

## **Written evidence from Burma Campaign UK (MYA0009)**

Burma Campaign UK works for human rights, democracy and development in Burma. It was founded in 1991 in response to calls from Burma's democracy movement for international pressure on the military.

### **Summary**

1. It is impossible to view the British government's response to this crisis without taking into account its failures responding to previous crises, including genocide of the Rohingya. The only new sanction on the military following the genocide of the Rohingya was a visa ban on a small number of military personnel. This amounts to a ban on taking holidays in the UK. This weak response would have been a factor in the calculations by the military of the potential consequences of holding the coup.
2. There is no single action the government can take in response to the coup. It requires the utilisation of every available tool of leverage, including economic, diplomatic, legal and cutting off arms supplies. The people of Burma are dying by the hundreds and being jailed by the thousands as they do everything they can to resist the military coup. By contrast the British government is not doing everything it can to support them.
3. The government's response to the coup has not been decisive or comprehensive. Some economic entities which provide the military with significant revenue have been sanctioned, while others have not. Calls for more countries to impose unilateral arms embargoes had to be coaxed out of Ministers by MPs.
4. There appears to be a lack of decisive political will in responding to the coup, and a lack of effective tools and capacity. It took almost two months to sanction military-owned Myanmar Economic Holdings Ltd under sanctions legislation at the time. A review is needed to ensure the government has the tools and capacity it needs to respond to human rights crises.

### **Improving the British government response to the crisis**

5. The context of the coup is essential in calibrating an effective response. For decades the military has been committing horrific human rights violations, which violate international law, against ethnic minorities. They have never had to face consequences for doing so. British policy has been based on what happens in central Burma and with the Burman dominated democracy movement led by Aung San Suu Kyi, not on what takes place in ethnic states.
6. There is a vicious cycle of human rights violations and impunity. One ethnic group after another has been targeted and no international action taken. The international community, including the British government, seem willing to tolerate human rights violations against ethnic minorities for what they

considered to be a 'greater good' of the so-called reform process which began in 2010.

7. Even as the military broke ceasefires in Kachin and Shan States, using rape as a weapon of war, the British government lifted sanctions and offered military training without preconditions.
8. Even when genocide took place against the Rohingya, the government refused to take any significant action against the military for fear of the impact on the 'reforms' taking place.
9. The terrible irony is that the failure to take action against the military for fear of undermining reforms may have been a factor that encouraged the military coup and stopped the 'reform' process.
10. FCDO Ministers have made repeated statements since the coup about holding the military to account, but refuse to support an ICC referral and refuse to join the genocide case at the International Court of Justice. This case is currently the only option for holding the military to account. It is being led by The Gambia while the British government watches from the side-lines.

#### **International Coordination/UN Security Council**

11. The British government moved swiftly to mobilise international condemnation of the coup, including at the UN Security Council. This is an essential part of an overall response to the coup, but its limitations have to be recognised.
12. The Burmese military consists of people who are soldiers, not diplomats. They respect strength, not statements. What might be considered something of major diplomatic significance by many UN members may be perceived as insignificant by these authoritarian generals.
13. Statements of condemnation of the coup and expressions of support were at first welcomed by people in Myanmar and raised expectations of action, which did not materialise.
14. We agree with the FCDO calculation that it was better to try to keep China on side diplomatically at the UNSC, rather than rush to a double veto trying for a resolution.
15. Building a coalition of countries unilaterally imposing arms embargoes would be an effective way of getting around a veto on a resolution at the UNSC. Although diplomatic efforts to persuade more countries are now being made, it is being done in a low-key manner rather than a public global mobilisation, such as has been made on other issues including media freedom.
16. That said, credit must be given to the FCDO for securing during the G7 the agreement of Japan to impose an arms embargo. Such action by Japan,

which has a traditionally close relationship to the military, is a diplomatic success. It shows what the FCDO can achieve when it has the political will and confidence to act.

### **February Sanctions**

17. 25 days after the coup, the FCDO finally sanctioned Min Aung Hlaing, the head of the military, and five other members of the military. The impact of these sanctions is zero.
18. Sanctioning individuals with Magnitsky style sanctions can be an effective tool to address human rights violations in certain countries, but are not an effective tool against the Burmese military. They do not have significant business interests in the UK, or, as far as we know, any assets in the UK.
19. The government refuses to release details of the total amount of assets frozen as a result of sanctions on members of the Burmese military, despite releasing this information for sanctions on other countries.
20. The February sanctions, without any assets to freeze, leaves only a visa ban, which amounts to a holiday ban on people not planning holidays to the UK.
21. Prioritising these sanctions, rather than sanctions on the business interests of the military was not logical, but may have been because of a lack of appropriate tools and capacity to take more effective measures.

### **Justice and Redress**

22. The FCDO needs to utilise all tools available to support justice and accountability and end military impunity.
23. The British government should immediately announce its intention to make an intervention in the Rohingya genocide case at the ICJ. The actual intervention can be made after the current legal challenges to the case have been resolved. British government participation will send an important political message and bring significant legal expertise and financial capacity to the case. It will help erode the sense of impunity enjoyed by the military.
24. Any UNSC resolution referring the situation to the ICC will face a veto from Russia and China. Nevertheless, it's important that the British government state publicly it supports a referral in principle, as it has done regarding the situation in Syria. The fact that the British Foreign Secretary refuses to say he supports a referral contributes to the sense of impunity enjoyed by the military.

25. The Government deserves credit for its financial support to the IIMM mechanism to collect evidence of violations of international law in Burma. However, there is still a lack of funding to the grassroots civil society organisations which do so much of the human rights monitoring and reporting in Burma.

### **ASEAN Dialogue Status**

26. Despite the focus on the need for a regional response and ASEAN leadership, ASEAN has no interest in human rights and democracy. It will not lead any international initiative that will bring about any kind of genuine process towards change in Burma.

27. ASEAN has a role to play and can be an important channel of communication, but leadership will have to come from elsewhere, including the UK and USA, but ideally the personal leadership of the UN Secretary General.

28. The military went back on commitments made at the ASEAN summit within days. Based on repeated previous experiences, when the timing suits, either because they are feeling too much pressure, or because they feel they have secured control following the coup, the military will use ASEAN for some kind of dialogue process. It will be weak and without commitments, but designed to give the appearance of a process in order to stop further international pressure.

### **Recommendations**

29. The government must start to act on promises of action on accountability, starting with announcing its intention to intervene in the Rohingya genocide case at the ICJ, and publicly stating it supports referring Burma to the ICC.

30. The government should sanction timber and gems enterprises and ban imports of timber and gems. It should, with allies such as the USA, explore other ways of cutting revenue to the military, including oil and gas revenue.

31. The government should build a coalition of countries unilaterally imposing arms embargoes and bans on exports of military equipment and technology.

32. The government should not cut aid to Burma, but redirect aid to prioritise refugees and IDPs and support civil society organisations working for human rights and democracy.

33. Diplomatic statements and sanctioning individuals, while necessary, were not the most effective first measures the British government could have taken. Systems should be reviewed to ensure the most effective country specific responses are applied rather than a one size fits all approach.

34. The British government should encourage the UN Secretary General to personally lead international diplomatic efforts to persuade the military to stand down and allow the restoration of democracy in Burma.
35. The presence of a military attaché from Burma in the UK resulted in a diplomatic crisis at the Burmese embassy and caused significant concern to many members of the Burmese community in the UK regarding their safety and the safety of their family members in Burma. Given the military attaché is not a channel of communication to the military, but also taking into account the risk of tit for tat expulsion of a British diplomat in Yangon, on balance the risks of the attaché remaining in the UK outweigh the risks of expulsion.
36. The British government must not give any sense of legitimacy or recognition to military rule. It should instead recognise the National Unity Government as the government representing the will of the people of Burma.
37. At the time of the military coup the British government did not appear to have the tools or capacity required to swiftly impose punitive measures and multitask working across a range of diplomatic and economic initiatives. This has and still is limiting the effectiveness of the British government response to the coup. There needs to be a review to ensure the British government has the tools and capacity it needs to respond to human rights crises.
38. In our experience relating to Burma, the FCDO can have a significant global impact. It sometimes appears that we have a greater estimation of the abilities of the FCDO than the FCDO does of itself. The culture can sometimes be one of not simply an assessment of risks and pros and cons but a default setting of looking for reasons not to act. In recent years we have noticed that at higher levels there is an even greater risk averse, excessively cautious approach to foreign policy and also an apparent lack of confidence. A cultural shift is needed within the FCDO.
39. We have to be realistic about our ability to apply pressure. Change will come from the resistance of the people of Burma, not as a result of international action alone. There is no magic bullet we can use. This makes it all the more important that we use every single tool available to apply pressure and support the people of Burma in their struggle.

**May 2021**