

Statement for the Record from Ambassador Beth Van Schaack
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Chairman Smith and Co-Chairman McGovern, distinguished Members of the Commission, it is an honor to come before you again today to testify about the prospects for justice and accountability for the atrocities committed in Burma. Thank you for convening this timely hearing about a country that has experienced political turmoil and human rights abuses for decades.

Both the current military regime and previous governments are responsible for atrocities committed against Rohingya and other minority communities, including mass killings, widespread torture and rape, and the burning and destruction of homes, villages, and houses of worship. No government has shown any inclination to pursue justice and accountability for these abuses. This persistent impunity has emboldened the current military regime, which continues to wage a campaign of violence and to harm civilians, including those peaceably advocating for change and a more promising democratic future.

In the face of such violence, the world is increasingly united around the imperative of justice. The institutional framework for criminal accountability is now decentralized and multipolar, with a community of courts—domestic, hybrid, regional, and international—responding to the demands for justice from survivors, their communities, their advocates, and supportive governments. Indeed, I visited Cox’s Bazar in February of last year and heard first-hand from Rohingya refugees about their hopes for the future. Notwithstanding everything they have experienced, they still have faith that the international community will deliver justice.

As a result of these developments in international justice, multiple pathways to justice and accountability exist for the genocide, crimes against humanity, and ethnic cleansing committed against Rohingya by members of Burma’s military. These pathways include the International Court of Justice, the International Criminal Court (ICC), and domestic courts around the world that have jurisdiction.

In 2019, The Gambia, with encouragement from the Organization of Islamic Cooperation (OIC), brought a case against Burma under the Genocide Convention before the International Court of Justice for genocide against Rohingya. The United States applauds this initiative, and we have shared relevant information with The Gambia as it presses its claims. We also welcome the OIC’s support for The Gambia as it confronts a regime intent on genocide and crimes against humanity against a mostly Muslim ethno-religious minority.

The ICC investigation, authorized in 2019, is looking into the atrocities committed against Rohingya in Burma who fled to neighboring Bangladesh, which is a State Party to the Court’s founding treaty. It is anticipated that the main charge will be forcible deportation of the civilian

population. The United States is in favor of a UN Security Council referral of the situation in Burma to the International Criminal Court—which would allow the ICC to address all alleged atrocity crimes in the situation in Burma—but we are cognizant that China and Russia will block such an effort.

Finally, victims and NGOs have filed criminal complaints in Argentina and Germany against those deemed responsible for atrocities against Rohingya. The case filed in Germany is also on behalf of post-coup victims and survivors, broadening the pathways for justice for the atrocities committed in Burma. Last June, with assistance from State Department funding, seven witnesses traveled from Cox's Bazar to Buenos Aires to give testimony about what they witnessed and what they experienced in the 2017 violence. During a trip to Argentina, I met with the prosecutors who are pursuing this case on behalf of Rohingya survivors to express our support for their work.

Since 2018, justice efforts have been aided by the United Nations Independent Investigative Mechanism for Myanmar (IIMM). The mandate of the IIMM is to collect, consolidate, preserve, and analyze evidence of atrocities committed in Myanmar since 2011 and to facilitate criminal proceedings in courts that have jurisdiction. Following the 2021 *coup d'état*, the IIMM is also investigating post-coup violence that may constitute atrocity crimes. Consistent with the “Burma Act,” as included in the National Defense Authorization Act for Fiscal Year 2023, we continue to advance the work of this mechanism through our votes and interventions in the United Nations, with State Department funding, and by sharing relevant information in our possession. We also support the mandates of the U.N. Special Rapporteur on the Situation of Human Rights in Myanmar, former Congressman Tom Andrews of Maine, and that of the Special Envoy for Myanmar, a position recently vacated.

While justice pathways are being pursued, the United States has taken other concrete actions to promote accountability on behalf of victims and survivors of this tragedy. The Office of Global Criminal Justice works closely with the Bureau of Democracy, Human Rights, and Labor to support civil society organizations doing vitally important documentation work and assisting witnesses who are engaging in accountability efforts. We work closely with the Burma desk, the teams responsible for sanctions and visa restrictions, and other offices and bureaus in the Department to ensure that our efforts to promote justice and accountability for the atrocities committed in Burma marshal the best expertise and resources the Department has to offer.

That said, enhanced monitoring and public reporting on the conflict in Burma could fill critical information gaps to bolster accountability measures, raise the profile of emerging and ongoing atrocity risks, and enable the United States and our partners to create clear and targeted messaging. Subject to resource availability, we are exploring how we can marshal innovative tools, such as the Department's Conflict Observatory, which has demonstrated significant success in identifying, tracking, and documenting war crimes and other atrocities in Ukraine and Sudan.

The United States supports UN Security Council Resolution 2669, adopted last December, which “demands an immediate end to all forms of violence throughout the country” and “urges the Myanmar military to immediately release all arbitrarily detained prisoners.” We welcome the Security Council’s closed briefing held on August 23rd on Burma over the objections of Russia and the People’s Republic of China. We also favor a Security Council resolution that would impose sanctions—such as an embargo on arms and/or jet fuel—that would reduce the military’s ability to kill civilians in Burma.

Notwithstanding all of these interlocking efforts, pursuing these pathways to justice for mass atrocities is challenging. These processes take a long time. The hope is that they will one day be complemented by the implementation of a comprehensive transitional justice agenda, should the day come when that is possible in Burma. I would like to thank Congress for its unwavering support for all these initiatives to advance the cause of justice and accountability in Burma and elsewhere in the world.

Thank you, and I welcome your questions.