

The European Union is currently reviewing its policy on Burma, including whether to continue with the suspension of EU sanctions, or to lift them altogether. A final decision will be made by the Foreign Affairs Council on 22nd April.

In April 2012, the European Union suspended all sanctions except those on arms and equipment that could be used for repression.

The move was officially meant as a reward to the government of Burma for introducing reforms, and to encourage further reforms. However, it also represented a compromise, as Germany had been lobbying for all sanctions to be lifted immediately.

Benchmarks not met

When suspending sanctions on 26th April 2012, the European Union made clear the progress it expected to see in response, stating in the Council Conclusions:

“...the EU still expects the unconditional release of remaining political prisoners and the removal of all restrictions placed on those already released. It looks forward to the end of conflict and to substantially improved access for humanitarian assistance, in particular for those affected by conflict in Kachin State and along the Eastern border, as well as to addressing the status and improving the welfare of the Rohingyas.”

At the current time none of these benchmarks has been met.

There is no doubt that there have been dramatic changes in Burma in the past two years, and that there is opportunity for further change which must be encouraged. However, European Union members have a tendency to highlight the positives while ignoring some important and harsh realities on the ground. A careful balance needs to be struck between encouragement and continued pressure of various kinds. The European Union is not getting that balance right.

Political Prisoners

Hundreds of political prisoners remain in jail and the vast majority of those who have been released have only been released conditionally. Many still face restrictions on travel.

Following his visit to Burma in February 2013, the UN Special Rapporteur not only highlighted the on-going detention of political prisoners, but also the increasing reports of the use of torture against some detainees.

While high profile political prisoners such as members of 88 Generation Students have been given passports, restrictions on others remain in place, this includes for example restrictions on U Gambira, who needs to travel abroad to receive medical treatment for illness caused by torture while he was in jail.

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A committee established by the government to review political prisoner cases is not independent of government, and there are a great many concerns about its ability to genuinely address the issue of political prisoners. Burma Campaign UK has detailed many of them here:

www.burmacampaign.org.uk/index.php/news-and-reports/news-stories/burma-political-prisoner-committee-welcome-but-serious-questions-remain/8

The government of Burma has clearly not met the benchmark of releasing all prisoners, for releases to be unconditional, or for restrictions to be lifted.

An end to conflict

Conflict in the country has not ended. In fact, in December conflict increased when the Burmese Army launched a big military offensive in Kachin State. During this offensive shells were fired into the predominantly civilian town of Laiza, killing civilians including children. Acts such as this can qualify as war crimes. While conflict has temporarily reduced now, this is only because the military offensive had achieved its goals. It should also be noted that despite announcing an end to active hostilities, the Burmese military continued attacks within hours.

Humanitarian access

Humanitarian access cannot be said to have substantially improved. As the 2012 United Nations General Assembly resolution on Burma stated just three months ago, restrictions on humanitarian access violate international law.

In Kachin State there have only been a handful of occasions when convoys delivering aid have been allowed to enter areas under the control of the Kachin Independence Organisation, where most of the IDPs live in temporary shelters. Repeated promises of improved access have been broken or only resulted in one-off visits or convoys.

While the President has said that aid will be allowed, and some agencies have been able to deliver some aid, in practice a variety of restrictions and other issues mean that international aid agencies still do not have complete free and unhindered access to assist internally displaced people, and internally displaced people are still not receiving sufficient aid.

During the past year new restrictions were introduced in Rakhine State, and while there has been some improvement in access to camps for internally displaced people, restrictions are still in place, resulting in appalling conditions, leading to UN humanitarian coordinator Valerie Amos stating after visiting one camp: "I have seen many camps during my time as the ERC but the conditions in this camp rank among the worst."

Status and welfare of the Rohingya

The final benchmark referred to in the Council Conclusions was "addressing the status and improving the welfare of the Rohingyas." This benchmark has clearly not been met, and in fact the status and welfare of the Rohingya has dramatically worsened in the past year following communal conflict, which quickly evolved into systematic attacks against the Rohingya.

The government of Burma has not only failed to provide safety and security for the Rohingya, it has also encouraged those committing acts of violence by validating their prejudice. Government ministers have spoken of the Rohingya being foreigners and President Thein Sein has asked for international assistance in deporting all Rohingya to third countries.

During his visit to Europe, President Thein Sein said he has 'no plans' to revise the 1982 Citizenship Law, stating 'the law intends to protect the nation'. No significant efforts are being made to try to enable Rohingya displaced by attacks to return to their homes and villages and a policy of effective apartheid seems to be developing. Therefore, the benchmark of addressing the status and welfare of the Rohingyas has not been met.

Moving the goalposts

Given that none of these four benchmarks have been met, to move from suspending to lifting EU sanctions would be premature, and also undermine the credibility of the European Union.

Despite the clear failure of the government of Burma to meet the benchmarks and expectations of the EU when it suspended sanctions, ministers

from some European governments appear to be moving the goalposts when talking about these issues, now referring to ‘progress’ towards releasing political prisoners rather than ‘unconditional release of remaining political prisoners’, and improved humanitarian ‘co-ordination’ rather than ‘substantially improved access’.

External Action Service still undermining member states policy

European Union officials in the External Action Service have a long track record of ignoring policy decided by member states and pursuing their own policy agendas. Once again they appear to be ignoring the EU’s own Conclusions and pre-empting decisions by democratically accountable EU member states by talking publicly about all EU sanctions being lifted in April.

Human rights issues which the EU should be taking into account

In addition to the failure of the government of Burma to address the benchmarks laid out by the European Union when it suspended sanctions, there are other serious issues which the European Union should be considering before lifting sanctions.

Repressive laws

Almost all repressive laws remain in place. Even where laws have been repealed or reformed they do not guarantee genuine freedoms. For example, the so-called right to protest law enables the government to ban any gathering and dozens of peaceful protesters have been arrested under this law. It is now clear that the draft bill supposed to grant media freedom will do no such thing, and the government has proposed what is effectively a new censorship board.

Constitutional change

There has been no constitutional change that reduces the power of the military and makes Burma more democratic and President Thein Sein has not begun any kind of genuine dialogue process with representatives of the democracy movement on this issue.

Despite most ceasefires having been signed more than a year ago there is still no genuine political dialogue aimed at addressing the root causes of the conflict and seeking national reconciliation. This has worrying echoes of ceasefires signed around 20 years ago, which were also not followed up by promised political dialogue. This led to continued instability and in some cases, including in Karen, Shan and Kachin States, a resumption in conflict.

A new committee established by Parliament to look at constitutional issues is rightly expected to look at clauses targeting Aung San Suu Kyi to prevent her becoming President, but does not appear to be addressing essential issues relating to ethnic demands, and as it is only a Parliamentary committee, excludes key ethnic representatives who should be involved in discussions on constitutional change.

War crimes and crimes against humanity

The Human Rights Council resolution on Burma passed in March 2013 highlighted many serious human rights abuses which could violate international law, including ‘...*arbitrary detention, forced displacement, land confiscations, rape and other forms of sexual violence, torture and cruel, inhuman and degrading treatment, as well as violations of international humanitarian law, ... violence, displacement and economic deprivation affecting persons belonging to national or ethnic, religious and linguistic minorities... armed conflict in Kachin State and the associated human rights violations and allegations of international humanitarian law violations, desecration of places of worship, sexual violence and torture...*’

Violating international treaties

Highlighting yet another way in which Burma fails to meet its obligations under international law, the Human Rights Council called on the government of Burma in its resolution on Burma in March 2013 to: ‘...*fulfil its obligations as a party to international treaties and other legally binding instruments, and to become a party to the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.*’

And also: ‘...to repeal and/ or amend laws that deny the Rohingya, inter alia, the right to birth registration, the ability to marry and freedom of movement, including equal access to citizenship, through a full review of the Citizenship Law of 1982 to ensure that it conforms to international obligations defined in treaties to which the Government of Myanmar is a party, including their right to a nationality.’

Justice and accountability

There have been no moves towards justice and accountability, or any kind of truth and reconciliation process. This is a specific demand of the European Union. The Council Conclusions of 12th April 2011 stated that:

“The EU welcomes the adoption of resolution A/HRC/16/L.11 of the UN Human Rights Council, including its call for an end to impunity for violations of human rights with appropriate attention from the United Nations and urges the authorities of Burma/ Myanmar to comply with it, in full cooperation with the Special Rapporteur on the situation of Human Rights in Myanmar.”

Rape and sexual violence

There have been no moves to address the issue of rape and sexual violence by government forces. This is of extreme concern as reports of rape and sexual violence by government forces have actually increased since Thein Sein became President.

Increased military spending?

Also of deep concern is the military budget, especially when compared to budgets for health and education. This gives a clear indication of where government priorities lie.

There is still no real transparency on the government budget and military spending, which is likely to be actually increasing given the overall size of the government budget. However, based on figures reported to have come from Parliament, military spending is around 21 percent of the budget, more than five times the 3.9 percent spent on health.

Many reasons for caution

While no-one expects miracles to happen overnight, especially given the low base from which Burma started, the fact that almost two years after Thein Sein became President all of these issues remain unaddressed should be sounding alarm bells with EU member states.

Lessons from past experience

We know from bitter past experience that promises from the government of Burma are meaningless. The government of Burma must be judged by its actions, not words. Now is not the time to lift sanctions against Burma. The suspension must remain in place.

The European Union appears to be at risk of forgetting lessons learned in the past in dealing with the government of Burma. The experience of the European Union in the past has been that the government of Burma has been more likely to respond when more pressure has been applied, not less.

Burma’s generals did not suddenly wake up one morning and decide they wanted Burma to be a democracy. International pressure has clearly played a motivating role in the reforms currently taking place. Therefore, to relax too much pressure too soon risks reducing the motivation for further reform. A careful balance needs to be struck between continued pressure and encouragement. The European Union is not getting that balance right.

The premature lifting of European Union sanctions could actually help undermine the reform process in Burma, and could even encourage further serious human rights abuses.

If the European Union lifts sanctions despite none of its benchmarks being met and the many other serious human rights problems in the country, the clear message to the government of Burma is that it can ignore international demands, violate international law, and continue to commit abuses with impunity.

There should be no further relaxation of pressure and normalisation of relations until these serious issues are addressed. The British government took the lead in pushing for sanctions to be imposed, and should take the lead now to ensure they are not prematurely lifted.

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**for Human Rights, Democracy
& Development in Burma**