

Analysis of the British Foreign Office Human Rights and Democracy Country Update for Burma - 31st December 2013

Every quarter, the British Foreign Office publishes updates of 'countries of concern' as part of its Human Rights and Democracy report. Burma is included in these updates. On 31st December the Foreign Office published online its update on human rights in Burma for the months of October, November and December 2013.

Since the British government changed its policy of prioritising human rights in Burma, and instead prioritised trade and investment, the quarterly reports have increasingly tended to downplay serious human rights abuses, or even ignore them altogether. The tone is now generally positive, and is not critical of the Burmese government.

This appears in part to be in order to try to avoid criticism of the current soft engagement Burma policy which is focused on building a closer relationship with the government of Burma. A strong focus on ongoing human rights abuses could attract more questions regarding the effectiveness of current policy. The current approach of the British government is to acknowledge problems, but present a generally positive picture.

So keen is the British government to present the current situation in the best possible light that it even goes so far as to make false statements about the Burmese government's actions on human rights, and uncritically quotes statements by the Burmese government which it knows to be false.

Key points

- The report falsely claims that Thein Sein ordered the release of all prisoners and persons facing trial for political offences.
- The report avoids using the word 'Rohingya', despite the Rohingya suffering some of the most serious human rights abuses in Burma today.
- The report uncritically quotes the Burmese government claims about zero tolerance of hate-speech despite the Burmese government tolerating hate speech.
- No mention is made of hundreds of arrest of political activists.
- Violations of international law get no explicit mention.

This briefing paper examines the latest quarterly update by the Foreign Office, in order to provide examples of the tactics the British government uses to downplay or ignore human rights abuses in Burma, and avoid criticism of the Burmese government.

The original Foreign Office text is quoted in **bold**, comments from Burma Campaign UK are underneath.

**From the British Foreign Office Website
Country updates: Burma
Latest Update: 31 December 2013**

“The last three months have seen encouraging progress on human rights, including releases of political prisoners and movement on the ethnic peace process.”

This opening line sums up exactly what is wrong with the current British approach. It highlights positives and downplays negatives, which if they get any mention at all, are only referred to much later into the statement.

The report starts on a positive tone, when there are still many very serious human rights abuses it could have led on instead. These include human rights abuses as serious as possible war crimes committed by the Burmese Army when it attacked a village for internally displaced people (IDPs) in Kachin State, torturing and killing villagers. Nor is any reference made in this introduction to continuing violations of international humanitarian law by the Burmese government in blocking aid to IDPs in Kachin State. Many other ongoing human rights abuses remain unresolved during this period but no reference to them is made here.

Even on the issues which the report leads on as encouraging, serious problems remain of which the report makes little or no reference to. With regards to political prisoners, the fact that Thein Sein did not keep his promise to release all political prisoners should not be described as ‘encouraging progress.’ Not only were all political prisoner not released, many more continued to be arrested for peacefully protesting, those who were released were not released unconditionally as the British government had called for, and some political prisoners had recently been forced to go on hunger strike to draw attention to their plight.

Most releases continued to take place tactically in order to gain public relations benefit at key times

when either Thein Sein was on a foreign trip, or when there was an important foreign visitor, for example a high level EU delegation and Bill Clinton visiting.

It is also questionable as to whether there really has been any movement on the peace process. In fact, a nationwide ceasefire had been scheduled by the government of Burma to be signed at a grand ceremony in November, but this had to be cancelled. It is not clear why the British government describes this delay as encouraging. Nor can continuing Burmese Army attacks in Kachin State, including against civilians, be described as encouraging.

“However, there has been a concerning lack of progress in Rakhine State and on wider ethnic tensions. We continue to raise human rights at ministerial level. Minister of State for Asia, Hugo Swire, met Burma’s Foreign Minister, Wunna Maung Lwin, at the UN General Assembly in September. In November, Mr Swire discussed human rights with Deputy Foreign Minister, Thant Kyaw, at the Asia-Europe Meeting (ASEM), and with the Minister for the President’s Office, Tin Naing Thein, in London.”

The British government may have raised these issues, but does not report the outcome of raising these issues. As no outcome is reported there obviously was none, but the report does not clearly state that the government of Burma has refused to take action on any of these matters raised with them. Why not?

“The UN General Assembly 3rd Committee Country Resolution on Burma was adopted by consensus (including Burma itself) on 20 November. While recognising areas where the Burmese government has made genuine progress, the Resolution further emphasised human rights concerns. It highlighted, in particular, delays by the Burmese government in opening a country office of the Office of the United Nations High Commissioner for Human Rights.”

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This is a very disingenuous paragraph. The UN General Assembly Resolution was passed, but initially the British government did not support continuing with a Resolution. Foreign Office staff were privately briefing against continuing with a Resolution. The European Union only agreed to go ahead with the Resolution following a demarche from the US government, and the threat of the Organisation of Islamic Co-operation instead tabling their own Resolution which may have been much stronger on Rohingya and anti-Muslim violence issues.

The Resolution was significantly watered down compared to the past year's Resolution, which had already been watered down compared to the Resolution the year before. Many ongoing human rights concerns were either not referred to or received only passing mention. Calls for action in past Resolutions which have still not been acted upon by the government of Burma were not included this year. The Resolution did not reflect the deep concerns about the current reform process expressed by the UN Special Rapporteur on Burma in his report to the General Assembly, and did not include the 63 specific recommendations which he made for improving human rights.

No mention or expression of concern is made here of the specific and public rejection by the government of Burma of the Resolution call regarding reforming the 1982 Citizenship Law. Despite all of these problems, this paragraph even gives implicit praise to the Burmese government by making reference that the General Assembly Resolution was: 'adopted by consensus (including Burma itself).

“We continue to be deeply concerned by the situation in Rakhine State. During the last week of September, inter-communal tensions in the southern Rakhine town of Thandwe culminated in an outbreak of violence against Kaman Muslims by ethnic Rakhine Buddhists. As a result of the attacks, six Muslims died, over 100 Muslim homes were destroyed, and several hundred people were displaced. On 30 September, the

Burmese Foreign Minister spoke at the UN General Assembly about Burma's zero-tolerance approach to ethnic hatred, and President Thein Sein visited Thandwe on 2 October (his first visit to Rakhine State), by which time a significant police and military presence had largely restored order.”

It is extraordinary for the British government to quote uncritically the Burmese Foreign Minister regarding Burma's zero tolerance approach to ethnic hatred. There is ample evidence that the rhetoric of the Burmese government regarding zero-tolerance of ethnic hatred is blatantly false.

The Burmese government has not only tolerated, but also encouraged ethnic hatred. Most of the government at Ministerial level consists of former soldiers who were in the army and previous government, which was involved in war crimes and crimes against humanity against ethnic minorities over a period of many decades. Those inciting hatred against the Rohingya are able to do so openly. There have been very few people arrested and jailed for inciting and taking part in violence against the Rohingya. Political parties, members of the Rakhine State government, police, security forces and many others who have incited violence, or organised and taken part in violence, have been able to do so openly and with impunity. The government of Burma has not even undertaken any genuine investigation into who is responsible for the violence since 2012.



A soldier stands by while Arakanese with weapons walk away from a village in flames in Arakan State, Burma, June 2012.
©HRW

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Neither the Burmese or British government have undertaken any investigation following evidence from Human Rights Watch of Burmese state involvement in ethnic cleansing and crimes against humanity against the Rohingya. The British government tried to ignore the reports, and the Burmese government condemned these reports.

At the same time as not taking action against others who have been involved in inciting, organising and taking part in violence against the Rohingya, members of the government of Burma have been encouraging ethnic hatred through their actions or inactions. For example, the Immigration Minister has repeatedly made disparaging remarks about the Rohingya. President Thein Sein has publicly called for UN assistance in deporting all Rohingya, and refused to change the 1982 Citizenship Law, which discriminates against the Rohingya and other ethnic minorities. Thein Sein also publicly defended Wirathu when Time Magazine published an article about his inciting hatred against Muslims. This sends very clear signals to the people of Burma as to where the President and the government stand in relation to the Rohingya.

None of this context is mentioned in the Foreign Office report, and instead they quote the Burmese Foreign Minister when they know Burma's zero-tolerance rhetoric is false.

This paragraph also chooses to focus on one specific incident in Thandwe and giving the impression that the government had acted effectively saying they had 'largely restored order'. Aside from the fact that the government allowed the incitement that led to the violence in the first place, this also ignores the ongoing systematic discrimination against and persecution of the Rohingya, including discriminatory laws that the government refuses to revise.

The tone and the reporting of problems differs markedly from the statement made by the UN Special Rapporteur on Burma just seven weeks after this update was published by the Foreign Office. He refers to 'segregation of Muslim communities', Rohingya communities in Sittwe living in a 'ghetto', 'targeted restrictions on freedom of

movement', a 'pattern of systematic discrimination against the Rohingya community', 'campaigns to incite hatred', 'acts of extreme violence against Rohingya communities which have also spread outside of Rakhine State', 'Humanitarian organisations...increasingly threatened and prevented from doing their work.'

The situation of the Rohingya remains one of the most serious human rights concerns in Burma today, with credible reports of crimes against humanity and ethnic cleansing, yet the British government avoids even using the word Rohingya in this report.

“The British Ambassador to Burma visited Rakhine State in mid-December, where the overriding priority remains the humanitarian situation. A total of 140,000 people are still displaced and there are increasing signs of permanent segregation between the Rakhine and Muslim communities. We are particularly concerned that UN agencies have experienced difficulties delivering humanitarian access to the most vulnerable in some areas of Rakhine State. During the meeting with the Chief Minister of Rakhine, the Ambassador urged the authorities to guarantee unhindered access to all humanitarian actors.”

This paragraph also downplays the Burmese government's role in these problems. The humanitarian crisis is caused in large part by the Burmese government. This is not explicitly mentioned. No reference is made to the failure of the government of Burma to provide sufficient aid from its own resources.

Simply stating that authorities have been urged to guarantee unhindered access and that UN agencies have experienced difficulties delivering humanitarian aid is carefully worded to avoid stating that the government of Burma is not allowing aid to be delivered freely, and has not taken sufficient actions against those threatening and otherwise intimidating aid workers. No mention is made of the continuing detention of aid workers by the government of Burma.

“More needs to be done to tackle hate speech, which continues to inspire violence and intolerance across Burma; we continue to lobby the Burmese government to tackle these underlying issues. In November, four British police officers began delivering training to the Burmese police as part of an EU project. Over 18 months the project will provide significant numbers of Burmese police officers with training in community policing and public order best practice.”

Another way to say ‘more needs to be done to tackle hate speech’ would be ‘the Burmese government has still not taken any significant action to tackle hate speech.’ No reference is made either of the failure of the leaders of Burma’s democracy movement to challenge and tackle hate speech. The fact that the British government is having to continue to lobby the government of Burma tells us that the government of Burma is not listening and taking action, and that the current approach of the British government is not working.



A demonstration against the visit of UN Human Rights Rapporteur Quintana. ©Mizzima

“Following an outbreak of fighting in southern Kachin State at the end of October, the Burmese government granted permission for UN and humanitarian organisations to visit the area. However, low level fighting in Kachin state has continued to displace villagers and the UN still has not achieved full and unimpeded access. We remain the largest bilateral humanitarian donor to Kachin State.”

Again the British government tries to present the actions of the Burmese government in the best light. There was not simply ‘an outbreak of fighting’. What actually happened is that the Burmese Army once again violated promises of an end to hostilities and military actions. The Burmese Army attacked not only territory held by the Kachin Independence Organisation (KIO), with whom it is supposed to be in peace talks, but also civilian positions. This is a war crime. Civilians were tortured and killed. These are also war crimes.

Again the British government also chooses to lead on the Burmese government granting permission for the UN and humanitarian organisations to make a visit in parts of Kachin State, rather than lead on the fact that for the majority of the time in the majority of areas under KIO control they still don’t have unhindered access, and that blocking aid in this way violates international law.

Here also the difference between the Foreign Office Human Rights Report not referring to human rights abuses, compared to the UN Special Rapporteur’s statement seven weeks later is stark. The Special Rapporteur describes people being ‘violently displaced’ and ‘allegations of more recent human rights violations...including cases of rape, arbitrary detention and torture during interrogation’.

The Special Rapporteur also highlights the need for agreement on proposals by the KIO for codes of conduct and troop withdrawal, which the government of Burma is refusing to agree to. The Foreign Office makes no mention of this.

“Peace talks between the Burmese government and ethnic armed groups took place in early November, and the parties agreed to work towards a nationwide ceasefire and political dialogue. The latest round of talks is due to take place in early January. We remain ready to support the reconciliation process in whatever way we can.”

The British government seems not to understand the connection between the increasingly slow progress

of these talks and the increasingly soft approach by the British government and rest of the international community. Talks have been repeatedly postponed in the past and this has continued into 2014. The facts on the ground do not justify the positive tone by the British government.



Villagers spend the night in the jungle after fleeing their village in Kachin State. © Free Burma Rangers November 2013

“During her visit to the UK in October, Aung San Suu Kyi met figures from all sides of the Northern Ireland peace process to consider how parallels could be best applied to ethnic reconciliation in Burma. Former Chief of Defence Staff General Sir David Richards visited Burma on 29 November as part of a visit funded by the British government. General Richards met Burmese Commander in Chief Min Aung Hlaing and discussed the peace process, including the future role of the Burmese military. In October, a permanent British Defence Attaché was accredited to Burma, offering us a significant opportunity to engage with the Burmese military on issues such as ending the recruitment of child soldiers and sexual violence in conflict, drawing on the principles of the Foreign Secretary’s Preventing Sexual Violence Initiative.”

No mention is made here of the controversial offer of training to the Burmese Army, which appears to be the main focus of engagement with the Burmese military. If the British government was serious about ending the recruitment of child soldiers and ending sexual violence by the Burmese Army, it could have made such training conditional on ending

recruitment of child soldiers, releasing existing child soldiers, and ending impunity for rape. No such commitment was asked for or given, throwing away leverage and missing an opportunity for progress in this.

“The UN Security Council Working Group for Children and Armed Conflict, including a British representative, visited Burma for the first time from 1-4 December. Over 600 child soldiers have been released since the Burmese government signed an Action Plan with the UN in 2012, and we welcome further progress and UN engagement with non-state armed groups on this important issue.”

This is another paragraph which does not reflect the reality of the situation in Burma, and where the British government has clearly made a calculated decision to downplay the problem of child soldiers in Burma. No reference is made to the Burmese government violating yet another agreement with the United Nations to release child soldiers and stop recruiting child soldiers by December 2013. These are also war crimes. This is yet another violation of international law which the British government clearly doesn’t want to talk about.

“On 3 October, the Department for Social Welfare formally launched the country’s first ever National Strategic Plan for the Advancement of Women 2013-2022. We warmly welcome this initiative to help address the under-representation of women in Burmese public life.”

Again the British government chooses to only highlight the positive regarding this plan, while making no reference to flaws in the plan and its process, and ignoring other problems relating to this issue. Concerns raised about this plan included the lack of adequate representation and involvement for all women’s civil society organisations. No reference is made to issues which have been raised by the United Nations, such as the lack of participation of women in the peace process.

“The Parliamentary Joint Committee for Reviewing the Constitution (JCRC), established in July to propose possible amendments to the constitution, received submissions at the end of December. The JCRC received over 300,000 suggestions from the legislature, judiciary and executive branches, political and ethnic parties, the army, and civil society. The JCRC is due to report on 31 January, but the format and substance of their recommendations remains unclear. The UK has publicly lobbied for the constitution to be amended ahead of 2015 to ensure the elections are fair and credible.”

Here again we see a similar approach by the British government. The official process for reviewing the constitution is referred to, without mention of flaws in the process, such as the committee being dominated by the military and pro-military USDP Party, and issues such as members of the government political party trying to swamp the committee with fake signatures against amending the constitution. No reference is made here to the fact that neither the President, the Speaker of Parliament, nor the military have made any specific unconditional public commitment to agreeing to reform which would reduce the power of the military, make Burma more democratic, enshrine human rights and lead to a federal Burma.

Wider issues relating to the urgent need for wide-ranging constitutional reform get no mention. Again this contrasts sharply with the statement UN Special Rapporteur’s statement seven weeks after this report was published.

In his statement the Special rapporteur stated: ‘Constitutional reform is inseparable from the process of national reconciliation. Reform will need to embrace the aspirations of the ethnic communities to have a say over their own future and benefit from the resources held within their lands. Constitutional amendments are also needed for the democratic transition to proceed. Reforms will need to address the undemocratic powers granted to the military and further democratise parliament, upholding the right of people to choose their own government and President.’

“Over two hundred prisoners of conscience have been released since President Thein Sein’s public pledge in July to release all political prisoners by the end of the year. On 30 December, the President ordered the release of all prisoners and persons facing trial for political offences. Mr Swire made a statement welcoming this, but noted there were individuals still in jail whose status as political prisoners is disputed. He urged continued dialogue between the government and civil society to resolve these remaining cases as a matter of urgency, and called for a review of the legal procedures used in the detentions and trials of several hundred prisoners in Rakhine State following the violence of 2012.”

This paragraph is alarming for several reasons. First, it makes a false statement that Thein Sein ordered the release of all prisoners and persons facing trial for political offences. He did not. It also plays down the scale of problems relating to political prisoners, and even appears to take the Burmese government’s side regarding whether political prisoners still exist.

The order for releases made by President Thein Sein was not a blanket order for releases as the Foreign Office claims. It was an order for limited releases relating to some offences only.

Here is what Thein Sein actually ordered:

*Republic of the Union of Myanmar
President Office
(Order No. 51/2013)*

*13th Waning of Nadaw, 1375 ME
(30 December, 2013)*

Pardon

1. The President issued this pardon under Section (204), Subsection (a) of the Constitution,

in order to contribute to the stability of the state and the lasting peace, to build national reconsolidation, to ensure all-inclusiveness in the political process, on humanitarian grounds and to enable them to participate in the nation-building tasks after realizing the magnanimity of the state.

2. In connection with any offenses in Paragraph (3) undergoing on 31 December 2013 and before; (a) All convicted shall be pardoned.

(b) All cases being heard by respective courts shall be dropped immediately.

(c) All ongoing investigations shall be closed without any further action.

3. The pardon covers only those being convicted and prosecuted in cases under the following laws:-

(a) Unlawful Association Act cases;

(b) Treason (Code of Criminal Procedure Article 122) cases;

(c) Sedition (Code of Criminal Procedure Article 124 (a)) cases;

(d) The Law to Safeguard the State from the Danger of Subversive Elements cases;

(e) Peaceful Gathering and Peaceful Procession Law cases;

(f) An act of harming public interests (Code of Criminal Procedure Article 505) cases;

(g) 1950 Emergency Act cases;

4. The privileges granted under this order shall not tie with any offenses in Paragraph (3) which underwent after 31 December 2013.

Sd/ Thein Sein

President

Republic of the Union of Myanmar

It is of deep concern that the British government, in their eagerness to win favours with the government of Burma, is willing to publish a false and misleading statement attempting to portray President Thein Sein in a better light.

This order specifically excluded more than 100 people on trial for political reasons, and even left more than 33 political prisoners on the official government committee list in jail. Even if they had all been released, there are possibly hundreds more who could still be in jail but the government is blocking access to jails.

No mention is made here of the specific order of the President that after the 31st December 2013, arrests under the laws he had ended trials for would resume.

This paragraph also leads on how many political prisoners have been released since July without making any reference to the fact that well over 200 people were arrested for political activities during this time.

No overt reference is made here of the need to repeal repressive laws, which has not been prioritised by the Burmese government or Parliament.

The Foreign Office also seems to take the side of the Burmese government by stating that 'there were individuals still in jail whose status as political prisoners is disputed'. In fact it is just Thein Sein's government which is disputing the status of 33 political prisoners on the list of political prisoners from the review committee. To simply state that their status is disputed gives a misleading impression that there is some kind of genuine dispute of their status.

The Foreign Office also carefully avoids using certain language which highlights ongoing human rights problems. For example, instead of using the language on the need to end unfair trials which the United Nations have ruled has led to illegal detentions, the Foreign Office uses the much softer wording that they called for a: '...review of the legal procedures used in the detentions and trials..'

Conclusion

Reviewing the latest country update on Burma, it is clear that the British government is deliberately avoiding including many serious ongoing human rights abuses in Burma. Where human rights issues are addressed, as positive a spin as possible is put on them, either highlighting positive and downplaying or ignoring negatives, or through careful use of language to avoid having to say things such as 'unfair trials'.

Another example of how the British government downplays human rights is the reply sent to Burma Campaign UK supporters in response to their letters on political prisoners. You can read more about that here:

<http://www.burmacampaign.org.uk/index.php/campaigns/actions/free-political-prisoners/foreign-office-response-on-political-prisoners>

The British government is presenting a false and misleading picture of the situation of human rights in Burma. It is doing so in order to try to make its own policy of soft uncritical engagement with the government of Burma, and its dropping of human rights as a foreign policy priority and replacing it with promotion of business opportunities, appear more reasonable.

By downplaying the seriousness of human rights abuses in Burma the British government is undermining efforts to end those abuses, and effectively assisting the government of Burma in continuing those abuses.

Footnotes

1. <http://www.hrdreport.fco.gov.uk/human-rights-in-countries-of-concern/burma/quarterly-updates-burma/?showall=1>
2. http://www.ohchr.org/Documents/Countries/MM/A-68-397_en.pdf
3. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14263&LangID=E>
4. <http://www.president-office.gov.mm/en/?q=briefing-room/news/2014/01/02/id-3129>

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Thank you

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& Development in Burma**