



**Testimony of the Hon. Thomas H. Andrews
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Tom Lantos Human Rights Commission
“Human Rights in Burma”
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Mr. Chairman and Members of the Commission:

Thank you for holding this hearing. It is extraordinarily important that the Congress and the American people have a clear perception of the realities inside of Burma. A clear view of the reality faced by untold numbers of people in Burma has all-too-often been obscured by the many laudatory reports and speeches that extol the historic movement forward for a country that for decades was brutalized by a ruthless military regime. While there have, indeed, been significant steps forward, and these should be recognized and rewarded, significant numbers of citizens in Burma continue to suffer at the hands of the Burmese military and the military dominated regime. It is critical that their side of the Burma story be told and that their reality be recognized by those responsible for U.S. foreign policy. Unfortunately, this has not been the case and this is why the attention that you are focusing on this side of the Burma story is so critically important.

This hearing is providing an enormous service by shedding light on realities within Burma that too many have been eager to ignore.

Last year I testified before the House Foreign Affairs Subcommittee on Asia and the Pacific in a hearing entitled: “Oversight of U.S. Policy Toward Burma”. As I told the Committee:

“I have been working to support human rights and democracy in Burma for decades, stemming back to the days when I served in this body as the representative from Maine’s 1st Congressional District. The very same year I was elected to the House of Representatives, Nobel laureate Aung San Suu Kyi led her party to an overwhelming electoral victory in Burma. I went to Congress. She went to prison.”

I noted that the election of Aung San Suu Kyi to the Parliament of Burma in April of last year was truly remarkable and that the reforms ushered in by President Thein Sein should be recognized and rewarded by the United States and other nations who have exerted economic, diplomatic and political pressure on what had been one of the world’s more brutal military regimes. But, I argued:

“Our recognition of progress in Burma must be prudent and clear-eyed because the fact of the matter is, a great deal has not changed in Burma. The United States has played a key leadership role in generating and sustaining the international pressure that has been instrumental in making the changes that we are witnessing in Burma possible. To abandon this leverage prematurely would be to jeopardize the movement forward that we have seen and condemn those who continue to suffer in Burma more of the same.”

Members of the Commission, I am afraid that more of the same is the rule for significant numbers of citizens of Burma who continue to be brutalized at the hands of the military and military dominated regime. A thorough examination and assessment of US policy toward Burma is therefore timely and imperative.

Between March 31 and April 4 of last year, as the elections took place that secured Aung San Suu Kyi a seat in Parliament, I was on the ground in Kachin State where 75,000 men, women and children had been forced to flee their homes because of the Burmese army’s attacks. I visited the towns of Laiza and Mai Ja Yang where, despite President Thein Sein’s assurances to the contrary, Burmese troops, weapons and violence were escalating.

For the people of Kachin—and those living in the other ethnic national states—the April 1 election and declaration of reforms meant nothing. I had spoken with dozens of displaced villagers who were trying to flee the renewed conflict. I heard stories of killing, forced disappearances and death from disease because displaced populations have been largely cut off from international humanitarian access. The day after the election I asked a local NGO worker if she had heard any election return news out of Rangoon. The response: “I could really care less about the election results in Rangoon. As long as there is war, elections are irrelevant to us.”

As you will hear from the testimony of Tom Malinowski of Human Rights Watch, things have gone from bad to worse in Kachin State. But Kachin is not the only place in Burma where innocent people are suffering the loss of their homes, villages and, indeed, their lives.

In November of last year, United to End Genocide sounded the alarm on “ominous warning signs of genocide” calling on the Obama administration to take strong and immediate steps to stop the systematic violence and attacks against the Rohingya Muslim ethnic population of Rakhine State in western Burma.

Deadly sectarian violence erupted in Rakhine State last June between ethnic Arakanese Buddhists and ethnic Rohingya Muslims, a long-persecuted stateless minority of approximately one million people. State security forces failed to protect the Rohingya community and have been complicit in the violence, resulting in the forced displacement of some 100,000. Burmese forces have increasingly targeted Rohingyas in killings, beatings, and mass arrests while obstructing humanitarian access to Rohingya areas and to camps for displaced Rohingyas around the Rakhine State capital, Sittwe.

Clashes broke out again in 9 of the state’s 17 townships in October 2012, including in several townships that did not experience violence in June, resulting in an unknown number of deaths and injuries, the razing of entire Muslim villages, and the displacement of an additional 35,000 persons. Many of the

displaced fled to areas surrounding Sittwe, where they also experienced abuses, including beatings by state security forces.

While violent attacks against the Rohingya community rise and fall, what is important to recognize is that the underlying conditions remain for ethnic cleansing and genocide. The Convention on the Prevention and Punishment of Genocide defines genocide as any of several “acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group.” Those acts include “killing members of the group”, “causing serious bodily or mental harm to members of the group”, and “deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.” The severe restrictions on travel, marriage, and access to aid imposed on the Rohingya by the Burmese government certainly raise the question of a deliberate, systematic attempt to inflict conditions of life to bring about physical destruction of the group.

Further, hate speech – a precursor of genocide – is prevalent in Burma. The hateful rhetoric of Rakhine monks is ominously reminiscent of the hateful propaganda directed at the Tutsi population and their sympathizers in the lead up and during the Rwandan genocide. While renewing calls for their expulsion from Burma, several Rakhine monks have urged the local population to sever all relations not only with the Rohingya people but those who have anything to do with the Rohingya who they described as “sympathizers”. Labeled as national traitors, they too face intimidation and violent attacks. There is a highly flammable toxic mix of conditions in western Burma that can explode into genocide unless strong action is taken.

Last year President Thein Sein proposed what amounts to the ethnic cleansing of the entire area where Rohingya citizens have been settled for generations. He went so far as to request assistance from United Nations Secretary General Ban Ki-moon to remove all Rohingya people from Burma or be sent to camps within the country. While he has since modified how he speaks about the Rohingya, the actions of the Burmese military speak volumes about the failure of his government to provide the protection – and recognize the fundamental rights – of this besieged ethnic minority.

The dire conditions faced by the Rohingya people have pushed thousands to flee on overloaded boats. Roughly 1,800 refugees washed up on Thailand’s shores in January and the United Nations estimates that at least 485 refugees are known to have drowned last year. It is estimated that one in ten of the grossly overloaded boats either veer off course or disappear. Those who arrive face further threats as evidenced by January raids in Thailand that rescued more than 800 Rohingya from human-trafficking networks.

The Rohingya are one of the most persecuted minorities in the world. They were effectively stripped of their citizenship in 1982 through the discriminatory Citizenship Law. The 1982 law was drafted by the military under former dictator General Ne Win and identified 135 ethnic groups as eligible for citizenship, the Rohingya being among the most prominent groups left out despite living in Burma since the early 1800s. It overturned a 1948 law, instituted at the time of Burma’s independence, that stated, “Any person descended from ancestors who for two generations at least have all made any of the territories included within the Union their permanent home and whose parents and himself were born in any of such territories shall be deemed to be a citizen of the Union.”

As United to End Genocide and 30 other international NGOs pointed out in a statement last July, the 1982 Citizenship law is, “not compatible with the Universal Declaration of Human Rights or with Burma’s legal obligations under international treaties” and “should be repealed, and replaced with a new law founded on basic principles of human rights. The new law should honor equality and non-discrimination, and help create an inclusive and tolerant Burma.” There has been little political will to repeal this law. The government has long restricted their rights to freedom of movement, education, and employment.

Government restrictions on humanitarian access to the Rohingya community have left tens of thousands in dire need of food, adequate shelter, and medical care. The authorities indefinitely suspended nearly all pre-crisis humanitarian aid programs, affecting hundreds of thousands more Rohingya who were otherwise unaffected by the violence and abuse.

President Obama raised the Rohingya issue in a speech during his December visit. He declared that there is “no excuse for violence against innocent people.” Unfortunately, President Obama failed to insist on consequences should Burmese authorities remain on the same course. His highly publicized visit to Burma – while violence against vulnerable ethnic minorities at the hands of the military continued to escalate – may have sent a dangerous message to those in government who are directing this violence. Actions speak louder than words. The lifting of most forms of pressure on the regime and a visit by the President of the United States signals that violence, discrimination, systematic human rights violations and official disenfranchisement may, indeed, be perfectly acceptable.

The Administration’s approach of “gentle persuasion and positive reinforcement,” except for sanctions tightly targeted at specific individuals and entities must be re-examined in light of conditions in Burma. This re-examination should include the pace at which sanctions have been lifted without substantial progress by the Burmese government including policies and practices that are a matter of life and death for untold numbers of innocent people. The U.S. government laid out several preconditions for the lifting of sanctions in various pieces of legislation including the release of *all* political prisoners, transfer of national government legal authority to a civilian government, progress to end violations of internationally recognized human rights, and allowing humanitarian access to populations affected by armed conflict in all regions of Burma. The pace at which sanctions were lifted without substantial progress by the Burmese government on these preconditions is a disturbing trend. Worse, there are no conditions for the re-imposition of sanctions should there be no significant change.

The Obama administration has repeatedly emphasized that reforms in Burma are not “irreversible.” Indeed, political prisoners remain behind bars and some of those who were released as part of the well-publicized reforms of the government are back in prison. While total bans on the right of public assembly have been lifted, those who participate in public demonstrations must have any of their slogans pre-approved by the regime or face arrest.

Given the ongoing killing of civilians, restriction of humanitarian aid, and gross violations in Kachin State, the severe plight for Rohingyas in Rakhine State, widespread displacement caused by pandemic land grabbing, reversible reforms, dominance of the military over civilian authorities, and remaining political prisoners; it is imperative that the U.S. government be clear that continued abuses will be met with consequences and that rewards given up to this point truly are “reversible”. There are several steps

that the U.S. Congress can take in the coming months to relay this message and to ensure, at a minimum, that no further restrictions are lifted before progress is seen.

What the US Congress should do:

- Renew the Burmese Freedom and Democracy Act to ensure that the remaining ban on gems sales, most closely tied to abuses in ethnic minority areas, are renewed, and to send a strong signal to the Burmese government and add pressure on the Burmese Army to cease hostilities in ethnic areas and pursue irreversible reforms;
- Use its influence to encourage the Obama administration to extend the International Emergency Economic Powers Act (IEEPA) to validate reporting requirements for U.S. companies, which are designed to strengthen accountability and transparency of U.S. corporations investing in Burma;
- Demand reports required of the administration to Congress in past legislation. Frankly, the administration has a poor track record in reporting back with several required reports in the JADE Act, for example, remaining unfulfilled;
- Include Appropriations language that provides for aid to local groups within Kachin state. Past line item provisions have allowed aid to Thailand-based groups helping displaced Kachin. That provision should be expanded to include local groups within Kachin state where tens of thousands remain displaced with limited access to aid;
- Include Appropriations language that sets parameters for International Financial Institutions (IFIs) to limit assessment missions, technical assistance, and loans if Burma fails to meet certain conditions. Tibet related legislation provides a useful precedent;
- Call for a United Nations Commission of Inquiry that covers not only recent violence in Rakhine state and Kachin state but anywhere else that past abuses have taken place in the country;
- Lay out clear benchmarks for the Burmese government to meet in order to allow further lifting of restrictions.

Set clear benchmarks for the Burmese government

Before allowing any further lifting of restrictions, the U.S. government should ensure that the Burmese government has made substantive progress regarding the following conditions:

- Demonstrated progress toward an end to gross violations of international human rights law and humanitarian law, including an end to attacks on civilians in all regions, and the provision of meaningful access for international human rights monitors;
- Entrance into meaningful collective nationwide negotiations that lead to a political settlement with ethnic minority groups; these should include negotiations over the grievances of ethnic nationalities including demands for constitutional decentralization/ federalism, power-

sharing, a fair federal fiscal system, and the rights of individual minorities including religious, cultural, and linguistic rights;

- Implementation of constitutional changes that enable a civilian government to hold the military accountable, including reform of the judicial system to ensure independence and enabling the provision of legal mechanisms to hold perpetrators of human rights violations accountable;
- Drawing upon public participation and civil society input, establishing institutional reforms that will effectively hold perpetrators of human rights violations accountable for their crimes according to all relevant international legal standards;
- Allowing humanitarian access to people in areas of conflict; including unhindered access for humanitarian agencies;
- The unconditional release of all remaining political prisoners, and the repeal of laws that prohibit basic freedom including freedoms of assembly, speech, and press;
- Establishing the rule of law, including the creation of an independent judiciary with the proper training to fairly and transparently adjudicate cases;
- Ensuring the transparency of all revenues from taxation and the natural resources sector;
- Set clear parameters for engagement with international financial institutions (IFIs);
- Fully implementing ILO Commission of Inquiry directives to end forced labor; and
- Decreasing military spending while engaging in meaningful consultation with national stakeholders to develop an appropriate national budget, including sufficient expenditures on essential social services and other basic needs of the population.

If Burma fails to meet these criteria, the U.S. government should:

- Continue to renew sanctions legislation and pass Appropriations language as outlined above;
- Re-impose the ban on investment, retroactive to July 2012, when the restriction were lifted;
- Restore the export restrictions on financial services, reverting the conditions of the general license issued on April 17, 2012, which makes exceptions for not-for-profit activities in basic needs, democracy building, and good governance, education activities, sporting activities, non-commercial development projects directly benefiting the Burmese people, and religious activities;

Members of the Commission, as much as we want to hope that the recent progress toward democracy in Burma marks an irreversible turning point, nothing positive will last until the

Burmese military stops committing atrocities and a political agreement is reached with the ethnic national states.

Congress needs to exercise an important oversight role that includes renewing the Burmese Freedom and Democracy Act while insisting that the administration take a measured approach on incentives. This can be assured by setting clear parameters and conditions for these incentives. Congress should insist that the United States government engage with the legitimate representatives of each ethnic nationality and support redress of their longstanding and unresolved concerns. It should focus on the plight of the Rohingya minority and insist on measures that will reduce the highly flammable conditions that could lead to even more of a catastrophe in a highly volatile area of Burma. Critically, even as progress moves forward, the United States cannot forget our commitment to cross-border humanitarian assistance. The hundreds of thousands of internally displaced people living in border areas depend on these aid networks for their survival.

I understand the desire to declare Burma a success story. I've been working on Burma for decades and want nothing more than to see true democratic transformation and an end to human right abuses. But, success isn't marked by removing sanctions—it's marked by lasting change for the people of Burma who have endured endless suffering under a brutal military regime. We must choose our next steps wisely. Let us reward genuine progress but let us not condemn the people of Burma—particularly those living in ethnic minority states—to the consequences of a long oppressive military regime that is suddenly freed of accountability and consequences for its behavior.

Again, thank you for holding this extremely important hearing. I am hopeful that it will be valuable first-step toward a re-examination and re-setting of U.S. – Burma policy. I am more than happy to answer any questions.