

A Critical Analysis of the IIMM Report on Anti-Rohingya Hate Speech

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1. Transparent Critique

On 27 March 2024 the United Nations (‘UN’) Independent Investigative Mechanism (‘IIMM’ or ‘Mechanism’) for Myanmar released two analytical reports. The first “detailed the Myanmar military’s covert Facebook network that systematically distributed hate speech against the Rohingya at the time of the 2017 clearance operations”.¹ The second “examined the response of Myanmar state authorities to allegations of sexual and gender-based crimes committed by security forces against the Rohingya”.² In this policy brief I analyse critically certain aspects of the first report only.

In the words of Nicholas Koumjian, the Head of the Mechanism:

I concluded that these seemingly unrelated Pages, some of which were devoted to celebrity news and popular culture, were part of a network with clear ties to the Myanmar military. These Pages often shared creators, administrators, and editors and regularly posted material using the same IP addresses used by the Myanmar military. Identical material was often posted on multiple Pages in this network, sometimes within minutes. The report identifies more than 10,000 posts on these Pages that the Mechanism considered hate speech. One such post received more than 200 comments calling for Rohingya to be shot, killed, or permanently removed from Myanmar.

The report concludes that at the very time of mass violence against the Rohingya, the Myanmar military was carrying out a coordinated hate speech campaign against the group.³

I am no IT expert, but I fully support Koumjian’s desire that the report may advance the laudable endeavour to ensure accountability for the serious crimes committed by the Tatmadaw against the Rohingya in Myanmar.

It might therefore strike some as both churlish and unnecessary that I should express any need to examine critically the hate speech report if I find its conclusions reasonably persuasive and well presented. The need arises however for the very reason which Koumjian expressed, namely that “we aim to be transparent wherever possible”. It is with transparency in mind that I embark on my critique.

2. On the Origins of the Rohingya Denomination and Identity

The key paragraphs of the report are 27, 28 and 29 about “Denial of the Rohingya Identity and/or as Natives of Myanmar”. The implication of this sub-title is that to deny the Rohingya identity as the Rohingya

themselves perceive this and to deny that they are natives of Myanmar is reprehensible.

I doubt that this implication is justified. I would note that there is not a single reference to the designation ‘Rohingya’ anywhere in the voluminous British colonial archives recording Britain’s administration of Arakan (Rakhine State) from 1826 to 1948. It was only after independence that the minority of Arakan Muslims whose ancestors had settled in Arakan well before the Burmese invasion of 1784 made it clear, according to British diplomatic sources, that they wished to be known in future by the designation “Rwanga”⁴ in order to distinguish them from the greater majority of Chittagonian farmers from Bengal who had settled in Arakan during British rule, notably during the last quarter of the nineteenth and first quarter of the twentieth centuries, and who were known and regarded themselves as Chittagonians.⁵ The distinction was thus between indigenous or long-settled Muslims in Arakan, identified by the British as “Indo-Burmans” and mostly resident in Central Rakhine around the old capital Mrauk-U on the one hand, and the descendants of British-era migrants, known as “Indians” and mostly resident in the Northern Rakhine townships of Maungdaw, Buthidaung and Rathedaung, on the other.⁶

A totally different explanation of ‘Rwanga’ was however offered in October 1948 by the North Arakan Council of Scholars or Jamiat ul Ulema, two of whose Members, Sultan Ahmed and Mohammed Abdul Gaffar, were prominent in political life at the time of independence. The Council contended⁷ that Arakan Muslims were not Chittagonians at all, but could trace their ancestry back to long settled Arab traders whose descendants were called “Ruwangyas or Rushangyas”. This has become the default mantra for many activists and ideologues who deny the evidence in British census and other reports of substantial Chittagonian migration into Arakan during British rule. The intention of the exclusion of this Chittagonian migration by the Jamiat ul Ulema was apparently to exploit the ‘Rwanga’ designation, to de-Indianize historically the Arakan Muslim population and to establish an ethnic-

⁴ See Network Myanmar, “Rwanga-References” (<https://www.legal-tools.org/doc/nf9by3/>) for more details about ‘Rwanga’.

⁵ For details, see Derek Tonkin, “Migration From Bengal to Arakan During British Rule 1826–1948”, Occasional Paper Series No. 10 (2019), Torkel Opsahl Academic EPublisher, Brussels, 2019 (<https://www.toaep.org/ops-pdf/10-tonkin/>).

⁶ See Derek Tonkin, “Written Evidence Submitted in October 2017 to the House of Commons Foreign Affairs Committee for Their Inquiry on Violence in Rakhine State: Memorandum by Mr Derek Tonkin”, BUR0009, 16 November 2017 (<https://www.legal-tools.org/doc/jhx9zy/>).

⁷ “Address Presented by Jamiat Ul Ulema North Arakan on Behalf of the People of North Arakan to the Hon’ble Prime Minister of the Union of Burma on the Occasion of His Visit to Maungdaw on the 25th October 1948”, 25 October 1948 (<https://www.legal-tools.org/doc/wb3uz2/>).

¹ IIMM, “Anti-Rohingya Hate Speech on Facebook: Content and Network Analysis”, 27 March 2024 (<https://www.legal-tools.org/doc/0nji9u/>).

² IIMM, “Efforts to Investigate and Punish Sexual and Gender-Based Crimes Committed Against Rohingya: Evidence Analysis”, 27 March 2024 (<https://www.legal-tools.org/doc/0kbf7f/>).

³ IIMM, “Publication of IIMM Analytical Reports: Statement by Nicholas Koumjian, Head of the Independent Investigative Mechanism for Myanmar”, 27 March 2024 (available on its web site).

ity which traced its roots seamlessly back many centuries.

When I read in paragraph 27 of the Mechanism report that “[m]uch of the hate speech content found on the removed Pages invokes the narrative that no Rohingya ethnic group exists, that the people who call themselves Rohingya are actually all *Bengali* and do not belong in Myanmar but rather should live in Bangladesh”, I am reminded that no Rohingya ethnic group⁸ was known to the British colonial administration either, that the designation has never appeared in post-independence primary or secondary legislation, that the Muslim population of Arakan, whether tracing their roots to ‘old’ settlers who arrived many centuries ago, or to ‘new’ settlers who migrated under British rule, are mainly of Bengali ethnic origin, and that the problem of illegal migration into Arakan after independence was a matter of serious concern to successive Burmese administrations and of comment by diplomatic missions.⁹

The element of ‘hate speech’ in all this is thus primarily confined to the allegation that the Rohingya “do not belong in Myanmar but rather should live in Bangladesh”. This allegation has no substance.

3. Letter and Application of Relevant National Laws

The historical fact is that, on independence, Arakan Muslims were guaranteed citizenship in independent Burma by statutory right – by reason of birth – as set out in the 1947 Constitution¹⁰ and in the 1948 Union Citizenship Act,¹¹ or if not born in Burma were eligible to apply for citizenship by naturalization or under the 1948 Union Citizenship (Election) Act.¹² These combined provisions reflected four paths to citizenship, two by statutory right and requiring no application, and two by application where the other two main paths were not available.¹³

It would have been useful if the IIMM report had made reference to these provisions and at the same time noted that, even after the 1982 Citizenship Law, the highest authority in Burma had recorded that the descendants of migrants under British rule who had settled in Burma were entitled to citizenship. I refer in particular to President U Thein Sein’s explanation on 11 July 2012 to António Guterres, then UN High Commissioner for Refugees, that:

The President said that Bengalis came to Myanmar because the British colonialists invited them in prior to 1948, when Myanmar gained independence from Britain, to work in the agricultural sector. Some Bengalis settled here because it was convenient for them to do so, and according to Myanmar law, the third generation of those who arrived before 1948 can be granted Myanmar citizenship. He added that, if we look at the situation in Rakhine State, some people are the younger generation of Bengalis who arrived before 1948, but some are illegal immigrants claiming to be Rohingyas and this threatens the stability of the State. The Government has been looking seriously for a solution to this problem. The country will take responsibility for its native people, but it cannot accept illegal immigrant Rohingya in any way.¹⁴

⁸ On the historical background to the Rohingya community in Arakan, see Jacques P. Leider, “Rohingya: The History of a Muslim Identity in Myanmar”, in David Ludden (ed.), *Oxford Research Encyclopedia of Asian History*, Oxford University Press, 2018.

⁹ See Network Myanmar, “Illegal Migration From Bengal Into Arakan After 1948” (available on its web site), which analyses illegal migration from Bengal into Arakan after independence in 1948.

¹⁰ Constitution of the Republic of the Union of Myanmar, 24 September 1947 (<https://www.legal-tools.org/doc/bd7d26/>).

¹¹ Myanmar, The Union Citizenship Act, No. LXVI of 1948, 4 January 1948 (<https://www.legal-tools.org/doc/f63770/>).

¹² Myanmar, The Union Citizenship (Election) Act, No. XXVI of 1948, 15 June 1948 (<https://www.legal-tools.org/doc/ohh88v/>).

¹³ See my analysis of these paths to citizenship in Derek Tonkin, “Exploring the Issue of Citizenship in Rakhine State”, in Ashley South and Marie Lall (eds.), *Citizenship in Myanmar: Ways of Being in and From Burma*, ISEAS – Yusof Ishak Institute and Chiang Mai University Press, 2017.

¹⁴ See Office of the President of the Union of Myanmar, “President of the Republic of the Union of Myanmar U Thein Sein Meets a Delegation Led by Antonio Guterres”, 11 July 2012, press release (in Burmese) (<https://www.legal-tools.org/doc/2gjnbn/>).

It would have been helpful if the Mechanism report had at least made reference to the official position of the Myanmar Government as expressed in 2012. The difficulty for the Mechanism in doing so, I suspect, is that this would have contradicted the tendentious position which the detailed findings of the Final Report of the UN Fact-Finding Mission had taken in 2018, where we read that:

712. On 11 July 2012, President Thein Sein held a meeting in Naypyidaw with Mr. Antonio Guterres, then United Nations High Commissioner for Refugees. During this meeting, the President referred to ‘illegal migrants’ who ‘sneaked into’ Myanmar and ‘later took the name Rohingya’. He stated that he could not take responsibility for them and that they should either be sent to IDP camps and be supported by UNHCR, or be sent to a third country. A depiction of this nature by Myanmar’s highest official further stigmatised the Rohingya in an already tense climate.¹⁵

I have already criticized¹⁶ the authors of the UN Fact-Finding Mission report for this unwarranted distortion of what President U Thein Sein actually said to Guterres, a distortion which was most probably deliberate because I had sent to the Mission in advance¹⁷ the published text of the President’s official statement, but which they chose to ignore in favour of their own fabricated interpretation based on materials which they are not willing to release.

4. The Burmese ‘National Races’, the ‘Bengali’ Designation and the Law

The IIMM’s report might also have clarified the position of Daw Aung San Suu Kyi and the National League for Democracy (‘NLD’) Administration 2016–2021, best expressed by her in Nay Pyi Taw as Foreign Minister on 22 July 2016¹⁸ in these words:

Now, the reason why I say that we’ve got to be very firm about not using emotive terms is because emotive terms make it very difficult for us to find a peaceful and sensible resolution of our problems. There are two terms which are emotive, and we’ve got to face them fairly and squarely. The Rakhine Buddhists object to the term “Rohingya,” just as much as the Muslims object to the term Bengali, because these have all kinds of political and emotional implications which are unacceptable to the opposing parties. All we are asking is that people should be aware of the difficulties that we are facing and to give us enough space to sort out our problems. If there is an insistence on other part, either on the part of the Rakhine Buddhists or on the part of the Muslims to insist on particular terms, knowing full well that these will create more animosity, this does not help to our finding a resolution to the problem at all.

The designation ‘Bengali’ is admittedly seen by the Rohingya as a derogatory slur, implying that they do not belong in Myanmar when they so clearly do. Their wish and determination to be designated ‘Rohingya’ nowadays is surely one which the rest of Myanmar and the international community can respect, but in the final resort it is a designation which only the legitimate government of Myanmar can be expected to endorse as a Myanmar ethnicity.¹⁹

www.legal-tools.org/doc/2gjnbn/.

¹⁵ Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar, 17 September 2018, UN Doc. A/HRC/39/CRP.2, para. 712 (<https://www.legal-tools.org/doc/0c0c69/>).

¹⁶ See my op-ed, Derek Tonkin, “The UN Fact-Finding Mission’s Mischievous Use of Historical Sources”, Network Myanmar Op-Ed, 1 March 2020 (<https://www.legal-tools.org/doc/jt4zzp/>).

¹⁷ See Derek Tonkin, “The Muslim Presence in Arakan: Four Important Historical Documents. A Submission by Mr Derek Tonkin to the HRC Fact-Finding Mission on Myanmar”, 2 January 2018 (<https://www.legal-tools.org/doc/wdeffd/>).

¹⁸ See United States Embassy in Burma, “Joint Press Availability With Burmese Foreign Minister Daw Aung San Suu Kyi”, 22 May 2016.

¹⁹ It is instructive to read the endeavours of Muslim ideologues to establish the ‘Rohingya’ designation in the late 1950s–1960s: Derek Tonkin, “Notes on a Series of Cultural and Historical Articles About Arakan Written Between 1959 and 1966 by Mohammed A Tahir Ba Tha of Buthidaung”, 7 March 2017. See also Seit Twe Maung, “Rohengya Affairs”,

I now pass to paragraph 28 of the IIMM report which reads: 28. Central to the narrative is the concept of “national Races”. Which is also known as “ethnic people” or “*Taing-Yin-Thar*” (တိုင်းရင်းသား) in Burmese. Notably, under military rule, the concept of “national races” has gradually become the key criterion for membership in the country’s political community, creating a common “other”³³. The military regime constructed eight major ethnic groups (Kachin, Kayah, Karen, Chin, Bamar, Mon, Rakhine and Shan), broken down into 135 “national races”. There are no authorities or rational explanation offered for this division. It appears arbitrary with some groups excluded and others listed twice. But these arbitrary ethnic categories are used to define those who “belong” in Myanmar and the consequences are momentous for the civil, political, and economic rights of individuals and groups concerned. Those excluded from the list, regardless of where they were born and for how many generations their ancestors have lived in Myanmar, are considered outsiders or immigrants. This is particularly the case for the Rohingya.³⁴ According to the Tatmadaw, “[d]espite living among peacocks, crows cannot become peacocks”.³⁵ Many examples of hate speech identified by the Mechanism highlighted the fact that the Rohingya name is not included in the 135 national races and stated that the Rohingya have a plan to take away Myanmar’s land by making themselves become the “136th Group”.³⁶

³³ See e.g. N Cheesman, “How in Myanmar ‘National Races’ Came to Surpass Citizenship and Exclude Rohingya”, *Journal of Contemporary Asia* (2017), 47:3, pp. 461-683. See also UN Fact-Finding Mission, Report of the Detailed Findings (2018). A/HRC/39/CRP.2, para. 85.

³⁴ UN Fact-Finding Mission, Report of the Detailed Findings (2018). A/HRC/39/CRP.2, para. 85.

My first comment is that, with respect, the eight major ethnic races of Burma are not a construction of the military regime as the IIMM report states. The material in paragraph 28 is taken almost verbatim from paragraph 85 of the UN Fact-Finding Mission detailed report, which includes data which are not historically correct, as I have already pointed out on pages 12–14 of my op-ed of 22 January 2022.²⁰ The IIMM should do its own independent research and not rely on demonstrably inaccurate sources. I do not need to repeat the facts which I recorded in my op-ed, except to note for the record that Article 3(1) of the 1948 Union Citizenship Act states quite clearly:

3. (1) For the purposes of section 11 of the Constitution the expression “any of the indigenous races of Burma” shall mean the Arakanese, Burmese, Chin, Kachin, Karen, Kayah, Mon or Shan race and such racial group as has settled in any of the territories included within the Union as their permanent home from a period anterior to 1823 A.D. (1185 B.E.).

The eight major ethnic races were already there in 1948, proclaimed by Prime Minister U Nu’s civilian administration.

No definitive list of ‘national races’ was ever drawn up under the 1948 Union Citizenship law. It appears to have been the intention to do so only when the 1974 Constitution was introduced, but the task was delayed. General Saw Maung first referred to a list of 135 in a speech²¹ on 5 July 1989 and a definitive list was finally published in the *Working People’s Daily* on 12 September 1990.²² The list was incorporated in the 2014 Census Code Book.²³ By common consent it

needs radical revision because the allocation of particular races to the eight main ethnic groups is arbitrary and seemingly based in part on geographical rather than on ethnic considerations. But there is a rough logical division into groups corresponding to the seven States (Chin, Kachin, Kayah, Kayin, Mon, Rakhine and Shan) while the Bamar as the major ethnicity comprise the rest. The ethnic tables prepared at the 2014 Census have yet to be released. They are no doubt too controversial to see the light of day. Inter-marriage between ethnic groups is so widespread that large numbers of people can claim adherence to two or more ethnic groups by descent.

The British colonial administration faced very similar problems. Appendix C of the 1931 Census is a “Note on the Indigenous Races of Burma” by Captain J.H. Green in which he observes:²⁴

Some of the races or tribes in Burma change their language almost as often as they change their clothes. Languages are changed by conquest, by absorption, by isolation and by a general tendency to adopt the language of a neighbour who is considered to belong to a more powerful, more numerous or more advanced race or tribe. To obtain more accurate knowledge of the inter-relationship and culture of our tribes, a study of ethnology, anthropology, and folk lore is of the greatest importance. Unfortunately, practically nothing, so far, has been done in this respect, and races are becoming more and more mixed, and the threads more and more difficult to disentangle.

While I respect the idiosyncratic assessments of the IIMM presented in this paragraph, for example, that those excluded from the list of 135 national races “are considered outsiders or immigrants”, this is not consistent with the intentions of the 1982 Citizenship Act as expressed by General Ne Win in October 1982.²⁵ In this speech General Ne Win made the point repeatedly that the intention of the new legislation was not to exclude ‘guests’ who had settled in Burma, but to include everyone, regardless of their ethnicity, over a period of three generations, so that in due course there would be only one happy family of citizens with everyone enjoying the same, full rights. In Ne Win’s words:

When the grandchild is given citizenship, he will, just like any other citizen, become a full citizen. Similarly, will the children, grandchildren and great grandchildren of a *naing-ngan-tha-pyu khwint-ya-thu* [naturalized citizen] continue to be a *naing-ngan-tha-pyu-khwint-ya-thu*? Will a *naing-ngan-tha-pyu-khwint-ya-thu* not be able to enjoy full rights? As I said earlier, his grandchildren will be given citizenship. Although there are three types of citizens at present - *eh-naing-ngan-tha* [associate citizens], *naing-ngan-tha-pyu-khwint-ya-thu* [naturalized citizens] and pure citizens - the grand children of *eh-naing-ngan-tha* [associate citizens] and *naing-ngan-tha-pyu-khwint-ya-thu* [naturalized citizens] will become full citizens. Then there will be only one type of citizen.²⁶

In other words, the provisions of the new law were in essence transitional and the problems of some two million unregistered or unprocessed Chinese and Indian residents at the time would be resolved with the passage of time.²⁷ Indeed, if the provisions of the new law had

2014 Myanmar Population and Housing Census: Enumeration Code Book, 2014, Ethnicity/Foreigner Nationals (<https://www.legal-tools.org/doc/f9tq2w/>). The Mechanism says that some groups are excluded and some listed twice. Apart from the Rohingya, I do not know which are other groups have been excluded, and there is no evidence from this list that some have been listed twice. The Codes 1 to 833 identify exactly 135 ethnic races – there is no duplication.

²⁴ See J.J. Bennison, *Census of India*, 1931, Volume XI, Office of the Superintendent, Government Printing and Stationery, Rangoon, 1933, Part I: Report, pp. 245–247 (<https://www.legal-tools.org/doc/7z9vl8/>).

²⁵ Ne Win, Speech on the Occasion of the Meeting Held in the Central Meeting Hall, President House, Ahlone Road, 8 October 1982, *Working People’s Daily*, 9 October 1982 (<https://www.legal-tools.org/doc/e00gli/>).

²⁶ That is, regardless of whether they belong to a ‘national race’ or not.

²⁷ See the account at Network Myanmar, “The 1982 Citizenship Law” (available on its web site) describing how the 1982 law came into exist-

in *Rakhine Tanzaung Magazine*, 1961, vol 2, no. 9 and Tha Htu, “Akyab the Capital of Arakan”, *The Guardian*, August 1963, recording contemporary awareness among Arakan authors of attempts by Chittagonian migrants to jump on the Rohingya band-waggon.

²⁰ Tonkin, 2020, see *supra* note 16.

²¹ See “State Law and Order Restoration Council Chairman General Saw Maung’s Statement”, *Working People’s Daily*, July 1989 (<https://www.legal-tools.org/doc/3y6u8p/>).

²² See *Working People’s Daily*, 12 September 1990 (in Burmese) (<https://www.legal-tools.org/doc/2hp9ao/>).

²³ See Myanmar, Ministry of Labour, Immigration and Population, *The*

been applied promptly and sensibly, practically all Rohingya residents would by now be enjoying full citizenship rights.

This intention, though, has not been realized. Because of the chicanery and obstructionism of local and central government officials, Rohingya rights have been whittled away. This is not the fault of the legislation, but of the failure to apply its provisions. As Nick Cheesman expressed the reality in the article quoted by the Mechanism in their footnote 33:

Nevertheless, white cards were, from the early 1990s, treated as proxy permanent identification documents for some 700,000 people to whom they were issued.

Thus, the process of rendering stateless hundreds of thousands hitherto identified or self-identifying as Rohingya but now officially designated “Bengali” was not *de jure* but *de facto*. It was not achieved by complying with the terms of the Citizenship Law per se, even though the law’s contents were in their general intentions inimical to the interests of this population, but through their deliberate breach and selective application.

The leading Myanmar historian Thant Myint-U, grandson of UN Secretary-General U Thant, put it in this way:²⁸

In 1982, a new citizenship law was enacted. There is a common perception that the Rohingya were stripped of their citizenship by this law. That’s not true. Under the previous law, enacted in 1948, more or less anyone who was living in Burma at the time could register to become a citizen. Under the new law, taingyintha native were automatically citizens, and other, for example Indian migrants, who had become citizens under the older, more liberal law were still citizens. Complicating the picture, though, were many undocumented people who were not considered native, like most Muslims in Arakan. If they or their ancestors had arrived in British times (the “Chittagonians”), they could become naturalized as “guest” citizens. Their descendants by the third generation would be considered full citizens. Thus, by today, seventy years and three generations after independence, citizenship should be equal for everyone except actual and recent illegal immigrants. But that’s all in theory. Practice was and is different, and discriminatory.

In other words, the attempt by the Mechanism to explain the discrimination against the Rohingya in terms of the 1982 Citizenship Law and the 1990 designation of 135 national races is not supported by most scholars who draw a distinction between the letter of the 1982 law and the failure to implement its provisions.²⁹

tence.

²⁸ Thant Myint-U, *The Hidden History of Burma*, Atlantic Books, London, 2019, p. 37.

²⁹ It should be noted that the 1973 Census recorded not 135, but 144 national races including six Muslim ethnicities mostly in Arakan: Government of the Union of Burma, Ministry of Home and Religious Affairs, Immigration and Manpower Department, “How to Fill-Up the Form”, 9 December 1972, pp. 45–46. This was at a time when Muslim ideologues were pressing the Rohingya designation on all those distinct Muslim communities in Arakan who had previously accepted British-designated ethnicities like Arakan Muslim (Yakhain-Kala or Rooinga/Rwangya), Myedu, Zerbaidi, Chittagonian and Bengali. Only the Kaman have managed to survive the Rohingya juggernaut. In a show of disapproval, in the 1983 Census the military regime simply labelled all non-Kaman Muslims in Arakan as ‘Bangladeshis’ even though this is a political and not an ethnic designation. The former designations have been consigned to history,

Might I finally comment on paragraph 29 of the Mechanism Report which reads:

29. As found during the Mechanism’s review, the authors of claims such as “there is no Rohingya in Myanmar”,³⁷ “they are Bengali”,³⁸ “Rohingya is not recognized by the State”,³⁹ “Call Bengali Bengali”,⁴⁰ “Rohingya is not the name of an ethnic group”⁴¹ and “these animals are not from our country”⁴² range from individuals who are the highest officials in the military, including the commander-in-chief, Senior General Min Aung Hlaing,⁴³ and his deputy Vice-General Soe Win,⁴⁴ to ministers,⁴⁵ politicians,⁴⁶ political analysts,⁴⁷ academic researchers,⁴⁸ and soldiers⁴⁹ operating on the ground during the clearance operations in Rakhine State in August 2017.

Given that the designation ‘Rohingya’ has never appeared in any primary or secondary legislation of the country, that historically most of today’s Rohingya came from Bengal and that Rohingya has never appeared as the name of an ethnic group or race in any British or post-Independence census, I am doubtful that any independent tribunal would convict anyone of hate speech on the basis of such utterances alone. It may well be an insult in 2024 to call Rohingya ‘Bengalis’, but it was not 40 years ago.

5. Conclusion

In the Mechanism’s notes to page 28 only five non-military persons are identified and what they reportedly said ought hardly to raise an eyebrow. The only ‘minister’ mentioned is the hapless NLD member Dr. Aye Zan, Chief Minister of the Mon State Legislature. He now languishes in jail on trumped up charges. I expect that Daw Aung San Suu Kyi would not have been pleased that Dr. Aye Zan reportedly said that “there is no Rohingya in our country. They are Bengali”, but that is hardly a hanging offence, even if the statement had been made to taunt the Rohingya for their exclusion from the approved list of 135 national races, which is most unlikely. No Cabinet Member of the National Parliament Lower House (Pyithu Hluttaw) is accused by the Mechanism of hate speech. As for “politicians, political analysts and academic researchers”, no evidence is given that any mainstream personalities are involved. The academic Dr. Aye Chan is well-known as a firebrand Rakhine historian for a very long time.

The purpose of this policy brief accordingly is to highlight, firstly, factual flaws in the Mechanism’s report and, secondly, to draw attention to an inclination to bias and exaggeration which are the signs of a campaigning document. As its title indicates, the Independent Investigative Mechanism for Myanmar should strive to be independent. The Mechanism should not present as objective analysis opinions based on incorrect data and should if at all possible at least note views held by informed scholars which conflict with the Mechanism’s own interpretation.

Derek Tonkin was a career officer in the British Diplomatic Service from 1952 to 1990. His final postings were as Ambassador to Vietnam, Minister in South Africa and Ambassador to Thailand and Laos.

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both by the military regime and by Arakan Muslims themselves, who may now regret that they did so.



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