

115TH CONGRESS
1ST SESSION

S. RES. 360

Calling for international accountability for the crimes against humanity committed by the Burmese military against the Rohingya in Burma.

IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2017

Mr. DURBIN (for himself, Mr. MERKLEY, Mrs. FEINSTEIN, Mr. MARKEY, and Mr. VAN HOLLEN) submitted the following resolution; which was referred to the Committee on Foreign Relations

RESOLUTION

Calling for international accountability for the crimes against humanity committed by the Burmese military against the Rohingya in Burma.

Whereas actions by the military of Burma, known as the Tatmadaw, including continuing assaults on personnel and territory controlled by armed ethnic organizations, military offensives immediately preceding and following national peace conferences, and human rights abuses against noncombatant civilians in conflict areas, undermine the confidence in establishing a credible nationwide cease-fire agreement to end Burma's civil war;

Whereas Burmese military officials have a longstanding history of targeting ethnic groups and armed ethnic organizations in Burma, in addition to the Rohingya, and

whereas there are ongoing conflicts currently in the Shan, Kachin, and Rakhine states;

Whereas August 25, 2017, attacks on security posts in Burma by the military group Arakan Rohingya Salvation Army resulted in a brutal, systematic, and disproportionate reprisal by the Burmese military and security forces on Rohingya villages;

Whereas more than 624,000 Rohingya refugees have fled to Bangladesh since the Burmese military commenced its scorched-earth campaign, with the burning of villages and local monuments, and reports of widespread rape, starvation, killing, and forcible deportation;

Whereas Burmese military officials have promulgated fabrications about the Rohingya to sow negative public perception of the minority ethnic group, including that they are not Burmese, that they are uniformly implicated in terrorist activities and controlled by international terrorist groups with the intention of creating an Islamic State, that they attacked their own people and burned down their own villages in order to gain international sympathy, and that they are fleeing to Bangladesh for economic reasons or to create the appearance of ethnic cleansing;

Whereas the Government of Burma has consistently denied access to the United Nations Fact-Finding Mission on Myanmar established to investigate human rights violations around the country;

Whereas the Commander in Chief of the Burmese military, Senior General Min Aung Hlaing, has made statements communicating his antipathy for the Rohingya people, including on March 27, 2017, where he reportedly said that

“[t]he Bengalis in Rakhine state are not Myanmar citizens and they are just people who come and stay in the country”, and on September 2, 2017, where he reportedly said that the ongoing military operations against the Rohingya were aimed at “unfinished business” from World War II;

Whereas a Human Rights Watch report entitled, “‘All of My Body Was Pain’: Sexual Violence Against Rohingya Women and Girls in Burma”, documented the Burmese military’s widespread acts of sexual violence against women and girls since August 25, 2017;

Whereas Article 7 of the Rome Statute of the International Criminal Court includes murder, forced deportation, rape, and persecution among its definition of “crimes against humanity”;

Whereas, on September 11, 2017, in his opening statement for the United Nations Human Rights Council’s 36th session, United Nations High Commissioner for Human Rights Zeid Ra’ad al Hussein reiterated his concern about the pattern of gross violation of human rights of the Rohingya in Burma, calling the persecution a “text-book case of ethnic cleansing”;

Whereas, on October 23, 2017, the Department of State suspended travel waivers for Burmese military leaders, found that all Burmese military units and officers involved in operations in northern Rakhine State are ineligible for United States assistance programs, rescinded invitations for Burmese security leaders to travel to United States-sponsored programs, and pressed for access for the United Nations Fact-Finding Mission on Myanmar to hold responsible those who have committed violence against the Rohingya;

Whereas, on November 3, 2017, the international human rights organization Human Rights Watch called for the United Nations Security Council to refer Burma to the International Criminal Court in light of Burma's failure to investigate mass atrocities against the Rohingya;

Whereas, on November 6, 2017, the United Nations Security Council issued Presidential Statement SC/13055 calling on Burma to "end the excessive military force and inter-communal violence that had devastated the Rohingya community in Rakhine State" in Burma;

Whereas, on November 16, 2017, the United Nations General Assembly Third Committee approved draft resolution A/C.3/72/L.48 calling for an end to the abuse of human rights against the Rohingya by Burmese authorities, accountability for the perpetrators, and unrestricted access for United Nations investigators in Burma;

Whereas, on November 22, 2017, Secretary of State Rex Tillerson declared that the Burmese military's crackdown "constitutes ethnic cleansing against the Rohingyas";

Whereas, on November 28, 2017, the United Nations Committee on the Elimination of Discrimination against Women called on Burma to report within six months on rapes and sexual violence against Rohingya women and girls by its security forces in northern Rakhine State and further to take measures to punish soldiers responsible for these acts;

Whereas the United Nations Human Rights Council held a Special Session on December 5, 2017, where it adopted a resolution strongly condemning the alleged systematic and gross violations of human rights and abuses committed against the Rohingya in Burma and requested the

High Commissioner for Human Rights to continue to track the progress concerning the human rights situation of Rohingya people; and

Whereas the United Nations High Commissioner for Human Rights Zeid Ra'ad al Hussein recommended on December 5, 2017, the establishment of “a new impartial and independent mechanism, complementary to the work of the Fact-Finding Mission, to assist individual criminal investigations of those responsible”: Now, therefore, be it

1 *Resolved*, That the Senate—

2 (1) recognizes the adoption of the resolution (A/
3 HRC/RES/S-27/1) on the situation of human rights
4 of Rohingya Muslims and other minorities in Burma
5 by the United Nations Human Rights Council on
6 December 5, 2017;

7 (2) condemns the Burmese military for its
8 atrocities against the Rohingya, which constitute
9 ethnic cleansing and crimes against humanity;

10 (3) reaffirms the longstanding international
11 prohibitions and norms against the use of ethnic
12 cleansing and crimes against humanity in any cir-
13 cumstance and calls on the United Nations to pass
14 resolutions condemning the human rights violations
15 by Burmese security forces against the Rohingya;

16 (4) urges the Government of Burma to allow
17 for full, unhindered humanitarian access to the af-
18 fected areas, and to allow the United Nations Fact-

1 Finding Mission to Myanmar to examine the human
2 rights violations by military and security forces in
3 Burma and others abuses, with a particular focus on
4 the situation in Rakhine State;

5 (5) urges State Counsellor Aung San Suu Kyi
6 to fully implement the Final Report of the Advisory
7 Commission on Rakhine State;

8 (6) urges the Government of Burma to take im-
9 mediate steps to close internally displaced persons
10 (IDP) camps and the Rohingya ghetto at Aung
11 Mingalar in Sittwe while respecting the rights and
12 dignity of populations currently residing in these
13 camps, and to further lift restrictions on freedom of
14 movement of Rohingya living in villages throughout
15 northern Rakhine State;

16 (7) calls on the Secretary of State and the Sec-
17 retary of the Treasury to impose targeted sanctions
18 and travel restrictions against senior leaders of the
19 Burmese military implicated in atrocities, including
20 its multiple holding companies and banks;

21 (8) urges the international community to assist
22 with the economic development of the Rakhine
23 State, one of the poorest states in Burma, in which
24 poverty exacerbates tensions between ethnic groups;

1 (9) urges the Government of Burma to conduct
 2 a comprehensive and transparent investigation—
 3 with the support of a credible international third
 4 party—to examine abuses against the Rohingya and
 5 hold perpetrators accountable;

6 (10) urges the United Nations to establish an
 7 independent mechanism to assist individual criminal
 8 investigations of those responsible for atrocity crimes
 9 against the Rohingya and refer those responsible to
 10 the International Criminal Court;

11 (11) calls on the United Nations Security Coun-
 12 cil to impose a comprehensive arms embargo against
 13 Burma; and

14 (12) calls upon the nations of the world to re-
 15 voke travel visas for Burmese Commander-in-Chief
 16 Senior General Min Aung Hlaing and all other mem-
 17 bers of the Burmese military responsible for the eth-
 18 nic cleansing campaign and crimes against humanity
 19 against the Rohingya.

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