

***Burma's Voices of Freedom* and our latest book, *Aung San Suu Kyi from Prison*, have been forwarded to German and Argentinian Courts by a notable diplomat. We are honoured to report that they are under judicial review as documents pertinent to establishing “international jurisdiction” over crimes against humanity committed against the Rohingya by the Burmese military.**

“Aung San Suu Kyi from Prison – And a Letter to a Dictator is a beacon in the dark. By illuminating in vivid detail the catastrophe unfolding in Burma and the world’s indifference to it, Alan Clements and Fergus Harlow shine a harsh but compassionate light on the crisis of humanity at the beginning of the twenty-first century. For anyone who cares about the plight of Burma and the fate of our global village, this book will shock you, upset you, and challenge you to do whatever is in your power to imagine and realize another way of being together in this fragile, vulnerable and suffering world.”

Stephen Batchelor, author of *After Buddhism: Rethinking the Dharma for a Secular Age*.

Courts in Germany and Argentina have received criminal complaints against military personnel in Myanmar in an attempt to establish “international jurisdiction” over atrocities. Fortify Rights, together with 16 individuals in Myanmar, filed a complaint with a German court on January 23rd 2023. The organisation has also been established as “amicus curiae” (friend of the court) in an Argentinian court, where they will likely provide expert information about the Rohingya crisis.

International jurisdiction is only sought in response to the most heinous crimes, such as war crimes, that can be tried in countries thousands of miles away. In a similar function to Fortify Rights, our extensive body of investigative reporting has been submitted to the courts to provide lawmakers with the information needed to establish criminal culpability. Of significance is Alan Clements’ unparalleled access to key politicians, activists and thought leaders in Burma, established over 40 years of close association and on-the-ground research.

As journalists, we’re witnessing a battle to control the narrative by which the culpability of the true perpetrators of these crimes are brought to justice. This includes the calculated use

and misuse of specialist terminology, as well as tactics such as guilt implied by association and omission. In the media, narratives can be sensationalised simply to draw attention to a crisis. Those who have followed our work will know that we present a more complex picture than that of an innocent persecuted minority driven from their homes by “Burmese Buddhists”, a term that has become almost pejorative.

As these trials may draw fresh international coverage, we feel it important to note that Western reporting, with its emphasis on the plight of Rakhine Muslims and the failure of Aung San Suu Kyi, increased on-the-ground violence. This was observed as early as 2016 in a detailed study carried out by CARE International. In a more recent academic study edited by Aim Sinpeng and Ross Tapsell, author Nyi Nyi Kyaw explains that “The Western media coverage of the violence against Rohingyas angered Myanmar’s Buddhist majority, leading to a surge in nationalist and Buddhist narratives online, creating a fertile ground for radical Buddhist nationalist groups to emerge.” (*From Grassroots Activism to Disinformation: Social Media in South East Asia*, Yusof Ishak Institute, 2021).

In anticipation of a forthcoming trial, these are the few specific points we feel are necessary in response counter the prevalence of assumption and inference in the popular narrative:

1. **Facing atrocities, the international community has an unarguable, quintessential responsibility: apportioning blame to the appropriate parties.** The Burmese military failed to do this in Rakhine State, where little distinction was made between terrorists and civilians, **a point made by Aung San Suu Kyi at The Hague.** The international community must be mindful not to make the same mistake in reacting to these atrocities, and instead maintain a clear distinction between the culpability of the military, the civilian government, and the people of Burma.
2. **In summary:** In response to a sophisticated terror attack on 30 police and military posts in 2017, the Burmese military went rogue and did what it has done, **indiscriminately**, to every community in the country for decades. This attack was carried out by a recent Rohingya terrorist group, The Arakan Rohingya Salvation Army (ARSA), but the indiscriminate slaughter characteristic of the army was covered in *Burma: The Next Killing Fields?*, published by Alan Clements in 1990. In 2023, Burma could be aptly described as the next Tibet.

3. **The detail:** Spiralling inter-communal violence between Muslims and Buddhists from 2012 onward led the military to declare martial law in several affected states. Following ARSA's terrorist attack, utilising powers enshrined through a 2008 National Constitution written by the military itself, the Burmese Army implemented a state of emergency. This gave them full control over the response to unrest caused by domestic terrorism, and ultimately led to a series of declared states of emergency which enabled them to seize control of the country, paving the way for the coup d'état in 2021.
4. **Key terms:** According to our evidence, the attack in Rakhine State was not carried out by "insurgents" or "freedom fighters" protecting the Rakhine Muslim community. ARSA is unequivocally a terrorist organisation, and the reluctance of the press to make this point is telling. This was a sophisticated attack carried out by an internationally funded Jihadist group intent on turning Rakhine into an Islamic republic. Not only did ordinary members of the Rohingya community take up arms alongside them, but ARSA had no compunctions about using Rohingya civilians as human shields and threatening many others with death if they did not participate in the mass burning of homes. Failure to acknowledge this is lying by omission, and this is what Human Rights Watch did when it used its platform to publish satellite images of buildings destroyed by arson and then attribute that arson solely to the military. HRW released these images with the title "no smoke without fire", contravening the importance of factual, evidence-based reporting and instead establishing a dangerous precedent of assumption and inference.
5. **The Hague:** A situation that is not genocide cannot be resolved by mislabelling it as genocide. "Genocide" is not just a highly emotive term but a legal one that requires due legal process to determine. While rights groups have used their platforms to publicise that they have "determined the situation to be genocide", this is in fact hyperbole, as they are not in a position to make this determination. In refuting the term at The Hague, Aung San Suu Kyi was not defending the military, whose use of "disproportionate force" she clearly stated could not be ruled out. She was in fact defending her *country* from problematic generalisations that would thwart practical,

real world solutions to a very specific geopolitical problem. In reality, this also protects the Rohingya from the consequences of a moral crusade. Comparable situations determined to be other than genocide include Croatia in 1995 and Kosovo in 1999.

6. **Aung San Suu Kyi and her government were powerless to stop the military onslaught in Rakhine State.** The NLD were not informed of any details, being forced to get their information from places like CNN. Neither did they have any legal means to challenge the military response. Only the international community had the privilege of reducing Burma's terror to the plight of Rohingya refugees. Burma is more than Rakhine State, and however we feel about what Aung San Suu Kyi did or did not *say*, we cannot allow our moral indignation to occlude a humanitarian catastrophe defined by the atrocities of an autonomous military. In attempting the transition to democracy, the diplomacy of a policy of national reconciliation was undertaken specifically prevent the current situation **now brutalising the whole country.**
7. **Media coverage:** The NLD's country-specific policy of national reconciliation – the only recourse in the face of a standing army of half a million with unlimited weapons sourced from Russia and China – has been construed as collusion by those who do not know the specifics of Burma's power-sharing and the tentative nature of Aung San Suu Kyi's premiership. The general public seemed completely unaware of any principle of national reconciliation at all. Judgement is being made without an understanding of the NLD's political philosophy and it's relationship to the crisis. National reconciliation in this case is culturally idiosyncratic and highly geopolitically specific, not an expression of global trends of Islamophobia or nationalism.
8. **Our research:** We transcribed half a million words spoken by Aung San Suu Kyi. This included every TV interview, lecture and press conference, as well as her **clearly stated** position on the Rohingya crisis. We collected hundreds of hours of detailed interviews with key members of the NLD government and other thought leaders. In all this, we did not once find any policy, or even sentiment, that

demonstrated institutional racism or hatred of the Rohingya people from within the NLD. What we did hear were a variety of proposed approaches to addressing their plight. These were consistently ignored by the press, who deemed Aung San Suu Kyi “silent.” A responsible media would have critiqued differences in principles and values, not slandered a head of state. This too has entrenched the prevalence of assumption and inference.

9. Unreported facts: At Aung San Suu Kyi’s request, in response to years of **inter-communal** violence committed by both Rakhine Buddhist and Rohingya communities (including mass murder in the streets), Kofi Annan chaired an independent investigative body that spent a year determining largely socio-economic solutions to the crisis. This was *before* the terror attack that resulted in 700,000 refugees. It’s highly likely that the attack was timed to prevent reconciliation and the implementation of these solutions. Yet Aung San Suu Kyi personally organised an array of redevelopment plans in Rakhine State and accepted almost 90% of Annan’s recommendations. Special courts had already been set up where soldiers guilty of misconduct were being tried and sentenced. Buddhists involved in the inter-communal violence were tried in numbers and given sentences as severe as life imprisonment. This is not the picture presented in a reactionary press prone to simplification and sensationalism to raise awareness. For example, for many years after these events, the BBC’s online timeline still stated “No Buddhists were arrested” in response to the violence.

10. Geopolitical considerations: For many in the international community, the right of the Rohingya to self-identify took priority over the right of the people of Burma to self-govern. In a glaring omission that invalidates self-identification, the rights of the ethnic Rakhine were ignored entirely. The role of 19th century migrant farm labour and the 20th and 21st century’s problem of illegal immigration are not a religious or political ideological spin but historic sociological circumstances. Further, there are numerous economic interests within impoverished but resource-rich Rakhine State that would be impinged by democratisation. This includes forced labour and an abundance of oil and gas, with a pipeline directly from Rakhine State to Yunnan Province in China. Burma’s black market jade trade is equivalent to half the

country's GDP alone, and the supply of drugs trafficked from Myanmar's Golden Triangle area has seen a staggering increase. This is a trend for South East Asia that requires exactly the same transnational cooperation on borders that Aung San Suu Kyi pleaded for during the Rohingya crisis, only to be accused of passing the buck.

11. Consequences of the narrative: Western reporting incited a nationalist response in the Burmese public, where Buddhists who have seen brothers, mothers and lovers raped and killed with little international response were now broadcast internationally on front-page news as the world's new monsters. The military, perceiving an existential threat to the country's sovereignty, abandoned its attempt at a new system of government. Not only did the international community's focus on Aung San Suu Kyi and her party alienate the Burmese people, but the Army took it as license to deem her an enemy of the state. They were right in thinking that they could easily do away with her, and they have. While they have publicised that Aung San Suu Kyi has been moved to house arrest, sources indicate that she remains incarcerated in terrible conditions somewhere in Naypyidaw.

Finally, since the 2021 coup d'état:

- 7,000 civilians have been killed and 3,000 wounded
- 19,733 have been detained, often tortured, raped and even murdered
- Up to 2 million have been internally displaced
- 75,000 homes have been burned

To us, these figures clearly demonstrate that the military's brutality cannot be accounted as an issue of race or religion. In fact, these figures are not indicative of any ideology at all. They are an expression of power through force for the sake of power itself.

We are deeply honoured to think that our many years of work may play a part in bringing the juntas warlords to justice. We pray that our work is accepted, and that these trials not only help to establish the guilt of these soldiers-come-terrorists but also vindicate the innocent and remind the world of the decency of Burma's decades-long nonviolent struggle for human rights and democracy.

“Do not allow the discourse to be dominated by humanitarian issues. Focus equally on the underlying cause of the country’s long-term crisis: the refusal of the military to hand over power after an election it lost overwhelmingly and to end the war it is waging against its own people.” **Chris Gunness** (Director of the Myanmar Accountability Project), in

Mizzima

“[During the first 80 years of the 20th century] almost 170 million men, women and children have been shot, beaten, tortured, knifed, burned, starved, frozen, crushed or worked to death; buried alive, drowned, hung, bombed or killed in any other of a myriad of ways governments have inflicted death on unarmed, helpless citizens and foreigners. The dead could conceivably be nearly 360 million people. It is as though our species has been devastated by a modern Black Plague. And indeed it has, but a plague of Power, not germs.” **R. J. Rummel**, in *Death By Government*

May justice be served.

May peace prevail.

Alan Clements and Fergus Harlow

August 25th, 2023

This statement can be reprinted in full with permission by the authors.

Media requests for interviews, print, podcast radio, TV or written comments:

please email the authors at: contact@worldddharma.com