



January 17, 2018

President Donald J. Trump
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

We, the undersigned organizations, wish to commend you for issuing Executive Order 13818 (the “EO”),¹ which builds on the Global Magnitsky Human Rights Accountability Act and permits sanctions to be issued against actors engaged in “serious human rights abuse and corruption around the world.”² We further applaud the decision, pursuant to the EO, to sanction Maung Maung Soe, a former chief of the Burmese Army’s Western Command who oversaw military operations responsible for widespread human rights abuse against Rohingya civilians in Burma’s Rakhine State.³ This action demonstrates the U.S. government’s concern for the persecution of the Rohingya. As you rightly pointed out in the EO, human rights abuses in Burma and around the world “constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.”⁴ To apply further pressure to end the atrocities in Burma, we urge you to impose additional targeted sanctions on the most senior leaders of the Burmese military and security forces.

United States Response to the Persecution of the Rohingya

The Rohingya, an ethnic minority in Burma, have been subject to decades of abuse and persecution by the Burmese military following the country’s independence in 1948. Over the

¹ Exec. Order No. 13,818, 82 Fed. Reg. 246 (Dec. 26, 2017) [hereinafter *EO*].

² Press Release, U.S. Department of the Treasury, United States Sanctions Human Rights Abusers and Corrupt Actors Across the Globe (Dec. 21, 2017), <https://home.treasury.gov/news/press-releases/sm0243>.

³ *Id.*

⁴ *EO*, *supra* note 1.

last five years, this military-driven oppression and violence has intensified.⁵ In fact, since August 2017, more than 600,000 Rohingya have fled to Bangladesh in response to attacks carried out by Burma's military and security forces.⁶

Secretary of State Rex Tillerson has described the abuses against the Rohingya as "ethnic cleansing" and noted that "no provocation can justify the horrendous atrocities that have ensued."⁷ Compelled to speak out, members of the House of Representatives from both sides of the aisle voted to condemn the abuses and have called for targeted sanctions on those responsible.⁸ By an overwhelming majority (423 to 3), they passed a congressional resolution calling for "sanctions on members of the Burmese military and security forces who are responsible for human rights abuses."⁹

The Need for Additional Sanctions

The sanctions imposed on Maung Maung Soe are an important first step in ending the abuses against the Rohingya. However, the scale of the atrocities, combined with the clear role of the Burmese military, mean that sanctioning only one person is unlikely to stop the harm. Instead, targeted sanctions should be issued against all of those most responsible for the abuses. Given the command structure of the Burmese military, it is imperative that additional targeted sanctions are issued against the most senior leaders of the Burmese military and security forces.

Pressure resulting from targeted sanctions could play an important role in stopping the abuses. Since the United States and other countries lifted previously imposed sanctions following Burma's gradual shift to democracy, the country has been actively pursuing more economic opportunities and foreign investments. Experts have suggested that these economic interests play a role in the heightened persecution of the Rohingya. For example, the military have seized

⁵ The Rohingya live in Rakhine, a Burmese state, but because of their religion and ethnicity, do not qualify as citizens of Burma under the country's 1982 Burma Citizenship Law, which effectively renders them stateless. They have restricted freedom of movement and are denied access to education and employment. Burma Citizenship Law, (1982) (Burma); Human Rights Watch, *Discrimination in Arakan*, (2000), https://www.hrw.org/reports/2000/burma/burm005-02.htm#P132_34464; Ashutosh Pandey, *Myanmar's Rohingya: A history of forced exoduses*, DW, (2017), <http://www.dw.com/en/myanmars-rohingya-a-history-of-forced-exoduses/a-40427304>.

⁶ H. CON. RES. 90, 115th Cong. (2017-2018) [hereinafter *Resolution*].

⁷ Simon Lewis & Josh Lederman, *Rohingya crisis: US suspends official [sic] travel to Burma as Rex Tillerson accuses regime of 'ethnic cleansing'*, INDEPENDENT ONLINE, (2017), <http://www.independent.co.uk/news/world/asia/rohingya-crisis-latest-us-travel-ban-burma-rex-tillerson-ethnic-cleansing-muslims-aung-san-suu-kyi-a8070946.html>.

⁸ Resolution, *supra* note 6.

⁹ *Id.*

land for mining and development projects, which yield lucrative profits for both the generals and the companies they partner with.¹⁰

The Burmese military and security forces are more likely to respond to calls from the United States and the international community to end the violence if there are real economic consequences for their actions. U.S.-imposed sanctions could disrupt the financial and business networks relied upon by the Burmese military. They may also prevent targeted individuals from using the international banking system, which is crucial for exports, imports, and other global transactions. Furthermore, sanctions could prevent foreign companies from partnering or doing business with the targeted individuals and could force U.S.-connected banks to freeze the assets of these individuals.¹¹

The History of Burmese Sanctions

Imposing sanctions is consistent with previous U.S. policy towards Burma, which turned on the decades-long use of sanctions to address violations of human rights.¹² In 2016, the U.S. government lifted almost all of these sanctions, leading to an outcry from many civil society and labor organizations, including some of the signatories to this letter, who argued that it was premature to ease restrictions when the rule of law remains weak and the military retains significant political and economic power.¹³ The latest attacks against the Rohingya suggest that these concerns were merited. As the U.S. government already has the infrastructure and institutional knowledge to administer Burma-related sanctions, targeted sanctions against the most senior leaders of the Burmese military and security forces represent a consistent and appropriate response to the latest round of attacks on the Rohingya.

Authority to Issue Sanctions

Not only is there a history of imposing such sanctions and widespread support for doing so again, there are also a number of existing tools under which they could be issued without

¹⁰ Saskia Sassen, *Is Rohingya persecution caused by business interests rather than religion?*, THE GUARDIAN, (2017), <https://www.theguardian.com/global-development-professionals-network/2017/jan/04/is-rohingya-persecution-caused-by-business-interests-rather-than-religion>.

¹¹ This is primarily due to the prevalent use of U.S. dollars in international transactions. The international payment and value transfer system is set up in a way that 95 percent of transactions in U.S. dollars pass through the United States, providing the Department of Treasury's Office of Foreign Assets Control ("OFAC") the jurisdictional hook for sanctions enforcement. Barry Carter & Ryan Farha, *Overview and Operation of U.S. Financial Sanctions*, 44 Geo. J. Int'l L. 903, 909 (2013); Meredith Rathbone, Peter Jeydel, and Amy Lentz, *Sanctions, Sanctions Everywhere: Forging A Path Through Complex Transnational Sanctions Laws*, GEO. J. INT'L L., 1055, 1062 (2013).

¹² Sophia Lin & Teresa Gilbert, *Unwarranted changes to sanctions endanger Burma's transition to democracy*, THE HILL, (2016), <http://thehill.com/blogs/congress-blog/foreign-policy/288424-unwarranted-changes-to-sanctions-endanger-burmas>.

¹³ Press Release, International Corporate Accountability Roundtable, ICAR and Co-signers Submit Letter to Secretary Kerry on the Relaxation of the Burma Reporting Requirements (July 20, 2016), <https://www.icar.ngo/news/2016/7/20/icar-and-co-signers-submit-letter-to-secretary-kerry-on-the-relaxation-of-the-burma-reporting-requirements?rq=Burma>.

further congressional action. For example, the recently issued EO and the Global Magnitsky Human Rights Accountability Act provide the President with the authority to issue sanctions against foreign persons who commit “extrajudicial killings, torture, or other gross violations of internationally recognized human rights” against whistleblowers and human rights defenders.¹⁴ In addition, the Tom Lantos Block Burmese JADE (Junta’s Anti-Democratic Efforts) Act of 2008 allows for sanctions against leaders of the Burmese military as well as its officials, supporters, and family members.¹⁵

Conclusion

The U.S. government has a longstanding commitment to promoting and protecting human rights. The atrocities against the Rohingya in Burma demand strong action. Targeted sanctions are both consistent with prior U.S. policy and serve as a high impact and low cost foreign policy tool.¹⁶ We therefore urge you to enact additional targeted sanctions on the most senior leaders of the Burmese military and security forces.

Yours sincerely,

Burma Task Force

Human Rights First

Interfaith Center on Corporate Responsibility (ICCR)

International Campaign for the Rohingya (ICR)

International Corporate Accountability Roundtable (ICAR)

International Labor Rights Forum (ILRF)

Unitarian Universalist Service Committee (UUSC)

Win Without War

¹⁴ Global Magnitsky Human Rights Accountability Act, §284 (2016).

¹⁵ Note that targeted sanctions under the JADE Act were waived by President Obama pursuant to Exec. Order No. 13,742 (Oct. 7, 2016).

¹⁶ Peter Harrell, *Five Lessons from a Sanctions Practitioner*, ENOUGH PROJECT, (2016), https://enoughproject.org/files/PolicyBrief_FiveLessonsFromASanctionsPractitioner.pdf; International Corporate Accountability Roundtable, *Tools of the Trade: U.S. Sanctions Regimes and Human Rights Accountability Strategies* (forthcoming Feb. 2018).