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S. RES. 34

Expressing the sense of the Senate that the Governments of Burma and Bangladesh ensure the safe, dignified, voluntary, and sustainable return of the Rohingya refugees who have been displaced by the campaign of ethnic cleansing conducted by the Burmese military and to immediately release unjustly imprisoned journalists, Wa Lone and Kyaw Soe Oo.

IN THE SENATE OF THE UNITED STATES

JANUARY 29, 2019

Mr. MERKLEY (for himself, Mr. RUBIO, Mr. DURBIN, Ms. COLLINS, Mrs. FEINSTEIN, Mr. YOUNG, Mr. CARDIN, Mr. TILLIS, Ms. WARREN, Mr. KAINE, Mr. VAN HOLLEN, Mr. BROWN, Mr. MARKEY, Mr. WYDEN, Mr. SANDERS, Mrs. MURRAY, Mr. COONS, Ms. KLOBUCHAR, Ms. CORTEZ MASTO, Mr. SCHATZ, Ms. HARRIS, and Mr. PETERS) submitted the following resolution; which was referred to the Committee on Foreign Relations

RESOLUTION

Expressing the sense of the Senate that the Governments of Burma and Bangladesh ensure the safe, dignified, voluntary, and sustainable return of the Rohingya refugees who have been displaced by the campaign of ethnic cleansing conducted by the Burmese military and to immediately release unjustly imprisoned journalists, Wa Lone and Kyaw Soe Oo.

Whereas, on August 25, 2017, attacks on security posts in Burma by the Arakan Rohingya Salvation Army militant

group resulted in a brutal, systematic, and disproportionate reprisal by the Burmese military and security forces on Rohingya villages in Rakhine State;

Whereas approximately 700,000 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 gang rape, starvation, killing, and forcible deportation;

Whereas the August 2018 United Nations report of the Independent International Fact-Finding Mission on Myanmar states in paragraph 87 that “the Mission concluded . . . 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”;

Whereas, on August 28, 2018, then-United States Ambassador to the United Nations Nikki Haley reported to the United Nations Security Council that the Department of State had conducted interviews with 1,024 Rohingya refugees in camps throughout Cox’s Bazar and that the results of the interviews were consistent with the United Nations Independent International Fact-Finding Mission on Myanmar;

Whereas, on September 24, 2018, the Department of State report titled, “Documentation of Atrocities in Northern Rakhine State”, concluded that the military’s attacks in Burma’s Northern Rakhine State were “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”;

Whereas, on December 3, 2018, the United States Holocaust Memorial Museum concluded that “there is compelling evidence that the Burmese military committed ethnic cleansing, crimes against humanity, and genocide against the Rohingya”;

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 fundamental operational principles of voluntary repatriation are safety, to include legal and physical safety, and dignity, to include treatment with respect and full acceptance by their national authorities, including the full restoration of refugees’ rights;

Whereas approximately 236,000 Rohingya refugees returned to Burma from Bangladesh under the terms of a 1992 agreement after a previous bout of violence against the Rohingya forced them to flee, only to continue to be denied citizenship, face prejudice, violence, and persecution, and in many instances be forced to live in internally displaced persons (IDP) camps with their freedom of movement restricted;

Whereas Burma’s 1982 citizenship law stripped Rohingya of their Burmese citizenship, rendering them stateless;

Whereas the Government of Burma continues to systematically discriminate against the Rohingya people, a long-persecuted Muslim minority within Burma, including by continuing to restrict registration of Rohingya births and to deny them freedom of movement, access to healthcare, land, education, marriage, voting rights, and political participation;

Whereas the Government of Burma has repeatedly abused land use laws to unjustly seize land from Rohingya refugees;

Whereas the United Nations High Commission on Refugees (UNHCR) is working closely with the Government of Bangladesh and partners to provide protection and assistance to the Rohingya refugees and to support the host populations affected by the influx;

Whereas, on November 23, 2017, the Government of Burma and the Government of Bangladesh signed an agreement, known as the “Arrangement”, on the return of displaced persons from Rakhine State, which is modeled after the 1992 repatriation agreement between Burma and Bangladesh;

Whereas the Arrangement includes references to restoring normalcy and human rights in Rakhine State, for refugee returns to comply with international standards of safety, dignity, and voluntariness, and to commencing a process to address root causes in line with the Rakhine Advisory Commission recommendations;

Whereas the Department of State has assessed that Burma has not made progress on the “more crucial” of the 88 recommendations of the Rakhine Advisory Commission that are identified by Rohingya refugees as prerequisites to repatriation including freedom of movement, civil documentation, and a transparent pathway to citizenship;

Whereas, on June 6, 2018, the Government of Burma reached a tripartite Memorandum of Understanding (MOU) with the UNHCR and the United Nations Development Agency (UNDP) on its role in the safe, dignified, and voluntary return of Rakhine State refugees;

Whereas Rohingya refugees currently hosted in Bangladesh demonstrated in protest against an initial November 2018 repatriation plan between the Governments of Bangladesh and Burma, citing concerns for their security and the lack of meaningful political reforms in Burma to include full citizenship;

Whereas UNHCR, on January 4, 2019, reported that conditions in Burma's Rakhine State remain "not conducive to return" on the heels of the Government of India's regrettable decision to repatriate 16,000 Rohingya to Burma without having first ascertained the "voluntariness of their decision to return";

Whereas, throughout this process, the Government of Burma has restricted media freedom and jailed journalists;

Whereas, on December 12, 2017, Wa Lone and Kyaw Soe Oo, two journalists reporting and documenting atrocities against the Rohingya, were arrested and on January 10, 2018, formally prosecuted with violating the "Official Secrets Act";

Whereas Wa Lone and Kyaw Soe Soo had uncovered a massacre of 10 Rohingya men perpetrated by Burma's security forces and aided by local Buddhist villagers in the village of Inn Din in Rakhine State;

Whereas, on September 3, 2018, Yangon northern district judge Ye Lwin ruled that Wa Lone and Kyaw Soe Oo breached the colonial-era Official Secrets Act and sentenced them each to seven years in prison with hard labor;

Whereas, on January 11, 2019, Wa Lone and Kyaw Soe Oo's appeal of their conviction before the Yangon Regional High Court was denied;

Whereas Time Magazine named Wa Lone and Kyaw Soe Oo as co-recipients of 2018 Time Magazine’s “Person of the Year” in recognition for their courageous reporting;

Whereas Vice President Mike Pence tweeted his concern over the sentence against Wa Lone and Kyaw Soe Oo for “doing their job reporting on the atrocities being committed on the Rohingya people”;

Whereas United States Ambassador to the United Nations Nikki Haley described the conviction as “another terrible stain on the Burmese government” and called for “their immediate and unconditional release”;

Whereas the Department of State’s annual Human Rights Report on Burma for the year 2017 states that—

(1) “legal provisions that allow the government to manipulate the courts for political ends, and these provisions were sometimes used to deprive citizens of due process and the right to a fair trial, particularly with regards to the freedom of expression”;

(2) “The government continued to detain and arrest journalists, activists, and critics of the government and the military during the year.”; and

(3) “Threats against and arrests of journalists increased. . . . Freedom of expression was more restricted during the year compared with 2016. This included a higher number of detentions of journalists using various laws, including laws carrying more severe punishments than those used previously.”;

Whereas, according to PEN America, the discontinuation of Radio Free Asia’s broadcasting in Myanmar on a domestic channel constitutes a further shrinking of the space for free expression in the country; and

Whereas, additionally, PEN America reports that—

(1) there continues to be increased legal threats, imprisonment, and physical harassment of journalists;

(2) there continues to be restrictions on the ability to report from and receive information on conflict areas; and

(3) the lack of reform of media laws and institutions is driving a decline in media freedom: Now, therefore, be it

1 *Resolved*, That the Senate—

2 (1) condemns the violence and displacement in-
3 flicted on Burma’s Rohingya and other ethnic mi-
4 norities;

5 (2) urges the Secretary of State to make a de-
6 termination whether the actions by the Myanmar
7 military constitute crimes against humanity or geno-
8 cide and to work with interagency partners to im-
9 pose targeted sanctions on Myanmar military offi-
10 cials, to include Senior General Min Aung Hlaing,
11 responsible for these heinous acts through existing
12 authorities;

13 (3) condemns the attacks by the Arakan
14 Rohingya Salvation Army militant group;

15 (4) calls on the Government of Burma to allow
16 full access to Rakhine State and ensure the full par-
17 ticipation of UNHCR, the internationally endorsed
18 organization tasked with ensuring that refugee re-

1 turns are voluntary, safe, dignified, and meet inter-
 2 national refugee and human rights standards, and
 3 that the voices of refugees are represented in order
 4 to ensure the sustainability of such returns and to
 5 prevent further waves of displacement;

6 (5) commends the positive role of the Govern-
 7 ment of Bangladesh in receiving Rohingya refugees
 8 to date and urges the Government of Bangladesh to
 9 continue allowing the full participation of UNHCR
 10 and human rights organization in accessing refugee
 11 camps;

12 (6) calls on UNHCR and international non-
 13 governmental organizations to continue to play a
 14 role in monitoring repatriation efforts by the Gov-
 15 ernments of Bangladesh and Burma to ensure a
 16 process that meets international norms for vol-
 17 untary, safe, and dignified repatriation;

18 (7) agrees that any return of Rohingya should
 19 include guarantees that any returns of refugees will
 20 be voluntary and dignified, that there will be no
 21 threats to protection or security upon return, that
 22 refugees will be able to return to their places of ori-
 23 gin or other locations as desired, and be able to
 24 enjoy equal rights with others in Burma, including

1 the restoration or granting of full citizenship, free-
 2 dom of movement, and access to basic services;

3 (8) recognizes that any forced relocation of
 4 Rohingya refugees into temporary settlements, IDP
 5 camps, “model villages”, or other areas not of refu-
 6 gees’ choosing is unacceptable;

7 (9) calls on the Government of Burma to allow
 8 for a flexible and practical approach to dealing with
 9 evidence of Rohingya residence in Burma, recog-
 10 nizing that the Rohingya refugees in Bangladesh
 11 possess a wide range of documents and that some
 12 refugees have no documents and will need to estab-
 13 lish their residence by other means;

14 (10) calls on the Government of Burma to ad-
 15 dress root causes consistent with the Rakhine Advi-
 16 sory Commission recommendations and fully imple-
 17 ment all of the recommendations of the Commission,
 18 including providing equal access to full restoration
 19 or granting of full citizenship for the Rohingya pop-
 20 ulation;

21 (11) calls on the Government of Burma to ac-
 22 knowledge and address the issue of statelessness for
 23 the Rohingya, the deprivation of rights, and institu-
 24 tionalized and pervasive discrimination of the

1 Rohingya population in order to bring about any
2 sustainable solutions;

3 (12) commends the Government and the people
4 of Bangladesh for their extraordinary generosity and
5 efforts to provide shelter and relief for nearly
6 1,000,000 Rohingya refugees forced to flee their
7 homes in Burma;

8 (13) calls on the Government of Bangladesh to
9 ensure all refugees have freedom of movement and
10 under no circumstances are subject to unsafe, invol-
11 untary, precipitous, or uninformed returns to
12 Burma;

13 (14) calls for all the convictions against Wa
14 Lone and Kyaw Soe Oo to be nullified, for the simi-
15 lar charges against many other journalists currently
16 awaiting trial to be dropped, and for the immediate
17 and unconditional release of these journalists;

18 (15) expresses concern about the Government
19 of Myanmar's crackdown on journalists and press
20 freedom throughout the country;

21 (16) reaffirms the central role that independent
22 and professional journalism plays in strengthening
23 democratic governance, upholding the rule of law,
24 mitigating conflict, and informing public opinion
25 around the world; and

1 (17) calls upon the United States Government
2 to continue the United States status as a top global
3 donor nation to the humanitarian response in
4 Burma and Bangladesh and for the President's fis-
5 cal year 2020 budget request to reflect that long-
6 standing United States commitment.

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