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## U.S. Relations with Burma: Key Issues in 2020

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. In December 2018, the 115<sup>th</sup> 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. In December 2019, the 116<sup>th</sup> Congress passed the Further Consolidated Appropriations Act, 2020 (P.L. 116-94), which places additional restrictions on bilateral economic and international security assistance to Burma in fiscal year 2020. Other legislation has been introduced that would modify U.S. relations with Burma (see "Pending Legislation").

### Escalating Civil War; Little Prospect for Peace

Burma has been embroiled in a low-grade civil war between the Tatmadaw and over 20 ethnic armed organizations (EAOs) as far back as 1962. Significant portions of the nation are effectively under EAO control, particularly in Kachin and Shan States. After the Tatmadaw transferred power to a mixed civilian-military government in 2011, fighting initially was limited to Kachin and Shan States, with periodic skirmishes in Kayin State, but has since spread to Chin, Kayah, Mon, and Rakhine State. The government of former President Thein Sein and the current government, led by State Counselor Aung San Suu Kyi, have attempted to negotiate a nationwide ceasefire agreement, but these efforts have had limited success.

In December 2018, the Arakan Army (AA) launched coordinated attacks on security outposts in northern Rakhine State as part of its plan to establish an autonomous region for the Arakan (Rakhine) people. Following the December 2018 AA attack, Commander-in-Chief Senior General Min Aung Hlaing announced a four-month unilateral ceasefire in eastern (but not western) Burma, which he later extended for two more months, and reversed his objection to the inclusion of the AA and two other EAOs in the ceasefire talks.

Fighting between the AA and the Tatmadaw in Chin and Rakhine State continued throughout 2019, with more than 482 skirmishes reported during the year, accounting for 10.6% of the recorded military confrontations in Burma since 2011, according to the Armed Conflict Location and Event Data Project (ACLED). In 2019, fighting also was reported between the Tatmadaw and various EAOs, as well as between EAOs, in Kachin, Kayin, Mon, and Shan States, despite the existence of ceasefire agreements.

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



Source: CRS.

Aung San Suu Kyi has focused her efforts to end the civil war on holding broad national conferences at which her government, the Tatmadaw, the EAOs, and representatives of civil society, seek to negotiate a nationwide ceasefire agreement. Conferences were held in 2016, 2017, and 2018, but not in 2019. Preliminary discussions about a possible 2020 conference are underway, but many EAOs are skeptical of the Tatmadaw's willingness to negotiate in good faith.

### 2020 Parliamentary Elections

Burma's parliamentary elections are expected to take place sometime in November. Aung San Suu Kyi's domestic popularity has waned over the years due to the escalation of the civil war and the stalled peace process; her failure to deliver on promised political reforms; and a slowdown in economic growth. Some of the country's ethnic-based political parties are trying to form a united front to challenge the NLD, seeking to win a majority of the parliamentary seats for their respective ethnic states.

### The Rohingya Crises Continue

More than 700,000 Sunni Rohingya fled northern Rakhine State to Bangladesh in late 2017, after Tatmadaw forces destroyed almost 400 Rohingya villages and allegedly killed thousands of Rohingya during so-called “clearance operations.” According to the U.N. Office for the Coordination of Humanitarian Affairs (UNOCHA) and U.N. High Commissioner for Refugees, as of January 7, 2020, approximately 915,000 Rohingya refugees were in Bangladesh, including those who fled Burma prior to 2017. The UNOCHA 2020 humanitarian appeal for Bangladesh seeks \$871 million to assist 1.3 million people. In addition, an estimated 200,000 to 600,000 stateless Rohingya remain in Rakhine State. Rohingya make up the vast majority of more than 100,000 who are internally displaced and confined to camps. UNOCHA’s 2020 humanitarian appeal for Burma seeks \$215 million to meet the needs of the Rohingya in Rakhine State.

An October 2018 repatriation agreement between Burma and Bangladesh has stalled as the Burmese government was unable or unwilling to create conditions that would allow the voluntary, safe, dignified, and sustainable return of the Rohingya. The Rohingya seek return to locations at or near their original villages; recognition as an indigenous ethnic minority; restoration of their full citizenship; accountability for the alleged atrocities; and the termination of laws and policies that discriminate against them.

On September 18, 2018, the U.N. Independent International Fact-Finding Mission on Myanmar (IIFMM) determined Burma’s security forces may have committed genocide, crimes against humanity, and/or war crimes in Kachin, Rakhine, and Shan States. The IIFMM recommended the U.N. Security Council “refer the situation to the International Criminal Court (ICC) or create an ad hoc international criminal tribunal.” In 2019, the ICC authorized its Prosecutor to investigate the forced deportation of the Rohingya and related crimes.

In November 2019, The Gambia filed a genocide case against Burma in the International Court of Justice (ICJ). On January 23, 2020, the ICJ ordered Burma to take “provisional measures” to ensure that the Tatmadaw refrain from carrying out any acts of genocide, and protect and preserve any evidence of genocidal acts. Two days before the order, a commission of enquiry appointed by President Win Myint determined that while the Tatmadaw had no “genocidal intent” in Rakhine, some troops may have committed war crimes. Win Myint and the Tatmadaw have said they will investigate the alleged war crimes. Burma’s government continues to deny the United Nations, most international humanitarian assistance organizations, and the media unrestricted access to northern Rakhine State.

### Violation of Human Rights and Civil Liberties

Burma’s mixed military/civilian government continues to curtail freedom of speech and the press. 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 December 2019, 631 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. A special commission set up by the NLD-led government identified more than 140 laws that should be abolished or amended; few have been addressed by the Union Parliament. As indicate above, the mixed military/civilian government at times uses various restrictive laws to suppress political opposition.

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

The Trump Administration has condemned the violence committed by all parties in Rakhine State. On September 24, 2018, the State Department released the findings of its own study of the events in Rakhine, which were consistent with those of the IIFMM. The State Department report 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, but it has placed sanctions on nine Tatmadaw officers, including Commander-in-Chief Min Aung Hlaing, and two military units. The Trump Administration has also provided \$359.5 million in humanitarian assistance for the Rohingya in Burma and Bangladesh (as of January 15, 2020).

### Pending Legislation

Several bills have been introduced in the 116<sup>th</sup> Congress that would add new restrictions on relations with Burma or require new types of assistance. 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 military and trade relations. The Burma Political Prisoners Assistance Act (H.R. 2327 and S. 2069) would require the Secretary of State to provide assistance to “current and former prisoners of conscience and political prisoners in Burma.” The Allowing for the Safe Return of Rohingyas to Burma Act of 2019 (H.R. 4392) would require the President to suspend Burma’s eligibility under the Generalized Systems of Preference (GSP) program until Burma allowed the “safe, voluntary, and dignified return of Rohingya refugees.” Burma-related language may be included in the National Defense Authorization Act for Fiscal Year 2021 and the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2021.

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