

Responding to the military coup in Myanmar: what business can and should do

*Multinational corporations are facing difficult choices in Myanmar after the military coup on 1 February. **Anna Triponel** and **Paul R. Williams** argue that companies must act boldly as a collective; failure to do so will be detrimental to their bottom line in the longer term. Corporations will be in the uncomfortable position of profiting during a time of collective political and human misery. The authors argue that, as companies decide to do business in a context such as this, they become part of the panoply of international actors and institutions that have a responsibility to seek to enhance human rights and rule-of-law standards.*

A military convoy driving up to the parliament steps. Members of parliament and the country's foremost political leader being detained and removed from public view. A state of emergency being declared, and cellular and internet services cut. Ambiguous charges of violating export-import laws to jail senior leaders. All of this while the world looks on and the United Nations is paralysed.

This would make for a gripping cinema night, if this were not happening, as we speak, in Myanmar—the great democratic hope of the last decade. The country that opened politically and economically to the world a decade ago to great applause. To put it simply, after close to 50 years of being closed to the world—governed by successive authoritarian military regimes, the military felt too close to China for comfort: they were ready to open the country up—just a little bit—to benefit from western investment, services, and trade. What happened next has been described to us by many in the country as a 'snowballing effect.' The country opened up much more than the military had initially envisioned, prompting a reactionary return to the good old—bad old—days of military dictatorship.

What does this have to do with the private sector?

Anyone who knows about military dictatorships knows that each passing day is a risk, as the military gets more and more comfortable. This is not a one-year state of emergency and then we go back to before. This is one year of the military entrenching its positioning so that it will become progressively harder and harder to return to the path to democracy the country was on before.

We have seen the international community scramble, with all the typical hallmarks of the international response kicking in. We have seen the UN Security Council convene an emergency meeting, only to be blocked in taking any meaningful action (predictably) by veto-holding China. And we have seen foreign ministers and the UN issue strongly worded statements condemning the coup.

But there are significant limits to what the international system can achieve from afar without the private sector currently invested and operating in Myanmar choosing to play a supporting role. The lure of the private sector was decisive in opening the country up a decade ago, the services and resources provided by the private sector were decisive in enabling the military to carry out the genocidal attacks against the Rohingya in 2017 at the scale they were carried out at, and now the private sector can be a decisive driver in helping steer the course of history for Myanmar and its people.

We are no longer just in a [discussion](#) of whether taking action forms part of a company's, or investor's, responsibility to respect human rights (although, we would argue that it clearly does). We are now also in a business case discussion.

In the long run, actions taken now that help bring democracy and rule of law to Myanmar will be good for business and will be good for the people of Myanmar. Where countries are taken over by military regimes, this leaves multinational corporations in the very uncomfortable position of profiting during a time of collective political and human misery. And who even knows whether they will be able to continue to operate for very long – at least in the way they had envisioned it.

We see two actions where companies could make a difference. In the immediate term, companies should look to work with their private sector peers, home governments and other relevant stakeholders to support economic sanctions. It goes without saying that any company that has any type of relationship with the military—whether directly or indirectly through military-backed businesses—should also be looking to convey in no uncertain terms that this course of action is bad for business and will weaken the military's economic position over time. And once we have made in-roads on returning the country on its path to democracy, companies should support international criminal accountability for the genocide of the Rohingya.

First step for business: support economic sanctions

The next step that follows from the international condemnation we are seeing typically is the preparation of economic sanctions. Sanctions that will significantly impact the profitability of any investments in Myanmar, if not exclude certain companies from Myanmar altogether. These economic sanctions are likely to be coupled with public boycotts of companies that continue to do business in the face of this dramatic democratic rollback.

Although seemingly counterintuitive for business, multinational corporations should support their governments in the imposition of intense short term political and economic sanctions to prompt the military to step away from this coup. The more intense initial political and economic sanctions are, the less time it will take to return to a mutually beneficial equilibrium of democracy and economic growth.

We know how the story of military dictatorship in Myanmar goes. During the first iteration of the story, gradual economic sanctions lasted for nearly 20 years, and cost multinational corporations hundreds of millions of dollars in lost investment opportunities. As we turn the first page on the sequel, a new story line of comprehensive and immediate sanctions, supported by multinational corporations, may lead to a more rapid and less costly return to democracy, and economic gain.

Second step: support international criminal accountability for the genocide of the Rohingya

Three years ago, we [documented](#) (at the request of the U.S. Department of State) the genocide committed by the military against the Rohingya in northern Rakhine State. Our work in conflict and post-conflict settings over the years points to one clear takeaway: when left unaddressed by criminal law and transitional justice mechanisms, the kinds of atrocities we saw in 2017 have a nasty and persistent habit of escalating, eroding any rule of law efforts and threatening nascent democratic development. Myanmar is yet another example. If and when the democratic leadership (the NLD) returns to power, companies should demand that meaningful steps be taken toward addressing this genocide.

The legacy of the Rohingya genocide haunts the Rohingya people every day. It also eroded the legitimacy of the democratic government and empowered the military. When Aung San Suu Kyi stood before the International Court of Justice and [defended](#) the actions of the military, she simultaneously undermined her own moral authority to lead and emboldened the military to further their plan to bring an end to her leadership role.

The lack of strong positioning on the part of—and lack of alignment amongst—the private sector, while not as public as Aung San Suu Kyi's defence before the world court, was nevertheless as powerful and important in signalling to the military that the private sector would continue to operate in Myanmar, regardless of the rule of law and genuine democratic transformation.

The case of Myanmar unfolding before our eyes shows us that calling for accountability is something that the private sector operating and investing in Myanmar should do: in this case, they should insist that a reinstated democratic leadership embrace the jurisdiction of the International Criminal Court. To finally and firmly entrench democracy in Myanmar, there will be a need for accountability for both the military and the political actors involved in perpetrating the genocide.

Broader reflections

There is no such thing as a “greenfield” country. Choosing to operate in a country comes with the need to enhance understanding of its complex domestic legal and political environment. We are not in the U.S., where a recent attempted coup could have led to dire consequences, but the checks and balances foreseen by the U.S. constitution kicked in. We don’t have such checks and balances in all countries where companies do business.

Neither is there a “greenfield” legal and political environment. Though Myanmar appeared to be the next great democratic and economic hope in the region, it also had a long history of military rule and undemocratic practices. And later, in 2017, a [genocide](#). As multinational corporations decide to do business in a context such as this, they become part of the panoply of international actors and institutions that have a responsibility to embrace and seek to enhance human rights and rule-of-law standards.

Otherwise, they face the worst-case scenario we see playing out in Myanmar today, where a military coup goes unchecked and the country’s political and economic future is in jeopardy.

It will no doubt feel uncomfortable to engage with international political stakeholders, but this is part of the deal when doing business in a country emerging from dictatorship. And it may seem counterintuitive for businesses to push for economic sanctions, which could harm their business in the near term, but we’ve seen this play out before. Short-term economic harm now is better than prolonged economic harm in the future.

And further along down the line, when the time is right to push for accountability, the people of Myanmar can benefit from transitional justice mechanisms that we have seen used in other contexts to support truth-telling and reconciliation – alongside justice for atrocities.

The stakes have never been higher: without an immediate and strong positioning to the military of the need to return to the path to democracy, the only way forward will be backwards.

Authors’ disclaimer: The ideas expressed herein are the authors’ personal opinions and do not represent the views of the organisations they work with.



Notes:

- *The authors have worked together on human rights, transitional justice, and international criminal law mechanisms in a range of conflict and post-conflict countries, including advising the National Council of the Union of Burma on the use of international legal mechanisms to challenge the legitimacy of the ruling military junta pre-2011.*
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