The Efficacy of Economic Sanctions on Burma

Dr Sean Turnell
Burma Economic Watch
Macquarie University, Sydney, Australia
sturnell@efs.mq.edu.au

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The question of economic sanctions on Burma polarises opinion and has generated much heated debate. Rather too much heat in fact, and relatively little in the way of light.

The proposition of this brief memorandum, and the firm belief of its author, is that the sanctions imposed upon Burma's military regime by the United States, the European Union, Canada, Australia, and a number of other like-minded countries, are not only just, but are soundly based in the realities of Burma's political economy. Of course, such a proposition is not fashionable, and in recent times something of a groundswell of opposition to sanctions has gained momentum. Much of this opposition is sincere, certain of it is self-serving, but the sum of it is wrong.

I argue below that the opposition to economic sanctions on Burma is based upon a number of misconceptions, most of which are centred on an incomplete understanding of the particular characteristics and structure of Burma's economy. These particulars create a highly specific context within which, and only within which, the question of sanctions can be judged. Too much of the present debate on sanctions and Burma takes place in the abstract, or in terms of metaphorical narratives of other places and other times. Grounding the debate to the realities of modern Burma renders much of the anti-sanctions rhetoric as hypothetical, moot, and immaterial to the issues at stake.[1]

In the following I explore some of the principal arguments of the anti-sanctions advocacy and determine why, in consideration of the specific context of Burma, these are misconceived. The arguments herein are briefly stated for the purposes of exposition. For a fuller account the reader is invited to consult the documents referenced. Of course, the author would also be happy to correspond further on any of the matters raised below.

Misconception 1: Economic sanctions on Burma primarily hurt its people, and not the country's ruling regime.

Burma has a highly dualistic economy, manifested in separate spheres of what we might call 'formal' and 'informal' activity.[2]

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[1] For a taste of the debate surrounding sanctions on Burma (on both sides), see Oehlers (2004), Kyaw Yin Hlaing (2004), ICG (2004) and Thant Myint-U (2006). For a discussion of some of the general principles of economic sanctions, see Hufbauer *et.al.*(2003).

[2] The dualism of Burma's economy dates back to the early colonial era. Indeed, the phrase 'dual economy' in reference to a formal sector dominated by a social and political elite, and an informal sector within which the bulk of a population earns its living, can be first ascribed to the renowned scholar and administrator of colonial Burma, J.S. Furnivall. Furnivall's observations, which remain of

Most Burmese live in the informal economy. Engaged in subsistence agriculture, in petty production, trade and rudimentary services, most people in Burma eke out a living in an economy that is overwhelmingly, if not exclusively, local.[3] The family is the primary economic unit, and the methods and organisation of production are largely traditional. The vast majority of Burmese have no exposure whatsoever to the international economy, or to industries and activities dependent on it.

Burma's 'formal' economy, which includes the country's vast state sector as well as much of the trade in raw materials, precious metals, stones, and energy, is dominated by the country's ruling military regime, and entities and individuals connected to it. Burma's military rulers have been famously inept in managing the country's macro-economy, but they have been expert in ensuring that the economy's commanding heights, the trades that generate foreign exchange, and any new and profitable opportunities that occasionally emerge, remain concentrated in their hands.

The suffocating control that Burma's military yields over the formal economy has had dire implications for the economic welfare of its citizens (as examined in more detail below), but this fact is also not without relevance to the debate over sanctions. Simply, it is the formal economy, reliant upon international demand and needful of international financial and other services, that is most vulnerable to sanctions. And, of course, upon this fact hinges the issue of primary relevance: the burden of economic sanctions on Burma is primarily borne by the actors in its formal economy who, more or less, are its dominant political actors too.[4] Far from being a blunt instrument, economic sanctions on Burma send the right message, to the right people.

Misconception 2: The elimination of sanctions will create a private sector demanding change.

Implicit in many of the arguments against sanctions is that the encouragement of business and commerce will support an alternative loci of power outside of Burma's military regime – and a 'business class' which, in the tradition of the nineteenth

great relevance, can be read in Furnivall (1956). For a modern account of the dualism of Burma's economy under military rule, see Turnell (2009), Oehlers (2004), Myat Thein (2004) and Tin Maung Maung Than (2007).

[3] The primitive structural make-up of Burma's economy, and the dominance of subsistence agriculture in the economic lives of the majority of its people, is explored in Turnell (2008, 2009), Ardeth Maung Thawnghmung (2004), Myat Thein (2004) and Tin Maung Maung Than (2007).

[4] The author acknowledges that this assessment is at odds with many of the accounts of the impact of sanctions on Burma, and especially those that play up the effects of US sanctions on Burmese imports in bringing about the loss of much employment in Burma's emerging textile sector from 2004. Whilst it is true that some of the retrenchment of this sector at this time was as a consequence of a closed US market, at least as important was the looming conclusion of the Multi-Fibre Agreement on Textiles (MFAT). The MFAT had hitherto limited the exports of various textile categories by assigning countries 'quotas' of the principal textile consuming markets. The effect of the MFAT above all was to thus artificially limit the exports of China (by some margin the cheapest producer) in all sorts of textile categories. The lifting of these quotas caused the long-expected surge in China's exports, and a whole host of 'marginal' exporters such as Burma, who were previously viable principally because of the quota system, to lose market share. In short – even without sanctions, Burma's garment-exporting industry would have greatly contracted. Of course, the proof of this can be seen in the dramatic fall in Burma's garment exports *beyond* the United States – a consequence not of sanctions, but the 'squeeze' imposed by China.

century Europe, America and Australasia, emerges as a liberal force demanding reform.

But the idea of supporting an alternative loci of power through commerce clearly depends on who in Burma controls this commerce. In other words, the conventional narrative of the emergence of commercial enterprises as a counter-veiling power to the state, clearly depends on the proviso that these enterprises are genuinely ‘private’. In the case of Burma, however, and as noted above, this is not the case. In Burma the state and ‘capital’ are largely as one. This is deliberate policy. Under the ‘State-Owned Economic Enterprises Law’ promulgated in March 1989, Burma’s critical tradeable-goods sectors are reserved for the State, its agencies, and military controlled entities of various forms. Thus under these arrangements, energy (including gas and petroleum), precious stones and metals, teak, fish and prawns, are all export goods under the control of the State. As Alamgir (2008, p.993) notes, ‘the government’s careful control over private capital in the tradeable sectors…precludes the emergence of those sectors as challengers to the political status quo’. The same author points out that financial capital flows can also be a source of democratic pressure, but these two are controlled by Burma’s state – not least through its exchange rate and exchange control arrangements.[5]

In short, local business actors who may otherwise have formed a nascent commercial class demanding the reforms desired by such a class – at a minimum property rights, a degree of accountability and ‘voice’, as well as rational economic policy making – has been deliberately marginalised by Burma’s military leaders.

Of course, there is also another aspect to Burma’s private sector that should not go unremarked in any analysis of its potential role as an agent of change – to wit, that significant components of it have become criminalised through the narcotics trade.[6] As is well known, Burma is the world’s second-largest producer of opium, and has more recently emerged as the dominant producer and exporter of methamphetines into Southeast Asia. The profits from this trade are the basis of the capitalisation of many of Burma’s largest ‘private’ conglomerates, which are the vehicles through which the same monies are effectively laundered. The laundering process is manifest in all manner of activities – from the obvious (casinos, gem and precious metal trading, banking) to infrastructure building, tourism, industrial agriculture, import-export business, housing construction, retailing, and the lucrative music and movie pirating sector. The significance of all of this simple: many of the dominant private sector players in Burma are dubious entities who enjoy the forebearance and protection of the state in order to conduct their activities. They are not likely agents of positive change in Burma.

Misconception 3: Sanctions are the cause of Burma’s poverty.

A (sometimes implicit) line that often appears in the sanctions debate is that the sanctions imposed upon Burma by other countries are a significant cause of the country’s poverty and economic underperformance. This is not true. Burma’s poverty

[5] For more on these controls, and how they are used to reward regime ‘insiders’, see Turnell (2009).
[6] The criminalisation of much of Burma’s large-scale enterprise sector is documented in many places. For an introduction, however, see Lintner and Black (2009, 113-131, and *passim*) and, for the financial sector specifically, Turnell (2009, pp.256-318).

is the result, overwhelmingly, of the chronic economic mismanagement of the military regimes that have ruled the country since 1962. Prior to these regimes Burma was a relatively prosperous country, a legacy that has been dismantled just as assuredly as has those critical institutions necessary for a functioning market economy. Given this, it bears emphasising over and again – that the most significant 'sanctioner' of Burma is none other than the country's ruling regime itself, which has created an environment in which genuine transformative economic activity is scarcely possible, much less similarly efficacious foreign investment and trade.

Let us be clear then; sanctions are not the cause of Burma's poverty, nor do they obstruct the country's military regime from engaging in economic reform, or from applying policies conducive to economic growth.[7]

Misconception 4: Sanctions are counterproductive, and simply displace 'western' firms in favour of those from China and elsewhere.

Another line often advanced by sanctions opponents is that the economic sanctions imposed by 'the west' have been ineffective, and even harmful, and that all they have done is to open the door to countries (principally China) which care little about human rights. This argument, however, is not borne out by the numbers. For instance, an oft-cited statistic of such 'sanctions displacement' is the 300% growth in China–Burma trade between 1999 and 2006. Alas for the proponents of the displacement thesis, however, is the fact that this trade, far from receiving a political 'bounce' on account of sanctions, has actually underperformed China's trade expansion more broadly. Across this same period, for example, China's aggregate trade with the rest of the world grew by over 380%, *with the US* by over 360%, with the EU by over 320%, with Australia by over 315% – and, significantly given similar motivations with respect to energy and raw material access – with Africa by over 400%.[8]

The displacement argument is one that has been pushed especially strongly by those remaining 'western' firms (and here especially Total of France, and Chevron of the United States) involved in Burma's natural gas sector. In this context, so the argument has it, divestment by western firms of their gas extraction rights would simply leave the field open to Chinese energy firms to take their place – leaving Burma's military leaders no worse-off, benefitting Chinese interests, while imposing the only costs of such a move on western investors.

At first glance, and given the undoubted voracious appetite of China for energy, such an argument looks persuasive. Probe a little deeper, however, and the flaws are not slow to appear. The most important of these, however, is that (contra to the assertions of Total and Chevron), Burma's military rulers would indeed feel the effects of divestment, as sellers of any commodity would when a significant buyer is removed, and more especially still when this further pushes a market towards monopsony.

[7] The high-point of economic reform in Burma was reached as far back as 1990 – when the military regime instituted a series of measures that, in theory, should have greatly reduced the dominance of the state and its apparatus, and set the country on the path to adopting a functioning market economy. Since then, alas, economic reform has been subject to much backsliding, and even reversal, as the ruling regime and its cronies have reasserted their dominance. For more on Burma's stalled reforms, see Turnell (2009).
[8] Data derived from IMF (2009).

China is already fast emerging as a monopsony buyer for a range of Burma's commodity exports, a fact that disconcerts Burma's military rulers – undermining their ability to resist downward price pressure emanating from Beijing, while stoking those ever-present fears of Burmese (in and outside of the ruling regime) that their country is becoming an economic colony of its great northern neighbour.[9]

Misconception 5: Financial sanctions are ineffective and poorly targeted.

The *financial* sanctions levelled against Burma by the US, EU, Canada, Australia are especially justifiable:

- Firstly, financial sanctions are extraordinarily well-targeted. The average person in Burma has no access to a bank account, much less a need or desire to engage the international financial system. This is not true for the members of the State Peace and Development Council (SPDC) or the rent-seeking elite connected to them. As such, the denial of access to the US financial system to this group once again sends precisely the right signal, to precisely the right people.

- Secondly, financial sanctions are necessary to protect Burma against the wholesale theft of its financial and natural resources. There is, of course, something of a pattern around the world (and across time) for the international financial system to be used to launder and hide the natural resource revenues that accrue to developing countries, but which are all too often siphoned-off by their leaders. Burma is fast accumulating significant foreign exchange reserves from its exports of natural gas. Such revenues are already being disposed of offshore in ways that bring about the least advantage to the Burmese people. Our financial system should not aid and abet this activity.

- Thirdly, and related to the above, financial sanctions protect our own financial system from illicit and unlawful activities. Burma remains a centre of 'prime money laundering concern' according to the OECD (and other international agencies), and allowing free access to the US financial system by Burmese entities exposes it to an unnecessary source of criminality. This point has heightened relevance now that the production of narcotics in Burma has resumed its large presence in the country's economy.

- The *Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act* of 2008 is a necessary accompaniment to the financial sanctions noted above, as well being a device that in its own right targets a sector of Burma's economy over which the SPDC and connected entities exercise substantial control. Precious stones are close substitutes for monetary and

[9] The dominance of ethnic Chinese business in many Burmese cities is a matter of great tension in Burma today, and the source of great nervousness amongst its military rulers (who are otherwise all too happy to play nationalist cards of various colours). Of course, in the past such tensions have led to outbreaks of intense communal violence, and there is much in the contention that Chinese penetration of Burma's economy is approaching its high-tide. For more on the background to this long and complex relationship, see Seekins (1997).

financial instruments, especially in countries such as Burma, and can otherwise be employed to circumvent financial sanctions more generally.

Misconception 6: The Empirical Record is that Trade and Aid Delivers Change.

This is constantly asserted by those who oppose sanctions, but the mechanism for how either trade or aid will deliver needed change in Burma is never clearly spelt out. Of course, there are many examples in which expanding trade accompanies political liberalisation, but the direction of causation is more likely the reverse of that claimed. For instance, the great expansion of China's trade in recent years came *after* the implicit guarantee of the rights to property, economic reforms, and the winding back of some aspects of the state, that came out of Deng Xiaoping's famous tour of southern China in 1992. Interestingly, and against the 'trade encourages political reform' thesis, in the years since, and along with truly dramatic trade growth, the Chinese state has become rather more opporessive. There are countless other examples – from South Korea, Indonesia, India, Malyasia, Vietnam – that all tell a remarkably similar story: the *trigger* for trade growth follows the winding back of the state and its prerogatives, not the other way around.

Of course, if it was the case that trade itself was the engine of poltical change and reform, we might expect to see that those countries who have vast trade relations that come via their possession of sought-after natural resources (such as the oil rich countries of the Middle East), to be fast moving along the liberalising track. Alas, and despite its wealth and despite its trade, such countries (for which we might regard Saudi Arabia as the quintessential example, and whose trade constitutes 87% of GDP[10]) remain almost as locked into their medieval prisons as does Burma in the world created by its generals.

The evidence supporting the notion that aid delivers political change is even more sparse, when it is not contradictory. Critics of the amount of aid going to Burma often point out, for instance, that Burma receives 'one-twentieth' of the aid per head that goes to Sudan, another egregious abuser of human rights. What has aid done for Sudan? According to Human Rights Watch (and every other reliable observer of the scene there), human rights abuses in Sudan continue apace, even as the aid pours in.[11] But Sudan is just to highlight an especially obvious example, and throughout the long and (not very encouraging) history of international aid, there have been countless instances in which aid has functioned in an 'enabling' manner for oppressive regimes. Often forgotten by aid advocates is that aid is 'fungible' – releasing resources to a recipient government of an equivalent amount for disposal as they see fit. Of course, in Burma the fact that aid is fungible is just one malady amongst a host of others that includes (but is not limited to) outright theft and expropriation. Burma is adjudged by Transparancey International as the 'second most corrupt' country in the world. Is it remotely conceivable the problems of aid and its delivery do not pertain there?

[10] Saudi trade and GDP data for 2008 taken from the CIA's 'World Factbook', < https://www.cia.gov/library/publications/the-world-factbook/geos/sa.html>.

[11] For more on the human rights situation in Sudan, as reported by Human Rights Watch, see < http://www.hrw.org/en/node/79212>.

Misconception 7: Sanctions reduce our armoury and options.

Finally, and however one might agree or disagree over their original imposition, economic sanctions as presently in place constitute potent ‘money in the bank’ – money that can be spent in response to *genuine* reform in Burma in the (potentially opportunity-rich) period ahead. Lifting economic sanctions now would not only embolden Burma’s present reform-shy regime, but also greatly ‘deleverage’ the ability of the United States and like-minded countries to influence future events.

Recent actions by the SPDC have again demonstrated that, as presently constituted, Burma does not have a government that is likely to deliver the economic and political reforms that the country so desperately needs. Nor, indeed, does the rest of the world as yet have a partner with which it can conduct meaningful negotiations to these ends. Changing these circumstances will primarily be a function of events internal to Burma, and at the hands of domestic constituencies that recognise the incentives for change. In the meantime, the rest of the world can best promote these incentives, and best allow their realisation, by promising to reward the eventual emergence of the policies and institutions that underlay our own liberty and prosperity. The people of Burma deserve nothing less.

Appendix
The Principal Economic Sanctions on Burma

USA

Current US sanctions on Burma take a variety of forms, and are the product of process of a successive levying of measures in response to human rights abuses and other breaches of international norms by Burma's military regime. The most important of these sanctions include:

- A ban on new U.S. investment in Burma. Under Executive Order 13047, all new investment by US persons or corporations was banned (with a grandfather clause for projects already agreed) from May 21, 1997.

- A ban on imports from Burma. This ban was authorised under the 'Burmese Freedom and Democracy Act' of 2003 (BFDA). Waivers for products in the US national interest can be authorised by the President. In July 2009 the BFDA was extended by President Obama.

- A ban of financial services exports to Burma. This ban was also authorised under the BFDA. In October 2007 the ban was extended to cover computer and other high technology exports.

- A US asset freeze and visa bans on leading Burmese officials and others. A list of the people covered under these measures (which are mostly heads of 'private' corporations with strong connections to Burma's military regime) was first published under Executive order 13310 in July 2003, but the list has been updated a number of times since (most recently in 2008).

- A ban on the importation of Jadeite, Rubies and other gems of Burmese origin, from anywhere, and in any form. This ban, established under the 'Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act', was designed to close a loophole through which Burmese gems that were processed into jewellery outside Burma could enter the US. The JADE Act also recommended the creation of a 'Special Representative and Policy Coordinator' for Burma.

- Money laundering and narcotics restrictions. These restrictions which, for instance, ban Burmese financial institutions from gaining access to the US financial system, are covered under various other laws not specifically related to Burma. Most prominently, in this regard, is the designation of Burma under Section 311 of the USA PATRIOT Act as a jurisdiction 'of primary money laundering concern'.

Current US sanctions on Burma do not stop humanitarian aid to the country, nor do they impede the flow of non-commercial, personal remittances (both of which are exempt, with safeguards, from the financial sanctions otherwise imposed).

The EU

In 1996 the EU adopted a ‘Common Position’ that bound member countries to certain economic sanctions imposed on Burma. This Common Position, which has been regularly renewed and extended, includes the following amongst its most important sanctions;

(a) an embargo on arms sales;
(b) an asset freeze on all funds and resources belonging to individual members of the Government of Burma, and people and companies connected to them;
(c) travel restrictions on senior members of the SPDC and Burmese military;
(d) a ban on the provision of finance or credit to Burmese state-owned enterprises;
(e) a ban on high-level bilateral visits to Burma except in exceptional circumstances;
(f) prohibitions on technical assistance and finance to the Burmese military.

In October 2007 the EU added bans on exports, imports and investment with Burma’s logging, timber, metal and mineral mining, precious and semi-precious stones sectors. Finally, in August 2009, and in the wake of the ‘violation of the fundamental rights’ of Aung San Suu Kyi following her conviction of violating the terms of her house arrest, the EU extended its travel ban and asset freeze sanctions – to include ‘members of the judiciary responsible for the verdict’.[12]

Canada

Amongst the toughest economic sanctions on Burma are those imposed by Canada.[13] Canada’s sanctions, established under the ‘Special Economic Measures (Burma) Regulations’ that came into force in December 2007, include;

(a) a comprehensive ban on exports of Canadian goods and services to Burma, and;

(b) a ban on the provision of Canadian financial services to and from Burma.

The Canadian sanctions do not include a ban on imports from Burma, and the export and financial services export bans contain a number of exemptions – primarily relating to the provision of humanitarian relief, and the making of (non-commercial) remittance payments.

Australia

Australia has in place a number of sanctions on Burma’s government, which commenced in 1991 with a ban on defence exports to the country. Since then a number of other sanctions programs have been put in place, including;

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[12] EU Council Common Position 2009/615/CFSP of 13 August 2009, Amending Common Position 2006/318/CFSP Renewing Restrictive Measures Against Burma/Myanmar.
[13] http://www.international.gc.ca/international/Sanctions_Burma-Birmanie.aspx

(a) visa restrictions on senior members of the Burmese regime, their associates and supporters;

(b) financial sanctions, which deny access to the Australian financial system or any Australian financial institutions, to a list of named individuals that include all members of the SPDC, other government ministers, senior military personnel, prominent business associates of the regime, and the immediate family members of all such individuals. These sanctions, and an initial list of 418 named individuals, were announced in October 2007. A revised list of 463 individuals was issued in October 2008.

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