MYANMAR REPORT

# LOSING THE FOREST FOR THE TREES?

# ACKNOWLEDGEMENTS AND DISCLAIMER

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# CONTENTS

# EXECUTIVE SUMMARY

## BACKGROUND: THE ROLE OF 'MANDATES'

The research behind this report was carried out as part of HERE's broader study on **"The role of 'mandates' in humanitarian priority setting for INGOs in situations of armed conflict"**. This study is based on the recognition that the majority of international non-governmental organisations (INGOs) that are active in humanitarian response define their purposes broadly, to include both short-term emergency response and long-term development engagement. In contrast, a small minority of organisations exclusively focus on life-saving assistance in emergency settings. In humanitarian discourse, these approaches are frequently distinguished as 'multi-' or 'single-mandate'. The Role of 'Mandates' Study sets out to investigate the appropriateness of this terminology, and the practical opportunities and limitations that would arise from different approaches. The term 'mandate' is therefore understood broadly as an organisation's goal or mission and not only in its legal meaning. The study takes a look at how organisations set priorities and come to strategic choices, and how that enables them to fulfil their goals on the ground. Eight organisations are participating in the study at the global level: Action Contre la Faim, Concern Worldwide, DanChurchAid, International Rescue Committee, Médecins sans Frontières-Spain, Norwegian Refugee Council, Welthungerhilfe, and the International Committee of the Red Cross. The study focuses on international non-governmental organisations and the ICRC as one example of where discussions about tensions and opportunities between single-mandate and multi-mandate organisations have been raised. In view of allowing for a methodologically sound yet feasible study, the Research Team decided to limit the variables by not including UN agencies among the participating organisations. To adequately frame the context in which INGOs and the ICRC operate, due consideration has however also been made of the UN system.

In order to lay part of the groundwork towards answering the broader questions of the Role of 'Mandates' Study, this report delves into some of the elements characterising the humanitarian response in Myanmar, based on the experiences of six of the participating organisations, as well as a range of other stakeholders. As such, it highlights some elements of that context that are of particular interest to the overall research. Specific conclusions with regard to the Role of 'Mandates' Study as such will be addressed in the final report of the project.

When looking at the overall humanitarian response in Myanmar, the uninitiated is immediately struck by the seemingly endless web of relationships set against a complex historical, cultural, and political national background. It is about understanding inter-ethnic relations; the role of international actors vis-à-vis the civilian part of the government and the military; the role of the United Nations (UN) versus the engagement of regional institutions and the influence of regional powers; the relationship between international non-governmental organisations (INGOs) and the UN system; the relationship between humanitarian, development, and peace-building actors; and the interplay between humanitarian, political, and economic priorities. This unique setting points to the exceptionalism of the response in Myanmar. Yet, beyond the contextual specificities, the question that seems to be front and centre of the engagement of humanitarian actors in the country is a long-standing one: what is the relevance and purpose of humanitarian action?

While focusing on a select group of INGOs and the ICRC, the research in Myanmar provides helpful insights into some of the broader dynamics at play for the international aid response in the country. As in many contexts before, providing a humanitarian response in Myanmar means managing

tensions. The question of whether the needs make the presence of humanitarian actors imperative, or whether such a presence essentially serves to provide legitimacy to the government has been endemic in the country for decades. At the same time, the legacy of past organisational approaches was mostly based on what organisations could do given the limited operational space available. The military crack-down in Rakhine State in August 2017, which saw a mass exodus of Rohingyas cross the border into Bangladesh, has led a new generation of senior INGO managers in Myanmar to consistently review their approaches, asking themselves whether their organisations are fit for purpose. What is humanitarian action meant to achieve when humanitarian space is compromised? Is current humanitarian aid suited to the needs of affected populations in Myanmar? How and when should humanitarian actors engage in public advocacy to fulfil their protection responsibilities? These are not new questions. Nevertheless, with the UN playing a constrained role in leading the humanitarian response and with increasing business interests getting in the way of both humanitarian and development priorities, there does not seem to be a common agreement as to what the solutions should be, prompting organisations to look inwards for answers.

INGOs negotiate their role in Myanmar against their mandate or mission and values and within the parameters set by the government. By honing in on what can be controlled, agencies tend to focus purely on the 'technical' side of aid delivery, instead of addressing the critical policy and ethical issues related to the identity of humanitarian action. An organisation can focus solely on its geographic areas of intervention without having a comprehensive outlook of the broader socio-political dynamics across the country. Similarly, an individual can ensure that he or she fulfils the details of their job description without recognising the larger networks of relationships. There are risks, however, in applying technical solutions to what is frequently purely political dilemmas, the main one being aid without impact. The often-unintended political consequences of humanitarian action may go unrecognised, and the space available for weighing and acknowledging the need for compromise may shrink.

The overly strong focus on the tree also comes at the risk of losing the forest. Ultimately, there appears to be an over-fragmentation

## IT WILL NO LONGER BE ACCEPTABLE TO HIDE BEHIND A TREE.

of approaches in response to contextual constraints in Myanmar. International NGOs tend to focus on their own individual sphere of influence – be it geographical or technical – to navigate the context. For some, protection activities drift towards services and assistance instead of being used as the underpinning notion of rights; quiet advocacy or even self-censorship become the norm as organisations wish to protect their own humanitarian space; bottom-up community-based interventions around peace and reconciliation remain disconnected from broader political processes. As seen in other contexts however, not least in Sri Lanka, it is as about collective behaviour as much as an individual one. With mounting evidence regarding war crimes and crimes against humanity committed by the Myanmar authorities, it will no longer be acceptable to hide behind a tree. All INGOs will be called to account for their actions or inactions both individually and collectively. In asking themselves existential questions and in reviewing their approaches, INGOs have an opportunity to leverage their individual role as per their mission to collectively better assist and protect all people in need – and ultimately answer the question of what it means to be an international actor in Myanmar.

# ACRONYMS

| | |
|---|---|
| **ACF** | Action Contre la Faim |
| **ARSA** | Arakhan Rohingya Salvation Army |
| **DCA** | DanChurchAid |
| **ECHO** | European Civil Protection and Humanitarian Aid Operations |
| **EU** | European Union |
| **GA** | General Assembly |
| **GBV** | Gender-Based Violence |
| **HC** | Humanitarian Coordinator |
| **HERE** | Humanitarian Exchange and Research Centre |
| **HQ** | Headquarters |
| **HRP** | Humanitarian Response Plan |
| **ICC** | International Criminal Court |
| **ICRC** | The International Committee of the Red Cross |
| **IDP** | Internally Displaced Person |
| **(I)NGO** | (International) Non-Governmental Organisation |
| **IRC** | International Rescue Committee |
| **LRRD** | Linking Relief to Rehabilitation and Development |
| **MIMU** | Myanmar Information Management Unit |
| **MoU** | Memorandum of Understanding |
| **MSF** | Médecins Sans Frontières |
| **MSF-OCA** | MSF Operational Centre Amsterdam |
| **NFI** | Non-Food Item |
| **NLD** | National League for Democracy |
| **NRC** | Norwegian Refugee Council |
| **OHCHR** | Office of the United Nations High Commissioner for Human Rights |
| **RC** | Resident Coordinator |
| **RR** | Resident Representative |
| **UN** | United Nations |
| **WASH** | Water, Sanitation, and Hygiene |
| **WFP** | World Food Programme |
| **WHH** | Welthungerhilfe |

# 1 — INTRODUCTION

The research carried out in Myanmar contributes to a broader inquiry into the decision-making processes of selected international non-governmental organisations (INGOs) within the context of HERE's so-called Role of 'Mandates' Study.[1] Humanitarian discourse frequently distinguishes between 'multi-' or 'single-mandate' organisations, depending on whether they define their purposes broadly to include both short-term emergency response and long-term development engagement, or whether they focus exclusively on life-saving assistance in emergency settings (Wendt and Hiemstra, 2016). Nevertheless, there is a lack of evidence and common understanding of the practical opportunities and limitations that would arise from the different ways in which organisations set priorities and make strategic choices. The Role of 'Mandates' Study looks precisely into these issues. The intention is not to answer the normative question of "which type of 'mandate' is best", or to find which organisations fall into which category,[2] but rather to clarify what differences there are between organisations in terms of how they go about their activities in the field, and to identify how complementarities can be best leveraged.[3]

In order to lay part of the groundwork towards answering the broader questions of the Role of

**WHILE THE 'MANDATE' HENCE PROVIDES A SENSE OF PURPOSE AT THE INDIVIDUAL AGENCY LEVEL, THERE APPEARS TO BE AN OVER-FRAGMENTATION OF APPROACHES AT THE COLLECTIVE LEVEL.**

'Mandates' Study, and following from case-studies looking at Mali and the Central African Republic (CAR),[4] the sections below delve into some of the elements characterising the humanitarian response in Myanmar from the experience of organisations with different mandates[5] or missions and values. After an outline of the methodological approach taken for this case study, and a reminder of the contextual elements pertinent to the current humanitarian response in Myanmar, this report will discuss why and to what purpose organisations work in the country, showing that organisations have had to reconcile their mission with the space they have effectively been able to occupy there, raising questions as to the strategic nature of their programming (section 2). In a next section, the report will then look at how organisations use their mandate or mission and values to navigate the tensions the context presents them with, concluding that while the 'mandate' hence provides a sense of purpose at the individual agency level, there appears to be an over-fragmentation of approaches at the collective level.

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1    "The role of 'mandates' in humanitarian priority setting for INGOs in situations of armed conflict". For more information, see http://here-geneva.org/what-we-do-2/our-projects/.

2    The appropriateness of the expressions 'multi-' or 'single-mandate' organisations in general, and the extent to which they pertain to the organisations participating in this study in particular, will be discussed in more detail as part of the final report of the project.

3    The Role of 'Mandates' study addresses three main questions: (1) Is it helpful to talk about 'mandate' distinctions? What does it mean? (2) In regard to humanitarian organisations' capacity to work in situations of armed conflict, what opportunities and/or limitations arise from different 'mandates'? (3) Where do these opportunities and/or limitations appear to allow for complementarity between organisations? Where do they engender competition or tensions, such as policy differences, incommensurable priorities, and different target groups? For more information, see http://here-geneva.org/wp-content/uploads/2015/09/HERE-Mandates-Study-Concept-Brief-Sep-2016.pdf

4    The report on Mali, entitled "The Limits of Labels" , can be found at http://here-geneva.org/wp-content/uploads/2019/03/HERE-Role-of-Mandates-Mali-Report-2018.pdf. The report on CAR, entitled "From Macro to Micro" can be found at http://here-geneva.org/wp-content/uploads/2019/07/HERE-Role-of-Mandates-CAR-Report-2019.pdf.

5    For the purposes of this study, the term 'mandate' is understood broadly as an organisation's goal or mission and not only in its legal meaning.

## ▬▬ 1.1
## Methodological approach

In line with the overall methodology of the Role of 'Mandates' Study,[6] and as applied in previous case studies within the framework of this project (Montemurro and Wendt, 2018, 2019), a Research Team of two visited Yangon between 17 and 25 July 2019. The team carried out semi-structured interviews with staff members from each of the organisations that participate in the study and who have a presence in Myanmar.[7] The types of staff met with varied but included for all the organisations the Country Director and/or the Director of Programmes and in most cases also additional programme coordinators, finance, or human resources staff. This study primarily focuses on the work of a few INGOs and the ICRC, though there are clearly more actors – including the UN – that have a substantial influence on how humanitarian responses are carried out. To ensure that the research correctly seizes the context in which INGOs operate in Myanmar, the team reached out to a number of UN agencies, many of which provided helpful insights through interviews. In view of gathering a multifaceted picture of the Myanmar context, additional conversations were also held with representatives of several INGOs that are not participating in the study, as well as of coordination mechanisms, donors, and other stakeholders.[8]

The questions asked to the staff of operational agencies concerned their activities, but also the different staff members' definition and understanding of the 'mandate' or mission and values of their organisation, as well as

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6    See the Concept Note for the project, available at http://here-geneva.org/wp-content/uploads/2015/09/HERE-Mandates-Study-Concept-Brief-Sep-2016.pdf.

7    Action Contre la Faim (ACF), DanChurchAid (DCA), International Rescue Committee (IRC), International Committee of the Red Cross (ICRC), Norwegian Refugee Council (NRC), and Welthungerhilfe (WHH). Concern Worldwide and MSF-Spain are also participating in the Role of 'Mandates' Study, but do not have a presence in Myanmar. When in Yangon, the Research Team met with staff members from MSF-Netherlands and MSF-Switzerland to provide insights regarding MSF's work in Myanmar more generally.

8    These include interviews with 22 other professionals.

## MYANMAR PRESENTS A PARTICULARLY COMPLEX PICTURE COMPOSED OF MULTIPLE CULTURAL, HISTORICAL, AND GEOGRAPHICAL LAYERS.

what they would argue that their organisation does particularly well or less well in Myanmar. In discussions with all stakeholders, the Research Team was further interested in knowing in general terms, for example, how the humanitarian principles feature in decision-making processes, how activity areas are prioritised, and how relationships with the government, donors, local and international partners, and affected populations and host communities can be characterised.

In regard to the limitations of this study, it is important to highlight that it is largely based on the perceptions that key interviewees had of the work of the humanitarian community in Myanmar in general, and of the work of their own organisation in particular, at a specific point in time. Interviews with authorities (national and local) and beneficiaries may also have provided additional insights as to how aid agencies are perceived by a larger group of stakeholders. In line with the methodology used for the previous case studies and due to the operational specificities of Myanmar, the Research Team however did not visit programmes in person to gather the views of implementing staff and affected populations. To triangulate or complement the insights gathered through the interviews, the Research Team has carried out a desk-based literature review of annual reports and strategies from the six participating organisations, as well as of the wider literature on the humanitarian response in Myanmar.

## ▬▬ 1.2
## The context of Myanmar

A discussion around why and what aid agencies set out to do, as well as how they do it, can only start from a good understanding of the context. This is especially true for Myanmar, which presents a particularly complex picture composed of multiple cultural, historical, and geographical layers (See for example Wade, 2017; Myint-U, 2011). After a conflictive colonial period between 1824 and 1948, and then more than fifty years of a strongly repressive military rule, a political transition was launched in 2008. While criticised, the first civilian government (March 2011 – March 2016) headed by President Thein Sein embarked on a number of reforms, including limiting restrictions on freedom of expression, speech and assembly, and releasing thousands of political prisoners, such as pro-democracy leader Aung San Suu Kyi. These reforms were

warmly welcomed both inside and outside Myanmar. Expectations were further raised when Aung San Suu Kyi's National League for Democracy (NLD) won the 2015 general elections.

In April 2016, Aung San Suu Kyi took power, leading Myanmar's first democratically-elected government. Although initially greeted with optimism by the international community, the new regime retains links to the past through a constitution based on a military-civilian balance of power. Myanmar's military – the Tatmadaw – continues to influence much of the country's public policy, particularly with regard to security and sovereignty. Operating without civilian oversight, it has in recent years been further entrenching the decades-long discriminatory treatment of various minority groups in the country (The Independent International Fact-Finding Mission on Myanmar, 2018, 2019)

Years of under-development have led to chronic poverty and food insecurity in Myanmar (UN and Partners, 2018a, p. 7). Ranked 148 out of 189 in the UNDP's Human Development Index, one third of the country's population lives below the poverty line. This situation is compounded by a long history of ethnic minorities[9] struggling for basic recognition in many parts of the country. This includes not only the regions covered by the Humanitarian Response Plan (HRP) – i.e. Rakhine, Kachin and Northern Shan – but for example also Chin and Southeastern Myanmar. Notably, while there are several similarities in the types of tensions that can be seen in different parts of the country, each region also presents its own specificities.

In **Rakhine State**, the relationship between the predominantly Muslim Rohingya population and the majority Buddhist Rakhine population has over the years wavered between relatively peaceful co-existence and episodes of extremely brutal sectarian violence. In June 2012 the first such episode since the 2008 political process of transition led to the internal displacement of around 140,000 Rohingya, who are still living in camps or camp-like settings. Similarly, in October 2016, an armed attack by the insurgent group the Arakan Rohingya Salvation Army (ARSA) led to a violent operation by the Tatmadaw, resulting in several thousand Rohingya fleeing to Bangladesh.

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| KEY EVENTS | |
|---|---|
| **2008** | MAY: Cyclone Nargis causes severe floods |
| **2010** | 7 NOVEMBER: Elections |
| **2011** | FEBRUARY: Prime Minister Thein Sein becomes president |
| | JUNE: Mass displacement due to conflicts in Kachin and northern Shan |
| **2012** | APRIL: NLD wins by-elections |
| | JUNE: Mass displacement due to violence in Rakhine |
| **2015** | JULY: Cyclone Komen causes floods and landslides |
| | NOVEMBER: National League for Democracy wins national elections |
| **2016** | OCTOBER: Security operation in Rakhine; >80,000 people flee to Bangladesh |
| **2017** | 25 AUGUST: Security operation in Rakhine; >600,000 flee to Bangladesh |
| **2018** | APRIL: Conflicts in Kachin State lead to displacement of >8,000 people |
| | JUNE: Tripartite MoU on assistance to repatriation process signed |
| | JUNE-SEPTEMBER: Floods across Myanmar lead to temporary displacement of >200,000 people |
| **2019** | JUNE: ICC Presidency assigns the situation in Bangladesh/Myanmar to Pre-Trial Chamber III |
| | JULY: ICC Prosecutor requests judicial authorisation to commence an investigation into the situation in Bangladesh/Myanmar |

In 2016, the Office of the State Counsellor and the Kofi Annan Foundation established an Advisory Commission on Rakhine State to look into the challenges facing the state and to propose responses thereto.[10] The Advisory Commission issued its final report in August 2017, highlighting that in Rakhine, all communities are affected by a development crisis marked by chronic poverty, and a security crisis in which "all communities harbour deep-seated fears". The Commission further pointed out, however, that Rakhine also presents a human rights crisis, in which "protracted statelessness and profound discrimination have made the Muslim community particularly vulnerable" (Advisory Commission on Rakhine State, 2017, pp. 9–10). Only a day after the public announcement of the recommendations in the report, a massive scale military crack-down began in Rakhine. Following what has been deemed "a textbook example of ethnic

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9    The population in Myanmar is divided into around 135 recognised ethnic groups.

10    See http://www.rakhinecommission.org/.

**Figure 1:** Map of Myanmar

cleansing" (UNHCHR, 2017) and "inference of genocidal intent" (The Independent International Fact-Finding Mission on Myanmar, 2018, p. 16), around 700,000 Rohingya fled to Bangladesh.

In June 2018, UNHCR, UNDP, and the government of Myanmar signed a tripartite Memorandum of Understanding (MoU) in view of supporting the government's efforts to create conditions for the voluntary, safe, and sustainable return of Rohingya refugees from Bangladesh, and to strengthen resilience and livelihoods for all communities in Rakhine State. The UN does however not consider the conditions in Northern Rakhine as conducive for return (UN and Partners, 2018a, p. 11; UNHCR, 2019). Indeed, the Rohingya still face discriminatory practices, including segregation and a denial of basic rights such as citizenship, freedom of movement, and access to livelihood opportunities, health, and education (Advisory Commission on Rakhine State, 2017).

While the plight of the Rohingya in Rakhine State has been the most internationally mediatised of Myanmar's conflicts, it is not the only one. In **Kachin State**, the armed conflict has intensified since 2011, and over

97,000 people remain displaced across 140 camps and camp-like settings. Around 40% of the displaced are located in areas beyond government control, to which the United Nations have no access (UN and Partners, 2018a, p. 13). In areas within government control, permissions for international staff also remain constrained to major towns (UN and Partners, 2018a, p. 14). In northern **Shan State**, conflicts have increased between ethnic armed groups and the Myanmar military or between different ethnic armed groups. Almost 9,000 people remain displaced across 32 camps and camp-like settings. Like in Kachin, both national and international humanitarian responders in Shan are facing access challenges, with areas which were previously accessible now being off limits. Conflict in **Chin State** – the poorest State in Myanmar – has also seen people flee to neighbouring countries. A ceasefire agreement was signed between the Chin National Army and the Chin State government in 2012, but clashes between the Myanmar Military and the Arakan Army in Chin State have caused further displacement since 2017 (UN and Partners, 2018a, p. 15). **South-eastern Myanmar** has also seen decades of armed conflict, with waves of displacement both within the country and across the Thai border. In 2015, a Nationwide Ceasefire Agreement was signed, including with a number of key non-state actors in the south-east. Groups that have not signed the Nationwide Ceasefire Agreement have signed bilateral agreements, and the dialogue has resulted in a decline in violent conflict and an increase in stability in many areas. Nonetheless, several parts of south-eastern Myanmar remain outside direct government control, and the peace process is impacted by a continuing presence of the military and armed groups (UN and Partners, 2018a, p. 15).

Each conflict in Myanmar presents its own characteristics, and in each setting, humanitarian actors have to consider context-specific histories, needs, and access constraints. That said, the contexts arguably have in common that they can all be deemed "human rights and protection [crises] with acute humanitarian consequences" (Sida, 2018). In March 2017, the United Nations Human Rights Council established a Fact-Finding Mission to investigate alleged human rights violations by the Myanmar army (Human Rights Council, 2017). Since its creation, the three-member panel has issued a number of reports, outlining massive human rights abuses by the Tatmadaw in Rakhine, Kachin,

and Shan States in particular.[11] Following a preliminary investigation, the Prosecutor of the International Criminal Court (ICC) requested the Court's Judges "to authorise an investigation into alleged crimes against humanity, namely deportation, other inhumane acts and persecution committed against the Rohingya people from Myanmar, covering the period since the 9th of October 2016" (ICC, 2019).[12]

Due to its geography, Myanmar is also particularly vulnerable to natural disasters. In 2008 Cyclone Nargis caused widespread destruction in the Ayeyarwady Delta, and in 2015 Cyclone Komen led to floods and landslides in most areas of the country. The 2019 HRP estimates that 941,000 people in Myanmar are in need of humanitarian assistance; 715,000 in Rakhine, 168,000 in Kachin, and 48,000 in Northern Shan (UN and Partners, 2018a, p. 6). To target the people in need, the HRP puts forward three strategic objectives: 1) to promote the respect for human rights and ensure protection of civilians, and support durable solutions for internally displaced persons (IDPs) and other crisis-affected populations; 2) ensure that vulnerable, crisis-affected people have access to assistance, services and livelihoods opportunities; and 3) contribute to strengthening the resilience of communities and building national capacities to prepare for and respond to national disasters and other emergencies. Of the estimated requirement of USD 214.4 million, USD 138.6 million have been received so far, i.e. 55%.[13]

Undoubtedly, the context in Myanmar is an incredibly complex one to navigate, not only in view of the scale of the needs, but also – and particularly – in view of the division of power between the civilian government and the military, and the limited humanitarian space allowed. The next section will look more in detail at the work of the organisations that participate in this study, to highlight how they have been able to set up work in Myanmar, and what their priorities are.

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11    See https://www.ohchr.org/en/hrbodies/hrc/myanmarffm/pages/index.aspx.

12    Myanmar is not a member of the ICC, but the Court has determined its jurisdiction given the case's cross-border nature and the fact that Bangladesh is a member.

13    See https://fts.unocha.org/appeals/678/summary. Since 2013, the HRP for Myanmar has been funded at an average of 65%, with a record of 77% in 2018.

# 2 — THE WHY AND THE WHAT OF AID

Previous case studies in the framework of the Role of 'Mandates' Study highlighted that in deciding whether to set up work in a country, and what to do there, organisations first and foremost leverage their respective missions and strategic priorities. Consequently, different organisations from the start play different roles depending on their own 'entry point', i.e. the rationale behind the activities that they come to the country to implement (Montemurro and Wendt, 2019, p. 9). In Myanmar, organisations have first taken advantage of the operational space available, as the many years of a repressive regime have had a strong influence on what activities international humanitarian agencies could carry out, where, and for whom. As one respondent put it, "providing a humanitarian response in Myanmar means managing dilemmas", starting with the question of whether to be present in the country at all, and if so, to what purpose.

## 2.1
## Finding the 'entry point'

Prior to 2008, the international community in Myanmar was relatively small. The UN had a restricted presence in the country since the 1950s, but it was only in 1993 that the General Assembly began requesting the UN Secretary-General to assist in implementing its annual human rights resolutions (Magnusson and Pedersen, 2012). The ICRC as well as a number of INGOs – including some of the organisations that participate in this study – have also been present in Myanmar since the late 1980s/early 1990s. For all of the participating INGOs, the choice to work in Myanmar was taken among numerous internal

debates as to their precise role: the question of whether the humanitarian needs made their presence imperative, or whether this presence essentially served to provide the military regime with legitimacy was endemic from the start (Purcell, 1999). Navigating this dilemma, some of the organisations who began working in Myanmar twenty to forty years ago focused on the people's immediate needs for food, shelter, or health care, frequently beginning operations for refugees along the Thai border. This included ACF and DCA, as well as the Dutch and French sections of MSF, the latter of which – incidentally – opted to withdraw from the country in 2006 citing "unacceptable conditions imposed by the authorities on how to provide relief to people living in war-affected areas" (MSF, 2006).[14] Somewhat differently, WHH started working in Kachin State and Yangon Division in 2002. Since then and over the last decade in particular, the humanitarian community in Myanmar has increased significantly. The UN mission in the country is now large. OCHA opened a Myanmar country office in 2008, and in 2010 a Humanitarian Country Team (HCT) was established. The humanitarian coordination mechanisms further include clusters/sectors and inter-cluster coordination at the national and regional levels. There is also a specific coordination forum for INGOs, which has more than 100 members active in development efforts, peacebuilding, and/or humanitarian assistance.[15]

Two somewhat linked windows of opportunity allowed for new agencies to begin operations in the country. First, the launch of a political process of transition in 2008 meant that the Myanmar regime became more amenable to international humanitarian assistance entering the country. Second, the devastating impact of Cyclone Nargis meant that there

**PROVIDING A HUMANITARIAN RESPONSE IN MYANMAR MEANS MANAGING DILEMMAS.**

14    MSF-France previously withdrew from Myanmar in 1999, before returning in 2001. When MSF-France withdrew in 2006, the Dutch and Swiss sections of MSF remained.

15    See https://www.ingoforummyanmar.org/.

was a significant and immediate need for such assistance. A large number of INGOs used the relative openness of the Myanmar authorities to provide disaster response following the cyclone to establish their presence. Among the participating organisations, this is the case of for example NRC and IRC.

Interestingly, HERE's research for the Role of 'Mandates' Study more broadly has indicated that these are both organisations who tend to work in natural disaster settings essentially when already present in an area for more directly rights-based activities, as per their respective organisational missions. In Myanmar, respondents from both of these organisations emphasised that when setting up activities in Myanmar however, decisions were largely influenced by what it was possible to do from the point of the humanitarian space allowed, and the preferences of the government. While keeping their institutional purpose in mind, it was only over time that they could readjust their programmatic approaches to better align with it. This is indicative of a tendency seen both among participating organisations and other stakeholders in Myanmar more generally: actors have seized windows of opportunity for entering the country – be it for example a specific natural disaster, or a relationship with a particularly open government official – setting up work in the geographical or technical area that they could. In some cases, and especially when their organisational mission has a technical focus, they have been able to concentrate on their own specific area of expertise, but many have simply had to find an area in which it was possible to work, in the hope of expanding or re-shaping activities at a later stage.

## ▬ 2.2
## Whom to prioritise?

The principle of impartiality entails both the degree to which an organisation's programme strategy ensures that aid is distributed on a non-discriminatory basis, and to which it is aimed at those people most in need. Respondents from all participating organisations highlighted that they find this principle particularly complicated to operationalise in Myanmar, and this for two main reasons.

First, interviewees explained that despite the availability of an active information

## OPERATIONALISING THE PRINCIPLE OF IMPARTIALITY HAS MORE OFTEN THAN NOT LED TO ACCUSATIONS OF BIAS.

management service,[16] lack of authorisations from the government to conduct assessments in different areas and the inability to verify information independently – as will be discussed more in detail in section 3 below – make it very difficult for them to ensure that their services do in fact target and reach those most in need. The Humanitarian Needs Overview (HNO), for example, only covers the states of Rakhine, Kachin and Shan and estimates are largely based on the best information available. Moreover, for Rakhine, numerous respondents – from a range of organisations – explained that when operating through service centres, it is very difficult for them to know whether the people who can actually come to their centres are in fact the ones who are the most in need, because of the restrictions on the freedom of movement of Rohingyas. Discussing the value of mobile clinics and service points, some respondents argued that it would be the only way to ensure that people in need really receive assistance. Others highlighted however that mobile clinics lose their meaning in areas where the access for humanitarian actors is restricted in any case.

Second, by following the principle of impartiality, humanitarian actors generally work under the assumption that they are being perceived as neutral, i.e. that they are not taking the side of any specific group but are solely guided by helping those most in need. In Myanmar, however, numerous respondents explained that operationalising the principle of impartiality has more often than not led to accusations of bias by the authorities and the local communities, who argue that assistance should instead be "equitably" provided across communities. For example, the representatives that the Research Team spoke to from organisations working in Rakhine explained that from a strictly needs-based point of view, impartiality would push them towards working essentially for the Rohingya population. However, such a focus has meant that they have been reproached for being partial by the government and other communities in the state. In April 2014, for example, local gangs in Sittwe attacked the premises of more than thirty international organisations, most of which

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16    See https://www.themimu.info/.

temporarily evacuated as a result. The Chief Minister leading Rakhine State maintained that the attacks could be seen as self-inflicted as international agencies focused on the Rohingya and did not take sufficient care of the ethnic Rakhine population (Mahony, 2018, p. 18; Aron, 2016, p. 8).

The fact that humanitarian organisations need to compromise in operational contexts in view of upholding a perception of neutrality is no news; "maintaining neutrality is a balancing act" and may even come at the expense of the other core principles (Schenkenberg van Mierop, 2017, p. 306). Indeed, in Myanmar, all organisations that the Research Team talked to were faced equally with this issue.[17] Some organisation representatives explained that they demonstrate their neutrality by targeting also ethnic Rakhine communities.[18] To uphold a perception of neutrality, many organisations are also careful with the language that they use. The Myanmar government for example objects to the use of the term 'Rohingya', which is how the Rohingya prefer to call themselves. A number of humanitarian agencies can be seen to avoid the term as well, speaking instead of 'Muslims'.[19] One respondent explained that for their organisation, this choice is a way to demonstrate its neutrality, i.e. by avoiding the term 'Rohingya' the organisation does not intervene in a question which can be deemed an internal political one. Nevertheless, others find that by not using the term 'Rohingya', humanitarian actors do in fact take a non-neutral stance, denying the right to self-identify (UN and Partners, 2018b), and arguably even paving the way for ethnic cleansing (Mahony, 2018, p. 53).

Ultimately, in deciding whether to provide humanitarian assistance in Myanmar, and if so where and for whom, aid agencies have not been able to look only to their own 'mandate'. As in other contexts, while it has been easier for some organisations to focus on their area of expertise than for others, all organisations have to some extent had to reconcile their mission

## THERE IS NOW A CERTAIN LEVEL OF INTERNAL RECKONING AS TO HOW MUCH OF THE INITIAL PROGRAMMING IN THE COUNTRY WAS REALLY STRATEGIC.

with the space they have been able to occupy in the country. For most, this has meant seizing externally determined windows of opportunity, leading to a somewhat piecemeal approach. In all participating organisations there is now a certain level of internal reckoning as to how much of the initial programming in the country was really strategic. As the next section will show, in attempting to (re)establish how they provide aid in Myanmar, organisations have tended to return to their mandate or mission and values – for good and bad.

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17 The 2014 attacks in Sittwe for example targeted UN agencies, INGOs, and the ICRC alike.

18 The latest displacement crisis in Rakhine has left ethnic Rakhine communities more in need (See International Crisis Group, 2019). Some respondents pointed out that this has provided additional opportunities to demonstrate their neutrality, and also made it easier for humanitarian organisations to provide assistance in an "equitable manner" while ensuring that they are targeting those "most in need".

19 Not only is this categorisation problematic because it poses a religious affiliation in opposition to an ethnic one (i.e "Muslim" versus "Rakhine" communities) but it is also imprecise: there are both Rohingya and non-Rohingya Muslims in Rakhine, and all Rohingya are not Muslim.

# 3 — THE HOW OF AID

Despite the difficult relationship with the government and the protracted nature of the humanitarian needs found in Myanmar, only one of the respondents from the INGOs interviewed questioned their presence there as such. As discussed, organisations rather query how to best assist and protect people affected by conflict. The answer to this question heavily relies on how each organisation relates to the characteristics of the operational environment in Myanmar (section 3.1), and how they use their mission to navigate it (section 3.2).

## ▬ 3.1
## The operational environment

No matter the setting, INGOs never work in isolation. They respond to different parameters dictated by the various stakeholders at play – from the affected populations, to the host governments, via donors and other partners. In particular, an organisation's behaviour is directly influenced by its relationship with the state of Myanmar, as well as by the dynamics within the humanitarian community.

### INGOs' relationship with the state

An INGO's relationship with the host state is based on a number of rules. In situations of emergency as in the case of conflicts, states' prerogatives as fulfilled by the government demand that rules – both formal and informal – be defined concerning the engagement of external actors (Cunningham, 2018). These feed into the negotiations between humanitarian INGOs and the state. From the perspective of humanitarian actors, international humanitarian law (IHL) is the starting point in situations of armed conflict. A state has the primary responsibility to provide a humanitarian response to the needs of the affected populations and to allow rapid and unimpeded access for humanitarian actors.

Though finding it unpredictable on a daily basis, most respondents characterised their relationship with the government as predictably restrictive in the long term. Formally, in Myanmar as elsewhere, the relationship between humanitarian INGOs and the government is codified in the form of the certificate of registration and an MoU, detailing areas and types of interventions. These are the documents that *de facto* regulate INGOs' access to their areas of intervention as they allow for the obtention of travel authorisations. Both processes are handled from different parts of the government. Registration is handled by the military-dominated General Administration Department while the MoUs are generally negotiated with the relevant ministries – the Ministry of Social Welfare, or the Ministry of Agriculture or Health, for example. Political sensitivities are known to have influenced the inclusion or not of certain areas (especially the conflict-affected ones) in the MoUs (Myanmar INGO Forum, 2018). Access, whether geographical (to specific areas) or political (to government officials), however, is the major constraint noted by all respondents. "Death by bureaucracy is the expected outcome", as one respondent put it. Increasingly cumbersome administrative procedures have in fact been hampering the ability of humanitarian workers to provide flexible and timely assistance to communities in need especially in Rakhine, Kachin, and Shan States (MHF, 2018).

The interviews further highlighted a substantial distance[20] between humanitarian INGOs and the government. This could be the result both of a *de facto* divide and rule approach by the

**NO MATTER THE SETTING, INGOs NEVER WORK IN ISOLATION.**

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20    One with the central government which is also geographic in nature with Ministries located in Nay Pyi Taw and the INGOs main offices in Yangon.

government, and a traditional distrust of state intervention in humanitarian action. Confronted with an assertive state, staff from INGOs overwhelmingly recognised a degree of self-censorship and/or undue caution when dealing with government representatives, consistently anticipating restrictive government behaviour. This has at times translated into self-constraint, with some INGOs either not applying for travel authorisations or not sharing information or concerns with government representatives for fear of reprisals. For other organisations, as three respondents highlighted, receiving a legal humanitarian mandate from the international community facilitates a certain interaction, as it gives a legitimate reason to engage. Another respondent pointed to the assurance of confidentiality as an essential element in maintaining an open channel between their organisation and the government. And in fact, confidentiality assumes an even greater dimension for national authorities in light of the current ICC proceedings. That said, the interviews highlighted instances of gaps between how INGOs assume that the government will react in a certain situation, and its effective reactions. This points to a certain miscalculation as to what the government's political statement around international humanitarian aid may actually be. Not sharing individual or joint analyses with the government, for instance, may also limit the implementation of the recommended courses of action as well as highlight ethical issues if there is no action taken on the basis of important findings.

In the case of Myanmar, the existence of many informal or unwritten rules feeds into such potential miscalculation. As most communication on how written rules should be interpreted and applied happens on an unwritten level, there is ample space for confusion and self-restrained behaviour from INGOs. A notable case appears to be the so-called '50/50 rule' referring to the split between certain intended beneficiaries. Interviews with stakeholders in Myanmar pointed to a number of variations in terms of how the rule was interpreted: as a requirement, a suggestion, something that applies equally to development and humanitarian programmes, or only to humanitarian programmes, *etc*. Overall, what the interviews have pointed to is the need for humanitarian INGOs to answer the underlying question of what principled engagement looks like with a government that on the whole is perceived as violating the rights of the communities INGOs are trying to assist

## AS LONG AS MONEY IS COMING INTO MYANMAR WITHOUT ANY CONSIDERATION AS TO THE UNDERLYING HUMAN RIGHTS CRISIS IN THE COUNTRY, HUMANITARIAN ACTORS HAVE VERY LITTLE LEVERAGE TO BROADEN THE HUMANITARIAN SPACE.

and protect. While grappling with this question on their own, INGOs are also to varying degrees influenced by the fact that they belong to a broader humanitarian community.

### The INGOs within the broader humanitarian community

As highlighted by one of the respondents for this research, the fact that there is now a sizeable international humanitarian community present in Myanmar should be seen as an achievement in itself. INGOs are but one piece of a puzzle in a humanitarian response, together with other actors such as the UN, humanitarian donors, national and local civil society actors, *etc*. Individual (organisational) decision-making is therefore often compounded by collective positioning strategies and opportunities. Both for its operational and funding role, the UN family generally plays a strategic role in INGOs' decision-making. The extent to which an increased humanitarian presence will contribute to addressing needs in a holistic way will always be dependent, however, on how much bilateral funding and business investments are provided 'no strings attached'. As long as money is coming into Myanmar without any consideration as to the underlying human rights crisis in the country, humanitarian actors have very little leverage to broaden the humanitarian space (The Independent International Fact-Finding Mission on Myanmar, 2019).

Moreover, the UN has been found to be dysfunctional in Myanmar: an independent inquiry launched by the UN (referred to as the Rosenthal report) concluded that between 2010 and 2018, the UN in Myanmar failed systematically and structurally to work with the national authorities to curb human rights violations of the Rohingya in Rakhine State (Rosenthal, 2019). This naturally constitutes a constraint rather than an enabling factor,

particularly when it translates in open divisions within the Humanitarian Country Team and vis-à-vis the Myanmar government. The Rosenthal report also found that the UN did not manage to take up a clear leadership role in its interactions with the rest of the international community, including with donors, other multilateral organisations, and INGOs. Among the causes for the "systemic failure" of the UN in Myanmar, the report pointed to a lack of a common strategy across the separate offices and agencies of the UN. In the words of the report, alternative, and sometimes even competing strategies co-existing in the same setting meant that staff tended "to view their activities through the lens of their narrower institutional mandates", losing sight of the "essential point" that activities in one sphere should leverage the activities in another (Rosenthal, 2019, p. 13).

This finding with regard to the UN system in Myanmar to a large extent also reflects the way in which INGOs appear to approach their work there. While INGOs significantly differ in structure to the UN, INGO fora in many contexts provide both an enabling environment and a supportive platform for collective INGO action. That is indeed the aim of the INGO Forum in Myanmar, which comprises close to 130 members of different origins and with different missions. While the Forum has been the conduit for dedicated discussions among humanitarian INGOs on the meaning and application of humanitarian principles in the context of Myanmar, its effectiveness has reportedly been hampered by the breadth of its membership, with INGOs implementing humanitarian programmes being a minority. Such a fragmentation has contributed to reinforcing the need for humanitarian INGOs to clearly focus on their own operational spheres of influence. As there is no right answer in a context like Myanmar, however, this has also meant that it may be difficult for INGOs as well to work with just one voice. The way in which INGOs approach protection is an emblematic example of this.

## The centrality of protection

The Myanmar HCT protection strategy has been informed by the 2013 Interagency Standing Committee (IASC)'s commitment to place protection at the centre of humanitarian action (IASC, 2013). There seems to be no doubt that "protection of all persons affected and at risks must inform humanitarian decision-making and response, including engagement with states and non-state parties to conflict" (IASC, 2013, p. 1). For some organisations, their responsibilities on protection are clear. For the ICRC in fact, its mandate entitles it to take measures to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance (ICRC, 2009). Nevertheless, protection is a shared responsibility no matter the mission or mandate of an organisation. Everyone has a role to play. In practice however, interviews have pointed to challenges in the application of the concept of the centrality of protection because of different understandings of what it means for each organisation. While in principle clear, the boundaries between humanitarian assistance, human rights, and international humanitarian law are not always so straight forward, which translates into a lack of clarity in regard to what exactly protection work entails.

Though sometimes misunderstood, protection is an essential component of the principle of humanity, together with needs-based assistance. As such, it is what ensures that the overall humanitarian response is more effective. Nevertheless, in Myanmar, protection seems to be drifting towards protection-mainstreaming for services and assistance-based activities. It may inform for example the setting up of gender-based violence and/or child protection services without necessarily including a deep understanding of the threats to and the needs of people. If the right to freedom of movement is not upheld, many people will not be able to access health and education services.

Additionally, the implementation of a recent common HCT position[21] in response to the government's closure of the camps in central Rakhine highlights the importance of

**PROTECTION IS A SHARED RESPONSIBILITY NO MATTER THE MISSION OR MANDATE OF AN ORGANISATION.**

21    The position adopted by the HCT in March 2019 identifies clear principles of engagement regarding future interventions in the displacement sites declared closed by the Government in Central Rakhine. In June the UN RC sent a letter to the Myanmar government, relaying a decision by the UN and its humanitarian partners to withhold support "beyond life-saving assistance" in internally displaced persons (IDP) camps deemed "closed" by the government, unless fundamental changes occur (Stokes and Ellis-Petersen, 2019).

a clear direction from the UN humanitarian leadership (Global Protection Cluster, 2016). The adoption of such a position was referred to by three of the INGO respondents as a major achievement after months of painful and chaotic deliberations. It was also referred to as emblematic of the complexity of applying principles in such a fragmented space. On the one hand, in fact, organisations may be divided into two loose categories based on whether they take a more needs-based or rights-based approach. For the first, it is about the most in need no matter their identity. For the latter, it is important to identify the specific groups whose rights are being violated. On the other hand, as noted in previous research (Montemurro and Wendt, 2018), the very notion of life-saving proves to be a clear divider against ideological fault lines within the humanitarian community: are there some interventions that are more life-saving than others? Is it a matter of degree? Are life-saving interventions meant to 'simply' keep people alive or also maintain their dignity? With regard to the positioning on the camp closures, the troubling result of the lack of agreement on these points is that no one is prepared to follow through on the common approach to disengagement, as all find their interventions to be life-saving.

With the UN playing a constrained role in leading the humanitarian response in Myanmar and with increasing business interests getting in the way of both humanitarian and development priorities, INGOs negotiate their role in the country within the parameters set by the Myanmar government. As each decision highlights a tension that organisations need to work around, INGOs seem to rely on their spheres of influence as the starting point, be it at the institutional or the individual level. An organisation can focus solely on their geographic areas of intervention without having a comprehensive outlook of the broader socio-political dynamics across the country. An individual can ensure he or she fulfils the details of their job description without recognising the larger networks of relationships. By honing in on what can be controlled, agencies tend to focus purely on the 'technical' side of aid delivery, instead of addressing the critical policy and ethical issues related to the identity of humanitarian action. There are risks however in applying technical solutions to what is frequently purely political dilemmas, and the likely result of this will be aid without impact. The often-unintended political consequences of humanitarian action may go unrecognised,

## BY HONING IN ON WHAT CAN BE CONTROLLED, AGENCIES TEND TO FOCUS PURELY ON THE 'TECHNICAL' SIDE OF AID DELIVERY, INSTEAD OF ADDRESSING THE CRITICAL POLICY AND ETHICAL ISSUES RELATED TO THE IDENTITY OF HUMANITARIAN ACTION.

and the space for weighing and acknowledging the need for compromise may shrink. In light of this, it is positive to note that humanitarian organisations in Myanmar are currently questioning what their precise role should be.

Such questioning becomes all the more important in light of the growing body of evidence of crimes against humanity, war-crimes, and even genocide committed by the Myanmar authorities. It is certainly difficult for all organisations to navigate between their organisational goals and the limited opportunities to make a real difference. Going forward however INGOs will increasingly be faced with the question of what they have done/are doing to ensure that their efforts do not contribute to further entrenching impunity or – worst case – facilitate additional serious crimes.[22] Not all INGOs are there yet, however. Only one of the participating INGOs clearly has been using a rights-based approach to frame risk management and highlight the perils of complicity and inaction. The UN Fact-Finding Mission has found that prioritising development goals and humanitarian access over a human rights driven response has "demonstrably failed" (The Independent International Fact-Finding Mission on Myanmar, 2018). While the Fact-Finding Mission was referring to the UN system, the same could be said for the wider humanitarian community, as well as for bilateral donors and development banks. Human rights INGOs have been taking a stronger stance in response to the Rosenthal report and in light of the ongoing ICC proceedings (see for example Joint INGOs, 2019). For humanitarian INGOs, having an operational presence on the ground appears to have muddled the equation regarding the

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22    Human rights actors have been able to investigate allegations of human rights violations and provide detailed evidence for example of a wide-range of restrictions and discriminatory practices the Rohingya in Rakhine have faced for decades (see for example, Amnesty International, 2017). Notably, the situation is also worsening across several other regions in the country, including Kachin, Shan, and in the Southeast.

boundaries between humanitarian assistance, protection, and human rights.

## 3.2
## Using the mission as a guiding tool

Respondents from INGOs have consistently raised the same query when discussing their responses to the operational environment in Myanmar: "are we fit for purpose?". As highlighted in the interviews, this question is clearly informed by access restrictions and geographical priorities, as well as organisations' perceived need for a careful balance between raising human rights-related issues and considering what this may entail for their positioning in the country. No matter the organisation, all respondents highlighted that who they are and what they do in 2019 is a clear break from the organisations they had been until now. The legacy of past organisational approaches was in fact mostly based on what organisations could do at the time. With the events of 2017 and the changes in the operational environment leading to a perceived worsening of access restrictions for international humanitarian actors, a new generation of senior INGO managers in Myanmar has begun questioning past approaches. The way this has been done has varied. For some it has meant the integration of a clearer 'do no harm' lens – particularly with regard to risks of complicity and inaction. For others, it has translated into stronger operational coherence. For all however, the mission or mandate and the organisation's values have featured as clear guiding tools when they negotiate their role with regard to advocacy, for example, and the humanitarian-development-peace nexus.

### Quiet diplomacy or principled engagement

As highlighted in the Rosenthal report (Rosenthal, 2019, in particular section 4), INGOs tend to follow a largely similar pattern to the UN of being divided between quiet diplomacy or more outspoken advocacy.[23] For

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23    For the ICRC, the issue does not apply in the same terms, given that the organisation's preferred mode of action – when protection issues need to be addressed – is persuasion, which involves confidential dialogue with the responsible authorities. Moreover, it is noteworthy that internationally, the International Criminal Court, the UN Mechanism for International Criminal Tribunals, and major international criminal tribunals have acknowledged, either through case law or rules of procedure and evidence, that the ICRC has the right to decline to provide confidential information in their proceedings. No other organisation has been granted this right.

## THE MISSION OR MANDATE AND THE ORGANISATION'S VALUES HAVE FEATURED AS CLEAR GUIDING TOOLS WHEN INGOs NEGOTIATE THEIR ROLE.

some organisations the tension to navigate is about whether to speak out on human rights-related issues at all. For others, *témoignage* or advocacy are part of their mission, and the question is not whether to speak out or not but rather how to do it. As the assessment for the opportunities and risks of one strategy over the other are both largely subjective – both individual and agency – and dependent on external factors, organisations may not consistently espouse the same strategy over time. Examples of organisations being asked to leave in the past have been used as mementos to avoid public advocacy or information-sharing (Mahony, 2018). Notably, in late February 2014, MSF was forced by the government to suspend its activities in Rakhine (MSF, 2014), after stating publicly that it had treated Rohingya massacre victims there.[24] The government's response to public messages from humanitarian actors has not always been consistent, however – several respondents gave examples of cases where they had been expecting severe consequences and rather received verbal reprimands with little follow-up.

Building on a collective voice through small INGO coalitions – either in country or globally – is an opportunity both to amplify a certain message and to mitigate the risks of the government's response. The INGO Rakhine Initiative (IRI) was for example born out of the realisation of different INGO country directors that the humanitarian response needed to be set within a broader framework to avoid repeating the mistakes made in past responses, such as the one in Sri Lanka. The IRI keeps its analyses and findings confidential, and though the risks linked to speaking out should not be neglected, it arguably leads not only to missed opportunities in terms of further amplifying message, but it could also further inaction, and raise additional ethical issues risks, as discussed in section 3.1 above.

The discussion at the HCT level around the camps closure in Rakhine State highlights well

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24    In the event, documentation from OHCHR reported a number of killings and disappearances of Rohingya in a village in Northern Rakhine. The government disputed the allegation, but MSF contradicted the government's version of events by publicly stating that it had treated 22 patients believed to be victims of that violence.

the dangers of seeing any issue as black and white according to a difference in approaches. The polarisation of the discourse is not helpful as it does later not allow a consistent implementation of a commonly agreed position. The collective discussion has tended to be framed around principled organisations and unprincipled ones. As one respondent noted, it would have been more helpful for organisations to clearly detail the tensions and compromises they find themselves called to make when moving from an institutional positioning based on their mission or mandate to a more collective one.

## Nexus?

When looking at complementarities across the work and roles of different actors in Myanmar, the picture is that of a highly fragmented space. While coordination structures are in place to ensure dialogue and information-sharing among the different parts of the international community based on commonly agreed principles, the INGOs' perceptions are that the *de facto* silos-approach noted by Rosenthal with regard to the behaviour of UN agencies, typically permeates the overall international environment in the country. There may be attempts at understanding how the 'nexus' can be implemented across the different institutional branches of the same actor but there seems to be many missed opportunities for strategic thinking across actors. While different INGOs are part of funding-based consortia, for example, these are mainly an administrative arrangement and a risk management tool for donors rather than an opportunity to promote a broader discussion on the meaning of principled engagement in a context such as Myanmar. Humanitarian and development donors would naturally play an important role in influencing such a space should they set the conversations with

THERE MAY BE ATTEMPTS AT UNDERSTANDING HOW THE 'NEXUS' CAN BE IMPLEMENTED ACROSS THE DIFFERENT INSTITUTIONAL BRANCHES OF THE SAME ACTOR BUT THERE SEEMS TO BE MANY MISSED OPPORTUNITIES FOR STRATEGIC THINKING ACROSS ACTORS.

partners beyond the aspects linked to the technical implementation of programmes. Where bilateral aid fails to be linked to greater assurances for unimpeded humanitarian access, donors equally fail their responsibilities to support principled humanitarian action.

In principle, in fact, because of the multidimensionality of individual and community-based needs in Myanmar, joint efforts towards a common goal would appear to be the perfect approach. The recommendations from the Rakhine Advisory Commission also go in this direction. Economic development should be accompanied by full and unimpeded humanitarian access to all populations in need and other structural issues such as citizenship verification, rights, and equality before the law (Advisory Commission on Rakhine State, 2017). Complementarities can be achieved both at the programme level through multi-sectoral and integrated programmes and across the work and roles of different stakeholders. On the first point, on an individual agency level, all participating organisations have indeed been trying to find a balance between humanitarian and more transitional and/or development programmes. For some INGOs, their development work has helped shape the government's and the communities' perception of their being impartial and neutral humanitarian actors especially in contexts where the two streams of work can be integrated, as in Kachin for example (Aron, 2016). In some cases, having worked on long-term development programmes has meant forming long-standing relationships with local authorities and communities in some areas.

As acknowledged by other organisations, however, integrating programmes also involves "determining the right balance between good relationships with governments and the obligation to address vulnerable people's rights in the face of inequality, discrimination and human rights abuses" (Oxfam, 2019, p. 5). Addressing such challenges may also help answering further questions: how to reconcile bottom-up community-based interventions around peace and reconciliation with broader political processes? How to best integrate rule of law development programmes alongside infrastructure and economic development ones? One INGO has been using human rights standards to tie the two sets of activities together. Experts have long warned about failing to recognise the shared issues underlying the two discourses if international humanitarian law and international human

rights law are perceived as two very distinct frameworks (Slim, 2000). Equally, if peace is only understood as a horizontal endeavour meant to encourage social cohesion at the community level, and vertical factors such as government policies and actions are not addressed, the risk is to contribute to the further entrenchment of ethnic segregation (Lewis and McPherson, 2019).

Ultimately, in Myanmar, each organisation finds its compass in the individual application of their mission or mandate. For one organisation that the Research Team looked at, it is about translating the global strategy to strengthen its multi-sectoral and integrated programming to fit the specificities of the context in Myanmar. The integrated programming in this sense helps to better focus the organisation's activities and resources. For another organisation, it is about investing greater resources on IHL dissemination. It is difficult to start a conversation with national and local authorities about roles and responsibilities and influence behaviours if they are 'IHL illiterate' to begin with. For a third, it is about realigning programmes in Myanmar with their global strategy and vision of zero hunger. For others, however, the global organisational mission may be too broad to provide clear guidance, leading them to question what the right programmatic strategy may be. The Research Team has for example noted an interesting tension between the need to be more of a generalist organisation and bigger implementer – and thus be able to better absorb risks – or a more technical one – and thus have a stronger added value. The mission or mandate clearly provide an analytical framework to 'metabolise' the Myanmar context. In the absence of a space for leveraging the different approaches, however, there are risks of over-fragmentation.

IN THE ABSENCE OF A SPACE FOR LEVERAGING THE DIFFERENT APPROACHES, HOWEVER, THERE ARE RISKS OF OVER-FRAGMENTATION.

# 4 CONCLUDING REMARKS
## LOSING THE FOREST FOR THE TREES

Providing a humanitarian response in Myanmar involves navigating a highly complex set of parameters. The country's multifaceted history, and its intricate web of relationships between ethnic, religious, national, regional, international, civil, military, political, economic, and humanitarian stakeholders make for a unique setting. As in other contexts, humanitarian actors have for decades pondered the long-standing question of the relevance of their work. During the many years of military regime, they wondered whether the needs in the country made their presence imperative, or whether it essentially served to provide the regime with legitimacy. With some exceptions, humanitarian agencies in Myanmar no longer question so much whether or not they should be present in the country: most work from the assumption that they should. However, they are still questioning what their precise role should be. Is the current humanitarian aid suited to the needs of affected populations in Myanmar? When humanitarian space is compromised, what is humanitarian action meant to achieve and, more specifically, for whom? How and when should humanitarian actors engage in public advocacy to fulfil their protection responsibilities? While these questions are not new, the way in which INGOs in Myanmar grapple with them have brought a number of points to the fore.

### Organisations use their mandate or mission and values to navigate the complex operational environment

For most humanitarian organisations, the decision to work in Myanmar was largely influenced by the preferences of the government and the humanitarian space available. Seizing windows of opportunity, organisations set up work in the geographical or technical area that they could. The military crack-down in Rakhine State in August 2017 led INGOs to increasingly question the degree to which their programming in Myanmar

is in fact strategic. In reviewing their approaches, they use their organisational mandate or mission and values as guidance. Depending on the organisation, this has meant for example that they have strengthened their integrated programming, that they have undertaken work to ensure principled engagement, or that they have realigned their programmes to ensure that they are part of a coherent strategy in terms of a vision, and/or a particular target group. It is clear that when it comes to defining how to conceive of protection responsibilities, whether to engage in open or quiet diplomacy, and how to relate to other stakeholders in Myanmar, the mandate or mission and values provide a useful analytical framework at the individual organisational level.

### In the absence of a space for leveraging the different approaches, there are risks of over-fragmentation at the collective level

While the organisational mandate or mission and values appear as a significant enabler for individual aid agencies in Myanmar, it has however led to an over-fragmentation in approaches at the collective level. An independent inquiry into the work of the UN in Myanmar concluded that by focusing too closely on their own, narrower, institutional mandates, the separate offices and agencies of the UN lost sight of the crucial fact that activities in one sphere should leverage those in another. It appears that this finding can be extrapolated also to the wider humanitarian community. The INGO Forum in Myanmar aims to provide an enabling environment and a supportive platform for collective INGO action, but it is hampered by the breadth of its membership as well as the fact that aid agencies tend to prefer to focus on their own areas of intervention.

Nevertheless, as seen in other contexts, not least in Sri Lanka, it is about collective as much as individual behaviour. With mounting evidence regarding war crimes and crimes against humanity committed by the Myanmar authorities, it will no longer be acceptable to hide behind a tree. All INGOs will be called to account for their actions or inactions both individually and collectively. Humanitarian agencies have an opportunity to leverage their individual role as per their mission to collectively better assist and protect all people in need in Myanmar.

### Relying on their own spheres of influence, organisations focus on the technical aspects of their response at the expense of underlying socio-political realities

Each decision that an organisation has to make in Myanmar involves a tension that they need to work around. In doing so, organisations rely on their spheres of influence as the starting point: the prioritisation is made from the point of the organisation's own programmes, projects, and geographical areas of intervention. This is a very natural result of their relationship with the government: the lack of predictability in the short term, the lack of a full understanding of national and international calculi, and a divisive environment means that aid agencies hone in on what they can control. And, more often than not, that is the technical aspects of a response. Nevertheless, by focusing on their specific area of intervention, organisations miss a comprehensive outlook on the broader socio-political realities in the country. For some, protection activities drift towards services and assistance instead of being used as the underpinning notion of rights; quiet advocacy or even self-censorship become the norm as organisations wish to protect their own humanitarian space; bottom-up community-based interventions around peace and reconciliation remain disconnected from broader political processes. In short, the overly strong focus on the tree comes at the risk of losing the forest.

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# 6 ANNEX
## OPERATIONS IN MYANMAR OF THE PARTICIPATING ORGANISATIONS (MID 2019)

### Overview of operations per organisation

| | ACF[25] | DCA[26] | ICRC[27] |
|---|---|---|---|
| **In Myanmar since** | 1994 | Early 1990s | 1986 |
| **Rationale for first entering Myanmar** | Treatment and prevention of malnutrition. | To support the Myanmar Council of Churches inside the country and various agencies working with refugees along the country's borders with Bangladesh and Thailand. | To provide humanitarian assistance to people affected by armed conflict and other situations of violence. |
| **Current key goal in Myanmar** | Promote a resilient, equitable, and inclusive access to nutrition and related health and mental health services in Rakhine State. Promote resilient and longer-term food security and livelihoods and access to WASH services for people in need in Rakhine state. Promote nutrition sensitive sustainable development in Kayah, central regions, and urban areas of Myanmar. Advocate for humanitarian needs, principles, and actors. Set up, implement, and review regularly a mission Emergency Preparedness and Response plan (EPRP) | SAVE lives through humanitarian action, BUILD strong and resilient communities, and FIGHT injustice and inequality. Through a joint office and country programme, Norwegian Church Aid (NCA) and DanChurchAid (DCA) support local and national civil society in their work for human rights, development, and resilient communities. | Response in Rakhine, Kachin, and Shan inclusive of emergency response as well as longer-term assistance and structural interventions. Works to improve access to clean water and sanitation, health care and orthopedic services, and livelihoods, promotes international humanitarian law and spreads education about risks related to landmines. Also visits to places of detention with an aim to secure better living conditions and treatment for all detainees, restores family links of those separated by conflicts and violence. |
| **Local partners** | Yes | Yes | Yes (Myanmar Red Cross Society) |
| **Staff** | 391 staff (national, international) | | 854 |
| **Budget** | EUR 6,128,260 in 2017 | | CHF 56 million in 2019 |
| **Donors/Fundraising** | ECHO, EUROPEAID, BMZ, MHF, SIDA, CDC, UNICEF, WFP, ACF private funds, Access to Health. | Danida, Norad, MHF, UNICEF, EU DEVCO, ECHO, UNHCR | |

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25    https://www.actioncontrelafaim.org/missions/myanmar/ and ACF, 2019.
26    https://www.danchurchaid.org/where-we-work/myanmar and DCA, 2016.
27    https://www.icrc.org/en/where-we-work/asia-pacific/myanmar and ICRC, 2016.

| | IRC[28] | NRC[29] | WHH[30] |
|---|---|---|---|
| **In Myanmar since** | 2008 | October 2008 | 2002 |
| **Rationale for first entering Myanmar** | Providing humanitarian relief in response to Cyclone Nargis. | Reconstruction of shelter and schools following Cyclone Nargis. | To provide long-term assistance to people suffering from hunger. |
| **Current key goal in Myanmar** | The IRC in Myanmar is currently implementing programs that address health, economic wellbeing, women's protection and empowerment, and protection. These programs focus on reproductive health, communicable disease, prevention and response to gender-based violence, legal services and supporting persons with specific needs. For conflict affected communities, the IRC in Myanmar is also ensuring food security, rebuilding livelihoods, and promoting solidarity. | Support to displaced people as they encounter both short- and long- term issues. Core competencies: Camp management, ICLA, Food security, Shelter, WASH, Education. | Enable the most vulnerable people to improve their food and nutrition security, enhance their livelihoods and strengthen their resilience. |
| **Local partners** | Yes | Yes | Yes |
| **Staff** | 700 national, 15 international | 313 national, 17 international | 100 national, 5 international |
| **Budget** | $15M annual | USD 8,900,000 | EUR 1.14 million in 2018 |
| **Donors/Fundraising** | OFDA, ECHO, SIDA, UNHCR, UNFPA, Access to Health, LIFT Fund | NMFA, Norad, SIDA, MHF, SDC, Livelihoods and Food Security Trust Fund, UNHCR, MyJustice Programme, funded by the EU and implemented by the British Council, USAID, GIZ, START Fund | BMZ, German Federal Foreign Office (AA), LIFT Fund, WUR/ Dutch government, Private Foundations |

28    https://www.rescue.org/country/myanmar and IRC, 2016.
29    https://www.nrc.no/countries/asia/myanmar/ and NRC, 2018.
30    https://www.welthungerhilfe.org/our-work/countries/myanmar/ and WHH, 2018.

# Types of activities per organisation and state/region

Source: MIMU 3W, available at https://www.themimu.info/3w-maps-and-reports, complemented by information provided by organisation staff

| State | ACF | DCA(-NCA) | ICRC | IRC | NRC | WHH |
|---|---|---|---|---|---|---|
| *Country-wide* | | | Detention activities; Restoring Family Links; Promotion of IHL | | | |
| *Ayeyarwady* | | | | | | Food security; Nutrition; Agriculture; Promotion of civil society |
| *Bago (East)* | | Mine Action; Livelihoods | | | Protection | |
| *Bago (West)* | | | | | | |
| *Chin* | | | | | | Food security; Nutrition; Agriculture; Promotion of civil society |
| *Kachin* | | Humanitarian Response and Mine Action | Orthopaedic Centre; Health care; Water and Sanitation; Livelihoods | Health; GBV and Protection | Protection; Education; Shelter | Humanitarian Assistance (through partners) |
| *Kayah* | Food; Nutrition; WASH | | | Health | Protection | |
| *Kayin* | | DRR; Food; Livelihoods; Humanitarian Response and Mine Action; WASH; Governance; Health; Protection | Orthopaedic Centre | Health | Education; Protection; Shelter; Livelihoods | |
| *Magway* | | Governance and resilience | | | | |
| *Mandalay* | | Governance and resilience | | | | Food security; Nutrition; Agriculture |
| *Mon* | | Governance Humanitarian Response and Mine Action; Social Protection | | | Protection; Shelter | |
| *Nay Myui Taw* | | | | | | |
| *Rakhine* | Health; Nutrition; Agriculture; Livelihoods; WASH | | Health care; Water and Sanitation; Livelihoods | Livelihoods; Protection; WASH; Agriculture; Health | Education; Protection; Shelter | |
| *Sagaing* | | Resilience | | | | Food security; Nutrition; Agriculture; Promotion of civil society |
| *Shan (East)* | | | Health care; Water and Sanitation; Livelihoods | | | |
| *Shan (North)* | | | Health care; Water and Sanitation; Livelihoods | Health; GBV and Protection | | Food security; Nutrition; Agriculture; Promotion of civil society Humanitarian Assistance (through partners) |
| *Shan (South)* | | Humanitarian Response and Mine Action; Livelihoods; Protection | Health care; Water and Sanitation; Livelihoods | | Education; Protection; Livelihoods | |
| *Tanintharyi* | | Governance; Mine Action | Orthopaedic Centres | | Protection; Education; Shelter | |
| *Yangon* | | | | | | |

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