

# **HUMAN RIGHTS OF THE ROHINGYA PEOPLE**

---

HEARING

BEFORE THE

**TOM LANTOS HUMAN RIGHTS COMMISSION**

UNITED STATES  
HOUSE OF REPRESENTATIVES

ONE HUNDRED AND FIFTEENTH CONGRESS

FIRST SESSION

---

MARCH 17, 2017

---

Official Transcript

*Produced by the Tom Lantos Human Rights Commission*  
Available via the World Wide Web: [humanrightscommission.house.gov](http://humanrightscommission.house.gov)

TOM LANTOS HUMAN RIGHTS COMMISSION

JAMES P. McGOVERN, Massachusetts,  
*Co-Chair*

RANDY HULTGREN, Illinois,  
*Co-Chair*

KIMBERLY STANTON, *Senior Democratic Fellow*  
RASHMI NAIR, *SPSSI/AAAS Science and Technology Congressional Fellow*  
ELIZABETH WILSON, *Democratic Fellow*  
CORY FLAX, *Democratic Intern*

JAMIE STALEY, *Republican Professional Staff*

# CONTENTS

---

## WITNESSES

Hon. Thomas H. Andrews, President and CEO, Unitarian Universalist Service Committee.....	9
Matthew Smith, CEO and Co-Founder, Fortify Rights .....	14
Andrea Gittleman, Program Manager, Simon-Skjodt Center for the Prevention of Genocide .....	33
Mohamed Naeem, Ethnic Rohingya and Community Leader .....	38

## LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING

Prepared Statement of the Honorable Edward R. Royce, a Representative in Congress from the State of California and Chairman of the House Foreign Affairs Committee.....	2
Prepared Statement of the Honorable James P. McGovern, a Representative in Congress from the State of Massachusetts and Co-Chairman of the Tom Lantos Human Rights Commission .....	6
Prepared Statement of Hon. Thomas H. Andrews .....	11
Prepared Statement of Matthew Smith .....	16
Prepared Statement of Andrea Gittleman .....	34
Prepared Statement of Mohamed Naeem .....	40

## APPENDIX

Hearing Notice .....	57
Witness Biographies .....	59
Refugees International, Statement for the Record .....	62
Testimony of Rev. Thomas J. Reese, S.J., Chair, U.S. Commission on International Religious Freedom, Before the Tom Lantos Human Rights Commission on Human Rights of the Rohingya People .....	67
Statement by Dr. Wakar Uddin, Director General, Arakan Rohingya Union .....	73
Written Testimony of John Sifton, Asia Advocacy Director, Human Rights Watch, Submitted for the Record .....	75
Amnesty International, The Rohingya in Myanmar: A History of Persecution .....	78
U.S. Commission on International Religious Freedom, Hidden Plight: Christian Minorities in Burma .....	88
Suspended in Time: The Ongoing Persecution of Rohingya Muslims in Burma .....	89



# HUMAN RIGHTS OF THE ROHINGYA PEOPLE

---

FRIDAY, MARCH 17, 2017

HOUSE OF REPRESENTATIVES,  
TOM LANTOS HUMAN RIGHTS COMMISSION,  
*Washington, D.C.*

*The Commission met, pursuant to call, at 10:33 a.m., in Room 2255, Rayburn House Office Building, Hon. Ed Royce presiding.*

Mr. ROYCE. [Presiding.] Hello. I am Ed Royce. I chair the Foreign Affairs Committee. And I would just thank the co-chairs of the Tom Lantos Human Rights Commission, Mr. McGovern, who is on his way, for putting this together today, along with Representative Hultgren.

And I think for many of us, it was a few years ago, for many in the international community, when this first came on people's radar in 2012, when we had some of the atrocities. About 200 Rohingya were killed at that point in time, and maybe 140,000 or so displaced. And people became aware of the conditions of the one million, approximately, Rohingya that were living in Rakhine State, and the conditions in those internment camps that are some of the most squalid in the world.

Even more disturbing was a U.N. report last month that said that Burma's police and militia and some of the military forces had carried out operations in these camps in October of 2016, committing what can be considered crimes against humanity. Crimes against humanity in a campaign of rape and sexual abuse and brutality against ethnic Rohingya Muslim women and girls. Clearly, ethnic cleansing is the intention of these kinds of operations. And some of the survivors of these attacks were as young as 13 years of age. It is estimated that many, many hundreds were killed in this most recent wave of violence, and another 70,000 victims were driven from their homes, or fled the country of Burma in the aftermath.

So those living in Burma today, Rohingya Muslims, face continued restrictions on their fundamental rights to move freely, or even to marry and to have children. They have no access to health care, to education. And without freedom of movement, they are unable to obtain meaningful employment. It is no wonder that the Rohingyas have been risking their lives to try to escape this. You have thousands that are fleeing. And many of those who flee, especially young girls, end up in the hands of traffickers.

I raised the issue of Rohingya's plight with Aung San Suu Kyi when she was in Washington, D.C. Tom, I know you have raised that as well. And I remain disappointed by the continued persecution of this minority group with the kind of impunity that we have seen towards those who carried out these attacks.

The Kofi Annan-led State Advisory Commission has done remarkable good work in its investigation, but had experienced difficulties in fulfilling its mandate because of the resistance from local government officials in Rakhine State. The

Commission's initial recommendations includes the call for unfettered access for humanitarian aid organizations, and the media to areas of northern Arakan State, closure of all internally displaced persons' camps, and the return or relocation of IDPs to a place where they feel safe. And that is a good start. Aung San Suu Kyi has publicly agreed to the Commission's recommendations, and said that she intends to carry out prompt implementation. The international community is waiting. We should be calling for further international inquiry into the violence which occurred last October, through a formal commission on inquiry at the U.N. Human Rights Council.

We must find a way forward to improve the living conditions of the Rohingya, and the cruel mistreatment of the Rohingya Muslims must end, and the United States must prioritize the protection of human rights in our relationship with Burma.

But, again, I want to thank Representative McGovern for putting this Commission, or this hearing together today, and thank all of our panelists.

And Jim.

[The prepared statement of Chairman Royce follows:]

**PREPARED STATEMENT OF THE HONORABLE EDWARD R. ROYCE, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA  
AND CHAIRMAN OF THE HOUSE FOREIGN AFFAIRS COMMITTEE**

**Tom Lantos Human Rights Commission Hearing**

**Human Rights of the Rohingya People**

**Friday, March 17, 2017**

**10:30 AM – 11:45 PM**

**2255 Rayburn House Office Building**

***Opening Statement by Rep. Edward R. Royce, Chairman, House Foreign Affairs Committee***

I thank the co-chairs of the Tom Lantos Human Rights Commission, Rep. McGovern and Rep. Hultgren, for holding this important hearing today. The Rohingya Muslims in Burma are perhaps the most persecuted minority group in the world.

For over three decades, the Rohingya minority in Burma has been denied even the most basic of human rights. In 2012, the world witnessed nearly 200 Rohingya killed and 140,000 displaced by devastating violence. Most of these victims were forced to remain in squalid displacement camps.

Even more disturbing was a U.N. report last month which said Burma's police and army forces carried out military operations in these camps in October 2016, committing what can be considered crimes against humanity in a campaign of rape and sexual abuse against ethnic Rohingya Muslim women and girls.

Some survivors of these attacks were reportedly as young as thirteen years old. It is estimated that 1,000 Rohingyas may have been killed in this most recent wave of violence, with 70,000 fleeing to Bangladesh in the aftermath.

Today, more than one million Rohingya living in Burma face continued restrictions on their fundamental rights to move freely, marry, or have children. They have no access to healthcare and education, and without freedom of movement, they are unable to obtain meaningful employment. It is no wonder that the Rohingyas have been risking their lives to leave by the thousands, many ending up vulnerable and falling prey to human traffickers.

I raised the issue of the Rohingya's plight with Aung Sang Suu Kyi when she was in Washington last year, but I remain disappointed by the continued persecution of this minority group with impunity under her watch.

The Kofi Annan-led Arakan State Advisory Commission has done admirable work in its investigation, but had experienced difficulties in fulfilling its mandate because of resistance from the Tatmadaw and local government officials in Rakhine State.

The Commission's initial recommendations includes the call for unfettered access for humanitarian aid organizations and the media to areas of northern Arakan State; closure of all internally displaced persons (IDPs) camps; and the return or relocation of IDPs to a place where they feel safe. These are certainly a good start.

Aung Sang Suu Kyi has publically agreed to the commission's recommendations, and said that she intends to carry out prompt implementation. The international community is waiting.

We should be calling for further international inquiry into the violence which occurred last October through a formal Commission of Inquiry at the U.N. Human Rights Council.

We must find a way forward to improve the living conditions of the Rohingya, and call for reforming Burma's 1982 Citizenship Law to create a path toward citizenship.

Without this, how can the new government claim progress toward true democracy and reform? The cruel mistreatment of the Rohingya Muslims must end today, and the United States must prioritize the protection of human rights in its relationship with Burma.

Mr. McGOVERN. Let me thank our distinguished chairman of the Foreign Affairs Committee for his opening remarks. I apologize for being a little bit late. I want to wish everybody happy Saint Patrick's Day. But I appreciate Chairman Royce's leadership, not only on this issue, but on so many issues concerning human rights. Anyway, we appreciate him being here this morning.

And I want to welcome everybody here to the Tom Lantos Human Rights Commission's hearing on the Human Rights of the Rohingya People in Burma. I would like to welcome our witnesses. I want to thank you for sharing your expertise with us today. It is always a pleasure to see my former colleague from the House of Representatives, Tom Andrews. And I especially want to recognize Mohamed Naeem, who has traveled from Yangon to join us. Thank you so much.

Representative Joe Crowley of New York, a member of the Commission and a long-time advocate for democracy and human rights in Burma, expected to be present for this hearing, but, unfortunately, the Democratic caucus is being briefed by the head of the Department of Homeland Security at this very moment, so he is there. He will try to join us later if he can. But I want to recognize his commitment to Burma and to the people, and look forward to continuing to work with him on these issues.

The Rohingya people are a predominantly Sunni Muslim ethnic group that has lived for centuries in Burma's Rakhine State and in eastern Bangladesh. They are one of the most vulnerable and marginalized populations in Burma. They have been subjected to severe legal, economic, and social discrimination, including limitations on travel, access to education, employment, and their right to marry.

More than 800,000 Rohingya have become stateless since Burma, under military rule, adopted a restrictive citizenship law in 1982. This Commission has long expressed concern about the unjust and untenable situation of the Rohingya. We held our first hearing on this issue back in 2009, and have continued to pay attention ever since. We are here today because not only have things not improved, but they have gotten much, much, much worse during the last several months.

Last October, after attacks by an unknown group of assailants on three outposts along the Burmese Bangladesh border, in which nine police officers were killed, the Burmese security forces undertook a clearance operation that lasted until mid-February of this year. During that action, as many as 1,000 Rohingya were reportedly killed. More than a dozen villages were destroyed; as many as 24,000 Rohingya may have been internally displaced; and between 65,000 and 73,000 fled into Bangladesh in response to the violence that was unleashed.

As the operation unfolded, there were many reports that the security forces were committing grave human rights abuses. As early as November, the United Nations High Commissioner for Refugees described the action of the security forces in Rakhine State as ethnic cleansing, and possible crimes against humanity. In February, the U.N. Office of the High Commissioner for Human Rights, based on interviews with Rohingya in Bangladesh, documented gang rapes, extrajudicial killings, including babies and young children, brutal beatings, and disappearances by security forces in a sealed-off area in the north of the state.

It should come as no surprise that military officials and the government, led by Nobel Laureate Aung San Suu Kyi, have denied that any systematic human rights abuses occurred during the operation. An investigation commission set up by



President Kyaw in December did not find sufficient evidence to take legal action. But as we will hear from our witnesses who have been on the ground in the region, the reports of human rights violations are very, very credible, so much so that the U.N. Special Rapporteur on the Situation of Human Rights in Myanmar has called for the creation of a Commission of Inquiry.

This most recent wave of violence comes on top of an existing humanitarian crisis in Burma and Bangladesh. In December of 2016, U.N. OCHA estimated that there were 218,000 internally displaced people in Burma, of whom 120,000 were Rohingya. In Rakhine State alone, some 400,000 people need humanitarian and protection assistance, and nearly a million are stateless. In Bangladesh, there may be as many as a half a million Rohingya living in squalid conditions without documentation.

Yet, in Burma, there are consistent reports that the government is limiting humanitarian access, while in Bangladesh, there is talk of relocating the entire Rohingya population to an island in the Bay of Bengal.

What we have here is another example of a man-made human rights and humanitarian crisis. The Rohingya have lived in Burma for centuries, yet they are denied their most basic fundamental rights, the same rights that Congress and administrations of both parties have sought to protect and improve over many years, using bipartisan legislation and sanctions.

But in recent years, we have seen a trend toward easing many of these sanctions. And last fall, as the clearance operation was underway, President Obama ended a number of restrictions on bilateral assistance to Burma. To do so, he had to certify that Burma had made, quote, "measurable and substantial progress in improving human rights practices and implementing democratic government," end quote. This was surely a nod to the 2015 elections that brought the current government to power. But what about the risk of ethnic cleansing, or even genocide, against the Rohingya people?

And as of yesterday, we have an additional problem, that U.S. humanitarian assistance to the people of Burma, \$50 million in F.Y. 2016 may be drastically cut or eliminated. We would be unable to offset the consequences of the horrible abuses that the Rohingya are suffering.

So in this very unhappy context, I look forward to hearing our witnesses' testimonies and their recommendations as to what to do next and what Congress should do next with regard to Burma, what we can do, what we must do to support the human dignity of the Rohingya people.

So I want to thank you all for being here. I would like to tell all the witnesses that we will formally submit your entire testimonies for the record, so you can feel free to summarize.

I also ask that statements from the following individuals and organizations be included in the record: Human Rights Watch, Amnesty International, U.S. Commission for International Religious Freedom, Refugees International, Dr. Wakar Uddin, Fiona MacGregor, a journalist based in Myanmar/Burma.

And our witnesses, I will introduce them briefly. I will submit your very lengthy biographies for the record. They are all impressive. But we have the honorable Tom Andrews, who serves as the President and CEO of the Unitarian Universalist Service

Committee. He also served in this Congress, and we are happy to be with him today.

I want to welcome Matthew Smith, who is the co-founder and chief executive officer of Fortify Rights, a human rights organization that has been conducting significant investigations into the Rohingya crisis and works closely and in collaboration with organizations and individuals from communities that are directly impacted by human rights violations.

Andrea Gittleman is the program manager for the Simon-Skjodt -- you have been here a hundred times and I keep on struggling -- Simon-Skjodt Center for the Prevention of Genocide. Previously, she was the interim director of U.S. policy and senior legislative counsel at Physicians for Human Rights; and prior to that, she served with the Burma Lawyers' Council. And we are grateful that you are here.

And Mohamed Naeem is an ethnic Rohingya from Myanmar and a community leader of the Rohingya people. He has done incredible work on human rights and is widely respected around the globe, and we are happy that you are here today.

So we will begin.

[The prepared statement of Co-Chair McGovern follows:]

**PREPARED STATEMENT OF THE HONORABLE JAMES P. McGOVERN, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF  
MASSACHUSETTS AND CO-CHAIR OF THE TOM LANTOS HUMAN RIGHTS  
COMMISSION**



**Tom Lantos Human Rights Commission Hearing**

**Human Rights of the Rohingya People**

**Friday, March 17, 2017**

**10:30 AM – 11:45 PM**

**2255 Rayburn House Office Building**

**Opening Remarks as prepared for delivery**

Good morning, and welcome to the Tom Lantos Human Rights Commission's hearing on the human rights of the Rohingya people in Burma.

I would like to welcome our witnesses and thank them for sharing their expertise with us today. It is always a pleasure to see my former colleague from the House of

Representatives, Tom Andrews. And I especially want to recognize Mohamed Naeem, who has traveled from Yangon to join us.

Rep. Joe Crowley, member of the Commission and a long-time advocate for democracy and human rights in Burma, expected to be present for this hearing, but a last-minute schedule change got in the way. I want to take this opportunity to recognize his commitment to Burma and to say that I look forward to continuing to work with him on this and other issues.

The Rohingya people are a predominately Sunni Muslim ethnic group that has lived for centuries in Burma's Rakhine State and in eastern Bangladesh. They are one of the most vulnerable and marginalized populations in Burma – they have been subjected to severe legal, economic and social discrimination, including limitations on travel, access to education, employment and their right to marry. More than 800,000 Rohingya have become stateless since Burma, under military rule, adopted a restrictive citizenship law in 1982.

This Commission has long expressed concern about the unjust and untenable situation of the Rohingya. We held our first hearing on this issue back in 2009, and have continued to pay attention ever since. We are here today because not only have things not improved, but they have gotten much, much worse during the last several months.

Last October, after attacks by an unknown group of assailants on three outposts along the Burmese-Bangladesh border in which nine police officers were killed, the Burmese security forces undertook a “clearance operation” that lasted until mid-February of this year. During that action, as many as 1,000 Rohingya were reportedly killed. More than a dozen villages were destroyed; as many as 24,000 Rohingya may have been internally displaced; and between 65,000 and 73,000 fled into Bangladesh, in response to the violence that was unleashed.

As the operation unfolded, there were many reports that the security forces were committing grave human rights abuses. As early as November, the U.N. High Commissioner for Refugees described the action of the security forces in Rakhine State as “ethnic cleansing” and possible “crimes against humanity.” In February, the U.N. Office of the High Commissioner for Human Rights, based on interviews with Rohingya in Bangladesh, documented gang-rapes, extrajudicial killings (including babies and young children), brutal beatings and disappearances by the security forces in a sealed-off area in the north of the state.

It should come as no surprise that military officials and the government, led by Nobel Peace laureate Aung San Suu Kyi, have denied that any systematic human rights abuses occurred during the operation. An Investigation Commission set up by President Kyaw in December did not find sufficient evidence to take legal action.

But as we will hear today from our witnesses who have been on the ground in the region, the reports of human rights violations are very credible – so much so that the U.N.

Special Rapporteur on the Situation of Human Rights in Myanmar has called for the creation of a Commission of Inquiry.

This most recent wave of violence comes on top of an existing humanitarian crisis in Burma and Bangladesh. In December 2016, U.N. OCHA estimated that there were 218,000 internally displaced people in Burma, of whom 120,000 were Rohingya. In Rakhine State alone, some 400,000 people need humanitarian and protection assistance, and nearly a million are stateless. In Bangladesh, there may be as many as half a million Rohingya living in squalid conditions without documentation.

Yet in Burma there are consistent reports that the government is limiting humanitarian access, while in Bangladesh there is talk of relocating the entire Rohingya population to an island in the Bay of Bengal.

What we have here is another example of a man-made human rights and humanitarian crisis. The Rohingya have lived in Burma for centuries, yet they are denied their most basic, fundamental rights – the same rights that Congress and administrations of both parties have sought to protect and improve over many years, using bipartisan legislation and sanctions.

But in recent years, we've seen a trend toward easing many sanctions. Last fall, as the clearance operation was underway, President Obama ended a number of restrictions on bilateral assistance to Burma. To do so, he had to certify that Burma had made "measurable and substantial progress in improving human rights practices and implementing democratic government." This was surely a nod to the 2015 elections that brought the current government to power. But what about the risk of ethnic cleansing or even genocide against the Rohingya people?

And, as of yesterday, we have the additional problem that U.S. humanitarian assistance to the people of Burma -- \$50 million in FY2016 -- may be drastically cut or eliminated. We would be unable even to offset the consequences of the horrible abuses that the Rohingya are suffering.

In this very unhappy context, I look forward to hearing our witnesses' testimonies and their recommendations as to the next steps the Congress should take on Burma. What can we do -- what must we do -- to support the human dignity of the Rohingya people?

Mr. ROYCE. Chairman, we have got a 10:45 subcommittee hearing.

Mr. McGOVERN. [Presiding.] Thank you. I want to thank the chairman for being here, and thank you for your great remarks.

And I now will acknowledge my colleague, Congressman Tom Andrews.

**STATEMENTS OF HON. THOMAS H. ANDREWS, PRESIDENT AND CEO, UNITARIAN UNIVERSALIST SERVICE COMMITTEE; MATTHEW SMITH, CEO AND CO-FOUNDER, FORTIFY RIGHTS; ANDREA GITTLEMAN, PROGRAM MANAGER, SIMON-SKJODT CENTER FOR THE PREVENTION OF GENOCIDE, UNITED STATES HOLOCAUST MEMORIAL MUSEUM; AND MOHAMED NAEEM, COMMUNITY LEADER OF THE ROHINGYA PEOPLE**

**STATEMENT OF HON. THOMAS H. ANDREWS, PRESIDENT AND CEO, UNITARIAN UNIVERSALIST SERVICE COMMITTEE**

Mr. ANDREWS. Thank you very much, Mr. Chairman. And, Chairman Royce, thank you very much for your principled leadership on this issue. Thank you so much.

Mr. Chairman, it is an extreme honor to be here today at this very timely and very important public hearing. As you have noted, the Rohingya people of Myanmar are under siege. Their lives are at risk. At least 75,000 people escaped northern Rakhine State into Bangladesh, over the Bangladesh border, in just the past few months. I know, I recently returned from the border. And I am very grateful to have the opportunity to share with you, through my remarks today and in a written report of my trip, which I would like to seek permission to enter into the record.

Mr. McGOVERN. Without objection.

Mr. ANDREWS. I would like to share with you what I heard and what I saw.

Mr. Chairman, I interviewed 25 Rohingya men and women who had been subjected to what the military describes as clearance operations in Maungdaw Township of northern Rakhine State. It became very clear to me, however, that the actions of the military can more accurately be described as horrific brutality, torture, and murder. The inaction and outright denials of the Myanmar Government, in light of these horrors and despite documentation by several credible sources, including the U.N. Office of the High Commissioner for Human Rights, can best be described as alarming and outrageous.

In interview after interview, survivors described to me how soldiers would surround their village in the early morning hours. Often they would separate men and boys from women and girls. The men were subjected to beatings and often forced to sit for hours shackled in the hot sun. Women and girls were also subjected to beatings. Many became victims of sexual assault by soldiers. Gang rape was common. The military units sought to inflict maximum harm on villagers with what can only be described as psychological and emotional torture. Entire families, and sometimes their village neighbors, were forced to watch sexual assaults, for example.

Several of the survivors were forced to watch in horror as family members were assassinated. Some had their throats slit; others were shot at point-blank range.

Some described helicopter gunships descending on their villages, opening fire on neighbors as they ran. A mother described to me how her infant son was ripped from her arms and thrown into a fire. Stories of elders, disabled people, and young children being burned alive in homes that had been set ablaze by soldiers were repeated by those who I questioned. Soldiers, we were also told, would often berate villagers as the horror unfolded, telling them that they should leave Myanmar. Many of them would dance as the houses burned.

The rampant violence in northern Rakhine State comes on the heels of systematic oppression over many years that have included denying the Rohingya their ethnic identity, the stripping of citizenship rights, and inhumane restrictions on movement, marriage, children, and employment, as you have noted, Mr. Chairman.

The Myanmar Government authorities continue to deny aid workers, human rights monitors, and journalists unfettered access to the affected region. According to U.N. agencies operating in Burma, the Rohingya are being denied access to adequate humanitarian aid, including thousands of children who are now suffering from acute malnutrition.

Mr. Chairman, enough is enough. The United States and the world cannot sit idly by as this horror continues to unfold. We must recognize a grim reality that the government of Myanmar is loathe to admit, demand unfettered access to impacted areas that has long been denied, demand that the killing and the persecution stop, and make clear that those who are responsible for this horror will be held accountable.

With this hearing, you are helping to bring public attention to an issue that for too long has remained in the shadows. From your position in Congress and this very important bipartisan Commission, you can help form and forge a strong U.S. response.

The U.N. Human Rights Council in Geneva is about to consider options for addressing this caucus. They include authorizing a thorough impartial investigation through a Commission of Inquiry. We fully support such action as a means of applying pressure to stop the violence and making it clear that those responsible for this horrific brutality will be held fully accountable.

The United States, a voting member of the Human Rights Commission, is in an excellent position to make this a reality. While the current administration has yet to take a position on such an inquiry, it is noteworthy that Secretary of State Tillerson made his own view clear during his confirmation process, and I quote: "Not only is the mistreatment of the Rohingya a tragedy, but it also threatens to radicalize a generation of young Rohingya. The United States must support regional and international efforts to investigate abuses and pressure the Burmese government and military," unquote.

Mr. Chairman, the Rohingya of Burma have been subjected to unspeakable cruelty and horror, not because of anything that they have done, but because of who they are. They deserve justice. Those who have been directing the unspeakable and systematic crimes against them deserve to be held accountable. Recognizing the Myanmar Government's failure to provide either, the international community must act. The United States can do so by immediately taking a strong and principled stand at the U.N. Human Rights Council in Geneva, and by providing strong and sustained pressure on the government and military of Burma.

Thank you, again, for holding this very important and very timely public hearing and for your concern, Mr. Chairman, and your advocacy for the rights, for the dignity, and for the safety of the Rohingya people.

[The prepared statement of Hon. Thomas H. Andrews follows:]

**PREPARED STATEMENT OF HON. THOMAS H. ANDREWS**

**Testimony of Honorable Thomas H. Andrews  
President and CEO  
Unitarian Universalist Service Committee**

**Tom Lantos Human Rights Commission of the United States Congress  
Public Hearing: “Human Rights of the Rohingya People”**

**March 17, 2017**

Chairman McGovern, Chairman Hultgren, Distinguished members of the Commission:

Thank you for conducting this important hearing. It comes at an extremely important time. The lives of the Rohingya ethnic minority who live in northern Rakhine State in Burma are at risk.

Untold numbers have perished at the hands of military forces in a horrific scorched earth operation that was launched in October of last year. At least 75,000 have been forced to run for their lives over the border into Bangladesh.

I know, I recently returned from the Bangladesh/Burma border and I am grateful for the opportunity to share with you, through my remarks today and a written report of my trip, what I heard and saw. With your permission, I would like to enter my report into the record.

Mr. Chairman, I interviewed twenty-five Rohingya men and women who had been subjected to what the military has described as “clearance operations” in the Maungdaw Township of northern Rakhine State. It became very clear to me, however, that the actions of the military can more accurately be described as horrific brutality, torture and murder. The inaction and outright denials of the Myanmar government - in light of these horrors - and despite documentation by several credible sources including the Office of the High Commissioner for Human Rights - can best be described as alarming and outrageous.

In interview after interview, survivors described to me how soldiers would surround their village in the early morning hours. Often they would separate men and boys from women and girls. The men and boys were subjected to beatings and often forced to sit for hours

shackled, in the hot sun. Women and girls were also subject to beatings. Many became victims of sexual assault by soldiers. Gang rape was common. The military units sought to inflict maximum harm on villagers with what can only be described as psychological and emotional torture. Entire families, and sometimes their village neighbors, were forced to watch sexual assaults, for example. Several of the survivors were forced to watch in horror as family members were assassinated. Some had their throats slit, others were shot at point blank range. Some described helicopter gunships descending on their village, opening fire on their neighbors as they ran.

A mother described having her infant son ripped from her arms and thrown into a fire. Stories of elders, disabled people and young children being burned alive in homes that had been set ablaze by soldiers were repeated. Soldiers, I was told, would often berate villagers as the horror unfolded, telling them that they should leave Myanmar. Many would dance as village homes burned.

The rampant violence in northern Rakhine State comes on the heels of systematic oppression over many years that has included denying the Rohingya their ethnic identity, the stripping of citizenship rights, and inhumane restrictions on movement, marriage, children and employment. Myanmar government authorities continue to deny aid workers, human rights monitors and journalists unfettered access to the affected region. According to UN agencies operating in Burma, the Rohingya are being denied access to adequate humanitarian aid including thousands of children who are now suffering from acute malnutrition.

Mr. Chairman, enough is enough. The United States and the world cannot sit idly by as this horror continues to unfold. We must recognize a grim reality that the government of Myanmar is loath to admit, demand unfettered access to impacted areas that has long been denied, demand that the killing and persecution stop and make clear that those who are responsible for this horror will be held accountable.

With this hearing, you are helping to bring public attention to an issue that for too long has remained in the shadows. From your position in Congress and as members of this distinguished bi-partisan Commission, you can help forge a strong US response. The UN Human Rights Council in Geneva is about to consider options for addressing this crisis. They include authorizing a thorough, impartial investigation through a Commission of Inquiry. We fully support such action as a means of applying pressure to stop the violence and making it clear that those responsible for this horrific brutality will be held fully accountable.

The US, a voting member of the Human Rights Commission, is in an excellent position to make this a reality. While the current administration has yet to take a position on such an inquiry, it is noteworthy that Secretary of State Tillerson made his own view clear during his confirmation process:

***“Not only is the mistreatment of the Rohingya a tragedy, but it also threatens to radicalize a generation of young Rohingya. The United States must support regional***



***and international efforts to investigate abuses and pressure the Burmese government and military.”***

Mr. Chairman, the Rohingya of Burma have been subjected to unspeakable cruelty and horror not because of anything that they have done, but because of who they are. They deserve justice. Those who have been directing the unspeakable and systematic crimes against them deserve to be held fully accountable. Recognizing the Myanmar government’s failure to provide either, the international community must act. The United States can do so by immediately taking a strong and principled stand at the UN Human Rights Council in Geneva and by providing strong and sustained pressure on the government and the military of Burma.

Thank you, again, for holding this important and timely public hearing. I will be happy to answer any questions.

---

Mr. McGOVERN. Thank you. Mr. Smith.

**STATEMENT OF MATTHEW SMITH, CEO AND CO-FOUNDER, FORTIFY RIGHTS**

Mr. SMITH. Thank you very much, Chairman McGovern. On behalf of Fortify Rights and our partners, and, as Mr. Andrews mentioned, thank you very much for organizing this hearing. We thank you also for your continued attention and leadership on these and other grave human rights issues.

Fortify Rights is an independent, nongovernmental, nonprofit human rights organization. We have reported extensively on the situation of human rights in Myanmar.

This hearing does come at a critical time. My colleagues and I at Fortify Rights recently conducted more than 70 in-depth interviews with Rohingya eyewitnesses and survivors of recent violence in Maungdaw Township.

Similar to Mr. Andrews' testimony, we have documented what appears to have been a widespread and systematic attack on the civilian population by the Myanmar Army and state security forces, beginning on October 9. Our findings are consistent with the U.N. flash report published last month and with U.N. Special Rapporteur Yanghe Lee's report, which was delivered to the Human Rights Council in Geneva on Tuesday.

That is to say, our findings are horrific. We documented how state security forces raped and killed Rohingya civilians, including infants and children, looted property, and razed entire villages, including religious structures and food stocks. We documented situations of mass gang rape of women and girls, and we have reason to believe there are a significant number of unreported rape cases as well. Army personnel opened fire on unarmed civilians with live ammunition from land and sky. Soldiers slit throats and burned people alive.

I want to emphasize that state security forces carried out these violations in a consistent manner in disparate locations, indicating to us that soldiers' actions were not spontaneous or rogue. These violations appear to have been carried out as a matter of state policy.

The military also arrested hundreds of men and boys, and their well-being, and, in some cases, their whereabouts are unknown. The authorities have blocked access to affected areas for aid workers, journalists, and monitors. Tens of thousands of people have been denied access to life-saving humanitarian aid by design.

But this is only half the story. Gross and systematic human rights violations have been perpetrated against Muslims, as you mentioned, Mr. Chairman, for decades. In our view, this has been a matter of state policy. The authorities still deny more than 1 million Rohingya equal access to full citizenship rights and still impose severe restrictions on freedom of movement, marriage, childbirth, and other aspects of everyday life. We believe the restrictions alone rise at least to the level of persecution as a crime against humanity, implicating the involvement of state and central government authorities.

The Myanmar Government denies Rohingya equal access to citizenship rights through the application of the 1982 citizenship law. It is worth mentioning, of course,

that this law is discriminatory, and it has created the world's largest stateless population within the borders of a single country. Rohingya's statelessness is used, in turn, to deny Rohingya freedom of movement, and this is disruptive.

These restrictions are not time-bound, they are not established in law, they are not proportionate to a specific and justifiable aim, making them inconsistent with international human rights law. Moreover, no such restrictions are imposed on nearby Rakhine Buddhist populations, making the measures discriminatory. They serve no security function in Rakhine State or in Myanmar.

Moreover, as has been mentioned, in 2012, tit-for-tat violence between Buddhists and Muslims escalated to targeted attacks against Muslims in Rakhine State. I was in Rakhine State shortly after the attacks in June and October 2012. There were massacres, mass graves, and mass displacement.

Since then, the government has confined more than 120,000 Rohingya to more than 40 internment camps in eight townships in Rakhine State. We continue to document avoidable deprivations in aid. We have worked closely with Rohingya individuals and communities and other communities in Myanmar, the Holocaust Museum, the Unitarian Universalist Service Committee, Refugees International, Human Rights Watch, and other organizations, and there is unity in the recommendation for international action on this issue. The United States still has significant influence in Myanmar and with Myanmar authorities.

We fully encourage Members of Congress from both parties to work with the Trump administration to ensure the establishment of a U.N.-mandated Commission of Inquiry or similar mechanism to investigate possible crimes against humanity in Rakhine State from at least 2012 to the present.

The EU submitted a resolution to the Human Rights Council yesterday that would mandate a fact-finding commission. The U.S. must stand firm and support this resolution and not let it get watered down in Geneva. We feel strongly that a Commission of Inquiry or similar mechanism would bolster stability in Aung San Suu Kyi's administration, even strengthen economic potential in Myanmar, stem refugee outflows, and help end impunity.

We believe such a commission would also deter other atrocity crimes, not only in Rakhine State, but also in other ethnic states, such as Kachin and Shan states, where international crimes have been perpetrated with impunity as well.

In my written testimony, which I have submitted for the record, we include ten other recommendations geared toward solutions in Rakhine State.

And once again, Mr. Chairman, we thank you very much.

[The prepared statement of Mr. Smith follows.]

## PREPARED STATEMENT OF MATTHEW SMITH



### **Fortify Rights Testimony Before the Tom Lantos Human Rights Commission**

Delivered by Matthew Smith, co-founder and CEO, Fortify Rights

March 17, 2017

2255 Rayburn House Office Building  
Washington, D.C.

“The Human Rights of the Rohingya People”

Chairperson McGovern, Chairperson Hultgren, distinguished members of the commission, on behalf of Fortify Rights and our partners working for human rights in Southeast Asia, thank you for organizing this hearing on the human rights situation of Rohingya in Myanmar (Burma). We thank you for your continued attention and leadership on these and other grave human rights issues.

Fortify Rights is an independent, non-profit, non-governmental human rights organization working to ensure and defend human rights for all. We investigate human rights violations, engage stakeholders, and strengthen initiatives led by human rights defenders and affected communities. We have reported extensively on human rights in Myanmar.

This hearing comes at a critical time. A year ago, the U.S. and others praised political reforms in Myanmar and the election of a civilian government led by Aung San Suu Kyi and the National League for Democracy. Today, the human rights situation has worsened considerably in various parts of the country. Since October, Myanmar state security forces commenced a systematic attack on Rohingya men, women, and children in Rakhine State. Following allegations of mass atrocities, the government appointed a commission to investigate the situation, as did the military and police, but these bodies lacked independence and credibility and have been unwilling and unable to properly address the crimes that have taken place.

In recent days and weeks, the U.N. High Commissioner for Human Rights and the U.N. Special Rapporteur on human rights in Myanmar have each called for the establishment of a U.N.-mandated Commission of Inquiry to investigate possible

crimes against humanity in Rakhine State. U.N. Human Rights Council member states, Nobel laureates, civil-society organizations in Myanmar, ethnic Rohingya organizations, and international human rights organizations have echoed this call.

Yesterday, European Union member states in Geneva submitted an annual resolution on Myanmar to be voted on at the current 34<sup>th</sup> session of the Human Rights Council. It includes a call for the Human Rights Council to “dispatch urgently an independent international fact-finding mission” to Myanmar to investigate violations in Rakhine State “with a view to ensure full accountability for perpetrators and justice for victims.”

It is critical that the international community supports this resolution. There is still a risk that the resolution could fail to mandate a properly resourced body with sufficient liberty to conduct a comprehensive investigation into all potential violations of international criminal law in Rakhine State. That would be a profound failure.

The United States is a highly influential actor in Myanmar. We believe a Commission of Inquiry or similar mechanism will bolster stability in Aung San Suu Kyi’s still fledgling administration, strengthen the economic potential of Myanmar, stem refugee outflows, and help end military impunity. We believe that a robust commission would also deter additional atrocity crimes not only in Rakhine State but also in other ethnic states, such as Kachin and Shan states, where the military has perpetrated international crimes with impunity as well.

Distinguished members of the commission, it is imperative that the international community addresses the atrocity crimes taking place in Myanmar with urgency. To date, we have seen the same diplomatic maneuvering that has been the hallmark of past failures to respond to mass atrocities. We must not let such maneuvering undermine the process or the outcome with regard to the resolution at the Human Rights Council.

We sincerely hope this hearing will prompt timely and decisive action from members of Congress and President Trump’s administration to support calls for a UN-mandated inquiry with a strong mandate to address the grave violations in Rakhine State.

#### **Recent Human Rights Violations in Northern Rakhine State**

On October 9, 2016, Rohingya militants, reportedly armed with mostly sticks and knives, attacked Myanmar border police outposts in northern Rakhine State, killing nine officers and capturing weapons and ammunition.<sup>1</sup> Further attacks occurred the

---

<sup>1</sup> “Myanmar: Protect Civilians in Rakhine State, Investigate Fatal Shootings,” Fortify Rights, news release, October 12, 2016, <http://www.fortifyrights.org/publication-20161012.html> (accessed

following month.<sup>2</sup> Myanmar security forces responded by carrying out “clearance operations” in the region, ostensibly to capture, kill, or dislodge those responsible for the October attacks.<sup>3</sup>

Myanmar authorities promptly denied access to affected areas for aid workers, journalists, and monitors and effectively forced pre-existing aid programs to shut down while also denying emergency aid to the newly displaced.

An investigation team from Fortify Rights, including myself, traveled to the Myanmar-Bangladesh border area in late 2016. We conducted more than 70 interviews with Rohingya men and women—mostly new arrivals. We also spoke with U.N. agencies, Bangladeshi medical professionals, and international aid workers.

Our documentation focused primarily on human rights violations perpetrated by the Myanmar Army since October 9, 2016 in Maungdaw Township. We collected in-depth eyewitness testimony from several villages where the military has been operational since October 9, documenting what appears to have been a coordinated and systematic attack on the civilian population by the Myanmar Army and state security forces beginning on October 9.

Our findings are horrific. State security forces raped and killed Rohingya civilians, including infants and children, looted property, and razed entire villages, including religious structures and food stocks.<sup>4</sup> We documented situations of mass gang-rape of women and girls, and we have reason to believe that there are a significant number of unreported rape cases.<sup>5</sup> Army personnel opened fire on unarmed civilians with live ammunition from land and sky.<sup>6</sup> Soldiers slit men’s throats and burned people alive.<sup>7</sup> The military arrested men and boys en masse, and the well being and whereabouts of those arrested remains unknown.<sup>8</sup> The authorities also

---

<sup>2</sup> International Crisis Group, *Myanmar: A New Muslim Insurgency in Rakhine State*, December 15, 2016, <https://www.crisisgroup.org/asia/south-east-asia/myanmar/283-myanmar-new-muslim-insurgency-rakhine-state> (accessed March 14, 2017).

<sup>3</sup> “70 days since the outbreak of Maungdaw armed attacks,” *Global New Light of Myanmar*, December 28, 2016, <http://www.globalnewlightofmyanmar.com/70-days-since-the-outbreak-of-maungdaw-armed-attacks/> (accessed March 14, 2017).

<sup>4</sup> Fortify Rights interviews with survivors and eyewitnesses, Cox’s Bazar, Bangladesh, December 2016. See, also, “Myanmar: Protect Civilians in Rakhine State, Investigate Fatal Shootings,” *Fortify Rights*; Matthew Smith, “Bringing Burma Back From the Brink,” *Wall Street Journal*, February 15, 2017, <https://www.wsj.com/articles/bringing-burma-back-from-the-brink-1487181031> (accessed March 14, 2017); Puttanee Kangkun, “The Rohingya Are Ready to Talk About the Atrocities in Burma,” *Wall Street Journal*, January 9, 2017, <https://www.wsj.com/articles/the-rohingya-are-ready-to-talk-about-the-atrocities-in-burma-1483983264> (accessed March 14, 2017).

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

denied directly affected civilian populations, including internally displaced persons, access to humanitarian aid.<sup>9</sup> Free and unfettered access is denied to date.

State security forces carried out these violations in a consistent manner in disparate locations, indicating the systematic nature of the attacks. Fortify Rights believes this indicates that the soldiers' actions were not spontaneous and were likely based on guidance or orders.

Human Rights Watch analyzed satellite imagery of the region and reported that more than 1,500 Rohingya homes and other structures were systematically destroyed in the two months following the October attacks.<sup>10</sup> The images place the military at the scene of systematic arson attacks and indicate its westward advancement, debunking the government's implausible claim that the Rohingya burned down their own homes.<sup>11</sup> Fortify Rights documented consistent eyewitness testimony detailing the systematic manner in which the army razed villages.

According to the U.N. Office for the Coordination of Humanitarian Affairs (UNOCHA), an estimated 94,500 people have been displaced in northern Rakhine State since October, including more than 74,500 men, women, and children who fled to neighboring Bangladesh.<sup>12</sup> In December, Fortify Rights located communities of new arrivals in Bangladesh seeking refuge in forested enclaves along the border with no access to emergency humanitarian aid.

On February 3, the U.N. Office of the High Commissioner for Human Rights (OHCHR) published a detailed "flash report," describing human rights violations perpetrated since October 9 by Myanmar Army soldiers, police officers, border guard police officers, and ethnic Rakhine civilians operating alongside security forces.<sup>13</sup> The report was based on 220 interviews conducted in Bangladesh with Rohingya survivors and witnesses of human rights violations in Myanmar. OHCHR's findings are consistent with those of Fortify Rights. Forty-seven percent of the interviewees

---

<sup>9</sup> Ibid.

<sup>10</sup> See "Burma: Military Burned Villages in Rakhine State," Human Rights Watch, news release, December 13, 2016, <https://www.hrw.org/news/2016/12/13/burma-military-burned-villages-rakhine-state> (accessed March 14, 2017). Amnesty International conducted a similar analysis, identifying 1,250 structures that had been destroyed across 125 square kilometers. Amnesty International, "We Are at the Breaking Point" Rohingya: Persecuted in Myanmar, Neglected in Bangladesh, December 16, 2016, [https://www.amnestyusa.org/sites/default/files/amnesty\\_myanmar\\_bangladesh\\_report.pdf](https://www.amnestyusa.org/sites/default/files/amnesty_myanmar_bangladesh_report.pdf) (accessed March 16, 2017), p. 51-60.

<sup>11</sup> Ibid. "Burma: Military Burned Villages in Rakhine State," Human Rights Watch.

<sup>12</sup> U.N. Office for the Coordination of Humanitarian Affairs, "Asia and the Pacific: Weekly Regional Humanitarian Snapshot, February 28 – March 6, 2017," March 6, 2017, [http://reliefweb.int/sites/reliefweb.int/files/resources/ROAP\\_Snapshot\\_170306.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/ROAP_Snapshot_170306.pdf) (accessed March 14, 2017).

<sup>13</sup> U.N. Office of the High Commissioner for Human Rights, *Flash Report: Report of OHCHR Mission to Bangladesh*, February 3, 2017, <http://www.ohchr.org/Documents/Countries/MM/FlashReport3Feb2017.pdf> (accessed March 14, 2017).

reported that security forces killed a family member, and 52 percent of female interviewees reported being raped or sexually assaulted by security forces.<sup>14</sup> OHCHR concluded that attacks against the Rohingya were widespread and systematic and likely constitute crimes against humanity.<sup>15</sup>

Reporting to the U.N. Human Rights Council on March 13, U.N. Special Rapporteur Yanghee Lee reported her own findings, describing grave violations by state security forces, including the “slitting of throats, indiscriminate shootings, setting alight houses with people tied up inside and throwing very young children into the fire, as well as gang rapes and other sexual violence.”<sup>16</sup>

### **Myanmar’s Failure to Investigate and Remedy Human Rights Violations in Rakhine State**

Since the October 2016 attacks in Rakhine State, the Myanmar military and civilian government have roundly denied allegations of human rights violations. Myanmar state-run media claimed international journalists and human rights groups were working “hand in glove” with terrorists and alluded to Rohingya as a “thorn” that “has to be removed,” and as “detestable human fleas.”<sup>17</sup> This is unarguably a genocidal discourse.<sup>18</sup> Moreover, offices led by Aung San Suu Kyi alleged “Fake Rape” and routinely denied allegations of rights violations.<sup>19</sup>

---

<sup>14</sup> Ibid. at p. 9-10.

<sup>15</sup> Ibid. at p. 42

<sup>16</sup> Statement by Ms. Yanghee Lee, Special Rapporteur on the Situation of Human Rights in Myanmar at the 34<sup>th</sup> session of the Human Rights Council, March 13, 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21355&LangID=E#sthash.WGHIMccm.3CqOAc0N.dpuf> (accessed March 14, 2017); See, also, the Special Rapporteur’s full report. Report of the Special Rapporteur on the situation of human rights in Myanmar, A/HRC/34/67, March 1, 2017, p. 18, [http://yangon.sites.unictnetwork.org/files/2017/03/A\\_HRC\\_34\\_67\\_EN.pdf](http://yangon.sites.unictnetwork.org/files/2017/03/A_HRC_34_67_EN.pdf) (accessed March 14, 2017).

<sup>17</sup> Khin Maung Oo, “A Flea Cannot Make a Whirl of Dust, But—,” *Global New Light of Myanmar*, November 26, 2016, <http://www.globalnewlightofmyanmar.com/a-flea-cannot-make-a-whirl-of-dust-but/> (accessed March 14, 2017); State-run media and the Myanmar Ministry of Information also said that the media “intentionally fabricated” allegations of human rights violations “in collusion with terrorist groups.” “Commentary: Shwe Maung Fails to Confess the Truth About Rakhine,” Myanmar Ministry of Information, November 3, 2016, <http://www.moi.gov.mm/moi:eng/?q=news/4/11/2016/id-9039> (accessed March 14, 2017).

<sup>18</sup> Matthew Smith, “Is Genocide Unfolding in Myanmar?,” *CNN*, December 6, 2016, <http://www.cnn.com/2016/12/05/opinions/rakhine-state-rohingya-genocide-opinion/> (accessed March 14, 2017).

<sup>19</sup> See Patrick Winn, “Myanmar’s Army is Tormenting Muslims with a Brutal Rape Campaign,” *PRI*, February 7, 2017, <https://www.pri.org/stories/2017-02-07/myanmar-s-army-tormenting-muslims-brutal-rape-campaign> (accessed March 15, 2017); State Counselor Office Information Committee, “Fake Rape,” December 26, 2016, <https://www.facebook.com/MyanmarSCInfoCom/photos/a.639477959558647.1073741828.639456206227489/660386870801089/?type=3&theater> (accessed March 15, 2017).



Since October, the government established four commissions tasked with investigating the situation in Rakhine State. None are sufficiently independent and their work to date lacks credibility. This compounds the government's failure to properly investigate violence and attacks in 2012 in Rakhine State as well as its failure to properly address widespread and systematic human rights violations perpetrated against Rohingya for decades as a matter of state policy.

On December 1, President Htin Kyaw established an "Investigation Committee" with a mandate to "probe into the background situations . . . and the truth about" the October attacks and "to investigate whether existing laws, rules and regulations were observed in taking measures to avoid similar incidents in the future."<sup>20</sup> The Commission is chaired by Myint Swe, a retired Myanmar Army Lieutenant General who is currently Myanmar's First Vice President after being selected by the military as its nominee for the presidency.<sup>21</sup> The membership of the 13-person commission is dominated by current and former military and government officials and includes the current Chief of the Myanmar Police Force.<sup>22</sup>

Two high-level U.N. Special Advisors raised concerns about the composition, mandate, and credibility of the Myint Swe Commission.<sup>23</sup> Human rights organizations, including Fortify Rights, also roundly panned its independence and methodology.<sup>24</sup> The performance of the commission to date underscores these concerns.

---

<sup>20</sup> President's Office, Republic of the Union of Myanmar, "Formation of Investigation Commission," Notification 89/2016, December 1, 2016, <http://www.president-office.gov.mm/en/?q=briefing-room/news/2016/12/05/id-6883> (accessed March 14, 2017).

<sup>21</sup> Hnin Yadana Zaw and Antoni Slodkowski, "Myanmar Military Chooses Hardliner to Work with Suu Kyi's Proxy President," *Reuters*, March 11, 2016, <http://www.reuters.com/article/us-myanmar-politics-idUSKCN0WD0BS> (accessed March 14, 2017). Myint Swe was reportedly involved in the bloody crackdown on peaceful protesters during the 2007 "Saffron Revolution." See "Myint Swe Nominated as New Vice-President," *The Irrawaddy*, July 10, 2012, <https://www.irrawaddy.com/news/burma/myint-swe-nominated-as-new-vice-president.html> (accessed March 14, 2017).

<sup>22</sup> President's Office, Republic of the Union of Myanmar, "Formation of Investigation Commission."

<sup>23</sup> "Note to Correspondents: Statement by Mr. Vijay Nambiar, Special Adviser of the United Nations Secretary-General on Myanmar," United Nations Secretary-General, statement, December 8, 2016, <https://www.un.org/sg/en/content/sg/note-correspondents/2016-12-08/note-correspondents-statement-mr-vijay-nambiar-special> (accessed March 14, 2017); "Statement by Adama Dieng, United Nations Special Adviser on the Prevention of Genocide Following OHCHR's Report on the Situation in Northern Rakhine State, Myanmar," United Nations, press release, February 6, 2017, [http://www.un.org/en/genocideprevention/documents/20170206%20Statement\\_Myanmar\\_reaction%20to%20OHCHR%20report\\_Final.pdf](http://www.un.org/en/genocideprevention/documents/20170206%20Statement_Myanmar_reaction%20to%20OHCHR%20report_Final.pdf) (accessed March 14, 2017).

<sup>24</sup> "Myanmar: National Efforts to Investigate Rakhine State Violence are Inadequate," Amnesty International, public statement, February 21, 2017, <https://www.amnesty.org/en/documents/asa16/5758/2017/en/> (accessed March ); "Activists Reject New Commission as Annan Visits," *Agence France Presse*, December 02, 2016, <http://frontiermyanmar.net/en/activists-reject-new-rakhine-commission-as-annan-visits> (quoting Fortify Rights: "We've got little faith in another homegrown commission, particularly if it's headed by a military man.") (accessed March 14, 2017); Libby Hogan, "Arakan Probe Faces Added Scrutiny After UN Report of Rohingya Abuses," *Democratic Voice of Burma*, February 7, 2017,

On January 3, the commission released an “Interim Report” based on a three-day visit to Rakhine State.<sup>25</sup> The report cited ongoing investigations into allegations of rape, illegal arrests, torture, and destruction of property, but failed to present any findings concerning these violations.<sup>26</sup> Instead, the report cited the presence of “Bengalis” and mosques in the region as evidence that persecution and “genocide” were not occurring.<sup>27</sup> It repeated the claims of security forces that they were “ready to take legal action against those who committed crimes if there was sufficient evidence” and cast doubts on the claims of survivors by citing “potential conditions of fabricated rumors and news regarding the events.”<sup>28</sup>

The Myint Swe Commission was due to submit its final report on January 31, but the government extended the deadline indefinitely after the commission requested additional time to conduct its investigation.<sup>29</sup> Fortify Rights received credible information that suggests the delay was intended to prevent the establishment of a Commission of Inquiry or similar mechanism at the 34<sup>th</sup> session of the Human Rights Council this month. Members of U.S. Congress, the Trump Administration, and the international community must ensure that this strategy does not prevail.

The publication of the OHCHR report in early February 2017 put the Myanmar government under significant pressure to address the situation in Rakhine State. The government quickly affirmed that it was investigating the allegations through the Myint Swe Commission.<sup>30</sup> In the weeks that followed, both the Myanmar Army and Police Force initiated separate investigations into the allegations in the OHCHR report.<sup>31</sup> The two investigation teams are staffed entirely by active duty military and police officers, respectively, leaving no doubt that they lack the independence and credibility necessary to carry out impartial investigations.<sup>32</sup> Beyond the composition

---

<http://www.dvb.no/news/arakan-probe-faces-added-scrutiny-un-report-rohingya-abuses/73998> (quoting Phil Robertson, Human Rights Watch Deputy Director, Asia Division: “From its chair on down, it’s problematic because it’s full of military and government insiders who have no real incentive to become truth tellers to a government that so far has been denying facts and holding its hands firmly over its ears.”) (accessed March 14, 2017).

<sup>25</sup> Investigation Commission of Maungtaw, Interim Report of the Investigation Commission on Maungtaw, January 3, 2017, <http://www.statecounsellor.gov.mm/en/node/581> (accessed March 14, 2017).

<sup>26</sup> Ibid., paras. 10-11.

<sup>27</sup> Ibid., para. 10.

<sup>28</sup> Ibid., para. 11 and 16.

<sup>29</sup> Nyan Lynn Aung, “Rakhine Commission Requests Extension for Final Report,” *Myanmar Times*, February 1, 2017, <http://www.mmtimes.com/index.php/national-news/24771-rakhine-commission-requests-extension-for-final-report.html> (accessed March 14, 2017).

<sup>30</sup> “Press Release,” Ministry of Foreign Affairs, press release, February 9, 2017, <http://www.mofa.gov.mm/?p=8002> (accessed March 14, 2017).

<sup>31</sup> “Tatmadaw Releases Reaction to OHCHR Report,” *Global New Light of Myanmar*, February 10, 2017, <http://www.burmalibrary.org/docs23/GNLM2017-02-10-red.pdf> (accessed March 14, 2017); “Ministry of Home Affairs Issues Press Release,” *Global New Light of Myanmar*, February 12, 2017, <http://www.burmalibrary.org/docs23/GNLM2017-02-12-red.pdf> (accessed March 14, 2017).

<sup>32</sup> Ibid.

of the investigation teams, little else is known about the mandate or methodology of the military and police investigations.

The Rakhine State Parliament also established an investigation commission, but its mandate focused only on investigating the attacks on the border police outposts.<sup>33</sup> To our knowledge, it has not publicly reported on its findings.

In August 2016, prior to the attacks in Rakhine State and the latest round of violence, the Myanmar government established an “Advisory Commission on Rakhine State” chaired by former U.N. Secretary General Kofi Annan.<sup>34</sup> The government mandated the Advisory Commission to “consider humanitarian and development issues, access to basic services, the assurance of basic rights, and the security of the people of Rakhine” and to submit a report of its findings and recommendations within one year.<sup>35</sup> The commission is focused on “challenges identified jointly by the Commission and the Government of Myanmar” with regard to Rakhine State. It comprises six Myanmar nationals and three foreigners, including Mr. Annan.

In September 2016, Mr. Annan publicly clarified that his commission would not investigate alleged human rights violations in Rakhine State, stating, “We are not here to do a human rights investigation or to write a human rights report.”<sup>36</sup> Fortify Rights confirmed that the Annan Commission is not collecting evidence of human rights violations in Rakhine State.<sup>37</sup>

On March 15, the Annan Commission released interim recommendations, including a recommendation “that perpetrators of serious human rights violations are held accountable.”<sup>38</sup>

---

<sup>33</sup> “Arakan State Parliament Forms Commission to Investigate Maungdaw Attacks,” *The Irrawaddy*, October 26, 2016. The commission’s chairperson stated in an interview that rape of Rohingya women could not have taken place because they are “very dirty” and “they are not attractive so neither the local Buddhist men or the soldiers are interested in them.” “Muslim Civilians ‘Killed by Burmese Army,’” *BBC*, November 7, 2016, <http://www.bbc.com/news/world-asia-37892512> (accessed March 14, 2017).

<sup>34</sup> “Establishment of the Advisory Commission on Rakhine State,” Office of the State Counselor, press release, August 23, 2016, <http://www.globalnewlightofmyanmar.com/establishment-of-the-advisory-commission-on-rakhine-state/> (accessed March 14, 2017).

<sup>35</sup> *Ibid.*

<sup>36</sup> Moe Myint, “Kofi Annan: Commission Will Not Do ‘Human Rights Investigation’ in Arakan State,” *The Irrawaddy*, September 8, 2016, <https://www.irrawaddy.com/news/burma/kofi-annan-commission-will-not-do-human-rights-investigation-in-arakan-state.html> (accessed March 14, 2017).

<sup>37</sup> “Myanmar: Civil Society Calls for International Investigation in Rakhine State,” Fortify Rights, news release, January 18, 2017, <http://www.fortifyrights.org/publication-20170118.html> (accessed March 14, 2017).

<sup>38</sup> Advisory Commission on Rakhine State, *Interim Report and Recommendations*, March 15, 2017, <http://www.rakhinecommission.org/app/uploads/2017/03/Advisory-Commission-Interim-Report.pdf> (accessed March 15, 2017).

## Restrictions in Rakhine State

Human rights violations against the Rohingya are not a new phenomenon and did not begin in October 2016. For decades, Rohingya Muslims in Rakhine State have suffered severe discrimination and human rights violations and abuses. In 2014, Fortify Rights published a 79-page report based in part on official government documents and public records revealing widespread and systematic “population control” restrictions that deny Rohingya basic human rights, including the rights to nondiscrimination, freedom of movement, marriage, family, health, and privacy.<sup>39</sup> To this day, these discriminatory restrictions remain in effect and affect more than one million people.

Fortify Rights believes the restrictions imposed on Rohingya in Rakhine State rise at least to the level of persecution as a crime against humanity, implicating the involvement of state and central government authorities. Three “regional orders” from Rakhine State obtained by Fortify Rights—dated 1993, 2005, and 2008—were signed by state-level government officials and copied to various departments falling under state and central government jurisdictions.

Rakhine State government officials and ministers of the central government also discussed on record the restrictions against Rohingya since at least 2011 and as recently as this week.<sup>40</sup> For example, last week Maungdaw District Administrator Ye Htut told *The Irrawaddy* that government policy regulates freedom of movement even for Rohingya holders of National Verification Cards (NVCs)—an identity document the authorities are coercing Rohingya to accept in Rakhine State. NVC holders are required to obtain travel permits from the state in order to travel to different townships within Rakhine State.<sup>41</sup>

In 2011, the Minister of Defense at the time, Lieutenant-General Hla Min, also approvingly explained in Myanmar Parliament the restrictive policies against Rohingya.<sup>42</sup> On July 31, 2012, Myanmar’s Minister of Home Affairs Lieutenant-General Ko Ko likewise told Myanmar Parliament that the authorities were “tightening the regulations [against Rohingya] in order to handle travelling, birth, death, immigration, migration, marriage, construction of new religious buildings, repairing and land ownership and [the] right to construct building[s]....”<sup>43</sup>

<sup>39</sup> Fortify Rights, *Policies of Persecution: Ending Abusive State Policies Against Rohingya Muslims in Myanmar*.

<sup>40</sup> Moe Myint, “NVC Holders Granted Limited Freedom of Movement in Northern Arakan State,” *The Irrawaddy*, March 14, 2017, <https://www.irrawaddy.com/news/burma/nvc-holders-granted-limited-freedom-of-movement-in-northern-arakan-state.html> (accessed March 14, 2017).

<sup>41</sup> Ibid.

<sup>42</sup> “Second Regular Session of First Amyotha Hluttaw Continues for Ninth Day,” *New Light of Myanmar*, September 1, 2011, <http://www.burmalibrary.org/docs11/NLM2011-09-02.pdf> (accessed March 14, 2017).

<sup>43</sup> “Reforms Must be Undertaken for Financial and Legal Institutional Development During the Drafting Process of Monetary and Capital Market Law: MPs,” *New Light of Myanmar*, <http://www.burmalibrary.org/docs13/NLM2012-08-01.pdf> (accessed March 14, 2017).

These restrictions should be part of the focus of a Commission of Inquiry or similar independent, international investigation.

### **Denial of Citizenship and Restrictions on Freedom of Movement**

The Myanmar government also denies Rohingya equal access to citizenship rights through the application of the 1982 Citizenship Act. This law is discriminatory and has created the world's largest stateless population within the borders of a single country.<sup>44</sup>

In turn, the authorities use Rohingya statelessness to deny Rohingya freedom of movement. The government prevents Rohingya from traveling freely between villages, townships, and beyond through a series of orders that remain in effect.

The authorities consider any violation of the restrictions on movement to be a criminal act, punishable under the Registration of Residents Act as well as section 188 of the Penal Code, which brings prison time, a fine, or both. Rohingya who dare to travel without official permission face violence from state security forces.

Testimonies collected by Fortify Rights since 2013 document how restrictions on freedom of movement infringe on the rights to health, education, and livelihood as well as religious rights.<sup>45</sup> For several years, Rohingya refugees have explained to Fortify Rights that they fled the country in part due to restrictions on freedom of movement.<sup>46</sup>

These restrictions are discriminatory and unlawful. They are not time-bound, established in law, or proportionate to a specific and justifiable aim, making the restrictions inconsistent with international human rights law. Moreover, no such restrictions are imposed on the nearby displaced and non-displaced Rakhine Buddhist population, making the measures discriminatory. They serve no security function.

These restrictions should be part of the focus of a Commission of Inquiry or similar independent, international investigation.

### **Anti-Muslim Violence in 2012**

---

<sup>44</sup> In 2013, UNHCR listed 810,000 people in Myanmar under its statelessness mandate—more than any other country in the world. See UNHCR, “UNHCR Global Trends: Stateless Persons,” 2013, <http://www.unhcr.org/en-us/protection/statelessness/546e01319/statistics-stateless-persons.html> (accessed March 14, 2017).

<sup>45</sup> See, for example, Fortify Rights interview with A.C.C., Aung Mingalar, Rakhine State, Myanmar, August 2015; Fortify Rights interview with A.C.F. and A.C.E, Sittwe Township, Rakhine State, Myanmar, September 2, 2015.

<sup>46</sup> See, for example, Fortify Rights interview with E.D., Kuala Lumpur, Malaysia, September 27, 2014.

In 2012, a series of clashes between Muslim and Buddhist communities in Rakhine State led to a systematic campaign of violence against Rohingya and Kaman Muslims, abetted by state security forces.<sup>47</sup> State security forces and Rakhine civilians perpetrated attacks on Rohingya in 13 of 17 townships in Rakhine State. Entire villages were razed.

I was in Rakhine State shortly after the onset of initial attacks in June 2012 and subsequent attacks in October 2012.

In Yan Thei, Mrauk-U Township, attackers killed 70 Rohingya on October 23, 2012, including 28 children—13 under the age of five.<sup>48</sup> Children were hacked to death and some were thrown into fires. Entire villages were razed. I documented the existence of several mass-grave sites in Rakhine State with Human Rights Watch.<sup>49</sup> Despite the publication of this information, the Myanmar authorities failed to properly investigate or send forensics experts to assess the situation.<sup>50</sup>

An unpublished U.N. investigation in 2013 obtained by *Al Jazeera's* investigative unit found that state security forces raped more than 100 Rohingya women and girls in the aftermath of the 2012 violence, among other grave human rights violations.<sup>51</sup> These crimes and others were the subject of an award-winning documentary.<sup>52</sup> The Myanmar government has failed to hold anyone to account.

The violence in 2012 left more than 100,000 people internally displaced and subsequently forced at least as many to flee the country. From 2012 to 2015, masses of Rohingya refugees fell victim to transnational human trafficking syndicates—a deadly fate in which Myanmar authorities were, in some cases, complicit.<sup>53</sup>

---

<sup>47</sup> Human Rights Watch, “*All You Can Do Is Pray*”: Crimes Against Humanity and Ethnic Cleansing of Rohingya Muslims in Burma’s Arakan State, April 22, 2013, <https://www.hrw.org/report/2013/04/22/all-you-can-do-pray/crimes-against-humanity-and-ethnic-cleansing-rohingya-muslims> (accessed March 14, 2017).

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

<sup>51</sup> United Nations Office of the High Commissioner for Human Rights, *Internal Report on the Findings of OHCHR’s Rapid Response Deployment in Support of the Humanitarian Response in Rakhine State: Human Rights Issues*, April 2013, <http://www.aljazeera.com/indepth/features/2015/10/genocide-agenda-documents-presented-evidence-151025142655214.html> (accessed March 14, 2017).

<sup>52</sup> “Genocide Agenda,” *Al Jazeera Investigative Unit*, October 26, 2015, <http://www.aljazeera.com/investigations/genocideagenda.html> (accessed March 14, 2017).

<sup>53</sup> “Myanmar: Authorities Complicit in Human Trafficking, Smuggling,” Fortify Rights, news release, November 7, 2014, <http://www.fortifyrights.org/publication-20141107.html> (accessed March 14, 2017). See also Fortify Rights, “Testimony of Fortify Rights to the U.S. House Committee on Foreign Affairs, delivered by Matthew Smith, March 22, 2016,” [http://www.fortifyrights.org/downloads/Testimony\\_20160322.pdf](http://www.fortifyrights.org/downloads/Testimony_20160322.pdf) (accessed March 14, 2017); “Left for Dead: Myanmar’s Muslim Minority,” *Vice News*, November 11, 2016, [https://www.vice.com/en\\_id/article/left-for-dead-myanmars-muslim-minority-full-length](https://www.vice.com/en_id/article/left-for-dead-myanmars-muslim-minority-full-length) (accessed March 14, 2017).

Today, the Government of Myanmar continues to confine approximately 120,000 Rohingya—displaced since the 2012 violence—to at least 40 internment camps in eight townships in Rakhine State. The authorities deny them adequate humanitarian aid, freedom of movement, the right to livelihood, and other basic freedoms.<sup>54</sup> Nearly five years after their initial displacement, the government continues to enforce avoidable deprivations in food aid, denying basic assistance to thousands of people who are confined to the camps.

Displaced Rohingya women face particular challenges, including gender-based violence as well as restrictions on access to maternal health care, protection, and livelihood. It is not uncommon for Rohingya women confined to internment camps to pawn their food ration cards in exchange for access to some form of maternal health care, medications, or other necessities.

In 2015, a 78-page legal analysis prepared for Fortify Rights by the Allard K. Lowenstein International Human Rights Clinic at Yale Law School concluded that strong evidence exists to establish the elements of the crime of genocide against Rohingya.<sup>55</sup> The analysis found that Rohingya are a protected group as defined under the Genocide Convention; that Rohingya suffered acts of genocide as enumerated by the Convention; and that those acts were committed with the intent to destroy Rohingya as a group, in whole or in part.<sup>56</sup>

Fortify Rights and the team from Yale Law School, led by Professor Jim Silk, recommended that the U.N. Human Rights Council urgently adopt a resolution mandating a Commission of Inquiry to fully assess the totality of the situation in Rakhine State, including human rights violations against Rohingya Muslims as well as Rakhine Buddhists.<sup>57</sup>

### **Rohingya Militancy**

The militant group behind the coordinated attacks on police posts in northern Rakhine State on October 9 calls itself *Harakah al-Yaqin*, or Faith Movement in Arabic. Following the attacks, the group released several amateur propaganda videos online.<sup>58</sup> One video shows a small group of young men with a few assault

<sup>54</sup> For demographic figures, see U.N. Office for the Coordination of Humanitarian Affairs, “Humanitarian Bulletin: Myanmar,” April – June 2016, Issue 2 (2016), [http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA\\_Myanmar\\_Humanitarian%20Bulletin\\_April-June\\_2016.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA_Myanmar_Humanitarian%20Bulletin_April-June_2016.pdf) (accessed March 14, 2017).

<sup>55</sup> The Allard K. Lowenstein International Human Rights Clinic at Yale Law School, prepared for Fortify Rights, *Is Genocide Occurring in Myanmar’s Rakhine State? A Legal Analysis*, October 2015, [http://www.fortifyrights.org/downloads/Yale\\_Persecution\\_of\\_the\\_Rohingya\\_October\\_2015.pdf](http://www.fortifyrights.org/downloads/Yale_Persecution_of_the_Rohingya_October_2015.pdf) (accessed March 14, 2017).

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*

<sup>58</sup> “Myanmar: Protect Civilians in Rakhine State, Investigate Fatal Shootings,” Fortify Rights, news release, October 12, 2016, <http://www.fortifyrights.org/publication-20161012.html> (accessed March 14, 2017).

rifles and handguns while an apparent leader—later identified as Ata Ullah, a Pakistan-born Rohingya man raised in Mecca—calls for volunteers to engage in armed conflict in Rakhine State.<sup>59</sup> Another video shows a larger, bedraggled group of Rohingya men and boys walking single-file through a field in flip-flops and civilian clothes, mostly armed with sticks, knives, and farming equipment.<sup>60</sup>

In a December report, the International Crisis Group alleged that *al-Yaqin* was established in 2012 following anti-Muslim violence in Rakhine State.<sup>61</sup> Crisis Group reported that *al-Yaqin* is well-organized, well-funded, and well-trained and that it has “considerable sympathy and backing from the local Muslim population.”<sup>62</sup> The group was sensationally dubbed “the world’s newest Muslim insurgency.”<sup>63</sup>

Since December, Fortify Rights has yet to find evidence that *al-Yaqin* is well-organized, well-funded, or well-trained. Most Rohingya interviewed by Fortify Rights had never heard of *al-Yaqin* or any active Rohingya militia; very few expressed any moral or other support for the group.<sup>64</sup>

This is not to say that *al-Yaqin* does not pose a threat—it does. However, the Myanmar military’s heavy-handed response and ongoing human rights violations against civilians will likely do more than anything else to attract militants and effectively heighten the threat of violent extremism from non-state actors.

Any failure by the international community to properly address the human rights situation may drive disaffected Rohingya youth to armed resistance. Moreover, if the international community grants Myanmar its wish to avoid a Commission of Inquiry, then the festering situation is likely to have serious security implications.

### **The Right to a Remedy and the Responsibility to Investigate**

The right to a remedy for human rights violations is a well-established norm of international law.<sup>65</sup> Numerous human rights treaties, including conventions to

---

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> International Crisis Group, *Myanmar: A New Muslim Insurgency in Rakhine State*, December 15, 2016, <https://www.crisisgroup.org/asia/south-east-asia/myanmar/283-myanmar-new-muslim-insurgency-rakhine-state> (accessed March 14, 2017).

<sup>62</sup> Ibid.

<sup>63</sup> Tim Johnston and Anagha Neelakantan, “The World’s Newest Muslim Insurgency is Being Waged in Burma,” *TIME*, December 14, 2016, <http://time.com/4601203/burma-myanmar-muslim-insurgency-rohingya/> (accessed March 14, 2017).

<sup>64</sup> Fortify Rights interviews with survivors and eyewitnesses, Cox’s Bazar, Bangladesh, December 2016.

<sup>65</sup> See, for example, Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), art. 8. (“Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights guaranteed him by the constitution or law.”); International Covenant on Civil and Political Rights (ICCPR), G.A. Res. 2200A (XXI), U.N. Doc. A/6316 (1966), art. 2(3) (“Each State Party to the present Covenant undertakes: (a)



which Myanmar is a state party, protect it.<sup>66</sup> It is also protected by customary international law, which binds all parties regardless of their treaty commitments.<sup>67</sup> The right to a remedy imposes an obligation on states to investigate credible allegations of human rights violations.<sup>68</sup> The primary responsibility for investigating reports of human rights violations in Myanmar therefore lies with the Government of Myanmar.

However, international law assigns the international community a role in addressing human rights violations when a country is unwilling or unable to meet its own obligations to ensure that such violations are investigated and remedied. Treaties and other binding international instruments establish the authority of various U.N. bodies and inter-governmental organizations to act on situations involving grave human rights abuses in certain specified contexts.<sup>69</sup> In particular, the U.N. Human Rights Council was established in 2006 with a mandate to “address situations of violations of human rights, including gross and systematic violations” and “respond promptly to human rights emergencies.”<sup>70</sup>

Members of U.S. Congress and the Trump Administration must ensure the Human Rights Council responds promptly to the emergency in Rakhine State.

---

To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) To ensure that the competent authorities shall enforce such remedies when granted.”)

<sup>66</sup> See, for example, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted July 22, 1997, G.A. Res. 34/180, U.N. Doc. A/34/46 (1979), art. 2; Committee on the Elimination of Discrimination against Women, *General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, U.N. Doc. CEDAW/C/2010/47/GC.2, para. 32; Convention on the Rights of the Child (CRC), adopted July 15, 1991, G.A. Res. 44/25, U.N. Doc. A/44/49 (1989), art. 4; Committee on the Rights of the Child, *General Comment No. 5: General Measures of Implementation of the Convention on the Rights of the Child*, U.N. Doc. CRC/GC/2003/5, November 27, 2003, art. 24.

<sup>67</sup> U.N. General Assembly, *Resolution Adopted by the General Assembly: Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, U.N. Doc. A/RES/60/147, March 21, 2016, para. 1.

<sup>68</sup> *Ibid.* at para. 3(b); Human Rights Committee, *General Comment 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, U.N. Doc. CCPR/C/21/Rev.1/Add. 13, May 26, 2004, para. 8 and 15.

<sup>69</sup> See, for example, Charter of the United Nations, 1 UNTS XVI, October 24, 1945, Chapter VI (empowering the General Assembly to “discuss any questions or any matters within the scope of the present Charter” and make recommendations on such matters) and Chapter VII (empowering the Security Council to act concerning “threats to the peace”); ICCPR, Part IV (establishing the Committee on Human Rights to promote human rights enshrined in the ICCPR).

<sup>70</sup> U.N. General Assembly, *Resolution Adopted by the General Assembly: Human Rights Council*, U.N. Doc. A/RES/60/251, April 3, 2006, paras. 3 and 5(f).

### Establishing a UN-Mandated Commission of Inquiry or Similar Mechanism

In a written response to Senator Ben Cardin of the Senate Foreign Relations Committee regarding human rights violations against Rohingya, U.S. Secretary of State Rex Tillerson correctly warned that the mistreatment of Rohingya in Myanmar “threatens to radicalize a generation of young Rohingya.”<sup>71</sup> Secretary Tillerson called upon the U.S. “to support regional and international efforts to investigate abuses and pressure the Burmese [Myanmar] government and military.”<sup>72</sup>

A United Nations-mandated Commission of Inquiry or similar mechanism would do just that.

Myanmar’s failure to credibly investigate human rights violations in Rakhine State despite the numerous highly detailed reports of widespread and grave violations unequivocally establishes the need for a U.N. mandated Commission of Inquiry or a similar international mechanism. In recent months, numerous other individuals and organizations have called for the U.N. to establish an international body to conduct such an investigation, including the U.N. High Commissioner for Human Rights, the U.N. Special Rapporteur on the situation of human rights in Myanmar, Nobel Laureates and global leaders, global Rohingya groups, 40 Myanmar-based civil society organizations, and international human rights organizations.<sup>73</sup>

In recent years, the Human Rights Council has become the primary mandating authority for commissions of inquiry focused on situations involving grave human rights violations. Since 2010, the Human Rights Council has established eight

---

<sup>71</sup> “Bringing Burma Back From the Brink,” *Wall Street Journal*.

<sup>72</sup> *Ibid.*

<sup>73</sup> “Myanmar: UN #HumanRights Chief says there must be commission of inquiry on violations in northern #Rakhine, possibly referral to #ICC,” U.N. Office of the High Commissioner for Human Rights, twitter post, February 7, 2017, <https://twitter.com/OHCHRAsia/status/829178607616421888> (accessed March 14, 2017); Human Rights Council, *Report of the Special Rapporteur on the Situation of Human Rights in Myanmar*, U.N. Doc. A/HRC/34/67, March 1, 2017, para. 88(a); The Yunnus Centre, “Open letter to the President of the Security Council and Member Countries of the Council to End the Human Crisis of Rohingyas in Myanmar,” December 30, 2016, <http://www.muhammadyunus.org/index.php/news-media/news/1630-open-letter-to-the-president-of-the-security-council-and-member-countries-of-the-council-to-end-the-human-crisis-of-rohingyas-in-myanmar> (accessed March 14, 2017); “Statement from Rohingya Communities Worldwide: Request OIC to support UN Commission of Inquiry,” January 17, 2017, <http://brouk.org.uk/?p=1225> (accessed March 14, 2017); “Call for a Truly Independent Investigation into the Situation in Rakhine State,” Fortify Rights et al, joint statement, January 18, 2017, [http://www.fortifyrights.org/downloads/joint-COI-Statement-\(Burmese+English\)-18-Jan-2017.pdf](http://www.fortifyrights.org/downloads/joint-COI-Statement-(Burmese+English)-18-Jan-2017.pdf) (accessed March 14, 2017); “Joint letter to Permanent Representatives of Member and Observer States of the United Nations Human Rights Council,” Fortify Rights et al, open letter, March 3, 2017, [http://www.fortifyrights.org/downloads/Myanmar\\_Joint\\_open\\_letter\\_to\\_UNHRC\\_members.pdf](http://www.fortifyrights.org/downloads/Myanmar_Joint_open_letter_to_UNHRC_members.pdf) (accessed March 14, 2017).

commissions.<sup>74</sup> None of the Human Rights Council's members possess veto powers and decisions are made by a simple majority vote.<sup>75</sup>

The U.N. Commission on Human Rights passed a resolution on the human rights situation in Myanmar every year since 1992, and its successor, the U.N. Human Rights Council, has continued that tradition without interruption since it formed in 2006.

The establishment of a Commission of Inquiry or similar mechanism should not be perceived as an inevitable confrontation with the Myanmar government as a whole. Rather, a Commission of Inquiry would help clarify which institutions are primarily responsible for human rights violations in Rakhine State and empower other institutions and political actors who support transparent governance and a human rights agenda.

### **Recommendations**

Now is a critical time for Myanmar, the Rohingya, and other ethnic nationalities in the country. Barring a credible, independent, international investigation, there is a risk that the situation of the Rohingya will worsen. We may see more outbreaks of deadly attacks on Rohingya civilians and, at present, there are no indications that those responsible for ongoing human rights violations will be held accountable or that systematic human rights violations will cease. The potential for domestic remedies has been exhausted.

The United States has significant influence in Myanmar and with the Myanmar authorities. We fully encourage members of Congress from both parties to work with the Trump Administration to adopt an urgent, clear, and outcome-oriented human rights-focused approach to support Rohingya communities and end impunity as well as ongoing violations.

Specifically, members of Congress should work closely with the Trump administration to press for the establishment of a U.N.-mandated Commission of Inquiry or similar mechanism to investigate possible crimes against humanity in Rakhine State from at least 2012 to the present day. Members of Congress should also work closely with the Trump administration to ensure the Government of Myanmar:

- Provides free and unfettered humanitarian access to all populations in need in Rakhine State and other ethnic areas in Myanmar.

---

<sup>74</sup> The Human Rights Council established commissions of inquiry or similar bodies for Palestine/Israel, Libya, Côte d'Ivoire, Syria, North Korea, Eritrea, South Sudan and Burundi.

<sup>75</sup> U.N. General Assembly, *Resolution Adopted by the General Assembly: Human Rights Council*, para. 11; U.N., *Rules of Procedure of the General Assembly*, U.N. Doc. A/520/Rev.17, 2008, Rule 125, "Majority required."

- Amends the 1982 Citizenship Act to restore equal access to full citizenship rights for Rohingya and other stateless populations in the country.
- Ensures the right of displaced populations to return home safely and with dignity.
- Immediately repeals all local orders and ceases practices that restrict the marriage, movement, childbirth, and livelihoods of Rohingya. Naypyidaw should communicate to central, state, and local governments and the general public that the relevant authorities should immediately cease all official and unofficial practices related to restrictions against Rohingya and other Muslims in Rakhine State.
- Immediately lifts all restrictions on freedom of movement in Rakhine State, including on internally displaced Rohingya and other Muslims and those confined to internment camps.
- Implements policies and procedures and allocates resources to facilitate access to adequate health care for all people in need in Rakhine State, particularly for Rohingya women and with an emphasis on ensuring equal access to reproductive healthcare, supplies, and services.
- Provides equal protection under the law to all ethnic nationalities in Myanmar, including Rohingya and other Muslims in Rakhine State.
- Publishes information about the fate of the hundreds of Rohingya and Rakhine detained since June 2012 in Rakhine State.
- Ensures that anyone in detention has access to legal counsel of their choosing and to family members, and ensures that legal counsel can conduct their work freely and safely.
- Immediately releases all detainees in Rakhine State that have not been charged with a cognizable criminal offense, and releases all people charged for “crimes” that infringe on their basic human rights.

Thank you very much.

Mr. McGOVERN. Thank you very much. Ms. Gittleman.

**STATEMENT OF ANDREA GITTLEMAN, PROGRAM MANAGER,  
SIMON-SKJODT CENTER FOR THE PREVENTION OF GENOCIDE**

Ms. GITTLEMAN: Thank you. Thank you, Chairman McGovern, and members and staff of the Tom Lantos Human Rights Commission, for convening this hearing on such an urgent topic. Your steadfast leadership on human rights in Burma is important, as the country faces new and growing spikes in violence against civilians.

And thank you for your invitation to speak about atrocities being perpetrated against Rohingya in Burma today, atrocities that I must say up front are preventable. I speak on behalf of the U.S. Holocaust Memorial Museum's Simon-Skjodt Center for the Prevention of Genocide. We believe that timely global action by policymakers can prevent mass atrocities. The Simon-Skjodt Center sounded the alarm about early warning signs of genocide against the Rohingya two years ago, after conducting an investigation into state-led acts of persecution that targeted the Rohingya population.

Center staff visited what can only be described as internment camps and spoke with Rohingya who had been violently displaced from their homes. We were told of the devastating impact that official policies of persecution were having on the Rohingya. And some of those impacts are depicted here today in photos in this room.

In September and October of 2016, the Simon-Skjodt Center worked with Fortify Rights to get a sense of what may have changed in terms of the Rohingya situation since the National League for Democracy came to power. Throughout conversations with experts in the country, the overwhelming response we heard from too many people was an acceptance of the status quo.

In conversations less than one week before the outbreak of violence in northern Rakhine State, most people who were not Rohingya claimed that there was little risk of physical violence in the area. Yet, on October 9, Burma's military and other security forces cracked down on Rohingya civilians following deadly attacks on police officers. We were disturbed by the brutality of military action, but we were not shocked that it happened. Of course, state-led persecution and unchecked abuses by security forces are ingredients for wider violence.

Simon-Skjodt Center staff interviewed Rohingya refugees who fled northern Rakhine State and crossed the border into Bangladesh. There, we heard stories of extrajudicial killing, people being shot, stabbed, burned to death, and of rape, torture, and the destruction of villages.

I spoke with one man who was 19 years old, who described what happened when the military entered his village. Soldiers went from house to house as he watched from a hiding spot near his own house. He described how the soldiers approached his father, held him down and slit his throat. The soldiers then threw his father's body back in the house and burned the house down using a device he described as a launcher. He described his hiding spot as being about 12 feet away from where his father was murdered and how he kept hiding even as his house burned, and suffered injuries as a result.

This man is just one of approximately 70,000 Rohingya who have fled to

Bangladesh since last October. We spoke to others who have similarly harrowing stories of mass atrocity crimes. When we asked why they thought the Burmese military had committed these brutal crimes, each respondent expressed, in one way or another, that the Burmese government hated them, wanted to hurt them, and wanted them gone.

When we hear their stories, we must remember that none of this was inevitable. The time for prevention may seem to have passed, but there is still an opportunity to protect other civilians who remain at risk.

Supporting the country as it moves away from military rule and mismanagement to a stable democracy is a paramount priority. The U.S. Government can support Burma's nascent transition to democracy while also speaking out about mass atrocities committed by its security forces.

Our leaders can do this in a few specific ways:

First, Members of Congress, as well as the administration, can express support for a Commission of Inquiry into the situation. Such support would echo, as has been mentioned, the High Commissioner for Human Rights as well as the Special Rapporteur.

Second, the U.S. Government should use all the tools available to encourage Burma to dismantle the laws and policies that persecute minorities. The outbreaks of physical violence are, perhaps, the clearest manifestation of these state policies, but forms of structural violence that devastate Rohingya communities must also be eliminated in order to more fully protect Rohingya from future atrocities.

Third, Congress can ensure that no further benefits are extended to the Burmese Government, including its military, until mass atrocities cease, and the Burmese Government upholds its responsibility to protect all of its people.

As I think back to the refugees I met in Bangladesh near the Burmese border, I think of the range of experiences the refugees shared when fleeing their villages. Some relied on the kindness of neighbors and strangers, and some were exploited by those seeking to profit off of trauma. The stories mirrored those told in our own museum, which described the varied human responses to mass suffering.

The Burmese Government has registered its response, one based on denials and restrictions on those who seek the truth. Now, the U.S. Government has the ability to shape its own responses to mass atrocities in Burma today.

Thank you for this opportunity.

[The prepared statement of Ms. Gittleman follows:]

## **PREPARED STATEMENT OF ANDREA GITTLEMAN**

**Testimony for Tom Lantos Human Rights Commission hearing**  
March 17, 2017

Andrea Gittleman  
Simon-Skjodt Center for the Prevention of Genocide  
United States Holocaust Memorial Museum

Thank you, Mr. McGovern and Mr. Hultgren, and members and staff of the Tom Lantos Human Rights Commission, for convening this hearing on such an urgent topic. Your steadfast leadership on human rights in Burma is important as the country experiences new and growing spikes in violence against civilians.

Thank you for your invitation to speak about atrocities being perpetrated against Rohingya in Burma today -- Atrocities that, I must say upfront, are preventable.

I speak on behalf of the United States Holocaust Memorial Museum's Simon-Skjodt Center for the Prevention of Genocide. The Simon-Skjodt Center believes that timely global action by policymakers can prevent mass atrocities. We seek to stimulate timely global action to prevent such crimes and to catalyze an international response when mass atrocities are already underway. We draw upon lessons learned from the Holocaust, and the failure to prevent genocide then, in order to inform policy decisions today.

The Simon-Skjodt Center sounded the alarm about early warning signs of genocide against the Rohingya two years ago, after conducting an investigation into state-led acts of persecution that targeted the Rohingya population. Burma was listed as the country most likely to experience a state-led mass killing in the Museum's early warning project - an ominous ranking which necessitated more research into these warning signs. For years, Rohingya have been forced to endure statelessness, the denial of essential services, a culture of impunity for those who attack them, and a climate of hatred that has allowed violence to fester. Center staff visited what can only be described as internment camps, and spoke with Rohingya who have been violently displaced from their homes. We also met with Rohingya who were living in a cordoned-off ghetto, separated from their Buddhist neighbors. We were told of the devastating impact that official policies of persecution were having on the Rohingya. When asked what the Burmese government wants to do with the Rohingya population, one Rohingya interviewee responded, "They want us all to go away."

Our warning was issued in a time of transition for Burma. Over the past few years, there has been general support for Burma's transition to democracy, coupled with the hope that these political changes would naturally protect Rohingya and other minorities. Hopes were high for Burma's new government, but shifts toward democracy have thus far been insufficient to erase the deeply ingrained structures of violence, hate, and impunity that threaten Rohingya. One Rohingya advocate described international praise for Burma's leaders as the "euphoria of change," but stressed that none of these improvements have reached the Rohingya people.

In September and October of 2016, the Simon-Skjodt Center worked with Fortify Rights to get a more detailed sense of what may have changed in terms of the Rohingya situation since the National League for Democracy came to power. Sadly, the situation has not improved for Rohingya since our first investigation in 2015. In fact, Rohingya may be in an even worse situation now, as the international community has discarded much of its leverage to press the Burmese government to protect them.

Throughout conversations in the country with Rohingya and Rakhine leaders, diplomats, politicians, journalists, aid workers, and others, the overwhelming response we heard from too many people was an acceptance of a status quo. Enforced segregation, denial of services, and unchecked hate speech were seen by many who were not Rohingya as somehow acceptable. In conversations less than one week before the outbreak of violence in northern Rakhine State, local leaders and experts claimed that there was little risk of physical violence in the area.

Yet on October 9, Burma's military and other security forces cracked down on Rohingya civilians following deadly attacks on police officers. We were disturbed by the brutality of military action, but we were not shocked that it happened. State-led persecution, abuses by security forces, and strictly controlled international observation are all ingredients for wider violence.

Simon-Skjodt Center staff interviewed some Rohingya refugees who had fled northern Rakhine State and had crossed the border into Bangladesh. We heard stories of extrajudicial killing - people being shot, stabbed, or burned to death - and of rape, torture, and the destruction of villages.

I spoke with one man, 19 years old, who described what happened when the military entered his village. He fled his house and hid nearby in some trees and bushes, leaving his sick and elderly father behind, which he described as a difficult decision. Members of the military, who he identified by their uniforms, went from house to house as he watched from his hiding spot. When they arrived at his house, they called to his father, who was just outside the house but unable to respond to the soldiers. He described how the soldiers then punched his father, and made him lie down on the ground. He said that one soldier held his father's leg while another slit his throat. The soldiers then threw his father's body back in the house and burned the house down using a device he described as a launcher. He described his hiding spot as being about 12 feet away from his father as the murder unfolded, and how he kept hiding even as his house burned, and suffered injuries as a result. When the military left, he saw soldiers burning houses one by one. He also described how his father in law's family was killed by soldiers who locked the family, including young children, in their house and lit it on fire. He also said that three adult men from his extended family had been arrested, and that he has not heard from them since. He was understandably emotional from recounting all that had happened to his family, and expressed uncertainty about being able to get by, now that he was living in Bangladesh.

This man is just one of the more than 70,000 Rohingya who have fled to Bangladesh since October of last year. We spoke to others who have similarly harrowing stories of mass atrocity crimes.

When we asked why they thought the Burmese military had committed these brutal crimes, each respondent expressed, in one way or another, that the Burmese government hated them, wanted to hurt them, and wanted them gone. Rohingya



refugees spoke to us, as they have spoken to some other researchers including those from the Office of the High Commissioner for Human Rights, and they urged us to share their stories. They have faith that international actors will take swift action to urge the Burmese government to end the violence.

When we hear their stories, we must remember that none of this was inevitable. All of the warning signs were known. The time for prevention may seem to have passed, but there is still an opportunity to protect other civilians who remain at risk. There is still time for the U.S. government and others to press for civilian protection and accountability for mass violence in Burma.

Supporting the country as it moves away from military rule and mismanagement to a stable democracy is a paramount priority. The U.S. government can support Burma's nascent transition to democracy while also speaking out about mass atrocities committed by its security forces. We must demonstrate that we value human rights and the protection of civilians, no matter their identity - and that these values guide our relationship with Burma's government. Our leaders can send a clear message that we support democracy and greater openness in the country, and that we want these improvements to reach all communities. We can stress that a democratic transition that leaves out an entire population, just because of who they are, is not a genuine nor stable transition at all.

Our leaders can do this in a few specific ways:

First, Members of Congress as well as the Administration can express support for a commission of inquiry into the situation. Such support would echo the High Commissioner for Human Rights as well as the Special Rapporteur on the Situation of Human Rights in Myanmar.

Interviews conducted by the Simon-Skjoldt Center and other organizations have given us a sense of the brutality of the crackdown in the region, but full access for impartial and independent investigators is necessary in order to identify those responsible for the reported crimes, and to begin the process of accountability. Such an investigation would not be at odds with the broader policy of supporting the emergence of democracy in Burma. An investigation would address the longstanding violence by the military - and the impunity it has enjoyed - and would be a necessary step in moving away from the country's past military dominance.

Second, the U.S. government should use all the tools available to encourage Burma to dismantle the laws and policies that persecute minorities. The outbreaks of physical violence are perhaps the clearest manifestation of these state policies, but forms of structural violence that devastate Rohingya communities - including restrictions on access to health care and education, the denial of citizenship, and the freedom of movement - must also be eliminated in order to more fully protect Rohingya from future atrocities.

Third, Congress can ensure that no further benefits are extended to the Burmese government, including its military, until mass atrocities cease and the Burmese government upholds its responsibility to protect all of its people.

Finally, Congress can ensure that our policy regarding Burma centers on human rights and the protection of civilians, including Burma's minority communities. Ending mass atrocities must not be ancillary to other efforts related to economic growth or development. In fact, ending atrocities and promoting civilian protection is part of the same effort to promote peace and stability throughout the country. Our interviews revealed a genuine excitement by donors and the international community about new investment opportunities and development work in Burma. But an influx of development will help those who are best placed to be able to benefit from it - and it will not reach populations, including the Rohingya, who have been explicitly disconnected from accessing opportunities for growth within the country. More broadly, investments and achievements in development will not be secure if there is little progress regarding peace and stability in the country. Ending atrocities and dismantling the policies that allow them to continue, in addition to being a moral imperative, will create environments more conducive to investment and development. There can be no sustainable development, and no sustainable transition to democracy, if Burma's security forces are allowed to act with such brutality. Investigating crimes and promoting accountability must be central to broader efforts at strengthening Burma's development more broadly.

As I think back to the refugees I met in Cox's Bazaar, Bangladesh, near the Burmese border, I think of the range of experiences the refugees shared when fleeing their villages. Some relied on the kindness of neighbors and strangers as they sought safe passage across the border, some were exploited by those seeking to profit off of trauma. The stories mirrored those told in our own Museum, which describe the varied human responses to mass suffering. The Burmese government has registered its response - one based on denials and restrictions on those who seek the truth. Now, the U.S. government has the ability to shape its own responses to mass atrocities in Burma today. Congress has the opportunity to bear witness to atrocities taking place today, and the mandate to translate that awareness into action that ends atrocities.

---

Mr. McGOVERN. Thank you. Mr. Naeem.

**STATEMENT OF MOHAMED NAEEM, ETHNIC ROHINGYA AND  
COMMUNITY LEADER**

Mr. NAEEM: Good morning, Chairman. I would like to say thank you on behalf of the Rohingya people. We also thank you for your continued attention to the situation in Burma and leadership on this and other grave human rights issues.

I am a member of an ethnic group from Burma, and I ran for office in 2010 general election. Even though I technically won the election in 2010, I was not able to

represent my people in Parliament. In the 2015 general election, all of our Rohingya candidates were disqualified, and the entire Rohingya population of 1.3 million people were disenfranchised and denied the rights of votes. This was the first time in history of voting in Burma that Rohingyas were denied the right to vote.

Even though Rohingyas were recognized among the 144 ethnic groups of Burma, once allowed to be broadcast over the airwaves as an ethnic language along with nine other ethnic languages from 1961 to 1965, now Rohingyas are branded as illegal undocumented immigrants from neighboring Bangladesh. Rohingyas have been facing systematic persecution from successive regimes of Burma for the last four decades. The widespread and systematic human rights violations against Rohingya have been documented and recognized by well-known scholars, human rights organizations, United Nations Special Rapporteurs, and others. The human rights violations have been referred to as crimes against humanity, ethnic cleansing, and even the crime of genocide.

In June of 2012, hundreds of thousands of Rohingyas were forced to leave their homes by Rakhine extremists, and their properties were burned down and looted by extremists in front of the security forces with impunity. So far, no measures have been taken by authorities to hold perpetrators accountable. Displaced Rohingyas have been living in squalid conditions, like Chairman Royce said a while ago, for almost five years. The previous Thein Sein government and, now the government of Aung San Suu Kyi, have done little to nothing to improve their living conditions, despite repeated requests by the United Nations and international community. Adequate aid does not reach Rohingyas. My people are living in miserable conditions. United Nations Special Rapporteur Yanghee Lee has repeatedly stated that the situation of Rohingyas is deplorable.

In the northern part of Rakhine State, Rohingyas are facing crimes against humanity, in a recent U.N. OHCHR flash report, after an attack on 9 October by an unknown militia group. Aung San Suu Kyi's government is justifying those attacks and has been carrying out a cleansing operation in those areas. Security forces are accused of extrajudicial killing, extortion, arbitrary arrests, and mass gang rape against the unprotected, defenseless Rohingya civilians.

After intense international criticism, State Counselor Aung San Suu Kyi and President Htin Kyaw formed a commission led by Vice President Myint Swe. The government keeps denying any wrongdoing of security forces and also bluntly denies and rejects reports of OHCHR, Fortify Rights, Human Rights Watch, and other rights groups.

In order to verify the serious allegations that have been made, we urge the international community to establish a Commission of Inquiry, or similar mechanism in Burma, through the United Nations Human Rights Council. We hope that Members of the U.S. Congress and the U.S. Government, as well as the international community, will support the establishment of such an inquiry in Burma.

Rohingya people have been living in Burma for centuries, and have been stripped of their very basic citizenship rights. The treatment of Rohingya is immoral, baseless, and unfair. In order to solve the many issues in Rakhine State with regard to Rohingya, we humbly suggest that Members of the U.S. Congress help ensure authorities.

There are some suggestions we would like to make to the international community, including the United States Government.

The first is reinstate unconditional citizenship rights to Rohingyas, according to existing law, so that Rohingyas enjoy equal access to full citizenship in Burma, and also respect the self-identification of Rohingya identity.

Second, allow humanitarian actors safe, sustained, and unhindered access to all displaced persons in affected areas, transparently and without any interruption by local extremist groups.

Third, lift restrictions on freedom of movement immediately and ensure the provision of basic health care, education, the right to return to place of origin, and ensure the right to livelihood so that Rohingyas no longer have to rely on donations from international INGOs and other organizations.

Fourth, ensure peaceful coexistence with Rakhine stakeholders in order to live side by side with Rohingyas. Specially, grant Rohingyas equal rights and equal protection under the law, regardless of their race and religion.

Fifth, ensure accountability for perpetrators in order to prevent the ongoing mass exodus and forced displacement as well as ongoing arbitrary arrests, extortion, and gang raping. Criminals must be brought to justice, regardless of their race, religion, and rank.

Last but not least, Rohingyas are asking to simply be a part of Burmese society like before. We want to be treated with respect, dignity and equality, no more, no less. Rohingyas do not and will not promote any hidden agendas, such as separate Rohingya state, or Sharia state. All allegations to the contrary are baseless. We have been and will remain always loyal to our country, and we will protect our country's sovereignty at any cost.

Finally, I would like to say that we are not here with ill intention to complain of our government. We are here seeking justice, which we are not given by our government for the last many decades.

Thank you so very much.

[The prepared statement of Mr. Naeem follows:]

## **PREPARED STATEMENT OF MOHAMED NAEEM**

**Testimony of Mohamed Naeem to the Tom Lantos Human Rights Commission  
March 17, 2017**

**2255 Rayburn House Office Building  
Washington, D.C.**

### **“Ensuring the Human Rights of Muslim Rohingya in Myanmar”**

Chairman McGovern, Chairman Hultgren, distinguished members of the commission and Ladies and Gentlemen, on behalf of Rohingya people, I'd like to thank you for organizing this hearing on the human rights situation of Rohingyas in Burma. We thank you for your continued attention to the situation in Burma and leadership on these and other grave human rights issues.

I'm a member of Rohingya ethnic group from Burma. I belong to a registered Rohingya political party and ran for office in the 2010 general election. Even though I technically won the election in 2010, I was not able to represent my people in parliament.

In the 2015 general election, all of our Rohingya candidates were disqualified and the entire Rohingya population of 1.3 million people were disenfranchised and denied the right to vote. This was the first time in history of voting in Burma that Rohingyas were denied the right to vote.

Even though Rohingyas were recognized among the 144 ethnic groups of Burma and once allowed to broadcast over the airwaves as an ethnic language along with other nine other ethnic languages from 1961 to 1965, now Rohingyas are branded as illegal, undocumented immigrants from neighboring Bangladesh.

Rohingyas have been facing systematic persecution from successive military regimes of Burma for the last four decades. The widespread and systematic human rights violations against Rohingya have been documented and recognized by well-known scholars, human rights organizations, UN Special Rapporteurs and others. The human rights violations have been referred to as crimes against humanity, "ethnic cleansing," and even the crime of genocide.

In June 2012 hundreds of thousands of Rohingyas were forced to leave their homes by Rakhine extremists with the help of security forces. Their properties were burnt down and looted by extremists in front of security forces with impunity. So far no measures have been taken by authorities to hold perpetrators accountable.

Displaced Rohingyas have been living in squalid conditions for almost five years. The previous Thein Sein government and now the government of Aung San Suu Kyi have done little to nothing to improve their living conditions despite repeated requests by the UN and international community. Adequate aid does not reach Rohingyas. My people are living in miserable conditions. UN Special Rapporteur Yanghee Lee has repeatedly stated that the situation of Rohingyas is deplorable.

In the northern part of Rakhine State Rohingyas are facing crimes against humanity committed by state security forces after an October 9<sup>th</sup> attack by an unknown militia. Aung San Suu Kyi's government is justifying those attacks and has been carrying out a "clearance operation" in those areas. Security forces are accused of extrajudicial killings, extortion, arbitrary arrests, and mass gang raping against unprotected, defenseless Rohingya civilians. After intense international criticism, State Counselor Suu Kyi and President Htin Kyaw formed a commission led by Vice President and former General Myint Swe. The government keeps denying any wrongdoing of security forces and also bluntly denies and rejects reports of OHCHR, Fortify Rights, Human Rights Watch and other rights groups.

We must work to end impunity and culprits should be brought to justice. The authorities appear principally concerned with whitewashing crimes they have been committing.

In order to verify the serious allegations that have been made, we urge the international community to establish a Commission of Inquiry or similar mechanism in Burma through the UN Human Rights Council. We hope that members of US Congress and the US Government as well as the international community will support the establishment of such an inquiry in Burma.

Rohingya people have been living in Burma for centuries and have been stripped of their very basic citizenship rights. The treatment of Rohingya is immoral, baseless, and unfair.

In order to solve the many issues in Rakhine State with regard to Rohingya, we humbly suggest that members of U.S. Congress help ensure Myanmar authorities:

- 1) Reinstate unconditional citizenship rights to Rohingyas according to existing laws so that Rohingya enjoy equal access to full citizenship in Burma, and also respect the self-identification of Rohingya identity.
- 2) Allow humanitarian actors safe, sustained, and unhindered access to all displaced persons and affected areas transparently and without any interruption by local extremist groups.
- 3) Lift restrictions on freedom of movement immediately and ensure the provision of basic health care, education, the right to return to place of origin; and ensure the right to livelihood so that Rohingya no longer have to rely on donations from INGOs and other organizations.

- 4) Ensure peaceful co-existence with Rakhine stakeholders in order to live side-by-side with Rohingyas. Specifically, grant Rohingya equal rights and equal protection under the law, regardless of race or religion.
- 5) Ensure accountability for perpetrators in order to prevent the ongoing mass exodus and forced displacement as well as ongoing arbitrary arrests, extortion, and gang raping. Criminals must be brought to justice regardless of their race, religion, and rank.
- 6) Last but not Least, Rohingyas are asking to simply be a part of Burmese society like before. We want to be treated with respect, dignity, and equality—no more, no less. Rohingya do not and will not promote any hidden agendas, such as a separate Rohingya State or Sharia State. Allegations to the contrary are baseless. We have been and will remain always loyal to our country and we will protect our country's sovereignty at any costs.

Thank You.

---

Mr. McGOVERN. Well, thank you very much.

And as you heard, they've been calling votes. So I am going to temporarily suspend the hearing and go vote and then come back. So it shouldn't take too long. It is two, possibly three votes, but that is it. So relax. I will be back. Thanks.

[Recess.]

Mr. McGOVERN. [Presiding.] Okay. We are back. And I apologize. These three votes, members are slow when they vote, so I apologize for that.

Thank you very much for your testimony. I appreciate it. You know, and I think the one thing that is clear from everybody is that the situation is very, very dire, and that it demands immediate attention, and the international community needs to step up and we need to step up as well. All of you have expressed support for the establishment of a U.N. commission of inquiry to investigate alleged human rights violations in the Rakhine State, and I am trying to think of, like, concrete steps that we might take here in the House, or on this Commission, to help you know, put the pressure on at least our government to make sure that we are forcefully for that, and that any commission doesn't get watered down.

Does anyone have any suggestions of what we might do? Mr. Andrews?

Mr. ANDREWS. Mr. Chairman, let me just say, speaking out now would be terrific. The Human Rights Council is considering this literally as we speak. They will be making a decision one way or another next week. There has been a resolution introduced, but it will be, as Matt has said, attacked with amendments to try to weaken it. So establishing the strongest possible resolution calling for the strongest possible international investigation is something that the United States could have a big impact on.

Mr. McGOVERN. Well, maybe perhaps members of this Commission can, at least the co-chairs, because, again, time is of the essence here, maybe we can get something out at the end the day --

Mr. ANDREWS. That would be good.

Mr. McGOVERN. -- to the U.N. saying that -- you know, that we feel very strongly that this commission ought to be established and that it ought not to be watered down and, you know -- and so we will do that.

But let me ask you this, and, again, we want the commission, but if by chance the commission is not established, I mean, are there other recommendations that you might have for pursuing accountability for human rights abuses that may have occurred against the Rohingya, obviously? Anybody?

Mr. SMITH. I would -- just to add, Mr. Chairman, that if there is a statement that comes out, I think it would be very important that it recognize that the domestic remedies have been exhausted and that -- because right now, what we are hearing is that Myanmar would like more time to improve the capacity of its own investigative efforts, and those -- just to stress the urgency of the situation, and that those domestic efforts have lacked credibility, they have lacked independence, they have lacked the will or the ability to investigate this situation.

Mr. McGOVERN. Well, we have seen this movie before.

Mr. SMITH. Sure.

Mr. McGOVERN. And I think that is the -- I mean, and -- and I think the -- I

think -- and I agree. Look, the concern is that, I mean, that the government may end up trying to find ways to stall and stall and stall, and maybe we divert our attention to some other crisis in the world and this becomes an afterthought.

I don't know if anyone else has anything they want to add.

Mr. NAEEM. Yes, Mr. Chairman. There have been many commissions since 2012, and none of them came up with a solid answer, you know, solid implementation, even though some of the commission reports came up with some kind of suggestion.

Now, yesterday, we had Mr. Kofi Annan's commission suggestion, he sits on the Advisory Commission. So as I was talking a while ago, the implementation on the commission reports are very weak, willingness not very high, you know. So because of not implementing properly for last 5 years many commission's reports and the situations are getting worse and worse, you know. So how can we guarantee that Kofi Annan commission's recommendations will be implement? So that is why we are urging the international community to form a commission of inquiry. The name really doesn't matter. We have to be -- we have to send an expert team to the region that really things happen or not.

Mr. McGOVERN. Right.

Mr. NAEEM. And that is why we are kind of requesting the international community, particularly the Government of the United States, to pursue that commission of inquiry.

Ms. GITTLEMAN. I would echo those statements, and also serve as a reminder that the draft at the Human Rights Council could move forward well as long as the language is not watered down and it does result in a robust and independent mechanism that would allow an investigation to go forward. It is just worth saying that given the mass atrocity crimes, the sheer brutality of what is happening, this is an issue of international peace and security while also being a human rights issue. This is not an issue that needs to stay in Geneva. This is something that could fall under the mandate of the U.N. Security Council as well.

Mr. McGOVERN. So you just came back, right? You have all traveled there. Tell me the restrictions that are imposed upon you in terms of your ability to kind of investigate some of the crimes that we talked about here today.

Mr. ANDREWS. Well, first of all, it is impossible for anyone in the international community to get to the area, Maungdaw Township in northern Rakhine State, to do virtually anything.

Mr. McGOVERN. And so the military denies you? Is it the military, government? Who denies you the --

Mr. ANDREWS. They prohibit any foreign organizations, whether they be delivering humanitarian aid, whether they be investigating. The press can't go in. It is just firmly restricted. And then where I went, which was over the border into Bangladesh --

Mr. McGOVERN. Right. Right.

Mr. ANDREWS. -- as you know, 75,000 people or more have poured in there, but, you know, even in that case, I was, you know, followed, people were watching my every move. And they wanted me to know that I was clearly being watched, even though I was on the other side of the border.



Mr. SMITH. Just to add further to what Tom said, the offices -- offices under the control of Aung San Suu Kyi issued travel authorizations for international humanitarian organizations, and those travel authorizations have not been forthcoming since October. But even beyond that, it has been an issue for several years now.

On the ground, it is state security forces and local officials. But what we are seeing are restrictions effectively being imposed at all levels, including Naypyidaw.

Mr. McGOVERN. And what is their reason? What is their -- can you just put it on the record why they tell you you can't travel there? What is the justification?

Mr. SMITH. The justification from the government's perspective is issues of security. From our perspective, there is a lot to hide.

Mr. McGOVERN. Right.

Mr. SMITH. And we know, even back in 2012, at the time when I was working with Human Rights Watch, I personally documented the location of four mass grave sites. No forensic teams have been there to take a closer look at those, there has been no proper investigation, even dating back to then, so -- but they do emphasize security.

I just want to add also that in terms of access, there have been a number of diplomatic trips to northern Rakhine State. The U.S. ambassador, the U.K. ambassador, and the resident coordinator met with several people. We interviewed one gentleman who met with the ambassador and was subsequently shot at by the Myanmar authorities. As soon as the ambassador left his presence near the village of Wa Peik, which was burned down, he went into hiding, the authorities put out a manhunt, and effectively chased him out of the country.

And so these types of reprisals are also common, particularly for people who are trying to document human rights violations.

Mr. McGOVERN. Yeah.

Mr. NAEEM. Mr. Chairman, Chairman Ed Royce came up with some good suggestion in 2015 of October, and he was just suggesting to send -- to create a safe zone for the Rohingya people because of the atrocities by the armed forces over there. Prior to that one, in 2014, there was a massacre happen in the village called Duchiradan, and the whole village was wiped out, but nobody was allowed to go do an investigation or something. And, again, the commission came up with, you know, the report of not happening anything.

So that is why this is very important, in our view, to have an independent investigation team made up of international experts, you know, which is very urgently needed over there.

Another thing is also Chairman Ed Royce urged former ambassador to the U.N., Ms. Samantha Power, to bring the Rohingya issue to the Security Council, which was July of 2016, 27 July of 2016.

So the United States Government is working on a lot of things, you know. And also in this case, which we also would like to request the Government of the United States to pursue the commission of inquiry or an independent team to go over there and -- facts-finding team, whatever the name, to find out really what is happening over there, you know. Is torture really going on? Are these people -- is it really? Are the military or the security forces are really committing the crimes against humanity? This is really need to be -- you know, it need to be find out. That is why

we are requesting the Government of the United States --

Mr. McGOVERN. Right. But you are not suggesting that the Government of the United States has been particularly forceful on this issue up to this point, are you?

Mr. NAEEM. Not necessarily, but we are just suggesting.

Mr. McGOVERN. Yeah. No, I know. I appreciate that. I just want to make sure. I mean, I think some of us have been pretty critical of silence and basically acquiescence, if you will, in the face of some pretty horrific reports about what is going on.

And, you know, that brings me to the point, you know, I mean, the 2015 elections were a source of great hope for many people around the world. You know, Aung San Suu Kyi came to Congress. I mean, we were all very hopeful and clearly admired her, and, you know -- and she -- you know, I think we all kind of thought that, among other things, that -- let me speak for myself, that she would be a more powerful and forceful voice for human rights for all people, including the Rohingya. And I think it has been very disappointing that it has been silence or excuses.

And, you know, at some point, you know, I mean, everybody has to be held accountable here. And I would be curious to get your take on, you know -- you know, your view on to what extent has the hope that people had back in 2015 been fulfilled and to what extent not. And, you know, how do you explain the limited success of the current government in addressing serious human rights problems like the situation of the Rohingya and, you know, are there signs of progress that are not receiving sufficient attention that we should know about.

Mr. ANDREWS. Mr. Chairman, I think it is very fair to say that a lot of hopes were dashed, and there is some profound disappointment among many of us, particularly in a situation where there are these egregious human rights violations that are met with denials.

You know, I have been around here long enough, and you certainly have been, to remember when we advocated for pressure, real pressure, diplomatic and --

Mr. McGOVERN. Right.

Mr. ANDREWS. -- economic pressure against the Government of Myanmar under the military when Aung San Suu Kyi was under house arrest. It was very controversial, but eventually the Congress did in fact impose economic sanctions, including targeted economic sanctions in which people were being held accountable. Progress was made. These sanctions, I think -- even though they were controversial at the time, I think most people would say they worked. Pressure from the United States was successful. Now, with the lifting of all of these sanctions and the lifting of economic pressure and diplomatic pressure, we are seeing the results on the ground in Myanmar.

So I think one of the lessons is for us to obviously recognize that, you know, this is a difficult process moving forward as a country, there are lots and lots of challenges that Aung San Suu Kyi has. This is not a real democracy, let me point that out, the military controls all defense, the borders, 25 percent of the parliamentary seats.

So they have a long way to go, but I think part of the lesson I take is that when the United States and the international community were clear and strong in providing pressure, there was movement forward. But now that the pressure has been lifted, we

are now seeing dangerous movement in the opposite direction. I think that needs to be considered.

Mr. McGOVERN. Right. And I want you all to answer the question, but also, like, what reasonably can we -- more can we expect her to do on this issue? Ms. Gittleman?

Ms. GITTLEMAN. I would just follow up by saying that there was a lot of hope for the political transition, and I think there was this idea that if there is a movement towards democracy, that a lot of the other problems in the country would naturally be solved, that once there is more democracy, all the other problems that have plagued the country for decades would somehow be erased. And I think we all know that democracy in itself, especially an incomplete transition as this one is, is not enough to erase deep-seated hatred, violence, impunity by state actors.

And when we were in Rakhine State and in Yangon in fall of last year, we spoke with people, a lot of experts from outside Burma, and people interested in investing in the country were speaking so highly about new opportunities for investment and for development, and people kept telling us, you can't have development when you have mass atrocities happening.

Mr. McGOVERN. Right.

Ms. GITTLEMAN. It might work for some people, and some communities will be able to benefit from those improvements, and those are those communities who are already positioned to do so. But people like Rohingya, who are discriminated against just on the basis of their identity, will not be able to reap those same benefits. And in this stage in the transition, that kind of inequality is not something that we would want to solidify.

Mr. McGOVERN. Mr. Smith.

Mr. SMITH. Yeah. Back in 2015, I was in Sittwe during the -- on election day with our executive director, Amy Smith, and what we saw at the time were ethnic Rakhine civilians lining up to vote. And then we managed to make our way into the internment camps where Rohingya were lining up for meager food distributions.

Despite that, at that time, there still was hope and people were expressing hope in Aung San Suu Kyi and in the NLD. I think it is safe to say, as my colleagues have mentioned, that hope is dwindling right now.

In terms of progress, we have seen -- and it has been noted, Aung San Suu Kyi's silence on these issues. What we did see post-October 9 is that silence turned into a very active propaganda campaign. There have been a lot of denials of human rights violations, allegations of fake rape coming from the state counselor's office, which have been very disturbing as well.

So I think, first and foremost, there is certainly a lot that Aung San Suu Kyi could do apart from supporting an independent inquiry, apart from showing moral leadership on this issue. There are destructive restrictions on freedom of movement in Rakhine State right now. These need to be lifted immediately. And we would hope that the Government of Myanmar would come around to do that, but there needs to be more pressure put on her to do that.

Mr. McGOVERN. I don't know if you wanted to add anything, Mr. Naeem.

Mr. NAEEM. Yes. Mr. Chairman, what we have seen so far, what we have witnessed so far, it is almost a year since Aung San Suu Kyi has the government, she

is leading the government. We haven't seen any active role she has been playing to solve the Rohingya issue, you know.

On July of 2016, 14 July of 2016, she is at the same time chair of the Rakhine -- one of the Rakhine commission. She directed her immigration minister and chief minister to issue the citizenship card to the Rohingya people, whoever had the previous citizenship card. It has been more than 7, 8 months now. It is not implemented, and Aung San Suu Kyi is not following the process, you know.

So what we are worrying is Aung San Suu Kyi need to engage more actively. And she is pretty much neglecting the Rohingya community. We have been trying many times to meet with her, as we are a registered political party and we are legitimate party and we have right to meet with everyone. And we have tried, we have sent many letters, and we haven't received any single response from her so far.

February of last year, I met her in person in Naypyidaw capital, and I had opportunity to talk with her about 7, 8 minutes, and I raised the concern about the situation over there, you know. And she said, oh, yeah, okay. I will invite you guys whenever time comes. It has been more than a year, we haven't heard any call from her.

So she need to be more active, more engaged on this issue, bringing two community together. She is the one who can solve this, if she has a will. So far we haven't seen this intention in her, which is very unfortunate.

Mr. McGOVERN. No. And especially given the fact that this situation has gotten out of control. I mean, this is, this is incredibly serious and brutal, as you have all testified, as the reports that we have received indicate, and so this is a big deal. This is not a minor skirmish. This is a big, big deal.

And, you know, for people who want to question the truth within the government or in the military, there is an easy way to, you know, establish the truth, and that is an independent commission of inquiry, you know, giving people access to go where they want to go and ask the questions they want to ask, you know, and -- you know, and I think that is -- you know, that answers everybody's question. And if there is, you know, nothing there, which we all know is, you know, an excuse by the government, you know, that will be made clear. But the bottom line is that if you really want to know the truth, you give people the access to go and do their investigative work.

Mr. Naeem, I want to ask you just to get this on the record, because, you know -- to what extent is there a connection between the Rohingya in Bangladesh and Islamic groups, both past and present? And are conditions in Bangladesh today likely to create increased possibilities for radicalization or recruitment by terrorist groups? And would greater amounts of humanitarian assistance to the Rohingya in Bangladesh likely lessen their chances of becoming radicalized?

Because some of the stuff we are hearing from the government is -- you know, aims at some of these questions, and I would just like to get your take on that and get it on the record.

Mr. NAEEM. Thank you, Mr. Chairman. We have been working very closely with our local people. And the attack on 9 October to the security forces is a group called al-Yaqin. Nobody knew who they are from and who they are working with. There are a lot of accusations going on that they have been trained by Pakistani

Taliban and financed by the businessmen from Saudi. The accusation came from the President's office, but they have no ground evidence of the accusation, you know.

And so while we are talking with the local people, nobody knows this group. And you might be witness that there are a few videos came up online. And these guys are no more than five or ten guys in uniform, and rest of them look like kids. They even don't know what they are doing, you know, some of them with their bamboos in their hands holding, you know, shouting something, you know.

So the accusation against the Rohingya, the whole Rohingya population and pointing out this group, which is not fair, you know. This is justifying oppress against the Rohingya by this group -- the attack by so-called -- this group, you know.

So there is no -- as I always say, you know, the Rohingya people in the region in Burma, we will never ever support any kind of extremism, you know. We -- that is why we have been living, that is how we have been proven to the world. And the first militia group, armed group formed by Rohingyas were in 1950s. That group had to be disarmed and had to surrender to the democratic Government of Myanmar with the help of Rohingya people, because the government trained us to attack the -- to fight with these guys, and we did it, and the leader was killed, and a lot of the militias had to surrender to the authorities at that time, because -- and we were accepted as one of the indigenous group of Burma. So this is out of question that this group has anything to do with the Rohingya people living in Burma.

And the Rohingya living in Bangladesh, whether they have any connection of this, we honestly don't know that. But to be honest with you, Mr. Chairman, I don't think Rohingyas have any kind of intention to fight the Myanmar Government through the arms struggle. We note and we have been witnessing that our brothers and sisters, like the group of Karen, Kachin, and Shan, have been fighting for last six decades and gaining nothing. So we are very serious about this issue, and it is going to be other question that we will never have that kind of armed struggle against our own government.

Mr. McGOVERN. Just a few more questions. And that -- so we want to do what we can to push for this, you know, U.N. commission inquiry. But in the meantime, I mean, with this currently humanitarian crisis and with obviously interest in keeping as many people safe as possible, Mr. Naeem, you talked about creating a safe zone?

Mr. NAEEM. Yes, sir.

Mr. McGOVERN. And where would that safe zone be?

Mr. NAEEM. That was suggested by Chairman Ed Royce --

Mr. McGOVERN. Ed Royce, yeah.

Mr. NAEEM. -- and talked about 2015.

Mr. McGOVERN. Okay. When you -- I mean, safe zones are always difficult to create, as we are -- but in some cases more difficult than others. I am just curious what the panel thinks of creating a safe zone, you know, to give people a place to be where they can be relatively sure they wouldn't be victims of violence.

Mr. NAEEM. That issue was raised after the 2014 massacre in Du Chee Yar Tan in Maungdaw, a village. So a lot of international actors and some of the Rohingya diaspora community, they have been working with the international, you know, organization. And the government, they came up with that idea. They say our

government has failed to protect us, you know --

Mr. McGOVERN. Right.

Mr. NAEEM. -- killing us, you know, with impunity, and we need to get protected by the international community, you know. So we really don't have what idea -- I mean, the idea of how and --

Mr. McGOVERN. The concept.

Mr. NAEEM. Yeah. The concept, yeah. We don't really have that.

Mr. ANDREWS. I think the best approach, Mr. Chairman, is for Rakhine State to be a safe zone.

Mr. McGOVERN. Right.

Mr. ANDREWS. And it can become a safe zone if the leaders, including Aung San Suu Kyi and the military leaders, establish it so. I mean, we have to hold them accountable.

We have to be careful when we talk about safe zones, because, as Matt had mentioned, there are internment camps. 140,000 people in Sittwe are in internment camps.

Mr. McGOVERN. Right.

Mr. ANDREWS. And their life is just horrific. And, of course, the excuse for them remaining under those harsh conditions year after year, it is for their safety, this is a safe zone, they are being protected from the broader Rakhine community, and so they need to belong there. It is a horrible, horrible place, I can tell you.

And so the track record of safe zones is not very good there. And we can declare the entire -- we could put pressure on those leaders who have the power to declare the entire area a safe zone.

Mr. McGOVERN. Right. You know, the Obama administration agreed to resettle the most vulnerable Rohingya refugees referred by UNHCR, and more than 5,600 Rohingya refugees have been resettled in the United States in the last 5 years.

Do you guys think that resettlement is a good option for the Rohingya? And what more, if anything, do you think the United States should be doing to help this population in terms of resettlement? Mr. Smith.

Mr. SMITH. Yeah. I think, given the fact that I think somewhere in the ballpark of 1 percent of refugees worldwide ever get resettled, to us, this isn't the viable solution for the crisis in Rakhine State or in the region.

It is worth mentioning that there are a number of -- hundreds of thousands, in fact, Rohingya refugees between Bangladesh, Malaysia, and Thailand. We are documenting how Thailand still detains Rohingya refugees in situations of what appears to be indefinite detention in terrible conditions.

In Malaysia, Malaysia has been very outspoken about human rights violations in Myanmar. I think what is inconvenient, perhaps, for some Malaysian leaders is that the Rohingya population faces rights abuses in Malaysia, and most Rohingya are either exploited by labor -- by employers or state security forces in Malaysia. They are also unable to register with UNHCR, so the option of resettlement is even more far removed for them.

But I think, just to reiterate, that the key right now in Rakhine State is certainly lifting restrictions on freedom of movement, unfettered humanitarian access --

Mr. McGOVERN. Right.

Mr. SMITH. -- and then to impunity.

On the issue of security, I will just add that it has been alleged that al-Yaqin, this so-called Rohingya militant group, it has been alleged that they are well-trained, well-organized, and well-financed. Fortify Rights has not found any evidence to suggest that is the case on ground, and we have also not found any evidence to suggest that this organization has moral support from the Rohingya population, with few exceptions of Rohingya youth, as Mr. Naeem mentioned. Thank you.

Mr. McGOVERN. I probably should have prefaced the idea of refugee resettlement in this climate here in the United States is probably not an option, period, so it doesn't matter where you are from.

You mentioned Bangladesh. Just for the record, can you comment on the Government of Bangladesh's policy toward the Rohingya? And does the government of Bangladesh have a realistic plan for addressing the needs and protecting the rights of the Rohingya in Bangladesh? Maybe you could talk a little bit about that.

Mr. SMITH. Just a few days ago at the interactive session in Geneva when the Special Rapporteur was delivering her report, the Government of Bangladesh gave a very strong statement, which we thought was overdue, very strong, very well received, calling for an independent -- supporting the Special Rapporteur's recommendations, effectively.

That said, the refugee camps in Bangladesh are some of the worst in the world, and there are somewhere in the ballpark of 30,000 Rohingya have been allowed to register officially as refugees in Bangladesh. There are at least a half a million Rohingya in Bangladesh. We recognize the challenges that Bangladesh would face in responding appropriately to this situation, but I would just add that there have been a number of offers over the years from the international community to support that. The argument that we often hear is that the authorities don't want to make the situation too welcoming for Rohingya, because they fear more will come.

The reality is that the Rohingya refugees that we have spoken to and others want to live in their homeland. They are not -- they don't have a burning desire to go and live in the world's worst refugee camps in Bangladesh. They want to live home, they want to have peaceable lives, and they want their rights and ethnic identity respected. And so I think that there is more that the Government of Bangladesh can do to ensure that Rohingya refugee rights are respected.

Ms. GITTLEMAN. And to add to that, I was in Bangladesh earlier this year and had the chance to meet with members of the government and with civil society organizations, and there was a sense of solidarity both from government officials and from ordinary people in civil society, from faith leaders and the like, some sense of solidarity with Muslim brothers from another country. But there was also a little bit of worry about how sustainable that sense of solidarity would be, especially when the influx was at its height a few months ago. But also, those government officials also did recognize that this is an issue that needs to be dealt with within Myanmar, within Burma, that the Burmese Government really does need to address the root causes of this problem. And so that, of course, is an understanding that I know has not been lost on the Government of Bangladesh.

I think the plan that you mentioned to relocate them is quite horrific and would not address the basic needs that the Rohingya population would require. I also don't

think it is a plan that has significant international support. So I think there is more that the Bangladesh Government can do to support those who are fleeing into their country, but at the end of the day, this really is something that the Burmese Government must address to stem the root causes of the flight.

Mr. McGOVERN. And do you think it is possible for them to address this issue of statelessness for the Rohingya population? I mean, given where we are right now, I mean, how do we get to that point?

Mr. SMITH. In Myanmar?

Mr. McGOVERN. Yes.

Mr. SMITH. Yeah. Well, I mean, certainly the 1982 citizenship law should be amended. One thing that I think is important is it has been recognized that there is no political climate for the amendment of that law right now in Myanmar. And our worry is that the diplomatic community, international community has ceased reminding the authorities that they do need to amend this law eventually. This law, as mentioned, is -- has created the world's largest --

Mr. McGOVERN. Right.

Mr. SMITH. -- population of stateless people, and so there could be a legal fix to that. There is currently a citizenship scrutiny process underway in Rakhine State. And effectively what the authorities are doing, they are coercing community members to participate in this process that they are very distrustful of.

Some members of the international community and diplomatic community are very skeptical about why people are distrustful of the process. And our response to that is that, well, when homes are being burned down, when people are being killed, when the rights of the population have been violated for many, many years, naturally there is a high level of distrust in that process.

Mr. McGOVERN. Tom.

Mr. ANDREWS. This can be done. There is a legal remedy --

Mr. McGOVERN. Right.

Mr. ANDREWS: -- there is a political remedy, but there is no political will. And certainly there is no domestic pressure from within the country to stand up for the basic rights, including citizenship rights, for the Rohingya. That is precisely why it is so important for the international community to exert itself and to provide as much pressure as possible.

Mr. McGOVERN. Well, I am going to give everybody a last chance to comment on anything you want. I want to make sure we covered all the relevant topics here.

But, you know, I just want to conclude before I yield to you to make your final comments that, you know, as I said in the beginning, I mean, you know, we have been doing hearings on the plight of the Rohingya for a while now. And I think we can all say, with certainty, that the situation is worse today than when we first, you know, started doing hearings on this. Things are getting worse.

And I think it is also true that the international community, I don't think has been as forceful as it should be. And I think, in all candor, part of the reason why is because we all have great admiration for Aung San Suu Kyi, and, you know, we all had great hopes back in 2015, and we all wanted things to work out and there to be a happy ending. And we still want things to work out, and we still want her to be



successful in influencing, you know, that country in ways that will respect human rights, among other things. But the harsh reality is that things are worse.

So at some point, you know, we have to kind of get over clinging to our hopes and start dealing with reality. And the reality is that things are very, very bad, and that there can be no more free passes. And you can't excuse this behavior. You know, yes, we know the character of the security forces and the military, but, you know, we are at a point now where enough time has gone by where, you know, the silence from her is deafening. I mean, it is troubling.

And, you know, and I think we need to be -- you know, we need to support this U.N. commission of inquiry. We will get off a dispatch today, you know, referencing this hearing and the fact that we believe that, you know, there ought to be a strong commission of inquiry approved, and please do not water this down. Do not give the government more excuses to delay, delay, delay. But we also need to be looking at other things too.

And so I look forward to working with all of you as we move forward exploring other things, maybe things that we can take here or this administration can do. I mean, I don't know who is in charge of this in this new administration. You know, so I think, you know, we are going to have to wait a little bit to figure out, you know, who actually can make things happen. Maybe we can tweet something and it will happen, you know. But, in fairness, we do have to wait till people are put into place. But there is stuff we can do right now.

So I am happy to yield to you. Mr. Naeem, why don't we begin with you. Any last comments you want to make for the record?

Mr. NAEEM. Thank you, Mr. Chairman. We really appreciate the Government of the United States has been continuously supporting our cause, you know.

And there is another thing I would like to share with you is there was a resolution, House Resolution 418, the 25th of March 2014. It has come also with some suggestion. It is urging the Myanmar Government to end persecution against the Rohingya people, respect internationally recognized human rights for all ethnic and religious minority groups. Call on the U.S. Government and international community to put consistent pressure on the government.

So that kind of recommendation, we really appreciate it. But like you said a while ago, under the current government led by Aung San Suu Kyi, we are not very happy the way she is handling the issues. You know, she is pretty much quiet. The sad part is when, after the attack on the 9 of October, when the security forces carrying out a cleansing operation, she was defending that operation, you know. The security forces round up the houses. There are a lot of allegations going on. They are rounding up the houses and burning people alive, infants and toddlers and women tied up in the house, you know. So that kind of thing, we haven't heard anything from her.

So the U.S. Government is closely working with the Aung San Suu Kyi government and also supporting her. And I think the United States Government should tell her, you know, the honeymoon is over and we really have to come down to the real issue, you know, which is she needs to solve the problem ASAP. You know, this is our suggestion.

Mr. McGOVERN. Thank you.

Ms. Gittleman.

Ms. GITTLEMAN. Thank you. Well, briefly, Mr. Chairman, I think you are exactly right to say that the Rohingya are in a worse situation now than in years past. And I think one of those reasons is because the United States and others don't have the leverage that we had a few years ago.

And secondly, I would like to point out that what we are seeing, in terms of the violence by the military against Rohingya civilians, is not a ham-handed counterterror response or a response to insurgency that is just getting a little bit overboard. As Matt said earlier, this is systematic state policy targeting people because of who they are. And for those reasons, having more training on proper counterterror efforts, that will not fix perpetrators who, for example, are burning people alive. That is not something that is easily trainable away.

And third, that one story I mentioned from that 19-year-old man who was watching horrified and helpless from a hiding place as his father was killed, I think about that often because I think all of us here and all of us who care about Rohingya and other minorities in the country are horrified about what is happening, and we also feel helpless that there is nothing that we can do. But we aren't helpless like that man was. There is a whole series of recommendations that have been discussed here today for ways that we can really move things forward. We don't need to stand by horrified at the situation.

Mr. McGOVERN. Thank you.

Mr. Smith.

Mr. SMITH. Yeah. Thank you very much. I would just like to add -- take this opportunity to add that there are also other very serious international crimes that are being perpetrated in other parts of Myanmar, including Kachin and Shan states. We are working with Kachin's civil society to document, better document those human rights violations that are taking place. They have been going on for quite some time. The war resumed back in 2011, and the impunity that we see in Rakhine State we also see in the north of Myanmar in Kachin and Shan states.

A note on hope. Back just a couple months ago, 40 civil society organizations from different parts of Myanmar banded together and signed a statement that called for a truly independent international investigation in Rakhine State, in some ways reiterating the calls that have been made by Nobel laureates and others that we have discussed today. I think what is noteworthy about that, though, is that these were not Rakhine or Rohingya organizations; these were organizations representing many different ethnicities. And we would hope that the Government of Myanmar could take a lesson from Myanmar's own civil society and address this situation with some urgency.

Thank you very much, sir, for the opportunity today.

Mr. McGOVERN. Thank you.

Tom.

Mr. ANDREWS. Mr. Chairman, I think first of all, having this hearing is a very important step forward. We have to put the light of day on these atrocities if we are going to have any hope of seeing them end.

Number two, we need pressure, sustained pressure. And I can tell you from my organization, the Unitarian Universalist Service Committee, we are deeply, deeply

concerned about what is happening in Myanmar and other parts of the world, and we are not going to be bashful about communicating these concerns to Members of Congress. We encourage you to make statements, to hold further hearings, to conduct investigations, and to put as much pressure as possible on our government, who, in turn, can put pressure on the authorities in Myanmar to end these atrocities.

We know from history that pressure works. And I think if there is ever a time to address a horrendous situation that we have been describing today, it is here and it is now. And it is key, I think, that the United States take a strong stand today, but keep that pressure going in a variety of ways moving forward.

Thank you, Mr. Chairman.

Mr. McGOVERN. Well, thank you all very much. I appreciate your being here and your testimony and your patience. And this was an excellent hearing, and I look forward to working with you.

The hearing is adjourned.

[Whereupon, at 12:26 p.m., the hearing was adjourned.]

---

# **APPENDIX**

---

MATERIAL SUBMITTED FOR THE HEARING RECORD



## **Tom Lantos Human Rights Commission Hearing**

### **Hearing Notice**

### **Human Rights of the Rohingya People**

**March 17, 2017**

**10:30 – 11:45 AM**

**2255 Rayburn House Office Building**

Please join the Tom Lantos Human Rights Commission for a **hearing** on the human rights and humanitarian situation of the Rohingya people in Rakhine State in Burma, and along the Bangladesh border.

The Rohingya are a predominately Sunni Muslim ethnic group that resides in Burma's Rakhine State and eastern Bangladesh. Long considered one of the most vulnerable and marginalized populations in Burma, the Rohingya have been subjected to severe legal, economic and social discrimination, including limitations on travel, access to education, and employment. More than 800,000 Rohingya have been refused nationality and become stateless since the adoption of a restrictive Burmese citizenship law in 1982.

Since October 2016, the human rights and humanitarian situation of the Rohingya has deteriorated further, as the result of a military crackdown following attacks on three police outposts in northern Rakhine State. An estimated 1,000 Rohingya reportedly have been killed and between 65,000 and 73,000 thousand have fled into Bangladesh in response to the violence that has been unleashed. In early February, based on interviews with Rohingya in Bangladesh, the U.N. Office of the High Commissioner for Human Rights documented gang-rapes, extrajudicial killings (including babies and young children), brutal beatings, disappearances and other serious human rights violations by Myanmar's security forces in a sealed-off area of northern Rakhine State.

Witnesses will present testimony informed by recent travel to Rakhine State and the border with Bangladesh, and will offer recommendations for U.S. policy in the aftermath of the decision to ease economic sanctions in late 2016.

## **Panel I**

- **Hon. Tom Andrews**, President and CEO, Unitarian Universalist Service Committee
- **Matthew Smith**, Co-Founder and CEO, Fortify Rights
- **Andrea Gittleman**, Program Manager, Simon-Skjodt Center for the Prevention of Genocide, U.S. Holocaust Memorial Museum
- **Mohamed Naeem**, Ethnic Rohingya and Community Leader

This hearing will be open to Members of Congress, congressional staff, the interested public, and the media. The hearing will be livestreamed via YouTube on the Commission website, <https://humanrightscommission.house.gov/>. For any questions, please contact Kimberly Stanton (for Mr. McGovern) at 202-226-6379 or [Kimberly.Stanton@mail.house.gov](mailto:Kimberly.Stanton@mail.house.gov) or Jamie Staley at (202-226-1516) or [Jamie.Staley@mail.house.gov](mailto:Jamie.Staley@mail.house.gov) (for Mr. Hultgren).

Sincerely,

/s/

James P. McGovern, M.C.  
Co-Chair, TLHRC

Randy Hultgren, M.C.  
Co-Chair, TLHRC



## Tom Lantos Human Rights Commission Hearing

### Witness Biographies

### Human Rights of the Rohingya People

#### Panel I



**The Honorable Tom Andrews** serves as President and CEO of the Unitarian Universalist Service Committee. An extraordinary social change strategist who brings passion, savvy, and decades of experience, Andrews brings a commitment to challenging the devastating impacts of global warming, the injustice of growing income equality, and the assaults on the rights and dignity of marginalized people throughout the world. Andrews previously served as president and chief executive officer of United to End Genocide, and has led the national Win Without War coalition since 2002. He represented the First Congressional District of Maine in the U.S. House of Representatives from 1991 to 1995, following 10 years of service in the Maine State Legislature. From 1995 to 2011, Andrews was a senior advisor to the National Democratic Institute for International Affairs in Washington, D.C. He has worked to advance democracy and human rights throughout the world, including in Myanmar (also known as Burma), Indonesia, Cambodia, Yemen, Algeria, Serbia and Ukraine. Andrews is a graduate of Bowdoin College.



**Matthew Smith** is a co-founder and Chief Executive Officer of Fortify Rights, a human rights organization that has been conducting significant investigations into the Rohingya crisis. In addition to its research and human rights investigations, Fortify Rights works closely and in collaboration with organizations and individuals from communities that are directly impacted by human rights violations. Matthew previously worked with Human Rights Watch (2011-2013), where he authored several reports on critical rights issues in Myanmar and China. Matthew also served as a project coordinator and senior consultant at EarthRights International

(2005-2011), and is 2014 Echoing Green Global Fellow. His work has exposed wartime abuses and forced displacement, crimes against humanity, “ethnic cleansing,” multi-billion dollar corruption, "development"-induced abuses, and other human rights violations. He has written for the New York Times, the Wall Street Journal, CNN, and other outlets. Before moving to Southeast Asia in 2005, Matthew worked with Kerry Kennedy of the Robert F. Kennedy Center for Justice & Human Rights on Speak Truth to Power. He also worked as a community organizer in New York City and as an emergency-services caseworker in Mobile, Alabama. He has an M.A. from Columbia University and a B.A. from Le Moyne College.



**Andrea Gittleman** is a program manager for the Simon-Skjoldt Center for the Prevention of Genocide. Previously she was interim director of U.S. policy and senior legislative counsel at Physicians for Human Rights where she designed advocacy and policy strategies on a broad range of international human rights issues, including mass atrocities. Prior to that she served as an Arthur Helton Global Human Rights Fellow with the Burma Lawyers’ Council in Mae Sot, Thailand, where she coordinated an international advocacy campaign for criminal accountability in Burma. She also worked with the New York University Immigrant Rights Clinic as a law student and has had legal internships with Legal Momentum (the Women’s Legal Defense and Education Fund), the New York Civil Liberties Union’s Reproductive Rights Project, and Human Rights Watch’s Women’s Rights Division. Prior to attending law school she served as a Peace Corps volunteer in Mauritania where she managed gender and development programs. She received a JD from the New York University School of Law and a BA in political science and international studies from the University of Chicago.



**Mohamed Naeem** is an ethnic Rohingya from Myanmar and a community leader of the Rohingya people. Mr. Naeem regularly engages the government, human rights organizations, Buddhist leaders, and the international community in his work to promote the human rights of Rohingya and other communities in Myanmar. He is a member of the Lawka Tha Ra Foundation, an interfaith foundation in Myanmar led by Cardinal Charles Bo. He also serves as the Vice President and Head of the Foreign Relations Committee of the National Democratic Party for Development( NDPD), a predominately Rohingya political party in Myanmar. Mr. Naeem was a candidate for a seat in Myanmar Parliament in 2010, representing Sittwe, Rakhine State. The Government of Myanmar prevented anyone from his party from running for office in the 2015 national elections. He obtained a Bachelor of Science from California State University in Los Angeles in 2006 and returned to Myanmar in 2008.





## **Tom Lantos Human Rights Commission Hearing**

### **Human Rights of the Rohingya People**

**Friday, March 17, 2017  
10:30 AM – 11:45 PM  
2255 Rayburn House Office Building**

#### **Co-Chair Randy Hultgren, Statement Submitted for the Record**

Good morning. Thank you all for being here today. The longstanding abuse and repression of the Rohingya people in Burma has been widely documented in past years. Like many religious and ethnic minorities around the world, the Rohingya are subject to economic discrimination and social ostracism. Many have been displaced or killed as a result of ongoing upheaval within Burma.

The collective conscience of the international community is calling for an end to the extrajudicial killings, disappearances, acts of sexual violence and the many other human rights abuses against the Rohingya.

I look forward to hearing from our distinguished panel and reading their testimonies in order that United States policy may better address the humanitarian concerns of the Rohingya and their basic human rights that are threatened. Thank you.

###

---



**Refugees International  
Statement for the Record  
Tom Lantos Human Rights Commission Hearing  
Human Rights of the Rohingya People  
March 17, 2017**

The Rohingya ethnic minority in Myanmar is one of the most persecuted groups in the world. More than one million Rohingya are living in Myanmar today, mostly in the state of Rakhine in the west, and facing wide-ranging restrictions on their rights to move, work, marry, and even have children. More than 140,000 Rohingya were displaced by violence in 2012 and another 100,000 have been forced to flee their homes during a military crackdown over the last six months, 70,000 of which have fled across the border to Bangladesh. Despite heavy restrictions on access for international observers and journalists, severe human rights abuses have been documented by groups accessing Rohingya who have fled recently to Bangladesh, including by Fortify Rights, the Unitarian Universalist Service Committee, and the U.S. Holocaust Museum's Simon Skodjt Center for the Prevention of Genocide. A UN report in February 2017 concluded that the range of abuses may amount to crimes against humanity.

Refugees International (RI) shares the grave concerns over these widely covered severe human rights abuses. For this statement we would like to additionally highlight our deep concern over violations of international humanitarian law, namely in the restriction of aid, and for the conditions of the hundreds of thousands of Rohingya living outside of Myanmar. While the focus in addressing the plight of the Rohingya must ultimately be on the root causes within Myanmar, RI missions to Southeast Asia in recent years have shown that there are far too many gaps in the protection of Rohingya in other countries where the international community does have ample access. While there are limits to the access and influence of international actors to address treatment of Rohingya in Myanmar, there is much more that can and should be done to protect the most vulnerable Rohingya who have fled beyond its borders.

RI would like to highlight three main sets of recommendations for the U.S. Government:

- Engage, and pressure where necessary, the Government of Myanmar, toward providing unfettered humanitarian access and allowing an independent international inquiry into abuses in Rakhine state. In the longer term, Myanmar should recognize citizenship of the

Rohingya. Failure to make progress should include the consideration of restoration of recently lifted sanctions.

- Support the efforts of Southeast Asian countries to apply diplomatic pressure on Myanmar to address the plight of the Rohingya and to advance planning and cooperation in tackling current and future flows of refugees, whether by land or sea.
- Maintain, and consider expanding, rather than cutting, the U.S. refugee resettlement program and foreign assistance that helps refugees and displaced persons abroad.

## **Background**

The Rohingya people are a Muslim ethnic minority living mostly in western Myanmar. They have faced decades of persecution under the previously military regime in Myanmar. Recent reforms in Myanmar that brought Aung San Suu Kyi and her National League for Democracy party into power, have, at the same time, led to a worsening of the situation for the Rohingya. Violence between Muslim Rohingya and Buddhist Rakhine in Rakhine State in 2012 led to 140,000 people, mostly Rohingya, being displaced. Some 120,000 continue to live in poor conditions in displacement camps.

Since October 2016, a blanket military crackdown, following a raid on police stations and border posts by a group of Rohingya that killed 9 officers, has led to horrific accounts of rape, torture, and murder. Around 100,000 Rohingya have been displaced, including more than 70,000 who have fled across the border to Bangladesh. The blocking of aid to northern Rakhine State led to spiking rates of malnutrition, as noted by the United Nations.

Despite the Government of Myanmar announcing an end to the security crackdown, reports of abuses continue as do restrictions on access for international observers and aid. A state investigation led by a former general has been denounced as less than credible and the government continues to deny widespread abuses despite a wealth of accounts from Rohingya interviewed by independent observers in Bangladesh. Following the February 2017 UN report warning that abuses may amount to crimes against humanity the UN High Commissioner for Human Rights and the UN Special Rapporteur for Human Rights both called for a UN commission of inquiry.

In addition to the most recent refugee flows, decades of persecution and increased abuses in recent years have led hundreds of thousands of Rohingya to flee Myanmar for other countries. More than 100,000 Rohingya have taken to sea to escape conditions in Myanmar in recent years, many in the hands of human traffickers as highlighted in the discovery of mass graves in jungle trafficking camps and the ensuing May 2015 boat crisis, discussed further below.

## **May 2015 Boat Crisis and Regional Responses**

The choices for Rohingya facing persecution in Myanmar was highlighted most dramatically in May 2015 when thousands of Rohingya along with Bangladeshis were

abandoned at sea on rickety boats by human traffickers. They languished at sea for weeks as neighboring countries including Indonesia, Malaysia, and Thailand refused to take them ashore even actively pushing their boats back out to sea in what was described at the time as human ping pong.

Mounting international pressure and a regional meeting hosted by Thailand eventually led to an agreement for Malaysia and Indonesia to take in those who had been abandoned for one year. A series of regional meetings led to plans and pledges to better prevent and respond to future mass refugee flows. Many good ideas for collaboration have been discussed, but few have been implemented. Among those which are most promising are proposals to identify and agree upon preselected disembarkation points for those abandoned at sea and formal adoption of a trust fund to provide for designated shared regional resources for taking on migrants and asylum-seekers. Nearly two years later, little has been realized.

Continued attention is needed, as well as support for regional efforts to prepare for and handle current and future refugee flows. Bangladesh is dealing with a sudden influx of more than 70,000 Rohingya refugees and should receive support. But, its announced plans to move Rohingya to an island prone to flooding throughout the year, must be opposed and better access for aid encouraged.

In terms of those caught up in the May 2015 crisis, a small number of Rohingya have been resettled to third countries like the United States, but most remain either in shelters or detention shelters in Indonesia, Malaysia, and Thailand, or in precarious circumstances amid already existing Rohingya communities, mostly in Malaysia.

### **Rohingya in Malaysia**

A large number of the Rohingya caught in the May 2015 boat crisis remain in Malaysia, joining more than 50,000 other Rohingya registered with the UN, who have made their way to the country over the years. Groups working with the population estimate the actual numbers to be much higher. The Rohingya in Malaysia face significant restrictions in their ability to work, to seek education, and to access medical assistance, making the lives of Rohingya in Malaysia better than life in Myanmar only in relative terms.

During RI's missions to Malaysia over the past two years a host of gaps in the protections provided to Rohingya were found. Rohingya asylum-seekers in Malaysia, including many women and children who survived the May 2015 boat crisis, continue to face the threat of detention and restricted access to the most basic human rights, including to livelihoods, healthcare, and education. These are explored in depth in RI's reports from November 2015 and November 2016. In this statement we touch on just three of the main recommendations for addressing the protection gaps faced by Rohingya in Malaysia.

First, the Government of Malaysia should work with the UN Refugee program to better reach the Rohingya population, including through expansion of the number of Rohingya provided with UN identification cards, which many identify as their most important

means of protection against exploitation and detention, as well as for access to affordable healthcare. Second, education opportunities should be expanded to refugees, starting with pilot programs and accreditation of “learning centers”, which many Rohingya already informally depend upon. Third, Rohingya in Malaysia depend largely on unofficial and short-term work, leaving them vulnerable to exploitation and the constant threat of detention. The Malaysian government has announced its intention to move forward with a pilot program to provide Rohingya with work permits that should be encouraged and expanded. The U.S. government can play a key role in supporting and encouraging these programs.

### **Humanitarian Restrictions**

A final important issue to highlight, facing not only the Rohingya, but other minority ethnic populations in Myanmar, is restriction of humanitarian aid to people in need. Restrictions placed on northern Rakhine state during the security crackdown led to spiked rates of malnutrition. Life-saving aid continues to be restricted. The same is true in Kachin and northern Shan states where recent fighting between the Myanmar army and ethnic rebel groups has newly displaced tens of thousands. At the same time, international humanitarian groups and UN officials are reporting the worst restrictions on humanitarian access in recent years. Respect for International Humanitarian Law through unfettered access to humanitarian aid throughout Myanmar must be a central point in U.S.-Myanmar relations.

### **Recommendations for the U.S. Government**

The current situation of the Rohingya people in Southeast Asia leads to three sets of recommendations for the U.S. Government regarding Myanmar, Malaysia, and U.S. refugee policy. First, the root cause of the suffering of the Rohingya people must be recognized and addressed, namely, the policies of the government of Myanmar. In the long term, the Government of Myanmar must be encouraged and pressured where necessary to amend its 1981 citizenship law and recognize Rohingya citizenship and lift the current wide-ranging restrictions on their rights. In the short term, Myanmar must allow unfettered humanitarian access and hold accountable those who have committed grave human rights abuses. The former should include both Rakhine state and other areas like Kachin and northern Shan states where, as the UN and humanitarian organizations on the ground report, restrictions on aid access are the worst they have been in years. The latter can be done most credibly through an independent international investigation through a UN Commission of Inquiry, a call already made by the UN’s top human rights officials, and one the United States should support. Continued severe human rights abuses and blocking of life-saving aid should be met by a reconsideration of recently lifted sanctions, not to mention giving pause to any plans for increased military to military cooperation in the near future.

Regarding Myanmar’s neighbors in Southeast Asia, the U.S. government should continue to engage them toward applying diplomatic pressure on Myanmar to address the Rohingya issue and to prepare for the possibility of future mass exoduses. Bangladesh

should be supported in its aid to the new inflow of Rohingya refugees, but also warned against proposed measures to move Rohingya to an island prone to flooding. Congress should further ensure that the U.S. State Department consider the efforts of countries in the region, particularly Thailand and Malaysia, to screen Rohingya in its annual Trafficking in Person's report. Regarding Malaysia, the United States should continue to engage the government and UNHCR toward addressing the gaps in protection of Rohingya, as well as other refugees. The government should be held to and assisted in its commitments to extend work permits to Rohingya.

Finally, the U.S. government should maintain and consider expanding rather than cutting its refugee resettlement program and foreign assistance that helps refugees and displaced persons abroad. This is a necessary measure in the context of the current global displacement crisis, but also specifically for the Rohingya population, as seen most starkly in those caught up in the May 2015 boat crisis.

---

**Testimony of**  
**Rev. Thomas J. Reese, S.J.**  
**Chair**  
**U.S. Commission on International Religious Freedom**  
**Before the**  
**Tom Lantos Human Rights Commission**  
**On**  
**Human Rights of the Rohingya People**  
**March 23, 2017**

**Introduction**

On behalf of the U.S. Commission on International Religious Freedom (USCIRF), I would like to thank Representatives James McGovern and Randy Hultgren, Co-Chairs of the Tom Lantos Human Rights Commission, for holding the hearing on “Human Rights of the Rohingya People” and inviting USCIRF to submit testimony for the record. I am Rev. Thomas J. Reese, S.J., Chair of USCIRF, an independent, bipartisan U.S. federal government commission created by the 1998 International Religious Freedom Act (IRFA). The Commission uses international standards to monitor the universal right to freedom of religion or belief abroad and makes policy recommendations to the President, Secretary of State, and Congress.

USCIRF has monitored religious freedom conditions in Burma (also known as Myanmar) since the Commission first began its work in 1999. Based on the country’s systematic, egregious, and ongoing violations of the freedom of religion or belief as defined under IRFA and upheld in international human rights covenants, USCIRF has recommended that Burma be designated as a “country of particular concern,” or CPC, every year since the Department of State first made the designation in 1999. The State Department most recently designated Burma as a CPC in October 2016.

Burma is a Buddhist-majority country, and while people of different faiths have lived peacefully for generations, violations of the freedom of religion or belief nonetheless occur, particularly against religious and ethnic minorities. Government and societal actors often

perceive these communities as threats and subsequently subject them to various forms of institutionalized discrimination, intimidation, imprisonment, or physical violence.

For the more than one million people who identify as Rohingya Muslim, this persecution has been brutal. The deprivation of their rights, by both government and societal actors, is one of the most profound human rights tragedies of the 21st Century. Most Rohingya Muslims reside in Rakhine State in western Burma where nearly five years ago, two waves of sectarian violence killed hundreds, displaced thousands, and destroyed hundreds of religious properties. Since then, Rohingya Muslims, Rakhine Buddhists, and individuals of other ethnicities and beliefs have suffered serious rights restrictions: in the case of Rohingya Muslims, such restrictions have included the denial of the right to a nationality and citizenship.

While these abuses have taken place under intense international scrutiny, there have been few consequences for Burma. The situation is so dire for many individuals that some international observers have called the violations crimes against humanity or even genocide. In this environment, the U.S. government must continue to urge Burma's government to make positive reforms while at the same time applying appropriate pressure when the government's actions, or inability or unwillingness to respond to societal actors, do not reflect international human rights standards.

In December 2016, USCIRF issued [\*Suspended in Time: The Ongoing Persecution of Rohingya Muslims in Burma\*](#). The report, also available in [Burmese](#), details the persecution of Rohingya Muslims resulting from government-directed abuses and/or government indifference to discrimination and violence that has killed hundreds, displaced thousands, and destroyed hundreds of religious properties since 2012.

While highlighting the ongoing persecution of Rohingya Muslims in Burma, USCIRF also has focused on the pervasive and longstanding persecution and discrimination Christians face that have persisted, often unreported, for generations. [Hidden Plight: Christian Minorities in Burma](#), also issued in December 2016, focuses on the key factors to understand the violations of religious freedom affecting Christian communities in Burma: the military's enduring, constitutionally entrenched power and the elevation of Buddhism as the de facto state religion. The report also is available in [Burmese](#).

## **Key Issues**

In 2016, Rohingya Muslims in Rakhine State suffered the harshest crackdown since waves of violence in June and October 2012. On October 9, 2016, a large group of insurgents alleged to be Rohingya Muslims carried out a series of attacks in and around Maungdaw Township in northern Rakhine State, targeting Border Guard Police and other law enforcement facilities. Nine police officers were killed in these attacks. In response, Burma's military and law enforcement instituted a sweeping clearance operation that cut off humanitarian aid and restricted independent media access to northern Rakhine State.



Interviews with Rohingya Muslims and others highlighted the inhumane, violent, and disproportionate acts Burma's military and security forces committed, which included: extrajudicial killings; death by shooting, stabbing, burning, and beating; the killing of children; enforced disappearances; rape and other sexual violence; arbitrary detention and arrests; looting and destruction of property, including by arson; enhanced restrictions on religious freedom; and razed religious structures. Not only has Burma's government not condemned the violence, but it also has rejected and denied many of the military's reported abuses and rebuffed the international community's concerns.

As a result of this operation, even stronger restrictions on freedom of movement than had been in place also were implemented, targeting Rohingya Muslims and others, including some Rakhine. This restricted right of movement denies individuals the ability to earn a living or access medical care, for example, and also prevents them from interacting and integrating in the day-to-day community marketplace, resulting in de facto segregation.

While the government established an investigation commission to examine the October 9 incident, human rights advocates registered concern about the selection of military-appointed Vice President U Myint Swe to lead the commission. On December 15, the commission reported on its visit to northern Rakhine State in a State Counsellor's office-issued statement that refuted a report made by one Rohingya woman about an alleged rape by military personnel and portrayed living conditions largely positively, a characterization incongruous with nearly all other accounts of the situation in Rakhine. In its January 2017, interim report, the commission found no evidence of genocide and insufficient evidence supporting numerous rape allegations, and failed to mention civilian deaths at the hands of security forces even though authorities just days earlier detained several police officers after the release of a video showing them beating Rohingya Muslims.

Despite the government of Burma's assertions to the contrary, the crisis in Rakhine State is not an internal, domestic issue: it is a calamity with regional and global implications. For example, in 2015, thousands of Rohingya Muslims risked the dangerous journey by boat to escape persecution in Burma. These asylum seekers, whether refugees fleeing due to legitimate fears of persecution or migrants seeking a better life, are stateless and ostracized wherever they go. They make their way to Malaysia or Indonesia with hopes of a better life, but encounter traffickers and smugglers along the way and often face terrible conditions wherever they land. In December 2016, Malaysia's Prime Minister Najib Razak publicly condemned Burma's ill treatment of Rohingya Muslims and recognized the Rohingya Muslim crisis as a regional challenge for the Association of Southeast Asian Nations.

In addition to the asylum seekers journeying by sea, many travel over land, including after the October 9 incident and the military's subsequent clearance operation, which triggered a significant movement of Rohingya Muslims across Burma's border with Bangladesh. According to the Office of the United Nations High Commissioner for Human Rights' February 3, 2017 [\*Flash Report\*](#), about 66,000 Rohingya have fled to Bangladesh since October 9, but since the report's release, this number reportedly has increased to more than 70,000. (Several thousand also were internally displaced, including some ethnic Rakhine.)

The report is based on “in-depth interviews with 204 [Rohingya Muslim] victims and witnesses” who were interviewed in Bangladesh. For decades, Bangladesh has hosted, in two government-run camps in Cox’s Bazar near the Bangladesh-Burma border, an estimated 30,000 officially recognized Rohingya Muslim refugees who fled Burma. An estimated 200,000 to 500,000 Rohingya Muslims deemed illegal immigrants live outside the camps in deplorable conditions. In 2016, the government of Bangladesh completed a census of the Rohingya population, but the results are not publicly available. Participants in the census reportedly will receive an identification card from the International Organization for Migration, which will help to improve access to health care and education.

Burma’s transition, between different governing parties and to a more democratic form of government, presents many challenges that require urgent attention. In any society, competing interests can cause tensions; whereas some disagreements may snarl the legislative and policy process, others can turn violent, particularly when persons or groups seek to elevate by force one ideology and/or faith over all others. In the case of the latter, political or societal forces often appeal to sectarianism to achieve political ends or amass more power.

USCIRF has seen such political aspirations motivate and encourage extremist and nationalist groups to target other religious communities, leading to greater intolerance in society, including grave violations of religious freedom. Extremist and nationalist elements achieve such political gains by stoking underlying antipathies toward or divisions between religious communities. Ultimately, such political and societal drivers can prompt mass movements of people fleeing persecution, which has certainly been the case for Burma’s Rohingya Muslims. Moreover, the government of Burma’s prolonged ill treatment, or toleration of such ill treatment, contributes to both collective and individual trauma those whose lives and families have been ripped apart by violence experience. The legacy of such protracted despair is something Burma’s government will need to address for generations to come.

## **Recommendations**

The U.S. government must reinforce with Burma that country’s responsibility to incorporate religious freedom and related human rights as part of the broader peace process and press for the rights of Rohingya and other Muslims, as well as Christians and other religious and ethnic groups. Also, the U.S. government must support the strongest possible resolution at the United Nations (UN) for an international investigation into the myriad human rights abuses in Rakhine State. USCIRF also recommends the following:

### To the Government of Burma:

- Allow humanitarian aid and workers, international human rights monitors, and independent media consistent and unimpeded access to Rakhine State and other locations where displaced persons and affected civilian populations reside;
- Sign and ratify the International Covenant on Civil and Political Rights;

- Allow the UN High Commissioner for Human Rights to open a country office to assess the human rights violations against all individuals in Rakhine State;
- Eliminate discriminatory policies, practices, and laws – especially the 1982 Citizenship Law that marginalizes and excludes Rohingya Muslims;
- Cease criminalizing the peaceful exercise or expression of religion or belief deemed blasphemous, defamatory of religion, or contemptuous or insulting to religion;
- Release prisoners of conscience and persons detained or awaiting trial, and treat prisoners humanely and allow them access to family, human rights monitors, adequate medical care, and lawyers and the ability to practice their faith; and
- Consider ways to formally include Rohingya Muslims in governing processes and political dialogue, such as by engaging them in the 21st Century Panglong discussion about national reconciliation.

To the U.S. Government:

- Continue to designate Burma as a CPC for its systematic, ongoing, egregious violations of freedom of religion or belief;
- Support efforts by the international community, including at the UN, to establish a commission of inquiry or similar independent mechanism to investigate the root causes and allegations of human rights violations in Rakhine State and other conflict areas, and to hold accountable those responsible—including members of the military and law enforcement—for perpetrating or inciting violence against civilians, particularly religious and ethnic minorities;
- Conduct regular U.S. Embassy visits to Rakhine State, meet with Rohingya Muslims both in Rakhine State and at U.S. Embassy Rangoon, and consistently raise with the government of Burma violations of freedom of religion or belief,
- Support interfaith and intrafaith collaborations, in which Rohingya Muslims also participate, especially at the grassroots;
- Use the term “Rohingya,” both publicly and privately, which respects the right of Rohingya Muslims to identify as they choose;
- Encourage the Government of Bangladesh to continue to provide humanitarian assistance and a safe haven for Rohingya Muslims fleeing persecution in Burma and urge Bangladesh to become a state party to the 1951 Refugee Convention on Refugees and its 1967 Protocol; and

- Use targeted tools against specific officials, agencies, and military units identified as having participated in or being responsible for human rights abuses, including particularly severe violations of religious freedom, such as adding further names to the “specially designated nationals” list maintained by the Treasury Department’s Office of Foreign Assets Control, visa denials under section 604(a) of IRFA and the Global Magnitsky Human Rights Accountability Act (Public Law 114-840), and asset freezes under the Global Magnitsky Act.
-



## ARAKAN ROHINGYA UNION

120 Meadowview Drive, State College, PA 16801  
(814) 777 4498; dg.aru@ar-union.org; www.ar-union.org

March 17, 2017

### **TOM LANTOS HUMAN RIGHTS COMMISSION STATEMENT BY DR. WAKAR UDDIN, DIRECTOR GENERAL, ARAKAN ROHINGYA UNION**

Co-Chairmen Congressmen McGovern and Hultgren and members of the committee, thank you for the opportunity to submit a written statement for today's hearing on the Human Rights of the Rohingya People.

Arakan Rohingya Union has been monitoring the situation in Rakhine state for the past several years through a number of sources, including sources on the ground in various Townships in Rakhine state, media, and personnel from state agencies and NGOs. The persecution of Rohingya ethnic minority by the Government of Myanmar has caused waves of humanitarian and political crises in Rakhine (Arakan) state during the past several years. Most recently, the assaults on Rohingya villages by Myanmar Government armed forces (army, BGP paramilitary police, and local police) have brought the crises to a new level with tens of thousands of Rohingya men, women, and children displaced internally and externally. Mass killings of Rohingya civilian population and atrocities by the Myanmar armed forces have been widespread in Maungdaw and Buthidaung townships in Northern Rakhine state.

On October 9, 2016, an armed clash between a group of Rohingya insurgents and Myanmar paramilitary border police (BGP) took place in Maungdaw in Northern Rakhine state. According to sources from Rakhine state, the Rohingya insurgent group was trapped by the Myanmar military as a pretext for creating instability in Northern Rakhine state that has been relatively trouble free since the violence broke out in 2012. The ultra-nationalists in the Government of Myanmar have been evidently eying the heavily Rohingya populated Northern Rakhine state since the 2012 violence; thus, launching the campaign against Rohingya civilian population with the aim of Rohingya population displacement again, internally and externally, particularly to force them out to neighboring countries.

Since October 9, 2016, Myanmar Government forces have torched over 30 villages in Maungdaw township in Northern Rakhine state, and 7 villages have been obliterated. Eye witnesses have described summary execution of Rohingya civilian, indiscriminate killing of women, elderly, and children, gang rapes, throwing children into fire, confining people inside the burning homes, and a number of brutal killings. Several hundred people are still missing, and over 500 Rohingya men are languishing in the military's detention camps under horrifying conditions. Escapees from one detention camp in Kyigan Pyin have described the treatments of Rohingya detainees by the Myanmar armed forces that are humanly unthinkable. Some detainee were so severely beaten by the military interrogators that they bled to death and some others went unconscious. Witnesses have also described several dead bodies from the camp taken to the wooded areas behind the camps by the armed forces. Mass graves have been discovered in certain locations in Maungdaw North. Since October 9, 2016, over a thousand Rohingya have died, 73,000 have been forced out to Bangladesh, and over 45,000 have been displaced internally. These are in addition to over 250,000 Rohingya refugees in Bangladesh and over 140,000 in IDP camps in Rakhine state in Myanmar.

United Nations Special Rapporteur Yanghee Lee has visited Northern Rakhine state, with limited access given by the Government of Myanmar, and to Rohingya refugee camps in Bangladesh very recently. She has spoken to the victims of rapes, sexual violence, and other crimes. In her oral report

to the 34<sup>th</sup> Session of the UN Human Rights Commissions, the Special Rapporteurs has described the crimes committed by the Myanmar Government forces against Rohingya as “crimes against humanity”. Humanitarian aid workers who have treated the victims of rape and other atrocities in camps in Bangladesh described the crimes against Rohingya also as “crime against humanity”. Numerous testimonies and authenticated audio, video, and still images from Rakhine state have provided overwhelming evidence of crimes against humanity committed by the armed forces of the Government of Myanmar.

We appeal to the Government of the United States to fully support the establishment of Commission of Inquiry by the United Nation to probe the violence against Rohingya in Northern Rakhine state, and to strongly urge the European Union and all the OIC member states to stand by the Rohingya victims of the crimes committed by Myanmar armed forces. Further, we appeal the United States to pressure the Government of Myanmar to permanently cease all the human right violations and the flawed national verification campaign, restore the full citizenship of Rohingya, immediately release all the Rohingya detainees, repatriate all the internally externally displaced Rohingya population, and give international relief groups and the media full access to all Rakhine state.

---



**The Burmese Rohingya Association of North America**  
A Signatory of Arakan Rohingya Union

---

**Human Rights of the Rohingya People**  
**Tom Lantos Human Rights Commission Hearing**  
**March 17, 2017**

***Written Testimony of John Sifton, Asia Advocacy Director, Human Rights Watch  
Submitted for the Record***

Co-Chairmen Representatives McGovern and Hultgren and members of the committee, thank you for the opportunity to submit a written statement for today's hearing on the Human Rights of the Rohingya People.

[Human Rights Watch](#) has conducted research on the human rights situation in [Burma](#) for more than 25 years, focusing on abuses against political dissidents and media, laws-of-war violations in the armed conflicts in ethnic minority areas, and [longstanding violence](#) against Burma's Muslim population, including [rampant](#) and [systemic](#) violations against the ethnic Rohingya.

About 120,000 Rohingya are currently displaced in camps in Rakhine State as a result of violence in 2012, and nearly 100,000 displaced persons live in squalid, prison-like conditions in camps within Sittwe, the capital of Rakhine State. The humanitarian situation for both remaining internally displaced persons (IDPs) and newly resettled persons remain dire due to restrictions on movement and lack of access to livelihoods and basic services. The Burmese government refuses to use the term Rohingya, which the group self-identifies as but is rejected by ultra-nationalist Buddhists in favor of the term "Bengali," implying illegal migrant status in Burma. Burma's de facto leader Aung San Suu Kyi refers to the group as the "Muslim Community in Rakhine State."

Renewed violence broke out after an [October 9, 2016 attack](#) by Rohingya militants on border guard posts in northern Rakhine State. In the wake of the attack, the Burmese military initiated a series of "clearance operations," locking down the area and denying access to humanitarian aid groups, independent media, and rights monitors. The United Nations estimates that more than one thousand people died in the crackdown. More than 450 Rohingya are being held in Buthidaung prison on charges linked to the attacks on the border posts.

Human Rights Watch documented numerous abuses associated with the military operations, including widespread arson, extrajudicial killings, and systematic rape and other sexual violence.

[Satellite imagery analyzed](#) by Human Rights Watch identified at least 1,500 buildings that were destroyed in Maungdaw township in October and November. The burn scars were consistent with arson attacks, while the pattern of destruction strongly suggested that the buildings were destroyed as part of a military operation. Eyewitness accounts placed accountability for the burnings squarely with the military.

In late 2016 and early 2017, Human Rights Watch researchers in Bangladesh interviewed 40 Rohingya refugees who had fled Rakhine State. The villagers [described](#) to Human Rights Watch seeing Burmese military personnel burn their homes, drag family members outside and shoot them, and rape women and girls. Human Rights Watch [documented](#) 28 incidents of rape and other sexual assault, some of which involved several victims. Burmese army and Border Guard Police personnel took part in rape, gang rape, invasive body searches, and sexual assaults in at least nine villages in Maungdaw district between October 9 and mid-December. Survivors and witnesses, who identified army and border police units by their uniforms, kerchiefs, armbands, and patches, described security forces carrying out attacks in groups, some holding women down or threatening them at gunpoint while others raped them. Many survivors reported being insulted and threatened on an ethnic or religious basis during the assaults. The sexual violence did not appear to be random or opportunistic, but part of a coordinated and systematic attack against Rohingya, in part because of their ethnicity and religion. A report by the UN Office of the High Commissioner for Human Rights also provided detailed accounts of atrocities and concluded that the abuses “seem to have been widespread as well as systematic, indicating the very likely commission of crimes against humanity.”

Massive displacement has been an enduring product of the recent violence and deteriorating conditions. As of January 31, the UN estimates that at least 92,000 have fled their homes—69,000 to neighboring Bangladesh, while 23,000 remain displaced within Maungdaw township.

The humanitarian crisis in northern Rakhine State is worsening each day that access to highly vulnerable and food insecure populations is not fully restored. It is crucial that international stakeholders such as the US government publicly press for the resumption of regular and uninterrupted aid deliveries. The Burmese government has failed to fulfill its promise to allow for the full resumption of aid to impacted areas, deepening the crisis for an already vulnerable population. The World Food Programme (WFP) reported on December 29 that “severe food insecurity appears highly widespread.” On January 13, the delivery of emergency food assistance was permitted to 158 affected villages in Maungdaw township, with some 35,000 reportedly reached by January 30. International staff has not been allowed to conduct distributions. Neither the WFP nor the UN Office for the Coordination of Humanitarian Affairs (OCHA) has been able to conduct a comprehensive needs assessment across the impacted areas in Maungdaw, and thus can only estimate the number of people currently in need of humanitarian assistance.

The Burmese government has failed to adequately or effectively investigate abuses against the Rohingya, and has not acted on recommendations to seek UN assistance for an investigation into the violence. It established various [committees to investigate](#) the situation in Rakhine State, but the investigations have consistently lacked independence and credibility. The government’s national investigation commission has announced that the military clearance operations were conducted “lawfully,” denied all rape allegations, and rejected evidence of serious abuses and religious persecution.



Burma's government should immediately allow unfettered humanitarian access to all parts of northern Rakhine State as the [United Nations](#) and others have urged, in order to reach people without adequate access to food, shelter, health care, and other necessities. The US government and others with influence in Burma should press the military and civilian authorities to urgently end abuses and grant access to the area.

In light of the Burmese government's failure to carry out credible investigations of its own, it is clear that the UN Human Rights Council in Geneva, which is currently in session, should create an independent, international investigation body to look into recent abuses. Yanghee Lee, the UN special rapporteur on the situation of human rights in Myanmar, has [called for the establishment of a commission of inquiry](#) at the session.

The US government should work with the European Union, the Organization of Islamic Cooperation, and others to support a Human Rights Council resolution creating an independent, international fact-finding mission to investigate abuses in Rakhine State, and press the Burmese authorities to cooperate with the probe and provide investigators access to key areas. The US government, which has contributed significant development aid to Burma throughout its democratic transition, should signal that unchecked abuses of the Rohingya will impair the growing US-Burma relationship.

Beyond addressing immediate human rights and humanitarian concerns, the US government should also call on Burma's union and state governments to cease persecution of the Rohingya population. The 1.2 million Rohingya in Burma have long been targets of government discrimination, facilitated by their effective denial of citizenship under the 1982 Citizenship Law, which should be amended to meet international standards or repealed. The Rohingya have faced enduring rights abuses, including restrictions on movement; limitations on access to health care, livelihood, shelter, and education; arbitrary arrests and detention; and forced labor. Travel is severely constrained by authorization requirements, security checkpoints, curfews, and strict control of IDP camp access. Such barriers compound the health crisis caused by poor living conditions, severe overcrowding, and limited health facilities. The extension and long-term maintenance of curfew orders in northern townships such as Maungdaw and Buthidaung are also a matter of significant concern, and should be rescinded.

# AMNESTY INTERNATIONAL, THE ROHINGYA IN MYANMAR: A HISTORY OF PERSECUTION



## THE ROHINGYA IN MYANMAR: A HISTORY OF PERSECUTION

Amnesty International USA Testimony for  
The Tom Lantos Human Rights Commission Hearing:  
Human Rights of the Rohingya People  
March 17, 2017

Amnesty International is pleased to submit this testimony on the Rohingya in Myanmar for the record.

Amnesty International has been published reports on the Rohingya for several years, and documented large scale attacks on the Rohingya in 2012.

The Rohingya are a Muslim ethnic minority residing primarily in Rakhine State, western Myanmar. Northern Rakhine State, the name commonly used to refer to Maungdaw and Buthidaung Townships, is home to the vast majority of Myanmar's estimated one million Rohingyas.

The Rohingya have been subjected to decades of state-sponsored discrimination and persecution. The Rohingya have been stripped of citizenship rights as a result of the country's discriminatory 1982 Citizenship Law and its application, and more broadly, their civil, political, economic and social rights have been violated.

The situation of the Rohingya, and other Muslims in Rakhine State, deteriorated significantly after waves of violence erupted between Rakhine Buddhists, Rohingya and other Muslim groups in 2012. State security forces were accused of perpetrating human rights abuses against the Rohingya during the unrest. Scores were killed and thousands of homes were destroyed, resulting in massive displacement. More than four years later, about 120,000 people – mainly Rohingya – continue to live in squalid internally displaced person (IDP) camps and unofficial settlements, where they do not have reliable access to adequate food, medical care or sanitation facilities.<sup>(1)</sup> The dire conditions are due, in part, to government-imposed restrictions that prohibit displaced people from leaving the camps and also create barriers for humanitarian organizations to access and provide services to the affected communities.

1

Rohingyas and other Muslims living outside displacement camps also face severe restrictions on their freedom of movement, limiting their access to livelihoods, healthcare, food and education. In Central Rakhine State, Rohingyas are not allowed in the main towns and, in most cases, are able to travel to other Muslim villages often only by waterway. In northern Rakhine State, prior to the October 2012 attacks, Rohingya movement was subject to a complex system of travel authorizations and restrictions that were strictly enforced by state security forces, including the military and the Border Guard Police (BGP).

Amnesty International and other organizations have documented arbitrary arrest, extortion, torture, and other ill-treatment of the Rohingya community by the BGP. These abuses are perpetrated with almost total impunity.

Discrimination against the Rohingya also takes place in the context of growing religious intolerance in Myanmar that has worsened in recent years. Advocacy of hatred against Muslims by Buddhist extremist groups has largely gone unaddressed and unchallenged by Myanmar authorities. Over the last few years attacks on Muslim communities in many parts of Myanmar have resulted in deaths, injuries and destruction of property but with no credible action being taken by the authorities.

Amnesty International has found that security forces have been guilty of deliberately killing civilians, firing at random in villages, arbitrarily arresting Rohingya men, raping Rohingya women and girls, and destroying homes and property. The authorities also suspended humanitarian access to the area, imperiling the lives of a population that was heavily reliant on such assistance prior to the attacks.

The ruling National League for Democracy (NLD), headed by Aung San Suu Kyi, took power in March 2016 after winning a historic general election in November 2015. Aung San Suu Kyi, who remains constitutionally barred from the Presidency, was appointed State Counsellor - a role which made her the de facto leader of the civilian government. She has not lived up to the expectations among the Rohingya and the international community that she would prioritize addressing the human rights situation in Rakhine State. She has instead sought to downplay the situation, casting doubt on reports of abuses against the Rohingya and asking for "space" to address the issue.

#### Rohingya Militancy?

Until recently, very little was known about the perpetrators of the October attacks on border police posts in Rakhine State. A group called *Harakat Al-Yaqin* (Faith Movement) claimed responsibility in a series of online videos released shortly after the attacks. In the videos, men carrying guns, swords, machetes and batons call for other Rohingyas to join in their fight against the Myanmar government. In some videos the group has called for jihad, although analysts suggest there are no indications that they are calling for acts of "terrorism".



According to the International Crisis Group (ICG), the *Harakat Al-Yaqin* was formed in the aftermath of the 2012 Rakhine State violence, and recruited leaders and trained hundreds of villagers in 2013 and 2014. ICG reports that the group is well organized and well-funded, and is led by a group of Rohingyas in Saudi Arabia. Amnesty International's interviews and information from other credible sources indicate that the group is active in Maungdaw Township, and has been involved in several other attacks and clashes with security forces since 9 October. According to state media, since 9 October at least 20 security force personnel have been killed.

There is a history of Rohingya and Muslim insurgency in Rakhine State, and over the decades several Rohingya armed groups have been active in the area. Prominent among these is the Rohingya Solidarity Organization (RSO), which was established in the early 1980s and had small bases in Bangladesh, close to the border with Myanmar. In recent years the RSO was largely believed to be defunct. Despite this, security forces in Rakhine State have regularly used alleged links with the RSO and other militant groups as a pretext for arbitrarily arresting Rohingyas.

The prospect of a new Rohingya armed group operating in Rakhine State has stoked fears and increased tensions in the region, in particular among the ethnic Rakhine community. It is critical that these concerns are not dismissed. For the security of all people living in Rakhine State it is essential that the attacks are investigated and those responsible are brought to justice. Such investigations should be conducted in a fair and transparent manner, in accordance with international human rights law.

### **Key Amnesty International Concerns**

#### **Collective punishment and possible crimes against humanity**

The response of the army to attacks on security forces went far beyond what is necessary and proportional. Instead of investigating and arresting specific suspects, the army carried out operations which amount to collective punishment, targeting individuals -- whole families and whole villages -- clearly not involved in such attacks. These operations appear to target Rohingya collectively on the basis of their ethnicity and religion.

Evidence collected by Amnesty International also gives rise to a serious concern that human rights violations by Myanmar security forces described in this report are part of a widespread and systematic attack against the Rohingya population in northern Rakhine State and may therefore constitute crimes against humanity. At the very least, the concerns substantiated in Amnesty's reporting that crimes against humanity may have been committed in Rakhine State warrant a prompt, impartial, independent and effective investigation.

#### Random attacks and killings

According to eyewitnesses, military personnel attacked Rohingya villagers at random, leading to deaths and injuries. People described how soldiers would enter villages during security sweeps and fire indiscriminately at women, men and children, often as they were fleeing in fear. On one occasion, soldiers dragged three people out of their homes and shot them dead, including a 13-year-old boy.

Through interviews with multiple eyewitnesses, the report also documents specific incidents in detail. On 12 November, for example, the Myanmar military deployed two helicopter gunships to a group of villages, where soldiers had engaged in a skirmish with suspected militants. The helicopters fired indiscriminately on, and killed, people as they fled in panic, although the exact death toll is difficult to determine.

One 30-year-old man said: *"We got scared when we heard the noise from the helicopter... The soldiers were shooting randomly. If they saw someone, the helicopter shot. They were shooting for a long time... We could not sleep that night. The next morning the military came and started shooting again."*

#### Arbitrary arrest and detention

Myanmar authorities have also carried out mass arrests of hundreds of mainly Rohingya men over the past two months, according to state media, which has confirmed that at least six people detained since 9 October have died in custody, raising serious concern about the use of torture in custody.

Amnesty International has documented the cases of 23 men who were taken away by security forces, without any information about their whereabouts or charges against them. Authorities have apparently targeted prominent community members for arrest, including village leaders and religious leaders. These arbitrary arrests could amount to enforced disappearances under international law. Multiple eyewitnesses also described brutal tactics, including physical violence, used by security forces during arrests.

#### Rape and other sexual violence

Myanmar security forces have raped and sexually assaulted Rohingya women and girls during security operations in northern Rakhine State. Evidence collected by Amnesty International suggests that Rohingya women and girls were mostly raped during security raids on their villages after the men had fled. Amnesty International spoke to six women and their relatives who told the organization they had been raped or sexually assaulted by soldiers. Fatimah, a 32-year-old Rohingya woman who has fled to Bangladesh, said that military entered her village and dragged her out to a paddy field where they raped her:



*“Three military officers raped me... I don’t remember what happened next because I fell unconscious... I woke up early the next morning. I could not get up so I crawled across the paddy field.”*

Aid workers in Bangladesh also confirmed that survivors of sexual violence had crossed the border and sought treatment. These accounts, taken together with interviews by other independent human rights groups and journalists, indicate an alarming pattern of rape and other sexual violence against Rohingya women during security operations.

#### Scorched earth Tactics

Amnesty International has confirmed that the military has torched over 1,200 Rohingya homes and other buildings, including schools and mosques. Sometimes, whole villages have been burned down. Several eye witnesses also described how soldiers used weapons which resembled rocket launchers to destroy houses. The Myanmar government has insisted that Rohingya militants were burning the homes and buildings in an attempt to garner international aid and support, but all eyewitnesses Amnesty International spoke to said security forces had burned down the houses. Analysis of satellite imagery shows patterns of burning consistent with targeted and systematic attacks by the military rather than ad hoc burning by militants. During security sweeps, the military also frequently looted Rohingya homes for valuables, including gold and cash. Soldiers sometimes confiscated important documents, including temporary identity documents, which can have long-lasting impacts as it restricts the ability to travel or to restore citizenship rights.

#### Humanitarian catastrophe

The Myanmar authorities have imposed severe restrictions on humanitarian access in the “operations zone” since 9 October, which has placed tens of thousands of people’s lives at risk. According to the UN, some 150,000 people in the region were dependent on food aid before the current crisis. Pregnant women and new mothers, many of whom now have no way to access medical care, are thought to be facing particular health risks.

#### Failure to acknowledge and address human rights violations

Since security operations were launched on 9 October, the Myanmar government and military have issued a series of blanket denials of human rights violations committed by state security forces. For example, on 7 December, Commander-in-Chief Senior General Min Aung Hlaing said that “*Burmese security forces have not committed any human rights violations including extrajudicial killings, rapes, or arson.*” At the same time, the authorities placed northern Rakhine State under effective lockdown, imposing severe restrictions on the ability of journalists and independent human rights monitors to travel there.

There is a growing body of evidence that the Myanmar security forces are committing widespread human rights violations in northern Rakhine State. While the military bears

ultimate responsibility for the violations, State Counsellor Aung San Suu Kyi – the de facto head of Myanmar's civilian government – has failed in her political and moral responsibility to speak out.

#### Desperation across the Bangladeshi border

Rohingya fleeing violence at home have also suffered further human rights violations as they crossed the border into Bangladesh. Bangladeshi authorities have refused to treat the fleeing population as asylum seekers and refugees and have denied considerable numbers of recent arrivals access to humanitarian assistance.

Fearful of creating conditions that would encourage more refugees to enter the country, the Bangladeshi government has strengthened its long-standing policy of sealing the border with Myanmar and has pushed back thousands who have crossed into Bangladesh. Such pushbacks are illegal under international law as they violate the principle of *non-refoulement* – which absolutely prohibits forcibly returning people to a country or place where they would be at real risk of serious human rights violations. The border closure has also forced people to take dangerous, irregular routes to enter Bangladesh.

Still, at least 27,000 refugees are believed to have entered Bangladesh since 9 October. Due to the fear of arrest and deportation, these desperate people have been forced into hiding in villages, refugee camps and even forests. They are by and large living without adequate access to food, clothing, shelter and medical care.

The Bangladeshi authorities have imposed severe restrictions on the ability of aid agencies to access and provide services to the newly arrived refugees, despite the obvious humanitarian needs. Instead, many of the new arrivals have been dependent on longer-term refugees or the local population for food and other necessities, straining their already meagre resources even further. As one long-term Rohingya refugee in Bangladesh told us:

*"I am the only breadwinner in my family. We are seven people, but some family members arrived from Myanmar last week so now we are 15 people living in the same small hut. We did not have any food this morning."*

#### National efforts to investigate violations in Rakhine State are inadequate

National efforts to investigate human rights violations and possible crimes against humanity committed by Myanmar security forces in northern Rakhine State are not independent or credible and are unlikely to deliver justice, truth and reparations for victims and their families. The inability – or unwillingness – of the Myanmar authorities to independently and effectively investigate allegations of serious crimes under international law requires the international community to step in to ensure accountability and prevent further deterioration of the human rights situation.



Under international law, all victims of human rights violations have the right to an effective remedy. This right extends to immediate family members and includes an obligation on States to investigate allegations of human rights violations promptly, thoroughly and effectively through independent and impartial bodies. Such investigations are needed to clarify what happened, to establish facts and responsibility, to identify measures needed to prevent the reoccurrence of human rights violations, and to facilitate prosecution. Where investigations reveal sufficient and admissible evidence of offences involving human rights violations, States must also ensure that those responsible are brought to justice. The failure to adequately investigate allegations of human rights violations or to bring those responsible to justice could itself constitute a human rights violation.

#### Inadequate National Investigation Commissions

To date, three national commissions have been established to investigate the 9 October 2016 attacks on border police posts by armed groups and the subsequent "clearance operations" conducted by the Myanmar security forces. The security forces have been accused of committing a wide range of human rights violations against the Rohingya population during these operations. However, none of the commissions established by the authorities are independent, impartial, effective or credible.

On 1 December, President Htin Kyaw established the "Investigation Commission" with the mandate to "probe into the background situations that led to violent attacks" that occurred on 9 October and on 12 and 13 November, as well as "the truth about the incidents, and ... whether existing laws, rules and regulations were observed." The Commission does not have further terms of reference or rules of procedure, and there is no transparency regarding its budgetary or technical resources.

The Investigation Commission's composition also raises serious concerns. Persons who carry out investigations into human rights violations should be chosen for their demonstrable impartiality and should be independent of the individuals, institutions and agencies implicated in the events being investigated. The Investigation Commission clearly fails in this regard: it is headed by the Vice-President, a former military general who was the military's nominee for the Presidency, and its members include the current Chief of Police and serving government officials.

In addition there are also serious concerns about the Commission's competency. Amnesty International is not aware of the presence of any experienced human rights investigators, forensic specialists, medical experts or staff trained to work with survivors of sexual and other gender based violence or child victims. This lack of experience and skills undermines the work of the Commission and places survivors, witnesses and their families at risk of re-traumatization.

The conduct of the Commission during its field visits has also raised serious security, confidentiality and human rights concerns. For an investigation to be impartial and



effective, complainants and witnesses must be protected from violence, threats of violence, public exposure (unless with their informed consent) or any form of intimidation. However, Amnesty International is not aware of any mechanisms adopted or practice by the Commission to protect survivors, witnesses or their families. The organization has instead received credible reports of villagers in northern Rakhine State being intimidated and harassed prior to and following Commission field trips.

Disturbingly, the Investigation Commission has allowed details about some survivors and eyewitnesses they interviewed – including their names and pictures – to be published by the media. These breaches of confidentiality have exposed individuals to reprisals and the risk of re-traumatization. Amnesty International is aware of two rape survivors whose personal details were published in state media after speaking to the Commission. Video footage of Commission members interviewing one of the women through a translator was later broadcast on state media, and shows an aggressive and inappropriate style of questioning. Both women, who spoke to media in December, later fled to Bangladesh fearing for their safety.

On 3 February, the UN Office of the High Commissioner on Human Rights (OHCHR) published a damning “flash report” concerning human rights violations against Rohingya since the October attacks.<sup>1</sup> The report concluded that abuses likely amounted to crimes against humanity. Amid increased international attention in the wake of the publication of the report, two internal commissions – one military and one police – were established to investigate possible wrongdoing. According to state media, both commissions were established at the request of the Investigation Commission. Both commissions have the mandate to establish whether the military or the police have committed illegal actions “including violations of human rights” during the “clearance operations”. The army commission is composed solely of members of the military, and the police commission will be conducted by an internal departmental enquiry composed solely of police personnel. In Myanmar, the police remain under the direct control of the military. These commissions – which would essentially have suspected perpetrating institutions investigate themselves – are clearly neither independent nor capable of being impartial. Even where there is clear evidence of human rights violations, security forces have failed to take effective action to hold perpetrators to account. According to media reports, three police officers were sentenced to two months in police detention after video footage of police officers beating Rohingya detainees during a security sweep was posted online in December. An internal investigation found they had violated police procedures. At least three other senior police officers were also demoted. No criminal proceedings are known to have been initiated against these individuals.

Finally, Amnesty International notes the establishment of the Rakhine State Advisory Commission led by Mr. Kofi Annan, but stresses that it is not mandated to investigate human rights violations, and is limited to making recommendations to secure “peace and prosperity” in Rakhine State.

---

<sup>1</sup> UN Office for the Coordination of Humanitarian Affairs (OCHA), Myanmar: IDP Sites in Rakhine State (Sep 2016), 30 September 2016, available at: <http://www.refworld.org/docid/58343f474.html>

#### Need For and Independent International Investigation

The primary responsibility for investigating and remedying human rights violations lies with the State, under whose jurisdiction the violations reportedly occurred. It is manifestly clear that Myanmar has failed to uphold this responsibility. The various commissions established by the authorities lack the expertise, independence and impartiality necessary to conduct a credible investigation into alleged abuses. This position is supported by the UN Special Adviser on the Prevention of Genocide, who has stated that the Investigation Commission "is not a credible option to undertake the new investigation."

Amnesty International considers that the gravity of the reported violations in Rakhine State and the government's ongoing failure to independently and effectively investigate them justifies the establishment of a UN-mandated independent international investigation into human rights violations committed in Rakhine State since 9 October. Investigators should be tasked with establishing the facts concerning alleged human rights violations, determining whether they constitute crimes against humanity, identifying the causes and alleged perpetrators, and making recommendations on the next steps needed to prevent impunity and ensure justice for victims. Failure to adequately investigate credible reports of grave human rights violations would send a message that security forces can commit crimes with impunity, contribute to further deterioration of the human rights situation in Rakhine State, and undermine efforts to tackle the root causes of violence and instability in the region.

#### **Amnesty International Recommendations:**

##### Amnesty International urges the government of Myanmar to:

The unlawful killings, random attacks, destruction of property and restriction on aid and services in Myanmar are part of a long-standing pattern of persecution of the Rohingya community that has been entrenched for decades. To resolve the current crisis will take more than the establishment of government commissions and investigations.

It is essential that State Counsellor Daw Aung San Suu Kyi, as Myanmar's de facto leader, shows strong moral and political leadership by condemning human rights violations and committing to a genuinely impartial and independent investigation into the events of the last two months. Ending the absolute impunity of the Myanmar security forces is an essential step if Myanmar is to continue on the path of reform. Equally essential is that Rohingyas, ethnic Rakhines and other minorities in Myanmar are able to live their lives in dignity, free from violence and discrimination.

Amnesty International strongly urges the Myanmar authorities to take immediate steps to address the unfolding situation in Rakhine state. These must include:



Ordering members of all state security forces to halt all conduct which violates international law and refrain from any further violations;

Publicly condemning human rights violations against the Rohingya in Rakhine State;

Granting humanitarian organizations, as well as independent journalists and local and international human rights monitors, unimpeded access to northern Rakhine State; and

Initiating an independent, impartial and, effective investigation, with the assistance of the UN, into alleged violations of international law. Where there is sufficient, admissible evidence, all individuals suspected of involvement in crimes under international law – including those with command responsibility – must be brought to justice in trials which meet international standards of fairness and without resorting to the death penalty.

Amnesty International also urges the government to take effective steps to address and dismantle longstanding, systematic discrimination against the Rohingya, ethnic Rakhine and other minorities in Rakhine State.

Amnesty International urges the government of Bangladesh to:

Allow all persons fleeing violence and persecution in Myanmar to enter Bangladesh without delay or restriction;

Strictly apply the principle of *non-refoulement*.

Amnesty International urges the government of the United States to:

Help establish a UN-mandated international Commission of Inquiry or a similar international mechanism.

Stop any Security Assistance or training until the Secretary of State certifies that the Myanmar Government have taken appropriate steps including

Holding the members of the security forces responsible for abusers committed against Rohingyas and allowing humanitarian and human rights groups access to Rohingya areas in Rakhine State.

**U.S. Commission on International Religious Freedom, Hidden  
Plight: Christian Minorities in Burma**

December 2016

[Click Here for Full Report](#)

---

## **Suspended in Time: The Ongoing Persecution of Rohingya Muslims in Burma**

December 2016

[Click Here for Full Report](#)

---