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Testimony
U.S. Commission on International Religious Freedom
“Targeted Sanctions: Implications for International Religious Freedom”
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Chair Maenza, Vice Chair Turkel, members of the US Commission on International Religious Freedom, thank you for inviting me to his important hearing. It is an honor to join you.

As you all are well aware, Burma is in the midst of a human rights crisis following the military’s attempted coup d’état on February 1st of this year. As I told the UN General Assembly last week:

- Over 1,100 civilians have been murdered;
- More than a quarter million displaced;
- Over 8,000 arbitrarily detained with many tortured, including dozens who were tortured to death. I have received credible reports of children being tortured and abused by junta forces;
- At least 100 journalists who lost their freedom because they had the courage to document and report the truth;
- Even more doctors, nurses and other health care professionals attacked, harassed, and arrested—even as Myanmar suffers through a health care crisis;
- The family members of those sought by security forces, including very young children, abducted and imprisoned.

I believe that the United States, and other nations who are outraged by these developments, must stand with and for the people of Burma. A principle way to do this is through tough, targeted and coordinated sanctions.

I’d like to provide a brief background on sanctions previously in place in Burma, the persecution of the ethnic Rohingya Muslim minority and the application of sanctions under E.O. 13818—the Global Magnitsky sanctions—in response, and the current landscape of targeted sanctions on Burma.

The United States and the European Union have demonstrated a willingness to impose sanctions against Burma in the past when conditions warranted. Indeed, in the 1990s and 2000s, acts of repression and abuse by the military government led to a ratcheting up of sanctions on trade, finance, and investment.

These sanctions were followed by a political reform process within Burma and in 2012 the US and EU began to ease these sanctions. Those who question the role sanctions played in advancing reform should look at the principle message of then Burmese President Thein Sein when he travelled to Washington DC in 2013 – please remove the sanctions that have been imposed on Burma in light of important reforms that are underway.

Sanctions, indeed, began to be lifted. In October 2016, a year after Aung San Suu Kyi's party, the National League for Democracy, won national elections and the military allowed her to form a government, the United States removed sanctions on the overwhelming majority of Burmese designation targets and ended the prohibition on most trade, investment, and finance with Executive Order 13742, which terminated the "Emergency With Respect to the Actions and Policies of the Government of Burma."¹

A strong case can therefore be made, that the reforms that were overthrown in the military coup in February were made not because the military suddenly changed its mind about democracy and the need for greater accountability and reform, but, in part, because of the imposition of sanctions.

Unfortunately, while political reforms progressed through 2012, disturbing attacks against ethnic minority Muslims escalated. The Rohingya have been persecuted and denied citizenship for decades, with the military undertaking human rights violations and attacks against them since the late 1970s. The internment camps that today house more than 130,000 Rohingya Muslims in Rakhine State, began as "temporary" camps for those displaced when Rohingya villages were attacked and destroyed in 2012.

On May 13, 2016, Burma's military Commander-in-Chief Min Aung Hlaing, who led this year's military coup, stated that there were no Rohingya in Myanmar, only "Bengalis . . . the term Rohingya does not exist and we will not accept it."² In October 2016, Burmese state media referred to Rohingya as "foreigners who profess other religions" and concluded by equating the Rohingya with a "thorn" that "has to be removed as it pierces."³

In 2016 and 2017, the military launched the most devastating attacks against the Rohingya. Beginning August 25 2017, Burmese forces, in concert with non-Rohingya

¹ Executive Order 13742, Termination of Emergency With Respect to the Actions and Policies of the Government of Burma, October 12 2016, <https://www.federalregister.gov/documents/2017/06/16/2017-12557/removal-of-burmese-sanctions-regulations>.

² "Burma: Military Chief Denies Existence of 'Rohingya' Term," *Asian Correspondent*, May 16, 2016, <https://asiancorrespondent.com/2016/05/burma-military-chief-denies-existence-of-rohingya-term/#YXCi4rEgOttidDCU.99>.

³ Khin Maung Oo, "The Thorn Needs Removing as It Pierces!" *Global New Light of Myanmar*, October 31, 2016, <http://www.globalnewlightofmyanmar.com/the-thorn-needs-removing-if-it-pierces/> (accessed July 10, 2018)

civilian squads acting under the Burmese military and police control, razed hundreds of Rohingya villages throughout northern Rakhine State, brutally massacring thousands of unarmed Rohingya men, women, and children, systematically raping, torturing, imprisoning, and forcibly expelling whole communities. At least 362 villages in all three townships of northern Rakhine State were completely or partially destroyed.⁴ Over 750,000 Rohingya were forced to run for their lives over the border into Bangladesh, where they remain languishing in the largest refugee camp in the world.

Following these atrocities the US turned to the Global Magnitsky sanctions program both because it fit the human rights violations that the Global Magnitsky program is meant to cover, but also because there was no Burma-specific sanctions program at that point.

Under the Global Magnitsky program the United States imposed sanctions on 11 Burmese military individuals and entities. The US Treasury, in rolling out the designations, stated, “The U.S. government is committed to ensuring that Burmese military units and leaders reckon with and put a stop to these brutal acts. We will continue to systematically expose and bring accountability to human rights abusers in this region and many others and greatly appreciate the efforts of civil society who are doing the same.”⁵ That statement stresses the intent of the sanctions at the time: to “expose” and “bring accountability.”

The Global Magnitsky sanctions on Min Aung Hlaing, his number two Soe Win, heads of military operation commands and border guard forces, as well as the 33rd and 99th Light Infantry Divisions responsible for some of the atrocities, did expose the key leaders involved in the attacks and cut them off from the U.S. financial system. The U.S. sanctions were likely also helpful in getting U.S. allies to impose sanctions on these targets.

Three and a half years after the atrocities against the Rohingya, the military again began engaging in a widespread and systematic attack against the civilian population in Burma. Shortly after the coup, the United States unveiled a new Executive Order, E.O. 14014 specific to Burma.⁶ The E.O. covers conduct undermining the democratic process in Burma; threatening the peace and stability of Burma; prohibiting or limiting freedom of

⁴ Fortify Rights, “They Gave Them Long Swords”: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar, July 2018, https://www.fortifyrights.org/downloads/Fortify_Rights_Long_Swords_July_2018.pdf (citing Burma: 40 Rohingya Villages Burned Since October,” Human Rights Watch, news release, December 17, 2017, <https://www.hrw.org/news/2017/12/17/burma-40-rohingya-villages-burned-october>).

⁵ U.S. Department of the Treasury, Treasury Sanctions Commanders and Units of the Burmese Security Forces for Serious Human Rights Abuses, August 17, 2018, <https://home.treasury.gov/news/press-releases/sm460>.

⁶ Executive Order 14014, Blocking Property With Respect to the Situation in Burma February 10, 2021, <https://www.federalregister.gov/documents/2021/02/12/2021-03139/blocking-property-with-respect-to-the-situation-in-burma>.

expression or assembly; or arbitrarily detaining, torturing, or committing other human rights abuses.

Broadly speaking, the economic sanctions that have been imposed by member states, including the United States under E.O. 14014, are welcome and necessary, but I believe that they are insufficient. To date the United States has sanctioned a total of 29 entities and 84 individuals, and most importantly, froze \$1 billion of funds held by the State of Burma in the United States shortly after the coup. That was an important and extremely timely step. But short of that important step, sanctions have not substantially impacted the ability of the junta to continue to seize state revenues and foreign exchange to enrich its leaders and fuel its attacks on the civilian population.

The single largest source of revenue for the junta is the oil and gas industry. I have very publicly called on countries around the world, including the United States, to follow the call of several hundred civil society organizations within Burma who have called for Myanmar Oil and Gas Enterprise to be sanctioned. This can be done without interrupting the flow of energy or impacting the return on investment of energy companies.

In addition to strengthening sanctions, the US should work to organize a coalition of allied nations who are willing to apply pressure on the military junta. Coordinated, strategic sanctions should be designed to work as a coherent whole, focusing on common targets.

Targeted sanctions have served as essentially the only means of accountability on the military for its illegal attempt at overthrowing the civilian government. Indeed, even before the coup, U.S. Global Magnitsky sanctions were important to expose those responsible for the military's genocidal attacks against the Rohingya. But they unfortunately have done little to change the calculus of the military.

Further pressure must be imposed on the military and quickly. Nearly four months have lapsed since the last round of U.S. sanctions. The junta depends on the international community to help it meet three fundamental needs: 1) money, 2) weapons, and 3) legitimacy. Targeting these three needs while expanding humanitarian aid and support to the people of Burma, including the Rohingya who are languishing in IDP camps within Burma, and in refugee camps outside of Burma, is the best way the international community can help.

Thank you, again, for the invitation to participate in this timely and important hearing.

I'm happy to try and answer any questions that you may have.

Please note: Nothing in these remarks should be understood to be a waiver, express or implied, of the privileges and immunities of the United Nations, its officials or experts on mission, pursuant to the 1946 Convention on the Privileges and Immunities of the United Nations.