

What Next for the Rohingya in Myanmar? Suu Kyi's Balancing Act after the Election

Written by Mathew Davies

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MATHEW DAVIES, DEC 6 2015

The November 8 2015 elections in Myanmar have been widely hailed as a dramatic step forwards for democracy and human rights in a country long dominated by the military. The emphatic victory of the National League of Democracy (NLD) under Nobel Peace Prize winner Daw Aung San Suu Kyi, and the apparent willingness of the incumbent Union Solidarity and Development Party (USDP), the successor political party to the military run junta which retains intimate links with the military, to move into opposition seems to presage real and lasting change.

Yet a report published by the Allard K. Lowenstein International Human Rights Clinic, Yale University, immediately prior to the election, exposes the limits both of how far reform in Myanmar has gone and, more worryingly still, how far it may be able to go. This is not the first report on potential genocidal acts committed against the Rohingya (not even the first in 2015 with another published by the International State Crime Initiative based at St. Mary University of London in the United Kingdom), but it has received particular widespread attention.

The plight of the Rohingya is increasingly well known. A Muslim minority living in Myanmar's Rakhine state, the Rohingya have long been the targets of persecution from the local Buddhist majority, the military (who in Myanmar control the police), and the central government. Slowly classified out of citizenship and then, as a result, increasingly marginalised in the economic, social and political spheres, the Rohingya are now framed as a dangerous, subversive and sinister element in Myanmar (Win 2015). The 2012 unrest across Rakhine state has resulted in the creation of formal 'internally displaced persons' camps (UNHCR 2013). These camps have become the epicentre of organised murder, sexual and physical violence, forced labour and all manner of other degradations, something both the Lowenstein and St Mary's reports detail. It was from these conditions that, in mid 2015, thousands of Rohingya fled by boat, drifting across the Andaman Sea searching for safe harbour.

Both the Lowenstein and St Mary reports ask a simple question – does the persecution of the Rohingya in Myanmar amount to a genocide? Answering this question requires rigorous investigation because genocide is a specific and uniquely terrible act. The Genocide Convention of 1948 indicates that for genocide to exist there be a defined group intentionally targeted by acts designed to kill or in some other way harm individuals to prevent the continuation of that group.

The Lowenstein Clinic concludes, after considerable detailed investigation of the situation in Myanmar relative to the requirements of the Genocide Convention, that 'assuming that the information the Lowenstein Clinic has access to is credible and comprehensive and accurately reflects the Rohingya's situation, the paper finds strong evidence that genocide is being committed against Rohingya' (2015: 1). The St Mary's report is if anything stronger, and it concludes that '[t]he Rohingya face the final stages of genocide' (Green et. al. 2015: 99). Both reports collect considerable evidence to support their claims, and even if you remain sceptical that the violence is genocidal in nature there is no escape from the conclusion that it is likely the most widespread and systematic violation of human rights in Asia today.

What are the likely domestic consequences of these reports for Myanmar and what do they reveal about the situation that the NLD and Suu Kyi face?

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The NLD, despite their electoral victory, enjoy very little freedom to manoeuvre in the complex political situation they are in and in particular find themselves caught between the expectations of three groups; the military, the people and external observers.

The emphatic defeat of the USDP marks a change of the role of the military in Myanmar but it certainly should not be read as being a sign that the military is retreating from politics. The clearest way that this can be seen is that the military holds 25% of the seats in both of Myanmar's houses of parliament in perpetuity, appointed as it sees fit. These reserved seats ensure that the constitution of 2008, drafted by the military junta then in power which grants the military wide ranging powers, autonomy and a guiding role in politics, cannot be overturned within constitutional procedures if the army does not wish. This reveals an important truth – that the democratisation of Myanmar is not a revolutionary break from the past, but instead a strategy to embed the military within a more sustainable political system that attracts less international criticism. As Andrew Selth has persuasively written, the military have likely planned for the NLD victory.

Unsurprisingly the military has no interest in investigating claims that it has committed genocide and, as the perpetrator of much of the violence against the Rohingya since 2012, is likely to be hostile to any effort to improve their situation. The military also has every interest in ensuring de facto immunity from both past and present violence against the Rohingya (as with other groups).

The military are not, however, the only impediment to any new policy towards the Rohingya or the investigation into past crimes. Since the 2012 unrest groups such as the 969 movement and the MaBaTha (Organization for the Protection of Race and Religion) have gained prominence, seeking to cast Muslims in general, and the Rohingya in particular, as threats to the Buddhist values that they believe must characterise Myanmar's society and government (Walton and Hayward 2014). These movements are complex, emerging from narratives about Buddhist national identity as much as anti-Muslim sentiment, something that further narrows down the ability of central government to shape and push back against them. Indeed there is some evidence that the Thein Sein government and these groups have developed a robust if pragmatic working relationship between them. Suu Kyi was silent during the 2015 boat crisis and has maintained a cautious neutrality when asked about the Rohingya. Perhaps her most vocal statement on the issue came in 2013 when, pushed by the BBC, she indicated that both sides were to blame for a 'climate of fear'. This decision to avoid comment and criticism is not only political in the sense that it avoids antagonising the military but has a clear electoral dimension as well – championing the rights of the Rohingya is not a vote winner and indeed is likely a vote loser given so many of the NLD supporters are also broadly sympathetic to the narratives of Buddhist and Burman insecurity being espoused by 969 and MaBaTha.

Whilst the internal pressures that face the NLD work to retard its ability to address the Rohingya issue, the external pressure from western states and public opinion is pushing in the opposite direction. Suu Kyi, Nobel Peace Prize winner, occupies a particular role in our imagination as a peaceful advocate for democracy and human rights and, through that, an exemplar of morally guided politics. Her refusal to actively engage with the Rohingya to date has led to considerable criticism (see here, here and here for examples). Generated by what is often an unsophisticated appreciation of Myanmar's complex social, religious and political situation, many expect Suu Kyi to do the impossible and resolve all outstanding issues facing Myanmar and its many peoples. The expectations placed on the NLD to both reverse the crimes perpetrated by the military and the USDP and, further, to investigate those violations are undoubtedly morally correct, but they are highly contentious in the context of a partial democratised system where the perpetrators of such acts retain significant leverage.

So where does this leave Myanmar's political future? Elections are only as free and fair as the political system they are situated within. November 2015 is not the end point of democratisation but they do mark a significant evolution of Myanmar's political landscape with the military receding but certainly not retreating from public life. Two questions face the NLD in this new situation and within the context as I have described it – what is the right response to the history of widespread violence within Myanmar not only against the Rohingya but against many other ethnic and religious groups, and what should the policy towards the Rohingya be now?

The response to past violations is, I suspect, going to have to wait some considerable time. The political situation in

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Myanmar will not permit the investigation of past crimes perpetrated by the military, the UDSP, the police and the people when those groups have so much leverage over the situation. In the future some sort of truth and reconciliation system instead of a judicial enquiry (especially one run by outsiders) seems the more likely outcome, but even this is an optimistic prediction.

As for the day to day lives and experiences of the Rohingya and their future prospects much depends on whether Suu Kyi's silence is strategic. There are signs that it was, albeit from those around Suu Kyi as opposed to her herself. Win Htein, a senior advisor to Suu Kyi, told Reuters in the wake of the recent elections that the 1982 Citizenship law that had started the process of redefining the Rohingya out of Myanmar 'must be reviewed because it's too extreme', although Htein distinguishes between 'second generation Muslims' and those who have arrived more recently who he sees as Bangladesh's problem not Myanmar's. This speaks I think to the most likely outcome. A gradual and quiet effort by the NLD to improve the lives of the Rohingya and integrate at least some of them back into society through working to improve their basic freedoms, economic and social as much as political. Such activities will be frustratingly slow for many, having to take place within the boundaries of toleration set by the military and the people. They will also be delicate, and highly susceptible to external events and how those events are manipulated by other groups.

Beyond the political issues a final point can be made about the reports on genocide, and it is one that challenges us in a number of ways. Do these reports help? This is a strange question because genocide, an act so heinous that it occupies a unique place in our moral and legal codes, must surely be brought to light – the commitments to human rights and democracy that we all hold dear as defining features about ourselves, let alone our politics, demand it. But illuminating the dark practices of those who hold real ability to terminate Myanmar's democratic progress is dangerous as it raises the stakes for all sides. Is a military establishment accused of genocide more or less likely to continue to accept a diminishing of its overt political control, is an NLD government pressured to adopt more activist measures against that establishment as a result of these reports more or less likely to be able to improve the living conditions of those within Myanmar, including the Rohingya? Even countries with far stronger democratic heritages struggle to deal with widespread abuses of human rights they have committed in the past, let alone when those acts are genocidal (see both Japan's difficulty with its conduct in World War Two and the Turkish government's denial of the Armenian genocide during World War One, both countries now strongly democratic).

There is, it seems, no easy choices to be made, and whatever the compromise that emerges it will be as partial and imperfect as the democratic system that has gestated it. Much depends on the intentions and decisions of both elected and unelected forces in Myanmar. Much more depends on the relationship we and those on the ground build between moral sentiment, political reality and the pragmatic choices that navigate us between the two.

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