

"I continue to be concerned about the practice of torture happening in places of detention in Myanmar...Its ongoing practice highlights the gaps that exist between the reforms at the highest levels of government and the reality on the ground."

Tomás Ojea Quintana, Special Rapporteur on the Situation of Human Rights in Myanmar, 16 February 2013

Introduction

President Thein Sein has been hailed by the British government and many other world leaders as a reformer. He has even been described as courageous.

In their rush to embrace Thein Sein as a democratic reformer, the British government, which used to talk about justice, accountability, and ending impunity in Burma, seems prepared to ignore the fact that Thein Sein spent 14 years on the ruling council of the previous dictatorship, and was one of its most senior members.

The British government also seems prepared to stay silent about many continuing human rights abuses in Burma. They no longer publicly criticise the government of Burma about human rights abuses, even when serious violations of international law are committed.

It is now more than two years since Thein Sein became President, yet Burma still has one of the worst human rights records in the world. Since Thein Sein became President, human rights abuses which violate international law have actually increased.

- Hundreds of political prisoners are still in jail, and more continue to be arrested.
- Almost every repressive law is still in place.
- In early 2013 the UN documented numerous cases of torture still being used in Burma's jails.
- President Thein is blocking aid to ethnic minorities, in violation of international law.
- Reports of rape by Burmese army soldiers have increased since Thein Sein became President.
- President Thein Sein asked the UN for help in expelling all ethnic Rohingya from Burma.
- Since Thein Sein became President more than 250,000 people have fled their homes because of attacks and human rights abuses.
- Burma continues to break its agreement with the UN to stop using child soldiers.
- Human Rights Watch has said there is evidence of ethnic cleansing and crimes against humanity against the Rohingya.
- In 2012 the Economist Intelligence Unit ranked Burma as having one of the worst authoritarian regimes in the world.

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Burma Campaign UK is receiving increased numbers of reports of rape by the Burmese Army and security forces. Hundreds of political prisoners remain in jail, and almost all repressive laws remain in place. The Economist Intelligence Unit recently ranked Burma as still being one of the worst authoritarian regimes in the world.

There has undoubtedly been an increase in 'civil liberties' in cities such as Rangoon and Naypyidaw, but none of these are enshrined in law, and so can be reversed at any time. At the same time, in ethnic states, human rights abuses are being committed which are so serious they could be classified as war crimes, crimes against humanity, and ethnic cleansing.

Of course no path to transition is easy, and reforms will take time, with obstacles along the way. But more than two years into the reform process, the sheer scale of continuing human rights abuses, how serious these abuses are, and the lack of any political dialogue process, or new freedoms enshrined in law, should be sounding alarm bells.

Given Thein Sein's appalling record on human rights, both past and present, the international community should be more sceptical about the current process, rather than taking it at face value.

They should be asking if this is a genuine reform process that is a transition to democracy, or is it, as many people in Burma have told Burma Campaign UK, a transition to something else? Is Burma simply moving away from being a pariah state and instead becoming a 'normal' dictatorship? Is the transition actually not towards democracy, but rather to be something more like China and/or Russia? Is Thein Sein only making minimal reforms seen as necessary to end sanctions and international pressure? Has the British government and the rest of the international community confused a process of modernisation with democratisation?

There is no doubt that there have been dramatic changes in Burma in the past two years. These must be acknowledged and supported. There is opportunity for further change that must be encouraged.

However, policy must be carefully calibrated taking into account the wide disparity between Thein Sein's words and his actions, and the reality on the ground. The British government appears to have lost perspective. It constantly talks up and highlights the positives while playing down negatives and ignoring important and harsh realities on the ground.

A careful balance needs to be struck between encouragement, and continued pressure of various kinds. The British government is not getting that balance right. Its rose-tinted approach to the current situation in Burma is deeply flawed.

This briefing paper provides a brief summary of some of the main human rights concerns in Burma today.

Human Rights Abuses in Burma Today:

Political prisoners

Hundreds of political prisoners have been released but hundreds more remain in jail. New arrests are happening at an alarming rate, and many activists are jailed while awaiting trial.

The vast majority of those political prisoners who have been released have only been released conditionally. They have not been pardoned, have received no compensation or apology, and face being returned to jail to serve their original sentence if they are arrested again for political activities. Many still face restrictions on travel.

Torture

Torture remains endemic in Burma's jails. The Special Rapporteur on the Situation of Human Rights in Myanmar has documented numerous cases of torture in 2012 and 2013. There have

been several cases where sexual abuse was involved, and cases where people were tortured to death.

Conflict

The agreement of ceasefires with many armed ethnic groups has been hailed as one of Thein Sein's greatest successes, but conflict actually increased after Thein Sein became President, with ceasefires being broken in Shan State and Kachin State. During these conflicts the Burmese Army targeted civilians, committing horrific human rights abuses, and displacing around 150,000 people in these two states alone. Abuses committed by the Burmese Army in Kachin State and Shan State, and described to Burma Campaign UK by witnesses, include rape and gang-rape, torture, executions, arson, mortar bombing civilian villages, women bayoneted, looting, forced labour, arbitrary detention, beatings, and use of child soldiers.

Even in areas where ceasefires have been agreed, problems remain. The Burmese Army has violated a ceasefire with one army in Shan State more than 100 times. In Karen State the Burmese Army is increasing, not decreasing its presence, making refugees too afraid to return to their homes.

The government of Burma is still refusing to start immediate dialogue on the root causes of the conflicts. Without political dialogue to address the root causes of the conflict, ceasefires are a pause button, not a stop button. There is a great fear that history will repeat itself as on more than one occasion in the past the Burmese government has agreed ceasefires, refused to enter into political talks, and later broken those ceasefires.

Hundreds of thousands displaced, aid blocked

At least a quarter of a million people have been displaced by conflict, human rights abuses and violence since Thein Sein became President

In Kachin State there have only been a handful of occasions when convoys delivering aid

have been allowed to enter non-government areas, where most of the IDPs live in temporary shelters. Repeated promises by Thein Sein of improved access have been broken or only resulted in one-off visits or convoys. To block aid in this way is a violation of international law.

President Thein Sein is still not allowing full humanitarian access to the 140,000 internally displaced Rohingya who have fled attacks. This is causing incredible suffering and unnecessary deaths. Valerie Amos, the UN Humanitarian co-ordinator stated: *"I have seen many camps during my time as the ERC but the conditions in this camp rank among the worst. I saw thousands of people in shockingly overcrowded, substandard shelter with poor sanitation. They don't have jobs, children are not in school and they can't leave the camp because their movement is restricted. The situation is dire."*

In many other parts of Burma the government puts in place many restrictions of what aid can be delivered, who can deliver it, and who receives it. Burma is notorious for its past record on blocking international aid, especially after refusing to allow in most international aid after Cyclone Nargis in 2008 (Thein Sein was in charge of the government's response to Cyclone Nargis). The 2012 United Nations General Assembly Resolution on Burma stated that new restrictions on humanitarian access in Burma which began after Thein Sein became President violate international law.

Censorship and media freedom

There has been a great deal of attention given to increased media freedom in Burma, but this freedom is limited. Censorship laws have not been repealed, but the way some laws are applied has been relaxed for the time being. At least seven different laws restrict media freedom in Burma, none have been repealed. The banning of Time Magazine in June demonstrated the willingness of the government to still ban articles it does not like, and how censorship laws are all still in place. A new media bill going through the Burmese Parliament keeps government censorship powers.

Still no right to protest

A new 'right to protest' law introduced in early 2012 was hailed as a major reform, but in fact it is being used to arrest hundreds of political activists. It only grants the right to protest under strict conditions and with local authorities' permission. A previous assembly law allowed the government to arrest unauthorised gatherings of five people. Under the new law, the government can arrest gatherings of just two people.

Land confiscation

Land confiscation has become one of the biggest issues in Burma, with the central government confiscating huge swathes of land across the country, causing displacement and destroying the livelihoods of farmers and others living in these areas. No comprehensive study has been conducted yet to assess the true scale of this widespread problem.

Repressive laws

Almost all repressive laws remain in place. Even where laws have been repealed or are being reformed, such as the protest law, media law and trade union law, they do not meet international standards and guarantee genuine freedoms.

No constitutional change

Thein Sein was in charge of the process of drafting Burma's undemocratic 2008 Constitution, and rejected every proposal to grant rights, protection and some level of autonomy to Burma's ethnic groups.

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 to make the Constitution democratic. It is expected that three quarters of the members of a new committee established by Parliament to look at constitutional reform will be from the military, and the pro-military party. Key ethnic and democracy movement representatives are excluded.

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...'

The Rohingya

What began as communal violence in 2012 quickly evolved into systematic attacks against the Rohingya, resulting in around 140,000 people fleeing their homes and unknown numbers killed. Human Rights Watch has evidence that war crimes and crimes against humanity have been committed against the Rohingya.

The 1982 Citizenship Law underpins legal discrimination against the Rohingya, and deprives Rohingya of citizenship. President Thein Sein has ruled out changing this law, stating that it protects the nation. President Thein Sein also gave legitimacy and support to the views of those who claim the Rohingya do not belong in Burma and who are organising and inciting attacks against the Rohingya by asking for international assistance in deporting all Rohingya from Burma. Those inciting anti-Rohingya violence are still allowed to operate with impunity.

A recent government established committee on the violence in Rakhine State failed to address who was responsible for the violence but did discuss mandatory and non-voluntary family

planning measures targeting the Rohingya in its recommendations. The Burmese government immigration minister has defended the Rakhine State government's two child policy for the Rohingya.

No steps are being taken to promote any kind of community reconciliation and provide security for people to return home. In effect, a new Apartheid has been created with Rohingya now in segregated areas and not allowed free movement out of camps.

Violating international treaties

In March 2013 the Human Rights Council called on the government of Burma 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.'

Anti-Muslim violence

After failing to address the incitement of violence against the Rohingya Muslim minority, Thein Sein took no action to stop the incitement of hatred and violence against all Muslims in Burma, resulting in anti-Muslim violence in several parts of the country, displacing thousands and with many killed. A young woman has been jailed for bumping into a monk on a busy street, but very few Buddhists involved in violence have been jailed, and a high profile Monk preaching hatred of Muslims has actually been defended by Thein Sein.

Religious freedom

The United States continues to designate Burma a 'country of particular concern' because of its 'systematic on-going, and egregious violations' of religious freedom. In its 2012 report, 'Threats to our Existence', the Chin Human Rights Organisation documented the widespread and systematic denial of religious freedom faced by the predominately Christian ethnic Chin.

Increased military spending?

21% of the government budget is spent on the military. This is more than five times the 3.9% percent spent on health. Although it has been reported that military spending is falling as a percentage of government spending, given that the overall government budget is increasing and there are other channels for military spending, it is possible that military spending in Burma has increased under President Thein Sein. He has stated his ambition is to build military might.

No truth, no justice, no accountability, no reconciliation process

Thein Sein does not acknowledge human rights abuses happen in Burma, and recently described UN reports on his personally ordering soldiers to commit human rights abuses as fabrications. When asked about well-documented recent human rights abuses in Kachin State, senior military and government official Lt-Gen Myint Soe responded 'Don't believe everything you hear.'

Still recruiting child soldiers

Thein Sein first promised the UN to end child soldier recruitment back in 2004. In 2012 a new agreement with the UN on child soldiers was hailed as a key indicator of the reform process, but one year on Burma is still not complying with the agreement and only 108 children have been released from the army. Recruitment of children as soldiers in the Burmese Army continues.

Rape and sexual violence

Reports of rape and sexual violence by government forces have actually increased since Thein Sein became President. Around half of women raped or gang-raped by Burmese Army soldiers in Kachin and Shan States have also been tortured, mutilated and killed.

Conclusion

The British government and the rest of the international community may gently raise human rights issues in private meetings, but Thein Sein knows full well that there is no longer any penalty for ignoring the international community on human rights. In fact the opposite is happening. He is being embraced by the international community even while these multiple violations of international law continue.

It is becoming increasingly untenable for diplomats and others to continue to dismiss and play down these human rights abuses as 'bumps in the road', or due to a time-lag in top down reforms spreading across the country, or a result of weakness in some kind of internal battle against hardliners.

Thein Sein's Burma has been portrayed as a country of change and hope, but for many it remains a country of fear, repression and suffering.

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