



Practical steps the NLD-led government can take in its first six months to address human rights violations against the Rohingya

February 2016

Background

For decades successive regimes and governments in Burma have pursued a twin-track policy of impoverishment and human rights violations in order to attempt to wipe out the Rohingya community from Arakan State. Under the government of President Thein Sein human rights violations against the Rohingya sharply escalated, as he attempted to use Buddhist nationalism and anti-Muslim prejudice in the country to win public support.

Human Rights Watch stated that human rights violations against the Rohingya met the legal definitions of ethnic cleansing and crimes against humanity. Fortify Rights also found evidence of crimes against humanity. Studies by the Lowenstein International Human Rights Clinic at Yale Law School and Fortify Rights, and by the International State Crime Initiative of Queen Mary University London, found evidence that amounts to genocide of the Rohingya. There is a humanitarian crisis in camps that Rohingya fled to in 2012, and senior members of the nationalist Arakan National Party continue to whip up hatred against the Rohingya.

The incoming NLD government presents the first opportunity in decades to not only halt the escalation of anti-Rohingya policies and laws, but also put it into reverse, ending violations of international law and applying the rule of law and international human rights standards.

Addressing the root causes of prejudice and human rights violations against the Rohingya will take many years, but in order to start this process, and to have an immediate impact saving lives and reducing human rights violations, here are practical steps an NLD government can take in its first six months:

1. Action against hate-speech and extremists
2. Humanitarian access
3. Reform or repeal of the 1982 Citizenship Law
4. Justice and accountability

Four Steps:

1. Action against hate-speech and extremists

Long term a comprehensive multi-faceted strategy needs to be adopted, and the international community should provide significant resources and expertise to develop and implement such a plan, starting with a national conference bringing together representatives of all areas of Burmese society together with international experts and high level government ministers from the international community. This will take time but planning should begin immediately.

In the short term, there two other practical steps the NLD could take.

First is to take action to prevent hate speech and incitement of violence, including prosecuting those inciting or organising violence. To date those inciting hatred and violence have done so with complete impunity.

Second is to demonstrate moral leadership, with Aung San Suu Kyi and other NLD leaders personally and specifically speaking out against prejudice and hatred, and challenging the extreme nationalist narrative. The election result demonstrates the support and power Aung San Suu Kyi has. Her leadership on this issue would make a significant difference and give others in Burma who support human rights for the Rohingya to have the ‘cover’ and confidence to add their voices. In this way the terms of the discussion and debate over the Rohingya can start to be changed.

2. Humanitarian access

An NLD-led government should immediately lift all restrictions on the operations of international aid agencies in Rakhine State and take action to ensure the security of aid workers.

An NLD government should also start to devote more government resources to assisting IDPs and isolated villagers.

State level restrictions and rules should all be immediately lifted. These need to be comprehensively identified.

3. Reform or repeal of the 1982 Citizenship Law

At the root cause of the denial of rights of the Rohingya is the 1982 Citizenship Law. The lack of full citizenship lies at the root of most of the discrimination faced by the Rohingya, including lack of freedom of movement, and access to health and education services. There is no way this issue can be avoided, and it is much better that an NLD-led government bite the bullet and deal with it at the start of their period in government when they have a new and strong mandate, strong party unity, and elections are years away. Changing this law will undoubtedly be controversial but it cannot be avoided. It will have to be addressed at some point. Better it is done while the NLD-led government is strongest.

4. Justice and accountability

There is credible evidence of multiple violations of international law, including ethnic cleansing, crimes against humanity, and possible genocide, against the Rohingya. These crimes cannot go unaddressed and those responsible cannot remain unaccountable for their actions. Impunity encourages and enables continuing human rights violations against the Rohingya. Justice and accountability are a highly effective tool to discourage further violations.

An NLD government should set up a credible independent investigation with international experts to investigate these crimes and propose action. If the NLD government fails to do so, the United Nations should establish its own Commission of Inquiry.

Current NLD approach to Rohingya

The National League for Democracy (NLD) has no official policy on the issues facing the Rohingya beyond general statements on human rights and rule of law. Aung San Suu Kyi refuses to use the word Rohingya, has refused to specifically defend human rights for the Rohingya, has referred to Rohingya issues in the context of immigration problems, and has referred to evidence of ethnic cleansing and potential genocide against Rohingya as exaggerations. More generally, she has referred to Muslims as needing to integrate, implying she sees Muslims as not being fully Burmese.

Other NLD leaders have been more openly anti-Rohingya, saying there is no such thing as Rohingya in Burma, Rohingya should be deported, and even proposing Rohingya be rounded up into camps until it can be decided if they should be deported or not. After international criticism over anti-Rohingya comments by NLD leaders, there appears to be a difference between what NLD leaders say to Burmese audiences and what they say to foreign visitors.

There are NLD leaders who hold less extreme views and recognise the problem needs to be solved, but they are not willing to say so publicly or strongly advocate this within the NLD, deferring the ‘The Lady’.

Military approach to Rohingya

Although Thein Sein’s military-backed government oversaw a major escalation of repression of the Rohingya, the military itself has not been as proactive in anti-Rohingya rhetoric or actions since 2010, compared to past policies, laws and violations when it directly ran the country. The head of the military has not pro-actively spoken out against the Rohingya in the way President Thein Sein and his ministers and officials have, and appears only to speak of Rohingya when asked by foreign visitors and media, where he repeats the official line that there are no Rohingya.

With the new power sharing government being a critical stage of the military planned transition to a new form of rule, and knowing the NLD are likely to pursue policies on changing their constitution, and taking steps which could impact their business interests, the military are likely to have a lot of priorities a lot higher than the Rohingya issue. They would not want to risk all they have achieved in the past five years over the issue of the Rohingya. It does not have that level of strategic importance for them.

President Thein Sein and his government used the Rohingya issue to try to win nationalist support and undermine support for the NLD in the elections. With guaranteed seats and government positions, and the 2008 Constitution, the military themselves do not have the same requirements, but there is a chance they could use the issue as a tactic in political battles with the NLD over other issues which they do have a greater stake in.

Even if the military has no particular political agenda to escalate repression of the Rohingya, they are also highly unlikely to want to be proactive in ending repression and implementing on the ground positive steps an NLD government might take.

State government approach to Rohingya

The Arakan National Party (ANP) won a majority of seats in the State Parliament but overall in the national and state Parliaments did not do as well as they had hoped.

The NLD government could appoint a Chief Minister from the NLD, despite the ANP majority of elected seats in the State Parliament. An NLD-led state government would be better than an ANP led one, but given the hierarchical nature of NLD decision making, much will depend on the direction given by Aung San Suu Kyi. At the very minimum, an NLD-led state government will probably not proactively pursue aggressive new anti-Rohingya policies as an ANP-led government would.

There is also speculation that the NLD led government could reappoint Maung Maung Ohn, the current Rakhine State Chief Minister. Although some people have praised Maung Maung Ohn for ‘keeping things calm’, his reappointment would not be a positive step. While there have not been large scale violent attacks during his time, the application of repressive laws and policies which violate international law have continued unabated during his time in charge, and there have not

been the significant improvements in humanitarian access which are desperately needed to save lives. Continuation of existing policies at the State level would not address the fundamental problems and root causes, as they are currently based on the appeasement of extremists and repression of the Rohingya. Maung Maung Ohn is likely to be someone who would attempt to 'keep the lid' on the problem, rather than attempt to solve it.

Even if there was political will to act at the State level, State government power has severe limitations with police, security and many local administration services under the General Administration Department coming under the military controlled Home Affairs ministry. In addition, on the ground, many officials in key positions are strongly anti-Rohingya.

Behind the election result

The scale of the NLD landslide surprised many. It is clear that the huge resources and efforts made by President Thein Sein's military-backed government, and Ma Ba Tha and other nationalist extremists, warning against voting for the NLD, failed to have a significant impact when people voted. People voted for hope, not hate. Even in Rakhine State, the ANP did not do as well as many expected.

These results appear to reinforce something that BROUK has long believed, which is that while prejudice against Muslims is widespread, it is not necessarily that deep. Prejudice against Rohingya is greater than Muslims in general, but is not the top concern of many Rakhine. The prejudice that exists is widespread, but for many periods has been below the surface. It usually comes to the surface when prejudice and hatred is stirred up by political and religious extremists. It is a top down process, not a grassroots bottom up expression of repressed tensions, as many have tried to argue.

The election results, and the fact that prejudice, whilst widespread, is not as deep as many international observers believe, gives cause for hope and opportunities to achieve change. This issue is not as intractable as many diplomats and observers try to argue. This argument may partly be because of a genuine misunderstanding of the situation, or may be tactical as an excuse for doing little or avoiding making difficult decisions.

Given the scale of the human rights and humanitarian situation facing the Rohingya, action is needed urgently. With the unique opportunity presented by a new NLD-led government with a large majority and an enormous amount of goodwill and support from both the people of Burma and the international community, there has never been, and may not in the future be, a better time to take the bold and decisive decisions to address the current crisis.

Published by Burmese Rohingya Organisation UK
617 Romford Road, Manor Park , London E12 5AD

Tel: +44 2034892760 Email: brorg.london@gmail.com www.brouk.org.uk