



**FIDH - International Federation for Human Rights
Alternative ASEAN Network on Burma (ALTSEAN-Burma)**

Joint briefing paper

**Still oppressed:
Rohingya policies and restrictions under Myanmar's new government**

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Since taking power on 30 March 2016, Myanmar's new government, which is dominated by Aung San Suu Kyi's National League for Democracy (NLD) party, has done little to address the situation of Rohingya in the country. While the government has taken a number of steps to improve the human rights situation in the country, it has failed to adequately address the long-standing discriminatory and abusive practices against Rohingya in Rakhine State.

Parliament fails to repeal or amend discriminatory legislation

The NLD has made no attempt to remove the legal obstacles that seriously restrict the fundamental rights of Rohingya. Shortly after the NLD's victory in the November 2015 election, NLD Central Executive Committee member Win Htein said that addressing the situation of Rohingya was not among the party's priorities and maintained that most Rohingya were illegal immigrants who had to be "returned" to Bangladesh.¹

Parliament, dominated by NLD lawmakers, and the executive branch, headed by President Htin Kyaw and State Counselor Aung San Suu Kyi, have failed to take any action towards the review and amendment of the 1982 Citizenship Law. The law is not in line with international standards and restricts access to citizenship for Rohingya. In June and September 2012, Aung San Suu Kyi stated that Myanmar's citizenship laws needed to be reviewed in order to be in line with international

¹ NYT, *After Myanmar Election, Few Signs of a Better Life for Muslims*, 18 November 2015

standards.² Instead of encouraging a parliamentary review of the 1982 Citizenship Law, the government has pursued the previous administration's flawed approach to the issue of Rohingya citizenship. [See below, *Pilot citizenship verification launched*].

In addition, during its first and second regular sessions (1 February - 10 June 2016 and 25 July 2016 - present), Parliament failed to introduce any proposals to repeal or amend the four so-called 'Race and Religion Protection Laws.' The four laws, adopted by the previous Parliament between April and August 2015, are discriminatory towards Myanmar's religious minorities, including Rohingya, and contravene the country's international legal obligations under the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).³

Discriminatory orders remain on the books

Orders from local authorities, decreed under previous military governments between 1993 and 2009, impose restrictions on freedom of movement, marriage, childbirth, access to basic services, and livelihood opportunities for Rohingya. The orders and subsequent regulations instruct law enforcement agencies to impose abusive measures on Rohingya, including enforced birth control, coercive limits on the number of children a woman can bear, restrictions on marriage and private relationships, and restrictions on movement.⁴

In May 2013, Aung San Suu Kyi voiced opposition to the two-child limit on Rohingya families, saying the discriminatory regulation was "against human rights."⁵ While it is unclear whether these policies are still enforced, the NLD has taken no action to officially repeal them.

Pilot citizenship verification launched

In June 2016, immigration officials in Rakhine State resurrected a pilot citizenship verification process for stateless Muslims, including Rohingya, which is similar to the controversial citizenship verification process carried out from 2012-2015 under Thein Sein's administration. The process, based on the citizenship criteria set out in the discriminatory 1982 Citizenship Law, was launched in Kyaukpyu, Myebon, and Ponnagyun Townships, and has been extended to Sittwe and parts of northern Rakhine State.⁶

The citizenship verification project involves the issuing of 'green cards' (i.e. national verification cards) to Rohingya. These cards can then be used to apply for citizenship.

² AFP, *France's Hollande tells Suu Kyi will back Myanmar transition*, 26 June 2012; Irrawaddy, *Suu Kyi Backs Govt to Diffuse Arakan Tensions*, 19 September 2012

³ In its concluding observations, CEDAW recommended Myanmar amend or repeal the Interfaith Marriage Law, the Population Control Healthcare Law, the Religious Conversion Law, and the Monogamy Law "in order to ensure full compliance with the provisions of the Convention." CEDAW, 25 July 2016, *Concluding observations on the combined fourth and fifth periodic reports of Myanmar*, UN Doc. CEDAW/C/MMR/CO/4-5, Para 15

⁴ Fortify Rights, *Policies of Persecution*, February 2014

⁵ Al Jazeera, *Myanmar's Suu Kyi condemns two-child policy*, 28 May 2013

⁶ Myanmar Times, *Pilot census lays groundwork for citizenship verification in Rakhine*, 9 June 2016; IRIN, *Will Myanmar's Rohingya finally become citizens in their own country?*, 7 July 2016

However, it is yet unclear what type of citizenship (full, associate, or naturalized) Rohingya would be granted.⁷ Rohingya have met the process with skepticism and many participants said they did not receive prior information on the procedure, nor further explanation after it had started.⁸ Rohingya have been unable to self-identify because the cards do not specify race or religion.⁹ Some Rohingya refused to participate for this reason.¹⁰ Others refused to participate due to a general distrust of the authorities, or because their parents or grandparents owned 'pink cards' (i.e. national ID cards), and thus were citizens.¹¹

Human rights violations against Rohingya continue

Since the new government took office, reports of human rights violations committed by security forces against Rohingya in Rakhine State have continued to surface. A fresh spate of violence in northern Rakhine State in October 2016 underscored the decades-old pattern of persecution against Rohingya and impunity of those responsible.

Violence against Rohingya has escalated after an incident in Maungdaw Township, northern Rakhine State, on 9 October 2016, during which unknown assailants killed nine police officers. Unverified reports claim that more than 50 Rohingya civilians were killed by security forces in Maungdaw Township in response to the killing of the police officers and that two mass graves were uncovered.¹² Local sources have reported the arbitrary arrest of dozens of Rohingya and the military setting fire to several Rohingya villages in Maungdaw Township.¹³ On 24 October, the UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that the violence had also resulted in an estimated 10,000 to 15,000 people being displaced from villages in northern Rakhine State.¹⁴ UNOCHA stated that as of 24 October, humanitarian agencies had been unable to access the affected areas.¹⁵ On 12 October, State Counselor Aung San Suu Kyi said the government would conduct "a fair and square [investigation] under the rule of law."¹⁶

⁷ The 1982 Citizenship Law establishes three categories of citizenship: (1) full citizenship, (2) associate citizenship, and (3) naturalized citizenship. According to the 1982 Citizenship Law, associate and naturalized citizens are "entitled to enjoy the rights of a citizen under the laws of the state, with the exception of the rights stipulated from time to time by the Council of State."

⁸ UNOHCHR, *End of mission statement by the Special Rapporteur on the situation of human rights in Myanmar*, 1 July 2016; RFA, *Myanmar Government Orders State Media Not To Use 'Rohingya'*, 21 June 2016

⁹ RFA, *Muslim Villagers in Myanmar's Rakhine State Refuse to Participate in Census*, 7 June 2016

¹⁰ RFA, *Muslim Villagers in Myanmar's Rakhine State Refuse to Participate in Census*, 7 June 2016

¹¹ UNOHCHR, *End of mission statement by the Special Rapporteur on the situation of human rights in Myanmar*, 1 July 2016

¹² NYT, *Dozens Believed Killed as Violence Erupts in Myanmar*, 10 October 2016; TIME, *The Military Continues to Search for Suspected Jihadists in Western Burma*, 18 October 2016

¹³ TIME, *The Military Continues to Search for Suspected Jihadists in Western Burma*, 18 October 2016; Kaladan Press, *Kill, arrest, arson, rape and loot on Rohingya in Maungdaw*, 14 October 2016

¹⁴ UNOCHA, *Asia and the Pacific: Weekly Regional Humanitarian Snapshot (18 - 24 October 2016)*, 24 October 2016

¹⁵ UNOCHA, *Asia and the Pacific: Weekly Regional Humanitarian Snapshot (18 - 24 October 2016)*, 24 October 2016

¹⁶ Myanmar Times, *Questioning of suspects ongoing as state counsellor addresses Rakhine turmoil*, 13 October 2016

The NLD-led administration also pursued the previous government's imposition of restrictions on Rohingya's religious freedom. On 18 September 2016, the Rakhine State government ordered the demolition of 12 mosques and 35 Arabic language-teaching schools in Maungdaw and Buthidaung Townships.¹⁷

Dubious committees formed to address Rakhine State situation

Since coming to power, the government has formed several bodies to address the situation in Rakhine State. However, the mandate of these committees remains vague.

On 30 May 2016, the President's Office formed the Central Committee on Implementation of Peace, Stability, and Development of Rakhine State.¹⁸ The 27-member body, chaired by State Counselor Aung San Suu Kyi, comprises Cabinet Ministers and other high-ranking government officials, and is tasked with ensuring the "realization of peace, stability, and development" in the state.¹⁹ The President's Office also formed four additional working committees to "ensure [the] successful implementation of works of the Central Committee."²⁰

On 24 August 2016, the Ministry of the Office of the State Counselor announced the formation of a nine-member Advisory Commission on Rakhine State, chaired by former UN Secretary-General Kofi Annan.²¹ The Commission is tasked with undertaking assessments and making recommendations related to "conflict prevention, humanitarian assistance, rights and reconciliation, institution building, and [the] promotion of development" in Rakhine State.²² Despite this formidable task, no Rohingya were appointed to the commission. Other commission members include one Yangon-based Muslim and two Buddhist Rakhine, including Myanmar National Human Rights Commission (MNHRC) Chairman Win Mra, who is well known for his harsh anti-Rohingya rhetoric.

On 8 September 2016, Commission Chairman Kofi Annan clarified that the Commission would not be investigating human rights abuses, but would be writing

¹⁷ Myanmar Times, *Rakhine State govt announces plans to demolish 'illegal' mosques, homes and schools*, 22 September 2016; Irrawaddy, *'Illegal' Mosques to be Demolished in Arakan State*, 21 September 2016

¹⁸ The Republic of the Union of Myanmar; President's Office, *Formation of Central Committee on Implementation of Peace, Stability and Development of Rakhine State (Notification 23/2016)*, 30 May 2016

¹⁹ The Republic of the Union of Myanmar; President's Office, *Formation of Central Committee on Implementation of Peace, Stability and Development of Rakhine State (Notification 23/2016)*, 30 May 2016

²⁰ The Republic of the Union of Myanmar; President's Office, *Formation of Working Committees on Implementation of Peace, Stability and Development of Rakhine State (Notification No. 24/2016)*, 30 May 2016

²¹ The Republic of the Union of Myanmar, State Counsellor Office, *Establishment of the Advisory Commission on Rakhine State*, 23 August 2016; GNLM, *Establishment of the Advisory Commission on Rakhine State*, 24 August 2016

²² The Republic of the Union of Myanmar, State Counsellor Office, *Establishment of the Advisory Commission on Rakhine State*, 23 August 2016

an “impartial report” to provide recommendations to the government to facilitate a lasting solution to the conflict in Rakhine State.²³ The Commission will submit a report, which will be made public, to the State Counselor within one year of its formation.²⁴

Rohingya IDPs face ongoing hardship; situation in Rakhine State remains dire

The situation in IDP camps in Rakhine State remains dire. About 120,000 IDPs, the vast majority of whom are Rohingya, remain in IDP camps across Rakhine State.²⁵ In addition, the majority of IDPs in the camps face restrictions on freedom of movement on the grounds of security or maintaining stability. These restrictions severely impact Rohingya’s access to basic services and livelihoods.²⁶

On 1 July 2016, UN Special Rapporteur on the situation of human rights in Myanmar Yanghee Lee said the conditions in IDPs camps in Rakhine State remained “poor with concerns about overcrowding, the deterioration of temporary shelters and housing, and the lack of proper sanitation facilities.”²⁷

Use of the term ‘Rohingya’ avoided

The current government has regrettably decided to follow the previous administration’s official policy of avoiding the use of the term ‘Rohingya.’ On 16 June 2016, the Ministry of Information sent a letter to state-run news outlets ordering them to describe Rohingya as the ‘Muslim community in Rakhine State’ in their reports.²⁸ On 20 June 2016, State Counselor Aung San Suu Kyi told UN Special Rapporteur on the situation of human rights in Myanmar Yanghee Lee that the government would avoid using the term ‘Rohingya.’²⁹

Recommendations

FIDH and ALTSEAN-Burma call on the Myanmar government to:

1. Begin a review of the 1982 Citizenship Law with a view to amend it, to replace race and ethnicity as determining factors in the granting of citizenship with objective criteria that comply with the principle of non-discrimination, such as birth in the territory and descent.
2. Ensure any process to determine citizenship eligibility is conducted in line with international standards, and that participants have adequate information about the process.

²³ Irrawaddy, *Kofi Annan: Commission Will Not Do ‘Human Rights Investigation’ in Arakan State*, 8 September 2016

²⁴ Myanmar Times, *Advisory commission formed to seek long-term plan for Rakhine State*, 25 August 2016

²⁵ UNHCR, *Displaced villagers return home in Myanmar’s Rakhine state*, 2 May 2016; UNOCHA, *Humanitarian Bulletin - Myanmar, Issue 3 - 2016 | July-September 2016*, 30 September 2016

²⁶ UNOHCHR, *End of mission statement by the Special Rapporteur on the situation of human rights in Myanmar*, 1 July 2016

²⁷ UNOHCHR, *End of mission statement by the Special Rapporteur on the situation of human rights in Myanmar*, 1 July 2016

²⁸ RFA, *Myanmar Government Orders State Media Not To Use ‘Rohingya’*, 21 June 2016

²⁹ Reuters, *Myanmar’s Suu Kyi reiterates stance on not using term ‘Rohingya’ – official*, 20 June 2016

3. Amend or repeal the four so-called 'Race and Religion Protection Laws' to ensure their compliance with human rights standards and Myanmar's international legal obligations.
4. Broaden the mandate of the Advisory Commission on Rakhine State for it to conduct a thorough, independent, and impartial investigation into human rights abuses in Rakhine State, including discrimination against minorities, and allow it to ensure accountability, recommend reparations, and lead efforts at reconciliation.
5. Lift restrictions on Rohingya's freedom of movement and ensure they have access to education, employment, aid, healthcare, and livelihood.
6. Ensure conditions for the safe and voluntary return of IDPs to their homes. In the meantime, ensure IDPs in camps have safe ways to access their basic needs.
7. Promote and work towards reconciliation among communities in Rakhine State and condemn the use of hate speech.
8. Ensure that security forces who commit human rights abuses are held accountable for their actions.
9. Reverse the current policy of not using the term 'Rohingya,' recognize the right of Rohingya to self-identify, and revoke orders that impose restrictions on the fundamental rights of Rohingya.

FIDH and ALTSEAN-Burma call on the international community to:

1. Renew the mandate of the UN Special Rapporteur on the situation of human rights in Myanmar with full monitoring and reporting powers.
2. Continue to work towards the establishment of a Myanmar country office with a full mandate for the Office of the United Nations High Commissioner for Human Rights (OHCHR).