I. Introduction

Since the military coup d'état in 1962 that ended democratic rule in Burma, the Burmese people have been subjected to widespread human rights abuses. In particular, the coup d'état by General Saw Maung following the 1988 uprising, at which point Burma was renamed Myanmar, led to an escalation of abuses, specifically towards political dissidents and ethnic minorities.

Human rights abuses by the military junta, which have intensified to the threshold of Responsibility to Protect (RtoP) concern in recent years, include: the pervasive use of forced labor, forced recruitment of tens of thousands of child soldiers, rampant sexual violence, extrajudicial killings, torture, and the displacement of over one million Burmese people.

Part of this escalation can be attributed to the landslide victory in the 1990 elections by the National League for Democracy (NLD), led by Aung San Suu Kyi, which exacerbated the military junta’s harsh repression of political opposition. The regime’s intolerance towards diverging political opinions resulted in the detention, abuse and torture of political dissidents – including Suu Kyi herself, who was put under house arrest for the better part of twenty years thereafter – as well as deadly crackdowns on demonstrations and restrictions on freedom of speech and assembly.

Minority ethnic groups such as the Karen and the Rohingya people have also faced persecution and been subjected to forced labor.

Rape has also been used as a systematic weapon against women of ethnic minorities too, and thousands of villages comprised of minority ethnic groups have been destroyed, many burnt and razed to the ground, and their inhabitants displaced.
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The military junta’s neglect of its population, its unwillingness to cooperate with humanitarian aid groups in the aftermath of Cyclone Nargis in 2008, and its earlier violent crackdown on the 2007 Saffron Revolution, a peaceful demonstration by Buddhist monks and civilians, brought the often overlooked humanitarian crisis in Burma to international attention. Notably, RtoP was repeatedly invoked in calls for action by UN officials and leading human rights advocates in response to the Burmese military junta’s mistreatment of its population.

Following the 2010 national elections, it seemed Burma was headed towards a period of positive reform at the political, legal, and social levels. Yet despite initial progress made by President Thein Sein’s government, continued ethnic clashes have re-elevated international concern and prompted the Global Centre for the Responsibility to Protect to catalogue the crisis in Burma as one of “imminent risk.”

II.

2007 Saffron Revolution

In August 2007, large peaceful demonstrations began all over Burma after the junta raised gas and diesel oil prices by 500%. Thousands of Burmese monks, sometimes referred to as the “conscience of the Burmese people,” began a peaceful march for change. Inspired and emboldened by the commitment of the monks, the masses took to the streets to march for an end to the military government.

On 26 September 2007, the Burmese government cracked down on protestors by banning gatherings of more than five people, imposing dusk to dawn curfews, raiding monasteries, and arresting monks and students involved in the demonstrations. According to some estimates, between 3,000 and 4,000 citizens were detained in connection with these protests. The International Committee of the Red Cross (ICRC), which had ceased to make prison visits in Burma in 2005, was called on by a UN human rights envoy to resume its activities within the country. However, the ICRC did not return to Burma until 2012, when the Thein Sein government requested it to do so.

Response from the International Community

In September 2006, the United Nations Security Council (UNSC) held its first meeting on the situation in Burma, and, in January 2007, it proposed a Resolution calling for the cessation
of grave violations of human rights. However, China and Russia both used their veto to block this resolution, claiming that Burma was not a threat to international peace and security.

Many countries denounced the junta and called for an end to government-perpetrated human rights abuses. The United States, France, and the United Kingdom tightened economic sanctions on the regime, while Japan threatened to cut aid to the country. In addition, the Association of Southeast Asian Nations (ASEAN) issued a statement expressing its "revulsion" at the crackdown of the Burmese military on peaceful protesters.

Once in September and twice in October 2007, the UNSC held meetings to discuss the situation in Burma. At the third meeting, the UNSC produced a Presidential Statement on the situation, deploring the actions of the military junta against peaceful protesters, and calling for a peaceful solution in Burma.

The United Nations Human Rights Council (UNHRC) also convened a special session on Burma on 2 October 2007, wherein it adopted a Resolution calling for an investigation into human rights violations during the demonstrations. It also urged the release of several political prisoners and detainees, and strongly condemned the use of violence against peaceful protesters.

Response from Civil Society

NGOs also referenced RtoP in the wake of the crimes committed in response to the Revolution in Burma. In an October 2007 press statement released by the Fédération Internationale des Droits de l'Homme (FIDH), the organization stated that “the Human Rights Council should call upon the UN Security Council, based on its ‘responsibility to protect,’ to take all concrete measures necessary” to ensure the cessation of violence.

III.

2008 Cyclone Nargis

On 3 May 2008, the devastating Cyclone Nargis hit Burma’s Irrawaddy delta region, leaving 1.5 million people “severely affected” and marking the beginning of a major humanitarian crisis throughout the country. The continuous refusal of Burmese authorities to allow foreign humanitarian aid workers into the country led to intense debates in the international community as to whether the natural disaster in Burma could be considered an RtoP situation. Founders and proponents of the concept, including Gareth Evans, Ramesh Thakur, and
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Lloyd Axworthy, issued differing messages on the application of RtoP in Burma. On 9 and 21 May, R2PCS also issued two statements analyzing the debate.

One advocate in particular for the use of RtoP in Burma was then-French Foreign Minister Bernard Kouchner, who, on 7 May, stated, "We are seeing at the United Nations whether we can’t implement the Responsibility to Protect, given that food, boats and relief teams are there, and obtain a United Nations' resolution which authorizes the delivery (of aid) and imposes this on the Burmese government." However, Kouchner’s interpretation of RtoP was criticized by then-United Nations Under-Secretary-General and Emergency Relief Coordinator John Holmes who stated, "I'm not sure that invading them would be a very sensible option at this particular moment. I'm not sure it would be helpful to the people we are actually trying to help." Edward Luck, then-Special Adviser to the Secretary General on the Responsibility to Protect, agreed, arguing that "linking the 'responsibility to protect' to the situation in Burma is a misapplication of the doctrine."

In response to Kouchner's position on the use of RtoP in cyclone-struck Burma, R2P CS, the precursor to ICRtoP, also reflected on how RtoP related to this type of situation. From the outset, R2PCS refrained from advocating for the use of RtoP with respect to the humanitarian disaster initiated by Cyclone Nargis, because in its view, as Cyclone Nargis was a natural disaster, it did not constitute one of the four crimes to which RtoP is meant to apply. Although reports indicated that the regime in Burma had failed to protect its populations and was interfering with the provision of aid, the parameters of RtoP, as adopted in the 2005 World Summit Outcome Document, do not provide for the UNSC to act on the basis of neglect and obstruction.

Following the continued obstruction of aid by Burmese authorities, as well as several discussions in the international community on what should be done to address this crisis, R2PCS eventually issued a revised statement regarding the application of RtoP to Burma. Within the statement, R2PCS explained that if it could be shown that the Burmese government’s actions would lead to crimes against humanity, the international community would then bear the responsibility to prevent the commission of such crimes, first through peaceful means, and then, if unsuccessful, through force.

In addition, R2PCS emphasized that RtoP is not just about Security Council action, but also about the efforts of other relevant actors like regional and sub-regional organizations.

For additional analysis on the crisis in Burma following Cyclone Nargis, please see:
- 4 June 2008 News Update
- 21 May 2008 R2PCS Statement on RtoP and Burma/Myanmar & News Update
- 13 May 2008 News Update
- 9 May 2008 R2PCS Message on RtoP and Burma/Myanmar Response from Civil Society, Post-Cyclone Nargis
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In the spring of 2009, an increasing amount of reports and analyses emerged, denouncing Burma’s military junta for its violations of human rights and international humanitarian law. Some of these analyses include the following: On 27 January and 26 May 2009, Human Rights Watch released reports on the plight of ethnic minorities, focusing in particular on the Chin people and Rohingya people, respectively. Amnesty International had also reported earlier, on 5 June 2008, that the junta’s treatment of the Karen people constituted crimes against humanity.

In a May 2009 op-ed article, Jonathan Aitken, Honorary President of the international human rights organization Christian Solidarity Worldwide (CSW), called on the UN to invoke the norm of RtoP to investigate the gross human rights violations committed by the ruling military junta. That same month, over 60 British Members of Parliament signed an Early Day Motion (EDM) and urged the UN to apply RtoP in relation to the Burmese junta’s gross human rights violations and campaign against ethnic minorities.

The US Campaign for Burma also issued calls to stop the commission of mass atrocities by pushing for the UN to send Burma to the International Criminal Court, or to establish an international criminal tribunal to arrest and prosecute Burma’s military regime. This statement was issued in May 2009, just as five of the world's leading international jurists from the International Human Rights Clinic at Harvard Law School commissioned a report entitled “Crimes in Burma.” The Report urged the UNSC to establish a Commission of Inquiry into crimes against humanity and war crimes committed in Burma, and to act on what they described as more than 15 years of condemnation from UN bodies on human rights abuses in Burma.

IV. 2010 Elections

In January 2010, the head of Burma’s military junta, Senior General Than Shwe, announced that the country would be holding elections in November, Burma’s first national democratic elections in two decades. Leaders from ASEAN called on the ruling junta to ensure that the elections were free, fair, and inclusive. However, in the months preceding the elections, the Burmese government implemented laws that barred all persons with criminal convictions from participating, thus denying Aung San Suu Kyi and other political prisoners the right to announce their candidacy. To demonstrate its denunciation of such laws, Suu Kyi’s party, the National League for Democracy (NLD), boycotted
the elections. In retaliation, opposition parties including the NLD were dissolved by the junta for not meeting participation deadlines and for protesting the electoral process.

Unsurprisingly, the pro-junta Union Solidarity and Development Party (USDP) **won the elections**, gaining 76.5% of all parliamentary seats. **Three ethnic-based parties** also won seats in the parliament, proving a small but symbolic victory for Burma’s ethnic minority groups. However, the subsequent **February 2011 appointment of President Thein Sein**, who had been the prime minister during the military junta’s rule, elicited concern from the international community regarding the credibility of Burma’s democratic transition.

**V. 2012 Elections: Hope Renewed**

Since taking power in 2011, President Sein has sought to demonstrate that his leadership role in the military junta, which had previously ruled Burma for decades, would not affect his promise to bring democracy to the country. As such, he has spoken repeatedly about the need for change in the country, and has **successfully implemented certain reforms**, initially focusing on political reconciliation with ethnic minority groups. After being **pressured about ongoing human rights abuses**, largely in regards to the status of prisoners of conscience, President Sein also authorized the **release of approximately 200 political prisoners** on 12 October 2011. **Additional reforms** focused on the passage of labor union laws, and the legalization of peaceful demonstrations.

In December 2011, the government signed a **ceasefire with the Shan State Army-South** upon having successfully engaged in "genuine dialogue" on decades-long political disagreements between the two factions. In January 2012, Sein facilitated the signing of another ceasefire, this time with **ethnic Karen rebels**, a group which had long sought greater autonomy from the Burmese state. Following this announcement, the government also **released** a new wave of political prisoners under a presidential pardon later that week.

Currently, the Kachin Independence Organization (KIO) is the only
remaining major armed ethnic group that has not signed a peace agreement with the government. In addition to resolving issues with the KIO, the Burmese government is also reportedly working on a "joint nationwide cease-fire accord," which it hopes to implement in October 2013.

Burma’s progress continued through the 1 April 2012 by-elections. Not only did the NLD successfully obtain 43 seats in the national legislature, but after spending nearly two decades under house arrest and being banned from participation in the 2010 national elections, Aung San Suu Kyi was finally elected to parliament. President Sein stated that he was pleased with the results, and that he would continue to carry out promised reforms in Burma. Despite Sein’s enthusiasm, however, the Burmese government faced several challenges, including a lack of institutional capacity, economic reform founded on potentially inaccurate data, and an ever-present need to address the establishment of sustainable peace amongst ethnic groups.

While most ethnic groups have signed ceasefires with the government, long-term national peace initiatives have still not been developed, and the international community has exhibited skepticism amidst encouraging developments in Burma’s progress. In retrospect, unresolved ethnic tension and incomplete democracy would prove to be a significant precursor to the recent explosion of violence experienced throughout Burma, which greatly threatens current peace and stability.

VI. Burma Today: Buddhist Aggression, Rohingya Persecution, and State-Sponsored Violence

Given the diverse composition of Burma, which is host to seven major ethnic groups – the Burman, Shan, Rakhine, Chin, Kachin, Mon, and Rohingya – among others, tensions between different factions that have historically contributed to the unrest throughout the country have increased dramatically since the summer of 2012. Despite the democratic progress promised in the 2010 and 2012 elections, these tensions have remained unresolved, and it is against this backdrop that lethal ethnic violence has resurfaced.
Rohingya Muslims, the primary target of recent discrimination and state-condoned violence in Burma, live in Rakhine State and have been severely discriminated against for decades. Beginning with the 1982 Burma Citizenship Law, which accords the Council of State the right to “decide whether any ethnic group is national or not,” the Rohingyas have been systematically excluded from Burmese legal recognition. Rohingya are often referred to as “Bengali,” which reinforces the official stance that Rohingyas are originally of Bangladesh, and therefore do not belong in Burma.

In recent years, the plight of the Rohingyas has significantly worsened, as radical Buddhist monks have begun calling for a “campaign of exclusion” against Muslims. This aversion stems from the insidious propaganda promulgated by U Wirathu, a Buddhist monk and the leader of the controversial and polarizing 969 Buddhist National Movement. Wirathu argues that Muslims have a secret “master plan” to take over the country and Islamicize it, despite the fact that Muslims only constitute five percent of the Burmese population. Even more tellingly, Wirathu is “[calling] on Buddhists to shop, sell property and marry within their own religion,” in order to preserve Buddhist culture and identity. Wirathu regularly preaches anti-Muslim hate speech, and considers the Rohingyas a “threat to the country and its culture,” a belief predicated on his fear that the Muslim population is increasing more rapidly than the Buddhist nationalist population.

An additional component of the anti-Muslim agenda is an attempt to draw linkages between the Rohingyas and terrorism. From this perspective, excluding and persecuting the Rohingyas can be made justifiable on the grounds of maintaining national security.

Several ethnic clashes that occurred during the summer of 2012 are indicative of the direct effects of this discriminatory rhetoric. In particular, an 8 June riot by the Rohingyas in Maungdaw, located in Rakhine (formerly Arakan) State, resulted in the death of several Arakanese and the gross destruction of property. This violent episode was allegedly carried out in response to an incident in May 2012,
in which an
*Arakanese woman was raped*
and killed by three men believed to be Muslim. A
second
Rohingya riot
occurred
on 9 June in Sittwe, which led to the displacement of 100,000 individuals. The following day, President Sein
declared
a state of emergency, which effectively transferred power to the Burmese Army and resulted in
a wave of violence unleashed by state security forces. The conflict over the summer
subsequently prompted President Sein to tell a representative of the United Nations High Commissioner for Refugees (UNHCR) that Rohingya were not welcome in Burma, and that they should be “
*placed in refugee camps or deported.***

It is important to note here as well that, while the Rohingya have been subjected to some of the
most severe and systematic human rights abuses in Burma, the government’s hostilities against
the people of Kachin State have also
*intensified.*

Kachin, which is
*located*
in northern Burma, borders the People’s Republic of China. As such,
*economic interests*
on behalf of both the Burmese and Chinese governments have led to several issues in the
State. Beginning in June 2011, when the Burma Army
*broke*
a 17-year ceasefire agreement with the KIO [Kachin Independence Organization] by attacking a
Kachin Independence Army (KIA) outpost, the military has
*committed*
human rights violations including land confiscation, torture, physical and sexual violence, and
murder. As
*news reports*
have indicated, much of this antagonism and abuse is due to the existence of a gas
*pipeline*
, which bisects Burma and runs directly through Kachin State.
The gas from this pipeline is transported
*and sold*
to China. A parallel oil pipeline is also under construction. Not only is daily life in Kachin State
*disrupted* by the government’s desire to profit from this pipeline, but the abuses incurred by the
Kachin, as well the resulting
*loss of land*
and complete lack of
*compensation*
regarding the profits from the transports, has severely impacted this ethnic group’s ability to live in a stable and conflict-free environment.

Violence against the Rohingya in particular has drawn attention from a myriad of international actors. In response to the 2012 violent clashes, the International Crisis Group asserted that “widespread ethnic violence in Rakhine State, targeting principally the Rohingya Muslim minority, has cast a dark cloud over the reform process.” Similarly, the Global Centre for RtoP noted in a November 2012 publication that recent sectarian violence had left 89 dead and more than 32,000 displaced, with a majority of victims of violence being Rohingya.

In Sittwe, Rohingya often had no other option than to seek shelter in displacement camps, and other ethnic minorities were also subjected to marginalization. Later that month, in June 2012, the UN World Food Programme began providing humanitarian assistance to individuals in Rakhine State, while the UNHCR committed to continuing to monitor the situation in Burma from Bangladesh. In November 2012, Christian Solidarity Worldwide “[called] on the international community to invoke the ‘Responsibility to Protect’ principle, in light of the Burmese Government’s failure to end the conflict in Arakan State, western Burma, between Rakhine Buddhists and Rohingya Muslims.”

In March 2013, UN Special Rapporteur Tomás Ojea Quintana issued a Report on the human rights situation in Burma, wherein he identified several concerns regarding the treatment of prisoners of conscience, violations of freedom of expression and censorship issues, attacks against civilians in the Kachin and Northern Shan States, and violence targeting Rohingya Muslims in Rakhine State. In addition, Vijay Nambiar, the Secretary-General’s Special Advisor on Burma, briefed the Security Council in April 2013 and discussed Muslim-targeted violence against the Rohingya, as well as attempts at a renewed ceasefire between the Kachin Independence Organization and the Burma government. On 19 August 2013, the Secretary-General also released a Report on Burma echoing many of the concerns raised by Quintana, particularly the violence in Kachin State and against the Rohingya.
Since Quintana’s visit and Nambiar’s briefing, the OHCHR has released several statements on human rights abuses in the country too. Most recently, on 21 August 2013, Quintana expressed concern over “the spread of incitement of hatred against religious minority groups,” and commented on the need to implement previously agreed upon ceasefires and address issues of freedom of movement in Muslim IDP camps, among other issues.

Response to the increasingly hostile crisis in Burma has also come from other international actors and members of civil society. For instance, in May 2013, the United States renewed targeted sanctions against Burma, though it simultaneously lifted a visa ban to reward “progress” made by the Sein government. Two months later, the International Committee of the Red Cross announced that it would be “expanding its efforts” to improve prison conditions and help those affected by continuing violence. Anti-Muslim discrimination and the ongoing perpetration of atrocity crimes have also led the Global Centre for R2P to call for President Sein’s government to uphold its Responsibility to Protect.

The scope and nature of human rights abuses in Burma have led some to conclude that these systematic violations constitute ethnic cleansing. Similarly, as the Sentinel Project for Genocide Prevention stated in its September 2013 Burma Risk Assessment, “following extensive research, [we] have concluded that the risk of genocide and related mass atrocities in Burma is extremely high.” This claim is substantiated by the ongoing organized violence, instatement of a two-child limit on Rohingya reproduction, ban on interfaith marriages, and a myriad of additional evidence indicative of a governmental policy of discrimination against the Rohingya.

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