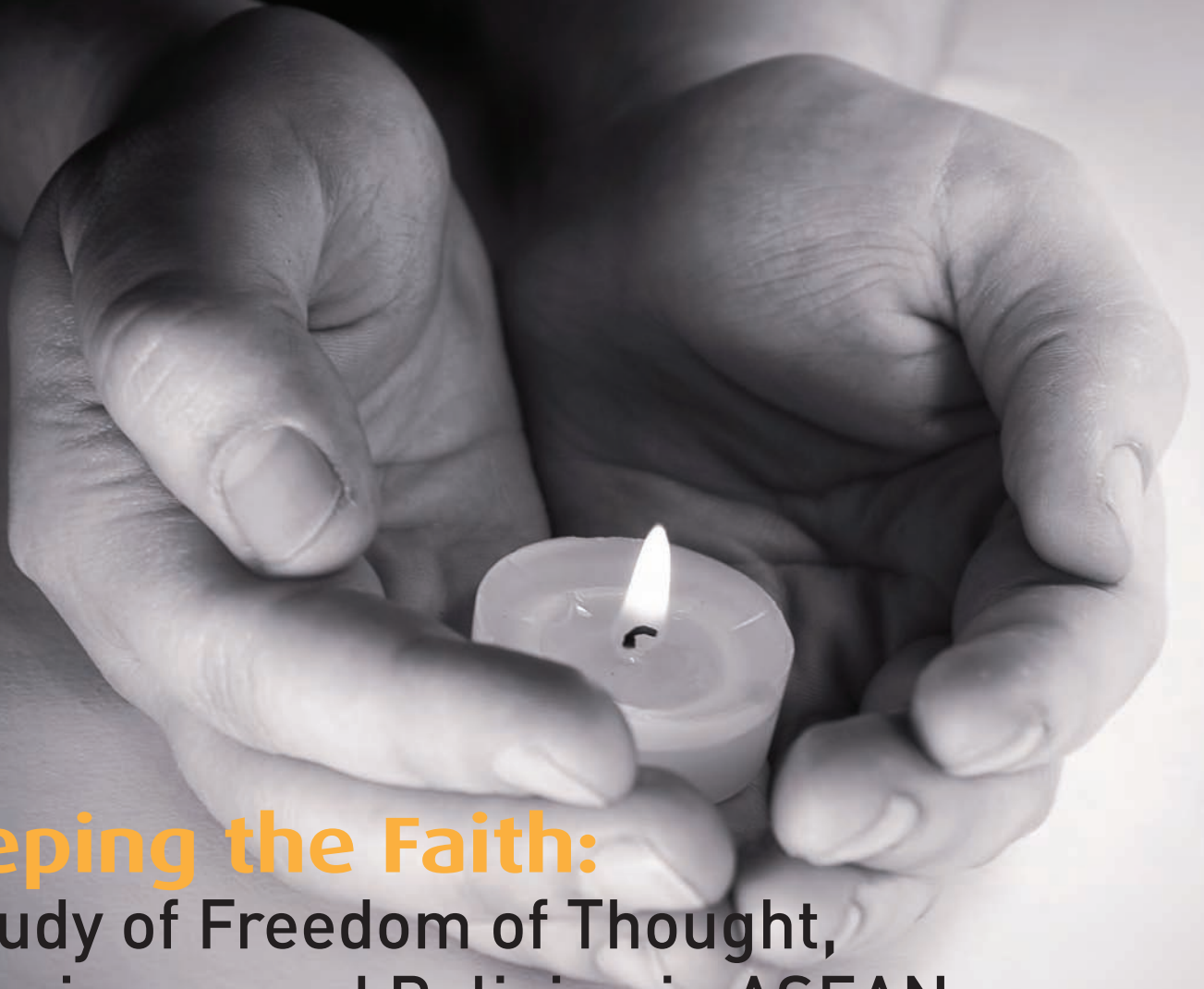




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Keeping the Faith:

A Study of Freedom of Thought,
Conscience, and Religion in ASEAN



NORWEGIAN EMBASSY

Keeping the Faith:

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Myanmar

Republic of the Union of Myanmar

Formal Name	Republic of the Union of Myanmar ¹
Capital City	Nay Pyi Taw / Naypyidaw
Declared Relationship between State and Religion in Constitutional or Foundational Documents	<p>Section 361 of the 2008 Constitution states that “The Union recognizes special position of Buddhism as the faith professed by the great majority of the citizens of the Union.”</p> <p>On 26 August 1961, during the U Nu government, the third amendment of the 1947 Constitution of the Union of Burma declared Buddhism as the State Religion of Burma. Another amendment (the fourth amendment) was made on 28 September 1961, guaranteeing the religious freedom of minority religions.² However, both of these became redundant or ineffective with the coming into power of the coup regime led by General Ne Win on 2 March 1962, who ruled the country by decree until 1974 when another constitution—the Constitution of the Socialist Republic of the Union of Burma—was adopted. The 1974 Constitution did not give Buddhism a special position as the majority religion.</p>
Form of Government	Nominally federal or quasi-federal
Whether the regulation of religion is part of the State’s functions, and if so which government and which institution of government	The Buddhist Sangha is, in theory, under the direct supervision of the State Sangha Mahanayaka Committee (<i>Ma-Ha-Na</i>), but the Department of Religious Affairs under the Ministry of Religious Affairs regulates ordinary Buddhist affairs. To some extent, the Department of Religious Affairs also regulates the activities of minority religions. Another department under the Ministry, the Department for the Promotion and Propagation of Sāsana, is solely responsible for Buddhist mission at home and abroad. Complete independence of the State Sangha Mahanayaka Committee from the influence of the government, especially in the past, is questionable.
Total Population	51,419,420 (2014 Census) ³
Religious Demography in 2014	<p>Buddhist, 89%;</p> <p>Christian, 4% (Baptist, 3% and Roman Catholic 1%);</p> <p>Muslim, 4%;</p> <p>Animist, 1%;</p> <p>Other, 2%.⁴</p>

1 The name of the country was changed from “Burma” to “Myanmar” in 1989 by the State Law and Order Restoration Council (“SLORC”). This report will interchangeably use both Burma and Myanmar, since publications prior to 1989 used “Burma,” and some governments and authors still prefer to use “Burma” to this day.

2 Dr. Kyaw Win, U Mya Han and U Thein Hlaing, *Myanmar Politics 1958-1962*, Vol 3 (Yangon, Myanmar: Department of Historical Research, Ministry of Culture, 2011).

3 “First Census Results Reveal Myanmar’s Population Size to be 51.5 Million,” UNFPA Myanmar, <http://countryoffice.unfpa.org/myanmar/2014/09/16/10550/first_census_results_reveal_myanmar_s_population_size_to_be_51_4_million/> accessed 5 January 2015

4 “Burma,” CIA Factbook, <<https://www.cia.gov/library/publications/the-world-factbook/geos/bm.html>>, accessed 3 July 2014. The Hindu population in Myanmar is not known. It seems to be counted among others (2%) though Hinduism is one of the religions recognized by the state.

Changing Religious Demography (in ten year intervals)	Data is not available. The second to the last census was completed in 1983. The most recent census was conducted in March-April 2014, but the detailed religious demographic data is not available yet. Christian and Muslim populations have each been estimated at three to five per cent since then, whereas Buddhists have been estimated at around 88% to 89%. Demography of animists has never been documented, but they are estimated to comprise around one per cent of the total population. An overlap between animism and Buddhism exists since many people observe a mixture of Buddhist and animist practices, though their exact numbers are not known. ⁵
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INTRODUCTION

Religious Demography

“Myanmar is ethnically diverse, with some correlation between ethnicity and religion. Theravada Buddhism is the dominant religion among the majority Burman ethnic group and among the Shan, Arakanese, and Mon ethnic minorities in the east, west, and south. Christianity is the dominant religion among the Kachin ethnic group of the north and the Chin and Naga ethnic groups of the west, some of whom also continue to practice traditional indigenous religions. Protestant groups report recent rapid growth among animist communities in Chin State. Christianity is also practiced widely among the Karen and Karenni ethnic groups of the south and east, although many Karen and Karenni are Buddhist and some Karen are Muslim. Burmese citizens of Indian origin, who are concentrated in major cities and in the south central region, predominantly practice Hinduism, though some ethnic Indians are Christian. Islam is practiced widely in Rakhine State, where it is the dominant religion of the Rohingya minority, and in Rangoon, Irrawaddy, Magwe, and Mandalay Divisions, where some Burmans, Indians, and ethnic Bengalis practice Islam. Chinese ethnic minorities generally practice traditional Chinese religions. Traditional indigenous beliefs are practiced

widely among smaller ethnic groups in the highland regions. Practices drawn from those indigenous beliefs persist in popular Buddhist rituals, especially in rural areas.”⁶

On the face of it, the Myanmar State does not interfere through legislation or other direct means in affairs relating to minority religions. The Department of Religious Affairs only oversees certain matters, mostly activities and events, of religious minorities. However, as will be discussed below, there is a certain level of state interference in affairs relating to minority religions through other means.

An important but neglected feature of debates on religious freedom in Myanmar is the discrimination and persecution of new Buddhist sects not recognized by the State and Buddhist Sangha in Myanmar. The focus of publications on religious freedom or religious persecution of non-Buddhist minorities is understandable because of the predominant role of Buddhism and Buddhists in the country. A major factor in the persistence of this focus on religious minorities, not only in academia but also within policy circles, is that most writings on Myanmar have focused on the centre-periphery relationships between the Bamar-dominated central regime(s) and the peripheral ethnic or ethno-religious minorities. A contextual study of freedom of thought, conscience and religion in Myanmar must include a discussion of persecution not only of minority religions such as Islam and Christianity,

⁵ Bruce Matthews, ‘Religious Minorities in Myanmar—Hints of the Shadow,’ (1995) 4 (3) *Contemporary South Asia* 287-308.

⁶ ‘International Religious Freedom Report 2009’ prepared by the US State Department available at <http://www.state.gov/j/drl/rls/irf/2009/127266.htm> (accessed 25 March 2014). Note also the use of the term ‘Rohingya’ in this report as explained in footnote 13 below.

but also of minorities within the Buddhist majority.

The United States Department of State has designated Myanmar as a Country of Particular Concern (“CPC”) since 1999. Its annual reports published since 2001 detail particular instances of violations of the right to freedom of religion mainly of Christians and Muslims and often of dissident Buddhist monks over the 1990s and 2000s.⁷ The annual reports start with a discussion of experiences of people of Myanmar in terms of religious freedom since 1962, the year when General Ne Win took power in a coup. This seems to imply that violations of religious freedom only started in 1962. Taking 1962 as the starting point indeed misses an important historical factor, specifically that the concepts of religion, religious majority and minorities, and religious freedom in fact started to be conceptualized in Myanmar during colonial times. Before British colonization, there were only two institutions of Buddhism—the monarch as the supreme material supporter of Buddhism or Sangha, and the Sangha as the provider of Buddhist moral education and guidance to the laity.⁸ However, the rule of the outwardly secular British colonial government destabilized the institutional balance between the monarch and the Sangha by effectively annihilating the ruling elite’s power base. At the same time, while a sizeable number of Muslims and Christians existed in the times of the Burmese kings of the Konbaung Dynasty (1752–1885), it was British colonization, accompanied by Christian missionary activities in minority areas, and a high level of migration from India that led to the emergence of the view in Myanmar of an association between the spread of Christianity and Islam in the country and colonization.

7 See for example, the US State Department annual religious freedom reports of 2006, 2007 and 2008.

8 Donald E. Smith, *Religion and Politics in Burma*. (Princeton: Princeton University Press, 1965); John F. Cady, ‘Religion and Politics in Modern Burma,’ (1953) 12(2) *The Far Eastern Quarterly* 149-162; Mark Woodward, ‘When One Wheel Stops: Theravada Buddhism and the British Raj in Upper Burma,’ 1998 4(1) *Crossroads: An Interdisciplinary Journal of Southeast Asian Studies* 57-90; Michael Aung-Thwin, ‘Those Men in Saffron Robes,’ (2013) 17(2) *Journal of Burma Studies* 243-334.

To some extent, this correlation appears warranted. While Christianity was introduced to Myanmar by missionaries before colonization, the British government was Christian in its religious affiliation and missionary schools dominated colonial-era education, supplanting the education provided by Buddhist monks in the early twentieth century.⁹ However, since it was mostly the ethnic minority groups such as the Kayin (also referred to as the “Karen”), Kachin and Chin that embraced Christianity, monks and lay Buddhists did not openly target Christianity and Christians in both colonial-Burma and present-day Myanmar.

The case is quite different when it comes to Islam. Although sizeable Muslim communities existed prior to colonization,¹⁰ a huge influx of Indian emigrants to Myanmar during the colonial era significantly increased the percentage of the population practicing Islam. Many Muslim men arrived to take on both blue-collar and white-collar jobs in the booming agricultural sector and in the colonial administration. Indian Chettyar migrants, most of whom were moneylenders, provided credit to the Burmese peasantry. Because of the high interest rates charged, Chettyars were considered uninvited and exploitative outsiders. Unfortunately this view persists in present-day

9 Bruce Matthews, *Ethnic and Religious Diversity: Myanmar’s Unfolding Nemesis* (Singapore: Institute of Southeast Asian Studies, 2001).

10 Moshe Yegar, *The Muslims of Burma: A Study of a Minority Group*. (Wiesbaden: Otto Harassowitz, 1972).

Myanmar.¹¹ Additionally, an association between Christian and Islamic communities as supporters of British colonization has, to some degree, affected interreligious relations in Myanmar.

Myanmar enjoyed a parliamentary democratic form of government from 1948 to 1962, broken briefly between 1958 and 1960 when the military was invited by Prime Minister U Nu to act as “caretaker government”. Thereafter, Myanmar went through two long authoritarian periods under military or military-dominated governments: the Revolutionary Council/Burma Socialist Programme Party government from 1962 to 1988, and the State Law and Order Restoration Council/State Peace and Development Council government from 1988 to 2011.

Under domestic and international pressure for political reform and liberalization, the government announced in 2003 a seven-step roadmap to democracy, which concluded in 2011 with the swearing-in of elected *Hluttaw* (parliament) representatives tasked to build a modern, developed and democratic nation through the government and other central organs they would form. The year 2011 marked a watershed in Myanmar’s post-independence political history as it was the beginning of widely-applauded political and social changes under the government headed by President Thein Sein. The National League for Democracy (“NLD”) led by the Nobel Peace laureate Aung San Suu Kyi initially protested the 2010 general elections,

which were regarded as neither fair nor free by the international community. In the by-elections held in April 2012, the NLD won 43 of the 44 seats it had contested, out of the 45 seats for which elections were held at that time.

Amidst political and social changes in 2011, Myanmar has faced unprecedented large-scale violent conflicts between Buddhists and Muslims, first in Rakhine and then in other parts of Myanmar. The conflicts have disproportionately affected the Rohingya,¹² Kaman,¹³ and other Muslims since they comprise predominantly minority populations in Buddhist-majority areas all over Myanmar, except in the northern Rakhine State (“NRS”) where the Rohingya are in the majority. However, even the Rohingya in NRS are politically and socially powerless due to their highly contentious nationality in Myanmar.

The current Citizenship Law of Myanmar, which was enacted in 1982, does not recognise the Rohingya as one of 135 national groups eligible for citizenship by birth, thus effectively making them stateless.¹⁴ To make matters worse, successive Myanmar governments have failed to naturalize the Rohingya under the Citizenship Law but instead have perpetuated the claim that most, if not all, of the Rohingya in Myanmar are illegal immigrants. This view of the Rohingya as illegal immigrants has emerged in discursive rejections of Rohingya as Myanmar citizens that have especially taken hold in the popular consciousness in the aftermath of the

11 N. R. Chakravarti, *The Indian Minority in Burma: The Rise and Decline of an Immigrant Community* (London: Institute of Race Relations, 1971); Renaud Egreteau, ‘Burmese Indians in Contemporary Burma: Heritage, Influence, and Perceptions since 1988,’ (2011) 12(1) *Asian Ethnicity* 33-54; Khin Maung Kyi, ‘Indians in Burma: Problems of an Alien Subculture in a Highly Integrated Society,’ in K. Snitwongse and W. S. Thompson (eds), *Ethnic Conflicts in Southeast Asia* (Singapore: Institute of Southeast Asian Studies, 2006), 624-665; Robert H. Taylor, ‘The Legal Status of Indians in Contemporary Burma,’ in K. Snitwongse and W. S. Thompson (eds), *Ethnic Conflicts in Southeast Asia* (Singapore: Institute of Southeast Asian Studies, 2006), 666-682.

12 The ethnonym ‘Rohingya’ is the most controversial term currently in Myanmar. Its use is often pinpointed as one of the most important factors behind Rakhine riots. ‘Rohingya’ also became highly contested before and during the last census taken in late March and early April 2014. Although Myanmar authorities initially allowed the use of ‘Rohingya’ in the census, they rescinded it amidst protests by Rakhines and non-Rakhines. However, this report uses ‘Rohingya’ because it is a better known term.

13 Kamans are another ethnoreligious minority most of whom also live in Rakhine. Unlike Rohingya, they are recognized as one of 135 ethnic groups. They are estimated to number around 50,000 though their exact number is not known.

14 The 1982 Citizenship Law is available at <http://www.ibiblio.org/obl/docs/Citizenship%20Law.htm>

2012 riots in Rakhine. While it is fair to say that, to some extent, two mass exoduses of Rohingya from Myanmar in 1978 and 1991-1992, were themselves the result of authorities' outright oppression of Rohingya at the time, a popular discourse surrounding Rohingya as illegal immigrants to some extent was suppressed by the highly authoritarian regimes governing Myanmar during these periods and the resulting lack of a free press. Further, different forms of violence caused the 1978 and 1991-92 exoduses, on the one hand, and the 2012 riots, on the other. While the first and second exoduses resulted from government oppression exercised by central and local government authorities, the 2012 riots were mainly the result of inter-communal clashes (between Rakhines and Rohingya).

During and after the 2012 riots, people in Myanmar were largely subjected to an official discourse rejecting the Rohingya as Myanmar citizens and by anti-Rohingya coverage in the private press. Violence between the Rohingya and the Rakhine ethnic group has been popularly interpreted as, and understood to be, a clash between illegal Muslim Rohingya and indigenous Rakhine Buddhists. Based on this researcher's review of the documentation released by the State and respected members of the Sitagu International Buddhist Academy, it seems fair to say that an official discourse characterising the Rohingya as illegal immigrants has reached new heights. As will be discussed in greater detail in this report, violent sectarian conflicts have resulted in violations of various human rights and a failure by the State to intervene to safeguard several fundamental freedoms, including religious freedom. This is especially the case for the Rohingya and other non-Rohingya Muslims and has to some extent brought about an ensuing identity crisis.¹⁵ Indeed, the most commonly heard view of current interreligious relations in Myanmar between Muslims and Buddhists is that Muslims and Islam are guests, while Buddhists and Buddhism are hosts. It is thus necessary for the former to accommodate and live in harmony with their hosts. In particular,

15 Ian Holliday, 'Addressing Myanmar's Citizenship Crisis,' (2014) 44(3) *Journal of Contemporary Asia* 404-421.

Venerable Sitagu Sayadaw Ashin Nyanissara, the Founding President of Sitagu International Buddhist Academy, who is revered in Myanmar for his Buddhist scholarship, sermons, and social work, has promoted this view. Media interviews conducted with Venerable Sitagu Sayadaw in the aftermath of riots in Rakhine and elsewhere and have seen his views being widely echoed across the country.¹⁶

The plight of the Rohingya remains a major concern in Myanmar, with religious freedom being one of the human rights and fundamental freedoms that are failing to be protected. Moreover, the Kaman and other Muslims in Rakhine State and other parts of Myanmar have increasingly found themselves amidst, and disproportionately affected by, the sectarian conflicts of 2012, 2013, and 2014.

At the same time, an armed conflict between the Kachin Independence Organization/Kachin Independence Army (KIO/KIA), which resumed in 2011, has also led to violations of certain religious freedoms amongst the Kachin community (most of which is Christian). However, in general, the picture of religious freedom for ethnic minorities such as the Kayin and Chin has improved since 2011 due to the change in the nature of state-society relations.

In the past, "successive civilian and military governments have tended to view religious freedom in the context of whether it threatens national unity or central authority."¹⁷ This nature of state-society relations seems to have changed with political and social changes in 2011, when the Kayin National Union ("KNU") reached a ceasefire agreement with the government and Chin politicians and representatives now sit on Chin State Hluttaw and Union Hluttaw. However, it is still difficult to estimate the power of representatives of minority religions at the regional (or State Hluttaws) and at the Federal (or Union Hluttaw) level because those representatives are affiliated not only with ethnic

16 Naw Ko Ko, *The Voice Journal*, March 25-31, 2013, p. D.

17 United States State Department International Religious Freedom Report ("IRFR") 2007 on Burma.

parties but also, to varying degrees, with the ruling Union Solidarity and Development Party. Additionally, the extent to which debates on the right to freedom of religion will be launched and joined by representatives of minority religions is as yet unknown. Moreover, whatever power state or regional Hluttaws and individual government officials have, it is still weak due to capacity constraints and the on-going centrality of a top-down approach in Parliament and within the civil service.¹⁸

PART ONE: LEGISLATIVE AND POLICY FRAMEWORK

A. International Obligations

International Document	Year of Signature	Year of Ratification / Accession	Reservations / Declarations
UN Convention on the Rights of the Child (CRC)	1991	1991	Articles 15 and 37. Withdrawn on 19 October 1993.
UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	2006	2006	Article 29.
Convention on the Rights of Persons with Disabilities	2011	2011	
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	2012	2012	

In general, Myanmar can be said to be dualist in terms of implementation of international law into domestic law. Indeed, the application of international law domestically is difficult to assess because Myanmar has only ratified four of the international human rights treaties, two of them (CRC and CEDAW) during the SLORC/SPDC rule and the other two after 2011. So far, no domestic legal case has referred to those treaties. Myanmar only passed the Child Law in 1991 after its accession to the CRC in 1991.

B. Domestic Laws and Policies

The Constitution

Myanmar has had three constitutions since independence. The Constitution of the Union of Burma (1947) (“1947 Constitution”) and the Constitution of the Socialist Republic of the Union of Burma (1974) (“1974 Constitution”) were suspended from 1962 to 1974, and from 1988 to 2011, respectively, during the two long periods of military rule. Thus, constitutional protection of religious freedom during those two periods was suspended. The present Constitution of the Republic of the Union of Myanmar (the Constitution) was adopted in May 2008 after a referendum, although the Union Hluttaw did not convene until 2011. It has

¹⁸ Asia Foundation & Centre for Economic and Social Development (CESD), *State and Region Governments in Myanmar*. (Asia Foundation & Centre for Economic and Social Development: Yangon, 2013).

certain articles regarding religion, with Section 361 stating as follows:

The Union recognizes the special position of Buddhism as the faith professed by the great majority of the citizens of the Union.

This constitutional provision was copied verbatim from Myanmar's 1947 constitution. The clause was omitted in the 1974 constitution, most probably due to the contentiousness of "Buddhism as state religion". In the early 1960s, the U Nu government elevated the status of Buddhism to a 'state religion' by amending the Constitution and promulgating the State Religion Promotion Act of 1961 which appeared to give preferential treatment to Buddhists, and which arguably proved to be intensely divisive. It was also supposedly one of the major causes of the rebellion of the Kachin, who are predominantly Christian. Conversely, Ne Win's socialist regime (1962–1988) emphasised national unity over diversity. As such, the 1974 Constitution neither gave Buddhism a special position as the majority religion nor mentioned other religions. Instead, Section 21(b) of the 1974 Constitution states only that:

The national races shall enjoy the freedom to profess their religion, use and develop their language, literature and culture, follow their cherished traditions and customs, provided that the enjoyment of any such freedom does not offend the laws or the public interest.¹⁹

Additionally, section 153(b) of the 1974 Constitution simply states that:

Every citizen shall have the right to freely use one's language and literature, follow one's customs, culture and traditions and profess the religion of his choice...²⁰

19 Section 21(b), *The Constitution of the Socialist Republic of the Union of Burma* (Yangon: Ministry of Information, 1974).

20 Section 153(b), *The Constitution of the Socialist Republic of the Union of Burma*.

While the current Constitution returns Buddhism to a special position, it also states:

The Union also recognizes Christianity, Islam, Hinduism and Animism as the religions existing in the Union at the day of the coming into operation of this Constitution.²¹

The present Constitution also has certain provisions regarding religious freedom and abuse of religion for political purposes:

Every citizen is equally entitled to 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.²²

This affirmation of religious pluralism would seem to be further entrenched by Myanmar's recognition not only of Buddhist customary law, but also the customary laws of Muslims and Hindus, in matters relating to marriage, divorce and inheritance. Indeed, this has been recognised since colonial times when the British legalised this pluralism through the Burma Laws Act (1898). This recognition reportedly led to friction between different customary laws, especially those relating to interfaith marriage. Nationalists in the 1920s and 1930s argued that Buddhist women found themselves at a disadvantage when their matrimonial relationships with their Hindu or Muslim husbands were not considered legal by Hindu and Muslim customary laws. This led to the drafting and passage of the Buddhist Women's Special Marriage Succession Act (1939) and the Buddhist Women's Special Marriage Succession Act

21 Section 362, *The Constitution of the Republic of the Union of Myanmar* (Yangon: Ministry of Information, 2008).

22 Section 34, *The Constitution of the Republic of the Union of Myanmar*

(1954).²³ The 1954 law is still in force and accepts interfaith marriages between Buddhist women and non-Buddhist men, stipulating that matters relating to marriage, divorce and inheritance in any resulting matrimonies are decided in accordance with Buddhist customary law. Indeed, the legality of interfaith marriage and potential ambiguity of Buddhist customary law on the subject has recently been made a serious issue by *Amyo Ba-tha Tha-tha-na Ka-kwaè-saung-shauk-ye Apwè* (abbreviated to *Ma-Ba-Tha*)²⁴ and 969 Buddhist nationalists.²⁵ *Ma-Ba-Tha* has a Central Committee composed of 52 members, including very senior scholar monks such as Ywama Sayadaw Ashin Tiloka Biwuntha (Chairman) and Sitagu Sayadaw Ashin Nyanissara (Vice-Chairman 1), well-known nationalist monks such as Masoeyein Sayadaw U Wirathu, Magwe Sayadaw U Pamauka, leaders of the 969 movement, and lay Buddhist men and women. Both it and the 969 movement argue that Buddhists require a law that is similar to shari'a law which is generally interpreted to forbid marriage between Muslim women and non-Muslim men. This has resulted in the draft of the Religious Conversion Bill, which will be discussed in detail below.

Finally, however, it is important to note that section 360 of the Constitution sets significant limits on religious freedom as guaranteed in Section 34:

- a. The freedom of religious right given in Section 34 shall not include any economic, financial, political or other secular activities that may be associated with religious practice.

²³ Maung Maung, *Law and Custom in Burma and the Burmese Family* (The Hague: Martinus Nijhoff, 1963); Aye Kyaw, 'Status of Women in Family Law in Burma and Indonesia,' (1988) 4(1) *Crossroads: An Interdisciplinary Journal of Southeast Asian Studies* 100-120; Melissa Crouch, 'The Layers of Legal Development in Myanmar,' in Melissa Crouch and Tim Lindsey (eds) *Law, Society and Transition in Myanmar* (Oxford: Hart Publishing, 2014), 33-56.

²⁴ Literally translated as Organization for Protection of Race, Religion and Sāsana, but its official English translation is Patriotic Association of Myanmar or PAM.

²⁵ See *Part Two: C. Significant Changes in Claims* for more information on the *Ma-Ba-Tha* and the 969 movement.

- b. The freedom of religious practice so guaranteed shall not debar the Union from enacting law for the purpose of public welfare and reform.²⁶

Additionally, Section 364 of the Constitution prohibits the abuse of religion in politics, as follows:

The abuse of religion for political purposes is forbidden. Moreover, any act which is intended or is likely to promote feelings of hatred, enmity or discord between racial or religious communities or sects is contrary to this Constitution. A law may be promulgated to punish such activity.²⁷

Most notably, regarding state support of recognized religions—Buddhism, Christianity, Hinduism, Islam and Animism—the Section 363 of the Constitution provides that:

The Union may assist and protect the religions it recognizes to its utmost.²⁸

The phrase “to its utmost” seems to be consciously inserted because the Myanmar State may never fully succeed in assisting and protecting Buddhism, Christianity, Islam, Hinduism, and Animism. It also seems to implicitly draw upon the concept of “progressive realisation” which appears somewhat misplaced, given this concept is usually referred to

²⁶ Section 360 of the The Constitution of the Republic of the Union of Myanmar.

²⁷ Section 364 of The Constitution of the Republic of the Union of Myanmar.

²⁸ Section 363 of the The Constitution of the Republic of the Union of Myanmar.

in debates on economic, social and cultural rights.²⁹

Finally, it should be noted that the present Constitution or any other legal documents do not define atheism; the Constitution only recognises Buddhism, Islam, Christianity, Hinduism, and Animism as religions. Therefore, atheism does not appear to be recognized at all as a form of belief and consequently the state does not appear to extend legal protection to it, although the blanket provisions in Articles 34 and 354 of the Constitution (discussed below) would at least in principle appear to provide some guarantee of protection.³⁰

National Regulatory Regime for Religions and Beliefs

As mentioned above, the Ministry of Religious Affairs regulates Buddhist affairs, while the Buddhist Sangha is under the direct supervision of the supreme State Sangha Mahanayaka Committee. Although the Department of Religious Affairs under the Ministry of Religious Affairs oversees certain issues relating to religious minorities, the Ministry as a whole is mainly focused upon regulating Buddhism and Buddhist affairs. The Ministry of Religious Affairs also provides grants to different religions, as shown in the table below.

Buddhism (Kachin, Kayah, Kayin and Shan)	Ks 115,000
Protestant (Christian)	Ks 36,350
Catholic (Christian)	Ks 15,600
Hindu	Ks 38,500
Islam	Ks 100,000
Animism	Ks 86,550

Source: www.mora.gov.mm; Exchange rate: 1 USD = 950 Ks.

As can be seen from the table, the amount of financial support given by the Ministry of Religious Affairs to minority religions is remarkably small, perhaps understandably so, given the Ministry is among the least-funded government ministries. Further, financial support given to Buddhism does not significantly exceed that given to other religions. A notable fact here is that the figure does not mention any support given to Buddhism in Bamar-dominated places other than the four states (Kachin, Kayah, Kayin and Shan). Moreover, although the Ministry does not appear to fund Buddhist facilities and activities in Myanmar disproportionately to other religions and faiths, it is worth noting that significant private funding has been mobilized under the auspices of the government to fund such facilities and activities. For example, the State Law and Order Restoration Council/State Peace and Development Council (SLORC/SPDC) which ruled from 1988 to 2011, launched an extensive project to build new Buddhist pagodas and renovate old or existing ones, apparently with private funding.³¹

The other two branches of the Ministry of Religious Affairs—the Department for the Promotion and Propagation of Sāsana and the International Theravāda Buddhist Missionary University (ITBMU)—are concerned with regulating

29 Article 2(1) of the International Covenant on Economic, Social and Cultural Rights, states: Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures. available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/cescr.aspx>; Audrey R. Chapman, 'A "Violations Approach" for Monitoring the International Covenant on Economic, Social and Cultural Rights,' (1996) 18 (1) *Human Rights Quarterly* 23-66.

30 See Part I (Section 2: Right to Manifest One's Religion and Belief) below.

31 Donald M. Seekins, 'The State and the City: 1988 and the Transformation of Rangoon,' (2005) 78(2) *Pacific Affairs* 257-275; Gustaff Houtman, *Mental Culture in Burmese Crisis Politics: Aung San Suu Kyi and the National League for Democracy* (Tokyo: Tokyo University of Foreign Studies, 1999); Janette Philp and David Mercer, 'Politicised Pagodas and Veiled Resistance: Contested Urban Space in Burma,' (2002) 39(9) *Urban Studies* 1587-1610.

Buddhism and providing state-funded programs in Buddhist education, according to the Ministry of Religious Affairs.³² ITBMU in Yangon, which was built by the SLORC/SPDC regime and opened in 1998, runs programs from one-year diplomas to four-year doctoral courses for lay students, monks, and nuns from Myanmar and foreign countries.³³ Additionally, the Department for the Promotion and Propagation of Sāsana also supervises two State Pariyatti Sāsana Universities in Yangon and Mandalay, which were established in the 1980s but only conduct courses for male monastic students.³⁴

Buddhist missionary teachings and activities are not, however, confined to Buddhists and to big cities such as Yangon and Mandalay. The Department for the Promotion and Propagation of Sāsana has run a special program called ‘Hill Regions Buddhist Mission’ since the early 1990s. Buddhist monks who have links to the government run this grassroots program. In Chin State, this Buddhist mission works in close cooperation with the schools which promote Buddhist teaching and conversion to Buddhism for Chin students established under the Ministry for Progress of Border Areas and National Races and Development Affairs.³⁵

Finally, it should be noted that Myanmar’s national legislation does not provide any definitions of blasphemy, deviant behaviour or heretic, but Article 295 (A) of the Penal Code criminalizes the deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious belief.

32 http://www.mora.gov.mm/mora_itbmu1.aspx accessed 20 December 2014.

33 <http://www.itbmu.org.mm> accessed 20 December 2014.

34 http://www.mora.gov.mm/mora_sasana1.aspx accessed 20 December 2014.

35 Chin Human Rights Organization, ‘Religious Persecution: A Campaign of Ethnocide Against Chin Christians in Burma (2004)’ <<http://www.chro.ca/index.php/publications/special-reports>> accessed 1 April 2014; Chin Human Rights Organization, ‘Threats to Our Existence: Persecution of Ethnic Chin Christians in Burma (2012)’ <<http://www.chro.ca/index.php/publications/73-special-reports/411-threats-to-our-existence>> accessed 1 April 2014.

1. *Freedom to adopt, change or renounce a religion or belief; and freedom from coercion*

The Constitution and other legal documents do not have provisions for or against adopting, changing or renouncing a particular religion. It is generally regarded by the state as a private matter. However, citizens have to state one religion on their citizenship scrutiny cards (CSCs), which are similar to national identity cards. A child receives his or her CSC at the age of ten, which is changed to an adult CSC when the child turns 18. The State’s involvement in the registration of religious affiliation is likely to become more pervasive when the draft Religious Conversion Bill is enacted, which will be discussed in detail below.

Reports indicate that there were certain instances of forced conversion, particularly in Chin State, during the SLORC/SPDC regime. For example, the US Department of State’s International Religious Freedom Report 2004 notes:³⁶

Since 1990, the Government has supported forced conversions of Christians to Buddhism. The majority of Chins, however, are still Christian. This campaign, reportedly accompanied by other efforts to “Burmanize” the Chin, has involved a large increase in military units stationed in Chin State and other predominately Chin areas, state-sponsored immigration of Buddhist Burman monks from other regions, and construction of Buddhist monasteries and shrines in Chin communities with few or no Buddhists, often by means of forced “donations” of money or labor. Local government officials promised monthly support payments to individuals and households who converted to Buddhism. Government soldiers stationed in Chin State reportedly were given higher rank and pay if they married Chin women and converted them to Buddhism. The authorities reportedly supplied rice to Buddhists at lower prices than

36 U.S. Department of State. ‘Burma: International Religious Freedom Report 2004.’ < <http://www.state.gov/j/drl/rls/irf/2004/35393.htm>> accessed 20 December 2014.

to Christians, distributed extra supplies of food to Buddhists on Sunday mornings while Christians attended church, and exempted converts to Buddhism from forced labor.

Likewise, the same report states:³⁷

There were credible reports that hundreds of Christian tribal Nagas in the country have been converted forcibly to Buddhism by the country's military. The persons were lured with promises of government jobs to convert to Buddhism, while those who resisted were abused and kept as bonded labor by the military.

However, the State Department's International Religious Freedom Report of 2005 noted as follows a change in the trend of forced conversion. This was echoed by the reports issued in subsequent years.³⁸

While in the past, there were credible reports that hundreds of Christian tribal Nagas in the country had been converted forcibly to Buddhism by the country's military, reliable sources indicate that this sort of activity has not occurred in recent years.³⁹

Starting from 2012, there have not been any reported incidents of such systemic forced religious conversion in the U.S. Department of State's Annual Reports.

2. *Right to manifest one's religion or belief*

Section 354 of the Constitution states:

Every citizen shall be at liberty in the exercise of the following rights, if not contrary to the laws, enacted for Union security, prevalence

of law and order, community peace and tranquillity or public order and morality:

- (a) to express and publish freely their convictions and opinions;
- (b) to assemble peacefully without arms and holding procession;
- (c) to form associations and organizations;
- (d) 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.

This is in addition to the guarantee of freedom of conscience and to profess and practice religion under section 34 of the Constitution.

a. *Freedom to worship*

On the societal level, it may be said that the right to freedom to worship is respected in Myanmar. However, freedom to worship is intertwined with places of worship since certain religious practices require places of worship, which will be discussed below. Whenever the United States government released its annual reports on religious freedom in the late 1990s and 2000s,⁴⁰ the ruling Myanmar government (SLORC/SPDC) would respond by showing pictures of downtown Yangon near the Independence Monument in which a Buddhist pagoda (Sule Pagoda), a Christian church (Emmanuel Baptist Church), and a Muslim mosque (Bengali Sunni Jameh Mosque) are located in close proximity. The government's claim appeared to

³⁷ Ibid.

³⁸ For example, IRFR 2010; 2011.

³⁹ U.S. Department of State. 'Burma: International Religious Freedom Report 2005.' <<http://www.state.gov/j/drl/rls/irf/2005/51506.htm>> accessed 20 December 2014.

⁴⁰ The US State Department's annual reports on Myanmar provide comprehensive details of the experiences of Myanmar people in the arena of religion although they are admittedly more political rather than legal. Moreover, many of their generalizations are too broad but it does not detract from their enormous value in terms of provision of details of experiences of religions groups in Myanmar over a period of more than two decades since the first annual report on Myanmar was issued in 2001.

be that this was evidence of complete freedom of religion in Myanmar. However, freedom of religion is a broader concept than freedom of worship. Therefore, as one author of very few papers on religious minorities in Myanmar, quoting a Muslim leader, writes:

There is freedom of worship in Myanmar but not freedom of religion— especially for the minority religions, which face state-imposed, and often excessive, limitations in such matters as to what they can publish, what public lectures they can give, whom they can invite into the country to minister to them, and above all, in what outreach they are permitted to engage in.⁴¹

b. Places of worship

Religious freedom in terms of places of worship can be analysed from two perspectives: (a) freedom to build new places of worship; and (b) access to existing places of worship.

Freedom to Build New Places of Worship

Over the last decades, minority religious groups appear to have faced certain barriers to the building of new places of worship in Myanmar. These restrictions appear to apply especially to Muslims. While the Myanmar government is not directly involved in building places of worship for religious minorities, religious minorities must seek approval from the respective authorities in order to build new places of worship.⁴² Muslims find it most

difficult to obtain such approval and Christians also experience similar difficulties, as reported in annual international religious freedom reports. This restriction appears more obvious when newer townships – such as the satellite towns surrounding Yangon – are compared with townships such as Tharkayta, which has a significant number of mosques for its Muslim population.⁴³ As a result, some Muslim residents have increasingly relied upon madrasas, in which young Muslim children take basic Islamic education, for their weekly Friday prayers.⁴⁴

A similar situation is found in the case of churches. Although a number of Catholic, Baptist and Anglican churches which were built during colonial times (1826-1948) are in still operation in big cities such as Yangon and Mandalay, various smaller Christian denominations have not been officially sanctioned and the government watches their ecumenical activities closely.⁴⁵ As has already been noted, in Part I section 1 above, the Constitution only recognises Christianity as such, without defining what Christianity means. National laws similarly do not address this issue when regulating the building of places of worship. A lack of churches for smaller and often newer Christian denominations has meant followers rent rooms or apartments in private buildings and use them for their weekly prayers. For instance, in Nay Pyi Taw, a living room of a Christian pastor couple has been used since 2007 for prayer services of Christian government staff

41 Bruce Matthews, 'Religious Minorities in Myanmar— Hints of the Shadow,' (1995) 4 (3) *Contemporary South Asia* 291.

42 U.S. Department of State. 'Burma: International Religious Freedom Report 2005.' <<http://www.state.gov/j/drl/rls/irf/2005/51506.htm>> accessed 20 December 2014; U.S. Department of State. 'Burma: International Religious Freedom Report 2009.' < <http://www.state.gov/j/drl/rls/irf/2009/127266.htm>> accessed 20 December 2014.

43 For example, in the new townships of Dagon Myothit (South), Dagon Myothi (North), Shwe Pyi Thar and Dagon Seikkan surrounding Yangon, there have been no mosques built, despite those townships having significant numbers of Muslim residents. (Based on the author's own experience living in Yangon).

44 There are no official guidelines for obtaining permits and running madrasas, as they are not directly regulated by the government. Local Muslims fund and run madrasas for children in several neighbourhoods.

45 Bruce Matthews, 'Religious Minorities in Myanmar— Hints of the Shadow,' (1995) 4 (3) *Contemporary South Asia* 287-308.

and others in the capital.⁴⁶ Christians in big cities such as Yangon, Mandalay and Nay Pyi Taw have normally been able to use private space as places of worship without official approval or objection though some were reportedly closed down in 2005, 2007, and 2009 by the government.⁴⁷

A different situation exists in states where the population is predominantly Christian such as northern Kachin and Chin states. The difficulty or impossibility of building new churches also depends upon the economic situation of the place and the extent to which a particular ethno-religious group has been marginalized. For example, though both Kachin and Chin States are Christian-majority territories, on the whole the Kachins have better access to livelihoods than the Chins, at least in terms of natural resources. Chin State is perhaps the poorest state in the whole of Myanmar, as described in detail by two reports of the Chin Human Rights Organization (“CHRO”).⁴⁸ Moreover, Kachins have a stronger ethnic insurgent political organization — the Kachin Independence Organisation (KIO) and its military arm the Kachin Independence Army (KIA)—which was able to strike a cease-fire deal with the SLORC/SPDC regime in 1994 lasting until 2011. On the other hand, the Chins have not been politically mobilized to the same extent. KIO insurgents mainly governed the northern part of Kachin State and as a result, Christians have been

46 See <<http://www.naypyitawshalomministry.com/>> accessed 1 April 2014.

47 U.S. Department of State. ‘Burma: International Religious Freedom Report 2005.’ <<http://www.state.gov/j/drl/rls/irf/2005/51506.htm>> accessed 20 December 2014; U.S. Department of State. ‘Burma: International Religious Freedom Report 2008.’ <<http://www.state.gov/j/drl/rls/irf/2008/108402.htm>> accessed 20 December 2014; U.S. Department of State. ‘Burma: International Religious Freedom Report 2009.’ <<http://www.state.gov/j/drl/rls/irf/2009/127266.htm>> accessed 20 December 2014.

48 Chin Human Rights Organization, ‘The Chin People of Burma: A Struggle for Survival (2006)’, ‘Critical Point: Food Scarcity and Hunger (2008)’, ‘On the Edge of Survival: Conditions and Consequences of the Food Crisis in Chin State, Burma (2009)’, and ‘Waiting on the Mergin (2009)’ <<http://www.chro.ca/index.php/publications/special-reports>> accessed 1 April 2014

able to build new churches. These economic and political factors have meant that Christians in Chin State suffer more serious persecution than their fellow Christians in KIO-dominated territories. The CHRO has extensively documented various forms of human rights violations and religious persecution, among which destruction of existing churches and difficulty in building new ones are included.⁴⁹

Access to Places of Worship

In addition to having the freedom to build new places of worship, having access to existing places of worship is perhaps a second key indicator in determining the extent to which religious minorities can exercise freedom of religion in Myanmar. As noted above, Christian groups of smaller denominations in Yangon and Nay Pyi Taw have had to rent private residential places for their weekly prayer services.⁵⁰ In some instances, this has meant that Christians have had to travel significant distances in order to attend church services. Similarly, some Muslims report an absence of mosques impacting on their ability to worship five times per day.

The Final Report of the Commission of Inquiry on Sectarian Violence in Rakhine State,⁵¹ formed by President Thein Sein to investigate the origins of Rakhine violence in 2012, states that 32 mosques in total were destroyed during the riots. Due to the fragility of the situation in Rakhine since that time, it seems unlikely that of the majority the mosques which were destroyed have since been rebuilt.

49 For reports on various forms of religious persecution of Chins by the Myanmar authorities, see <<http://www.chro.ca/index.php/publications/special-reports>> accessed 1 April 2014

50 In Yangon, most of these rooms are located in the upper block of Seik Kan Thar Street in Kyauktada Township. On Sundays, Christians are seen to rent buses for their transportation, mostly from the suburbs to downtown. See <<http://www.naypyitawshalomministry.com/>> accessed 1 April 2014

51 Inquiry Commission on Sectarian Violence in Rakhine, *Final Report of Inquiry Commission on Sectarian Violence in Rakhine State*, (Nay Pyi Taw: Inquiry Commission on Sectarian Violence in Rakhine, 2013)

Apart from a few mosques in Meiktila and Lashio, others are very likely still closed and inaccessible for Muslim prayers. As will be discussed in greater detail in Part II, Section D (dealing with significant threats of State persecution) below, although the state and local security officials arguably had the responsibility to protect places of worship during the sectarian riots, they failed not only to fulfil their duties but also to let Muslims prayers resume at mosques.⁵² The sectarian violence in 2012 appeared to impact on the Rakhine community as well, with some reports of Rohingya attacking Arakan Buddhist temples emerging during that time period.⁵³

c. *Religious Symbols*

Myanmar, renowned as the Golden Land for its enormous number of Buddhist pagodas and stupas, has generally been depicted as a pluralistic and tolerant society by successive Myanmar governments post-independence. However, the Christian religious symbol of the Holy Cross has been destroyed or removed from the hilltops or sites considered to be scared by the Chin Christian majority in Chin State. A report, titled “Threats to Our Existence: Persecution of Ethnic Chin Christians in Burma,” issued by Chin Human Rights Organization in 2012,⁵⁴ provides photos and detailed stories of 11 Christian crosses, including large ones over 20 feet, that have been destroyed in Chin State since the 1990s with the explicit participation or approval of the local authorities.

52 See Part Two, Section D (Significant Threats of State Persecution).

53 Human Rights Watch, ‘The Government Could Have Stopped This: Sectarian Violence and Ensuing Abuses in Burma’s Arakan State’, August 2012 available online at: <http://www.hrw.org/sites/default/files/reports/burma0812webwcover.pdf>, accessed 16 December 2014, at p.30.

54 The report is available at <<http://www.chro.ca/index.php/publications/special-reports>> accessed 1 April 2014.

d. *Observance of holidays and days of rest*

The Muslims’ Eid-ul-Adha (Hari Raya Haji) and the Christians’ Christmas are officially recognised as public holidays in Myanmar. However, due to widespread communal conflicts in 2012 and threats by radical Buddhists, Muslim organizations decided not to celebrate Eid-ul-Adha in 2012, which fell on 27 October. However, Muslims in Myanmar were able to celebrate Eid-ul-Adha in 2013.

e. *Appointing clergy*

Based on the research conducted for this report, in general, there has been no regulation by the state or by Myanmar authorities of the appointment of clergy, at least insofar as it pertains to the major religions. In this regard, Christians and Muslims are free to appoint their own clergies. Myanmar Muslims do not have a single ulama council or body of scholars appointed by the government or Muslims themselves. Instead, there are five Muslim religious organisations that are recognized as representatives of the Myanmar Muslim community by the government: Jamiat Ulama-El-Islam, All-Myanmar Maulvi League, Islamic Religious Affairs Council, All-Myanmar Muslim Youth (Religious) Organization, and Myanmar Muslim National Affairs Organization. In the aftermath of sectarian conflicts in 2012, those five organisations have formed a combined organisation—All Myanmar Muslim Association—which has released statements regarding the impacts of conflicts upon Myanmar Muslims.

Similarly, the government recognizes the Myanmar Council of Churches (MCC) representing Protestants and the Catholic Bishops Conference of Myanmar representing Roman Catholics. There is however a second Christian group called the Evangelical Fellowship of Myanmar representing smaller groups of various denominations, which is

not recognized by the government.⁵⁵

However, the extent to which the Buddhist Sangha is free to appoint central committee members to the State Sangha Mahanayaka Committee (*Ma-Ha-Na*) is questionable, because this Committee is widely assumed to have close ties to the government. Moreover, in its quarterly meetings, the Minister for Religious Affairs is always present and explains Buddhist affairs.

f. Teaching and disseminating materials

There is no vibrant Muslim missionary movement in Myanmar to proselytise to non-Muslims in the country. Instead, there is a rather active Tablighi Jamaat (“TJ”) movement among Muslims themselves. So far, the Myanmar TJ movement has not faced serious restrictions from the authorities, probably due to the fact that it does not seek to proselytize among Buddhists or non-Muslims in Myanmar. Notably, 10 TJ itinerants on their way back from Rakhine State to Yangon were taken off the express bus they were on, attacked and killed by a vigilante Rakhine Buddhist mob on 3 June 2012 to avenge the alleged rape-and-murder of a Rakhine Buddhist woman, namely Ma Thida Htwe, by three Muslim men in Thabyaychaung in Ramree Township on 28 May.⁵⁶ Throughout 2012 and 2013 when successive sectarian conflicts occurred, the TJ movement had to reduce its missionary activities and confine itself to Yangon. Most recently, the TJ itineraries have resumed from early 2014 but they are still confined to cities and longer itineraries, which span 40 days, are yet to resume.

Christian missionary movements also appear to enjoy quite extensive freedoms in this regard and are quite active in ethnic minority areas. Certain

Christian missionary movements based in big cities such as Yangon and Mandalay have been able to widely distribute their missionary materials. However, there have been some reports of instances of violations by local authorities of the right to freely print and distribute missionary and religious materials.⁵⁷ There does not, however, appear to be a discernible pattern in the manner in which these activities are regulated by local authorities, tending to suggest that these instances are not part of any mainstream policy. Christians and Muslims have also been banned from using certain Pali or Pali-derived words in their religious literature because those words are reserved for Buddhist literature.⁵⁸

Conversely, while Buddhism is not generally perceived to be a missionary or evangelical religion and Buddhist monks are not usually involved in spreading the message of Buddhism among non-Buddhists, a significant trend has emerged since the 1990s in Myanmar through which Buddhist monks from the Hill Region Buddhist Mission have been actively involved in proselytizing amongst Christians. Quoting a Chin human rights activist, a report issued by Christian Solidarity Worldwide notes:

This [government-assisted proselytization of Christians] is particularly evident in Chin and Kachin States. Since 1990, the SPDC has encouraged the establishment of the Hill Regions Buddhist Mission, and brought in large numbers of Buddhist monks to Chin State. “Protected by the soldiers, these Buddhist monks have considerable powers over the Chin population. Christian villagers have been forced to listen to the Buddhist monk sermons against their will, they are routinely asked to contribute money and labour for the construction of

55 Bruce Matthews, ‘Religious Minorities in Myanmar—Hints of the Shadow,’ (1995) 4 (3) *Contemporary South Asia* 287-308.

56 For a chronological account of the two rounds of violence in Rakhine in 2012, see Final Report of Inquiry Commission on Sectarian Violence in Rakhine State, (Nay Pyi Taw: Inquiry Commission on Sectarian Violence in Rakhine, 2013)

57 As reported by the US Department of State’s International Religious Freedom Reports published in 2002, 2003 and 2004.

58 As reported by the US Department of State’s International Religious Freedom Reports International Religious Freedom Reports published in 2005 and 2006.

Buddhist monasteries and pagodas.”⁵⁹

g. *The right of parents to ensure the religious and moral education of their children*

In general, Myanmar authorities have never put a restriction upon private religious education of children arranged by their parents. Religious education of children has always been in the hands of parents at least since the 1960s not only for Buddhists but also for Muslims, Christians, etc. Buddhist prayers are usually said at the beginning of the school day at government primary, middle, and high schools from which non-Buddhist students are usually exempted. Specific Buddhist education is not incorporated into the school curriculum. However, there have been reports of non-Buddhist students being coerced to participate in Buddhist prayers in schools, as reported by the International Religious Freedom Reports issued in 2003, 2004, and 2006.⁶⁰

In other words, the state has never taken the responsibility of providing religious education for children. Buddhist children are seen to increasingly rely on summer Buddhist courses provided often with state patronage⁶¹ or privately by monasteries and Buddhist associations, whereas Christian, Hindu, and Muslim parents generally have to send their children to part-time classes which teach their respective religion.

59 Benedict Rogers, ‘Carrying the Cross: The Military Regime’s Campaign of Restriction, Discrimination and Persecution against Christians in Burma.’ *Christian Solidarity Worldwide*, (2007), <www.cswusa.org/filerequest/1066.pdf> accessed 12 July 2014, at p.22.

60 U.S. Department of State. ‘Burma: International Religious Freedom Report 2003.’ <<http://www.state.gov/j/drl/rls/irf/2003/23823.htm>> accessed 20 December 2014; U.S. Department of State. ‘Burma: International Religious Freedom Report 2004.’ <<http://www.state.gov/j/drl/rls/irf/2004/35393.htm>> accessed 20 December 2014; U.S. Department of State. ‘Burma: International Religious Freedom Report 2006.’ <<http://www.state.gov/j/drl/rls/irf/2006/71335.htm>> accessed 20 December 2014.

61 http://www.mora.gov.mm/mora_sasana2.aspx accessed 20 December 2014.

h. *Registration*

Section 4(b) of the Law relating to Forming of Organizations enacted by SLORC on 30 September 1988 states that no permissions are required for the formation of purely religious organisations. In this regard, most Muslim and Christian organisations have been able to freely operate in the country as long as they are viewed as a-political by the state. The fact that there is no current registration requirement for religious organisations to some extent reflects the historical relationship between the state and religions in Myanmar, in the sense that the Myanmar state has not traditionally sought to involve itself in the affairs of religious minorities. There are Christian and Muslim organisations recognised by the state, but beyond them is an unknown number of loose associations and networks operating in the current political landscape.

Conversely, however, more restrictive rules apply to Buddhist organisations. After the First All-Gana Sangha [Congregation of All Orders] Meeting for Purification, Perpetuation and Propagation of the Sāsana was held in May 1980, the government-appointed *Ma-Ha-Na* was established. The *Ma-Ha-Na* only recognises nine Buddhist sects, including the four largest ones: Thudhammā, Shwegyin, Dvāra, Mūla Dvāra, Anaut Chaun Dvāra, Veluwun, Hngetwin, Gato, and Mahāyin.⁶² Moreover, the SLORC issued a special law dated 31 October 1990, namely the Law relating to the Sangha Organization, which is still active, to criminalise any new Sangha sects.

The *Ma-Ha-Na* also oversees the registration of Buddhist monks and nuns in Myanmar and those who register are given religious ID cards. The Committee is supposed to be concerned with all affairs relating to Buddhist monks and nuns in Myanmar regarding monastic rules. Starting as a 33-member executive committee, the Committee has increased its executive committee membership to 47 senior monks.

62 A good source on the origins of the State Sangha Ma Nayaka Committee in socialist Burma is: Tin Maung Maung Than, ‘The Sangha and Sasana in Socialist Burma’ (1988) 3(1) *Sojourn: Journal of Social Issues in Southeast Asia* 26-61.

Since its formation, the *Ma-Ha-Na* has issued various orders and directives which effectively allow it to regulate the manner in which Buddhism is practiced and to outlaw Buddhist sects or groups that the *Ma-Ha-Na* itself deems is deviating from what it determines are orthodox Buddhist teachings and ideologies. Since 1980, *Ma-Ha-Na* has determined a number of new Buddhist teachings, ideologies, and sects as espousing evil or deviant doctrines and ordered their leaders and followers, both monks and lay Buddhists, to sign statements denouncing their association with these teachings, ideologies and sects, as well as to destroy or give up materials pertaining to those teaching (including books, audio tapes, etc).

Based on the research conducted for this report, the following doctrines have been determined deviant or evil by *Ma-Ha-Na*: Kyaukpon Tawya Vāda,⁶³ Kyaungpan Tawya Vāda,⁶⁴ Sule U Myint Thein's Theravāda,⁶⁵ U Myat Thein Tun's Vāda,⁶⁶ Yetashay U Malavara's Vāda,⁶⁷ Moenyo (North Okkalapa) Vāda,⁶⁸ Dhammaniti Vāda,⁶⁹ U Htin's Vāda,⁷⁰ U Punyasara's Vāda,⁷¹ Shwe Wah Myaing Kyang Vāda,⁷²

63 The *Ma-Ha-Na* order No. 46 dated 29 November 1982, lists 147 monks and lay Buddhists as preachers and followers of *Kyaukpon Vada*.

64 A *Ma-Ha-Na* order dated 9 February 1982 declared Kyaungpan Tawya Vāda evil or deviant.

65 The *Ma-Ha-Na* order No. 50 dated 22 February 1983 declared Sule U Myint Thein's Theravāda evil or deviant.

66 The *Ma-Ha-Na* order No. 52 dated 25 May 1983 declared U Myat Thein Tun's Vāda evil or deviant.

67 The *Ma-Ha-Na* order No. 53 dated 27 May 1983 declared Yetashay U Malavara's Vāda evil or deviant.

68 The *Ma-Ha-Na* order No. 54 dated 28 July 1983 declared Moenyo (North Okkalapa) Vāda evil or deviant.

69 The *Ma-Ha-Na* order No. 55 dated 28 July 1983 declared Dhammaniti Vāda evil or deviant.

70 The *Ma-Ha-Na* order No. 70 dated 7 January 1986 declared U Htin's Vāda evil or deviant and lists the names of its three lay leaders and 349 lay followers.

71 The *Ma-Ha-Na* order No. 76 dated 27 February 1988 declared U Punyasara's Vāda evil or deviant.

72 ¹⁹The *Ma-Ha-Na* order No. 78 dated 12 July 1989 declared Shwe Wah Myaing Kyang Vāda evil or deviant.

Sankalay Vāda,⁷³ Myikyina Vicittarasara's Vāda,⁷⁴ and Moepyar Vāda.⁷⁵ This would appear to be far more extensive that is reported by the international human rights non-governmental organizations.⁷⁶

Most of the above-mentioned orders do not fully explain how a certain vāda or doctrine is deviant, hence making it somewhat challenging to assess the grounds upon which the so-called deviant doctrine is considered harmful to the established orthodoxy, or how prohibiting their usage is justified upon grounds of 'public order, morality or health' as provided for in Section 34 of the Constitution.⁷⁷

i. Communicate with individuals and communities on religious matters at the national and international level

Based on the research conducted for this report, it appears that Myanmar's intermittently closed social and political environment over the 1960s, 1970s and 1980s, the military coup which took power in 1988 and the ensuing political and social repression until 2011, has tended to segregate religious communities

73 The *Ma-Ha-Na* order No. 86 dated 25 March 1998 declared Sankalay Vāda evil or deviant.

74 The *Ma-Ha-Na* order 16/2008 (n.d.) declared Myikyina Vicittarasara's Vāda evil or deviant.

75 The *Ma-Ha-Na* order 17/2011 (n.d.) declared Moe Pyar Vāda evil or deviant.

76 Among all of these, the international human rights network only paid attention to the arrest and prison sentence given to the leader of Moepyar Vāda Buddhist monk U Nyana who was jailed for twenty years in 2010, one year earlier than the decision in 2011 by *Ma-Ha-Na* that Moe Pyar Doctrine is deviant. For example, see Asian Human Rights Commission, 'Burma: Religious Elder Sentenced to 20 Years in Jail for Peaceful Practice of Faith.' (March 21, 2012) <<http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-046-2012>> accessed 10 December 2014

77 In several of these orders as referred to above, they only state the names of monks and lay Buddhists who ascribe to a certain doctrine and order them to stop spreading the message of the doctrine and give up all the audio and video materials used in the proselytization. Most notably, except for Moe Pyar Doctrine's leader U Nyana who was jailed, propagandists and believers of all previous doctrines only had to disown their respective views and give up their missionary materials.

within Myanmar from their counterparts elsewhere. Hence, despite the fact that religious groups have been supposedly free to communicate with co-religionists both within and outside of Myanmar, this has mostly remained informal during the period. Hence religious groups have yet to build strong regional and international partnerships.

j. Establish and maintain charitable and humanitarian institutions/solicit and receive funding

It was very difficult, if not impossible, to establish and maintain Muslim charitable and humanitarian institutions in the past, apart from five government-recognized Muslim organizations which are not humanitarian in nature and focus. The same could be said of the Buddhist, Hindu and Christian counterparts, though it was not as restrictive for them as it was for Muslim organizations. The situation has drastically changed with the political opening in 2011, with newer Muslim humanitarian networks such as Peace Cultivation Network (PCN), which freely raise funds. Registration of such organisations has not been formally sanctioned yet. Many Buddhist and Christian networks have also been informally established for the same cause. Little is known regarding funding of those networks and institutions and it is indeed safe to say that they raise funds within their own social network in Myanmar.⁷⁸

k. Conscientious objection

Based on the literature reviews and searches conducted for this report, no cases of conscientious objection have ever been recorded in Myanmar. It has never emerged as a topic, though Buddhism has a strict teaching against killings and violence. Moreover, the Myanmar armed forces have not actively recruited members of religious minorities.

Even in the case of recruitment of those of religious minority backgrounds, cases of conscientious objection have never been reported in the case of Myanmar.

3. Freedom from intolerance and discrimination

Section 348 of the present Constitution states:

The Union shall not discriminate any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, official position, status, culture, sex and wealth.

Likewise, the following Article 349 also stipulates:

Citizens shall enjoy equal opportunity in carrying out the following functions:

- (a) public employment;
- (b) occupation.

However, the reality is quite different. It is common knowledge that a Muslim may not become a high-ranking official, such as a cabinet minister although there were Muslim cabinet ministers such as U Razak, U Raschid, and U Khin Maung Latt before independence and during the 1950s. Christians were also present on the cabinet and high command of the army. Nowadays both Muslims and Christians report discrimination in public office and the armed forces in terms of entry and prospects for promotion. Starting from the 1960s, Muslims have increasingly found it almost impossible to join the Myanmar armed forces, whereas an increasingly fewer number of Christians of ethnic minority groups are recruited. The problem with this widely accepted fact of discrimination of religious minorities in the Myanmar armed forces is there is no written evidence of this discrimination issued by the armed forces. However, religious minorities, especially Muslims and Christians, believe it is the case. Therefore, International Religious Freedom Report of 2007 notes:

⁷⁸ Based on author's fieldwork in Myanmar, 2013.

The Government discouraged Muslims from enlisting in the military, and Christian or Muslim military officers who aspired for promotion beyond the rank of major were encouraged by their superiors to convert to Buddhism. Some Muslims who wished to join the military reportedly had to list “Buddhist” as their religion on their application, though they were not required to convert.

4. *Right of vulnerable groups to freedom of religion and belief*

There is no official or social policy affecting the right to freedom of religion and belief of women, children, migrant workers, persons deprived of their liberty, and refugees. However, a particular note should be made here about the right of minorities to freedom of religion and belief. It is generally difficult to argue that minorities are targeted by the central or local authorities with the sole purpose of restricting their religious freedom. Even in the most extreme case of the Rohingya, the loss of the right to freedom of religion of the Rohingya occurs together with the loss of their other rights. For example, when a Rohingya man is not allowed to freely move from his village where there is no mosque to a village where there is a mosque, his loss of the right to freedom of movement has resulted in his loss of the right to freedom of worship. Likewise, in the case of the Chin, an argument that the state or non-state actors in Myanmar violate the Chin’s right to freedom of religion and belief needs to be substantiated with considerations of other contextual factors.

C. **Redress Mechanisms and Interpretation of Policies**

Most cases relating to freedom of thought, conscience and religion in Myanmar have been treated as criminal cases drawing from the Penal Code—mainly its articles 295 (injuring or defiling place of worship, with intent to insult the religion of any class) or 295 (A) (Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs). Upholding rule of law through a functioning courts system, as opposed to the arbitrary decisions which have notoriously dominated Myanmar for decades, is as yet not a reality in Myanmar, mainly because of three reasons—antiquity of laws made in colonial times; corruption within the judiciary; and interference by the executive branch in the judiciary.⁷⁹

Even the case of the Moe Pyar leader U Nyana, which was framed as a case of violation of his and his followers’ freedom of religion by the international community, was not treated as such. In 2010, U Nyana was given two three-year prison sentences (with hard labour) under Sections 12 (forming a new sect other than nine officially recognized ones) and 13 (organizing, agitating, delivering speeches or distributing writings to disintegrate the Sangha organizations) of the Law Relating to the Sangha Organization (1990). He was also sentenced to two two-year prison sentences (with hard labour) under Sections 295 (injuring or defiling place of worship, with intent to insult the religion of any class) and 295 (A) (Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs) of the Penal Code. Additionally, he was given a five-year prison sentence (with hard labour) under Section 6 (illegal

⁷⁹ The prescription of ‘rule of law’ has been most frequently suggested by Daw Aung San Suu Kyi for most, if not all, problems in Myanmar now. For good discussions of the norm of ‘rule of law’ and how it has been understood and practiced in Myanmar, see Nick Cheesman, ‘Thin Rule of Law or Un-Rule of Law in Myanmar?’ (2009) 82(4) *Pacific Affairs* 597-613; Nick Cheesman, ‘What does the rule of law have to do with democratization (in Myanmar)?’ (2014) 22(2) *South East Asia Research* 213-232.

formation of organizations apart from officially recognized ones) of the Law relating to Forming of Organizations (1988).⁸⁰ Interestingly, the Myanmar Law Reports of 2011 fail to mention another five-year prison sentence (with hard labour) also given to U Nyana in 2010 under section 10 of the Law Safeguarding Decisions Made in Cases of Disputes Over Religious Discipline (1983).

U Nyana was penalised under the Law Relating to the Sangha Organization, the Penal Code, and the Law relating to the Forming of Organizations. The latter does not exclusively deal with Sangha organizations or associations like the Law relating to the Sangha Organization does. Using the two laws (Law Relating to the Sangha Organization and Law relating to Forming of Organizations) for a single case of forming a sect or organization suggests that Moe Pyar leader U Nyana was given a sentence exceeding the possible maximum level of penalty. As stated above, the State Sangha Mahanayaka Committee only issued its order declaring that Moe Pyar Doctrine is evil or deviant in 2011, a year after he was sentenced. However, the letter by the Permanent Mission of the Republic of the Union of Myanmar to the United Nations states that the State Sangha Mahanayaka Committee initially notified the Ministry of Religious Affairs about the evil or deviant Moe Pyar Doctrine, after which the Ministry started taking action against U Nyana.⁸¹

The recently established National Human Rights Commission (“NHRC”) has yet to deal with cases of violations of the right to freedom of thought, conscience or religion and has to date mostly dealt with cases of land confiscation. Although the Myanmar NHRC visited Rakhine and released two statements in July 2012 and May 2013 on the

Rakhine violence,⁸² it interpreted the violence as sectarian and did not launch any probes into the alleged violations of human rights, including the right to freedom of religion.⁸³ In the aftermath of sectarian conflicts in 2012 and 2013, there was a parliamentary debate on whether to draft a special law to deal with cases of hate speech, which lead to interreligious conflicts. This would have been covered under Section 364 of the Constitution, which prohibits the abuse of religion for political purposes.⁸⁴ However, the Myanmar government claimed that the Penal Code is still applicable to such cases and rejected the call.

PART TWO: TRENDS IN RELIGIOUS FREEDOM

A. Significant Changes in the Law

Since 2011, the most significant change in terms of religious freedom in Myanmar has been the Religious Conversion Bill published in the state newspapers in Myanmar on 27 May 2014, which was drafted by a President-appointed committee (Religious Conversion Bill).⁸⁵ The committee also called the public to submit suggestions by 20 June. The revised version of the draft bill, together with the three other bills, was sent to the Myanmar Hluttaw in late November 2014 for further debates

82 ‘Statement No. (4/2012) of Myanmar National Human Rights Commission concerning incidents in Rakhine State in June 2012’ *The New Light of Myanmar*, 11 July 2012, 10; ‘Myanmar National Human Rights Commission issues Statement No. (3/2013) concerning violence that had occurred in Rakhine State’ *The New Light of Myanmar* 8 May 2013, 16.

83 Melissa Crouch, ‘Asian Legal Transplants and Rule of Law Reform: National Human Rights Commission in Myanmar and Indonesia’ (2013) 5 (2) *Hague Journal on the Rule of Law* 146–177.

84 Section 364 of the Constitution states as follows: “The abuse of religion for political purposes is forbidden. Moreover, any act, which is intended or is likely to promote feelings of hatred, enmity or discord between racial or religious communities or sects is contrary to this Constitution. A law may be promulgated to punish such activity.”

85 *The Myanmar Ahlin*, 27 March 2014, pp. 10–11.

80 Shin Nyana (aka) Shin Moe Pyar (Monk) v Republic of the Union of Myanmar, Myanmar Law Reports (2011) Criminal Case 126-132.

81 The letter, dated 9 July 2013, is available at <[https://spdb.ohchr.org/hrdb/24th/Myanmar_09.07.13_\(3.2013\).pdf](https://spdb.ohchr.org/hrdb/24th/Myanmar_09.07.13_(3.2013).pdf)> accessed 10 November 2014

before their passage.⁸⁶ The three other bills, when they are passed, will effectively make polygamy and polyandry illegal, put in place measures of population control through restrictions on childbirth, and restrict marriage between Buddhist women and non-Buddhist men. Among the four bills, the Religious Conversion Bill is most pertinent here and will be discussed in detail below.

An unofficial English translation of the Religious Conversion Bill⁸⁷ notes that the bill defines “religion” as “a belief system subscribed to by a person” and “religious conversion” as “a person converting to a new religion after having abandoned his/her previous religion, or in the case of the person not having a religion, converting to a new religion of his or her own free will.”⁸⁸ Although religion is broadly defined in the draft bill, the present Constitution only enumerates Buddhism, Islam, Hinduism, Christianity and Animism as state-recognized religions. Therefore, this broad definition of religion may be understood to refer to those state-recognized religions. Moreover, the draft bill only allows conversion from one religion or belief system (Buddhism, Islam, Hinduism, Christianity or Animism) to another, or from not having a religion or irreligion to one religion. It does not allow conversion from one religion to atheism or non-religion.

Moreover, a person who is willing to convert will have to submit an application to the Registration Board in his/her township of residence.⁸⁹ The board is composed of the officer with the Township

Religious Affairs Department (which is under the Ministry of Religious Affairs) as Chair, an officer appointed by the Township Education Officer as Secretary, and four members (head of the Township Immigration and National Registration Department; Deputy Administrative Officer with the Township General Administration Department under the Ministry of Home Affairs; two local elders selected by the Administrative Officer with the Township General Administration Department, and Head of the Township Women’s Affairs Federation (a governmental or semi-governmental organization)).⁹⁰

The obvious problem with the board’s composition is that it is mostly comprised of government officials, with two civilians selected by a government official. A more serious problem would be the fact that most, if not all, of those officials are most likely to be Buddhists. It is at least clear that the Chair, who is an official with the Religious Affairs Department, would undoubtedly be a Buddhist. An interview between at least four members of the board and the applicant is conducted in order to ensure that conversion is self-willed.⁹¹ Then the applicant is given a period ranging from 90 days to 180 days to study the essence of the religion he/she wishes to convert to, its marriage laws, divorce laws and rules of property division upon divorce, and rules/customs of inheritance and child custodianship after divorce. Finally, a second meeting between the board and the applicant is conducted and if the applicant still wishes to convert, a certificate of conversion shall be issued. If the applicant does not wish to convert after the learning period, the board will cancel the application.

Another serious issue with the wording of the draft bill is found in the three prohibitions as follows:

14. No one is allowed to apply for conversion to a new religion with the intent of insulting, degrading, destroying or misusing any religion.

86 The four draft bills in Burmese were published in the *Myanma Ahlin*, the state newspaper, from 1 to 4 December, 2014. The bills are due to be the subject of parliamentary debate in Myanmar in January 2015. See <http://www.irrawaddy.org/burma/protection-laws-submitted-burmas-parliament.html> accessed 5 January, 2015.

87 The unofficial English translation of the previous version of the Religious Conversion Bill, which is almost identical as the one published in the state newspapers on 1 December 2014, is available at <www.burmalibrary.org/.../2014-Draft_Religious_Conversion_Law-en.pdf> accessed 26 June 2014

88 Ibid.

89 Ibid.

90 Ibid.

91 Ibid.

15. No one shall compel a person to change his/her religion through bonded debt, inducement, intimidation, undue influence or pressure.
16. No one shall hinder, prevent or interfere with a person who wants to change his/her religion.⁹²

Not only these are prohibitions themselves controversial but, due to the absence of the rule of law in Myanmar, the interpretation and implementation of the law, when passed, is likely to be controversial. Most importantly, in a country such as Myanmar where widespread opinion is that Muslims “Islamize” through interreligious marriage and conversion of their spouses and children and Christians “proselytize” through financial means, terms such as “inducement,” “intimidation,” and “undue influence or pressure” under Article 15 may be open to abuse and utilized in local contexts to politicize the behaviour of certain religious groups or to condemn the practices of persons belonging to certain religious minorities. The bill in its current form has faced criticisms from people and groups both inside and outside Myanmar. Women’s rights networks and other human rights advocates within the country have been persistently critical of the bill since the start of the *Ma-Ba-Tha* campaign for race protection bills in 2013. These networks and groups argue that the race protection bill, which was then widely understood to be only concerned with marriage between Buddhist women and non-Buddhist men, would violate the freedom of women to choose their life partners.⁹³

However, after learning that there are four bills in total (covering religious conversion, interfaith marriage, childbirths, and polygamy) in the whole package, those women’s networks and other human rights groups in Myanmar have changed their

92 Ibid.

93 Naw Noreen. ‘Women of Burma Speak Out Against Interfaith Marriage Act.’ *Democratic Voice of Burma* (6 May 2014) <<https://www.dvb.no/news/women-of-burma-speak-out-against-interfaith-marriage-act-burma-myanmar/40401>> accessed 20 December 2014

campaign strategy by arguing that there is a political motive behind the movement for race protection bills by *Ma-Ba-Tha*⁹⁴ and their endorsement by President Thein Sein’s administration. They argue that it is more important to protect all women from violence and sexual abuse than to focus on matters relating to women’s marriage and religious conversion.⁹⁵

Although the content of the bill restricting interfaith marriage is apparently still in draft form, a Burmese-language draft prepared by *Ma-Ba-Tha*, which has been circulating since 2013, would appear to indicate that the bill only makes interfaith marriage between Buddhist women and non-Buddhist men illegal. The draft stipulates that non-Buddhist men must convert to Buddhism to marry Buddhist women and those who violate the law shall be subject to a prison sentence of 10 years.⁹⁶ This provision is very likely to violate the right to freedom to adopt, change or renounce a religion or belief, and freedom from coercion.

In the face of criticisms by women’s rights activists of undue interference by the Buddhist Sangha in marriage, the *Ma-Ba-Tha* has responded by asserting that the bill to restrict interfaith marriage is being called for because Muslim men tend to marry Buddhist women who must convert to Islam upon coercion. In this way, Buddhist women’s right to freedom of religion and freedom from coercion is violated, according to *Ma-Ba-Tha*. Moreover, the customary laws of ethno-religious groups such as Christians, Hindus and Muslims, which are

94 Lawi Weng. ‘Rights Groups Say Interfaith Marriage Bill is An Unnecessary Distraction.’ *The Irrawaddy* (6 May 2014) <<http://www.irrawaddy.org/burma/rights-groups-say-interfaith-marriage-bill-unnecessary-distraction.html>> accessed 19 December 2014

95 Thin Ei Lwin. ‘Burma Activists Demand Law to Ban Violence against Women.’ *The Irrawaddy* (1 October 2014) <<http://www.irrawaddy.org/burma/burma-activists-demand-law-ban-violence-women.html>> accessed 19 December 2014

96 Tim Hume. ‘Fears of New Unrest as Myanmar Ponders Monk-backed Interfaith Marriage Ban.’ *CNN* (4 June 2014) <<http://edition.cnn.com/2014/05/29/world/asia/myanmar-interfaith-marriage-laws/>> accessed 19 December 2014

recognized by the courts in Myanmar, also stipulate that interfaith marriage should be prevented in certain instances. Therefore, Buddhist customary law, which has no provisions against interfaith marriage, appears to be weak in this regard. However, the proposed restrictions on interfaith marriage will not only apply to Buddhists but shall have jurisdiction over all citizens of Myanmar regardless of their religious backgrounds.

On the other hand, two other bills (enforcing monogamy and limiting childbirths) are also expected to target religious minorities, especially Muslims. The bills, when enacted, will legalise a popular view that Muslims (especially Rohingya) tend to be polygamous and to overbreed, and that Muslims (especially Rohingya) seek to “Islamize” Myanmar through polygamy, interfaith marriage and the conversion of non-Muslim spouses, as well as consequently having a large number of children. Indeed, this view only appears to have become prominent in the aftermath of Rakhine riots of 2012 and are seen to be most widely propagated by ultra-conservative nationalist Buddhist monks such as Ashin Wirathu and 969 leaders. For example, Ashin Wimalar Biwuntha, a 969 leader, has said:

“Muslim men try to win the love of poor Buddhist women for their reproductive tactics. They produce a lot of children, they are snowballing. We have a duty to defend ourselves if we don’t want to be overwhelmed.”⁹⁷

Likewise, Ashin Wirathu has been quoted as saying: “Muslims are like the African carp. They breed quickly,” and “Because the Burmese people and the Buddhists are devoured every day, the national religion needs to be protected.”⁹⁸ In short, these bills

97 The Diplomat. ‘The Mad Monks of Myanmar.’ (9 July 2013). <<http://thediplomat.com/2013/07/the-mad-monks-of-myanmar>> accessed 30 November, 2013

98 Tin Aung Kyaw. ‘Buddhist Monk Wirathu Leads Violent National Campaign against Myanmar’s Muslims.’ *Global Post* (21 June 2013) <<http://www.globalpost.com/dispatches/globalpost-blogs/groundtruth-burma/buddhist-monk-wirathu-969-muslims-myanmar>> accessed 5 November 2013

are highly likely to be used by state officials to target the Rohingya since they are widely believed to be polygamous and have more children than Rakhine Buddhist families. Additionally, they may be utilized to target other Muslims living in Myanmar, which is cause for further concern.

B. Significant Changes in State Enforcement

Changes in state enforcement that have significant impacts upon religious freedom in Myanmar are yet to come, but are highly anticipated following on from the release to the public of the four bills referred to above. The present administration’s inclination to support the increasingly intense Buddhist nationalist sentiment in Myanmar appeared obvious when President Thein Sein asked the parliament in February 2014 to draft these four bills, following pressures from *Ma-Ba-Tha*, which managed to garner 1.3 million signatures calling for the bills.⁹⁹ When Shwe Mann, the Speaker of the Union parliament, responded that it is the duty of respective ministries to draft such special laws,¹⁰⁰ President Thein Sein proceeded to form a special commission to draft the bills on religious conversion and population growth, and asked the Supreme Court to draft the other bills for interfaith marriage and monogamy. These moves by the administration foreshadow a highly contentious legal environment in the arena of religion and religious freedom in the near future.

99 Lawi Weng. ‘Thein Sein Asks Parliament to Discuss Interfaith Marriage.’ *The Irrawaddy* (27 February 2014). <<http://www.irrawaddy.org/burma/thein-sein-asks-parliament-discuss-interfaith-marriage.html>> accessed 1 April 2014

100 Radio Free Asia. ‘Myanmar Leader Backs Buddhist Monks’ Calls for Laws to ‘Protect’ Religion, Race.’ (27 February 2014). <<http://www.rfa.org/english/news/myanmar/laws-02272014174350.html>> accessed 1 April 2014

C. Changes in Religious Claims (by Non-State Actors)

Against the background of political and social changes in Myanmar since 2011 and sectarian conflicts in Rakhine in 2012 and other parts of Myanmar in 2013, religious movements which the state tightly controlled in previous decades have become prominent and more vocal. Among them, the most prominent one is the Buddhist nationalist movement led by *Ma-Ba-Tha*.

Both *Ma-Ba-Tha* and 969, which is a constituent association of the former, have widely popularised the claim that Buddhism is under threat from Islam and “Islamization”. It is notable here that the international media coverage of and commentary upon anti-Muslim violence in Myanmar in recent years has more often highlighted the role of the so-called 969 movement in inciting anti-Muslim sentiments. Although it is often termed the “969 movement,” it does not have an institutional structure *per se*. It was officially launched in October 2012 by a hitherto unknown young monks’ association based in Mawlamyine (the capital of Mon State) called *Tha-tha-na Palaka Gana-wasaka Sangha Apwè*. Its leadership is composed of five monks – Myanan Sayadaw Ashin Thaddhamma, Hitadaya Sayadaw Ashin Wimalar Biwuntha, Ashin Wizza Nanda, Ashin Ganda Thara, Ashin Sada Ma and Ashin Pandita.

Apart from the monks who formed the association, the movement does not have a clearly visible organisational structure. The movement militantly urges Buddhists to shun Muslim businesses because Muslims’ prosperity will result in the “Islamization” of Myanmar. The 969 movement is more conspicuous than *Ma-Ba-Tha* because its colourful emblem is seen very widely at Buddhist shops, homes, cars, etc. in Myanmar. As noted above, the 969 movement’s campaign is based upon assumptions that Muslims tend to be polygamous, intermarry with Buddhist women, convert them to Islam and have more children than Buddhist families. Therefore, Muslims pose an imminent

demographic threat to Buddhism and Buddhists in Myanmar.¹⁰¹

However, in terms of institutionalization, *Ma-Ba-Tha* is the leading Buddhist nationalist organization in Myanmar with various chapters and networks across the country. The 969 movement’s leaders also sit on the executive committee of *Ma-Ba-Tha*. Therefore, an exclusive focus upon the 969 movement, with its numerologically mythical and rhetorically intriguing extremist speeches, tends to lose sight of the wider ramifications of the Buddhist nationalist movement led by *Ma-Ba-Tha*. Moreover, it was not the 969 movement but *Ma-Ba-Tha* that launched the signature campaign calling for the race protection bills, though the 969 movement’s leaders (as part of *Ma-Ba-Tha*) promoted it through their Buddhist sermons across Myanmar. Therefore, it would seem more accurate to suggest that *Ma-Ba-Tha*, not the 969 movement, is the genuine leader of the rising Buddhist nationalist movement in Myanmar.

D. Significant Events of State Persecution of Religious Groups

State persecution of religious minorities through repression of groups living on the margins, mainly Rohingya Muslims and Chin Christians, has been

101 Jonah Fisher. ‘Anti-Muslim Monk Stokes Burmese Religious Tensions.’ *BBC* (29 August 2013). <<http://www.bbc.co.uk/news/world-asia-23846632>> accessed 18 August 2014; Jason Szep. ‘Special Report: Buddhist Monks Incite Muslim Killings in Myanmar.’ *Reuters* (8 April 2013). <<http://www.reuters.com/article/2013/04/08/us-myanmar-violence-specialreport-idUSBRE9370AP20130408>> accessed 5 November 2013; Thomas Fuller, ‘Extremism Rises Among Myanmar’s Buddhists.’ *New York Times* (20 June 2013) <<http://www.nytimes.com/2013/06/21/world/asia/extremism-rises-among-myanmar-buddhists-wary-of-muslim-minority.html>> accessed 3 November 2013; Tin Aung Kyaw, ‘Buddhist Monk Wirathu Leads Violent National Campaign against Myanmar’s Muslims,’ *Global Post* (21 June 2013). <<http://www.globalpost.com/dispatches/globalpost-blogs/groundtruth-burma/buddhist-monk-wirathu-969-muslims-myanmar>> accessed 5 November 2013.

extensively documented.¹⁰² It seems fair to say that successive Myanmar governments since the 1960s have in general not been actively involved in direct persecution of religious groups, although isolated incidences of religious persecution are discussed below. In instances when the government was allegedly involved in persecution of religious groups in major cities, most, if not all, of those cases were the result of a breakdown in the proper enforcement of law and order in the aftermaths of riots and disturbances, as opposed to a state policy of persecution. However, various anti-Muslim riots occurred in the 1990s and 2000s in different cities and towns across Myanmar with alleged complicity on the part of the government.

Indeed, rather serious anti-Muslim riots also broke out in Taunggyi and Pyay in 1988 but detailed reports on those two riots do not exist because they happened amidst popular protests and a governmental crack down. The most comprehensive, documented report by Images Asia¹⁰³ on SLORC's persecution of Muslims in 1997 lists a total of 42 mosques partly or fully destroyed in various cities and towns in Mandalay Division (now Mandalay Region), Yangon Division (now Yangon Region), Sagaing Division (now Sagaing Region), and Kayin State. The report also contains interviews with Muslims from Kayin State who fled to Thailand to show how SLORC's offensive against Kayin National Union (KNU) oppressed and terrorized Muslims and Muslim properties and religious buildings

102 For example, Chin Human Rights Organization, 'Religious Persecution: A Campaign of Ethnocide Against Chin Christians in Burma (2004)' <<http://www.chro.ca/index.php/publications/special-reports>> accessed 1 April 2014; Chin Human Rights Organization, 'Threats to Our Existence: Persecution of Ethnic Chin Christians in Burma (2012)' <<http://www.chro.ca/index.php/publications/special-reports>> accessed 1 April 2014; Irish Centre for Human Rights, 'Crimes against Humanity in Western Burma: The Situation of the Rohingyas' (2010) <<http://www.nuigalway.ie/irish-centre-human-rights/publicpolicyengagement/projectsattheirishcentreforhumanrights/completedprojects/burmaproject-situationoftherohingyasinnorharakanstate/>> accessed 15 December 2014.

103 Images Asia, *Report on the situation for Muslims in Burma*, (Bangkok: Images Asia, 1997)

in Kayin State. Another report issued in 2002 by Human Rights Watch also details how anti-Muslim riots affected Muslim lives, mosques, and properties in Sittwe (February 2001), Taungoo (May 2001), Pyay (October 2001), and Pegu (October 2001).¹⁰⁴

Apart from these anti-Muslim riots in non-Rakhine areas, the most extensively researched and documented issue is the persecution of Rohingya Muslims who are mostly concentrated in three towns in NRS—Buthidaung, Maungdaw and Rathedaung. Largely regarded in Myanmar as illegal immigrants or treated as such, Rohingya Muslims, whose approximate number is close to 1 million people in Rakhine, have been subjected to various forms of violations of human rights, including religious freedom, especially since the 1990s. The human rights violations that the Rohingya have suffered at the hands of the Myanmar authorities include but are not limited to: the failure to grant the right to nationality or citizenship, restrictions on freedom of movement, obstacles to family development, confiscations of land, forced labour, arbitrary taxation, and monopolization of the local formal and informal economy. Since human rights are interrelated, indivisible and interdependent,¹⁰⁵ all of those extensive forms of violations of Rohingya's human rights may be assumed to have affected their right to religious freedom.

A significant upward trend has been witnessed in Myanmar in terms of violent religious persecution of Muslim minorities since 2012. The presidential declaration through an ordinance of a state of emergency in Rakhine on 10 June 2012 and in Meiktila on 22 March 2013 have been interpreted as potentially damaging to the rights of peoples,

104 Human Rights Watch, 'Crackdown on Burmese Muslims.' (18 July 2002). <<http://www.hrw.org/reports/2002/07/18/crackdown-burmese-muslims>> accessed 15 July 2010

105 See Vienna Declaration of 25 June 1993. Full text of the Vienna Declaration and Programme of Action is available at. <<http://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>> accessed 15 July 2014

especially Muslims.¹⁰⁶ The upward pattern has been stagnant since April 2014. However, it is expected to recur as the general election in 2015 draws near. It is difficult, if not impossible, to find the individuals behind the sectarian conflicts over the last couple of years. It is safe to argue that the Myanmar authorities have failed to protect people, regardless of religious backgrounds, amidst serious sectarian disturbances. For example, security officials reportedly stood by in Meiktila¹⁰⁷ or were even directly involved in violence in Rakhine.¹⁰⁸

E. Significant Events of Non-State Persecution of Religious Groups

Distinguishing between “state” and “non-state” persecution of religious groups is not easy, especially amidst sectarian conflicts that pit the majority religious community (i.e. Buddhists) against minority religious communities such as Muslims. Most, if not all, positions in the central and local government in Myanmar are dominated by Buddhists; therefore, state complicity is oftentimes assumed, but is difficult to prove. As a result, in certain instances the characterisation of sectarian violence as state persecution must to some extent acknowledge the fact that in several instances the

106 Melissa Crouch, ‘The Constitution, Emergency Powers and the Rule of Law in Myanmar,’ in *Myanmar in Transition: Polity, People, and Processes* (Singapore: Konrad-Adenauer-Stiftung, 2013), 45-55.

107 Mizzima. ‘Mobs stalk the streets of Meiktila.’ (22 March 2013). <<http://archive-2.mizzima.com/news/inside-burma/9104-mobs-stalk-the-streets-of-meiktila.html>> accessed 13 May 2014

108 Human Rights Watch, “‘The Government Could Have Stopped This’:

Sectarian Violence and Ensuing Abuses in Burma’s Arakan State.’ (1 August 2012). <<http://www.hrw.org/reports/2012/07/31/government-could-have-stopped>> accessed 13 May 2014; Human Rights Watch, “‘All You Can Do is Pray’: Crimes Against Humanity and Ethnic Cleansing of Rohingya Muslims in Burma’s Arakan State.’ (22 April 2013). <<http://www.hrw.org/reports/2013/04/22/all-you-can-do-pray-0>> accessed 13 May 2014

violence has been committed by non-state actors and could equally be characterized as non-state persecution.

F. Significant Events of Inter-Religious Conflict

As stated in other sections of this report, unprecedented inter-religious conflicts occurred in Myanmar in 2012 and 2013. They are: the Rakhine riots (June and October 2012), Meiktila (March 2013), Okkan (April 2013), Lashio (May 2013) and Kanbalu (August 2013), which will be discussed in detail below.

G. Significant Events of Terrorism and/or Terrorist Threats

So far, Myanmar authorities have not explicitly claimed that there are links between Myanmar Muslims and the international Jihadist networks, except in the case of Rohingya/Bengali who are widely assumed to be illegal Bangladeshi interlopers. A few accusations have been made by the international terrorism experts¹⁰⁹ and echoed by certain outlets of anti-Rohingya Myanmar media that claim that a Rohingya armed group, by the name of Rohingya Solidarity Organization (RSO), has links to international terrorist groups such as Al-Qaeda and those in Bangladesh. However, those claims have not been proven with concrete evidence though they are widely believed.¹¹⁰

109 Zachary Abuza, *Militant Islam in Southeast Asia: Crucible of Terror*, (Boulder: Lynne Rienner Publishers, 2003); Rohan Gunaratna, *Inside Al-Qaeda: Global Network of Terror*, (Carlton North: Scribe Publications, 2002).

110 Andrew Selth, ‘Burma’s Muslims and the War on Terror,’ (2004) 27 (2) *Studies in Conflict and Terrorism* 107-12; Andrew Selth, *Burma’s Muslims: Terrorists or Terrorised?*, (Canberra: Strategic and Defence Studies Centre, Australian National University, 2003)

H. Significant Cross-Border Incidents

Persecution of the Rohingya has caused an incessant regional security dilemma for Bangladesh since the late 1970s and for other neighbouring countries such as Thailand, Malaysia and Indonesia since the 2000s. Largely unwanted at home and by Bangladesh and faced with increasingly precarious conditions in Rakhine, Rohingya boatpeople have changed their destinations from Bangladesh to other neighbouring countries in the 2000s and have often fallen prey to regional human trafficking networks. However, unfortunately, Rohingya have been regarded as a threat to territorial and maritime security of those destinations, including Bangladesh.¹¹¹ Likewise, Rohingya are not really welcome in their newer destinations such as Thailand and Malaysia.¹¹²

Moreover, whenever those neighbouring countries complain to Myanmar about the Rohingya boatpeople, Myanmar authorities expediently respond by claiming that those so-called Rohingya who land on the shores of Thailand, Malaysia, etc. are not from Myanmar or that their Myanmar citizenship must be scrutinised first before Myanmar takes responsibility for them.¹¹³ This has effectively created a dilemma for Myanmar's neighbours. Increasingly precarious conditions of Rohingya in Rakhine and complete rejection of them as fellow Myanmar citizens by the majority of the people in

111 Utpala Rahman, 'The Rohingya Refugee: A Security Dilemma for Bangladesh,' (2010) 8 (2) *Journal of Immigrant & Refugee Studies* 233–239; Chris Lewa, 'Asia's New Boat People,' (2008) *Forced Migration Review* 40–42.

112 Equal Rights Trust, "Equal Only in Name: The Human Rights of Stateless Rohingya in Malaysia." (October 2014); Equal Rights Trust, "Equal Only in Name: The Human Rights of Stateless Rohingya in Thailand." (October 2014) <<http://www.equalrightstrust.org/newsstory171014/index.htm>> accessed 1 November 2014

113 'Myanmar departments concerned making contact with departments of Thailand to take measures for Rohinja trying to illegally enter Thailand from sea' *The New Light of Myanmar*, 31 January 2009, 16; 'Bengalis from neighbouring country illegally immigrated Rakhine region of Myanmar: The government had to scrutinize illegal immigrants under nationally necessity: The government keeps on preventing illegal immigrations' *The New Light of Myanmar*, 31 January 2009, 16.

Myanmar will likely mean an ongoing influx in the number of Rohingya boatpeople seeking asylum in neighbouring countries over the coming years.

I. Governmental Response

In the context of serious sectarian conflicts in 2012 and 2013, the Myanmar government has been seen to stick to two major claims in response to international criticisms against persecution of Muslims in Myanmar. The first strategy is to assert that the conflict in Rakhine was just between illegal Bengali Muslims (who had infiltrated Rakhine over the last centuries or decades) and indigenous Rakhine Buddhists. The second is that the conflicts were two-directional involving both sides of Muslims and Buddhists and what happened in 2012 and 2013, hence negating a claim that attacks against the Rohingya amounted to religious persecution.¹¹⁴ Therefore, according to the state, the conflicts were between two groups of people who just happen to be affiliated with two different religions of Buddhism and Islam.

1. Legislative

As stated above, there were parliamentary debates on the necessity of a special law to deal with widespread anti-Muslim hate speech, which is assumed as one of the major causes of nationwide sectarian conflicts in 2012 and 2013.¹¹⁵ However, the Myanmar government did not agree to the motion, arguing that the Penal Code and other relevant laws were adequate to deal with those cases.

114 RadioFreeAsia, 'Myanmar's Thein Sein Urges Cooperation to End Communal Violence.' (2 October 2013) <<http://www.rfa.org/english/news/myanmar/violence-10022013185522.html>> accessed 10 July 2014; Xinhua, 'Myanmar President Urges Prevention of Turning Communal Conflict Issue into Racial, Religious One.' *Global Times* (22 July 2013) <<http://www.globaltimes.cn/content/797996.shtml>> accessed 6 July 2014

115 See Part I.C. of this report.

2. Prosecution of perpetrators

Both extreme swiftness and extreme tardiness in the prosecution of perpetrators in various sectarian conflicts has been witnessed in Myanmar. Extreme swiftness was seen in the litigation and sentencing of three Muslim men who were alleged to have raped and murdered Thida Htwe on 28 May 2012.¹¹⁶ However, on the other hand, those Rakhines who allegedly murdered 10 Muslims in Taungup on 3 June are yet to be sentenced.¹¹⁷

3. Other measures

Based on the literature review and searches undertaken for this report, no other measures appear significant at this time, other than those reported in Section J below.

J. Developments in Advancing Religious Freedom, Dialogue, and Conflict Mediation

In the aftermath of sectarian conflicts in other parts of Myanmar in 2013 as a consequence of Rakhine conflicts in 2012, some Myanmar authorities and people started to promote inter-faith dialogues among various religious groups in Myanmar—Buddhists, Hindus, Muslims, and Christians. How far those dialogues have resolved misunderstandings between different religious groups, particularly between Buddhists and Muslims, has to be further considered before any real assessment can be made

as to their effectiveness.¹¹⁸ Most, if not all, of these dialogues appear to have been attended by only a few representatives of the four main religions in Myanmar, i.e., Buddhists, Hindus, Muslims, and Christians. In other words, the participants in interfaith dialogues are the same people. Therefore, although a wider impact emanating from these interfaith dialogues is expected in theory, it is unclear that such dialogues will be able to counter the hate messages spread by certain nationalist monks such as Ashin Wirathu, Ashin Pamaukkha, and other 969 movement leaders, given the high level of moral authority enjoyed by Buddhist monks.

K. Analysing the Trends

Overall, incidences of religious persecution have decreased in ethnic minority areas since political opening in 2011, but the situation has become particularly worse for Muslims, especially the Rohingya. Sectarian riots spread like forest fire starting from Rakhine riots in June and October 2012 to other parts of Myanmar in 2013—most serious ones being Meiktila (March 2013), Okkan (April 2013), Lashio (May 2013) and Htan Gone/Kanbalu (August 2013). Although sporadic sectarian conflicts have occurred in the past, they never grew as large as those in 2012 and 2013, mostly because of the nature of the previous military regime and of Myanmar society as well.

The following table shows the list of sectarian conflicts, which have occurred since 2012.

116 Hanna Hindstrom, 'Three Men Given Death Sentence for Murder that Sparked Riots.' *Democratic Voice of Burma* (18 June 2012) <<http://www.dvb.no/news/three-men-given-death-sentence-for-murder-that-sparked-riots/22512>> accessed 10 July 2014

117 Aye Nai, 'Lawyers Appeal Murder Charges in Case of Muslim Pilgrims Lynching.' *Democratic Voice of Burma* (11 July 2014) < <http://www.dvb.no/news/lawyers-appeal-murder-charges-in-case-of-muslim-pilgrims-lynching-burma-myanmar/42214>> accessed 12 July 2014

118 Such interfaith dialogues are a new phenomenon in Myanmar where such gatherings were banned for decades.

No.	Place & Time	Casualties	Alleged Cause
1.	Rakhine (June, October 2012)	200	Rape of Thida Htwe
2.	Meikhtila (March 2013)	34	Brawl between Muslim gold shop owner & Buddhist customer
3.	Okkan (May 2013)	1	Muslim woman bumping into Buddhist novice
4.	Lashio (May 2013)	1	Muslim man pouring petrol at and burning Buddhist woman
5.	Htan Gone/Kanbalu (August 2013)	-	Alleged sexual harassment of a Buddhist woman by a Muslim man
6.	Thandwe (September 2013)	7	Brawl over a Buddhist-owned trishaw with a Buddhist flag parked in front of a Muslim shop
7.	Mandalay (July 2014)	2	Alleged rape of a Buddhist staff by two Muslim teashop owners
		Total: 245	

(Based upon government data & news reports)

The table clearly shows a continuity in sectarian or religiously-motivated or inter-communal conflicts in Myanmar since June 2012. Although the same people from the previous military regime continue to rule Myanmar, the nature of governance has significantly changed since 2011. The administration may not resort to the heavy-handed repression of the past. Therefore, sectarian disturbances in the present political environment have a tendency to grow and spread because the state-society relations have changed.

Moreover, the opposition camp led by Aung San Suu Kyi and the 88 Generation Students has openly started a nationwide signature campaign to amend Section 436 of the present Constitution, which automatically gives 25% of seats in both parliaments to the defence forces. The National League for Democracy chaired by Daw Aung San Suu Kyi announced on 30 June 2014 that it had already garnered 3.3 million signatures from the people who collectively call for a change of Section 436.¹¹⁹

119 Zarni Mann. 'NLD: Over 3 Million People Join Petition to Amend Charter.' *The Irrawaddy* (30 June 2014). <<http://www.irrawaddy.org/burma/nld-3-million-people-join-petition-amend-charter.html>> accessed 15 July 2014

Coincidentally or not, sparked by Ashin Wirathu's Facebook posting of the news that a Buddhist woman had been raped by two Muslim men in Mandalay, disturbances followed the next day and two men—a Muslim and a Buddhist—died. A curfew was imposed and hundreds of people have been arrested. In the immediate aftermath of those disturbances, the Myanmar opposition and society aggressively questioned the alleged complicity of the government and slow response of the Mandalay Region government in the first two days.¹²⁰

Amidst growing competition between the government and the democratic opposition led by NLD and 88 Generation Students over a constitutional amendment and for the 2015 general elections, not to mention widespread hate messages in social media and elsewhere in Myanmar, this

120 Radio Free Asia. 'Anti-Muslim Riots Turn Deadly in Myanmar's Mandalay City.' (2 July 2014). <<http://www.rfa.org/english/news/myanmar/riot-07022014164236.html>> accessed 11 July 2014; Myanmar Eleven. 'Police Role Suspected in Posting of Violent Pictures.' *The Nation* (7 July 2014). <<http://www.nationmultimedia.com/aec/Police-role-suspected-in-posting-of-violent-pictur-30237953.html>> accessed 11 July 2014.

trend of anti-Muslim or inter-communal riots seems, for the time being, likely to continue.

PART THREE: CONTRIBUTING FACTORS AND SURROUNDING CIRCUMSTANCES

A. Negative Contributing Factors

1. Historical Prejudices against Muslims

It is usually accepted that Buddhists in general hold prejudiced views of Muslims and Islam from as far back as colonial times.¹²¹ Faced by intense competition in the labour market between Indians and Burmese as well as fears of loss of the Burmese Buddhist race to Indian migrants in the new British colony of Burma in 1886, Burmese nationalism at the time was mainly fuelled by anti-Indian and anti-Muslim sentiments and movements, as well as an intense desire to gain independence from the British.

Also, Indians in colonial Burma who manned the largest share of the colonial bureaucracy were very visible in the eyes of the Burmese, leading the Burmese to feel that they suffered from a double colonization - first by the British and then by Indians. Indians, as part of the colonial bureaucracy, were mainly seen as pro-Britain or pro-India, which was taken as a betrayal of the Burmese hosts. Apart from economic competition in the market place and labour market, numerous Indians with different socio-cultural norms and practices were perceived as posing an apocalyptic demographic threat by the Burmese.¹²²

Racial and economic nationalism in colonial Burma resulted in waves of economic nationalization of

Indian-owned businesses and Indian emigration after independence in 1948, which culminated in the 1960s.¹²³ However, what started as sentiments against all Indian communities (regardless of religious backgrounds) gradually changed into “Islamophobia” and a fear of Muslims regardless of racial origins. This disposition has unfortunately remained a part of Myanmar society even following independence in 1948.

2. Fears of Buddhist Decline amidst “Islamization”

Fears of a loss of a Buddhist kingdom to Christian domination under British colonialism were initially countered by the emergence of a nation-wide Buddhist renaissance movement in the early 20th century. This was followed by a largely secular nationalist movement aiming for the termination of Burma’s status as a province of colonial India and then complete independence. This Buddhist movement aimed to recover the Buddhist roots of pre-colonial Burma by promoting the Burmese language and Buddhist studies.¹²⁴ Although it mainly worked to promote Buddhist pedagogy peacefully, fears of Indian or Indian Muslim domination gradually entered the national political discourse, particularly during the pre-World War II period.

Indian migrants who were brought into Burma by the British were more dominant and visible during the colonial period than the British themselves, perhaps in part because the British ruled colonial Burma as a province of British India. This is perhaps one causal factor which led to the Buddhist revivalist movement in the early 20th century gradually becoming an anti-Indian, and then anti-Indian Muslim or anti-Muslim movement

121 International Crisis Group, *The Dark Side of Transition: Violence Against Muslims in Myanmar* (Jakarta/Brussels: International Crisis Group, 2013).

122 Hugh Tinker, ‘Indians in Southeast Asia: Imperial Auxiliaries,’ in *South Asian Overseas: Migration and Ethnicity*, Colin Clarke, Ceri Peach, & Steven Vertovec (eds) (Cambridge, New York: Cambridge University Press, 1990), 39-56.

123 N. R. Chakravarti, *The Indian Minority in Burma: The Rise and Decline of an Immigrant Community*, (London: Institute of Race Relations, 1971).

124 Alicia Marie Turner, *Buddhism, Colonialism and the Boundaries of Religion: Theravada Buddhism in Burma, 1885-1920*, PhD Thesis. (University of Chicago, 2009).

for political and religious reasons.¹²⁵ Nationalists agitated for the separation of Burma from India, informed at least in part by a prophecy of Buddhist decay or decline 5,000 years after Lord Gautama Buddha. The Islamization of countries such as Indonesia, Malaysia, and Afghanistan, which were once Buddhist or Hindu, may have also influenced this nationalist movement at the time.

Buddhist fears of “Islamization” have remained in Myanmar and emerged as a very potent force both during and after the Rakhine violence. In recent years, such phobias have grown exponentially and have incorporated more layers and dynamics, with claims that Myanmar is now prone to the Muslim tide from Rohingya Muslims who are widely believed to be hyper-fertile and polygamous. A slogan of a demographic catastrophe is being widely spread across the country by *Ma-Ba-Tha* and 969 preachers, Rakhine Buddhist nationalists, and certain politicians and activists. This view also seems to be widely accepted at the official level.

Though freedom of religion, thought and conscience has often been described as a private matter in a secular environment conducive to tolerance, we may not expect such a complete separation of religion and the state in a country such as Myanmar, where Buddhism is perhaps the most important marker of identity. It is more critical when a religion is used as the banner under which a people who are affiliated with that particular religion are mobilized.

The socialist Revolutionary Council/Burma Socialist Programme Party regime (1962-1988) and the SLORC/SPDC regime (1988-2011) did not popularly use Buddhism to mobilize the majority Buddhists in Myanmar. It is undeniable that military generals of the previous SLORC/SPDC regime launched a huge Buddhist donation

125 Hugh Tinker, ‘Indians in Southeast Asia: Imperial Auxiliaries,’ in *South Asian Overseas: Migration and Ethnicity*, Colin Clarke, Ceri Peach, & Steven Vertovec (eds) (Cambridge, New York: Cambridge University Press, 1990), 39-56; Renaud Egretteau, *Burmese Indians in contemporary Burma: Heritage, Influence, and Perceptions since 1988*, (2011) 12 (1), *Asian Ethnicity*, 33-54.

campaign in the 1990s and 2000s. Pictures and videos of generals making donations to monasteries and pagodas were included in the state television and newspapers almost on a daily basis. However, all of these ostentatious public donations were done most probably in order to enhance their political legitimacy through Buddhist means, not to mobilize the Buddhist majority under the umbrella of Buddhism for any specific purpose. Instead, they mostly resorted to force and repression to control the public.

However, this pattern of state-society relations in the arena of Buddhism seems to have changed with the political changes in 2011. In the past, under undemocratic authoritarian regimes, the Buddhist majority was politically unimportant. In the new political landscape, the ruling Union Solidarity and Development Party and popular National League for Democracy are strongly competing and eyeing the 2015 general elections. This means that the ruling party, which is rather unpopular, has to find ways to attract the votes of the Buddhist majority. Amidst weak and nascent democratic political institutions, it has become expedient for the ruling party to invoke intense Buddhist nationalism and mobilize Buddhists. How the ruling regime has increasingly tried to attract the votes of Buddhists will be detailed below.

3. *Changing Electoral Landscape*

In the current electoral environment in Myanmar,¹²⁶ popular opinion has emerged as a dynamic factor which may greatly affect the result of the 2015 elections in which three major players—the current ruling Union Solidarity and Development Party led by President U Thein and the Speaker of the Union legislature Thura U Shwe Mann, the popular democratic National League for Democracy, led by Nobel laureate Daw Aung San Suu Kyi, and other popular ethnic minority parties such as Arakan

126 Myanmar had free and free general elections in 1990 in which the NLD won in a landslide but the SLORC did not respect the result and transfer power to the NLD.

National Party --are expected to fiercely contest. Since Myanmar is predominantly Buddhist, Buddhist identity is the most important and readily available channel through which people may be mobilized. In other words, popular opinion in the case of Myanmar is Buddhist opinion.

Against the backdrop of serious sectarian conflicts, a nationwide campaign for protection of Buddhism and Buddhists from a perceived Islamic threat, mainly popularized by the world-famous 969 movement, its de facto propagandist U Wirathu, and their parent organization, *Ma-Ba-Tha*, has emerged and is growing. This Islamophobic campaign has accelerated over the past two years after the 2012 Rakhine riots and it is often assumed to be linked to NLD's victory in the by-elections on 1 April 2012 and continued enormous popularity of the NLD Chairperson Daw Aung San Suu Kyi, both of which signal the high probability of the NLD winning in the 2015 elections.¹²⁷

4. Chauvinist Media

One of the most significant reforms that the Thein Sein administration brought about was the removal of press censorship and the allowance of private daily and weekly newspapers to circulate.¹²⁸ Reporters without Borders even released a report calling these changes the "Burmese Media Spring."¹²⁹ Due to increased

127 Out of 46 vacant seats in total, the NLD won 43 of the 44 seats for which they contested. NLD's Chair Daw Aung San Suu Kyi herself was elected as a member of the Pyithu Hluttaw (Lower Hluttaw) representing Kawhmu in Yangon Division.

128 Indeed, Myanmar had already had private weekly journals in print even before political changes began in 2011, which were subject to tight censorship. But daily private newspapers are a totally new phenomenon in 50 years since General Ne Win took power in a coup in 1962.

129 Reporters without Borders, 'Burmese Media Spring,' (December 2013).

<<http://en.rsf.org/birmanie-how-long-will-the-burmese-media-17-01-2013,43913.html>> accessed 29 July 2014.

competition in the small market,¹³⁰ public hype around sectarian riots in 2012, and almost universal public opinion in Myanmar that all, if not most, Rohingya are illegal immigrants, the private media in Myanmar have largely featured anti-Rohingya/Bengali messages amidst the international media and human rights regime's "victimization" frame of the Rohingya.¹³¹ While the international media framed Rakhine violence as repression of Rohingya and non-Rohingya (Kaman,¹³² etc.) Muslims in Rakhine, local media have mostly described it as violence by illegal Bengali Muslim immigrants against native Rakhine Buddhists. Therefore, most of the media in Myanmar can be said to be anti-Rohingya/Bengali in the sense that they aggressively problematize the Rohingya's legal identity and their belonging in Myanmar.

A distinction has to be made in the media coverage of the two rounds of Rakhine conflict in 2012 and

130 That Myanmar is a small market for old and new weeklies and new dailies in spite of its estimated population of 55-60 million is stated here because newspaper/journal readership is still low compared to its sizeable population. Poverty is one of the reasons but extreme popularity of Facebook among Myanmar's people in which almost all of Myanmar media post their news might have played a role.

131 Fortify Rights, *Policies of Persecution: Ending Abusive State Policies against Rohingya Muslims in Myanmar* (Switzerland/Southeast Asia: Fortify Rights, 2014); Human Rights Watch, *"The Government Could Have Stopped This": Sectarian Violence and Ensuing Abuses in Burma's Arakan State* (New York: Human Rights Watch, 2012); Human Rights Watch, *"All You Can Do is Pray": Crimes against Humanity and Ethnic Cleansing of Rohingya Muslims in Burma's Arakan State* (New York: Human Rights Watch, 2013); Physicians for Human Rights, *Massacre in Central Burma: Muslim Students Terrorized and Killed in Meiktila* (Cambridge, Massachusetts: Physicians for Human Rights, 2013); Physicians for Human Rights, *Patterns of Anti-Muslim Violence in Burma: A Call for Accountability and Prevention* (Cambridge, Massachusetts: Physicians for Human Rights, 2013)

132 Kaman is one of the 135 ethnic groups recognized as a national group by Myanmar authorities. Kamans are Muslim by faith and many of them were also affected during riots in 2012. Although they are citizens by birth according to the 1982 citizenship law, their number is disputed by Rakhine Buddhists and they also find themselves in legal limbo amidst Rakhine calls for scrutiny of Kaman Muslims' citizenship scrutiny cards (CSCs) in IDP camps.

of anti-Muslim riots in other parts of Myanmar in 2013. Although the Rohingyas were widely rejected and disowned by Myanmar media, there were many sympathetic reports on anti-Muslim riots in other parts in 2013 because those Muslims in non-Rakhine areas are considered citizens. The most significant example is the serious questioning of the government's alleged complicity in Mandalay disturbances in July 2014. Therefore, local Myanmar media's chauvinism or nationalism has significantly changed over the last couple of years. A number of articles have even started to review and question the probable hand of the government in the previous riots starting from Rakhine in 2012.

B. Positive Contributing Factors

In the aftermath of sectarian conflicts in 2012 and 2013, the increasingly vibrant civil society which has emerged after political opening in 2011 has responded with care. The most significant response by Myanmar's civil society is the emergence of interfaith groups, the most prominent among which is the Interfaith Group comprised of persons representing Buddhism, Christianity, Islam and Hinduism. That particular group was even awarded an Excellence Award by President U Thein Sein on 30 April 2013.

The Myanmar government has been seen to be promoting international and local dialogues and roundtable discussions for peace and development in Rakhine State, which is widely believed to have provoked the anti-Muslim violence since that time. Recognizing that hate speech has played a major role in anti-Muslim riots over the last couple of years, a number of commentators have spoken out and written against prevalence of hate speech in present-day Myanmar.

Besides written commentaries that are mainly in the local Burmese-language media and English-language local and international media, democratic activists provided a more active response to hate speech by launching a movement called *Panzagar* ("Flower

Speech") on 4 April 2014. Led by Nay Phone Latt, the well-known Myanmar blogger jailed in 2007 for 20 years in 2007 under the Electronic Transactions Law and now executive director of Myanmar ICT for Development Organization ("MIDO"),¹³³ the campaign uses a logo of lips clasping a branch of flowers and a slogan of "Let's restrain our speech not to spread hate among people!"¹³⁴ Nay Phone Latt said: "We distribute stickers, posters and pamphlets in Rangoon and also in the provinces. We are trying to spread the campaign's message among the public first, but powerful speakers who are more in touch with the public are specially targeted. If the public gets the message, they will oppose those who are using dangerous hate speech. Also, we want to gradually convince the extremists' groups who are spreading the hate speech to stop."¹³⁵

Additionally, the Myanmar government displayed perhaps its most proactive response to widespread hate messages on Facebook in the aftermath of inter-religious disturbances in Mandalay in early July 2014. The Myanmar government discussed the problem with officials with Facebook and reached an agreement with the latter to monitor hate messages on Burmese-language Facebook accounts and walls. Whether this will counter online "Islamophobia" is yet to be seen. The criteria Facebook and Myanmar authorities will apply in monitoring hateful Facebook accounts and what action is going to be taken against holders of such accounts are not known either. However, this move seems to have sent a message to extremists that they are being watched.¹³⁶

133 Nay Phone Latt was released in 2012 under a mass amnesty.

134 San Yamin Aung. 'Hate Speech Pours Poison Into the Heart.' *The Irrawaddy* (9 April 2014) <<http://www.irrawaddy.org/interview/hate-speech-pours-poison-heart.html>> accessed 12 July 2014

135 Ibid.

136 Tin Zar Aung. 'Facebook to help Myanmar government monitor malicious rumours.' *Mizzima* (9 July 2014) <<http://www.mizzima.com/mizzima-news/myanmar/item/11720-facebook-to-help-myanmar-government-monitor-malicious-rumours>> accessed 13 July 2014

PART FOUR: CONCLUSION

To conclude, the right to freedom of religion is still a very novel concept in Myanmar's newly emerging political and social *milieu*. Against the backdrop of Myanmar's so-called political liberalisation in 2011 and sectarian conflicts that ensued in 2012-13, the nationwide Buddhist nationalist movement led by *Ma-Ba-Tha* and the 969 movement's leaders has emerged and grown. An increasingly populist stance by the ruling Thein Sein administration has emerged, amidst calls by popular democratic leader Daw Aung San Suu Kyi and other activists to amend the constitution and to reduce the military's involvement in politics. Moreover, due to political and moral sensitivities posed by *Ma-Ba-Tha* and led by senior Buddhist monks, the opposition, except women's rights groups and human rights networks, have been largely silent about the race protection bills. Due to dominance of the military representatives (25%) and the ruling Union Solidarity and Development Party in the parliament, when the four bills are debated and voted by lawmakers, the liberal opposition may not have a final say in their passage. In an environment of increasingly intense political competition over various issues between the ruling USDP and the NLD (led by Aung San Suu Kyi), both of whom are eyeing the 2015 elections, *Ma-Ba-Tha* and its influence is expected to grow.

If passed, the four race protection bills to restrict religious conversion, polygamy, interfaith marriage and population growth demanded by *Ma-Ba-Tha* are expected to affect interfaith relationships and freedom of religion especially of minorities. This is because the bills ultimately aim to ensure Buddhist dominance in Myanmar on the pretext of promoting religious harmony.

That said, hate speech which has been widespread across Myanmar since sectarian Rakhine riots in June 2012, has been accepted as a serious impediment to Myanmar's democratization by many activists, commentators and to some extent, by the government itself. The *Panzagar* movement

led by former political prisoner and blogger Nay Phone Latt with the slogan of "End Hate Speech with Flower Speech" has provided a warning to the larger Myanmar society. However, whether those civilian activists including Nay Phone Latt are able to counter the enormous influence that Buddhist Sangha has in Myanmar society is yet to be seen. The fact that a section of people accept that hate speech is dangerous¹³⁷ does not mean that the "flower speech" campaign will result in the elimination of these messages, nor will it tackle deeper issues for which only the state, and Myanmar people as a whole, can be deemed responsible.

137 Susan Benesch distinguishes between hate speech and dangerous speech. She argues that hate speech is inevitable in a society and we only have to be concerned when hate speech becomes 'dangerous speech'. Her discussion of the distinction between hate speech and dangerous speech is available at <<http://voicesthatpoison.org/2012/04/20/free-speech-debate/>> accessed 4 January 2014.

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[centre-human-rights/publicpolicyengagement/projectsattheirishcentreforhumanrights/completedprojects/burmaproject-situationoftherohingyasinnortharakanstate/](http://www.nuigalway.ie/irish-centre-human-rights/publicpolicyengagement/projectsattheirishcentreforhumanrights/completedprojects/burmaproject-situationoftherohingyasinnortharakanstate/)> accessed 15 December 2014.

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