The Hidden Dimension of Myanmar’s Democratic Transition

*Myanmar’s “Final Solution”: The False Promise of Naturalized Citizenship & State Persecution of the Muslim Rohingya Population*

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Introduction

Myanmar has been praised for its commitment to democratization for establishing precedents for norms pertaining to human and citizenship rights, ending decades of military junta rule. Burmese society is also becoming more active in the civil-political sphere, determined to address the human rights and civil liberties lacunas that have emerged as a result of the Tatmadaw’s suffocating authoritarian rule. However, despite this roadmap towards a democratic transition, Myanmar’s Rohingya Muslims continue to suffer under asymmetric and draconian state persecution. Located in the impoverished and severely under-developed region of Rakhine, the Rohingya people are forced into a situation of chronic despair and statelessness, living under constant threats of fear and state sponsored persecution. Denied access to full citizenship, their indigenous ethnic identity is not recognized by the state, and citizenship rights accorded to Burmese Buddhists and other Burmese are not extended to the Rohingya owing to their lack of formal citizenship status. As a result of this unholy trinity, the Rohingyas are left with little recourse and access to the democratic discourses of equitable justice and basic human rights, rights that are increasingly being enjoyed Myanmar’s Buddhist majority.

In addition to the above-mentioned climate of state-sponsored persecution, a chronic sense of distrust and resentment colours the interaction between the majority of Myanmar’s Buddhists and the marginalized Rohingya population. Consequentially, periodic clashes between Muslims and Buddhists often escalate into full-scale violence, with the Rohingyas bearing the brunt of the Burmese state’s heavy-handed response to quell the violence, often to appalling ends. This ruthless persecution and discrimination raises an analytical puzzle for the relationship between Myanmar’s

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democratic transition and the lack of human and citizenship rights accorded to the Rohingya population. The nature of this analytical puzzle revolves around a fundamental paradox: why, despite domestic and international efforts at facilitating Myanmar’s democratic transition, has there been increasing tensions and an evolution of a networked system of persecution against Myanmar’s Muslim Rohingya population? In attempting to offer an account for this paradox, this paper posits that the ironical nature of democratic transition, more specifically, Myanmar’s calibrated granting of civil liberties (freedom of speech and expression) and its insistence on privileging the Buddhist majority populace vis-à-vis the sustained marginalization of the Rohingyas provides a plausible and realistic account for the perpetuation and stigmatization of the Rohingya population.

Understanding the nature and extent of Myanmar’s persecution of the Rohingyas

Myanmar’s continued deprivation of the Rohingya’s claims to citizenship along with its accompanying rights forms the strategic basis upon which the Rohingyas are forced into a position of statelessness. This status of stateless persons opens the floodgates for the Rohingyas to face asymmetric persecution, with little to no avenues to seek proper recourse and equitable justice⁴. Tracing back to the historical roots of Myanmar’s politicized issue of ethnicity and citizenship, the issue and basis of contention lies in the changing and highly subjective legal status of the Rohingya population. Because independence was accorded to Burma in a short period of three years following the end of World War II, the British’s haphazard process of fluid citizenship registration resulted in the Rohingyas being accorded various national and citizenship identities – identities that are now being contested and denied recognition by the Burmese state. This process of haphazard and disorganized registration identified and registered the Rohingyas under two broad and distinct categories: Rakhine Muslims or Rohingya, the former carrying more weight than the latter, though

the two categories are still disregarded by the state\. This ascription of fluid citizenship status and identities could arguably be translated and viewed through the lens of Sadiq’s concept of “paper citizens\(^6\). Contextualizing Sadiq’s conceptual arguments to the situation of the Rohingyas, these native residents, residing mainly in Rakhine state only exist in (arbitrary) documentary form, not substance – at least in relation to the according of citizenship rights by the Burmese state. Though registered under the two above-mentioned categories, the absence of any codified citizenship laws, prior to 1982, created a citizen-legal lacuna, which continues to be exploited by the Burmese state. Specifically, Myanmar’s freehanded exploitation of this lacuna has translated into the arbitrary accordance and/or denial of rights and treatment of the Rohingya people by various factions and stakeholders within the Burmese state\(^7\). Unfortunately, the codification of Myanmar’s 1982 Citizenship Law has not mediated nor resolved this impasse but instead, has only served to reinforce the structural barriers and reified state-backed oppression of the Rohingya – an argument which will be explored in the later course of this paper.

As a majoritarian Buddhist state, the Tatmadaw’s monopoly over power and society translated into the maintenance of the delicate social-religious harmony as well as a calibrated system of tolerance towards religious pluralism and the open practice of different faiths. For example, the 2008 Burmese constitution codified statutory articles that accorded special rights and privileges for Buddhism as the dominant state religion. However, in the following pursuant statutory articles, the 2008 constitution also provided legal recognition and protection for religious freedom and worship – acknowledging the open practice and recognition of Islamic, Hindu and


even Christian faiths\(^8\). However, the loosening of the Tatmadaw’s authoritarian grip over Burmese society, coupled with the growth and incorporation of democratic norms has translated into democracy becoming the basis on which persecution, stigmatization and discrimination of the Rohingya is being perpetuated.

**The double-whammy blowback of Myanmar’s efforts at democratization and international humanitarian aid**

Heeding to international pressure for accelerating its democratic transition, Myanmar has acquiesced to the slow granting of civil liberties. One such transformation has been the nurturing of a climate of free speech and the pardoning of incarcerated individuals found guilty of speaking out against the social-political rule of the Tatmadaw\(^9\). Despite efforts at democratization, Myanmar’s 2010 decision to grant political amnesty to Ashin Wirathu, a Buddhist-extremist spiritual leader of the anti-Islam movement is a case in point to highlight a dark-side to Myanmar’s democratic transition. Well revered amongst the majoritarian Buddhist community, Wirathu is known for his promotion of communal violence aimed at purging Rakhine of the Rohingya Muslims\(^10\). Leveraging on the democratic climate that promotes free speech and expression, Wirathu has spoken out, criticizing the Rohingya as illegal migrants that should be purged and denied the right to exist in the sovereign territory of Rakhine and Myanmar. Together with other Buddhist extremists, Wirathu has entrenched a widespread fear against Islam. The Rohingyas have been demonized as a group of fanatical individuals determined to overwhelm the majority of Myanmar’s Buddhist population, with the eventual goal of laying claim to the entirety of Rakhine land. Consequentially, inter-marriages between Muslim Rohingyas and Buddhist Burmese, when discovered, are forcefully ended and politicized by Buddhist fundamentalists. This paradoxical deprivation of an individual’s

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freedom to make choices is hijacked by radicals such as Wirathu to posit that the Rohingya are engaged in forced conversion of Buddhist women, with the aim of boosting their population to overwhelm the Buddhist population residing in Rakhine. Given such stereotypical portrayal of the Rohingya, with little to no counter-balancing alternatives being presented, Wirathu is able to freely perpetuate a climate of extreme Islamophobia against the Muslim Rohingyas, paranoia that is manifested through violent communal clashes in Rakhine state.

The respective unwillingness and inability of the Burmese state and international human rights organizations to bring individuals such as Wirathu to justice has created a pervasive climate of perceived winners and losers in Myanmar. Because the persecution of the Rohingyas takes place amidst a climate of widespread anti-Islam sentiments that are legitimized, supported and perpetuated by the state, the Rohingyas are condemned to a position of perpetual losers and structural-chronic discrimination. To make matters worse, restricted by Myanmar’s right to sovereignty over its domestic affairs, the international community’s efforts at documenting and addressing the violation of the Rohingya’s human rights are severely limited by terms set by Thein Sein’s government. Even if humanitarian aid or human rights officials manage to reach Rakhine state, the distribution of resources and access to the Rohingya people is never guaranteed. This uncertainty stems from the high degrees of autonomy granted to the border police that guard and polices over Rakhine state. Together with municipal (Buddhist) law enforcement and police officials, rampant corruption and an entrenched ethos of discrimination towards the Rohingyas

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results in syphoning of international aid supplies and the denial of entry permits to foreign aid and humanitarian organizations\(^\text{14}\).

Building upon existing prejudices stacked against the Rohingya people, international humanitarian (aid) organizations face structural and chronic resentment by the non-Muslim communities in all provinces in Rakhine state. Part of Myanmar’s commitment to democratic reforms has been the supposed partnership with domestic and international civil society to address existing human rights lacunae under the framework of what Keck and Sikkink term a “transnational advocacy network”\(^\text{15}\). Following massive international news coverage and grassroots reports of flagrant violations of the Rohingya’s human rights, humanitarian aid has been calibrated towards addressing the marginalized Rohingya community. The Rohingyas have long been recipients of international aid, given their historical status as discriminated illegal Bengali immigrants who had migrated into Rakhine province from Bangladesh under British colonial rule\(^\text{16}\). However, because most humanitarian aid seeks to alleviate the plight of the Rohingyas, those who do not benefit from these aid relief missions – who are often economically and socially better off, but still languishing in poverty – often become resentful and jealous of these international organizations and agencies\(^\text{17}\).

As a result of this local acrimony, there has been a Buddhist backlash against the intervention and involvement of international humanitarian agencies, criticizing these aid agencies for their non-adherence to the democratic principle of equal treatment of all persons. Religious fundamentalists such as Ashin Wirathu further played up this resentment, to the point where local enforcement officers detained 10 Rohingya staff employed by international NGOs such as Medecins Sans


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Frontieres. These aid workers were often charged on the basis of treason and the exacerbation of sectarian violence, fuelled by stereotypical association with Islamist militant groups such as Al Qaeda. Because of this hostile climate of fear along with the refusal to grant humanitarian aid organizations access to Rakhine state, there has been an erratic delivery of medical and food aid, exacerbating the plight of the Rohingya. Additionally, the strict regulation of foreign humanitarian organizations has translated into the Burmese state having the upper hand against the Rohingyas. This position of strength revolves around the dual ability to unilaterally dictate the terms and conditions by which the Rohingya should be treated, coupled with the relatively unrestrained and unregulated use of coercive and violent force to purge the Rohingya Muslims.

The active participation of law enforcement officials in systemic violence perpetuates the violence and displacement of the Rohingyas. For instance, the communal violence that erupted in 2012 following the murder and rape of an ethnic Rakhine Buddhist women by a group of Muslim men, showed both the tacit and explicit involvement of law enforcement officials in facilitating communal violence. Using the death of Ma Thida Htwe as a pretext for vigilante justice, both communal and state backed violence against the Muslim population erupted. The violence that ensued escalated to an unprecedented scale to the extent that a vast section of Muslim dwellings in Northern Rakhine had been torched and permanently destroyed, rendering the land uninhabitable. This destruction of the land forced thousands of Rohingyas to flee to state erected internally displaced persons (IDP) camps located in Rakhine’s capital, Sittwe. Though difficult if not impossible to prove, Rohingya residents have alleged that local Buddhist law enforcement officials


either stood by or actively participated in torching Rohingya dwellings and forcefully arresting and beating Muslim men. Polarized by a growing rural-urban divide that affects the ability for various parties to adapt to Myanmar’s democratic changes, the ghettoization of Rohingyas in centralized IDP camps could arguably constitute the Burmese state’s very own “final solution” to purge the Rohingyas. This free-handed use of asymmetric discrimination and violence is evidenced in satellite imagery showing ravaged Muslim settlement areas vis-à-vis the intact and relatively well-preserved non-Muslim section of Rakhine’s Kyaukpyu township, as shown in figures 1 and 2 below.

Figure 1: Satellite imagery of Rakhine’s coastal town of Kyaukpyu prior to the communal violence (9 March 2012)

*The land and settlement area towards the right of the dotted yellow line indicates the Muslim quarter of this land area, while the land area on the left is inhabited by Buddhist Rakhines*

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Figure 2: Satellite imagery of Rakhine’s coastal town of Kyaukpyu after to the communal violence (25 October 2012)\textsuperscript{24}

**Myanmar’s Final Solution: IDP camps and the (false) promise of citizenship**

Forcefully displaced and prevented from returning to their ancestral lands, the Rohingyas are forced to seek refuge in IDP camps. However, because of the intensity of the communal violence that ensued, emergency laws have been translated into a permanent segregation and militarization of the perimeters of the IDP camps. While the 2012 violence also affected and displaced a small Buddhist population, efforts have been made to prioritize their well being vis-à-vis the Rohingyas\textsuperscript{25}. For instance, with the number of Rohingya outnumbering Burmese (Buddhist) nationals 3 to 1 in the IDP camps, border guards and local police forces have institutionalized a system of regularized and restricted movement for the Rakhine native and Rohingyas respectively. Rakhine Buddhist camps are deliberately situated closer to towns and markets, and Rakhine people are free to move about as they please, often with the provision of security by local police. On the other hand, citing

\textsuperscript{24} Ibid.

(hypocritical) safety precautions, the Rohingyas are denied freedom of movement, and have sporadic access to food and medicinal supplies. In addition, despite the possession of authorization letters from the central government, foreign aid organizations are often denied access to these IDP camps. Often times, this restricted access is due either to the breakdown in communication flows or the simple ignorance of the border guards who wield disproportionate amounts of delegated authority from the central state. The deprivation of sanitation facilities, irregular inflow of medical supplies and the killing of many Rohingya professionals – many of who include doctor and nurses, results in premature deaths and the spread of easily preventable diseases amongst the Rohingyas.

The dehumanization and persecution of Rohingyas in these IDP camps was heavily criticized by UN’s special envoy to Myanmar, Yanghee Lee who stated that the conditions in the Rohingya camps were “deplorable” and the most appalling that she has ever seen. Lee’s public criticism against Myanmar’s government was joined by a global chorus, calling for President Thein Sein to remain committed to his democratic roadmap by showing committed efforts to address the abhorrence of human rights violations against the Rohingyas.

Returning back to the earlier reference to Myanmar’s Citizenship law, Thein Sein’s government has demonstrated its ability to stage a democratic façade, appeasing international calls for committed change, while continuing its persecution of the Rohingya. Government-sponsored rhetoric that housing the Rohingyas in secured IDP camps ensures their safety and well-being is but a masked disguise for what is otherwise a well-orchestrated propaganda scheme that is full of baloney. Myanmar remains committed to its decision to deny citizenship rights as well as its refusal


to acknowledge the existence of the Rohingya people\textsuperscript{30}. Following Bangladesh’s 1978 decision to engage in a mass repatriation exercise of Rohingya refugees, the Burmese government conducted a 1983 nation-wide census that excluded the recognition of the Rohingya as one of Myanmar’s 135 recognized ethnicities. Using a Scottian analytical framework, Myanmar’s government’s citizenship census and their codification of the 1982 citizenship law can be seen as their attempt to survey the entire citizenry of their land, empowering the state with opportunities to implement measures to identify and classify people in accordance with certain preferences and prejudices\textsuperscript{31}. Furthermore, because Bangladesh is not a signatory state to the 1951 Convention relating to the Status of Refugees nor to its 1967 protocol\textsuperscript{32}, both the Rohingya and the international community’s hands are tied, unable to exert pressure on Bangladesh to accord the Rohingya rights and prevent their non-refoulement back to Myanmar. In one fell swoop; this deliberate omission of the Rohingyas rendered them stateless, reifying existential prejudices that are stacked against them\textsuperscript{33}.

Myanmar’s government has offered what it regards as a mutual compromise to provide substantial citizenship rights and democratic freedoms to render the Rohingyas more than mere paper citizens: the promise of naturalized citizenship. Myanmar’s only indicator and guidelines for citizenship lies in its 1982 Citizenship law, which designates two main distinct categories of citizens: full or naturalized\textsuperscript{34}. The former is accorded to persons who are classified under one of eight recognized national races, while the latter applies to foreign nationals and/or immigrants who are able to provide substantive and conclusive evidence that they have had past generations who


lived and resided in Burma prior to its attainment of independence in 1948. For the Rohingya, the implementation of the letter of the 1982 citizenship law is Myanmar’s attempt to drive the final nail in their citizenship coffin. In order for Rohingyas to begin the process of citizenship registration, they would have to first, fundamentally accept their status as a lower class citizen, with limited access to citizenship rights that are otherwise fully enjoyed by Burmese holding full citizenship status. To do so, let alone qualify for registration, they would have to identify themselves as “Bengali” – an (illegal) immigrant in the eyes of the Burmese state, a requirement that many Rohingyas refuse. This refusal is based on a well-founded fear that due to their status as an illegal immigrant, they would remain at the mercy of the Burmese state, and should the state decide to turn against them, they would have little to no recourse to equitable justice. To agree to identify themselves as Bengali would also mean forfeiting and disregarding their ancestral and historical roots as native people to Rakhine, resulting in the permanent forfeiture of their right to self-determination. Even if individuals are willing to agree to these asymmetric terms, the Rohingyas would still have to shoulder the onerous burden of proof to provide documentary or oral evidence that they have ancestors that resided on the land on which they are living on. This requirement is a near impossible task given both the process of fluid and erratic citizenship registration under the British that had resulted in the destruction (or non-existence) of documentation.

Taken at its face value, the olive fig offered by the Burmese state is actually a masked attempt at permanent segregation and purging of the Rohingya people, and it is no surprise that most Rohingyas refuse to agree to such onerous terms for access to partial citizenship. In its attempt to survey and regulate the state, Myanmar’s government has imposed two added structural pressures to force Rohingyas to identify and register themselves as Bengali – a clear anti-thesis and a paradox.

37 Ibid.
of its road towards democratic transition. First, the provision of the 1982 law denies citizenship to children born to non-citizens. This would place a moral pressure on Rohingya women to register themselves as naturalized (Bengali) citizens in the hopes of ensuring that their children will have access to state services such as education and healthcare\textsuperscript{38}. Second, border guards policing the IDP camps have been reported to violently coerce Rohingyas to begin the citizenship registration process. Any Rohingya that refused to comply would often be suspected and charged of Islamist militant activities\textsuperscript{39}. However, the Rohingya are led and coerced into a position that's in between a rock and a hard place – on one hand, the state (heeding calls by the international community to address asymmetric human rights) is aggressively pushing the Rohingyas to agree to naturalized citizenship, a push that continues to be rejected by most Rohingyas. On the other hand, the process by which the Rohingyas are to seek citizenship is so onerous, that many do not, and will not qualify for registration in the first place, rendering Myanmar’s offer of naturalized citizenship an empty promise. Coupled with this false promise is the continued outbreak of sporadic violence against the Rohingyas by local Buddhists and law enforcement officials. These officials often confiscate or revoke the identity cards held by naturalized Rohingyas, rendering them without the citizenship documentation necessary to start the process of citizenship registration, forcing them into a position of permanent statelessness\textsuperscript{40}. Given the rampant corruption and autonomy devolved to local law enforcement officials, there is little to no checks on this discretionary and arbitrary use of power against the Rohingyas\textsuperscript{41}. As a result, there will continue to be a permanent ghettoization of most of Rakhine’s Rohingyas in IDP camps, mired by perpetual poverty and draconian state policies and prejudices that will continue to deprive them of the benefits of Myanmar’s democratic transition.


Conclusion

Structurally and systematically prejudiced and marginalized, Myanmar’s Rohingya people continue to face both a certain and uncertain future. Their asymmetric deprivation of access to citizenship registration and rights continue to mire them a state of perpetual statelessness and despair. This identification as stateless persons translates into their permanent residence in IDP camps, where Burmese law enforcement officials wield full discretion over their fate. The Rohingyas plight is further exacerbated by the fact that international humanitarian relief efforts and attempts to exert normative and moral pressure on Thein Sein’s government are hamstrung both by the principle of state sovereignty, as well as Myanmar’s strict refusal or regulation of foreign humanitarian missions. Ironically, Myanmar’s democratic transitions (at least with respect to the Rohingyas) seem to constitute more of a bane than a boon. Hardline Buddhist fundamentalists such as Ashin Wirathu who enjoy the backing of the state continue to have the free hand to ruthlessly exploit the democratic tenets of free speech and civil liberties, perpetuating systemic violence against the Rohingya. Stupefied by the unintended blowback of their efforts to push Myanmar towards a democratic path, the international community continues to be bewildered by the scale and extent of Thein Sein’s purging of the Rohingya, all under the guise of the mantra of democratic transition. Moving forward, it seems that the burden now rests on both Burmese civil society and the international community to somehow manipulate Keck and Sikkink’s concept of transnational advocacy networks to achieve a substantial breakthrough in the Rohingya’s statelessness and moral impasse. Efforts must be undertaken to address the apparent democratic paradox, because given the status quo, it seems ironical that military-authoritarian rule, at least in relation to the Rohingya’s situation, seems to be a system of governance that should be preferred, given its ability to accord the Rohingyas some substantial degree of protection against asymmetric violence and hardline prejudices.