



Briefing Paper

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The Rohingya, the Citizenship Law, temporary registration, and implementation of the Rakhine State Action Plan

Introduction

In February 2015 around a million people, ethnic Rohingya lost their right to vote in Burma's upcoming election. The British government said nothing about the massive blow both to the rights of the Rohingya and the credibility of the election. The British government is still talking about the election as a critical moment in Burma's transition to democracy.

On February 11th 2015, President Thein Sein announced that all Temporary Registration Certificates, known as 'White Cards', would expire on 31st March 2015, and had to be returned to the authorities by 31st May.

At a stroke, this move has disenfranchised around a million people, mostly ethnic Rohingya, from the upcoming general election due in Burma in November 2015. It also prevents the Rohingya from taking part in a possible referendum on Burma's constitution, which could take place this year.

The response from the international community to this further attack on the rights of the Rohingya was almost complete silence.

President Thein Sein, hailed by so many as a reformer, has systematically increased repression and discrimination against the Rohingya. Under no previous rulers of Burma, not Burmese Kings, British colonial occupation, occupying Japanese, democratic government and successive military dictators, have the Rohingya suffered such serious and widespread human rights violations and such systematic repression, discrimination and denial of rights as they have under President Thein Sein.

In 2012, President Thein Sein made a request to the United Nations for assistance in deporting all Rohingya from Burma. In 2014 the same proposal to deport Rohingya appeared in the Rakhine State Action Plan. This plan, which the international community had pressed the Burmese government to develop to address the crisis of the situation of the Rohingya, was first privately circulated in July 2014. When leaked excerpts were published by media, human rights organizations expressed deep concern at what was effectively a plan to round up Rohingya into giant camps whilst awaiting deportation. International governments and donors, however, did not publicly criticize the plan, and submitted a response to the Burmese government which they refused to make public.

A revised draft of the plan, taking into account feedback from the international community, was expected to be published in October 2014. It did not appear, and as of March 2015, no final draft of the plan has appeared.

Instead, President Thein Sein appears to be pressing ahead with the original controversial version of the plan, without publicly stating that this is what he is doing. It may be that he hopes that introducing the plan by stealth will reduce the level of international criticism of his action.

Having stripped the Rohingya of one of the few rights they did have, the ability to vote, President Thein Sein now intends to fully apply the 1982 Citizenship Law on the Rohingya. All Rohingya will now be processed under this law. But the provisions of this law mean that the vast majority, some experts predict well above ninety-percent, will not be able to meet the citizenship requirements of the discriminatory 1982 Citizenship Law. The intention of the Burmese government is then to place all these Rohingya into what amount to giant concentration camps, and then seek countries for them to be deported to.

BOX

Background: Rohingya citizenship and forms of cards

From the time of independence in 1948, the Rohingya were treated the same as other people in Burma. There was one form of citizenship, and all citizens were issued cards called National Registration Cards. They were issued to the Rohingya from 1955 onwards.

In 1982, General Ne Win, the Dictator of Burma, introduced a new, three tier form of citizenship in Burma.

Full citizenship is restricted to nationals of 135 named ethnic groups deemed to have settled in Burma prior to 1823.

Burma does not consider the Rohingya to be a national ethnic group. The Rohingya are therefore excluded from full citizenship.

Associate citizenship only applies to individuals who had already applied for citizenship under the Union Citizenship Act 1948. The deadline for applying for associate citizenship passed on 15 October 1982.

Few Rohingya are believed to have applied because most were unaware of the 1948 Act or of its significance. New applications cannot be made.

Naturalized citizenship may be applied for by individuals (and their offspring born within Burma) who can furnish “conclusive evidence” that they entered and resided in Burma prior to 4 January 1948.

This effectively excludes almost all Rohingya, since they are in practice unable to furnish the conclusive evidence required. The only documentation available to most Rohingya is

a “family list” which indicates the names and dates of birth of each member of a household. The “family list” is insufficient because it does not record place of birth.

The 1982 Citizenship Law, therefore, effectively rendered the ethnic Rohingya stateless in their own country.

END BOX

The 1982 Citizenship Law was not fully implemented immediately. It appeared to be gradually introduced and implemented over the following decade. National Registration cards were still being issued to Rohingya into the mid 1980s.

In 1989 the dictatorship began replacing the National Registration Cards with new National registration Cards, also known as Scrutiny Cards. These cards are pink. However, when Rohingya handed in their cards for replacing, instead of being given the pink Nations Registrations Cards, or scrutiny cards, they were given Temporary Registration Certificates, a form of temporary card known as the ‘White Card’. Temporary Registration Certificates (White Cards) are issued to residents in Burma (not resident foreigners) under Article 13 of the Residents of Burma Registration Rules (1951).

Despite Rohingya now only having these temporary registration cards, they were able to take part in the 2008 referendum on Burma’s Constitution, and the 2010 elections.

On 2nd February 2015, despite opposition from the National League for Democracy, Burma’s Parliament passed a law which would allow Temporary Registration Certificate holders (White Card holders) to take part in a possible constitutional referendum in 2015.

This decision was effectively reversed by President Thein Sein on 11th February 2015, when he announced all Temporary Registration Certificates (White Cards) expire on 31st March. This decision means that Rohingya will not be able to vote in any referendum or in the elections due in November 2015. President Thein Sein is not only disenfranchising the Rohingya, he is also directly going against the will of Parliament.

The British government: Silence, Complicity and financing discrimination.

The British government has gone from being a vocal supporter of human rights for the Rohingya to downplaying problems and supporting the Burmese government.

Although the British government still technically supports reform of the 1982 Citizenship Law, in practice it is no longer actively lobbying the Burmese government to change the discriminatory law.

In private meetings with the Burmese government, British officials are not always using the word Rohingya to describe the Rohingya, for fear of upsetting the Burmese government.

Despite international organisations such as Human Rights Watch and Fortify Rights compiling evidence of state involvement in what meets the criteria of ethnic cleansing and crimes against humanity against the Rohingya in Burma, the British government has deliberately avoided talking about this issue.

The British government was one of the main financial backers of a referendum last year which excluded the Rohingya, and which triggered violence in which people were killed. The British government is helping to pay for the Burmese government to discriminate against the Rohingya.

Although the British government has provided financial support for aid to internally displaced Rohingya, senior UN officials still describe the situation in the camps as the worst they have ever seen. Despite this, the British government is not supporting calls for higher level international pressure to persuade the Burmese government to allow unhindered international humanitarian access to the camps, such as UN Secretary General Ban Ki-moon personally taking the lead in negotiating humanitarian access.

The British government is refusing to support calls for a United Nations Commission of Inquiry into human rights violations and government policies against the Rohingya. Instead it says it is calling on the Burmese government to conduct its own investigations, even though they are aware that the Burmese government will not do so.

It appears that no matter how serious the human rights violations against the Rohingya are, and what new policies President Thein Sein brings in to repress the Rohingya and try to drive the Rohingya out of Burma, it has no impact at all on the British government's policy of supporting the Burmese government.