

Written Submission to the 41st session of the United Nations Human Rights Council

The situation of freedom of religion or belief (FoRB) in Myanmar

Introduction

1. CSW (Christian Solidarity Worldwide) seeks to draw the Council's attention to the situation of freedom of religion or belief (FoRB) and other human rights issues in Myanmar.
2. CSW welcomes the report of the UN Independent International Fact-Finding Mission on Myanmar and its subsequent work, and continues to call for the implementation of its recommendations.
3. This submission considers the legal framework for the protection of FoRB in Myanmar. It details violations faced by the Rohingya people and other Muslims in the country, as well as those faced by Christians, particularly in Myanmar's northern and western states, and briefly considers the situation of freedom of expression (FoE) in Myanmar.

Freedom of religion or belief

4. Myanmar's legal framework fails to fully promote and protect FoRB in several ways. While the 2008 constitution appears to protect FoRB for all under Article 34, this is contradicted by Article 361 which affords a special position of Buddhism, effectively leaving space for the enacting of policies which discriminate against religious minorities in the name of the

protection of Buddhism, the majority religion.¹

5. Furthermore, the constitution only protects the rights of 'citizens.' This is problematic as it means that groups like the Rohingya, who are denied citizenship under the 1982 Citizenship Law, are not afforded the protections for FoRB and other human rights laid out in the constitution.
6. Section 295 of Myanmar's Penal Code can also limit FoRB. The law was designed to reduce communal tensions in the country and stipulates that the "deliberate and malicious intention of outraging the religious feelings of any class by insulting its religion or religious beliefs' shall be punished with imprisonment or fine."² The vague wording of this law leaves concepts such as 'deliberate', 'malicious' and 'insulting' open to interpretation and therefore vulnerable to misuse against religious minorities.
7. Myanmar's 'Race and Religion' Laws, drafted by the Buddhist nationalist Ma Ba Tha group, introduce further restrictions on FoRB and other human rights, including the rights of women, the rights of the child, and freedom of expression. The laws place restrictions on religious conversion and interfaith marriage, and introduce legislation aimed at population control which fails to

¹ Constitution of the Republic of the Union of Myanmar, 2008.

² Myanmar Penal Code, Section 295(a)

include any provisions to protect against discrimination.³

8. Several other laws in Myanmar are vulnerable to misuse against individuals exercising their right to FoRB and other human rights, including the 2012 Peaceful Assembly Law, Section 505(b) of the Penal Code, and the Telecommunications Act (2013).

Violations against the Rohingya and other Muslims

9. Particularly concerning is the situation of the predominantly Muslim Rohingya ethnic group. 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.
10. In September 2018 the UN Independent International Fact-Finding Mission on Myanmar published a report which described the violations of human rights against the Rohingya in August 2017 as war crimes and crimes against humanity, and called for senior generals in the Burmese military to be investigated for genocide.⁴

11. These recent atrocities follow years of human rights violations perpetrated against the Rohingya. Myanmar's 1982 Citizenship Law prohibits the Rohingya from obtaining citizenship, rendering them a stateless group. They have been victims of a variety of extreme human rights violations including but not limited to forced labour, summary execution, sexual violence, restricted freedom of movement, targeted religious persecution, forced birth control, acts of mass violence, forced displacement and arbitrary detention.
12. Prior to the severe offensive in August 2017, notable waves of mass violence against the Rohingya took place in May 1991, March 1992, 2001, 2012 and 2016.
13. The response of the government of Myanmar and the international community thus far has been inadequate. The government has consistently rejected the account put forward by international human rights groups and media. The military often describe the Rohingya as Bengali immigrants, perpetuating hate speech against them, and Aung San Suu Kyi's government have refused to recognise the Rohingya as a Burmese ethnicity, only referring to them as Rakhine State Muslims.
14. While numerous international actors and groups have condemned the violence in Rakhine state, there has been no meaningful international

³United Nations Office of the High Commissioner for Human Rights, 'Myanmar: UN rights experts express alarm at adoption of first of four "protection of race and religion" bills', 27 May 2015 www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16015&LangID=E

⁴United Nations Office of the High Commissioner for Human Rights, 'Myanmar: UN Fact-Finding Mission releases its full account of massive violations by military in Rakhine, Kachin and Shan States', 18 September 2018 www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23575&LangID=E

action to ensure accountability for the violations to date.

15. Aside from the Rohingya, other Muslims in Myanmar have also faced violations of FoRB, including the closure of mosques, demolition of homes and schools, discrimination in the judicial system and elsewhere, and mob violence. One notable instance of mob violence took place in the Meiktila Township in Manadalay in March 2013, where CSW sources estimate that 30,000 people were forced to flee their homes and around 200 were killed. Three thousand people still remain in IDP camps, and only five mosques have been allowed to be used for worship again.

16. There is evidence to indicate that violations against Muslim communities are occasionally provoked by external actors, who use hate speech to incite mob violence and discrimination. Some citizens have suggested that the government of Myanmar has played an active role in the coordination of violence, and while this may be difficult to establish, there is evidence that authorities have at least been complicit in some instances. For example, witnesses report that security forces at the local level have been observed actively choosing not to intervene and stop violence.

Violations in Northern Myanmar

17. Violations of FoRB and other human rights have also been observed in several states in northern Myanmar, notably in Kachin and northern Shan states. Violations are predominantly

perpetrated against the majority Christian Kachin ethnic group. 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.

18. Violations documented in the region include 92 cases of violence (not specifically sexual violence) against women by government forces between 2010 and 2015,⁵ the destruction of over 190 churches since 2011, arbitrary detention and the subsequent torture of detainees, and the intentional killing of civilians with guns, air assaults, beatings and torture.

19. One Kachin woman told CSW of her husband's torture whilst in detention: "When I visited my husband, his whole face was wounded. He was covered in blood, and his nose was broken. He had faced so many different kinds of torture during interrogation. An iron bar was rubbed along his legs. He was forced to engage in homosexual sex, and forced to dance the traditional Kachin Manau dance. He was told that as he was a Christian, he should kneel on very sharp stones with his arms outstretched like Christ on the cross, and then the others were forced to dance the Manau dance around him. He was beaten on his hands and arms. Police took off his clothes, and asked the men to have sex with each other. When they refused, they were beaten and forced to do it. One of them was tied up with ice and beaten severely. They were sent to a place where a bomb explosion had occurred, and were accused of making the bomb. They were hit in the head with guns."

⁵ Women's League of Burma, 'Access to Justice for Women Survivors of Gender-based violence committed by state actors in Burma', 24 November 2016

http://womenofburma.org/wp-content/uploads/2016/11/VAW_BriefingPaper-Nov2016-Eng.pdf

20. The many witness reports received by CSW that indicate the shocking extent of the violations perpetrated against the Kachin. 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 expression

21. CSW welcomes the release of Reuters journalists Wa Lone and Kyaw Soe Oo, as well as that of Dumdaw Nawng Lat, Langjaw Gam Seng, and Nang Pu in Kachin state, however we reiterate that they should never have been imprisoned in the first place, and that more must be done to ensure that FoE is adequately upheld in Myanmar.
22. Many journalists and activists remain in detention in Myanmar, including Lum Zawng and Zau Jat, who were charged with defamation of the Burma Army under Article 500 of Burma's Penal Code, for their role in a peaceful rally on 30 April 2018 and a press conference the following day.

Recommendations

To the government of Myanmar:

- 23. Review and repeal or reform all discriminatory and repressive laws which restrict freedom of religion or belief, freedom of expression, freedom of peaceful assembly and other basic human rights.**
- 24. Hold the perpetrators of crimes against humanity, war crimes and**

genocide accountable and ensure they are brought to justice.

- 25. Introduce legislation to address hate speech, while being careful to protect and enhance freedom of expression.**
- 26. Immediately release Lum Zwang, Zau Jat, and all those detained in connection with the exercise of FoRB, FoE or other human rights.**

To the international community:

- 27. Establish a mechanism to ensure accountability for the perpetrators of crimes against humanity, war crimes and genocide.**
- 28. Support initiatives to counter hate and promote inter-religious dialogue and freedom of religion or belief.**
- 29. Support efforts to introduce the principles of the Rabat Plan of Action to counter hate speech.**
- 30. Urge the government of Myanmar to review and repeal discriminatory and repressive laws which restrict freedom of religion or belief, reform the education curriculum to ensure that young people are taught about religion in an accurate and fair way that promotes mutual understanding and prevents misunderstandings that fuel hostilities, and to reform the judiciary and ensure the provision of legal assistance to religious and ethnic minorities.**