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## U.S. Relations with Burma: Key Issues in 2019

Some Members of Congress have been critical of the Trump Administration's Burma policy, particularly its limited response to atrocities committed by the Burmese military (Tatmadaw), the intensification of the nation's long-standing civil war, and rising concerns about political repression and civil rights. In December 2018, Congress passed the Asia Reassurance Initiative Act of 2018 (P.L. 115-409), which prohibits funding for International Military Education and Training (IMET) and the Foreign Military Financing (FMF) Program in Burma for fiscal years 2019 through 2023. The Burma Unified through Rigorous Military Accountability (BURMA) Act of 2019 (H.R. 3190) and Burma Human Rights and Freedom Act of 2019 (S. 1186) would place additional restrictions on relations with Burma, particularly military and trade relations.

### The Rohingya Crises Continue

More than 700,000 Sunni Rohingya fled northern Rakhine State to Bangladesh in late 2017, seeking to escape Tatmadaw forces that destroyed almost 400 Rohingya villages, killed at least 6,700 Rohingya (according to human rights groups and Doctors Without Borders). Repatriation under an October 2018 agreement between the two nations is stalled as the Burmese government is unable or unwilling to establish conditions that would allow the voluntary, safe, dignified, and sustainable return of the Rohingya. The Rohingya also seek return to locations at or near their original villages, recognition as an indigenous ethnic minority, restoration of their full citizenship, establishment of an accountability mechanism to investigate and prosecute the alleged atrocities, and the termination of laws and policies that discriminate against Muslims as preconditions for their return. The prospects for return continued to diminish in 2019, in part due to the outbreak of fighting between the Arakan Army (AA) and the Tatmadaw in northern Rakhine State.

Burma's mixed military/civilian government has so far denied any systematic and/or widespread misconduct by the Tatmadaw, and continues to deny the United Nations, international humanitarian assistance organizations, and local and international media unrestricted access to northern Rakhine State. In June 2019, the topic of Rohingya repatriation emerged as a key issue at the 34<sup>th</sup> ASEAN Summit in Bangkok. ASEAN leaders stressed their commitment to support Burma in creating a safe environment for the Rohingya.

According to the U.N. Office for the Coordination of Humanitarian Affairs (OCHA), over 909,000 Rohingya were in refugee camps in Bangladesh as of March 2019. A Joint Response Plan for calendar year 2019 sought \$920.5 million for humanitarian assistance for the Rohingya

refugees and local host communities. The U.S. government has provided \$240.9 million.

**Figure 1. Map of Burma (Myanmar)**



Source: CRS.

### Escalating Fighting Despite Ceasefire

Burma has been embroiled in a low-grade civil war between the Tatmadaw and over 20 ethnic armed organizations (EAOs) since 1962. Significant portions of the nation are effectively under EAO control, particularly in Kachin and Shan States. Since the Tatmadaw transferred power to a mixed civilian-military government in 2011, fighting has been largely limited to Kachin and Shan States, with periodic skirmishes in Kayin State. The government of former President Thein Sein and the current NLD-led government have attempted to negotiate a nationwide ceasefire agreement and an end to the nation's civil war, but these efforts have had limited success, largely due to the Tatmadaw's unwillingness to compromise with the demands of the EAOs.

In December 2018, the AA launched coordinated attacks on security outposts in northern Rakhine State as part of its plan to establish an autonomous Arakan region, similar to

that controlled by the United Wa State Army (UWSA) in eastern Shan State. AA attacks continued in January.

Following the December AA attack, Commander-in-Chief Senior General Min Aung Hlaing announced a four-month unilateral ceasefire in eastern (but not western) Burma, and reversed his previous objection to the inclusion of the Arakan Army, the Myanmar National Democratic Alliance Army, and the Ta'ang National Liberation Army in the peace talks. On April 30, 2019, Min Aung Hlaing extended the ceasefire for two more months.

The 3<sup>rd</sup> session of the 21<sup>st</sup> Century Panglong Conference—an effort to forge a nationwide ceasefire agreement between the government, the military, and EAOs—was held in July 2018, but made little progress. Two of the larger EAOs, the Karen National Union and the Restoration Council of Shan State, subsequently suspended their participation in the formal peace process, citing Tatmadaw intransigence.

### **Violation of Human Rights and Civil Liberties**

According to some analysts, Burma's mixed military/civilian government has responded to criticism by curtailing freedom of speech and press freedom. In September 2018, Kyaw Soe Oo and Wa Lone, reporters investigating a mass murder by Tatmadaw soldiers in Rakhine State, were convicted of violating Burma's 1923 Official Secrets Act, and sentenced to seven years in prison. They were granted a presidential pardon on May 7, 2019. Other journalists have been arrested for interviewing EAO leaders or for publishing articles critical of the Tatmadaw.

Peaceful protesters have faced criminal charges for allegedly violating the 2011 Peaceful Processions and Peaceful Assembly Act. Several critics of the government have been charged under section 66(d) of the 2013 Telecommunications Act for allegedly defaming or threatening government officials. According to the Assistance Association for Political Prisoners (Burma), as of May 2019, 388 people were either serving sentences or awaiting trial for their political activities.

### **State of Political Reforms**

Many observers expected Aung San Suu Kyi and the National League for Democracy (NLD) to implement political reforms following their parliamentary victory in 2015. However, since taking power in 2016, the NLD has made little progress on political reforms, and in some cases, it appears that the mixed military/civilian government has found it advantageous to use various restrictive laws to suppress political opposition. A special commission set up by the NLD-led government identified more than 140 laws that should be abolished or amended; a few have been addressed by the Union Parliament.

### **Status of U.S. Policy Toward Burma**

The Trump Administration has largely continued the Obama Administration's approach of supporting Aung San Suu Kyi and her government in hopes of fostering a transition to a democratically-elected civil government and the end of Burma's long-standing civil war. After the Rohingya crises arose, the Trump Administration condemned the violence committed by both Rohingya

militants and the Tatmadaw in Rakhine State. In November 2017, then-Secretary Tillerson determined that the Tatmadaw's "clearance operation" constituted "ethnic cleansing," and announced that United States would "pursue accountability through U.S. law, including possible targeted sanctions."

The Trump Administration responded in several ways, including providing funding for humanitarian assistance in Bangladesh and Rakhine State (nearly \$500 million), no longer providing visa waivers for senior Tatmadaw officers, placing economic sanctions on five Tatmadaw officers and two military units under the Global Magnitsky Act, and calling for a global ban on arms sales to Burma.

On September 18, 2018, an independent U.N. fact-finding mission on Myanmar determined that the actions of Burma's security forces in Kachin, Rakhine, and Shan States possibly constituted genocide, crimes against humanity, and war crimes. It recommended the U.N. Security Council "refer the situation to the International Criminal Court or create an ad hoc international criminal tribunal." On September 24, 2018, the State Department released the findings of its own study, which were consistent with those of the U.N. fact-finding mission. The State Department also stated "that the recent violence in northern Rakhine State was extreme, large-scale, widespread, and seemingly geared toward both terrorizing the population and driving out the Rohingya residents," and "(t)he scope and scale of the military's operations indicate they were well-planned and coordinated." The Trump Administration has declined to characterize the human rights abuses as either genocide or crimes against humanity.

### **Looking Ahead: Leading Policy Issues**

Given the humanitarian situation in Bangladesh and Rakhine State, Congress may consider funding for assistance to the displaced Rohingya. Congress may also examine ways to ensure that a credible, independent investigation of the alleged abuses in Kachin, Rakhine, and Shan States occurs, and that those determined to be culpable are held accountable for their actions.

Another issue Congress may consider is what ways the United States can best serve to promote the peaceful resolution of Burma's civil war. In addition, Congress may weigh what forms of assistance to provide in Burma, and if any of that assistance should be contingent on the behavior of Aung San Suu Kyi, her government, or the Tatmadaw in addressing the issues mentioned above.

Both the Obama and Trump Administrations based their policies on the premise that Burma is part way through a transition from a military junta to a democratically-elected civilian government. Some analysts argue that recent events indicate that Burma's military leaders never supported such a transition, and that the current governance system, as embodied in the 2008 constitution, was the intended endpoint for any political reforms. Congress's sense of which assessment is more convincing may guide its actions towards Burma in 2019 and beyond.

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