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USCIRF Annual Report 2010 - Countries of Particular Concern: Burma (Myanmar)

FINDINGS: The State Peace, and Development Council (SPDC), the military junta governing Burma, remains one of the world's worst human rights violators. The SPDC severely restricts religious practice, monitors the activity of all religious organizations, and perpetrates violence against religious leaders and communities, particularly in ethnic minority areas. In the past year, the SPDC has engaged in severe violations of the freedom of religion and belief including: the arrest, mistreatment, and harassment of Buddhist monks who participated in peaceful demonstrations in 2007 or are suspected of anti-government activity; the severe repression and forced relocation of the Rohingya Muslim minority; the banning of independent Protestant "house church" activities; and the abuses, including forced labor, relocations, and destruction of religious sites, against ethnic minority Protestants.

In light of these systematic, egregious and ongoing violations, USCIRF again recommends in 2010 that Burma be designated as a "country of particular concern" (CPC). The State Department has designated Burma as a CPC since 1999.

Religious freedom violations affect every religious group in Burma. Buddhist monks who participated in the 2007 peaceful demonstrations were killed, beaten, arrested, forced to do hard labor in prison, and defrocked. Buddhist monasteries viewed as epicenters of the demonstrations continue to face severe restrictions on religious practice. Monks suspected of anti-government activities have been detained in the past year. Muslims routinely experience strict controls on a wide range of religious activities, as well as government-sponsored societal violence. The Rohingya minority in particular are subject to pervasive discrimination and a relocation program that has produced thousands of refugees in Southeast Asia. In ethnic minority areas, where low-intensity conflict has been waged for decades, the Burmese military forcibly promotes Buddhism and seeks to control the growth of Protestantism by intimidating and harassing adherents. A 2009 law essentially bans independent "house church" religious venues and Protestant religious leaders in Rangoon have been pressured to sign pledges to stop meeting.

PRIORITY RECOMMENDATIONS: After a policy review in 2009, the Obama administration retained wide-ranging sanctions targeting the SPDC yet also started a "pragmatic dialogue" with senior SPDC leaders and expanded humanitarian aid. Administration officials have said that sanctions will not be lifted without concrete results on concerns such as nonproliferation assistance, free and fair elections, release of political prisoners, and humanitarian aid delivery. In USCIRF's view, religious freedom improvements and democratization are closely linked in Burma. In addition, the SPDC's human rights violations are regional security concerns, requiring U.S. leadership and coordination with regional and European allies and the UN. USCIRF recommends that the

U.S. government use its engagement with the SPDC to ensure a peaceful and complete transition to democracy. Targeted sanctions should remain until the SPDC takes active steps to meet benchmarks established in UN resolutions and U.S. law. The United States should continue to build support for the implementation of targeted sanctions while coordinating the diplomatic actions of regional allies, particularly the democracies of Southeast and South Asia. Additional recommendations for U.S. policy towards Burma can be found at the end of this chapter.

Religious Freedom Conditions

Crackdown on Buddhism after the 2007 "Saffron Revolution"

Burma has experienced ongoing conflict since its independence in 1948. The SPDC deals harshly with any group it perceives as a threat to its hold on power, including and especially ethnic minority groups whose religious affiliation is an identifying feature. The government infiltrates and monitors the activities of all organizations, including religious groups. Religious groups are also subject to broad government restrictions on freedom of expression and association. The SPDC controls all media, including religious publications and sermons which are occasionally subject to censorship.

While ethnic minority Christians and Muslims have encountered the most long-term difficulties, in the aftermath of the 2007 peaceful anti-government demonstrations, the regime also began systematically to repress Burmese Buddhists, closing monasteries, arresting and defrocking monks, and curtailing their public religious activities. Despite this crackdown on Buddhist monks and monasteries, the SPDC generally promotes Theravada Buddhism, particularly in the ethnic minority areas, sometimes pressuring or offering economic inducements to encourage conversion. Throughout Burma's history, patronage of the Buddhist community was necessary to legitimize a government's hold on power. SPDC leaders have continued this practice, publicly participating in Buddhist rituals. Buddhist doctrine is an optional course taught in all government run schools and daily prayer is required of all students; in some schools, children are reportedly allowed to leave the room during this time if they are not Buddhist, but in others they are compelled to recite the prayer. In addition, the Burmese military builds pagodas and has destroyed religious venues and other structures in Christian and Muslim areas.

Nevertheless, government interference in Buddhist affairs predated the 2007 crackdown. Members of the Buddhist sangha are subject to a strict code of conduct that is reportedly enforced through criminal penalties. Monks are not allowed to preach political sermons or make public statements, or produce literature with views critical of SPDC policies. Monks are also prohibited from associating with or joining political parties. Military commanders retain jurisdiction to try Buddhist monks in military courts. In several instances between 1988 and 2009, monks and nuns were defrocked or detained, and an estimated 100 monks and novices remain imprisoned as prisoners of conscience for activities that occurred prior to the September 2007 events, according to the State Department's 2009 *Annual Report on International Religious Freedom*.

The importance of Buddhism in Burma's life and culture is critical to understanding the significance of the September 2007 protests. Following the arrest, detention, and beating of activists who organized the initial protests against government increases in fuel prices, Buddhist monks took over the leadership of growing demonstrations. The monks broadened the scope of the protests and began calling for the release of all political prisoners and the initiation of a process leading to democratization in the country. In the ensuing weeks, Buddhist monks organized peaceful demonstrations in most of Burma's major cities.

After the SPDC ordered the military to crack down on the monk-led demonstrations, there were reports of at least 30 deaths, although some experts estimate that the actual number was much higher. Journalists and activists in Burma state that at least 4,000 people, an unknown portion of whom were monks, were arrested during the crackdown, with estimates that between 500 and 1,000 remained in detention months later. Many of the detained reportedly have been mistreated or tortured. Given the lack of

transparency in Burma, it is difficult to determine how many people remain in prison or are missing. A September 2009 Human Rights Watch report claims that, at that time, 240 monks were still in prison for their roles in the 2007 protests. In addition, since the crackdown, hundreds of Buddhist monks have fled to Thailand seeking asylum. They have reported torture, forced defrocking, hard labor, and other deprivations during detention.

Recent Repression of Buddhism

In the immediate aftermath of the 2007 protests, the military raided 52 monasteries, detained many monks, and arrested those perceived to be the leaders of the demonstrations. These monks were then tortured, forcibly defrocked, and forced to return to their villages. Several monasteries remain closed, or are functioning in a more limited capacity, including Rangoon's Ngwe Kyar Yan monastery, to which only approximately 50 of the original 180 monks in residence have been permitted to return. In addition, Maggin monastery in Thingan Gyun township, Rangoon was forcibly sealed off by the authorities in November 2007. Most of its monks and lay assistants were arrested or detained for supporting the protests and giving refuge to democracy activists. In addition to being a religious center, Maggin monastery was also an orphanage and a hospice for HIV/AIDS patients.

Government authorities continue closely to monitor monasteries viewed as focal points of the protest and have restricted usual religious practices in these areas. Monks perceived to be protest organizers have been charged under vague national security provisions, including "creating public alarm;" "engaging in activities inconsistent with and detrimental to Buddhism;" "the deliberate and malicious...outraging of religious feelings;" and "engaging in prohibited "acts of speech intended for religious beliefs."

In April 2009, authorities arrested two monks, U Chit Phay and U Aung Soe Wai, after they led a prayer meeting for the release of the democratic political activist leader Aung San Suu Kyi. Also in April, a group of approximately 50 members of the opposition National League for Democracy were arrested after assembling for prayer at the Zee Phyu Village pagoda in Rakhine province. In March 2009, two monks were arrested and sentenced to five years imprisonment with hard labor for allegedly planning to hold a ceremony to support the All Burma Monk's Association.

In August 2008, authorities arrested monks U Damathara and U Nandara, both from the Thardu monastery in Rangoon. Their current whereabouts are unknown.

During a February 2009 general amnesty of 6,313 prisoners, nine monks were released including U Kaytharam U Ingura, U Thireina, U Marlaina, U Ardatesa, U Takekanateya, U Damitika, U Nandathiri, and U Sandima.

Active Repression of Religious Minorities

In the past year, minority religious groups, especially Muslims and Christians, continued to face serious abuses of religious freedom and other human rights by the military. In some localities, military commanders have conscripted members of ethnic and religious minorities against their will for forced labor. Those who refuse conscription are threatened with criminal prosecution or fined. Those who do not carry out their tasks have been shot or beaten to death. Christians and Muslims have been forced to engage in the destruction of mosques, churches, and graveyards and to serve as military porters. They reportedly have also been forced to "donate" labor to build and maintain Buddhist pagodas and monasteries. There are reports from NGOs and international media that two Muslim activists seeking to document religious freedom and related human rights violations were arrested. Their whereabouts are unknown.

Burmese and Rohingya Muslims

Tensions between the Buddhist and Muslim communities have resulted in outbreaks of

societal violence over the past several years, some of it instigated by Burmese security forces. Muslims in Rakhine state, on the western coast, and particularly those of the Rohingya minority group, continued to experience the most severe forms of legal, economic, religious, educational, and social discrimination. The government denies citizenship status to Rohingyas because their ancestors allegedly did not reside in the country at the start of British colonial rule. In 2007, five UN Special Rapporteurs called on the SPDC to repeal or amend its 1982 Citizenship Law to insure compliance with international human rights obligations. Without citizenship status, Rohingyas do not have access to secondary education in state-run schools, cannot be issued government identification cards (essential to receive government benefits), and face restrictions on freedoms of religion, association, and movement. Approximately 800,000 Rohingya live in Burma, primarily in Rakhine state. Refugees living in Bangladesh report that some Rohingya are prevented from owning property, residing in certain townships, or serving as government officials. Since 1988, the government reportedly has permitted only three Muslim marriages per year in certain villages of Rakhine state. Efforts to lift this restriction have failed. Muslims also report difficulties in obtaining birth certificates for newborns, particularly in the city of Sittwe.

Enforcement of discrimination policies targeting Muslims widened in the past year. Police and border guards also continue inspections of Muslim mosques in Rakhine state; if a mosque cannot show a valid building permit, the venue is ordered destroyed. Nine mosques were closed in the previous year. The government also permitted the destruction of religious centers and schools. During the reporting period, the Burmese government maintained a campaign to create "Muslim Free Areas" in parts of Rakhine state. Military commanders have closed mosques and *madrassas*, stoked ethnic violence, and built pagodas in areas without a Buddhist presence, often with forced labor. Refugees report that the military continues to entice conversion to Buddhism by offering charity, bribes, or promises of jobs or schooling for Muslim children. The Burmese military has stepped up its presence in Rakhine state recently, reportedly in advance of planned 2010 elections.

An estimated 300,000 Muslim Rohingya live in refugee camps in Bangladesh, Thailand, and other Southeast Asian countries. They often live in squalid conditions and face discrimination, trafficking, and other hardships. In April 2009, 800 additional Rohingyas fled to Bangladesh, complicating an already dire refugee situation. In July 2009, Bangladeshi security forces destroyed the dwellings of Rohingya refugees and began repatriating them to Burma. In December 2009, 9000 Rohingyas were repatriated, reportedly as part of a new energy agreement between Bangladesh and Burma. In 2008, the Thai military began pushing back out to sea the boats of Rohingya asylum seekers.

In 2004, the UN Committee on the Rights of the Child expressed concern over the plight of Rohingya children, particularly with regard to the denial of their right to food, health care, and education, as well as to their ability to survive, develop, and enjoy their own culture and be protected from discrimination. In 2007, a panel of UN experts, including the UN Special Rapporteur on Human Rights in Myanmar and the UN Special Rapporteur on Racism, Racial Discrimination, and Xenophobia, declared that the Burmese government's denial of citizenship to Rohingya Muslims "has seriously curtailed the full exercise of their civil political, economic, social and cultural rights and led to various discriminatory practices." In March 2010, the UN Special Rapporteur on Human Rights in Burma reported to the UN Human Rights Council that he was "deeply concerned about the systematic and endemic discrimination faced by the Muslim community... [which] lead[s] to [their] basic and fundamental human rights being denied." The specific concerns he identified included "restrictions of movement; limitations on permission to marry; various forms of extortion and arbitrary taxation; land confiscation and forced evictions; restricted access to medical care, food and adequate housing; forced labor; and restrictions on Muslim marriages."

Forced Closure of Protestant "House Churches"

Christian groups in Burma continue regularly to experience difficulties in obtaining permission to build new churches, hold public ceremonies or festivals without permission, and import religious literature. A government regulation promulgated in

early 2008 bans religious meetings in unregistered venues, such as homes, hotels, or restaurants. Burmese Christians claim that 80 percent of the country's religious venues could be closed by the regulation. "House churches" proliferated in the past decade because the government regularly denied permissions to build new churches.

In January 2009, the SDPC took steps to enforce the regulation, ordering 100 churches and religious meeting places in Rangoon to stop holding services and forcing Protestant leaders to sign pledges to that effect. There are additional reports of church closings in Mandalay. Burmese Christians believe that enforcement of the government's ban came in response to humanitarian aid they provided to Cyclone Nargis victims in May 2008. In the aftermath of the cyclone, the SPDC forcibly closed some religious charities providing humanitarian support, particularly those channeling foreign assistance.

Abuses Targeting Ethnic Minorities

Christian groups in ethnic minority regions, where low-intensity conflicts have been waged for decades, face particularly severe and ongoing religious freedom abuses. The Burmese military has destroyed religious venues, actively promoted conversion to Buddhism, confiscated land, and mandated forced labor. The Chin, Naga, Kachin, Shan, Karen, and Karenni peoples, each with sizable Christian populations, have been the primary targets of these abuses. In the past year, for instance, authorities in Kachin state halted attempts by the Shatapru Baptist Church to build a Christian orphanage. In late 2007, a military general in Shan state confiscated land from a Catholic diocese and destroyed the home of the bishop. No compensation has been awarded. In ethnic minority areas, Christians are required to obtain a permit for any gathering of more than five people outside of a Sunday service. Permission is regularly denied, or secured only through bribes.

There are credible reports that government and military authorities continue efforts actively to promote Buddhism among the Chin and Naga ethnic minorities as part of its pacification program. Although forced conversions reportedly have decreased in recent years, refugees continue to claim that government officials encourage conversion through promises of economic assistance or denial of government services. Chin families who agree to convert to Buddhism were offered monetary and material incentives, as well as exemption from forced labor. Chin women are particularly vulnerable, as there are a growing number of credible reports that the Burmese military encourages or condones rape by its soldiers as an instrument of war. Burmese Buddhist soldiers are also offered financial and career incentives to marry and convert Chin Christian women.

Chin Christians claim that the government operated a high school that only Buddhist students could attend; students were guaranteed jobs upon graduation. Also, NGOs reported that Christian students in the Kachin state are not only forced to learn the Burmese language, but to become Buddhist, without their parents' knowledge or consent.

In 2007, a Christian pastor was arrested for writing a letter to General Than Shwe, the chief of the military junta, urging an end to the persecution of Christians. Naga Christian refugees leaving Burma report that members of the army, together with Buddhist monks, closed churches in their villages and attempted to force adherents to convert to Buddhism.

Over the past five years, the Burmese military has expanded operations against ethnic minority militias in parts of eastern Burma, reportedly destroying schools, hospitals, religious sites, and homes, killing civilians, and raping women. New refugees have entered India and Thailand, where they face squalid conditions and possible forced relocation. According to international media and NGO reports, an estimated 100,000 Chin Christians fled to India during the past year, in hopes of escaping persecution. In early January 2010, international NGOs reported that more than 2000 Karen villagers were forced to flee following attacks by the Burmese Army.

United Nations Efforts

Burma has been a focus of the UN over the past few years. The European Union has annually introduced a resolution at the UN General Assembly critical of Burma's human rights record, which the United States has always cosponsored. This resolution was adopted most recently in December 2009. The UN Human Rights Council also issued similar condemnations in 2008 and 2009, and extended the mandate of the Special Rapporteur on the situation of human rights in Burma in 2010.

The UN Secretary General also has had a Special Envoy for Burma, Ibrahim Gambari, who made seven trips to the country since 2006, most recently in 2009. Critics assert that the Special Envoy has been too solicitous of the SPDC and has achieved only a few symbolic prisoner releases, however. In December 2009, Mr. Gambari was appointed to a different UN position; his replacement as Special Envoy for Burma has yet to be named.

The UN Special Rapporteur on the situation of human rights in Burma recently called on the UN to set up a commission of inquiry to investigate possible "gross and systematic" violations by the SPDC that may entail crimes against humanity under the terms of the Statute of the International Criminal Court (ICC). Since Burma is not a member of the IC C, a successful referral to the ICC would require a UN Security Council resolution. However, future U.S. diplomatic options in the UN Security Council appear limited.

U.S. Policy

The United States has diplomatic relations with Burma but has not had an ambassador to the country since 1992. In February 2009, Secretary of State Hillary Clinton stated that neither economic sanctions nor "constructive engagement" was working to halt egregious human rights abuses or expand democracy in Burma. After a policy review, the Obama administration announced the beginning of a "pragmatic dialogue" with Burmese authorities. Secretary Clinton stated that the United States was committed to engaging Burma's generals in dialogue "without setting or dictating any conditions." Since then, State Department officials have reportedly held numerous meetings with SPDC officials. However, Assistant Secretary of State Kurt Campbell has stated that the United States will not lift existing sanctions until the SPDC makes progress on a number of issues including nonproliferation, release of political prisoners, and progress toward free and fair elections. The Obama administration has also publicly expressed concern over growing Burma-North Korea relations.

The United States has imposed a number of targeted sanctions on Burma, including a suspension of aid, opposition to new loans to Burma by international financial institutions, and prohibitions on U.S. private investments in Burma. In 2003, Congress passed the Burmese Freedom and Democracy Act (P.L. 108-61) banning imports to the United States from Burma. This ban was extended in 2006 by the U.S. JADE Act. Most members of Congress and Burmese exiles favor maintaining the full range of U.S. sanctions until the Burmese regime terminates major human rights abuses and makes fundamental political concessions to Aung San Suu Kyi in a comprehensive agreement for a democratic system. This is unlikely to happen anytime soon, as the SPDC has banned Aung San Suu Kyi from participating in planned 2010 elections and her party, the National League for Democracy (NLD), unanimously decided to boycott the elections. By not agreeing to participate, the NLD has to disband.

Burma was a priority of the Bush administration in 2005-2007. The United States successfully pressed Association of South East Asian Nations (ASEAN) governments to deny Burma leadership of ASEAN, and urged regional allies, as well as China, to step up bilateral pressure on the SPDC. The Bush administration's major initiative was to place Burma on the agenda of the UN Security Council. In 2007, the United States proposed a formal resolution at the Security Council listing benchmarks for progress and possible sanctions. However, despite U.S. diplomatic efforts, China and Russia vetoed the resolution, and Indonesia abstained on the vote.

USCIRF believes that U.S. leadership is essential to bringing democratic change and an end to human rights violations in Burma, including religious freedom. The United States

should continue to build support for targeted sanctions and full access to the country by various UN mechanisms, while also coordinating the diplomatic actions of regional allies, particularly the democracies of Southeast and South Asia. Engagement with the SPDC should focus on issues that will lead directly to the expansion of democracy and protection of vulnerable ethnic and religious minorities, an end to human rights and religious freedom violations, the release of all prisoners, including Aung San Sui Kyi, and the equal and transparent distribution of humanitarian assistance.

Recommendations

In addition to continuing to designate Burma as a CPC, the U.S. government should take the following policy actions towards Burma:

I. Strengthening the Coordination of U.S. Policy on Burma, both within the U.S Government and with U.S. Allies

The U.S. government should:

- appoint a Special Envoy on Burma, with the rank of Ambassador, to coordinate multilateral and bilateral diplomatic efforts and serve as the Administration's point person to bring about political reconciliation and democratic reform in Burma; coordinate with regional and European allies on sanctions, humanitarian aid, counternarcotics, nonproliferation, trafficking in persons, and other policy objectives, including religious freedom and related human rights; and
- organize a coalition of democratic nations in Asia to replace the moribund Bangkok Process in order to construct a roadmap outlining concrete steps Burma needs to take in order to end economic and political sanctions and engage with Burma's top leader on issues of concern, including addressing humanitarian and human rights abuses, the release of all political and religious prisoners, a durable solution for refugees, and the peaceful transition to civilian rule.

II. Pressing for Immediate Improvements to End Religious Freedom Abuses

The U.S. government should use its engagement with the government of Burma and with Burma's closest allies to urge the government of Burma to address the following issues of concern:

- release all persons detained or arrested for the peaceful exercise of religious freedom and related human rights, and reveal the whereabouts of people who are still detained and missing, including the Buddhist monks and others who led or participated in peaceful protests;
- release NLD Chair Aung San Suu Kyi and other political prisoners and directly engage with the NLD and leaders of the country's ethnic minority groups in a dialogue leading to a peaceful, time-bound, and monitored transition to democratic civilian rule;
- end the forced closures of churches and mosques, the destruction of religious shrines and symbols, the instigation of communal violence against Muslims, the forced promotion of Buddhism and the renunciation of other religions among ethnic minorities, and discrimination against non-Buddhist minorities;
- lift all restrictions on the construction and renovation of churches and mosques and on the printing of religious literature, consistent with international standards, and end policies of forced eviction from, and the confiscation and destruction of, Muslim and Christian properties, including mosques, churches, religious meeting points, schools, and cultural centers;
- end the use of forced labor and the use of children and members of religious

minorities as porters or military labor, and adhere to its own Order 1/99 (May 1999) and Order Supplementing 1/99 (November 2000), which instruct SPDC officials and military commanders to refrain from employing forced labor of civilians, except in emergencies;

- end policies that discriminate on the basis of religion in land use, education, allocation of land, job promotion, marriage, access to government services, citizenship, freedom of movement, and marriage, and invite international technical assistance to help draft laws that conform to international legal standards on these matters;
- allow religious groups and civil society organizations to provide humanitarian and reconstruction assistance to the victims of natural disasters, including those still afflicted by the aftermath of Cyclone Nargis, and to work openly with the UN, the Tri-Partite Core Group, and other international donors;
- grant unimpeded access to the country by relevant UN mechanisms including the UN Secretary General's Special Envoy on Burma, the UN Special Rapporteur on Burma, and the UN Special Rapporteur on Freedom of Religion or Belief; and
- ratify core international human rights instruments, including the International Covenant on Civil and Political Rights.

III. Assisting and Supporting UN and Other Multilateral Diplomatic Efforts

The U.S. government should:

- initiate action on a new UN Security Council resolution on Burma that offers the UN Secretary General a clear mandate for his interactions with Burmese authorities, including full and unimpeded access for the UN Special Envoy on Burma and the UN Special Rapporteur on Burma; a clear timetable, with repercussions, for the Burmese government if it does not immediately and unconditionally release all political prisoners, including Aung San Suu Kyi; the establishment of a UN monitoring mission of the UN High Commissioner for Human Rights inside Burma; and the taking of steps to ensure a peaceful and orderly transition to civilian rule;
- seek access to Burma by the UN Special Rapporteur on Freedom of Religion and Belief for an immediate visit with unrestricted access to religious communities and to regions where religious freedom abuses are reported; and
- urge ASEAN to expand the Tri-Partite Core Group to discuss other issues of concern with Burma, including protections for ethnic minorities and refugee issues, particularly a durable solution for Rohingya Muslims.

IV. Supporting Local Democracy Efforts through U.S. Programs

The U.S. government should:

- continue to provide assistance, through the State Department's Economic Support Fund and all other means, to empower Burmese civil society groups organizing humanitarian assistance, conducting human rights documentation efforts (particularly religious freedom abuses faced by the Muslim and Buddhist communities), and providing public advocacy, leadership, and legal training to Burmese living in and outside of Burma.