

# EVAP Ep. 30 Yanghee Lee

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## SPEAKERS

Jaclyn Streitfeld-Hall, Yanghee Lee

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### J Jaclyn Streitfeld-Hall 00:12

Welcome to Expert Voices on Atrocity Prevention by the Global Centre for the Responsibility to Protect. I'm Jaclyn Streitfeld-Hall, Research Director at the Global Centre. This podcast features one on one conversations with practitioners from the fields of human rights, conflict prevention, and atrocity prevention. These conversations will give us a glimpse of the personal and professional side of how practitioners approach human rights protection and atrocity prevention, allowing us to explore challenges, identify best practices, and share lessons learned on how we can protect populations more effectively. Today I'm joined by Yanghee Lee, former UN Special Rapporteur on the situation of human rights in Myanmar, and co-founder of the special Advisory Council for Myanmar. Thank you for joining us today.

### Y Yanghee Lee 00:58

Thank you for having me today.

### J Jaclyn Streitfeld-Hall 01:00

You served as Special Rapporteur during a very interesting time in Myanmar's history. The country underwent significant changes. When you started, it was going through a process of democratizing and we witnessed significant normalization efforts by members of the international community. And despite the hope everyone had for the country, less than five years later, the government perpetrated a genocide against the Rohingya population. Can you reflect on what you witnessed in Myanmar from a human rights perspective during your six years as Special Rapporteur?

### Y Yanghee Lee 01:33

Well, I started in June of 2014. That was a transformation period, as it was called then. It was

under a quasi-civilian government under U Thein Sein, who was an ex-general. But he opened up to the international community, and that's when you saw normalization by Member States. He was prompted to open up because he saw through Nargis, how humanitarian assistance and aid can only be achieved through international efforts. And I think that's what prompted him to open up. And he wanted to raise the economic level of Myanmar. So he was inevitably forced to open up, but that was a smidgen of opening up. And everybody was quite excited about that. And then there was the election of 2015, where NLD had a really a big margin of win, which, I'm afraid, came to a big surprise to the then military, government or quasi-civilian government. So it was in 2015. And, if we call before 2015, under U Thein Sein a transformation to democracy period, in 2015, people were, I would say, I would put it in brackets and quote, unquote, "cautiously optimistic". Everyone was cautiously optimistic that with Aung San Suu Kyi now at the helm, that this country will definitely start to speed up the process of democratization. Well, it didn't go that quickly and it didn't go in that fashion, because she was still sharing her power with the military. So I call this period, while people call the former period quasi-civilian, I called this period, a quasi-military government, because the four major ministerial posts were still held by the military. And under the 2008 constitution, 25% of the parliament was held by the military. They sat in the parliament, in their military outfits. And, of course, any major changes such as constitutional changes, had to have a two thirds majority, which would never happen because of the 25% of the military. And that was not just in the national level. It went down to the state level, all state legislature with that 25% military. And so everyone was cautiously optimistic and I kept asking UN agencies, "What do you mean by cautiously optimistic?" because I surely couldn't find this period optimistic. I was very disappointed with what was still going on in Rakhine. I visited Rakhine many, many times. And I was allowed into northern Rakhine, but not to look around, but it was after the 2016 October, what they called clearance operation that drove out about 70 to 80,000 Rohingya to Bangladesh. They let me in because they said it was started by ARSA. And they showed me where the ARSA had stolen arms and had fired shots and they showed areas where there was gunshots, bullet holes, and that killed police officers and guards. And what I saw was just absolutely horrific. What happened. And I spoke with Aung San Suu Kyi because by then, you know, we had developed a report because I've met her in 2014 when she was not in power, and I was really surprised. And I said to her, you know, I think you should go to Rakhine, and as well, you should go to Kachin, because the people in Kachin are very disappointed that you haven't come there while it was the Kachin people that helped her father, General Aung San, to obtain this Panglong Agreement way back when. And I said you have to see what's going on in Rakhine because Rohingya children are malnourished, and how the military and the security forces had treated people in the exodus to Bangladesh was just barbaric. And we all know what happened there. And I've spoken to many people there. And when I was in Rakhine people will come up to me and shake my hands and then they'll hand me over little cards. It looked like SIM cards where they took photos and, and told me horrific stories. So I saw with my own eyes, and I told Aung San Suu Kyi, "You need to go there and see with your own eyes." I was really surprised at her reaction to my request to Rakhine and Kachin. In my request to her going to Kachin, she said, "I will go there in my own time." That was her response, verbatim. To Rakhine, she said, "My ministers are doing their job very well. And I am being reported of what they're doing. So I don't need to go there." I was just dumbfounded. And if you remember, in the past, and around the world, it was always the Special Rapporteurs who raised the first alarm to genocide or ethnic cleansing, always with the Special Rapporteurs and I had was raising my flag, the red flag, and I said, "You know, this really is the hallmark of genocide." And in 2017, we saw in August, where 30 cities or places were attacked. But the strangest thing was that whereas in 2016, we saw many photographs, and they paraded, they were able to show me what where this gunshot was and bullet holes were, but in 2017, there are no photographs of where the so called ARSA had attacked. At the same time, you know, 30 places There's no photographs of that. And so, you can say that 2016

was a prelude to try this out. And NLD Aung San Suu Kyi did nothing and the international community did nothing to this. And so they were emboldened to go ahead with a 2017 mass expulsion of the Rohingya in northern Rakhine. So, this is pretty much what I saw. And in late 2017, I was allowed one more visit. And when I met with Aung San Suu Kyi in July, I told her that you know, these there are reports of severe malnutrition in northern Rakhine of children, and all the, you know, it was another scorched earth campaign in Rakhine, as there was a back in the 80s and 90s, in the Eastern and Northeastern part of Myanmar. And it was at that time, I was totally surprised that she said, "You know, with that narrative, you almost sound like the UN." And then I said, "I'm not the UN, I'm a special, independent person. Not a special, but an independent expert. And that's what special repertoires was supposed to be doing." She and I had had a tete-a-tete every time I met with her, and she would ask me about my parents and this and that, and totally this time, she was completely different. And then she said to me, because I had asked her for more access in Kachin and in northern Shan, because next time I come, I would like access to Kutkai and Loikaw. These are the areas that are now heavy warfronts now, and she said to me, "You know, if you continue that narrative, you may not get any access." And three days later, somebody whom I helped for her ex-husband case, and her case, she's, she had become a parliamentarian. She poses a resolution to ban me from coming into the country. That was three days after my end of mission statement. And the parliament unanimously voted. And so, by then, I was PNGed in December. So I was not able to go back to Myanmar. So that was what I had witnessed. And I witnessed a lot and I have seen firsthand from the people in northern Rakhine, and the people in Sittwe, where still we have people living in IDP camps. And I've visited Cox's Bazar many many times and spoken with the people who had left the atrocities from Myanmar.

 Jaclyn Streitfeld-Hall 13:56

The situation in Myanmar has obviously subsequently deteriorated further - you just mentioned active conflict zones - deteriorated further in 2021 when the military overthrew Aung San Suu Kyi's government. As you continue to be a vocal advocate for the people of Myanmar and you're a founder of the special Advisory Council for Myanmar, what are your thoughts on the current crisis in the country?

 14:21

There were many sides to this attempted coup, I call it a coup attempt. It hasn't finished yet. It's still ongoing. The junta has not overthrown the government. The National Unity Government is still there. It we saw some precursors to you know, some little indications. When in 2015 when NLD came into power and Aung San Suu Kyi gave the position up to Shwe Mann the, what was it called, Legal Affairs and Legislative Committee or something to that effect, I forget the correct the correct name, that was the committee and entrusted to amend or abolish laws. I gave her a list of 200 laws that go back to the imperial period that are in her hands, you know, that the abolishment of the 2008 constitution is not in her hands. But there are simple laws that she can rescind and new laws that she can promulgate. But she didn't do any of that. Some of the laws became harsher, like the freedom of expression, association, and some of the online laws and media laws became harsher. And I thought, "This is not right. She had all the time in house arrest, to have a master plan for when she obtained power, but it was obvious that she did not have a master plan." She wanted to, at first, she started with heading four Ministries, four positions. She wanted to be Foreign Minister, the State Counselor, a Minister of Education,

and this and that, but then she just settled for Foreign Minister, I think, and State Counselor, she but she did not do things that were in her hands. Instead, more journalists, more people were being charged down with sentences and being arrested. And so the military were being more emboldened. And it was very strange that the power sharing continued, and the military still had a stronger grip, and they were gaining a stronger grip. And when the 2020 elections came around, the NLD party won with a larger margin. And that, to me, raise some bells, alarm bells. So the military attempted a coup. And it's still ongoing. For the first time in the history of Myanmar, 70 years, the EROs, we now call them ethnic revolutionary organizations instead of ethnic armed organizations, they are now aligning with the NUG and and they are becoming very active. The Three Brotherhood Alliance including the Arakan Army have joined in. And now with the PDFs and the general strikes in Myanmar, the early part of when in 2011, there was a lot of civil disobedience movements, general strikes, now we have the PDFs, Peoples Defense Forces, which is now under the control of the NUG, but they're working closely with the EROs. So the first time in the history of Myanmar, the EROs and the Bamars, the NLD or the NUG are working together. And with their military skills, the ERO's military skills, they're now being able to recapture the townships and the towns that were lost. A couple years ago, we at SAC, the Special Advisory Council for Myanmar did a research paper and a mapping and showed that the effective control of course, effective control would mean how the people accepted the governance and the territorial, but looking at the territorial control only, even men online said that they only had 30% control, but we saw that true control by the junta was 17%. 50% was controlled by the EROs and about 30% are contested. But now that the tide has turned, for once the tide has turned, the people call for R2P and they called for more humanitarian assistance, but they needed military arms to defend themselves. It was a war of defense for the people of Myanmar. The tide has turned and now they're gaining more control in the ethnic areas and now even in the central part of Myanmar. So as I said, the battlefield has changed in the military, it has now they have to fight in all fronts. In the past, it was either Rakhine state, or in the eastern part or northern part. Now they're in all fronts. And you've heard of many defections and even high-level military officers are defecting. And many camps and many brigades being overtaken by the ERO forces, now that the ERO forces have captured some ammunition and munition through this way, and they are utilizing these ammunitions and munitions that they have acquired through this. So you have to remember that, throughout the world, there has not been a country where the people resisted and is fighting three years on into the coup. Usually a coup comes around, and things get finished within a few months. But now it's the three year mark since the coup started, and the people are still going strong. The young people of Myanmar will not let Myanmar go back to the old, oppressive military regime because they grew up with a bit of freedom and democracy for the 10 years before the coup,

**J** Jaclyn Streitfeld-Hall 22:36

The resilience of populations in Myanmar throughout this three years has been really incredible to watch from the outside. I'm curious, you know, given the history of the military's tactics, while fighting EROs as well as in general targeting of various towns in the ethnic areas of Myanmar, you know, what are the risks you see to civilians at the current moment?

**Y** Yanghee Lee 23:05

Risks are very high. People are all hiding in the jungles and from the beginning of the coup, people coming even from the central and even in Yangon area, they went into the jungles, and it was the ethnic commanders who were supporting them. And there are many, many displaced

people in the ethnic states. And it's only in the ethnic states that school is functioning, health services are being carried out. There's even judiciary, administrative services are being carried out there. So it's really amazing to see how these ethnic states have developed their own governance system throughout the history of Myanmar. But right now, things are normal, but in areas where the military has control or contested control, there's no school, they're attacking schools, they're attacking hospitals, and so health services and medical services and aid is not reaching the people. It's reaching only to the government, to the military, and their family. So the it's the people that suffer the most. And now we're seeing the families of the military are defecting. And as you know, the military's families all live in a compound because it's almost like it's another rogue state, just like the DPRK where the military don't want to have their families of their personnel mingle with the civilian population because they are afraid that they will defect and persuade their members of the family, which will be mostly the the male who are in the army, the Tatmadaw, to defect. And now we are seeing that there is no humanitarian assistance going cross-border, as we've suggested through the ethnic communities because they know they have a network, they know how to deliver services to the most needy, whereas the previous times, the military, even during the quasi-military government, they really did not deliver aid, necessary aid to the people that the civilians that are in most need. It was only directed to the people that corroborated with the military.

**J** Jaclyn Streitfeld-Hall 25:59

Since you mentioned, you know, some of the reporting you've done through the special Advisory Council for Myanmar, I was wondering if you could sort of give a background on the Advisory Council and what you're hoping to achieve through it?

**Y** Yanghee Lee 26:14

Well, in 2020, I finished my mandate. And I thought, "Well, we need something to do more advocacy work from Myanmar, because having been a Special Rapporteur, sometimes your hands are tied. You do have a code of conduct and your reportings and the support you have in financial and personnel support is very, very limited." And I was talking with my colleagues who were former members of the fact finding mission Marzuki Darusman, who was the Chair of the fact-finding mission, and Chris Sidoti, who was a member of the fact-finding mission that maybe we should continue something as an Advisory Board or whatever. And then we saw the outbreak of COVID. And so we thought, "Oh, scratch this idea. It's not going to go anywhere. We can't get people over out." And during the latter part of my mandate, since I wasn't allowed into Myanmar, I was meeting people from outside of Myanmar, I was airlifting people to the places where I was to meet with them, the people on the ground. Then, February 1 of 2021, we see this horrible news. February 2nd, the three of us got together again, and we said we've got to continue our plan. And so by March of 2021, we set up this Council. Our major theme is the three cuts, if you know about the four cuts of Myanmar's previous military tactics, our three cuts is cut the money, cut the arms, and cut the impunity. And what we advocate, or we planned to do was to amplify the voices of the people to the international community. And as well, to try to do enough research and briefing papers that will benefit the international community, but also benefit the people of Myanmar. And we've translated most of our reports, all of our reports, into Burmese language, so that the people will understand the UN system,

different laws, international standards, etc. We support and advise the CSOs, the people, the NUG, give them advice. And at the same time, we also meet with the international community stakeholders to give them an accurate assessment of what's actually happening on the ground.

**J** Jaclyn Streitfeld-Hall 29:27

As someone who played a critical role in monitoring the situation as Special Rapporteur, you know, and in your new capacity with the Special Advisory Council and speaking to states on behalf of populations, you know, what are your thoughts on the role of the international community and ASEAN in addressing the crisis? I know you mentioned earlier you were very disappointed in what you witnessed in sort of the earlier phases of Myanmar's history through Rakhine State, you know, various parts of the UN and international community have been widely criticized for how they've handled the situation and have also conducted some much needed self reflection through the Rosenthal Report and other mechanisms. Obviously, you remain very open and vocal, so you know, what are your thoughts on how the international community and ASEAN are handling things?

**Y** Yanghee Lee 30:21

Let me, I think I might want to answer this in three parts. One would be the UN engagement. Another would be the international community. Another would be, of course, ASEAN is included in the international community, but let me separate out ASEAN. We've done a research paper on the UN engagement and we've criticized the UN and the country team, heavily. The Security Council is, I mean, is not able to do anything. And the Secretary General can do more, but he has not. We see how the UN and the international community responded to Ukraine that kind of interest in response never existed for Myanmar. And Myanmar is now fading in the minds of the UN, etc. The UN has its rules of engagement, the principle of engagement, and they should really adhere to the Charter of the United Nations. But they are not. The UN agencies and the country team, they have really betrayed the people of Myanmar several times during the military regime, even during the democratization transformation period. And now, which I think, you know, you've probably heard a lot of never again, and that's when Charles Petrie's report in Sri Lanka came out to, never again, but I say it's always again, forever again, the UN just never learns from its mistakes. And every time they do a commission of paper, oh, this is great. But they never follow through. Rosenfeld's report, he really didn't put out a lot of recommendations to implement, but the few that he did, the country team is not following through, there's no mechanism. I'd like to see the UN, the UN always calls for accountable, you know, accountability on states and countries. But what about the accountability on the UN? You know, do no harm? No, they're always doing harm. I've seen the previous UN country team in 2014 on kowtowing to the military regime. And they're doing that again because that's the UN is. I mean, they, they've forgotten their mission. They're there to serve the people, not to serve their own organization, and the country team is, I think, needs to really reflect. And I really say shame on the country team and the UN agencies. When I was the Rapporteur during the 2014-15 era, the Resident Coordinator and some of the heads of UN agencies tried to manipulate my end of mission statement. They didn't want me to even say the word Rohingya in my statement. And yes, that's how bad it went. But no, I went ahead and said all those and I've really had many, many confrontations with the Resident Coordinator with some of the heads of the UN agencies, so it ended up where the Resident coordinator at one point said she will not support my mission. That is outrageous. You know, she's there to support my mission. She will

not provide me with a UN agency, car, UN car, etc. So I got UN OCHA to support me and they provided their own car, which is ridiculous. You know this by itself is the Resident Coordinator has really breached her mandate. And there was no punishment for that. But she later on, it was during her time where there was the major atrocities. And she moves on with a, with a promotion to with a bigger mandate to India and elsewhere and other UN agency heads did the same thing. The international community, we've talked to many and, you know, the sanctioning of the targeted sanctions, like the MEHL, MEC, and the MOGE oil and gas enterprise, it took many years. And finally the EU and different countries states are sanctioning MOGE, MEC, and MEHL. These are the the cash cow for the military, goes into the pockets of the military. And still there are companies that are dealing and still countries that are dealing with them. I was very heartened to hear that Finland just passed their law that they will stop development assistance to several countries. Myanmar is included. And they will not, I think something to the effect that they will not support the UN, just for the sake of supporting. They want to see where there is the need. It would be a needs-based approach. I think these are my words, it may not have been the words of the Finnish government. There are several UN agencies that I can name, which are the either really the worst in the UN's agency system, I will not name them now, but later on, if I when I if and when I do a book on Myanmar, I will definitely name the agencies and the heads of those agencies that I had experienced. So the international community, they can push their leverage through Thailand to open the Thai border for international assistance, aid, humanitarian assistance to cross over the border. And I've also suggested maybe Bangladesh can open up their borders for humanitarian assistance through Rakhine. India is another country that can do that. China, we don't know, but it's also worth trying. But Thailand shares the largest, the longest border. So Thailand, and this is where an international community can put more pressure on Thailand to do this, but they're not doing this. And now let me talk about the ASEAN as a whole. ASEAN, I'm sorry, has to go. It has not done anything, regarding Myanmar, and the people of Myanmar. In 2015, when there was a boat crisis, and I talked with the ASEAN ambassadors, I said, "You know, you have to do something about these atrocities committed by the military that is leading to people leaving Myanmar." And remember, at that time, people were pushing back the boats back to Myanmar to the Rakhine State because I told them, "This will go beyond the borders of Rakhine and then to the ASEAN region, and then consequently, after that, it will go it will become a global issue." They did not heed to that at all. And the five point consensus has really no teeth. The delivery of humanitarian assistance through the AHA center, AHA Center has no mandate nor the capacity to deliver any humanitarian assistance, and knowing very well that it doesn't they keep suggesting that it goes through AHA. And I think that the UN itself should intervene more, they're playing a ping pong game. Now you've got the regional mechanism. ASEAN you go ahead, knowing well that ASEAN has no, you know, they're, they have no teeth in what constituted this ASEAN charter. And now the ASEAN says that maybe the UN can, they did send a signal to the UN to come in and help but no, the UN keeps ping ponging. And so ASEAN has not done, I don't think it has done anything and it will not be able to do anything. We saw a window of opportunity with Indonesia being the chair of ASEAN. But that went very quickly was nothing being accomplished now as Lao PDR, which is very close to the junta and China, which will not do much at all. This year is Laos next year will be Malaysia, maybe Malaysia when it gets to be the chair, may be hopeful. But in the meantime, I think we always said that last year 2023 will be a make it or break it year. And we saw that it was true. It was a make it year for the people. It did not break the people at all. So this year, I think it's going to escalate more. The people will gain more power. But now is the time where the UN and the international community must be ready to step in and build Myanmar once the military fails. And it's also time for the the international community and the UN to push the military over the border and put them once and for all to put them back into the barracks and hold them accountable.



Jaclyn Streitfeld-Hall 41:43

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