strong and focused, for the sake of achieving my research objectives in Yangon. Staying in touch with family and friends was an important form of support during this period.

Following my return to Wellington, I was forced to suspend my study again to allow myself time to adjust (1 Oct  2016 – 1 Feb 2017). During this time I was surprised to find out that I was pregnant, but determined to push on with the research I did not stop until August for maternity leave (1 Aug 2017 – 1 Feb 2018). During my pregnancy I proceeded with transcribing, analysis and write-up of my thesis. This was particularly difficult as I struggled with nausea, exhaustion, and depressive symptoms from both the pregnancy and grief. I coped with this during study by returning home with my fiance for a few months for extra support from my mother. Because of the time I had lost, I applied for a one-month extension (1 July 2017) before having to stop for childbirth on the 1 August 2017. Adjusting to motherhood was a massive challenge for me, especially since at the time I was in the process of getting back into the workforce. But once our new family settled in, our newfound happiness gave me the strength to return to study for the final month before submission. In this last month, I completed the last of the writing  and the editing.

Given the complex nature of working in Myanmar and the qualitative nature of my research questions, there was no question that I was to undertake one-on-one interviews with participants. I needed a candid account of their journey in Myanmar and of their struggles and successes in pushing the sensitive agenda of human rights. I conducted thirteen interviews in total (refer to appendix three), three of whom were key informants. In social research, a 'key informant' represents an individual who has status in a culture/organisation and an 'insider perspective' of the issue being researched (McKenna & Main, 2013:117). They possess an acute awareness of particular cultural information and are therefore able to provide 'expert knowledge' (McKenna & Main, 2013:115). Due to their position within communities, key

informants can take on the role of gatekeeper, guarding access to those communities. Therefore, they are often necessary to help the researcher gain entry and made contacts within the community of interest (McKenna & Main, 2013).

*Establishing researcher legitimacy and accessing participants*

Research that encompasses human rights attainment is difficult given the sensitive nature of the issues. When exploring the Tatmadaw, such concerns are amplified. The Tatmadaw are extremely closed when it comes to releasing information or providing insight into future direction (Dorning, 2006). The Tatmadaw also exhibit a history of distrust for foreign entities, their influence and ways of governance (as noted above), and have only recently begun to show signs of change under the new democratic administration (Callahan, 2012; Neher & Marlay, 1995). The consequence of this is that internationals have had to learn to tread carefully, and have become accustomed to wariness over what is said, and to whom. Some internationals are still closely monitored by the Tatmadaw and remain on edge about having their visas discontinued.

I knew, then, that accessing people willing to 'talk' would be an extremely difficult task as emails and phone calls would not go far to build trust. Key stakeholders in Myanmar's reforms are also extremely busy as their roles are highly demanding. Having the time to enlighten a young scholar was considered by some as 'a luxury', and by others simply not a priority. For this reason, my previous time with the ILO – where I had built a professional network - became crucial to establishing my credentials as a legitimate and 'safe' researcher for key stakeholders. I depended on three primary contacts who were highly respected in Yangon due to their long-standing working relationship with the Tatmadaw. These people were crucial in referring me to their counterparts and acting as my reference. Although 'snowballing' has been critiqued for not being able to produce a variety of respondents (Lamont and White, 2005), the technique worked in my favour as the research sought to investigate accounts from a particular network. My key informants 'opened doors' as they advised others that I was trustworthy. 'Snowballing' allowed me to access participants who would, through other approaches, have been unattainable.

Lamont and White (2005: 12) suggest that 'snowballed' participants:

> *...tend to be more honest and willing to divulge personal information to researchers who have been validated by someone they know, enabling the researcher both to gather more accurate data and speak to individuals who otherwise may have declined to participate in research with a complete stranger.*

During initial periods of interviews, our connection with mutual contacts not only 'broke the ice' by giving our discussion a starting point, it also helped interviewees feel comfortable about opening up. This coupled with knowing I had worked in Myanmar under an organisation with an established relationship with the Tatmadaw meant that interviewees were, to a degree, able to relate to me as an 'insider'. I was trusted as having an understanding through experience, of working in the country's abnormal and sensitive environment. Further to this, I 'buffed up' my appeal to potential interviewees by tapping into their curiosity of 'how the other was doing', a product of the pipelined nature of operations in Myanmar. People showed interest in the fact that my research brought the perspectives of their counterparts together in a new way. In short, without these contacts and without my previous experience in the field, I would not have been able to access key stakeholders in Myanmar's reforms.

*Conducting interviews*

While most of the interviews were conducted in the participant's office for convenience, a few were conducted in quiet areas of hotel lobbies or cafes. It was important for interviewees to feel relaxed enough to share their personal stories (Dickson-Swift et al., 2009; Watts, 2008). Initially, interviewees were guarded but, as the conversation progressed, they came to believe I was not after sensitive information, but rather a qualitative account of their experiences. I noticed the way in which this helped them to relax, especially when they felt I could relate on how challenging, isolating, but exciting working in Myanmar was. We were able to connect, and I left Yangon with significant stories.

*Ethics*

Before the research was conducted, I applied for ethics approval from Victoria University of Wellington (# 0000022955). Although many internationals were now operating in Myanmar, 'safety' is a natural concern given Myanmar's history and ongoing political instability. This was not just in regards to the researcher but also those interviewed. Given the sensitivities around the issue of 'human rights' and 'Tatmadaw', it was important that all those involved were protected.

By engaging with established international organisations, the associated risk to me was minimal. However, as noted above, establishing researcher 'legitimacy' was critical for the interviews. To the participants, this research was benign in the sense that it simply sought to get an account of their experience working in Myanmar. The only protection needed was to ensure their anonymity and confidentiality. An ethical approach guided my interview technique, where interviewees were not asked to divulge sensitive information.

*Analysing the data*

Prior to analysing the data, I spent several weeks transcribing the interviews. I sent a copy to all those who requested a transcript. All participants were happy with their transcripts and for me to proceed with using the information. Given the qualitative nature of the data I undertook a thematic analysis. Braun and Clarke (2006:79) recommend this method as a useful way of, 'identifying, analysing, and reporting patterns (themes) within the data'. This was an exhaustive process. I read through the interviews first to get a general idea of the categories I could begin to develop. Given the interviews were semi-structured, the interview schedule was a useful starting point for the coding process. I found that every answer could be categorised under seven broad themes: (1) experiences and attitudes; (2) historical ramifications and culture; (3) progress; (4) attitudes toward Tatmadaw; (5) pressing concerns / current problems; (6) progress toward effective reform; and (7) challenges and barriers.  I made a separate document for each broad theme then went back and re-read each interview, carefully allocating interview data into the relevant documents. Once I had everything categorised, I was able to develop distinct themes under each category. This process of going through each interview with a 'fine-tooth' comb to code each point under its relevant theme meant I became

very familiar with the data, and could begin to see the consistencies and divergences in interviewee's answers.

**Chapter Five: Contextualising State Crimes in Myanmar**

This chapter discusses the experiences of (13) internationals who work in agencies tasked with building peace and progressing human rights in Myanmar. At the time the interviews were taken, the November elections were a few months away and internationals were optimistic about the progress that had been made. It charts how they viewed the progression of human rights, given the realities on the ground, and reflects on these perspectives in light of Myanmar's recent events. In the first section, the chapter outlines a working context characterised by conflicting agendas between the worker, their organisation, and the actual needs of the Myanmar people. This section demonstrates that while internationals have a genuine desire to 'help' with the transition to democracy, and to progress human rights, this can be undermined or even lost in the face of meeting organisational biases, objectives and timeframes. The work of internationals can, in turn, serve their own self-interests. For a country coming out of decades of isolation, these issues can be counter-productive in achieving an effective working relationship with the Myanmar government.

The second section outlines perspectives about the context on the ground. Internationals describe the challenges they face in managing their work in a country where the military are entrenched in most aspects of political, social, legal and economic life. While there is a real desire to reform, the transition remains fragile, and held hostage by military interests and ongoing ethnic conflict. Areas of ethnic conflict are also where violations are concentrated, including geoncide. This can frustrate the work of internationals as human rights is a priority while for the military, this is not the case. Internationals have had to adapt to the sensitivities on the ground in order to establish a relationship with tatmadaw to shift harmful practices and attitudes.

<u>The International Remit</u>

> *Human rights! Don't talk about human rights! I'm sick of human rights!*
> *I think we've got human rights all wrong for Myanmar (Interviewee*
> *One).*

The above quote demonstrates how some internationals in Myanmar have become disillusioned with the way human rights is generally approached on the ground. As Interviewee One reflected: '*We bully them, harass them, and bash them around…[it's] absolutely the wrong way to do it'*. For many, this approach was attributed to how the international community sustains dominant narratives on Myanmar that are uniformly negative – such that the situation is '*horrible'* or '*a disaster'*, and that '*call for immediate, emergency'* responses to address the injustice and *'crimes against humanity'* (Interviewee Two). Ten different interviewees explained how this negative labelling places immense pressure on internationals involved in progressing human rights urgently in Myanmar. In reality, some practices can do more harm than good:

> *…Having the special rapporteur fly in, stir up the hornets' nest, bad mouth the government…and then leave? That's not the way we do business. That's not the way we should be doing it (Interviewee One).*

The pressure to achieve certain outcomes within specific timeframes[33] was also explained by informants to hamper their overall ability and '*desire'* to bring about change or '*make a situation better'* (Interviewee Three). As one human rights lawyer reflected:

> *You come in wanting to help out, to make a difference but your contract's this length of time and you've been told by your supervisors that you must do a work plan, outline your expected achievements…then, before you know it, you're imposing your views and your values, and you forget what is proper in this situation (Interviewee Three).*

Organisations structure work in accordance to their established objectives and priorities, underpinned by a set of values and beliefs. Eight different workers thought that this, coupled with their strong desire to help, made their work appear self-interested and paternalistic,

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[33] Setting timeframes is standard practice across the policy sector and can be seen as an important step to ensuring commitment and subsequent action. For example, the UN identified eight 'Millennium Development Goals' which act as a blueprint for stakeholders to address key challenges between 2000 and 2015 (MIMU, 2014-2017).

despite their best intentions. Engagement was led by a need to achieve organisational goals, within a short time-frame, which made it more difficult to keep local needs in perspective. The concern of short-sightedness was a common theme among interviews with those from UN organisations. Interviewee Three explained this was partly due to how easy it is to *'forget what the situation is in your own country and the length of time or the centuries it took to get to your imperfect level of democracy observant of human rights'*. While this infomant acknowledged that change would take time, they also indicated this to be problematic: *'internationals have no time, because they have a budget for one or two years, where they need to accomplish certain things... and to leave their footprint'* (ibid). This illustrates the way top-down pressures can frustrate the work of internationals. For those on the ground, a less forceful approach is needed for best practice. There seems to be a moral dilemma, between 'enforcing human rights' and bringing about change. This demonstrates how in practice, the two are not necessarily correlated. Top-down pressures made it difficult for internationals to do what they felt the situation called for, which in turn hampered their ability to make an impact. Evidently, internationals are driven by the need to perpetuate organisational relevance.

In addition, the sheer number of internationals now operating in Myanmar has resulted in poor coordination where *'they're all competing with each* other' (Interviewee Four). As this informant described, *'they make lots of noise about coordination and cooperation but they tend to work as individuals'* (ibid). In this sense, competition has had a negative impact on Myanmar's need for cooperation, and creates a negative perception of internationals in the field. This in turn, presents internationals with the challenge of overcoming perceptions of mistrust and arrogance.

<u>Serving Self-Interest</u>

The tendency for internationals to focus on their priorities was a common theme throughout the interviews. As part of this, the competitive nature of international aid was often thought to foster an agenda that was formulaic and that paid little attention to diverse needs:

> *[E]verybody comes in and wants to do this and this; 'I did it in this*
> *country and we did it in that country'. It's amazing how we made these*

> *massive decisions based on almost no [grounded] understanding…the*
> *government expresses their desire to reform and everybody just showed*
> *their cookie cutter formulaic programme of the aid industry*
> *(Interviewee Two).*

Informants felt that the tendency for internationals to rely on their experiences in other countries could be attributed to the fact that Myanmar had been closed off for so long. Some interviewees saw that while internationals might reiterate how Myanmar has '*emerged from decades of military rule'* (Interviewee Two)*,* they often failed to actually understand the implications, or act on it in their work. they assume trust and legitimacy based on their institutional values. Those that have worked with the military for a number of years had a much deeper appreciation of the implications of long-term isolation and mistrust:

> *Anything that is foreign to them is considered to be suspicious…so you*
> *cannot go into a meeting and want certain outcomes. That's not going*
> *to happen at the first meeting nor is it going to happen at the second or*
> *third…and don't go in there with such bloated, high-flown terminology*
> *and concepts…they have very little time for people who talk without*
> *'substance' (Interviewee Six).*

These seasoned workers were of the view that many other internationals were clouded by their own agendas and expertise, leading one to remark that they avoided working with the international community '*as much as physically possible'* (Interviewee Seven). One informant even referred to Yangon as *'the white noise',* where '*information is just going around'* in circles (ibid). This attitude toward other organisations appeared to be characteristic of the agents with more direct experience with Tatmadaw and civil society from Myanmar's broader regions. Similarly, seasoned workers felt that internationals rarely understood Myanmar as they '*spend little time in the regions, and with Myanmar counterparts where there is a lot more information forthcoming'* (ibid). For one informant in particular, this has led to a '*very misguided understandings of sequencing*', resulting in '*a lot of people being burned here because they keep pushing things like transitional justice and all these kinds of notions'* (Interviewee Two). This

illustrates how the centralised nature of international organisations can hamper understanding of the wider population, and that organisational objectives can cloud judgement.

All interviewees were of the opinion that progressing Myanmar's democratic transition would help the situation of human rights. One informant described their role to *'essentially to try and influence Tatmadaw to become more of a Western style professional military that will observe Western standards'* (Interviewee Eleven). The idea that Myanmar's democratic transition should entail the normalisation of Western values and beliefs was a common perspective among interviewees. While this objective is driven by strategic alliance, in the West where militaries operate under civilian oversight, the understanding is, strategic interests come under a broader economic incentive in trade relations. This demonstrates how workers recognised that Western powers used transitional periods to pursue economic goals. As Interviewee Four explained, this is something that *'speaks to my call very badly'* when dealing with companies that seek to establish themselves or take advantage of labour in countries like Myanmar. For this person, there was a moral sense of injustice about the way economic objectives can undermine the needs of the people.

Nonetheless, informants saw that their work was driven by a clear underlying moral objective: to normalise the Tatmadaw to accommodate human rights values and norms. There was a strong belief that '*there has to be not only an understanding, but a demonstration of compliance to international standards, across the whole board...to all the human rights conventions'* (Interviewee One). This would not only help the Tatmadaw on their way to becoming a 'legitimate' entity, but would serve as a solid foundation for doing right by the people of Myanmar. Throughout these discussions, there was almost no talk of retribution. Indeed, informants regularly reflected that peace and wider human rights progress was more important than retribution or 'justice'. As the same informant noted: *'I'm not saying what they've done in history is right, but I don't think that we can just hang them out to dry, they're part of Myanmar and they're part of democratic reforms'* (ibid). Several others strongly felt the need to shift the focus from the international agenda, to the needs of Myanmar, as one put it *'let's help the Myanmar government to help Myanmar, rather than help ourselves'* (ibid).

These discussons demonstrate how internationals seek to normalise their values and beliefs, and have a strong interest in self-preservation. The centralised nature of international organisations is believed to shelter workers from what is really going on and perpetuate a focus on the organisational agenda, rather than that that of the Myanmar people. This is thought to be unhelpful in addressing Myanmar's diverse needs, especially since Yangon is quite removed from areas of conflict in the outer regions. This indicates that the impact of organisations are often less tangible for those affected by state conflict. While addressing concerns with governmental systems and structures is prioritised as a key part of international asisstance, workers who regulargly engaged with Myanmar civil society were cautious about assuming a 'trickle-down' effect. A few of the more seasoned workers held the perception that internationals have the tendency to assume legitimacy based on the fact their activities upheld principles of human rights. This however is not the case when working with Tatmadaw, as demonstrating organisational legitimacy was believed to be a consultative process where the use of language becomes imperative to demonstrating that they are there to help rather than forces their values and beliefs on the country.

Internationals are perceived to insist on their well-tried modalities as if 'one size fits all'. This can undermine the Myanmar's need of innovative responses to address contextual complexities. Rather, the nature of international asisstance for seasoned workers resemble a competitive business that is often rigid in traditional systems and approaches. This can produce a misguided understanding of what the government needs to prioritise, and can present internationals as self-serving organisations, interested in perpetuating its values and beliefs as part of a growing Western hegemon. In turn, this demonstrates the way realpolitik governs international assistance.


## A Sustainable Transition


A powerful theme that emerged from the interviews was the strong desire on Myanmar's part to reform, but lacking the capacity to do so. The government was seen to be *still figuring things out...and trying to find ways to understand how the rest of the world is doing things'* (Interviewee Three)*. This human rights lawyer felt frustrated that *consultation has not really been a priority'* (ibid) or that the *work of parliament has been opaque and rushed'* (ibid), there was complete consensus on how the government has performed in the face of international

expectations. Leading up to the elections, interviewees were optimistic. There was a strong sense of the '*wheels being in motion*' (ibid) and that progressive change was occurring. As positive changes were afoot, this informant believed many internationals felt obligated to 'let up' a bit of the pressure and that this presented a moral dilemma given the unnegotiable nature of human rights. But as this interviewee concluded, '*even if things are unsatisfactory from a human rights perspective, it's on a trajectory*' (ibid). Evidently, those involved in human rights work felt pressure to 'ease up'. While this was possible for some, for the two human rights lawyers, this constituted negotiating on human rights.

Rapid change characterises Myanmar's transition. Two interviewees were particularly impressed with the progress, and highlighted how '*some of the low hanging fruit they've hit right off the bat, particularly with the release of many political prisoners*' (Interviewee Eight) and their '*hundred-day plans*' (Interviewee Nine). At the same time, those who have worked in Myanmar for a number of years understood that their Myanmar counterparts (including government officials, opposition leaders, local party members and civil society actors) wanted a '*slow but steady pace of change and reform*' (Interviewee Two)*.* Having suffered through decades of military dictatorship has meant that Tatmadaw are patient and highly cautious of the possibility of another coup; '*nobody wants a revolution*' (ibid).

Informants saw the way the military's more restrained agenda, often clashed with the pressure of internationals to see quick results. This created a very fragile and sensitive working environment. Despite Tatmadaw's clear focus on strengthening national security, seasoned workers felt that this was rarely taken this into account when raising the issue of 'human rights' and 'security sector reform'. For Tatmadaw, these issues are highly sensitive as they are percieved as an attack on the military and its vested interests. Extra care has to be taken to raise these issues in a way that facilitate engagement rather than provoke conflict. Seasoned workers advocated a more subtle or 'indirect' approach: '*I would ensure [human rights] is incorporated into every agenda, I would never do so visually…a lot of other organisations work in a similar fashion in this sense*' (Interviewee One)*.* In this way, internationals were thought to create conditions more conducive of cooperation.

Interviewees also understood the power dynamics within the country that contextualised all interactions for change. They reflected that *'there is still a lot of side stepping around Tatmadaw',* especially for the new administration (ibid). While Tatmadaw and the new government were seen to be increasingly aligned, Tatmadaw were still regarded as *'the regulator and authority in terms of political power…and have the ability to tip over the new administration'* (Interviewee Two). As has been seen with the Rohingya issue and ASSK's recent denials, the civilian government often maintained a cohesive front with Tatmadaw, especially in their dealings with internationals. As one informant reiterated:

> *Aung San Su Kyi (ASSK) has already made [it] quite clear…that she is going to be very cognisant and accommodating of some of the Tatmadaw's viewpoints. She's already said we're not going to negotiate outside of the country (i.e. with the insurgent groups)…Take the Rohingya, for example…they're not going to fall on their swords to placate the international community. So, there is a lot of solidarity on that issue (Interviewee Two).*

For political actors in Myanmar, maintaining stability and cohesion during the transition is of utmost importance and must not be undermined by the pressure to meet certain demands or rush through reforms.

Despite the Tatmadaw's powerful position in government, interviewees also expressed their optimism of how the military was stepping back from day to day governance:

> *Up until 2011, regional military commanders were running the local administration (GAD). In 2011, one of the very first things that the former president [USDP] did was demonstrate to the public that they understood the people wanted more involvement in what happens in their communities, so they allowed for them to be indirectly elected...unsurprisingly, one of the very first things that the NLD government subsequently did was have them directly elected. So as*

*Myanmar democratises…the military no longer is involved in day-to-day administration (Interviewee Two).*

While this demonstrates the military's progress and commitment to reform, it has also created *'a massive shift in how the government is run'* (ibid). These changes, however, have slipped from the international radar, simply because *'we don't understand the system'* (ibid) or do not understand the implications of these shifts. Another interviewee, one of the rare few that actually works side-by-side with the Tatmadaw, provided another example with regards to Ministry of Defence practices. Previously, discussions in the Ministry gave recognition to only one representative from each side. Now *'there are microphones for everybody…and all of a sudden, everyone's voice in that room was recognised rather than just the superior'* (Interviewee Six). This represents a major shift in Tatmadaw culture and protocol, integrating greater inclusivity within a strict hierarchy. As this interviewee also reflected: '*I think changes like these are actually much more important than my workshop[34] for example, because they are much more tangible, sustainable, and they have bigger impacts on many more areas than just who sat in the room*' (ibid). For this informant, changed that occurred from 'within' had the greatest impact.

These discussions illustrate the tensions associated with upholding standards of human rights in a country still very much under military rule. The government is seen to still be learning its work and that significant changes on behalf of Tatmadaw, are not necessarily visible to those who are unfamiliar with Myanmar systems. But for the new administration, these changes represent progress, and show how some military cultures are beginning to shift. These changes were believed to have a greater impact than traditional approaches (i.e. training workshops). Rushing reforms was thought to risk stability, as pushing the military too far could cause a backlash. There are still many interests Tatmadaw are committed to protecting (for example, the [current] Constitution). Tatmadaw are still clearly reticent of international influence. Some internationals in turn have felt obligated to let up the pressure in terms of pushing the human rights agenda, and to do so in a way that is less confrontational. Being too forceful was perceived to undermine the state's sovereignty over internal affairs.

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[34] In reference to a workshop held with military officials involved in Myanmar's peace process.

Seasoned workers were insistent about how change had to happen slowly and consciously. For Myanmar, maintaining a stable transition is the key priority and is not something the new administration is willing to jeoprodise. However, their solidarity on issues like Rohingya, has seen genocide and a refugee crisis undo the legitimacy they established with the international community leading up to elections. This presents many questions about the role of less confrontational approaches in adressing human rights in Maynmar as today, mass killings have continued to escalate.

## Blocking Human Rights Work

Despite the apparent progress made by the Tatmadaw, in terms of ceding some power in specific circumstances, interviewees regularly expressed the view that the military remained non-transparent and difficult to engage. This reflected the fact that the Tatmadaw do '*not have a history of transparency and engagement with international actors, or anybody outside of their circle*' (Interviewee Three). For most, this set an uncertain tone, especially as the future of the country rested on positive interactions:

> *There's a concern that you have a partner you don't know that well, that historically you haven't been able to engage with, but is so important to the success of this country' (Interviewee Nine).*

Interviewee Ten identified the difficulty in establishing a dialogue with the Tatmadaw, as their requests for meetings and access to regions of the country were continually denied. Similarly, Interviewee Three explained how these blockages operated:

> *[They occur from] the controls that the government places on us through visas and travel authorisations…There is a difference in treatment between us and other members of the UN family…the interplay between travel authorisations and visas…to what extent that*

> *is bureaucracy or just a conscious will to control and frustrate our work*
>
> *(ibid).*

In the case of one respondent, workers had been unable to obtain a 'host country agreement'. This appeared to be a common theme among the interviews, where informants were clear about the fact that Tatmadaw still maintain power over which organisations they will allow to operate in the country, and the extent to which they are able to undertake their work or carry out their tasks. A well-known example of this is evident in Tatmadaw repeatedly blocking attempts to establish an OHCHR office, despite long-standing conversations between the former Presidents, Thein Sein and Obama.

Such blockages indicate Tatmadaw were not yet prepared to address their situation of human rights and continued to hold perceptions of mistrust towards international human rights agencies. This exemplifies the way realpolitik characterises the Myanmar context, for organisations like the OHCHR would have been obligated to contest to the military's ongoing genocidal policies. To block this and protect their national interests, Tatmadaw refuse certain agencies the ability to operate on their 'turf'. This in turn demonstrates Tatmadaw had no intention of reforming its policies on citizenship, and sought to legally continue with ethnic cleansing.

### *The Concerns of Forced Labour and Child Soldiers*

The following section seeks to reflect the perspectives on the issue of forced labour and child soldiers as a case study of a particular area of progress. Following the government's renewed commitment to address the issue in 2012, there has been significant progress on the front of child soldiers. Although the practice of forced labour dates back to nineteenth century Burma, the British had continued the practice, and it has since become entrenched in Myanmar's modern history as 'normal'. The use of child soliders is part of this 'post-colonial' legacy, that surfaced in response to civil unrest and the subsequent (ever-growing) need for military expansion. However, the progress on eradicating forced labour is believed by all respondents, to be exempliary of constructive engagement in progressing human rights. For the following chapters, this case study provides an important account for demonstrating the modus

operandi of particular strategies identified by interviewees as effective forms of engagment in addressing violations in Myanmar.

One key theme that emerged from the interviews was the fact that the situation in Myanmar has become increasingly complex, especially as the nature and scale of 'challenges' are now more openly known. At the time of the interviews, the general consensus was not necessarily that the situation is getting worse, but rather, that *'now times have changed'* (Interviewee Five), long-standing issues related to human rights have surfaced as the people of Myanmar are better able to openly raise their concerns. For Interviewee Six, this was also thought to be true, that the overall situation of human rights not improved nor had it declined: *'before, we couldn't talk about it, so everybody didn't'.* For example, in relation to forced labour practices, local people would not previously report their grievances to the police or justice system, this was because the perpetrators in these scenarios were the government officials, and police were known to be subservient to the Tatmadaw. However, complaints were now regularly heard as locals felt some protection and safer about speaking out. Given recent events, internationals, leading up to the elections, appeared to have treated the Rohingya issue as 'ethnic conflict'. This arguably served as a dangerous label as it had the potential to downplay the seriousness of the issue or misrepresent the true nature of the issue which was genocide. This conceptualisation essentially hid what was going on from view.

All interviewees could appreciate that some human rights violations could not be attributed solely to the Tatmadaw, rather they had much wider attribution, particularly with respect to insurgent groups. For example, forced labour was undertaken by the Tatmadaw as part of a 'post-colonial' legacy, as these practices had been implemented by the British. Forced labour is recognised as:

> *The historical practice for the military to go into a village, and say okay everybody pick up a shovel, time to start building a road...and a form of 'slavery to government officials; be it as a general administrator, a policeman, or militant (Interviewee Four).*

Understanding how the colonial era affected the culture of power and how this has cultivated fear in Myanmar culture, is integral to understanding how Tatmadaw continued these practices with impunity. As one worker exlained, the authority held by a military commander was consolidated during British Rule, he was a *'boss by definition..his word as final and his power as deliberative'* (Interviewee Five). Once the British left, Tatmadaw continued this practice and it became normalised into Myanmar society, cuture and traditions, *'to the extent that people fear to say no'* (ibid). In Myanmar, this even has its own phrase, which summarises the military's notorious practice of violence as, *'doh bahou ba ga'* which translates to 'or else' (ibid). This created a culture of fear, where people would not question orders, regardless of who gave them. In turn this served to keep people in a state of repression, for as this interviewee explained, *'they've seen the consequences themselves, and they've seen all the suffering in their neighbouring village'* (ibid).

As several informants emphasised, the difficulty with forced labour has been counteracting is it's hidden nature. Unless, people are confident to step forward, it can be hard to dispense help. Interviewee Five discussed how unlike the days where people *'were chained and shackled, and working out in public...you won't know if it's forced labour unless they talk to you and let you know of their suffering'.* For this informant, it was clear that people would continue to suffer out fear and the belief that no-one could help, or that this was a 'normal' military practice. Circumstances like these demonstrate the importance shifting deep-seated attitudes and ensuring that law and legal reforms are understood and 'owned' by Myanmar from the government-level right down to civil society. If the capacity of civil society is unable to keep up with raipid change and *'rushed reforms'* (Interviewee Three), little will change. In this particular case, while the informant's organisation worked directly with Tatmadaw, they also sought to compliment these efforts with civil society at the ground-level. The importance of this is emphasised by the need to innovate new measures to foster capacity building, *'so the people may understand what forced labour is'* (Interviewee Five). For Interviewees Four and Five, breaking these cultures of fear and unquestioned power was key.

As an example, the ILO are widely recognised as the organisation leading on the front of eradicating forced labour and its derivative, child soldiers. Their successful strategy with the Tatmadaw and civil society, coupled with their 'Complaints Mechanism', has not only increased

awareness across the country on forced labour, in turn improving the capacity to resist it, but has also played an integral role in changing the behaviour of the Tatmadaw. Many feel that practices like forced labour, among other crimes against humanity, persist as a result of enduring cultures and mindsets. This could be reflected by the fact that forced labour practices are often not so far removed from corporate working practices, that are regarded as legitimate (e.g. clothing industries, factory work etc.). Thus, positive change is believed to be a *'matter of institutionalising that new mindset'* (Interviewee Two).

The case of child soldiers, is perceived to be a prime example of this. Nine interviewees noted how significant progress has occurred due to *'a very clear understanding and decision from the Commander in Chief through the senior ranks'* (Interviewee Eight). Informants believed that the Tatmadaw *'no longer wish to be associated with child soldiers'* (Interviewee One), they are *'tired of being shamed'* (Interviewee Nine) and have a genuine desire to be recognised and *'rebranded'* as a *'professional military'* (Interviewee Five). Tatmadaw are perceived to be highly ambitious, where having *'pride in their institution'* is believed to be *'at the core of it all'*, in terms of how they engage (Interviewee One). Several informants viewed this shift as a key point of leverage, as international agencies took a central role in the engagement between the Tatmadaw and the rest of the world. At the time, internationals felt Tatmadaw were beginning to take their international reputation seriously and interviewees felt there was a sense of wanting to measure up to other militaries, and *'to hold their own'* (Interviewee Nine), particularly as they wish *'to expand relationships with different militaries in the region and the world, including with the US military'* (ibid).

The six interviewees who had been involved with the eradication of child soldiers were impressed with how Tatmadaw have demonstrated their commitment in *'clamping down'* on the issue. However, for others, Tatmadaw have discharged child soldiers largely as result of *'identification of kids through the ILO complaints mechanism, or through parents and the kids themselves pushing that they don't want to be there and that they're underage'* (Interviewee Four). This illustrates that while Tatmadaw demonstrate their commitment to the international community on this front, the extent of their commitment is in question.

Due to ongoing conflict and a *'serious desertion problem'*, Tatmadaw regiments remain pressured to meet recruitment protocol or quotas to *'keep up their numbers'* (Interviewee Four). For this worker, there was *'no clear evidence…that they are systematically going through*

*every unit'* and discharging underage recruits on their own accord. In this respect, while change has occurred, old protocols that remain in place appear to block any significant cultural shift or undermine institutional commitment to preserve human rights. This has caused one seasoned worker to argue that prosecutions for the recruitment of child soldiers could be *'a very good way to start changing the behavior patterns'* simply because the risk involved would *'increase dramatically'* (ibid). This was an interesting comment made by an interviewee with particular experience in dealing with Tatmadaw, as the demand for accountability presented as a relatively silent topic across the interviews as did the plight of Rohingya.

These discussions demonstrate how internationals find it particularly difficult to build the necessary supports for human rights to develop in the face of deep-entrenched cultures and practice. As Tatmadaw remain selective about human rights work, key areas of progress present the opportunity to understand 'what works', and the need to compliment engagement at each 'level'; from the top, to the middle ranks, and down to civil society. By targeting harmful, enduring cultures and attitudes such as fear, silence, and power, change is believed to be more sustainable.

*Ethnic Conflict*

A key barrier to human rights work is Myanmar's enduring ethnic conflict. While this issue is internal, for Tatmadaw, ethnic conflict is also seen as having an external influence. As one informant pointed out, Tatmadaw have now signed a *'defensive agreement with Russia…which is interesting given its neutral stance of non-alliance'* (Interviewee Eleven). The fact that ethnic armed conflict is also seen as having external influence not only legitimises their desire to have more autonomy in the face of *'externals using them as proxies',* but their *'need to be in Myanmar politics, in order to help the country'* and pacify the nation (Interviewee Six). Thus self-preservation for the Tatmadaw takes on a *'dual politics'* (ibid). This has caused some to believe that while Tatmadaw may have a vested interest in Myanmar's continued ethnic strife, *'they also have a vested interest in forging a stable federal system and achieving nation-wide peace' (ibid)*. A Federal system is understood to enable the uniting of the various ethnic armed groups, which would transform the Tatmadaw into a military that could subsequently deal with foreign threats to its security. However, forging a stable federal government and army is

reported to be hard to reconcile because *'the current structure of Tatmadaw is based on this idea of dealing with internal insurgency'* (ibid). Either way, Tatmadaw have inextricably linked themselves to Myanmar's political future through *'national security issues',* and as the only entity with the capacity to manage both internal and external threats. This in turn further eliminates the possibility for any significant retribution as they remain integral to the political stability of the country.

## Prioritising Peace

> *It actually doesn't matter what [Tatmadaw's] reasons were, they started the process (Interviewee Four).*

In light of the previous discussions contexualising Myanmar's working context, this last section provides an account of how internationals perceived the prioritisation of peace. To this end, interviewees identified Myanmar's desire to 'catch-up' with its neighbours as a key platform for engagement. Rather than pursue accountability for violations as a form of resistance, interviewees favoured the idea of incentivising change in order to transfer power. These perspectives are underpinned by the need for a stable transition as the military still have the ability to take-over the government. While many questions regarding the rationale behind Myanmar's transition continued to hang in the air, most interviewees did not seem to allow themselves to openly speculate on the 'why'. The general consensus was to seize the opportunity - Tatmadaw have been accepted as a necessary part of positive solutions for Myanmar problems, and are deemed integral to preventing violations in the future. To this end, while there was no doubt that the 'human rights' movement played a significant role in propelling the transition, 'human rights' was treated as a liability once the transition began, as it was seen to push Tatmadaw away. Now that Myanmar is on the 'sixth step' of its roadmap to democracy, internationals appeared unwilling to jeopardise this.

### *'Catching-up'*

The social and economic destruction caused by the regime's repressive policies has left Tatmadaw with the hefty task of pacifying the nation, in a way that will enable them to regain legitimacy following the Peoples' Revolution. This produced a strong consensus among

interviewees about the *'real desire for Myanmar not to be left out' (Interviewee Two).* For Interviewee Nine this was further explained as a need to be recognised to *'as a global player...at an international level'.* For Interviewee Four, the decision to transition was a pragmatic soultion:

> *It's not because they're good guys, it's because they want to open up the markets and get access to more...It's not because they truly believe they should give rights to the people, no...Nevertheless, we are where we are, and we are on a trajectory.*

Similarly, several other interviewees explained the transition in terms of military self-preservation in the face of culminating pressures. After decades of stagnation caused by the regime, interviewees perceived the commanding elite to be driven by economic development but also by the need to rebrand themselves as a patriotic insitution.

At the time of the interviews, internationals felt Tatmadaw were genuine in their desire to demonstrate change. This was believed to be underpinned by economic development and the desire to make better use of the nation's resource. As one seasoned worker commented*, 'the Generals understood that they were starting to be seen as the world's pariah and realised that needed to change' (Interviewee Four).* By moving to democracy, sanctions would eventually lift, and trade would open to ASEAN and other global free trade agreements.

Tatmadaw were also believed to be threatened by the prospect of prosecutions within the International Criminal Court. Thus, their desire to establish themselves as a 'legitimate' military insitution and government, was perceived as a means of avoiding criminal accountability. For Tatmadaw, maintaining legitimacy is integral to their survival as an insitution. By re-building the economy and undoing the damage of past policies, Tatmadaw believe they may win back the respect of their people and re-affirm their role as a patriotic insitution. While their advantage over government has been legally consolidated in the 2008 Consitution, Tatmadaw are also understood by interviewees to be highly vested in 'rebranding' themselves as a professional military, in the hope that their patrioticism would eventually be acknowledged by the people. For internationals, demonstrations of solidarity between Tatmadaw and the new government underscore Myanmar's decision to prioritise peace. While this pursuit of peace is questioned in the face of mass killings, peace and unity is still integral for the transfer of power.

*Transferring Power*

Informants see that the military had strategically engaged a planned transition to ensure their continued power. Tatmadaw's mantra is to be 'national guardians', such that *'we are here to safeguard the union and we will do whatever it takes to safeguard the union' (Interviewee Two).* For example, Interviewee Four reflected how, in a quiet conversation with the Commander in Chief (CIC), they asked *'When are you going to hand over power back to the people?'* For the CIC, stepping down from power was said to require *'three basic pre-conditions'*: first, a sustainable peace agreement; second, the sustained development of at least two independent national political parties; and, third, that he (among others) were *'comfortable… that senior politicians …parliamentarians…military officers, the civil society, civil service and the general public understand the concepts of democracy…as it would become anarchy until…people understand the balance of right and responsibility'* (ibid). While meeting the second precondition appears feasible, understanding 'democracy' and the 'balance of right and responsibility' as well as achieving a peace agreement in a country that has been marred by conflict since precolonial times, are preconditions that may never be met. This underlines the reality that the Tatmadaw have the ability to remain in power for as long as they see fit.

*Capacity Building and Civil Society*

The Tatmadaw's ability to legitimise its continued power in governance is not only bolstered by their focus on security issues, but by the fact that decades of oppression have also resulted in stagnation and weak capacity among civil institutions. Because of this, interviewees did not yet feel that the new political leadership had the ability to run state affairs without Tatmadaw. This lack of capacity is reported to plague every sector, causing one informant to empathise with Tatmadaw's role and rejects the idea that the military elite were 'nefarious' actors trying to undermine things:

> *[Tatmadaw] nefarious actors trying to undermine things…for example the Attorney-General's office, they're sitting behind stacks of Bills and laws they need to turn, and write by-laws for…but they just don't have the people to do it, or the expertise (Interviewee Eleven).*

One informant who works closely with national counterparts highlighted how this problem is further exacerbated by the fact that community organisations lack the *'writing skills and analysis on paper…simply because of the education system'* (Interviewee Seven). While they all have *'fantastic skills in analysis from listening to the radio and reading between the lines'*, *'they're not able to articulate the needs of their community very well'* (ibid). Because of this civil society has struggled with advocacy which in turn has been seen to result in poor working relationships.

Until this widespread lack of capacity is addressed, informants expressed a need to be cautious in unpicking Tatmadaw from government:

> *Removing something is always easier than putting something in…Unless you have that replacement ready, you cannot remove something…because that's going to lead to anarchy…and that will be the most irresponsible act of any government…If you don't understand how the bureaucracy works, then you're not going to get the country to run. If you can't run the country, people will suffer (Interviewee Six).*

Inevitably, removing the Tatmadaw from politics is not possible at this time. For many, this has placed the prospect of accountability and justice on the backburner. While Tatmadaw's role in government is understood to be at odds with democratic principles, in the sense that *'military should not be involved in politics'*, it should also be remembered that *'Myanmar's current history has never experienced this'* (Interviewee Six). Tatmadaw is so entrenched into political, legal, social, and economic life that they have become a normalised element of Myanmar, where unpicking these ties are perceived as being *'probably worse than Brexit'* (ibid). Removing power in such a way is perceived as irresponsible as informants are cautious of the power vacuum it can create.

Thus, Myanmar's progress is seen to be at Tatmadaw's mercy, key stakeholders such as the U.S. emphasised the fact that the country could not reform without also reforming the military:

> *The transition over the past five years, and specifically the election, wouldn't have happened without the Tatmadaw's consent…whether or not this new government is successful essentially depends on how their*

*relationship with the Tatmadaw goes. If Tatmadaw decides they want*
*to drag their feet...they can scuttle almost everything this government*
*is trying to do. Similarly, if they want to really support, they can make*
*things happen that otherwise couldn't (Interviewee Nine).*

The current context demonstrates that real politik dominates. In turn, internationals must work in ways that build trust and secures legitimacy for civil organisations. While many informants emphasised the fundamental and absolute respect that should be given to human rights, they were also deeply aware that achieving human rights conditions in Myanmar will not be possible without Tatmadaw's acceptance of rights values. Forcing rights could, in the worst conditions, shut down government.

**Chapter Six: International Attempts to Move Away from State Crimes**

As the previous chapter demonstrates, internationals need to be acutely aware of Myanmar's unique history, politics and culture if they wish to operate effectively in the country.  Given that Myanmar is in the midst of a fragile transition that is controlled by the Tatmadaw, internationals must be much more attentive to local realities in order to find ways to flexibly engage and integrate 'human rights' into the Government agenda. To that end, this chapter discusses how human rights reform depends on building sustainable relationships and creating opportunities for the redistribution of power.

## Progress Toward Effective Human Rights Reform

Informants identified factors to facilitate progress toward effective engagement. They saw 'building trust' with the Tatmadaw, as vital to 'getting a foot in the door' and developing sustainable working relationships. Interpreted through a lens of respect and duty, internationals 'build trust' by demonstrating that they are there to 'work with' the Tatmadaw to mutually beneficial ends. Many informants discussed how factors such as language and timing are important elements in fostering respect and understanding between one another. This subsequently opens further dialogue and constructive engagement, necessary for creating opportunities to build capacity and redistribute power. In turn, internationals are able to facilitate progress toward a more democratic situation, cognisant of Myanmar's need for a stable transition. By introducing and integrating democratic cultures and processes, internationals may build the necessary supports for human rights to be normalised into Myanmar society. Ultimately, this will help establish the platform needed for the people to resist state crimes.

### *Cultivating Respect to Build Trust*

> *There is no change until you work with the bad guys. Because basically the change that you're trying to bring to the country revolves around those actors changing their behaviour (Interviewee Seven).*

During interviews, a strong consensus emerged of the need to work with the Tatmadaw to facilitate change. Those working on the ground do not see any other alternative in helping the Myanmar people over the long term, given the role the Tatmadaw continues to play in the country's future. To engage with the Tatmadaw, informants stressed the need to build trust through respect, and to develop a sustainable working relationship that produces positive outcomes for both parties. For Interviewee Five, it is important to clarify the notion of trust for:

> *Trust is something which begins with you. If you want people to trust you, you need to trust them first. We know that we can't trust the government as we don't know them. So how can we trust them, right? Instead we want to cultivate respect, but not to us as people, but to the principles we uphold…that the root cause of forced labour is disrespect of human beings. If you respect human beings you don't make them do things against their will, in as much as you don't like people to force you…It's common sense, isn't it?*

For this interviewee, cultivating respect is not intended to develop the kind of trust found in friendship, but a trust that emerges from work that is consistent, transparent and predictable. Moreover, the above quote demonstrates the way internationals seek to create legitimacy for their values. By delegitimising local values, this human rights worker sought to normalise theirs. While the morailty behind this is not disputed, this demonstrates how internationals must shift the mentality of those they seek to change or influence.

For others, the notion of trust is emphasised through the development of a mutual understanding, or as Interviewee Five put it, '*being the enemy they know*'. Part of this process is to diminish the sense of 'foreign' that the Tatmadaw associates with 'foreigners', in order to foster the sense of '*knowing each other'*, and building trust through respect (ibid). For this worker, internationals are often percieved by Tatmadaw as *'the lip service-happy people that they don't know'.* In a bid to meet organisational objectives, internationals in this case, were perceived negatively as they failed to relate to military officials with the 'correct' demeanor or approach.

Honing the art of diplomacy is identified as a key element in building relationships with Tatmadaw. '*Being able to get your point across in a palatable way is a real art*' and requires '*real skill in dealing with very difficult issues…in a way that encourages engagement*' (Interviewee Three). Internationals must therefore learn how to speak in a manner that resonates with Tatmadaw. The use of language is central to this and can facilitate respect and trust-building. While it is well-known when working in Myanmar and the broader Asia region that relationships and honour are very important*,* one human rights lawyer recalled how this can be easily forgotten in the midst of '*educating*' (ibid) the military or broader government in meeting international standards. As experts in their field, Internationals are perceived to revert to communications that are reflective of the language they use with one another (for example, human rights-base language). This was percieved to exacerbate negative perceptions as such can appear arrogant or insensitive to the realities of Myanmar's isolated history. As Interviewee Seven explained, '*they don't actually have the skills or ability…until there's engagement of some sort'.* Thus, the use of '*o*rganisational jargon' and human rights language was reported to push the Tatmadaw away rather than foster understanding (Interviewee Six).

For the Tatmadaw, such language is based on Western values, which do not necessarily resonate with the outlook and objectives derived from their values and beliefs. Further to this, avoiding certain terms was believed to facilitate receptiveness. As one informant explained '*we never talk about security…as soon as you mention security to Tatmadaw, their ears prick up and they become defensive'* (Interviewee One). The solution to this was suggested by this informant as quite simple: '*you don't call them security issues, you call them other issues'* (ibid). For this person, this simply meant to avoid using for example, the term 'human rights', instead, '*very neutral*' language was felt to go a long way with the Tatmadaw (ibid). The purpose of this was to create the opportunity for further dialogue, and demonstrate that they were there to help, rather than '*there to talk at them'* (Interviewee Six). The use of '*simple, direct, honest*' language was believed speak in a manner that militaries are accustomed to, but also illustrates a grounded and genuine character. This was believed to be crucial to building trust and preventing the imminent possibility of being '*shut out entirely*' before having the chance to hold a meaningful conversation (Interviewee One). Evidently, the 'backfire' of labelling violators as deviants or criminals is perceived by some respondents to be counterproductive to changing harmful behaviours.

*Constructive Engagement*

Stemming from the art of diplomacy is the idea of 'positioning'. This was identified by seasoned workers as a way for internationals to progress reforms in a manner that '*speaks to Tatmadaw*' rather than appearing coercive (Interviewee One)*.* Utitlising this positive approach involves presenting internationals' objectives in a manner where '*the goals you have are almost similar, if not identical with the military*' (Interviewee Two). Interviewees thought that finding ways to embed reforms within key objectives or ambitions of the Tatmadaw was the most effective strategy. Helping the Tatmadaw '*to reach their goal of being a professional military or a country that aims to be fully democratic and developed*' (ibid) was presented by several informants as a key example. This ability however, requires a good understanding of Tatmadaw perspectives and is identified as a key starting point before engagement: '*because you have to understand how they themselves contextualise these issues if at all*' (ibid). For six informants this is understood to be of great importance due to the fact that:

> *Military culture is very unique…you have to understand this mindset…they're conditioned in a very particular way so if you have a certain understanding of how the world works it doesn't mean you understand how militaries work. Because they're not normal, by definition they're abnormal. So to understand the Tatmadaw, and how to engage the Tatmadaw, you need to understand their particular military culture, their institutional culture, and the doctrines that inform those cultures (Interviewee Two).*

While the above passage does not seek to demonise military cultures collectively, this informant sought to illustrate the unusual nature of operating in an abnormal political landscape, one that has been governed by a military institution for six decades. As a military, their added political, economic, and cultural power is what makes Tatmadaw unique.  While the military's emerging younger generation were thought to be more open-minded and receptive, engaging a military official in general is stressed to be significantly different to engaging a civilian politician. Although it may not come so naturally, internationals must hold this in the forefront of their minds and frame their approach around the nature of dictatorship.

Internationals must also familiarise themselves with the confines of the Tatmadaw, because *'military and ex-military are conditioned to follow protocol and rules for most issues'* (Interviewee Two). When internationals have this kind of understanding, they are better able to position themselves and 'c*reate an environment where [Tatmadaw] can say yes*' (Interviewee One). This creates ideal, positive ground for engagement with the Tatmadaw rather than making them feel *'boxed in or that they have to say no'* (ibid). According to this informant, *'a lot of our [UN] organisations just go banging on the table, saying how bad they are then ask for something'*. For Tatmadaw, this simply drives home the self-serving and paternalistic nature of internationals.

Understanding Myanmar's military context is identified as part and parcel of having an in-depth knowledge of how the country is positioned. For a country going through transition, the idea of 'knowledge is power' takes on a very practical meaning for the work of internationals and must be prioritised before embarking on reforms. Several workers agreed that understanding Tatmadaw policies, systems and structures, was key to locating where small but tangible changes could be implemented. This was explained by Interviewee Seven, '[its] *not whether I've done a workshop on human rights…it's about working to change those protocols internally so better decisions can be made'*. Having good contextual knowledge believed to be fundamental to constructive engagement as it enables internationals to better target the root causes of issues and instigate change at a deeper level. This is an important way to shift harmful practices and cultures that give rise to human rights violations.

The ILO's work on child soldiers was often identified by others as '*the single best example of constructive engagement*' (Interviewee Two). The success behind this is attributed to the ILO focusing on one important but tangible change that not only aligns with several ambitions of Tatmadaw (e.g. peace-keeping operations), but provides a platform for further engagement on the more sensitive issues such as addressing cultures of fear and coercion within Tatmadaw that sustain harmful practices. For the ILO, the key message they sought to convey was that addressing the issue of child soldiers was not only about the fundamental nature of human rights, but about Tatmadaw repositioning themselves and regaining the trust and admiration of their people. Thus 'human rights' was used as a vehicle for rebuilding Tatmadaw legitimacy.

The military's issue with desertion and recruitment[35] represented an opportunity to illustrate how unstainable their reliance on coercion was. This enabled positive engagement as they began work with local regiments, *'to try move the emphasis away from doing things by form of fear'* (Interviewee Five). To this end, the importance of public relations was framed as an opportunity for Tatmadaw to show the people of Myanmar that they are changing *'bit by bit'* (ibid). As Interviewee Five described to a group of Tatmadaw officers:

> *When the mother and father arrive at your regiment, looking for their son…prove…that you will react to them nicely, even if their son is not in the regiment…this is part of changing your image…an opportunity for the people to see that you are not their enemy*.

Very few international organisations are able to have these kinds of conversations with the Tatmadaw. For seasoned workers, it is these conversations that take place behind *'closed doors'* (Interviewee Six) that show the Tatmadaw respect, rather than the shame that can be elicited in the more publicised or formal discussions. The Tatmadaw are believed to be more inclined to listen under these circumstances, making it a powerful way of *'working under the radar'* (Interviewee One).

*Coordinated Response*

Creating the opportunity to shift deep-entrenched cultures requires a concerted effort between internationals, Tatmadaw, government, and civil society. There was a consensus across the interviews on the importance of building the capacity and confidence of the people (including civil neworks) to overcome the *'psychological edge'* (Interviewee One) that the

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[35] As explained by Interviewee Four, Tatmadaw are experiencing a *'serious desertion problem…where many people, adults and kids, run away'*, and a *'recruitment problem where it's not necessarily the career of choice for people'*. While there are still volunteers who join the military, the balance between the losses through desertion and retirements are not necessarily offset by the recruitment.

Tatmadaw have long held, and, establishing channels that facilitate these processes[36], while at the same time, shifting the mind-set and attitude of Tatmadaw away from historically engrained and harmful practices. Progressing change requires a more holistic and integrated approach, rather than relying on top-level engagement and the years it could take for the message to trickle down from senior ranks. More importantly, this approach accommodates the highly structured, non-homogenous nature of the Tatmadaw. As emphasised by Interviewee Five, '*Tatmadaw is not a singular entity'*, therefore differentiating between the various levels of the military is crucial to effective engagement. For example, the role of senior Tatmadaw officers is largely political therefore engagement with them works to influence policy and strategic direction, as they '*call the shots'* (ibid). Mid-level officers are responsible for managing orders for lower-level officers to carry out. Engagement at medium-lower levels can be difficult due to conflicting interests – for example, while children are no longer to be recruited, demanding recruitment quotas remain in place. Further to this, the way Tatmadaw is structured means that each regiment is discrete from the other. For example, one regiment could be strictly against the recruitment of child soliders among their ranks, another regiment may be less so. This demonstrates the importance of bringing about change or 'resistance' from 'within'.

Internationals must understand these discrepancies or conflicting interests if they seek to progress change that is sustainable, rather than force recruitment through alternate routes[37]. As one worker explained, '*[Tatmadaw] are in a very big system and have to face each other all the time*' (Interviewee Five). So while regiments remain under pressure to meet high recruitment quotas, as Interviewee Four explained, some senior military officers are willing to '*turn a blind eye'* to the intake of children, while others will not. The elusive nature of these differences cause organisations like the ILO stress the importance of ensuring that any engagement is balanced and integrated across the strata, from the different levels of Tatmadaw right through to government and civil society. Several Interviewees emphasised the importance

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[36] There are currently three main channels for Myanmar people to report cases of child soldiers: (i) the ILO Complaints Mechanism, which also deals with cases under the broader forced labour mandate; (ii) the Country Task Force for Monitoring and Reporting on Grave Violations against Children (CTFMR) Hotline, which is run by a joint coalition of 11 international organisations, chaired by UNICEF; and, (iii) the World Vision Hotline.

[37] According to the ILO, since the recruitment of children has declined, recruitment patterns have adapted and now place those with disabilities at greater risk. For as a group, individuals with physical or mental impairments are perceived to be more receptive to manipulation by recruitment agents.

of ensuring that there is a strong commitment at the top of the chain, and a clear understanding of changes through the ranks. Civil society groups also need to understand their rights, and there must be a broader commitment, from government agencies, that the Tatmadaw will be held accountable for failings. For the ILO, integrating this type of engagement at every level makes it more difficult for state crimes to persist.

### Incentivising Change Through Inclusion

Constructive engagement, for many informants, entails the notion of 'inclusion' and 'soft power'. Inclusion was perceived to be an effective means of 'exposing' Tatmadaw to the advantages of Western or democratic systems. As one defense representative reflected:

> [S]howing people what your country is like, in itself is a soft power. If what they see is attractive to them then they might be more keen to adopt it…it's a slow approach. At the moment we have colonels and majors coming [to visit] and if they believe that the system you have to offer is better than theirs, then they're more likely to adopt it (Interviewee Eleven).

While these forms of engagement are controversial as they can be perceived as 'propping-up' illegitimate actors, for this person, these concerns were in a way mitagated by Myanmar's commitment to a democratic transition. In light of the sanctions and restrictions placed on Tatmadaw officers and their associations, this informant advocated for the development of military relations regardless of their history. This idea behind a more inclusive approach was that it presented the opportunity to sway people toward '*your way*' (ibid) of doing things, rather than forcing them to. Inclusion presented more opportunities for further engagement, while demands for accountability and sanctions, do not.

The prospect of being part of UN Peace-Keeping Operations (PKOs) was one example of inclusion that reoccurred throughout the interviews. Tatmadaw officers have been deployed on an individual (largely observational) basis to PKOs as a form of exposure and learning. Prospects for the official deployment of Tatmadaw regiments are yet to be decided but are perceived as a major factor in driving Tatmadaw commitment to address the child soldier issue.

For Tatmadaw, PKOs not only present a significant form of revenue, but an opportunity to prove their professionalism on the world stage. It presents a form of threshold for establishing legitimacy and gaining international respect.

Whether the Tatmadaw should be considered as PKO officers remains controversial, especially as they are still involved in crimes against humanity (Green et al., 2015). Interviewee Two, however, noted the importance of being fair and consistent:

> *We've been engaging Thailand for decades, and the military still stages coups and runs its industrial complex…we also give Egypt approx. 1-2billion annually for their military in direct aid and they too still stage coups and operate as a military dictatorship.*

For this informant, the impact of this type of military engagement needed to be clarified: '*just because you engage them doesn't mean they're going to gradually change and be wonderful people, or that the military are going to act in benevolent ways'.* For this interviewee, change will only come about if there has been a shift in values or beliefs; [militaries] have interests and objectives, and unless those change, old practices will continue.

Most informants perceived Tatmadaw participation in PKO activities as beneficial rather than detrimental. As one informant said, it could be a form of '*welcome'* (Interviewee One) into the international community. Although this was said during a time where Tatmadaw were undertaking 'text-book ethnic cleansing' (Safi, 2017), PKOs were identified as an opportunity for further constructive engagement. For many informants, this gave internationals '*the opportunity to have serious conversations with Tatmadaw'* (Interviewee Seven), and to do so in an environment where they will be invested and therefore receptive. PKOs presented an opportunity for internationals to '*inject'* (Interviewee Four) information, training and capacity-building on crucial military issues, such as international humanitarian law, and rules of engagement. They would also give internationals the chance to target military officers involved with the nation-wide ceasefire process. For one informant, this was '*in the hope that what they learn will be brought to bear in their interaction with their government organisations'* (Interviewee Eleven). Further to this, PKOs engaged different levels of Tatmadaw. They attracted the interest of senior leaders, as operations promoted the status and ambitions of

their institution, but also engaged the lower ranks as PKOs offer prospects for revenue, personnel development, equipment[38], and foreign travel.

The importance of constructive engagement therefore lies in the ability of internationals to create ideal conditions for delving into the more sensitive issues, whether the intentions lay in challenging entrenched power structures that enable violations to persist, or introducing new cultures of human rights. At this stage, rather than excluding the Tatmadaw for their actions, inclusion was believed to be the better option as it enables internationals to encourage the Tatmadaw toward new horizons, shifting the onus away from their historically political focus. This approach of treading softly around Tatmadaw, or allowing them to develop better marketing around for example, child soldiers, may ultimate do little to change their behaviour. Today, this becomes increasingly relevant and calls into question whether it was too soon to invite them with 'open arms'.

Ultimately for interviewees, building sustainable working relationships is the most effective means of resisting state crimes as it enables internationals to shift deep-entrenched cultures that give rise to violations of human rights. This was seen with the way the ILO sought to change Tatmadaw dependence on fear and coercion, and empower civil society with the confidence to come forward about their cases of forced labour. Building trust through respect and constructive engagement were perceived as the only ways of forging such relationships with Tatmadaw, due to the highly sensitive nature of progressing human rights on the ground.

For seasoned workers, 'timing' was also important. Shifting mindsets and attitudes that have emerged from decades of practice takes considerable time and persistence. Interviewees continually reflected on the sensitivity of timing, especially in taking a slower approach to build trust and integrate change in a manner that makes human rights more *'palatable'* (Interviewee

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[38] As one informant who worked closely with Tatmadaw explained, depreciation of weapons is a major driver for PKOs. While it depends on how weapons are valued, being deployed overseas can cover depreciation of weapons on top of wages. Soldiers from developed countries get sent on rotations then are brought home every six months whereas developing countries leave their soldiers stationed. This enables them to 'pocket' a lot of money on travel in addition to weapons and salaries.

Three). The pressure of signing international treaties and passing new laws, or rushing through reforms, can risk making Myanmar's situation much worse in the long-term. Interviewee Seven explained this tension in a country struggling with ethnic conflict:

> [W]hen you are working, you need to be very careful that you are bringing all sides together and not encouraging further disintegration, because if we make those splits stronger we risk encouraging a more hard-line part of the Tatmadaw to get stronger, and the subsequent clash.

Seasoned workers explained how developing this kind of awareness can take years as Myanmar's reforms involve so many different, complex entities[39]. By rushing through reforms or treating projects as 'tick-box' exercises, internationals are at greater risk of missing these crucial complexities which can fuel further conflict. Internationals saw that building the necessary supports for human rights could only be done slowly, and at a steady pace, easing the Tatmadaw into reforms in a way that propagates cooperation rather than forcing it upon them and risking the more 'hard-line' part of the Tatmadaw to get stronger. While this approach elicits controversy among the international community as some feel it can '*let up pressure'* or '*compromise the non-negotiable*' nature of human rights (Interviewee Three), being able to strike a crucial balance is emphasised by seasoned workers as integral to maintaining a stable transition.

These discussions show how internationals have adapted to the sensitive and complex nature of progressing human rights on the ground. For these internationals, state crime resistance is approached with a respectful and inclusive manner. For change is believed to be better achieved through compliance or from 'within'. They also illustrate how engaging Tatmadaw is

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[39] For example, one informant explained how the Karen National Union (ethnic armed group), just like the Tatmadaw, is perceived as a single entity by internationals. This perception does not take into account the way militaries function in Myanmar as the KNU is led by its battalion commanders collectively; each battalion has a slightly different 'flavour' and have different relationships with one another (Interviewee One).

perceived as an artform that requires specific knowledge to innovate solutions that are effective, and skill in managing Tatmadaw sensitivities to enable constructive engagement.

## Barriers to effective engagement

As shown above, barriers that diminish the opportunity for internationals to establish useful, sustainable relationships arise due to the challenging and complex nature of engaging the Tatmadaw, and coming to grips with the Myanmar context. This section shows that internationals struggled to work in an environment plagued by mistrust, competition, lack of contextual understanding, lack of capacity, and continued focus on dominant approaches to progressing human rights. These challenges essentially undermined the ability for internationals to effectively cooperate with both Myanmar counterparts and other international stakeholders. Ultimately, this meant that efforts to resist state crimes lacked coordination and momentum.

The culture of mistrust between Tatmadaw and internationals represents a major challenge for working in Myanmar. Interviewees often felt that Tatmadaw perceived them as supporting ethnic armed groups such as the Arakan Rohingya Salvation Army. As discussed in the previous chapter, organisational pressures to achieve certain outcomes within specific timeframes, often made the work of internationals appear self-interested and paternalistic, despite their best intentions. Conversely, the tendency for Tatmadaw to remain non-transparent and difficult to engage was perceived by internationals as suspicious and an attempt to block, control, or frustrate their work. Interviewee Nine explained how *'understanding the Tatmadaw is the hardest thing for us – building those links, those connections, but gaining insight into decision making, and into what they're doing.'* Further to this, given that people in Myanmar tend to mistrust Tatmadaw along with other government agencies, they often do not have confidence in new systems put in place for their protection. As Interviewee One said, *'it's all mistrust between national NGOs and national civil society organisations with the Tatmadaw'*.

These contentions are underpinned by issues of legitimacy. While Tatmadaw are active in asserting their sovereignty, internationals must establish legitimacy through constructive engagement. This long process frustrates human rights work as they believe their activities are inherently legitimate as they are underpinned by humanitarian values. At the same time,

internationals must also find ways to build capacity with civil society and navigate around any restrictions that might be in place. Operating within these circumstances created a sense of helplessness for all respondents given their ability to operate depended on their relationship with Tatmadaw.

Interviewees also thought that the influx of internationals into Myanmar had resulted in a highly competitive work environment, exacerbated by a '*complete lack of coordination*' (Interviewee One). Several interviewees commented on how The Country Task Force on Monitoring and Reporting (CTFMR) was an example of how competition between organisations can be detrimental to progressing human rights. Philisophical differences in a competitive field of social development was described by Interviewee Four as '*destructive*' as it caused conflict between organisations working toward a common objective. When deciding on the approach for addressing an issue, disputes can also arise due to philosophical differences between organisations. While organisations are to operate as equals within the CTFMR, in reality, some of the smaller organisations are dependent on the larger ones for funding. This can often hamper the free expression of views and narrows the range of solutions to problems. Although organisations are driven to do the best for the children of Myanmar, bureaucratic structures and competition between international agencies often serve to hamper their ability to do so.

This struggle is also characteristic of the wider UN system itself. As Interviewee Three said, '*anyone sensible would reform the UN fundamentally*' as the more powerful member states, and particularly those on the Security Council, have the ability to influence decisions such as the election of the Secretary General, and the priorities for countries like Myanmar. For Tatmadaw, this raises significant concerns regarding vested interests, and can make it difficult to trust the UN system altogether given the different beliefs and values they prioritise. The election of the Secretary General for example, raised profound implications for a country like Myanmar, as Interviewee Three questioned: '*Do they want a Secretary General that is charismatic and powerful, who would challenge them on a global stage?*' UN stakeholders emphasised how '*every member state, at the end of the day is there to promote their national interests*' (ibid). While this worker believed this to be consistent with UN aims and objectives, in the sense that every nation has a voice, in situations that call for justice, internationals might be more willing to make compromises to fulfil their other interests. Consequently, this can

distort the legitimacy of decisions and their actions, which under the banner of human rights, those suffering are undermined.

As detailed previously, the lack of contextual understanding is one of the most significant barriers for internationals to overcome. Developing an understanding of Myanmar's history and cultures, but also the various systems and structures including how they function, can take years. This can be very difficult as the government does not advertise how it functions and, within government, everything is '*stove-piped*' (Interviewee Two). In this context, internationals often engage the Tatmadaw on 'outsider' normative values or *'what they know'* rather than speaking a language that resonates with them (ibid)*.* While overcoming this challenge may be difficult, it can play a crucial role in establishing respect with Tatmadaw and builds legitimacy for internationals, demonstrating that they understand the system before working to change it.

Interviewees also stressed how extensive experience, even in specialised areas of human rights work meant little in practice without a solid foundation of contextual understanding to apply that expertise. While 'desk work' or even working in Yangon, can mean that internationals elude the vast nature of Myanmar's cross-cutting issues, without engaging national counterparts in the field, internationals acquire little understanding of the peoples' actual needs. Missing contextual complexities when progressing reforms can serve to exacerbate conflict, which is especially dangerous in the midst of a fragile peace process. Coming to grips with the Myanmar context can be difficult as the country has been closed-off for so long. This has meant that most internationals have monitored and understood Myanmar from an external perspective. Interviewees stressed the importance of moving beyond the knowledge that is circulated around the international community as these narratives can reflect the focus or interest of certain organisations which might not necessarily reflect the priorities of the people.

Myanmar is currently struggling with a lack of capacity, in every area of government and civil service. Interviewees reported this as a significant challenge to sustaining progress on human rights. As Interviewee Four explained:

*I think people have come to grips with the fact that you can change as many things as you like from the top, the procedures etc. But if the people on the bottom don't understand it and have not got the capacity to operate within that movement, right, you're not going to get the change and potentially you're going to get conflict.*

For this interviewee, building capacity was not just a matter of understanding rights, but helping the people to know how to navigate Myanmar's changing political context. People must understand what is changing and why, otherwise conflict may arise. Engagement must therefore be balanced at both ends. While interviewees agreed on the importance of 'grassroots' work, to build the capacity of civil society organisations, several felt that internationals actually spent little time in the regions or with their national counterparts. To an extent, this may have enabled the mass killings to esclate today. Some internationals found it difficult to build the capacity of civil society due to the situation of poverty most people were in. For quality assurance, internationals were often forced to outsource work (such as surveying) to international companies, when that should ideally be given to community-based organisations to help build capacity.

Addressing the issue of capacity becomes increasingly difficult as UN agencies operate within strict confines. With the exception of the ILO, UN agencies are not permitted to build government capacity as they are only permitted to undertake humanitarian work. Politics and bureaucratic systems have also restricted the capacity of internationals to address human rights issues. For example, UN agencies such as the United Nations High Commission for Refugees (UNHR) undertaking vaccinations in Myanmar have refused to document violations of human rights out of fear for being pushed out of that humanitarian space by government. Establishing trust with the people so there is confidence in human rights organisations plays an important role in ending cultures of fear and silence and can empower people to challenge state crimes.

Evidently, the case of Myanmar demonstrates that while some actions led by 'human rights' have brought progress[40], internationals have also illustrated many concerns about the problem of implementing rights. As discussed above, many internationals struggle to connect with local communities and tend to be sheltered from what takes place in the conflict zones. Internationals have also shown their wariness in engaging the human rights rhetoric, or making demands in certain areas if they think it will impact negatively in other areas. In effect, internationals have been focused on building legitimacy for Tatmadaw without questioning their continued role in government. This is the sad reality internationals have been forced to accept if they hope to operate on military ground. These approaches meant that internationals also, perhaps unconsciously, set ground for further violations.

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[40] Previous examples include the case of child soldiers; internationals being aware that some Tatmadaw are willing to engage further; and mobilisation of rights across local civil society groups.

## Chapter Seven: Discussion

Many scholars have argued that is it necessary to drive 'human rights' as a key form of resistance (Cohen, 1993; Friedrichs, 2010; Green & Ward, 2000; 2004; Ward & Green, 2000; Lasslett, 2012; Rothe, 2009-10; Stanley & McCulloch 2013). The case of Myanmar presents an opportunity to advance thinking about the 'costs' associated with resisting. While human rights discourse played a useful role in propelling Myanmar's transition to democracy, once the transition began, 'human rights' were treated as a liability in or pushed to one side in favour of other ends. This reticence brings to light the various way internationals have adapted their approach to accommodate their difficult working environment. Today, the end-result has been that serious violations continue to occur despite significant international presence on the ground. The following chapter will discuss this in relation to the key ideas presented in the first two chapters whilst also reflecting on factors internationals identified to challenge or progress effective human rights reform. This will be covered across three sections: 1) understanding the human rights liability; 2) the 'costs' associated with 'resisting'; and 3) The implications of moral relativity.

In light of the research findings, resisting state crimes in transitional states like Myanmar, calls for measures that look beyond retribution and justice, as a means of holding states accountable and ending impunity. While the importance of these are not to be discounted, for those working on the ground, the 'costs' associated with human rights narratives block the opportunity to build useful, sustainable relationships, which are instrumental to change. Moreover, given the way Tatmadaw have carefully and strategically engaged the transition using skilful manipulation to retain power and control, pursuing accountability at the time in the period leading up to elections was perceived as unfeasible and at risk of causing a backlash in the midst of a fragile transition. The following discussion therefore argues that 'human rights' needs to be flexibly engaged in accordance to the Myanmar context, as the moral foundation from which it stems is not necessarily generalisable. Thus resistance efforts need to be specifically adapted in a way that enables internationals to prioritise peace so they can be in a better position to help build the necessary supports for human rights to develop.

## The current context for progressing human rights in Myanmar

In the face of recent escalated mass killings, Tatmadaw continue to hold state interest above the basic human needs of its people. Today, the topic of human rights and Myanmar remain a dominant narrative as the most serious violations persist under the new democratic administration (Green et al., 2015). Ongoing ethnic conflict has been used by Tatmadaw to deny or downplay the situation of human rights, and to further legitimise their ongoing political role. For the vast majority working in Myanmar, the onus placed on propelling human rights as a key form of 'resisting' state crimes has produced a clear sense of 'human rights reticence' on the ground. The research findings demonstrate that *engaging* the military on the issues of human rights requires internationals to flexibly engage key forms of 'resistance'. As discussed in the second chapter, holding states accountable for their crimes is integral to order to challenge cultures of impunity and prevent state interests and operations from being normalised into society (Green & Ward, 2004; Lasslett, 2012; Stanley & McCulloch, 2013). Unfortunately, as realpolitik administrates political area, neither internal state nor international law has managed to deliver a just system of dealing with serious violations of human rights (Rothe, 2009-10; Williams, 2013). The case of Myanmar clearly demonstrates this.

For many people on the ground, the pursuit of accountability measures have been largely put on hold in order to prioritise peace and a stable transition. While there have been few cases of Tatmadaw holding its own accountable[41], the findings illustrate there is little momentum on this front as the government have declared National Reconciliation to be Myanmar's present focus (Pedersen, 2008; Steingberg, 2010). Further to this, despite the change in administration, state denial of systematic violations of human rights is ongoing and culminating in the case of the Rohingya (Green et al., 2015). This speaks volumes to the international community as it projects the priority of national unity and solidarity in Myanmar overseeing her own affairs, and that the prioritisation of those affairs were not to be subjected to the international agenda. As one informant put it in reference to the Rohingya issue, 'they're not going to fall over their swords to placate the international community'. This reflects that

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[41] A recent example includes a rare admission made by Tatmadaw that it would take action against soldiers involved in the murder of ten Rohingya claimed to be 'terrorists' in Rakhine State (Rueters, 2018).

even with the new democratic administration, there remains a strong desire to keep internationals out of Myanmar's politics.

As discussed in the previous chapter, progressing human rights in Myanmar is an immensely difficult and slow task. The reality of this for many has meant that internationals are faced with a moral dilemma as they are forced to define personal boundaries on the means of achieving change. While some appear rigid in their beliefs and the unnegotiable nature of human rights, others feel this approach is 'unpractical' and more flexibility should be exercised so long as it sets the right trajectory. Indeed Aung San Su Kyi (ASSK) appears to be faced with the same dilemma as many attempt to make sense of her silence and denial in the face of gross human rights abuses that persist under the new administration (New York Times, 2017; Safi, 2017). Where once she stood as a symbol of human rights, she now makes significant concessions in order to submit to Tatmadaw and prioritise national 'unity', one that facilitates the removal of those regarded as ethnically different. Interestingly, for those in the country, this sad reality is solely attributed to the power Tatmadaw continue to hold. The decision of the Democratic Party, including ASSK, to work with Tatmadaw despite a violent and oppressive history demonstrates how almost nothing will be allowed to jeoprodise the transfer of power. For some internationals, it is easy to forget how long Myanmar has been immobilised by state repression, and they have been forced to learn patience. Many internationals perceive this as an important reminder of the Myanmar people's desire to maintain a slow and steady transition. Despite the state denials, internationals working on the ground believe that the Tatmadaw acknowledge the situation of human rights needs to change. Internationals feel overwhelmed by the complexity of Myanmar's cross-cutting issues and they highlight the difficult nature of engaging a government that still, to say the least, has a violent military in a powerful position of governance. This suggests that while internationals can sometimes be experts in human rights, the impact of their work largely depends on coordination and cooperation with the government.

In turn, many internationals seek to develop human rights without 'driving' human rights in order to get a 'foot in the door'. The research findings highlight that internationals seek to establish relationships with Tatmadaw while finding opportunities / inroads to establish human rights 'indirectly' (for example, attempting to change the deep-entrenched cultures that give rise to violations). Once trust is developed through constructive engagement, internationals are then in a better position to discuss the more sensitive topic of human rights.

While this seems obvious, the findings demonstrate that internationals can lose sight of this in the field due to organisational (or top-down) pressures to progress human rights urgently in Myanmar. This coupled with a strong desire to help, made their work appear self-interested and paternalistic, despite the best of their intentions. Thus for many internationals, making progress with Tatmadaw depended on their ability to overcome perceptions of mistrust to demonstrate they are here to support, rather than to serve self-interest.

In Myanmar, progressing human rights has become about building relationships to not only enable cooperation, but internalise the need for change. The importance of this relates to Williams' (2013) argument on the importance of reintegration into the international community. For seasoned workers, these modes of inclusion/cooperation are what lead to 'meaningful' change as it builds the necessary supports for human rights to develop. This perspective aligns with Friedrich's (2010) argument where 'the optimal form of resistance in relation to state crime is preventative'. For internationals, prioritising peace and collaboration in the midst of a fragile transition will enable them to develop the necessary supports for human rights to grow[42] and alleviate the suffering that is concentrated in those areas. In doing so, internationals are supporting the reparation of Myanmar's social fabric as a means of preventing or inhibiting the ability for Tatmadaw to continue its harmful practices in the future. However, as the findings emerged, it became clear that the dominant narratives on driving 'human rights' as a means of 'resisting' state crimes (as discussed in chapter two) are not only unfeasible at this stage, but could potentially do more harm than good. The following discussion will look at why 'human rights' represents a 'liability' for those on the ground, and how this relates to the factors identified by internationals as facilitators or barriers to effective engagement.

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[42] Throughout this thesis, the ILO has been used as a case study for effective engagement as their work on the elimination of child soldiers has produced an unprecedented impact in the field. Using the ILO example, their Memorandum of Understanding with the Myanmar government represents a 'necessary support' that consolidates a working relationship. From this, in the absence of an independent judicial system, the ILO were able to establish a Complaints Mechanism which serves to support the Myanmar people in challenging cases of forced labour.

<u>Understanding the human rights 'liability'</u>

Internationals must be acutely sensitive to the Tatmadaw's perspective if they hope to influence their behaviour. Although dominant human rights narratives were useful in propelling the transition, once the transition began, 'human rights' were regarding by internationals as a liability. Thus, influencing Tatmadaw to change its practices, policies and protocol required them to really 'think outside the box', as propelling human rights blocked opportunities to develop useful relationships.

As discussed throughout this thesis, remaining cognisant of the context for any given issue is key to understanding how people make sense of their world. The research findings demonstrate that without this kind of contextual knowledge, it is extremely difficult to influence change as an 'outsider'. Like the foreigner, human rights represents a foreign concept in Myanmar. This is further complicated by the Tatmadaw view that 'human rights' is used as a pretext for influence and Western dominance (Tatmadaw White Paper, 2015). Due to the indoctrination of this view, the topic of human rights can trigger the Tatmadaw's priority of upholding Myanmar's sovereignty at any cost. This reaction is unsurprising when internationals look to Myanmar's history of invasion and abuse by foreigners (refer to chapter three). Extreme nationalism and rejection of outside influences are common cultural reactions to colonialism[43]. The violent and oppressive nature of the military regime transcends from a deep-seated fear and mistrust of the outside world (Steinberg, 2010). As the military became increasingly entrenched into every aspect of Myanmar life, this culture evolved into a crisis of fear that permeated the country and served to isolate the Myanmar people and disbanded civil institutions along with the capacity of civil society. While the population fears the Tatmadaw's power, the Tatmadaw not only fears and mistrusts foreigners, but its own civilian population and ethnic minorities; and are concerned that civilian rule would lead to the break-up of the state (Steinberg, 2010). The findings clearly support this. Workers perceive this use of fear by Tatmadaw as a control mechanism that provides them with a psychological edge. This in turn created a very '*insular*' society, to the point where people can not even trust their family. This demonstrates how fear and mistrust or cultures of denial served as a control mechanism for

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[43] Neighbours such as Thailand and Cambodia have waged their own wars in the past against external influences: Thailand's nationalist movement in the 1990s; and the Khmer Rouge in Cambodia.

Tatmadaw (Cohen, 1993; Steinberg, 2010). In terms of the 'foreigner', internationals are perceived to represent different values and ambitions, but also represent a different way of life that is comparable with Myanmar. This perspective is also symbolic of the Tatmadaw view on 'human rights' and can help explain why Tatmadaw tend to 'shut down' when 'human rights' is invoked.

As discussed previously, the most recent Defense White Paper (2015) highlights how the Tatmadaw responds to the current political climate. They (ibid:3-5) remain highly sceptical of the UN role and go further to claim that:

> …*some powerful states are now interfering with the internal affairs of the smaller nations by using democratization, human rights and humanitarian grounds as a pretext to influence on geo-strategically important regions while these nations are cooperating with the international body for their own development and for regional security* (Ibid:5)*.*

The above position held by Tatmadaw exemplifies how trust remains a key barrier for human rights development and that Tatmadaw are all too familiar with internationals invoking rights, when they may in fact, 'be more willing to make compromises about justice to fulfil economic, strategic, or political motives' (Stanley, 2008:16). Further to this, the White Paper also stipulates an obvious power rivalry between China and India growing, along with their 'attempts to dominate the Asia-Pacific Region' (ibid:6). Whether or not these are genuine threats, the Tatmadaw are clearly concerned of invasion (whether direct or indirect) and do not trust the UN system to protect its national interests.

In this research, humanitarian workers emphasise how difficult it is to integrate human rights into the Tatmadaw's agenda, as it invokes difficult political and technical work (ILO worker). While workers often specialise in the technical aspect of human rights development, the situation in Myanmar also requires workers to be adept in navigating a highly politicised environment of human rights. This requires significant understanding and knowledge of the Tatmadaw's journey and the policies that transcend their philosophy and doctrine. The importance of this lies in the inherent nature of militaries and military culture, where following orders represents a key institutional principle and function. Whether or not a soldier agrees with a course of action, responsibility is deferred higher up the chain. For Muller (1991), this relates to the way state crimes become rational and legitimate courses of action for military

regimes. Green and Ward (2004) describe this to underpin how deviance is normalised in an organisational setting and, as Cohen (1993) showed, it sets the pretext for states to engage denials. Yet, many internationals do not yet understand the histories, structures and systems that govern Myanmar, and without this knowledge they often lack the insight needed to locate where small yet powerful changes can be made to shift away from harmful patterns.

Against this backdrop, Tatmadaw use 'realpolitik' as a means to legitimise their rule. This technique has been documented since the regime seized control, claiming civilian rule as 'incompetent and corrupt' and that they were the only institution capable of running the country (Steinberg, 2010:62). This view still persists, as internationals emphasise the importance of confidence building and trust in civil-military relations. As civilian institutions are very much still 'learning their work', internationals value the need to allow Tatmadaw to hand over responsibility. As discussed previously, some internationals view small changes (such as the military stepping down from the running of day-to-day activities) as having a remarkable impact on the day-to-day running of the country. Broadly speaking, this is what Callahan (2012) referred to as 'the generals are loosening their grip' and demonstrates that Tatmadaw no longer wish to be involved with the mundane tasks of government. For many internationals, this particular case of progress demonstrated the military' commitment to gradually transfer power. Thus the idea of removing Tatmadaw from power at this point is thought by UN bodies to be highly irresponsible, as the responsibility of running the state would fall upon a 'young' and 'inexperienced' democratic administration, and could possibly lead to a collapse of government. This demonstrates how deeply entrenched Tatmadaw are into Myanmar's social, cultural, political and economic life, and how inextricably linked they are to Myanmar's future. This understanding set a clear preoccupation among interviewees to find ways of working with Tatmadaw, without the threat of prosecutions, while building the capacity of civil institutions. The redistribution of power, for them, requires a smooth, longer-term transition.


## The costs associated with 'resisting': blocking pathways to effective engagement


This 'human rights liability' was a resounding theme across the interviews. The sense of fear and mistrust that persists around 'foreigners' and the human rights agenda makes it extremely difficult for internationals to engage the Tatmadaw in the hopes of changing or influencing their behaviour. Thus internationals have focused on supporting the peace process to run its

course, leaving pursuits of accountability or justice for periods that have increased stability. This can pose a moral dilemma for human rights workers as they put significant concerns of ongoing, serious violations on hold. While this kind of concession was out of the question for some, others were more flexible on the idea – pointing out the hard reality that human rights abuses are concentrated in the areas of ethnic conflict. This facilitated internationals' denial of the violations as these areas were distant in proximity, the issue of Rohingya was also treated and labelled as 'ethnic conflict'. This label was widely used among the expats which facilitated denial or downplayed the seriousness, as Myanmar has been in a state of civil unrest since independence (Steinberg, 2010). For internationals, there is a strong link between ethnic conflict and human rights abuses, noting that the areas where civil unrest is heightened tend to be the areas where the abuses are both concentrated and systematic. In turn, human rights violations could be discounted if they did not impinge on the bigger picture of national transition and the redistribution of power. They argued, too, that confronting the Tatmadaw on rights violations would only encourage a more hard-line part of the Tatmadaw to come through[44].

Internationals were also acutely aware that their status and relationship with the Tatmadaw could affect their ability to create an environment conducive of cooperation. Those able to engage the Tatmadaw have long histories of engagement and 'trust'; the kind of trust pertaining to transparency and consistency rather than friendship. For example, the ILO have a long-established Memorandum of Understanding with Tatmadaw which serves to formalise their working relationship. ILO workers are confident the Tatmadaw know exactly how they will react to any given issue, at any given time. For those that have yet to consolidate their working relationship with Tatmadaw, 'going in hot' with a long list of changes needed to meet international standards of human rights, is perceived as a common method of pushing Tatmadaw further away. The onus placed on propelling human rights as a key form of resistance is perceived by some of the more experienced workers as naïve. There was a sense of pity for these internationals as they would inevitably struggle to get Tatmadaw's

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[44] For those foreign to Myanmar, these complexities are very easy to miss as the country is made up, at the very least, fourteen different ethnic armed groups fighting for autonomy; while some have ceasefire agreements, the humanitarian crisis making international headlines captures the ongoing conflict in Kachin and northern Shan states and a refugee crises taking hold in Rakhine state on the border of Bangladesh.

cooperation and subsequently find their days in Myanmar numbered, and their aspirations for change dissatisfied. While all respondents truly believed in the importance of human rights, many were disenchanted with the way it had been delivered in Myanmar, feeling that human rights had been used to 'bully' rather than foster cultural change. This approach has been argued to be at odds with the principles human rights are meant to cultivate, such as respect and preservation of cultures critical for harmony and coexistence, to try and establish a universal moral code through compliance rather than coercion (Williams, 2013).

Additionally, there is also the issue of changing internal moral codes and the deep-entrenched cultures that give rise to systematic violations. Resistance measures that engage 'justice' rather than peace generally operate on the basis of coercion to achieve deterrence. However, in line with the argument of this thesis, Williams' (2013) explains how international law actually fails to deliver either retribution or deterrence and proposes the focus to be better placed on changing internal moral codes to permit reintegration into the international community. This was reflected in the research findings as seasoned workers saw the benefit in finding inroads that bring about changes in a more 'organic' fashion, as rushing law reform was perceived as redundant if Tatmadaw did not believe in the importance of these changes. For those that have worked closely with Tatmadaw, there was a real effort to link the values of Tatmadaw with those enshrined in human rights standards.

This is further reflected by the ILO's work with Tatmadaw on the issue of child soldiers. The ILO sought to use the military's ambition of being a 'professional' military, as a means of eliminating their use of child soldiers. By fostering the will to change from 'within', this approach was able to break-down organisational cultures of denial used by the military to sanction harmful behaviour. While the moral obligation was maintained as a key driver behind such change, it was embedded within the military's long-term objective, which subsequently enabled both parties to establish a platform for cooperation and engagement. In using the Tatmadaw's own values to change their behaviour, their desire to be respected not only by their people, but by the international community meant they could no longer continue using children among their ranks. Given these circumstances and how deeply-entrenched Tatmadaw are in Myanmar life, seasoned workers stress the importance of find ways of 'working with' Tatmadaw, rather than appearing to work 'against' them. On the ground, this means overcoming preconceptions of mistrust and the stigma around internationals as 'self-serving'.

Without overcoming these perceptions, internationals struggle to find inroads for meaningful change in Myanmar's human rights reform.

For internationals, the future of their organisations (in Myanmar) essentially hung in the balance of Tatmadaw's will. Uncertainty with regard to the Tatmadaw's plans remains a key issue for human rights organisations that rely heavily on government 'transparency' in order to plan targeted support. Given the potential for another coup, internationals are faced with the difficult task of not only pushing their agenda on the ground, but doing so in ways that prioritises peace, rather than 'adding fuel to the fire'. This kind of fear and uncertainty is used as a psychological edge by Tatmadaw, to constrain the work of organisations operating on their 'turf'.

These circumstances form the basis of Myanmar's fragile and sensitive political context, in which many internationals struggle to navigate. While internationals may speak about the importance of human rights, Tatmadaw perceives this to be subordinate to maintaining its borders (including its internal 'borders'). As an institution that is defined by organised violence in defence of the state, it has and will engage brutal suppression, to do so. As relationships between organisations improve, internationals feel that they are in a better position to broach the more 'sensitive' topics such as human rights and security sector reform.

Further, it will 'blacklist' those who are viewed as working against them. For internationals, being on the military's 'bad side' limits operations in fundamental ways. Some workers characterised their experiences as a struggle to survive, largely on account of their institution's title. In these circumstances, many internationals distance themselves from the 'stigma' of human rights, by avoiding human rights language.

In light of the recently escalated mass killings by Tatmadaw, avoiding 'human rights' with Tatmadaw has risks. While they might allow certain forms of progress to be made, it can also foster conditions that provide a cover for states to engage in mass violence. Myanmar is, today, in a very different place from when the interviews were undertaken. At the time there was much optimism leading up to the elections as former military-backed government, USDP, boasted ambitious infrastructure developments and were successful in pushing through reforms. Tatmadaw were demonstrating their commitment to the transition, and were working with internationals to rebuild its legitimacy as an institution to show they were 'turning

a new leaf'. Today, much of the previous 'work' to develop relationships and programmes has been lost. As a group, internationals were not 'unified' in their engagement, which effectively reduced the pressure on Tatmadaw. Internationals essentially 'took their eye off the ball' or engaged in denials about the situation in the farther regions, as for many it was hidden from view. These denials were also facilitated by the use of language, where the 'Rohingya issue' was labelled under the broader 'ethnic conflict'. This served to downplay or hide the true nature of the situation from view.

## Conclusion

The onus on propelling human rights as a key form of resistance does not always appear useful in the short-term. The case of Myanmar demonstrates that human rights discourse played a key role in propelling the transition, however, once the transition began, 'human rights' was treated as a liability. Over the course of six decades, Tatmadaw interests have become entrenched into Myanmar's social, cultural, economic, and political life. This has been consolidated through the use of terror and economic power, resulting in fear and mistrust permeating Myanmar's social fabric. These mechanisms have created cultures of denial which have hampered the ability for internationals to establish useful relationships and for change to be sustainable. To be effective in their engagement, internationals need a strong understanding of Myanmar's historical context and military perspective. Internationals' focus on civil and political violations is perceived as "meddling in Myanmar's politics" through an agenda of self-interest and realpolitik. Human rights reform therefore depends on building relationships (i.e. respect, trust, timing, working under the radar, and inclusion/constructive engagement) and creating opportunities for the redistribution of power (i.e. capacity building of national counterparts). Given the way Tatmadaw have strategically engaged the tranisition to legally consolidate their rule, driving 'human rights' as a key form of state crime resistance is perceived by Tatmadaw to compromise national sovereignty. This perception is a product of the strong nationalist reaction and deep-seated mistrust of foreign influence. In order to bring about sustainable change, the findings illustrate that internationals need to innovate different ways of working that are flexible, socially-culturally responsive, and politically attuned. Unfortunately, for many internationals this can mean entering into uncomfortable or corrupting compromises due to the political and economic imperatives they too are subjected to. The corrosive relationship which inevitably ensues under these circumstances calls into

question then, what it means to 'resist' state crimes and whether these internationals can in fact be classified as 'resistors'. In many ways this is reminiscent of Aung San Su Kyi's story; a telling example of the trap international agents can fall into if they fail to collectively confront harmful practices in a bid to perserve other organisational interests.

**The Role of Internationals in Progressing Human Rights Attainment in Myanmar:**
**Meeting Information Sheet**

Thank you for taking the time to consider participation in this Master's thesis study in Criminology. Building on my time with the International Labour Organisation in Yangon (Nov 2013 – Aug 2014), this research will respond to the lack of independent research that evaluates the impact of international assistance on the Tatmadaw. This research will examine the ways in which international actors think about and practice human rights reform, particularly in relation to the eradication of child soldiers in Myanmar.

If you decide to take part in this study, you will be given a consent form to sign. Victoria University of Wellington requires, and has granted, approval from the Human Ethics Committee for this research to proceed.

The Interview

Should you agree to take part, an interview of between 1-2 hours will take place at your convenience. Interviews will reflect upon your experience of international cooperation with the Tatmadaw on human rights reform. At any time during the interview you may take a break or stop the interview. Participation is voluntary. Answering is voluntary.

Participation & Protection

Unless stated otherwise, your organisation will be identified in the thesis. However, you may choose to opt out from personal identification. Interviews will be digitally recorded, with a transcript of the interview sent to you for approval. Here you will have the opportunity make necessary changes to ensure the protection of yourself and of your organisation. Any particular information you deem sensitive can be made anonymous, whereby only the nature of your organisation will be identified.

Should you wish to withdraw from the project, you may do so up to six weeks after the interview, at which point all relevant data (digital recording; transcripts) will be destroyed. Regardless, all data will be destroyed within two years of thesis completion. I may wish to use the data for academic purposes within the two years and I will contact you to ask your permission first.

Feedback & Findings

A summary of the research findings, and a copy of the thesis will also be available to you once completed. Throughout the research process only me and my supervisor will have access to

the data. The thesis will be submitted for marking to the School of Social and Cultural Studies. Findings may also be published in other sources, such as academic journals or conference collections.

<u>Further Information</u>

If you have any questions or would like to receive further information about the project, please contact me via *heidi.dowall@vuw.ac.nz*. You may also contact my supervisor, Dr Elizabeth Stanley at *elizabeth.stanley@vuw.ac.nz* or telephone 0064-4-463 5228 (landline). If you have any concerns about the ethical conduct of the research you may contact the Victoria University HEC Convener: Associate Professor Susan Corbett. Email susan.corbett@vuw.ac.nz or telephone +64-4-463 5480.

## The Role of Internationals in Progressing Human Rights Attainment in Myanmar: Participant Consent Form

If you are willing to be interviewed, please read and tick the following statements:

- I have been provided with adequate information relating to the nature and objectives of this research project. I have been given the opportunity to seek further clarification, or ask any questions.

- I consent to participate in the study as outlined to me.

- I understand I have the right to decline to answer any question or to end the interview at any time.

- I understand that only the researcher and her supervisor will have access to this interview data.

- I understand that the information and opinions I provide will be used only for this research thesis, and related academic outputs such as journal articles or conference presentations.

- I understand that I may withdraw from this study up to six weeks after the interview, without providing reasons and without prejudice.

- I understand that if I withdraw from the project, any data I have provided will be destroyed.

- I understand that when this research is completed, all data will be destroyed within two years.

Please circle preference:

**I would/would not** like a copy of the transcript of my interview. Here you will have the opportunity make necessary changes to ensure the protection of yourself and of your organisation. Any particular information you deem sensitive can be made anonymous, whereby only the nature of your organisation will be identified.

**I would/would not** like to receive a copy of the summary/final thesis and have added my email address below.

**I would/would not** like to use a pseudonym: Preferred Pseudonym: …………………………

Name: ……………………………………………….

Email/Postal Address: …………………………

Sign: …………………………………………………

Date: ……………………………………………….

<u>Appendix Two: Interview Schedule</u>

<u>The organisation:</u>

1.  How long has your organisation been operating in Myanmar and what is its role here?

    a.  What is the nature of your organisation's work in Myanmar? Why does your organisation work in this country / what do you hope to achieve?

    b.  What is your specific role in that?

    c.  How long have you been in Myanmar and how have you found working here? Are you able to tell me about your journey.

2.  What have been your organisation's greatest achievements here? What were the challenges and how did you overcome them?

3.  What initiatives/programmes are currently being implemented?

    a.  Who funds these and could you tell me a little about the remit within which you are required to operate?

    b.  How do you ensure the assistance you provide is what's most needed?

    c.  How does the organisation prioritise its initiatives?

4.  What is the nature and importance of your interactions with national counterparts?

    a.  Have you been impressed by the work or any particular organisation in building CSO capacity?

    b.  Do you think CSOs have the capacity to ensure the protection of rights in Myanmar e.g. build policy, monitor, encourage accountability etc.?

    c.  From your perspective, how are CSOs functioning? What are they doing well? What are they not doing so well? What are their challenges at present and potentially in the future?

    d.  Are there any instances where you've seen local groups able to more successfully navigate certain problems sometimes?

5.  In general, what is it like operating in Myanmar, how does it differ from other countries?

<u>The Tatmadaw:</u>

6. What involvement has your organisation had with the Tatmadaw?

    a. What initiatives/programmes are currently being implemented?

    b. Are there any other groups/organisations involved in these programmes (NGOs, private sector, CSOs, other internationals)?

    c. Why has the organisation chosen to work with the Tatmadaw?

7. What progress [to date] has the Tatmadaw made in terms of human rights reform?

    a. What has been the biggest achievement? What is the most pressing concern?

8. What is the importance or significance of Myanmar's democratic reform for the Tatmadaw?

    a. From your experience, what has been the most interesting disparity between Myanmar's / the Tatmadaw's concept of democracy and that of the West / UN? What are the implications?

9. Do you think the Tatmadaw will eventually remove itself from Myanmar's politics? And what do you think would happen if this were to take place in the next 5, 10, 15 years?

    a. In your opinion, if at all, how would you like to see this process pan out?

10. In general, what is it like cooperating with the Tatmadaw and how does it differ from other entities alike?

11. What are the main challenges in working with the Tatmadaw?

    a. Have you found certain parts/individuals of the Tatmadaw to be more open to working with internationals than others? If so, what do they do? Do you think your organisation has a good relationship with the Tatmadaw generally?

    b. Some people say that the Tatmadaw has a long history of distrust of foreign entities….do you think that's the case?

    c. If so, how does it limit your work and how is it managed?

    d. What are the most imminent risks in working with the Tatmadaw?

The Tatmadaw and Child Soldiers:

12. What is the situation with regards to child soldiers?

    a. Can you tell me about the child soldier situation…what has been the history? What is the current situation? Who is involved? Why have child soldiers been used? How have they operated?

    b. How/why has the Tatmadaw been involved in child soldiers? Why do you think they've decided to shift on the recruitment/use of child soldiers?

    c. Has your organisation been involved in tackling the child soldier issue? If so, can you tell me about your involvement? What's happened?

13. What progress [to date] has there been on the elimination of child soldiers?

    a. What would you say is the next most pressing concern? (e.g. what do children need when they emerge from soldiering - rehabilitation?). For example, have there been any unforeseen implications surface from reducing the incidence of child soldiers? If so, why? And how have they been addressed?

14. What has been the nature of the Tatmadaw's cooperation on the elimination of child soldiers over the years?

    a. Why is it important for the Tatmadaw to eradicate the incidence of child soldiers?

    b. What is the drive behind their cooperation?

15. What is the organisation's strategy in eradicating child soldiers and broader fostering of human rights development in the Tatmadaw?

    a. How do your strategies differ or compliment that of other external agents?

    b. How responsive have the Tatmadaw been?

16. Have you been impressed by the work of any other particular organisation in the eradication of child soldiers?

    a. What interactions between internationals and the Tatmadaw have 'worked' or 'failed'? Who was involved? Why did things work? What required?

Internationals in Myanmar:

17. To what extent do you think that internationals have bombarded Myanmar?

    a. Is there much coordination between the organisations? How do you think it affects their ability to operate in such a melting pot of international assistance?

18. When working in Myanmar whether it be through assisting with development, state building, human rights, or security etc. what do you think internationals need to be careful of?

    a. How would you criticise internationals operating in Myanmar?
    b. In comparison to other countries, how would you describe the rate of progress in here and its dynamics?
    c. From what you've seen, where do you think most of the efforts are focused? At the top? Or at the bottom?
    d. To what extent do you think the impact is sustainable? What about in relation to human rights?

19. Have you been impressed by the work of any other particular organisation in democratic reform or progressing human rights attainment?

20. Have you been impressed by the work of any particular organisation in its engagement with the Tatmadaw?

    a. What interactions between internationals and the Tatmadaw have 'worked' or 'failed'? Who was involved? Why did things work? What required?

21. What motivates the Tatmadaw to listen and cooperate with internationals in Myanmar?

a. What organisation have you seen engage with the Tatmadaw effectively? Why do you think they were successful?

<u>The Tatmadaw and Domestic/ International Relationships:</u>

22. How have the Tatmadaw responded to the shift in power?

a. Other than that crucial 25% of seats in parliament, what remaining ties to /or vehicles of power do the military still possess? How do you predict the Tatmadaw to maintain power across the most recent transition?

b. What importance did the elections have on the Tatmadaw? Do you foresee any further liberalisation?

23. Have there been any changes in the Tatmadaw's attitude toward internationals / assistance over the years?

a. Has cooperation, dialogue and knowledge sharing within the Tatmadaw, and between the Tatmadaw and other institutions increased?

b. What about leading up to the elections and after?

24. In what way does your organisation strengthen the Tatmadaw's capacities?

a. How do you promote transparency?

b. How do you support peace and state-building?

c. Is the organisation involved in fostering trust between CSOs and the Tatmadaw?

d. Are you involved in developing other local organisational capacities at all? If so, what level of interaction do you have with them and what are the main challenges in cooperating with them?

25. How do you think your counterparts and other key stakeholders currently view the Tatmadaw?

a.    What needs to be achieved before the Tatmadaw can be considered for prospects like the Blue Helmets for instance? What other prospects are there for them?

<div align="center"><u>Appendix Three: Institutional Overview</u></div>

<u>UN Organisations:</u>

-*International Labour Organization (ILO)*: ILO established its office in Myanmar in 2002. Its main role was to support efforts for the elimination of forced labour in the country and implement strategies to address its root causes. Throughout the years, the ILO's role has been pivotal in Myanmar's emergence from decades of isolation and military rule by supporting processes of democratisation, freedom of association and good governance in the labour market. Furthermore, the ILO has also been playing an important role in supporting ongoing peace efforts through developing employment initiatives in conflict affected areas.

-*United Nations Resident Coordinator Office (UNRCO):* The UN Resident Coordinator is the top UN official in Myanmar for humanitarian, recovery, and development activities. The Resident Coordinator provides leadership for the UN system in Myanmar to ensure a synchronised approach that consistently supports the achievement of Myanmar's priorities and obligations under international treaties and standards.

-*Others:* two other [undisclosed] UN organisations were involved in this study. One is responsible for providing security leadership and operational support to enable safe and efficient conduct of the UN's programmes and activities. The second is responsible for strengthening the protection and promotion of human rights around the world, including in Myanmar.

<u>INGOs:</u>

-*World Vision:* World Vision has been in Myanmar since 1991. Their main focus in terms of long term development is on children and the communities through financial assistance, education and a means to developing capacity and resilience. They have about 34 programmes spread throughout the country. World Vision are also involved in providing ongoing support to people affected by conflict. They work to encourage savings practices by setting up Village Saving and Loan Associations in the communities

to facilitate internal lending among members. They continue to work at the community level to organise, facilitate, and sustain over 500 community-based organisations.

-*International Committee of the Red Cross (ICRC):* In Myanmar, the ICRC works to provide vital assistance to people affected by violence in the West of the country in Rakhine State. The organisation also visits places of detention. Many of its programmes are carried out jointly with the Myanmar Red Cross Society.

International Think Tanks:

-*Asia Foundation:* The Asia Foundation re-established a resident country office in Yangon in 2013, working with partners in government, the private sector, and civil society to address Myanmar's critical needs. Their work includes building the country's capacity for regional and global integration; strengthening institutions and processes of democratic governance; contributing to informed dialogues on key issues related to the peace process; supporting initiatives for inclusive economic development; promoting women's empowerment and political participation; and increasing public access to information.

*Others:* <u>one</u> other [undisclosed] European think tank was involved in this study. This organisation actively supports many aspects of Myanmar's ongoing transitions, particularly related to peace and politics. Working with a diverse set of local partners around Myanmar on peace process related topics and issues through supporting capacity building workshops, undertaking research and supporting dialogue between key stakeholders.

Diplomatic Institutions:

*United States Embassy:* US development assistance in Myanmar focuses on political and economic reforms, ensuring that the democratic transition benefits the people, and does not contribute to further conflict or division. In practical terms, this has meant the provision of over $500 million since 2012 to support Burma's transition, advance the peace process, and assist communities.

*Others:* <u>Two</u> other [undisclosed] agencies from Western countries participated in this study. These institutions provide funding for aid and development programmes in conflict affected zones as well as in education and agriculture to support the livelihoods of vulnerable groups.

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