

GENOCIDE AGAINST THE BURMESE ROHINGYA

HEARING BEFORE THE COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES ONE HUNDRED FIFTEENTH CONGRESS SECOND SESSION

SEPTEMBER 26, 2018

Serial No. 115–166

Printed for the use of the Committee on Foreign Affairs



Available: <http://www.foreignaffairs.house.gov/>, <http://docs.house.gov>,
or <http://www.Govinfo.gov>

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32–302PDF

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GENOCIDE AGAINST THE BURMESE ROHINGYA

WEDNESDAY, SEPTEMBER 26, 2018

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10:00 a.m., in room 2172 Rayburn House Office Building, Hon. Edward Royce (chairman of the committee) presiding.

Chairman ROYCE. Members, if you'll take your seat we are going to call this hearing to order.

For more than three decades, the Government of Burma has systematically denied the Rohingya people even the most basic human rights. Add to that no access to education and no access to healthcare.

Last year, this persecution reached a new low, horrific levels, as the Burmese military drove 700,000 Rohingya from their homes, burning villages and killing scores, doing so-called "terrorist clearance operations." That's what the military calls it as they drive people to their death.

One Rohingya survivor recalled the attacks on his village, saying "the whole village was under random fire like rain."

Just this week, the State Department released a report detailing stomach-turning, systematic, and widespread acts of violence against the Rohingya northern Rakhine State.

The report includes gruesome accounts of burning elderly alive in their homes, gang raping women, and slaughtering fleeing refugees.

The Burmese military made no distinction between men, women, and children. One woman recalls watching as, to quote her words, "newborns and children who could barely walk, they threw them in the river" while she desperately hid in bushes across from that river.

It is hard to hear these accounts without feeling queasy. But we must catalogue these atrocities so that we can one day hold the perpetrators accountable, and I want to commend the administration for speaking out against these atrocities.

Ambassador Nikki Haley, in particular, has repeatedly demanded that the international community not ignore the plight of the Rohingya and that the U.S., as you know, we are providing desperately needed humanitarian assistance to the survivors, many who are now refugees in Bangladesh.

But I encourage the administration to go further. This is more than just a textbook example of ethnic cleansing. To all who have met with the Rohingya refugees, who have heard these accounts, it is clear that these crimes amount to genocide.

The Convention on the Prevention and Punishment of the Crime of Genocide, signed and ratified by the United States, defines genocide as certain acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group.

Those acts include, among others, killing members of the ethnicity or religion; causing serious bodily or mental harm to that ethnicity; deliberately inflicting conditions of life calculated to bring about its physical destruction in whole or in part; and imposing measures intended to prevent births.

I believe that a realistic accounting of the deliberate campaign of murder, of intimidation, and displacement against the Rohingya clearly meets this legal standard for genocide.

Making a formal determination of genocide must be the next step for the U.S. Defining these atrocities for what they are is critical to building international public awareness and support to stop them.

The protection of human rights has long been our nation's top priority in Burma, dating back to freeing Aung San Suu Kyi, and today, that must include protection of the Rohingya people.

The Burmese Government and its military must ensure the protection of all the people of Burma, regardless of their ethnic background or their religious beliefs. Those military leaders and security forces responsible for these atrocities must face justice.

The U.S. must push the civilian leader Aung San Suu Kyi to rise to this challenge. Confronting genocide of the Rohingya is a moral issue and a national security issue.

No one is more secure when fanaticism and unchecked violence are growing in this part of the world.

I look forward to hearing from our witnesses on these issues today and now I turn to Mr. Eliot Engel, our ranking member, from New York.

Mr. ENGEL. Thank you very much, Mr. Chairman. Thank you for calling this hearing. To our witnesses, welcome to the Foreign Affairs Committee.

Mr. Pomper, I am aware of the good work that you do and, Ms. Van Susteren, it's good to see you again. From the first time I appeared on your show, I was always a big fan. So thank you both for being here.

Our last hearing on this topic, roughly a year ago, took place at the height of the horrific violence against the Rohingya.

We saw startling evidence of what was taking place and heard about the desperate humanitarian crisis which, despite heroic efforts, is, sadly, no less dire today—more than 700,000 refugees, 70 percent of whom are women and children.

It's interesting because our congressional districts all have about 700,000 people each in them. So every Member of Congress could imagine—if every person who lived in your congressional district were a refugee, imagine what it would be like. That's the magnitude of the problem.

Seventy percent of these 700,000 are women and children and they now live in the world's largest refugee camp, in its entirety—the constant risk of losing their temporary shelters to monsoon rains and all kinds of other tragedies.

In the last year, though, we have also learned more about who was responsible. The Burmese military has claimed that this brutal crackdown is the response to a clash that took place on August 25th of last year. This is simply not true. Ample evidence shows that the Burmese military and police forces used this campaign to specifically target Rohingya civilians, to target them with rape, with indiscriminate killing, with slash and burn tactics that have destroyed dozens of villages.

The U.N. Independent International Fact-Finding Mission Report has undertaken the most comprehensive investigation to date. It recently called for the U.N. Security Council to authorize the ICC to investigate and prosecute senior officials in the Burmese military for crimes against humanity and “so that a competent court can determine their liability for genocide.”

So after a year of unrelenting violence and suffering, what will American policy be? The State Department quietly published its report on these atrocities last week. No announcement, no legal determination about what occurred, no indication of what comes next.

I ask, Mr. Chairman, that it be included in the record.

Chairman ROYCE. Without objection.

Mr. ENGEL. Thank you.

Will Secretary Pompeo determine that “crimes against humanity” occurred, which is, clearly, the case? Will he go further and say that crimes occurred with genocidal intent? Will he make the evidence behind the report available to use against the perpetrators of these crimes?

I believe he should, as the Burmese Government is currently bulldozing Rohingya villages and destroying any evidence that remains.

Ambassador Haley announced \$185 million in additional humanitarian assistance for the Rohingya and communities in Bangladesh who are hosting refugees. This is welcome news, because funding humanitarian relief is necessary. But it isn't a sufficient response, in my opinion, to such a grave human tragedy. There is a range of other steps we should be taking. There are ways we could exercise real leadership to help mitigate this crisis.

First of all, the United States should advocate for the U.N. Security Council to refer this case to the ICC. Instead, the President went in front of the world yesterday and trashed the ICC.

We should use our global statute to call this crime what it is—clearly, a crime against humanity and likely also a genocide, then rally a strong international commitment to fully fund the latest appeal for humanitarian assistance.

Instead, the State Department is using language that lets perpetrators off the hook. The President lobbs insults at the international institutions that could make a difference instead of using our leverage to garner more support to address this crisis.

We should be true to our history and our values and provide safe haven for men, women, and children who have been driven from their homes.

Instead, we are slashing the number of refugees allowed onto our shores—a pittance of 30,000. It's really shameful. The United States, of course, is not to blame for this crisis. The Burmese military, starting with commander in chief of the army, Min Aung Hlaing, bears primary responsibility. The blood is on their hands.

Aung San Suu Kyi, the civilian leader once also hailed as her country's moral leader, has proven herself, unfortunately, to be part of the problem by failing to speak out, by denying the abuses that have taken place, and for not addressing the apartheid policies and conditions in Rakhine State that set the stage for this catastrophe. I know that Mr. Pomper points this out in his written testimony.

But even though we are not responsible for the crisis, for decades American leadership has meant having the moral courage to stand up and do the right thing in the face of this kind of suffering.

The administration's policies send a clear message—we are no longer willing to carry that mantle. When it comes to standing up for human rights, for justice, for the rule of law, for the world's most vulnerable and oppressed, the United States has taken itself out of the running.

Complex challenges require multifaceted solutions and real leadership and we are not, in my opinion, exercising either of those. Shame on us.

I look forward to hearing from our witnesses what our path forward might look like if the administration were inclined to take it.

I yield back. Thank you, Mr. Chairman.

Chairman ROYCE. Thank you, Mr. Engel.

And before we move to our witnesses' testimony, we have a video from Ms. Van Susteren that we are going to play which includes footage from her recent trip to the refugee camps in Bangladesh.

[Video played.]

Chairman ROYCE. Thank you, Greta.

Let me explain to the members here and to our witnesses. There is some background noise from construction going on in the building and our staff director, Tom Sheehy, is in the process of trying to get that stopped.

So we will continue here with our hearing. But this morning, I am very pleased to welcome Ms. Greta Van Susteren and Mr. Stephen Pomper to the committee.

Greta Van Susteren currently anchors Voice of America's foreign policy show "Plugged in With Greta Van Susteren," and you can access that online, by the way. She has spent 14 years at Fox News, where she hosted the prime time news and interview program "On the Record with Greta Van Susteren."

She has traveled the world to cover international news stories, and most recently, of course, to Burma to observe the current genocide against the Rohingya.

Stephen Pomper currently serves as the United States program director for the International Crisis Group. Previously, he was a senior policy scholar at the U.S. Institute of Peace and a Davis Distinguished Fellow at the U.S. Holocaust Memorial Museum.

He also served on the staff of the National Security Council where he served as the senior director for multilateral affairs in human rights.

And we appreciate them both being with us here today. Without objection, the witnesses' full prepared statements are going to be made part of the record.

Members here will have 5 calendar days to submit any statements or questions or extraneous material for the record.

So, if you would, Ms. Van Susteren, please summarize your remarks and we will go to you at this time.

STATEMENT OF MS. GRETA VAN SUSTEREN, HOST, "PLUGGED IN WITH GRETA VAN SUSTEREN," VOICE OF AMERICA

Ms. VAN SUSTEREN. Thank you, sir.

Chairman Royce, Ranking Member Engel, members of the committee, thank you for the opportunity to testify.

The video you just saw is a shortened version but it's a powerful witness to the tragedy unfolding for the Rohingya people. This is pure suffering.

I am here today with Voice of America, part of the U.S. Agency for Global Media, and I volunteer to host a weekly affairs program, as the chairman noted, at VOA.

And as a journalist, my job is simply to tell you what I saw, to tell you the truth. Today, I am sharing my personal observations of the crisis informed by my reporting and I'd like to share the work of VOA to report on and reach the Rohingya people. My observations should not be construed as official positions of the administration.

I've made four trips to Myanmar and the surrounding region. My first trip to the Rohingya refugee camps in Bangladesh was in December 2017 in my own capacity.

I literally hitchhiked on the back of a cargo plane with an NGO, Samaritan's Purse, and I returned with VOA Director Amanda Bennett, again, to the refugee camp in June 2018, and as you saw in the video, in June the monsoon season just devastated the camps.

Shelters slipped away in mudslides, walls collapsed around huts and people, and attempts at just basic sanitation were obliterated.

The United Nations High Commission on Refugees estimates 800,000 Rohingya refugees from Myanmar are now living in those camps that are adjacent to each other.

These people are forgotten. They are stateless. They are homeless. They are nameless.

In Myanmar, the government has rejected the use of the term "Rohingya." The Rohingya are non-people to them. They have been dehumanized. This attitude was evident in nearly every interaction I've had when I've been in Myanmar.

The trauma of the refugees' violent departure from Myanmar is fresh. You saw in the video that pregnant women raped by the Myanmar military are shunned in the community.

Children live with memories of unspeakable brutality. One young boy proudly showed me a drawing he produced in an NGO-sponsored art program. I asked him to explain his art work to me and at one point I asked, "What is that?"

He replied that it was a drawing of a severed bloody hand. He saw it on the ground near his village home in Myanmar as he fled with his mother.

I heard many others speak about the Myanmar military's brutal use of machetes.

But what do we do now? The international community is aware and concerned, but gaining traction with the Myanmar officials has been difficult. In August 2018, the U.N. Human Rights Council issued a report documenting atrocities against the Rohingya people.

It details the military's mass killing of villagers, raping of women and girls, and the torching of villages. The report recommends that senior military leadership in Myanmar be investigated and prosecuted for genocide against the Rohingya.

U.S. Ambassador to the U.N. Nikki Haley confirmed that the State Department's own fact finding report is consistent with the U.N. report. She was right when she said, "The whole world is watching what we do next and if we act."

As journalists, VOA is already acting by covering the crisis from the start for its international audiences including those in Myanmar. It's risky for VOA reporters in Myanmar to do this.

Our reporters have faced pressures to stop using the term Rohingya in their work. But they have resisted. VOA's coverage includes interviews with representatives from the Myanmar and Bangladesh Governments, U.N. officials, human rights organizations, reactions from the State Department, and congressional comments and hearings.

I want to emphasize that hearing the views of Congress is of the utmost importance for VOA's international audiences. VOA is also working to directly reach the refugees.

Director Amanda Bennett's visit with me to Bangladesh in June was to assess how VOA can better report on and broadcast to the refugees.

UNHCR representatives, NGOs in the field, and representatives from the government of Bangladesh were highly supportive. The assessment identified multiple options for delivering content including radio and listening groups established by NGOs.

Director Amanda Bennett and her team also spoke with people living in the camp to learn about their news habits and issue preferences. Without exception, every group, male and female, wanted news and information. They are especially eager to hear news from Myanmar and what the international community is saying about them.

Some refugees with prior education recognize the VOA brand. They were also interested in learning English. In April 2018, VOA started transmitting 30 minutes of learning English language across AM and short wave radio.

VOA is also planning to start limited broadcasting in the Rohingya dialect. The value of bringing news and information to the Rohingya cannot be underscored. Left in these camps long term they will lack economic opportunity, be targets for human trafficking or exploitation or violent extremism. VOA news can make a difference.

I am extremely passionate about this project because I see it as contributing to what I hope will be a strong decisive response by the U.S. Government to seek a long-term peaceful solution for the Rohingya people.

In closing, I must acknowledge the efforts of Secretary Pompeo and Ambassador Haley to be forceful on this issue. I must also thank the many NGOs that rushed to help the Rohingya people fleeing from Myanmar last year, from Doctors Without Borders to Samaritan's Purse, the World Food Program, and so many more.

And finally, thank you, Chairman Royce and Ranking Member Engel for convening this hearing. Journalists must document atrocities as they occur.

Based on my own reporting, I firmly believe this is a pivotal moment for the United States and for being on the right side of history.

When we say never again, we must mean it.

Thank you.

[The prepared statement of Ms. Van Susteren follows:]

**Testimony of
Ms. Greta Van Susteren
Host, *Plugged In with Greta Van Susteren*
Voice of America
Before the House Foreign Affairs Committee
September 26, 2018**

Chairman Royce, Ranking Member Engel, members of the committee, thank you for the opportunity to testify today about Myanmar and the Rohingya refugee crisis. As you know, I am a journalist, and my job is simply to tell the truth—unbiased, accurate, and objective. I’m here today with the Voice of America, the largest of five media networks under the U.S. Agency for Global Media (USAGM), formerly known as the Broadcasting Board of Governors (BBG). VOA connects the world to the United States through news and information and provides an independent voice in international media. Its mission is to serve as a reliable source of news, to represent America to international audiences, and present the policies of the United States, including responsible discussion of these policies.

As requested by the Committee, I will be sharing my personal observations of the conflict, which have been informed by my on-the-ground reporting, and the work of VOA to report the facts on this crisis and support access to information in the affected areas. My observations should not be construed as official positions of the Administration. I volunteer to host a weekly foreign affairs news program at VOA.

I have made four trips to investigate what is going on in Myanmar and the surrounding region. My first trip to the Rohingya refugee camps in Bangladesh was in December 2017 in my own capacity, and I returned with VOA Director Amanda Bennett in June 2018. In this June visit, I saw breathtakingly worse conditions because of the monsoon season. Continuous rains had devastated the camps—with shelters slipping away in mudslides, walls collapsing around huts and people, and attempts at basic sanitation obliterated.

This is pure human suffering, measured not by the few but by the hundreds of thousands of people seeking safety and dignity. The United Nations High Commission on Refugees (UNHCR) estimates that some 800,000 Rohingya refugees from Myanmar are now living in the camps. These people are forgotten—stateless, homeless, nameless. In Myanmar, the government has rejected use of the term “Rohingya,” refusing to recognize them. This attitude was evident in nearly

every interaction I've had with people in Myanmar—from government officials to taxi drivers. The Rohingya are non-people to them; they have been dehumanized.

The trauma of the refugees' violent departure from Myanmar is fresh. Pregnant women carry their babies not knowing if that child was conceived through their marriage or as a result of a gang rape by the Myanmar military. They are shunned in the community. Children have witnessed unspeakable brutality and live with those memories. One young boy proudly showed me a drawing he produced in an NGO-sponsored art program. I asked him to explain his artwork to me, and at one point said, "What is that?" He replied that it was a drawing of a severed bloody hand that he saw on the ground near his village home in Myanmar as he fled with his mother. I heard many people in the refugee camp speak about the Myanmar military's use of machetes to kill or maim.

The Rohingya people may look different from us, espouse a different culture, and practice a different religion. But fundamentally, they just want to live their lives and raise their children in a secure, peaceful home. They want to be healthy. They want to be educated. They want to work. These refugees in the camps are considered to be the lucky ones because they escaped. But the challenges for them are formidable, as you'll see in this short video:

[Insert video]

What do we do now? The international community is aware and concerned, but gaining traction with Myanmar officials has been difficult. In August 2018, the United Nations Human Rights Council (UNHRC) issued a report documenting atrocities against the Rohingya people, detailing the military's mass killings of villagers, raping of women and girls, and torching of villages. The report recommended that senior military leadership in Myanmar be investigated and prosecuted for genocide against the Rohingya. U.S. Ambassador to the United Nations (UN) Nikki Haley confirmed that the State Department's own fact-finding report was "consistent" with the UN report. She was right when she said, "The whole world is watching what we do next and if we act."

As reporters, the Voice of America is already acting by covering the crisis from the start for its international audiences, including those in Myanmar. It's risky for VOA reporters in Myanmar to do this, as we have seen with the prosecution of Reuters reporters Wa Lone and Kyaw Soe Oo. Our reporters have faced pressure to stop using the term "Rohingya" in their work, but they have resisted and are bravely covering the facts as they unfold.

In the very early days of the crisis in August 2017, reporters were barred from Rakhine State by the Myanmar military. VOA's NewsCenter in coordination with its Bangla and Burmese Services worked to piece together what had happened, and the Bangla service was able to get a stringer to the refugee camps in and around Cox's Bazar in the first days. Since then, VOA reporters have continued to cover the story in multiple languages, including interviews with representatives from the Myanmar and Bangladesh governments, UN officials, human rights organizations, reactions from the U.S. State Department, and congressional comments and hearings.

VOA is also working to directly reach the refugees. Director Bennett's visit with me to Bangladesh in June was not just to observe the conditions in the camp; it was to assess how VOA can better report on and broadcast to refugees. UNHCR representatives and other NGOs in the field were highly supportive, as were representatives from the Government of Bangladesh. VOA has had a Bangladeshi language service since 1958, and has strong brand recognition and credibility in the country. The assessment visit identified multiple options for delivering content, including radio and "listening groups" already established by NGOs where people gather regularly to listen and discuss content—mostly public service announcements—provided on thumb drives.

Director Bennett and her team also spoke with people living in the camp to investigate their news habits and issue preferences. Without exception, every group they talked to was extremely interested in news and information, across male and female groups. They wanted more than public service announcements about how to tie down their tarp in a monsoon. Rather, the groups exhibited self-awareness of how isolated they are from the rest of the world, and are especially eager to hear news from Myanmar and what the international community is saying about them. Some refugees with prior education recognized the VOA brand. They were also interested in learning English. In April 2018, VOA started transmitting thirty minutes of "Learning English" language instruction programming across AM and shortwave radio. This existing program for other areas has been extremely popular both in giving people a marketable skill, but also in building the VOA brand. VOA is also planning to start limited broadcasting in the Rohingya dialect.

The value of bringing news and information to these isolated, traumatized people cannot be underscored. Left in these camps long-term, with no viable future, they will lack economic opportunity, be targets for human trafficking or exploitation, or worse—violent extremism. VOA news can make a difference. And I believe that

this type of work is directly related to the VOA mission. I'm extremely passionate about this project because I see it as contributing to what I hope will be a strong, decisive response by the U.S. government to seek a long-term, peaceful solution for the Rohingya people.

In closing, I must acknowledge the efforts of Secretary of State Mike Pompeo and U.S. Ambassador Nikki Haley. I know they have been forceful about this crisis.

I must also thank the many NGOs that rushed to help the Rohingya people fleeing from Myanmar last year, who work day-in-and-day-out in unthinkable conditions. From Doctors Without Borders to Samaritans Purse to the World Food Program, and many more. Their work is daunting, but their commitment is firm.

And finally, thank you, Chairman Royce and Ranking Member Engel, for convening this hearing. Reporters must bear witness, especially in documenting atrocities as they occur and using objective news to accurately inform policymakers. I firmly believe this is a pivotal moment for the United States and for being on the right side of history. When we say, "never again," we must mean it.

Chairman ROYCE. Thank you, Greta.
Mr. Pomper.

**STATEMENT OF MR. STEPHEN POMPER, PROGRAM DIRECTOR,
UNITED STATES, INTERNATIONAL CRISIS GROUP**

Mr. POMPER. Mr. Chairman, Ranking Member Engel, and distinguished members of the committee, thank you so much for the opportunity to speak to you today about the atrocities committed against the Rohingya population of Rakhine State and the ongoing human rights and humanitarian disaster that has displaced hundreds of thousands of Rohingya to southeastern Bangladesh.

My name is Stephen Pomper and I am the U.S. program director at the International Crisis Group. Previously, I served in a range of policy and legal roles in the U.S. Government, which are summarized in my written testimony.

Mr. Chairman, the unfathomable horrors that the Rohingya have suffered are documented in two recent reports that have received considerable attention.

The first is a report by a U.N.-mandated fact-finding mission which was cited by Ambassador Haley in her remarks to the Security Council in late August and which describes the “immediate, brutal, and grossly disproportionate” operations launched by the Myanmar armed forces known as the Tatmadaw in the aftermath of a cluster of coordinated insurgent attacks in August 2017.

That report concludes that the primarily Tatmadaw operations, which included indiscriminate killings, the targeting of children, gang rapes, villages burned to the ground, and people burned alive suggest, by their nature and scope, a level of preplanning by the Tatmadaw.

The second is a report by the U.S. Department of State released just the other day which is based on a survey of over 1,000 Rohingya refugees who have been displaced to camps in the Cox’s Bazar region of Bangladesh and which led the State Department to similar factual findings about the tragic events that unfolded in August 2017 and its aftermath.

Mr. Chairman, against this factual backdrop it is hardly surprising that the U.N. fact-finding mission found a reasonable basis to conclude that the Tatmadaw and others had committed crimes against humanity and war crimes and that there was a sufficient basis to investigate and prosecute the crime of genocide. These are all crimes of international concern—the gravest of crimes.

Mr. Chairman, primary responsibility for these crimes rests with the Tatmadaw including its commander in chief, Min Aung Hlaing, and the other security forces that perpetrated them, and these actors must be held accountable.

But, Mr. Chairman, this tragedy is all the more bitter because it comes against the backdrop of what not so long ago seemed a promising democratic transition which installed Aung San Suu Kyi as the senior civilian leader of the Myanmar Government.

While she lacks control over the military, this does not excuse the fact that Suu Kyi has refused to face the reality of what has occurred or to use her moral authority to urge the country down a path that could culminate in the safe, dignified, and voluntary return of the Rohingya to their homes.

Mr. Chairman, in the face of these terrible facts, the tools and strategies that are available to the United States to provide support to the Rohingya are few, imperfect, and limited.

But in order to make progress, it will be important to use them all, and energetically. These tools include targeted sanctions adopted under the Global Magnitsky Executive Order or other available authorities. While not a silver bullet, these can send an important message that may deter other potential bad actors.

These tools also include support for international tribunals and courts that enjoy jurisdiction over the crimes in question as well as the international mechanism that is, hopefully, being created to collect and preserve evidence for their benefit. These efforts may take time to yield results but they are the only way to achieve a measure of justice for the victims of these atrocities.

These tools include humanitarian support to the Rohingya in Bangladesh and development support to the communities where they are living, which is necessary both to meet the immediate needs of the refugees and to prevent economic burdens from driving a dangerous wedge between them and their hosts.

And, Mr. Chairman, these tools also include continued engagement with Aung San Suu Kyi's government, which, though frustrating, is the only way to encourage recognition of the catastrophe that the Tatmadaw has wrought and to begin working toward the critical changes required to enable the safe and voluntary return of the Rohingya.

Mr. Chairman, there are steps that Congress can take to support this effort. Congress can send a signal of support by sending a delegation to visit Rohingya refugees in their camps.

It could ensure that the United States is funding humanitarian and development assistance at generous levels. It can fund efforts that serve the purpose of accountability, and much like it created a powerful human rights tool in the form of the Global Magnitsky Act, Congress could signal its commitment to accountability by enacting a crimes against humanity statute to help ensure that should perpetrators from Myanmar ever set foot on U.S. soil they would face justice for their crimes.

Mr. Chairman, thank you for opportunity to share these brief thoughts with the committee and I will look forward to taking your questions.

[The prepared statement of Mr. Pomper follows:]

INTERNATIONAL CRISIS GROUP
 U.S. PROGRAM DIRECTOR STEPHEN POMPER
 TESTIMONY FOR HEARING TITLED: "GENOCIDE AGAINST THE BURMESE ROHINGYA"
 U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON FOREIGN AFFAIRS
 SEPTEMBER 26, 2018

Mr. Chairman, Ranking Member Engel, and distinguished members of the Committee. First, let me express my deep appreciation for the invitation to testify before the Committee and to discuss how best to address the horrific atrocities committed against the Rohingya population. I am the U.S. Program Director of the International Crisis Group, a non-governmental organization that conducts field-based research on 40 conflicts and vulnerable countries and monitors another 30 around the world. I am also a non-resident Senior Fellow at the Columbia Law School Human Rights Institute and the NYU School of Law Center on Law and Security. I previously had the privilege to serve on the staff of the National Security Council under President Obama, including as Special Assistant to the President and Senior Director for Multilateral Affairs and Human Rights, and before that for nine years in the Department of State Office of the Legal Adviser, including as the Assistant Legal Adviser for Political-Military Affairs.

Speaking today as a representative of Crisis Group, which seeks to prevent and resolve conflict and mass violence around the world, I will be drawing both on the research of my colleagues in the field, and on my own experience as a policymaker and a lawyer, to offer thoughts on how best to address the horrific atrocities committed against the Rohingya population of Rakhine State. I will focus in particular on tools and strategies for shaping the actions of decision-makers in Myanmar (including potential future perpetrators of atrocities), for affording atrocity victims a measure of justice, and for encouraging progress down the long and difficult path that might lead to the safe, dignified, and voluntary repatriation of Rohingya refugees.

As I will note, the challenges facing the Rohingya are immense, and the tools for addressing them are frustratingly limited. This makes it all the more critical that the United States take a broad-gauged approach to this humanitarian and human rights crisis. One element of its approach should be to send a clear and principled signal about the gravity of the crimes that Myanmar's military (the Tatmadaw) and others have committed—including through the imposition of targeted sanctions under the Global Magnitsky executive order and support for international accountability mechanisms (such as the international mechanism for the collection and preservation of evidence that is in the process of being created). Evidence concerning the crimes committed has been powerfully documented in recent reports by the U.N.-mandated Independent International Fact-Finding Mission on Myanmar (which includes findings of law) and the U.S. Department of State (which does not). At the same time, the United States will need to continue working with other donors and the government of Bangladesh by providing resources for humanitarian relief, as well as supporting and encouraging development efforts that can help reduce economic pressure on host communities. Finally, continued engagement with the civilian government will be necessary in order to press for recognition of the magnitude of the Rakhine State catastrophe, and seek the changes in law, policy, and practice that will be necessary in order to enable repatriation.

Background

A Stalled and Struggling Transition in Myanmar

In 2011, Myanmar embarked on a remarkable and largely unanticipated transition away from 50 years of isolationist and authoritarian military rule. The transition culminated in a landslide victory for the National League for Democracy (NLD) opposition party, and the peaceful transfer of power to an

administration headed de facto by Aung San Suu Kyi – the military regime’s long-time nemesis and an international democracy icon.

Aung San Suu Kyi took over as Myanmar’s de facto leader in March 2016. Although the military-drafted constitution prevented her from becoming president, she was able to use the NLD’s legislative majority to pass a law installing her in a newly created position of “state counsellor”, fulfilling her pre-election pledge that she would be “above the president” and “make all the political decisions”. In fact, Suu Kyi has struggled with governance, has no control over the military (which also retains the power to block constitutional changes), and has been unable to make progress on key issues. From early in her term, the Suu Kyi declared peace with Myanmar’s many ethnic conflicts to be her top priority, yet she has achieved little. Crisis Group has also reported on the government’s authoritarian turn, marked among other things by its prosecution of journalists and social media users, including two Reuters journalists recently convicted under the colonial-era Official Secrets Act in what has been widely observed to be a police entrapment operation.

These observations form the backdrop for the government’s failure to begin defusing the fractious situation in Rakhine State that it inherited when it took office. Aung San Suu Kyi initially sought to buy time, announcing in August 2016 the establishment of an advisory commission headed by former UN Secretary-General Kofi Annan, with a twelve-month mandate to examine the crisis and recommend steps to address the underlying issues, including the plight of Rohingya Muslims. The advisory commission was an effort to buy time at a moment when there was no political consensus on a way forward, and steps on citizenship, basic rights and desegregation—which were obviously needed to create a more tenable situation for the long-mistreated Rohingya minority—were hugely controversial among Rakhine State’s Buddhist majority and in Myanmar as a whole.

It did not work. While the civilian government was still coming to grips with the basic tasks of governing the country and learning to work with the military, Rakhine State tensions boiled over. First, the Tatmadaw led a spike in reprisal violence against the Rohingya following attacks by the Arakan Rohingya Salvation Army (ARSA) against three border guard police stations in October 2016. Then, after a series of coordinated ARSA attacks in August 2017, the Tatmadaw mounted a massively disproportionate, indiscriminate, and seemingly planned campaign that drove (according to the U.N. Fact-Finding Mission) nearly 725,000 Rohingya from their home, leaving thousands dead, wounded, and brutalized in its wake. While the civilian government in Naypyitaw does not control the Tatmadaw or other security forces associated with the atrocities, its response suggested both the lack of competence and an absence of will to address the atrocities.

Myanmar’s civilian government has over time evolved from a posture of intransigence, during which it appeared to be hoping to wait out the storm, to one in which it has acknowledged the concerns of the international community, but it has not accepted the veracity of the allegations or taken meaningful steps to address them. The government-supported “Commission of Enquiry” announced in late May 2018 to investigate alleged human rights violations in northern Rakhine State demonstrated its lack of credibility when its chair announced, in an inaugural press briefing, “there will be no blaming of anybody, no finger pointing of anybody, because we don’t achieve anything by that procedure(.)” As a practical matter, it is further constrained by having only a small number of junior, government-assigned administrative staff. The Rakhine Advisory Board (formed to advise the government on implementation of the Annan commission recommendations) disbanded in August 2018 after high profile resignations by members frustrated by its lack of progress, including former Ambassador Bill Richardson. The government has also done little to facilitate implementation of a memorandum of understanding signed with the U.N. development and refugee agencies to begin fostering conditions conducive to the return of the Rohingya to Rakhine state.

A Refugee Crisis in Bangladesh

More than 700,000 Rohingya who fled the Tatmadaw in northern Rakhine State following the August 2017 violence now reside in Bangladesh. They joined tens of thousands who left earlier in 2017, and many more from previous years. The two countries have agreed upon a procedural framework for voluntary repatriation, but no Rohingya have returned and small numbers continue to flee. For now, host communities and political elites in Bangladesh largely sympathize with the refugees, but at the level of local communities that is starting to shift. If that shift gathers momentum – after the coming December elections, for example, or due to prolonged negative impacts on host communities – the Rohingya might face pressure to return against their will or move into more isolated camps in Bangladesh, such as those the Bangladeshi government is building on remote Bhasan island. Such developments could prompt instability or violence on either side of the border. In the meantime, the camps in which the refugees live are squalid, over-crowded, and dangerous.

As noted, Myanmar has done little if anything to create conditions on the ground that would give refugees, who continue to be fearful and traumatized, the confidence to go back. Hostility toward the Rohingya across Myanmar political elites and in society more broadly remains firmly entrenched. Meaningful steps to provide the Rohingya citizenship, respect their universal rights, and promote desegregation are nowhere on the horizon. At a practical level, curfews, checkpoints and movement restrictions imposed by local authorities and security forces mean that the Rohingya who remain in northern Rakhine State cannot gain access to farms, fishing grounds, markets, day labor opportunities, or social services. Myanmar has bulldozed many burned Rohingya villages, is building new roads, power lines and security infrastructure across northern Rakhine State, and has in some cases promoted or allowed the expansion of existing villages and construction of new settlements inhabited by other ethnicities. Ethnic Rakhine political leaders and local communities are staunchly opposed to repatriation, and the national government has done little to mitigate their resistance.

Against this backdrop, even as the international community seeks through pressure and engagement to encourage better conditions in northern Rakhine state, it must face the likelihood that those conditions are not likely to emerge in the near future. The United States and other donors should therefore prepare for the long haul by providing desperately needed resources to underfunded humanitarian operations and investing in the development of Cox's Bazar district, where the refugees currently reside, to reduce the economic burden on host communities. At the same time as it is important to press for the goal of a safe, voluntary, and dignified return, it is also important to develop plans for a prolonged stay that can mitigate both their suffering of the Rohingya and the risk of propelling the crisis in a still more dangerous direction.

The U.N. Fact Finding Mission Report and the Department of State Report

While there have been many accounts of the atrocities committed against the Rohingya, the recently published account of the Independent International Fact-Finding Mission on Myanmar—published in draft form in August and final form in recent weeks—are extensively documented and likely to shape international discussion about the situation in Rakhine state. Operating under a mandate conferred by the U.N. Human Rights Council, the Fact Finding Mission reviewed allegations with respect to the situations in Rakhine, Kachin, and Shan states since 2011, and reported finding a “reasonable basis” to reach, *inter alia*, the following conclusions:

- The security forces’ conduct in Rakhine State following the ARSA attacks on the morning of August 25, 2017 was “immediate, brutal and grossly disproportionate.”
- Authorities referred to the security forces’ activities as “clearance operations”. These operations targeted the entire Rohingya population and suggest, by their nature, scale, and organization, a “level of preplanning and design on the part of the Tatmadaw leadership(.)”

- In the period beginning August 25, 2017, 392 villages were partially or totally destroyed, encompassing 40 per cent of northern Rakhine settlements and at least 37,700 individual structures.
- The operations against the Rohingya included indiscriminate shooting, targeted executions, men being rounded up and taken away never to be seen again, children targeted for killings, women and girls raped or gang raped together, villages burned to the ground, people burned alive, and bodies disposed of by soldiers through burning and burials in mass graves.
- The perpetrators of these activities were led by the Tatmadaw (in particular the 33rd and 99th Light Infantry Divisions) joined by other armed security forces and sometimes civilian perpetrators.

In light of its factual findings, the Fact Finding Mission also found a reasonable basis to conclude that (1) the Tatmadaw committed crimes against humanity and (together with certain other security forces) war crimes; (2) ARSA committed war crimes; and (3) there is “sufficient information” to warrant the investigation and prosecution of Tatmadaw senior officials so that “a competent court can determine their liability for genocide(.)”

By contrast, the just-released Department of State report includes no findings of law. Its factual findings, however, complement the findings of the U.N. Fact Finding Mission, and are framed in language that would be directly relevant to an analysis of whether atrocity crimes have been committed. These include (among other things) findings that the military “targeted civilians indiscriminately and often with extreme brutality,” that the violence in northern Rakhine State was “extreme, large-scale, widespread, and seemingly geared toward both terrorizing the population and driving out the Rohingya residents,” and that the “scope and scale of the military’s operations indicate that they were well-planned and coordinated.”

Encouraging Accountability and Progress toward Return

The tools for imposing consequences on the perpetrators of atrocity crimes and holding them to account are to a great extent dependent on oft-lacking cooperation by states and therefore have a disappointing track record. Nevertheless, these tools remain an essential element of any response to such crimes (and for the prevention of their recurrence) and should be pursued in the present context, both to reinforce the principle that crimes of this gravity should not go unpunished, and for the caution it may help to instill in possible future perpetrators.

U.S. and Multilateral Targeted Sanctions

Targeted sanctions can serve as an important signal of principle – to Myanmar and others around the globe – even though, in part because of Myanmar’s long history with tough U.S. sanctions (and the resulting sense that they can be endured), they are very unlikely to change the thinking of the military or the government.

Under Executive Order 13818 “Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption”—which implements the Global Magnitsky Act—the executive branch has far-reaching authority to impose financial and visa sanctions on any non-U.S. person or entity responsible for or complicit in “serious human rights abuses.” The Tatmadaw Western Command Commander Maung Soe was included in the first tranche of individuals designated for sanctions under this new authority on December 21, 2017. Subsequently, the administration designated four additional military officers and two security force units. The individuals and entities named in the Fact Finding Mission report as appropriate targets for criminal investigation should (to the extent not already sanctioned) be considered for targeted sanctions in this context, as should other perpetrators identified in due course. Proceeding with designations under the human rights prong of Executive Order 13818 would send an appropriate signal to potential future perpetrators in Myanmar and elsewhere.

As a rule, sanctions are more effective as both a naming-and-shaming tool and in terms of their impact if they are imposed in concert with other countries. To the extent that the United States proceeds with additional targeted sanctions, it should seek where appropriate to work in concert with other partners. Ideally this would mean obtaining a U.N. Security Council resolution imposing multilateral sanctions (a path likely to be blocked by China and possibly others) but it can also mean coordinating outside a U.N. framework with actors like Canada and the European Union, which have already imposed targeted sanctions of their own. It is also good practice to establish “off ramps” for targeted sanctions. The United States should accordingly make clear the circumstances under which sanctions would be lifted. In the case of individual designated for serious human rights violations or abuses, for example, it might be appropriate to signal that sanctions will be lifted if and when that individual has faced justice before an independent and impartial court or tribunal and been exonerated.

Criminal Accountability

While Crisis Group’s field work suggests that decision makers in Myanmar’s civilian government and military are likely to be more concerned about the prospect of criminal accountability than targeted sanctions, the path in this direction is also subject to many limitations. The proven deficiencies of Myanmar’s domestic justice system and the limited enforcement power of international or foreign tribunals that might assert jurisdiction over perpetrators all mean that the concrete impact of any judicial proceedings is likely to be significantly blunted. Nevertheless, it is important to pursue accountability through available channels to provide a measure of justice for the victims, to send a signal to future perpetrators, and to help begin creating the circumstances under which the Rohingya might feel safe returning home. Against this backdrop, certain questions have arisen:

What kind of crimes are being alleged, and are any of them more grave than others? The Fact Finding Mission report makes allegations with respect to genocide, crimes against humanity, and war crimes. Because of their gravity, these are all considered crimes of international concern that may be tried by international tribunals or by the national courts of countries with no link to the jurisdiction where the crime was committed beyond the presence of an alleged perpetrator on their territory.

Among the crimes of international concern, genocide and crimes against humanity can occur both in situations of war or in peace and are the most likely to be concerned with atrocities committed against large numbers of people. By contrast, war crimes take place in the context of armed conflict and are more prone to include one-off acts or acts against sole individuals. As between genocide and crimes against humanity, there is sometimes a perception that genocide is necessarily a crime of greater gravity. In fact, there are no specific numerical thresholds for either category of crime, and both are capable of encompassing mass murder on an unlimited scale and other bottomless depravity. The Nazi officials tried at Nuremberg were convicted of crimes against humanity rather than genocide, which was not formulated as a crime under international law until the Genocide Convention of 1948 came into force.

Genocide is, however, the most difficult of the atrocity crimes to prove. Under the United States’ understanding of the crime, it requires proof that an enumerated act (killing, the commission of bodily harm, deliberately inflicting destructive conditions of life, preventing births, or transferring children) is committed against the member of a specified kind of group (national, ethnical, religious or racial) with the specific intent to destroy the group in whole or substantial part. The specific intent and destruction prongs of this test are especially difficult to prove.

By contrast, proving crimes against humanity is generally understood to require a showing that the perpetrator knowingly committed certain enumerated acts—murder, sexual violence, persecution, deportation, and forced transfer are among them—in a widespread or systematic manner. Crimes against

humanity (and war crimes, which in many cases cover similar conduct but exclusively in the context of armed conflict) are therefore generally more straightforward to prove than genocide even in cases where greater numbers of people may have been affected.

Where can the alleged crimes be tried? The three atrocity crimes can be tried either by an international criminal tribunal, such as the International Criminal Court, an *ad hoc* tribunal that has been created by the U.N. Security Council to address a particular situation (like the International Criminal Tribunal for the former Yugoslavia), or a hybrid tribunal that combines domestic and international elements (like the Special Court for Sierra Leone). In countries that have passed legislation that recognizes universal jurisdiction over these crimes, national courts may also try perpetrators simply on the basis of their presence on the country's territory.

Generally, the International Criminal Court's jurisdiction is limited to acts committed on the territory of a party to the ICC Rome Statute, or in the context of a situation that has been referred to the court by the U.N. Security Council. But even though Myanmar is not a state party, and there has been no Security Council referral, the court has asserted jurisdiction over certain crimes arising out of the anti-Rohingya violence in Rakhine state. Several weeks ago, a pre-trial chamber of the court ruled that because the alleged crimes against humanity of deportation and forced transfer occurred partly on the territory of Bangladesh, which is a party to the Rome Statute, the court has jurisdiction over those crimes. It has also left the door open for the prosecutor to pursue other ICC crimes that she can demonstrate were completed on the territory of Bangladesh.

While this interpretation of the court's jurisdiction may raise concerns among those who criticize it for addressing matters that involve non-party states, it also means that the ICC has a head start over other fora where accountability might be pursued. The ICC prosecutor has already launched a pre-investigatory "preliminary examination" that covers some of the crimes in question. While the Security Council could augment the limited scope of the ICC's inquiry through a referral that would give the court full jurisdiction over the situation in Myanmar, China (and perhaps Russia) would almost certainly oppose such a referral. Any move to create a Council-mandated *ad hoc* tribunal would likely also be vetoed.

Although the only active option in the Myanmar context, as a vehicle for accountability, the ICC is imperfect. Operating with limited resources and without the support of any of the great powers, it tends to move through its caseload slowly and must rely on the spotty efforts of its 123 member states to enforce its judgments. It has particularly struggled to pursue prosecutions when the state where the crime occurred refuses cooperation. It could take years for the court to move from the preliminary examination stage to the opening of a formal investigation, and yet more years before it has assembled sufficient evidence to bring charges (an outcome that is by no means guaranteed).

To be sure, the court is not wholly without enforcement tools. In cases where the ICC brings charges and the indictee does not appear before the court, the court may issue a warrant or summons that obligates states parties to arrest the indictee and deliver him or her to The Hague. This ability to hamper the mobility of indictees casts a shadow that by itself can have deterrent effect. In order to be effective, however, it is important to build a large coalition of states that will commit to enforcing the warrant should an ICC indictee travel to their territory.

What more can the United States do? Unfortunately, the administration's policies have already set it at odds with the multilateral institutions that have played—and will almost certainly continue to play—key roles in pursuing accountability for atrocity perpetrators involved with the anti-Rohingya violence. It has withdrawn from the U.N. Human Rights Council and attacked its legitimacy. It has also attacked the legitimacy of the International Criminal Court ceased to support its efforts, even in matters where the

United States and the court share a common objective. If the United States were to reverse these policies, it would be in a better position to support the Human Rights Council as it weighs the creation of an independent investigative mechanism to collect and preserve evidence and to help ensure its success. (It still can, and should, look for ways to support the new mechanism, just as it has supported the analogous mechanism created for Syria.) A shift in policy would also allow it to provide support to, and share information with, the ICC, as it used to do in cases where it shared the court's objectives and there was no legal bar to doing so.

As for Congress, actions that call the world's attention to the crimes committed against the Rohingya, and help to galvanize the demand for justice, are important. Hearings and high level visits to the region are especially helpful. Congress might also fund efforts that serve the purpose of accountability – such as documentation, search, and recover efforts relating to mass graves to which there is access. And, much like it created a powerful human rights tool in the form of the Global Magnitsky Act, Congress could signal its commitment to accountability by enacting a crimes against humanity statute, to help ensure that should perpetrators from Myanmar set foot on U.S. soil, they would face justice for their crimes.

Refugee Support

The Rohingya refugee crisis presents a significant dilemma for the international community. On one hand, it is vital to insist on the right of the Rohingya to return home and Myanmar's obligation to create conditions conducive to that, as well as to pursue accountability. On the other, no voluntary repatriation is feasible for the foreseeable future, which means concerted efforts are required to ease the burden on Bangladesh and provide alternative options for the refugees.

Until now, many countries have been concerned that explicitly acknowledging that the refugees are unlikely to go home would relieve pressure on Myanmar to accept them back and could be seen as rewarding the architects of ethnic cleansing. But the terrible reality is that concerted international pressure thus far has not altered Myanmar's political stance on this issue and even such increased efforts as could be plausibly achieved – especially given China's seemingly fixed opposition to any punitive action from the Security Council – are likely to fall short in the foreseeable future. In the meantime, the status quo for the Rohingya refugees could morph in dangerous ways. If host communities or national political sentiment in Bangladesh turns against the refugees (building on what appears to be gathering momentum at the local level), the government may pressure them to return against their will or force them into more isolated camps in Bangladesh, such as those being constructed on Bhasan island. Such developments could prompt instability or violence on either side of the border.

Principled Engagement

As the United States considers its bilateral relationship with Myanmar in light of what is known and what continues to surface about the Rakhine State atrocities, it will have to thread something of a needle.

On the one hand, the civilian government's direct responsibility for the 2017 violence in northern Rakhine is limited by the fact that it does not have oversight or control of the armed forces, nor visibility of what they are doing. Nevertheless, it is also now clear that the civilian government, led by Aung San Suu Kyi is part of the problem – not only for failing to speak out, but for failing to curb anti-Rohingya hate speech in the state media, denying that human rights abuses have taken place, providing cover to the military, and perpetuating policies in Rakhine State that Amnesty International has concluded amount to the crime against humanity of apartheid. On the other hand, it does not appear that the NLD-led government is going anywhere. Though illiberal (as witnessed by the jailing of the Reuters journalists, and more general crackdown on free media and civil society) it is still sufficiently popular to make victory in the next

national election (2020) highly likely. If that happens, then it could be at least 2025 before leadership changes hands.

This suggests that even as the United States mounts pressure through sanctions, and whatever assistance it is able to offer to international accountability efforts, it should also recognize that these alone are not likely to change the direction of the government's handling of the Rohingya crisis, and continue to engage diplomatically. Through principled engagement—in which the United States speaks candidly about its views on the past and concerns about the future—U.S. diplomats should probe on an ongoing basis any openings for making meaningful progress. U.N. Special Envoy Christine Schraner Burgener has access to both Aung San Suu Kyi and the Commander in Chief of the armed forces and therefore could also be an important channel.

We will never again have the opportunity, unfortunately, to prevent the atrocities of summer 2017. Through the right balance of pressure and engagement, however, the United States now has an opportunity to try to prevent them from happening again, while providing some measure of justice to the victims.

Chairman ROYCE. Thank you. Thank you for being with us today. We appreciate it.

We've also been joined by Sandy Levin, who's been very passionate about this issue, involved in it for many years and we appreciate the Congressman being with our committee today on this.

Let me begin with a question, because the Convention on the Prevention and Punishment of the Crime of Genocide, as I indicated, the United States signed it. We ratified it. It defines genocide as acts committed with the intent to destroy in whole or in part a national, ethnic, racial, or religious group.

When President Reagan signed the legislation ratifying this convention, he said, "I am delighted to fulfil the promise made by Harry Truman to all the peoples of the world, and especially the Jewish people. This represents a strong and clear statement by the United States that it will punish acts of genocide with the force of law and the righteousness of justice."

Since then, the United States Government, often with the encouragement of Congress, sadly, had cause to make several determinations of genocide. We have had to do that, most recently finding that ISIS had committed genocide against religious minorities in Iraq and in Syria.

Ms. Van Susteren, based on your reporting, do you believe the actions of the Burmese security forces are designed to destroy in whole or in part the Rohingya and do you agree that these atrocities are being carried out on a massive and shocking scale?

Ms. VAN SUSTEREN. Mr. Chairman, if I could just break for 1 second—that the reason that it finally got signed by President Reagan was because Senator Bill Proxmire from my home state was so forceful in trying to get that finally signed by a U.S. President. It took 40 years.

Secondly, let me speak personally and not on behalf of VOA or the government. I don't speak for them. But I've been there. I've witnessed this.

Do I think that it meets the definition? I absolutely do, having witnessed it. I mean, I talked to people. I walked those camps. I talked to them.

The Myanmar military elected to push the Rohingya out of their country and it's a little bit like if six people commit an armed robbery in Milwaukee you don't throw everybody out of Milwaukee. You go after the six people.

But they systematically wanted to get rid of the Rohingya and that's what they did and, of course, it harkens back to the history in 1982, where they made them noncitizens with their constitution.

But there's no doubt that it's done on a mass level. It's no doubt that they have been identified. But I should add is that there are other groups in Myanmar like the Christians that are likewise getting persecuted, but not to the magnitude or the number of people of the Rohingya. But it does meet, in my personal opinion, the definition of genocide.

Chairman ROYCE. Thank you.

Also, in talking to some of the survivors, part of the issue has been getting journalists into that affected area. What they share with me is that the attempt or the effort by the military in Burma

to control information gives only one perspective every day to the Burmese people.

And so our efforts both on getting humanitarian assistance in and getting journalists to cover this first hand in terms of what's happening in Rakhine State is a huge challenge.

It's important that people in the region and throughout the world understand the facts and it's important they get that information in real time.

Sadly, we saw the two Reuters reporters convicted on framed charges and we've heard about the major obstacles that Radio Free Asia is facing.

Maybe you could talk about your experiences on this issue and what the VOA is doing in the face of these challenges from the Burmese military and trying to get the information all over the world but also getting it to the Burmese so that they understand what the rest of us are talking about and really comprehend not what the military is telling them is happening in Rakhine State but what is actually happening up there.

Ms. VAN SUSTEREN. You used the word challenges, which is a nice way to say what's really happening. The press isn't getting in. I mean, you have got an instance where a VOA stringer was invited to the Rakhine State but as part of a press pool with limited access.

I've been to North Korea three times and they stand next to you and take notes as you do anything. Well, if you're not allowed in—if you don't have free access you're not really reporting.

You make the best of what you get. But reporters are not getting access to the Rakhine State. I had the Ambassador from Myanmar to the United States on my VOA show and he said that he would take me—I am still waiting—because I would like to go into the Rakhine State.

But there's a reason why those two reporters from Reuters are spending 7 years in prison and that's because they dared to begin reporting on mass graves of Rohingya inside the Rakhine State.

But there is no access. I think even Senator Dick Durbin tried to get into the Rakhine State and a U.S. senator couldn't get in there.

So it's tightly controlled. The news that does come out often is the Myanmar military-controlled press.

So to suggest that we are getting any accurate news, the best we can do is talk to the survivors and they're all giving us consistently the same story.

We are all hearing the same stories and they're not all getting together and cooking up a story. We are talking individually to them and they're telling us these horrors. That's the best way we can get this information.

But if Myanmar wants to be playing the world stage they might want to invite journalists in so we can fairly report and not in a controlled environment.

Chairman ROYCE. Thank you very much for your testimony. My time has expired.

We'll go to Mr. Engel.

Mr. ENGEL. I want to again thank our witnesses today. It's very interesting to hear their thoughts, and the chairman and I are one when it comes to this kind of thing.

When we talk about acts of genocide or crimes against humanity or decide what we call it, why would the U.S. State Department be reluctant, based on all the available evidence, to upgrade its current designation of ethnic cleansing to at least crimes against humanity, if not genocide? Anyone have a thought on that?

Ms. VAN SUSTEREN. I don't speak for the State Department. I don't know what maybe they haven't seen it. I don't know why the State Department doesn't. Maybe there's a legal distinction. But I don't speak for the State Department.

Mr. ENGEL. Okay.

Mr. POMPER. So neither do I anymore. But I would say on this issue, let me not speculate about motivation but let me just say the findings that were released in the report make pretty much a facial case for crimes against humanity.

It doesn't use the term crimes against humanity but all the sort of legal predicates are sort of spelled out in language that, frankly, does have legal weight.

They speak about indiscriminate killing. They speak about widespread and large-scale violence and they speak about premeditation.

All of those are the key elements of a crimes against humanity finding. And I don't know why they wouldn't take the extra step there.

In the past, past administrations have struggled with issues around legal characterizations either because they really had trouble sort of making the legal case to themselves internally or because they were concerned that announcing a legal conclusion might put a burden on them to take policy actions that they weren't prepared to take.

I fear, in this context, it might be the latter, at least as it concerns crimes against humanity because it seems like such a straightforward determination. It really seems, based on the way in which the report is written that they've arrived at that conclusion and just been reluctant to articulate it.

Mr. ENGEL. Thank you.

The civilian Government of Burma seems to be focused on economic development in northern Rakhine State as the way to encourage Rohingya to come home, notwithstanding the desperate economic conditions there.

These efforts seem devoid of an acknowledgment of the systematic denial of basic human rights which Rohingya in northern Rakhine State have endured for decades.

So given the challenges of Rakhine State and the mixed results of peace-building and transitional justice initiatives following mass atrocities in other parts of the world, what would potential transitional justice mechanisms look like for Burma? What kind of initiatives should we be supporting as part of a broader policy toward Burma?

Ms. VAN SUSTEREN. First of all, inviting them back, they've got a problem is that, number one, they're noncitizens. They're not people under the constitution.

Secondly is that for a while they're saying they'd have to have some identification cards to come back. But it's not like they walked out with a passport and a driver's license. I mean, their homes were burned to the ground and everything they had.

They left with the shirt on their backs, if they had a shirt on their backs, and oftentimes not with their children if their children have been murdered or wandered off.

So it's a little unrealistic to think that this is some sort of economic development. I think sort of even before we get to that there has to be some recognition that these are people and we are not even there, and I think the condemnation as genocide is helpful.

Obviously, sanctions, as has been suggested, has historically been somewhat helpful. But I think that we are so far off from thinking that they're going back anytime soon.

Mr. POMPER. I agree with that. I think, in order to have a transitional justice mechanism to begin thinking seriously about them, you need to have a real transition and this is, at best right now, a stalled transition.

You have a situation where there really isn't meaningful access to many areas of northern Rakhine State by humanitarian actors, that access is controlled by the Tatmadaw.

You don't have a recognition of the catastrophe that's happened on the part of either the civilian or the military leadership. You don't even have a civilian leadership that's willing to call these people by their name.

Without these kinds of predicates, thinking about a transitional justice mechanism, which is the kind of mechanism you would put in place when you had a sort of consensus—a political consensus in the country—that there was a time to take a step forward to a new political moment, we are not there yet. There's too much that needs to be done.

Mr. ENGEL. Thank you.

Let me ask one final question. Some of our colleagues in the Senate would argue that disciplinary measures against Burma's military might make it harder to transition to democracy and end the civil war.

However, the U.N. fact-finding mission report found that these same military leaders are one of the greatest barriers to democratic reform.

So given the political entrenchment of the Burmese military and the constitutional weakness of the civilian government, what can be done by the United States or the international community to encourage the military to get out of politics?

Ms. VAN SUSTEREN. Well, first of all, we thought that lifting the sanctions in 2012 some of the sanctions would somehow coerce them—it was a recognition of moving toward a democracy.

That, obviously, didn't work and, again, I am speaking as myself. We can't police the world and I don't think we can police the world. But we don't have to participate. We don't have to let people participate in the world like the military leaders who are behind this.

So I don't know how you get the military to sort of back off. We've tried many things over many decades. But I think letting them participate in the world and the United States not taking a stronger stand makes it—I think we should take a stronger stand.

Now, the reference to the International Criminal Court—if that worked I would be all for it.

But the International Criminal Court has been somewhat feckless historically. It has had an outstanding genocide indictment against President Bashir of Sudan for, I don't know, what—5, 6, 7, 8 years and nothing has been done. So I don't think we can think of the ICC as some answer to all this. I think it really is incumbent upon the United States and Congress to make a decision about what kind of statement it wants to make.

But I think what's been most successful, and not particularly successful, is when the United States takes a strong stand and doesn't participate with nations that are doing ethnic cleansing or genocide.

Mr. POMPER. I will—just a couple of thoughts about this. I think the challenge that all international criminal justice mechanisms face is they don't have enforcement powers of their own. They really need to rely on member states to enforce their warrants and their judgments.

So if the international community gets behind an accountability effort, which I think is certainly warranted in this case, it's also going to be important to do the diplomacy that's necessary to mobilize the international community to deliver on judgements that are reached and warrants that are issued.

In terms of the question, how to bring the military along on this case, I mean, I tend to agree there's not a magic bullet.

I think the impulse is going to have to be sort of driven from—internally by a reform effort that, frankly, just is not evident right now—that that group or that basis of reformers has not, I think, yet materialized.

I think one hopes that the kinds of pressure tools that we've talked about targeted sanctions, threats of accountability, and the like can help demonstrate that this is not a satisfactory status quo for anybody involved.

And then I think the other piece of this is continued engagement and a conversation with the civilian leadership and, frankly, conversations with the military leadership as well to make the point that if Myanmar wants to progress, if it wants to diversify its ability to engage diplomatically and militarily with a full range of international actors, then it's going to need to evolve beyond the sort of straitjacket that it's placed itself in at this point.

Mr. ENGEL. Thank you. Thank you very much.

Chairman ROYCE. Yes, thank you, and I think Beijing's pressure to the Security Council has been a very real impediment to trying to move the international community on this, given their veto.

We go to Ileana Ros-Lehtinen of Florida.

Ms. ROS-LEHTINEN. Thank you so much, Chairman Royce and Ranking Member Engel, for holding this important hearing.

It's great to see you again, Greta. Thank you for everything that you have been doing with your VOA show and shining a light on—and your important advocacy on human rights issues on your show every week.

And thank you, Mr. Pomper, for being here to testify in front of us. For years now many of us on this committee have been speaking out in support of the Rohingya people.

In 2014, we supported a resolution that this committee passed—Jim McGovern’s House Resolution 418, which called for an end to persecution and for the U.S. to take more action on behalf of the Rohingyas.

In the years since, members of our committee have sent letters after letters asking for the administration to take more action, urging more pressure on the Burmese Government, sanctions against those responsible for this genocide, access for humanitarian assistance.

And just last month, we joined a letter by Ranking Member Engel urging the administration to levy additional sanctions against Burma’s military leadership to make a public determination over this genocide.

And this month we sign on to Jan Schakowsky and Ranking Member Engel’s letter again expressing concern about the imprisonment of the two Reuters journalist.

The list goes on and on, and in the wake of the U.N. report saying that the Burmese military actions meet the legal threshold of genocide, which we’ve been discussing, it also called for a formal international independent investigation into these crimes.

And it’s important to note Ranking Member Engel’s BURMA Act, which still needs to be passed and that aims to impose additional sanctions and ensure accountability about the human rights violations in Burma.

We had Joe Crowley and Steve Chabot, who’s a wonderful member of our committee, pass an important bill condemning the ethnic cleansing going on.

So, many efforts on behalf of Members of Congress, especially of this committee, but we need to start seeing results with real consequences—real deterrents to stop this genocide from happening.

And the administration has commendably implemented some necessary sanctions. But it’s also important and necessary to ask was there anything that could have been done differently.

When Aung San Suu Kyi returned to Burma’s political process in 2011, so many were encouraged by very limited democratic steps. But, as I said in 2012, it was far too soon to start easing sanctions as the last administration was committed to doing, never mind its outright lifting of sanctions in 2016.

This is not to say that anyone but the Burmese military is responsible for the genocide. But, Greta, I would ask you is this a case of moving too fast too soon? Was the easing and lifting of economic pressure and sanctions against Burma’s military regime a case of wishful thinking and how can we make sure we don’t make this mistake again?

Ms. VAN SUSTEREN. First of all, 20/20 hindsight is far different than reviewing something at the time. At the time that the sanctions were being considered for lifting and that they were actually lifted, I thought it was a good idea. I think we’ll try anything, encourage anyone to be a democracy.

So I had hoped and I think everybody else involved with it had hoped that those sanctions would encourage a greater move toward democracy in Myanmar.

It has not turned out that way, despite everyone’s best effort and the U.S. Government’s best effort to do that. I think, and you have

listed, Congresswoman, all the many things that Congress has done—the letters—and I tell you, in my personal opinion, those are so well received and it's so appreciated.

I mean, the fact that holding the hearings today for these people who are a bazillion miles away sitting in horrible deplorable conditions and the fact that the U.S. Congress cares about them certainly should be significant to the American people. It shows about what we are.

Frankly, if I have any sort of disappointment in what you have laid out, my disappointment really is in my own business in the media. I think the media has large—I mean, there's a lot to report on the world. I got that.

But I don't think the media has put the spotlight on this story enough so that enough people are informed about it so the American people can participate in this and help as well to give some sort of guidance to their leaders—the Members of Congress. It takes 2 seconds to tweet something and it goes—we all have 1 million followers in the media.

So, I thank Congress for what it's doing. I appreciate what the Obama administration tried to do and was ineffective. But we are in a new time and I hope now that there's a bigger spotlight on this and I hope that Congress can fashion something. My personal opinion is I would like to tighten the sanctions on those military leaders because I see that as the problem.

Aung San Suu Kyi, we all hoped that she was going to be the answer. But she doesn't have much power as a civilian leader.

I think we sort of almost built up in our own minds that she was going to be able to do these magical things. She won't even mention the word Rohingya. She won't even say that and maybe she's worried for her life.

I don't know what it is but she won't even say that. But I think we can stop putting our money on her. I don't think that she has the power and she hasn't indicated the willingness, although I would hope things have changed.

But I think it's really going to take a collective effort and I really call out the media. It takes 2 seconds to tweet things and it doesn't take a lot to report on this because we need to give you guys the spotlight by informing the American people so people care about this.

Ms. ROS-LEHTINEN. Well, thank you. My time is up, so now I get to interrupt you.

Ms. VAN SUSTEREN. Okay.

Ms. ROS-LEHTINEN. Thank you so much for your advocacy. Thank you, Mr. Chairman.

Chairman ROYCE. Thank you. Thank you.

We go to David Cicilline of Rhode Island.

Mr. CICILLINE. Thank you, Mr. Chairman, and I thank you and the ranking member for calling this hearing and thank our witnesses.

I was on the trip—the fact-finding mission with Senator Durbin and Senator Merkley in November and I want to begin by saying thank you to Greta Van Susteren for the attention you're bringing to this.

I do hope that maybe as a result of this hearing that there will be additional attention from the media because it was the most haunting trip I have ever made.

We had the opportunity to hear directly from members of the Rohingya community in Bangladesh about unspeakable atrocities and they showed us the burns on their bodies and recounted stories of the slaughter of their children and family members, and it is horrific.

And we were in fact denied the right to go into the Rakhine State, and as a kind of consolation prize they took us to Aung Myingalar, which is a ghetto in Myanmar where they've rounded up the Rohingya, taken them away from their homes, and they are forced to live in this ghetto. They ran businesses, had shops nearby.

They're not allowed to work in those shops anymore. There's no education, no health care, and they've done nothing at all other than be Rohingya and they're put into this. And so they were very proud to show us this place as an alternative.

We then heard stories from that government that, oh, no, the Rohingya burned down their own villages. I mean, it was just horrific. There was no willingness to accept responsibility in any way. So I appreciate the work that you have both done to bring attention to this.

My first question is in terms of an ICC referral, you know, having an international forum where some evidence can be presented so the world can understand what's happening, it seems to me, would be very useful and I am just wondering, Mr. Pomper, what you think would be the consequence if the United States stood in the way of that.

The reason I raise that question is Mr. Bolton has said in a speech that we don't believe in the ICC—we'll never cooperate or assist them in any way.

And so in this moment this becomes particularly important, in my view.

Mr. POMPER. Thank you for the question.

I mean, I agree generally with the tenor of the observations that have been made today that the United States, by itself, is obviously a very powerful voice and a powerful actor and can be a real leader on situations like this.

But it's most effective when it also works with multilateral institutions that have within their remit addressing these kinds of situations.

And in this particular context, two of the leading institutions that have those capabilities and that have that remit are the Human Rights Council and the International Criminal Court, and those are two institutions that this administration has spared no effort in recent months attacking their legitimacy, and I think that's a terrible mistake.

And I think you saw a little bit of a tacit recognition of that when Ambassador Haley associated herself with the fact-finding commission's findings when she spoke to the Security Council.

That fact-finding mission was mandated and supported by the U.N. Human Rights Council and it's an extremely credible commission and the work that it's done has been absolutely critical in

framing international conversation around these atrocities. Why one would delegitimize that is absolutely beyond me.

I think as far as the International Criminal Court I would make a couple of observations. First, the International Criminal Court has actually already seized itself of this matter.

It's done so in an incomplete way. There was a judgment by a pre-trial chamber of the court recently that asserted jurisdiction over certain crimes that have, as part of their predicate, actions that took place in Bangladesh, which is a state party to the ICC.

So it has partial jurisdiction. Obviously, a referral by the Security Council would give it greater jurisdiction and would allow it to do a more complete job in terms of investigating and potentially prosecuting these cases at some point.

I think that would be useful. But it's also important to give them the support that they need to do that.

Mr. CICILLINE. All right. Thank you very much.

I think also one of the principal issues that you both touched upon is the stripping of citizenship. We had the opportunity to meet with members of the National Assembly—their parliament—who were elected and served the members of the Rohingya community that have now been stripped of their citizenship.

So to say to these folks, you are not citizens of this country when they served in the government I think shows the absurdity and I think the question of how do you have a repatriation process that makes sure that the Rohingya can return safely and with full citizenship so that they can return to their country free from intimidation, the fear of death and violence, I think is, obviously, an important issue.

And I know Aung San Suu Kyi, who may not have a lot of power in the current construct, has a lot of moral authority and she has completely failed in any way to speak out against this violence, to acknowledge it.

The fact that she may have less power than the military may in fact be true but she has the power of her voice and her international standing and she has completely failed in that responsibility and it's been a grave disappointment to many of us here in Congress.

And I know my time has run out, but I thank you again for your thoughts, and yield back.

Chairman ROYCE. We go to Mr. Dana Rohrabacher of California.

Mr. ROHRABACHER. Thank you, Mr. Chairman.

Where does the Burmese military get their weapons and ammunition? What type of weapons and ammunition do they have?

Ms. VAN SUSTEREN. I will defer to you. Do you know that answer? I don't know where they get them.

Mr. POMPER. I would be speculating. I am sorry.

Mr. ROHRABACHER. We know they're shooting people. We have—

Ms. VAN SUSTEREN. They use a lot of machetes, they burn, and they rape. So that's been their—

Mr. ROHRABACHER. Well, I don't like—

Ms. VAN SUSTEREN. They've weaponized a lot of things like that. But I don't know about their weapons.

Mr. POMPER. Not from the United States, which has an arms embargo in place.

Mr. ROHRABACHER. Right. So would I be just really off base if I suggest that it's very possible that the Chinese are providing the Burmese military the weapons they need for these type of actions?

Mr. POMPER. You're free to suggest that. Certainly, not a crazy suggestion.

Mr. ROHRABACHER. All right. Well, let me just note that the type of genocide and brutality and mass killings that the Burmese Government has been known for for three decades now, at least.

I remember being very active when trying to support the Karens and the others, and the Burmese Government and their military has not just been focused on the Rohingya, which we need to worry about today because those are the ones who are bearing the brunt of this brutality and genocide, but this is a history of this type of activity and we should know where their weapons are coming from.

And I would suggest they're probably coming from China and—
Chairman ROYCE. Mr. Rohrabacher.

Mr. ROHRABACHER [continuing]. We should do something about it. Yes, sir?

Chairman ROYCE. If the gentleman would yield.

Their weapons do principally come from China. One of the oddities is that the other separatist ethnic groups in Burma also are supplied. The Chinese sell them weapons as well.

So they sell the weapons to the government in Myanmar and they sell weapons to different ethnic separatist groups.

Mr. ROHRABACHER. So it sounds like—thank you, Mr. Chairman. Thank you for this hearing, by the way. I appreciate your leadership, as usual, on human rights issues.

And let me just note, the chairman and I had a difference of opinion on the title of the Magnitsky Act but not the substance of the Magnitsky Act.

Is this time for us to have sanctions against the specific leaders of the Burmese military?

Mr. POMPER. Yes.

Ms. VAN SUSTEREN. And, again, I am not here representing the Voice of America or the government, but let me answer personally. Yes.

Mr. ROHRABACHER. All right. So, Mr. Chairman, today I would hope with that whatever comes out of this hearing that we stand together and that we are going to hold the individuals and leadership of the Burmese military responsible—personally responsible—as well as the government itself, and let us declare that the Government of Burma is an outlaw among nations because this is not inconsistent with their behavior over the last 30 years and the military has—and we declared that the military is guilty of crimes against humanity.

So one of the things I would be—now, those are things we can recognize now. What I don't understand is how come we are the ones that are upset? Where are Saudis and all of these wealthy Muslim countries that have enormous resources available to them? Why are they permitting their fellow Muslims to live in this type of brutality and squalor?

Ms. VAN SUSTEREN. Well, I can't answer those questions either but I can tell you that Bangladesh is very upset because this is very difficult for that nation. That's not a rich nation——

Mr. ROHRABACHER. That's right.

Ms. VAN SUSTEREN [continuing]. And they—and this——

Mr. ROHRABACHER. Bangladesh has almost no money for helping. We know there are several countries in this world that are Islamic countries that have enormous resources, and are they the helping?

Ms. VAN SUSTEREN. I can't answer that. I can tell you that there were some NGOs from different countries like Doctors Without Borders. But that's France. But I don't know if any of these other nations—I would defer to you, Mr. Pomper.

Mr. POMPER. So I can't give you a complete answer. But I recall from actually your reporting that there's a very substantial number of Rohingya refugees living in Saudi Arabia.

I also know that the Organization of the Islamic Conference has been very active diplomatically.

Mr. ROHRABACHER. I didn't catch that. The Saudis and the Kuwaitis and the Qataris—are they kicking in to help the Rohingya people?

Mr. POMPER. I don't know how much money is flowing from those.

Mr. ROHRABACHER. Well, when you see pictures of standing in this—the horrible—in the middle of this village or the horrible conditions that you just showed us, it is more than disappointing to think that, okay, we need to be concerned but what about these filthy rich Muslim countries. They don't allow Syrian refugees in.

They expect Europe to take all of them. They aren't even helping the Rohingyas and other people who are being targets of genocide. Shame on them. Shame on them, and I would hope that, Mr. Chairman, that they're listening right now.

But all we can do with us is we can make our own commitment to having standards and, Mr. Chairman, thank you for the leadership and the Magnitsky Act, although I disagree with the title, and other things like this that you have made sure that we are part of the solution and as compared to the Saudis and the Chinese.

Thank you.

Chairman ROYCE. Thank you, Mr. Rohrabacher.

We go to Mr. Brad Sherman of California.

Mr. SHERMAN. Thank you. I also believe the Islamic world should be doing more. To just commit diplomatic resources is not the same as hundreds of millions or billions of dollars.

It's my understanding that the United States is by far the most generous of all countries in this and many other crises.

Many of us supported the efforts of Aung San Suu Kyi. We met with her. We pushed. We adopted sanctions, and it is disillusioning to the entire democracy and human rights movement worldwide. How do I get people involved in the next human rights champion—in the next democracy champion when we see someone with a lot of influence use that influence to protect the military of Myanmar?

Now, in September 2018, I joined with several of our colleagues on a bipartisan letter urging Secretary Pompeo to press for the release of the two Reuters journalists who were sent to prison for 7

years. I am so troubled that Aung San Suu Kyi has defended the conviction of these journalists.

Ms. Van Susteren, you speak as much as anyone for the journalistic community of this country. What should we be doing?

Ms. VAN SUSTEREN. Well, first of all, let me just add to this that I appreciate that letter, on behalf of journalists, and I shared disappointment with the U.S. media. Why aren't we hearing about this from my fellow journalists more? I mean, that would help.

This is a partnership. The media can't do it alone. Congress can't do it alone. Nobody can do all this alone.

So I share that sort of disappointment with the journalists. They are not, of course, the only journalists held in jails across the world. But these two journalists, just to fill in the gap, were framed by the police.

They were given some documents and in a restaurant, and as soon as they walked outside the restaurant they were arrested for having the documents. So it's terrible.

Aung San Suu Kyi, a huge disappointment. Maybe we expected way too much of her but we can all sort of look back and think, what could she have done? I think it really sort of behooves us to sort of in this crisis, as we look at what's happening to the people now, to figure out what can we do for them.

But the people in this camp, they're penned in. They can't leave. They can't go to school. They can't do anything. It's a breeding ground for all sorts of diseases and for trouble—which is one of the reasons why the director of Voice of America wants to get news into the camp so that people see that there's opportunity outside the camp and that at least there are people paying attention.

Mr. SHERMAN. The purpose of the Burmese military—the Myanmar military—is to ethnically cleanse the area, to reverse what they think is the wrongful act of people moving into their country 100 or 1,000 years ago. Most American families have moved into this country in the last 100 or at least the last 1,000 years.

And so we can hope that there are well maintained refugee camps in Bangladesh. But that achieves the purpose of what seems to be a genocide and a crime against humanity.

I would point out that when the Government of Sudan waged war against its own people in the south, we saw an independent South Sudan. Now, things didn't work out recently.

Mr. Pomper, if north Rakhine State was either independent or part of Bangladesh, would its people be safe on their own land? Because we know they can be more or less safe in refugee camps, but then they have limited opportunities.

Mr. POMPER. So forgive me, sir. I am going to resist the logic of the question a little bit for the very reason that you said, which is that I think these kinds of separatist solutions, unfortunately, honor the logic of ethnic cleansing and I think at this point the best way to think about this is in terms of trying to affect a situation where it is actually possible for the Rohingya to come back—

Mr. SHERMAN. You really think that the Rohingya could move back and wouldn't be killed 2 years from now, 10 years from now, 20 years from now?

Mr. POMPER. I don't—

Mr. SHERMAN. Do you really think that they can live in peace and security and confidence in a land controlled by the Burmese military?

Mr. POMPER. So let me answer the question in two parts.

I think, first, if the government succeeds or the Tatmadaw succeeds in this campaign, what is to stop it from then moving down the list of ethnicities with which it has similar grievances?

Mr. SHERMAN. Well, if it grants independence to each of those ethnicities, that's exactly what they don't want to do. If the Burmese state loses north Rakhine as part of its sovereign territory, it's not going to want to repeat that elsewhere.

Mr. POMPER. I would worry about the precedential value inside Myanmar and I would worry about the precedential value outside Myanmar as well.

I think, in general, the best solution under these circumstances—and I agree, it's difficult to look into the future and say 2 years, 5 years, 10 years from now we will certainly be in a situation where we know that this will be solved in terms of creating the circumstances for repatriation, but that needs to remain the objective at this point. In the meantime—

Mr. SHERMAN. Well, I think we are in favor of repatriation. What the question is are we in favor of the Burmese military having sovereignty over the repatriated individuals.

Mr. POMPER. The Burmese military should not have sovereignty over anybody.

Mr. SHERMAN. Well, the Burmese military can operate in the territory of Burma—or Myanmar—and as long as that—asking the people to go back and say that's the army of the country I will live in and I hope they don't rape my wife and slaughter my children, but that's why I move back—

Mr. POMPER. So I think you put your finger on it when you referred to—

Mr. SHERMAN. Safety requires a government that is dedicated to your safety rather than dedicated to your extermination.

Mr. POMPER. Correct, and it also requires civilian control over a military that—

Mr. SHERMAN. Well, the civilian control is also in favor of defending what's going on.

I yield back.

Chairman ROYCE. Steve Chabot of Ohio.

Mr. CHABOT. Thank you, Mr. Chairman, and thank you for holding this very important hearing.

In the past month, two reports were published detailing how horrific the crimes actually were that we are discussing here today.

First, at the end of August the U.N. fact-finding mission on Myanmar released a preliminary report that argued that the Burmese military had genocidal intent against the Rohingya and called for a competent international authority to try cases against the individuals responsible.

The final report, issued just last week, makes the case even clearer, and in a hearing like this it's really hard for any of us to comprehend the horrors that happened to the Rohingya during that period of time—what they endured.

These were human beings that endured some of the most horrific things that's possible in human existence and I would ask unanimous consent that the full U.N. report, which I have here, be entered into the record.

Chairman ROYCE. Without objection.

Mr. CHABOT. And this report contains in great detail those horrors which, again, in a civilized hearing like this it's hard to speak about those things.

The second report, from the State Department, was released 2 days ago on Monday evening. This spring, the State Department commissioned a survey of Rohingya survivors in Bangladesh together from eyewitnesses and Monday's report discusses their stories, and the report calls the violence extreme, large-scale, and widespread and states that, "The scope and scale of the military's operations indicate that they were well planned and coordinated."

Of the, roughly, 1,000 Rohingya refugees interviewed the vast majority—about 80 percent—witnessed killings and the destruction of villages. So these are people that actually saw other people murdered, and probably most of the people, hopefully, in this room haven't experienced that in their life. But we are talking about 80 percent of those people actually saw one or more people slaughtered.

In total, we know that 400 villages were burned. Further, about half of those surveyed actually witnessed a rape.

Statistics really only tell part of the story. The true perversity of these atrocities is clear from the types of crimes the military committed.

Widespread gang rape, mass murders, throwing infants and children, literally, into fires, and burning the elderly in their own homes. The report describes in gruesome detail various crimes, and I can't read this stuff—it's so horrific—and I am not going to.

But we are talking about pregnant women who were literally murdered and their unborn children destroyed in front of them, and as was mentioned, babies thrown into rivers and their mothers shot. There's no way in the 21st century this ought to happen anywhere.

And I want to thank Mr. Pomper and Ms. Van Susteren for coming here today and sharing this with us and trying to make sure that the world knows what happened and that there's accountability here.

This havoc occurred against a group of people but there was another group of people that did it, and they still exist and they're still in power, and something has to be done about this or it will happen again.

So with the facts and the reports that I mentioned in mind, I, along with a number of my colleagues on both sides of the aisle, plan to introduce a resolution condemning the Burmese Government's crimes and their efforts to suppress information about those crimes and to call it what it is—what it was—and that's genocide.

Words are not enough, however, which is why I also urge the swift passage of the BURMA Act, legislation that Ranking Member Engel and I wrote to apply sanctions on those individuals responsible for these horrific crimes.

As I say, these perpetrators must be held accountable.

Mr. Pomper, let me ask you about that. As I mentioned, Mr. Engel and I introduced the BURMA Act to impose sanctions on those responsible for the genocide. You mentioned sanctions in your testimony.

Is that appropriate? Is that one of the tools that we should at least consider? What would be your opinion on that?

Mr. POMPER. Yes, targeted sanctions are an appropriate tool. They send an important signal and they should be applied against the perpetrators.

Mr. CHABOT. Okay.

Ms. Van Susteren, let me ask you this, and I am running out of time. I am co-chairman of the House Freedom of the Press Caucus and concerned about the two Reuters journalists imprisoned in Burma.

Earlier this month, many of us on this committee sent a letter to Secretary Pompeo asking that he continue to advocate for their release. And as a journalist yourself, I would like to hear your perspective on that case and whether you think that international pressure could be effective in securing their release and what, if anything, else ought to be done to secure that release.

Ms. VAN SUSTEREN. I think that the pressure of that would help enormously for these reporters. When I went deep into these refugee camps—now, obviously, you're talking about into Myanmar where they're held—is that the refugees were aware of things that were being done inside the United States.

So the word does get out. It's far away but that does send some sort of hope that somebody cares. You went through the litany of things that you have read about. When I've been there and these people tell me these things that happen, you just stand there sort of—it's just thoughtless. You can't imagine these things can happen to human beings. So it's just incredible.

But the reporters trying to report it can't even get to them inside Rakhine and there's no way that we are going to get this word out if they can't get there and if Myanmar is going to lock the journalists up who try, few journalists are going to risk their lives.

One of the journalists you talked about—one of the Reuters reporters—I think his wife had a baby while he's been locked up. So, he's got 7 years before he'll live in a home with his child.

So I think that pressure from the United States—it does mean something. I mean, people look up to the United States and our freedom of the press and the Constitution and we are quite proud of it and it's very important to our Government, and I think that if the United States puts pressure on it I think it will help them.

I am not saying it's a magic bullet. But it, certainly, does send a message.

Mr. CHABOT. Thank you very much, and my time has expired, Mr. Chairman.

Chairman ROYCE. Thank you.

We go to Norma Torres of California.

Ms. TORRES. Thank you, Mr. Chairman, and thank you to our guests that are here today.

It is incredibly offensive to humanity the crimes that we are seeing coming out of this place. It is unfortunate, I think, that the

military has been in power and continues to be armed by China to commit these horrible crimes.

I don't think that we truly understand how many women and how many children have been born out of rape and I don't know if we'll ever truly understand the fact that we can't get into Burma to assess the situation as reporters. It is incredibly disappointing and unfortunate.

But more disappointing than that, as a community and world leaders have stood by and I think where is the responsibility—where does China stand on this? Are they just being complicit by supplying the weapons that are going into the military?

Mr. Rohrabacher asked that question earlier about the Chinese weapons that are being used by the Burmese military. So how would you characterize China's involvement in Burma and if China wanted could it force the Burmese military to change its policy?

Ms. VAN SUSTEREN. In terms of China arming them, I am just learning that here. I didn't know that. But a lot of the destruction I saw didn't take any weapons. It took a match, it took a machete, and it took raping women and putting fear, so a lot of that.

The question is whether China would show any sort of moral leadership to try to encourage the Myanmar military to stop doing those things.

Ms. TORRES. With a 1,500-mile border, you would think that they would show some leadership.

Ms. VAN SUSTEREN. Yes, if they bothered to even recognize these people as human. They're not—

Ms. TORRES. Which was exactly my point as I began.

Ms. VAN SUSTEREN. I mean, they are not recognizing them as human, and to the extent that they continue to be corralled without any chance at education, they can't work, they can't do anything. The women, by the way—you talk about the women—I met women who were pregnant—I was there about 9 months after a lot of them had left—who were pregnant and they didn't know if their babies were their husbands' or whether it was the Myanmar military.

But it didn't matter, because they were said to have evil in their bellies and they were shunned. And the women are sitting in these huts in this God-awful weather—monsoon—where it's about 100 degrees that we can't stand it, and they don't even come out.

I mean, it gets far more graphic and terrible than we can ever put on the screen or put in a report. I mean, it's just incredible.

I so much appreciate the delegation that has come from Capitol Hill to go there and see some of this stuff because it really does bring it home when you see it. That's why I love CODELs.

Ms. TORRES. I want to make one more point. I think that we can all agree that Aung San Suu Kyi has failed to stand up against the Burmese military. She's failed to stand up for these children. She's failed to stand up for these women, and she's failed to stand up for basic human rights.

But, yet, I know that the Nobel Committee does not generally revoke Nobel Prizes. But should they make an exception for her, given the gravity of what has taken place in Burma?

Ms. VAN SUSTEREN. Well, I don't speak for them and I don't know. So I am going to duck that question. I just know that she

won't even say the word Rohingya and that she identifies about 26 terrorists of ARSA—the terrorist group of Rohingya—and she is content to have 1 million people essentially persecuted for the conduct of a few.

Ms. TORRES. You were talking about American focus on this atrocity that is happening there. Where is the international community—something as simple as this—to send a clear message that, as human beings, we are not going to tolerate this? It is, to me, just—they are being complicit to what is happening there.

Mr. POMPER. I will link that comment back to your questions about China. I mean, one place where China has been, unfortunately, very effective in a negative way has been in terms of blocking a clear statement by the U.N. Security Council.

Ms. TORRES. Absolutely.

Mr. POMPER. And that would be very—the things that the Council could do—the tools that it could bring to bear—probably could be pretty effective in sending a clear signal and applying meaningful pressure through sanctions, through referrals, et cetera.

And so I think China is a very, very good target for diplomatic suasion in this case because they are standing in the way of meaningful action and that clear voice you're talking about.

Ms. TORRES. My time is up, Mr. Chairman. Thank you so much.

Chairman ROYCE. Thank you, Congresswoman Torres.

Scott Perry of Pennsylvania.

Mr. PERRY. Thanks, Mr. Chairman.

Ms. Van Susteren, Mr. Pomper, thanks for being here.

We met a year ago tomorrow on this very subject and lamented the circumstance where we sit here, comfortably, and these people are being slaughtered halfway around the world and we have conversations, but there's no action and that's the frustration of this place. There is no action.

But the United States and the world can't turn their face away from what is happening. Seventy years ago this happened halfway around the world and people were shoved into ghettos and exterminated and now we see it happening in Burma and across the little portion of water where they're all housed and corralled in.

And I applaud you, Ms. Van Susteren, as a member of the press. Eighty years ago a man won a Pulitzer Prize for lying about the terror famine executed by Russia in Ukraine and that Pulitzer Prize still hangs today in the New York Times office, as far as I know.

So it's important that we see, that we hear, that we are made aware of what's happening. I remain frustrated because I don't see any action. The U.N. is not going to be—unless, Mr. Pomper, and I doubt—Ms. Van Susteren, it's not your expertise but, Mr. Pomper, I doubt you can tell me that the U.N., with China and Russia involved, are going to support the United States or any of the freedom-loving countries of the world in robust meaningful action against the Burmese military, right? They're not going to do anything. The U.N. is going to be feckless.

Mr. POMPER. Things do not look good at the Security Council.

Mr. PERRY. Yes, they don't—yes.

Mr. POMPER. The Human Rights Council might be a different story.

Mr. PERRY. That's a larger discussion. But I guess for you I have a question. China is, in my opinion, enabling this whether it's arms or whether it's their agreement with Burma and the port, and while the President is offering trade tariffs on China regarding their malign behavior around the world and particularly the United States, is it time to sanction China?

Is it time to sanction—use the word sanction—China for this action? Will it make a difference.

Ms. Van Susteren, the Voice of America—you're saying we want to get that information into the camps. We want to inform them that people around the world and people in the United States. We want something done about it. We understand their plight. We are horrified by their situation.

Is there something impeding that effort?

Ms. VAN SUSTEREN. Well, first of all, I have to tell you that the director of the Voice of America, Amanda Bennett, who first approached me about telling me that she wanted to get information into it and it reminded me a little bit of the mission of Voice of America with the Iron Curtain. It was to get information behind the Iron Curtain.

When I went into the camps, I was surprised, you know, at how hungry they were for information. The refugees inside—they were getting little bits and pieces and I don't know what tools or what's needed by Voice of America or what they need. I don't know that. I am not privy to that. It's above my pay—my volunteer job pay grade.

But I do know that if we can get more information into the refugee camp, if we can get broadband in or if you can get radios in and they can hear a little more that certainly would benefit the people inside because they are completely lost. I mean, even hearing that the United States has a congressional hearing at least gives them a little hope that somebody cares halfway around the globe.

And I always think putting a spotlight on a crisis—if the American media were more engaged in this I think more people—maybe China would pay a little more attention to it.

I don't know. I think that's important. But I do think getting Voice of America inside that camp and getting information would help.

Mr. PERRY. Okay. So that's a do out for us here on this committee and in this body to do a better job and to find out what the hang-up is and what the holdup is and what the obstruction is and take action.

Ms. VAN SUSTEREN. That hang-up may be on the ground, though. It may not have anything to do with the United States or Voice of America. I don't know. That's above my pay grade.

Mr. PERRY. I understand, but we got to understand that and try and—we want to be people of action. We want to see some results, right—that talk is cheap but people are suffering.

Mr. Pomper—China.

Mr. POMPER. I think I agree with what Greta said about trying to raise the profile of this issue. I think the U.S. Government could be speaking with a much clearer voice.

I think there was a lot of value in the report that the State Department put out earlier this week. But it was a little bit of a missed opportunity in terms of using specific terms about their legal conclusions, which I think they pretty clearly had reached. That's just my supposition, based on reading it.

I think it's important to pressure China through diplomatic channels by making clear that we see what's going on—that we've analyzed it. We should associate ourselves with the good work that's done by international bodies on this.

Mr. PERRY. With all due respect, Mr. Pomper, everybody knows. China knows that these Burmese people—these military officers that have been designated as specially designated nationals and blocked persons and put on that—they don't care.

If you're willing to hack somebody apart with a machete, I don't think you're worried about being put on a list as a designated bad person.

So while the diplomatic—look, that's—we wish that would always be effective. What we are looking for is something to be effective and, from my standpoint, I don't see China buckling under the withering diplomacy from the United States.

It seems to me that action regarding their significant investment in that port is something that they might buckle to.

Mr. POMPER. Yes. It's hard to make great powers buckle and so I am hesitant to sort of suggest coercive measures there. But I will say I do agree that they should—I understand your point about not caring. I think there is a great callousness, I think, toward the suffering and I don't want to defend them in any way.

But I do think that continuing to raise the pressure, speaking with a clearer voice, can create greater costs for people who take that posture.

Mr. PERRY. Thank you, Mr. Chairman.

Chairman ROYCE. We go to Joaquin Castro of Texas.

Mr. CASTRO. Thank you, Chairman.

Thank you all for your testimony today, and I was glad to see yesterday the announcement about the United States committing another \$185 million to help combat this humanitarian tragedy.

Let me ask you about—because I am co-chair of the U.S.-ASEAN Caucus—about the involvement of the ASEAN nations or any effort that they've made to help in this situation that you all may be aware of.

Ms. VAN SUSTEREN. I am not personally aware but with 1 million people on the ground—there are almost 1 million people—there are NGOs from literally every place.

I was privy mostly to the American ones—Samaritan's Purse, of course. I mean, there's other ones, too. Doctors Without Borders are doing incredible—but you hear stories about how everyone is so proud that they've vaccinated 400,000 people from cholera.

But the problem is when they told me that and they were all excited, I am doing the math and I think, well, what about the other 400,000. So a lot more help is needed.

Mr. POMPER. Yes, and I am afraid I am not sort of on top of the specifics of the ASEAN response. But I do associate myself with Greta's comments that more is always needed and particularly if we are talking about multilateral responses, getting the region on

board with whatever the United States has in mind in terms of coercive measures—if there's going to be some sort of international criminal justice proceeding that might result in arrest warrants at some point, getting the region on the same page so that those will actually be meaningfully enforced is incredibly important.

Mr. CASTRO. Thank you. I yield back.

Chairman ROYCE. All right. We go now to Dan Donovan of New York.

Mr. DONOVAN. Thank you, Mr. Chairman. I thank you both for your insight and you describe this atrocity tremendously in your video, Greta. It was, if not eye opening, stomach sickening because of what's happening to these people.

I just wanted to ask two different areas, one about helping these poor people. Is there a struggle getting resources? Is there a blocked—is someone trying to block our abilities to assist the people who are now refugees? Or is it a matter of just getting more help and relief to them?

Ms. VAN SUSTEREN. Well, I mean, getting—they always need more medicine. When I was there they needed more medicine. They were out of medicine.

There's always a food shortage. There always—so yes, they can always use more. One of the other sort of practical problems is that to get there from Cox's Bazar, which is the city that where you'd probably start positioning things, is that it's the worst roads you can imagine—the worst traffic you can imagine.

I mean, it's really sort of hard to get the trucks through when you have—even within the camps themselves, when I was there, is that we went into the camp and an hour later that the bridge—the mud bridge that got us into the camp had washed away from the monsoons, and there was an ambulance that couldn't get across the mud bridge because it had washed out.

So, I mean, it's all sorts of problems like that with any giant catastrophe. The good news is all these organizations that are on the ground are so well coordinated because they have responded to every single crisis you can imagine.

Whether it's an earthquake in Haiti or it's a refugee camp in Sudan, they all sort of know each other and work well together and the U.N.

It appeared to be really well organized. The problem is the magnitude of the problem and you have got the weather, which is so punishing—the monsoon. It's indescribable.

Mr. DONOVAN. But the local government services, and they're not preventing us from getting there?

Ms. VAN SUSTEREN. Well, I don't think they are. But the local people are starting to get upset. Much like you see with the Syrian refugees going into Jordan, when people do sort of slip out and then they start taking the jobs, then the local people start get upset.

And you have got the other problem that it was a beautiful lush area and the Rohingya have come in and they've cut down every single piece of foliage there so they could build huts and have fuel.

There's nothing there, which, of course, then contributes to the whole problem with the mudslides when the monsoon comes.

So naturally, this is such a burden on Bangladesh. I scanned the newspapers when I am here and it has been relatively quiet in the media about complaining about it.

I think they've been quite generous. But this is a huge burden on a very poor country and at some point they're going to break.

Mr. DONOVAN. All right.

Mr. Pomper, you spoke earlier about our message—the United States message about the crisis not being clear. What should we be doing?

Mr. POMPER. What I meant by that was when the State Department issued its report it sort of went up to a point in terms of the conclusions that it reached but it did not actually crystallize those conclusions around the kinds of provisional legal conclusions that people were expecting the report to articulate.

It also wasn't rolled out in a very clear way. It wasn't accompanied by any kind of policy vision. Normally, when you do an exercise like that I think the hope is that while you're doing it you're also thinking about what you're going to say about where a policy is supposed to go and how it's going to create sort of a meaningful context into which this kind of work can laud and I think that work still needs to be done.

Mr. DONOVAN. But it didn't indicate that our commitment is wavering at all, did it?

Mr. POMPER. I just think it was a little bit of a missed opportunity.

Mr. DONOVAN. Okay. My last question in my last minute is about a lot of my colleagues spoke about China's ability, if they wanted to, to influence the atrocities that are happening and help us to stop the genocide that's occurring.

Are they the only other country? Are there other people who have influence in the region that could be helpful to us?

Mr. POMPER. So the entire region is going to be important to any kind of response that the United States wants to help to craft and to lead. The Chinese are by far the most important because of their veto power at the Security Council and because of the importance of the Security Council to creating a legal framework for collective action.

Mr. DONOVAN. Back in New York we would say, who else could we put the arm on.

Mr. POMPER. I think I would be very liberal in terms of outreach at this point because the entire region is going to be important to the response.

Mr. DONOVAN. Okay. I thank you both.

Chairman ROYCE. Mr. Chris Smith of New Jersey.

Mr. SMITH. Mr. Chairman, I want to thank our two distinguished witnesses for their leadership as well as for their testimony today.

It's very challenging and certainly you put a very important bit of emphasis on the need for significant action. We are nowhere near doing what we could or should be doing.

You mentioned the ICC and I think the ICC has had two convictions since its founding, at least up to 2016. I've met with Bashir in Khartoum.

He still has what should be a Sword of Damocles being held over his head and he travels the world. He goes to China, and they don't

grab him and send him to the Hague for prosecution. So it has been feckless.

But I would hope that there would be a referral by the Security Council. China will likely veto that, but we ought to pursue that. So thank you for that.

Let me just ask, and maybe you might want to comment on that I was the House sponsor of the Global Magnitsky Act. Pushed very hard. We got it into the NDAA. It is an excellent law and it makes a difference.

Since 2017, General Maung Maung Soe was sanctioned. In August 2018, three more military and one police sanctioned—the 33rd Light Infantry, the 99th Light Infantry.

The first question would be, is that enough or should more be listed on that sanctions list?

Secondly, in 2013, one of my staffers interviewed the infamous Buddhist monk Wirathu, who called himself the Buddhist bin Laden, and he instigated, as we know, much of the violence targeting the Rohingya.

And he concluded—and this goes to your point, Mr. Pomper, about the list of ethnicities that could still be targeted and we know the Christians were targeted before.

I remember when we called this junta the SLORC and they continue to be as bad as they have ever been, if not worse, with this genocide against the Rohingya.

But he said, and this is his words to a member of my staff, “First the Muslims, then the Christians. Both are threats to our Buddhist future.” And as been said by my colleagues, we’ve all been disappointed in Aung San Suu Kyi and others.

But it seems to me that they’re not going to stop with the Muslims and, of course, there’s already killings of Christians.

But you might want to speak to that as well.

Let me also ask you about, and some of my colleagues have referenced it, but China’s goal is to make the world safe for dictatorships and authoritarian regimes.

They certainly want a warm water port on the Bay of Bengal, and you got a situation, as we all know, where they are not only providing weapons but they are simpatico. They are in solidarity with the atrocities being committed by this regime.

We need to put more pressure on China and you might want to speak to that. Are we raising it sufficiently with Xi Jinping or not and if you could speak to that as well.

And finally, on trafficking, I am the author of the Trafficking Victims Protection Act. We have another bill pending today—this hour—over on the Senate side. Hopefully, if it does pass it’ll be my fifth law on combatting human trafficking.

The question is, what is your sense of what’s happening? And you have been to the camps, Greta. Thank you for your leadership on that.

What’s the deal with the trafficking? Do you have any insights you could provide us?

Ms. VAN SUSTEREN. First, I can tell you about the trafficking.

Mr. SMITH. Yes, please.

Ms. VAN SUSTEREN. That’s just a growing crisis in there because you have got a lot of young girls in there and what happens is the

brokers come in and that's a huge problem and it's only going to get worse. It's not going to get better because what happens is—at least I talked to someone who was working on the camps and trying to combat it—is that the brokers come in and they say to these families, look, send your 13-year-old girl with me—I will take her to beauty school in Saudi Arabia or China or something and she'll send all this money back.

So trafficking—we haven't even touched that. That is such a problem. It's a bad problem now. It's not going to get better. So you can put that one on your list.

The question about the Christians—the attention, of course, is on the Rohingya—the Muslims. But information that I am told is that the Christians—the Karens—they're also getting persecuted, just not at the numbers. But they're not getting the media attention, either. So we don't know much about that and, of course, they don't have the magnitude of the Rohingya.

The ICC—I don't have a lot of hope in the ICC but I definitely think we should do everything we can and use every tool in your tool box, and to the extent that we can get the ICC interested in this I think that's good. It puts attention on it.

And you mentioned China protecting Bashir. Well, it's not even just China. Even South Africa Presidents—then President Zuma helped Bashir sneak out of South Africa and they're a signatory to the ICC.

So the ICC is not going to answer this but it's going to put more world pressure. It's sort of collective. It's why we need them—we need Congress. We need the U.N. We need the ICC and all those things.

Sanctions—and I say this personally is that if we can put more sanctions and more people put a squeeze on more people.

Mr. POMPER. I think I agree with all that. I think, starting with the ICC, yes, it's an imperfect institution with a track record that's a little bit better than it was a few years ago but still it's struggled to be effective and I think, as I mentioned earlier in this hearing, one of the issues is that the international community needs to support this effort. It doesn't have a police force. It doesn't have an enforcement arm. It relies on member states. It relies on the international community to support it.

So that's where U.S. diplomacy can actually be helpful. Right now, U.S. diplomacy is committed to actually undermining the coordinates' legitimacy. So it's going in the wrong direction.

In a perfect world, the U.S. Government would actually be supplying information and actually helping them build the case, which they've already sort of started in the—to build. They've launched a preliminary examination. They've seized themselves jurisdiction. There is an opportunity there. Unfortunately, I think we are missing that opportunity.

On targeted sanctions, the fact-finding mission, I think, listed a number of potential targets who have not yet been designated by the United States. I would hope that the State Department and the Treasury Department would be looking into those targets.

On the other ethnic minorities, yes, the Shan and the Kachin were both, I think, subjects of a little bit of the fact-finding mission

report. There's a lot that should be explored there. It would be great if Congress could bring attention to their plights as well.

Thank you.

Chairman ROYCE. Okay. We are going to go to Sandy Levin of Michigan and then Mike McCaul of Texas.

Mr. LEVIN. Well, thank you very much. I appreciate the committee letting me join in.

I don't know—is it appropriate for me to enter a statement in the record? Is that appropriate?

Chairman ROYCE. Without objection.

Mr. LEVIN. So let me just say very few things. I think I wanted to come here to congratulate the committee on paying attention to this serious issue and to your testimony.

I think the evidence is totally clear. I think genocide is occurring. There's been some hesitation to say that is recent with the State Department to report where they spelled it out so clearly as was spelled out in the U.N. report.

But they hesitate to call it genocide when it is.

Secondly, I think there's been hesitation because of the role of Aung San Suu Kyi, and I understand that, and others who have met her can understand that.

She was a champion. The problem is that the events there have, I am afraid, caused her to pull back and it's had a dramatic effect, I think, throughout. And you mentioned the failure of the media here to really bear down.

And I think at times there was some hesitation within this Congress. I think it was a year and a half or more ago that the late John McCain and Dick Durbin introduced a resolution in the Senate that said it very clearly, and I essentially took that resolution and I introduced it in the House.

And, again, I think because of Aung San Suu Kyi there was some hesitation. But I recently read a comment of hers—it's one of many—and this is what she said about the treatment of the Rohingya: "There are, of course, ways in which with hindsight, I think, the situation could have been handled better. We believe for the sake of long-term stability and security we have to be fair to all sides."

When it comes to this circumstance, to genocide, there really is only one side.

And I want to close, Mr. Chairman and others, by remembering a time. It was a couple decades ago, and President Clinton was there with Elie Wiesel. It was on a different subject, and Elie Wiesel turned to the President of the United States and said, "Don't forget the Bosnian genocide."

And so I want to close, Mr. Chairman, again saying the work of this committee is so important, and while it's too late, I think, before we recess Friday, it's my hope that in addition to what has been done by this committee and the Congress so far that when we come back there will be further steps taken.

Chairman ROYCE. Thank you. Thank you, Mr. Levin.

Mr. LEVIN. So let me thank you again for this opportunity and I want, with so many others, to join you in taking the further steps necessary to bring to the attention of the world and everybody in

this country including the release of those two reporters, the need for still further action.

Thank you so much, Mr. Chairman.

Chairman ROYCE. Thank you, sir, and I also want to thank Tom Garrett here with us. Tom was here since before 10 o'clock this morning and, without objection, I would like to go to Mr. Garrett for his questioning now, if we could.

Mr. GARRETT. Thank you a lot, Mr. Chairman, and I really appreciate this hearing and I appreciate the work of the Voice of America, let alone Ms. Van Susteren.

The Voice of America, when properly levied, has been instrumental to the freedom of literally hundreds of millions of people and that shouldn't be underestimated, but not properly levied we probably are pouring bad money after good. But in this circumstance we are on the right side of history.

As it relates to the points made by Mr. Pomper, I find both agreement and disagreement. And Ms. Van Susteren said earlier, Mr. Chair, that we should use all of the above. I wholeheartedly agree.

Having said that, the questions as it relates to the U.N. Human Rights Commission, et cetera, exacerbates some of us because, candidly, those bodies have been used to stymie progress in the right direction, right.

I mean, when you have a body wherein there are members like the DRC, Angola; Pakistan, who horribly exploits ethnic minorities; China, who has imprisoned north of 1 million Uighur and oppress that population; Saudi Arabia, who I need not speak to; and Cuba, who maimed members of the U.S. State Department staff on the UNHCR, maybe their credibility is in question.

Having said that, work with the tools you have, not the tools you wish you had.

Refugee camps breed hopelessness, hopelessness breeds extremism, and extremism stymies the most fundamental of human rights, that being paramount the right to life, amongst others.

I spent 8 months in a tent standing between Bosnia and Serbs and Muslims in the Army when I was younger, better looking, and had more hair, and I think it's been poignant that some members of this committee, Mr. Chair, have pointed out the role of China in these egregious circumstances.

There is a role of China, some of which I can't speak about in this forum. How dare China wag its finger at us when they continue to perpetrate this aforementioned violations against the Uighurs, against the Falun Gong, against those who practice the Christian faith?

And yet, we need to understand how China works. China drives wedges between potential alliances. There's probably no more important region in the next 30 years of our world than ASEAN, and Burma maintains the second—Myanmar maintains the second largest standing army in that region after Vietnam. They are wholly dependent upon the Chinese and the Chinese have interests, again, that I can't discuss in this forum in some of the atrocities that have been perpetrated. We need to speak the truth to that.

I understand, as Mr. Pomper said and I will paraphrase that sometimes it's hard to move a great power. You will not accomplish anything you do not try to do. So we need to try.

Understanding the Chinese drive wedges between potential alliances, use proxies to advance Chinese interests, create regional vacuums that the Chinese can fill, and then lie, lie, lie. That's the China paradigm.

So what can we do here today, and this is a passion of mine. I've had the opportunity to work with Americans both Muslim and non-Muslim in groups like Our Aim to send aid to the Rohingya; building wells, building houses, building bridges, because when children can't get across a raging torrent during a monsoon then you have a secondary child separation.

But we need to worry about what we can do and we need to understand where we come from. We had Dred Scott. We had Jim Crow. We had the first Article 1 with three-fifths of a person.

We even proved, because the Preamble calls for forming a more perfect union, not establishing a perfect one—we should demand the same of those with whom we work.

Global Magnitsky—it's been hit on. I have to tip my hat repeatedly to Chairman Royce, to Chris Smith, to members across the aisle. We should walk this dog all the way to the end of the line and pound everybody we can. We can do that unilaterally and we should.

And I've heard—in fact, I've called for in this committee the revocation of Ms. Aung San Suu Kyi's Nobel Peace Prize. But we can't control that.

What we can control is the Congressional Gold Medal that was awarded to Aung San Suu Kyi in 2008 and then given to her in person in this town 400 yards from where we sit by this body.

It is the highest honor bestowed by Congress and has been enjoyed by Pope John Paul, Dr. Martin Luther King, Jr., Ronald Reagan, Raoul Wallenberg, who saved tens of thousands, Mother Teresa, and the Dalai Lama, and Aung San Suu Kyi.

So we can't control the Nobel Prize but we can send a pretty loud signal. Now, I understand that there are complexities here—that Ms. Suu Kyi's hands at some level are tied. But silence at some point is complicity, and the words that she has spoken about democracy and freedom for individuals across communities ring hollow in light of her current inaction in the face of a massive, massive displacement and murder and rape and enslavement of human beings in her nation.

So these are things we can do now. We need to ramp up Global Magnitsky. It is an amazing tool, and this body bestowed upon her an award enjoyed by the likes of Dr. Martin Luther King, Jr. and Mother Teresa. We should see immediately about revoking that because that we can control.

I will yield back and I thank you, Mr. Chairman.

Chairman ROYCE. Mr. Garrett, thank you.

We go now to Mike McCaul, chairman of the Homeland Security Committee.

Mr. McCAUL. Thank you, Mr. Chairman, for holding this hearing.

Ms. Van Susteren, thanks for putting a media spotlight on this, and I agree with you—the media should call more attention. We did that in Sudan and exposed the genocide happening there. I think it's happening here in this case in Burma.

It is a crime against humanity, and what I worry about is the role of China because we know that they are providing the Burmese military—they're basically arming them with major arms suppliers. They are trying to invest in Burma under the One Belt, One Road Initiative where we've seen time and time again they go into countries, leverage them, and then take over their ports like in Sri Lanka, like in Djibouti.

Here, they have the Indian Ocean ports in Burma. So we know they're trying to—that's their strategy going in and so the question is diplomacy, sanctions.

I know some in the Senate think we need more diplomacy. It's not time for sanctions. But what—the two of you, what are your thoughts on sanctioning the military—the Burmese military and, if so, what impact would that have on the Burmese Government to possibly turn to China for more investment?

Ms. VAN SUSTEREN. Well, first of all, let me speak personally, not for the Voice of America. I keep saying this like a broken record but just that everyone is clear.

Look, I am all for whatever—as I said, every tool we have is to use it and to increase the sanctions I think is particularly good.

When you say what is going to happen if we do that with Burma, well, we've seen with the trade war that we have with the tariffs, with the soybeans, is that China just went someplace else. They're getting it from Brazil and they're getting it from some other nations.

So, there's always a problem when you put in sanctions that they just look for another market and they get the market.

Nonetheless, the question is, as a nation do we want to stand up to this? That's really sort of the issue and that's really your decision as Representatives and not mine.

But there's no question that if you put in sanctions oftentimes they just go someplace else.

Mr. MCCAUL. Right.

Mr. POMPER. Where I've been on this is that targeted sanctions against perpetrators of these atrocities is an appropriate consequence and it sends the right message and it's something that the United States should pursue.

It's important as much as anything as a signal to future perpetrators both in Myanmar and elsewhere and making it clear that the United States and others who, hopefully, it can bring along in this effort and will not let these kinds of crimes go unanswered.

Mr. MCCAUL. Well, and I tend to agree. I think we have a moral obligation here to do something and I think Congress has that authority—that we can issue sanctions.

The United Nations, the International Criminal Court—they've been called upon to prosecute this. I think I agree with you, Ms. Van Susteren—they have been a bit feckless, powerless. They can't go into these countries and you and I were prosecutors and it's hard for them to adequately prosecute if they don't have access to the witnesses.

And the U.N. has its problems. But that's one thing I think Congress can do here and it is issue sanctions against the Burmese military.

And so with that, Mr. Chairman, I—in the interests of time, I yield back.

Chairman ROYCE. Thank you, Chairman. Thank you very much.

We'll go to Mr. Ted Yoho, chairman of our Asia and the Pacific Subcommittee.

Mr. YOHO. Thank you, Mr. Chairman. Thank you both for having the endurance to stay here.

Ms. Van Susteren, when you started off you said journalists must document atrocities, and I agree with that because that's the only way that message gets out.

And I think you followed up that when we say never again, we must mean it, and I agree. So the question always comes out how, who, and when, and just as we've heard over and over again the history. When Nazi Germany went in and they were going through Europe collecting, rounding up, separating, processing, and murdering the Jews, the world stood by.

I don't think purposely. It was happening while Hitler was taking over Europe and conquering countries. It was the aftermath of that, and we all remember, I guess us older ones remember, when General Eisenhower stated, "Never again," when they went to Auschwitz and they saw these camps, that exposed that to the world. That was the journalists. And I commend you for what you're doing.

And so we say never again, yet here we are saying never again, and all we have to do is look back in the last 20 or 30 years. We see Darfur. Mao Zedong murdered 80 million people in his own country. Darfur, Sudan, Kosovo, Bosnia, Syria, Yemen, now the Rohingya.

Never again, like you said. When do we mean that? So the questions that come up, who should be the policing force? Is it one country? Can the U.S. do that by itself?

I would think not. How do you do that? And we've heard sanctions. We do sanctions all the time, and yes, they have some effect. But as Chairman McCaul brought out, we can sanction but China comes in, another country comes in, and it's the same thing we are going through with the DPRK. We put sanctions on there but if another country cheats, so there's got to be a better enforcing body that we together, collectively as nations, agree this will be the body that goes in there, and you can do isolation. You can isolate a country. You can put embargoes and then, of course, the last one is the kinetic actions.

In your opinions, in your experience—both of you—if you could write policy and direct and say, if you guys would do this we could have this outcome, how would you like to see it?

Because I know you're on the ground all the time and you see it and you will probably see some things that are just obvious.

Ms. VAN SUSTEREN. Well, first of all, we can't police the world. I mean, you listed a couple places. There are other places even that aren't on your list like the Nuba Mountains in Sudan that nobody's paying attention to. I mean, it's just impossible to think of us as policing it.

I think for me at least as an American is that I at least want to stand up to this and say we know about this and we are not going to be part of it.

We are not going to do business with you. We are going to sanction you, and just from a moral standpoint we are going to do everything we can not to let you, meaning Myanmar, to participate in the rest of the world.

I think that's the best we can do. We can't solve all these problems. I mean, it's unrealistic.

But at least we can have the confidence that at least we are trying to do something and we are making a statement about where we are on these human rights things.

You know, and the other problem too is that, quite frankly, the more practical thing is that these refugee camps are breeding camps for some very bad things.

Mr. YOHO. As we know.

Ms. VAN SUSTEREN. Eventually, the women go off to the trafficking. The men go off to the fishing boats and then we have extremist groups—that it's a fertile breeding ground because they've got nothing to do all day long.

They even—I mean, they're lucky if they get food that they need or medicine that they need. They see their kids die—their babies die because Doctors Without Borders might not have enough medicine.

I mean, I hear—when I was there the stories, you wouldn't believe what these doctors are trying to do. I mean, we can put people on ventilators here. What they have to do they have to take a bladder and just pump it all night long—pump it, if they've got a dying child. Well, that makes a very unhappy situation inside the camps.

So, I don't think we can solve this but at least we can have moral authority in the world and we can say we are not doing business with you and we are going to sanction you.

But that's just—you asked me what my wish list is it's in light of being very practical that we can't solve all these problems. But we can at least stand up to them.

Mr. YOHO. Well, I think one of the most important things we can do is expose it and I commend both of you for doing that.

Mr. Pomper, do you have any ideas or thoughts of what you would recommend?

Mr. POMPER. I agree that there are limits to American influence. I think American influence does get expanded when it works—

Mr. YOHO. Oh, yes.

Mr. POMPER [continuing]. Through other bodies and with international partners. I do agree that the tools out there are imperfect. But one has to work with the tools that are there.

And so I think as part of efforts toward pressure and accountability the United States needs to sort of survey the landscape and be very realistic about the fact that if it wants to be effective in this space there's a Human Rights Council that's actively seizing this matter and it's done a lot of good work.

There's an International Criminal Court that is actively seizing this matter and has the potential to do something more and think about ways it can support those efforts.

At the same time, I do think that the United States needs to keep on talking to the civilian government, needs to keep talking to the military and helping to coax them along, as frustrating and as limited as those prospects might be at this point.

Mr. YOHO. Thank you both. I am out of time.

Thank you, Mr. Chairman.

Chairman ROYCE. Ann Wagner of Missouri.

Mrs. WAGNER. Last but not least. It's probably all been said but we all haven't said it yet.

So, Mr. Chairman, first of all, thank you for hosting this hearing on a topic that I have drawn attention to again and again. I have worked with my colleague, Congressman Castro—it was here earlier this month—to send a letter to Aung San Suu Kyi urging her to commute the sentences of the two Reuters journalists who were sentenced to 7 years of jail time for investigating the Rohingya massacres.

Last week, I was pleased to see that the U.N. finally recommended that Burmese generals be investigated for the genocide of Rohingya Muslims in the Rakhine State.

This is a welcome, albeit long overdue, first step in bringing the perpetrators to justice. I am proud, really proud, that so many members and in a bipartisan way of this body have not hesitated to call the violence against the Rohingya what it is.

It is genocide. There is broad bipartisan consensus that the United States should be doing everything it can to prevent and end genocide. Yet, I will say that our track record is deplorable. We failed to stop genocides in Rwanda, in Syria, and now in Burma.

We have waited on the sidelines as the Burmese Government actively attempts the extermination of the Rohingya. I am just beyond outraged that the officials responsible for this genocide have gone unpunished and remain unaccountable.

Mr. Pomper, the International Crisis Group has done great work, and I don't mean to diminish that work in any way. But I am curious about something.

In 2013, sir, your organization awarded its In Pursuit of Peace Award to President Thein Sein. This award followed on the heels of a wave of crimes against humanity and ethnic cleansing of the Rohingya beginning in October 2012, which the Thein Sein government failed to adequately respond to and even encouraged.

Can you elaborate on why the International Crisis Group gave this award to the man who refused to address an emerging genocide? I know that many human rights advocates at the time—because I was here in Congress—were very upset and I remember hearing about it then.

Would you like to elaborate?

Mr. POMPER. I mean not to dodge this question, but I was ensconced in the U.S. Government at that time. So I don't actually know what the thinking specifically behind the provision of that award was.

I mean, as has been discussed broadly, about a lot of this sort of encouragement that different bodies inside the United States gave to different elements of the reform effort, there was a hopeful logic that was animating a lot of decision making at that time that did not pan out, clearly.

But beyond that, I don't really have anything—I have literally no insight to give you. I am sorry.

Mrs. WAGNER. Well, if there's anything that you can find out. I know that you work closely with the organization now, obviously, and there was such outrage at the time and it made no sense and I just would—if there's any insight that you can provide my office or the committee I would—I would greatly appreciate it.

And, again, I don't mean to diminish in any way, shape, or form the good work that you do do.

Mr. POMPER. Thank you.

Mrs. WAGNER. The House recently passed my bill, the Elie Wiesel Genocide and Atrocities Prevention Act, which I introduced to spur significant improvements in the way the United States responds to genocide and other crimes against humanity.

One of its provisions would mandate training for foreign service officers in early warning and response measures.

Mr. Pomper, what resources did U.S. entities on the ground lack, do you think, that impaired our response to the crisis?

Mr. POMPER. Sorry. The resources that the entity—I didn't quite follow the question.

Mrs. WAGNER. My legislation provides that Foreign Service officers in early warning and response measures they would have to be schooled up in their crisis prevention on these kinds of things.

Were there other things that at the State Department level, at the U.S. level, that we could have done in response to this crisis that were lacking on the early side of this?

Mr. POMPER. The early warning—gosh, I don't—I don't have a particularly complete answer for you but—I don't see this as a function, frankly, of the United States' failure to see what was happening.

I think this is really a function of a premeditated plan on the part of the Tatmadaw—that they were determined to carry that out.

Mrs. WAGNER. I am just concerned that our Foreign Service officers have the kind of training on the front side of these kinds of crises when it comes to warning and response measures. So—

Mr. POMPER. So let me be supportive of that. I certainly think that every time we cross a threshold like we've crossed right now of an atrocity happening where it was not possible to prevent it, it's important to take stock of the toolbox and make sure that the United States is doing everything it can—that it has all the resources that it can muster to do better the next time.

And so if there's a way to get more training and resources into the sort of effort of prevention that is certainly a worthwhile—

Mrs. WAGNER. Well, I hope you take a look at the legislation. We'll be sending it along. It's a good first step in the right direction.

I've run out of time. Ms. Van Susteren, thank you for being here. I have some questions for you too. We'll submit it for the record.

Mr. Chairman, I yield back.

Chairman ROYCE. Well, thank you. I think this has been a very informative hearing and I think you surfaced many, many bits of information about this because of your firsthand knowledge of being there.

And let me just concur with you, Greta, on your observation that one of the most important things we can do here is try to get this information out not just to the American people but to the world, and that's one of the things you're trying to do.

Ms. VAN SUSTEREN. And can I just add one thing—

Chairman ROYCE. Absolutely.

Ms. VAN SUSTEREN [continuing]. Just a personal standpoint is that I really appreciate this because I know this hearing back home probably doesn't play—the people across America probably don't—this is not going to help you in any way. You're doing this for all the right reasons.

There's no politics in this one. It's just to help people, because we don't get any more money out of this—the U.S. Government—nobody gets anything out of it. We just get a chance to maybe do the right thing.

Chairman ROYCE. We just, hopefully, get some level of humanity for those who've been through this and some hope for their future for all the reasons that you have detailed out besides the horror of what we've been through and the fact that we've made a commitment on this issue of genocide.

As they say, never again, and here it is going on with the international community held spellbound in the middle of it.

So thank you to both of you for what you're doing to try to drive awareness on this issue and drive action on this issue.

And thank you to the members for being here today, and we stand adjourned.

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

A P P E N D I X

MATERIAL SUBMITTED FOR THE RECORD

FULL COMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

Edward R. Royce (R-CA), Chairman

September 26, 2018

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs to be held in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at <http://www.ForeignAffairs.house.gov>):

DATE: Wednesday, September 26, 2018

TIME: 10:00 a.m.

SUBJECT: Genocide Against the Burmese Rohingya

WITNESSES: Ms. Greta Van Susteren
Host
Plugged In with Greta Van Susteren
Voice of America

Mr. Stephen Pomper
Program Director
United States
International Crisis Group

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.



COMMITTEE ON FOREIGN AFFAIRS
MINUTES OF FULL COMMITTEE HEARING

Day Wednesday Date 09/26/2018 Room 2172

Starting Time 10:15AM Ending Time 12:12PM

Recesses 0 (to) (to) (to) (to) (to) (to)

Presiding Member(s)

Chairman Edward R. Royce

Check all of the following that apply:

Open Session ☒

Executive (closed) Session ☐

Televised ☒

Electronically Recorded (taped) ☒

Stenographic Record ☒

TITLE OF HEARING:

Genocide Against the Burmese Rohingya

COMMITTEE MEMBERS PRESENT:

See attached.

NON-COMMITTEE MEMBERS PRESENT:

Representative Sander Levin

HEARING WITNESSES: Same as meeting notice attached? Yes ☒ No ☐

(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*

Information for the Record - Chairman Edward R. Royce, Ranking Member Eliot Engel, and Representatives Steve Chabot and Gerry Connolly

Statements for the Record - Representatives Gerry Connolly and Sander Levin

Questions for the Record - Representative Dina Titus

TIME SCHEDULED TO RECONVENE _____

or

TIME ADJOURNED 12:12PM


Full Committee Hearing Coordinator

HOUSE COMMITTEE ON FOREIGN AFFAIRS

FULL COMMITTEE HEARING

| <i>PRESENT</i> | <i>MEMBER</i> |
|----------------|---------------------------------|
| X | Edward R. Royce, CA |
| X | Christopher H. Smith, NJ |
| X | Ileana Ros-Lehtinen, FL |
| X | Dana Rohrabacher, CA |
| X | Steve Chabot, OH |
| X | Joe Wilson, SC |
| X | Michael T. McCaul, TX |
| X | Ted Poe, TX |
| X | Darrell Issa, CA |
| | Tom Marino, PA |
| X | Mo Brooks, AL |
| | Paul Cook, CA |
| X | Scott Perry, PA |
| | Mark Meadows, NC |
| X | Ted Yoho, FL |
| | Adam Kinzinger, IL |
| X | Lee Zeldin, NY |
| X | Dan Donovan, NY |
| | James F. Sensenbrenner, Jr., WI |
| X | Ann Wagner, MO |
| | Brian J. Mast, FL |
| X | Brian K. Fitzpatrick, PA |
| | Francis Rooney, FL |
| X | Thomas A. Garrett, Jr., VA |
| | John Curtis, UT |
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| <i>PRESENT</i> | <i>MEMBER</i> |
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| X | Eliot L. Engel, NY |
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| | Albio Sires, NJ |
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| | Theodore E. Deutch, FL |
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| X | David Cicilline, RI |
| X | Ami Bera, CA |
| | Lois Frankel, FL |
| X | Tulsi Gabbard, HI |
| X | Joaquin Castro, TX |
| X | Robin Kelly, IL |
| | Brendan Boyle, PA |
| | Dina Titus, NV |
| X | Norma Torres, CA |
| X | Brad Schneider, IL |
| | Tom Suozzi, NY |
| | Adriano Espaillat, NY |
| X | Ted Lieu, CA |

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE EDWARD R. ROYCE, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRMAN,
COMMITTEE ON FOREIGN AFFAIRS

**The House Committee on Foreign Affairs Full Committee Hearing
Burma Genocide Against the Rohingya
Testimony by the Faith Coalition to Stop Genocide in Burma
Wednesday, September 26, 2018, 10AM
Washington, DC**

My name is Abdul Malik Mujahid, and I am the founder of the Faith Coalition to Stop Genocide in Burma (faithcoalition.org). The Faith Coalition to Stop Genocide in Burma, is a united group of American faith leaders from diverse religious backgrounds who have come together out of a deep concern for the suffering of the indigenous Rohingya of Burma/Myanmar who face the risk of genocide and annihilation at the hands of the Burmese military. We are grateful to Chairman Ed Royce and Ranking Member Eliot Engel for their bipartisan approach to addressing this humanitarian crisis in Burma and for scheduling this important hearing. Our hope is this hearing illustrates and educates Members of the Committee and others to the additional tools that already exist for the Administration to consider adopting to further prevent genocide and the resulting victims.

For six years the Faith Coalition has been working tirelessly to shed the light of truth of the horrific tragedies against the Rohingya and other ethnic minorities in Burma. Our members have visited and seen firsthand the consequences of genocide within Burma and the resulting Bangladesh refugee camps. Rohingya Muslims and other ethnic minorities have suffered torture, rape, and murder in the most barbaric forms at the hands of the Burmese military and most notably during the August 2017 clearance operations that has caused nearly 800,000 Rohingya to flee and seek refuge in Bangladesh while another 500,000 are waiting to be allowed into Bangladesh due to harsh conditions in Burma. Reports now explain that the Burmese military has turned their violence against other ethnic minorities targeting Kachin Christians in Northern Burma, burning and bombing their churches and destroying their livelihoods.

This Committee has shown exemplary leadership in highlighting the plight of the Rohingya while also balancing the need for civilian and economic Burmese life to flourish through recently enacted democratic reforms—reforms that are challenged by the horrid actions of the Burmese military evidenced by official non-governmental organizations (NGO's) reports, the United Nation's International Independent Fact-Finding Mission to Myanmar report, and now the U.S. State Department's Documentation of Atrocities in the Rakhine State that shared that the Burmese military "...waged a planned, coordinated campaign of mass killings, gang rapes and other atrocities against the Southeast Asian nation's Rohingya Muslim minority."

Committee passage of Ranking Member Eliot's legislation to hold the Burmese military accountable through applying sanctions-related pressure made an important first step, and it is disappointing that the politics of the United States Senate has held up this legislation from becoming law despite overwhelming bipartisan support from the House of Representative's with over 380 votes in favor of it.

The imposition of targeted sanctions in August on three Burmese military commanders and the 33rd and 99th Light Infantry Divisions by the U.S. State Department is also a good start to enforcing accountability. However, much more must be done to bring justice for the Rohingya and to restore their dignity, safety, and Burma heritage. The economic sanctions in place before being relaxed in late December 2016 had helped provide leverage against any potential Burmese military abuses. Now that that leverage no longer exists, our policy makers must take a fresh and renewed look at what tools and assets to employ are necessary to restore that leverage for the benefit of the Rohingya and for prevention of further atrocities in Burma.

We applaud the leadership of this Committee in drawing attention to this critical foreign policy and humanitarian crisis, and we look forward to coming along side it to help it accomplish its goals for the Burmese people and Rohingya.

Included with these remarks is a letter sent by 29 NGO's to Secretary of State Michael Pompeo asking the Secretary to declare the Burma atrocities as genocide.

September 24, 2018

The Honorable Michael Pompeo
Secretary of State United States
Department of State
2201 C Street, NW
Washington, DC 20230

Dear Mr. Secretary,

We, the undersigned organizations, request that the United States Department of State officially designate the recent atrocities committed against the Rohingya, and other ethnic and religious minorities in the nation of Burma, as both genocide and crimes against humanity.

The Trump Administration's leadership on this issue is critical to standing against ethnic and religious persecution and furthering the goals of your successful first-ever International Ministerial on Religious Freedom. Additionally, it is critical to act now, as the same military divisions that attacked the Rohingya, have relocated to Kachin State where they are positioning themselves to commit the same atrocities against the Kachin Christians. Burma's Christian population is estimated at four to six million Christians. We urgently encourage you to take immediate action by articulating a moral, political, and policy designation respecting the dignity and safety of victimized Burmese individuals. The clearance operation of Rakhine State occurred over a year ago, and the wisely commissioned analysis is reported to be complete. This data is the tool needed to make a genocide declaration. We call you on you to take this bold humanitarian step to help provide further testimony and efforts to prevent these atrocities with this declaration.

Credible studies reveal findings of gross violations of human rights that meet the elements under international humanitarian and criminal law for such designations. Both the Fortify Rights July 2018 report and the August 2018 United Nations Human Rights Council International Independent Fact-Finding Mission (Mission) on Myanmar (also known as Burma) explain undeniable facts that point to no other reasonable conclusion.

Some key statements from the Mission report include:

"Genocide occurs when a person commits a prohibited act with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such. The Rohingya are a protected group under this definition. Their treatment by the Myanmar security forces, acting in concert with certain civilians, includes conduct which amounts to four of the five defined prohibited acts; (a) killing, (b) causing serious bodily or mental harm, (c) inflicting conditions of life calculated to bring about the physical destruction of the group in whole or in part, and (d) imposing measures intending to prevent births.

The critical element of the crime is "genocidal intent." The Mission assessed its body of information in light of the jurisprudence of international tribunals regarding the reasonable inference of such intent. The crimes in Rakhine State, and the manner in which they were perpetrated, are similar in nature, gravity and scope to those that have allowed genocidal intent to be established in other contexts. Factors pointing at such intent include the broader oppressive context and hate rhetoric; specific utterances of commanders and direct perpetrators; exclusionary policies, including to alter the demographic composition of Rakhine State; the level of organization indicating a plan for destruction; and the extreme scale and brutality of the violence.

Having given careful consideration to other possible inferences regarding intent, the Mission considers that these can be discounted as unreasonable. In this regard, the Mission notes the Tatmadaw Commander-in-Chief's statement highlighted in paragraph 35, revealing that the "clearance operations" were not a response to a concrete threat from ARSA, but to the "unfinished job" of "solv(ing) the long-standing Bengali problem."

The Mission concluded, given these considerations on the inference of genocidal intent, that there is sufficient information to warrant the investigation and prosecution of senior officials in the Tatmadaw chain of command, so that a competent court can determine their liability for genocide in relation to the situation in Rakhine State."

Further, some key statements from the Fortify Rights report include:

"Under Article 6 of the Rome Statute, the crime of genocide involves three essential elements: (1) the commission of one or more of the five prohibited criminal acts enumerated by the Statute (2) against a national, ethnic, racial or religious group (3) with the intent to destroy the group in whole or in part..."

This report finds reason to believe that the elements required to prove genocide under the legal framework set out in international criminal law have been met. Specifically, under the legal framework set out in international criminal law, this report establishes that (1) the Rohingya are a distinct ethnic group for the purposes of a genocide analysis, (2) Myanmar state security forces and non-Rohingya citizens acting under the control of Myanmar security forces killed Rohingya, likely inflicted serious bodily and mental harm on the Rohingya, and inflicted conditions of life calculated to bring about the physical destruction of the Rohingya, and (3) Myanmar state security forces and non-Rohingya citizens conducted these acts with the special intent to destroy the Rohingya in whole or in part."

We thank you for your leadership and commitment to make the forthcoming State Department Burma atrocities-related report public, as discussed at both Congressional hearings. We also appreciate the investment of State Department resources in preparing the forthcoming report from interviews of refugee victims in Bangladesh. We eagerly await the imminent release of the report.

Sincerely,

Faith Coalition to Stop Genocide in Burma
 Law & Liberty Trust
 International Christian Concern
 Sovereign Global Solutions
 Childrens First Foundation
 Citizen National
 Interfaith Center of New York
 Justice For All
 Valley Ranch Islamic Center, TX
 Buddhist Humanitarian Project
 Kachin National Organization US
 Burma Task Force
 Holocaust Memorial and Tolerance Center
 Holocaust, Genocide, and Interfaith Education Center, Manhattan College, New York
 World Rohingya Organization (WRO)
 Genocide Survivors Foundation (GSF)
 Uri L'Tzedek: The Orthodox Social Justice Movement
 Islamic Society of North America
 IFND, MD
 DFW Refugee Outreach Services, TX
 International Campaign for the Rohingya
 Charter for Compassion
 Jewish Alliance of Concern Over Burma
 Congregation of Our Lady of the Good Shepherd, US Provinces
 National Advocacy Center of the Sisters of the Good Shepherd
 The MADDUX Group
 Pax Christi New York
 Americans for Tax Reform
 Engage Action

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE EDWARD R. ROYCE, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRMAN,
COMMITTEE ON FOREIGN AFFAIRS

Question for the Record from Representative Sander Levin
Genocide Against the Burmese Rohingya
September 26, 2018

Mr. Chairman, the facts about the atrocities committed against the Rohingya by the Burmese military are as clear as they are heartbreaking.

Multiple United Nation's reports have laid out in detail the violence and brutality inflicted on the Rohingya, including one in August that called for Burma's military leaders to be investigated and prosecuted on charges of genocide and crimes against humanity.

Here is just one excerpt from that UN report related to operations conducted by the Burmese military last year:

"The 'clearance operations' constituted a human rights catastrophe. Thousands of Rohingya were killed or injured. Mass killings were perpetrated... villagers were gathered together, before men and boys were separated and killed... women and girls were taken to nearby houses, gang raped, then killed or severely injured. Bodies were transported in military vehicles, burned and disposed of in mass graves."

Reporters who have attempted to expose these atrocities in Burma have been targeted for harassment and arrest. Just last month, two reporters from Reuters were sentenced to seven years in prison by a Burmese court for violating state secrets laws in what has been widely reported as a sham process. During their court proceeding, a police official testified he had been ordered to entrap these journalists.

Nikki Haley, the U.S. Ambassador to the United Nations, has said "the conviction of two journalists for doing their job is another terrible stain on the Burmese government."

In response to this brutality and injustice, Burma's civilian government has been even worse than silent – too often condoning or justifying the military's murderous repression of the Rohingya.

Earlier this year, Burma's National Security Advisor (Thaung Tun) made a series of comments designed to deny or downplay any violence and atrocities against the Rohingya, saying the vast majority remain in Burma, and "if it was genocide, they would all be driven out."

He went on to declare that the Burmese government "would like to have clear evidence" of ethnic cleansing and genocide. The evidence of course is overwhelming, as presented in the current and previous UN reports.

Most discouraging has been the response from the leader of Burma's civilian government, Aung San Suu Kyi, whose story of triumph over oppression was an inspiration to all. None of us want to see this icon of human rights become the apologist for a human rights catastrophe.

The recent UN report specifically called her out for failing to use her position or moral authority to protect the Rohingya, and that civilian authorities have instead "spread false narratives" about the atrocities.

And just a couple of weeks ago, Suu Kyi reportedly said the following about the treatment of the Rohingya – *“there are of course ways in which with hindsight I think the situation could have been handled better...we believe that for sake of long-term stability and security, we have to be fair to all sides.”*

This is a message of minimisation that drastically understates the magnitude of crimes against humanity that have occurred.

I understand why some have preached patience with Suu Kyi, given that she does not have direct authority over Burma’s military. They say there is a danger the military may dismantle the civilian government if she raises concerns about their brutal repression of the Rohingya. And having met her personally, I know of and greatly respect her brave struggle against repression while under house arrest for nearly two decades.


But none of that justifies inaction, or even worse, justification in the face of genocide.

Suu Kyi must openly and honestly address the brutal repression of Burma’s Rohingya Muslims. A vital first step would be for her to move the civilian government to free the two jailed reporters who exposed particular cases of violence against the Rohingya.

I have introduced a resolution, H.Res. 1057, calling on her to do just that – use the power invested in the civilian government to prevent the continued imprisonment of the brave reporters for shining a light on the truth.

I strongly urge this Committee to report similar legislation to the House floor as soon as possible. We must come together and speak with one voice that jailing reporters for exposing the truth is a grave injustice, especially when that truth is the crime of genocide.

Thank you.



MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE ELIOT L. ENGEL, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

August, 2018

EXECUTIVE SUMMARY

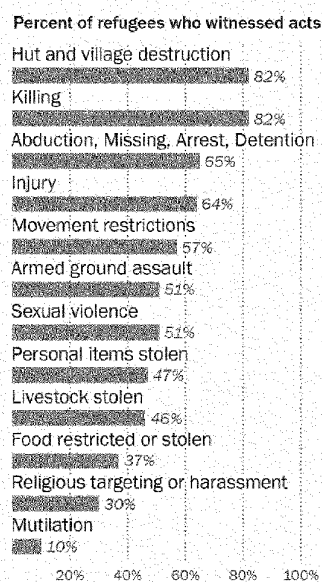
The Bureau of Intelligence and Research (INR), with funding support from the Bureau of Democracy, Human Rights, and Labor (DRL), conducted a survey in spring 2018 of the firsthand experiences of 1,024 Rohingya refugees in Cox's Bazar District, Bangladesh. The goal of the survey was to document atrocities committed against residents in Burma's northern Rakhine State during the course of violence in the previous two years.

The survey used a representative sample of refugee camp populations to provide insights into the violence they witnessed. Any hearsay testimony was not recorded. Survey results reveal the pattern of events refugees experienced. There may be cases when multiple refugees reported witnessing the same event, so the percentages from this survey should not be extrapolated to come up with a definitive overall number of events. The National Geospatial-Intelligence Agency (NGA) worked with INR to map and analyze the resulting data (see Map 1).

The results of the survey show that the vast majority of Rohingya refugees experienced or directly witnessed extreme violence and the destruction of their homes. They identified the Burmese military as a perpetrator in most cases.

- Most witnessed a killing, two-thirds witnessed an injury, and half witnessed sexual violence (see Figure 1).
- Rohingya identified the Burmese military as a perpetrator in 84% of the killings or injuries they witnessed.
- Three-quarters say they saw members of the army kill someone; the same proportion say they witnessed the army destroying huts or whole villages. Police, unidentified security forces, and armed civilians carried out the rest of the observed killings.
- One-fifth of all respondents witnessed a mass-casualty event of killings or injuries (either in their villages or as they fled) with more than 100 victims.

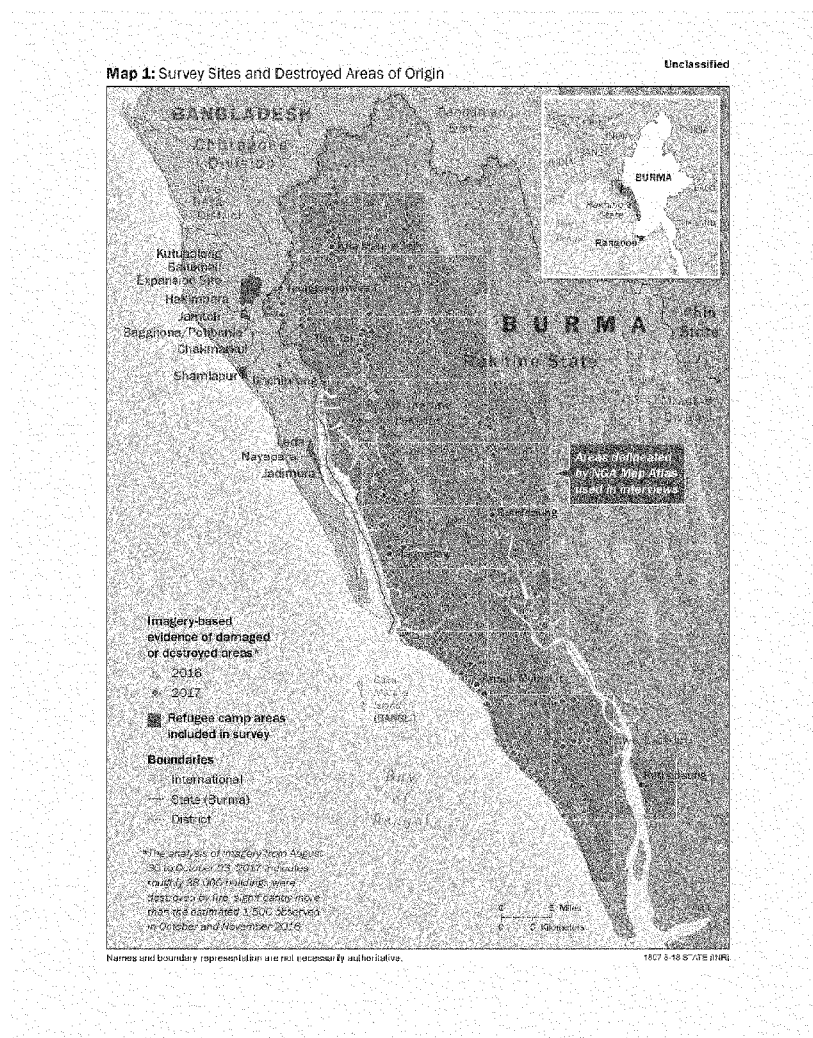
Figure 1: Hut and Village Destruction, Killing Top the List of Violent Acts Experienced



The two main phases of violence—the first in October 2016 and the second beginning in August 2017—followed attacks against Burmese security forces by the Rohingya insurgent group Arakan Rohingya Salvation Army (ARSA). The vast majority of reported incidents against Rohingya took place from August to October 2017. The survey shows that the military, which used the ARSA attacks to justify its so-called counterinsurgency operations in northern Rakhine State, targeted civilians indiscriminately and often with extreme brutality.

- Forty-five percent of refugees witnessed a rape, and the majority of rapes witnessed were committed, in whole or in part, by the army. Overall, nearly 40% of refugees saw a rape committed by members of the Burmese security services—either police or military—including 18% who saw them commit a gang rape.
- Members of the security services, as well as non-Rohingya civilians in some cases, targeted children and pregnant women.
- Those who were left behind because they were elderly, sick, or otherwise infirm were frequently found dead when their relatives returned to check on them.

The survey reveals that the recent violence in northern Rakhine State was extreme, large-scale, widespread, and seemingly geared toward both terrorizing the population and driving out the Rohingya residents. The scope and scale of the military's operations indicate they were well-planned and coordinated. In some areas, perpetrators used tactics that resulted in mass casualties, for example, locking people in houses to burn them, fencing off entire villages before shooting into the crowd, or sinking boats full of hundreds of fleeing Rohingya.

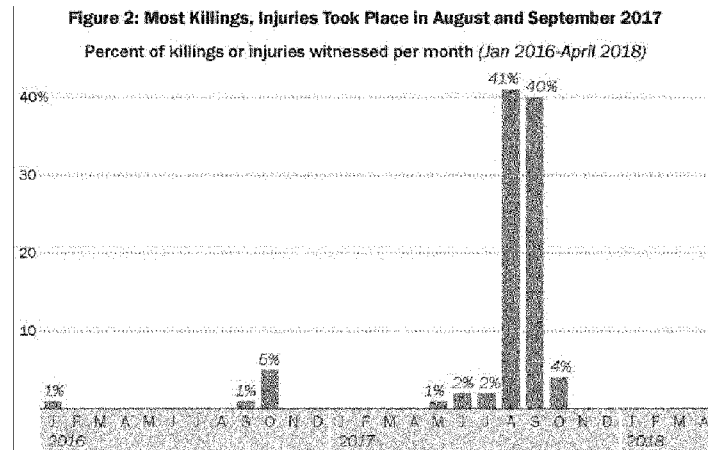


INTRODUCTION

In spring 2018, the Bureau of Intelligence and Research (INR) worked with funding from the Bureau of Democracy, Human Rights, and Labor (DRL) to design and carry out a survey to document claims of atrocities committed against the ethnic Rohingya in Burma's northern Rakhine State since October 2016. INR combined a quantitative approach to sampling with a qualitative, semi-structured questionnaire. This approach allowed investigators to systematically collect data on events that refugees encamped in Bangladesh had witnessed in their northern Rakhine State villages. Expert and well-trained investigators and their translators took special steps to create a comfortable interview structure that reduced possible stress on the respondents, allowed for the investigator to obtain clarifying detail on perpetrators and events, and separate firsthand experience from hearsay testimony.

DRL contracted with an expert outside group to gather a team of 18 experienced human rights investigators from around the world to conduct the research. INR trained the team on sampling methodology, and the National Geospatial-Intelligence Agency (NGA) created a map atlas that allowed the investigators to identify and locate where events occurred. The 1,024 survey respondents included only adults who left northern Rakhine State on or after October 1, 2016, though reports of violence date from as early as January 2016.¹

What follows is an analysis of the resulting data, which illuminates the excessive use of force the Burmese Army and police unleashed on the Rohingya population in the name of counterinsurgency clearance operations after the October 2016 and August 2017 Arakan Rohingya Salvation Army (ARSA) attacks. The survey's most salient findings fall into the two periods that coincide with these Burmese military operations: the first focused during October 2016 and the second, and far more violent period, from August-September 2017 (see Figure 2).



¹ While the survey was open to respondents of any ethnicity, only Rohingya were captured in the sample.

Background on Systematic Abuse

The Rohingya have experienced decades of persecution and violence, largely perpetrated by Burmese security services and the government. The roots of anti-Rohingya sentiments and discrimination lie in a longstanding belief in Burma that Rohingya are not “native” to Burma but arrived from Bangladesh during British colonial rule. Rohingya separatist movements in the 1940s and 1950s, and periodic, low-level unrest since, contribute to the state-sanctioned narrative that the Rohingya are a security concern to be contained and must be treated separately from those they consider to be rightful Burmese citizens. Burma’s military government gradually stripped Rohingya of their citizenship and other rights in a series of maneuvers, including the 1982 Citizenship Law, and a decision in 2015 to revoke their temporary registration cards. State violence against the Rohingya in 1977, under the military’s Operation Dragon King aimed against “illegal immigration,” and again in 1991 in what they claimed was a response to attacks by the Rohingya Solidarity Organization (RSO), resulted in two separate waves of refugees when hundreds of thousands of Rohingya fled across the border to find refuge in Bangladesh.

SECTION I: PATTERN OF VIOLENCE IN NORTHERN RAKHINE (2016 AND 2017)

On October 9, 2016 a group of ARSA members and other Rohingya villagers attacked three border guard police stations, leaving nine policemen dead. The military responded by using what it called counterinsurgency tactics against the Rohingya population in the area. Few witnessed killings (2%) or destruction of huts (3%) between October and November 2016, most likely because the military targeted villages in only a few areas (see Map 1; see Tab 2 for background on ARSA).

Authorities Targeted Men for Abduction, Arrest (October 2016–August 2017)

As part of their military operations beginning in October 2016, Burmese security officials would take Rohingya men into custody, ostensibly to question them about ties to or knowledge of ARSA. As tensions rose between Burmese officials and Rohingya in northern Rakhine State, increasing numbers of men and boys were taken into custody. To avoid being taken away by security services, men spent nights hiding in the woods, leaving their wives and children vulnerable to invasive searches by security services. Many of these women reported being groped, stripped, or violated while intruders searched their homes and their bodies for valuables or possible weapons.

Abductions of Women (October 2016–August 2017)

Refugees also reported abductions of women. In the year before the attack on her village, one woman said that the military would take the “beautiful” girls and they never came back. In another notable case, four months before the major attack, one refugee said the military told each village in his area that they had to provide 20 women so they could “teach them tailoring,” but the village never heard from them again.

Though in many cases the victim's fate is unclear, refugees reported instances in which women had been raped after abduction. The week prior to an attack on his village, a man was walking in a forest near a military outpost when he saw four Rohingya girls tied up with ropes, heavily bleeding and "half dead." They told him the military had kept them there for three days raping them.

Increased Restrictions (2017)

On August 25, 2017, ARSA launched attacks against about 30 police and army posts in northern Rakhine state, triggering a harsh military reaction. The majority of the attacks and three-quarters of the reported killings witnessed by the refugees in our survey occurred between August and October of 2017. Before the most acute violence broke out, a majority reported increased movement restrictions—even above the normal levels.

Dozens reported that Burmese authorities removed fences before the attacks, either by doing so themselves or by forcing Rohingya villagers to do so. In some cases, the military said they did not want Rohingya hiding militants. Removing fences also was meant to humiliate Rohingya, as it forced them to urinate and defecate in the open air. In at least 50 cases, respondents reported that the military and other actors removed knives, tools, iron, and other sharp objects that could be used as weapons. In some cases, local authorities photographed these objects as evidence of ARSA presence in the village.

- One-third who had these items taken said such restrictions had existed in their village for years. In about one-quarter of the cases, local authorities took these objects after the October 2016 attacks, and through summer 2017. Three-in-ten said the objects were removed between a month and a day before the attack, while the remaining 11% said they were removed while the attack was in progress or immediately prior.
- Rohingya most often cited the military as the culprit (in 88% of cases), but in some cases, civilians (31%) and police (22%) participated. In each, the removal of these objects facilitated the subsequent ground assaults, killings, and property destruction.

"When the military came, they would steal whatever we had, including knives we could not cut vegetables or fish." Female, age 30

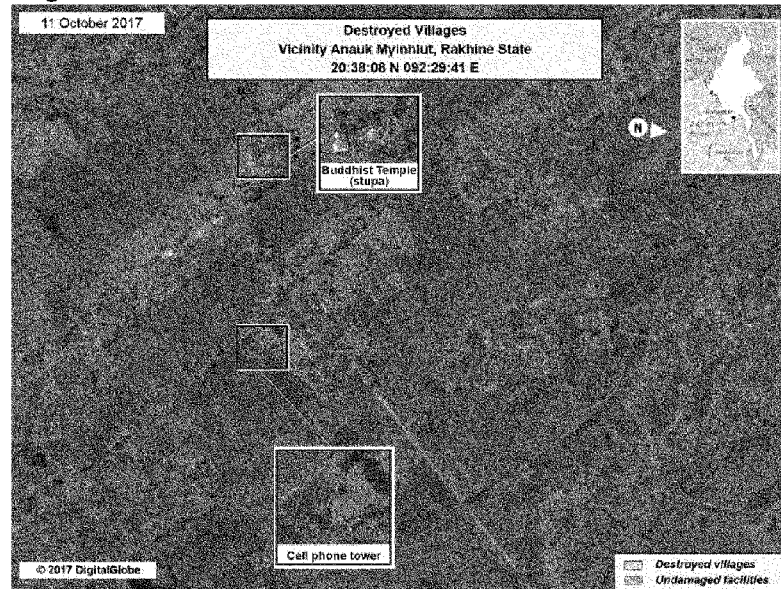
Systematic, Large-Scale Violence Strikes Villages (August-September 2017)

After August 25, on the days when violence broke out in their villages, some respondents reported the attacks began in the early morning before most residents were awake. These attacks explicitly targeted Rohingya, and left neighboring non-Rohingya sites (e.g. Buddhist stupas) and critical infrastructure (e.g. cell phone towers) untouched during the assaults (see Image 1, next page). During these large-scale attacks, homes and property were destroyed, and scores of Rohingya were killed as they fled their villages. These attacks generally lasted 1-4 days, depending on the size of the village. Rohingya said the army was involved in nearly all (92%) of the ground assaults—at times alone (32%), but sometimes accompanied by other security forces (26%), civilians (11%), or both (23%).

The stories from some refugees show a pattern of planning and pre-meditation in their villages on the part of the attackers. In one case, the local heads of the military and police called together

25 Muslim leaders from the surrounding villages to tell them to leave or they would be killed or burned. Other respondents reported non-Rohingya neighbors leaving shortly before the outbreak of violence.

Image 1



SECTION 2: TYPES AND PERPETRATORS OF VIOLENCE WITNESSED BY ROHINGYA

Burmese Army Overwhelmingly Identified as Main Actor

The results of the survey overwhelmingly show that Burmese security forces, and the army in particular, primarily are responsible for the violence that has driven the nearly 800,000 Rohingya from their homes since October 2016 (see Map 2, next page).

- Three-quarters witnessed a killing by a member of the army. In contrast, only one-quarter witnessed a killing by non-Rohingya civilians or any police force.
- Victims named the army as perpetrators in an overwhelming majority (88%) of the killings witnessed, as well as in nearly all armed ground assaults (92%) and aerial attacks (88%).

"The military surrounded us and shot at people. They wore green uniforms. They wore red scarves and red patches on their shoulders. They had long guns held on their shoulders and helmets." Female, age 18

7

NOTE: The preceding document has not been printed here in full but may be found at <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=108717>

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE STEVE CHABOT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO, AND CHAIRMAN, SUBCOMMITTEE ON ASIA AND THE PACIFIC

A/HRC/39/CRP.2

17 September 2018

English only

Human Rights Council

Thirty-ninth session

10–28 September 2018

Agenda item 4

Human rights situations that require the Council's attention

Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar*

Summary

The Human Rights Council established the Independent International Fact-Finding Mission on Myanmar in its resolution 34/22. In accordance with its mandate, the Mission focused on the situation in Kachin, Rakhine and Shan States since 2011. It also examined the infringement of fundamental freedoms, including the rights to freedom of expression, assembly and peaceful association, and the question of hate speech.

The Mission established consistent patterns of serious human rights violations and abuses in Kachin, Rakhine and Shan States, in addition to serious violations of international humanitarian law. These are principally committed by the Myanmar security forces, particularly the military. Their operations are based on policies, tactics and conduct that consistently fail to respect international law, including by deliberately targeting civilians. Many violations amount to the gravest crimes under international law. In the light of the pervasive culture of impunity at the domestic level, the mission finds that the impetus for accountability must come from the international community. It makes concrete recommendations to that end, including that named senior generals of the Myanmar military should be investigated and prosecuted in an international criminal tribunal for genocide, crimes against humanity and war crimes.

The present document contains the detailed findings of the Mission. Its principal findings and recommendations are provided in document A/HRC/39/64.

* The information contained in this document should be read in conjunction with the report of the Independent International Fact-Finding Mission on Myanmar (A/HRC/39/64).



I. Introduction

1. The Independent International Fact-Finding Mission on Myanmar (hereinafter “the Mission”) was established by Human Rights Council resolution 34/22, adopted on 24 March 2017. The President of the Council appointed Marzuki Darusman (Indonesia) as chairperson and Radhika Coomaraswamy (Sri Lanka) and Christopher Sidoti (Australia) as members. A secretariat was recruited by the Office of the United Nations High Commissioner for Human Rights (OHCHR). The core team was composed of a coordinator, fact-finding team leader and five human rights officers, legal adviser/reporting officer, military adviser, sexual and gender-based violence adviser, security officer, two language assistants and administrative support.

2. The Mission presented an oral update at the Human Rights Council’s thirty-sixth session (19 September 2017) and an oral interim report at the thirty-seventh session (12 March 2018), and delivered a video statement at the twenty-seventh special session of the Council (5 December 2017). In its decision 36/115, the Council requested the Mission to submit its final report at its thirty-ninth session. The main findings and recommendations of the Mission are contained in document A/HRC/39/64. A/HRC/39/CRP.2 contains the full factual and legal analysis, with supporting information, underpinning document A/HRC/39/64. It also includes recommendations directed more broadly than the accountability recommendations in that document.

3. The Mission deeply regrets the lack of cooperation from the Government of Myanmar, despite repeated appeals from the Human Rights Council and the Mission. The Mission requested in-country access through letters of 4 September 2017, 17 November 2017 and 29 January 2018. It sent a detailed list of questions on 27 March 2018. Each time its members travelled to Geneva, the Mission requested a meeting with the Permanent Mission of the Republic of the Union of Myanmar to the United Nations and Other International Organizations in Geneva, Switzerland. The Mission had some limited informal contact with Government representatives but received no official response to its letters requesting formal meetings, in-country access or information. The Mission’s draft main findings and recommendations were shared with the Government prior to their submission and public release, providing an opportunity to comment or make factual corrections. No response was received. The Mission’s letters to the Government are in annex 2.

II. Mandate, methodology and legal framework

A. Mandate

4. Resolution 34/22 mandated the Mission “to establish the facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar, in particular in Rakhine State, including but not limited to arbitrary detention, torture and inhuman treatment, rape and other forms of sexual violence, extrajudicial, summary or arbitrary killings, enforced disappearances, forced displacement and unlawful destruction of property, with a view to ensuring full accountability for perpetrators and justice for victims”.

5. In the interpretation of this mandate, the Mission considered the resumption of hostilities in Kachin State and escalation in Shan State in 2011 and the outbreak of major violence in Rakhine State in 2012 as key recent turning points that generated renewed violence and further allegations of serious human rights violations and abuses. The Mission therefore determined that focusing on the situation in Kachin, Rakhine and Shan States since 2011 would allow it to fulfil its mandate in a contextualised manner. The Mission selected several significant incidents for in-depth fact-finding, aiming to make findings on specific allegations of human rights violations and abuses while revealing broader patterns of conduct.

6. The Mission considered that the types of violations and abuses listed in the Council resolution were illustrative, and that it was mandated to consider the full range of violations of international law as appropriate. In line with the Council's request to examine alleged human rights violations and abuses, the Mission decided to examine allegations against both State and non-State actors. Finally, considering the objective of the mandate ("with a view to ensuring full accountability for perpetrators and justice for victims"), the Mission endeavoured to identify perpetrators, as well as to make findings about responsibility and recommendations on accountability.

7. The Mission notes with concern that allegations of human rights violations and abuses occurring in other parts of Myanmar also merit in-depth fact-finding. Time and resource constraints led the Mission to limit itself to Rakhine, Kachin and Shan States, particularly in light of the events that unfolded since August 2017 that required significant attention. The Mission is comfortable, however, that its geographic, temporal and subject matter focus allowed for solid overall findings and recommendations.

B. Methodology

8. The Mission was acutely aware of the complexity and sensitivity of the situation it was mandated to examine, as well as of allegations from all sides that the spread of false information about events has been commonplace. This awareness reinforced its commitment to meticulously follow established methodologies and best practices for human rights fact-finding, as developed by the United Nations. In doing so, the Mission strictly adhered to the principles of "do no harm", independence, impartiality, objectivity, transparency and integrity.

9. In particular, the Mission followed the best practices established for commissions of inquiry and fact-finding missions, outlined in the 2015 OHCHR publication, *International Commissions of Inquiry and Fact-Finding Missions on International Human Rights Law and International Humanitarian Law – Guidance and Practice*.¹

1. Standard of proof

10. Consistent with the practice of United Nations fact-finding bodies, the Mission employed the "reasonable grounds" standard in making factual determinations on individual cases, incidents and patterns of conduct. The standard was considered met when a sufficient and reliable body of primary information, consistent with other information, would allow an ordinarily prudent person to reasonably conclude that a case, incident or pattern of conduct occurred. This standard of proof is lower than that required in criminal proceedings.

11. Individual cases or incidents contained in the report are based on at least one credible source of first-hand information, which was independently corroborated by at least one other credible source of information. Specific major incidents, such as those set out in chapter V on Rakhine State, are based on multiple accounts from eyewitnesses and victims, allowing for in-depth fact-finding and detailed event reconstruction. Where the report describes patterns of conduct, these are based on multiple credible sources of first-hand information, which are consistent with and corroborated by the overall body of credible information collected. In the few instances where this standard was not met, but the Mission still considered it appropriate to include the information, this is stated explicitly.

12. In cases of torture or sexual and gender-based violence, where a second independent source of information was often unavailable, the Mission considered the case or incident corroborated when it obtained one first-hand account which it assessed as credible and was consistent with what was known about the incident or the established patterns of similar incidents in the area, and in line with the interviewer's own observations (for example, scars or signs of trauma).

¹ Available at: https://www.ohchr.org/Documents/Publications/CoI_Guidance_and_Practice.pdf

13. The Mission considered the following to be sources of first-hand information:
 - confidential interviews conducted by the Mission or its staff with victims, witnesses, victim's close family members, perpetrators or former Myanmar officials with direct knowledge of the issues brought before the Mission, where it was assessed that the source was credible and reliable;
 - satellite imagery from reliable sources, authenticated video and photo material as well as documents containing first-hand information from a reliable source;
 - publicly available admissions of relevant facts by Myanmar officials;
 - laws, policies and directives of Myanmar as well as internal Myanmar documents, provided that they were received from a credible and reliable source and their authenticity could be confirmed; and
 - statistics, surveys and other quantitative information generated by Myanmar or the United Nations, to the extent that the data was based on an apparently sound methodology and the inputs underlying the data were considered originating from a credible and reliable source.
14. The Mission relied on the following types of information to corroborate first-hand information and providing overall context to violations:
 - confidential interviews conducted by the Mission or its staff with witnesses who received the information directly from a person known to them (and not as a rumour), provided that the Mission assessed the source to be credible and reliable;
 - summaries of witness accounts contained in publications or in submissions from the United Nations, research institutes and human rights organizations, where the Mission assessed the source to be credible and reliable;
 - summary descriptions of patterns of conduct contained in expert interviews, public reports, submissions, academic research publications, documentaries and similar materials, where the Mission assessed the source to be credible and reliable.
15. In its assessment of second-hand sources, the Mission endeavoured to interview the researcher or author of the publication, submission or text to assess its credibility and the methodology used.
16. The reliability and credibility of each source was carefully assessed. The Mission considered whether the source was trustworthy, consistently probing the veracity of their statements. Such assessment took into account, among other considerations:
 - the witness' political and personal interests, potential biases and past record of reliability, where known;
 - the witness' apparent capacity to recall events correctly, considering his or her age, trauma, how far back the events occurred, and so on;
 - the position of the witness in relation to the subject of the information;
 - where and how the witness obtained the information;
 - the reasons for which the witness provided the information.
17. The Mission also considered the information's relevance to the fact-finding work, its internal consistency and coherence, and its consistency with and corroboration by other information, among other factors. Assessment of the validity of the information was separate from the assessment of its reliability and credibility. The Mission did not assume that a credible and reliable source would necessarily provide accurate and valid information.
18. Where this report refers to an account of a witness, the Mission has accepted the statement as assessed and described to be truthful and relevant, unless stated otherwise. Direct references to specific witness statements in the report should not be taken as an indication that it was the sole basis of judgment in relation to the issues under analysis. These direct references and citations were included to provide an example or illustration.

2. Collection of information

19. The Mission obtained a vast quantity of primary and secondary information. It conducted 875 in-depth interviews with victims and eyewitnesses. The Mission took care to diversify its sources of information. It interviewed individuals from different ethnic and religious backgrounds (including Bamar, ethnic Rakhine, Rohingya², Kaman Muslims, Hindus and individuals from Kachin and Shan ethnic groups). It also interviewed a number of members of non-State armed groups, as well as some former officials of Myanmar State institutions. Due to the lack of cooperation from the Government of Myanmar, it was unable to interview any serving government officials or members of its military forces.³

20. The Mission used various methodological approaches to select persons for interviews. This included random selection, for example by visiting different areas of a refugee camp or different refugee centres without pre-arrangement. Specifically in relation to the situation in Rakhine State, each visit to southern Bangladesh also prioritised interviews with persons who had most recently arrived from Myanmar to ensure the receipt of “fresh” information. Additionally, the Mission targeted interviewees to corroborate specific incidents or patterns. The Mission ensured that it did not rely on any single organization or individual to assist. To the extent possible, the Mission also strove to only speak with persons who had not previously spoken with any other organization or media outlet, and confirmed this ahead of the interview.

21. Nearly 40 per cent of interviewees were female. While the majority of interviews predominantly pertained to the situation in Rakhine State, more than 200 interviews were related to the situation in Kachin and Shan States, with further interviews relating to both situations, or to the country as a whole. Interviews were mostly conducted in person, in a safe and private setting and in the presence of a trusted, professional interpreter where required. Some interviews were conducted remotely, through secure channels of communication and taking additional precautions to ensure reliability (for example, a visual link or a known and trusted intermediary).

22. The Mission obtained a large body of satellite imagery and analysis with the support of UNOSAT⁴, and received a vast amount of documents, photographs and videos – some clandestinely recorded or obtained by the source. It only used those materials that it was able to authenticate. All information was checked against secondary information assessed as credible and reliable, including organizations’ raw data or notes, expert interviews, submissions and open source material. The Mission’s internal expertise included human rights and law, sexual and gender-based violence, psychology and child psychology, military affairs and forensics, and specialist advice was sought in digital verification.

23. To collect information, the Mission members travelled to Bangladesh, Indonesia, Malaysia, Thailand, and the United Kingdom of Great Britain and Northern Ireland. Requests to visit China and India did not receive a response. Mission members visited the refugee camps in Cox’s Bazar (Bangladesh) at the start of the mandate, shortly after the arrival of vast numbers of Rohingya refugees, and once again near the end of the mandate in July 2018 to take stock of the situation prior to the finalization of their report to the Human Rights Council. The Mission secretariat undertook numerous additional field-missions between September 2017 and July 2018, of several weeks at a time, primarily to interview victims and witnesses. Specifically in relation to the unfolding events after 25 August 2017 in Rakhine State, a team was deployed immediately to conduct interviews with persons who had just fled Myanmar. The Mission also held over 250 consultations with other stakeholders, including intergovernmental and non-governmental organizations, researchers, and diplomats – in person and remotely. It received written submissions,

² The Mission is conscious of the sensitivity concerning the term “Rohingya” in Myanmar, where the group is generally referred to as “Bengali”. The Mission uses the term in line with the concerned group’s right to self-identify.

³ The Mission did, however, undertake an extensive analysis of public statements made by government and military officials.

⁴ UNOSAT is the Operational Satellite Applications Programme of the United Nations Institute for Training and Research (UNITAR).

including through a public call. The Mission further engaged with a number of United Nations entities and other humanitarian actors. It is particularly grateful to the Office of the United Nations High Commissioner for Human Rights and to other United Nations officials and entities that provided relevant information and support. It regrets that a number of United Nations entities did not provide similar support.

24. The Mission further regrets that it was not able to visit Myanmar and undertake in-country fact-finding. The Mission was nevertheless able to gather the information necessary to establish facts and draw conclusions in accordance with its mandate. As is apparent from the preceding paragraphs, the Mission accessed a large volume and wide variety of sources, mostly outside but also inside the country. Importantly, it had access to victims and eyewitnesses who left Myanmar throughout the period under review, including very recently. Moreover, considering the severe risk of intimidation and reprisals against individuals who engage with independent human rights bodies (see below) and the restrictions imposed on other international actors operating inside Myanmar, the Mission is convinced that access to the country would not necessarily have generated more reliable or valid information. The Mission is confident that it spoke with victims and witnesses in a safe environment, where they could speak freely and without fear of reprisals.

25. The Mission expresses its deep gratitude for the invaluable support it received from a number of non-governmental organizations and all the persons who agreed to be interviewed. Their dedication to the betterment of the human rights situation in Myanmar is truly admirable.

3. Protection of victims and witnesses

26. The Mission paid specific attention to the protection of victims and witnesses. Its initial protection assessment indicated that persons who speak out about the human rights situation in the country and who engage with United Nations mechanisms have been subject to reprisals. The Mission was therefore extremely cautious in all interactions with victims and witnesses, making constant assessments of the need to establish contact with persons who may be placed at risk as a result. The Mission established strict security protocols to guide these interactions and to ensure that they were conducted through means to mitigate the risks. Contacts were not pursued if the Mission could not ensure the safety of the cooperating person, if the risk of harm was assessed to be too high, or if the Mission did not have sufficient information to make an informed determination on the level of risk. In line with this policy, the Mission has not pursued multiple leads.

27. The most significant challenge for the Mission therefore arose from the fear of reprisals. For the Myanmar population, this fear is well founded. The Mission received information and verified incidents of reprisals against persons who have interacted with international actors. Numerous potential witnesses were afraid to speak with the Mission, even on a confidential basis, because they feared for the repercussions on themselves or family members. The Mission did not pressure anyone to speak with it.

28. Many international actors operating in Myanmar, including aid workers, journalists, diplomats and other foreign visitors to Myanmar, were also unwilling to share knowledge and information with the Mission from fear that this would negatively affect their access if it became known to the Myanmar authorities that they had cooperated with the Mission.

29. The Mission is gravely concerned at the intimidation and threats faced by Myanmar nationals cooperating with Human Rights Council mechanisms mandated to examine the situation in Myanmar. It urges Myanmar to guarantee the protection of victims and witnesses, and everybody who engages with the Mission and with other international human rights mechanisms, and to undertake that no one shall suffer harassment, threats, intimidation, ill-treatment, arrest or other forms of reprisal because of such contact.

4. Storage of information

30. A secure, confidential electronic database was created to enable the Mission to securely record and store information. It contains the summary records of all interviews and meetings conducted as well as electronic copies of relevant materials collected. As a fully

searchable tool, the database facilitated the organization and retrieval of information for analysis and report writing.

31. The Mission systematically sought the informed and specific consent of all interviewees to use and/or share the information given, ensuring confidentiality as appropriate. The consent of every person interviewed and any conditions attached to it were recorded in the database, as were any potential protection risks.

32. The database will be kept as part of the Mission's archives, along with all its physical records and in line with United Nations requirements regarding the archiving of materials. The OHCHR will be the custodian of these archives. It is authorised to provide access to competent authorities carrying out credible investigations to ensure accountability for human rights violations and abuses in Myanmar in line with international norms and standards. Access will be granted to information only in accordance with the terms of the sources' informed consent and only after any protection concerns are duly addressed.

C. Legal Framework

33. Facts were assessed in light of international human rights law, international humanitarian law and international criminal law, as applicable in Myanmar. The Mission also considered the human rights guarantees under the domestic law of Myanmar.

I. International human rights law

34. Myanmar is bound by the United Nations Charter and the pledge to take action for the achievement of "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion".⁵ Regardless of the extent to which States have ratified specific human rights treaties, they must respect internationally recognised human rights. Human rights are not limited to citizens of the State, but must be guaranteed to all individuals within the territory or jurisdiction of the State, irrespective of their nationality or lack thereof.⁶ The content and scope of Myanmar's international human rights obligations are articulated in treaties ratified by Myanmar, in customary international law and in various instruments of soft law.

(a) Treaty Law

35. As of August 2018, Myanmar has ratified four of the core United Nations human rights treaties: the Convention on the Rights of the Child (CRC) and the Optional Protocol thereto on the sale of children, child prostitution and child pornography (CRC-OP-SC); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Convention on the Rights of Persons with Disabilities (CRPD); and the International Covenant on Economic, Social and Cultural Rights (ICESC).⁷ In doing so, Myanmar consented to be bound by the obligations articulated in these treaties and accepted that domestic laws and practice cannot be invoked to justify a failure to comply.⁸ It agreed to engage with the United Nations treaty bodies established to monitor the implementation of

⁵ United Nations Charter, arts. 55(c) and 56.

⁶ Only a limited number of rights can be limited to citizens, under strict conditions (see para. 68 below). B. Ramcharan, "The Law-Making Process: From Declaration to Treaty to Custom to Prevention", in *The Oxford Handbook on International Human Rights Law*, D. Shelton ed. (Oxford, Oxford University Press, 2013), p. 511; D. Weissbrodt, *The Human Rights of Non-Citizens* (Oxford, Oxford University Press, 2008). See also A/HRC/19/43, para. 2.

⁷ Dates of accession or ratification by Myanmar are: CRC (15 July 1991), CEDAW (22 July 1997), CRPD (7 December 2011), CRC-OP-SC (16 January 2012), ICESC (6 October 2017). Myanmar signed the ICESC on 16 July 2015, meaning that it had to refrain from actions contrary to the object or purpose of the Covenant from that date.

⁸ Vienna Convention on the Law of Treaties, art. 27.

the treaties and to duly consider their findings and recommendations. Myanmar has also indicated that it is actively considering acceding to other core human rights treaties.⁹

36. Under the Convention on the Rights of the Child (CRC), Myanmar is obligated to guarantee children, meaning all persons under the age of 18 years, the rights to life, survival, development and preservation of identity; to be registered at birth and to acquire a nationality; to protection from all forms of physical or mental violence, injury and abuse, including sexual abuse; to the highest attainable standard of health; to education; and not to be tortured, sentenced to the death penalty nor suffer other cruel or degrading treatment or punishment.¹⁰ Children also enjoy the rights to freedom of expression, freedom of peaceful assembly and association, and freedom of religion.¹¹ Children belonging to ethnic, religious or linguistic minorities have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language.¹² Under the CRC, governments must do everything they can to protect and care for children affected by armed conflicts.¹³ Importantly, the CRC puts States parties under an explicit obligation to respect and ensure these rights to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or their parents' or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.¹⁴

37. As a party to the Convention on the Elimination of All Forms of Discrimination against Women, Myanmar is committed to undertake measures to end discrimination against women in all forms, including by abolishing discriminatory laws and ensuring the elimination of all acts of discrimination against women by persons, organizations or enterprises. Violence against women and girls, including sexual and gender-based violence, is a form of discrimination prohibited by the Convention and is a violation of human rights.¹⁵ The obligations of States parties do not cease in periods of armed conflict or in states of emergency resulting from political events or natural disasters, and they apply without discrimination to both citizens and non-citizens, including stateless persons.¹⁶ States parties have a due diligence obligation to prevent, investigate, prosecute and punish acts of sexual and gender-based violence.¹⁷

38. Under the Convention on the Rights of Persons with Disabilities, States parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of

⁹ A/HRC/31/13/Add.1, para. 7. Myanmar has not yet ratified the International Covenant on Civil and Political Rights, and its Second Optional Protocol aiming to the abolition of the death penalty; the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment; and its Optional Protocol; the Convention for the Protection of All Persons from Enforced Disappearance; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It has signed, but not yet ratified, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (28 September 2015). Myanmar has also not accepted any of the individual complaints procedures under these conventions.

¹⁰ CRC, arts. 1, 4, 6, 7, 19, 24, 28, 34, 37.

¹¹ CRC, arts. 13-15.

¹² CRC, art. 30.

¹³ CRC, art. 38(4).

¹⁴ CRC, art. 2.

¹⁵ United Nations 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" (CEDAW/C/GC/28), para. 9; "General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations" (CEDAW/C/GC/30), para. 34; "General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19" (CEDAW/C/GC/35), para. 21.

¹⁶ United Nations Committee on the Elimination of Discrimination against Women, General Recommendation No. 28, para. 11-12.

¹⁷ E.g. United Nations Committee on the Elimination of Discrimination against Women, General Recommendation No. 30, para. 15, 23.

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE GERALD E. CONNOLLY,
A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF VIRGINIA

Statement for the Record on
The Rohingya Crisis: U.S. Response to the Tragedy in Burma
House Foreign Affairs Committee
September 26, 2018

By: Lutheran Immigration and Refugee Service

Lutheran Immigration and Refugee Service (LIRS) is deeply concerned about the continued ethnic and religious persecution of Rohingya communities and the resulting forced displacement that they face. Approximately 919,000 Rohingya have been pushed into Bangladesh as refugees, over half of whom are children.¹ As the severity of the Rohingya crisis increases, LIRS encourages the U.S. House Foreign Affairs Committee to use the U.S. Refugee Admissions Program as an essential tool in aiding the Rohingya people.

In August of 2017, thousands of Rohingya, a Muslim minority in Myanmar, fled to Bangladesh and surrounding areas to seek safety. They left as refugees, escaping the systematic persecution and extreme abuse that they had been facing. Since then, refugees have reported accounts of “soldiers burning or urinating on Qurans,” “victims of violence being decapitated or dismembered,” “infants and children being beaten or killed,” “soldiers attacking women, and their infants, during or just after childbirth,” and other accounts of tragic violence.²

In August of 2018, the U.S. State Department released a report based on the first hand experiences of 1,000 Rohingyas in refugee camps in Bangladesh. This report reveals that most had witnessed killings, injuries, and sexual violence. Three-quarters identified the army as perpetrators of such crimes as well as destroying homes and villages. These tragic accounts are further evidence of the atrocities that have been committed and the conditions from which the Rohingya have had to flee.³

The targeting of this religious minority group has been present for many decades. Even through the changes in power during this time, the Rohingya have continuously been denied the necessary ethnic recognition, blocking the path to citizenship. The Rohingya population has lived in the Rakhine State for many generations, and yet citizenship has remained inaccessible and has resulted in a Burmese ethnic classification as “illegal Bengali migrants.” Due to this, the Rohingya have become the largest group of stateless people in the world.⁴

The displacement of Rohingya children, women, and families has left a large number of people suffering in the country. Even those that have made it to refugee camps in Bangladesh are living in overcrowded

¹ “Futures in the balance: Building hope for a generation of Rohingya children,” (UNICEF August 2018), <https://www.unicef.org/child-alert/rohingya-refugee-children-futures-in-balance>

² Matthew Pennington, “US: Myanmar military led ‘extreme’ violence against Rohingya,” (The Associated Press, 2018), <https://apnews.com/8a3a8fddf2e34a829f00ba9a3186b25>

³ “Documentation of Atrocities in Northern Rakhine State,” (U.S. Department of State, August 2018), <https://www.state.gov/j/drl/rls/286063.htm>

⁴ Eleanor Albert, “The Rohingya Crisis,” (Council on Foreign Relations October 4, 2017), <https://www.cfr.org/backgrounder/rohingya-crisis>

areas, with barely enough resources to meet basic needs. The camps that are far past maximum capacity, leave many people in desperate need of shelter, water, and food.⁵

Unaccompanied refugee minors are consistently one of the most vulnerable populations in the world as they are left without guardians to care for them, and are often stranded in a place that is unfamiliar and dangerous. They are significantly more susceptible to human trafficking or are subject to other human rights violations. The United Nations High Commission for Refugees (UNHCR) relies exclusively on the United States to resettle children that have been orphaned or separated from their parents. This means the U.S. is essential for providing relief for these children that are left without protection. LIRS remains one of two U.S. refugee resettlement agencies that offers services specifically to unaccompanied minors. LIRS works hard to pair these vulnerable children with welcoming families in the U.S. that are willing to care for them as their own. LIRS has previously shared the story of a Rohingya refugee minor named Fara, a child that was provided a home with an American Family in Michigan. We are sharing this story again as it is a powerful testament to the life changing power that the refugee settlement can have and the extreme need that exists for such a program.

Following riots in Myanmar during early 2015, Fara was not able to go to school. In fact, the teachers in her Religious school were barred from attending, and the military police would continuously come to their villages. According to Fara, Rohingya houses and villages in surrounding neighborhoods were burned down and destroyed. Following this kind of continuous suppression and terror, she and her family decided to flee the country.

*During the family's journey to Indonesia, a deadly fight took place on a boat. Fara's father, step-mother and half-sister were tragically killed during the fighting. In order to save her life, Fara jumped into the sea, and in the process, she was separated from her younger brother and sister. After becoming separated from her family members, Fara has been unable to reunite with her younger siblings.*⁶*

This story is similar to that of so many other Rohingya minors that have been directly affected by the President's Executive Orders regarding refugee resettlement. The extreme circumstances that the Rohingya community has had to face deserves immediate and appropriate action from the United States through the means that we have available. The U.S Refugee resettlement Program has proved to be the best and most effective form of relief for this situation and should be used to provide the necessary relief for this suffering population.

It is impossible to reconcile the U.S. government's commitment to the Rohingya at a time when the Administration has proposed a cap of 30,000 refugee admissions in the 2019 fiscal year, the lowest cap ever in the history of the program. The average refugee admissions cap over the last 40 years of the program has been 95,000, this new proposed number is not even a third of what the average has been. This significantly lower number will directly affect Rohingya refugees and their ability to leave the poor conditions that they are currently living in.

⁵ "Bangladesh: Refugee camp capacity exhausted; thousands in makeshift shelters," (UNHCR September 08, 2017), available at: <http://www.unhcr.org/news/briefing/2017/9/59b24a074/bangladesh-refugee-camp-capacity-exhausted-thousands-makeshift-shelters.html>

⁶ Please see the LIRS "Statement for the Record on The Rohingya Crisis: U.S. Response to the Tragedy in Burma" from October 5, 2017

Considering the increasing number of Rohingya refugees, as well as the record number of refugees worldwide, LIRS believes that the proposed U.S. refugee admissions goal is much too low. In past years, the Department of State has reported that women and children make up three-fourths of the refugees resettled to the United States. Many of these are single mothers and their families that have narrowly escaped the horrors that tore their homes apart. A large number of these women and children were subject to rape, torture, or other heinous crimes. For these families, refugee resettlement ensures safety and an opportunity to start a new life. It is the only answer for those that are facing this persecution every day.

LIRS calls on Congress and the Administration to use the U.S. Refugee Admissions Program to provide safety and a fresh start for these families that have suffered such extreme loss and suffering. We want the United States to be true to its name, and serve as a home for the meek and the tired, especially in the face of such widespread persecution. Now is the time for us to act.

**Names have been changed*



Statement for the Record from Representative Gerry Connolly
 Genocide Against the Burmese Rohingya
 September 26, 2018

As this Committee meets, the 73rd Session of the United Nations General Assembly is taking place in New York. Given the horrific atrocities that the Burmese military perpetrated against the Rohingya in Rakhine State, and the ongoing humanitarian crisis that plagues the refugees in Bangladesh, this issue should be a top priority for the United States at the United Nations this week. Tragically, President Trump declined to mention the Rohingya's plight during his UNGA address, and his Administration has failed to pursue full accountability for those responsible for this crisis. The Trump Administration should make a public genocide determination based on the evidence, push for accountability at the United Nations for those responsible for these horrendous acts, and employ U.S. leadership to fully fund the U.N.'s Joint Response Plan to address urgent humanitarian needs in Bangladesh.

Amnesty International recently released a report that examines in detail the Burmese military's atrocities against the Rohingya people and determines that these actions amount to crimes against humanity under international law. Following that report's release in July 2018, I led a letter with Chairman Ted Yoho urging Treasury Secretary Mnuchin to review the report's findings and consider these heinous abuses as the Trump Administration develops sanctions against Burma. While the Trump Administration announced new sanctions on some members of the Burmese military who are responsible for these atrocities in August, the Administration has thus far declined to levy sanctions against the most senior military leadership. Coupled with the reports from the Independent International Fact-Finding Mission on Myanmar and the State Department's recently released Documentation of Atrocities in Northern Rakhine State, there is ample evidence to make a public determination regarding whether or not acts of genocide occurred. Yet, Secretary of State Pompeo has failed to do so.

While U.S. Ambassador to the United Nations Nikki Haley has said that the State Department's report is consistent with the Fact-Finding Mission's reports, National Security Advisor John Bolton is thwarting Haley's efforts by undermining the International Criminal Court (ICC). These uncoordinated actions of the Trump Administration undermine U.S. efforts to push our international partners to hold the Burmese military accountable and weaken U.S. global leadership on these matters. The United States should be leading the charge at the U.N. Security Council to refer this case to the ICC. Instead, many of our partners are questioning whether the United States would even support such a referral.

The Burmese military's violent extermination campaign, including razing Rohingya villages, placing landmines along the border, killing civilians, and committing sexual violence, has sparked the region's largest refugee crisis ever. Bangladesh is now hosting more than one million Rohingya refugees. The sheer volume quickly overwhelmed Bangladesh's two formal refugee camps, and the vast majority of refugees are now living in fragile and unsanitary conditions in informal camps, roadside settlements, and even in uninhabited forests. Bangladesh has shown incredible generosity in welcoming these refugees, but it is critical that the international community works with Bangladesh to respond to both the urgent humanitarian needs of the Rohingya refugees and also the long-term needs of this population.

Yesterday, Ambassador Haley announced an additional \$185 million to help the displaced Rohingya, with \$156 million earmarked for refugees and host communities in Bangladesh, bringing total U.S. assistance for the crisis to \$389 million this year. Nonetheless, the U.N. High Commissioner for Refugees has called for a redoubling of the international humanitarian response in Bangladesh, citing the pace and extreme vulnerability of refugees, and the U.N. Joint Response Plan remains only one-third funded. The Trump Administration also recently announced a cap of 30,000 refugees for FY 2019, the lowest ceiling since the enactment of the Refugee Act of 1980 (P.L. 96-212) amidst a record high refugee crisis. Slamming the door on refugees abandons American values and threatens our national security interests. That is why I am introducing a bill that would require the President to set the refugee admissions ceiling at a minimum of 110,000 refugees annually.

Tragically, state-sponsored persecution and violence against the Rohingya in Burma is nothing new. In 2014, I joined several of my colleagues in writing to the Administration to outline a few disturbing trends in Burma's democratic transition, including continued discrimination and violence against the Rohingya. The latest violent crackdown has only compounded such concerns. I visited Burma with the House Democracy Partnership to meet with members of the legislature and the new democratically elected government of Aung San Suu Kyi in 2016. The United States needs to strike a balance between supporting Burma's democratic transition, while urging an end to violence and discrimination against Rohingya. The outsized power of the military within Burma's civilian government is an obstacle to Burma's democratic progress and hinders the government's attempts to prevent an explosion of sectarian violence in Rakhine State. Burma's government must cease its policy of keeping the minority Rohingya population stateless, displaced, and in a constant state of humanitarian crisis.

The Rohingya are one of the most persecuted communities around the world. They have endured horrific abuses at the hand of the Burmese Government for far too long. Our failure to hold accountable those responsible for these heinous atrocities gives a green light to human rights abusers not just in Burma, but around the world. As Elie Wiesel said "human suffering anywhere concerns men and women everywhere." As Bangladesh continues to host more than one million Rohingya refugees, the United States must address both the urgent humanitarian needs and the long-term societal needs of the Rohingya people.

Question for the Record from Representative Dina Titus
Genocide Against the Burmese Rohingya
September 26, 2018

Question:

Can you explain what China and Russia have to gain by opposing a UN Security Council referral to the International Criminal Court?

Ms. Van Susteren's Answer:

The Voice of America (VOA) is mandated by Congress to provide news and information about the United States to a global audience and to do so at the highest professional standard. While VOA certainly covers news about China and Russia as well as the International Criminal Court in multiple languages to interested audiences, VOA respectfully declines to offer an agency opinion about the intentions of China and Russia's actions. VOA operates inside an editorial firewall established in its legislation, and does not engage in U.S. policy development or analysis.

Mr. Pomper's Answer:

Neither China nor Russia is an ICC state party and both have been quite sparing in their support for U.N. Security Council referrals to the court. In general, both China and Russia tend to set a high bar when it comes to supporting coercive measures by the Council under Chapter VII of the U.N. Charter, such as an ICC referral. The bar is especially high when there are strong bilateral ties with the country in question, as there are between China and Myanmar. The United States similarly has a history of protecting its partners and allies from action by the Security Council. The Council has only referred situations to the ICC in two instances: Darfur (2005) and Libya (2011).

In 2007, China and Russia double-vetoed a resolution focused on Myanmar that would have urged it to release all political prisoners, move toward democracy, and stop attacks against minorities. That resolution did not contain an ICC referral or other coercive measures.