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**HOUSE COMMITTEE ON FOREIGN AFFAIRS  
Subcommittee on Africa, Global Health, Global Human Rights, and  
International Organizations**

**“Accountability and Transformation: Tier Rankings in the Fight against  
Human Trafficking”**

**Wednesday, April 22, 2015**

Thank you, Chairman Smith, and other distinguished members of the Subcommittee for inviting me to testify at this important hearing on the U.S. State Department Trafficking in Persons (TIP) report and the tier-ranking process.

Fortify Rights works to prevent and remedy human rights violations through independent monitoring and customized technical support to human rights defenders. My colleagues and I would like to thank you for your leadership in working to end human trafficking worldwide. The annual TIP report and tier-ranking system demonstrates how impactful legislation can contribute to the realization of fundamental human rights worldwide. Officials from governments throughout Southeast Asia have told us it is a priority for them to combat human trafficking as a direct result of the annual TIP report and tier-ranking system. This is a monumental achievement.

As an organization engaged in human rights documentation with communities under attack throughout Southeast Asia, we view the annual TIP report as an important testament to the inherent value of truth telling. It is an annual dedication to the dignity of survivors of human trafficking with whom we come into contact on a regular basis.

I would like to focus my testimony on a few countries where Fortify Rights is working, namely: Myanmar (Tier 2 Watch List), Thailand (Tier 3), Malaysia (Tier 3),

Bangladesh (Tier 2), and to a lesser extent, China (Tier 2 Watch List). Specifically, I would like to draw attention to two communities from Myanmar particularly at risk of human trafficking: 1) the Rohingya Muslims who are fleeing state-sponsored violence and attacks in Myanmar and lack basic protections in Bangladesh, Thailand, and Malaysia; and 2) ethnic Kachin and Shan who are displaced along the Myanmar-China border due to ongoing armed conflict.

This testimony is based on interviews conducted by Fortify Rights in the last year with hundreds of eyewitnesses and survivors of abuses, including with Rohingya men and women in Rakhine State in western Myanmar, Thailand, and Malaysia, and with ethnic Kachin and Shan civilians in areas affected by armed conflict in northern Myanmar. We also interviewed more than a dozen brokers and human traffickers directly involved in, or knowledgeable of, human trafficking in the aforementioned countries as well as Thai officials and their associates.

### **ROHINGYA DISPLACEMENT IN NUMBERS**

The Rohingya are a persecuted ethnic and religious minority from Myanmar. Large numbers of Rohingya began fleeing Myanmar following widespread violence and state-sponsored attacks in Myanmar's western Rakhine State in 2012. The perpetuation of human rights violations in Myanmar and lack of protections for asylum seekers in neighboring countries heighten Rohingyas' risk of being trafficked.

To effectively address the issue of human trafficking of Rohingya in Southeast Asia, it is necessary to recognize the actual scale of Rohingya displacement. More than 150,000 Rohingya from more than ten townships are currently displaced in Myanmar and living in more than 60 internally displaced person (IDP) camps in Rakhine State. Up to 500,000 Rohingya refugees and asylum seekers are in Bangladesh. Most of the displaced Rohingya in Myanmar and Bangladesh lack basic protections and are subject to severe deprivations.

Since 2012, a significant number of Rohingya have fled Myanmar and Bangladesh in boats destined for Thailand and Malaysia. In 2014, the United Nations High Commissioner for Refugees (UNHCR) claimed 87,000 Rohingya departed Myanmar and Bangladesh by sea since 2012. UNHCR later increased this number to 130,000 maritime departures. However, this number reflects only departures from northern Rakhine State and the Myanmar-Bangladesh border area. It does not account for Rohingya fleeing from areas affected by the 2012 violence or IDP camps in Rakhine State. Fortify Rights believes there are potentially tens of thousands of additional Rohingya who fled Myanmar by sea from IDP camps and townships affected by violence since 2012.

### **MYANMAR: ROOT CAUSES DRIVING THE TRAFFICKING OF ROHINGYA**

The journey for most trafficked Rohingya begins in Myanmar, which has the distinction of being the largest refugee-producing country in Southeast Asia for the last several decades. Since 2012, the Rohingya comprise the largest outflow of asylum seekers from Myanmar and in Southeast Asia. They flee violence, ongoing deprivations in aid, and targeted policies of discrimination. These conditions drive the Rohingya into the hands of human traffickers.

### *Anti-Rohingya Violence in 2012*

Beginning in June 2012, violence between Muslims and Buddhists in Rakhine State escalated into several waves of targeted attacks against Rohingya and Kaman Muslims orchestrated and carried out largely by Rakhine operatives, the local Buddhist monkhood (*sangha*), and state security forces. Armed Rakhine civilians descended on Muslim villages, in some cases in well-orchestrated pre-dawn raids, setting fire to Muslim-owned homes as state security forces opened fire on Rohingya and Kaman Muslims who attempted to extinguish fires.

This pattern of coordinated violence occurred in villages across the state in June 2012 and again in October 2012, indicating a certain level of planning. The coordination of attacks is further evidenced by the distribution of anti-Rohingya pamphlets, town hall-style meetings where government officials discussed forced population transfers, and other events preceding the attacks.

In 2012 alone, civilians and state security forces razed entire Muslim villages in 13 of 17 townships in Rakhine State. Following that, in some areas, bulldozers directed by local officials destroyed otherwise undamaged structures in Muslim neighborhoods, including mosques. The violence and its aftermath in 2012 resulted in the internal displacement of more than 150,000 Rohingya. Tens of thousands of others are confined to remote villages cut off from humanitarian aid providers and access to livelihoods.

The lack of protection for Rohingya in Rakhine State has not measurably improved, continually exposing them to exploitation by human traffickers.

### *Anti-Rohingya Violence in 2014*

The anti-Rohingya violence that started in 2012 continued in 2014. In January 2014, state security forces and civilians attacked Rohingya villagers in Du Char Yar Tan village, Maungdaw Township in Rakhine State, Myanmar. The violence began when an unknown number of Rohingya killed a police officer in Du Char Yar Tan. Myanmar police and military responded with retributive attacks, including killings, beatings, arbitrary arrests, and looting. In a press release issued on January 23, 2014, Fortify Rights documented how on January 14 local officials issued a verbal order for riot police to arrest all male Rohingya, including children over the age of ten, in areas surrounding Du Char Yar Tan.

The UN Office of the High Commissioner for Human Rights (OHCHR) conducted an investigation into the incident in Du Char Yar Tan and reported at least 40 people killed. The Nobel Peace Prize-winning international nongovernmental organization (INGO) Médecins Sans Frontières (MSF)—or Doctors Without Borders—reported on January 24 that it had treated 22 people from Du Char Yar Tan for injuries, including gunshot wounds, stab wounds, and beatings. Fortify Rights documented killings, looting, and arbitrary arrests by state security forces as well as a mass exodus from the village, particularly by men and boys.

Many Rohingya from Du Char Yar Tan fled Myanmar following the violence, with some ending up in the custody of transnational criminal trafficking syndicates.

### *Avoidable Deprivations in Aid to Rohingya*

In addition to fleeing ongoing state-sponsored violence, many Rohingya are forced out of the country due to avoidable deprivations in humanitarian aid. The more than 150,000 Rohingya confined to ghetto-like IDP camps in Rakhine State are particularly impacted by the lack of aid. Many trafficked Rohingya interviewed by Fortify Rights fled IDP camps in Rakhine State because of a lack of food and health care.

Since 2012, the UN's World Food Program has delivered food rations to "registered IDPs"—individuals recognized by the government of Myanmar as internally displaced. Most IDPs who receive rations tell us the amounts are insufficient, and families often trade their food for other necessities—a situation not uncommon in situations of displacement. However, in Rakhine State there are also "unregistered IDPs"—displaced persons who are routinely denied rations, adequate shelter, and access to other aid by virtue of being "unregistered." Rohingya told Fortify Rights that authorities repeatedly denied their requests to be registered as IDPs. Fortify Rights believes there are tens of thousands of unregistered IDPs in Rakhine State confined to IDP camps without receiving rations or other aid.

In February 2014, in direct response to MSF's claim of treating survivors of violence from Du Char Yar Tan, the office of President Thein Sein evicted MSF from Rakhine State, purportedly for "misleading" the international media about violence in Du Char Yar Tan and for hiring Rohingya in its aid operations. Before its eviction, MSF was the largest INGO and largest provider of health care in Rakhine State. The central government's decision to evict MSF from Rakhine State effectively denied access to health care—in some cases, lifesaving aid—to hundreds of thousands of Rohingya throughout the state, leading an unknown number to flee the country. The government of Myanmar permitted MSF to resume operations in Rakhine State but at significantly reduced levels as compared to before the eviction.

The government of Myanmar has not made plans for the displaced Muslims to return to their homes. Instead, authorities are systematically implementing a system

of apartheid-like segregation. This, too, is leading people to flee the country en masse.

### *Human Rights Abuses and Policies of Discrimination against Rohingya*

Fortify Rights documented the widespread and systematic practice by the Myanmar Army and other state security forces of using Rohingya for forced labor—a practice that itself constitutes trafficking in persons. Based on firsthand testimony and other sources, Fortify Rights estimates that in 2014 the Myanmar Army and other security forces forced several thousand Rohingya in northern Rakhine State, including children, to engage in various forms of uncompensated and exploitative work. The authorities most typically force Rohingya men, women, and children to work on roads and military barracks. Fortify Rights also received firsthand testimony and credible reports of the widespread and systematic rape of Rohingya women and girls by Myanmar Army soldiers since 2012. These practices continue unabated and with impunity.

The government of Myanmar at the local, state, and national levels also continues to impose systematic restrictions against Rohingya as a matter of state policy. In February 2014, Fortify Rights published a 79-page report, *Policies of Persecution: Ending Abusive State Policies against Rohingya Muslims in Myanmar*. The report is based on 12 internal government documents describing state policies restricting Rohingya freedom of movement, marriage, childbirth, as well as their ability to engage in home repairs, construct houses of worship, and participate in other aspects of everyday life. We believe these abuses amount to crimes against humanity under international law. Until today, the Myanmar government enforces these policies and allows these abusive practices to continue.

Due to Myanmar's discriminatory 1982 Citizenship Law, an estimated one million Rohingya are stateless in Myanmar, making the Rohingya the world's largest stateless population within any single country's borders, according to UNHCR. Government officials continue to refer to Rohingya as "Bengali," denying the existence of their ethnic identity and implying that the Rohingya are migrants from Bangladesh. During a national census conducted in 2014 and supported by the international community, the government of Myanmar refused to count Rohingya or allow Rohingya to self-identify as Rohingya. Following the census, the government began a "citizenship scrutiny" process to "verify" the status of "Bengalis"—a discriminatory and coercive process that required stateless Rohingya to disavow their ethnic identity, potentially in exchange for a lesser-class citizenship that does not provide the rights afforded to full citizens.

Fortify Rights believes the abuses and policies against Rohingya create conditions of life are deliberately destructive to the Rohingya community, in whole or in part. Consequently, these abuses and policies drive Rohingya from the country and often into the hands of human traffickers. Human traffickers prey on this enormous and

growing pool of asylum seekers, taking advantage of the Rohingyas' desperation and lack of options.

### *Complicity of Myanmar Authorities in Human Trafficking*

Myanmar authorities are not only responsible for committing abuses that force Rohingya into trafficking circles, but Myanmar authorities are complicit in and profit from the trafficking of Rohingya. A press release issued by Fortify Rights on November 7, 2014 describes how members of riot police battalions, the Myanmar Police Force, and the Navy demand payments from transnational criminal syndicates to allow Rohingya individuals to depart Rakhine State. Authorities received payments ranging from US\$500 to \$600 per shipload of Rohingya departing Myanmar. In some cases, the Myanmar Navy escort boats operated by transnational criminal syndicates carrying asylum seekers to international waters.

### **BANGLADESH: SUPPORTING TRAFFICKING BY DENYING SAFE HAVEN**

As Myanmar's closest neighbor to Rakhine State, Bangladesh is a major destination country for Rohingya fleeing persecution in Myanmar. While an estimated 500,000 Rohingya asylum seekers and refugees from Myanmar are in Bangladesh, the country is considered a place of transit for many Rohingya who continue on to other destinations from Bangladesh. Rohingya fleeing to Bangladesh and continuing onward largely rely on brokers to facilitate their travel, putting them at considerable risk of being trafficked.

In 2014, Fortify Rights documented an increasing number of ships operated by transnational criminal networks carrying Bengali as well as Rohingya passengers.

Following violence in Rakhine State in June 2012, the government of Bangladesh made the unconscionable decision to close its borders to Rohingya asylum seekers and suspend the delivery of humanitarian aid to Rohingya refugees by INGOs in the area of Cox's Bazar. The government gave border guard and naval forces explicit orders to prevent persons from Myanmar from entering Bangladesh, and this order has not been rescinded. These policy decisions create uncertainties for the continued operation of humanitarian agencies providing lifesaving assistance and increase pressure on Rohingya to continue their search for safe haven elsewhere, leading many to take dangerous and risky boat journeys destined for Thailand or Malaysia.

Notably, the government of Bangladesh's decisions to close the border and reduce aid to Rohingya refugees has not led to a decrease in the number of Rohingya asylum seekers entering Bangladesh. This should be a clear indication that the strategy of denying aid and protection to dissuade migration is not only ineffective and flawed but also puts lives at risk.

The situation of refugees in Bangladesh is one of the worlds most protracted, with populations of Rohingya arriving in the country over many decades. There are now

upwards of 500,000 Rohingya in Bangladesh, yet only 30,000 are formally recognized as refugees and, therefore, authorized to receive aid. Registered refugees live in Kutupalong and Nayapara camps and receive basic humanitarian assistance from UNHCR, including education, food distribution, health and nutrition services, and shelter and infrastructure support, but refugees often use these provisions in trade to compensate for shortcomings in other basic needs. The remaining unregistered Rohingya eke out a living in host communities or in the massive Kutupalong makeshift-camp and Leda camp, where conditions are dire.

Unregistered Rohingya in Bangladesh, including recent arrivals from Myanmar, generally lack adequate shelter, food, clean water, and access to health care, leading to the spread of disease and illness. Aid workers report crisis levels of malnutrition year after year. The government of Bangladesh repeatedly declines offers of assistance by UN and international agencies to address these problems. Rohingya asylum seekers without official refugee status in Bangladesh also lack access to legal protections, employment opportunities in the formal sector, or other forms of support, leaving them at risk to violence, abuse, and exploitation including human trafficking.

An official Bangladesh Foreign Ministry document obtained by Fortify Rights dated March 31, 2014 details a government plan aimed at “arresting the continued influx of Myanmar nationals through irregular channels.” It proposes replacing INGOs with “local” organizations—presumably because local groups are more susceptible to government control. The document goes on to propose interning Rohingya “in temporary shelters in different suitable locations pending their repatriation to Myanmar.” While the document acknowledges “the issue of human trafficking,” the government of Bangladesh fails to recognize its own contributions to exacerbating the risks of human trafficking by denying Rohingya basic protections, including access to asylum procedures, basic aid, and the right to work. Playing this out, a sizable number of boats operated by transnational criminal syndicates departed Bangladesh in 2014, carrying Rohingya and Bengali men, women, and children.

#### **EXODUS BY SEA: DECEPTION AND ABUSE**

Onshore brokers in Rakhine State and Bangladesh typically charge US\$100 to \$200 for passage onto a ship. While onshore, most “passengers” are deceived into believing this fee will facilitate travel all the way to Malaysia—a major destination country for Rohingya fleeing persecution in Myanmar. Moreover, in 2014, Fortify Rights documented an increasing number of cases where traffickers promised Rohingya “free” transport to Malaysia, in an equally deceptive attempt to recruit “passengers” that can later be easily exploited. Human traffickers likewise promised adequate space, food, and water on ships to Malaysia in an attempt to dismiss rumors of violent and cramped slave ships that lack adequate provisions.

The small boats transporting Rohingya to larger boats typically carry approximately 50-100 passengers per trip; while the larger vessels waiting in international waters

with armed guards often hold 1,000 or more people. The larger vessels often delay departure for several weeks until they are at a deliberately overcrowded occupancy. Upon seeing the harsh and threatening conditions on the larger ships, many Rohingya told us they wanted to return to shore but the human traffickers forced them onto the ships. Once aboard, Rohingya are at the mercy of the human traffickers who hold “passengers” for the purpose of exploitation. Those who are among the first to arrive on these ships are sometimes forced to wait up to three or more weeks at sea with sparse provisions and under the watchful eye of abusive traffickers. Despite earlier promises, most ships are bound for Thailand, not Malaysia.

The journey through the Bay of Bengal and Andaman Sea to Thai waters typically takes seven to ten days. Eyewitness survivors told Fortify Rights of Rohingya, Thai, Shan, Malay, Bangladeshi, and Burmese ship operators committing killings and rapes, beatings, and other abuses during this time at sea. Captives are crammed into overcrowded ships and denied adequate food, water, and freedom of movement. A significant number of Rohingya we interviewed described witnessing deaths at sea due to beatings, starvation, sickness, and suicide. Witnesses report that those who die or are close to death are often thrown overboard by the traffickers. At present there are no definitive numbers of deaths at sea since 2012.

#### **THAILAND: A HUB FOR HUMAN TRAFFICKERS**

Rohingya who survive the journey at sea expect to arrive in Malaysia, a Muslim country where many have family and social networks. Nearly all are transited through Thailand. Brokers, human traffickers, and survivors told Fortify Rights that Thailand is a transit country in the trade of human beings because Thai authorities continue to cooperate and, in some cases, are integral in facilitating this illicit business. Rohingya asylum seekers rarely enter Thai territory without the knowledge of Thai authorities. Rohingya survivors told Fortify Rights of waiting offshore for several days in Thai waters until traffickers could communicate with the “right” authorities. In some cases, Rohingya reported that Thai authorities boarded ships and facilitated the transfer of “passengers” to traffickers’ camps in Thai jungles or remote islands.

Thailand’s military leader General Prayuth Chan-ocha has publicly acknowledged the involvement of Thai authorities in human trafficking and vowed to prosecute and punish those responsible. Nevertheless, Thailand prosecuted fewer human traffickers and complicit authorities in 2014 than it did in 2013, despite a greater number of people being trafficked in Thailand in the last year, according to Fortify Rights and UN sources. In 2013, Thailand identified 1,020 survivors of trafficking, prosecuted 386 cases, and convicted 225 persons. In contrast, in 2014, Thailand claimed to have identified just 595 survivors of human trafficking, prosecuted 115 cases, and convicted 104 people—less by nearly half from the previous year in each category.



In 2014, Thai authorities reported a mere five human trafficking cases involving Rohingya.

In March 2015, General Prayuth warned the media to not publish news about human trafficking, especially if it would potentially have negative repercussions on Thailand's fishing sector or the country's reputation internationally. The Thai Navy is suing two journalists for reporting on the trafficking of Rohingya. On April 17, 2014, a Thai court in Phuket charged Alan Morison and Chutima Sidasathian of *Phuketwan* with criminal defamation and violations of the Computer Crimes Act. They face up to five years in prison, fines, or both. The charges stem from a news article published by *Phuketwan* that included a brief excerpt from an article published by *Reuters* as part of a Pulitzer-prize winning series of reports on trafficking in Thailand. This legal action is representative of Thailand's efforts to silence critics and cover up official involvement in trafficking.

Rohingya arriving in Thailand are typically brought to traffickers' camps set up in remote jungles in mainland Thailand or on small islands. At any given time—even now during the “low” season in human trafficking via Thailand—there are thousands of Rohingya in dozens of traffickers' camps, according to survivors, human traffickers and brokers, and other sources.

Once in the traffickers' camps, human traffickers hold Rohingya under duress, subjecting them to severe beatings, torture, deprivations, and squalid conditions. Human traffickers overseeing these camps typically demand payments of US\$1,000 to \$2,000 for the release or sale of their Rohingya captives and to facilitate onward travel. Traffickers force Rohingya to place phone calls to anyone who can raise money to secure their release, lest they go to the highest bidder.

Those who are unable to raise funds can spend months under armed guard, facing physical and psychological abuse, deprivations, and at times, forced labor. Scores of Rohingya suffer paralysis in traffickers' camps, in most cases due to beriberi—a highly treatable illness related to malnourishment and caused by vitamin B1 deficiency. Traffickers are known to leave paralyzed Rohingya for dead. Fortify Rights documented killings in these traffickers' camps and deaths due to beatings or illness. Accurate estimates of deaths in Thailand are not available due to a lack of political will by authorities to vigorously investigate and crackdown on these camps.

In some cases, Rohingya men who are unable to raise the necessary money to secure passage to Malaysia are sold to Thai-operated fishing vessels. Rohingya often spend years at a time at sea, working as fishing slaves. High-profile reports by the *Associated Press* and other outlets recently exposed links between human trafficking and Thailand's fishing sector. On March 25, 2015, the *Associated Press* reported many Thai captains and Thai-owned fishing boats brought hundreds of “fishing slaves” to an Indonesian island, holding their captives in cages and forcing them to work in inhumane conditions without pay. Survivors reported deaths, beatings, and maiming. The report tracked the transport of the fishing catch back to Thailand and

into the international market. Fish that is sold here in Washington, DC may very well be from these slave laborers.

After public outcry, authorities sent a team to rescue nearly 100 Thai slaves. Nearly one month on, the *Bangkok Post* reported on April 17 that the government had still only “confirmed” that two of nearly 100 cases were human trafficking.

Fortify Rights also interviewed Rohingya from Myanmar who were forced to work at sea for years under inhumane conditions with little or no pay before finding a way to escape. In 2014, brokers and traffickers told Fortify Rights that selling Rohingya to the fishing sector remains an option, and it continues to be used as a threat to demand high ransom payments from the families and social networks of Rohingya captives.

Fortify Rights also documented the selling of Rohingya women and girls from traffickers’ camps in Thailand into forced marriages in Thailand and Malaysia, committing them to a lifetime of domestic servitude. For many, this is a transition from enslavement to enslavement.

Payments made to traffickers in exchange for human beings are typically negotiated by mobile phones between low-level traffickers—themselves usually of Rohingya or Bangladeshi descent—and buyers, or in the case of payments for “freedom,” negotiations are between traffickers and families or loved ones of those held captive. Already impoverished Rohingya families sell land, animals, jewelry, clothing, and other meager belongings or resort to taking out high-interest loans to raise necessary funds to pay human traffickers. Consequently, this business contributes to the economic destruction of Rohingya communities in Rakhine State.

Human traffickers hold bank accounts in Thailand and Malaysia and rely on the international banking system to receive payments, raising important questions as to whether regional banks are conducting due diligence to ensure their services are not supporting trafficking in persons. Human trafficking from Myanmar and Bangladesh to Malaysia generated an estimated more than \$250 million dollars since 2012, according to UNHCR. This comports with Fortify Rights’ figures based on estimated departures, the going rate to purchase or free a trafficked person, and other related illicit revenue streams.

There is little political will in Thailand to locate traffickers’ camps as demonstrated by the lack of “raids” on the camps by Thai authorities. Raids that do take place appear designed to motivate traffickers to more quickly move Rohingya to Malaysia rather than to arrest and detain traffickers and provide protection to survivors. In most cases, traffickers are informed about the raids in advance. Thai authorities often categorize Rohingya “rescued” during raids as “illegal migrants” rather than survivors of trafficking. In some cases, Thai authorities have handed over or sold Rohingya detainees back to human trafficking gangs for 5,000 to 6,000 Thai Baht (US\$150 to \$185) per person following raids on camps. Some Rohingya go through

this cycle multiple times, traded back and forth between traffickers and Thai officials before ultimately making it to Malaysia.

By categorizing Rohingya in Thailand as *prima facie* “illegal migrants” rather than recognizing their status as survivors of human trafficking, asylum seekers, and stateless persons, Thailand continues to deny any protection warranted to Rohingya under both Thai law and international law. Instead, Rohingya in Thailand are subject to detention and informal deportation.

In 2014, Thailand routinely detained Rohingya asylum seekers, in some cases, in conditions that did not meet international standards. Rohingya have died from preventable causes in detention in Thailand. Rohingya detained in Thailand largely rely on local Muslim communities and international aid organizations for necessities, including food. All Rohingya asylum seekers, including Rohingya women and children, are subject to detention in Thailand. While the Thai authorities detain Rohingya men to jails and immigration detention facilities, the authorities confine Rohingya women and children to government-run shelters. These facilities are similarly inadequately equipped and lack necessary resources, such as staff interpreters, to assist Rohingya asylum seekers. Many Rohingya men, women, and children reportedly “escaped” Thai detention facilities and shelters, only to be found once again in the hands of traffickers. In some cases, Rohingya “escaped” before the government could bring charges against traffickers, leading to the dismissal of cases. This calls into question Thailand’s commitment to prosecutions.

While the Thai government has a formal deportation process to facilitate the return of Myanmar nationals found in Thailand without proper documentation, the government of Myanmar generally refuses to recognize Rohingya as nationals of Myanmar and most Rohingya are stateless. Consequently, deportations of Rohingya from Thailand are necessarily informal deportations, with Thai authorities pushing Rohingya across a border crossing point. Thai authorities are known to turn away or push boats of Rohingya asylum seekers back out to sea or to take them into custody and hand them over to traffickers. As most Rohingya meet the definition of a refugee under the UN 1951 Refugee Convention and its 1967 Protocol, these forms of informal deportations amount to refoulement in violation of customary international law.

#### **MALAYSIA: A DESTINATION WITHOUT PROTECTIONS**

Malaysia is a major destination country for Rohingya from Myanmar. Many Rohingya arriving to Malaysia pass through traffickers’ camps in Thailand and managed to arrange the necessary payment to be brought overland to Malaysia. However, Rohingya who make it out of the traffickers’ camps in Thailand are not always free. In many cases, human traffickers transfer Rohingya to “hostage houses”—places of detention operated by human traffickers for reasons of exploitation—located throughout Malaysia. Some are sold into situations of debt bondage in Malaysia. Like in Thailand, Rohingya are subject to beatings, torture, and

threats by criminal syndicates in Malaysia. In some cases, Rohingya reported being confined to small spaces and threatened with arrest and detention if they attempted to escape. Fortify Rights received information about Rohingya who were killed or threatened with death in Malaysia for attempting to expose human trafficking networks. Meanwhile, known traffickers operate openly and freely in various public locations throughout the country.

Like Bangladesh and Thailand, refugees and asylum seekers in Malaysia generally lack access to legal status, documentation, and other protections. Malaysia does not recognize refugees in its domestic law, is not a state party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol, and has no legal framework in place to regulate the status and protection of refugees. These legislative shortcomings contribute to the problem of human trafficking.

Refugees and asylum seekers, including Rohingya, in Malaysia are treated as “illegal migrants” who entered the country without authorization or proper documentation. This puts them at risk of arrest, detention, and deportation. Fortify Rights documented how police, immigration officials, and other authorities in Malaysia often stop Rohingya refugees and asylum seekers on the street as well as conduct workplace and neighborhood raids. In Malaysia, Rohingya are typically sent to one of 12 immigration detention facilities that fail to meet the basic international standards for detention. Despite reports of abuse by immigration detention officials and deaths in custody in Malaysia, official inquiries into these abuses are rare.

Refugees and asylum seekers charged with violating Malaysia’s immigration laws are brought to special immigration courts (Mahkamah PATI) inside immigration detention facilities. Summary hearings are generally held en masse without interpreters or legal representation. In addition to deportation (which, in the case of refugees, amounts to refoulement), refugees and asylum seekers can be subject to canings for violating Malaysia’s immigration law. Canings are a form of torture in violation of international human rights law.

Fortify Rights documented how police and other officials in Malaysia frequently use the threat of arrest or violence to extort money or possessions from refugees and asylum seekers. This form of harassment and corruption in Malaysia is pervasive.

While documents, including UNHCR documentation, provide asylum seekers with informal protection from exploitation as well as extortion and arrest by authorities in Malaysia, access to documentation for asylum seekers in Malaysia is increasingly limited. Most asylum seekers in Malaysia are only able to register as an asylum seeker with UNHCR if they are already detained. Rohingya typically spend nine months in detention before being released with the support of UNHCR.

Due to their precarious status in Malaysia, Rohingya refugees and asylum seekers rarely if ever report abuse or exploitation to Malaysian authorities out of fear they will be arrested and detained rather than protected. These fears are pervasive

throughout the country. The time and cost involved in making complaints to authorities also serves as a deterrent to filing complaints. Malaysian police stations and other reporting institutions frequently lack interpreters to receive complaints from refugees and asylum seekers, even in areas where large numbers of migrants live and work and where linguistic needs would be highly predictable.

### **THE MYANMAR-CHINA BORDER: ETHNIC WAR IN NORTHERN MYANMAR**

In June 2011, armed conflict in northern Myanmar resumed between the Myanmar Army and the Kachin Independence Army (KIA), an ethnic armed group, ending a 17-year ceasefire agreement between the two parties. The conflict displaced more than 100,000 civilians, who now occupy dozens of IDP camps in Kachin and Shan states and along the Myanmar-China border. In February 2014, the Myanmar Army and Myanmar National Democratic Alliance Army (MNDAA) also commenced fighting in the Kokang region of northern Shan State, forcing an additional 70,000 civilians to flee.

Conflict-related abuses in Kachin and northern Shan states and avoidable deprivations in aid to Kachin and Shan IDPs continue and have created an insecure environment, putting civilians, particularly women and children, at heightened risk of exploitation and human trafficking to China, Thailand, and Malaysia.

In June 2014, Fortify Rights released a 72-page report, *"I Thought They Would Kill Me": Ending Wartime Torture in Northern Myanmar*, documenting widespread and systematic torture by the Myanmar Army, Myanmar Police Force, Military Intelligence against more than 60 civilians in combat zones, villages, and places of detention in Kachin and Shan states.

Fortify Rights has evidence of Myanmar army attacks on civilians in 2013 and 2014 and the ongoing use of forced labor in Kachin State and northern Shan State. The army forced Kachin and Shan civilians to porter military provisions and equipment on the front lines of the conflict and to "guide" soldiers through landmine-ridden territory. Fortify Rights also documented the use of civilians as human shields by the Myanmar Army in conflict zones in northern Myanmar. These abuses would constitute human trafficking.

The Myanmar government continues to restrict the delivery of humanitarian assistance to displaced communities in Kachin and northern Shan states, particularly those in areas controlled by non-state ethnic armed groups. Fortify Rights visited remote and isolated displaced Kachin communities in 2014 that were in need of shelter, medicine and health care, access to education and livelihoods, and other protections. The most at-risk camps are located on the Myanmar-China border.

The Kachin Women's Association of Thailand (KWAT) continues to document instances of human trafficking to China and is working to raise awareness among at-

risk populations. Young women and girls displaced by the war and with few livelihood opportunities are particularly at risk of either being abducted or deceived into migrating to China and forced into marriages. With China expecting to have some 24 million unmarried men by 2020, the trafficking of women and girls from Myanmar to China is likely to continue. Myanmar women and girls trafficked for marriage are often subject to sexual and domestic servitude. In some cases, human traffickers sell women and girls from Myanmar into the sex industry in China.

The Myanmar government operates an anti-trafficking liaison office in Loi Je, a government-controlled border town in contested territory. However, Kachin communities told Fortify Rights they were unaware of any anti-trafficking activities taking place out of the liaison office. The deep lack of trust between Kachin civilians and Myanmar officials, due to the ongoing commission of war crimes with impunity, often deters local groups from seeking assistance from the office.

### *Child Soldiers in Myanmar*

The recruitment of child soldiers is also considered a form of human trafficking and a practice that continues in Myanmar. The ongoing conflict in northern Myanmar has driven recruiting practices and exacerbates the potential for increased recruitment of child soldiers. Since Myanmar adopted a Joint Action Plan with the United Nations in 2012 on the prevention of the recruitment and use of children and their discharge and rehabilitation, the Myanmar Army has released 553 child soldiers, including 376 in 2014. Nevertheless, the Myanmar Army continues to recruit and use child soldiers and send them to the frontlines of conflict.

An unofficial system of incentives provides rewards to civilian military-recruiters—a system that for many years has contributed to the problem of child soldiers in Myanmar. The Myanmar Army recruited at least 40 children into the military in 2014, according to Child Soldiers International. This figure does not reflect the number of complaints received by the UN Country Task Force on Monitoring and Reporting—a coalition of UN agencies and international nongovernmental organizations tasked with working with the government on the implementation of the Joint Action Plan. In 2014, civilian brokers also continued to recruit boys into the Army through deceit. Forced or coerced recruitment of children often begins in public places. In some cases, boys are given the option to go to prison or join the Army.

Accountability for the use and recruitment of child soldiers continues to be weak. Prosecutions, for example, lack transparency, nullifying any potential deterrent effect. Protocols to identify children in the military are likewise unnecessarily slow. The government fails to identify children in its own armed forces, but rather relies on the identification of child soldiers by the International Labor Organization and the Country Task Force on Monitoring and Reporting.

The annexures of the Secretary General's Annual Report for Children and Armed Conflict includes the Border Guard Forces (BGFs) as a party within the remit of the Joint Action Plan. The BGFs are largely operational within Myanmar's ethnic states. However, the government limits access to areas controlled by BGFs, but nevertheless claims the UN has been unwilling to raise the issue of access to BGFs with the government.

## **CONCLUSION**

Mr. Chairman, based on the information Fortify Rights and others have collected over the past year, we believe Myanmar, Bangladesh, Thailand, and Malaysia have failed to meet the minimum standards for the elimination of trafficking as set forth in the Trafficking Victims Protection Act.

Notably, each government failed to adequately protect survivors of trafficking and ensure that survivors are not inappropriately incarcerated, fined, or otherwise penalized. With regard to the situations outlined in this testimony, these governments have failed to vigorously investigate and prosecute acts of trafficking that took place wholly or partly within their territories. With regard to Thailand and Myanmar, in particular, this includes failures to vigorously investigate and prosecute public officials who participate in trafficking.

Thank you, Mr. Chairman and other members of the Subcommittee, for the opportunity to testify, and thank you again for your work to combat human trafficking.