



Briefing Paper – Freedom of Expression, Religion and Belief As Freedom of Expression Shrinks, Discrimination is on the Rise

In the lead-up to the 2015 elections in Burma, religious minorities, especially the Muslim population, have been consistently subjected to state sponsored discrimination and violent abuse, while simultaneously denied representation in the political sphere or in civil society. This ongoing state of oppression, which was catalyzed by the anti-Rohingya violence of 2012, is backed by a popular social view that uses extremely xenophobic and hateful rhetoric when speaking about the Rohingya and the greater Muslim population, only appears to be getting worse. At the same time, advocates for human rights and other members of civil society have continually reported on the shrinking space for dissenting viewpoints in Burmese society, especially on the issue of religious freedom and religious minorities, including for those who hold views defending the Rohingya from persecution. A devastating hypocrisy has thus emerged in which anti-Rohingya and anti-Muslim sentiment is allowed – at times, even encouraged by the Burma Government and throughout public opinion – while nonconformist views attempting to uphold even basic rights for religious minorities are actively shut down. The purpose of this briefing paper is therefore to explore this contradiction between the oppression of Rohingya and the Muslim population of Burma and the suppression of freedom of expression for human rights defenders (HRDs) working on the issue of religion and belief, in a hope to bring about positive change for the marginalized religious community.

In May 2015, the plight and oppression of the Rohingya became a topic on the radar of every major global media outlet. Sparked by a clampdown on human trafficking in Thailand and the discovery of mass graves at trafficking camps along the border, the Andaman Sea became a vast and watery graveyard for thousands of Rohingya refugees. Abandoned by their traffickers, these refugees spent up to two months at sea in cramped boats, faced starvation and dehydration, and endured violent abuse at the hands of their subjugators – only to be denied the right to seek asylum from neighboring nations. While ASEAN countries and the broader international community have since raced to take action, the refugee crisis continues to be a major regional issue. The scale of the exodus out of Burma – reportedly nearly 25,000 refugees in the first quarter of 2015 – undoubtedly means that Rohingya people still face desperate problems.¹

¹ United Nations High Commissioner for Refugees 2015, *UNHCR report shows sharp increase in sea crossings in Bay of Bengal*, viewed 21 July 2015, <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=554c8adf9&query=rohingya>.

A meeting on May 29, hosted by the Thai Government in Bangkok, invited members of the ASEAN community to discuss the regional response to the crisis. The meeting confirmed that the rescue of those currently stranded at sea was to be the top priority in the short-term.² Though nearby nations initially denied opening their borders to Rohingya refugees, Indonesia and Malaysia have since agreed to set up temporary shelters for asylum seekers while Thailand has stated that it would provide humanitarian assistance to refugees along its shoreline.³ Meanwhile, the response from a number of civil society organizations was to prioritize the provision of humanitarian aid to the Rohingya in Arakan State.⁴ By addressing the factors contributing to the exodus of Rohingya, in this case the lack of adequate food and medical attention, these organizations hoped to curb the refugee crisis. While the granting of asylum and the delivery of much-needed aid is undoubtedly an important priority in the regional response to the crisis, long term solutions must take into account its root cause: the systematic oppression of the Rohingya, and the restrictions on freedom of religion placed upon the wider Muslim community by the Burma Government.

The Arakan State Riots of 2012, which began in June, were the beginning of a renewed and intensified level of persecution against the Rohingya. Initially confined to a series of retaliatory attacks between the Rohingya and Rakhine that resulted in casualties on both sides, by October 2012 the riots quickly became targeted against the Muslim religious minorities, which in Arakan State, are predominantly Rohingya. Human rights violations during this period included rape, murder, beheadings, beatings and the burning of Rohingya homes.⁵ Security Services were also complicit in the ongoing violence against the Rohingya. Burma's Nasaka border security force, which was created to monitor the Burma-Bangladesh border, subjected the Rohingya to abuse, torture, arbitrary arrest, and sexual violence.⁶ Rather than

² Ministry of Foreign Affairs of the Kingdom of Thailand 2015, *Press releases: summary special meeting on irregular migration in the Indian Ocean 29 May, 2015 Bangkok, Thailand*, viewed 21 July 2015, <http://www.mfa.go.th/main/en/media-center/14/56880-Summary-Special-Meeting-on-Irregular-Migration-in.html#.VWhjLPe3H8.twitter>.

³ Reuters in Kuala Lumpur 2015, 'Indonesia and Malaysia agree to offer 7,000 migrants temporary shelter,' *The Guardian*, 20 May, viewed 21 July 2015, <http://www.theguardian.com/world/2015/may/20/hundreds-more-migrants-rescued-off-indonesia-as-pope-calls-for-help>.

⁴ Burma Campaign UK 2015, *International NGOs urge Ban Ki-Moon to negotiate aid access to Rakhine State, Myanmar*, 20 May, London, viewed 21 July 2015, <http://burmacampaign.org.uk/international-ngos-urge-ban-ki-moon-to-negotiate-aid-access-to-rakhine-state-myanmar-burma/>.

⁵ Burma Campaign UK 2015, *International investigation needed into human rights violations against Burma's Rohingya*, June 7, London, viewed 21 July 2015, <http://burmacampaign.org.uk/international-investigation-needed-into-human-rights-violations-against-burmas-rohingya/>.

⁶ Teff, M 2013, *Myanmar: what will replace the notorious Nasaka?*, Refugees International, July 16, Washington, viewed 21 July 2015, <http://refugeesinternational.org/blog/myanmar-what-will-replace-notorious-nasaka>.

arresting those responsible for the violence, Nasaka,⁷ along with the members of the Burma Army, Navy, and local police forces, carried out regular atrocities against the Rohingya with complete impunity.⁸

The conflict – which Human Rights Watch classified as ethnic cleansing – resulted in hundreds of casualties and the displacement of over 140,000 Rohingya.⁹ Confined to camps and restricted in their movement, the growing population of internally displaced persons (IDPs) will only continue to suffer without adequate international attention.¹⁰ At the Aung Mingalar city quarter in Arakan State’s capital, Sittwe, barbed wire and numerous checkpoints segregate 4,000 Rohingya from the surrounding community, limiting their access to much-needed medical supplies, treatment, and food. In fact, the appalling living conditions of the Rohingya led the former UN Special Rapporteur on the situation of human rights in Burma, Tomás Ojea Quintana, to describe the Aung Mingalar as a “ghetto in the heart of Sittwe.”¹¹

Of course, the persecution of the Rohingya has been occurring long before the 2012 Arakan State Riots. The discriminatory classification of Rohingya as “illegal immigrants” has occurred since Burma obtained independence in 1948. Under General Ne Win’s military government, the Rohingya faced sexual violence, abuse, and forced deportations to Bangladesh as part of the larger anti-immigrant Operation *Nagamin*.¹² By 1982, discrimination of the Rohingya had become firmly entrenched within Laws in Burma with the passing of the controversial Citizenship Act. Under this Act, the Rohingya were legally excluded from citizenship, which resulted in over 800,000 of the religious minority becoming effectively stateless.¹³ Now, even temporary citizenship has been denied for the Rohingya; in April of this year the Burma Government ended the White Card identification system. Without

⁷ Nasaka was disbanded after international pressure in July 2013, but other security services continue to employ similar abuses.

⁸ Human Rights Watch 2013, *Burma: end ethnic cleansing of Rohingya Muslims*, HRW, April 22, viewed 21 July 2015, <https://www.hrw.org/news/2013/04/22/burma-end-ethnic-cleansing-rohingya-muslims>.

⁹ Human Rights Watch 2013, *Burma: end ethnic cleansing of Rohingya Muslims*, HRW, April 22, viewed 21 July 2015, <https://www.hrw.org/news/2013/04/22/burma-end-ethnic-cleansing-rohingya-muslims>.

¹⁰ United Nations High Commissioner for Refugees 2015, *2015 UNHCR country operations profile – Myanmar*, UNHCR, viewed 21 July 2015, <http://www.unhcr.org/pages/49e4877d6.html>.

¹¹ Office of the High Commissioner for Human Rights 2014, *Statement of the Special Rapporteur on the Situation of human rights in Myanmar*, OHCHR, February 19, Yangon, viewed 21 July 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14263>.

¹² Human Rights Watch 2000, *II: historical background*, HRW, viewed 21 July 2015, <https://www.hrw.org/reports/2000/burma/burm005-01.htm>.

¹³ Constantine, G 2012, *Between Burma and Bangladesh: Rohingya, a stateless people*, Pulitzer Center on Crisis Reporting, April 18, viewed 21 July 2015, <http://pulitzercenter.org/reporting/burma-bangladesh-rohingya-stateless-citizenship-act-refugees>.

this, voting rights for the Rohingya have been effectively eliminated and most will be subject to further citizenship scrutiny.¹⁴

Freedom of Religion and Belief

In the lead up to the 2015 elections, Muslim voices have been removed from any involvement in the political sphere. In early September 2015, the Union Election Commission (UEC) dismissed dozens of Muslim candidates seeking election to Burma's Parliament.¹⁵ The National League for Democracy, the main opposition to Burma's current government, is also refusing to field any Muslim candidates.¹⁶ In September, the UEC also disqualified all but one of the Democracy and Human Rights Party's 18 candidates, one of the main Muslim political parties that intended to represent Rohingya communities.¹⁷ This could have led to the dissolution of the party as regulations require a party to field at least three candidates in the 2015 elections. The UEC later reinstated two candidates from the party after calls from the international community for greater inclusivity, allowing three approved candidates to run in the elections, two of whom are Rohingya.¹⁸ Inability to field the candidates for the 2015 elections could have effectively prevented Muslims from influencing any future discriminatory legislation that will further disenfranchise and suppress their voice or livelihood when the new government is formed.

Unfortunately, the policies of the Burma Government have been supported by the pervasiveness of Islamophobia throughout public opinion. While international media attention began focusing on the plight of the Rohingya "boat people" this past May, hundreds of protestors took to the streets of Sittwe on 27 May, calling for an end to international pressure for their country to respond to the refugee crisis. The

¹⁴ Burmese Rohingya Organisation UK 2015, *Briefing paper: the Rohingya, the Citizenship Law, temporary registration, and implementation of the Rakhine State Action Plan*, BROUK, February 4, London, viewed 21 July 2015, <http://brouk.org.uk/wp-content/uploads/2015/04/Briefing-Paper-on-White-Card.pdf>.

¹⁵ ASEAN Parliamentarians for Human Rights, *ASEAN Parliamentarians urge international action to address escalating human rights concerns ahead of elections in Myanmar*, APHR, September 14 2015, <http://aseanmp.org/2015/09/14/urge-international-action-to-address-escalating-human-rights-concerns-in-myanmar/>.

¹⁶ Hindstrom, H, 2015, "In Myanmar, Muslim Minority is Targeted for Hate, Not Votes," *Al Jazeera America*, September 20, viewed 21 September 2015, <http://america.aljazeera.com/articles/2015/9/20/muslim-minority-cut-out-of-myanmar-vote.html>.

¹⁷ "Myanmar Election Body Rejects Muslim Parliamentary Candidates," *Radio Free Asia*, September 01, viewed 27 September 2015.

¹⁸ "Under pressure on all sides, UEC reinstates 11 Muslim candidates," *Myanmar Times*, September 25, viewed September 27 2015, <http://www.mmtimes.com/index.php/national-news/16693-under-pressure-on-all-sides-uec-reinstates-11-muslim-candidates.html>

protestors claimed that Burma could not be blamed for the crisis, as the Rohingya were never a part of the country in the first place.¹⁹

In 2014, an alliance of Arakanese Buddhists actively suppressed the access of Rohingya to desperately needed humanitarian aid by forming the “UN, INGO Watch Team.” International humanitarian organizations have since reported immense restrictions in their operational capacity as a result of this newly formed group.²⁰ The most infamous face of the rising anti-Rohingya and anti-Muslim movement, however, is U Wirathu, the leader of the ultra-nationalist Buddhist organization, the Association to Protect Race and Religion, otherwise known as Ma Ba Tha. Through the support of senior political figures, including Burma’s Minister of Religious Affairs, Wirathu’s followers have attempted to provide a moral Buddhist justification for the violent persecution of the Rohingya.²¹

The success of the anti-Muslim movement is exhibited in the continuation of riots, incidents of extreme mob violence, and the burning of Muslim homes, which became a trend across Burma in 2013. As reported by Human Rights Watch in the *World Report 2014*, communal violence occurred most notably within the town of Meiktila and in the surrounding Mandalay region during March 2013, in which at least 44 people were killed and around 1,400 Muslim businesses and homes were razed by violent mobs of Buddhists.²² Similar anti-Muslim attacks were reported across Burma, including in Okkan, in Sagaing Region; Pegu, the capital of the Bago Region; Lashio, in Shan State, and Thandwe, in Arakan State, all in the same year.

In 2014, the city of Mandalay witnessed yet another outbreak of anti-Muslim violence that left two dead and 20 injured. Observers of the attack, including the Young Buddhists Association, remarked that the violence was part of a deliberate attempt to promote religious violence on behalf of the government and which would utilize the fear-mongering tactics of the 969 Movement to achieve this aim.²³ This theory is explored in-depth in the report *Hidden Hands Behind Communal Violence in Myanmar*. The report, which uses the Mandalay riots as a case study, mentions, “the

¹⁹ Maung, M 2015, ‘Monks join hundreds in Myanmar anti-Rohingya rally’, *Al Jazeera*, May 27, viewed 21 July 2015, <http://www.aljazeera.com/news/2015/05/myanmar-anti-rohingya-rally-150527105614300.html>.

²⁰ Weng, L 2014, ‘Arakanese groups to monitor aid operations for Rohingya’, *The Irrawaddy*, May 26, viewed 21 July 2015, <http://www.irrawaddy.org/burma/arakanese-groups-monitor-aid-operations-rohingya.html>.

²¹ Marshall, A.R.C. 2013, ‘Special report: Myanmar gives official blessing to anti-Muslim monks’, *Reuters*, June 27, Yangon, viewed 21 July 2015, <http://www.reuters.com/article/2013/06/27/us-myanmar-969-specialreport-idUSBRE95Q04720130627>.

²² Human Rights Watch 2014, *Burma: communal violence undercuts rights gains*, HRW, January 21, New York, viewed 21 July 2015, <https://www.hrw.org/news/2014/01/21/burma-communal-violence-undercuts-rights-gains>.

²³ Palatino, M 2014, ‘The meaning of the Mandalay riots in Myanmar’, *The Diplomat*, July 12, viewed 21 July 2015, <http://thediplomat.com/2014/07/the-meaning-of-the-mandalay-riots-in-myanmar/>.

Mandalay riots were designed to appear as a spontaneous outbreak of mob violence, but in fact were perpetrated by an organized gang of armed men brought in from outside Mandalay to enact a pre-determined script written and stage-managed by hidden hands for political ends.”²⁴ As a means of preserving their power during the reform period, the report indicates how military hardliners exploit existing ethnic and religious tensions by utilizing the influential ultra-nationalist Buddhist social forces, such as Ma Ba Tha as a tool for spreading Islamophobia and religious hatred.

The Du Chee Yar Tan incident in January 2014, in which over 40 Rohingya were killed, is particularly disturbing due to the direct involvement of police and other authorities throughout the violent attacks.²⁵ While the UN announced it held “credible evidence” of the Arakan State attacks occurring, a government commission set up to investigate rejected these claims, thus failing to take responsibility.²⁶

Ma Ba Tha and its associated 969 Movement, along with other social and political forces, capitalize on unfounded existential fears to drive the persecution of the Rohingya forward. In 2014, the International Crisis Group published *Myanmar: The Politics of Rakhine State*, which characterized the anti-Rohingya sentiment based on four perceived threats. This included the threat of a demographic shift in Arakan State, cultural dilution, shifting economic imbalances between the Arakan and Muslims, and the fear of Muslims acting violently towards others.²⁷ In reality, the threat of a demographic shift is unfounded because there is no data supporting rapidly increasing Rohingya birth rates.²⁸ Other perceptions of the Rohingya are deeply rooted in a violent colonial history or exacerbated as result of competition for scarce resources facing many of Burma’s communities, especially in Arakan State which is one of the most impoverished states in Burma.²⁹

²⁴ Justice Trust 2015, *Hidden hands behind communal violence in Myanmar: case study of the Mandalay riots*, March, viewed 21 July 2015, http://www.burmalibrary.org/docs21/Justice_Trust-2015-03-Hidden_Hands-en-to-rev1-red.pdf.

²⁵ Office of the High Commissioner for Human Rights 2014, *Pillay calls for killings in northern Rakhine State to be investigated*, OHCHR, January 23, Geneva, viewed 21 July 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14194&LangID=E>.

²⁶ Oo, Y and Htun, N.M. 2014, ‘Myanmar panel rejects claims of Rohingya killings, recommends citizenship,’ *Radio Free Asia*, March 11, viewed 21 July 2015, <http://www.rfa.org/english/news/myanmar/du-chee-yar-tan-03112014183922.html>.

²⁷ International Crisis Group 2014, *Myanmar: the politics of Rakhine State*, ICG, October 22, Brussels, viewed 21 July 2015, <http://www.crisisgroup.org/~media/Files/asia/south-east-asia/burma-myanmar/261-myanmar-the-politics-of-rakhine-state.pdf>.

²⁸ Snaing, Y 2015, ‘Census raises new questions over legitimacy of birthrate law,’ *The Irrawaddy*, June 15, viewed 21 July 2015, <http://www.irrawaddy.org/burma/census-raises-new-questions-over-legitimacy-of-birthrate-law.html>.

²⁹ Brenner, D 2014, ‘When Buddhist monks wield Kalashnikovs,’ *Foreign Policy*, July 2, viewed 21 July 2015, <http://foreignpolicy.com/2014/07/02/when-buddhist-monks-wield-kalashnikovs/>.

The Burma Government has used these perceived threats to push forward their own anti-Islam agenda, finding influence and support amongst the extremist Buddhist community. A prime example of this is the passing of the four race and religion protection laws through Parliament in 2015. Among the four, the Population Control Bill was enacted as a means of slowing infant and maternal mortality rates through the implementation of birth-spacing measures, potentially allowing use on certain communities in certain areas.³⁰ The Religious Conversion Bill, the Myanmar Buddhist Women's Special Marriage Bill, and the Monogamy Bill also contain discriminatory language and appear to be directly targeting the rights of the Rohingya and other ethnic and religious minorities. For instance, under the Special Marriage Bill, penalties are placed on non-Buddhist men attempting to enter into marriage with Buddhist women, discouraging interfaith unions.³¹ Since May 2015, Burma's Parliament has passed all four pieces of legislation with limited opposition, with the Population Control Bill already being signed into law by President Thein Sein.³²

The continued implementation of these repressive measures, coupled with the widespread public support found in movements like Ma Ba Tha, have prompted civil society organizations and the international community, including the European Union, the U.S. Commission on International Religious Freedom, Human Rights Watch, and the UN to strongly condemn the religious persecution of the Rohingya.³³

Freedom of Expression

While public support for the persecution of the Rohingya can be overwhelming, numerous progressive democracy and human rights activists throughout Burma and the international community have come to the defense of the religious minority. These voices are important for illuminating the plight of the Rohingya and encouraging the Burma Government to reverse its discriminatory policies that place restrictions on religious minorities. Unfortunately, the space for civil society inside Burma to speak out is quickly shrinking, due largely to the increased intimidation and threat to the freedom of expression inside Burma. At the same time, the voices

³⁰ Physicians for Human Rights 2015, *Burma's Population Control Bill threatens maternal health progress*, PHR, April 22, New York, viewed 21 July 2015, <http://physiciansforhumanrights.org/press/press-releases/burmas-population-control-bill-threatens-maternal-health-progress.html>.

³¹ UN Office of the High Commissioner for Human Rights, *Myanmar: UN rights experts express alarm at adoption of first of four 'protection of race and religion' bills*, UNCHR, May 21, 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16015&LangID=E>.

³² Human Rights Watch, *Burma: Discriminatory Laws Could Stoke Communal Tensions*, HRW, August 23 2015, <https://www.hrw.org/news/2015/08/23/burma-discriminatory-laws-could-stoke-communal-tensions>.

³³ Karen News 2014, 'UN experts join international condemnation of Burma's proposed religion laws,' *Karen News*, June 22, viewed 21 July 2015, <http://karennews.org/2014/06/un-experts-join-international-condemnation-of-burmas-proposed-religion-laws.html/>.

of those calling for the continued persecution of the Rohingya and the wider Muslim community persist unabated.

In the last year, the Burma Government has consistently flouted the right to freedom of expression except in cases in which they directly benefit, such as in regards to the hate speech of Ma Ba Tha, certain politicians and other social forces using inflammatory language to incite communal violence against the Rohingya. The peaceful Letpadan student protests on 10 March 2015 ended with authorities resorting to violent crackdown including beatings, brutality and mass arrests prompting condemnation from the UN.³⁴ At the time of writing this paper, there are 13 journalists imprisoned for speaking out against the Burma Government.³⁵ This includes journalists from *Unity* newspaper, who were imprisoned last July for exposing a chemical weapons factory belonging to the Burma Army.³⁶ The abduction and murder of journalist Ko Par Gyi by the Burma Army, along with their impunity from prosecution during the case, also demonstrates a significant lack of adherence to the right of freedom of expression and respecting a free media. Concern over the “shrinking space for civil society and the media” was expressed by the UN Special Rapporteur on the situation of human rights in Burma, Yanghee Lee, during her inaugural trip to Burma.³⁷

It is therefore no surprise that Burma’s civil society offers very little room for dissenting opinions on the treatment of Rohingya. As the time of the General Elections is quickly approaching, the political environment, where the ultra-nationalist Ma Ba Tha has become increasingly influential, is even less conducive to the promotion of religious minority rights. For much of the political opposition, it would be disadvantageous to remark on the persecution of the Rohingya or even on the discriminatory practices towards Muslim community in general, as the deep-seated anti-Muslim perception is sure to influence voters.

For the Rohingya, the lack of representation in public dialogue also comes from the difficulty of organizing politically. A report from Refugees International points out that the history of marginalization of the Rohingya, namely the lack of access to

³⁴ UN Office of the High Commissioner for Human Rights, *UN Rights Expert Calls on Myanmar to Address Worrying Signs of Backtracking in Pivotal Year*, UNCHR, March 18, 2015,

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15714&LangID=E>

³⁵ Roy Greenslade, “Two Burmese Newspaper Journalists Jailed for Defaming Military MP,” *The Guardian*, March 20, 2015, <http://www.theguardian.com/media/greenslade/2015/mar/20/two-burmese-newspaper-journalists-jailed-for-defaming-military-mp>.

³⁶ Haigh, L 2015, *Journalists sentenced in Myanmar – free the Unity five*, Amnesty International, April 29, viewed 21 July 2015, <https://www.amnesty.org/en/latest/campaigns/2015/04/journalists-silenced-in-myanmar-free-the-unity-five/>.

³⁷ Office of the High Commissioner for Human Rights 2014, *Statement of the Special Rapporteur on the situation of human rights in Myanmar*, OHCHR, July 26, Myanmar, viewed 21 July 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14909&>.

education and training, has contributed to the lack of civil society development.³⁸ Furthermore, severe restrictions on the Freedom of Movement mean that Rohingya political parties are unable to effectively campaign, conduct research, or otherwise visit regions of Arakan State and elsewhere.

The active suppression of Rohingya HRDs also a serious setback for emerging civil society networks. In 2013, Rohingya activist Kyaw Hla Aung was arrested for allegedly taking part in a protest at an IDP camp in Sittwe.³⁹ Human rights groups, such as Fortify Rights, have condemned this arrest and accused the Burma Government of attempting to silence an educated and outspoken Rohingya activist.⁴⁰ Similar circumstances surround the arrest of the Rohingya community leader Tun Aung, who was detained on the basis of inciting violence during the 2012 Arakan State riots.⁴¹ Fortunately Tun Aung has since been released, but most of the Rohingya community continues to remain silent in order to prevent reprisals due to their raising voice on the situation. This past year also saw the Arakan State Divisional Court formally sentence the Rohingya activists Ba Thar, Kyaw Myint, Hla Myint and Kyaw Khin to sentences of five and eight years in jail for a non-violent protest in 2013 that called for their recognition in a population registration exercise.⁴²

Moderate Buddhists, such as Monk U Pinnyasiha have also observed their freedom of expression attacked for defending the Rohingya. Urging Buddhists to uphold compassion above all else and to cease anti-Muslim hate speech, U Pinnyasiha has since been banned from preaching by the State Sangha Maha Nayaka Council, also known as Ma Ha Na, the government-controlled, highest Buddhist monks council in Burma that regulates monks.⁴³

³⁸ Garcia, S and Olson, C 2008, *Rohingya: Burma's forgotten minority*, Refugees International, December 18, viewed 21 July 2015, <http://refugeesinternational.org/policy/field-report/rohingya-burma%E2%80%99s-forgotten-minority>.

³⁹ The International Federation for Human Rights 2014, *Burma: end the persecution of Rohingya human rights defender Kyaw Hla Aung*, FIDH, July 4, Bangkok, viewed 21 July 2015, <https://www.fidh.org/International-Federation-for-Human-Rights/asia/burma/15707-burma-end-the-prosecution-of-rohingya-human-rights-defender-kyaw-hla-aung>.

⁴⁰ Fortify Rights 2014, *Myanmar: release Rohingya political prisoner Kyaw Hla Aung*, August 5, Bangkok, viewed 21 July 2015, <http://www.fortifyrights.org/publication-20140805.html>.

⁴¹ The Associated Press 2015, 'Myanmar releases prominent Rohingya political prisoner,' *The New York Times*, January 20, Yangon, viewed 21 July 2015, http://www.nytimes.com/aponline/2015/01/20/world/asia/ap-as-myanmar-political-prisoners.html?_r=0.

⁴² Amnesty International 2015, *Urgent action: Rohingya community leaders imprisoned*, ASA1613142015, March 27.

⁴³ Popham, P 2015, 'Burma's great terror moves a step closer as Taliban urges Rohingya to take up the sword,' *The Independent*, June 14, Rangoon, viewed 21 July 2015, <http://www.independent.co.uk/news/world/asia/burmas-great-terror-moves-a-step-closer-as-taliban-urges-rohingya-to-take-up-the-sword-10319254.html>.

The most recent example involving the suppression of freedom of expression for a human rights defender involves the case of writer and former NLD member, Htin Lin Oo. In a speech in October 2014, Htin Lin Oo criticized the Ma Ba Tha for promoting religious intolerance. For attempting to defend the ongoing persecution of religious minorities like the Rohingya, Htin Lin Oo received two years in prison with hard labor.⁴⁴ It could not be clearer that the Burma Government, with the support of this hardliner Buddhist Nationalist movement, is systematically oppressing dissenting voices and actively shutting down their freedom of expression in relation to their work on freedom of religion and belief.

Social pressure from local communities and around Burma's digital sphere also limits the space for HRDs working on freedom of religion and belief, and also average Rohingya or Muslims in general to speak out against their situation. Amongst the climate of state and Buddhist sponsored discrimination, Muslim communities face calls for boycotts of Muslim-owned businesses, smear campaigns, anti-Muslim reporting from certain media outlets, and generalized hate speech that follows in the vein of the rhetoric spewed by the nationalist Buddhist movement.⁴⁵

Furthermore, while the increase in Internet usage in Burma has brought about new tools of information sharing and advocacy for HRDs, including those working on freedom of religion and belief, it has contributed to monitoring, intimidation and harassment of HRDs that promote religious tolerance, while also instigating hatred and violence. The Sentinel Project, an anti-genocide organization, has made note of the hypocritical use of social media in Burma. For instance, a blog post about unproven allegations of the rape of a Buddhist woman by Muslim men, ferociously shared and quickly viral, prompted the beginning of the 2014 Mandalay riots. Meanwhile, a man was arrested during the same year for posting pictures on Facebook of violence against Rohingya, and in another incident, a human rights film festival was banned from the showing of a film deemed to be "sympathetic to the Rohingya" in response to an outcry on social media platforms.⁴⁶ Unfortunately, the Internet has become yet another means of discrimination against the Muslim population; in which anti-Muslim criticism is promoted and the defense of the Rohingya is stamped out.

The suppression of freedom of expression surrounding the treatment of the Muslim minority, particularly Rohingya, is not only internal to Burma, it exists for the

⁴⁴ Office of the High Commissioner for Human Rights 2015, *Press briefing notes on Myanmar*, UNCHR, June 3, Geneva, viewed 21 July 2015,

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16036&LangID=E>.

⁴⁵ Civil Rights Defenders 2015, *Human rights in Myanmar*, January 19, viewed 21 July 2015,

<http://www.civilrightsdefenders.org/country-reports/human-rights-in-myanmar/>.

⁴⁶ Kiersons, S 2014, *Burma update: genocide in the age of the Internet and social media*, The Sentinel Project, July 10, viewed 21 July 2015, <https://thesentinelproject.org/2014/07/10/burma-social-media/>.

international community as well. Critics of the Burma Government's policies towards the religious minority often become targets of abuse, either from the government or as part of the hate-mongering of the Buddhist Nationalist movement. The former UN Special Rapporteur on the situation of human rights in Burma, Tomás Ojea Quintana, was himself the victim of a violent attack from nationalist Buddhists mobs after speaking out against the communal violence in Arakan State.⁴⁷ During the attack, the Special Rapporteur observed Burmese police authorities standing idly by, demonstrating a degree of complicity. The current UN Special Rapporteur on the situation of human rights in Burma, Yanghee Lee, has also received a fair share of abuse from Wirathu and the Buddhist Nationalist hardliners. Wirathu responded to Yanghee Lee's criticism of the Race and Religion Protection Laws by calling her a "whore" to a crowd of supportive followers.⁴⁸

The decision of the Burma Government to ban Medicines Sans Frontiers (MSF) in May 2014 also illustrates the tightening of freedom of expression surrounding international civil society organizations. MSF was barred from continuing operations in Arakan State after Thein Sein's office deemed their involvement with the Rohingya as "favouritism."⁴⁹ Critics of the removal of the NGO say the move was in response to MSF stating that they had treated 22 Muslims from the Du Chee Yar Tan massacre – an event that has been disputed by the Burma Government.⁵⁰ While MSF has been allowed to resume operations in Arakan State as of January 2015, their initial removal has prompted concern among international civil society organizations over their ability to criticize the Burma Government or even publicly share information on the situation. Amid clear warnings from the Chief Minister of Arakan State for NGOs to refrain from criticism over the removal of the White Card, international NGOs, especially those with humanitarian and aid objectives, are likely to remain quiet.⁵¹

The 29 May Special Meeting on Irregular Migration in Thailand has been criticized as evidence that the international community has also been subjected to the suppression of freedom of expression in regards to speaking out about the Rohingya. The meeting, which sought to bring together members of the ASEAN

⁴⁷ Human Rights Watch 2014, *Burma: country summary*, HRW, January, viewed 21 July 2015, https://www.hrw.org/sites/default/files/related_material/burma_6.pdf.

⁴⁸ Lei Win, T and Marshall A.R.C. 2015, 'Myanmar monk's U.N. whore rant could hurt Buddhism,' *Reuters*, January 21, viewed 21 July 2015, <http://www.reuters.com/article/2015/01/21/us-myanmar-religion-idUSKBN0KU0Q420150121>.

⁴⁹ Smith, M 2014, 'Burma's ethnic persecution is state policy,' *Wall Street Journal*, March 13, viewed 21 July 2015, <http://www.fortifyrights.org/commentary-20140313.html>.

⁵⁰ Burmese Rohingya Organisation UK 2014, *Timeline – killings and massacre January 2014, Maungdaw, Rakhine State*, BROUK, January 31, viewed 21 July 2015, http://www.burmacampaign.org.uk/images/uploads/Du_Chee_Yar_Tan_Massacre_Timeline.pdf.

⁵¹ Shah, I 2015, 'Open barbarism of Gov't designated Arakan Chief Minister,' *The Burma Times*, February 14, viewed 21 July 2015, <http://burmatimes.net/open-barbarism-govt-designated-arakan-chief-minister/>.

community to formulate a regional response to the refugee crisis in the Andaman Sea, was initially boycotted by Burma. In order to bring Burma to the negotiating table, numerous members of the international community agreed to Burma's discriminatory stipulation that the Rohingya should be referred to only as "Bengali."⁵² The use of the term reinforces the claim that Rohingya are illegal immigrants from Bangladesh, illustrating how the international community was forced to cede their freedom of expression in exchange for any potential interaction with the Burma Government.

The lack of freedom of expression in Burma is preventing any potential shift in the discourse surrounding Burma's Muslim population, and in particular, the Rohingya. Without the availability of dissenting voices, the Burma Government, along with the support of ultra-nationalist movements, will continue to persecute the Rohingya. The political and social space for these views must therefore be developed, if there is to be any hope for the abused religious minority.

Conclusion and Recommendations

The Burma Government has not only failed to protect the rights of the Rohingya and the wider Muslim community, it has in many cases actively contributed to their continued mistreatment. As such, the international community must acknowledge that the Burma Government has the responsibility to uphold the basic rights of the all religious minorities, as outlined under the third pillar of the UN's Responsibility to Protect, which states, "The international community has a responsibility to use appropriate diplomatic, humanitarian and other means to protect populations from these crimes. If a State is manifestly failing to protect its populations, the international community must be prepared to take collective action to protect populations, in accordance with the Charter of the United Nations."⁵³

For the ASEAN community, the responsibility to protect requires a rethinking of the non-interference policy.⁵⁴ ASEAN nations must make use of every diplomatic measure available to pressure the Burma Government into recognizing the Rohingya as a legitimate community and end its policy of discrimination and persecution. In the short term, the ASEAN can encourage Burma to lessen restrictions on freedom of expression especially in the field of religion and belief, in order to better identify internal support for the protection of religious minorities.

⁵² Pearlman, J and Yai, H 2015, 'Burma insists it is not to blame for boat people crisis at emergency summit,' *The Telegraph*, May 29, viewed 21 July 2015, <http://www.telegraph.co.uk/news/worldnews/asia/burmamyanmar/11638762/Burma-insists-it-is-not-to-blame-for-boat-people-crisis-at-emergency-summit.html>.

⁵³ UN Office of the Special Advisor on the Prevention of Genocide 2015, *The responsibility to protect*, UN, viewed 21 July 2015, <http://www.un.org/en/preventgenocide/adviser/responsibility.shtml>.

⁵⁴ ASEAN Inter-Parliamentary Myanmar Caucus, *The abused notion of non-interference*, AIPMC, viewed 21 July 2015, <http://www.aseanmp.org/docs/resources/noninterference.pdf>.

While slow to act, the international community has begun to demonstrate its willingness to speak out against Burma. Former Malaysian Prime Minister, Dr. Mahathir Mohamed, at an international conference covering the plight of the Rohingya, urged the ASEAN community to expel Burma from its regional bloc.⁵⁵ This opinion has been reflected by a number of international voices, however the international community must not be afraid to speak out against the ongoing discrimination against Rohingya and Muslim minorities in Burma. The Oslo Conference to End Myanmar's Persecution of the Rohingya, held one day prior to the 29 May regional conference on the refugee crisis in Bangkok, can be commended for holding the Burma Government directly responsible for the treatment of Rohingya, which will hopefully be translated into genuine state action.⁵⁶ The treatment of Rohingya is a regional issue; international human rights norms are being systematically violated and it is up to the ASEAN, along with the broader international community, to ensure that the rights of Rohingya and Muslim religious minorities in Burma are protected.

Recommendations :

To the Burma Government:

1. Cease all forms of discrimination against the Rohingya and religious minorities. This includes creating legislation that prohibits hate speech against any ethnic or religious minority.
2. Provide a platform for the Rohingya community to take part in the country's political sphere. They must be involved in all discussions that affect their livelihood. The first priority should be to negotiate how best to provide humanitarian aid for displaced Rohingya communities in Arakan State.
3. Demonstrate a genuine commitment to the promotion and protection of freedom of expression, religion and belief. This includes removing any restrictions on human rights defenders who advocate for the rights of religious minorities. It also involves punishing those groups, such as the Ma Ba Tha and the 969 Movement, who wish to suppress the freedom of expression, religion and belief of others and spread hate speech and incite violence.

⁵⁵ Kanyakumari, D 2015, 'Dr M calls for Myanmar to be expelled from Asean,' *The Star Online*, June 12, Kuala Lumpur, viewed 21 July 2015, <http://www.thestar.com.my/NEWS/NATION/2015/06/12/MYANMAR-SHOULD-LEAVE-ASEAN-DR-M/>.

⁵⁶ Aung Myint, S 2015, 'Government misfires on Oslo conference,' *The Myanmar Times*, June 9, viewed 21 July 2015, <http://www.mmmtimes.com/index.php/opinion/14925-government-misfires-on-oslo-conference.html>.

To the ASEAN Community:

1. Understand that the persecution of the Rohingya and religious minorities in Burma is a *regional* problem. The continued oppression of religious minorities in Burma will only fuel further refugee crises in the region and damage the international reputation of the ASEAN to uphold human rights.
2. Recognize the identity of Rohingya religious minority and refrain from self-censorship when discussing the issue with the Burma Government
3. Pressure the Burma Government into making considerable changes in the discriminatory policies they have against the Rohingya and the wider Muslim population and to remove the influence of the Buddhist Nationalist groups in their policy sphere.
4. Demand that the Burma Government promote a greater space for freedom of expression, religion, and belief.

To the International Community:

1. Recognize that the ongoing persecution of Rohingya and the Muslim population with entrenched impunity is a breeding ground for continued human rights abuses.
2. Ensure that Burma's engagement with the global economy is kept to an absolute minimum until they have demonstrated a commitment to end human rights abuses and the systematic persecution of religious minorities.
3. Continue pressuring Burma into complying with and fulfilling its international obligations to promote freedom of expression and religion and belief.

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