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MYANMAR

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Introduction

1. ADF International is a global alliance-building legal organization that advocates for the right of people to freely live out their faith. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, the Fundamental Rights Agency of the European Union, and the Organization for Security and Co-operation in Europe.

(a) Background

2. Myanmar has a population of over 55 million people and is ethnically and religiously diverse. 68 percent of people in Myanmar are Burman, 9 percent Shan, 7 percent Karen, 4 percent Rakhine, 3 percent Chinese, 2 percent Indian, 2 percent Mon, and 5 percent other. 89 percent are Buddhist, 4 percent Christian (3 percent Baptist, 1 percent Roman Catholic), 4 percent Muslim, 1 percent Animist, and 2 percent other. The U.S. State Department assumes that non-Buddhists are underreported and thus the numbers are skewed.
3. Most Christians in Myanmar are ethnic minorities, and being both a religious and an ethnic minority subjects them to increased discrimination. Most members of Kachin, Chin, and Naga ethnic groups are Christian, as are large numbers of the Karen and Karenni ethnic groups.
4. Despite recent political and legal reforms, there are still serious concerns regarding violations of freedom of religion in law, policy, and practice due to the nationalist views of the Government and the Army. The United States classifies Myanmar as a Tier 1 country of particular concern because of its religious freedom violations. Open Doors, an international non-profit organization that tracks persecution of Christians, ranks Myanmar number 25 on its list of countries where Christians face the most persecution.

(b) Constitutional Concerns

5. The 2008 Constitution guarantees religious freedom but with major limitations that can gut the right completely at the direction of the state. Article 34 guarantees “freedom of conscience and the right to freely profess and practise religion subject to public order, morality or health and to the other provisions of this Constitution.” These limitations are vague and could severely curtail freedom of religion. Article 360 also limits this right, stating that it “shall not include any economic, financial, political or other secular activities that may be associated with religious practice” and “shall not debar the Union from enacting law for the purpose of public welfare and reform.” These limitations are also vague and would allow the government to pass laws curtailing freedom of religion in the interest of the ambiguous “public welfare.”
6. Article 354 guarantees freedom of expression, freedom of peaceful assembly, freedom of association, and the right “to develop their language, literature, culture they cherish, religion they profess, and customs without prejudice to the relations between one national race and another or among national races and to other faiths.” Yet this guarantee is also subject to “contrary” laws and to “public order”—more vague and broad restrictions.
7. In a state of emergency, all fundamental rights guaranteed by the Constitution are subject to suspension by the President (article 414(b)) or the Commander-in-Chief of

the Defence Services (article 420). The right to freedom of religion is therefore in the hands of politicians and the military.

8. Article 364 prohibits “the abuse of religion for political purposes.” It also declares contrary to the Constitution “any act which is intended or is likely to promote feelings of hatred, enmity or discord between racial or religious communities or sects,” and permits the promulgation of a law to punish such activity. The Constitution does not specify how such determination is made. Under this provision, the government essentially has free reign to punish and stifle certain religious expression.
9. The Constitution recognizes the special position of Buddhism as the main faith of the people of Myanmar in article 361, and also recognizes Christianity, Islam, Hinduism, and Animism as religions in Myanmar at the effective date of the Constitution; the government “may assist and protect” these religions “to its utmost.” This ignores the presence of other minority religions in Myanmar that deserve protection, and in reality only the government’s vision of Buddhist nationalism is protected to the utmost.
10. Article 348 prohibits discrimination on the basis of religion, and article 352 prohibits discrimination in appointing and assigning duties for civil service on the basis of religion. In practice, discrimination on the basis of religion is rampant.

(c) Legislative Concerns

11. In January 2015, the upper house of Myanmar’s parliament passed a “religious conversion” bill, which requires anyone who wants to convert to another religion to get approval from an 11-member government committee.
12. The bill reflects an assumption that all religious conversions are questionable and must be scrutinized by the state. Converts must give extensive personal information to and answer intrusive questions from government registration boards, and approval can take 90 days, ostensibly to give the applicant time to learn more about his new religion. If the board determines a conversion was not made freely, or that the belief is not genuine, the application can be denied, with no appeal mechanism.
13. The bill also criminalizes applying for a religious conversion “with an intent to insult, disrespect, destroy, or to abuse a religion,” with a maximum penalty of two years’ imprisonment. How this determination can be made is unclear, and such ambiguity makes it easy for people to make claims of abuse if someone leaves their religion. The bill criminalizes “enticing” others to join a religion. Proselytism is protected as a component of the rights to freedom of religion and freedom of expression under articles 18 and 19, respectively, of the Universal Declaration of Human Rights.
14. The right to convert from one religion to another is guaranteed explicitly in UDHR article 18, and this bill hampers that right by imposing significant burdens on the ability to convert. The religious conversion bill was introduced in a package of bills to protect race and religion, including a ban on polygamy and a population control bill, which could be targeted at reducing the number of ethnic and religious minorities.
15. The interfaith marriage bill, also part of the package, would make it more onerous for a non-Buddhist man to marry a Buddhist woman, requiring a waiting period and subjecting the marriage to the approval of a court. If he asks his Buddhist wife to convert, a non-Buddhist man could be punished. UDHR article 16(1) guarantees the right to marry without limitation due to religion, and simply asking someone to convert is protected under article 18’s guarantee of freedom of religion.

(d) Evidence of Discrimination Against and Persecution of Christians

16. The government's strong nationalism has led to systematic and endemic discrimination against and persecution of Christians and other religious minorities throughout Myanmar. Persecution of Christians is closely tied to, and often overlaps with, ethnic conflicts, as most Christians belong to minority ethnic groups. Protection of religious expression is an integral part of the struggle for genuine autonomy for the Kachin people.
17. Christians in the civil service and the military generally do not receive promotions, and senior positions are largely held by Buddhists.¹ Christian military officers are told to convert to Buddhism if they want a rank higher than that of major. Muslims experience the same treatment.

Kachin people

18. There are more than one million Kachin people in Myanmar, over 90 percent of whom are Christian. Conflict between the Myanmar Army and the Kachin Independence Army (KIA) has continued since June 2011 in Kachin and northern Shan States. Around 100,000 civilians are internally displaced. Attacks targeting ethnic and religious minorities have increased recently. The abuse of freedom of religion is rampant, particularly by the Army, with reports of forced labour of church members and restrictions on construction of churches.
19. The Kachin Women's Association Thailand (KWAT) reported that on 19-20 January 2015, two Kachin women were raped and murdered by Army soldiers in their Baptist church compound in northern Shan State. The police in the area have not taken any action.²
20. KWAT estimates that over 70 cases of gang rape, rape, and attempted sexual violence have occurred in Kachin and northern Shan States since the beginning of the conflict, and only two cases saw punishment of the perpetrators. According to KWAT, sexual violence is used by the Myanmar Army as an instrument of war.
21. In 2013, Army soldiers blocked access to Kachin churches, shelled a Baptist church that had 700 villagers, and constructed Buddhist monasteries in Christian areas.³ They also injured Christian leaders, including detaining and abusing Baptist clergy.⁴ In the same year, Kachin State officials denied requests from churches to build, including a request to build a health clinic.⁵
22. Although in other states the government no longer requires prior submission of Muslim and Christian religious materials for approval, Kachin State religious organizations were still required to do so as of 2013.⁶
23. In 2014, at least 20 Kachin Christians were killed and church buildings and homes destroyed.⁷

¹ US STATE DEP'T, BURMA 2013 INTERNATIONAL RELIGIOUS FREEDOM REPORT 7 (2014), *available at* <http://www.state.gov/documents/organization/222331.pdf>.

² Kachin Women's Ass'n Thailand, Ongoing Sexual Violence Highlights Urgent Need for Burma to Stop Offensives and Pull back Troops from Kachin Areas, 22 Jan. 2015, <http://www.kachinwomen.com/publications/statements/136-ongoing-sexual-violence-highlights-urgent-need-for-burma-army-to-stop-offensives-and-pull-back-troops-from-kachin-areas>.

³ US STATE DEP'T, *supra* note 1, at 5.

⁴ *Id.*

⁵ *Id.* at 8.

⁶ *Id.* at 4.

Chin people

24. According to the Myanmar Ministry of Religious Affairs, Chin State's population of around 500,000 people is approximately 90 percent Christian.
25. The Chin Human Rights Organization (CHRO) has documented numerous cases of discrimination against Christian Chins in Chin State.⁸ Identity cards must state ethnicity and religion, easily identifying minorities for discrimination. Even though Chin State is 90 percent Christian, most senior civil service workers are Buddhist, and the government sends Buddhists to Chin State to live there to ensure a Buddhist presence. Meetings of civil servants are often scheduled for Sunday morning, when local churches meet for worship.
26. Construction of churches is subject to bureaucracy and permits to build are often denied or ignored by the Ministry of Religious Affairs in the capital, or subject to long delays. Hilltop crosses are destroyed or removed by the government, and the Chin State government ordered that another cross be dismantled in January 2015.⁹ Buddhist pagodas are built in towns with few Buddhists, and sometimes Christians are forced to build the pagodas and Christians are displaced by the construction.
27. To hold large Christian gatherings, permission is required one month in advance from a religious affairs office, and Myanmar Army soldiers must be informed. Pastors and missionaries are often detained and questioned. Worship services and religious meetings are often disrupted by soldiers to force Christians to porter for the Army. Portering often entails abuse from soldiers.
28. Chin Christians experience forced conversions to Buddhism at special Government Border Areas National Development Training Schools (Na Ta La). Although located throughout the country, many are in Chin State, suggesting Chin State is targeted. Christian parents unable to afford education for their children are induced to send them to these schools, where students must participate in Buddhist rituals and some are forced to shave their heads and dress as monks. Students are only able to receive government positions after graduation if they are Buddhist.

Karen people

29. At 7 percent of the population, the Karen are one of the largest minority ethnic groups in Myanmar. Approximately 40 percent are Christian. A minority of Karen people live in Karen State in Myanmar, which is along the border with Thailand. The Karen people have been fighting for an independent Karen state in Myanmar since 1949. As such, the Karen are heavily targeted for persecution. Many Karen have resettled in refugee camps in Thailand to flee violence.
30. Like in Chin State and Kachin State, the military has burned down churches in Karen State.¹⁰ Karen Christians are forced to porter for the Army and face torture and murder at the hands of the military.

⁷ Open Doors UK, Burma/Myanmar, http://www.opendoorsuk.org/persecution/worldwatch/burma_myanmar.php.

⁸ Unless otherwise noted, the information on persecution of Chin Christians in this section is from a September 2012 CHRO report. See CHIN HUMAN RIGHTS ORGANIZATION, "THREATS TO OUR EXISTENCE": PERSECUTION OF ETHNIC CHIN CHRISTIANS IN BURMA, *available at* http://www.chro.ca/images/stories/files/PDF/Threats_to_Our_Existence.pdf.

⁹ Chin Human Rights Organization, Burma: Stop Christian cross removal; drop trumped-up charges, 28 Jan. 2015, <http://www.chro.ca/images/PR-English-stop-Christian-cross-removal.pdf>.

¹⁰ Christian Solidarity Worldwide, Burma, <http://dynamic.csw.org.uk/country.asp?s=gi&urn=Burma>.

Rohingya people

31. Although this report focuses on Christians, a note on the plight of the Rohingya, a Muslim ethnic group located in Rakhine State, is necessary because they are ruthlessly persecuted by the government. Denied citizenship despite having been in Myanmar for generations, the Rohingya face restrictions on freedom of movement and access to resources, as well as execution, torture, rape, and forced labour.¹¹ Tens of thousands have fled Myanmar, and 135,000 are being held in camps.¹²
32. Some Rohingya Muslims have also converted to Christianity. A Rohingya Christian's request for permission to build a church was denied.¹³ Rohingya Christians are also subject to abuse from fellow Rohingya.¹⁴

(e) Recommendations

33. Given the lack of protection of freedom of religion and the evidence of discrimination against Christians in Myanmar, ADF International recommends that the Human Rights Council urge the Government of Myanmar to:
 - Ensure the protection of fundamental rights of all ethnic and religious minorities, in law, policy, and practice;
 - Amend the Constitution to provide guaranteed enjoyment of freedom of religion to all people in Myanmar, in line with article 18 of the Universal Declaration of Human Rights;
 - Rescind the religious conversion, population control, and marriage bills currently under review in the parliament;
 - End the government policy of favouring Buddhism over other religions, including the government-funded construction of Buddhist pagodas in predominantly Christian areas;
 - End all institutionalized discrimination against Christians, including in civil service employment, the military, the granting of construction permits for houses of worship, and education, including Na Ta La schools;
 - End human rights violations by the military and ensure investigation, prosecution, and punishment of soldiers who abuse, rape, torture, or murder anyone;
 - Sign and ratify, without reservations, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, the Convention against Torture, and the Convention on the Elimination of All Forms of Racial Discrimination.

¹¹ Special Rapporteur on the situation of human rights in Myanmar: Yanghee Lee, *Report of the Special Rapporteur on the situation of human rights in Myanmar*, ¶ 46, U.N. Doc. A/69/398 (23 Sept. 2014).

¹² Annie Gowen, *New concerns rise over Burmese treatment of Rohingya Muslims*, WASH. POST, 11 Nov. 2014, http://www.washingtonpost.com/world/asia_pacific/new-concerns-rise-over-burmese-treatment-of-rohingya-muslims/2014/11/11/4c0f42fe-5947-11e4-9d6c-756a229d8b18_story.html.

¹³ Open Doors UK, *supra* note 5.

¹⁴ *Id.*