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Colonial Wrongs and Access to International Law

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E-Offprint:

Kyaw Yin Hlaing, "The Importance of Hearing Colonial Wrongs in Myanmar", in Morten Bergsmo, Wolfgang Kaleck and Kyaw Yin Hlaing (editors), *Colonial Wrongs and Access to International Law*, Torkel Opsahl Academic EPublisher, Brussels, 2020 (ISBNs: 978-82-8348-133-4 (print) and 978-82-8348-134-1 (e-book)). This publication was first published on 9 November 2020.

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Front cover: *Extraction of resources was a primary engine of colonization. The pictures show teak extraction in Colonial Burma by the British Bombay Burmah Trading Corporation around 1920. Above: A girdled teak tree and two foresters. Below: The Corporation used some 3,000 elephants to move logs. The photographs were taken by Mr. Percival Marshall (an employee of the Corporation). TOAEP thanks his great grandson Mr. Ben Squires for making them available and Professor Jonathan Saha for explanations.*

Back cover: *Storing ground used by the Bombay Burmah Trading Corporation. The photograph was taken by Mr. Percival Marshall around 1920.*

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The Importance of Hearing Colonial Wrongs in Myanmar

Kyaw Yin Hlaing*

11.1. Introduction

The three Anglo-Burmese wars between 1824 and 1885 resulted in most of modern-day Myanmar being added to the British Empire. 'Ministerial Burma' (which included the central lowlands, and the coastal areas of Rakhine and Tanintharyi) was administered directly, while the so-called 'frontier areas' (the Chin, Kachin, and Shan areas) were ruled indirectly through existing local authorities. Except for a brief period during World War II when it was occupied by the Japanese, Myanmar remained under British control until independence on 4 January 1948. During this period, the colonial authorities committed specific acts and instituted policies which have been felt as 'wrongs' and given rise to grievances in the post-colonial period.

This chapter focuses on current perceptions of colonial wrongs. It is less concerned with the factual detail of what happened during the colonial period than with how perceived colonial wrongs have shaped national discourse since independence. In taking this approach, it aims to highlight both the importance of understanding colonial wrongs as an influence on policy and attitudes in Myanmar, and the danger of focusing on these historical issues as grievances to be redressed. It stresses the active role that

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political actors and community leaders in Myanmar have played in shaping the memory of colonial grievances, inevitably resulting in an intertwining of these issues with domestic political agendas. In particular, it notes the extent to which nationalists invoke colonial grievances as a justification for restrictive policies and racist attitudes. Any discussion of colonial grievances in Myanmar needs to be aware of this context and approach the issue carefully in order to avoid exacerbating existing problems and tensions.

The first part of the chapter focuses on four specific grievances (immigration of foreigners, exploitation of farmers, exploitation of local women, and 'divide and rule' policies), noting their prevalence in current discussions. The second part turns to the ways in which colonial grievances have been used by influential actors and have shaped domestic laws and policies. The third section considers the situation in Rakhine State as a case study of the ways in which colonial grievance narratives can exacerbate inter-communal tensions. The fourth part follows on from the discussion of the situation in Rakhine State to consider how attitudes towards the international community have been influenced by the memory of colonization, particularly but not exclusively in the context of Rakhine State. The final section considers what these facts mean for a discussion of colonial wrongs in Myanmar and the risks and benefits of such an approach.

11.2. Perceived Colonial Grievances

The experience of colonization was marked by a loss of control – politically, economically and socially. Within these broad themes popular understandings of colonial wrongs have focused on a number of specific policies and developments. Among the most commonly invoked 'wrongs' are: the bringing of Indian and other migrants to Myanmar; the exploitation of local farmers by foreigners; the exploitation of local women by foreigners; and 'divide and rule' policies. What these issues share is a sense that current problems or (perceived) injustices are the result of acts or policies by the colonial authorities.

One issue Burmese nationalists and politicians regularly refer to as a major colonial wrong is the influx of foreigners into what is today Myanmar, brought by the colonial administration. During the colonial period people from different parts of the British Empire were able to enter colonial Burma freely. By the time of independence this had resulted in the presence of a number of immigrant populations. One that received partic-

ular negative attention both during and after the colonial period were immigrants from the Indian sub-continent. Immigrant communities lived in their own enclaves and their interactions with indigenous people were limited to market places.[1] The association of these immigrants with the colonial regime, and the fact that Indians were preferred over locals for positions in the administration, civil service, and police, added to tensions relating to access to land and economic opportunities. Popular narratives have continued to frame these groups as 'outsiders' rather than seeing them as part of the social and demographic makeup of Myanmar. This has encouraged racial intolerance and discrimination, which are linked to fears that these 'immigrant' populations will (try to) take control, through force, by becoming the demographic majority, or by economic means.

To illustrate with situations in colonial Rangoon, a large Indian community lived in the same neighbourhood in downtown Rangoon and had very little interaction with the local people. Moreover, a prominent Myanmar political writer described:

> Betel nut sellers, donut sellers, cloth merchants, store owners and wholesalers, all are Indians. Indians are everywhere: shoe makers to factory owners, policemen to high court judges, medical orderlies to physicians, prison guards to prison wardens, all positions are monopolized by Indians.[2]

A nationalist leader also recalled that the Bamar and other indigenous people felt like foreigners in their own land. The same nationalist leader stated:

> In those days, if you want to get things done, you must be able to speak Indian. Otherwise, you would be looked down upon. Of course, we loathed Indians and the colonial administration because of that. To tell you the truth, such negative and hostile sentiments by indigenous people against Indians served as the underlying reasons for the anti-Indian and anti-Muslim riots in colonial Burma.[3]

The negative attitude Bamar Buddhists developed against Muslims underlay all anti-Muslim riots throughout the post-colonial period. The

1 John Furnivalle, *Colonial Policy and Practice*, New York University Press, 1956, pp. 303-312.

2 Maung Thein Pe, "Indo-Burma Conflict", *Socialism and Our Burma*, Saok Phyant Cheeyay, Rangoon, 1954, p. 174.

3 Interview with a nationalist leader, 23 March 1998.

Buddhist organizations that led the anti-Indian and anti-Muslim riots in colonial Burma continued to exist, and to disseminate anti-Muslim narratives, in the post-colonial period. Some religious leaders went so far as to say that keeping Muslims in check was a way of saving the country from the negative impacts of colonial wrongs.[4]

The questions of economic exploitation and the exploitation of women are also linked to these fears of domination by 'immigrant' populations. Like most colonies, colonial Burma suffered considerable economic exploitation. The economy during the colonial period was largely controlled by British companies, while immigrants from other parts of the British Empire were employed as labourers. In addition to these general trends, popular memory singles out the role of the '*Chettyars*'. These Indian money-lenders provided loans to Burmese farmers. The local farmers lack of financial knowledge, combined with the economic depression in the 1930s, saw many become unable to repay the loans and then forced to forfeit their lands to these '*Chettyars*'. A Karen farmer noted in 1928:

> Tersely and pointedly speaking, Chettyar banks are fiery dragons that parch every land that has the misfortune of coming under their wicked creeping. They are a hardhearted lot that will wring out every drop of blood from their victims without compunction, for the sake of their own interest. One proof of this: 30 or 40 years ago, nine of 10 villagers in the country owned land; now it is the reverse, and the one that has anything, has the same tied up in the hand of the Chettyar rightly [is indebted to the Chettyar] […] Suffice it to say that the swindling, cheating, deception and oppression by the Chettyars in the country, particularly towards the ignorant folks, are well-known and are to a large extent responsible for the present impoverishment of the land.[5]

Recalling how local people suffered at the hands of '*Chettyars*', a prominent nationalist leader and politician, Thakin Chit Maung, made a similar assessment of the lives of farmers in the 1930s:

> All residents of my village including my family were farmers. We did not understand the modern capitalist economy. Chettyars took advantage of us. We lost our land, money and houses. That's why many young people from our village

[4] Interview with a monk activist, 3 May 2004.

[5] Report of the Burma Provincial Banking Enquiry Committee, 1929/30, vol. I, p. 31.

> joined the Saya San Peasant Rebellion. I got a chance to see him (Saya San). He was trying to right the wrong inflicted on our people. That's why we all viewed him as our national hero and leader.[6]

One of the main focuses for concerns about the social and societal impact of colonization and of immigration has been the question of religion. Although the majority of the population are Buddhists, concern is often expressed about Christianity and Islam taking over and wiping out Buddhism in the country. The two main perceived risks in this respect are that members of these religions will have more children than Buddhists, and that they will marry and convert Buddhist women. In both cases, the received wisdom is that this will eventually lead to Buddhists becoming a minority population. The association of these risks with colonialism is due to the perception that the presence of considerable populations of Christians and Muslims dates to the colonial period. In general, Christianity was actively promoted by missionaries who came to Myanmar during the colonial period. Islam was mostly brought less formally, via the immigration of Muslims. Although, it should be noted that there were already Muslim populations in Myanmar before colonization. These differences – notably the fact that members of the current Christian population are seen as the descendants of locals who were converted, while Muslims are the descendants of immigrating Muslims – may help to explain why the Muslims have been subject to particular negative perceptions. Moreover, religion has become another marker of difference for the already ethnically different population who are identified as immigrants.

The current concern with the idea of Muslims marrying Buddhist women engages the concern about loss of social identity to conversion and to the risk of immigrant groups pushing out locals. At the same time, they reflect traditional attitudes towards women, who are assumed to need protection rather than seen as possessing agency. They also encode the idea that women who marry outside their community will lose their social identity and take on that of their husband, in this instance particularly religious identity.

The continuing relevancy of perceived grievances relating to the descendants of people who entered Myanmar during the colonial period highlights the failure of integration. This failure is itself blamed on colo-

[6] Interview with a nationalist leader, 12 September 2002.

nization, which is seen as having created a plural (rather than integrated) society in Myanmar. In addition to being blamed for the endurance of tensions between the original population and the descendants of those who immigrated during the colonial period, colonial policies are blamed for the fragmentation of society and tensions between groups within Myanmar. To this day colonial 'divide and rule' policies are cited as a cause of inter-communal tensions. It is particularly common to hear such complaints in the context of the peace process where they are invoked by governmental actors as an explanation for the origins of ethnic armed conflict. Representatives of the ethnic armed organizations also frequently mention colonial legacies as both a cause of conflict with the Burmese authorities, and as a complicating factor in attempts to promote co-operation among ethnic armed organizations and, more generally, the ethnic groups which they represent. It is notable that since independence many Burmese politicians and administrators viewed the so-called 'divide and rule' policy of the colonial administration as the main source of ethnic armed conflicts in Myanmar. The post-colonial school textbooks and government propaganda argued that some ethnic minority members engaged in armed struggles mainly because colonial administrators had placed a wedge between the Bamar and ethnic minority political leaders. Until 1988, many citizens appeared to have shared this 'blame colonialism' view, such that whenever they did not like the sentiments expressed by someone, they would refer to him or her as having a 'colonial mentality'. It was only after the nationwide protest that toppled the military-dominated socialist regime, that people started attributing more blame to the incompetent and corrupt authoritarian government than to the colonial administration. Nevertheless, officials from successive military governments between 1962 and 2010, as well as analysts close to these autocratic governments, continued to suggest that Myanmar is still being affected by the colonial administration's 'divide and rule' policy.[7]

Discussion of this issue often implies that the ethnic divisions were deliberately created by the colonial administration and therefore frames the legacy of these policies as a 'colonial wrong'. To an extent this may be true. The colonial administration and British observers were largely responsible for the codification of ethnic identities and ascribed particular

[7] The author personally witnessed, at talks and seminars, analysts and former officials from the military regime blaming colonial rule for most socio-political and economic problems in Myanmar.

characteristics to different ethnic groups. They were also probably aware of the advantages, in terms of maintaining supremacy, of ensuring divisions among the colonized peoples. On the other hand, the intent of such policies should not be overstated. The codification of ethnic groups represented a particular worldview as much as deliberate policies of 'divide and rule'. Moreover, the differences in administration between different parts of colonial Myanmar were, to a great extent, dictated by pragmatic considerations of the ease and benefits of direct versus indirect control. Such divisions were largely driven by economic rather than political considerations. Nonetheless, the belief that the British played off different groups against each other and the fear that on the one hand the Bamar (particularly the political elite and the Defence Services) and on the other the international community are engaged in similar policies to weaken inter-communal unity are very present.

11.3. The Use and Abuse of Colonial Grievance Narratives in National Debate

The previous section highlighted a number of issues that are perceived as colonial wrongs and which have an ongoing relevance. Since independence in 1948, a range of laws and policies have aimed to (or claimed to aim to) rectify these wrongs. The perceived problems left by the colonial period have also been taken up by various influential leaders of the post-colonial era and used to bolster their position, to rally support, or to explain current problems. A particular problem has been the use of colonial grievances and the related fears of being taken over and exploited by foreigners, to bolster nationalist (and ethno-nationalist) agendas. This has exacerbated the problems noted above with colonial grievances being used to entrench divisions based on ethnicity and religion. Righting colonial wrongs has become a way to justify discrimination and racial hatred.

Soon after independence, the government enacted the 1954 Buddhist Women's Special Marriage and Succession Act, which aimed at protecting the rights of Buddhist women married to non-Buddhist men. Needless to say, this law was introduced to protect the Buddhist Burmese who were married to 'foreigners' or men of different faith groups.

In 1962, the military took control of the country and established the military-dominated 'Socialist Government'. The Socialist Government introduced a number of policies and measures, with claim that they would bring 'genuine independence' to the people. In the name of 'liberating' the

country's economy from foreign companies and compradors, the Socialist Government nationalized the economy and demonetized the largest currency note. The Socialist Government also passed a new Tenancy Law in 1963, which was designed to protect local farmers. Although the Socialist Government was toppled by mass protests in 1988, its anti-colonial economic policies were initially welcomed by a large majority of poor people. A farmer who wholeheartedly supported the Socialist Government recalled:

> My family lost everything we had during the depression in 1930. We never recovered. We genuinely thought that the Socialist policies would bring the country's economy back into the hands of the majority people. We welcomed the nationalization plan. Most people would not admit this, as the socialist policies led Myanmar to become a 'Least Developed Country (LDC)'.[8]

Beyond economics, the Socialist Government also tried to liberate the country from the influence of Western culture, for example, by stopping the teaching of university courses in English and the wearing of western dress at social and official functions. The leader of the Socialist Party, Ne Win, infamously disrupted a Christmas party with a Western music band without knowing that the party had been organized by his own children. Throughout the 1980s, popular magazines in Myanmar were not allowed to print any photographs with people in Western dress.

The Socialist Government tried to right the problem with immigrants by enacting a new citizenship law. The 1982 Citizenship Law is a good example of both the ways that rectifying perceived colonial wrongs have been included in laws and the problems with the way these issues have been approached. The Citizenship Law sets out an extremely restrictive view of who belongs in Myanmar. It creates three categories of citizenship, which provide a formal structure for defining some citizens as belonging less and having fewer rights than others. These distinctions are based on ethnicity and the duration (in terms of both time and number of generations) of residence in Myanmar. The law provides '*taing-yin-tha*' – defined as members of ethnic groups which were settled in Myanmar before 1823 (that is before the start of colonization) – with a particular privileged status. These factors suggest a link between the Citizenship Law

[8] Interview with a former leader of the Peasant Asyayone, 22 November 1998.

and the perceived immigration of foreigners during and after the colonial period. This link and the association with fears of being ruled by foreigners were made explicit in the speech given by Ne Win on the adoption of the law:

> During the period between 1824 and the time we regained independence in January 1948, foreigners, or aliens, entered our country unhindered under various pretexts. […] We, the natives or Burmese nationals, were unable to shape our own destiny. We were subjected to the manipulations of others from 1824 to 4 January 1948.[9]

Later in the same speech, he explains that the law allows persons who entered the country during the colonial period to be citizens as they were no longer able to return to their places of origin:

> Such being their predicament, we accept them as citizens, say. But leniency on humanitarian ground cannot be such as to endanger ourselves. We can leniently give them the right to live in this country and to carry on a livelihood in the legitimate way. But we will have to leave them out in matters involving the affairs of the country and the destiny of the State. This is not because we hate them. If we were to allow them to get into positions where they can decide the destiny of the State and if they were to betray us we would be in trouble.[10]

These statements highlight the fear that the local population will lose control and links this to the colonial period, both directly and through the emphasis on these people as individuals who immigrated during the colonial era. The speech also makes clear that the intention of the 1982 Citizenship Law was to resolve a problem that was a legacy of the colonial period; namely, the presence in the country of various people of different ethnicities and origins, who had themselves or whose ancestors had arrived in Myanmar during the colonial period and whose citizenship status was (at least partially as a result of this migration) unclear or contested. It is significant for the framing of colonial wrongs in Myanmar that these people are seen as a problem and as a threat. The majority of those concerned were not British or formal representatives of the colonial power, but members of other colonized peoples. However, there is no expression

[9] U Ne Win's Speech on the Citizenship Law, *Working People's Daily*, 9 October, 1982.

[10] *Ibid*.

of solidarity on this basis and no sense that these people might also be considered victims of colonization. Instead, the presence of these people is itself considered a problem and they are progressively framed as perpetrators of that wrong.

As a means of addressing the perceived problem of populations who immigrated during the colonial period and the danger of these groups taking control, the law is problematic. It gestures towards the idea of integration, that is, of bringing these groups into the social and political structures of the majority population, by allowing third generation 'associate' and 'naturalized' citizens to become full citizens. However, at the same time it entrenches a distinction between '*taing-yin-tha*' and other citizens and formalizes the idea that some citizens may be discriminated against based on ethnicity and duration of residence. In doing so, it perpetuates the visible presence of a distinct population identified as a threat and as a residue of colonialism. The restriction of the rights of 'associate' and 'naturalized' citizens, for example, with regard to the right to form political parties and stand for election, reinforce these attitudes.

The adoption of laws and Ne Win's speech demonstrate the attitudes towards people who immigrated during the colonial period that was being put forward by the government. However, it is important to remember that the 1982 Citizenship Law was adopted following popular consultations (although it is unclear how much impact these had on the final text of the law). Despite the criticisms of external actors it remains widely accepted and popular with the local people. This suggests that the attitudes it puts forward, and the concerns to which it sought to respond, have an ongoing resonance with the population as a whole.

This popular endorsement may reflect the extent to which colonial wrongs and particularly the fear of loss of sovereignty have been internalized by the population. When the military had once again taken control of the country under the name of the State Law and Order Restoration Council ('SLORC') after the Socialist Government, it reinterpreted the 1982 Citizenship Law and distinguished ethnic nationality ('*taing-yin-tha*') and non-ethnic nationality citizens by formally issuing a list of 135 indigenous races in Myanmar. The Socialist Government had considered all full citizens as '*taing-yin-tha*', allowed the third generation of 'associate' or 'naturalized' citizens to become full citizens, and at least theoretically, all full citizens had equal rights. Under the SLORC, those who do not belong to one of the officially recognized 'national races' can never be '*taing-yin-*

tha'. Under the 2008 Constitution written by the military government, only '*taing-yin-tha*' citizens can run for the presidency and the vice-presidency. When new citizenship identification cards were issued to the public, Muslims were not allowed to claim their ethnicity as Bamar; they could only choose to be recognized as Bengali, Pakistani, or Indian. Although the military government was terribly unpopular and its Constitution was rejected by the pro-democracy movement, its reinterpretation of the citizenship law was rarely questioned by a large majority of '*taing-yin-tha*' citizens.

The Socialist Government and the subsequent military governments also 'abused' colonial grievances to destroy the reputations of their opponents. Both regimes referred to their critics as 'informants of the (neo-colonialist) Central Intelligence Agency'. The military government also repeatedly tried to denigrate Daw Aung San Suu Kyi by highlighting her marriage to an Englishman – "citizen of the country that enslaved Myanmar and masterminded the murder of the national hero, her father, General Aung San".[11] In addition, there is evidence that the military government actively promoted negative attitudes towards Muslims. One activist monk revealed that he had published some anti-Muslim pamphlets in the early 2000s, with the help of some officers from the military government. Some government officials later admitted that anti-Muslim narratives and discourses were disseminated whenever the pubic was unhappy with the government. A retired government official explained:

> The anti-Muslim sentiment among the Myanmar people has been so strong since the colonial days. It is easy to divert public attention by spreading rumors about how Muslims have abused Buddhists – especially Buddhists. In the early 1990s, the Mandalay Regional Commander tried to find a ruby that disappeared when the British took over Mandalay Palace. There was a rumor at the time that the ruby had been hidden on the body of the Mahamuni Buddha statue. People have been putting gold leaves on the body of the statue for several decades and those who tried to find the ruby had to break the gold on the body apart. Many monks and Buddhist laypeople were very upset with what the regional commander had done, and planned to organize a protest. However, the

[11] Kyaw Yin Hlaing, "Daw Aung San Suu Kyi: A Burmese Dissident Democrat," in Lowell Dittmer, ed., *Burma or Myanmar? The Struggle for National Identity,* World Scientific, 2010, p. 135.

> planned protest turned into an anti-Muslim riot when someone came into the meeting and said that his niece had been raped by her Muslim employer. This is one of several examples of how the military government abused long-held public grievances to serve their interests.[12]

Additionally under the military government, government newspapers regularly mentioned the massacres by the British during the colonial period as a colonial grievance.

It should be noted that the public did not hold the same level of interest or concern across all colonial grievance narratives disseminated by the military government. The government's anti-colonial propaganda was made more effective when reinforced by other influential societal actors, who spread similar narratives. For example, many influential religious leaders shared anti-Muslim narratives in their daily interactions and through their sermons. A study conducted by the author in 2004 and 2005 indicated that the public believed in the anti-Muslim rumours spread by the government mainly because other popular religious leaders had endorsed these rumours. This may also explain why agents from the military government worked with some religious leaders in promoting anti-Muslim sentiments. In contrast, popular opinion was resolutely unswayed by official narratives about the then-opposition leader, Daw Aung San Suu Kyi. A popular writer went so far as to say: "In fact, the military government helped her [Daw Aung San Suu Kyi] out. The more anti-Aung San Suu Kyi propaganda the government disseminated, the more people loved her".[13]

The Thein Sein Administration, which had come into power after the 2010 elections held by the military government, stopped using anti-Muslim narratives to divert public attention. However, because the Thein Sein Government did not take effective actions to contain the activities of anti-Muslim nationalist groups, many anti-Muslim riots broke out in various parts of the country. In order to win the support of Buddhist nationalists, the government passed four 'race and religion laws' in 2015. These laws make inter-religious marriages and the conversion of women, on marriage to a non-Buddhist spouse, more difficult. In both cases the specific concern with Buddhist women helps make clear the interest of the

[12] Interview with a retired government official, 1 November 2004.

[13] Interview with a writer, 4 November 2004.

laws. They are less concerned with women's rights so much as with the perceived danger of women marrying out of their community. This is seen as potentially exploitative of the women, hence the need to protect them from such marriages. Buddhist nationalists framed the 2015 Race and Religion Protection Laws as necessary to protect Myanmar as a Buddhist nation and to prevent the country being overrun by Muslims.[14]

It is not, however, inevitable that anti-colonial measures will be popular or will always continue to be popular. As evidenced by the 1963 Tenancy Law mentioned above, although the measures were popular at the time and people had believed they would bring benefits to local farmers, labourers, and businesses which had failed to flourish even after independence, with the benefit of hindsight it is clear that these measures in fact had a negative impact on the economy and are therefore now criticized by locals.

11.4. Colonial Grievances Narratives in Rakhine State

The inter-communal tensions in Rakhine State and the narratives constructed by different communities around the outbreaks of violence provide a demonstration of the ways in which colonial grievances are invoked and can have a toxic legacy.

Throughout the colonial period, Rakhine State, like other parts of Myanmar, saw an influx of foreign workers, including a large number from the Indian sub-continent. Many of these immigrants were Muslims, which added to the tensions with the primarily Buddhist population. The latent tensions erupted into violence in 1942. The context within which this fighting occurred was the retreat of the British in the face of Japanese attacks. The Muslims largely aligned with and were armed by the British, while the ethnic Rakhine aligned with other ethnic groups who seized this opportunity to fight for liberation from Britain with the support of the Japanese. Despite these larger alliances the fighting in Rakhine State was almost entirely between local communities, and although the broader conflict may have been a factor it cannot be entirely blamed for the brutality of the violence.

The 1942 violence continues to be invoked today as background to inter-communal tensions and is felt as an unresolved issue by members of both Rakhine and Rohingya communities. Although the context of World

[14] Interview with a religious leader, 9 December 2018.

War II and the extent to which this was inter-communal violence, rather than violence by the colonial power against the colonized population(s), means that it does not fall neatly into the category of what might be considered 'colonial wrongs', in Rakhine State it is perceived as a colonial grievance and highlights the pre-Independence tensions around the Muslim population. The Muslim population was already seen as having come to Myanmar under the aegis of the colonial power, and with their support; they were therefore associated with the colonial power. The Muslims fighting for the British rather than with those calling for independence reflects this perceived alignment with the colonial power rather than the native population.

In the post-colonial period, the fears associated with this population have focused around the idea that they would try to take control of Rakhine State and will become the majority population by procreating faster, marrying local women, and converting Buddhists. More than 60 percent of the participants of a survey with 1,200 Rakhine community members believed that Muslims would take over Rakhine State if they had the opportunity, and almost all survey participants believed that the Muslim population has grown at an alarming rate and should be controlled.[15] Some Rakhine nationalists openly stated that Muslims are merely guests in Rakhine State and that they should not act like they are owners of the state.[16] For current purposes the question of how realistic these fears are is less significant than the extent to which they reflect the (perceived) colonial grievances of the Rakhine (and more broadly the Burmese): the presence of immigrants, and the loss of economic, social, and political control of their country. These factors have contributed to subsequent outbreaks of inter-communal violence and the increasing tension between communities. Moreover, the colonial legacy of segregated rather than cohesive communities has contributed to the split between the communities and the difficulties in promoting reconciliation.

Rakhine nationalists and extremist community leaders have used these fears to strengthen their positions. The positioning of the Muslim population as a residue of colonialism and a source of ongoing injustice helps to frame them as a problem to be resolved or a wrong to be re-

[15] The survey was conducted by a group of young researchers under the supervision of the author.

[16] Interviews with five Rakhine community leaders, December 2012.

dressed. The colonial grievances narrative also helps to understand why the fear that the Muslims mean to take control of Rakhine State by becoming a majority and/or driving out the Rakhine is so pervasive. It is this fear that drives popular support for repressive measures targeting the Muslim population and enables Rakhine to see themselves as the victims of the problems in Rakhine State. Not surprisingly, although they disliked the military government, a large majority of Rakhine people supported the government's tough policies against Muslims in Rakhine State. Many Rakhine community members believed they needed to discriminate Muslims and to contain their expansion, in order for Rakhine State not to become a Muslim state.[17]

It should be noted that negative narratives were not spread only by the Rakhine. Muslims have also developed anti-Rakhine discourses on the basis of their own grievances. The clashing narratives of the Rakhine and the Muslims have fuelled inter-communal tension. They promote backward-looking policies – ones that aim to resolve problems from the past – rather than forward-looking policies such as efforts to promote development and inter-communal harmony, which would help all communities in Rakhine State. In this way, colonial grievance narratives have contributed to the negative nature of the discourse and the tendency to treat policies on key issues such as citizenship as a zero-sum game, benefiting either the Rakhine or the Muslims but never both.

Within the Rakhine community, the framing of the presence of the Muslims as a 'colonial wrong' to be redressed has contributed to the dominance of nationalists and the limited space for divergent views. The communal violence that took place in 2012 and afterwards provided further fuel for nationalists to come up with more anti-Muslim narratives and a revisionist, anti-Muslim history of Rakhine State. Moderate Rakhine leaders may feel unable to promote greater interaction with Muslims or reconciliation measures because these would be so unpopular with the population as a whole. To take such a position therefore risks both loss of influence (as the leaders' views are no longer aligned with those of their community) and even attack from extremist elements.

[17] Ten Focus Group Discussions with Rakhine community leaders from 2016 to 2018.

11.5. Understanding Attitudes to the International Community in the Context of Colonial Grievances

The colonial history and residual fears of loss of control as well as the belief that external actors may use 'divide and rule' tactics to try and weaken local actors and undermine cohesion help to explain local attitudes towards the international community. In this context it should be noted that many people in Myanmar have little understanding of the international community and particularly of the variety of actors involved; they do not understand the different roles of bodies such as embassies, non-governmental organizations ('NGOs'), UN agencies, and the International Criminal Court or International Court of Justice.

The situation in Rakhine State provides an illustration of the problem. The Rakhine and other groups see the international community as biased in favour of the 'Rohingya' and as oblivious to or uncaring about the former's suffering. In serious conversations with more than a thousand Rakhine community members between 2012 and 2020, all of them wondered why the international community did not wish to take into account the sufferings of the Rakhine people. Many of them noted that there were bad people in both communities and that all communities in Rakhine State suffered in the communal violence. Many Rakhine therefore wondered why, even then, the international community and media only sympathized with the Muslim community and why members of the international community and media were not prepared to say that there were perpetrators in all communities. One Rakhine woman activist once asked the author:

> The UN and other international communities always talk about conflict sensitivity. What we do must be conflict-sensitive. Why do they not act as they preach? What they have done on the ground has divided the communities further. Some Rakhine nationalist leaders have gone so far as to say that what the international community is doing can split Rakhine State. Please tell the international organizations and media that they should be more conflict-sensitive.[18]

By and large, the Rakhine and nationalists in Myanmar see the actions of the international community as interfering with national sovereignty. Rather than being taken as an attempt to assist, the involvement of the international community in situations such as Rakhine carries over-

[18] Personal conversation with a Rakhine woman activist, 8 August 2017.

tones of colonization that feed into fears of loss of power, control of land, and economic opportunities. This fear of loss of sovereignty contributes to the rejection of mechanisms such as the UN's Fact-Finding Mission or international criminal justice approaches. To accept such a mechanism would be to allow the international community to assert control over the highest powers in Myanmar and to dismiss Myanmar's justice system as inadequate; an assertion of power and of superiority that recall colonial attitudes.

The question of double standards also arises in this context. It is rarely explicitly invoked as such, except in so far as other groups complain that their sufferings are ignored or dismissed by actors focusing on 'the Rohingya'. However, this concern can be seen as underlying some of the resistance to the international community. Myanmar and its people are aware of their comparative lack of power and that no similar condemnation has focused on the wrongs done to them or others during the colonial period. This may be framed as a question of the international community bullying weaker states rather than as a matter of double standards, but the complaint of injustice underlies both. Although currently UN agencies and international organizations operating in Rakhine State have tried to improve their relationship with the Rakhine community, and Rakhine community members have started saying less negative things about the UN and other international NGOs in Rakhine State, there is still a view that comments made at international symposiums and meetings organized by the UN and other international organizations are very one-sided. In addition, locals consider the position of one UN agency to be reflective of the stance of the entire UN system.

11.6. Conclusion: Benefits and Risks of using Colonial Grievances as a Framework for Discussing Problems in Myanmar

Like many other countries, modern Myanmar was shaped by the experience of colonization. The legacies of colonization can be seen in the demographics of the country, in its laws, and in the outlook of the population. Moreover, a shared understanding of colonial grievances – of the wrongs done by the colonial administration and never remedied – have become internalized as part of the history of Myanmar as understood by its inhabitants. However, this understanding of colonial grievances and the responses to it in law, policy, and perception are not value-neutral. This chapter has attempted to show how these grievances have been shaped

and exploited by political actors, particularly nationalists, to support a specific agenda. In this way, the understanding of colonial grievances has contributed to the development of discriminatory policies, inter-communal tensions, and misogynistic policies. It has fuelled the spread of Buddhist nationalism and has been used to justify internal repression.

These observations are not intended as a rejection of the thesis that colonial wrongs should be examined through the lens of international law, nor of the arguments in favour of some form of reparation for colonial wrongs. Nor is there any intention to minimize the damage done by colonization, in Myanmar or elsewhere. They are however a warning about approaching the subject without careful consideration of the specific context of each country and its relations to its colonial past. Understanding the colonial history of Burma is helpful to understanding modern Myanmar, but taking at face value evaluations of colonial wrongs and implementing solutions put forward by actors interested in exploiting this history for political gain may be problematic. An approach to current issues which draws on the perceived colonial wrongs may help identify the fears, concerns, and priorities of the population or provide a basis for discussions on ways to heal divisions and promote inter-communal harmony. This is how I understand this anthology and the project of which it forms part. However, unless approached in a context-sensitive manner there is a risk that such discussions will strengthen the position of nationalists and be used to promote discriminatory policies and agenda. Moreover, if such a discussion is initiated or driven by international actors it is likely to be treated with suspicion by locals as external actors attempting to impose their own priorities and values on Myanmar.

It is important to ask what is the purpose of any discussion of colonial wrongs or of proposed reparation measures. The question of how such discussions will impact all populations in former colonies and the political discourse of these States must be considered; what is helpful in one context may be actively harmful in another. The focus of efforts to address colonial wrongs and the double standards of international law must be on measures which will help all peoples and promote sustainable peace. Promoting accountability and the legitimacy of international law are valid considerations, but are less important than the lives and well-being of the populations (of all kinds) living in former colonies. Myanmar, like many other countries, suffered grievous wrongs as a result of colonization. Wrongs which continue to have an impact today. Acknowledging

the impact of colonization is a valuable step, and measures which take both the history and the perceived grievances into account have the potential to help heal these enduring grievances. However, such measures must be carefully designed and implemented so that they do not exacerbate discriminatory attitudes and policies or fuel dangerous political agenda.

Publication Series No. 40 (2020):

Colonial Wrongs and Access to International Law

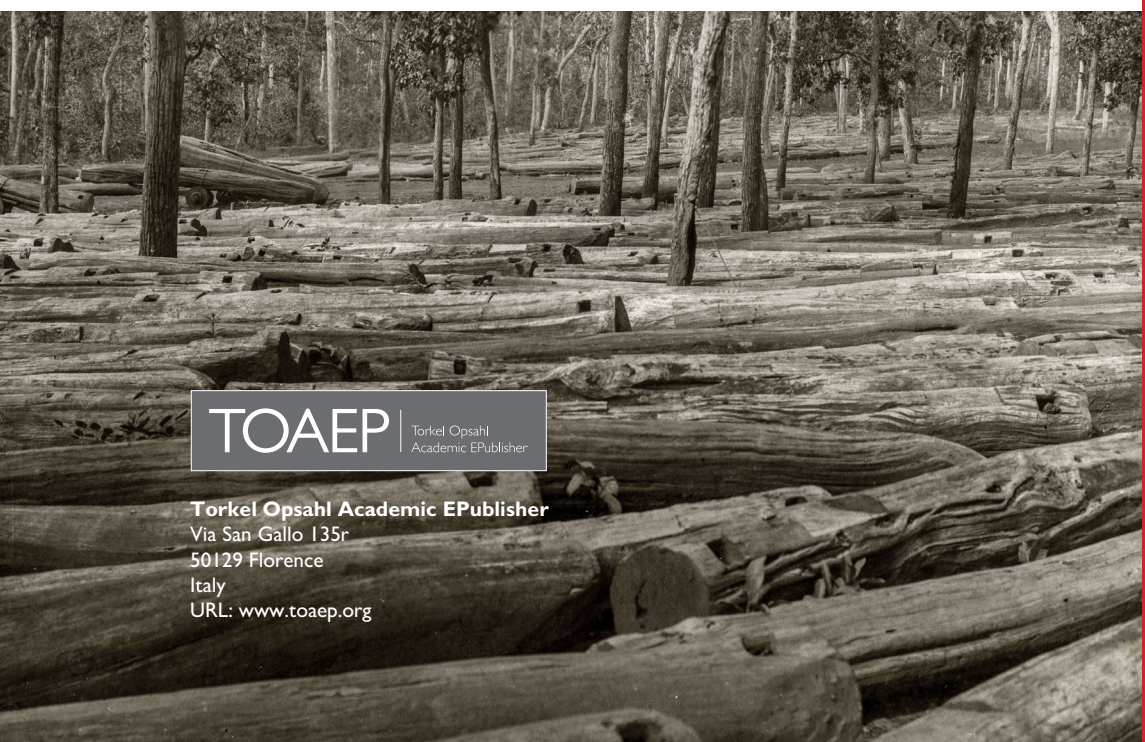
Morten Bergsmo, Wolfgang Kaleck and Kyaw Yin Hlaing (editors)

This eye-opening book invites careful reflection on how we should respond to colonial and post-colonial wrongs from the perspective of international law, in particular international criminal law. In addition to a dozen case studies, the book offers analyses based on legal concepts such as subjugation, *debellatio*, continuing crime, and transfer of civilians, as well as on the discourses of Third World Approaches to International Law and transitional justice. It contains a number of practical suggestions for what can be done to enhance a sense of access to international law in connection with colonial wrongs.

The book has eighteen chapters organised in five parts, addressing the context of the discussion on colonial wrongs and access to international law, legal notions, Colonial Burma, other former colonial territories, and indigenous populations. You find contributions by Morten Bergsmo, Joshua Castellino, Kevin Crow, Christophe Deprez, Shannon Fyfe, Gregory S. Gordon, Brigid Inder, Wolfgang Kaleck, Asad Kiyani, Kyaw Yin Hlaing, Jacques P. Leider, LING Yan, Christophe Marchand, Hugo van der Merwe, Ryan Mitchell, Annah Moyo, Mutoy Mubiala, Matthias Neuner, Narinder Singh, Gunnar Ekeløve-Slydal, Derek Tonkin, Crépine Uwashema and YANG Ken.

In their foreword, the co-editors explain – with reference to lingering consequences of the slave-based economy – why the book is dedicated to "those who will transmute the legacies of colonial wrongs and slavery into a wider, world-embracing solidarity and unity". The book calls for renewed leadership in this area.

ISBNs: 978-82-8348-133-4 (print) and 978-82-8348-134-1 (e-book).



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