"Holding Back the Tide: can Myanmar's democratic political leaders prevent a de facto religious test for full citizenship rights?"

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Abstract

In 2010 Myanmar held its first elections for two decades, transitioning from direct military rule to a notionally civilian form of government. Accompanying this political transition has been increased political and media freedom. Democracy means public opinion is more important than ever to the country's political leaders, while reforms to Myanmar's media censorship regime have allowed previously suppressed opinions to be widely disseminated through the media. While pro-democracy political groups have taken the opportunity to organise, this paper is concerned with the opportunities these freedoms have provided to Myanmar's more divisive political figures.

Ethnic relations in Myanmar have been a long-standing source of domestic conflict. Ethnicity can be a test for citizenship and ethnic identity is often closely linked with religion. Communal conflict between elements of the country's Buddhist majority and the Muslim minority since 2012 have exposed previously suppressed staunch anti-Muslim voices from within the Buddhist community. Notably, the 969 Movement, activist monk Ashin Wirathu and the Ma Ba Tha have argued it is in Myanmar's national interest to protect the Buddhist religion from a perceived Muslim threat, calling for restrictions to Muslims' political and civil freedoms.

This paper suggests that the success of U Wirathu and the Ma Ba Tha's political agenda would add another layer of complexity to how Myanmar's citizenship laws operate in practice since existing citizens would have their rights restricted on the basis of religion. This would amount to the creation of a de facto religious test for full Myanmar citizenship rights.

In the context of Myanmar's limited democracy (Kingsbury 2014), this paper asks, can Myanmar's national political leaders hold back the apparent tide of popular support for the creation of a de facto religious state? The author will argue that Myanmar's political leaders, facing a national general election in November 2015, will not take the necessary steps to hold back this tide of support for discriminatory policies and the consequence, while perhaps unintended, will be the creation of a de-facto official state religion.

Introduction

Despite considerable evidence that Myanmar's[i] democratisation process has stalled (Auguelov 2015; Democracy Digest 2014; Eck 2013; Kingsbury 2015; Sifton 2014), the country has nonetheless liberalised more during the last five years than throughout the previous five decades of direct military rule (Hlaing 2012; Renshaw 2013; Zin & Joseph 2012). Policy changes since the transition to a notionally civilian form of government in 2011 have resulted in significantly greater economic, political and media freedoms for the people of Myanmar (Shobert 2014; IMF 2013; Kulczuga 2013, Trantwein 2015). The consequences of these freedoms have not always been positive. Economic liberalisation has led to criticisms that workers are frequently exploited as cheap labour in a global supply chain (Hobbes 2015), while political and media freedoms have provided opportunities for divisive voices to stoke religious and ethnic tensions previously held in check by the country's military government (Holland 2014).

This paper examines the freedoms that have been accrued to Myanmar's residents since the country's 2010 national elections began a transition to a notionally civilian administration. It will briefly describe the nature of these freedoms and the opportunities they provided for the country's long-suppressed pro-democracy groups to organise and engage with the political process.

The darker consequences of these freedoms will be addressed as well, and it will be argued that increased freedoms to express political opinions combined with a growing and uncensored media landscape have given opportunities for divisive voices to inflame religious and ethnic tensions and promote discriminatory policies (Freedom House 2013; Holland 2014; Trautwein 2015). The author will argue that due to the nature of Myanmar's citizenship arrangements, these policies, if implemented, would lead to a two-tier national citizenship, with full freedoms and rights reserved for some on the basis of their religion or gender (Amnesty International 2015; Burma Citizenship Law 1982; Human Rights Watch 2015b; Republic of the Union of Myanmar 2008; Zaw 2015b).

The methodology employed in this paper is based on examination of Myanmar's recent liberalisations, its three post-Independence Constitutions and the country's current citizenship arrangements. These will be interpreted in light of the policies proposed as part of the 'Protection of Race and Religion' package and an analysis of current electoral politics in Myanmar. The author will argue there is a rising tide of electoral support for policies that will discriminate against people on the basis of their religious belief and this, in practice, will add another layer of complexity to Myanmar's citizenship laws.

In the context of Myanmar's limited democracy (Kingsbury 2014), this paper asks, can Myanmar's national political leaders hold back the apparent tide of popular support for the creation of a de facto religious state? The author will argue that Myanmar's political leaders, facing a national general election in November 2015, will not take the necessary steps to hold back this tide of support for discriminatory policies and the consequence, while perhaps unintended, will be the creation of a de-facto official state religion.

How has Myanmar liberalised?

Attitudes towards Myanmar's liberalisation have been mixed. Western political leaders including US President Barack Obama who visited Myanmar in 2012 welcomed and encouraged the country's changes, declaring, "…a dramatic transition has begun, as a dictatorship of five decades has loosened its grip. Under President Thein Sein, the desire for change has been met by an agenda for reform" (Obama 2012). However, by the latter half of 2014 Obama acknowledged some slowing of the pace of reform (Landler 2014) and since the next national elections will be held without any significant constitutional changes there is now increasing acknowledgement Myanmar's democratisation process has indeed stalled (Auguelov 2015; Democracy Digest 2014; Eck 2013; Kingsbury 2015; Sifton 2014).

Critics including opposition leader Daw Aung San Suu Kyi in 2014 described the government's reform process as presenting a 'veneer' of democracy to cover continued authoritarian control saying, "Everybody has been talking about the tremendous reforms that have come to our country, but I think it all has been overstated" (Aikman 2014). In 2015 Daw Aung San Suu Kyi told the *Washington Post*, "We do worry that the reforms will turn out to be a total illusion, and we think that we need more concrete steps to ensure that the democratization process is what it was meant to be" (Hiatt 2015).

While in-depth discussion of whether Myanmar's political changes represent an ongoing movement towards a democracy are beyond the scope of this paper, there is evidence of significant policy liberalisation particularly related to certain aspects of politics, the economy and the media.

Increased political freedoms have allowed for registration as an official political party of the long-banned National League for Democracy (NLD), as well as scores of other political parties, and the participation and success of Daw Aung San Suu Kyi and the NLD in April 2012 parliamentary by-elections (BBC 2013a; Burma News International 2012; International Crisis Group 2015; Jones 2014).

Describing the economic liberalisation, the World Bank (2014) explains that since 2011,

> [Myanmar's] government has embarked on an ambitious economic, political and governance reform program. It has begun a series of reforms to remove economic distortions, such as floating the currency, new fiscal regulations to rationalise personal income tax and reduce consumption tax, liberalizing the telecommunications sector, reforms aimed at developing the private sector and stimulating direct foreign investments, a review of the financial sector, promotion of access to finance, and creating an environment conductive to job creation. These reforms are paying off…

Meanwhile, despite post-publication censorship continuing (Watkins 2012), two significant liberalisations of Myanmar's media landscape have been the 2012 decision to end the country's pre-publication press censorship (Pidd 2012) and the 2011 decision to unblock access to exile media. Of this decision Renshaw (2013) explains,

> On Democracy Day, 15 September 2011, the government unblocked many previously censored international news sites, including the BBC, Democratic Voice of Burma (DVB), and Burmese language broadcasts of Radio Free Asia and Voice of America.4 These moves followed an earlier relaxation of blocks on Skype, Yahoo! and YouTube. In 2011, it was possible to display and sell pictures of Aung San

Suu Kyi, an activity that would have risked a jail sentence a short time beforehand.

With this decision, not only did Myanmar's residents gain ready access to foreign news sources, they also gained access to previously blocked social media channels.

The rise in use of social media for communication and to spread political messages has dovetailed neatly with Myanmar's economic liberalisation. The opening of the mobile telephone market has transformed how Myanmar's residents communicate and how they can access the internet. In 2010, mobile telephones were a luxury with the cost of a SIM putting their use well beyond the reach of the vast majority of Myanmar's residents (Gowan 2014; Kulczuga 2013). Mobile phone use in Myanmar was so low that, "Only North Korea had fewer cell phones per capita" (Motlagh 2014). The opening of this market to both international carriers and a significant reduction in the price of SIMs has seen huge growth in the penetration of mobile phone technology in recent times (Matsui 2015). Myanmar's Ministry of Communications and Information Technology believes the mobile phone penetration rate has grown to beyond 50 per cent and during the 2015-16 fiscal year will reach 80% of the population (Matsui 2015).

The dark side of liberalisation

However, Myanmar's new freedoms have not always led to positive outcomes. The removal of media censorship combined with greater access to communication technologies and social media platforms have given a long-denied platform to incendiary political opinions which can inflame ethnic and religious tensions (Beech 2013). While pro-democracy political groups have taken the opportunity to organise and promote their message, so too have Myanmar's more divisive political figures such as activist monk Ashin Wirathu, the 969 Movement and the Ma Ba Tha (BBC 2015; Hodal 2013; Holland 2014; Pinnock 2013).

Since 2010, long-suppressed tensions between elements of the country's Buddhist majority and the Muslim minority have erupted into violence, most terribly in Rakhine State (International Crisis Group 2013; Human Rights Watch 2012, 2013). This violence has exposed previously suppressed staunch anti-Muslim voices from within the Buddhist community. Most prominent among these is Ashin Wirathu who has made ready use of Myanmar's new media freedoms and is a particularly active user of social media channels including YouTube and Facebook to promote his sermons (Wirathu 2015a, 2015b).

The BBC describes how, "As government rules relaxed, he became more active on social media…spread his message by posting his sermons on YouTube and on Facebook where he currently has more than 37,000 followers…" (BBC 2015). While U Wirathu's attitudes and activities have been known in Myanmar for some time, it was the deadly 2012 violence in Rakhine State between Muslims and Buddhists which brought him to the attention of the international media. U Wirathu has actively blamed Muslims for the violence that took place in 2012 and regularly repeats "unsubstantiated claims about reproduction rates…He also claims that Buddhist women are being converted by force…" (BBC 2015).

Ashin Wirathu's sermons about religion, particularly his views on Islam landed him a twenty-five year jail sentence in 2003 when the country was under military rule. He was released under a 2010 general amnesty for political prisoners (BBC 2015). Since then his incendiary sermons on Islam have earned him the moniker 'Burmese Bin Laden' (Beech 2013). An ardent Buddhist nationalist, Ashin Wirathu fears Myanmar's Buddhist population is under threat of a takeover by the country's estimated 4-5% Muslim population (CIA 2013). Underscoring the nationalist nature of his sermons, the BBC (2015) suggests a typical sermon begins with U Wirathu's words, "Whatever you do, do it as a nationalist". U Wirathu argues that Myanmar's national interest requires the protection of Buddhism as the majority religion from a threat posed by other religions such as Islam. In a widely publicised 2013 *Time* interview he told Hannah Beech, "[Muslims] are breeding so fast, and they are stealing our women, raping them…They would like to occupy our country, but I won't let them. We must keep Myanmar Buddhist" (Beech 2013). Beech further explains that according to U Wirathu, about 90% of Muslims in Burma are "radical, bad people" (Beech 2013).

U Wirathu's sermons simultaneously echo and increase community fears about the threat to Buddhism and the Myanmar nation because of the growth of Islam. This message echoes unease expressed by many in the country about the influence of Islam at home and abroad (Holland 2014; Perria 2015; Trautwein 2015). It also taps into a narrative, which is, "…rooted in dissatisfaction at unchecked immigration from the sub-continent during the colonial period. Large numbers of Indians moved to Myanmar as part of the colonial administration; in commerce and moneylending; and as low-income migrants..." (ICG 2013:2).

These migrants were seen as gaining economic advantage at the expense of Burma's indigenous population. As Charney (2009: 23-24) explains, "Burmese feelings of exclusion were bolstered by immigrant dominance in commerce, industry, and administration. Hindustani, for example, emerged as the lingua franca of the colonial capital and Europeans in government (and often in commercial) service were required to pass exams in this language and not Burmese". This colonial era migration remains a considerable contributor to ethnic and religious tension within contemporary Myanmar (Charney 2009; ICG 2013; Steinberg 2010). So too are perceptions among Myanmar's Bamar Buddhist majority that Rakhine (previously Arakan) State Muslims and other Indians, by their support of the British rather than the Japanese during World War II, were disloyal to Burmese aspirations for an independent state (ICG 2014). Despite the eventual decision of Burmese leaders to change sides and help the British defeat the Japanese (Smith 2008; Steinberg 2010), perceptions that Indians and Muslims were disloyal to the cause of Burmese nationhood have persisted and for many, these colonial era wounds have been slow to heal (Berlie 2008; Egreteau 2011; Rogers 2012).

Lingering doubts about Muslim loyalty to the nation and the historic reality of Islam's growth in the region over the centuries, have in recent times coalesced into a concern among many that Buddhism and the Myanmar nation are "under siege" from Islam (Beech 2012).

This moral panic has been a key publically stated motivator for the political actions of Ashin Wirathu (Zaw 2015b) who has argued, with considerable success within Myanmar's new democratic processes, for government policies to restrict the political and civil freedoms of non-Buddhist religious (BBC 2015; Zaw 2015b). Working towards similar objectives to U Wirathu and benefitting

from the existence of the political consistency U Wirathu has cultivated through his media activity, the Committee for the Protection of Nationality and Religion, more commonly known as the Ma Ba Tha, has been particularly active promoting a group of laws known as the 'Protection of Race and Religion' package (Amnesty International 2015; Human Rights Watch 2015b; Min 2014; Radio Free Asia 2015; Zaw 2015a).

What is the 'Protection of Race and Religion' legislative?

The 'Protection of Race and Religion' legislative package which has been promoted by the Ma Ba Tha is comprised of four parts: the recently enacted *Population Control Health Care Law* (Dinmore & Myint 2015), the Religious Conversion Bill, the Myanmar Buddhist Women's Special Marriage Bill and the Monogamy Bill (UNHCR 2015). Elements of each part of the package are discriminatory and taken as a whole these proposals represent significant restrictions of religious freedom.

In a recent joint statement 180 Myanmar civil society organisations described how, if they were to become law, these proposals could "destroy the stability" of Myanmar society by "inciting hatred, discrimination, conflict and tension" within religious communities (Radio Free Asia 2015). There have been strong criticisms too from the United States government, the United Nations (UNHCR 2015) and by human rights organisations (Amnesty International 2015; Human Rights Watch 2015). US Deputy Secretary of State Antony Blinken described the law as likely to exacerbate ethnic and religious tensions (Dinmore & Myint 2015).

However none of this prevented Myanmar's new parliament, the Pyidaungsu Hluttaw, during May, from endorsing the first part of the package, the *Population Control Health Care Law* (Perria 2015). This law will allow Myanmar's central government to impose "birth spacing" regulations on women in communities where population leads to "unbalanced resources" (Dinmore & Myint 2015). How it is to be enforced is not yet clear but given Myanmar's poor human rights record (BBC 2013b; Rogers 2012; Steinberg 2010; Ware 2011), the law should, and has, raised serious red flags for human rights advocates, just as it has raised serious concerns among the international community and among civil society activists within Myanmar.

While the *Population Control Health Care Law* is considered by many to be a direct attack on perceived high birth rates among Myanmar's Rohingya Muslim population, its provisions can be applied to any population nationwide. U Wirathu's explanation as told to *The Irrawaddy* is that the law's dual purpose is to protect women's health and "stop the Bengalis" (Zaw 2015b), a pejorative name he often applies to the Muslims of Rakhine state who call themselves 'Rohingya' (Kaplan 2015).

With a national election approaching later in 2015, the politically charged nature of these laws was highlighted by the timing of President U Thein Sein's decision to enact the *Population Control Health Care Law* (Lee 2015). The President signed this law at a time when the international community was captivated by the crisis of irregular migration within the Bay of Bengal (Albert 2015; Mcnamara 2015; McKirdy & Mohsin 2015). This migration was caused in large part because of Myanmar's Rakhine state Muslims fleeing appalling conditions within Myanmar by boat (Jikkham 2015). Despite

concerned nations from throughout the region and the United States preparing to meet in Bangkok to seek solutions to a humanitarian crisis widely believed to be largely of Myanmar's making, the President choose this time to sign a law described by the UNHCR as, "highly discriminatory against ethnic and religious minorities as well as against women" (UNHCR 2015).

The remaining three parts of the legislative package have also been similarly criticised as discriminatory by civil society groups, the UN and human rights organisations. The *Religious Conversion Law* for instance, would mandate that those wishing to change their faith first obtain local authority permission (BBC 2015). The United Nations describes how the proposed system would establish a State-regulated process for religious conversion, "involving justification, registration, interview, study and approval" (UNHCR 2015). Such a system is described as contrary to the protection of the right of conversion under human rights law (UNHCR 2015) and it is contrary to the provisions of Article 18 of the *International Declaration of Human Rights* which states that, "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance" (United Nations 1948).

Meanwhile, the Myanmar Buddhist Women's Special Marriage Bill aims to 'protect' Buddhist women marrying non-Buddhist men. Emna Aouij, head of the UNHCR Working Group on discrimination against women explains that, "The Bill discriminates against women by restricting the right to marry for Buddhist women and placing restrictions only on Buddhist women who wish to marry outside their faith" (UNHCR 2015). It is feared that this Bill would, in practice, actively discourage interfaith marriage by, "imposing disproportionate penalties on non-Buddhist men" seeking to marry Buddhist women (UNHCR 2015). The UNHCR further explains, "…under the Bill, a cohabiting couple where the female partner is Buddhist and the male is not, is de facto deemed 'married'. If one or both parties do not wish to marry, they may be forced into marriage by a Court, which interferes greatly with the right to enter into marriage only with free and full consent" (UNHCR 2015).

The fourth Bill, the Monogamy Bill criminalizes polygamy while also prohibiting extramarital affairs. While the polygamy ban is described by the UNHCR as being consistent with international human rights requirements, other aspects of the bill are of concern, notably the "restrictive and discriminatory approach" it takes to the regulation of marriage (UNHCR 2015). The Bill refers to 'non-Buddhist persons' and ignores other types of marriage that are discriminatory to women such as early and forced marriages (UNHCR 2015). Emna Aouij outlines her concern with this aspect of the legislative package explaining that, "Enforcement of laws criminalizing adultery often leads to discrimination and violence against women. Experience shows that, in practice, adultery legislation imposes disproportional criminal liability on women" (UNHCR 2015).

The UN Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee explains that these bills, "risk deepening discrimination against minorities and setting back women's rights in Myanmar" (UNHCR 2015). The Special Rapporteur on minority issues, Rita Izsák suggests,"…these bills particularly discriminate against ethnic and religious minorities and have the potential to fuel existing tensions in the country" (UNHCR 2015).

Some may choose to view these laws as a reactionary response to a perceived threat to Buddhism from Islam and to interpret them as likely to adversely affect the country's Muslim community. While this is certainly the case, the actual implementation of these laws is likely to have impacts well beyond the Muslim community. While it is likely lawmakers intend to impose these discriminatory policies on the Muslim community, they could in fact just as easily be applied to other groups within Myanmar, whether they are ethnic, religious, socio-demographic or geographic. Ironically, the marriage provisions for instance, affect Buddhist women most severely.

However, while a substantial element of civil society, human rights organisations, the United States government and the United Nations have expressed grave concerns about the discriminatory nature of these proposals and the threats that they will likely pose to Myanmar's fragile peace and nascent democracy, U Wirathu's perspective is, not surprisingly, diametrically opposed, "Taking care of our own religion and race is more important than democracy" he says (Beech 2012). Yet this attitude has not prevented U Wirathu, the Ma Ba Tha and their supporters making active use of Myanmar's new democratic systems and the country's liberalisations to pressure law makers to enact the laws they want. While the media activity, political organizing and engagement with lawmakers that has been undertaken to support the Ba Ma Tha's political case would likely have been impossible under the military junta it is still worth considering whether other changes that have taken place during Myanmar's recent transition, besides liberalisation, might have created this political space.

Some suggest that anti-Muslim attitudes have been a long-term feature of life in Myanmar and that liberalisation should not be held to blame for recent outbreaks of religion motivated violence or an agenda of discriminatory policies. Green (2013) explains that, while some have argued anti-Muslim feeling may well be a manifestation of Myanmar's recent freedoms, Selth (2013a) would disagree. Green (2013:25) cites Selth's (2013a) argument that,

> Full rights for Muslims were enshrined in the 1947 constitution, but in 1960 Buddhism was made Burma's state religion and after the 1962 coup the military regime tended to equate Muslims with colonial rule and the exploitation of Burma by foreigners. Muslims were not permitted to run for public office, join the security forces or work as civil servants. The number of mosques was restricted, some Muslim cemeteries were destroyed and a number of madrassas were closed.

Selth (2013a) continues, in Myanmar, "Religious tensions have never been far from the surface". While it is certainly the case that religious tension has rarely been far from the surface of Myanmar life and that the military junta's policies were frequently discriminatory on the basis of both religion and race (Rogers 2012), it is difficult to ignore the fact that U Wirathu and the Ma Ba Tha are quite obviously making successful use of Myanmar's new media and political freedoms to advance their agenda. No doubt there was religious tension and discriminatory policies before but contemporary political avenues to promote discriminatory attitudes and policies appear to be much greater than they were under the military junta.

Could the Constitution be to blame?

In addressing questions of what might have facilitated this push for discriminatory laws it is worth

considering whether a changed constitutional attitude towards freedom of religion might be the cause. Issues of constitutional change in Myanmar have been to the fore of politics since the country began its transition away from direct military rule (Allchin 2011; Radio Free Asia 2013; Selth 2013b). Debate about the rights the national constitution provides to some citizens and not others to stand for the office of President has rarely been far from the public eye. Constitutional change is a key stated objective of opposition leader Daw Aung San Suu Kyi and her party the NLD (Myint 2015; The Irrawaddy 2014). In these circumstances, it is reasonable to consider whether the new constitution, endorsed as it was in controversial circumstances during the aftermath of the Cyclone Nargis disaster might be the cause or part of the cause of Myanmar's recent religious tensions (Larkin 2010; The Economist 2008).

Since Independence from Britain, Myanmar has had three constitutions, 1947, 1974 and 2008. They each share a similar 'attitude' towards religion and the right of citizens to religious freedom including freedom from discrimination on the basis of religious belief. Each constitution provides for religious freedom consistent with public order and are opposed to the abuse of religion for political purposes and they each use similar language when describing citizens' rights to religious freedom.

The 1947 Constitution provided for all persons to have, "the right freely to profess and practise religion subject to public order, morality or health…" (Union of Burma 1947, s20) and that, "The State shall not impose any disabilities or make any discrimination on the ground of religious faith or belief" (Union of Burma 1947, s21.3). Similarly, the 1974 Constitution makes a number of references to the rights of citizens to profess the religion of their choice. These include Article 153(b) which acknowledges the right of every citizen to "profess the religion of his choice. The exercise of this right shall not, however, be to the detriment of national solidarity and the socialist order which are the basic requirement of the entire Union" (Socialist Republic of the Union of Burma 1974). Article 153(c), however, explains that, notwithstanding this clause, "acts which undermine the unity and solidarity of the national races, national security or the socialist social order are prohibited" (Socialist Republic of the Union of Burma 1974).

Missing from the 1974 Constitution but returning in the 2008 version is the explicit recognition of the "special position" of Buddhism. The 1948 Constitution states: "The State recognizes the special position of Buddhism as the faith professed by the great majority of the citizens of the Union" (Union of Burma 1947, s21.1). Again, omitted from the 1974 Constitution is the 1948 Constitution's statement that, "The State also recognizes Islam, Christianity, Hinduism and Animism as some of the religions existing in the Union at the date of the coming into operation of this Constitution" (Union of Burma 1947, s21.2).

These rights are returned to the 2008 Constitution. Section 361 of the 2008 Constitution explains that, "The Union recognizes special position of Buddhism as the faith professed by the great majority of the citizens of the Union" and Section 262 that, "The Union also recognizes Christianity, Islam, Hinduism and Animism as the religions existing in the Union at the day of the coming into operation of this Constitution" (Union of Myanmar 2008, s362). The 2008 Constitution similarly mirrors the statements of the two previous constitutions about the use of religion for political purposes. Section 364 forbids the use of religion for political purposes and bans, "any act which is intended or is likely

to promote feelings of hatred, enmity or discord between racial or religious communities or sects is contrary to this Constitution. A law may be promulgated to punish such activity" (Union of Myanmar 2008, s364). Myanmar's three post-Independence Constitutions can be collectively described as supporting religious freedom consistent with public order, and standing in opposition to the use of religion for political ends.

This examination of Myanmar's three post-independence Constitutions shows considerable consistency between them when it comes to matters of religious freedom. Far from the 2008 Constitution representing a dramatic shift in attitude towards religion, its attitude toward religion and religious freedom is noteworthy for how little it differs from the country's two preceding constitutions. This suggests factors other than constitutional alternations have contributed and must be the cause of the recent rise of religious tensions and the author suggests we should look no further than the elements of Myanmar's liberalisation already described. Moving forward, it is difficult to imagine an easing of these tensions, and easier to imagine Myanmar's tensions increasing as the government embraces increased religious regulation.

How does Myanmar currently determine citizenship?

Any assessment of whether Myanmar is moving closer to a religious test for full citizenship requires some examination of how Myanmar currently determines citizenship. Myanmar's 2008 Constitution provides no guarantee of citizenship (Union of Myanmar 2008, s346). These matters are determined by the *Burma Citizenship Law* of 1982 which spells out the criteria for Myanmar citizenship.

The *Citizenship Law* provides for three broad categories of citizenship and the key provisions of the law are based on ethnicity. Steinberg (2010, p72-73) explains the 1982 Citizenship Act as,

> …establishing a three-tiered system of citizenship. Full citizens were those who were Burman or a member of one of the indigenous ethnic/linguistic groups or those who could prove they were descendants of residents who had lived in what was Burma in 1823…associate citizens, such as Indians and Chinese, were those who were born in the country after that time. The third group was comprised of naturalized citizens…

While this law came into effect during the time Myanmar was military ruled (Oberoni 2006), there has been little domestic political momentum for it to change when compared with other constitutional provisions such as those related to the qualifications for the Presidency or the role of the military in the legislature (Myint 2015; The Irrawaddy 2014). There has been considerable international and human rights led criticism (Constantine 2012; Human Rights Watch 2015a) of the law's reliance on potentially arbitrary notions of ethnicity as well as the provision which declares, "The Council of State may decide whether any ethnic group is national or not" (Burma Citizenship Law 1982, s4). This aspect of Myanmar's citizenship arrangements has been the cause of considerable debate particularly as it relates to the government decision to deny the Muslims of Rakhine State who call themselves 'Rohingya' the status of an ethnic group and with it the collective right to citizenship (Cheung 2012; Kelemen 2015).

While the detail of this debate is beyond the scope of this paper, the Rohingya's situation still serves

to underscore the point that Myanmar's citizenship laws are controversial, complex, based on ethnicity, and that citizenship rights can accrue because of seemingly arbitrary government decisions about whether to recognise or refuse a claim to ethnic group status. The question of just how Myanmar's government determines whether a particular group of residents is entitled to be known as an ethnic group and to accrue the resultant citizenship rights is highly controversial (Taylor 2015). Taylor (2015:3) explains that,

> Ethnicity, compounded by religion, has been the dominant motif of Myanmar's politics for a century or more. Since the cusp of the country's independence in 1948, the issue of ethnicity, or 'race', has been conflated with a debate over the question of the alleged rights of so-called 'national races', and those who reside in the country but are not included within the rubric of 'national races'. The notion of national races was devised as means of recognising the existence of various ethnic groups within the territory of the Myanmar state, i.e. 'races of the nation', underscoring the confusing rhetoric the issue generates.

Taylor (2015:3) also explains how language clouds and confuses this issue even more,

> The confusion over ethnicity and race in Myanmar is compounded by the fact that one word, *lumyo*, is normally used to express both concepts. Literally, *lumyo* means variety or kind of human. The *Myanmar-English Dictionary* (Yangon: Myanmar Language Commission, 4th printing, 1994) defines the term as "1. race, nationality, 2. nation, 3. type (of people); character." There is a separate term for ethnic group, *lumyosu,* but it is little used.

These matters become even more challenging because, as Walton (2013:4) writes, people in Myanmar, "often perceive ethnicity as something inborn, unchangeable and, in some cases, determinant of an individual's very nature". This creates an obvious difficulty for those wishing to make a claim of ethnicity based on newer or less familiar ethnic descriptors as is the case for the Muslims of Rakhine State who call themselves 'Rohingya' (Human Rights Watch 2015a; Taylor 2015). Taylor (2015) provides an up to date and worthy analysis of how Myanmar's government might have come to compile its list of ethnic groups entitled to citizenship. In noting the possibility the government might have made use of British era colonial census records Taylor (2015:8) states, "67 years after independence, people are still discussing a nearly hundred year old list created by British colonial officials and amateur linguistics and ethnographers". The problems with such an approach are manifold and there are obvious criticisms (Ferguson 2015) that such data may have been compiled by enumerators who lacked a thorough understanding of the country they were surveying, or were biased towards recording ethnicities with which they were already familiar.

Ethnic identity represents a belonging to a social group with shared characteristics or history. Frequently, distinct ethnic groups will share, for the most part, a common religion. The situation in Myanmar where citizenship rights are determined by parliamentary law rather than constitutional right, and where these citizenship rights accrue because of membership of a common ethnic group (and as a result often a shared religion), the impact of religious discrimination in the laws should be considered most carefully. Since Myanmar determines citizenship, in part, based on an individual's membership of a distinct ethnic group, the membership of which often includes a common religious affiliation, means there should be a strong cause for concern about recent laws discriminatory to

non-Buddhists.

The author argues an examination of the 'Protection of Race and Religion' legislative package shows it to be discriminatory on the basis of religion. These proposals when considered in the context of Myanmar's *Citizenship Law* create a situation where some citizens have full citizenship rights, while others, because of their religion (or possibly ethnicity) or gender will suffer discrimination and have their rights limited. This represents another layer of citizenship rules and creates a nation where full citizenship rights are only guaranteed to male Buddhist citizens. This outcome is in line with the rhetoric of U Wirathu and the Ma Ba Tha. The author suggests such a situation amounts to the creation of a de facto religious test for full Myanmar citizenship rights.

Will Myanmar's political leaders work to prevent a de facto religious test for citizenship rights?

The answer to this question can be found, in part, by examining domestic Myanmar electoral politics. Myanmar has a substantial ethnic Bamar While the most recent 2014 Census data related to religion has not yet been publically released (Ye Mon 2015), Buddhist majority with ethnic minorities concentrated around the periphery of the country. Buddhists account for an estimated 80% of the population (Pew Research Centre 2010). The ethnic minorities generally support their own political parties while nationwide parties, like the governing union Solidarity and Development Party (USDP) and Daw Aung San Suu Kyi's NLD, will compete with the government for votes from among the Buddhist-majority centre.

In recent years, this Buddhist constituency has become increasingly influenced by Buddhist nationalism through the activities of U Wirathu, the 969 Movement, and the Ma Ba Tha. This increasing support is highlighted by the fact that 2000 monks, nuns and laypeople attended the Ma Ba Tha 2014 conference (Min 2014) and were joined by, "head of the State Sangha Maha Nayaka Committee, Bhamo Sayadaw, who said his committee would continue to work together with Ma Ba Tha on the protection of race and religion in Myanmar. He added that the two organisations had cooperated on the drafting of the interfaith marriage law in March 2014" (Min 2014). Such influential institutional support for the Ma Ba Tha's activities and policy proposals sends a powerful message to Buddhists throughout Myanmar. The Ma Ba Tha's institutional support is also reflected in increasing community support for Buddhist nationalists like U Wirathu evidenced by the support he receives through social media and by the numbers of his supporters who attend to hear his sermons, both in Mandalay and when he travels.

Consequently, today there is a growing anti-Muslim constituency in Myanmar. Politicians are nervous that there could be enough voters willing to punish those seen to be pro-Muslim to cost them an election. President U Thein Sein, widely expected to recontest the Presidency, has already made clear his willingness to endorse Ma Ba Tha policies by signing the *Population Control Health Care Law*. This, combined with the strong backing this law received from the Parliamentary members of the USDP suggests the USDP will continue to adhere closely to a policy agenda to the liking of Buddhist nationalists (Zu Zu 2015).

Daw Aung San Suu Kyi and the NLD have taken a somewhat different approach but its impact on the rise of Buddhist nationalism is limited. The unchecked rise of Buddhist nationalism is in part a problem of Daw Aung San Suu Kyi's own making. Despite the NLD's recent principled opposition to the Population Control Health Care Bill (Perria 2015), her refusal to strongly condemn U Wirathu and his ilk from the outset emboldened Buddhist nationalists and gave them the political space to organise and recruit.

An early condemnation by the popular Suu Kyi could have gone a long way to limiting their influence today. However cynical, the bottom line here for the ambitious politician Daw Aung San Suu Kyi is that there are few votes to be won by speaking up for the human rights of Rohingyas or other Muslims, but potentially many to be lost. Losing votes is not something Daw Aung San Suu Kyi, the politician, is prepared to risk. She is determined to become Myanmar's president (Whiteman 2013). Her continued stated policy priority is to change the national constitution, which currently bars her from becoming president because she married a foreigner and has children with foreign nationalities (Fuller 2015; Whiteman 2013).

However, a desire to win votes does not tell the whole story about why Daw Aung San Suu Kyi has been silent on issues related to religious discrimination. There are other equally compelling reasons which could explain her silence, among these, her relationship with her political party, the NLD. Daw Aung San Suu Kyi's political ambitions require the support of the NLD. She co-founded the party and despite being unable to contest a seat, led it to a landslide election victory in 1990 before the military government invalidated the results and imprisoned its leaders (Aung San Suu Kyi 1995; Fogarty 1988).

The NLD is yet to taste political office but is favoured to win Myanmar's next election. Many believe the NLD's aging organisational leadership has little desire to support the policies that might risk alienating the nation's Buddhist majority voters (Fisher 1988; Gyi 2013). These leadership figures supported her during her years of house arrest, so it could be her silence is motivated in part by her sense of moral obligation to them and their joint project — the political success of the NLD. The NLD's leaders are predominantly Buddhist and, like Suu Kyi, are from the country's majority Bamar ethnicity. None of the NLD leadership has criticised Suu Kyi's failure to speak up on behalf of the Rohingya, so it is reasonable to assume she represents the majority position.

Myanmar's pre-election political environment can accurately be described as one where the party of government, the USDP is happy to stoke religious tensions and support discriminatory policies, while the opposition NLD often opposes these policy proposals but does so quietly. This is the kind of environment where we should expect U Wirathu and the Ma Ba Tha brand of Buddhist nationalism to remain at the fore of Myanmar politics for some time to come. The likely political future for Myanmar is one where Buddhist nationalism remains at centre stage. This paper asked whether Myanmar's political leaders would be able to hold back the tide of Buddhist nationalism and prevent Myanmar morphing into a de-facto religious state in which full citizenship rights available only to Buddhist men. The sad reality appears to be that a great many of Myanmar's politicians may not want to hold back this tide.

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[i] This article uses the name "Myanmar" to refer to the country from the time its name was officially changed by the military junta in 1989. In referring to the country's history prior to 1989, the name "Burma" is used.