



BRIEFING PAPER

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Burma: November 2018 update

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Summary

During 2018 the Burmese authorities have largely been able to keep a lid on the crisis in Rakhine State. They have sought to present an image of increasing 'normality' both to their domestic audience and to the wider world. While at home they may have had some success, Western governments have not been persuaded. Last week it looked like the large-scale repatriation of refugees from Bangladesh might be about to begin, but UN and Western concerns over its involuntary character were in the end enough to stall it.

Aung San Suu Kyi's and the National League for Democracy's (NLD) government's efforts to manage the Rohingya crisis also seem to have distracted them from the pursuit of other important initiatives – for example, the peace process with minority ethnic armed groups. A patchy performance in by-elections held earlier this month suggests that the NLD may be losing support amongst some sections of the electorate. The next national elections are due in 2020.

For further background, see our January 2018 [briefing](#) on Burma.

For further background on Bangladesh's actions and perspectives on the Rohingya crisis, see also our briefing [Bangladesh: October 2017 update](#).

1. The Rohingya crisis

1.1 Controversy over repatriation

General agreement between Burma and Bangladesh to begin repatriating the Muslim Rohingya refugees living across the border in Bangladesh was reached late last year. During 2018 there has been continuous discussion between Burma and Bangladesh through a joint working committee established to oversee the process about beginning repatriation. They officially want to see the process completed by the end of 2019.

An apparent breakthrough came in June, when the Burmese government signed an agreement on cooperation with UN agencies on repatriation. There has been substantial progress on the formal registration of all the refugees in camps, which is a crucial precondition for a credible process of repatriation.

Only a tiny number of refugees have so far returned to Rakhine State, all of them apparently informally. They have been resettled in camps over which the authorities have extensive control. There are said to be over 100,000 Rohingya interned in 20 camps around Rakhine State.

Spokespeople for the refugees have said that the conditions which must be satisfied before they do so are that their citizenship rights should be addressed, an international security presence established in Rakhine State, and that there should be proper restitution for the suffering and loss they have experienced. None of these conditions have so far been met.

Rohingya have continued to cross into Bangladesh during 2018, albeit in smaller numbers, suggesting that the violence and persecution has not entirely stopped. The Burmese authorities have gradually reduced the presence of the security forces in the border area between the two countries as they have sought to coordinate their patrols there. But there have also been reports that the Burmese authorities have been bulldozing Rohingya villages and supporting settlement activities by Buddhist Rakhine – all of which seems to make voluntary return more difficult. A recent UN report [described](#) the Rohingya in Burma as living under “apartheid-like restrictions”.

Humanitarian access to Rakhine State has improved a little during 2018 from a very low starting-point, but criticisms about limits on the freedom of operation of international agencies continues.

Western governments and international agencies have so far held fast to the position that any returns must be genuinely voluntary and that the conditions are still not right in Burma to begin repatriation. However, there was controversy in July when a leaked document on future cooperation between the UN and the Burmese authorities on humanitarian and development support to Rakhine State did not specify that Rohingya citizenship rights should be addressed.

UN Secretary-General Antonio Guterres praised the response of the Bangladesh authorities during a visit he made, along with World Bank president Jim Kim to Bangladesh in July. While there he visited the main camps at Cox's Bazar.

In October, with the registration of refugees reportedly fully completed, Burma and Bangladesh appeared to indicate that they were growing impatient with those who object to starting repatriation by setting a date of 15 November for the process to begin. There were [claims](#) that 2,200 refugees had already been identified for repatriation without their knowledge or consent, with up to 5,000 in total identified for a first phase of returns. 'Reception centres' for them in Rakhine State were said to be ready to receive them. However, the Burmese authorities said that returnees would remain in them for only as long as it took them to build their new homes through a government-funded programme.

Those opposed reiterated their opposition. Senior UN figures made multiple appeals to both countries not to go ahead. UNHCR said that it was not involved in facilitating these repatriations. Both insisted that they had no intention of forcing anybody to return.

As the deadline approached, the new UN High Commissioner for Human Rights, Michelle Bachelet, [said](#) that many Rohingya refugees were in a state of terror and panic at the prospect of being forced to return. There was a [build-up](#) of Bangladesh security forces in Cox's Bazar in the days before 15 November. Some refugees were said to have gone into hiding or were fleeing the camps. 33 refugees were rescued by the Bangladesh coast guard after trying to leave Cox's Bazar and get to Malaysia by boat. More broadly, there were concerns that there could be a revival of desperate attempts to 'escape' repatriation.

However, on 15 November, the Bangladesh authorities announced that repatriation plans had been cancelled. The line now is that they will not begin until next year. The UN and Western governments have welcomed this decision with some relief. Since then, arguments that it is still not safe for Rohingya to return have been underscored by [reports](#) that around 20 police officers shot and injured four Rohingya when they entered a camp in Rakhine state in an operation to arrest two men suspected of smuggling people out of the country.

1.2 The Burmese authorities struggle to address linked challenges

The Rohingya armed group known as the Arakan Rohingya Salvation Army (ARSA) has launched periodic attacks on the security forces and civilians, but these have been small in scale. Amnesty International has accused it of committing human rights abuses. There have also been allegations of abuses by the security forces against ARSA fighters. In January 2018, the authorities admitted that ten fighters had been detained and summarily executed in Maungdaw township.

In addition to continued tension between the Muslim Rohingya and the authorities in Rakhine State, there has been periodic restiveness amongst the Buddhist population, leading to clashes with the police. For

example, seven demonstrators were shot and killed in January 2018. Buddhist Rakhine leaders have opposed the return of Rohingya refugees. Two of them are facing trial for unlawful association, incitement to violence and high treason.

There has been little apparent official inclination to implement the 2017 recommendations of the officially sponsored [advisory commission](#) on how to address the Rohingya crisis chaired by Kofi Annan, who died in August 2018.

In June, the Burmese government announced that it would establish a three-member independent commission of inquiry into alleged human rights violations in Rakhine State. Observers questioned the sincerity of the authorities, asking whether it was mainly about weakening the case for the International Criminal Court becoming involved (see below). Its public statements to date, which included a pledge not to “point fingers”, have done little to encourage those who hoped that it might be a credible body.

There has been no let-up in the international criticism of Aung San Suu Kyi during 2018. She has been stripped of numerous awards and honours over the last ten months – most recently, Amnesty International’s highest award, the ‘Ambassador of Conscience’ award. The events of the last ten months have done nothing to contradict those who argue that she has no real control over what the Burmese military does – but is culpable because she has made no effort to change this situation or otherwise challenge its actions.

1.3 International responses to the crisis

Resumption of sanctions

Since February 2018, Western governments have slowly begun re-introducing sanctions against military officers involved in the crackdown against the Muslim Rohingya. Critics argue that the focus has been too narrow and hesitant. The head of the armed forces, General Min Aung Hlaing, and other senior officers have so far not been designated for sanctions.

The EU has also [strengthened](#) its arms embargo against Burma. It is also considering [revoking](#) Burma’s access to the ‘Everything But Arms’ preferential trade scheme. Some supporters of targeted sanctions have criticised the idea, calling on the EU to focus on expanding targeted sanctions.

Following the publication of a report on alleged human rights abuses committed by the Burmese security forces by a UN fact-finding mission led by Marzuki Darusman (see also below), many experts anticipate that there will be a further round of Western sanctions.

For further detail about EU sanctions, click on this [link](#). On US sanctions, click on this [link](#).

UN action on accountability

In March, the UN Special Rapporteur on Myanmar, Yanghee Lee, published a report calling for international efforts to be made to ensure

there was accountability for official abuses against the Rohingya. Both she and the then UN High Commissioner for Human Rights, Zeid Ra'ad al-Husseini, said that acts of genocide may have occurred against the Rohingya.

In April, there was a Security Council fact-finding mission to Burma. It issued conclusions and recommendations that were highly critical of the Burmese government. In the same month, the Secretary-General, Antonio Guterres, appointed a special envoy to Myanmar, Christine Schraner Burgener.

The International Criminal Court has also become active on the matter. In August, another UN fact-finding mission led by Marzuki Darusman called on the Security Council to refer the Rohingya crisis to the Court. Its report said that the head of the army and other senior leaders should be investigated and prosecuted. It also directly criticised Aung San Suu Kyi for inaction and argued that the government had been complicit in "atrocious crimes". The government rejected the conclusions of the mission. Aung San Suu Kyi has said that they will not cooperate with the Court. The final report of this mission was published in September. It called on Burma's military to step down and for the institution to withdraw entirely from politics.

With China and Russia opposed, a Security Council referral remains highly unlikely, although a decision may come eventually to render their opposition explicit by putting a resolution to the vote.

However, the Court ruled in September that it had jurisdiction over the alleged forced deportation of Rohingya to Bangladesh. It did so on the grounds that, while Myanmar is not a party to the Rome Statute, Bangladesh is, and parts of the alleged crime took place on its territory. The Burmese government rejected the ruling. In late-September, the UN Human Rights Council approved the establishment of a body to collect evidence into case files linked to specific individuals.

OIC and ASEAN

Foreign ministers of the Organisation of Islamic Cooperation (OIC) issued a statement in May calling for accountability and increased political effort to end the crisis. Burma rejected the statement.

Aung San Suu Kyi has just attended the ASEAN Summit in Malaysia. The persecution of the Rohingya means that Burma has lost a lot of support amongst the organisation's Muslim majority members, such as Malaysia and Indonesia. The summit's concluding [statement](#) used unprecedentedly strong language on the Rohingya crisis, echoing other calls for accountability.

The UK stance

The UK Government has consistently argued for the "safe, voluntary and dignified" return of Rohingya to Burma but continues to take the view that the conditions for this do not currently exist.

An International Development Committee [May 2018 report](#) on Burma argued that the UK should no longer continue with "business as usual", calling for a complete review of policy on Burma.

Since then, some have [detected](#) the emergence of a stronger UK line on Burma. The new foreign secretary, Jeremy Hunt, visited Burma in September, meeting Aung San Suu Kyi (but not the head of the army) and travelling to Rakhine State as part of his visit. He [kept open](#) the possibility of a referral of Burma to the International Criminal Court.

UK Ambassador to the UN Karen Pearce subsequently took a robust position on justice and accountability in late-October after a Security Council briefing by the head of the UN's fact-finding mission, Marzuki Darusman.

On 30 October, FCO Minister Mark Field MP [said](#) in a written answer:

The UK initiated the EU's new sanctions on seven military commanders and a strengthened arms embargo ... we would likely need to take further action in response to the UN Fact Finding Mission report. We are now discussing options for further EU sanctions with member states, including whether to sanction the Commander-in-Chief and his Deputy.

Below are links to recent UK government statements/initiatives on Burma:

[FCO Minister statement on Rohingya Repatriation to Burma](#), 14 November 2018

["Security Council briefing on the UN Fact-Finding Mission in Burma"](#), 24 October 2018

["UK closing statement at 39th UN Human Rights Council"](#), 28 September 2018

["Foreign Secretary announces additional UK support for victims of sexual violence in Burma"](#), 19 September 2018

1.4 Humanitarian situation in Bangladesh

Recent updates

The IOM leads the Inter Sector Coordination Group, which brings the main humanitarian actors together. Its most recent [update](#) on the situation was published on 1 November 2018.

In March 2018, the IOM, UNHCR, UN Resident Coordinator for Bangladesh and ISCG came together to publish a [Joint Response Plan](#) for the period March-December 2018. The four bodies requested US\$951 million to provide life-saving assistance to 1.3 million people, including Rohingya refugees who fled Myanmar to Bangladesh and local host communities. The priority needs in the plan included food, water and sanitation, shelter, and medical care.

A [mid-term review](#) was published in October. By the end of that month, the Joint Response Plan was only 45% funded, according to a [funding update](#).

The UNHCR's most recent (to our knowledge) [Operational Update on the Emergency Response in Bangladesh](#) was published in August 2018.

Many challenges remain – the sheer congestion remains perhaps the single biggest problem. There was much concern about what would

happen during the monsoon season. Bangladesh made some land available that is safely above sea-level but it was not enough to meet needs. However, it seems that, although the rains certainly had a negative [impact](#) on conditions, worst-case scenarios were avoided.

Bhasan Char

There has also been concern about preparatory work by the Bangladeshi authorities on an island called [Bhasan Char](#), 21 miles away, from the mainland, that may be used for upwards of 100,000 refugees but which international agencies have had no access to and which most impartial observers believe could be unsuitable for accommodating them. In late-May, Sheikh Hasina [said](#) that this number of refugees would be relocated there “soon”. However, relocation has not yet begun and now [looks highly unlikely to do so](#) until next year. Some might wonder whether the main purpose of Bhasan Char is to pressurise Western governments and international agencies to agree on moving ahead with the repatriation of Rohingya refugees. If so, it has not yet been successful.

2. Other developments

2.1 21st Century Panglong Union Peace Conference

Ongoing efforts to reach a comprehensive peace agreement with all minority ethnic groups have made more progress on inclusivity than on substance. The third conference took place in July and for the first time all groups attended, including those which have not yet signed ceasefire agreements with the authorities. However, there were no breakthroughs on constitutional and security issues at the conference. The government announced that it wanted to complete the peace process by the 2020 elections. There was a smaller-scale summit in October, but the date of the fourth conference is yet to be announced.

The peace process has not meant peace on the ground during 2018. Levels of violence (outside of the monsoon season, when things quieten down) appear to have been no lower than they were in 2017. There have been clashes, several them on a large scale, between government forces and fighters of the Kachin Independence Organisation, the Ta'ang National Liberation Army and the Karen National Union (in this last case, despite it being a signatory to a ceasefire agreement); all have led to significant new internal displacement and humanitarian need.

There have also been clashes between minority ethnic armed groups in which the government was not involved. On the more positive side, several armed groups have signed a ceasefire agreement with the government over the course of this year.

2.2 Human rights

There has been strong international criticism of the jailing of two Reuters journalists, Wa Lone and Kyaw Soe Oo, under the Official Secrets Act for drawing on leaked information when reporting the discovery of a mass grave of ten Rohingya villagers who had been summarily executed in late-2017. The authorities did not deny their account of events and said that action would be taken against all those involved. Lawyers for the two men said that they had been 'set up' by the police. In September, the two journalists were sentenced to seven years in prison with hard labour. Aung San Suu Kyi has refused to criticise the verdicts. On 6 November, lawyers for the two men filed an appeal against their conviction.

There have been some trials of military personnel during 2018. For example, in April seven soldiers were reportedly convicted for killings in Rakhine State in late-2017.

In recent months, as UN criticism of Burma has mounted, Facebook has closed the accounts of some senior Burmese military figures, including the head of the army, and Buddhist monks because they were deemed to incite violence and hate against the Muslim Rohingya. Earlier this month, the company published a [report](#) in which it admitted that it had

not done enough in the past to combat hate speech in Burma on its platform.

Overall, critics charge that the NLD has failed to promote or strengthen a culture of human rights in the country, particularly in the sphere of freedom of expression.

2.3 Economy

Economic performance looks respectable by some indicators -- but most people's living standards have still not seen much improvement since 2015. The Rohingya crisis has held down, but not ended, foreign investment in the country. But further Western sanctions could bring it to a near-halt.

Some investors appear to be [losing hope](#) that the NLD government can rein in rampant cronyism and introduce reforms that will improve the business environment. Others remain more hopeful.

Although the relationship is anything but straight-forward, China remains a major economic player in Burma. Earlier this month, the Myanmar government and China's state-owned CITIC Group signed a framework agreement for a proposed US\$1.3 billion deep-sea port in [Kyaukphyu](#), Rakhine State.

3. Further reading

[“Rohingya Citizenship: Now or Never?”](#), Mark Farmaner in LSE blog, 2 November 2018

[“Myanmar/Bangladesh: Plan Puts Rohingya at Risk”](#), Human Rights Watch, 2 November 2018

[“Myanmar’s ‘Genocidal Acts’ Demand UN Action”](#), Human Rights Watch, 26 October 2018

[“EU trade preference halt would cause widespread harm”](#), *Irrawaddy*, 16 October 2018

[“India: 7 Rohingya Deported to Myanmar”](#), Human Rights Watch, 4 October 2018

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