



**Testimony of Mr. Matthew Smith, Executive Director of Fortify Rights**

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

**“Get it Right This Time: A Victims-Centered Trafficking in Persons Report”**

**Tuesday, March 22, 2016**

Mr. Chairman and other distinguished members of the Subcommittee, thank you for inviting me to testify today. I had the honor of testifying last year, and once again my colleagues and I at Fortify Rights thank you for your leadership in working to end human trafficking worldwide.

We have seen and documented the scourge of human trafficking in Southeast Asia, and it should be noted that governments in the region are not impervious to the U.S. Department of State annual Trafficking in Persons (TIP) report and tier-ranking process. Objective TIP rankings with time-bound requirements help focus the attention and behavior of governments toward the promotion and protection of human rights and ending all forms of human trafficking.

We regret that last year’s TIP report failed, in our view, to accurately assess Malaysia and Myanmar’s efforts to combat human trafficking. Malaysia was upgraded from Tier-3 to Tier-2 Watch-List and Myanmar remained for yet another year at Tier-2 Watch-List, despite evidence that both countries failed to adequately combat human trafficking in 2014. We believe that political and economic calculations factored into the decision to undeservingly reward each country. This undermined the objectivity and integrity of the TIP-ranking process and the very effectiveness of it.

I would like to focus my testimony on the performance of Myanmar, Thailand, and Malaysia. This year, Fortify Rights recommends that the U.S. Department of State downgrade Myanmar to Tier-3 status; maintain Thailand at Tier-3 status; and downgrade Malaysia to Tier-3 status. In our view, Myanmar and Malaysia failed to

take significant action to combat human trafficking. The Government of Thailand has showed signs of progress during this past year, particularly on a policy-level within the fishing industry, but much work remains to be done. A Tier-3 ranking for Thailand for another 12 months would provide additional time to ensure that reforms take root and key improvements are realized, particularly with regard to ensuring protection for Rohingya and other survivors of human trafficking.

## **Myanmar**

In Myanmar, forced labor, the use and recruitment of child soldiers, and other forms of human trafficking continued in the last year.

### ***Forced Labor***

In March 2012, the Government of Myanmar and the International Labour Organization (ILO) signed a Memorandum of Understanding for a plan of action to eliminate all forms of forced labor by 2015. This objective has not been met.

Fortify Rights and its partners continue to document instances of forced labor committed with impunity by state security forces, most prominently by the Myanmar Army. We have recently [documented](#) seven cases of forced labor by the Myanmar Army in December 2015 and January 2016 following a preliminary investigation in Kyauktaw Township, Rakhine State. The Myanmar Army forced ethnic-Rakhine civilians to engage in manual labor and portering in the context of armed conflict with the Arakan Army, a non-state ethnic army excluded by the Myanmar authorities from the peace process. Myanmar Army Battalions 380 and 378 forced men to carry weapons and rations and dig graves for Myanmar Army soldiers killed in conflict with the Arakan Army. The Myanmar Army held the men for 11 consecutive days, deprived them of food for two days, bound their hands behind their backs, and threatened them with death if they tried to escape. The men had no option to decline the work and received no compensation for their time or labor. We believe these cases represent a small fraction of the forced labor in Rakhine State.

The Arakan Army has also allegedly used forced labor. The Chin Human Rights Organization (CHRO) [reported](#) that the Arakan Army forced ethnic-Khumi Chin civilians in Paletwa Township to bury a Myanmar Army captain killed in the fighting and to carry supplies to the Bangladesh border in March 2015. CHRO also documented the recruitment of child soldiers by the Arakan Army.

Fortify Rights also continues to document forced labor of men, women, and children in northern Rakhine State. On March 21, 2015, Fortify Rights [reported](#) to the UN Human Rights Council for Myanmar's Universal Periodic Review that in recent years the Myanmar Army and other security forces have used forced labor from several thousand Rohingya persons in northern Rakhine State, including children. In 2015, Fortify Rights did not receive any information to suggest that authorities in

Myanmar held the perpetrators in Rakhine State to account or took any action to protect survivors.

Since 2013, Fortify Rights has documented numerous cases of forced labor with impunity in the context of armed conflict in Kachin and northern Shan states, including the Myanmar Army's use of human shields, which we believe would amount to a war crime. On September 17, 2015, the Shan Human Rights Foundation reported that the Myanmar Army forced approximately 30 villagers in Kunhing Township, Shan State to serve as human shields during fighting with the Restoration Council of Shan State/Shan State Army-South on August 25, 2015.

The UN Special Rapporteur on human rights in Myanmar Yanghee Lee also reported on the Myanmar Army's use of forced labor in the conflict zones of Kachin and Shan states in 2015.

Beyond that, civil society partners in Kachin State continue to document the trafficking of ethnic Kachin women to China. The armed conflict in Kachin State between the Myanmar Army and the Kachin Independence Army displaced more than 100,000 civilians since June 2011. According to the Kachin Women's Association Thailand (KWAT), which is working in the fight against human trafficking in Kachin State, human traffickers from China often visit internally displaced person (IDP) camps to recruit and deceive women into situations of forced marriage and forced work in China. In 2015, this continued. With few livelihood opportunities in the IDP camps, women are enticed by promises of well-paid work abroad, only to find themselves in situations of exploitation. In the areas where KWAT works, the organization has not documented a single case in which the Government of Myanmar intervened. KWAT alleges that the Myanmar government's claims to be active in anti-trafficking work in certain areas in Kachin State are untrue.

In February 2016, a senior representative of the ILO in Myanmar told *The Irrawaddy* that the Myanmar military continued to be responsible for forced labor throughout the country, despite President Thein Sein's prior commitment to end the practice by 2015. The ILO referred to Thein Sein's military-backed government as a "reluctant" partner in combatting forced labor, noting that nationally the Myanmar military is the "main perpetrator" of forced labor.

The ILO reported to the Governing Body in Geneva in November 2015 that it continues to receive a "significant" number of complaints of forced labor through its complaint mechanism. On average, dozens of complaints are filed with the ILO monthly.

While forced labor has decreased in some areas, the ILO recently noted that an increasing number of complaints of forced labor indicate "low levels of community trust and confidence in the national judicial system." This comports with the findings of Fortify Rights and calls into question Myanmar's commitment to

prosecuting perpetrators of forced labor and protecting survivors. Moreover, Fortify Rights has found that while awareness of the ILO complaints mechanism has grown over time, vast amounts of the population remain either unaware of it or are too fearful to engage it. Just eight days ago, on March 14, UN Special Rapporteur Lee reported to the UN Human Rights Council that she was unable to raise individual cases of forced labor with the Government of Myanmar because the victims or their families declined to give consent out of fear of retaliation by the authorities. Lee acknowledged local fear is well founded. We can attest to that.

In 2015, the Myanmar Army [threatened](#) to take legal action against anyone publicly accusing the army of involvement in the rape and killing of two Kachin schoolteachers in Shan State. This and other fear tactics by the army have long had a chilling effect on Myanmar's ethnic populations, inhibiting the protection of survivors of forced labor and the prosecution of perpetrators.

Forced labor does not only occur within the military. It continues in public works projects throughout the country. Local authorities in some areas have required, under threat of punishment, one "volunteer" laborer per family to support public works projects. This practice has continued unabated for decades. The ILO reported in November 2015 that this practice results in "a number of reported instances where children or the elderly are sent to do the 'voluntary' work to avoid the imposition of a monetary fine on the family." The ILO further reported in November that there is "no evidence" that the authorities are committed to legal accountability for the use of forced labor, outside of certain disciplinary actions within the military.

### ***Child Soldiers***

In June 2012, the Myanmar authorities and the UN signed a Joint-Action Plan (JAP) to end the use and recruitment of children into the armed forces. According to figures provided by UN Special Rapporteur Lee, the Country Task Force for Monitoring and Reporting (CTFMR), and Child Soldiers International, the Myanmar Army discharged 146 children in three instances in 2015 and an additional 46 on March 12, 2016, bringing the total number of children discharged since 2012 to 745. Myanmar's Ministry of Defense reports that it has trained thousands of members of the military on the prevention of underage recruitment and that it has taken "disciplinary action" against 382 military personnel for the recruitment or use of child soldiers. No further details about these claims were available to Fortify Rights.

However, to date, the Myanmar Army, border guard forces, non-state ethnic armies, and the Myanmar authorities continue to use and recruit children into service with impunity. Myanmar authorities have also detained children who have escaped from the Myanmar Army, on grounds of "desertion." In March, UN Special Rapporteur Lee reported on allegations that forced recruitment, child and underage recruitment continue "in order to maintain troop strength," particularly by ethnic armed groups. The Myanmar Army likewise has an interest in maintaining its troop numbers considering on-going armed conflicts in various parts of the country. This demand drives a flawed recruitment process that ensnares unsuspecting and at-risk

children. Child Soldiers International has found that military officers and civilian brokers continue to intimidate, coerce, and entice children into the armed forces. According to Child Soldiers International, the CTFMR and the ILO received a combined total of 210 cases of “suspected minors” in the Myanmar Army in 2015.

In its March 9 response to UN Special Rapporteur Lee’s report to the UN Human Rights Council, the Government of Myanmar claims to have held only one civilian accountable for assisting underage recruitment. Beyond this, Fortify Rights has not received any further information on accountability for the use or recruitment of child soldiers.

### ***Trafficking of Rohingya Muslims***

In 2015, tens of thousands of Rohingya Muslims from Rakhine State fled from western Myanmar on ships operated by transnational human trafficking syndicates. The UN estimates 33,600 refugees and migrants traveled by sea from the Myanmar-Bangladesh border in 2015. Most were Rohingya Muslims. We [documented](#) the involvement and complicity of Myanmar’s state security forces in the trade, which has generated hundreds of millions of dollars regionally since 2012.

In 2015, Myanmar’s targeted campaign of persecution against the Rohingya Muslim community forced men, women, and children out of the country to escape ongoing human rights abuses, including restrictions on movement, killings, and avoidable deprivations in aid. Transnational criminal syndicates deceived thousands of refugees and asylum seekers onto ships bound for Thailand and Malaysia. Operatives on behalf of criminal syndicates told Rohingya that prosperous employment awaited them in Malaysia or that their families would receive sizable lump-sum payments as soon as they boarded the ships. Traffickers told Rohingya that there would be enough food and water on the journey. None of this was true.

Upon boarding the ships, the terms of agreement changed. The traffickers stripped Rohingya and others of their belongings, confined them into overcrowded spaces, and denied them access to adequate food and water. Syndicate operatives committed rape, killings, and beatings at sea, and created conditions so dire that some captives felt their only option was to take their own life, which many did.

Later, human traffickers bought and sold Rohingya refugees and others. In some cases, Rohingya refugees passed through numerous hands, including government officials in Thailand. If a captive could not purchase their freedom through an exorbitant ransom of up to \$2,000, the traffickers killed them or sold them into debt bondage. The overall process was inherently exploitative.

In May, Thailand responded to the discovery of mass graves within trafficking camps on the Thailand-Malaysia border by sealing off its borders and taking preliminary steps to counter syndicates engaged in the trafficking of Rohingya refugees and Bangladeshi nationals. With the trafficking route through Thailand temporarily blocked, some traffickers returned their human cargo back to Rakhine

State, Myanmar in May and June last year. We interviewed several men and women in Rakhine State who attempted to flee by boat and endured horrific conditions at sea, only to be returned to Rakhine State. Myanmar authorities have not extended protections or assistance to these survivors, and they now endure additional human rights violations in Rakhine State. Many said they would attempt to flee the country again, even at the risk of falling prey to traffickers.

The disruption of the trafficking networks in Thailand coupled with positive expectations of Rohingya for Myanmar's incoming National League for Democracy (NLD) government has considerably slowed the outflow of Rohingya refugees from Myanmar. Fortify Rights has not documented the departure of large ships from Myanmar carrying Rohingya refugees since November 2015.

It is important to note that the decrease in human trafficking of Rohingya Muslims from Myanmar during the last ten months has had nothing to do with the behavior of Myanmar authorities, many of whom openly deny the very existence of a Rohingya identity and assert that Rohingya have no place in Myanmar. The authorities allegedly involved in the trafficking of Rohingya have not been held accountable in the last year, including state security forces in Rakhine State who routinely took payments and in some cases towed small boats out to sea to meet larger ships operated by traffickers.

The motto of Myanmar's Ministry of Immigration and Population is telling: "The Earth will not swallow a race to extinction but another will." This harrowing proclamation gets to the heart of the Myanmar government's regard for Rohingya, whom some officials genuinely perceive to pose an existential threat to ethnic-Burman Buddhist culture. This imagined threat is also acutely felt in the lived experiences of local ethnic-Rakhine, and it appears that officials and others exploited this fear to incite targeted attacks by civilians and state security forces against Muslims in 13 of 17 townships in Rakhine State in 2012. During this time, state-sponsored riots resulted in the razing of entire Muslim villages; the authorities bulldozed other Muslim-owned structures unaffected by the violence and forced more than 145,000 Muslims into internment camps.

Today, the Government of Myanmar continues to commit grave human rights violations against Rohingya. The authorities have made no progress on providing Rohingya with equal access to full citizenship, and still confine more than 145,000 Muslims to more than 65 internment camps in Rakhine State. Rohingya freedom of movement is denied and access to livelihoods is tightly restricted. More than one million other Muslims in northern Rakhine State face severe restrictions on movement, marriage, childbirth, and other aspects of daily life. Fortify Rights, [the Lowenstein Clinic at Yale Law School](#), Human Rights Watch, United to End Genocide, the United States Holocaust Memorial Museum, the Burmese Rohingya Organization UK, and the International State Crime Initiative are among the organizations that have found that the violations committed against Rohingya Muslims in Myanmar

provide evidence of crimes against humanity, the crime of genocide, or “ethnic cleansing.”

Moreover, the Myanmar authorities deliberately excluded Rohingya from the 2015 UN-supported national census and [denied Rohingya the right to vote](#) in the November 2015 elections. The Union Election Commission also arbitrarily and discriminatorily barred Rohingya candidates from contesting the November 8 elections, including Shwe Maung, who at the time was a sitting Rohingya MP from the ruling Union Solidarity and Development Party (USDP). Myanmar’s November elections were simply not free and fair for Rohingya.

Such long-standing abuses comprise the root causes that force Rohingya out of the country and into the hands of trafficking syndicates. These abuses remain unaddressed. By continuing to commit widespread and systematic human rights abuses against Rohingya and other Muslims in Rakhine State, Myanmar authorities continue to put Rohingya at heightened risk of human trafficking.

***Conclusion: Downgrade Myanmar to Tier-3***

Fortify Rights and our partners welcome the prospects of the NLD-led government, particularly with regard to the promotion and protection of human rights. However, it is essential that this year’s TIP ranking is based on Myanmar’s objective record and failures to combat human trafficking in 2015. This is necessary to ensure human trafficking is a priority for the NLD government, while also recognizing the continued role of the military as a key actor in Myanmar. Considering Myanmar’s lack of demonstrated commitment to prevent human trafficking, protect survivors, or prosecute perpetrators, we believe Myanmar should be downgraded to Tier-3 status.

The military is primarily responsible for Myanmar’s failure to combat trafficking over the past year, and it also remains the most powerful institution in the country. A provision in the 2008 Constitution guarantees that a quarter of all seats in the parliament are reserved for the military. Unelected military appointees, who vote in a uniform—and uniformed—block, fill these seats. The Myanmar Army Commander-in-Chief has authority by law to take over the government under certain circumstances; the military retains effective control over the powerful National Defense and Security Council; and the military still controls three key ministries: Home Affairs, Defense, and Border Affairs. These ministries are key to ending human rights abuses, particularly forced labor and other forms of human trafficking.

We believe a failure to downgrade Myanmar this year would not only be disingenuous, but would also embolden the primary perpetrator—the Myanmar military—which itself poses the biggest threat to Myanmar’s political transition. A downgrade to Tier-3 would be a downgrade for the military and the outgoing military-backed regime. The State Department should use the ranking system to

encourage the military to work closely with the NLD-led government to prevent further abuses, protect survivors, and prosecute perpetrators.

## **Thailand**

In the last year, the Government of Thailand devoted unprecedented attention to human trafficking. We attribute this in part to pressure created by the U.S. Department of State's TIP report, the continued focus of this Subcommittee, and the European Commission's efforts to encourage governments to combat illegal, unregulated, and unreported fishing, an industry where human trafficking has flourished in Thailand.

Last year, Fortify Rights provided [testimony](#) to this Subcommittee on the criminal syndicates and complicit Thai authorities who were holding thousands of Rohingya refugees and Bangladeshi nationals captive in illicit "torture camps" in Thai territory. We reported on traffickers who brought Rohingya refugees and Bangladeshi captives into Thailand for the purposes of exploitation and traded them like cattle for large profits. Traffickers held their captives in overcrowded cages in remote camps, deprived them of adequate food and water, and tortured them until they could produce up to \$2,000 to secure their release. Some who were unable to raise or borrow the requisite money to secure their release were sold into the fishing sector, which is notorious for the use of slave labor. Others were sold into situations of debt bondage in Malaysia. Women and girls were sold into forced marriages. An unknown number died in the torture camps.

In 2015, these abuses continued. However, to our knowledge these camps no longer exist.

Their unraveling began ten days after we testified to this Subcommittee about the issue. On May 1, Thai officials publicly acknowledged the existence of mass graves containing upwards of 36 bodies believed to be Rohingya and Bangladeshi victims of human trafficking. In the coming days, more bodies were discovered. This set off a chain of events that eventually led to an emptying of the camps and the disruption of the trafficking networks.

Regrettably, Thailand reacted to the discovery of mass graves by reinforcing its borders and refusing to allow the disembarkation of thousands of Rohingya and Bangladeshi survivors of trafficking left stranded on boats abandoned by human traffickers off the coast of Thailand. Eventually Malaysia and Indonesia succumbed to international pressure and agreed to open their borders to almost 3,000 survivors. Thailand still has not agreed to allow the disembarkation of refugees or survivors of human trafficking arriving by boat and continues to maintain its "help on" or "push back" policy, which puts lives at risk and fails to ensure the protection of potential survivors of trafficking. Under this policy, Thai authorities have prevented migrants from arriving in the country and have towed boats of migrants



out to sea, greatly endangering their lives. Eyewitnesses and survivors have told Fortify Rights that Thai officials handed Rohingya refugees and Bangladeshi migrants over to human trafficking syndicates at sea and on shore, greatly endangering their lives.

Survivors of the “[boat crisis](#)” of 2015 also told Fortify Rights how they spent several days within sight of land before a speedboat with armed individuals onboard approached, collected Thai-speaking human traffickers off the boat, and abandoned the Rohingya and Bangladeshi passengers at sea. Several survivors reported being subsequently stranded on overcrowded boats without food or water for several days.

While Thailand and other governments in the region were responsible for creating a crisis situation, Thailand should be recognized for its role in spearheading the Special Meetings on Irregular Migration in the Indian Ocean. This meeting took the unprecedented step to convene member states of the Association of Southeast Asian Nations (ASEAN) to discuss regional responses to the refugee situation. Thailand served as the chair for the initial meeting and follow-up meeting in December 2015. Towards the end of the boat crisis, Thailand agreed to deploy a floating platform to assist migrants at sea. However, Thailand’s continued unwillingness to commit to disembarkations has reportedly hindered subsequent discussions with other ASEAN members.

Thailand’s cooperation and coordination to support search and rescue operations at sea, including with the U.S. government and with private operations such as the [Migrant Offshore Aid Station \(MOAS\)](#), is a positive indication of Thailand’s recognition of the importance of protection in combating human trafficking. MOAS has been engaged in mitigating loss of life in the Mediterranean Sea since 2014 and, in coordination with local navies and maritime forces, relies on state-of-the-art drones to monitor ships potentially engaged in human trafficking or transporting refugees. The cooperation and support of Thailand’s Navy and other levels of government in MOAS’s mission is encouraging. Recognizing the unique technical expertise that MOAS brings to Southeast Asia, Fortify Rights hopes to see continued cooperation with the Thai authorities to ensure the MOAS mission is fully supported and proceeds as planned.

In previous years, the human trafficking of Rohingya and Bangladeshi nationals took place without notice and with impunity in Thailand. However, in 2015, Thailand took the unprecedented step to conduct an investigation into the human trafficking of Rohingya and Bangladeshi nationals in connection with the mass grave discovery. The investigation led to the arrest of 92 people allegedly involved or complicit in the crime of human trafficking of more than 100 Rohingya refugees and Bangladeshi nationals, including the bodies discovered in mass graves in southern Thailand, as well as other related crimes. The defendants in this high-profile trial include members of the Thai Army, Navy, Police, and the Internal Security Operation Command—an agency under the Office of the Prime Minister devoted to matters of

national security—as well as local administrators, mayors, and district officials. The trial is currently ongoing and is expected to take up to two years to complete.

While the prosecution of the 92 defendants is a step in the right direction to ensure accountability for crimes of human trafficking, Fortify Rights is concerned by [reports](#) that senior-level Thai authorities prematurely closed the investigation and have failed to act on more than 40 percent of the issued arrest warrants.

Fortify Rights met with the lead investigator in this case, Police Major General Paween Pongsirin, after he fled Thailand claiming to be in fear for his life following his role in the arrest of several high-level officials. Mr. Pongsirin told Fortify Rights that high-ranking government officials repeatedly obstructed and prematurely halted the investigation to prevent the exposure of further wrongdoing and complicity by government officials. The Thai government allegedly failed to provide necessary financial resources for the investigation, and senior government officials reportedly promoted complicit authorities to higher positions while demoting investigators for doing their jobs effectively.

Eyewitness and survivor testimony collected over the past two years by Fortify Rights suggests there are additional mass graves in Thai territory. Earlier this month, Thai officials told Fortify Rights that human trafficking syndicates who have preyed on Rohingya are still active in southern Thailand. These facts alone would indicate the need for an ongoing investigation. Investigations should be sufficiently resourced and comprehensive in order to ensure a successful trial that leads to accountability for the crime of human trafficking.

In the current trial, Fortify Rights is concerned that [threats against witnesses](#) may prejudice the outcome of the trial. In addition to Paween Pongsirin, who was slated to be the lead witness for the prosecution, other witnesses involved in this trial have also reported receiving threats from members of Thailand’s state security forces as well as suspected members of a transnational criminal syndicate. Fortify Rights is concerned by the general lack of protection for witnesses. As of late December 2015, only 12 of 500 witnesses in the trial were receiving formal witness protection through the Ministry of Justice.

Seventy-eight Rohingya and 18 Bangladeshi survivors of trafficking are witnesses in this trial, all of whom are confined to government-run shelters operated by the Ministry of Social Development and Human Security. Fortify Rights [recently visited](#) one of these shelters in Thailand’s Songkhla Province. These shelters are presently not equipped for the protection of high-risk witnesses. In the last year, several Rohingya from these shelters have reportedly gone missing or have “escaped,” raising concerns about their protection and the potential for re-trafficking.

Officials involved in facilitating the screening process to identify survivors of trafficking described it to us as arbitrary, saying that it is common for some Rohingya to be categorized as survivors of human trafficking and others as “illegal

migrants,” despite both groups having had similar or, in some cases, the same experiences. Most Rohingya who are deemed “illegal migrants” are detained in Immigration Detention Centers (IDCs) that are generally not properly equipped for long-term detention. Currently, there are 184 Rohingya and 89 Bangladeshi nationals detained in Thailand’s IDCs. Forty-five children under 18 years old are among those detained. Fortify Rights recently visited Rohingya in the Songkhla IDC, where detainees reported that 40 refugees are confined to a cell 24-hours a day with inadequate personal space and one functioning toilet.

Fortify Rights is encouraged by a Cabinet resolution that passed on March 15 that would address some of the concerns with regard to the lack of protection for witnesses and survivors of human trafficking. Cabinet Resolution no. 11/B.E.2559 provides automatic witness protection under the Ministry of Justice to witnesses in human trafficking cases as well as fast-track documentation, including work permits, for survivors of human trafficking to stay freely in Thailand for up to one year with the possibility of extension. Fortify Rights is eager to see an immediate implementation of this resolution, which will significantly impact the situation and conditions for 195 Rohingya who are at-risk and currently confined to government-run shelters.

Thailand also made in-roads in combatting human trafficking in the fishing sector. Slavery in the fishing sector in Thailand has been endemic for many years, with fishing slaves forced to catch fish products that are later sold in the international market. At the end of 2015, Thailand passed the Royal Ordinance on Fisheries to address illegal fishing and established monitoring and traceability mechanisms to detect vessels engaged in illegal fishing and trace their products. In a [letter](#) to the European Commission dated February 16, Fortify Rights and more than 20 other labor, environmental, and human rights organizations acknowledged these positive developments.

Nevertheless, the use of forced labor in the fishing and seafood sector remained a serious problem in Thailand over the last year. The *Associated Press* documented the extensive use of slave labor in the shrimp-peeling sector, including the case of one woman who had been forced to work for eight years. Laborers were locked inside factories located just outside Bangkok, facing severe abuses and exploitation. In the last year, major U.S. food stores and retailers, including “Wal-Mart, Kroger, Whole Foods, Dollar General and Petco, along with restaurants, such as Red Lobster and Olive Garden,” ultimately sold shrimp that was peeled in Thailand with forced labor, including child forced labor.

### ***Conclusion: An Upgrade for Thailand is Premature***

Fortify Rights recognizes the significant changes within the landscape of human trafficking in Thailand, particularly with regard to the trafficking of Rohingya refugees and Bangladeshi nationals from Myanmar and Bangladesh. While these trafficking networks appear to be disrupted at present, they have not been dismantled. Although the human trafficking trial against 92 defendants is a positive

development, the alleged involvement of senior-level government officials in obstructing the investigation and threatening investigators and witnesses raises concern that justice may be averted. Meanwhile, Thailand has refused to facilitate disembarkations, fails to provide proper protection to high-risk witnesses, and continues to arbitrarily detain more than 380 Rohingya refugees and survivors of human trafficking to poorly equipped IDCs and government-run shelters.

Fortify Rights is encouraged by our recent discussions with government representatives on the issue of ensuring witness protection and ending the arbitrary detention of Rohingya in Thailand. During these discussions, we have shared our findings with government representatives and discussed possible solutions to facilitate increased protection for survivors of trafficking. While these discussions are positive overall and Fortify Rights welcomes the engagement with the Government of Thailand, concrete actions will be necessary to demonstrate a genuine commitment to combat human trafficking in the country.

Fortify Rights urges the U.S. Department of State to maintain for another year the constructive pressure that has led to positive commitments on combatting human trafficking in Thailand. This will help ensure that reforms take root and that proposed measures to protect survivors, prosecute perpetrators, and prevent trafficking are implemented.

## **Malaysia**

Last year, Fortify Rights and many others [recommended](#) that Malaysia remain at Tier-3, as the government had done little to prevent human trafficking, protect survivors, and prosecute perpetrators, particularly Rohingya refugees who survived horrific experiences at the hands of criminal syndicates. The Government of Malaysia was upgraded to Tier-2 Watch List, allegedly to make it an eligible partner in the Trans-Pacific Partnership trade agreement—at the time, U.S. legislation excluded countries ranked Tier-3. This was wrong.

This year, Malaysia has again failed to demonstrate adequate attention to key issues in combatting human trafficking, particularly with regard to the protection for survivors and prosecution of perpetrators.

Following Thailand's May 1 discovery of mass graves including 36 bodies, Malaysian authorities likewise began to uncover mass graves—far more than Thailand, in fact. Malaysian authorities set a strong example by uncovering more than 100 gravesites, exhuming bodies, and vowing a crackdown on trafficking. Unfortunately, however, these commitments were not complemented with action.

To our knowledge, Malaysia has failed to conduct an effective investigation into the trafficking syndicates. As the primary destination for Rohingya refugees, Fortify Rights confirmed that dozens of known traffickers of Rohingya and Bangladeshis

continue to roam free in Malaysia, with little fear of arrest. Fortify Rights has also received reports of possible trafficking from Indonesia to Malaysia, targeting survivors of the boat crisis who landed in Indonesia and seek to reunite with family members in Malaysia. The extent to which Malaysian authorities were complicit in the Rohingya and Bangladeshi human-trafficking trade remains to be seen.

When thousands of Rohingya refugees and Bangladeshi nationals were stranded at sea in the May 2015 [boat crisis](#), left adrift by human traffickers who absconded, the Government of Malaysia eventually agreed to allow survivors to disembark. The international community praised Malaysia for this move to mitigate the loss of life at sea. However, in our view, Malaysia was more responsible for putting lives at sea at risk than for rescues: Rohingya survivors who eventually landed in Indonesia described to Fortify Rights how an official Malaysian vessel towed their boat, which was in distress, out of Malaysian territorial waters and into the open ocean. Once in open waters, the Malaysian vessel cut the towrope and left survivors to drift.

While Malaysia should be commended for finally allowing disembarkation during the May boat crisis, it also should be noted that following disembarkation Malaysia almost immediately transported the survivors to the Belantik IDC, where several hundred Rohingya survivors remain detained until today. NGO service providers [told us](#) that access to this IDC is extremely limited, including reportedly for the United Nations High Commissioner for Refugees (UNHCR) in Malaysia. IDCs located throughout Malaysia are poorly equipped. According to UNHCR, there are more than 3,000 Rohingya in detention in Malaysia, comprising 75 percent of the refugees detained in IDCs in the country.

Rohingya refugees are not largely viewed or screened as survivors of trafficking and generally do not have access to screening mechanisms or protections provided to other survivors of human trafficking in Malaysia.

Malaysia also is not a party to the 1951 Refugee Convention or its 1967 Protocol and has no legal framework in place to regulate the status and protection of refugees. As in Thailand, all refugees in Malaysia are considered “illegal migrants” and are subject to arrest, protracted detention, exploitation, and other serious protection concerns. The lack of access to UNHCR asylum procedures puts refugees at heightened risk of abuse. According to Rohingya refugee leaders in Malaysia, there may be more than 70,000 Rohingya living without status or documentation in the country—thousands of them may have survived human trafficking in one form or another. Many are at risk of re-trafficking.

### ***Conclusion: Downgrade Malaysia to Tier-3***

The upgrading of Malaysia last year was a mistake that threatened the objectivity and integrity of the TIP report. Not only was the upgrade unwarranted, but also there is no evidence to suggest that inclusion in free trade agreements would achieve or supplant the objectives of the TIP report. The TIP rankings and

subsequent anti-trafficking diplomacy only work effectively when governments are measured objectively and with integrity.

The U.S. Department of State should place Malaysia on its rightful Tier this year, which we believe would prompt action from Malaysian authorities.

## **Conclusion**

Mr. Chairman, we remain encouraged by the political transition underway in Myanmar and by certain commitments Thailand has made to combat human trafficking. Nevertheless, based on the information Fortify Rights and others have collected over the past year, we believe Myanmar, Thailand, and Malaysia have failed to meet the minimum standards for the elimination of trafficking as set forth in the Trafficking Victims Protection Act.

We strongly urge the U.S. Department of State to place Myanmar, Thailand, and Malaysia at Tier-3, and support the authorities in each country over the next year to combat all forms of human trafficking. In the next 12 months, the leverage created by Tier-3 rankings for each country could be pivotal in ensuring sustained and well-rooted improvements in each country.

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.