



Communal Conflict in Myanmar: The Legislature's Response, 2012–2015

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ABSTRACT

From 2011 Myanmar's nascent legislature quickly became a symbol of the country's transition from military rule by exhibiting its autonomy and by sometimes acting as a check on the executive. While expectations grew that it would play a significant role in the transition from military to quasi-civilian rule, including managing ethnic conflicts, its reluctance to tackle sectarian violence represented a major setback for the legislature's credibility. Using legislative records and interviews, this article provides a detailed empirical study of how Myanmar's legislature and its lawmakers responded to these ethnic conflicts, both inside and outside the chamber. Building on studies of the role of legislatures in conflict management, this article argues that while Myanmar's legislature could have responded more proactively, at the very least it prevented itself from becoming a forum for populist politics that could have further inflamed tensions.

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Myanmar has experienced unprecedented political and economic change led by military and military-backed actors. One important change in the transition from military to quasi-civilian rule was the establishment of a national legislature in 2011 and its role as a check and balance on the executive that also responded to public concerns (see Fink 2015, 327; ICG 2013b, 1).¹ The transition has severely tested this new institution. One challenge was the communal violence between Rakhine Buddhist and Muslim communities that broke out in 2012 (for details, see Cheesman 2017). Conflict along religious lines has been one of the most controversial features of the country's transition. Despite its prominent role in the reform process, the legislature's approach to these troubles, while receiving little scrutiny, has been perceived as indicating reluctance to tackle the issue, particularly in Rakhine State (*The Myanmar Times*, August 18, 2014).

Internationally, legislatures and their members are increasingly viewed as pivotal to tackling conflicts, particularly ethnic and religious violence. Their legislative tools – representation, law-making and oversight of the executive and judiciary – provide the potential to act as peacebuilders, through both preventing conflict and building reconciliation (Dutta et al. 2007, 7; Stapenhurst, O'Brien, and Johnston 2008, 2–4). Even so, legislatures in conflict-prone countries or those undergoing democratic transition often

lack the institutional capability to respond to such conflicts. And, according to the Inter-Parliamentary Union (IPU), their role is often overlooked because the executive and law enforcement agencies deal more directly with managing conflicts (Smilov and Kolarova 2006, 40; de Mel 2013, 1). It has also been noted that, in some cases, legislatures themselves can act as triggers for conflict, with their actions intensifying public emotions and leading to violence (Smilov and Kolarova 2006, 43).

In this context, Myanmar's new legislature deserves scholarly treatment to explore its constraining and restraining behaviour. This article seeks to better understand the factors driving the response of Myanmar's legislature in its first term (January 2011–January 2016) to communal violence, including institutional constraints, the role of the speakers and public pressure to adopt legislation. It also examines the conventional tools available for a legislature in responding to this type of conflict and considers to what extent these were employed.

The article begins by looking at the existing literature on how legislatures and their members can engage in conflict prevention, resolution and peacebuilding. It then proposes criteria with which to assess the legislative response to communal conflicts. Through the lens of these criteria, it looks at the actions of Myanmar's legislature during and after communal conflicts that erupted over the period 2012–14, in Rakhine State and other regions. It identifies areas or instances where the legislature failed to react and analyses why these responses or the lack of responses occurred. Finally, the article suggests ways in which Myanmar's legislature and its members could respond differently to future communal and religious conflicts. This article concludes that there were various institutional constraints on the legislature that inhibited a more proactive response but for the most part it avoided becoming a forum for inflammatory action and debate.

This article is based on extensive interviews with lawmakers conducted in the capital Nay Pyi Taw and research by the first author in the legislature during the first half of 2014, as part of an ongoing project into the role of Myanmar's legislature in the country's transition process.

Legislatures: Accommodating Conflicts

Legislatures are symbols of democracy, yet the presence of a legislature is not necessarily indicative of a democratic state. All legislatures bring legitimacy to the state and so few countries lack one (Blondel 1973, 30; Norton 1990, 1). Their functions consist mainly of law-making, representation of constituents and oversight of the executive, including budgetary allocations. However, the functioning of legislatures varies significantly. In democracies and some semi-democracies, lawmakers are elected representatives and are accountable to their constituents. In dictatorial regimes, legislatures can serve to co-opt opposition groups to prolong the rule of the incumbent leadership (Gandhi 2008, 79). In semi-democratic regimes, institutions such as legislatures often serve to mobilise co-operation, prevent rebellion and provide a platform for distributing rents (Gandhi and Przeworski 2006, 21). Such legislatures are window-dressing, seeking to secure legitimacy while mainly serving the interests of their rulers.

Legislatures also accommodate conflicts, institutionalising them so they do not create unrest, instability or violence in the wider community. As a rule-based forum, a

legislature has the potential to transform differences in divided societies into solutions accepted by all through accountable and transparent decision-making. A legislature represents a country's citizens, regardless of geography, race and religion, and whether they are privileged or underprivileged. Unlike executive bodies where hierarchy matters, lawmakers can represent themselves and their constituents on an equal footing inside the legislature (Olson 1994, 5). Because lawmakers are judged on their performances at the next election, they by nature tend to be more responsive to the public than a bureaucracy and more sensitive to public sentiment.

Legislatures are also important because they provide an outlet for the views of their members' constituents and contribute to a system of checks and balances on the executive. With an acknowledged role in managing and preventing conflicts, lawmakers and scholars also express concern that various stakeholders tend to overlook the role of legislatures in conflict prevention and resolution, as well as post-conflict restoration (de Mel 2013, 1). Scholars also concede that there has been a lack of attention given to the role of legislatures in conflicts, attributed to the fact that the study of legislatures mostly focuses on established rather than emerging legislatures in countries experiencing democratic transitions, which tend to be more conflict-prone (Mezey 1983, 511–512; Olson and Norton 1996, 2). In these countries, legislatures receive far less scholarly attention than the executive (Barkan 2009, 4–6).

In South and East Asia, with numerous outbreaks of communal violence, two have received significant attention from scholars: (i) the 2002 riots in the Indian state of Gujarat which resulted in over 1,000 deaths and was known as a pogrom due to its scale (see Dhattiwala and Biggs 2012; Varadarajan 2002); and (ii) the Sampit violence between indigenous Dayak people and the migrant Madurese in Kalimantan in 2001, which left more than 500 dead (see ICG 2001). Although Indian and Indonesian legislatures did accommodate these conflicts by introducing legislation, little of the scholarly treatment of these conflicts has highlighted the management role of the national or sub-national legislatures.

Despite this lack of attention to the legislative role in regional conflict, two major works examine legislative influence in managing conflicts more broadly. These works differ significantly in their perspective. While O'Brien, Stapenhurst, and Niall (2008) argue that legislatures can play a constructive role both directly and indirectly through the use of their legislative tools, Smilov and Kolarova (2006) contend that the influence of a legislature tends to be minimal and may exacerbate conflict.

O'Brien, Stapenhurst, and Niall (2008) suggest several ways in which legislatures can contribute to conflict prevention and resolution. One example is that they provide space for dialogue and consultation in law-making, requiring a culture of co-operation among lawmakers. Accommodating animosities between lawmakers is another important function. By effectively carrying out its oversight role and making government more accountable, a legislature can discourage the resort to violence and instead push a resolution of differences through democratic institutions. Moreover, legislative outreach programmes, such as town hall meetings and visits to the legislature, can build public trust and confidence in the legislative role and give it greater influence to resolve or mitigate conflicts. Smilov and Kolarova (2006) provide a more pessimistic assessment of the legislative role in conflict. For them, legislatures have been marginal players often trapped in nationalism,

majoritarianism and states of emergency (Smilov and Kolarova 2006, 40). They observe that legislatures in conflict-hit countries are fora for identity politics. As the majority rules the legislature, in many cases these bodies become avenues for conflict provocation. Moreover, legislatures are sidelined during states of emergency amid intensifying conflicts. Nonetheless, there is a consensus within these two approaches that legislatures can be a forum for the oppressed and the opposition regardless of their competency.

The empirical evidence is also mixed. There are examples of legislatures playing a pivotal role in managing conflict in Sri Lanka in 1997 (O'Brien 2008, 36), Australia's reconciliation process with Aboriginal people (Freeman 2004, 13) and in Aceh following a long separatist struggle (Amnesty International 2014). In other cases, legislatures have been responsible for escalating conflict, such as in Rwanda in 1994, the Lebanon civil war, Algerian unrest in the 1990s and the Ukrainian crisis in 2013, among others. In each of these cases, the conflicts arose from electoral resentment and the institutional arrangement of the legislature, which gave an advantage to the majority, leaving minorities vulnerable.

Cognisant of these scholarly works and empirical cases, we propose that the following criteria be used when examining legislative responsiveness to a communal crisis like that experienced in Myanmar:

- (i) *Pro-activeness*: Conflict intensity can escalate within a short period. Did the legislature respond quickly to conflict or even take pre-emptive action to prevent its outbreak?
- (ii) *Institutional mechanisms*: Legislatures have several possible institutional mechanisms that members can utilise to respond to conflict, conduct consultations and foster dialogue. These mechanisms include debates, ad-hoc committees and commissions and public hearings. Did lawmakers utilise existing institutional mechanisms or attempt to create new mechanisms to respond to conflict, and were they used constructively?
- (iii) *Partisanship*: Legislatures are shaped by the majority or the ruling party, and vulnerable or conflict-affected groups are often a minority. During a period of conflict, did lawmakers address the interests of vulnerable groups? Did they adopt a non-partisan or consensus-based approach to respond to conflict?
- (iv) *Executive oversight*: Legislatures are generally not directly involved in managing conflict response and prevention. However, they have oversight of the executive's response to conflict and can provide recommendations to improve the management of outbreaks of conflict. To what extent did the legislature exercise its oversight powers?
- (v) *Community engagement*: Lawmakers are representatives of their constituencies. Did lawmakers from affected communities engage with their constituents, listen to and address their concerns, and work together with local authorities?
- (vi) *Legislation*: One of the main functions of a legislature is to promulgate laws. Did the legislature draft bills to prevent future conflicts?

Myanmar's New Legislature (2011–2016)²

Myanmar's bicameral legislature, known as the Pyidaungsu Hluttaw, was established on January 31, 2011 under the military-drafted constitution ratified at a referendum in May 2008 under the influence of the military government. It is the first multi-party legislature since the military coup of 1962. While Myanmar had a unicameral legislature from 1974 to 1988, it was merely a rubber stamp for the military-dominated regime (Williams 2014, 125–128). The legislature comprises a 440-seat lower house – the Pyithu Hluttaw – in which seats are allocated roughly according to population, and a 224-seat upper house – the Amyotha Hluttaw – in which each state and region has 12 representatives. Unelected military representatives hold 25% of all seats in both houses. There are also 14 sub-national legislatures, which represent the seven states and seven regions.

At the 2010 General Election, the Union Solidarity and Development Party (USDP) won 58% of seats in the Pyidaungsu Hluttaw, while 13 ethnic and two minor parties secured 11% and 5% of the total seats respectively. Many observers and politicians considered the elections illegitimate, arguing that the 2008 Constitution was flawed and the electoral framework and Union Election Commission biased in favour of the USDP. This view was given further legitimacy by the National League for Democracy's (NLD) decision in April 2010 to boycott the vote – a move that arguably contributed to the scale of the USDP victory. Through the presidential electoral college system, the Pyidaungsu Hluttaw elected incumbent Prime Minister Thein Sein as president in February 2011, and he formed a government and took office on March 30, 2011. The NLD later won 41 Pyidaungsu Hluttaw seats in by-elections held on April 1, 2012.

The Hluttaw is influenced by its history and its institutional arrangement. The legislature is a product of the 2008 Constitution, which was an exit strategy for the military regime that had ruled for more than two decades after seizing power in September 1988. That constitution gives more power to the executive, particularly the president, than to the legislature. The legislature, for example, cannot reject the president's nominee as a government minister, unless it can be proven that the person does not conform to criteria outlined in the constitution. At the same time, however, the president cannot veto legislation passed by the Hluttaw.

Many observers anticipated that the Pyidaungsu Hluttaw would be closely controlled by the government (see Burma Campaign UK 2011; *Irrawaddy*, February 22, 2011). However, within a year and under the leadership of the two speakers, senior USDP figures Thura Shwe Mann and Khin Aung Myint, it exerted its autonomy through scrutiny of legislation and relatively open debates. They encouraged lawmakers to challenge the government and its bureaucracy on their perceived failings (Chit Win 2016, 213).

Myanmar's post-2011 legislature featured several distinctive characteristics, including unelected military representatives, a sizeable majority for the USDP and fraternal relations between the leaders of the two major parties, USDP Chair Shwe Mann and NLD Chair Aung San Suu Kyi. These characteristics encouraged a spirit of co-operation and non-partisanship, particularly when asserting power vis-à-vis the executive. Even though their party held a majority, the speakers invited non-USDP lawmakers including Aung San Suu Kyi and those from minor and ethnic parties to chair some ad-hoc

committees, bringing both inclusiveness and credibility to the legislature (Kean 2014, 57).

The legislature's primary functions are not particularly different to other legislatures. Bills submitted by either the government or individual lawmakers are screened by committees and submitted for debate in one of the houses. After the debate, a bill is voted on and, if approved, forwarded to the other house for consideration. If both houses cannot agree on a single version of the bill, then discrepancies are resolved through a combined sitting of the two houses.

Questions submitted by lawmakers are directed at the government, which sends a representative – often a deputy minister – to respond, or sometimes submits a written response. This meant that during the 2011–16 Hluttaw, parties and their representatives rarely engaged in direct debate, which created a dynamic whereby confrontation was normally between the government and legislature, rather than between members of the legislature or parties (Chit Win 2016, 211). Most questions were read out from prepared texts. However, legislative sessions were not completely stage-managed and spontaneous discussions occurred when a lawmaker was not satisfied with the government's response. The general lack of contestation between actors within the chamber meant that intra-legislative consultations between parties or legislative committees were not common. Lawmakers, however, did consult with each other in informal settings, such as in corridor discussions and during coffee breaks, to avoid confrontation.

The speakers in Myanmar's legislature have extraordinary powers over the business of the legislature and its representatives (Chit Win 2016, 213). Not only do they control the agenda of plenary sessions, the speakers decide which questions are asked, when bills will be debated and voted on and even which voting method is to be used: voice voting, standing up or secret ballot. The method is particularly important: in some circumstances it enables the speaker to control the outcome of a vote.

While its assertion of independence was important, the 2011–16 legislature and its members were not without weaknesses. Many of these stemmed from Myanmar's lack of experience with legislative democracy and the fact that the legislature was a completely new institution. Lawmakers lacked the experience, as well as the physical and human resources, such as offices and staff, to support their work. While some members were active on committees, regularly participated in debates and engaged with constituents and the media, many other members appeared disinterested with and disengaged from legislative activities.

Lastly, it should be noted that in Myanmar, there are several ways a lawmaker can engage with their constituency and constituents. The first is to directly meet constituents, take account of their concerns and raise these in the legislature. Such interactions will often result in coverage on state and private media, and can lead to funding being allocated to a constituency for particular projects. Each of the 330 lower house constituencies is allocated development funding of 100 million *kyat* (about US\$75,000) each financial year. The relevant lawmakers are able to spend this money on small development projects as they see fit, although implementation is managed by a township-level committee, rather than lawmakers.

The Legislature and Ethnic Issues

In a multi-ethnic and multi-religious state like Myanmar, a legislature can be an important institution for reducing and resolving ethnic conflicts. Myanmar has had considerable ethnic-based conflict. In 1949, the Karen National Union launched a civil war against the central government, and it was followed over the years by dozens more groups. At the end of the first legislature in January 2016, there were 20 relatively strong ethnic armed groups and 30 smaller groups, which collectively had tens of thousands of men under arms. Writing of ethnic conflicts, Farrelly (2014, 252) argues that the 2008 Constitution “represents one effort that was made to include ethnic minority political interests and to balance them against the predominance of Bamar political, cultural and economic concerns.” Both the Pyidaungsu Hluttaw and sub-national legislatures are essential to this balancing of interests.

The constitution outlines the formation, duties and responsibilities of the legislatures at the union level, as well as the 14 sub-national level legislatures, seven of which are in ethnic minority-dominated states. These sub-national legislatures enable the devolution of some legislative powers, although they are weaker institutions than the union-level legislatures. One attempt to balance Bamar and minority interests is the composition of the Amyotha Hluttaw, which gives the less-populated ethnic states the same number of representatives as the Bamar-dominated regions. The first legislature contained lawmakers from a broad array of backgrounds. But up to 2016 the “typical” lawmaker in the Hluttaw, according to Egretau (2014, 91), mirrored “the conventional image of Myanmar’s characteristic postcolonial leader: a man, in his mid-fifties, ethnically Bamar, Buddhist, holding a Myanmar university degree, engaged in business activities or in the education sector (in the case of the 492 elected legislators) or in the security sector (for the 166 military appointees).”

Even though the legislature was dominated by the Bamar majority, there were a significant number of ethnic lawmakers, in large part because the USDP recruited many ethnic minority community leaders to stand as candidates. Ethnic parties and some minor parties were also able to defeat the USDP in some constituencies. Therefore, as mentioned above, 13 ethnic parties and two minor Bamar parties were able to secure about one-sixth of seats in the Hluttaw.

Importantly, ethnic lawmakers – particularly those from ethnic minority parties – tended to be more active than Bamar lawmakers. As a result, over the course of five years the legislature managed to advance the process of institutionally accommodating Myanmar’s long-running ethnic issues. Ethnic grievances were accommodated in the legislature through debates and votes, although conflicts continued. Table 1 shows the

Table 1. Performance of ethnic lawmakers (first to sixth sessions), 2011–13.

| | % of total | Ethnic lawmakers from | | |
|------------------------|------------|-----------------------|----------------|-----------|
| | | USDP | Ethnic parties | NLD & NUP |
| Number of seats | 28 | 14% | 12% | 2% |
| Motions | 29 | 10% | 19% | 0% |
| Policy questions | 24 | 7% | 17% | 1% |
| Constituency questions | 46 | 21% | 23% | 2% |

Source: Based on a database compiled by the Open Myanmar Initiative (2014, 8–10; <http://www.omimyanmar.org>).

level of participation of ethnic lawmakers inside the legislature. Regardless of their party affiliation, they were more active in raising questions on the development of their constituencies, although less likely to discuss policy.

While these questions and motions were often stage-managed – speeches were mostly scripted and pre-approved by the speakers – they helped to promote ethnic identity and culture and the protection of the rights of ethnic communities. Following questions and motions from ethnic lawmakers, the government reduced hostilities with the Kachin Independence Army, launched a television channel with ethnic minority-language broadcasts, allowed the teaching of ethnic languages in government schools as extra-curricular activities, and passed the National Races Protection Bill, mandating the creation of an ethnic affairs ministry. These innovations demonstrated a level of responsiveness or proactiveness from ethnic minority lawmakers to the concerns of their constituents. Overall, however, the legislature's achievements on ethnic issues were marginal when compared with actions and interventions by the executive branch. This was particularly evident in the case of the peace process, which was led by the executive and provided few roles for the lawmakers (Chit Win 2016, 207).

Due to Myanmar's constitution and electoral laws, not all ethnic groups can expect equal representation based on their population size. These rules favour officially recognised ethnic minority groups. For example, officially recognised minorities above a population threshold in a single state or region can elect a minister to represent them, who then becomes a member of both the state or region legislature and government. This is the only directly elected executive position in Myanmar's political system.

Religious groups are not guaranteed any representation. The majority of lawmakers in the first legislature were Buddhists. There were 52 Christians, mostly non-Bamar, and three Muslims, who all represented northern Rakhine State constituencies for the USDP (Egreteau 2014, 110). This imbalance was due to several factors. Myanmar's first-past-the-post electoral system resulted in Christians being over-represented relative to the total population because they tended to be clustered in particular constituencies. Muslims were under-represented because, except for northern Rakhine State, they are more evenly spread throughout the population. However, anti-Muslim sentiment has also played an important role. There were few instances where the major parties fielded Muslim candidates, and these were run only in constituencies with heavy Muslim populations. In more mixed constituencies, the major parties tended to select Buddhist candidates, presumably because they were not confident that Buddhist voters would support a Muslim candidate.

The 2012–14 Communal Conflicts

As noted above, ethnic conflict has been an ever-present issue in the modern Myanmar, but communal conflict is not new either. However, ethnic and communal conflict are treated differently by the government, the media and the public. Ethnic conflict tends to denote a struggle or insurgency by non-Bamar or ethnic minority armed groups for greater political power. Communal conflict, meanwhile, is typified by violence mainly between Bamar Buddhists and those perceived as immigrants, such as those of Chinese and South Asian descent, usually Muslims or Hindus (see Cheesman 2017).

The British colonial government adopted a policy of free migration from the Indian sub-continent and China, which led to tension between locals and migrant communal groups. As a result, communal clashes between locals and immigrants occurred in colonial times (see Taylor 2009, 177; Yegar 1972). After Burma gained independence, there were also sporadic communal clashes along both religious and communal lines (for a brief history of communal violence in Myanmar, see ICG 2013b).

In Rakhine State, the driving forces of and potential resolutions to recent communal conflict have proven more complex than in the central regions. The anti-Muslim sentiment that is prevalent elsewhere is compounded by the state's land and sea boundaries with Bangladesh, and a long history of inward migration from South Asia. The proportion of Muslims to other ethno-religious groups (primarily Rakhine, who are mostly Buddhists) is much higher than other areas of the country. Many Muslims in the state do not have full citizenship rights (see Holliday 2014, 408–410). This results in them being unable to leave the state without permission as well as being unable to legally acquire land (Rakhine Inquiry Commission 2012, 58–59).

Further complicating the conflict in Rakhine State is the issue of ethnic identity. Many Muslims there seek to be identified as “Rohingya,” but this ethnic identity is not recognised by the government or the majority of Myanmar citizens (see Cheesman 2017). The Thein Sein government insisted that the group identify as “Bengali,” a term that more closely aligns with a widespread perception among non-Muslims that the community comprises recent migrants from Bangladesh. By contrast, Muslims elsewhere in Myanmar have for the most part not sought to be recognised as a particular ethnic group. The government has also adopted a different policy to these Muslims outside Rakhine State, with many able to officially identify as Bamar.

Communal tensions in Rakhine State erupted into violence in June 2012 (see Cheesman 2017). It escalated and quickly spread across the state, with mobs torching and looting homes, villages and businesses from both communities. According to state government estimates, 98 people died and over 5,338 homes were destroyed across nine of the state's 18 townships. As the violence spiralled out of control, local police were clearly unable to maintain law and order, and in some areas allegedly unwilling to do so. President Thein Sein declared a State of Emergency and the military was brought in. More conflict erupted in October 2012 and several days of fighting left 94 people dead and 3,276 families homeless (Rakhine Inquiry Commission 2012, Annex C).

The reverberations of the violence were felt in many parts of Myanmar. From March to October 2013 and again in late June 2014, there were communal clashes in several parts of the country (PDH-Special:1, May 20, 2013).³

The Response of Myanmar's Legislature

Pro-activeness: Political Constraints

Within the national legislature, lawmakers had divergent views on how the institution responded to this communal conflict. These views reflected the differing perspectives and aspirations of the various blocs of lawmakers and their constituencies. For instance, ethnic Rakhine lawmakers complained that the speakers blocked their proposals and

questions in both the upper and lower houses (Interview, February 21, 2014). By contrast, Muslim legislators representing constituencies in northern Rakhine State praised both speakers for allowing them to engage in debate on the conflict, despite what one described as opposition from the “whole house”:

We three Muslim brothers in the Hluttaw collaborate together not only for our constituencies but also try to work for the interest of the country. At the same time, the whole house, especially the Rakhine lawmakers, are constantly going against us Muslim lawmakers. But thanks to the speakers, we are allowed to perform our tasks as lawmakers (Interview, April 6, 2014).

Military lawmakers defended the actions of the speakers in stifling debate, arguing that because the media covered plenary sessions lawmakers' speeches could have escalated conflict (Interview, February 11, 2014). Some elected lawmakers also commented that the Rakhine members were “extreme” in their views, and agreed on the need to take a cautious approach to debating conflict-related topics (Interview, February 17, 2014). The responses from the USDP leadership were mixed. The Pyithu Hluttaw speaker, during a legislative debate on Rakhine conflict in 2012, told lawmakers that the Hluttaw had a responsibility to respond to the conflict by evaluating and monitoring the government's response, and to take action against officials who had behaved irresponsibly (PH-5:7, October 26, 2012). However, during communal violence in Mandalay in 2014, he said that the Hluttaw would help to find a solution so that more conflicts would not erupt, but only at the executive's request (*The Myanmar Times*, August 18, 2014).

From January 2011 to the end of 2013, the Hluttaw dealt with 14 questions and five motions on matters related to the communal violence. There were also debates on the confirmation of States of Emergency orders issued by the president in both Rakhine State and Meiktila. Of the questions, five were raised by two USDP Muslim lawmakers, Htay Win and Aung Zaw Win, before the first outbreak of communal violence in Rakhine State (see Appendix: 1–5). Their questions focused on discrimination against Muslims in Rakhine State and their difficult living conditions. The government responded by justifying its actions in the state, making few commitments to improve or change the situation. During this period, Rakhine lawmakers focused their attention on questions related to the development of their constituencies.

The communal conflict issue was thrust onto the agenda in the aftermath of the first outbreak of violence in Rakhine State. Seven questions, four motions and one debate related to communal conflict took place in the Hluttaw (see Appendix: 6–19). This time, lawmakers from the Rakhine Nationalities Development Party (RNNDP) raised most of the questions.⁴ These did not address the violence specifically, but rather focused on challenging concepts of Rohingya identity and calling for measures to stop the expansion of Muslims into Rakhine-dominated areas of the state (see Appendix: 13, 14, 16–19). None of the Muslim lawmakers submitted any questions during this period.

Partisanship: Restrained Legislature

There were also four motions submitted by mainstream parties that attempted to address some of the concerns of the ethnic Rakhine community and prevent further

violence. None of them were approved by the house: two were rejected outright, while the other two were put on record, which meant no action was required by the government (see Appendix: 9, 10, 11 and 15). Clearly, these motions were sensitive and potentially inflammatory. One example was a proposal by a National Democratic Force (NDF) representative of the Amyotha Hluttaw to prevent illegal immigration, particularly into western Myanmar.⁵ It failed to gain the required 40 votes that would have put it on the agenda because its opponents argued that it was not suitable for discussion at such a sensitive time (AH-4:22, August 8, 2012). A few days later, a USDP lawmaker proposed the drafting of a strategy to prevent communal violence. A lawmaker from the same party opposed the proposal, arguing that the international community was watching Myanmar and the proposal could cause further misunderstanding about how the country was responding to communal violence. Furthermore, he said that should the legislature take such serious steps at that time, it could trigger further unrest (AH-4:25, August 13, 2012). The proposal also failed to receive the 40 votes required to have it put on the agenda and discussed. The same day, another USDP lawmaker proposed amending the controversial 1982 Citizenship Law and this sparked intense debate inside the legislature. Later, the house decided to postpone the matter (AH-4:25, August 13, 2012). Subsequently, however, it was not discussed in the remainder of the Hluttaw's five-year term.

These examples indicate that while the legislature became more responsive to communal conflict, the speakers were careful to ensure debate did not become too controversial or heated. This was partly because the Hluttaw was in just its second year and was struggling to establish its autonomy. Discussions were still carefully stage-managed, which resulted in the plenary session debates being less lively than in established legislatures. Nevertheless, the examples cited show a certain degree of responsiveness from the Hluttaw.

There were at least three occasions when extended debate on communal violence and associated issues took place inside the legislature. The first occurred during debate on the State of Emergency order in Rakhine State on July 16, 2012, and involved representatives of the RNDP, the USDP (including one of its Muslim lawmakers) and the NDF. During the discussion, two RNDP lawmakers accused Muslims of extremism, while the USDP Muslim MP accused the Rakhine lawmakers of ultra-nationalism. The debate became heated as competing historical narratives on immigration from Bangladesh and discrimination and abuses against Muslims in Rakhine were laid out (PDH-4:2, July 16, 2012). However, the debate did not attract much public attention due to the limited media coverage. State media offered little detail on the debate, while private media was still operating under state censorship and for the most part failed to identify the importance of the debate and convey it to its audience.

Executive Oversight: Constraints in Co-ordination and Co-operation

Following a resurgence of conflict in Rakhine State in October 2012, a second debate took place in the Hluttaw. The participants and their use of language differed significantly from the previous occasion. When the violence reached its climax on October 25, 2012, Aung San Suu Kyi convened a meeting of the Pyithu Hluttaw Committee on Rule

of Law and Tranquillity and decided to propose a motion to the legislature to increase security and to prosecute those responsible. However, Aung San Suu Kyi did not propose the motion; another member of her committee put it forward to avoid confrontation with the speaker should the motion not be adopted or even be rejected.

The speaker of the Pyidaungsu Hluttaw, Shwe Mann, allowed the motion to be tabled on October 26, 2012, when lawmakers from eight different parties discussed it, as well as the Minister for Home Affairs. Before the debate, the speaker held an informal meeting with all lawmakers who were registered to take part (PH-5:7, October 26, 2012). He warned them to keep their speeches short and to not make statements that could exacerbate the situation. While one USDP Muslim lawmaker was warned for his lengthy speech, the conduct of participants, particularly Rakhine and Muslim members, was more restrained than during the heated July 16, 2012 debate on the State of Emergency order in Rakhine State.

The motion appeared likely to be approved but instead of calling for a vote the speaker decided to put it on record, a move that compromised its aims, because it did not compel the government to take any action. The speaker highlighted the fact that the legislature had a responsibility to oversee the actions taken by the executive in response to the conflict. However, his own action – putting the motion on record, rather than approving it – stymied an attempt to do just that, out of apparent concern that the legislature would undermine the role of the executive (Interview, RNDP lawmaker, February 21, 2014).

A third debate occurred seven months later during an emergency session of the Pyidaungsu Hluttaw that was called to approve the president's executive order for a State of Emergency in Meiktila on May 20–21, 2013. During the previous two debates, discussions had focused on either the Rakhine-Muslim dynamic or the necessity of ensuring rule of law and security in conflict-affected areas. This time, 11 lawmakers from five political parties debated the issue and highlighted the lack of co-ordination between the legislature and the government, confusion among law enforcement personnel during the violence and the judiciary's weakened role as a result of the State of Emergency order, which potentially gives the military control of the court system in affected areas (PDH-Special:1, May 20, 2013).

Win Htein, the NLD MP representing Meiktila, gave an unusually blunt, first-hand account of the government's handling of the crisis. He complained that he had requested extra security just before the incident turned bloody but the police had taken no action. After several people were killed in front of his own eyes, he contacted the chief minister of Mandalay Region to urge him to control the violence. He concluded that if the police had been given authority in a timely manner, the crisis could have been prevented (PDH-Special:2, May 21, 2013). Rakhine lawmakers highlighted the difference between conflicts in Rakhine State and Meiktila, saying that the former was the result of aggressive illegal immigration while the latter arose because of bullying by Muslims. However, other lawmakers focused on the government's perceived failures in handling the crisis. This included Aung San Suu Kyi, who told the Hluttaw:

We really need to consider whether the executive is doing what it should in accordance with the existing laws... We need an explanation from the executive as to what they have

done over the past six days and to justify why they need to extend the State of Emergency (PDH-Special:2, May 21, 2013).

Her comments suggested she was concerned that the order could set a precedent for extended periods of military rule in other parts, or even all, of Myanmar – a concern also raised by critics of the 2008 Constitution (Williams 2014).

Except for RNDP lawmakers, the house focused its attention on solutions to the conflict rather than commenting on resentment between the Buddhist and Muslim communities. Notably, on this occasion none of the Muslim lawmakers spoke. With the media watching the legislature's actions closely, they decided not to engage in the debate because of fears their contribution could spark further tension (Interview, Muslim lawmaker, April 6, 2014).

Institutional Mechanisms: Constrained

Following the Rakhine State and Meiktila conflicts, lawmakers made several other attempts to address communal tensions through the submission of questions and motions. However, as in earlier cases, they resulted in only modest contributions. The speakers turned down many motions and questions because they deemed them potentially inflammatory. Other attempts to address the roots of the conflict were also rejected on similar grounds.

While this article focuses on the role of the Pyidaungsu Hluttaw, it is worth digressing momentarily to consider the response of the Rakhine State Hluttaw. Despite the RNDP holding 40% of all seats in the Rakhine State legislature – the highest proportion for a non-USDP party anywhere in the country – it did not discuss a single question or motion related to the conflict in the second half of 2012, when violence and tension were at their peak. During this same period, 171 questions and 13 motions were debated over two plenary sessions. Additionally, the state legislature's four Muslim representatives – from the USDP and National Democratic Party for Development (NDPD) – were granted approval for a long leave of absence from the legislature that extended until the legislature was dissolved on January 29, 2016 (Interview, staff, Rakhine State Hluttaw, March 13, 2014). Where the response from the national legislature was largely one of caution, the sub-national legislature exhibited inaction, suggesting that as an institution it was too weak either to act as an effective check on the state government's crisis response, or to help address the root causes of the conflict. It also failed to act as a forum for building trust between the Buddhist and Muslim communities in the state.⁶

Legislation: Majority Rules

While the legislature handled discussions on communal violence with much restraint, communal tensions found their way on to the legislative agenda in ways that affected both Muslims in Rakhine State and Myanmar's Muslim population more broadly.

In 2013, the leader of the ethnic Rakhine RNDP, Aye Maung, submitted draft amendments to several election laws to the legislature on behalf of his party. The timing was notable, coming just after communal conflict in Lashio and Kanbalu and

shortly before violence in Thandwe. The first of these bills proposed removing the right of naturalised and associate citizens, as well as Temporary Registration Card holders (“white cards”), to form or be members of a political party (AH-7:26, August 26, 2013).⁷ The party was clear that it was targeting Muslims in Rakhine State, of whom some 600,000 to one million held Temporary Registration Cards. While white cards have a legal basis as an interim identity document, the way they were issued by the military government from the early 1990s to Muslims in Rakhine State differed from earlier periods and was no longer consistent with regulations on their use (see Cheesman 2017). This was a significant source of communal tension in the state, with Muslims alleging that white cards were issued to some who previously held documents confirming their citizenship (Interview, USDP Muslim lawmaker Shwe Maung, who self-identifies as Rohingya, August 11, 2014).

The bill was debated several times in both houses. Following delays due to the sensitivity of the topic and the heavy legislative workload it was eventually enacted in September 2014 (*The Irrawaddy* and *The Myanmar Times*, October 3, 2014). Subsequently, the Union Election Commission instructed every political party to expel white card holders. The NLD expelled about 8,000 of its three million members, although quickly accepted some back after helping them apply for formal citizenship documents under a fast-track programme (*The Myanmar Times*, March 20, 2015). As intended, the change to the legislation had a significant impact on Muslim-dominated parties, including three whose leaders identify as Rohingya. Some were required to expel Central Executive Committee members, while one small Muslim party expelled about 1,000 members (*The Myanmar Times*, March 20, 2015).

The RNDP also submitted amendments to remove the voting rights of white card holders. Before this legislation could be considered, however, the issue was brought to a head by the submission in November 2014 of a bill for the holding of a referendum on amendments to the 2008 Constitution. The original bill gave temporary citizens the right to vote, in line with the existing electoral laws. However, an NLD representative proposed the removal of this provision, prompting a strenuous debate during which Rakhine lawmakers insisted again that temporary citizens should not be allowed to vote (*The Myanmar Times*, November 24, 2014). The legislature agreed to remove the provision.

Rather than sign the referendum bill into law, President Thein Sein sent it back with the recommendation white card holders be reinstated, on the grounds they should be allowed to vote because they voted in the 2008 referendum on the constitution. In a surprise move, the legislature accepted his recommendation, in part through the support of military lawmakers (*The Nation*, February 9, 2015). However, this prompted protests in Rakhine State and smaller demonstrations in Yangon. Rakhine lawmakers responded by proposing a motion to cancel white cards completely, which the speaker forwarded directly to the president rather than allow lawmakers to debate, and by submitting a case to the Constitutional Tribunal for adjudication.

On February 11, 2015, the President’s Office announced that from May 31 white cards would no longer be valid (*Global New Light of Myanmar*, February 12, 2015). Five days later, the Constitutional Tribunal informed the legislature that those holding Temporary Registration Cards were not considered citizens and therefore not entitled

to vote in either the referendum or elections, following up with a formal verdict on May 11, 2015 (CTU 2015).

The consequences of these decisions were clear. White card-holding Muslims in Rakhine State lost their political rights, as Rakhine lawmakers had long demanded. In a double blow, however, the debate also resulted in them losing their white cards. Aside from politicians purporting to represent the Rohingya group, the only domestic dissenting voices were leaders of some ethnic minorities, such as the Wa, that also have a significant number of white card holders. Internationally, the decision was widely condemned, including by the United Nations.

Despite its final decision on white cards, the government had generally been a defender of maintaining the political rights of temporary citizens. The Hluttaw, by contrast, initiated and agreed on the removal of these rights, albeit with some reluctance. This reluctance was likely due to international pressure and concerns that it would affect the credibility of the 2008 referendum and 2010 election, in which temporary citizens could vote. However, there was clear public support for revoking these rights and, as a body that represents the people – the “people’s voice,” in the words of Speaker Shwe Mann – the legislature’s actions were justifiable. Throughout their term, lawmakers struggled to balance this need to respond to public sentiment with both the country’s long-term interests and international opinion.

The decision resulted in Rakhine State’s Muslims losing political representation at the November 2015 General Election. Not only were most unable to vote, the Union Election Commission also refused to approve most Muslims who applied to stand as candidates – even those who had been cleared to run in previous elections, including one sitting lawmaker. The long-term consequences of the political disenfranchisement of these Muslims remained unclear at the end of 2016, although there are worries that this action could push young Muslims into extremist movements (ICG 2013b). It is clear that there has been a loss of an important (if controversial) channel through which they could air concerns and push their interests. Rakhine State Muslim leaders said they were issued white cards prior to the 2010 election to vote for the USDP. Having upheld their end of the bargain, they felt “betrayed” and even more isolated (*The Myanmar Times*, November 3, 2014b).

Another possibility is that those who lost their white cards will apply for citizenship through a government verification programme. Launched in 2014 by the Thein Sein government, it was suspended due to public opposition. However, shortly after taking office the NLD government resumed the programme in three townships in Rakhine State. Those eligible would be issued with a temporary identity document, and later their eligibility would be assessed for full, naturalised or associate citizenship. This provides a pathway to regaining some political rights, notably the right to vote.

There are several obstacles to the state’s Muslims gaining citizenship through this process, however. The most prominent is nomenclature. The government has made clear that those who apply for citizenship cannot identify as “Rohingya” because it considers the term emotive and politicised. It has instead decided to use the term “Muslims in Rakhine State,” but some stateless Muslims may decide to boycott the programme because it does not allow them to identify as “Rohingya.” Opposition from the Rakhine community to citizenship verification could also make it difficult to implement. Shortly after the government announced it would use “Muslims in

Rakhine State,” ultra-nationalists in Rakhine State and Yangon staged protests demanding the government revert to the term “Bengali.”

The legislature was put in an unenviable position by the military regime, which gave white card holders the right to vote for its own political purposes. Indeed, resentment to these rights may have been one factor in the increased tension seen in Rakhine State since 2011. In broadly siding with those who sought to remove political rights linked to white cards, the legislature headed off the possibility of short-term unrest. Muslims in Rakhine State are not likely to resort to extremism and are not able to launch large public protests or campaigns as the Rakhine have done. But it does not appear that the legislature moved the country any closer to a long-term solution to the conflict in Rakhine State by denying political rights to almost a million people. There is also the risk that it is sowing the seeds of extremist movements.

The second major package of legislation with implications for the country’s communal conflicts also emerged in 2013, but through a very different political vehicle. In June 2013, at a major gathering of Buddhist monks in Yangon, the ultra-nationalist monk Ashin Wirathu released details of a planned interfaith marriage law that would force a non-Buddhist man to convert to Buddhism to marry a Buddhist woman. The proposal prompted uproar among human rights advocates in Myanmar and abroad (Human Rights Watch 2014). Yet it also drew widespread support from many groups inside the country.

Subsequently, Ashin Wirathu and other ultra-nationalist monks formed a body known as MaBaTha (see Schissler, Walton and Phyu Phyu Thi 2017). This organisation later proposed four pieces of legislation – covering inter-faith marriage, religious conversion, polygamy and population control – that are collectively known as *Amyosaung Ubade*.⁸ They were submitted to the government in mid-2013 following a petition campaign during which monks collected millions of signatures to highlight the strong public support for the draft laws (*The Irrawaddy*, July 18, 2013). Proponents of the laws insisted they were designed to protect Buddhism and did not target minorities. However, anti-Muslim sentiment was clearly the driving force and in particular Buddhist concerns that the future of their religion and race was under threat from claimed Muslim expansionism.

In February 2014, under pressure from sections of the Buddhist clergy, President Thein Sein sent a letter to Speaker Shwe Mann urging him to consider accepting the drafts as bills. The speaker prevented the issue from being discussed at the plenary session by instead inviting party leaders to a closed-door meeting. Because of its sensitivity, neither the USDP nor NLD were willing to comment on the proposed laws. Shwe Mann eventually responded to the government that the drafts were not in a suitable form to be considered by the legislature and asked the government to take responsibility for rewriting them (Interview, ethnic minority lawmakers, February 27, 2014). This move by the speaker took the process out of the hands of ultra-nationalist lawmakers.

The government formed a commission to draft the religious conversion and population control laws, while the other draft laws were assigned to the Union Supreme Court. The new commission was given until the end of June 2014 to return the legislation to the parliament. Despite releasing the draft religious conversion law to the public in late May, the commission missed the June deadline to submit both bills to parliament.

When the bills were eventually submitted on December 1, 2014, they were markedly less radical than originally envisaged by MaBaTha. The population control bill had no punishments for those who failed to heed the recommendations of local authorities on family sizes and birth spacing, while the interfaith marriage bill required that a Buddhist woman register with local authorities when marrying a man of another faith. The bills prompted significant debate in the parliament. Notably, one Chin MP likened restrictions in the religious conversion law to the Spanish Inquisition (*The Myanmar Times*, January 23, 2015). While some NLD representatives sought to weaken the provision, the parliament rejected these through a vote.

All four bills were approved during 2015 and enacted by the president. In terms of a response to communal conflict and its root causes, the new legislation resulted in two competing outcomes. On the one hand, the legislature had seemingly addressed the concerns of ultra-nationalist Buddhist leaders and avoided a further escalation of tensions and possible protests. The legislature had appeased the mostly unfounded concerns of the country's majority Buddhists by enacting laws that were clearly designed to target Muslims.⁹ To some extent the laws were also watered-down versions of what had been proposed by MaBaTha. This did not prevent the laws being used, although not as the ultra-nationalists might have envisaged.¹⁰

These events highlight the pressure that Buddhist nationalist forces can exert on lawmakers and the government, particularly given the perceived conservatism of the electorate. The NLD is better placed to resist this pressure than its predecessor. During the campaign period for the 2015 election, the USDP received significant support from nationalist groups but still suffered a resounding loss. However, as future elections approach, it is likely that nationalist groups will again seek to influence lawmakers to implement their agenda and affect the outcome of those votes. Just as in the 2011–16 legislature, the personality, capacity and autonomy of the speakers will be important factors in how the Hluttaw responds to these forces.

Lack of Public Outreach

While the legislature as an institution only occasionally broached the topic of communal conflict, individual lawmakers and their parties sometimes played more active – and controversial – roles outside the chamber. These ranged from RNDP members being arrested for alleged involvement in violence to lawmakers attempting to personally intervene when conflict erupted. However, the perceived political consequences of being seen as partial to one side – and, in particular, of being seen as pro-Muslim – made most lawmakers reluctant to act, even when violence occurred within their constituencies.

This reluctance was also reflected by the USDP and NLD. Neither exhibited the strong leadership on communal conflict that would have been required for the legislature to play an effective role in combating violence or addressing its root causes. For most of the legislature's term, neither party sought to take advantage of issues related to race or religion. However, during the 2015 election campaign, the USDP was accused by the NLD supporters of using religious tensions between Buddhists and Muslims to attack the NLD and its candidates. Party rallies were attended by prominent ultra-nationalist Buddhist monks, including members of MaBaTha, who highlighted the

USDP's support for the four protection of nationality and religion laws. This use of religion appeared to be a strategy adopted by individual candidates, rather than the party as a whole. Shwe Mann, who was deposed from the USDP leadership together with his legislative allies in August 2015, publicly distanced himself from using MaBaTha. To counter the USDP's use of religion, the NLD timidly decided not to field any Muslim candidates.

Aung San Suu Kyi's response to the violence highlighted the fraught nature of communal politics. Internationally she received significant criticism for her failure to speak out strongly against Buddhist ultra-nationalist movements and the discrimination against Muslims in Rakhine State (*The Guardian*, May 20, 2015). Yet domestically the few statements she made on the topic created the perception that she was "too focused on human rights" – shorthand for not supportive enough of ultra-nationalist proposals, and therefore pro-Muslim (Interview, Shan Nationalities Democratic Party [SNDP] Pyithu Hluttaw lawmaker Ye Tun, February 17, 2014).

Speaker Shwe Mann was more active. Shortly after the first outbreak of violence in Rakhine State, he travelled to the state and met the victims from both communities, although there were no tangible results (*New Light of Myanmar*, July 9, 2012). In September 2013, he met members of the Rakhine community in Yangon and expressed support for "the attempts of the Rakhine people to protect Myanmar" (*The Myanmar Times*, October 4, 2013). He made similar comments when he attended the first Rakhine National Conference in Kyaukpyu in late April 2014. These statements and meetings seemed designed to keep Shwe Mann and the USDP onside with the Rakhine community. The sentiments expressed were not reflected, neither before nor after, in his actions as speaker. For example, he regularly stifled RNDP questions and proposals that he viewed as potentially inflammatory.

Reducing the Muslim population in Rakhine State, however, was the RNDP's *raison d'être*. Many Rakhine consider that the state's large Muslim population presents an existential threat and believe that if they do not take urgent measures Rakhine Buddhists will be swallowed by a wave of Muslims from South Asia, primarily Bangladesh. This has lent an urgency to the party's response that appears to have occasionally spilled over into violence. While it is unclear how many party members were involved in clashes in Sittwe and other areas of northern Rakhine State in June and October 2012, several were arrested in Thandwe following violence in September and October 2013, including the head of its township office. Rather than condemn their possible involvement in violence, party leaders called for the immediate release of the members (*The Irrawaddy*, October 5, 2013). Meanwhile, the party's lawmakers have been relatively moderate and have claimed to intervene to stop violence. RNDP's Tun Aung Kyaw, the Pyithu Hluttaw representative for Ponnagyun, said that the party's "grassroots" members were "extreme" and difficult to control. On one occasion, he said: "They wanted to fight the different communities so they grew angry at me and put a dagger to my neck. They said, 'You are one of our Rakhine leaders. You must lead to fight this conflict. You yourself should lead'" (Interview, February 17, 2014).

Likewise, on the NLD side, during the Meiktila conflict, the local Pyithu Hluttaw representative, Win Htein, tried to negotiate with Buddhist mobs as they surrounded a madrasa. When the mob began killing young students, he requested that the Mandalay

Region chief minister strengthen security to protect Muslims (Interview with Win Htein, February 17, 2014).

Shortly after violence in Lashio in May 2013, a group of Muslims was arrested in Hsipaw for allegedly stealing two motorbikes. The local Pyithu Hluttaw representative from the SNDP, Ye Tun, received complaints from the Buddhist and Muslim communities, who both suspected that the crime had been confected to instigate violence. In an effort to placate both sides, he arranged for community leaders to “interview” the four people arrested for the theft. Buddhist and Muslim leaders left this discussion convinced that the theft was not an attempt to instigate conflict and then relayed this to their followers, helping to defuse the tension (Interview with Ye Tun, February 17, 2014). Few lawmakers commanded enough respect and possessed the leadership skills for such an intervention, which also depended on co-operation from local government officials. In Ye Tun’s case, the police allowed the “interview” to take place while the alleged culprits were in custody.

Those who have intervened face personal and political risks. For trying to save the lives of the young Muslim students, Win Htein was given the nickname “Hajji” by some of his angry constituents, who declared him a “Muslim lover.” After he told local reporters the anti-Muslim violence had made him “ashamed to be from Meiktila,” he was the subject of a push by constituents to remove him under the constitution’s “recall” provisions (*The Myanmar Times*, September 23, 2013).

Those who spoke out also faced the wrath of the outspoken nationalist movement. In 2013, NLD lawmaker Min Thu was forced to apologise after he criticised a rally at Nay Pyi Taw’s Uppatasanti Pagoda that was held to express support for the draft interfaith marriage law. While not a lawmaker, NLD official Htin Lin Oo was charged with insulting religion for indirectly criticising Buddhist ultra-nationalist movements during a speech in Chaung Oo township, Sagaing Region, in October 2014. Neither the NLD nor Aung San Suu Kyi issued a statement of public support for Htin Lin Oo. Rather, when police charged Htin Lin Oo, the NLD stripped him of his party position (*The Irrawaddy*, December 8, 2014). He was given a two-year prison sentence but released following a presidential pardon on April 17, 2016, together with other political prisoners and activists.

Analysing Legislative Responsiveness

Earlier, we offered six criteria with which to assess the responsiveness of Myanmar’s legislature to communal conflict: pro-activeness; institutional mechanisms; partisanship; executive oversight; community engagement; and legislation. Through these criteria, we can make several observations regarding responsiveness.

First, the legislature faced constraints in proactively responding to the communal violence. The legislature was late to respond when crises unfolded because it was either in recess or it took some days to formally introduce such issues to the legislative agenda. By the time the legislature considered these issues, it was too late to have an impact in halting the violence, and the executive had already dealt with the conflict.

Most importantly, the strong feelings aroused by communal conflict made it politically risky for politicians – even one of Aung San Suu Kyi’s stature – to wade into the

conflict, particularly if their response would be perceived as supportive of the Muslim community (Interviews, Ye Tun and NDF Pyithu Hluttaw lawmaker Khine Maung Yi, February 17, 2014). It is instructive, for example, that emergency sessions of the legislature were not immediately convened in the wake of outbreaks of serious communal violence.

Second, the legislature faced institutional constraints. In terms of conflict resolution, most of its attention was on long-running ethnic conflicts rather than the recurring communal violence and its underlying causes. While there was a committee on peace and ethnic minority affairs, this body paid little attention to communal conflict. There was no relevant legislative ad-hoc committee to address communal violence. No public hearings were conducted with affected community leaders and stakeholders because the legislature had no such practices.

Third, members of the legislature showed their restraint by adopting a non-partisan approach. When some lawmakers, especially from conflict-affected areas, tried to pressure the executive to adopt a particular course of action, the legislature and in particular the speakers were careful not to undermine the executive's efforts or allow these actions to exacerbate the conflict. In some cases, lawmakers were seen voting against proposals tabled by members of their own party (see Appendix: 10). When the issue was discussed, ethnic Rakhine politicians and the handful of Muslim lawmakers emerged as essentially the only strong voices. Lawmakers responded by focusing their attention on amending areas of policy or law that they believed to be contributing to the violence, although the outcomes from these endeavours were also quite limited and could exacerbate communal tensions in the years ahead.

Fourth, the legislature struggled to ensure executive oversight. Lawmakers for the most part appeared reluctant to apply their oversight powers to the conflicts, perhaps because this was considered the domain of the military. When it did appear on the agenda, the legislature tackled communal conflict through three means: motions, questions and discussions over State of Emergency orders. In responding, the executive provided relevant information to lawmakers but there were no other briefing sessions or committee hearings to share information. There was little evidence of the executive working closely with lawmakers. In one notable exchange, police refused to act on the appeals of the NLD representative from Meiktila when violence erupted in March 2013. The legislature was less willing to tackle communal conflict than other issues. For example, it responded to widespread disputes over land grabbing by forming its own investigation commission, but on communal conflicts the legislature did not form any investigation or reconciliation commission. With the exception of Aye Maung, an RNDP upper house lawmaker appointed in his capacity as a party leader, none of the legislature's members were involved in the government's Rakhine Inquiry Commission.

Looking at the fifth criterion, the legislature lacked public outreach activities and community engagement. Significantly, lawmakers failed to engage with affected communities. No lawmaker made any noticeable effort to reconcile these communities. Attempts were made to co-ordinate with local authorities but these brought about no significant results because neither the executive nor the legislature was accustomed to such co-operation.

While some reasonably robust debates on issues related to conflict took place within the legislature, few lawmakers engaged with the issues in their constituencies. They

were neither active members of interfaith movements designed to foster understanding between religions nor associated with the civil society-led campaigns against the controversial *Amyo-saung Ubade* protection of nationality and religion laws. The primary aim of the average lawmaker was to avoid any actions that could instigate or inflame conflict. There is also little evidence to suggest that individual lawmakers from the 2011–16 Hluttaw were able to intervene to end violence in their constituencies once it broke out.

Sixth, the legislature fell into the hands of the majority and failed to approve any laws focused on preventing future outbreaks of communal violence. Instead, the legislature, under strong public pressure, approved a number of laws to exclude Muslims from politics and addressed areas of concern for Buddhist ultra-nationalists. The initial proposed drafts were quite hostile to Muslims, however the legislature, led by the two speakers, was able to slow down their passage and tone them down to some extent.

In summary, most elements of the legislative response were constrained in some way. However, the legislature did respond to the conflict in a self-restrained manner and its response evolved over time. At first, lawmakers adopted the view that the executive was responsible for managing the crisis. Later, the house became aware that there was a danger of escalating communal tensions, and the speakers rejected some questions and motions as inflammatory. But while the speakers could stop the house from having a negative influence in the short term, they were unable to prevent legislation targeting the rights of Muslims. The house could moderate these radical proposals and bills in the face of fierce pressure from ultra-nationalist groups, although Muslims were effectively excluded from the debate.

As a new institution, with no history or experience of managing communal conflict, the Hluttaw's limited response to communal conflict was not unexpected. While the Hluttaw was more active on many other issues, such as scrutiny of legislation and establishing its autonomy, on communal conflict it was relatively ineffectual, neither acting as a peacebuilder nor source of violent conflict.

As a result, the country neither appears closer to resolving the underlying causes of communal conflict than it was when the legislature first convened in 2011, nor better prepared to tackle violence when it breaks out. The legislature will again be called upon to respond to outbreaks of violence but remains ill-prepared.

This does not have to be the case, however. There are several steps the national legislature could take to enhance its role in preventing and mitigating communal conflict. The first involves committees in parliament. As noted, in the first Hluttaw, there was no committee dedicated to tackling communal conflict. A multi-ethnic, multi-religious and multi-party committee could respond immediately if conflict breaks out. It could observe the response of the authorities, negotiate with community leaders to resolve tension and co-ordinate assistance to those affected.

Second, lawmakers as individuals could take a stronger oversight role. Again, this was another area in which members of the first Hluttaw appeared ill-prepared. However, future lawmakers could more closely scrutinise the response of the authorities, particularly the police, to outbreaks of communal conflict, to ensure greater accountability and equitable implementation of the law.

Third, adopting a non-partisan approach could strengthen the role of the legislature. Reaching a multi-party agreement on responding to communal tension and outbreaks of conflict would enable parties and individuals to take a stronger stance against extremists by removing some of the associated political risk.

Fourth, the legislature could work to build trust between communities and constituents. Many lawmakers in the legislature's first term failed to win the respect of their constituents, particularly those from different ethnic or religious groups. Some were virtually unknown to many of the people they represented. As Pratt (2005) has suggested, public awareness on the role of the legislature – not just in terms of communal conflict, but also as an institution representing people – needs to be promoted to achieve this. In this regard, representation is important. Inclusion of more minority representatives, particularly religious minorities, would ensure a broader range of views is heard within the legislature. This could be achieved in several ways, including changes to the electoral system, or party quotas for ethnic and religious minority candidates.

Without a more co-ordinated, institutionalised and publicly non-partisan response to the conflict, there is no guarantee that the moderation of the first Hluttaw will continue in future legislatures. There is the potential for the legislature to become a forum for extremist politics, particularly given that Buddhist lawmakers will comprise a large majority. It will be up to future lawmakers – those elected at the 2015 General Election, and in subsequent elections – to take more substantive steps to head off this threat.

Notes

1. This article uses the term legislature and Hluttaw (in Myanmar) interchangeably.
2. In the 2015 General Election, the NLD won in a landslide over the incumbent USDP shifting the power balance inside the Hluttaw. This article focuses exclusively on the first legislature, which convened for the first time on January 31, 2011 and concluded for the final time on January 29, 2016.
3. The Myanmar legislature does not have a standardised referencing system for its legislative records. They are available on official websites as well as in hardcopies published after each session. As this article is one of the first to use Myanmar legislative records extensively, it offers a [Hluttaw]-[Session]:[Day] [Date] format for citation of these records. “PDH” refers to the Pyidaungsu Hluttaw, “PH” to the Pyithu Hluttaw and “AH” to the Amyotha Hluttaw. As such, “PDH-Special:1 20 May 2013” refers to the Report of the First Day of the Special Session of the First Pyidaungsu Hluttaw on May 20, 2013.
4. The RNDP was one of the most successful political parties in the 2010 election, winning 35 of the 44 constituencies it contested, most of which were in Rakhine State. In 2014 its leaders agreed to merge with the Arakan League for Democracy, forming the Arakan National Party (ANP).
5. The NDF was formed in June 2010 by former members of the NLD to contest the 2010 election. It won 12 seats in the Hluttaw.
6. At the 2015 General Election, the ANP (formerly the RNDP) made further gains in the Rakhine State Hluttaw, winning 23 of 47 seats (48.9%) compared to 18 of 47 (38.3%) in 2010. Yet, in its first months the Rakhine legislature has been less active than other state and region Hluttaws (*The Myanmar Times*, March 16, 2016). According to Rakhine

lawmakers in Nay Pyi Taw, this was to avoid ANP lawmakers putting too much pressure on the state government.

7. The 1982 Citizenship Law created three tiers of citizenship: citizens, associate citizens and naturalised citizens. To qualify as a citizen, one must be born of parents from “indigenous” ethnic groups, or of parents who are both citizens at the time of the birth. Associate citizens are those who arrived in the country prior to independence in 1948 and who were accepted for citizenship under the Union Citizenship Act, 1948. Naturalised citizens are those who arrived in the country prior to independence but did not apply for citizenship under the Union Citizenship Act. The law makes no mention of Temporary Registration Cards.
8. *Amyo-saung Ubade* translates to protection of nationality, but in English the four laws are often collectively referred to as the “protection of religion” laws – an indication of how race and religion are often viewed as inextricably linked.
9. That concerns about the growth of the Muslim population were unfounded was highlighted by the release in July 2016 of data on religion collected as part of the 2014 census. According to the results, Muslims made up 4.3% of the population, including 1.09 million people in Rakhine State who were not allowed to take part, but were assumed to be Muslim. This represented only a slight increase over a period of more than 40 years. Both the 1973 and 1983 censuses recorded Muslims as comprising 3.9% of the population. Between 1983 and 2014, those claiming to be Buddhist fell slightly, but largely due to the growth of Christianity.
10. During the second half of 2015 and first half of 2016, dozens of complaints under the Monogamy Law were submitted to the authorities by individuals and in some cases organisations alleging that a spouse had been unfaithful. While the law was proposed by ultra-nationalists to combat the perceived practice of polygamy among Myanmar’s Muslims, just a handful of cases have involved Muslims. The law has instead mostly been used by Buddhist women to target their unfaithful Buddhist husbands. This has prompted some observers to invoke the Myanmar saying, “The trap was set for rabbits but caught cats instead.”

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Appendix

Timeline of Communal Violence and Legislative Response (2011–14)

| No. | Date | The Hluttaw (Plenary sessions) | Name of the lawmaker | Motions (M) /Questions (Q) /Debates (D) /Other actions (O) | Remarks |
|-----|-------------|--|-----------------------------------|---|---|
| 1. | 01-Sep-11 | Pyithu Hluttaw (Second) | Aung Zaw Win (USDP) | Q1. Issuance of national registration card to Maungdaw residents | Muslim lawmaker |
| 2. | 02-Sep-11 | Amyotha Hluttaw (Second) | Htay Win (USDP) | Q2. Non-discrimination of Buthidaung /Maungdaw residents | Muslim lawmaker |
| 3. | 02-Sep-11 | Amyotha Hluttaw (Second) | Htay Win (USDP) | Q3. Discriminatory immigration inspection in Buthidaung /Maungdaw | Muslim lawmaker |
| 4. | 14-Sep-11 | Pyithu Hluttaw (Second) | Aung Zaw Win (USDP) | Q4. Overseas job opportunities of Maungdaw residents | Muslim lawmaker |
| 5. | 13-Mar-12 | Amyotha Hluttaw (Third) | Htay Win (USDP) | Q5. Recovery and prevention strategy in Rakhine State | Muslim lawmaker |
| 6. | 01-Jun-12 | State of Emergency declared in Rakhine State | | | |
| 7. | 16-Jul-12 | Pyidaungsu Hluttaw (Fourth) | Plenary Session | D1. Deliberation on the President's Executive Order (1/2012) declaring State of Emergency in Rakhine | Adopted <i>(Intensive debate)</i> |
| 8. | 31-Jul-12 | Amyotha Hluttaw (Fourth) | Myint Hlaing (USDP) | Q6. Hardship in Buthidaung /Maungdaw | |
| 9. | 08-Aug-12 | Amyotha Hluttaw (Fourth) | Dr. Mya Nyana Soe (NDF) | M1. Proposal to prevent illegal immigrants | Rejected |
| 10. | 13-Aug-12 | Amyotha Hluttaw (Fourth) | Maung Aye Tun (USDP) | M2. Proposal to prevent violence, illegal immigrants and drafting a strategy | Rejected |
| 11. | 13-Aug-12 | Amyotha Hluttaw (Fourth) | Tin Mya (USDP) | M3. Proposal to amend 1982 citizenship law | Recorded <i>(Intensive debate)</i> |
| 12. | 21-Oct-12 | Second violent clashes in Rakhine State | | | |
| 13. | 24-Oct-12 | Amyotha Hluttaw (Fifth) | Khin Maung (RNDP) | Q7. Removal of Bengali village | |
| 14. | 24-Oct-12 | Amyotha Hluttaw (Fifth) | Khin Maung Latt (RNDP) | Q8. Controlling the expansion of Bengali residents | |
| 15. | 26-Oct-12 | Pyithu Hluttaw (Fifth) | Mahn Maung Maung Nyan (NUP) | M4. On behalf of Rule of Law and Tranquillity Committee requesting the government to increase security personnel and enforcing rule of law on crisis in Rakhine that started on 23 October 2012 | Recorded <i>(Intensive debate)</i> |
| 16. | 20-Feb-13 | Pyithu Hluttaw (Sixth) | Maung Nyo (RNDP) | Q9. Whether there is a recognition of Bengali | |
| 17. | 20-Feb-13 | Pyithu Hluttaw (Sixth) | Khin Saw Wai (RNDP) | Q10. Whether there is a Rohingya ethnic race in Myanmar | |
| 18. | 22-Feb-13 | Pyithu Hluttaw (Sixth) | Maung Nyo (RNDP) | Q11. Population control of illegal immigrants in Sittwe and Pauktaw | |
| 19. | 12-Mar-13 | Pyithu Hluttaw (Sixth) | Tun Aung Kyaw (RNDP) | Q12. Installation of security barriers on western Rakhine border | |
| 20. | 22-Mar-13 | State of Emergency declared in Meiktila | | | |
| 21. | 30-Apr-13 | Violent clashes in Okkan Township, Bago Region | | | |
| 22. | 21-May-13 | Pyidaungsu Hluttaw (Special) | Plenary Session | D2. Deliberation on the President's Executive Order (1/2013) declaring State of Emergency in Meiktila | Adopted <i>(Intensive debate)</i> |
| 23. | 29-May-13 | Violent clashes in Lashio Township, Shan State | | | |
| 24. | 25-Jun-13 | Pyithu Hluttaw (Seventh) | Thein Tun Oo (USDP) | Q13. Drafting a law to prevent religious and communal violence | |
| 25. | 24-Aug-13 | Violent clashes in Kanbalu, Sagaing Region | | | |
| 26. | 29-Sep-13 | Violent clashes in Thandwe Township, Rakhine State | | | |
| 27. | 11-Oct-13 | Pyithu Hluttaw (Eighth) | Khin Saw Wai (RNDP) | Q14. The role of NGOs and INGOs in Rakhine State | |
| 28. | 15-Oct-2013 | Pyidaungsu Hluttaw (Eighth) | Shwe Mann (Speaker) | O1. Message to the President on Rakhine development | |

(Continued)

(Continued).

| No. | Date | The Hluttaw (Plenary sessions) | Name of the lawmaker | Motions (M) /Questions (Q) /Debates (D) /Other actions (O) | Remarks |
|-----|-----------|---|-------------------------|---|----------|
| 29. | 04-Nov-13 | Pyithu Hluttaw (Eighth) | Khin Saw Wai (RNDP) | M5. Implementation of a strategy for co-ordinated security, immigration and administration enforcement in Buthidaung/Maungdaw | Recorded |
| 30. | 16-Jan-14 | Violent clashes in Maungdaw Township, Rakhine State | | | |
| 31. | 02-Jul-14 | Curfew imposed after violent clashes in Mandalay City | | | |

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