

# Resetting Myanmar Policy:

## How the international community can support accountability and an inclusive democratic transition

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Shocking human rights abuses, total impunity and the Myanmar military's continued efforts to stall peace and the democratic transition has left the international community with a dilemma: How to advance accountability for human rights abuses in Myanmar while remaining politically engaged and promoting responsible economic development.

This briefing will argue that targeted economic sanctions against senior members of Myanmar's military and military-owned companies are the best approach to achieve these goals. This briefer will summarize the military's economic interests, provide specific recommendations on how the international community can limit the military's power and respond to common arguments against the use of sanctions to further accountability for human rights abuses in Myanmar.

### KEY FINDINGS & RECOMMENDATIONS:

- The Tatmadaw's economic interests, including the private interests of senior leaders, are key to the military's privileged position in society, allowing it to act with impunity against minorities
- These military economic interests include two conglomerates directly controlled by the Tatmadaw, Myanma Economic Holdings Ltd. (MEHL) and Myanmar Economic Corporation (MEC), as well as over 130 subsidiaries and affiliates
- Over 60 foreign companies have direct commercial ties to these military companies, including 14 companies from 7 different countries that provide arms and military equipment that the Tatmadaw subsequently used to commit gross human rights violations
- Companies engaging in economic relationships with military companies, especially those engaged in natural resource extraction, may be complicit in the Tatmadaw's abuses

In order to reduce the Tatmadaw's clout and incentivize further democratic reforms, the international community should take the following steps:

- Impose financial sanctions and asset freezes against the Tatmadaw's conglomerates and all of their subsidiaries and affiliates
- Impose targeted financial and travel sanctions on all individuals identified by credible bodies as perpetrators of serious human rights abuses in Myanmar
- Avoid entering into commercial relationships with military and military-affiliated companies, and terminate existing relationships

## TARGETING THE TATMADAW'S ECONOMIC POWER

Myanmar's 2015 election, once heralded as a new political dawn following a half-century of brutal military rule, has not ushered in the golden age of civilian rule that many had hoped for. Instead the Tatmadaw, as Myanmar's military is known, has maintained its economic and political power and escalated its campaigns of violence against the Rohingya and other ethnic minorities with total impunity, all while stalling peace and broader economic reform.

On September 18th, the United Nations-authorized Independent Fact-Finding Mission on Myanmar (FFM) released its final report documenting the Tatmadaw's systematic human rights abuses stretching back to 2011, and building off its earlier August 2019 report exposing the vast network of economic interests that underpin its power. These reports confirm how the Tatmadaw's economic power contributes to its human rights abuses, including against the Rohingya, where they classify the Tatmadaw's actions as "amounting to the crimes against humanity of inhumane acts and persecution" and warns of renewed risk of "genocidal intent" in Tatmadaw activities. The FFM advocates a strategy of isolating the Tatmadaw economically in order to promote accountability, reduce the military's economic base, and create conditions that incentivize the military to transition out of its dominant roles in Myanmar's politics and economy.

This briefing summarizes the Tatmadaw's economic interests, outlines recommendations on how the international community can help limit the military's

power and responds to the most common arguments against further efforts to hold the Myanmar accountable.

## HOW THE TATMADAW MAINTAINS ITS POWER

The Tatmadaw's grip on power is two-fold: political and economic.

Its political power is enshrined in the military-drafted 2008 Constitution, including its independence from civilian oversight, control over the three ministries involved in security issues (Defence, Home Affairs, and Border Affairs), and a guaranteed 25% of the seats in national and regional assemblies.

The Constitution requires that amendments receive support from over 75% of delegates to the Union Parliament, arming the military with the right to veto constitutional reform through their guaranteed seats. In February 2019, the Union Parliament convened a charter committee to propose amendments to the Constitution despite the objections of the military, which called the move "unconstitutional." Of the roughly 4,000 amendments proposed, few if any are expected to pass.

The Tatmadaw's other source of power is its prominent position in Myanmar's economy, enabled and solidified in three ways.

First, the Tatmadaw directly controls two large conglomerates, Myanma Economic Holdings Ltd. (MEHL) and Myanmar Economic Corporation (MEC), as well as their networks of subsidiaries and joint ventures. These "military companies" function as off-budget slush funds for the military, giving them financial autonomy and providing revenue that enables the Tatmadaw to

persecute the Rohingya and other ethnic groups with impunity.

Second, military officials and their family members control businesses throughout the country. From jade mining to restaurants, life insurance to film studios, the military's reach in the economy is vast. These companies are rarely owned directly by military officials, but are instead registered under the names of family members or trusted associates. These companies bring vast wealth to the country's top generals and regional commanders, driving conflict and abuses while cementing their authority through patronage and distorting the economy.

Third, military power is enabled by a group of well-known "cronies" or businessmen who used their connections to the military leadership to build sprawling business empires in exchange for their loyalty to and support for the former junta. Cronies support the military indirectly, such as by building transportation infrastructure that allows the Tatmadaw to more easily access conflict areas and perpetrate abuses. These cronies also contribute to abuses directly, such as when a number of them directly donated money in response to Tatmadaw requests to support the "clearance operations" that the rest of the world has come to see as the Rohingya genocide.

These economic and political privileges serve to make the Tatmadaw virtually untouchable by independent oversight and unaccountable to Myanmar's legal system.

The well-publicized case of two Reuters journalists, arrested in 2017 for investigating atrocities in Rakhine State, demonstrates the way in which Myanmar's authorities protect the military and the chilling effect this has on

civic space and press freedom. International attention on the journalists' case and their reporting on a massacre in Inn Din village did in fact lead to the arrest and conviction of seven soldiers. However, the soldiers were quietly released by the military after serving less than one year of their ten-year sentence, while the journalists served over 500 days in prison before their own release.

This case shows how the Tatmadaw's power allows them to perpetrate abuses with impunity. To date, there has been no credible domestic investigation into the allegations of a Rohingya genocide or other serious abuses, and no senior military officials identified by the FFM as responsible for the atrocities has been investigated, charged, or otherwise held accountable for their role in the crimes perpetrated.

## WHY THE TATMADAW MUST BE ISOLATED ECONOMICALLY

The Tatmadaw's blocking power on Constitutional reform outlined above makes clear that efforts to rein in the military must target its economic base.

The UN FFM argues that "the Tatmadaw's economic interests enable its conduct" and called for the international community to "eliminate these alternative sources of revenue and economic interests." Its reports outlines those interests in detail, publishing lists of military-companies, identifying companies that gave financial support to the Rohingya "clearance operations," and exposing international actors that do business with and sell arms to the military.

Isolating the Tatmadaw economically would:

- Improve civilian control and oversight of the military by altering the balance of power between civil and military
- Reduce the resources available to finance and support the Tatmadaw's human rights abuses
- Combat the corruption and cronyism that plagues the economy
- Create much-needed space for the burgeoning private sector to flourish and improve Myanmar's long-term inclusive economic prospects
- Prevent corporate complicity in Tatmadaw atrocities
- Send a clear signal to Myanmar and other governments that human rights abuses will not be tolerated

## HOW TO ECONOMICALLY ISOLATE THE TATMADAW

Global Witness is advocating four strategies to isolate the Tatmadaw economically. These actions will serve to both degrade the Tatmadaw's economic base and support the civilian government and private business sector in Myanmar:

- Targeted sanctions on both military companies and high-ranking members of the Tatmadaw
- No commercial relationships with the military, its conglomerates, or its subsidiary and joint-venture companies
- Heightened due diligence for companies seeking to or already doing business in conflict areas or extractive sectors

- Active engagement with non-military actors to promote inclusive development outside the military's control

## DEBUNKING ARGUMENTS AGAINST USING TARGETED ECONOMIC SANCTIONS

The use of economic sanctions is not without controversy. Opponents frequently make four main arguments against their efficacy. In reality, these arguments are either flawed or outdated, as described below.

**Myth #1:** Sanctions risk impacting vulnerable workers in Myanmar rather than the military.

Reality: The majority of workers and businesses in Myanmar would be unaffected by sanctions against the military. For example, the military conglomerates are not active in the garments industry, a main driver of growth and employment. In the sectors they are active, they are certainly not engines of growth or broader employment. Instead the military companies act more as rent-seeking organizations that use their political connections to extract money from economic activity.

The military's involvement in Myanmar's jade industry is a good example. To secure access to a profitable mine, a private company will contract with a military-owned jade company. That military company will use its preferential access to secure a jade-mining license, which it will then agree to "jointly" develop with the private company. However, only the private company will actually do work, hire miners, purchase equipment – the military company simply collects rents without providing any economic benefit.

Past sanctions regimes were broad-based and existed when Myanmar was far less globally connected, less competitive, and less was known about the country's economy. The sanctions proposed here are materially different, calibrated to target specific military actors within the economy, minimizing the impact on the majority of Myanmar's people.

**Myth #2:** Sanctions risk impacting the broader economy, undermining the authority of the civilian government and empowering military actors.

Reality: While Myanmar's economy effectively remains a kleptocracy, there is now a burgeoning private sector that needs to be developed. Strategically targeted and effectively implemented sanctions have the potential to do just that; by reducing the role of military enterprises or by forcing military companies out of the economy, private enterprises would gain access to previously unavailable economic opportunities.

One of the civilian government's key goals has been to stimulate the private sector. Contrary to worries about undermining the civilian government, well-executed sanctions could actually bolster its position. This aligns with the Myanmar government's Sustainable Development Plan, which calls for a focus on "inclusive growth" that encourages private enterprise. In reality, reducing the power of the military would bolster the position of the civilian government.

**Myth #3:** Sanctions risk degrading Western influence in Myanmar, pushing the country to other partners that do not support democratic norms and are less concerned with combating human rights abuses.

Reality: Myanmar's future will be decided by its ability to fully integrate into global society, and Aung San Suu Kyi and the NLD know this. Myanmar's government, including its military leaders, have no interest in cutting themselves off from the global economy again. In fact, the quasi-democratization process beginning in 2011 was partly driven by a desire to re-engage with the international community after becoming increasingly reliant on China – perceived domestically as being too influential. Sanctions on military entities should not mean reduced investment or economic engagement in Myanmar, or ceding the relationship to other countries.

**Myth #4:** Sanctions against military leaders could trigger a coup if the generals felt their power was threatened.

Reality: This argument provides convenient cover for inaction, and may serve the military's objectives, but is not borne out by reality. In fact, this argument's very existence is evidence of sanctions' efficacy – the military's fear of sanctions is justification for their imposition.

The Tatmadaw's senior leadership spent years crafting the current political situation – one from which they profit greatly, and which provides them a veneer of legitimacy through Aung San Suu Kyi and her civilian government. Removing her would make Myanmar a global pariah once again and undo their work of the past decade. A coup is simply not a credible threat given all the generals have to lose.

In the end, the military and senior generals simply should not be heavily involved in the economy, and international governments should not give in to what is, effectively,

blackmail. Sanctions have the potential to unlock the private sector, bolster the civilian government, provide a measure of accountability for abuses, and rebalance Myanmar's international relationships.

Building on the recommendations of the FFM, there are specific actions that governments, international organizations, and businesses can take to further support this strategy.

## RECOMMENDATIONS FOR GOVERNMENTS

1. Place travel-bans on all individuals identified by the UN or other credible bodies as perpetrators of serious human rights violations in Myanmar, including family members and close associates where they act as business proxies, as well as on the owners and directors of military-conglomerates and subsidiaries
2. Enact financial sanctions and asset freezes on all individuals identified by the UN or other credible bodies as perpetrators of serious human rights violations in Myanmar, including family members and close associates where they act as business proxies, as well as on the owners and directors of military-conglomerates and subsidiaries
3. Implement economic sanctions on all Tatmadaw-owned or controlled companies, especially MEC, MEHL, and their subsidiaries
4. Strictly limit international military cooperation with the Tatmadaw, including refusing to provide / collaborate on training exercises, implementing or maintaining arms embargos on Myanmar, and taking appropriate action against actors that violate these embargos
5. Require enhanced due diligence by companies wishing to invest in conflict areas and extractives, and promote responsible investment by encouraging relationships with non-military entities, including creating 'white-lists' for high-risk sectors that identify companies meeting stringent transparency and accountability requirements
6. Incentivize companies to sever business dealings with the Tatmadaw and reform their business practices, for example through 'white-listing' mechanisms and by providing technical support for broader governance reforms
7. Support the development of democratic institutions and proactively work to empower the civilian government through economic engagement and political cooperation, especially relating to efforts that restrict the Tatmadaw's economic independence and control
8. Support Myanmar's civil society and press, including by speaking out against repressive laws, government abuses and arbitrary judicial processes
9. Support the safe, dignified and voluntary return of Rohingya people both within and outside Myanmar and ensure the implementation of political rights, including citizenship, security and freedom of movement, following return
10. Make legal determinations regarding the severity of the atrocities and human rights abuses occurring in Myanmar
11. Support continued investigations into those human rights abuses and prepare

criminal indictments, in accordance with domestic and international law, against those identified as perpetrating or assisting in human rights abuses

12. Act in accordance with international law to hold Myanmar to account in the International Court of Justice for its failure to respect its obligations under the Genocide Convention
13. Support accountability of perpetrators through credible judicial mechanisms
14. Support credible international mechanisms for delivering accountability for human rights abuses, including criminal action in international courts
15. Use positions within international financial bodies to prevent assistance involving military-owned companies while supporting the development of the private sector, civil society, and a free press through the use of targeted loans and positive programming

## RECOMMENDATIONS FOR INTERNATIONAL BUSINESSES

1. No business enterprise in Myanmar should enter into or maintain a business relationship with Myanmar's security forces, or military-owned companies
2. Foreign businesses looking to invest in Myanmar should conduct due diligence to ensure they are not entering a relationship with any individuals or entities linked to human rights abuses
3. Businesses investing in conflict-affected areas and extractive sectors should conduct heightened due diligence to ensure they are not at risk of complicity in human rights abuses or entering into a

relationship with any individuals or entities linked to human rights abuses

4. Businesses should refrain from any donations or other funding to the Tatmadaw and military-linked entities
5. Businesses buying goods from Myanmar should apply rigorous standards of due diligence to their supply chains to ensure that none of their products are coming from Tatmadaw-related businesses
6. Businesses should seek out partnerships with non-military entities in order to support the responsible development of Myanmar's economy while also strengthening the private sector
7. Shareholders and investors of companies with documented links to the Tatmadaw or its businesses, including through any subsidiaries operating in Myanmar, should pressure these entities to sever any such commercial ties, or withdraw their investment

## RECOMMENDATIONS FOR INTERNATIONAL ORGANIZATIONS

International organizations should focus on helping build Myanmar's governance capacity in private and public sectors in order to reduce the Tatmadaw's influence, avoid entering into commercial relationships with any entities linked to the military, and demand accountability for perpetrators of human rights abuses in Myanmar.

For the United Nations:

1. Impose targeted financial sanctions on senior Tatmadaw officials implicated in human rights abuses and all military-owned and linked businesses

2. Impose a comprehensive arms embargo that includes dual-use technologies
3. Support investigations into atrocities and advocate for accountability of perpetrators through credible international judicial mechanisms
4. Provide funding for an ongoing investigative and advocacy role for the United Nations, including support for the FFM's investigative mechanism
5. Refer the Myanmar situation to the International Criminal Court or establish an *ad hoc* international criminal tribunal to investigate crimes against humanity in Myanmar; if the UN Security Council is unwilling to do this, the General Assembly should take action in accordance with the Charter of the United Nations
6. Adopt a common strategy to ensure that all engagement with Myanmar takes into account, and addresses, human rights concerns, in line with the UN Human Rights Up Front Action Plan

## WHO WE ARE

GLOBAL WITNESS: For over 20 years, Global Witness has run pioneering programs to address natural resource-related conflict and corruption and associated environmental and human rights abuses. Around the globe, we have documented the economic and social injustice that results from misuse of resources such as oil, gas, minerals and timber. By focusing on the root causes of this misuse, we aim to ensure that resource riches are used instead to promote peaceful and sustainable development.

For further information, see

[www.globalwitness.org](http://www.globalwitness.org)

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