



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on minority issues; and the Special Rapporteur on the situation of human rights in Myanmar.**

REFERENCE: UA  
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on minority issues; and Special Rapporteur on the situation of human rights in Myanmar pursuant to Human Rights Council resolutions 25/2, 22/20, 25/18, 25/5, and 25/26.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the draft bill on Religious Conversion (hereafter, the draft bill) of 27 May 2014 that may be incompatible with international human rights standards, especially in relation to the right of freedom of religion or belief. Further, we would like to draw your Excellency's Government's attention to threats allegedly directed against civil society activists campaigning against this and related bills, including on inter-faith marriage.

According to the information received:

On 27 May 2014, the Law Drafting Commission published the draft bill in the media and invited monks and the public to provide comments on the draft bill before 20 June 2014.

The draft bill seeks to allow individuals to convert freely and is derived from Article 34 of Myanmar's 2008 Constitution. It appears to create a cumbersome application and approval process for conversion. Some provisions may be interpreted as discriminatory against the poor and/or religious and ethnic minorities, and it is alleged that the draft bill could lead to arbitrary denial of the

right to change or adopt a religion or belief. It is also alleged that the draft law grants sweeping power to Township-level officials from the Government and the Ministry of Religious Affairs (MoRA) in the determination of whether an applicant has exercised free will in converting.

In addition, it is alleged that civil society activists, Ms. May Sabe Phyu, senior coordinator of the Gender Equality Network, Mr. Aung Myo Min, Director of Equality Myanmar, Ms. Zin Mar Aung, from the Rainfall Gender Studies Group, Ms. Khon Ja, a Kachin human rights activist, Ms. Thin Thin Aung, consulting editor of Mizzima magazine and Advisory Board member of the Women's League of Burma; and Ms. Khin Lay, founder of Triangle Women Group, have reportedly received threats, including death threats and threats of a sexually explicit nature, in person, over the phone or through social and other media, for opposing a proposed package of draft bills, including a proposed interfaith marriage bill and a religious conversion bill.

We would like to appeal to your Excellency's Government to ensure the right to freedom of religion or belief is protected in accordance with the principles set forth in the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief (1981 Declaration), article 18 of the Universal Declaration of Human Rights (UDHR) and in the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on the Rights of Minorities).

We also would like to call to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the Universal Declaration of Human Rights. In this context we, make reference to Human Rights Council Resolution 12/16, which refers to the right to freedom of thought, conscience or religion as an intrinsically linked right to freedom of opinion and expression.

We would like to stress that any draft bill regulating religious conversion would not be in conformity with international human rights law, as it would fundamentally violate the right to change one's religion freely, which is as an indispensable part of the right to freedom of religion or belief. It is not within the State's purview to regulate matters that are part of the internal dimension, or 'forum internum', of an individual's right to freedom of religion or belief.

Nevertheless, allow us to submit brief comments on the draft bill to outline the various provisions that are not in line with international human rights standards.

The requirement to apply and register one's wish to convert as provided by Section 2 (c) clearly violates the freedom of religion or belief. Article 18 of the UDHR

explicitly guarantees the “freedom to change” one’s religion or belief as an inextricable component of the human right to freedom of religion or belief. Article 1 (1) of the 1981 Declaration also states that “Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching”. Furthermore, article 2.1 of the 1992 Declaration on the Rights of Minorities states the right of persons belonging to minorities to profess and practise their own religion and article 2.2 stresses their right to participate effectively in religious life.

Therefore, the idea of scrutiny and registration of religious conversion, including the issuance of a certificate for conversion set forth in Sections 2 (d)-(f) is not compatible with international standards protecting and promoting the right to freedom of religion or belief.

Chapter 2 furthermore provides for onerous and complicated requirements and processes for the registration and application of religious conversion. As freedom of religion or belief is a human right, its exercise must not depend on administrative registration procedures and State approval.

The requirement in Section 5 (a) that a person who wishes to convert has the minimum age of 18 years old would violate the rights of a child. The Convention on the Rights of the Child recalls that parents’ rights must always be seen in conjunction with the human rights of the child. Article 14 (1) of the Convention requires States to “respect the rights of the child to freedom of thought, conscience and religion”. Besides, Article 14 (2) obliges States parties to “respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child”. The requirement to take into account the evolving capacities of the child reflects the insight that children themselves are rights-holders in international human rights law and, consequently, that their own convictions deserve respect.

The demand to state the reason for religious conversion and the need to interrogate one’s true faith to convert as provided by Sections 5 (c) (9) and 5 (d) is incompatible with the right to freedom of religion or belief, as reiterated in numerous thematic and country-specific reports by Special Rapporteurs and other experts. We attach the most recent report on the “right to conversion as part of freedom of religion or belief” ([A/67/303](#)) for your kind information.

Similarly, in Section 6 of Chapter 2, the requirements to be met before the application of conversion is accepted or considered restrict the right to freedom of religion or belief. Any requirement such as Section 6 (e) that would create extra burden for the poor or those who live in remote areas far away from the authorities, or any

similar requirements, would be discriminatory in nature against anyone who wishes to convert and should not be permitted in law.

Chapter 3 sets forth the approval process, including the issuance of certificates for conversion. We would like to recall that any attempt by the State to interfere with the right to convert is per se illegitimate.

We would also like to emphasise that as provided by Sections 10 (a) (1-6) of Chapter 3, the data required by the Board of Registration would undermine the right not to disclose all details specifying religion or ethnic origin on identity cards [...] Disclosing such information may result in discrimination, stigmatization of certain religions or beliefs, or the denial of certain rights. Theistic, non-theistic and atheistic believers and those who do not profess any religion or belief are equally protected under Article 18 of the UDHR and the 1981 Declaration.

Concerning Chapter 5 that refers to all prohibitions under the draft bill, we are particularly concerned about the criminal sanctions stipulated in the draft. These are not in accordance with international human rights law and would be considered arbitrary and disproportionate to the offenses allegedly committed. We would like to reiterate that the right to change or retain one's religion or belief is the internal dimension of a person's religious or belief related conviction that must be protected.

Any attempt of the Board of Registration to prove anyone's intent to insult, lose esteem or misuse any religion is questionable, as the impartiality and objectivity of the Board cannot be guaranteed. This could lead to arbitrary denial of the right to convert by the Board and would violate the right to freedom of religion or belief, and the rights of religious minorities. Vague provisions in relation to actions regarded offensive or insulting to any religion could result in disproportionate restrictions in the exercise of the rights to freedom of religion of persons belonging to religious minorities, whose religious beliefs differ from the majority. Article 4 of the Declaration on the Rights of Minorities calls on States to take measures in order to ensure that persons belonging to minorities "may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law".

In addition, Section 15 of Chapter 5 does not provide clear definition of the nature of missionary work. The term as used in the bill could easily be misinterpreted as unduly interfering with the freedom to publicly manifest one religion or belief, including by bearing testimony to one's faith, communicating to other, and inviting others to join one's religion or belief. The terms used in the draft – in particular "inducement" and "undue influence" – are overly broad, thereby creating legal insecurity and possibly opening the floodgate to broad and arbitrary restrictions.

As concerns Section 16, it remains unclear if “anyone” here refers to State agents as well. It should be recalled that State agents could be potential perpetrators as they might force conversions or restrict them, depending on the case; hence the role and accountability of State agents should be clearly defined and elaborated in any draft bill.

Finally, we note that when the draft law was published, an explicit invitation was extended to “the monks and public” to provide advice. The invitation addressed to the monks specifically lacks neutrality and has excluded or discriminated against representatives of other religions or beliefs.

In view of all of the aforementioned comments, we would like to call on your Excellency’s Government to withdraw and not adopt this draft bill or any other legislation regulation religious conversion as this would not be in conformity with international human rights law.

We would respectfully request that your Excellency’s Government transmit this letter to the Law Drafting Commission and would be grateful for your Excellency’s Government’s observations on the issues outlined herein. We would particularly appreciate receiving information from your Excellency’s Government on how it expects to uphold the afore-mentioned international norms and standards in the implementation of the Constitution, guaranteeing freedom of religion or belief and freedom of opinion and expression.

Moreover, regarding allegations received indicating that human rights defenders and activists opposing the religious conversion bill have been threatened in connection to their work, we would also like to refer your Excellency’s Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels. Furthermore, we would like to bring to the attention of your Excellency’s Government article 12, paragraphs 2 and 3, 12, paragraphs 2 and 3, which urges States to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of the legitimate exercise of the rights referred to in the Declaration.

Furthermore, we would like to request that your Excellency take all appropriate measures with the relevant authorities to ensure that human rights defenders can work in a safe and enabling environment, and to protect the human rights defenders mentioned above from any kind of intimidation, threat or retaliation in connection to their legitimate work.

We would furthermore like to state our readiness to engage with your Excellency's Government and to provide any guidance and assistance in relation to this and other proposed legislation to ensure conformity with international human rights law and norms in accordance with our mandates.

We are intending to publicly express our concerns in the near future as we are of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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freedom of opinion and expression

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