

# EVAP Ep. 52 Tom Andrews 9.17.13 AM

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## SPEAKERS

Speaker, Tom Andrews, Jaclyn Streitfeld-Hall

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 Speaker 00:00

 Jaclyn Streitfeld-Hall 00:11

Welcome to Expert voices on atrocity prevention by the Global Centre for the Responsibility to Protect. I'm Jaclyn Streitfeld-Hall, Deputy Executive Director at the Global Centre. This podcast features one-on-one conversations with practitioners from the fields of human rights, conflict prevention and atrocity prevention. These conversations will give us a glimpse of the personal and professional side of how practitioners approach human rights protection and atrocity prevention. Allowing us to explore challenges, identify best practices, and share lessons learned on how we can protect populations more effectively. Today, I'm joined by Tom Andrews, UN Special Rapporteur on the situation of human rights in Myanmar and Director of the Southeast Asia Human Rights Project at Harvard University and the Asia Center at Harvard University. Thank you for joining us today, Tom.

 Tom Andrews 01:00

Thank you very much for having me. It's a pleasure to be here.

J

Jaclyn Streitfeld-Hall 01:03

You have served as UN Special Rapporteur on Myanmar since 2020. Can you briefly share how you came to this role and what the mandate entails in practice?

T

Tom Andrews 01:13

Well, I began, I came to the mandate with a as part of my career in in advocacy, human rights advocacy, trying to make the community a better place, trying to make the world a better place. And I've been doing that kind of advocacy work, really, since I was in high school, when a bunch of us kids decided to start an advocacy organization to help disadvantaged kids and also draw attention to what's going on in the planet and why it matters for for all of us to do something about it. So really, it's been since then that's included service in public office. I was an elected official for 12 years, including service as the representative from the first congressional district of Maine in the US Congress. And as well as leading human rights related organizations, including United to End Genocide and the Win Without War coalition, among others. So this position was a step in my journey advancing human rights. And I'll tell you with respect to Myanmar I was elected to Congress in 1990, the National League for Democracy was elected also in 1990 winning, overwhelmingly, I got to go to Congress. They got to go to prison or went into exile, but they were denied the right to assume the responsibilities of serving the constituency that had elected them. That really made me angry, and I said to my colleagues, you know, they're in prison, or they're in exile, or they're under very difficult conditions, precisely for doing the things that we've just done, but been elected, we need to be paying attention to this, and we need to be, you know, supporting and engaging with our colleagues around the world to help those of our colleagues who are in trouble. So that began my work and focus on Myanmar, and my interest in Myanmar. And so that continued on for you know, up until now, this very moment, but certainly through the advent of this, the opening of this position, and my seeking it, and my being given the very great honor of becoming the Special Rapporteur, so that that's been my, my path to this moment.

J

Jaclyn Streitfeld-Hall 03:59

That's so fascinating. I feel like, you know, we think of Congress people as being so focused on the domestic side of American affairs, and to have that kind of perception of the parallels between your path and those in Myanmar and where those paths were diverging in that moment is really interesting.

T

Tom Andrews 04:21

Well, I'll tell you, you know, in politics, of course, you need to pay very close attention to what's going on in your community. Obviously, that's the foundation of your work and your job. The economy is always of great, great importance to people, but our place in the world and our relationship to the world is also important, and I think that we're living in a time right now where that is becoming increasingly clear to people. As we see the turbulence around the world, and we see the role of the United States in that turbulence. And I think it's an important responsibility for those of us who care about and believe in a rules based order and human rights and justice, who do not, believe, that might makes right. That we need to be paying attention and becoming more engaged and involved in the political discussion and the public policy discussion in the United States and beyond the United States now, probably more than than ever before, or at least since World War Two, because the very foundation of the institutions and principles that were established after World War Two and that great tragedy, they're all under siege, and we all know what happened to the world without them. And so I think it's extremely important for us to be engaged now like we've never been before.

J

Jaclyn Streitfeld-Hall 05:54

You're saying might makes right, I think leads straight into the next question, which is, you know, we're speaking to you five years after the military seized power in a coup, and has followed that coup with mass violence and widespread atrocity crimes in order to maintain that power. How have the Junta's abuses against the civilian population evolved over that time? And what does this tell us about the military's long term objectives?

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Tom Andrews 06:22

Well, their long term objective is to keep Myanmar under their tyrannical rule. They, this is reigned by terror. It is based upon their own interest, and enriching themselves and their allies and their networks, finding allies around the world that don't care so much about human rights, but but a rather transactional in their approaches to to international relations. I think that is what their goal is, is to be able to do what they've always sought to do, and that is, establish themselves as a power that cannot be, if not challenged, cannot be undone. They need three things to to sustain themselves. They need money, they need weapons, and they need legitimacy, and they're going to use all three to the greatest degree possible for them to put those to work for their power. Now, what's happened since the coup is that things have just continued to deteriorate in the country they've tanked the economy. They have destroyed the health care system. There are millions of people who are displaced. There are millions of people who have fallen below the poverty level. There are tens of thousands of people behind bars because they exercise their right to free speech, or in the case of this current election scheme, they have dared to criticize the election, or retweet or repost someone who has criticized the election. They are going to continue to just terrorize the population to the extent that they can, and they are going to continue, unfortunately, to use sophisticated weapons of war to attack civilian targets. And the unfortunate trend has been that as they have, as their grip on power has slipped, as they have lost territory in the country, they clearly lost legitimacy among the population. They're deeply unpopular. They have resorted to increasing attacks on civilian targets using sophisticated weapons of war. So things have been bad. They have gone worse. And I'm afraid that we are facing a even greater challenge moving forward as a result of this terrible trajectory and with the challenge of this so-called election.

J

Jaclyn Streitfeld-Hall 09:17

Yeah, and you know, you mentioned that there are sort of three things they need to maintain power, and one of them being legitimacy. You know, how do you see them using this election toward furthering that kind of pillar of their needs?

J

Jaclyn Streitfeld-Hall 09:36

Well, what they're going to do, clearly is form what they will describe as a civilian government, on the basis of the so-called election returns. This election is a complete sham and fraud. There's just no one could objectively look at this election and say anything else. I mean, you can't hold the free and fair election when you arrest, detain, torture and execute political leaders. Where it's a crime to report the truth, or criticize the Junta. So this is not, if this is certain things, but it's certainly not a free and fair election. But what they're counting on is either international fatigue, or just an international community focusing on other other crises in the world. And get enough governments to declare that this is a close enough election, and close enough to recognize whatever emerges from this election as legitimate. I mean, an illegitimate election yields an illegitimate governing body. And the election really is not about so much what happens in Myanmar. We all know what, what's going to happen within Myanmar. People, of course, have been under enormous pressure in the country to, you know, to vote, to keep their mouth shut. I mean, it's been really horrible, the pressure that they've been under. The good news is, that, hopefully, with this election being over, that particular form of pressure is going to be, is going to lift. But now we're into the phase, and I guess the real election is, the response of the international community to what just happened, and to the the illegitimate governing body that the Junta will dress up as civilian, and claim that it's legitimate, when in fact, it's just the same, this is we're talking about a military Junta in different clothes. So the question is going to be, how will the international community respond, and will they accept or reject this, whatever emerges this government that emerges as legitimate? That's the key question here.

J

Jaclyn Streitfeld-Hall 12:11

You know you've repeatedly warned about the risk of atrocity crimes in Myanmar, and you know what, in the context of kind of the aftermath of this election, as well as, you know, what's still going on in the country, what indicators are most concerning to you today? And where do you see the greatest risk of further escalation?

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Tom Andrews 12:30

Well, it's the greatest risk is that the use of weapons of war to attack civilian targets is going to continue its trajectory upward. And that as the Junta becomes more paranoid, they will respond, they will use that paranoia to fuel increasing attacks on on civilians. And they'll do it in a number of ways. I mean, there's great suffering. We've got, you know, over three and a half million people who have been displaced. We have clinics that are literally being bombed and schools that are being bombed. And my fear is, particularly if the international community does not respond in the way it should then, my fear is, is that all of these atrocities are going to increase because the Junta is going to believe that they can get away with it, and the international community just doesn't care enough to do anything That is my fear, and I think it's up to the international community to to change that trajectory.

J

Jaclyn Streitfeld-Hall 13:45

There was a few questions I wanted to ask first, but I'll actually jump ahead, since you're mentioning the international community. You know, throughout your tenure, you've not shied away from, kind of being very vocal about what the international community should do. You've published many conference room papers and analyses on the situation in Myanmar, and some of those papers have focused on naming and shaming states in the region who have continued to support the Junta, through financial or other means. Can you talk a little about this process, and how you've engaged with international governments on the situation.

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Tom Andrews 14:23

Well, as part of my basic job, I issued two reports that provide kind of an overview of the situation of human rights in Myanmar. One in the spring to the Human Rights Council, and one in the fall to the General Assembly. But I have found, that those that was just inadequate. That things were so difficult and the challenges were so great, that I needed to delve more deeply into specific aspects of the crisis. So I published a report on the impact of the coup on children, the impact of the coup on women in the LGBTQ community, the impact on the disability community. So zeroing in on what was actually happening to distinct populations, in a more in depth way, it's a complement the broader view. But those reports also include analysis and recommendations to the to the international community. And so one of the fundamental questions I asked fairly early on is, "how is the Junta getting away with this?" "How are they able to do this? Who is enabling them?" And so, who among the United Nations, member states, are enabling them? And so we began to investigate, and we found, and so I issued three reports on how the Junta is being supplied by the weapons of war that it is using to attack civilian targets. And we name names, and we rank them, and governments were that were named weren't happy. And of course, I gave this information to all governments in advance, so that if we got it wrong, they could tell us, or if there was context that needed to be added, we would, of course, do that. And many were not happy, but, facts are facts. And they weren't disputed. Now, governments responded in various ways. China, for example, when named the second largest source of weapons for the Junta, accused me in the session of the Human Rights Council of in their words, vilifying normal weapons trade. So that was kind of like digging your heels. Russia, the number one source, just didn't say anything, just ignored the whole thing. But then some governments, like, just looked at this and said, you know, what's going on here? And so, Singapore, in one of the reports I named that was the third source, largest source of weapons for the Junta. Weapons materials for the Junta. So Russia, China, Singapore. Singapore was alarmed. They said, look, we're going to look into this. They began an investigation. They asked if I could help and support that investigation. So I flew to Singapore and sat down with their team and really worked on, and provided additional information and analysis on what, what of my findings. And to their credit, following their investigation, there was a 90%, nine zero, percent, drop in the flow of weapons, and weapons materials from Singapore into the military Junta. And overall, the flow of weapons as of last, up to last year, at least, the flow of weapons from the international community reduced by a third. So that that's progress, and it illustrates what is possible when the international community takes this seriously and actually takes action. So that was weapons, money. You know, we did research on the financial means, how the Junta was able to secure the financing necessary, and engage in with financial institutions to make these transactions occur. And, you know, it was, we got various responses, but in Thailand, we know there was a shift of some of this, these banking activities, from Singapore to Thailand. So we focused on Thailand. Thailand took that very seriously. They

launched an investigation. And it was, it was, they made very clear rules and directives to the financial institutions in Thailand to not be engaging in activity that would be supporting human rights violations, and to clearly investigate and look at those transactions. But, Bangkok bank, you know, they reached, you know, I was engaged with them. I gave them a lot of information. We gave these banks some very specific transactions, and detailed information of these transactions, and Bangkok bank was one of the, you know, larger financial institutions that were engaging with the the Junta financial institution, and primarily, and the bank that they own, and control that is doing most of this is the Myanmar Economic bank. Bangkok bank decided to terminate its banking relationship with Myanmar Economic bank, you know, based upon these facts. So things can happen, right? There's progress that can be made. So sorry for the long winded response to your question, but the idea was, okay, let's zero in on the real impact that this is having on real people, and then let's zero in on the question, why is this happening? How is it happening? What role is the international community playing in enabling this to happen, and what can we do about it? And so that was the the idea behind these reports. And by the way, you know, we also did a report on the question of legitimacy, and we examined the Junta's claims to legitimacy, and we're now working on an additional report, a conference room paper, on the question of accountability. So that all in the works.

**J** Jaclyn Streitfeld-Hall 21:05

I appreciate how kind of methodical this is. Where you saw there was a gap in just the normal reporting, went and kind of expanded beyond the standard mandate to produce these papers, and you don't just, kind of publish a report and leave it there for you know, hoping states and experts will read it and move on. You actually engage with, the great example of engaging with the governments of Singapore and Thailand, but also of engaging with the business community, which we don't talk about very much. I mean, there is work on business and human rights, but I feel like it's not as widely emphasized in our work, because the UN is so state focused.

**T** Tom Andrews 21:50

Well and that, you know, that's my advocacy juices flowing. You know, it's okay, what, just asking the basic questions and reporting is obviously very important. You have to start with the truth, lay the facts out. But for me, it's a starting point. And it's what we what do you do with those facts, and how do you operationalize those observations and recommendations? And that's what I've been happy to engage in as a part of this job.

J Jaclyn Streitfeld-Hall 22:24

You know, you mentioned your work on accountability and justice, and you know, just last week, we're recording in January, and just last week, the International Court of Justice started a new round of hearings in the Myanmar case. You know, how do you see pathways to accountability evolving, whether it be the ICJ case, the double I double M, universal jurisdiction cases, or other avenues for justice?

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Tom Andrews 22:54

Well, first of all, what I found most important about the ICJ case and what's been happening in The Hague, is the fact that right English survivors were there and were able to tell their stories. And I think that is, that's extremely important, and I found that to be the most heartening thing, is that the Rohingya are being listened to in a court of justice. The wheels of justice turn very slowly, and it is remarkable that it has taken this long to get to this moment, but nevertheless, here we are. So the people in the Rohingya community I've been talking to are relieved and encouraged and hopeful. So this is a very important step, important step forward. There are different mechanisms, as you pointed out, for accountability. Each of them have certain merits. Also challenges. The ICJ case, obviously, we're in the midst of that right now, and we're going to see what what happens with with these deliberations. There is, of course, the the ICC, the International Criminal Court, and of course, the Security Council can at any time refer Myanmar to the ICC. And of course it has not, and and it will not, obviously. But then there is the narrow, the more narrow, pursues the prosecution that the prosecutor that's been engaging in, investigating on the question of deportation and persecution, drawing on Bangladesh and its status as a signatory of the Rome Statute. So that is happening. And then, of course, there's always the option in these cases of the ICC of article 14, referral in which a member state can seek an investigation by the prosecutor for human rights violations. Now that has a significant obstacle in that the Myanmar is not a signatory to the Rome Statute, and the NEG, the National Unity Government, to their credit, has declared that they will be subject to the court and to the court's ruling, so at least the democratically elected alternative to the military Junta has made that clear position, with respect to the court. But I don't think that anybody will, no one has exercised that, option for article 14 before. But those are the, those are the options under the ICC. Then you've got, as you mentioned, universal jurisdiction, and that has taken various turns in various countries. But as you know, it's all based upon an individual country, and what they believe is important. Argentina, you know, is an example of them pursuing their universal jurisdiction opportunity. They've actually issued warrants. Timor Leste is now looking at universal jurisdiction and pursuing universal jurisdiction options. So, there's those, and then there's, you know, there's civil cases, you know. There are groups who are trying to, are actually looking for corporate accountability. The role of Facebook, for example, in the in the attacks against, that have occurred, civilian attacks, attacks against the Rohingya, for example. You know there is the option of a special court. You know, you could have a special court that could be established by the General Assembly, could be established by the Human Rights Council. It could be set up as an international court, or it could be set up as a hybrid, with an international court working in conjunction with probably, this would have to be a future, justice based government in Myanmar, but that's, that's one of the options. There is, of course, not enough, no possibility of justice within the Juntas court system. But you have different resistance courts systems in place. You know, some of the ethnic states have systems. The NUG has judicial processes going on. There are, local in some of the more remote areas, in which village elders hold court on domestic disputes or with crimes. And then, of course, there is the option of, in the future, a truth and reconciliation mechanism, as part of a transitional justice process that will obviously be an option as well into the future. So there are a range of accountability mechanisms that are there at various stages of viability. And I'm looking right now, we're doing research right now, we're examining each one of those options, and I'll be presenting a very comprehensive report on those options to the Human Rights Council this spring.

J

Jaclyn Streitfeld-Hall 29:03

You know, Myanmar is a country that's had myriad challenges. We've spoken about the coup, the genocide prior to that, fighting within the different ethnic areas for many years, prior to the genocide, as well as, you know, just general persecution of the Rohingya population while that was ongoing. You've talked about the political crises in the 1990s. So Myanmar has had issues that came with atrocity risks for a very long time. What do you think atrocity prevention advocates should be doing differently when it comes to Myanmar as we go forward?

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Tom Andrews 29:46

That's a very good question. First of all, I think we all have to take heart. This is really, really difficult. It's hard work, the pathways to justice, and accountability, and freedom for the besieged people of Myanmar, it's a very, very difficult road, and it's very, very easy to become discouraged, given what's happening in the world. I think what's really first of all important for all of us, is to listen to the people of Myanmar, and to follow their example of courage and tenacity and fortitude. It's truly remarkable what they continue to do, and how they have responded themselves to this crisis and and so that's number one. I think it's really important for us to listen and to follow their, their lead and to be inspired by by their incredible response to this crisis. But then, I think we need to really double down. I think we need to, first of all, in the immediate run, we need to stop the international community, in whatever way that we can, from in any way recognizing the whatever emerges from this election as legitimate. I think it's just really important that advocates focus on that and and just make it very, very clear that this, that that this is an illegitimate body, and to respond and to move forward accordingly, so that there's only, you know, a handful of governments, largely the usual suspects, as it were, that would be doing this. But that's really, I think that's really important, and it's, it's important no matter where you live. I mean, the the Secretary of Homeland Security, when they when she announced the lifting of protected status for people from Myanmar in this country, in the United States, she she made just the most incredible claim that things were improving in Myanmar. They were becoming more stable in Myanmar. She made reference to the election that the that they had, that Myanmar was having a free and fair election. So, we have to be very careful and really be on top of attempts to kind of rewrite the facts, substitute fiction from fact, and insist upon the truth, and not allow these fictionalized descriptions of what's going on to take hold and to challenge them in every turn. So I think that's very, very, very, very important, and then it's looking to put as much pressure as possible on those institutions and entities that are aiding and abetting the military Junta. And again, I just go back to the big the three things that that enable them to continue weapons, money and legitimacy and work as much as we can in as coordinated a fashion as we can to deny them the means to continue this horror.

J

Jaclyn Streitfeld-Hall 33:27

Absolutely, and I'm so glad you raised the protected status issue, because you know there are so many, obviously survivors of the genocide, but you know advocates for the people in Myanmar, who are here in the US, who are doing incredible work to try and draw attention to what's happening there and influence change. And, you know, we've worked very closely with them through the years. I know you have as well, and the thought of, you know, them being at risk of having to go home when it's not safe and no longer having access to decision makers at the UN within the US governments is really frightening.

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Tom Andrews 34:09

Yes, it is. It really, is it really it's horrible, it's horrible, and it's all based upon a lie.

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Jaclyn Streitfeld-Hall 34:14

Yeah, and I can remember, I think it was two years ago. There were some new camps being built in Myanmar and kind of on that Bangladesh border. And they were having these kind of visits where they were encouraging refugees from Cox Bazar to sort of come and tour these camps and think about moving and sort of saying, "oh, it's safe, you can, you can move back now". When it was very clear to the international community that it was not safe and they were not ready to come back, so I feel like we're having that same conversation again now.

T

Tom Andrews 34:55

That's right. Try to create a reality out of fiction, that serves your political purpose. That's and then that's a good that's a good analogy. And there's various examples of trying to manufacture reality to serve one's political ends. And we just have to be first and foremost truth tellers, and then we have to be advocates for why the truth matters. And I don't think, you know, I think we live in an age in which the assumptions that we might have made, we can no longer make. I mean the assumption that, well, you know, of course, people support the rule of law and support, you know, international cooperation and truth, and justice, the United Nations. We can't assume that anymore. We have got to tell that story. We have got to tell the story why this matters and the good that it has done, and the peril that we will be in without those institutions, and without respect for the rule of law and without respect for cooperation between our neighbors. I mean, I think it's really important for us to make that case and not assume that people believe it or accept it, because the truth is under assault, and we have got to defend it.

J

Jaclyn Streitfeld-Hall 36:34

In this kind of context, and in this period of extreme political upheaval globally, very deep challenges to multilateralism, not just the UN but multilateralism broadly. Is there anything that gives you hope right now for the population of Myanmar?

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Tom Andrews 36:57

Yeah, they do. They do. The people of Myanmar. Gives me great hope that they, you know, they're not going to submit to this tyranny. And you know, the election, this so-called election, is just a good example. I mean, despite the pressure, enormous pressure on people to vote. Voting turnout was very low, and most of that was just based upon the fear that if they don't go and vote, then there's going to be repercussions from them and their families. That, you know, the young person in their family could be conscripted into the military. You may not be able to register for your classes in higher education. You may not be able to get the humanitarian aid that and your family need. So all of these, said and unsaid ways of intimidating people, there was just great resistance to that all over the country. And they're not going to buy this Junta in a new closed set of closed government, just as they rejected the hunter currently in its current manifestation.

J

Jaclyn Streitfeld-Hall 38:26

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