

## **Submission from Burma Campaign UK to Foreign Affairs Committee - Xinjiang's detention camps (XIN0056)**

1. Burma Campaign UK works for human rights, democracy and development in Burma. We were founded in 1991. We have worked on crimes against humanity, war crimes, ethnic cleansing and genocide through all our years working on Burma. We are submitting evidence as we see stark comparisons between what is happening in Xinjiang and what is happening to the Rohingya, and other ethnic minorities in Burma, and the British government inaction on both.

### **Executive Summary**

- The lack of a national strategy of atrocity prevention has hampered the UK government's response to the Chinese persecution of Uyghurs and Turkic Muslims in Xinjiang, just as it slowed down the British government's response to the Rohingya genocide, and made it less effective.
- Already in December 2017, the Foreign Affairs Committee of the 2017-2019 Parliament called on the British government to learn lessons from the Rohingya genocide in regards to atrocity prevention, and the ability of the government to act quickly during such instances. These recommendations are still, three years on, to be met. The UK approach to preventing mass atrocities need to be adapted into a national strategy with a coordinating unit.
- Even with the newly established Magnitsky sanctions, there is still a reluctance by the UK government to take firm economic action (that would make a real difference) against states which perpetrate mass atrocities.

### **Three years on from the Rohingya genocide, still no real lessons learnt on atrocity prevention**

2. The first Foreign Affairs Committee inquiry of the 2017-2019 Parliament was into the violence in Rakhine State, which had just started to unfold in all its horrors. The committee raised serious questions about the then UK government's lack of action leading up to and immediately after the Burma army attacks on the Rohingya, which caused hundreds of thousands of Rohingya to flee into neighbouring Bangladesh.
3. The Committee wrote in its final report: "This crisis was sadly predictable, and predicted, but the FCO warning system did not raise enough alarm. There was too much focus by the UK and others in recent years on supporting the 'democratic transition' and not enough on atrocity prevention and delivering tough and unwelcome messages to the Burmese Government about the Rohingya. The UK Minister was commendably candid about the FCO's need to reflect, and the FCO must now learn lessons on atrocity prevention from the crisis to apply to Burma and elsewhere."<sup>1</sup>
4. Furthermore, the 2017-2019 Committee expressed dismay that it had taken too long for the UK government to get its language right on what was happening in Burma, and the government's deflection on whether what was happening to the Rohingya could be classified as genocide or not, often repeating the line that it was for international courts to decide<sup>2</sup>. The committee wrote in its report: "The definition of the violence is important,

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<sup>1</sup> Foreign Affairs Committee, Violence in Rakhine State and the UK government response. First report of session 2017-2019, p3-4. <https://publications.parliament.uk/pa/cm201719/cmselect/cmfaaff/435/435.pdf>

<sup>2</sup> See for example FAC oral evidence session with then Minister Rt Hon Mark Field MP, Q71.

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/foreign-affairs->

because it can invoke the Responsibility to Protect, requiring states to act. The UK Government's equivocation over classifying this violence has therefore been frustratingly confusing. It has also failed to undertake its own legal analysis. This was not befitting its leading international role, and it should immediately investigate and conduct its own assessment of the situation."<sup>3</sup>

5. The then UK government's unwillingness to refer to what was happening to the Rohingya as genocide – as have now been concluded by the UN – is directly reflected by the current UK government not wanting to refer to what is happening to the Uyghurs in Xinjiang as genocide. In a recent oral evidence session at the Foreign Affairs Committee, the Foreign Secretary, the Rt Hon Dominic Raab, said when asked if what is happening to the Uyghurs could be classified as genocide: "On your question about genocide, I am afraid the lawyer in me comes out a little bit. I have made it clear that there is evidence of serious and egregious human rights violations—gross human rights violations. On genocide—I say this as a former war crimes lawyer—the challenge is to prove and demonstrate that not only was it destruction of a minority, however that is classified, but the deliberate intention to destroy it as such. That has always been the challenge with the definition of genocide."<sup>4</sup>
6. The Foreign Secretary said further, at the same session: "To be honest with you, my view is that there are egregious human rights abuses. We need to call them out. We need to hold China to account."<sup>5</sup>
7. Regardless of whether the Rohingya or Uyghur situation is classed as genocide, crimes against humanity or ethnic cleansing, it warrants urgent international action. But all of this - the wrangling over language, the following inaction - is tied together. As long as there is no comprehensive UK strategy on atrocity prevention to deal with grave international situations like these, and to pick up on them quickly, the government is repeatedly going to find itself backed into the same corner, again and again.

### **Sanctions and trade**

8. Much has been made of the new Magnitsky sanctions put in place by the Foreign Secretary, which includes assets freeze and visa bans on the two most senior Burmese generals in relation to Rakhine State: over all Commander-in-Chief Min Aung Hlaing and Vice Senior General Soe Win, responsible for the Burma army troops who carried out the attacks on the Rohingya in 2017. These sanctions are in addition to the 14 Burma army personnel who are already sanctioned under EU sanctions, which will continue to be implemented after the UK leaves the EU.
9. Both sets of sanctions consist of an asset freeze and a visa ban. It is unclear whether any assets have been frozen under either sanctions regime, and currently HM Treasury refuses to give any details to this, making it impossible to judge the effectiveness of these sanctions.<sup>6</sup>
10. Burma Campaign UK has long argued that only sanctioning individuals is not enough when it comes to Burma, as they are unlikely to have any tangible assets in the UK. The British government has refused to implement the recommendation of the UN Fact-Finding Mission

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[committee/violence-in-rakhine-state/oral/72037.html](https://committees.parliament.uk/oralevidence/1000/pdf/committee/violence-in-rakhine-state/oral/72037.html)

<sup>3</sup> Foreign Affairs Committee, Violence in Rakhine State and the UK government response. First report of session 2017-2019, p3.

<sup>4</sup> Foreign Affairs Committee, Oral Evidence: Work of the Foreign, Commonwealth and Development Office, 6 October 2020, Q208. <https://committees.parliament.uk/oralevidence/1000/pdf/>

<sup>5</sup> Ibid, Q213.

<sup>6</sup> Burma Campaign UK. No Assets frozen as a result of UK Sanctions. 15 October 2020. <https://burmacampaign.org.uk/no-assets-frozen-as-a-result-of-uk-burma-sanctions/>

to sanction Burmese military companies. The government must be more imaginative when it comes to financial sanctions, and not limit itself to the Magnitsky sanctions, which will not fit every context. This is as true when it comes to China and British companies that profit from the forced labour of the Uyghurs, as it is for British companies profiting from doing business with Burmese military owned and controlled companies.

11. A national strategy on atrocity prevention should take into account the sometimes conflicting relationship between human rights and international trade, and determine the application of the new human rights sanction regime.

## **The UN**

12. In March 2017, the United Nations Human Rights Council established the International Fact-Finding Mission on Burma, to establish the facts and circumstances of alleged human rights violations in Burma by military and security forces. Since then, the UN Fact-Finding Mission, along with the UN Special Rapporteur on Burma, have made a series of comprehensive recommendations to start to address the human rights crisis in Burma. The Fact-Finding Mission provides a comprehensive list of steps the government of Burma should take, steps which the government has rejected.
13. The Fact-Finding Mission also made recommendations to Security Council members. Recommendations specifically to the UN Security Council, and recommendations to UN member states. Not one country in the world is implementing all these recommendations. Not even UN Security Council members, who by accepting membership of the Council have accepted a special responsibility to uphold international peace and security and international law.
14. The UN Security Council members, by failing to implement the recommendations of the UN Fact-Finding Mission, have placed themselves in a position whereby they cannot credibly call on the government and military in Burma to implement the UN Fact-Finding Mission recommendations. So they are silent.
15. Opposition from China and the vow by Russia to veto any future attempt to refer any situation to the International Criminal Court, or establish any Ad Hoc tribunal, may explain why recommendations such as resolutions on a referral to the International Criminal Court, and a global arms embargo, have not been passed. This doesn't prevent these signatory countries from stating publicly that they agree with these recommendations in principle. But they haven't done so. Nor does there seem to be creative thinking to work around the Chinese and Russian veto.
16. The UK government has probably made more progress than others in implementing some of the UN Fact-Finding Mission recommendations, but it is doing so selectively. It has not said publicly and unequivocally that it supports the recommendations and will implement them.
17. As the example with Burma shows, the UK government should work more broadly through the UN's different bodies, and build coalitions where it can, to maximise the pressure on the countries carrying out mass atrocities. It also needs to publicly state support for measures, even though there is a threat of veto at the council. They should themselves also implement those measures in full.
18. The UK should also join where other avenues open up for international justice through the UN system. In the case of the Rohingya genocide, this avenue has opened up through the International Court of Justice case led by the Gambia. The UK government has so far failed to lend any practical support. When Canada and the Netherlands joined the case in September, the UK government claimed that it was still considering whether it would add to the merit of

the case if the UK joined. This consideration has been going on since February and seems little more than an excuse for inaction.

19. As part of a national atrocity prevention strategy, the UK government should consider introducing a comprehensive law on Universal Jurisdiction, making it possible to prosecute perpetrators of grave international crimes in UK courts. Expanding the application of universal jurisdiction in the UK would be an important step in helping victims seek justice and reducing the sense of impunity currently enjoyed by those violating international law. This would be an important complement to the international justice mechanisms that exists today, as it is getting increasingly harder for international justice to be achieved through these.<sup>7</sup>

## **Recommendations**

20. With the newly merged Foreign, Commonwealth and Development Office, and with the integrated review into Security, Defence Foreign and Development policy ongoing, there is a chance for the introduction of a national strategy for atrocity prevention, which would help the government deal with situations like the Rohingya, like the Uyghurs in an urgent, effective manner. There should be a coordinating unit in government which leads on this strategy.
21. The UK government should introduce a comprehensive law on Universal Jurisdiction.
22. The UK government should keep an open mind on economic sanctions for human rights abusers, and not limit itself to only sanctioning individuals where this is unlikely to be an effective response to genocide.
23. The UK government should work more actively in UN bodies, building coalitions and joining initiatives by other countries where this would add merit to the cases.

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<sup>7</sup> <https://burmacampaign.org.uk/media/Universal-Jurisdiction.pdf>