

Introduction

Despite some positive political developments beginning with a series of political reforms in 2011 and culminating in the National League for Democracy (NLD)'s 2015 victory in the country's first democratic elections in 25 years, Burma (Myanmar) still has an extremely long way to go. The past five years have seen very grave setbacks, with a fragile democratisation process increasingly undermined. There is evidence of significant regression in some areas, particularly freedom of the press, freedom of expression and freedom of religion or belief (FoRB).

The military remain powerful, retaining 25% of seats in parliament and control of three key ministries: home affairs, border affairs and defence. Meanwhile a movement of militant Buddhist nationalism has arisen which preaches hatred, principally of Muslims, but also threatens Christians and other non-Buddhists, and indeed affects Buddhists who attempt to oppose it.

Legislation also contributes to religious intolerance. In 2015 the previous government introduced a package of four laws aimed at the 'protection of race and religion.' These laws were passed despite opposition from civil society and the NLD within Burma, and from the international community, which highlighted significant human rights concerns. The legislation introduces restrictions on religious conversions and interfaith marriage, and furthers discrimination against religious and ethnic minorities, and against women. Furthermore, the penal code has been used to prosecute those deemed to have 'insulted' religion.

In 2019 CSW published an in-depth report on FoRB in Burma, titled *Burma's Identity Crisis: How ethno-religious nationalism has led to religious intolerance, crimes against humanity and genocide*.¹

In November 2020 Burma will hold a general election, the first since Aung San Suu Kyi's party, the National League for Democracy, was elected in 2015.

Violations against Muslims

Sporadic violence against Muslims has occurred throughout the country since 2012. This is separate from, although related to, the crisis facing the Rohingyas in Rakhine state, which is addressed in the subsequent section. Violations include the closure of mosques,

demolition of homes and schools, discrimination in the judicial system and elsewhere, and mob violence.

Rohingya crisis

In August 2017 the Myanmar army launched attacks on Rohingya villages and civilians which resulted in over 700,000 people fleeing to Bangladesh, thousands killed, and hundreds of villages burned. Reports of the atrocities of mass violence perpetrated during this period include the burning of homes, schools and mosques, the deliberate burning of people to death inside their homes, mass rape, torture, execution without trial, and the blocking of aid.

The UN Special Rapporteur for human rights in Burma has said that the violence against the Rohingya has the 'hallmarks' of genocide. The Independent International Fact-Finding Mission established by the UN Human Rights Council claims to have documented evidence of genocide.

The crisis follows decades of severe persecution of the Rohingyas. The state has continued to deny Rohingyas their citizenship rights, rendering them stateless, as the 1982 Citizenship Law remains in force even though the Rohingyas have existed in Burma for several centuries, and certainly many generations. The law has a very serious impact on the country's Rohingya population who continue to live in the country without citizenship rights such as the right to vote, to move freely, or to access basic services.

Ethnic conflict

In recent years violations of FoRB and other human rights have also been observed in several states in northern Myanmar, notably in Kachin and northern Shan states, perpetrated against the majority Christian Kachin and Chin ethnic groups. Widespread conflict between the Burma Army and the Kachin Independence Army (KIA) has led to thousands of civilian deaths, and the displacement of over 120,000 people. In September 2018 the UN Independent International Fact-Finding Mission on Myanmar declared that the violations documented in Kachin and Shan states amounted to crimes against humanity and war crimes.

Freedom of the press

Concerns regarding press freedom and freedom of expression remain. In a high profile case, two Reuters

¹ CSW, 'Burma's Identity Crisis', 21 May 2019
<https://www.csw.org.uk/2019/05/21/report/4339/article.htm>

journalists working on the Rohingya crisis, Wa Lone, 31, and Kyaw Soe Oo, 27, were arrested on 12 December 2017. Within an hour of their arrest a request had been sent to the president's office for permission to charge the men under the little-used colonial era Official Secrets Act. Permission was granted the next day. One defence lawyer noted that this speed was unusual. On 3 September 2018 they were convicted and sentenced to seven years in prison. On 23 April 2019 the Supreme Court upheld their conviction and rejected their appeal, but on 7 May they received a presidential pardon and were released as part of a Buddhist New Year amnesty.

This is a welcome development, however many journalists, human rights defenders and activists remain detained in connection with the exercise of freedom of expression.

Recent developments

International Court of Justice Ruling

Until recently the international community had taken woefully insufficient action to bring an end to the atrocities perpetrated against the Rohingya or to bring the perpetrators to justice. However, on 23 January 2020 the International Court of Justice (ICJ) issued a ruling ordering the Burmese government to take immediate "provisional measures" to prevent genocide against the Rohingya, as well as to preserve evidence of alleged crimes against the Rohingya.

The ICJ adopted the unanimous decision after a three day hearing which took place from 10-12 December 2019. During the hearing, Burma's state counsellor, and de facto leader, Aung San Suu Kyi, drew international criticism for defending the Burmese military, the Tatmadaw, against charges of genocide.

The charges were brought to the ICJ by The Gambia in November 2019 and were supported by 60 countries. Burma has been ordered to report to the ICJ on its compliance with the measures in four months' time, and every six months thereafter.

Continued conflict

Continued fighting between the Burmese military and the ethnic armed group the Arakan Army in Rakhine and Chin states has led to the displacement of at least 100,000 civilians. On 7 April 2020 the Burmese military bombed a village in Paletwa Township, Chin State, killing seven civilians including two children and a mother and infant. At least eight other civilians were injured and eight houses burned down. Some churches were reportedly damaged.

On 20 April 2020 a World Health Organisation (WHO) vehicle was attacked in Rakhine State, and the WHO driver, U Pyae Sone Win Maung, was killed while another health worker was injured. The vehicle, with UN signs displayed, was transporting swabs from suspected COVID-19 patients in Rakhine State for testing.

COVID-19

The COVID-19 pandemic has created grave concerns for Burma. Burma has suspended all commercial flights and closed all land borders. Burma's health system and ability to conduct testing are weak, with only 6.1 doctors per 10,000 people, well below the WHO's recommended minimum. In rural and conflict areas the availability of health care is significantly less. Of particular concern is the potentially devastating impact of coronavirus if it were to hit overcrowded camps for internally displaced people and refugees on Burma's borders, which many of the country's displaced ethnic and religious minorities inhabit. In such camps overcrowding makes physical distancing impossible, and poor sanitation and limited water supplies make washing hands difficult.

Burma's Cardinal Charles Bo has called for a nationwide ceasefire, saying in April 2020 that: "The pandemic's consequences are catastrophic for public health and for social and economic life. This is no time to escalate the conflict." The Cardinal, who is also the President of the Federation of Asian Bishops' Conferences, added: "I am convinced that continued military operations, precisely when the whole nation is suffering a crisis, will have catastrophic consequences for our nation. Now is the time for decisions that will build Myanmar as a united, peaceful, prosperous nation and member of the family of nations. Conflict makes Myanmar especially vulnerable."

Recommendations

To the government of Burma:

- Allow unhindered access to the country for international humanitarian aid agencies, human rights monitors, media, UN representatives for the Fact-Finding Mission, and the UN Special Rapporteur for human rights in Burma.
- Take meaningful action to address hate speech and discrimination, implementing the tools of the Rabat Plan of Action and other international programmes for countering religious hatred.

- Repeal all legislation that discriminates against religious and ethnic minorities, including laws that limit religious conversion and interfaith marriage. In particular, urge the Burmese government to change or repeal the 1982 Citizenship Law, allowing the Rohingya full citizenship rights.

To the international community:

- Call for a nationwide ceasefire in Burma, especially during the current COVID-19 pandemic.
- Urge the Burmese authorities and international humanitarian organisations to ensure that humanitarian assistance to displaced ethnic and religious minorities is a priority.
- Monitor the forthcoming elections in November 2020 and urge the Burmese authorities to ensure that these are free and fair and that religious nationalism is not used to exacerbate conflict and increase discrimination and hatred during the election campaign.
- Urge the Burmese government to comply with the ruling of the International Court of Justice and ensure that measures are taken to prevent genocide and stop crimes against humanity.
- Seek a UN Security Council resolution imposing a global arms embargo on the Burmese army, with targeted sanctions against Senior General Min Aung Hlaing.
- Ensure that no members of the Rohingya community who have fled Burma are returned until their safety upon return can be guaranteed.
- Ensure that engagement with Burma on human rights or freedom of religion or belief does not focus entirely on the plight of the Rohingya to the exclusion of the Kachin and Shan people, and Muslims, Christians and other minorities throughout the country; and that freedom of religion or belief is recognised as a priority for all the people of Burma.
- In the medium and long term, invest in supporting initiatives to address racial and religious hatred in Burma, to support voices of peace and moderation, and to encourage a reconciliation process.