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

In 2018, the 115<sup>th</sup> Congress was generally critical of the Trump Administration's Burma policy, particularly its limited response to atrocities committed by the Burmese military, intensifying conflict with ethnic insurgencies, 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 Foreign Military Financing (FMF) Program in Burma for fiscal years 2019 through 2023.

### Major Developments in Burma

At the end of 2018, an estimated one million Rohingya, most of whom fled atrocities committed by Burma's military (Tatmadaw) in late 2017, remained in refugee camps in Bangladesh, unable and unwilling to return to Burma's Rakhine State given the current policies of the Burmese government. Also in 2018, fighting between Burma's military and various ethnic armed organizations (EAOs) escalated in Kachin and Shan States, and spread into Chin, Karen (Kayin), and Rakhine States, while efforts to negotiate a nationwide ceasefire stalled.

### The Rohingya Crises Continue

More than 700,000 Sunni Rohingya fled 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), and sexually assaulted hundreds of Rohingya women and girls. 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. Among the conditions sought by the Rohingya are their return to locations at or near their original villages, recognition as an indigenous ethnic minority, restoration of their full citizenship, and establishment of an accountability mechanism to investigate and prosecute the alleged atrocities. Meanwhile, smaller numbers of refugees continue to cross into Bangladesh.

Burma's mixed military/civilian government has so far denied any systematic and/or widespread misconduct by Burma's security forces, and continues to deny the United Nations, international humanitarian assistance organizations, and local and international media unrestricted access to northern Rakhine State. Prospects for the Rohingyas' voluntary, safe, dignified, and sustainable return to their homes are dim as conditions in northern Rakhine State have worsened in 2019, in part due to fighting between the Arakan Army and the Tatmadaw.

Figure 1. Map of Burma (Myanmar)



Source: CRS

### The Stalled Peace Process, Escalating Fighting

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.

In December 2018, Commander-in-Chief 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, raising some hopes that the peace process would regain momentum.

On April 30, 2019, Min Aung Hlaing extended the ceasefire for two more months, but prospects for peace remain bleak. Fighting between the Arakan Army and the Tatmadaw in northern Rakhine State has intensified, with allegations that Tatmadaw soldiers are targeting civilians. Despite the

unilateral ceasefire, periodic skirmishes have increased in frequency in northern Shan State. Sources close to the larger EAOs indicate they anticipate an intensification of the low-grade civil war after the ceasefire ends.

### Violation of Human Rights and Civil Liberties

According to some analysts, Burma's mixed military/civilian government responded to domestic and international criticism in 2018 by curtailing freedom of speech and press freedom. In September 2018, Kyaw Soe Oo and Wa Lone, reporters investigating alleged human rights abuses 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 following interviews with 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 March 2019, 364 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 (see "Violation of Human Rights and Civil Liberties" above). 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 Obama Administration responded to what it perceived as positive developments in Burma by suspending various sanctions imposed by Congress when the nation was ruled by a military junta. According to some Members of Congress and other observers, the waiving of those sanctions has emboldened the Tatmadaw to utilize its constitutional powers to control developments in Burma.

### Approach of the Trump Administration

Initially, the Trump Administration largely continued the approach of the Obama Administration in relations with Burma. After the Rohingya crises arose, then-U.N. Ambassador Nikki Haley, then-Secretary of State Rex Tillerson, and other State Department officials condemned the violence committed by both Rohingya militants and the Tatmadaw in Rakhine State. In November 2017, 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 has provided funding for humanitarian assistance in Bangladesh and Rakhine State (nearly \$500 million), stopped providing visa waivers for senior Tatmadaw officers, placed economic sanctions on five Tatmadaw officers and two military units under the Global Magnitsky Act, and called for a global ban on arms sales to Burma.

On September 18, 2018, an independent U.N. fact-finding mission on Myanmar released its final report, determining 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, concluding "the vast majority of Rohingya refugees experienced or directly witnessed extreme violence and the destruction of their homes," and the refugees "identified the Burmese military as a perpetrator in most cases." It 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." Since the release of the two reports, 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 choose to 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. However, 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.

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