

Burma Briefing

Rohingya crisis one year on: Q & A



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What happened?

Saturday 25th August marks the first anniversary of the beginning of a pre-planned military offensive against the Rohingya population in Burma, using the pretext of attacks by a small armed Rohingya organisation, ARSA.

The military offensive drove around 700,000 Rohingya into neighbouring Bangladesh. It is believed that thousands of Rohingya were killed and there was mass rape of Rohingya women. Eyewitness accounts describe babies and children snatched from their parents' arms and thrown into burning homes or drowned in rivers. Families were burned alive in their homes, villagers lined up and executed at gunpoint, and civilians targeted indiscriminately. At the time of this briefing publication, the United Nations has described what took place as ethnic cleansing, and said that it may constitute elements of genocide.

The international response to the Rohingya crisis – questions and answers

What has been the international response to the Rohingya crisis?

A lot of talk but not much practical action. The human rights violations which took place against the Rohingya last year represented the worst human rights crisis Burma has seen since independence. Yet it elicited the weakest response.

The situation has not been referred to the International Criminal Court, the United Nations has not imposed an arms embargo, and no country has imposed economic sanctions targeting military owned and controlled businesses.

The EU, US and Canada have imposed visa bans on a small number of military and security personnel, so they cannot go on holiday to those countries. There is also an asset freeze on those individuals, but it does not appear they had any assets to freeze. The US sanctions additionally prevent US companies from doing business with sanctioned individuals, including Light Infantry Divisions 99 and 33.

Min Aung Hlaing, the head of the military, who planned and executed the military offensive, has paid no price.

What do the Rohingya want the international community to do?

Rohingya organisations and refugees are calling for three main things. Justice and accountability, including referring Burma to the International Criminal Court, citizenship, and more humanitarian assistance to refugees outside Burma and Rohingya still in the country.

How is the UK responding?

The British government leads on Burma at the United Nations Security Council and has secured several meetings, a UNSC delegation visit to Burma and Bangladesh, and statements by the UNSC. However, while the British government has provided humanitarian assistance, they have taken no action on justice, accountability and citizenship for the Rohingya.

Does the British government support referring Burma to the International Criminal Court?

No. The British government has resisted significant pressure from the British Parliament, human rights organisations and the public to support a referral.

As Burma is not a signatory to the Rome Statute, the only way a full investigation by the International Criminal Court can take place is if Burma refers

itself (which will never happen) or if the UN Security Council (UNSC) refers Burma to the Court. Britain leads on Burma at the UNSC but is not supporting an ICC referral by the UNSC.

Won't China veto any referral to the International Criminal Court?

It is possible, even probable, that China would use their veto power to stop a resolution referring Burma to the ICC. This is one of the excuses the British government uses for not supporting a referral. They also argue there is no consensus on the Council.

As the lead country on the UNSC it is the British government's job to try to build consensus, but at the present time they effectively have the same position as China in not supporting a referral, so how can they build that consensus?

The British government has also supported repeated attempts to pass resolutions on Syria despite Russian opposition, so their approach is not consistent and indicates there are other reasons for not supporting an ICC referral.

What other reasons does the British government give for not supporting a referral?

The British government argues that a vetoed resolution for a referral would be worse than no resolution attempt.

Burma Campaign UK would not support the British government immediately putting forward a resolution. This would be a tactical mistake. Instead, they should take time to build global support for a referral, on and off the UN Security Council, from as many countries and international bodies such as the EU, OIC etc, as possible. This would maximise pressure on China not to use its veto.

There is also great value in the process of building this international support. As more and more countries and international bodies come on board over a period of weeks and months, the sense of impunity which Min Aung Hlaing and his military enjoy will be eroded.

This in turn could make Min Aung Hlaing think twice before launching further military offensives. His military carried out the attacks against the Rohingya because he calculated, correctly so far, that he could get away with it. Ending his sense of impunity is critical to preventing further attacks and saving lives.

Isn't the Burmese government conducting its own inquiry?

Aung San Suu Kyi has established yet another Commission claiming it will investigate what took place in Rakhine State. Apart from the British government, no-one believes it will be credible. Previous investigations by her government and the military have all been farcical whitewashes, dismissed by the British government and others as not credible.

Rosario Manolo, who heads the enquiry, stated as it began its work: "...there will be no blaming of anybody, no finger-pointing of anybody ... It is not a diplomatic approach, and a very bad approach, in fact, to be doing finger-pointing, blaming, to say 'you're accountable'."

The British government played a key role in persuading Aung San Suu Kyi to establish this new investigation. The British government has not yet explained why it thinks this one will be credible. Both governments appear to hope it will head off pressure for an ICC referral. Aung San Suu Kyi and her government continue to deny serious human rights violations have taken place and Aung San Suu Kyi still has a sign saying FAKE RAPE on her website regarding the mass use of rape against Rohingya women.

Even if Aung San Suu Kyi genuinely wanted to conduct an investigation into what happened, she doesn't have the power to do so, as she does not control the military and cannot compel them to co-operate. The legal framework for a genuine investigation and holding those responsible to account simply does not exist. In addition, this enquiry is limited to the Rohingya, not violations of international law committed by the military and the government across the country.

Why is the British government so soft in response to what has happened?

We can only speculate, as statements from the Foreign Office and different ministers have been confused and contradictory. Mark Field MP and Alistair Burt MP were stronger on the need for justice and accountability than the Foreign Secretary at the time, Boris Johnson, and his officials.

Mark Field MP accepted mistakes in policy were made and that there was a need to reflect on that, while the official Foreign Office response

to a Foreign Affairs Committee report rejected suggestions that the Foreign Office had made policy mistakes and misread the situation.

There appears to be a school of thought within the Foreign Office that Aung San Suu Kyi is Burma's best and only hope and nothing should be done to undermine her position. This is effectively a position that the Rohingya and other ethnic groups are expendable for the so called greater good of a democratic transition which the International Development Committee has questioned even exists. It also ignores her own appalling record on human rights since leading the government.

An example of policy confusion within the Foreign Office is the push for and support for Aung San Suu Kyi to conduct her own investigation. If their objective is to avoid international pressure which they think might destabilise her position, why push her to establish an investigation which if conducted credibly would put her on a direct collision course with the military? If there was a referral to the International Criminal Court, Aung San Suu Kyi can credibly state it is not something she supports and she tried to stop it. The military cannot blame her. It lets her off the hook.

Would Aung San Suu Kyi face trial at the International Criminal Court?

There have been some calls for Aung San Suu Kyi to face trial at the International Criminal Court following her denials over human rights violations and defence of the military. As she does not have any control over the military and could not have stopped the military offensive, she would not be likely to face any trial for events outside her control. However, in government she has continued with policies and kept in place laws against the Rohingya which violate international law as outlined in the Rome Statute, so could in theory face trial for these crimes.

What happened with the Rakhine Commission report and recommendations?

Officially Aung San Suu Kyi accepted all the recommendations but in practice they do not all appear to be being implemented. There is little or no transparency on exactly what is happening with many of the recommendations, and an international advisory committee on their implementation lost two members, with one, US diplomat Bill Richardson, describing it as a whitewash. Following the

resignations, and lacking any credibility to serve its public relations purpose, it was shut down by the government.

The most critical recommendation is regarding citizenship. The Commission recommendations didn't go far enough on this, calling for a review rather than immediate citizenship as required by international law. However, even this has not been implemented and government officials have repeatedly stated they will not change the 1982 Citizenship Law, which is used to discriminate against the Rohingya.

Implementation of these recommendations is being treated as a drawn out tick box exercise to placate the international community. Aung San Suu Kyi and her government have still not accepted that Rohingya belong in Burma and should be given citizenship and rights. Until she makes this public commitment and changes government policy, it will be impossible to address many of the root causes which the Rakhine Commission recommendations seek to address.

Isn't there an agreement for Rohingya to return to Burma?

There is an MOU between Bangladesh and Burma on voluntary return of Rohingya refugees but despite lack of funding and appalling conditions in the camps in Bangladesh, Rohingya are refusing to return as it is not safe to do so. Aung San Suu Kyi has constructed giant prison camps, which she calls holding or processing camps, for Rohingya who return. Given that she has kept Rohingya displaced by attacks in 2012 in prison camps and continued policies restricting humanitarian aid, policies which cause immense suffering and deaths, there are significant grounds to believe returning Rohingya will not be allowed to leave the camps she has constructed.

Apart from ICC referral, what other action should the international community take?

There is no single or easy measure that will address this crisis. Instead, everything that can be done should be done. The British government should be lobbying for a United Nations arms embargo and encouraging individual countries to implement unilateral arms embargoes. The British government should also support the EU banning the sale of all equipment or services to the military, banning all business dealings with military owned and controlled companies, and ending all forms of training of the Burmese military.

UN human rights bodies and experts are calling for a mechanism to collect and preserve evidence for future prosecutions. While this is of course welcome, it is not enough, as justice is delayed and impunity continues.

The British government will likely support these recommendations as they see it as a way of being seen to be doing something while in fact kicking the can down the road and avoiding pushing for stronger action such as ICC referral and other measures.

Further reading

Rohingya Crisis One Year One – Business As Usual For The EU, Burma Campaign UK:
<http://burmacampaign.org.uk/rohingya-crisis-one-year-on-business-as-usual-for-eu/>

Now Or Never – Is Time Running Out For Rohingya To Get Citizenship?, Burma Campaign UK:
<http://burmacampaign.org.uk/now-or-never-is-time-running-out-for-rohingya-to-get-citizenship/>

Rohingya refugees and safe return, Burma Campaign UK:
http://burmacampaign.org.uk/burma_briefing/rohingya-refugees-and-safe-return/

Myanmar: “Caged Without A Roof”: Apartheid In Myanmar’s Rakhine State, Amnesty International:
<https://www.amnesty.org/en/documents/asa16/7484/2017/en/>

They Gave Them Long Swords – Preparations For Genocide, Fortify Rights:
http://www.fortifyrights.org/downloads/Fortify_Rights_Long_Swords_July_2018.pdf

Major Changes Required In UK Burma Policy Required Following Rohingya, International Development Committee:
<https://www.parliament.uk/business/committees/committees-a-z/commons-select/international-development-committee/news-parliament-2017/bangladesh-and-burma-report-publication-17-19/>



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