

The Next Step for Myanmar

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Aung San Suu Kyi

Last week, the Elders, led by ex-U.S. president Jimmy Carter, called for an end to impunity over the anti-Muslim attacks in Myanmar and the "meaningful realization of the right to freedom of religion." But their three-day visit with reformist President Thein Sein, religious leaders and civil society groups was not the only international appeal for increased attention.

In her first visit to Singapore, this month Nobel Peace Prize Laureate and Myanmar opposition leader Aung San Suu Kyi also offered up a solution to current problems of sectarian violence, corruption, a crippled judicial system and illegal land grabs that plague her resource-rich but impoverished country: the rule of law.

It makes sense that Suu Kyi would say this. She is, after all, the Chairperson of the Lower House Committee for Rule of Law, Peace and Tranquility in the Myanmar Parliament. Changing the constitution to "provide the military with a privileged space in national politics," cleaning up the courts, properly training law enforcement officials and helping judges to "enhance their integrity," she said, were prerequisites to firming up the rule of law.

Law wasn't the only order of the day. Business was being held accountable too, an appropriate nod for market-friendly Singapore. While citing the importance of the rule of law in wooing foreign capital investments into Myanmar, Suu Kyi also had a straightforward

message to would-be investors: "I would like you to continue your investments. But make them as responsible as possible."

We agree. The fascination with Myanmar as the fledgling democracy, transitioning from military rule into potentially emerging as the next Asian tiger, must be tempered with a sober recognition of its many challenges, particularly its serious human rights abuses in Myanmar's Rakhine state against the stateless Rohingya, and the absence of a rights-compliant investment culture that has led to high profile land-grabbing and illegal evictions of thousands of civilians.

Myanmar's ethnic Rohingya have faced discrimination and repression in the Buddhist-majority nation since independence in 1948, even being denied citizenship by the constitution. The 2012 Rakhine state riots and the explosion of ethnic violence in March this year in Meikhtila between Buddhists and the minority Muslim group have killed scores and displaced thousands, with many attacked right under the noses of security forces indifferent to the bloodshed.

Countless Rohingya have died in desperate attempts to swim across the Naf river into neighbouring Bangladesh, which has refused to grant them refugee status. Amidst accusations of ethnic cleansing by international human rights bodies, authorities in the Rakhine state have reinforced the prevalent discrimination against the Rohingya by recently issuing a directive placing a two-child limit on Rohingya couples, drawing worldwide condemnation from the United Nations as well as Suu Kyi.

Further fueling the fire, a self-styled militant Buddhist monk, Wirathu (aka the "Burmese bin Laden"), has been preaching religious hatred against the Rohingya to thousands of his followers. Treated as pariahs, subjected to apartheid-style policies, living in fear of constant persecution and abandoned by the government and the international community, the Rohingya are essentially the living dead in Myanmar.

What the West – both the private and the public sector – must swiftly realize as it enters Myanmar, and what Suu Kyi was trying to showcase in Singapore, is this: Endemic corruption, lack of political will for due diligence accountability mechanisms and state-sponsored human rights abuses continue to cripple the country as decades-long sanctions against it are eased by the international community.

Take land issues as a prime example. Businesses eager to engage in the land grab in Myanmar should take note. Under new land bills, such as the Vacant, Fallow and Virgin Lands Management Law, lands that are occupied and cultivated are deemed by the government as "squatters" and handed to companies for large-scale infrastructure as fallow, vacant or virgin land.

What is highly problematic with the government of Myanmar's approach is that these land bills fail to address the shifting cultivation practiced by many ethnic groups in upland, border areas. Highly populated and ecologically diverse areas are at risk of massive expulsion of people and suffering unprecedented environmental costs for the creation of Special Economic Zones.

The practice of clearing pre-existing communities is commonplace. More than 7,000 acres of farmland were confiscated and families from 26 villages displaced in 2010 to make way for the Letpadaung Copper Mineproject in Monywa, a joint venture between the Chinese Wanbao Company and Burma's military-owned Union of Myanmar Economic Holdings. Bombs containing white phosphorus – banned as a weapon of use against civilians under

the Geneva Treaty of 1980 – were used by the police to disperse peaceful protesters objecting to the land evictions and piling of mining waste on village farmlands, causing many to suffer extensive burns.

Suu Kyi's Letpadaung Commission, which she chairs, has drawn flak for recommending that the controversial project be continued albeit with compensation for farmers who had lost their land. In response, a report submitted by the Lawyers Network and 88 Students Generation group urged that the mining operation be halted and for criminal actions to be brought against the authorities for using incendiary weapons as a crowd-control agent.

Going forward, how do we ensure that this does not happen again and that, to quote Suu Kyi, business forays into Myanmar are as "responsible as possible"? The international community has already come together to answer this question. The United Nations' Guiding Principles on Business and Human Rights calls on Myanmar to protect its people from human rights abuses and give its citizens the tools for sustainable development, to ensure businesses negotiate fairly with the Burmese government and respect human rights, and provide recourse to remedies where abuses occur.

Myanmar needs to join the international community in this principled pledge. Against the backdrop of escalating exploitative land acquisitions by local and foreign players, socio-political progress will be in futile in Myanmar without urgent amendments to the country's property, land and foreign investment laws. Foreign investors, furthermore, must step up their game and take ethnic concerns on lands seriously. Reforms must not disregard indigenous contexts and meaningful engagement with key local stakeholders.

But beyond business-based reforms, legal reforms are also crucial. Myanmar needs to reinvent the justice sector, repeal outdated and discriminatory laws and foster peace and reconciliation to achieve national unity. Myanmar will soon realize that the rule of law requires more than enhancing tarnished institutions and that holding perpetrators accountable for their human rights abuses may have to be part of the transitional justice process.

As Myanmar prepares to chair the Association of South-East Asian Nations next year, the work ahead is necessary to prove its commitment to reform. To its credit, good work is already happening, as Myanmar is setting up a documentation centre to have archives of human right abuses which could be used as evidence in potential future tribunals. But more is needed, including a context-sensitive approach to the rule of law, tailored to the realities in Myanmar and supported by regional stakeholders mainstreaming human rights. As Suu Kyi herself cautioned us last week, "you must not see what you want to see. You must see what there is to see."

This is critical. As the West's public and private sectors continue to eye Myanmar's riches, we cannot ignore that which must be reformed. And it is our job to help in that process.

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