

# Burma Briefing

## Rohingya refugees and safe return

**Burma**  
campaign UK

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### One year on

More than 1 million Rohingya now live as refugees in Bangladesh. 700,000 of them fled following the pre-planned military offensive against them last year. More than half are children. Most are confined to a small area called Kutapalong camp, along with more than 300,000 Rohingya who had previously fled human rights violations.

### Conditions in the camps

Conditions in the camps are appalling, despite the efforts of UN and international aid agencies, local and international civil society groups, and the Rohingya themselves. Too many people are crammed into too small a space which is not geographically suitable for such a camp, including being prone to flooding during the rainy season.

Although the government of Bangladesh does not officially recognise the Rohingya as refugees, it has rightly been praised for allowing the Rohingya into the country. However, government bureaucracy and deliberate policies of obstruction have made it difficult for aid agencies to operate in the way they need to. Criticism of the government is muted through fear of the government responding by making things even more difficult. The government of Bangladesh has traditionally had a policy of severely restricting aid to Rohingya as they fear that decent conditions will attract more Rohingya to the camps.

In November 2018 British Preventing Sexual Violence in Conflict Initiative (PSVI) experts made ten key recommendations for British aid to the camps. It is not clear that these have all been acted on.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/708577/Bangladesh\\_Sexual\\_and\\_Gender\\_Based\\_Violence\\_Assessment\\_Executive\\_Summary\\_03.12.2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/708577/Bangladesh_Sexual_and_Gender_Based_Violence_Assessment_Executive_Summary_03.12.2017.pdf)

There is a danger that difficult and unsafe conditions in camps in Bangladesh will encourage Rohingya to return before it is safe for them to do so.

### Not enough aid

The United Nations appeal to provide basic aid for the refugees is not expected to receive even half of the almost one billion dollars a year that is needed.

The British government is a leading donor, pledging almost £130 million to date. The European Commission pledged only 36 million euros in assistance this year.

The government of Burma is not known to have made any contribution.



Comment, briefing & analysis from Burma Campaign UK

## **So-called safe return**

The British government and most of the rest of the international community are not focusing on the two most important things to ensure safe return. These are immediate citizenship, and justice and accountability.

Phrases like safe, dignified and voluntary return now being used by the British government, EU and others are meaningless without specifics of what that means.

Immediate full citizenship is an essential precondition for return. Citizenship is not only the right of the Rohingya, denial of citizenship underpins prejudice against the Rohingya as it is the government saying that the Rohingya are foreign and don't belong. Addressing the root causes cannot begin without full citizenship first.

Politically, there is no better time than now for citizenship to be given back to the Rohingya. There is still more than two years to go before the next election, Aung San Suu Kyi has a huge parliamentary majority and total control over her party. The military cannot constitutionally block her on this issue. She will probably never be in a stronger position than now to make this change. Any delay could mean Rohingya never get citizenship. See our briefing paper 'Rohingya Citizenship, Now or Never', here: [http://burmacampaign.org.uk/burma\\_briefing/rohingya-citizenship-now-or-never/](http://burmacampaign.org.uk/burma_briefing/rohingya-citizenship-now-or-never/)

## **Rakhine Commission recommendations won't create conditions for safe return**

The Kofi Annan Rakhine Advisory Commission does not recommend Rohingya immediately be given full citizenship. Instead it recommends implementation of the 1982 Citizenship Law first, despite admitting that this law is not compatible with international law and norms. This will cause a delay that could be fatal to future prospects of reforming or repealing the law.

The Rakhine Commission only recommends the government 'review' the 1982 Citizenship Law, and makes suggestions the government 'might' wish to consider if they do have a review. No timeline is given.

Implementation of the Rakhine Commission recommendations will not create conditions for safe return. They do not require the government of Burma to immediately give Rohingya citizenship and the entire issue of justice and accountability was kept out of their mandate by Aung San Suu Kyi. As long as there is impunity, the military will be encouraged to repeat what they have done.

The current plan by Aung San Suu Kyi's government is to force Rohingya into giant repatriation camps which will effectively be prison camps, with no rights and no guarantee of being allowed to leave.

## **Rakhine Commission recommendations and lack of implementation**

There are 88 recommendations made by the Commission which, while not solving all problems, if implemented could help improve the situation.

The Burmese government accepted the recommendations of the Advisory Commission on Rakhine State a year ago. There has been no movement at all on citizenship. Bill Richardson, who resigned from the Advisory Committee on the implementations of Rakhine Commission recommendations, described it as a whitewash. After another member resigned with similar complaints, it was abruptly shut down.

In August Aung San Suu Kyi claimed 81 of the recommendations have been implemented. This is, quite simply, a lie. Previously ministers had claimed to be working on 81, but not to have implemented them. There is little tangible evidence of any serious attempts to implement the recommendations, and there is no transparency in the process. Certainly the government is still working against the spirit of the recommendations even if it is going through a half-hearted tick box exercise in order to be seen to be doing something.

## **Secret MOU on aid access and return**

Even before the crisis began last year, humanitarian access in Rakhine State was severely limited. Aung San Suu Kyi kept in place military era restrictions which led to immense suffering and deaths of children.

In the event that for public relations purposes a limited number of Rohingya are allowed to return to villages, the military have been building bases in many Rohingya villages, so there is a danger that those Rohingya will literally be living under the guns of soldiers who only months before killed and raped their relatives and burned their villages down.

The secret memorandum of understanding (MOU) negotiated between the Burmese government and the UN is still officially secret. The Rohingya people whom it concerns had no say in its drafting and are not allowed to see its contents.

A leaked draft revealed surprisingly few specific guarantees about aid access and no concessions at all on citizenship.

So-called concessions from Aung San Suu Kyi on the UN being allowed to monitor repatriation programmes give no guarantee that the UN and other aid agencies will even have the limited access they had prior to August last year when the military offensive began. The situation then was considered unacceptable.

The UN says the agreement will allow it to provide independent information to Rohingya refugees about the conditions in their place of origin so that they can make informed decisions about return. With the increased militarisation of Rakhine State, the situation can change very rapidly with soldiers being able to move into Rohingya villages even more quickly than before. The local and national situation can change very rapidly. While information about what happened to their homes and villages is obviously important, it's the general political and security situation which is most important in allowing Rohingya to assess conditions for safe return.

Also needing clarification is the claim that the UNHCR will be able to carry out protection activities. A UN presence will not guarantee the safety that Aung San Suu Kyi's government has tried to claim. When tension rises, the UN withdraws its staff for safety reasons, and before August it was Aung San Suu Kyi's own information committee which was publishing media and social media posts implying the UN were helping Arakan Rohingya Salvation Army (ARSA) terrorists, which forced the UN to first warn staff of potential danger and then pull staff out.

Comments by the UN Resident and Humanitarian Coordinator, Knut Osby, about Rohingya "needing an identity" are also worrying and perhaps an indication of how much the UN is compromising and pandering towards the agenda of the government.

The Rohingya already have an identity. The problem is not that they need an identity, it is that the government of Burma is trying to deny that identity. The United Nations should be unequivocal in defending their right to their identity.

The UN Coordinator also conspicuously tried to avoid using the name Rohingya when talking about the agreement about the Rohingya, and the two paragraph UN statement on the agreement about the Rohingya also avoided using their name. Not using the word Rohingya is not a neutral decision. It is backing down to the demands of racists who want to expel all Rohingya from Burma.



Credit @Zuma/Avalon

While a renewed emphasis from the UN on citizenship in the MOU is welcome, this agreement appears to have backed down to the Burmese government agenda of so-called pathways to citizenship. All evidence points to this being a delaying tactic, used by both Thein Sein's government and Aung San Suu Kyi's government. As described earlier, with her majority in Parliament, Aung San Suu Kyi can pass a new citizenship law in line with international law and standards giving all Rohingya citizenship, any time she chooses. But the longer there is delay, the harder it will become.

Aung San Suu Kyi appears to be playing the old game that the military used of taking two steps back, one forward, and then being praised for the one step forward, despite the overall situation still being worse.

Three months on from the MOU being signed, the government of Burma has still not implemented it and allowed the UN even the limited access which it should have. The UN was used and deceived yet again.

### **International pressure in the wrong area**

Aung San Suu Kyi's focus on fast return for Rohingya refugees may, in part, be being driven by a false impression being given by the British government in particular that if she can start getting Rohingya refugees to return, then she can avoid further international pressure. When he was British Foreign Secretary, Boris Johnson repeatedly implied that if Rohingya were able to return, then what happened might not be ethnic cleansing. Return of refugees was being presented to Aung San Suu Kyi and her government as a solution to the problem, when it is not. Return alone without addressing justice and accountability and citizenship is just setting things up for a further crisis in the coming months or years.

### **Ending impunity essential for safe return**

Aung San Suu Kyi does not control the military and so cannot guarantee safe return. At any time the military can launch a new military offensive against Rohingya civilians. Only the threat of real consequences for military head Min Aung Hlaing could help prevent further attacks against Rohingya, but so far Min Aung Hlaing has paid no price for his actions.

The British government does not support the UNSC referring Burma to the International Criminal Court. The British government supporting a referral, and building international consensus in support of a referral, would be an effective way of ending Min Aung Hlaing's sense of impunity and potentially preventing further attacks.

The British government is right to argue that a UNSC resolution on a referral might be vetoed by Russia and China. This is why the UK must start supporting a referral and building global support, from the EU, OIC and other countries, in order to try to overcome that opposition. The British government cannot ask other countries to support a referral when it isn't supporting a referral itself.

To date, the only countries supporting a UNSC referral are Canada, Estonia and Liechtenstein. The UK cannot claim global leadership on this issue when even Liechtenstein is out in front of them.

After 100 British Parliamentarians signed a letter calling on the British government to support a UNSC referral to the ICC, Min Aung Hlaing and Aung San Suu Kyi responded by banning the members of the International Development Committee from visiting Burma and issuing a five page rebuttal, which was even given to the UNSC delegation. This demonstrates how afraid the military are of justice and the potential a referral has for removing their sense of impunity, which is what encourages them to carry out attacks against ethnic civilians. UK support for a referral will likely save lives. It is essential for the safe return of refugees that the UK supports the UNSC referring Burma to the ICC.

Instead of supporting an ICC referral, the British government has lobbied for and supported the establishment of an enquiry by the government of Burma. With the apparent exception of the British Foreign Office, no-one with any knowledge of Burma believes this enquiry will be credible. Recent investigations have been judged as not credible by most observers, including the British Foreign Office. They have not been able to explain why they think that this one will be any different. Aung San Suu Kyi still has a Fake Rape sign on her website and she and her government still deny human rights violations took place. Their attitude is clear. This is purely a public relations exercise.

Rosario Manolo, the head of the Burmese government-established enquiry has stated: “I assure you 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.’”

Kobsak Chutikul, a retired Thai lawmaker and diplomat who resigned from the implementation committee stated “This just goes on and on. Next year, it will be another commission, another board. It is all for show — there is nothing real. It is a hoax.”

It is simply not credible for the British government to keep abdicating its responsibilities as a member of the UN Security Council to uphold international law, and instead hide behind this farcical Burmese government enquiry.

### **In summary**

Rohingya living in camps in Bangladesh have not been demanding, safe, voluntary and dignified return, whatever that means. When the UN Security Council delegation visited the camps, their demands were clear. They called for immediate full citizenship as a condition for safe return. They called for

justice and accountability, knowing that impunity encourages further violence against them.

Immediate movement on full citizenship for Rohingya should be one of the main demands of the international community. There should be no further compromises and kowtowing to the racist policies of the Burmese government on this issue.

Support for referral to the International Criminal Court is essential, not only for there to be justice and accountability. Min Aung Hlaing and his military have paid no price for what they have done. Support for an ICC referral and the prospect of justice and accountability would be one of the most effective ways to start a process of ensuring safe return. As long as Min Aung Hlaing believes he can keep getting away with violating international law, he will do so, as the recent escalating conflict in Kachin state demonstrates.

It is easy to argue that the situation is complex, but this should not be an excuse for inaction and delay. On both the humanitarian front and the human rights front, the British government should be operating on the principle that everything that can be done, should be done.

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