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**AMNESTY
INTERNATIONAL**



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President
President's Office
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Your Excellency,

OPEN LETTER ON THE FOUR PROPOSED LAWS AIMED AT “PROTECTING RACE AND RELIGION”

I am writing to urge you, as President of the Republic of the Union of Myanmar, not to sign into law the Population Control Healthcare Bill or any other legislation which would entrench discrimination on religious and gender grounds or which could result in other human rights violations, including the right to freedom of thought, conscience and religion, the right to privacy, children's rights and the right to freedom of expression.

Amnesty International has serious concerns about the four proposed laws aimed at “protecting race and religion”. We have undertaken a detailed analysis of the four draft laws and concluded that they are discriminatory and could result in violations of a number of other human rights. The legal analysis is enclosed – in both English and Burmese – for your information.¹

As you are aware, the Population Control Healthcare Bill was approved on 6 April 2015 by both the upper and lower houses of Parliament and is now awaiting your signature in order to become law. We consider that the Bill does not provide adequate human rights protections or safeguards against discrimination and coercive reproductive control, and as a result should not be signed into law in its current form. We strongly urge you to return the Bill to Parliament with instructions to ensure it is compatible with international human rights law and standards, and in particular with Myanmar's legal obligations as a state party to the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the UN Convention on the Rights of the Child (CRC).

The three other bills are all currently before Parliament, at different stages of consideration. The Religious Conversion Bill and the Buddhist Women's Special Marriage Bill are inherently flawed and incompatible with human rights. If adopted and presented to you for signature, we strongly urge you to reject them both in their entirety. The Monogamy Bill also introduces provisions which would violate the right to privacy and should not be adopted in its current form.

THE POPULATION CONTROL HEALTHCARE BILL

While many of the aims of the Population Control Healthcare Bill are generally to be welcomed, it provides no safeguards to ensure that the sexual and reproductive rights of women, men and adolescents – in particular the right to make free and informed choices whether or not to have children and the number and spacing of births – will be respected and protected during its implementation. The law also fails to specify that the sexual and

¹ The analysis relies on the latest publicly available English translations, which are on file with Amnesty International.

reproductive rights information provision it mandates will be factually based and include age appropriate information for children.

Instead the Bill focuses on “population control healthcare activities” or “organizing” married couples to practise birth spacing – terms which are extremely vague and open the way for discriminatory and other abusive applications of the law. Furthermore, the Bill contains no explicit non-discrimination clause guaranteeing that it is implemented without discrimination as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, sexual orientation, gender identity or other status. This is particularly worrying, bearing in mind that Myanmar has previously imposed two-child policies on members of ethnic and religious minority groups.

In addition, we are particularly concerned that, as it stands, the Bill does not explicitly prohibit, and therefore could allow, resort to coercion to increase the use of contraception or even to force sterilization and abortions. We are concerned that such measures, which would violate a range of human rights, could be enforced within specific communities identified on a discriminatory basis.

THE RELIGIOUS CONVERSION BILL

The right to freedom of thought, conscience and religion is enshrined in Article 18 of the Universal Declaration of Human Rights (UDHR), and includes the freedom to change one’s religion or belief. A person’s religion is a deeply personal – and private – matter of individual conscience, that is not the concern of the state, even when they choose to convert to a different religion or to leave religion altogether. This is considered the “*forum internum*” of the right to freedom of thought, conscience and religion, which is inalienable and may not be infringed by the state in any circumstances.

In attempting to regulate religious conversions, the Religious Conversion Bill grants inappropriate and unnecessary powers to the state, and violates the right to freedom of thought, conscience and religion as enshrined in the UDHR, as well as the right to privacy – which is enshrined in Article 12 of the UDHR.

THE BUDDHIST WOMEN’S SPECIAL MARRIAGE BILL

The Buddhist Women’s Special Marriage Bill blatantly discriminates on both religious and gender grounds. There is every justification for laws ensuring that marriages are entered into freely, do not involve underage children, are equal and free from all forms of violence and that the rights of children are respected and protected. However, there is no justification for laws explicitly and exclusively targeting and regulating the marriage of women from one religion with men from another.

The Bill clearly discriminates against couples where the women is Buddhist and the man is non-Buddhist, and feeds into widespread stereotypes that Buddhist women are “vulnerable” and that their non-Buddhist husbands will seek to forcibly convert them. It also discriminates against Buddhist women as opposed to Buddhist men, who can marry non-Buddhists without such restrictions. In addition, the Bill discriminates among men – against non-Buddhist men.

THE MONOGAMY BILL

The purpose of the Monogamy Bill is unclear, given that Myanmar already has laws relating to marriage and that polygamy is defined and criminalized in Article 494 of the Penal Code. Instead of clarifying or consolidating existing marriage laws, the Bill introduces provisions that are not compatible with international human rights law and standards.

For instance, the Monogamy Bill prohibits men or women who are already married from conducting an extramarital affair (Article 9). The penalty for breaching such a provision is unclear. Extramarital cohabitation and consensual sexual relations involve people’s personal, freely-made choices and are not matters that states should interfere in, let alone criminalize. We are concerned that this prohibition constitutes an arbitrary interference with one’s privacy and family, which is prohibited under Article 12 of the UDHR.

WIDESPREAD CONCERN

Amnesty International is not alone in expressing its serious concerns about these four proposed laws. In January this year, over 180 civil society organizations in Myanmar signed a joint statement calling on Parliament to drop the laws.

In March, the UN Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee, warned that the four bills would “*hinder Myanmar from developing into a pluralist society and instead will cement discriminatory attitudes and policies*” and recommended that the Myanmar government revises or withdraws the draft laws.² During the same month, a UN Human Rights Council resolution on Myanmar called on the government to ensure any legislation on the “protection of race and religion” is fully consistent with international human rights treaties to which Myanmar is a state party.³

Amnesty International is concerned that the consideration of these proposed laws comes at a time of rising religious intolerance and discriminatory attitudes in Myanmar, which have led to violence, killings and mass displacement. We are seriously concerned that if any of these bills is signed into law, it will not only result in increased discrimination and violate other human rights, but it will also heighten already existing religious tensions in the country.

We therefore strongly urge you not to sign into law the Population Control Healthcare Bill, or any other legislation which would entrench discrimination or which could result in other violations of human rights, including the Monogamy Bill in its current form, and the Religious Conversion Bill and the Buddhist Women’s Special Marriage Bills.

Thank you for your consideration. We look forward to receiving your responses to the above, and are available should you have any questions.

Yours sincerely,

Salil Shetty
Secretary General

² Report of the Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee, UN Doc. A/HRC/28/92, March 2015, para 60.

³ UN Human Rights Council, Resolution on the situation of human rights in Myanmar, UN Doc. A/HRC/28/L.21, 23 March 2015, para 8.