A CRITICAL ASSESSMENT OF HUMAN RIGHTS DIPLOMACY BY WESTERN STATES IN MYANMAR (BURMA) FROM 2007 TO 2020

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Introduction

Myanmar (formerly Burma), which inherited a very weak state from the British, has hardly seen a year of peace since its independence in 1948. From 1962 to 2011, Myanmar was under direct military dictatorship. This period was punctuated by turning points that would bring the country to global media attention – the 1988 Uprisings, the 2007 Saffron Revolution and the 2008 Cyclone Nargis. The latter two brought Myanmar back into discussion with the United Nations Security Council (UNSC), eliciting UN-led mediations with the Burmese military regime for the promotion of political and civil liberties. Until then, Myanmar’s precarious human rights record and domestic politics had not garnered significant international attention primarily because of two reasons Rein Müllerson aptly states as Realpolitik: the relatively poor strength of Myanmar’s authoritarian regime vis-à-vis Western states, and its importance to the current fabric of international peace and security.1

Over the past 14 years, Myanmar, an oppressive, self-isolationist authoritarian state, was transformed by being thrust into a series of disorderly democratic reforms. State fragility increased as violent armed conflict intensified across the country. By 2020, Myanmar seemed to have re-isolated itself

This article has been corrected with minor changes. These changes do not impact the academic content of the article.
from the Western UNSC states following the Rakhine Crisis in 2012, the landslide electoral victories of the opposition National League for Democracy (NLD) in 2015, and the Rohingya crisis in 2016. During these critical milestones, Western foreign policies towards Myanmar have more or less varied depending on the political alignment of their respective elected governments, as well as each country’s national interests in accordance with their relative position on the power gradient within the international order.

The imposition of various foreign policy instruments to promote human rights as well as for the sake of power competition is defined by Müllerson as “human rights diplomacy”. The use of these instruments at different levels of intensity have produced varying outcomes in the promotion of human rights in Myanmar. This article focuses on the use of human rights diplomacy by Western states especially within the UNSC, in contrast to the ‘non-interference’ principle followed by China, India and to some extent, the Association of Southeast Asian Nations (ASEAN) bloc encircling Myanmar. While some Western states have imposed more punitive measures using blanket sanctions and complete isolation (i.e. ‘ostracism’), others have preferred softer instruments (‘principled engagement’).

The international and domestic popularity of Myanmar’s opposition leader, Aung San Suu Kyi, meant that Western human rights diplomacy was primarily focused on her personality, rhetoric, and leadership. It had undeniably assumed political liberation would at least entail some alleviation of mass human rights violations. Myanmar’s human rights record and fundamental freedoms have however deteriorated, despite significant democratisation before the 2021 coup. The limitations of Western human rights diplomacy are evident in the formation of closer Sino-Burmese relations (a departure from its historically convenient yet antagonistic nature) following the 2016 Rohingya crisis. This at the same time estranged Myanmar from the West, in comparison with the earlier days of the 2011 reforms. This also indicates that in Myanmar, human rights diplomacy became particularly challenging to implement towards a regime with strong domestic legitimacy, with deep historical, cultural, and religious roots (Aung San Suu Kyi and the NLD government) than the preceding military regimes that were widely unpopular and illegitimate (see note 2).

This article attempts a broad evaluation of the strengths and limitations of human rights diplomacy vis-à-vis Myanmar from the Saffron Revolution in 2007 to the International Court of Justice (ICJ) trial on the question of the Rohingyas (The Gambia v. Myanmar, also known as the Rohingya genocide case, 2019-date), primarily from the angle of Western
governments. Burmese perspectives are also taken into account as necessary. The impact on Myanmar is focused on three main aspects: (a) promoting political, civil, and socioeconomic liberties and fundamental freedoms; (b) mitigation and reduction of existing anti-human rights practices and war crimes; and (c) the neorealist concerns of Myanmar being under the orbit of the democratic West than under the authoritarian shadow of China. This article is neither an evaluation of Myanmar’s history of democratisation, nor it is a description of Myanmar’s general relations with the West. Other Western governments and its Eastern allies such as Japan and South Korea are omitted because of constraints of space.

This article uses both primary and secondary sources. Primary sources are comprised of in-depth elite interviews with relevant former/working diplomats of various Western governments (i.e. US, UK, Norway, and Australia), including a human rights lawyer who had been in direct contact with the aforementioned governments, as well as the EU Commission and elements in Myanmar’s civil society. Secondary sources used include UN publications, reports from independent think tanks and NGOs. Foreign policy instruments for the purpose of power competition, humanitarianism and the maintenance of international peace and security are defined as human rights diplomacy in this article. It is broadly classified into three categories: (a) ‘ostracism’ – in the form of blanket or targeted sanctions through trade and other types of sanctions, (b) ‘business as usual’ – where authoritarian regimes such as China, Russia and to some extent its ASEAN neighbours continued in normal relations with the Burmese military regime (exceptionally India as well), and (c) ‘principled engagement’ – a recently developed middle-ground approach that seeks to maintain engagement with the military regime and civil society (see note 2).

**Historical context until 2007**

Myanmar’s complex colonial legacy must be taken into account, as it serves as an important backdrop against which early state formation occurred after independence. The remnants of this legacy exist to the present day in the form of ethnoreligious grievances, continuing sectarian conflicts and Burman chauvinism and majoritarianism. The colonial era conscription laws and patchwork governance were based on ethnicity, whereby the Burmans were classed as a “non-martial race” and enjoyed lesser socioeconomic privileges than the peripheral ethnic groups. This gave birth to a Burman nationalist movement led by General Aung San who founded the present-day Burman-majoritarian military, the
Tatmadaw. By the time Myanmar gained independence in 1948, it was no surprise that the Tatmadaw had contentious relations with the ethnic groups, most of whom were colonial loyalists and demanded more autonomous governance (see note 4). The short-lived democratic government suffered from an ineffective leadership, intensive factional divisions and the imposition of policies that further destabilised social cohesion in the country. This quickly caused the country to collapse into a civil war shortly after independence, which has effectively continued to the present day as one of the world’s longest-running civil wars. The weak state apparatus and the inability of the short-lived civilian government to quell the growing secessionist sentiments across the peripheries led Myanmar into a bloodless coup d’etat led by General Ne Win in 1962.5

From 1962 until the 2011 reforms, Myanmar went through various military regimes under different names – the Revolutionary Council (1962-1974), the Burma Socialist Programme Party (1974-1988), State Law and Order Restoration Council (SLORC) (1988-1997) and State Peace and Development Council (SPDC) (1997-2011). The SPDC was abolished upon the retirement of the last dictator of Myanmar, General Than Shwe (see note 3). These regimes arose from the military’s various political and economic experiments, taking into account vested interests but also all based on a belief that violent repression was the only effective means to prevent the union from dissociating.6,7 But the unfortunate truth is, as Thant Myint-U puts, “Burma was never whole to begin with”.8

These experiments involved media monopolisation and the development of many other institutions controlling the country’s natural resources. The ‘socialist’ ideology of the planned economy was later replaced by a form of free market system by the 1990s, but the largely agrarian economy and crony-based market system meant that most in the country remained below the poverty line.9 Seventy-eight per cent of this impoverished population lives in Rakhine, bordering Bangladesh. In 1982, Myanmar’s population was classified into 135 recognised ethnic groups,10 via the 1982 Citizenship Law that assumed a Stalinist definition of nationality, which meant that the recognition of such ethnicities were prerequisites to being what the state considers as ‘native to the state’.11 By 2007, it was one of the 20 poorest countries in the world according to the UN, with a largely poorly educated and a devoutly religious population of over 80 per cent identifying as Theravada Buddhists, an orthodox form of Buddhism.12

During 1948–2007 were the 1988 uprisings, followed by the 1990 elections that saw a landslide victory of the opposition, the results of which
were nullified by the military. This led to the further extension of the US-led blanket sanctions regime for the next two decades. Concurrent with this was the easing of Sino-Burmese relations, in contrast to its Cold War days. To this point, Australia’s human rights diplomacy towards Myanmar would serve as a contrast to that of the major Western powers of the UNSC. Its approach was mostly attributable to proximity. It comprised of restricted engagement with the Tatmadaw for human rights training, limited talks with the opposition and providing humanitarian aid for HIV/AIDS relief.\textsuperscript{13}

The important thing to note is that most of Myanmar’s civil society as well as the international human rights advocacy groups (including the diaspora dissident communities), fully supporting the opposition led by Aung San Suu Kyi, were antagonistic to this approach of engagement and insisted on the US-led diplomacy of ostracism. The Burma Campaign UK, one of the most prominent international voices for Myanmar’s human rights issues, also consistently campaigned for the insistence on an absolute international isolation strategy, leading to closures of the manufacturing sector that entailed the deprivation of basic socioeconomic rights of a largely agrarian working class population; it also exacerbated the current poverty and HIV/AIDS epidemic.\textsuperscript{14,15} Hard diplomacy was also counterproductive to the mediation efforts through the UNSG’s good offices with the junta. From 2006 to early 2007, Myanmar turned from being a trivial matter at the UNSC to one of its main concerns. Agenda items were sponsored by the governments of the US and UK, only to be vetoed by China and Russia (see note 6). China’s veto was a reflection of its antagonistic but convenient relationship with the Burmese military, whereby China traded arms to the latter in exchange for illicit extraction of natural resources especially across the peripheries populated by the non-Burman ethnic groups. This relationship thus provided more fuel for the civil war and a fiscal alternative for the Tatmadaw in the face of the Western sanctions. This relationship also exacerbated the deepening poverty-conflict nexus, as the encroachments on Burmese resources led to illegal land confiscations and abrogated the land rights of local civilians.\textsuperscript{16}

The Saffron Revolution and Cyclone Nargis 2007–2008

The Saffron Revolution (August–October 2007) was a series of nation-wide non-violent demonstrations across Myanmar led by students, human rights activists, and a significant population of Buddhist monks, against the junta’s sudden increase in prices of fuel and basic commodities in the already impoverished country. A widespread government
crackdown ensued, with arbitrary arrests and the incarceration of thousands of protesters, many of whom were given harsh prison sentences.\textsuperscript{17} The uprising was the most significant threat to the regime since the 1988 uprisings, and calls for its overthrow grew louder amongst Burmese civil society, supported by the NLD.\textsuperscript{18} It is important to note here that it is not conceivable for religion to be divorced from issues surrounding the power struggle and state legitimacy in Myanmar’s internal politics. The Buddhist clergy had a significant role to play in Suu Kyi’s domestic popularity in Myanmar’s democratic movements, whilst at the same time, the junta had perpetuated the use of Buddhism to suppress minority religious rights and freedoms.\textsuperscript{19}

Cyclone Nargis (May 2008) was a natural disaster that led to a calamitous humanitarian crisis across Myanmar, especially along the highly populated coastal regions in the southwest. The death toll was estimated to be approximately 200,000. Over 2 million people were immediately affected. Fundamental infrastructure including schools, medical infrastructure, utilities, and public transport facilities was destroyed. The cyclone’s impact on Myanmar consequently made international headlines.\textsuperscript{20}

\textit{Western response}

In response to the junta’s crackdown of the Saffron protests, the US, Canada, and EU responded by upgrading their targeted sanctions regime. This included the freezing of assets and other financial institutions. The EU included arms embargoes and visa bans. Australia took a similar line over financial sanctions, though as usual, it maintained a rudimentary aid presence.\textsuperscript{21}

The UK was in a unique position over its foreign policy towards Myanmar, primarily on account of two reasons: (a) Aung San Suu Kyi’s had close family ties to the UK, including her late husband, and (b) Myanmar’s colonial past under British rule. Both carry a lot of weight in the UK’s relations with Myanmar and thus the UK had a greater interest in Myanmar than the US. In response to the Saffron Revolution, the then Prime Minister Gordon Brown pressured the UNSC to discuss Myanmar urgently, drawing support from the EU and several ASEAN countries. The UNSG’s Special Representative to Myanmar, Ibrahim Gambari, subsequently briefed the UNSC following the protests and just a few days before the crackdown.\textsuperscript{22}

Rare unanimous concern and support was voiced in the UN during this time on two occasions. First was at the UN Human Rights Council (UNHRC) (which included China as a member) where an emergency session on Myanmar was
held, reaching a resolution that Gambari’s should mediate between the top generals of the SPDC and Aung San Suu Kyi. The second occasion was the UNSC’s presidential statement calling for restraint over the government crackdown of the Saffron protests, expressing support for the UNSG’s good offices, calling for the early release of NLD political prisoners, and to seek open dialogue between the junta and the opposition. It also requested the SPDC to address the economic, humanitarian, and human rights needs for the Burmese, with support from China and Russia. The absence of their vetoes was perceived as a huge step forward. Nevertheless, the call for more Western financial sanctions against the generals grew louder and arguably eclipsed the level of progress made in the UNSC. This was led by the UK and the US, with the sole focus on the release of Aung San Suu Kyi.23

This particular focus hindered progress within the UNSC and eclipsed the value of quiet diplomacy when dealing with the junta’s top generals in generating political progress. At the time, Myanmar and ASEAN in general was not much on the radar of Western foreign policy agenda, likely because of the preoccupation with Middle Eastern issues as Müller-son argues. This meant that if the crises did intensify enough to make headlines, i.e. produce a “CNN-effect”, it would trigger international responses and foreign policies that would be implemented only to the extent of dealing with issues raised by the advocacy movement.24

The humanitarian requirements of the aftermath of Cyclone Nargis would provide a more neutral entry point for engaging with the Burmese junta, in contrast to the political nature of the Saffron Revolution (see notes 6 and 11). The disaster triggered immediate relief efforts from both Western and Asian governments. However, most entry requests were initially blocked by the junta. Only a few Asian relief workers and officials were allowed access. Yet despite this situation, and to the dismay of many observers, the junta went ahead with a referendum to enact what later became the 2008 Constitution, granting the military a de facto constitutional veto by reserving 25 per cent of parliamentary seats to them. The landslide results in favour of the new constitution were, naturally, of course considered strongly questionable by many.25 This veto allowed the military to handpick candidates for three government ministries (Home Affairs, Border Affairs and Defence) thus preventing civilian control of the armed forces and subsequently compelling a hybrid, power-sharing arrangement of governance between the civilian and military components.26

There was much conversation amongst Western governments about not politicising a humanitarian crisis, but this was not reflected in practice.
For instance, the Bush Administration awarded Aung San Suu Kyi, the Tatmadaw’s arch nemesis, a Congressional Gold Medal for her fight against the military. At the same time the US sent American navy ships to Myanmar carrying American aid relief, urging the junta to accept them. A similar response was seen with France, who called on the UNSC for a military intervention to provide relief to the Burmese under the Responsibility to Protect doctrine (R2P). One may speculate that this call was perhaps more to do with the initial excitement following the recent development of the R2P doctrine in 2005 than much else, as many in the West knew that it was in fact an empty threat. For all that Myanmar posed a relatively weak security risk to the permanent members of the UNSC, the paranoid military junta perceived the threat of the doctrine’s use as genuine. The junta further ostracised themselves from any potential negotiations, fearing the humanitarian crisis would be used by the West to compel regime change. The result was an impasse.27

Up to this point, because the global advocacy movement had strongly protested against Western governments having any engagement with the Burmese military, most of Europe had followed the US-led ostracism. Western governments, therefore, had mostly relied on the UNSG’s good offices. Nargis later offered an opportunity for the West to have a foot in the door, with humanitarian reasons serving as a neutral entry point for any mediation between the opposition and the junta. The previous deadlock between the two had to ease for any political progress to be made.28

Norway played a critical role, with the newly formed Red-Green centre-left government interested in playing a role in shifting the Western diplomatic approach to Myanmar.29

“Many European officials were interested and open to adaptation but were not willing to pay the political price due to fear of criticism from international NGOs and the media,” remarked Erik Solheim, who served as the Minister for International Development of the Norwegian government at the time. “Nargis provided an immense opportunity.”30

Solheim’s repeated visits to Myanmar to deal with relief after Cyclone Nargis allowed a continued engagement with the junta. This principled engagement was influential in bringing the opposition and the reformist officials within the regime into the same space for open dialogue through further neutral entry points, such as climate-change conferences. Though American, French, and British navy ships had to leave their relief supplies in Thailand to be passed on to the UN for coordination,
Norway’s quiet diplomacy and principled engagement with the junta was paying off, along with the UNSG’s good offices. Ban Ki-Moon’s direct mediation with General Than Shwe and the establishment of an ASEAN Task Force eventually allowed international relief operations to run as they should.31

The use of ASEAN as a buffer to reach and influence the Burmese junta was not new. Australia had long pursued principled engagement with the military for several reasons. The UK’s entry to the EU in 1974 would force Australia (and New Zealand) to have Asia as their primary economic partner with China at the centre, while the US remained Australia’s main partner for national security. The second was proximity. In terms of regional security, ASEAN is Australia’s ‘near abroad’ and therefore establishing reasonably cordial relations with ASEAN members was more strategic than it was economic. Drawing from its experiences in mediating with Indonesia’s Suharto regime that ended its direct military rule under The “New Order”, Australia’s engagement with the Burmese junta emphasised institutional building, i.e. giving human rights training to the military officials. This was controversial with the US-led sanction regime, advocacy groups and Aung San Suu Kyi, as anything which appeared to engage even remotely with the military risked helping to develop their credibility and capacity, thus further strengthening their hold on power.32,33 Peter Varghese, former Secretary of the Department of Foreign Affairs and Trade (DFAT) of Australia, interestingly noted,

> in the end you are better off working with the military on human rights than not to; not to convert them to champions of human rights, but for long term institutional building so government institutions become more able to accommodate human rights.34

He further explained that when democratic reforms do occur, institutional capacity building that has taken human rights into account does not have to start from scratch.35 This is important from Australia’s perspective, as it had followed a different course to the global advocacy movement and Aung San Suu Kyi. Australia had understood that there was more complexity involved Myanmar’s problems, to which Australia alone could not be a panacea. At the same time, its engagement with the Tatmadaw (earlier than that of the rest of the Anglosphere) had elements of necessity. Myanmar’s narcotics flows and transnational criminal networks had effects on Australia, so some cooperation with the military was essential.36,37
Democratic reforms and western influence (2011–2012)

The Obama administration’s sudden swerve in US foreign policy towards the Asia Pacific and away from its predecessor’s difficult concern with Middle Eastern affairs had both pros and cons. An advantage – at least for Myanmar – was that it made the relatively remote and unimportant country part of America’s ambitions in the Far East under the ‘Pivot to Asia’, while one disadvantage was that Myanmar’s human rights and democracy issues were mixed with America’s defence objectives in the Asia Pacific. This meant that in a country where armed conflict was still continuous and Chinese involvement pervasive, both in terms of China’s proximity to the military and its border insurgent groups, peace-building in Myanmar accompanied by democratic reforms would require significant Chinese cooperation to succeed. This was a paradox in itself, as there seemed to be a consensus within the Western diplomatic community that the junta would move towards reforms to counterbalance its over-reliance on China, as well as to win legitimacy and more credibility as reformers.

The core value of the military is patriotism, neither left-wing or right-wing in a European sense but of self-interest at the end of the day, and they did not want to be completely dependent on China. The over-dependence hurt their pride. A few went abroad too and saw the difference between Myanmar and other countries, Solheim further remarked.

The spotlight Western governments (especially of the US and the UK) and actors through the UN had continually placed on Aung San Suu Kyi had repercussions during the 2011 reform era. Despite the fact that the UN had drafted a framework on ensuring Myanmar had its first free and fair elections, the Burmese government rejected the UN oversight, leading to the elections being rigged in many constituencies. Ethnic representation was present though nominally through the National Democratic Front party, a breakaway from the NLD. The USDP did rally in areas such as Rakhine, with a form of a clientelist campaign strategy used amongst the Rohingyas. The latter was offered potential political recognition, which was of course left unfulfilled in practice.

Insofar as the mainstream human rights diplomacy was led by the US and the UK, Myanmar’s problems were assumed to be parallel to the cases of Tunisia or South Africa: the belief took hold that mass civil resistance could put an end to a tyrannical regime and bring forth a just, peaceful society. It was a black-and-white, David-and-Goliath perception of democratisation. Yet the devil will always be in the details. Tunisia’s
military had a long history of professionalism, Clausewitzian civil–military relations and had strong vested interests in supporting the mass civil resistance from its own homogenous society than it did in Ben Ali’s regime. South Africa’s majority black population was ruled by a minority white apartheid regime. Myanmar’s case was not as straightforward: the soldier was the state, a majoritarian regime that ruled over a highly heterogenous society. It is unfair to say that these shortcomings in understanding were held by Western governments alone, because any engagement with the military incurred high political expenses amongst the global advocacy movement. It implies this diplomatic culture is universal. It is safe to deduce from these observations and analysis that both domestic and international focus was on regime change and counterbalancing Chinese influence. Existing armed conflict within the country which had been ongoing for over seven decades and was at the core of Myanmar’s endless struggle towards peace, was effectively left unaddressed and ignored.

**Human rights diplomacy in Myanmar: post-2012**

2012  *Rakhine Crisis: an introduction*

The Post-2012 era in Myanmar is an important historical period in helping one understand the dangers of allowing democratisation in societies where both the oppressors and the oppressed have only known an Orwellian reality shorn of fundamental freedoms, but more importantly, where they lack the understanding and practice of democratic and human rights principles. This section will focus on how the Rakhine Crisis in 2012 which developed into the Rohingya genocide of 2016 strongly supports this argument.

The constitution’s recognition of Buddhism as a state religion entrenched majoritarianism and Bamar-chauvinism in all aspects of Burmese politics including both the military and the democrats that had been freshly elected to the bicameral parliament. This has allowed ethnic groups to be continually marginalised despite the reforms and fickle ceasefire agreements with the ethnic armed organisations (EAOs). More importantly, it contributed to the escalation of the sectarian conflicts in Rakhine in 2012 between the Rohingya Muslim community and the Rakhinese Buddhists into a widespread Islamophobic movement against Burmese Muslims.

Understanding the deep-rooted xenophobia amongst the Burmese, especially within the Bamar majority, through the conflict’s historical
and legal roots is important for understanding the complexity of the crisis. Its historical roots can be traced back into the colonial era, where the Rohingyas were part of the flux of Indian immigration from Chittagong, which was originally part of British India before Independence, later becoming part of East Pakistan and then Bangladesh. The Rohingyas historically attempted to join East Pakistan only to be refused. During the Second World War, the two groups also fought on opposite sides, the Rohingya Muslims being with the British Indian army and the Rakhine Buddhists with the Japanese. This also explains why the Rohingyas speak a mutually intelligible language with the Bengalese people that reside in the Chittagong area of Bangladesh, as well as why the Burmese military and the Bamar-majoritarians refer to them as Bengalis instead as Rohingyas, their preferred ethnic identity.46,47

The legal roots of the situation can be traced back to Ne Win’s era in the 1960s, where the 1982 Citizenship Law was enacted based on the idea that Burmese citizenship requires an individual to be “native”. This has arbitrarily deprived the Rohingyas of citizenship, rendering them stateless. Both Rakhine Buddhists and Rohingya Muslims were subject to violations of fundamental human rights and war crimes including arbitrary detentions, gang rapes and sexual violence, forced labour, illegal land confiscations, violations of the right to life and property, physical and psychological abuse and so forth. However, the violations against the Rohingyas were disproportionately higher. They were subject to additional violations as restrictions on basic freedoms of movement, basic socioeconomic rights, marriage, and restrictions on child rearing. The latter are not extra-judicial, but are imposed via enacted laws primarily engendered by the paranoid fear of the polygamous practices within the Muslim community and the high population growth that may arise from it. In modern Myanmar, this paranoia was inflamed by military-backed extremist Buddhist-nationalist organisations such as the Association for the Protection of Race and Religion (Burmese acronym: “MaBaTha”). These groups comprised of monks, nuns, and Burmese laypeople, mobilised in demagoguery asserting the military’s role in “protecting Buddhism” as Myanmar’s “state religion” and which essentially tout all Muslims as a threat to national security.48

Under Thein Sein’s reformist government, these groups were allowed to flourish and fan the flames of civil conflict in the region, instead of being held accountable for hate speech. Thein Sein was also a notable patron of the group, implying that the oppression against the Rohingyas was exploited for political reasons that ultimately made the military more popular, justifying its claim that it needed to remain in Myanmar’s civilian
politics. The initial crisis displaced more than 140,000 people, the majority of whom were Rohingyas, with also a few thousand ethnic Rakhine Buddhists. The death toll was less than a hundred but these were predominantly Muslims. Over 2500 houses were burned, belonging to both ethnic communities.\textsuperscript{49}

In later 2012, the Organisation of Islamic Cooperation (OIC) was able to reach an agreement with the Burmese government to open a country office in Myanmar to provide relief operations to the Rohingyas, but following protests from the Buddhists in Rakhine, primarily by the monastic community, the plan was later jettisoned by Thein Sein’s government, which stated that going against the wishes of the protesters would be “undemocratic”.\textsuperscript{50} The freedom of expression that followed the political reforms was turned to hate speech and demagoguery by an impoverished and highly uneducated population, with the connivance of the government. Given the nature of the crisis also being state-fuelled, i.e. USDP being MaBaTha’s patrons, it is difficult for one to believe that the state had any genuine motivation for a resolution.

Western response

The important thing to note was that the 2012 crisis emerged and escalated in concurrence with Myanmar’s reformist efforts under Thein Sein’s government. Hence isolationism was by and large off the table. In May 2012, the US Secretary of State Hillary Clinton had just announced an exchange of ambassadors between the two countries in response to the release of many political prisoners in January 2012.\textsuperscript{51} The US upgraded its aid support in the region in response to the crisis and several other conflict zones including Kachin and Shan states bordering China, and had taken Chinese influence into account. By the end of 2012, the US had re-established a full in-country presence of the USAID mission, which encompasses programmes on anti-narcotics through the Drug Enforcement Agency (DEA), professionalisation of government institutions, socioeconomic development (healthcare and livelihoods), as well as informal and formal dialogues with civil society, state actors and domestic policy makers. US policies towards Myanmar were restorative than retributive, leaning towards principled engagement. Bilateral diplomacy during 2012–2015 comparably allowed more access (albeit selectively) within Rakhine than multilaterally through the UN. Political dialogue was encouraged between state actors and civil society, security forces and the opposition. Promotion of human rights and democratic values
were implemented through technical support and continued engagement with media organisations, state actors and civil society.\(^52\)

Yet in October 2012, ASEAN’s proposal of engaging in tripartite talks between themselves, the UN, and the Burmese government – a strategy that worked during the Nargis era’s mediation efforts – was rejected by Thein Sein’s administration.\(^53,54\) Though it is unclear why this happened, the sensitivity surrounding Nargis, and the Rakhine Crisis created a great contrast. First and foremost, state, and civilian actors shared complicity in the atrocities committed in the Rakhine Crisis, while Nargis was an unprecedented humanitarian disaster affecting civilians regardless of their ethnicity. Nevertheless, US President Obama’s visit to Myanmar in November 2012 went forward as part of the Pivot to Asia policy, with an added component of increasing bilateral military dialogue between the two countries. The US believed that this dialogue was important for sustainable political reforms and ceasefire negotiations with the EAOs in the peripheries.\(^55\) With state-funded demagogues fuelling conflict and Burmese-US defence relations ostensibly softening, it is hard for one to assert that any form of peace was of interest to the state.

The development of bilateral military relations was an instrument used not only by the US The UK government by 2012 had begun engaging with the Burmese military. The UK believed that the professionalisation of the Burmese military would familiarise the generals with the institutional culture of Western militaries that supports accountability, democratic transparency, the rule of law and human rights. Institutional and constitutional reform was encouraged in order to promote civilian control of the armed forces. The visit by the Chief of Defence staff in 2014 was a significant event. Although it took place during an arms embargo, it was implied that improvements in Myanmar’s human rights record and democratisation could potentially mean the normalisation of the bilateral military ties. Training courses were offered to Burmese military students, which however did not involve combat or operational training.\(^56,57\)

“Our policy was to engage with all parts of the Burmese government – until then, we had had almost no contact with the Burmese military, and we moved to careful engagement with them, remarked a UK Foreign Office official who formerly worked on Myanmar issues.\(^58\)

This all-round engagement policy was reflected in the UK’s capacity-building support for civilian and state institutions. Civil society was given technical support for advocacy, research and monitoring capabilities under a programme running from 2011 to 2016. There was more focus on
public advocacy in promoting political rights and democratic governance than on socioeconomic rights. The latter was implemented through the Department for International Development (DFID), covering poverty eradication and basic healthcare aid projects. DFID support also included peacebuilding efforts mainly through interfaith dialogues, drawing from the UK’s experience in Northern Ireland (see notes 14 and 57). On promotion of fundamental human rights, most work was done through lobbying for multilateral institutional access especially in response to Rakhine, as well as for the opening of a full mandate, in-country programme for the Office of High Commissioner for Human Rights (OHCHR). The UK also lobbied for an enabling path to citizenship for the Rohingyas and internally displaced persons.59

The British and American policies overall were highly comprehensive in terms of the scope of their engagement with both state and non-state actors, positively reflected in the expansion of the civic space during this timeframe. Prior to 2010, most civil society organisations (CSOs) had quiet, limited operations for fear of reprisals from the military state actors. From 2010 to 2016, the civic space grew in terms inter-organisational coordination and collaboration, with increased participation and thematic focus on the promotion of human rights awareness, advocacy, and social service provisions.60,61

Australia’s Myanmar policy had always been in contrast with the hitherto US-led human rights regime in terms of its detachment from Aung San Suu Kyi and her role in Myanmar. In retrospect, this allowed it to have some leeway when the Rakhine Crisis erupted. By 2012, Australia, like many other Western countries, was still in the process of lifting some remaining sanctions and upgrading its aid presence in Myanmar, in response to the 2011–2012 political reforms. However, with the China factor in mind, Australia was careful about the trade-off between punitive measures and neorealist concerns, i.e. the law of diminishing returns. There was a geopolitical risk of Myanmar moving back into China’s orbit depending on how much pressure Australia placed on Myanmar over its human rights issues, and in this case, the Rakhine Crisis.62 Peter Varghese notably remarked,

all of these factors are in our foreign policy calculations on how you deal with human rights violations, and how far you could push and how far you do push.63

In these instruments what was left untouched was the colonial aspect of the crisis. This may be Britain’s ‘uncomfortable truth’ but taking history
into account can be of value as the lack of social cohesion remains as one of the main impediments behind Myanmar’s prospects for peacebuilding and conflict resolution. This is evidenced by the fact that Myanmar’s independence in 1948 was primarily centred around Burman-centric nationalism and ethnic consciousness, which later plunged the country into one of the longest-running civil wars in history. This context is also important as it explains the enduring perception that Western actors (which are more or less classified the same as the British) are biased against the Burman majority, something that re-emerged in the Rakhine Crisis.64 This perceived ‘unfairness’ that lingers in the country despite consistent historic Western support for its civil resistance also indicates that it is unrealistic for one to expect that Myanmar, a country whose present-day population have had no tangible democratic experience aside from a brief stint in the 1950s, to truly understand and practice the most fundamental principles of human rights and democracy despite their decades-long struggle for them. Indeed, numerous studies including public surveys have demonstrated that the country’s democratic elites and its general population understand democracy as a replacement of regimes, i.e. from an illegitimate one to an elected kind, rather than being about democratic values, i.e. pluralism and basic rights. Most do not associate democracy as something beyond an abstract door to freedom and a better life.65,66,67,68 Western capacity-building policies and human rights diplomacy should opt to focus on Myanmar becoming a substantive democracy not just a procedural one, though by 2020 it was still hardly yet the latter kind.69

2015 elections and western influence

Although Myanmar had only opened up significantly around the 2011 reforms, Western human rights diplomacy between 2011 and 2015 had been able to take into account the 2015 elections and Myanmar’s own attempts to resolve the Rakhine Crisis. In this context of the short spell of its engagement, it still gave significant benefits in political and civil rights in the form of promoting democratic transparency, the development of technical support and the growth of capacity in both state actors and civil society. The opposition (i.e. the NLD), coming from civil society, undeniably benefited significantly from this in time for their 2015 elections.70,71

Simultaneously, there were limitations. Most Western support during the years leading up to the 2015 elections primarily focused on equipping the NLD and civil society in institutional capacity building, whilst overlooking ethnic composition issues. Ethnic representation was higher in the 2010
election results than in 2015. Myanmar’s struggle for democracy was by this point at a cross-roads. This was perhaps a reflection of the NLD’s anxieties over having comparatively fewer nationalist credentials than the USDP, which was ultimately aggravated by the onset of the Rakhine Crisis. Evidently, the Burman chauvinism the NLD needed to exhibit was in contradiction to the international norms of human rights and liberal democracy (see note 69). Composition was key in the state-making of divided societies. The NLD seem to have believed that legitimacy alone could unify the largely divided population. Inclusivity was nowhere in sight. Democratisation in Myanmar was pointing towards majoritarian rule.

The EU Dialogue that began in 2014 under the European Instruments for Democracy and Human Rights (EIDHR) attempted to address these concerns by implementing a human rights-based approach in aiding the democratisation process in Myanmar. Here the EU Commission, working with its delegation in Myanmar, served as the host and intermediary in the annual human rights dialogue between the state actors and civil society. The EIDHR is a strong example of an institutionalised foreign policy of principled engagement. It holds that familiarising states with human rights and democracy takes time, patience, and coordination, where the populations of such states are largely unfamiliar with these values. The EIDHR also highlights the importance of engaging with civil society to support grassroots processes to assist citizens in practicing human rights and democratic governance. Unlike the Pivot to Asia, the EU Commission keeps the defence components of EU foreign policy cautiously separate from EIDHR.72,73,74

The novelty of this approach meant that it would take time for these instruments to take effect. The implications of the 2015 election results showed that the movement towards democracy should not be rushed in a country that hardly understood the very principles of human rights and democratic governance. Many ethnic groups voted for the NLD in their constituencies primarily because it was a long-standing anti-military symbol, but with the result that ethnic groups were marginalised in their own state assemblies. In fear of the USDP exploiting its already insufficient nationalist credentials, no Muslim MPs were elected under the NLD.75 With the NLD’s detachment from ethnic issues and highly centralised party governance under Aung San Suu Kyi, it is only fair to say that the NLD was perhaps not more equipped for democracy in comparison with the ex-generals of the USDP – but were just more legitimate for democracy. This missed legitimacy gap, as mentioned by Rein Müllerson (see note 1), Pauline Baker76 as well as Charles T. Call,77 makes Western
human rights diplomacy harder to implement in fragile states; Myanmar is a leading example of this.

Rohingya genocide and the ICJ trial (2016–2020)

Background
As the NLD government took over in March 2016, the transfer of power from the previous USDP government to the civilian one was by and large peaceful. Yet, tensions still existed. The rift between Thein Sein and Aung San Suu Kyi would mean that Suu Kyi and her MPs would have less leverage in influencing the military faction. After significant international pressure, Suu Kyi in September 2016 set up an Advisory Commission on Rakhine State led by the former UNSG Kofi Annan and The Kofi Annan Foundation. The commission involved six different national figures and three international experts, under a mandate to address the welfare of all of the Rakhine population, including the Muslim minorities, especially the Rohingyas. It is noteworthy that the “all” in the mandate implies that the actors involved were aware of the sensitives surrounding the perceived “unequal” attention and support paid to the Rohingyas.

In October 2016, the Arakan Rohingya Salvation Army (ARSA), an armed insurgent group claiming to represent the Rohingyas, attacked government security personnel in Northern Rakhine. There later ensued a disproportionate, pre-meditated retaliation by the Burmese military and its Buddhist nationalist supporters on the same day that the Kofi Annan Commission released their recommendations in resolving the Rakhine crisis. Though the civilian component of the government was willing to accept the recommendations, it was met with acrimony by its military component and its supporters in Rakhine. Many observers speculated that the two events were not coincidental. The atrocities of August 2017 included the arson of hundreds of Rohingya villages, the death of 7,000 civilians, including systemic gang rapes and sexual violence against Rohingya women by the military and its civilian supporters. A mass exodus of around 660,000 Rohingyas followed, crossing the border to Bangladesh, in addition to the 300,000 that had already left in 2012. The refugee population living in precarious camps soared to around one million in Cox’s Bazar.

Western response
There were nuances in the Western bilateral responses. On the ground principled engagement continued overall. However, the gravity of the
allegations of genocide demanded at least an official rebuke from Western governments. The OHCHR and UNHCR followed the advocacy route, clashing with the rest of the UN system which preferred quiet diplomacy. Although by 2011 blanket sanctions had been weakening as the West had to acknowledge the initial political reforms taking place, the vehemence that tended to accompany ostracism remained in most cases. In human rights diplomacy, the trade-off for governments in protecting their self-image was access. OHCHR’s International Independent Fact-Finding Mission for Myanmar (IIFFMM) in 2018 under the leadership of Zeid Raad Zeid al-Hussein of Jordan was notably unable to gain access to Rakhine though it unearthed incontrovertible evidence about the atrocities through the spillovers received by Myanmar’s neighbouring countries. Unfortunately, with Myanmar’s military acting as the key perpetrator in this case and a centralised, chauvinist NLD government that had just freshly assumed office, the consequences for the Rohingyas were disastrous. As Peter Varghese poignantly puts it, “Myanmar marches to its own tune”, the country’s character is one that is habituated to self-isolation. Ultimately, Myanmar’s relations cooled off with the West, giving an opportunity for China on which to capitalise.80

For the US, blanket sanctions were lifted in 2016 following the considerable progress Myanmar had made with the November 2015 elections amid the military crackdown in Rakhine. With the accession of the Trump administration in 2017, targeted sanctions were imposed on the top generals of the Burmese military. This sanction regime expanded through 2018–2019 with Australia, Canada and the EU joining the group as more evidence emerged through the IIFFMM regarding the military’s deplorable atrocities in Rakhine, whilst simultaneously upgrading their humanitarian assistance to Rakhine.81

The UK was reluctant to impose a punitive response. Parliament argued that targeted sanctions would interfere with Myanmar’s budding political reforms and impede its exposure to the international norms of business practices, hinder the increase in transparency, and risk pushing Myanmar again towards China and Russia’s orbit. In this way, British diplomacy was comparable to that of Australia’s, more or less owing to its position as a middle power and perhaps uniquely due to its close relations with Aung San Suu Kyi. In terms of mitigating the violence in Rakhine it had much less influence through bilateral diplomacy. However, it was still able to gain selective access to conflict regions including Rakhine. The UK also funded the mid-term report of the Universal Periodic Review (UPR) to the UNHRC, the only international
human rights mechanism that put the input of the CSOs at a par with the state institutions. This was critical especially given the punitive line taken by the OHCHR with the IIFFMM being denied any access to Rakhine. Such bilateral mechanisms had significant positive leverage in gaining access as well as more leeway for quiet diplomacy.\footnote{82,83}

Australia refrained from public criticism of Aung San Suu Kyi, perhaps because of its experience of relations with Myanmar through ASEAN, different to the rest of the Anglosphere. Targeted sanctions were imposed on the top officials of the junta, through principled engagement continued with both Aung San Suu Kyi and the military. For the former, it was done through the ASEAN-Australia summit. The latter was through continued defence cooperation. The Burmese government, even under Aung San Suu Kyi, felt more comfortable in dealing with ASEAN on Rakhine issues. Bilateral diplomacy likewise, as in most cases, granted access (albeit limited) to Rakhine.\footnote{84} Declassified Australian Department for Foreign Affairs and Trade (DFAT) reports show that while the US, UK, and EU suspended defence relations with the Burmese military, Australia’s modest expenditure on bilateral defence engagement steadily increased from 2013 to 2017. This included funding for training purposes concerning humanitarian assistance, disaster relief, English language-training, civil–military cooperation, and aviation safety training.\footnote{85}

There is considerable debate on the validity of offering professionalisation training to an organisation with an institutional culture of committing war crimes, even if such training does not involve combat training and is done amid an arms embargo. While there is an obvious risk of losing influential leverage with the complete abrogation of a bilateral defence engagement, the issue of technical professionalisation training is a much more uncomfortable debate. There were similarities observed in the Australian and British perspectives on its possible positive influence, drawing from the Indonesian experience as an example (see notes 14 and 33). Yet Indonesia under the Suharto regime was an American vassal state, with a history of diplomatic and economic support from the West during the Cold War.\footnote{86} Myanmar’s military on the other hand has a reservoir of deep resentment and suspicion towards the British and the West reflected in the colonial roots behind its formation, held together by Burman chauvinism and majoritarianism.\footnote{87,88}

Nevertheless, as relations with the West chilled following genocide charges, ironically, Myanmar under Aung San Suu Kyi grew more dependent on China than it was under Thein Sein. China leapt at the
opportunity given its commercial interests in Rakhine as a backdoor access to the Indian Ocean and South China Sea. Repatriation efforts by China together with the UNHCR for the Rohingyas in Cox’s Bazar had also been largely unsuccessful. By December 2019, The Gambia supported by the OIC had filed a genocide lawsuit at the ICJ for the military’s crimes against the Rohingyas, which Suu Kyi had defended as “clearance operations”. Simultaneously, China’s support for the Arakan Army (AA), another insurgent group in Rakhine at war with the state, was concerning the military’s top officials. Yet Myanmar was trapped, and by its own doing. Suu Kyi met with China’s foreign minister just the day before she appeared at the ICJ, discussing China’s continuing economic projects in Myanmar, as well as diplomatic protection with China amidst global opprobrium.89

**Impact on Myanmar’s human rights and democracy**

Though from 2010 to 2016 the civic space expanded, developing capacity, networks, and coordination, from 2016 onwards it started to undergo a regressive trend. Myanmar’s fundamental freedoms had also become more stifled, especially the freedom of expression. The use of the infamous Telecommunications Law 66(d) that was enacted in 2013 soared following the 2016 Rohingya crisis. This vaguely drafted law was mostly exploited by state actors against journalists and media commentators to stifle critical voices, or those with information that could directly challenge the state. The use of regressive legislation is not exclusive to 66(d) (see note 61). Notably two Reuters journalists were incarcerated under the 1923 colonial-era Official Secrets Act for their in-depth reports on the Inn Din massacre in Rakhine that drew a passionate international outcry and which prompted human rights litigation. The high-profile nature of the incident however had a silver-lining, creating enough publicity and momentum to push the Burmese government eventually to release them in 2018.90 In short, following the Rohingya crisis, fundamental freedoms in Myanmar deteriorated despite the simultaneous advance of democratisation.

The domestic aftermath of the ICJ trial renders a haunting reflection of the dangers of pushing just for democracy in fragile states. Western governments have forgotten to ask: what kind of democracy will take shape in Myanmar? Years of isolation meant the West would mostly hear about Myanmar through Aung San Suu Kyi and the advocacy movement, none of whom gave room for foreign governments to grasp Myanmar’s complexities. These years of ostracism brewed extreme nationalism. This nationalism was able to contort into different forms. It enabled the
Rohingya crisis, increased the domestic popularity of Suu Kyi’s denial of the term “genocide” at the ICJ, and even prompted popular support for the military that was unheard of before, not to mention stifling media outlets that challenged these movements in any way.91,92

In short, Myanmar under Suu Kyi, despite significant democratisation, remained significantly authoritarian but now with the appearance of legitimacy. Sovereignty of international law will have limited powers to remedy this given the country’s seasoned experience with ostracism. Myanmar’s pre-reform antagonism with China has proved insufficient for Western states to draw the former in its orbit, in contrast to the case of India (a democracy opposed to human rights), as the nature of Sino-Indian relations and Sino-Burmese relations cannot be assumed as comparable.

Evaluation of western human rights diplomacy in Myanmar – a conundrum?

Neorealist and idealist concerns

Human rights diplomacy, whether bilateral or multilateral, ultimately had regime change as its objective, rather than the mitigation of existing war crimes and mass violations that had taken place across the country for decades. Neither bilateral diplomacy nor the UNSG’s good offices had conducted its mediation for the mitigation of existing mass human rights violations or the object of peace negotiations. It was assumed by almost all actors involved that democratisation would resolve such matters. Prior to the 2011 reforms, multilateral human rights diplomacy, in the form of the UNSG’s good offices, as well as the influence of middle powers that had some influence within the UNSC (e.g. Norway, Australia), had been able to implement principled engagement and quiet diplomacy to bring the reformist elements of the Tatmadaw out of isolation. The principled engagement of these actors had played a significant role in the intermediation between the Burmese military and the opposition, and we have learnt that a kind of détente or at least some softening between the two sides was essential in bringing forth any possibility of change. Neorealist concerns on balance had been a significant determinant in the development of the US-Myanmar rapprochement in 2011, both from the US perspective in the making of the Pivot to Asia, and from the Tatmadaw’s perspective, given Myanmar’s economic and security predicament, its over-dependence on China, and essentially
for the sake of its survival. The misfortune was that the US’s human rights diplomacy post-2011 was under the umbrella of the U.S.’s defence and security interests in Asia, which complicated matters that fell under human rights and democracy.

Given this example, when it comes to defence matters, in retrospect quiet diplomacy would have been beneficial for both neorealist and idealist purposes. Peacebuilding remains a significant factor behind any general improvement in Myanmar’s human rights and democracy. The heavy defence components that accompanied the US human rights diplomacy towards Myanmar and ASEAN under the Pivot to Asia was perceived by China as an encirclement. Unsurprisingly, Myanmar’s peace negotiations in parts where China’s cooperation would be otherwise required fell victim to this *en passant*. Losing this delicate balance of power competition meant that when Myanmar’s relations with the West did cool off, China was able to seize the opportunity.

Post-2011, Western bilateral diplomacy had inclined more towards principled engagement at least on the ground, and in most cases had at least selective access to conflict zones after the Rohingya crisis. Interestingly, multilateral diplomacy at least through the organs of the UNHRC and the OHCHR had retained retributive elements of the traditional ostracism approach, because of limitations in coordination and divisions between the UN country team and the rest of the UN system. This was counterproductive, given the veto on IIFFMM’s access to Rakhine. As a third world country, insecurity also means pride, and as a proud country, Myanmar detests being rebuked in public. Isolation is something Myanmar knows better than international engagement. Aung San Suu Kyi herself had been a person in isolation for decades — a characteristic she, the Tatmadaw, and the mostly nationalist population of the country had long shared. Perhaps this is what the West may have largely misjudged, but it also indicates that there is a law of diminishing returns in promoting human rights in Myanmar. Pushing a country too hard to obey and practice values that are largely very foreign to it had the ultimate consequence that it was forced into a corner, a position to which it was better accustomed.

After 2016, the NLD also gained a reputation of having a highly centralised, perhaps even authoritarian dynamic of internal governance. Although the NLD may have been long-standing advocates for democracy, their lack of practical knowledge and experience meant that ultimately democratisation in Myanmar led towards majoritarianism than much else.
Upon reflection, Western governments have perhaps misjudged whether or not the NLD, as part of civil society that had been advocating for human rights and democracy, were principled practitioners. In reality, the NLD is still part of a population that had been acclimatised to decades of repression and an authoritarian political culture. Ultimately democratisation sat uneasily with a population that largely lacked even the most fundamental understanding and practice of human rights and democracy – a concoction for a perfect disaster. This is of course a challenging critique to make, because to have this understanding of complexity in Western human rights diplomacy would require at least rudimentary engagement with Myanmar historically, but that was unfortunately hindered by decades of ostracism. The global advocacy movement and Aung San Suu Kyi still bear a huge responsibility for having demanded this all-or-nothing approach. It is not to say that the global advocacy movement is a negative force – they are essential actors in raising alarm to injustice, but simultaneously they give little room for deeper complexities if actual foreign policies are crafted entirely through their rhetoric.

*Realpolitik* also meant that Myanmar’s issues had not been treated as important given its lack of proximity with most of the Anglosphere with the exception of Australia, until China’s rising influence in Asia became a significant concern. Overall it indicates that persuading repressive societies to practice values in which they are inexperienced will produce limited effects, given that the Western governments when they did engage had marginal historical diplomatic influence. Myanmar’s case shows that principled human rights practice cannot be brought forth by just democratisation alone. Building influence through long-term principled engagement is a more realistic approach to power competition.

*Lessons to be learnt*

The evaluation of human rights diplomacy pre-2011 and post-2011 shows often-repeated patterns in Western diplomatic instruments, with an element of a “one-size fits all” perception of democratisation in fragile states. Though there were reformist elements within the military that were influential forces behind the 2011 reforms, which coincided with Western concerns about China’s rise, it is still indisputable that Myanmar’s military does not view itself as an immoral organisation, but a patriotic one. As Magnusson and Pedersen state, it views itself as “the last remaining bulwark against many centrifugal forces threatening to pull the country apart.”

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There is a further problem to consider with Myanmar’s democratisation process. Most fragile states undergoing democratisation have extremely difficult tasks to undertake: rebuilding state institutions, national reconciliation, creating social cohesion, as well as an interim government. Myanmar’s democratisation was implemented by inexperienced military generals despite ongoing civil war fuelled by multibillion dollar war economies and entrenched external power competition. Prospects for constitutional change will remain an unrealistic expectation for any domestic or international actor given the substantial fiscal and political incentives for the military to remain in power.

All these tensions prolong the peripheral civil wars. Hence democratic state-building in Myanmar cannot happen unless there is significant progress in peacebuilding. There was significant optimism that as soon as Aung San Suu Kyi and NLD came to power, Myanmar’s human rights record would significantly improve. Suu Kyi bears a particular responsibility for giving the West such an impression. When Ben Rhodes, the former US President Obama’s deputy national security advisor, stressed the importance of peacebuilding in 2013, she adamantly insisted “we cannot have human rights without democracy”. Remnants of a romanticised, early post-Cold War perception of democratisation seem present within not just Western human rights diplomacy but also in Myanmar itself – as if the fall of tyranny is the end of history. Yet it is not. Pauline Baker once warned about the dangers of this, when she rightfully argued, “democracy mismanaged, or descending too quickly, could kill nascent freedom.”

Instruments used for different human rights and humanitarian crises should also be contextualised. Just because a strategy was effective in the past, it does not mean the exact strategy could be implemented in a new crisis. This is shown by the experiences of the Tripartite group of ASEAN, the UN and the Burmese government. In effectively engaging with the Tatmadaw officials during Cyclone Nargis, this strategy worked rather than Western bilateral attempts to deliver aid. Nargis however was an unprecedented crisis that hardly offered any political incentives for the junta. However, the Rakhine Crisis was a whole other issue with deep historical roots, colonial factors and most importantly, it was state-engineered, bearing very high political implications for both the USDP and the NLD. The proposal of a new tripartite group to tackle the crisis was turned down by the Thein Sein administration, unsurprisingly. For the USDP, conflict in the region allows the military to gain legitimacy and stay in power. Indeed this latter crisis increased their popularity.
When it comes to the value of principled engagement, there are also lessons that can be learnt from the EU and Australian experiences. Since 2014, the EU’s human rights diplomacy to Myanmar has been through the EIDHR. As an institutionalised foreign policy, it is coordinated with the objective of supporting EU interests across over 100 countries, engaging both state actors, civilian institutions and civil society for the promotion of democracy and human rights, including in Myanmar and greater Southeast Asia.\textsuperscript{102}

For the rest of the Anglosphere, however, though sharing a neorealist concern with regards to China, human rights diplomacy is largely not as coordinated or institutionalised when it comes to implementing all-round engagement policies. This is not because Western governments are uninterested or unwilling, but rather they come with specific goals and ideas in mind which might not be what is in fact required on the ground.\textsuperscript{103} The EIDHR implies that the EU understands it takes time, patience and coordination to influence societies where its values are foreign.

Western human rights diplomacy had also, on balance, predominantly placed more emphasis on political and civil rights than socioeconomic rights, perhaps the US more so than the wider Anglosphere.\textsuperscript{104} Myanmar’s case is no exception, but perhaps it is time for a greater balance between the three, and to acknowledge that all three types of rights encompasses human rights as a whole and are mutually reinforcing. Myanmar is still a highly impoverished country, and as Pedersen argues,

\begin{quote}
[p]overty\] may not be an obstacle to democratisation per se, but it does make it much harder for democracy to thrive, mostly due to its negative implications for political participation.
\end{quote}

Civil society is still a marginal, educated middle class demographic. Democratisation amidst impoverishment means that keeping politics moderate remains a huge challenge. It poses the risk of allowing demagogues to mobilise people in still deeply contested communities where ethnicity, race and religion remain highly combustible issues. This was observed starkly in Rakhine.\textsuperscript{105}

\section*{Conclusion}

From 2007 to 2011, the principled engagement of Australia and Norway, and of the UNSG’s good offices, were critical in producing some political reforms in Myanmar. The neorealist concern about China was mutually
shared by both the Burmese military and Western actors especially by the US and Australia, acting as a significant force behind these reforms. Positive changes were also seen in the expansion of civil society from 2010 to 2016, whereby bilateral diplomacy showed an increased appreciation of principled engagement with both state and non-state actors in Myanmar. Simultaneously with democratisation, peripheral civil war and violent ethnic conflicts seemed intractable.

Following the 2016 Rohingya crisis, Myanmar’s fundamental freedoms were quickly stifled in their infancy. Extreme nationalism emerged and drove ethnic cleansing and genocidal acts in Rakhine. Civil society went into retreat. The UN primarily through the UNHRC and OHCHR pursued an advocacy approach, which was counterproductive given the complete lack of access to Rakhine achieved by the IIFFMM compared to the selective access achieved in bilateral diplomacy through principled engagement. Myanmar became estranged from the West. It would be an oversimplification to argue that these were the effects of the varying diplomatic instruments alone, because retrospectively, it is indisputable that the historical focus of Western human rights diplomacy in Myanmar had been primarily pivoted around Aung San Suu Kyi and the democratic election of the opposition as a solution to Myanmar’s precarious human rights record and need for fundamental freedoms. It is ironic that despite significant democratisation, Myanmar’s human rights and fundamental freedoms have declined, as well as the country itself retreating back to China’s orbit. In short, both idealist and neorealist objectives had limited achievements.

Myanmar’s case is an example that conventional Western human rights diplomacy, despite its good intentions, may have limited effectiveness in countries that had little fundamental knowledge of human rights principles. It can also, more importantly, give rise to hate speech and extremism through the abuse of freedom of expression, contradicting the very values of human rights. Ultimately when mass atrocities did occur in Myanmar, it showed that the consequences of such diplomacy were counterproductive to Western neorealist concerns. Valuable lessons can be learnt from the EU and Australian experiences, where the former shows the importance of institutionalisation and coordination of human rights-based foreign policies and the latter the value of alternative diplomatic routes familiar to Myanmar, e.g. ASEAN’s leverage. Realistic power competition, will require time and patience via longer term foreign policymaking, to influence repressive societies in practicing human rights principles from a grassroots level.
ACKNOWLEDGEMENTS

The author thanks Prof. Mats Berdal and Prof. Kerry Brown (King’s College London), Dr. Thant Myint-U, and Dr. Morten Pedersen (University of New South Wales Canberra) for their guidance and thoughtful critique, as well as all interviewees who took part in this research paper.

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