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KEY FINDINGS

The year 2016 marked a historic and peaceful transition of government in Burma, also known as Myanmar. Yet while the political handover occurred without incident, conditions during the year continued to decline for Rohingya Muslims, as well as for other religious and ethnic minorities. In addition, fresh and renewed fighting in some ethnic areas highlighted the schism between Burma's civilian-controlled leadership and the military, which controls three powerful ministries and significant portions of the economy. Although the circumstances and root causes driving the ill treatment of religious and ethnic groups differ, there are two common elements: (1) the outright impunity for abuses and crimes committed by the military and some non-state actors, and (2) the depth of the humanitarian crisis faced by displaced persons and others targeted for their religious and/or ethnic identity. Due to both governmental and societal discrimination, Rohingya Muslims – tens of thousands of whom are currently displaced – are stateless and vulnerable, and many Christians are restricted from public worship and subjected to coerced conversion to Buddhism. Given that the National League for Democracy (NLD) government has allowed systematic, egregious, and ongoing violations of freedom of religion or belief to continue, USCIRF again finds that Burma merits designation as a "country of particular concern," or CPC, in 2017 under the International Religious Freedom Act (IRFA). The State Department has designated Burma as a CPC since 1999, most recently in October 2016. Non-state actors such as Ma Ba Tha and other nationalist individuals and groups do not meet the definition of an "entity of particular concern" under the Frank Wolf International Religious Freedom Act (P.L. 114-281), but merit continued international scrutiny for their severe violations of religious freedom and related human rights.

RECOMMENDATIONS TO THE U.S. GOVERNMENT

- Continue to designate Burma as a CPC under IRFA;
- Enter into a binding agreement with the government of Burma, as authorized under section 405(c) of IRFA, setting forth mutually agreed commitments that would foster critical

reforms to improve religious freedom and establish a pathway that could lead to Burma's eventual removal from the CPC list, including but not limited to the following:

- Taking concrete steps to end violence and policies of discrimination against religious and ethnic minorities, including the investigation and prosecution of those perpetrating or inciting violence; and
- Lifting all restrictions inconsistent with international standards on freedom of religion or belief;
- Continue to encourage Burma's government to allow humanitarian aid and workers, international human rights monitors, and independent media consistent and unimpeded access to conflict areas, including in Rakhine, Kachin, and Shan states and other locations where displaced persons and affected civilian populations reside, and direct U.S. assistance to these efforts, as appropriate;
- Support efforts by the international community, including at the United Nations, to establish a commission of inquiry or similar independent mechanism to investigate the root causes and allegations of human rights violations in Rakhine, Kachin, and Shan states and other conflict areas, and to hold accountable those responsible – including members of the military and law enforcement – for perpetrating or inciting violence against civilians, particularly religious and ethnic minorities;
- Encourage Burma's government to become party to the International Covenant on Civil and Political Rights;
- Engage the government of Burma, the Buddhist community (especially its leaders), religious and ethnic minorities (including Rohingya Muslims and Christian communities), and other actors who support religious freedom, tolerance, inclusivity, and reconciliation, to assist them in promoting understanding among people of different religious faiths and to impress upon them the importance of pursuing improvements in religious tolerance and religious freedom in tandem with political improvements;
- Use the term "Rohingya" both publicly and privately, which respects the right of Rohingya Muslims to identify as they choose;
- Encourage crucial legal and legislative reform that strengthens protections for religious and ethnic minorities, including citizenship for the Rohingya population through the review, amendment, or repeal of the 1982 Citizenship Law or some other means, and support the proper training of local government officials, lawyers, judges, police, and security forces tasked with implementing, enforcing, and interpreting the rule of law;
- Press for at the highest levels and work to secure the unconditional release of prisoners of conscience and persons detained or awaiting trial, and press Burma's government to treat prisoners humanely and allow them access to family, human rights monitors, adequate medical care, and lawyers and the ability to practice their faith; and
- Use targeted tools against specific officials, agencies, and military units identified as having participated in or being responsible for human rights abuses, including particularly severe violations of religious freedom, such as adding further names to the "specially designated nationals" list maintained by the Treasury Department's Office of Foreign Assets Control, visa denials under section 604(a) of IRFA and the Global Magnitsky Human Rights Accountability Act, and asset freezes under the Global Magnitsky Act.

BACKGROUND

Decades after the military's ruthless divide-and-rule tactics fomented deep social cleavages, peace and cohesion across Burma remain elusive under the new NLD government as it faces numerous

religious and ethnic challenges, several of which it inherited from the previous government. On March 30, 2016, the new government took power under the direction of State Counsellor Daw Aung San Suu Kyi, a Nobel laureate who came into office facing high hopes and expectations, and her close ally, President Htin Kyaw. Since that time, the NLD has been confronted by rising nationalism and nativism while attempting to forge the foundations of lasting peace through the 21st Century Panglong Conference. Since 2011, increased conflict between Burma's military and ethnic armed groups resulted in more than 240,000 people being displaced in "camps or camp-like situations in Kachin, Shan and Rakhine" states, according to the United Nations (UN) Office for the Coordination of Humanitarian Affairs.

On July 21, 2016, Burma's Ministry of Labor, Immigration and Population released religion data collected during the 2014 nationwide census. Based on these figures, of the total 51.4 million population, nearly 90 percent of the population is Theravada Buddhist, more than 6 percent Christian, more than 4 percent Muslim, and less than 1 percent each is Hindu, animist, or another faith. The previous government withheld the religion data for fear it would reveal a dramatic increase in the Muslim population. In fact, some who sought to deny rights to Rohingya Muslims pointed to a presumed increase in the country's Muslim population to justify their brutal words and actions. However, given that previous estimates of the Muslim population were approximately 4 percent (including the last official census in 1983, which estimated 3.9 percent), the 2014 census discredited these claims.

In an ongoing period of rapid and dramatic change in Burma, the primacy of Buddhism at the expense of religious and ethnic minorities – particularly Rohingya Muslims – continues. During the year, the government formed two key bodies to address the myriad challenges in Rakhine State. On May 31, the President's Office announced the Central Committee for Implementation of Peace and Development in Rakhine State, led by State Counsellor Aung San Suu Kyi and tasked with developing plans to address poverty issues. On August 23, the State Counsellor's Office announced a nine-member Advisory Commission on Rakhine State led by former UN Secretary General Kofi Annan and launched in September 2016. Some in Rakhine State, including members of the Arakan National Party and civil society, expressed strong dissatisfaction about the Annan Commission having three foreigners among its members, including Annan.

Some Buddhist nationalists from groups like the Organization for the Protection of Race and Religion, also known as Ma Ba Tha, and the Myanmar Nationalist Network staged a number of protests around the country over the Annan Commission, the use of the term "Rohingya," and other issues. In a positive sign, some residents took a stand both online and in person against these nationalist protests. While the momentum of nationalist sentiment appeared to diminish when the State Sangha Maha Nayaka Committee (the official monk-led association) publicly declared it had never endorsed Ma Ba Tha and asserted its own position as the only sangha association (the community of Buddhist clergy and laity) that represents all of Burma's Buddhists, the prejudices, intolerance, and bigotry driving these movements still influence the government and society.

In January 2017, this divisive sentiment was evident following the assassination of prominent Muslim lawyer and NLD adviser U Ko Ni: firebrand nationalist monk U Wirathu praised the murder and thanked the suspects. While many do not believe Ko Ni was killed because he was Muslim, his death leaves a tangible void of Muslim voices within the government, particularly since Muslims are not represented in the national parliament. Taxi driver Nay Win also was killed as he

attempted to apprehend the suspected killer. At the end of the reporting period, authorities had arrested three suspects and were searching for others.

In August 2016, USCIRF staff accompanied members of parliament representing the International Panel of Parliamentarians for Freedom of Religion or Belief on a trip to Burma, visiting religious, civil society, and government representatives in Rangoon and Naypyidaw.

RELIGIOUS FREEDOM CONDITIONS 2016–2017

The Persecution of Rohingya and Other Muslims

In 2016, Rohingya Muslims suffered the harshest crackdown since waves of violence in June and October 2012 killed hundreds, displaced thousands, and destroyed hundreds of religious properties. On October 9, 2016, a large group of insurgents believed to be Rohingya Muslims carried out a series of attacks in and around Maungdaw Township in northern Rakhine State, targeting Border Guard Police and other law enforcement facilities and resulting in the deaths of nine police officers. In response, Burma's military and law enforcement instituted a sweeping clearance operation that cut off humanitarian aid and restricted independent media access. According to a February 2017 report by the Office of the UN High Commissioner for Human Rights (OHCHR), approximately 66,000 Rohingya fled to Bangladesh between October 9 and early 2017. Since the report's release, the number is reportedly more than 70,000. (Several thousand also were internally displaced, including some ethnic Rakhine.) Rohingya victims and witnesses interviewed by OHCHR for the report described extrajudicial killings; death by shooting, stabbing, burning, and beating; killing of children; enforced disappearances; rape and other sexual violence; arbitrary detention and arrests; looting and destruction of property, including by arson; and enhanced restrictions on religious freedom. The report concluded that crimes against humanity likely had been committed.

During 2016, the NLD government failed to respond both to the violence in northern Rakhine State perpetrated by the military and security forces, and more broadly to the discrimination and ill treatment of Rohingya Muslims. In one government attempt at compromise that further inflamed tensions, on June 19 the Ministry of Information directed state media to use the terms "Buddhists in Rakhine State" and, rather than "Rohingya" or "Bengali," "Muslims in Rakhine State." For different reasons, both ethnic Rohingya and ethnic Rakhine strongly objected, including thousands of Rakhine Buddhists who protested throughout Rakhine State. Also, as noted above in the Background section, hundreds of ethnic Rakhine, including Buddhist monks, protested the government's decision to include foreigners in the Annan Commission. The government also largely remained silent in the aftermath of the military's indiscriminate and disproportionate clearance operation in northern Rakhine State. Not only has the NLD government refrained from speaking out against the violence, but it also has rejected and denied many of the military's reported abuses and rebuffed the international community's concerns.

The government did establish an investigation commission to examine the October 9 incident in northern Rakhine State. However, the selection of military-appointed Vice President U Myint Swe to lead the commission raised concern among human rights advocates. On December 15, the commission reported on its visit to northern Rakhine State in a State Counsellor's office-issued statement that refuted a report made by one Rohingya woman about an alleged rape by military personnel and portrayed living conditions in a largely positive light, a characterization incongruous with nearly all other accounts of the situation in Rakhine. In its January 2017 interim report, the

commission found no evidence of genocide and insufficient evidence supporting numerous rape allegations, and failed to mention civilian deaths at the hands of security forces even though authorities just days earlier detained several police officers after the release of a video showing them beating Rohingya Muslims. (For further information about abuses against Rohingya Muslims, refer to *Suspended in Time: The Ongoing Persecution of Rohingya Muslims in Burma* at www.uscirf.gov.)

Ill treatment of Rohingya Muslims goes beyond violence. For example, in September 2016, as part of a nationwide government-ordered initiative to demolish religious structures built without state or regional permission, Rakhine State authorities announced plans to demolish several mosques and *madrassahs* (Islamic schools). The demolition order also applied to Buddhist structures, like pagodas, that lacked official government permission. However, religious minorities typically have more difficulty obtaining the multiple layers of government permission required to build or repair houses of worship and therefore often do so without authorization, making them more vulnerable to the demolition order.

Government and non-state actors also perpetrate discrimination and violence against Muslims who are not ethnically Rohingya. In June 2016, a reported mob of approximately 200 Buddhists destroyed parts of a mosque in Bago Region, along with other nearby property. Then, on July 1, another mob burned down a mosque in Hpakant, Kachin State; police arrested five people in connection with the arson. In both incidents, Muslims fled, fearful for their safety. Prompted by the violence, 19 nongovernmental organizations issued a joint statement calling on Burma's government to investigate, hold perpetrators accountable, and ensure freedom of religion or belief.

Abuses Targeting Christian Minorities

In a December 2016 report chronicling religious freedom violations against marginalized Christian Chin, Naga, and Kachin, a researcher contracted by USCIRF documented discriminatory restrictions on land ownership, intimidation and violence against Christians, the forced relocation and destruction of Christian cemeteries, violent attacks on places of worship, and an ongoing campaign of coerced conversion to Buddhism. For example, the report cites a March 2016 incident in which a Buddhist man broke into the house of a Christian missionary from the Chin Baptist Convention, physically assaulting him and destroying property. The incident took place after extremist monks from the nationalist 969 Movement tried to force the missionary out of a village in Pauk Township, Magwe Region. The researcher interviewed others who described the Tatmadaw's (Burma's military) occupation of churches and homes. June 9, 2016, was the five-year anniversary of resumed fighting between the Tatmadaw and ethnic armed groups in largely Christian Kachin State after a ceasefire agreement collapsed. Five years later, nearly 100,000 people remain internally displaced in camps in Kachin State and northern Shan State, where additional clashes with the army also continue. The longstanding conflicts, while not religious in nature, have deeply impacted Christian and other faith communities, including by restricting their access to food, shelter, health care, and other basic necessities. Religious organizations, such as the Kachin Baptist Convention and others, continue to assist the displaced.

In April and May 2016, Buddhist monk U Thuzana constructed two pagodas inside the St. Mark's Anglican Church compound in Karen State. The monk is known for building stupas and other Buddhist structures at churches and mosques. Although his actions have not yet provoked violence,

and while the Union- and state-level governments did intervene, tensions were high at these sites during construction of the Buddhist structures.

Coerced conversion campaigns are still prevalent in the military-run Border Areas National Races Youth Development Training Schools, also known as Na Ta La. According to 2016 statistics from the Ministry of Border Affairs (also run by the military), there are 33 Na Ta La schools across the country, more than half of which are in rural, impoverished Chin, Kachin, and Naga areas. The Na Ta La schools offer free education and boarding to children of poor families who might otherwise not have access to education. In return, however, Christian students are not allowed to attend church; must practice or learn about Buddhist worship, literature, and culture; and become initiated into the monkhood or nunhood. Students effectively are cut off from their parents, and upon graduation are guaranteed government employment so long as they officially convert to Buddhism, including on their national ID cards. (For further information about abuses against Christians, refer to *Hidden Plight: Christian Minorities in Burma* at www.uscirf.gov.)

In December 2016, Dumdaw Nawng Lat and Lang Jaw Gam Seng, two ethnic Kachin Baptist leaders, disappeared in northern Shan State after assisting local journalists following a military airstrike on St. Francis Xavier Catholic Church in Mong Ko. Weeks later, the military confirmed it had detained both men, and in January 2017, the police charged them under the Unlawful Associations Act for allegedly supporting the Kachin Independence Army.

Arrests and Imprisonments

During the year, both the outgoing USDP and incoming NLD governments released many political prisoners; the latter also withdrew charges against many individuals awaiting trial. However, as of February 2017, the Assistance Association for Political Prisoners (Burma) calculated 292 political prisoners in the country, including those currently serving sentences and those awaiting trial both inside and outside prison. In February 2016, interfaith activists Zaw Zaw Latt and Pwint Phyu Latt, both Muslim, were sentenced to two years' imprisonment on charges relating to their interfaith activities in 2013 and 2014. In April 2016, the two received additional two-year sentences, this time with hard labor. Nationalist Buddhist monks from Ma Ba Tha pressured authorities to arrest and prosecute the pair.

In positive news, in October 2016 Burma abolished the Emergency Provisions Act, a decadesold measure the military regime often relied on to detain and imprison dissidents. However, several Muslims jailed under the law continue to suffer in prison, including the abovementioned Zaw Zaw Latt and Pwint Phyu Latt. Also, in April 2016 a presidential amnesty resulted in the release of Htin Lin Oo, the former NLD official found guilty in June 2015 of insulting religion. On July 1, authorities released and dropped all remaining charges against U Gambira, a former monk and well-known Saffron Revolution leader. Prior to his release, Gambira, who had already served a prison sentence for his activism during the Saffron Revolution, was potentially facing additional charges after being arrested in January 2016 on immigration charges for illegally entering Burma from Thailand.

U.S. POLICY

The United States must reinforce with Burma its responsibility to incorporate religious freedom and related human rights as part of the broader peace process; continue to press for the rights of

Rohingya and other Muslims, Christians, and other religious and ethnic groups; and make clear to the government of Burma that perpetuating and tolerating human rights abuses is not without consequence.

During the year, the United States remained engaged with Burma on the serious human rights abuses against Rohingya Muslims. On March 17, 2016, the Department of State issued the Atrocities Prevention Report, which, with respect to Rohingya Muslims in Burma, underscored pervasive governmental discrimination and the role of non-state actors in perpetrating violence. On April 28, after the U.S. Embassy in Rangoon used the term "Rohingya" in a condolence statement issued following a boat accident that killed more than 20 people, hundreds of nationalist protestors, including Buddhist monks and Ma Ba Tha supporters, staked out the embassy to object. In May, hundreds more in Mandalay protested the U.S. government's use of the term. Burma's Ministry of Foreign Affairs stated publicly it preferred the U.S. Embassy avoid using the term, but the U.S. government continues to use it as appropriate. Also, in November 2016 U.S. Ambassador Scot Marciel was part of an international delegation that visited Rakhine State. On December 9, the U.S. Embassy signed a joint statement with 13 other diplomatic missions expressing concern about the lack of "desperately needed" humanitarian assistance in northern Rakhine State and urging Burma's government to fully resume assistance deliveries.

On May 17, the United States announced it would partially ease sanctions against Burma by removing restrictions on three state-owned banks and seven state-owned businesses. In late July, the United States announced \$21 million in new assistance funding to Burma, primarily for economic governance. On September 14, while State Counsellor Aung San Suu Kyi visited Washington, DC, then President Barack Obama announced the United States would remove Burma's national emergency designation, paving the way to lift economic sanctions and restore duty-free trade benefits under the Generalized System of Preferences. After also lifting restrictions on the import of jade and rubies and delisting 111 individuals and companies from the Treasury Department's "specially designated nationals" list, only a few restrictions remain, including trade with North Korea, military assistance, and visa bans on some former and current military members. Also during Aung San Suu Kyi's visit, the two countries announced the U.S.-Myanmar Partnership, which includes cooperation and support on issues such as rule of law, human rights, human trafficking, corruption, investment and economic growth, and global health security, among others. On October 7, then President Obama issued an executive order removing the national emergency designation for Burma under the International Emergency Economic Powers Act. U.S. businesses had advocated the removal of sanctions, while human rights advocates within and outside Burma criticized the United States for eliminating crucial points of leverage with Burma's government given serious and ongoing human rights abuses.

Lastly, on December 16, 2016, then President Obama signed into law the Fiscal Year 2017 Department of State Authorities Act (P.L. 114-323), which requires the secretary of state to submit a report to Congress describing "all known widespread or systematic civil or political rights violations, including violations that may constitute crimes against humanity against ethnic, racial, or religious minorities in Burma, including the Rohingya people." Neither the lifting of sanctions nor the act impact the existing U.S. arms embargo, which is the presidential action applied to Burma pursuant to the CPC designation. The State Department renewed the CPC designation for Burma in February and October 2016.