



Current Realities and Future Possibilities in Burma/Myanmar: **Options For U.S. Policy**

Asia Society Task Force Report

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Task Force on U.S. Policy toward Burma/ Myanmar

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Foreword

In September 2009, Barack Obama's administration announced a new U.S. policy direction for relations with Burma/Myanmar. This new course moves the United States away from previous efforts to isolate Burma's military regime, seeking to balance economic sanctions with "pragmatic engagement," initiating efforts to expand channels of communication with the military leadership at higher levels of authority, and taking gradual confidence-building steps to foster cooperation and better understanding. Economic sanctions will remain in place until military leaders release political prisoners, including Aung San Suu Kyi, and take steps to promote genuine tripartite dialogue. The new direction suggests that the United States will seek greater collaboration and cooperation with key regional and international players to advance its Burma strategy, as demonstrated during President Obama's trip to Asia in November 2009.

Against this backdrop, the Asia Society established a Task Force on U.S. Policy toward Burma/Myanmar to address the opportunities and challenges that lie ahead. The Task Force agrees with and applauds the administration's new direction, but recognizes that it is only a broad outline for a new way forward in U.S.–Burma relations; much remains to be defined. From this vantage point, this report lays out the background and conditions that influenced the U.S. policy decision and presents a set of recommendations for how U.S. policy might be developed going forward. The Asia Society Task Force aims to make a contribution to the continuing review and development of U.S. policy toward Burma in the near and longer term. By tying improvements in the bilateral relationship to concrete actions on the part of the Burmese leadership, the report elaborates how elements of the policy recommendations contained herein might play out according to both negative and positive developments.

The Task Force has chosen to devote more space to economic conditions in Burma and approaches to improving them than past Burma-related reports because this issue bears directly on the debate about economic sanctions, which are often misunderstood or misrepresented by both sides. Detailed economic background and analyses are included to provide insight into the rationale behind the recommendations, particularly the Task Force's proposal that the U.S. government take a calibrated approach to the removal of current economic sanctions, adjusting these decisions to improvements in economic policy and political reform. Moreover, a more detailed exploration of economic issues reveals the intricate relationship between a population's economic welfare and individual rights and freedoms—in other words, the human rights side of the equation.

The report also examines questions surrounding the upcoming national elections in Burma, which are scheduled to be held sometime in 2010, and, over time, the potential reestablishment of parliamentary government in Burma. How these developments unfold will be a major consideration in calculating adjustments to U.S. policy over the next five years or more. Specifically, the Task Force believes that the United States must position itself to respond effectively and flexibly, with a variety of tools, to the twists and turns that a potential transition may take over time, with an eye toward encouraging the Burmese

leadership to move in positive directions. We recognize that this is the general thinking behind the new U.S. approach.

Much of the information in this report was drawn from the contributions of our Task Force members and advisors, Burmese sources inside and outside the country, other experts, and the myriad published reports that have been produced outside Burma.

Given that an international consensus has yet to emerge regarding approaches to Burma, the Asia Society thought it would be useful to partner with institutions across the Asia-Pacific region to review the current state of play and to offer recommendations from their unique national perspectives. To this end, the Society sponsored a series of national dialogues that were carried out by the following institutes: Macquarie University, Australia; the Indian Council for Research on International Economic Relations; the Centre for Strategic and International Studies, Indonesia; the Japan Institute of International Affairs; the Institute of Strategic and International Studies, Malaysia; the Institute for Strategic and Development Studies, Philippines; the Singapore Institute of International Affairs; and the Institute of Security and International Studies, Thailand. In addition to these institutional contributions, a review of Chinese policy was conducted by experts and scholars in China working in their individual capacities.

All of the reports resulting from these dialogues as well as the U.S. Task Force's report are available at AsiaSociety.org/BurmaMyanmarReport.

On behalf of the Asia Society, I wish to thank the Task Force's eminent co-chairs, Wesley K. Clark and Henrietta H. Fore, who contributed their depth of experience and determined commitment to this project. The Society is also indebted to the members of the Task Force, a group of prominent experts and leaders whose insights were indispensable. The Task Force has benefited tremendously from the intellectual guidance, advice, and constructive criticism provided by the members of the project's Advisory Group. We are grateful to all of them. In particular, we extend our appreciation to our principal advisors—Priscilla Clapp and Sean Turnell—for devoting their knowledge, insight, and time to this endeavor.

I also wish to thank Suzanne DiMaggio, Director of Policy Studies at the Asia Society, for capably and knowledgeably directing this project. Her leadership, dedication, and intellectual energy brought this effort to fruition. Special thanks also go to project manager Robert W. Hsu for skillfully coordinating the many moving parts of this endeavor.

Finally, I would like to extend our gratitude to the Open Society Institute and to Asia Society Trustee Leon Black for their generous financial support, which made the project possible.

It is our hope that the views, ideas, and policy recommendations presented in these reports will provide valuable insights to the governments of the United States, Asia, and beyond, international and regional organizations, nongovernmental organizations, and all who are interested in improving conditions in Burma.

Vishakha N. Desai

President, Asia Society

Executive Summary

In September 2009, the United States announced a new course in its policy toward Burma following a seven-month review undertaken by the Barack Obama administration.¹ Recognizing that decades of pursuing policies of isolation and sanctions had done little to influence change among Burma's military leaders, the United States introduced a policy of "pragmatic engagement." Under this new policy, the United States will maintain its sanctions on Burma while simultaneously undertaking direct dialogue with senior leaders of the Burmese regime. Dialogue, according to the United States, will "supplement, rather than replace," decades of U.S. sanctions policy. These talks have already begun, and the United States has indicated that any improvement in relations between the two countries is possible only when Burma's military regime enacts meaningful and concrete reforms in the country, particularly in the areas of democracy and human rights.²

In adjusting its policy toward Burma, the United States must face reality with clear vision. Among other things, this vision must recognize that the United States' ability to solve Burma's problems and to influence the course of the country's governance is extremely limited, as nearly 20 years experience with a harsh punitive policy of isolation and sanctions have demonstrated. U.S. influence in Burma is unlikely to outweigh that of increasingly powerful Asian neighbors. Therefore, the United States' priority must be to clarify its fundamental objectives in Burma and the basic means at its disposal for promoting those objectives. Moreover, Burma is not likely to rank very high on the list of U.S. foreign policy priorities in the foreseeable future, so resources to address U.S. goals in Burma will be limited, compared to priority countries and regions.

The Task Force believes that the United States must approach policy adjustments with careful consideration of how the instruments that are available—including both the engagement and sanctions sides of the equation—can be employed most effectively to encourage reform and democratic governance. Through its programs and support for the Burmese people, the United States can demonstrate that it is steady but flexible and quick to react to any potential overtures from the Burmese government. Specifically, during this period of transition, the United States should encourage the process of political development toward democratic norms; press the military regime to improve governance; and assist the country's non-Burman nationalities in pursuing an equitable voice in national governance. The basic means available to the United States to pursue these goals will be effective channels of communication; focused assistance programs; reform-oriented economic activity; coordination with Burma's neighbors and the broader international community;

¹ The Asia Society Task Force on U.S. Policy toward Burma/Myanmar uses the name Burma, instead of Myanmar, throughout this report, as this is consistent with the designation used by the U.S. government.

² The core issues on the U.S. agenda include "the unconditional release of all political prisoners, including Aung San Suu Kyi; an end to conflicts with minority groups; and a genuine dialogue between the government, the democratic opposition and minority groups on a shared vision for the future." See "Remarks by President Barack Obama at Suntory Hall," Tokyo, Japan, November 14, 2009, <http://www.whitehouse.gov/the-press-office/remarks-president-barack-obama-suntory-hall> (accessed February, 11, 2010).

and tightening of targeted financial sanctions, if and when necessary.

Going forward, it will be useful to consider distinctions based on change in Burma for framing U.S. policy recommendations. The Task Force makes the following recommendations, which are organized into three distinct stages: (1) measures to be pursued now; (2) additional measures to be implemented if and when the United States begins to see indications of change on the part of the Burmese leadership; and (3) actions to be undertaken after real progress has been demonstrated on a sustained basis.

Stage 1: Measures to be pursued now

At present, there is no concrete evidence to suggest that Burma's leaders will respond positively to the central U.S. message on engaging in tripartite dialogue, releasing political prisoners, and allowing fair and inclusive elections. In fact, it is quite possible that the leadership's primary objective in engaging with the United States is to demonstrate to its own population that the United States endorses the regime's seven-step process toward democracy. The United States must tread carefully through this minefield, avoiding the appearance of sanctioning or legitimizing a flawed election process, while pressing Burma's military leaders to carry out credible elections.

The Task Force recommends that the following measures be carried out now to help bring about and support potential change:

- **The United States should position itself to engage not only with Burma's military leaders, but also with a wide range of groups inside Burma.** The National League for Democracy should continue to be a focal point of U.S. policy support, and its leader, Aung San Suu Kyi, will remain an important figure for achieving the dialogue necessary to bring about national reconciliation of the military, democracy groups, and minority nationalities. At the same time, U.S. policy also must place greater emphasis on reaching out to other democratic forces, including civil society groups, and ethnic minorities and ensuring that they benefit from U.S. assistance programs inside Burma. In this connection, the Task Force recommends that the United States should encourage the UN Security Council to implement the October 2007 Presidential Statement which calls for "a genuine dialogue with Daw Aung San Suu Kyi and all concerned parties and ethnic groups in order to achieve an inclusive national reconciliation."³ Additionally, to facilitate expanded engagement, the United States should appoint a Special Representative and Policy Coordinator for Burma as called for by the Tom Lantos Block Burmese Jade (Junta's Anti-Democratic Efforts) Act of 2008 (JADE Act).⁴

³ UN Security Council, 5757th Meeting, "Statement by the President of the Security Council [The Situation in Myanmar]," (S/PRST/2007/37), October 11, 2007.

⁴ See Tom Lantos Block Burmese Jade (Junta's Anti-Democratic Efforts) Act of 2008, Pub. L. no. 110-286, 122 Stat. 2642 (2008), <http://www.gpo.gov/fdsys/pkg/PLAW-110publ286/pdf/PLAW-110publ286.pdf> (accessed February 11, 2010). In November 2008, U.S. President George W. Bush nominated Michael J. Green, a former White House advisor on Asia, for this position. Green's nomination never went before Congress for review and approval and no new nominees have been presented since President Obama took office.

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- **U.S. policy toward Burma should emphasize coordination and collaboration with other concerned governments and international institutions, particularly Burma’s Asian neighbors.** ASEAN, in particular, could be a valuable channel in the coming decade for encouraging reforms in Burma. In this connection, the United States should work together with ASEAN countries to underscore the importance of conducting the 2010 elections in “a free, fair, inclusive and transparent manner,” as outlined in the joint statement from the first ASEAN-U.S. Leaders Summit held in Singapore in November 2009. The United States also should develop collaborative efforts with China, Japan, and India to press the Burmese government in positive directions.
 - **U.S. sanctions on trade and investment with Burma should not be removed until the government releases political prisoners, including Aung San Suu Kyi, and allows full participation in the political process.** The Task Force supports the United States’ decision to maintain these sanctions in the absence of significant, meaningful change in the composition and policies of the Burmese government, particularly with regard to its tolerance of political opposition. In addition, sanctions on financial services related to corrupt practices, money laundering, and other measures used by the military leadership to exploit hard currency earnings from the sale of natural resources should not be fully removed until major economic reforms and anticorruption measures have been taken by a new government.
 - **The removal by the United States of some noneconomic sanctions designed to restrict official interaction and contact between the two governments is welcomed, and an even greater relaxation in bilateral communications, through both official and unofficial channels, should be pursued.** The Task Force strongly believes that expanding bilateral channels of communication, especially during a period of potential political change, will strengthen the United States’ leverage in achieving its goals in Burma. During the period before the planned elections, the United States should continue to pursue opportunities for direct talks with military leaders to press for genuine tripartite dialogue and the release of political prisoners.
 - **In pursuing pragmatic engagement with Burma, the United States must continue to develop, and even ramp up, means of reaching the Burmese population directly through assistance programs.** This is especially necessary if the military or a military-controlled civilian regime maintains harsh authoritarian governance in Burma, even after the parliamentary elections. In the past few years, U.S. humanitarian assistance to Burma has expanded rapidly in response to dire humanitarian needs—particularly in the aftermath of Cyclone Nargis—and to support the growth of civil society and community development.⁵ Assistance to NGOs that have no connections to the military and are not officially registered

⁵ In October 2009, the United States announced that it would add another \$10 million to the \$75 million already pledged to assist NGOs in cyclone relief efforts.

with authorities should be expanded. U.S. assistance also should be targeted toward small farmers and small and medium-sized businesses that help to create functioning communities.

In approaching the question of increasing assistance, however, the United States must be vigilant in examining the dangers of expanding the flow of economic resources into Burma. This is especially true if the government remains prejudiced against foreign assistance that is not channeled through government organizations, where it easily can be turned to purposes other than those intended. Unfortunately, the new constitution effectively excludes anyone receiving foreign assistance from running for election, so a hostile attitude toward foreign aid is already built into the new government.

- **Any future expansion of U.S. humanitarian aid programs inside Burma should not be accomplished at the expense of existing cross-border assistance programs, which remain essential.** Cross-border programs, particularly those originating in Thailand, are needed because the constitution provides no vehicle for the return of Burmese refugees and exiles, whose humanitarian needs remain acute. In fact, the constitution appears to set up barriers to their return. Additionally, the many impressive and well-established NGOs and other aid organizations in neighboring countries will continue to provide a vital means of supporting and supplementing assistance programs inside Burma, particularly those for minority nationalities, which are likely to continue to operate under severe restrictions even after the elections.
- **Educational exchange under the Fulbright and Humphrey Scholar programs and cultural outreach activities should be expanded. These programs produce powerful agents for community development in Burma and can significantly expand the prospects for improved governance.** Although the military government is highly averse to foreign cultural influence in the country, the U.S. Embassy's American Center has long served as a cultural focal point for many Burmese living in the Rangoon area. If the election produces a transfer of power to a less xenophobic leadership, the United States should support the extension of American Center programs through the Internet, the deployment of visiting speakers to other cities, and other forms of cultural outreach. If political transition produces real change, marked by full participation of opposition and non-Burman ethnic representatives in elected government, U.S. scholarship and visitor programs should be expanded to include Burmese government officials.
- **As for the elections, the United States should avoid direct participation in election monitoring, as this could be seen as conferring legitimacy on a seriously flawed election process.** However, the United States should facilitate the provision of educational materials on election and parliamentary processes to

groups in Burma and on the Thai border that are conducting voter workshops and seminars, with a particular emphasis on state/division-level elections, which may become important to ethnic minorities. Voice of America and Radio Free Asia also could help educate voters.

Stage 2: Additional measures to be implemented if and when the United States begins to see indications of change on the part of the Burmese leadership

U.S. policy should shift to a second stage if Burmese leaders begin to relax political restrictions, institute economic reforms, and advance human rights. During this stage, the United States should pursue measures designed to assist the process of developing more democratic institutions, both inside and outside government, and to encourage government capacity building. If there is no movement on these fronts, there will be little room for improving U.S. relations with Burma, and, in fact, pressure in the United States for tightening sanctions and other punitive measures likely will follow. If the U.S. government has no recourse but to pursue stronger sanctions, the Departments of Treasury and State should coordinate with other countries and organizations, including the EU and ASEAN in particular, to enlist them to also evoke financial and banking sanctions to ensure that military leaders and their associates cannot evade the impact of what otherwise would be less-effective unilateral sanctions. The United States Special Policy Coordinator should coordinate sanctions implementation via an ongoing research team that maps and targets where and with whom these individuals engage in business. In such a scenario, U.S. policy essentially would be left in Stage 1, with limited engagement and assistance confined largely to humanitarian, community development, and limited capacity-building programs.

If a different scenario emerges that includes the release of political prisoners, including Aung San Suu Kyi, and a demonstrated tolerance for expanded political activity, it should open the way for a much more active role by the United States in assisting with capacity building, governance training, and international efforts to encourage economic reforms.

During this stage, the Task Force recommends the following:

- **The United States should explore the feasibility of forming a support group with Australia, Burma, China, the European Union, India, Indonesia, and Japan, perhaps under the auspices of the United Nations, to provide a mechanism for organizing international coordination and assistance for Burma's transition, both politically and economically.** Such a group also could marshal other governments and international institutions as appropriate to focus on specific tasks, but its main objective should be to coordinate and demonstrate collective encouragement of reform, good governance, and the protection of human rights. To the extent that the United States can develop collaborative efforts with key Asian stakeholders, particularly with regard to economic reform initiatives, it will increase the possibility of achieving progress, because advice and support from these countries, rather than Western governments, are likely to be more welcome by the Burmese leadership.

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- **If the elections in Burma take place in 2010 as scheduled and succeed in replacing the current military government—the State Peace and Development Council (SPDC)—with a quasi-civilian government, the United States must be positioned to interact with the elected politicians and civil servants in the new ministries and other government structures.** In so doing, the United States will be able to assess the nature of the change taking place in Burma and decide where it can make positive contributions. This interaction also could include, for example, a relaxation of the U.S. visa ban on government officials to allow selected invitees to visit the United States.
 - **The United States should prepare to implement measures that will ease the way toward improved economic relations and the eventual removal of trade and investment sanctions.** These measures should be implemented only if political transition produces a government that demonstrates a genuine commitment to economic development, particularly small and medium enterprises, and a willingness to embrace basic political and economic freedoms—including the end of gross human rights violations—that allow development to take place.

A first measure is the provision of expert advice. Accordingly, the United States should gradually release current injunctions on and partner with institutions such as the International Monetary Fund, World Bank, and Asian Development Bank to provide Burma with advice on reform. Expertise in Burma's economic policy-making bodies has been so degraded under military rule that it may not provide sufficient capacity to engage in transformational economic reform. Such advice should begin with the reform of data collection in Burma to replace the current unreliable, inconsistent, and politically driven data collection process with one capable of providing critical feedback and accountability.

A second measure is for the United States and other appropriate countries to provide Burma with assistance in economic institution building. There are a great many needs on this front, but one of the most pressing is the need to create mechanisms through which to direct the revenues that Burma is accruing rapidly through its natural gas exports to development that benefits its people. Today, as a result of the deliberate policy choices of Burma's government, these revenues are creating a variant of the "resource curse" in which the country's tremendous gas wealth is hoarded and squandered by its leaders while its population remains desperately poor. Efforts in other resource-rich countries provide a body of experience, including measures that the United States has supported, to improve transparency and accountability over public funds in the face of entrenched corruption, mismanagement, and autocratic rule. This experience could be applied in Burma to help create mechanisms that can better direct resources toward public needs.

A third measure is for the United States to provide assistance in the form of micro, small, and medium finance to Burmese entrepreneurs to support tackling its grave crisis in rural indebtedness, a lack of new and affordable credit for farmers, and an absence of viable enterprise in rural areas. Rural Burma, once the location of some of the most productive and prosperous paddy farmers in the world, is currently in great economic distress. One of the causes of this distress is an extreme paucity of credit for farmers and rural enterprise, which lies at the heart of increasing food insecurity in many parts of Burma. Micro, small, and medium finance presents a readily available mechanism to reduce these problems in Burma's rural credit markets. It is a particularly useful device in conflict and politically sensitive areas, and in minimizing corruption and misappropriation. A private micro, small, and medium finance wholesale funding vehicle should be created, building on schemes in Burma that are already benefiting from U.S. funding and other support.

Stage 3: Actions to be undertaken after real progress has been demonstrated on a sustained basis

Stage 3 would commence when there is clear evidence of change that can be further developed and supported—for example, when the civilian population believes that the new government is serving its interests, when it is safe to run for office and engage openly in political activity, and when a new generation of socially responsible political and military leaders has emerged. A second round of parliamentary elections, planned for 2015, would provide a more reliable measure of political progress in Burma than the first round in 2010, and could be a key indicator of such change. If there is definitive progress in these areas, engagement should expand, and sanctions should begin to diminish.

During this stage, the Task Force recommends the following:

- **The United States should create aid programs designed to improve civil service capacity and the effectiveness of government welfare and education.** The United States should begin selective development assistance, health and education assistance in cooperation with government ministries, significantly expanded outreach and public diplomacy programs, educational exchanges, and many other elements of normal relations with an underdeveloped country. USAID could conclude a bilateral assistance agreement with the Burmese government, paving the way for broader, more cooperative programs. Assistance from the United States—and from the international community more generally—is vitally important. U.S. assistance programs will be even more important if the country reinstates elected government, and should be expanded as circumstances warrant.
- **The United States should begin to focus on legal reform to address civil rights, economic law, and corruption.** Eventually, it might become possible to provide assistance and training to parliamentary and legislative organizations. All of these

efforts should place special emphasis on minority nationalities to facilitate their full participation in the country's political and economic development.

- **The United States should encourage the creation of a flexible mechanism that will allow some sanctions to be lifted, while maintaining others and holding the capacity to impose new, tightly targeted financial sanctions should circumstances deteriorate.** This mechanism would be based on a measured and transparent formula for calibrating these sanctions to alleviate the negative impact on Burmese workers and small entrepreneurs, while continuing to target those engaging in harmful practices. The measurement criteria should include civil liberties, political rights, voice and accountability, the extent of the rule of law, and controls on corruption. Such criteria would discourage empty promises and backsliding as the United States increases its interaction with the Burmese government, while recognizing that human rights and other critical determinants of a decent life are essential to achieving good governance.⁶
- **The United States should position itself to promote security sector reform in Burma. In addition to advancing reforms in the judiciary and oversight of the country's military and police, the United States should prepare to expand bilateral relations with Burma's security forces and restore some form of security assistance, particularly police training assistance, if concrete developments in human rights and a clear intention to professionalize Burmese security forces take place.** Such efforts should be aimed at building up a police force that can operate under civilian rule and establishing a judiciary to handle rule of law issues. Military-to-military work could be carried out jointly with Indonesian officers, who also could impart a regional appreciation of civilian rule over the military. In the area of police training assistance, the United States should turn to other nations that have national police experience, such as Australia, Canada, New Zealand, or the United Kingdom. The United States and the region more broadly also could benefit from expanded, but carefully monitored, counternarcotics cooperation and other programs related to international criminal activity into and out of Burma.

There are no easy solutions, and the path forward will not be smooth. In every respect, the conditions in Burma are among the most dire of any country in the world, and it will take decades, if not generations, to reverse current downward trends and create a foundation for a sustainable and viable democratic government. The United States must ensure that its policies do not inadvertently support or encourage authoritarian and/or corrupt elements in Burmese society. At the same time, if the United States sets the bar too high at the outset, it will deny itself an effective role in helping to move Burma away from authoritarian rule and into the world community.

⁶ See Appendix A, "A Mechanism for Assessing and Appropriately Adjusting Economic Sanctions on Burma," which was written by Sean Turnell, an advisor to the Task Force.

Current Realities

The Context of Change

In this report, the **Asia Society's Task Force** on U.S. Policy toward Burma/Myanmar aims to provide a road map detailing how the United States can best approach a new path of engagement with Burma. The Task Force believes that changing circumstances inside and around the country warrant wider U.S. engagement not only with Burma, but also with the Southeast Asian region and other key stakeholders, than has been the case in the recent past. These circumstances include the following:

- **A serious and troubling decline in human rights in Burma since the most recent popular uprising in 2007.** The number of political prisoners doubled in the course of less than a year and came to include not only members of opposition political parties, but also monks, journalists, and community activists, who were detained primarily for protesting deteriorating economic and social conditions. Many have been sentenced to lengthy prison terms—some in excess of 100 years—in closed court proceedings. At the same time, the regime's violent attacks on non-Burman minorities along the country's eastern border have intensified. The United Nations, U.S. Department of State, Human Rights Watch, and other nongovernmental organizations (NGOs) have reported extensively and reliably on the military regime's record of human rights abuses, including the denial of aid, forced labor, the use of child soldiers, violence against ethnic minorities, forced displacement, systematic and widespread rape, torture and extrajudicial killings, religious persecution, and other atrocities.⁷
- **The continuing decline of Burma's agricultural sector.** Despite the large influx of foreign capital, the Burmese military has laid waste to the country's agricultural wealth—once the mainstay of Burma's economy—pushing it to the brink of collapse.
- **Strategic interests and rapid economic growth in the region.** As a result of its location between two of Asia's giants—China and India—Burma is now the focus of a geopolitical contest for influence between the region's biggest powers, which have economic and strategic interests in the country. The region's rising economic power has made Burma a highly attractive source for natural resources and raw materials. This has put the Burmese generals at the center of windfall hard currency profits. In particular, the large sums of money accruing from energy projects are

⁷ For recent examples, see the Report of the UN Special Rapporteur on the Situation of Human Rights in Myanmar, <http://www.ohchr.org/en/countries/asiaregion/pages/mmindex.aspx> (accessed January 14, 2010); U.S. Department of State, "2008 Human Rights Report: Burma," in *2008 Country Reports on Human Rights Practices* (Washington, DC: Bureau of Democracy, Human Rights and Labor, 2009), <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119035.htm> (accessed January 14, 2010); and Human Rights Watch, *Burma's Forgotten Prisoners* (New York: Human Rights Watch, 2009).

being siphoned from the national treasury and channeled into activities that do not promote or contribute to economic development or to the welfare of the vast majority of the country's population. The generals and their business cronies have become very rich, while the people have sunk deeper into poverty.

- **Developments that contribute to regional instability.** Several factors could intensify the threat that Burma poses to regional stability and security, including its murky relationship with North Korea, greater instability along its borders as a result of military efforts to rein in insurgent groups, the continuing export of disease and refugees, and the trafficking of drugs and contraband across its porous borders.
- **The 2010 elections and possible changes in Burma's government.** If elections take place in 2010 as planned, the key indicators of change will be whether the resulting government relaxes political restrictions, institutes economic reforms, and takes substantial measures to advance human rights. If there is no movement on these fronts, there will be little room for improving U.S. relations with Burma, and, in fact, pressure in the United States for tightening sanctions and other punitive measures likely will follow. On paper, Burma's new constitution, promulgated in 2008, outlines a transition to an elected, civilianized government, albeit one in which the military retains an important measure of control. If the generals begin to shift leadership to a parliamentary government in the next few years and transfer meaningful power to civilian leaders, the door could open for political change. Despite the constitution's heavy military overlay, its prescription for multiparty parliamentary government could form the foundation for a political process (which has been absent in Burma for 20 years) that would produce pressure for both political and economic reform over the coming decade. Additionally, as Burma's current military leadership ages, it is preparing to pass the mantle of military command to a considerably younger set of leaders, with an age difference of some 20 years. Therefore, the outcome of the election—particularly if it leads to a reestablishment of genuine parliamentary government—could, at a minimum, coincide with a new generation of military leaders. It remains to be seen whether this process will lead to fundamental change, or whether it will merely bring about the trappings of change with the next-generation military leadership in charge.
- **The expansion of nongovernmental activity.** In the face of nefarious restrictions on the delivery of aid, the cumulative effect of nearly 20 years of experience on the ground in Burma by international aid agencies and NGOs appears to have opened a wider space for grassroots activity and for providing support to a growing body of local NGOs and community-based organizations. These efforts are of vital importance, as the Burmese government does not allow aid to reach most ethnic and conflict-affected areas. Recent rumors that Burma's leadership may suspend NGO activity for a period coinciding with the elections signal are troubling.

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- **ASEAN as a key venue for encouraging reforms in Burma.** Indonesia and some other countries of the Association of Southeast Asian Nations (ASEAN), which once refused to criticize the internal affairs of its members, have developed both politically and economically to the point that they may have the will to encourage change in Burma, a fellow ASEAN member. However, it remains unclear whether those ASEAN members that can bring the rest of the group along are willing to take on the leadership role to do so.
 - **Lessons learned from past experiences.** Some 20 years of post–Cold War experience have taught the United States important lessons about the difficulty and complexity of building a foundation for democracy in politically and economically undeveloped countries, where violence and coercion, rather than negotiation and mediation, are often the preferred method of settling internal differences.

Combined with the political and economic changes taking place in the region over the past 20 years, these developments create a context for both risk and opportunity. For instance, if the country begins a transition, there is a risk that the many resentments seething just below the surface in Burma could spawn violence and disorder. On the other hand, if a process of reform begins, over time, it could present new opportunities for foreign assistance and an influx of expertise—which have been deliberately thwarted by successive military regimes. This could help contain agricultural and health disasters, among other things, and give the population new hope for its future. Either way, rapid evolutions in Burma could have unforeseen consequences for the rest of the region.

Political Background

Burma has been governed by military dictatorship for five of the six decades since it gained independence from British colonial rule in 1948. When the first military dictatorship was replaced in the face of a popular uprising in 1988, it was succeeded by another military clique, one that pledged to restore multiparty parliamentary governance through elections in 1990. The uprising of 1988 also brought to the forefront a new national hero: Aung San Suu Kyi. Her father, General Aung San, had fought to free Burma from colonial rule and was assassinated by a fanatical opponent as he was preparing the country for independence in 1947. Although the political party that Aung San Suu Kyi helped organize for the 1990 elections, the National League for Democracy (NLD), won more than 80% of the parliamentary seats in the election, the military regime refused to seat the new parliament until a new constitution could be written.

For the next two decades, the military regime, which calls itself the State Peace and Development Council (SPDC), proceeded to jail NLD members elected to parliament, as well as many other political activists; to violently repress popular demands to restore democracy; and to severely restrict fundamental human rights. The regime has also held Aung San Suu Kyi in detention for 14 of the last 20 years. Nevertheless, she continued to

speaking out for democracy, advocating that the international community should not support the military regime until it agreed to join with the country's democratic groups and minority nationalities to return the country to democracy.

In October 2000, after a series of internationally embarrassing stand-offs with Aung San Suu Kyi over constraints on her travel beyond Rangoon, the regime entered into "confidence building" talks with her and senior members of her political party. After 18 months of discussions, Aung San Suu Kyi was released from detention and allowed to travel freely throughout the country, on the understanding that this would give her a chance to gain a better appreciation of the country's development during the previous decade. For her part, she hoped this would lead quickly to serious tripartite negotiations with the regime on a plan for transition to parliamentary government. As she traveled around the country during the year of her release, however, she drew enormous crowds of well-wishers, causing alarm within the military leadership that the momentum of her popularity could derail plans for a controlled transition. In late May 2003, the leadership staged an attack on her motorcade during a trip near Mandalay, and she was taken back into detention. In August 2009, on the pretext that she had violated the conditions of her detention as a result of an uninvited visit by an American citizen, she was sentenced to another 18 months of detention, part of the regime's effort to clear the decks of opposition in preparation for parliamentary elections in 2010.

In the face of continuing repression, intimidation, and denial of basic freedoms, in 2007 and 2008, the country experienced a marked expansion of public activism and community development initiatives, the results of two major events that had profound psychological impacts on the population. The first occurred in August and September 2007, when mass demonstrations—which came to be known as the Saffron Revolution—led by tens of thousands of Buddhist monks broke out in Rangoon and other cities to protest the hardship engendered by the military government's deliberate political choices and economic policies. Failing to coerce the monks back to their monasteries with verbal threats, the regime opened fire on them. This act horrified the country's devoutly Buddhist population and sacrificed the respect of the country's 400,000-strong monkhood, which the generals had until then considered crucial to their legitimacy.

The second event occurred in May 2008, when the strongest cyclone in Burma's history—Cyclone Nargis—flooded the Irrawaddy River Delta. The government hesitated to allow an immediate full-scale international relief effort on the delta, motivating large numbers of Burmese civilians to join forces in ferrying caravans of food and medical aid to the cyclone's survivors. The two events, occurring in the space of less than a year, combined to strengthen the country's incipient civil society movement and consolidate its alliance with religious institutions. Today, the civil society movement continues to institutionalize and expand its capacity, although the regime recently signaled that it may require both domestic and international nongovernmental organizations (NGOs) to cease operations during the election period.

While these two events unfolded, the SPDC was in the final stages of producing a new constitution.⁸ The final constitution was drafted in the interim between the Saffron Revolution and Cyclone Nargis and brought to a national referendum in the immediate aftermath of the cyclone. The regime's crass effort to bulldoze approval of the constitution in a national referendum, rather than responding adequately to the devastation of the cyclone, discredited the constitution with the population. Most citizens of Burma expect that it will simply codify continued military rule. Even today, as preparations for the elections begin to take shape, the vast majority of Burmese who will be participating in the process have yet to read the constitution.

In the aftermath of the Saffron Revolution of 2007, the regime cracked down on all those whom it imagined responsible for the uprising, detaining hundreds of activists, monks, nuns, political figures, artists, and journalists and sentencing them to lengthy prison terms in closed court proceedings, effectively doubling the number of political prisoners in the space of a few months. Sentences for political activists have also become much harsher (in some cases, exceeding 100 years), charging them under archaic provisions in the Penal Code criminalizing free expression, peaceful demonstrations, and the formation of organizations not sanctioned by the government. Many political prisoners have been isolated from friends and families and sent to remote locations in squalid conditions, where ill treatment and torture are common. Prison conditions have deteriorated in general, particularly with the suspension of prison visits by the International Committee for the Red Cross several years ago.

Conditions in non-Burman minority areas have also remained bleak, as the regime has continued its inexorable campaign against the remaining insurgencies along its borders, destroying villages, pillaging and raping, and displacing large numbers of people. The army's practice of confiscating land in ethnic minority areas has only intensified with its need to support additional forces, as it brings more territory under subjugation and expands its economic interests in agricultural production and resource exploitation. Minority nationalities in general, with the exception of the larger cease-fire groups, continue to be excluded from economic and political advancement.

During 2009, international attention focused on an ominous trend in the SPDC's relations with North Korea, which were reestablished in 2007 after a 24-year hiatus.⁹ Some reports have indicated that the arms trade between Burma and North Korea may include a nuclear technology component, as well as technical assistance with tunnel construction for protecting the SPDC's military assets. The SPDC reportedly has given assurances to several governments that it will not abrogate its responsibilities under the Nuclear Non-Proliferation Treaty, and rumors of nuclear weapons aspirations by the SPDC remain unsubstantiated. Nonetheless, these rumors are unsettling to Burma's neighbors and threaten to introduce a new source of instability into the region.

⁸ See Appendix B, "The Current Trajectory: 2010 Elections and the Economics of the Constitution," which was written by Priscilla Clapp and Sean Turnell, advisors to the Task Force.

⁹ Burma and North Korea severed diplomatic relations following a bomb attack by North Korea in 1983 that targeted a senior South Korean delegation traveling in Rangoon.

When U.S. Senator James Webb visited Burma in August 2009, he was unexpectedly received by Senior General Than Shwe and given access to Aung San Suu Kyi, in marked contrast to a visit made several weeks earlier by UN Secretary-General Ban Ki-moon. The SPDC also released the U.S. citizen who had been arrested for his unauthorized visit to Aung San Suu Kyi's home. The positive atmosphere of the Webb visit, followed almost immediately by the regime's attack on the ruling faction of the Kokang cease-fire group, was interpreted as a sign that the SPDC wished to rebalance its relations with the United States and China. The positive note struck during the Webb visit probably was also indicative of the SPDC's hope that the U.S. policy review that had been under way for several months might bring a warming of U.S.–Burma relations. Shortly after the Webb visit, Aung San Suu Kyi sent a letter to Senior General Than Shwe, offering to help the regime seek relief from economic sanctions and asking to meet with foreign ambassadors to learn more about what these sanctions entailed. Than Shwe approved her request, and she was allowed to meet with U.S., U.K., and Australian diplomats in Rangoon. A second letter from Aung San Suu Kyi to Than Shwe, in which she requested to meet with senior NLD representatives to begin laying the groundwork for assistance with both sanctions and international humanitarian assistance, appears to have received no response as yet. Subsequently, she was allowed to meet with senior NLD officials, but apparently there has been no further response to her offers to assist the leadership with sanctions and humanitarian assistance.

In September 2009, the Barack Obama administration announced that it had completed its policy review and would be seeking engagement with the military regime in order to balance its policy of economic sanctions. Assistant Secretary of State for East Asia and Pacific Affairs Kurt Campbell initiated the new “pragmatic engagement” policy by meeting with senior Burmese officials at the UN General Assembly in September. In November, he became the most senior U.S. official in nearly 15 years to travel to Burma to meet with the SPDC leadership. While these meetings do not seem to have produced any concrete results, he was able to meet with Aung San Suu Kyi, giving the United States its first opportunity since mid-2003 to explore her views in detail. He also met with senior NLD members and representatives of ethnic minority groups. Later that month, President Obama attended the ASEAN-U.S. Leaders Summit in Singapore—the first meeting of its kind—where he met with Burmese prime minister Thein Sein, along with nine other leaders from ASEAN (Association of Southeast Asian Nations) countries. The findings of Campbell's “exploratory mission” and the president's meetings in Singapore, as well as the SPDC's response to the new opening, will factor importantly into the administration's calculations about next steps in its Burma strategy.

Socioeconomic Background

Once known as the “rice bowl of Asia,” decades of economic mismanagement in Burma have reduced this formerly prosperous land to destitution. In 2009, Burma's per capita gross domestic product (GDP) was just over US\$1 a day. Even when adjusted in terms of purchasing power parity, Burma's GDP amounts to little more than \$3 per person

per day.¹⁰ In short, the daily life of the average person in Burma is characterized by grinding poverty and unrelenting struggle for survival.

The dismal state of Burma's economy is the product of nearly 50 years of inept economic management under a succession of military regimes with a fundamentally unchanging outlook. For decades, Burma's military apparatus claimed the largest portion of the country's output while, at the same time, undermining basic market institutions. No effective property rights exist in Burma, and the rule of law is not even approximated. Macroeconomic policy making is arbitrary, erratic, and uninformed. The SPDC spends vastly in excess of its (declared) revenue and resorts to "printing money" to finance its expenditures. Accelerating inflation and monetary chaos have been the predictable consequences. Burma's currency, the kyat, is widely distrusted, and it trades according to wildly varying official and unofficial exchange rates. Apart from painting an image that is rightly associated with the most chaotic of economies, this twin exchange rate apparatus creates an obvious incentive for corruption, and it is a substantial barrier to foreign investment.

Critical sectors of Burma's economy are starved of resources. This is especially the case for Burma's health and education sectors, where the country spends little more than 1% of GDP. This represents less than half the amount spent by the next poorest member of ASEAN (Laos), and Burma is the only country in the region whose defense budget is greater than that of its health and education sectors combined. The lack of spending on health and education has had grave consequences. The UN estimates that upwards of 1.1% of the population is infected with HIV/AIDS, but independent health experts warn that the percentage infected could be much higher than what is reported in official statistics.¹¹ The country also has a high prevalence of diarrhea, typhoid fever, and dengue fever. Children are especially vulnerable, and nearly 10% of all Burmese children will die before their tenth birthday from easily preventable diseases such as chronic malnourishment, pneumonia, diarrhea, and malaria.¹²

Burma's education system has degraded to such an extent that little more than half of Burmese children complete primary school. The country is one of the few places in the world where the present generation of students will be less well educated than their parents. Burma's schools lack the most basic of resources and subsist by levying all manner of "fees," exacerbating the already low school completion rates. Teachers are so poorly

¹⁰ International Monetary Fund, "World Economic and Financial Surveys: World Economic Outlook Database," <http://www.imf.org/external/pubs/ft/weo/2009/02/weodata/index.aspx> (accessed January 26, 2010).

¹¹ United Nations statistics cover infection rates for adults between the ages of 15 and 49. See Joint United Nations Programme on HIV/AIDS (UNAIDS), *2008 Report on the Global AIDS Epidemic* (Geneva: UNAIDS, 2008), p. 220. Infection rates, however, among Burma's younger population (below the age of 24) are much higher, as are infection rates among "vulnerable" groups, including drug users and sex workers. For a discussion on the difficulties and challenges associated with accurate health reporting in Burma, see Open Society Institute, *The Gathering Storm: Infectious Diseases and Human Rights in Burma* (New York: OSI, 2007); and UNAIDS, "Myanmar: Country Situation," July 2008, http://data.unaids.org/pub/ExternalDocument/2008/sa08_mmr_en.pdf (accessed February 19, 2010).

¹² Catharine Dalpino, "Burma/Myanmar: Views from the Ground and the International Community," National Bureau of Asian Research, June 2009, <http://www.nbr.org/research/activity.aspx?id=45> (accessed February 2, 2010).

paid that most engage in other activities in order to survive (including selling food to students), and they provide much of the set curriculum only through private tuition. The “selling” of entrance exams and degrees is a common practice and a particularly damaging example of the widespread corruption in Burma that reflects the desperation in the country. Meanwhile, the curriculum of Burma’s government schools is rigidly set by the regime and taught more or less by rote. Higher up the education ladder, Burma’s universities are a shadow of what was once a regional beacon of quality. Under-resourced and deeply corrupt, Burma’s universities are centers of surveillance and control that are routinely closed down by the regime at the first hint of unrest. Burma’s elite—including members of the regime itself—mostly opt to send their children abroad rather than to local universities.

The extent of the SPDC’s economic mismanagement discourages most potential foreign investment. What does enter is strongly concentrated in the gas, oil, and other extractive industries. Scant employment is generated from such investments, and there is little in the way of technology or skill transfer. The primitive state of Burma’s economy is clearly revealed in its structural makeup. Dominated by agriculture and extractive industries, the contributions of manufacturing and services to GDP remain extraordinarily small. In 2007, a mere 13% of Burma’s GDP was generated by manufacturing and processing (compared to 42% for China, 35% for Thailand, 21% for Vietnam, and 22% for Cambodia). Services accounted for 27% of GDP (compared to 40% for China, 46% for Thailand, and 38% for both Vietnam and Cambodia).¹³

Burma’s economy is highly dualistic, separated into an informal and a formal economy. Most Burmese operate in the informal economy. Engaged in small-scale agriculture, petty production, and trade and rudimentary services, the vast majority of people in Burma eke out a living in an economy that is overwhelmingly, if not exclusively, local. The family is the primary economic unit, and the methods and organization of production are largely traditional. The average Burmese citizen spends more than 70% of his or her income on food. This is the highest proportion among Southeast Asian nations and a significant indicator of Burmese citizens’ slim margin of survival. A survey conducted by the United Nations Development Programme and Burma’s own Central Statistical Organization found that more than 30% of the population had incomes below the threshold necessary to provide for basic food and other needs, a ratio that rose to more than 50% in non-Burman states and regions.¹⁴

One avenue through which many thousands of Burmese households have been able to surmount the precariousness of economic life in recent years is through remittances sent home by family members working abroad (both legally and illegally). According to data from the International Monetary Fund (IMF), remittances of \$65.7 million were sent to Burma in 2006 (the latest year for which we have data).¹⁵ This is likely to be a considerable

¹³ Asian Development Bank, *Asian Development Outlook 2007: Growth amid Change* (Manila: ADB, 2007).

¹⁴ United Nations Development Programme, *Impact of the UNDP Human Development Initiative in Myanmar, 1994–2006* (Yangon: UNDP, 2006).

¹⁵ International Monetary Fund, *Balance of Payments Statistics Yearbook 2008* (Washington, DC: IMF, 2009).

understatement of their true magnitude and significance, however, as the overwhelming volume of remittances to Burma are made through informal payment mechanisms (such as hundi) that are not recorded in official data. Surveys of remittances to Burma suggest that average annual payments per sender amount to more than Burma's per capita GDP, and that aggregate flows likely exceed \$300 million.¹⁶ In November 2009, it was widely reported in the Burmese press that the country's labor ministry had issued an edict requiring nationals working abroad to remit up to 50% of their incomes—30% for those earning less than \$400 per month and 50% for those earning more—through the Myanmar Foreign Trade Bank. Such a policy, which will be widely evaded, likely will be as ineffectual as it is ill considered.

Burma's formal economy—which includes the country's vast state sector and much of the trade in raw materials, precious metals, stones, and energy—is dominated by entities (including Burma's two major military-owned conglomerates, the Union of Myanmar Economic Holdings Limited and the Myanmar Economic Corporation) and individuals connected to the country's ruling military regime. Burma's military rulers have been extraordinarily inept at managing the country's macroeconomy. However, they have proven to be expert at ensuring that the economy's commanding heights, the trades that generate foreign exchange, and any new and profitable opportunities that emerge remain concentrated in their hands. As we shall explore later, this is especially true in Burma's burgeoning exports of natural gas—the financial bounty of which is hidden and squandered by Burma's military leadership.

The suffocating control that Burma's military wields over the formal economy has had dire implications for the economic welfare of its citizens, but this fact is not without relevance to the debate over economic sanctions. Simply put, it is the formal economy—reliant on international demand and international financial and other services—that is most vulnerable to sanctions. Therefore, the burden of sanctions on Burma is borne primarily by the actors in its formal economy, who are also its dominant political actors. This suggests that the removal of sanctions in Burma would not lead to the rise of an alternative center of economic power outside the military regime in the form of a “business class” that, in the tradition of nineteenth-century Europe, America, and Australasia, emerges as a liberal force demanding reform.

A significant underground economy also exists in Burma. Much of this simply represents the everyday activities of the Burmese people and their efforts to survive by weaving through the thicket of obstacles thrown in their path by their government. Some of it, however, is objectively illegal. According to an October 2007 report prepared by the U.S. Congressional Research Service, organized crime and ethnic cease-fire (and non-cessate-fire) groups in Burma work in collaboration or collusion with the military government to control a vast illegal enterprise that functions throughout Southeast Asia:

¹⁶ Sean Turnell, Wylie Bradford, and Alison Vicary, “Migrant Worker Remittances and Burma: An Economic Analysis of Survey Results,” in *Dictatorship, Disorder and Decline in Myanmar*, ed. Monique Skidmore and Trevor Wilson (Canberra: ANU E-Press, 2008).

Trafficked drugs, humans, wildlife, gems, timber, and other contraband flow through Burma, supporting the illicit demands of the region and beyond. Widespread collusion between traffickers and Burma's military junta, the State Peace and Development Council (SPDC), allows organized crime groups to function with virtual impunity. Transnational crime in Burma bears upon U.S. interests as it threatens regional security in Southeast Asia and bolsters a regime that fosters a culture of corruption and disrespect for the rule of law and human rights.¹⁷

Burma is currently the world's second-largest producer of opium and the dominant producer and exporter of methamphetamines into Southeast Asia.¹⁸ The profits from this trade have served to capitalize many of Burma's largest private conglomerates, which also provide the vehicles through which drug profits are laundered. The laundering process is manifest in all manner of activities—from the more obvious (casinos, gem and precious metal trading, banking) to infrastructure building, tourism, industrial agriculture, import-export business, housing construction, retailing, and lucrative music and film pirating activities. The significance of all of this is that many of the dominant private-sector players in Burma today are questionable entities that enjoy the tolerance and protection of the state in order to conduct their activities. Such actors and other businesses engaged in activities that, while not necessarily illegal, nonetheless depend for their success on their proximity to the regime are not likely agents of positive change in Burma.

Burma's economic performance is sapped by corruption that runs through all levels of society, from the "tea money" demanded by petty officials, to large-scale larceny on the part of Burma's regime and their business partners. Like the country's teachers, civil servants in Burma are paid far less than a living wage, and the extraction of bribes for tasks that ostensibly are part of their employment is routine. The country is ranked as the third most corrupt in the world according to Transparency International's Corruption Perceptions Index 2009 (behind Iraq, but ahead of Afghanistan and Somalia). The pervasiveness of corruption in Burma imposes great costs on the economy in myriad ways—including, but not limited to, the misallocation of resources to those able to pay the biggest bribes; the further undermining of what residual trust remains in public institutions; heightened risks in undertaking productive investment; increased expense of doing business along with increased uncertainty; and the reinforcement of income and wealth inequalities.

Cyclone Nargis and the Drought of Rural Finance

In May 2008, Cyclone Nargis cut a swathe through lower Burma, blighting much of the country's most productive land in the Irrawaddy River Delta. Nargis killed an estimated 140,000 people, left 800,000 homeless, and caused severe hardship for a third

¹⁷ Liana Sun Wylar, "Burma and Transnational Crime," U.S. Congressional Research Service, Report No. RL34225, April 27, 2009, http://assets.opencrs.com/rpts/RL34225_20090427.pdf (accessed February 2, 2010).

¹⁸ See U.S. Department of State, "2009 International Narcotics Control Strategy Report, Country Reports," February 27, 2009, <http://www.state.gov/p/inl/rls/nrcrpt/2009/vol1/116520.htm> (accessed February 2, 2010). The National Drug Threat Assessment of 2009 notes that no Burmese heroin has been found in the United States since 2006.

of the region's roughly 7.5 million inhabitants.¹⁹ In its economic dimension, this hardship was manifested above all in a sudden and devastating shock to incomes. Surveys taken in the first few months after Nargis revealed that the poor population—the vast majority—in affected areas had their spending power effectively halved. As a result, Burmese citizens are unable to afford food, and the country is presently facing chronic food insecurity despite promising reports of a recovery in paddy and food production since the storm.

The human and physical destruction caused by Nargis captured the world's attention. Less in focus, however, were the institutional failures and shortcomings revealed in the cyclone's aftermath. Prominent among these is the near-complete failure to provide the financial resources necessary for the reconstruction of physical infrastructure and the rehabilitation of livelihoods. Early accounts immediately following the cyclone revealed that most households in cyclone-affected regions had no access to credit of any kind. Traditional informal credit networks—such as advanced payments by farmers to agricultural laborers in the form of rice or the “storing” of wealth in the form of livestock that could be sold in a crisis—had collapsed as rice and livestock were lost to the storm.

Throughout all of this, Burma's government was of negligible help. What little assistance it did provide—cultivating equipment that was often dysfunctional, poor-quality seeds, and very little in the way of fertilizer—it did so as interest-bearing debt payable after the first harvest, rather than as grants. Moreover, Burma's rural credit system remains moribund. Even credit traditionally available to cultivators from moneylenders at interest rates of 10% to 20% per month is unavailable in many parts of the country. As a consequence, cash has all but disappeared from rural Burma, and “almost all farmers . . . [have] little if any paddy left over for home consumption right after harvest because they had to sell everything at harvest time.”²⁰

Burma's rural financial system was dysfunctional well before Cyclone Nargis. The agricultural sector, which provides more than 70% of employment in Burma and around 50% of the country's GDP, receives a little more than 1% of Burma's formal credit. Burma's rural finance arrangements suffer from broad official neglect, a weak policy environment, an inappropriate regulatory structure, a lack of institutional capacities, and a dearth of formal expertise. Government-imposed interest rate caps on all lenders and the perennial inability of farmers to fully use their land as loan collateral (the state is the owner of all land in Burma) add to country's financing problems. The latter is especially egregious in that, in the absence of formal credit provided on the basis of land as collateral, cultivators are often forced to pledge their use rights to informal moneylenders. The high interest rates charged by moneylenders only add to the economic woes in rural Burma, creating a situation in which indebtedness has once more (replicating the disasters of the 1930s)

¹⁹ Tripartite Core Group, “Post-Nargis Joint Assessment,” July 2008, <http://www.asean.org/21765.pdf> (accessed February 2, 2010). The figure of 140,000 deaths resulting from Nargis is based on an estimate put forward by Burma's government.

²⁰ David Dapice, Tom Vallyey, and Ben Wilkinson, “Assessment of the Myanmar Agricultural Economy,” International Development Enterprises, John F. Kennedy School of Government, Harvard University, January 2009, http://ash.harvard.edu/ash/myanmar_burma_assessment.pdf (accessed February 2, 2010).

emerged as source of widespread and growing landlessness. Meanwhile, Burma's pervasive environment of corruption ensures that what little funds are available to rural borrowers go to larger farmers with the right connections.

External Economic Relations and Burma's Natural Resources

The one bright spot with respect to Burma's economy in recent years has been the apparent turnaround in the country's external sector. In place of the chronic deficits that until now have been characteristic, persistent surpluses have emerged, and along with them, swelling foreign exchange reserves. For 2009, these reserves will increase to more than \$5 billion, largely as a result of Burma's emergence as a major regional supplier of natural gas. Gas exports represented around a quarter of Burma's exports by value in 2008–2009, and their strength comes from a mixture of rising gas prices and increases in export volumes.

Burma's success in exporting gas is attributable to its possession of large and exploitable offshore natural gas fields in the Gulf of Martaban and the Bay of Bengal. Cumulatively, these fields will bring in around \$2 billion annually in export earnings for the next 20 to 30 years.²¹ The overwhelming majority of Burma's current gas deliveries come from the so-called Yadana (jewel) fields off Mouttama, and the Yetagun (valiant banner) fields off Burma's Tenasserim coast, which came on stream in 1998 and 2000, respectively. Yadana was established as a joint venture between Burma's state-owned energy company, the Myanmar Oil and Gas Enterprise (MOGE), in partnership with Total Oil (France), Unocal (United States), and PTT Exploration and Production (Thailand). The Yetagun fields were developed by MOGE, Premier Oil (United Kingdom), and Nippon Oil (Japan). Both consortia remain active today, although Chevron has taken over Unocal, and Premier Oil transferred its stake in the Yetagun fields to Petronas (Malaysia). The primary customer for the output from the Yadana and Yetagun fields is Thailand, which, in stark contrast to the historical relationship, now runs a substantial trade deficit with Burma as a consequence.

Over the next few years, the export of gas from Yadana and Yetagun will be joined by exports from new fields off Burma's coast in the Bay of Bengal. These fields, the most lucrative of which are collectively known as the Shwe (gold) fields, are being explored and developed by a consortium that comprises MOGE and firms from South Korea (Daewoo International and the Korean Gas Corporation) and India (Gas Authority of India Limited and the Oil and Gas Corporation). China will be the primary recipient of this natural gas. This project consists of a planned 2,400-kilometer pipeline starting at the port of Kyauk Phyu in Arakan State, running diagonally through Burma, and ending in China's Yunnan Province. China also plans to build an oil pipeline alongside the natural gas pipeline to reduce the need to move oil imports from the Middle East through the Malacca Straights. Because the key players have shown little or no concern for human rights or environmental

²¹ British Petroleum, *BP Statistical Review of World Energy*, June 2009, <http://www.bp.com/productlanding.do?categoryId=6929&contentId=7044622> (accessed February 2, 2010).

considerations, the construction of this trans-Burma “energy corridor” could be completed by 2013.²² Depending on prices, the Shwe gas will deliver annual revenues to Burma of \$1 billion to \$2 billion for the next 30 years.

Burma’s gas earnings should be transforming the country’s prospects and expanding the fiscal capacity for spending on basic infrastructure, health, and education that the country so desperately needs. However, the foreign exchange revenues that Burma is accumulating currently are having next to no impact on the country’s fiscal accounts. The reason is simple: Burma’s U.S. dollar gas earnings are being recorded in the government’s published accounts at the official exchange rate of the kyat. This official rate—at around 6 kyat to 1 U.S. dollar—overvalues the currency by nearly 200 times its market value, currently set at around 1,000 kyat to 1 U.S. dollar. Correspondingly, this understates the local currency value of Burma’s gas earnings by an equivalent amount. Recorded at the official rate, Burma’s gas earnings translate into less than 1% of budget receipts. It is all a neat accounting trick that allows Burma’s leaders to hide immense revenues from the public and the international community, and it is properly understood as a mixture of gross mismanagement and the outright theft of Burma’s natural resources by a government that is well practiced in both. If the same U.S. dollar gas earnings were recorded at the market exchange rate, rather than stashed (reportedly in offshore accounts)²³ and squandered by the individuals who have access to the funds, their contribution would more than double total state receipts and largely eliminate Burma’s fiscal deficit. Properly brought back to Burma, the country’s gas earnings could allow substantial internally generated capital—more than the amount necessary, for instance, to eliminate the cash and credit crisis that is plaguing rural Burma and to easily meet the needs for post-Nargis reconstruction in the delta.

Beyond gas, Burma’s external trade follows a pattern that has been apparent for a number of years. Burma’s largest trading partner is Thailand, which receives gas exports from Burma. Fast-rising China is Burma’s largest source of imports and its second-largest export market. China has also been Burma’s largest source of foreign direct investment in recent years (most of which is related to mining activities), and, in many other ways, it the most visible foreign economic presence in the country. Combined with the prominence of Sino-Burmese workers in Burma’s economy, this last aspect does not come without tension and some angst among Burma’s leaders. India has become an increasingly important market for Burmese agricultural exports, while both Japan and Singapore remain significant trading partners. Burma’s trade with Western countries is negligible.

²² Based on experience from previous oil and gas projects in Burma and current conditions in the areas through which the pipelines are to be built, many anticipate that forced labor will be employed in the construction of these projects and their associated infrastructure, and that they will result in illegal land confiscation, forced displacement, and unnecessary use of force against villagers. As has been the pattern with other pipeline installations in Burma, reports of land confiscation around the port of Kyauk Phyu for oil and gas storage facilities are already emerging.

²³ See EarthRights International, “Total Impact: The Human Rights, Environmental, and Financial Impacts of Total and Chevron’s Yadana Gas Project in Military-Ruled Burma (Myanmar),” September 2009, <http://www.earthrights.org/sites/default/files/publications/total-impact.pdf> (accessed February 2, 2010). Total’s denial of the claims in this report can be found in “Total in Myanmar: Update, September 2009,” http://burma.total.com/en/publications/Total%20_in_Myanmar_update.pdf (accessed February 2, 2010).

The heavy hand of the state in Burma's external trade is very apparent: In 2008–2009, around 65% of trade was undertaken through state-owned enterprises. Although Burma imposes relatively low formal tariffs, nontariff and nonformal trade barriers are substantial. Export and import licenses are required for the movement of most commodities into and out of Burma, and licenses are usually issued under the remit of the Trade Committee of the SPDC and its head (the second in command of the junta), Vice Senior General Maung Aye.

Burma's substantial revenues from the sale of natural gas, which could rise to around \$4 billion per annum in the years ahead, have not provided the opportunity to change the economic "conversation" about Burma. Instead, windfall earnings from natural gas exports have promoted political repression and undermined good governance, democracy, the rule of law, and other attributes and institutions that are conducive to economic growth. As a general matter, the distribution of hard currency revenues is decided by the SPDC Committee Supervising Special Projects, chaired by Senior General Than Shwe, and normally reserved for well-connected insiders and lavish regime projects. This, of course, tends to encourage corruption and does not contribute to investment in ordinary citizens' needs and developing human capital in the country.

Future Possibilities

The **Asia Society's Task Force** believes that the new policy of “pragmatic engagement” with Burmese military leaders is the right path for the United States to pursue. The United States should prepare for a protracted period of more active engagement than it has taken in the past, with the aim of helping to shape Burma's future. U.S. influence in Burma is unlikely to outweigh that of increasingly powerful Asian neighbors. What the United States offers Burma is international legitimacy and access to the larger international community when and if it seeks this. Therefore, the United States' priority in determining its policy toward Burma in the immediate term must be to clarify its fundamental objectives in Burma and the basic means at its disposal for promoting those objectives.

Specifically, during this period of potential transition, the United States should:

- Encourage the process of political development toward democratic norms
- Press the military regime for good governance
- Assist the country's non-Burman nationalities in developing an equitable voice in national governance
- Continue to raise concerns about human rights and the situation of political prisoners

The basic means available to the United States to pursue these goals will be:

- Effective channels of communication
- Focused assistance programs
- Reform-oriented economic activity
- Coordination with Burma's neighbors and the broader international community
- Tightening of targeted financial sanctions, if and when necessary

Calibrating Engagement

The great uncertainties of the period ahead run the gamut of possibilities from better to worse—from eventual democratic development to violence, anarchy, and return to martial law. Whatever the outcome, there is a great deal of work to be done on the ground before the Burmese population can build the institutions and develop the practices and responsibilities intrinsic to stable democracy. To translate the ends and means outlined here into effective policies that address Burma's needs during this time of uncertainty and change, the United States will need to develop a menu of instruments to be employed if and when conditions warrant and as opportunities for progress present themselves.

Expanding Channels of Communication

Burma's military regime is the major obstacle to bilateral communication with other countries. The SPDC heavily circumscribes the population's—and even government officials'—contact with the outside world. It has especially demonized contact with the United States and other Western countries, effectively making it illegal without official permission. To compound matters, during the past two decades of sanctions-focused U.S. policy toward Burma, the United States has deliberately narrowed the channels of communication with the Burmese government, as well as with important segments of the Burmese population. Even in the absence of a change in attitude by the Burmese government, the Task Force believes that the United States should make every effort to reverse this policy. The Obama administration's decision to balance sanctions with “pragmatic engagement” is a good first step.

In addition to official, senior-level dialogue, U.S. programs already under way in Burma provide excellent means of bilateral communication. This includes humanitarian and community assistance, cultural activities at the American Center, and student scholarship programs. However, the United States should also make a greater effort to expand communication with Burma's business community and, even more importantly, to establish wide contacts with its many non-Burman nationalities. Community assistance programs will help in this regard. The Fulbright and Humphrey Scholar programs should continue to be expanded, not only for the sake of bilateral exchange, but also to empower a new generation of leaders. In a society so educationally deprived as Burma, the impact of a single U.S.-trained graduate or postgraduate scholar is unbounded. Two U.S. government-financed radio stations, Voice of America and Radio Free Asia, have been broadcasting news, commentary, and educational programs to Burma for years and have become a major source of outside information, even for military and government, despite the fact that it is illegal to listen to them. The United States should continue to fund them adequately for full-time programming.

The apparent bias against external influence contained in the new constitution does not augur well for relaxing current restraints on Burmese contacts with foreigners. Nevertheless, the United States should be poised for new openings that may appear with time, especially if direct dialogue with the government eventually begins to yield concrete results. For example, under the right conditions, the cultural and educational activities of the American Center could be extended through electronic means to other cities and areas of the country. Moreover, the United States should encourage more visits by American scholars to Burma and to Burmese educational institutions, which are severely restricted today. There are many other possibilities.

An important and often overlooked resource available to the United States is the relatively large Burmese diaspora living in the United States. Many have been here for a generation or more and have managed to keep their family and other contacts in Burma active. Some of these Burmese American professionals played an important role in the post-Nargis relief effort, facilitating forms of emergency aid and recovery efforts on the delta. If political changes begin to take shape in Burma, the United States should ramp

up efforts to include the Burmese diaspora in U.S. assistance and exchange programs as a means of expanding bilateral U.S.–Burma ties. Attention should also be given to creating constructive openings for Burmese political exiles who wish to return home one day. With the political experience and international exposure they have gained during their exile, they could make an important contribution to a truly transforming Burma. Unfortunately, the new constitution offers no apparent hope for this, ruling out participation in political life by anyone who has not resided in the country continuously for the past 10 years.

Over the longer term, the United States should be prepared to normalize its relations with Burma if the right conditions are met through its policy of direct dialogue. For example, if the military regime releases political prisoners, including Aung San Suu Kyi, and takes other significant steps toward reform, the United States should be prepared to ease the symbolic restrictions on bilateral relations. For example, it might consider recognizing the country as Myanmar and upgrading diplomatic representation to ambassador in both capitals.

Operating in an Unhealthy Assistance Environment

In considering what type and how much foreign assistance should be provided to Burma in the near and longer term, a clear distinction must be made between humanitarian (including grassroots) and economic development assistance. The delivery of meaningful, development-enhancing economic aid to Burma has not been possible for decades, as successive military regimes have pursued a conscious policy of near autarky. Burma's current military regime has largely abandoned this position, but also has set up strict, often suffocating, controls on foreign investment and official development assistance (ODA). Moreover, revulsion to the regime's unrelenting repression and human rights abuses led to the suspension of most Western ODA, along with financial support from international financial institutions such as the IMF, World Bank, and Asian Development Bank. Even the mandates under which some of the UN agencies operated in the country became subject to restriction. Nevertheless, Burma has been the recipient of ODA and other forms of aid from a number of countries, and in 2007, before Cyclone Nargis, official ODA amounted to around \$197 million.

The empirical record of long-term development assistance—in contrast to short-term humanitarian assistance—in Burma has not been encouraging, even if there is some evidence to suggest that good economic policies and robust institutions can make a difference. Such policies and institutions include measures that address most of the principal causes of Burma's poverty, that is, reforms to macroeconomic policies and settings such as fiscal consolidation, exchange rate unification, interest rate liberalization, and so on. More importantly, however, fundamental institutional reform must embrace the application of six core attributes:

- Effective property rights
- Basic freedoms, including at least an approximation of the rule of law

²⁴ See <http://stats.oecd.org/qwids> (data accessed September 22, 2009).

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- Basic functioning infrastructure
 - Government policy making that is rational, consistent, and informed by an honest and efficient civil service
 - Market opening policies, including the removal of remaining restrictions on private enterprise
 - Openness to foreign trade and investment

In Burma today, these attributes are virtually nonexistent, despite the limited market openings instituted by the military regime.

Current U.S. assistance policy is oriented properly in not supporting development assistance to Burma until conditions on the ground can ensure its effectiveness, namely, through a combination of economic and political reforms described earlier. If and when a transition to quasi-civilian government takes place, as outlined in the new constitution, and produces reform-minded governance, U.S. policy then should be oriented toward helping to design and put these reforms in place. These conditions must be clearly outlined by the United States, and the United States should be prepared to provide development assistance to Burma if they are met. Even in this case, however, the United States should recognize the poor track record of developmental aid in Burma and make clear to the Burmese regime that its own resources—namely, from its gas revenues—also must be committed to development projects. It is likely that many of the problems that make the large-scale provision of aid unviable today will persist for some time, even in a scenario in which there is some positive political change. Development assistance is unlikely to gain traction so long as the same economic and political mismanagement persists and the Burmese people lack the freedom to demand accountability.

Even in the area of humanitarian and community assistance, donor governments, international NGOs (INGOs), and UN agencies have found themselves frustrated by two decades of obstruction by the military regime. All UN agencies and major INGOs are required to partner to some degree with government ministries, effectively tying them to individuals who are intent on feeding off a rich deposit of foreign resources. (Burma's low rating with respect to corruption according to Transparency International has already been noted.) Most of the government ministries are starved for resources to fulfill their public functions. However, nearly all ministries are headed by uniformed military officers who take their orders from the top and dictate the acquisitive attitude of their ministry toward foreign partners. Nevertheless, many foreign aid organizations have developed cooperative and productive relationships over the years with mid- and lower-level civil servants in government ministries. Many of these civil servants genuinely wish to serve the people, and they find the foreign agencies much more responsive and helpful than their own government. The foreign aid organizations have also managed to help develop and sustain an increasingly vibrant community of local NGOs and community-based organizations over the past two decades. These nongovernmental and community-based organizations

contribute significantly to the sustainability of internationally funded humanitarian and community assistance programs.

The experience with delivering emergency assistance to Burma in the immediate aftermath of Cyclone Nargis gave the world a wider view of the difficulties that humanitarian organizations face in such a hostile environment. At first the government obstructed the delivery of emergency assistance into the country and onto the delta, spurring a major migration of displaced people from the delta toward Rangoon and other parts of the country. Following the May 2008 referendum on the new constitution, the government relented under severe international pressure—most notably from its Asian neighbors—and began facilitating the delivery of foreign aid into Rangoon and selectively allowing aid to flow onto the delta. However, local officials and military authorities continued to obstruct the aid effort in many localities. In particular, access by Western aid workers was carefully monitored. To address this problem, a Tripartite Core Group initiated by ASEAN and composed of representatives from Burma, ASEAN, and the United Nations was formed to create a mechanism for channeling international assistance to Nargis relief and facilitating foreign aid workers into and within Burma.

Unfortunately, the post-Nargis experience for international aid agencies on the delta was not replicated in other areas of the country, and in March 2009, the Burmese government reverted to its policy of restricting access to foreign aid workers throughout the country, as well as visas to enter the country, perhaps in preparation for limiting the presence of foreigners during the coming elections. It is clear that common practices of human rights violations, denials of basic freedoms, predatory land confiscation by the government, and a serious shortage of agricultural credit persist in the cyclone-affected areas, making the recovery effort more problematic than it needs to be. To compound matters, the military regime also arrested and jailed a number of local activists for engaging in the relief effort.

A degree of naiveté on the part of international donors, the United Nations, and other aid agencies was also apparent in egregious examples of large-scale misappropriation and loss of aid money. This dovetailed with the structural corruption in many of Burma's governing institutions. Prominent among these were the SPDC's initial post-Nargis policy of requiring the conversion of foreign currency brought into the country into "foreign exchange certificates" (FECs). A device copied from China, FECs were devised in the 1980s to restrict the circulation of foreign exchange within Burma and to concentrate it in the hands of the SPDC. An FEC has a nominal face value of \$1 but, in practice, trades at a discount to the dollar. This discount to the face value of aid money posed problems because it meant that UN agencies and INGOs received less domestic purchasing power for their

²⁵ The Tripartite Core Group acknowledged the \$1.56 million figure in a press release, which essentially outlined the United Nations' "case" on the matter. See Tripartite Core Group, "Myanmar and the UN Find Solutions to Foreign Exchange Loss of Cyclone Nargis Humanitarian Aid," August 13, 2008, <http://www.aseansec.org/21862.htm> (accessed February 2, 2010). For an alternative, independent account, see Matthew Lee, "In Myanmar, U.N. Loses 25% of Aid in Currency Exchange," *Inner City Press*, July 28, 2009.

²⁶ Tripartite Core Group, "Post-Nargis: Periodic Review II," 2009, <http://www.aseanhtf.org/periodicreview.html> (accessed February 2, 2010).

foreign exchange than the U.S. dollar market exchange rate of the kyat. While the size of this loss was and continues to be disputed, the discount at which FECs were trading to the U.S. dollar during this period fluctuated between 15% and 20%. The United Nations has admitted to a loss of \$1.56 million during the seven-month period following Nargis.²⁵

Nonetheless, the situation for international aid agencies improved somewhat in the months following Cyclone Nargis. Many agencies and NGOs reported greater access to affected areas, and “considerable progress . . . toward easing the hardships and physical devastation” of the cyclone was reported one year later.²⁶ Other reports have been less sanguine, pointing to ongoing restrictions on the movement of international aid organizations, continuing arrests and harassment of local aid workers, and rampant nepotism and corruption in the awarding of reconstruction contracts. Despite all of these difficulties, the volume of all forms of aid to Burma has increased dramatically since Nargis. Official humanitarian assistance, for instance, was valued at \$420 million in 2008. After focusing initially on relief and recovery, the Tripartite Core Group called for nearly \$700 million in reconstruction aid for Burma, moving decidedly from humanitarian concerns to assistance aimed at promoting economic development.²⁷ The response from international donors, however, has been tepid. This is largely attributable to skepticism about the efficacy of providing developmental aid and the difficulty of managing large-scale humanitarian assistance in a hostile Burmese environment.

In light of these serious obstacles to aid effectiveness, the Task Force opposes unlimited expansion of aid programs in Burma. The Burmese government has cultivated a negative attitude toward foreign aid, widespread government-authorized corruption, and serious macroeconomic distortions in the economy. Moreover, the military regime has deliberately refused to use its considerable financial resources for the betterment of socioeconomic conditions among the Burmese people. For example, Burma’s foreign exchange reserves currently stand at just over \$5 billion, increasing by around \$150 million each month from additional gas export revenues. To put this into the perspective of the aid debate, the Tripartite Core Group’s request of \$690 million would amount to just 14% of Burma’s reserves, which is less than five months worth of gas exports.

More importantly, there is nothing that international donors can do under present circumstances to improve the working environment for aid programs. As a result, external players can achieve limited results through aid and economic assistance in Burma. As the International Development Committee of the British House of Commons noted,

Funding of aid work in Burma is not a case of “business as usual.” The risk of funding reaching an illegal and repressive military junta must be absolutely minimised. Political and humanitarian “space” to carry out the process of poverty reduction and humanitarian assistance is highly constrained. Capacity amongst

²⁷ Tripartite Core Group, “Post-Nargis Recovery and Preparedness Plan,” December 2008.

²⁸ United Kingdom, House of Commons, “Department for International Development Assistance to Burmese Internally Displaced People and Refugees on the Thai-Burma Border,” International Development Committee, HC 645-I, July 25, 2007.

partner organizations to spend aid money effectively is low. The coordination of aid efforts is difficult and is currently done poorly. Overall, operating conditions for aid agencies in Burma remain very challenging.²⁸

The aid environment is likely to worsen during the period of the elections because the government tends to see foreign—especially Western—aid workers as spies. Recently, rumors have begun to circulate in Rangoon that the regime will suspend all NGO and INGO operations for six months during the election period. It remains to be seen how or whether this will change after the elections, and decisions on wide-scale increases in aid should be conditioned on observable improvements in Burma's aid environment.

Focusing Assistance

The foregoing explication of the difficulties of delivering aid effectively in Burma is not meant to suggest that U.S. humanitarian and community assistance programs should be scaled back. On the contrary, the Task Force supports the expansion of these forms of aid, but carefully and with moderation, as local conditions allow. As noted earlier, there are now many more opportunities to engage effectively in humanitarian and community development programs than there were in the past. Despite its many difficulties, the post-Nargis aid effort gave a dramatic boost to local community organizations, largely as a result of citizen disillusionment of the regime's lack of concern for their welfare. The United States should continue to expand this space, with humanitarian need, democracy promotion, and good governance as the overall guiding principles.

The U.S. government currently has a wide range of humanitarian and community assistance programs in place in Burma, focusing on education, developing capacity at the grassroots level, and improving capacities to address communicable and infectious diseases and other health concerns. In the near term, the United States should also expand funding to programs—both inside Burma and in Thailand—designed to equip Burmese with better skills in negotiation, mediation, governance, and analytical and critical thinking that will contribute to the development of democratic social behavior. sorely lacking in Burma today, these qualities are critical to the emergence of a strong civil society and civilian government in the years to come. The country's military rulers have deliberately eroded the population's ability to organize and develop cooperative institutions. They have even outlawed collaborative activity not authorized by the government and purposely sown mistrust and pitted people against each other. While outside forces cannot solve this problem, exposure to alternative norms will encourage change, particularly in an environment of political transition.

Over the longer term, U.S. assistance programs should focus, in a selective manner, on improving the technical skills of civil servants and the governance skills of elected politicians. Enhancing these forms of U.S. assistance should be conditioned on a political transition that will lead to reform in overall governance. U.S. humanitarian and community development assistance to non-Burman nationalities should also be increased. While there

are practical barriers to this, the United States should begin planning to overcome these barriers so that it can expand such assistance as circumstances allow. The non-Burman nationalities must be prepared to take advantage of the possibilities presented in the new constitution and engage directly in the country's governance at both the national and local levels. The United States should supplement cross-border programs for reaching minority nationalities with programs inside Burma immediately. Such aid is urgently needed in the pre-election period, and, as will be discussed later, there are mechanisms already in place through which it can be delivered reliably and speedily.

Ultimately, the humanitarian efforts of all external actors should endeavor to yield commitments from the Burmese authorities. All aid is fungible, and what the rest of the world provides has the potential to simply release a similar amount of resources for the regime to do as it pleases. The international donor community should tie aid provision to expenditures by the military regime on its own citizens, whether as in-kind contributions or cash allocations from the regime's considerable revenues. Two other considerations need to be uppermost, even in the delivery of humanitarian aid in Burma: First, transparency and accountability are critical in such a corruption-rich environment. Donors not only must look out for their own interests, but also ensure that the Burmese people are the primary beneficiaries of aid. Second, foreign donors must be vigilant in ensuring that the aid they provide will not prop up dysfunctional and abusive structures that harm the population in either the short term or the longer term through projects that are not economically sustainable.

Refugee and Cross-Border Aid

A tried and tested avenue for assisting many Burmese people is the provision of aid to refugees and displaced people living outside Burma's borders. The United States already provides education training, capacity-building programs, health services, clinics, and other organizational creation and support initiatives to Burmese refugees living in Thailand. One especially innovative program in Thailand offers training and support to Burmese journalists. Other educational programs focusing on critical thinking, mediation skills, governance, and other basic competencies are now emerging, and the United States should continue to support all of these efforts. A major advantage of these border programs is that they are particularly effective at reaching many of the ethnic minorities in eastern Burma.

The United States also should continue to support the successful cross-border humanitarian aid programs dispensed mostly from Thailand. Such aid has proven to be effective at reaching significant numbers of people in Burma. Cross-border aid also reaches into remote border regions of Burma, many of which are conflict or postconflict zones. The 5 million people living in these areas have even less access to health, education, and other services than other communities in Burma and very little in the way of economic opportunity. The United States currently contributes approximately \$4 million for cross-border aid into Burma. This aid is used by a number of highly effective NGOs to provide

critical medical and other assistance. These NGOs meet high accountability standards and have demonstrated absorptive capacities for increased scale. Indeed, these programs should not suffer at the expense of expanding U.S. programs inside Burma; rather, they should be slated for increased funding as well. Additionally, the focus of support from the United States should be expanded to other areas beyond humanitarian programs. A multitude of issue- and rights-based organizations are operating cross-border, advocating on behalf of their communities that are silenced inside the country.

Encouraging Economic Reform

The Task Force believes that the United States and the international community should prepare to carry out a modest expansion of economic engagement with Burma if there are concrete improvements in the aid environment and if credible steps toward economic reform and easing repression are taken by the Burmese government. Engagement can be enhanced in two areas.

First, the United States and the international community should assist in preparing a badly demoralized civil service for competent governance. Once known for its professionalism and a high reputation in economic and statistical analysis, Burma's primary policy-making bodies are now only shadows of their former selves. This erosion of local expertise—the result of an older and highly educated generation of administrators being replaced by casualties of Burma's poor education system—raises the prospect that a lack of administrative capacity and policy expertise could inhibit even a reform-minded future government from engaging in the necessary restructuring. Likewise, data collection capabilities in Burma have been greatly eroded, sometimes as a result of a deliberate policy of shielding fiscal and monetary mismanagement from public scrutiny. Unreliable economic data constrain genuine economic reform, which must rely on mechanisms allowing feedback, accountability, and transparency. Multilateral financial institutions—such as the IMF, World Bank, and Asian Development Bank—as well as the policy agencies of the United States and other governments provide a means through which assistance in this area can be provided. For all of the reasons outlined in this report, financial transfers or loans should not be entertained until genuine reform is under way and the Burmese government demonstrates a commitment to investing its plentiful resources in meeting basic needs; however, there is much to gain from the provision of advice and training on these matters at the appropriate time.

Second, economic engagement can be directed toward providing advice on how Burma should manage its natural gas revenues and promoting accountability for government spending. Resource “rents” such as these are difficult to handle in any political environment, but the matter is especially vexing in Burma. The Burmese government has a track record of disregarding the advice of international financial institutions (which have long recommended that it properly account for gas revenues by eliminating the dual exchange rate), diverting funds through vast corruption and misguided spending priorities, and refusing to permit the emergence of critical institutions such as an independent civil society

and an independent audit body that could provide much-needed scrutiny over government finances. Devices employed elsewhere to help contain the “resource curse,” including revenue stabilization funds, public investment and infrastructure funds, and schemes to provide for direct distribution of resource revenues to citizens, should be explored in Burma if and when the government of Burma credibly commits to economic reform and an end to repression. The distribution of revenues is especially relevant to Burma in the light of the widespread capital drought in rural areas and limited capacities for government-directed spending to deliver meaningful change.

In addition, the United States and the international community can help create the conditions for economic reform in Burma by investigating and exposing where the country’s gas proceeds are kept offshore and how they are utilized, relying on global anti-money laundering rules to block any suspicious transactions and to freeze accounts linked to corruption. Using the leverage of the global financial system in this way, the United States and other countries could then press Burma’s government to account properly for gas revenues in its budget, redirect the funds to meet social needs, and create mechanisms that bring accountability and transparency to this sector, which is critical to Burma’s economic future.

None of the above implies a naive belief that such initiatives and advice will be heeded. Notwithstanding the absence of multilateral financial institutions, Burma has received attention from a host of actors (official and otherwise) that have sought to provide advice on economic reform over the years. Especially notable for its ambition and commitment of resources to the task, an initiative was undertaken by the Japanese government to bring together economic experts from both Japan and Burma to devise a step-by-step program of reform and reconstruction of Burma’s economy. When some of the recommendations from this joint project were submitted to Than Shwe in 2001, he rejected them. The project continued, however, and probably disappeared in 2004 with the arrest of General Khin Nyunt, whose staff had led the effort on the Burmese side. Such has been the universal fate of these efforts—a pattern of willful isolation from the world of ideas. It is too early to say whether the SPDC will be any more receptive to the advice offered during the late 2009 visit by Nobel laureate Joseph Stiglitz, under the auspices of the United Nations Economic and Social Commission for Asia and the Pacific, which focused on addressing rural poverty.

Microfinance

Microfinance is another potentially useful form of economic aid provision in Burma. A number of microfinance schemes in Burma currently exist, the largest and most potentially transformative of which are those managed by Pact, an NGO based in the United States, under the auspices of the United Nations Development Programme. This scheme currently has around 300,000 members in 22 townships and 3,600 villages. Pact dispenses small loans (the average amount is \$32) that have the potential to transform the lives of their recipients by allowing small-scale capital formation, consumption smoothing, and moneylender debt retirement. In so doing, it employs most of the methodologies that have made microfinance famous: peer group and progressive lending, weekly meetings, a focus on women borrowers,

motivational practices, and simplified techniques.

Rural Burma, which is experiencing a credit drought, is especially in need of microfinance institutions and funding. By and large, well-managed microfinance institutions are suited to negotiating politically difficult environments such as Burma's and to meeting the minimum transparency standards for in-country aid. Microfinance provides aid that is:

- Targeted to need—loans are initiated by the borrower
- Small—lowers the incentives for corruption and makes accountability and transparency easier
- Based on issuing debt that must be repaid—limits the distortion of aid into governance eroding windfalls

For Burma, a minimum environment for economic reform and the absence of government interference are essential to ensuring the success of microfinance in Burma (for this reason, directly aiding the state-owned Myanma Agricultural Development Bank is not a useful option at this stage). Once the right conditions are in place, the United States and the international community should support the development of these programs. The most important area of assistance is to provide advice on how microfinance can be given a legal basis in the country's banking system. Currently, microfinance in Burma functions in a legal no-man's-land. Not permitted to register as or in connection with formal banks, microfinance institutions in Burma technically have no legal status. As a result, they are acutely vulnerable to government expropriation, and foreign advisors are subject to expulsion. With appropriate modification and assistance, microfinance-specific legislation that has been developed by a number of countries (such as the Philippines and Indonesia) could be adapted to Burma. Efforts by the United Nations Development Programme to provide assistance on this front in 2006 were stymied by Burma's government, but in a genuine reform environment, the matter could and should be revisited.

International assistance could also promote microfinance in Burma with capital. The Pact microfinance scheme is currently greatly limited by the capital that it can employ and, consequently, its ability to expand its loan portfolio (as are smaller NGO-based microfinance institutions). One model for capital provision that can be adapted to Burma is the Microfinance Investment Support Facility for Afghanistan. This organization is a wholesale fund (and quasi-regulator) for microfinance created by the World Bank in what might reasonably be regarded as an environment at least as challenging as Burma's. Such a funding vehicle could also play a role in coordinating international aid in this context and, when necessary, could act as a bulwark against the expropriation and misuse of funds.

Economic Sanctions

The question of economic sanctions on Burma polarizes opinion and generates much heated debate. Indeed, the question now dominates all others when it comes to Burma's relations with the rest of the world. Unfortunately, this debate tends to cloud the actual causes of

Burma's economic crisis. In the process, it draws attention away from the true problems that the country faces, the overwhelming majority of which are firmly located within its borders.

Three essential truths are clear when approaching the sanctions question as it relates to Burma. First, economic sanctions are not the cause of Burma's poverty. Second, the biggest "sanctioner" of Burma is not foreign governments or other external actors, but the country's own government and its misguided policies, which make Burma a highly undesirable location to do business. Skeptics see sanctions as an obstruction to Burma's engagement in the world and a hindrance to the emergence of a commercial middle class that could bring about political change. As noted earlier, such a view (fine in principle) is problematic in Burma, where large-scale economic enterprise—especially that linked to the international economy—is tightly controlled by individuals and entities connected to the state. For this same reason, sanctions do far less damage to the average person in Burma than is sometimes alleged. Most people are entrenched in an informal economy with few links to the outside world and use traditional technologies and processes. Third, there is a crucial distinction to be made between generalized sanctions that have a wide effect (such as a general ban on all imports) and targeted sanctions that are tailored to affect particular individuals, companies, activities, or industries without harming the population at large (such as financial sanctions that selectively block access to banking services by designated persons or entities).

As the new U.S. policy of pragmatic engagement with Burma announced in September 2009 clearly indicates, substantial changes to the sanctions program levied by the United States are dependent on whether the Burmese government shows concrete progress in implementing a number of political and economic reforms. In the long term, if the Burmese government begins to make credible changes, the Task Force believes that it is essential to examine how a modification of some sanctions should proceed and how others may be sharpened under certain circumstances.

To this end, the Task Force proposes a sanctions program (outlined in detail in Appendix A) that sets out incentives designed to bring about change in Burma while, at the same time, maintaining pressure against easy promises and regression by the country's military leaders. As always, such a program depends on the future direction of Burma's political leaders, who will remain the determining actors on all of these issues, and it is realistic only in a reform-minded environment. Similar efforts have failed in the past, primarily on the grounds that a sincere partner for dialogue could not be found in the Burmese government.²⁹ As long as the present leadership remains in power, this kind of scheme is likely to remain an unacceptable option in Burma. However, the proposal's emphasis on practical and measurable goals rooted in general principles may usefully serve to shift the

²⁹ The most prominent was the so-called Chilston Park initiative of the British Foreign Office in 1998, which involved a hypothetical promise of \$1 billion in aid in exchange for political concessions from the regime. Presented to the Burmese government by the UN special envoy in 1999, it was pronounced unattractive by Aung San Suu Kyi and summarily rejected by the SPDC.

emphasis from a “carrot and stick” approach to one in which the benchmarks are more widely accepted and progress can be judged incrementally.

International Coordination and Collaboration

For the past 20 years, the United States has coordinated its Burma policy with a number of international stakeholders. Generally, this has taken two forms. First, the United States has strongly supported UN efforts to urge Burma’s military regime into tripartite dialogue with the NLD and non-Burman minorities. Second, the United States has pressed other governments, particularly in the Asian region, to adopt economic sanctions against Burma and to eschew engagement with the military regime. Neither of these efforts, however, has produced lasting progress. Although one UN special envoy did manage in 2000 to bring Burma’s military leaders into direct discussions with the NLD and Aung San Suu Kyi, the discussions did not grow into genuine political dialogue. The idea of tripartite dialogue with democracy forces and non-Burman nationalities has been an anathema to the military. Similarly, Asian countries have firmly resisted U.S. exhortations to adopt sanctions. Only Western governments were willing to consider sanctions, but even these were not as far reaching as those enacted by the United States.

The Obama administration’s decision to renew its coordination with international partners in an effort to expand possibilities for collaboration is a welcome shift in the United States’ policy toward Burma. As Assistant Secretary of State of East Asia and Pacific Affairs Kurt Campbell testified before a U.S. Senate subcommittee in September 2009, this collaboration will include expanded dialogue and interactions with key countries in the region—namely, China and India—as well as greater coordination with ASEAN, the European Union, Australia, Canada, Japan, and the United Nations to encourage the implementation of political and economic reforms in Burma and to foster an atmosphere in which new ideas are welcomed. The United States also should redouble its efforts to coordinate its financial sanctions with Asian banking centers.

The United States should encourage the international community, especially the United Nations, to press the SPDC to engage in dialogue with the opposition and with non-Burman ethnic minorities before the elections. Although Ibrahim Gambari, the UN Secretary-General’s special advisor on Myanmar from 2006 until the end of 2009, reached an impasse with the SPDC on tripartite dialogue and reconciliation, the Secretary-General has recently indicated that he will be seeking a new special advisor to continue this effort. The Task Force urges that, mindful of the urgency of pressing for dialogue, he choose a new advisor quickly and carefully. Over the longer term, the United Nations can provide the essential umbrella for coordinating the efforts of key countries that may be able to influence the course of Burma’s transition. To this end, the Task Force recommends that the United States encourage the United Nations to form a support group—consisting of itself, the European Union, Japan, Australia, China, India, Indonesia, and, of course, Burma—to coordinate efforts to encourage political and economic reform over the coming decade. This group might be developed as a subset of the existing Friends of Burma/Myanmar group.

The Task Force also believes that ASEAN should be viewed as a key venue for U.S. engagement with Burma. The United States should participate more actively in ASEAN-hosted meetings, in contrast to its previous policy of disengagement as a way of punishing ASEAN for admitting Burma into the organization. Moreover, the United States should explore how ASEAN programs and coordination mechanisms can be employed to promote both economic and political reform in Burma. Judging by the positive overtures toward ASEAN made by U.S. Secretary of State Hillary Clinton at the ASEAN ministerial meeting in Phuket in July 2009, the United States has already signaled its intention to build a more proactive relationship with the organization. For example, the new U.S.–Mekong Basin cooperation initiative announced by Secretary Clinton in July 2009 could provide the basis for addressing a host of environmental, health, and education issues in a regional context. The Task Force strongly supports these positive steps toward improving relations with ASEAN and encourages even greater engagement moving forward.

Similarly, ASEAN programs designed to promote regional economic integration could form a basis for the advancement of economic reform in Burma. Indeed, some of the most instructive examples of economic progress are those provided by Burma's peers and neighbors. Purpose-driven economic reform—such as openness to trade, greater protections for property, and freedom for enterprise—is crucial for the success of ASEAN countries in the region. Burma, on the other hand, has been the problem child within ASEAN, resisting meaningful reform, while simultaneously flouting ASEAN's goals of creating a stable, prosperous, and competitive economic space. Burma also has resisted ASEAN's pursuit of intraregional economic freedoms, encapsulated in its "Vision 2020" of a single market and integrated economic community. Therefore, the emergence of a reforming Burma would be warmly welcomed beyond its borders.

U.S. coordination and collaboration with China, India, and Japan should also be reinvigorated, with particular emphasis on good governance and economic reform. Such efforts should include regional training programs for Burmese government officials and other educational programs designed to strengthen Burma's human capital. For example, Japan has worked closely with the Burmese government in the past to develop a detailed plan for undertaking critical economic forms. This effort, however, failed to gain support from General Than Shwe. Should, reform-minded officials emerge in the new government, the United States should support the revival of this project and consider collaborating with the Japanese to implement this project along with China and ASEAN.

One of the available means through which all countries could collaborate is the activation of channels of advice for Burma from multilateral financial institutions, such as those available through the IMF and World Bank. Doing so could help bring about some desired changes in Burma. The United States holds the key to collaboration and cooperation on this front: It has the largest individual country voting share in these institutions—

³⁰ See Yuki Akimoto, "Opportunities and Pitfalls: Preparing for Burma's Economic Transition," Open Society Institute, 2006, http://www.soros.org/initiatives/bpsai/articles_publications/publications/opportunitiespitfalls_20061115/opportunities_20061115.pdf (accessed February 24, 2010).

around 17% for the IMF and 16% for the World Bank. Few countries have sought to restrict the provision of advice from multilateral financial institutions to Burma. Therefore, the Task Force supports greater efforts by the United States to relax these restrictions and to mobilize support to make changes, namely from the European Union, China, or other members of ASEAN. A focus on economic growth and the blanket application of reforms, however, have failed to work in many countries, with disastrous effects in some cases. In order to avoid losing control of development and poverty-reduction strategies and to make assistance from international financial institutions most effective, Burma should have in place a clear set of development objectives, a comprehensive social and economic policy framework, and good governance principles and practices.³⁰

The provision of advice and capital for microfinance has been identified as a possible form in which aid could be expanded in a reforming Burma, targeted initially at agriculture. But here, too, there is great scope for an internationally coordinated approach. This is most obvious in the form of advancing capital (there is no reason why the United States should bear this burden alone), and we have many examples of international cooperation in this area through “multidonor trust funds” of various sorts, many of which are supervised by the World Bank. But such cooperation is perhaps even more important in the context of providing advice on microfinance, and of models for possible replication.

For instance, one of the shining stars of the microfinance firmament is Indonesia’s Bank Rakyat Indonesia (BRI) and its Unit Desa (village bank) system. The BRI combines tried and tested microfinance methodologies with extraordinary outreach (more than 30 million clients), vast savings mobilization, financial sustainability, independence from political interference, and the provision of seed capital and life-changing credit to a great many people who otherwise would not be able to get it. The BRI runs an International Visitor Program for the training of staff from other banks and multilateral financial institutions. Of course, the BRI is just one of a number of regional peer institutions that could function as models for Burma. Others could include Bangladesh’s famed Grameen Bank, while Thailand’s Bank for Agriculture and Agricultural Cooperatives is an example of an institution with great rural outreach in an agricultural and geographic setting not dissimilar to Burma’s.

In terms of providing advice on a legal framework for microfinance in Burma, noted earlier as a critical missing element in the country’s microfinance sector, international coordinated assistance, by the likes of the Consultative Group to Assist the Poorest (an organization housed in the World Bank but supported by a wide consortium of development agencies and international NGOs) would be ideal. In short, the scope for international cooperation in revitalizing Burma’s rural credit system is broad, and readily at hand.

One of the most pressing economic conundrums facing Burma today is the question of how to deal with the foreign exchange earnings that are currently accumulating from its significant energy exports. These should be providing the financial wherewithal for Burma’s long-term prosperity, but at present, they are doing little more than fueling corruption and misguided spending, such as the construction of the lavish new capital. Such a “curse”

arises from the mismanagement and misconduct of Burma's leadership, which should be exposed and challenged through global money laundering investigations. For the future, some form of national consensus needs to be established as to how Burma's gas revenues should be managed and used. The priorities must be ensuring that gas funds are reported fully, that they are directed to meet urgent social needs, and that spending is accounted for properly.

One approach—when Burma has a government that is prepared to reform accordingly—would be to work with the government to deposit gas proceeds into a social investment fund managed with active international participation and according to international standards. Similarly, international coordinated action can take the form of easing a reforming Burma into the Extractive Industries Transparency Initiative (EITI), a multistakeholder initiative bringing together governments, companies, and civil society that promotes the simple idea that companies publish what they pay for resources and governments disclose what they receive. Support for implementing EITI has been provided to a number of countries by the World Bank. EITI is limited by the fact that it addresses only the transparency of revenues, and does not touch on the transparency of spending or public accountability more generally. Hence, complementary steps are needed, including efforts to promote independent scrutiny of government budgets and spending—for example, by training civil society analysts and advising on the creation of an independent audit body. Each of these key aspects can be advanced through international cooperation to improve Burma's long-term prospects.

Because the most comprehensive sanctions on Burma are those levied by the United States, this report has devoted significant space to examining the relationship between sanctions and the Burmese economy and devising a mechanism through which they can be used—not just to send a message to Burma's present leaders, but also as leverage to promote change. This presents an opportunity for international collaboration and coordination:

- First, the procedure through which it is proposed that the criteria of the Millennium Challenge Corporation (MCC) be used to review sanctions in response to genuine reform in Burma need not apply solely to the United States. Although the MCC is a U.S. body, it relies for the construction of its metrics on an array of institutions and organizations that are independent of the United States or any other government. In other words, the MCC processes are capable of universal application and, accordingly, a coordinated international response to real reform.³¹
- Second, among the existing sanctions that are likely to remain for some time, such as those on financial transactions, greater coordination is necessary to ensure against the creation of unexpected and unintended outcomes, as well as damage to jurisdictional arbitrage. To this end, the United States, European Union,

³¹ See details in Appendix A.

Australia, and other countries that sanction financial flows through lists of specific individuals and entities should coordinate these lists and remove anomalies. In a similar vein—and should *increased* financial sanctions prove necessary in the face of ongoing SPDC abuses and resistance to reform—greater comprehensiveness and country coverage of these measures will be required. Such extra measures will impose particular responsibilities on financial centers within the Asia-Pacific region to coordinate their prudential, money laundering, and other policies toward financial transactions involving Burma.

Finally, the new constitution provides for the SPDC leadership to be absolved of any responsibility for their actions while in power, perhaps in recognition that there have been calls to hold senior Burmese officials responsible to an international authority for their transgressions against the Burmese people. The Task Force is divided on this issue. Some believe that it is up to the Burmese people to decide how to deal with the question of accountability. They feel it would be counterproductive for the United States to advocate accountability to an international authority, so long as it recognizes the necessity of working with the military leadership to bring about political transition. Others believe that the United States should press for the current Burmese leadership to be brought before an international court of accountability for human rights violations, particularly if the SPDC does not respond positively to U.S. overtures and if human rights conditions in Burma continue to deteriorate.

Conclusion: U.S. Policy Options Based on Change

There are great uncertainties about the course that governance in Burma will take over the near and longer term. The United States must approach policy adjustments with careful consideration of how the instruments at its disposal—including both the engagement and sanctions sides of the equation—can be employed most effectively to encourage reform and democratic governance. Going forward, it will be useful to consider distinctions based on change in Burma for framing U.S. policy recommendations. Therefore, we conclude with a reiteration of the Task Force’s recommendations, which are organized into three distinct stages: (1) measures to be pursued now; (2) additional measures to be implemented if and when the United States begins to see indications of change on the part of the Burmese leadership; and (3) actions to be undertaken after real progress has been demonstrated on a sustained basis.

Stage 1: Measures to be pursued now

Between now and the presumed 2010 elections, the SPDC is likely to be preoccupied with election preparations to ensure that it achieves desired results, and it is unlikely to depart significantly from its chosen course. Its foreign policy will be aimed at creating at least the appearance that the international community recognizes the legitimacy of the elections. In fact, it is quite possible that the SPDC’s primary objective in engaging with the United States is to demonstrate to its own population that the United States endorses its seven-step process toward democracy. The United States must tread carefully through this minefield, avoiding the appearance of sanctioning or legitimizing a flawed election process, while pressing Burma’s military leaders to carry out credible elections.

Although there is no concrete evidence to suggest that the SPDC will respond positively to the central U.S. message on engaging in tripartite dialogue, releasing political prisoners, and allowing fair and inclusive elections, the United States must continue to press strongly on dialogue and inclusivity before the elections, not only with SPDC leaders, but also with Burma’s Asian neighbors and the United Nations. Ultimately, the way in which the SPDC handles the elections will have a critical impact on how the U.S. government deals with its results and the government it brings to power. It also will provide an early assessment in the United States of the relative merits of engagement with Burma and, in that respect, will influence the future direction of U.S. policy.

At present, the United States should focus on capacity building for Burma’s civil society organizations, including private education and health institutions. This would constitute a form of expanded engagement with other elements of Burmese society, in addition to the government, political parties, and ethnic minority leaders. U.S. assistance already includes many such programs, which should be expanded over the coming year to make capacity

building an explicit adjunct to current humanitarian assistance. Enhanced Fulbright and Humphrey Scholar programs would be another element of capacity building. U.S. support for training programs both inside Burma and in Thailand that are designed to foster negotiating skills, mediation, critical thinking, and analytical skills also is important. An emphasis on capacity building would address a critical need in Burma and help lay a foundation for expanding these programs after the elections, when they will be key to achieving change and reform.

Another important issue for U.S. policy during the pre-election period is the potential for the SPDC's election strategy to exacerbate internal instability that could spill over into China, Thailand, and Bangladesh. Until the status of the armed cease-fire groups has been peacefully resolved, the threat of renewed and even more serious violence will continue to unsettle Burma's neighbors. In particular, the United States should continue to urge the SPDC and the cease-fire groups to seek a negotiated solution, and it should consult closely with China and Thailand. The United States should continue to urge Burmese officials to provide assurances that the SPDC is abiding by its commitment to refrain from acquiring nuclear weapons technology and to UN Security Council Resolution 1874, which prohibits the receipt of arms supplies from North Korea.

The United States also should begin to explore with Burma's Asian neighbors and international financial institutions ideas for encouraging economic reforms and instituting training programs to build governance skills among civil servants. In addition, the governments of Asian countries investing in Burma, especially China and India, should be approached about the desirability of requiring large infrastructure projects to proceed only on the basis of thorough, independent social and environmental assessments and appropriate measures to incorporate human rights safeguards, skills training, and environmental sustainability elements into their projects.

As for the elections, the United States should avoid direct participation in election monitoring, because it could be seen as conferring legitimacy on a seriously flawed election process. However, the United States should facilitate the provision of educational materials on election and parliamentary processes to groups in Burma and on the Thai border that are conducting voter workshops and seminars, with a particular emphasis on state/division-level elections, which may become important to ethnic minorities. Voice of America and Radio Free Asia also could help educate voters.

Finally, the United States should maintain its full set of existing economic sanctions for the time being, as it has indicated that it plans to do. At the same time, it should work with other countries and institutions to investigate bank accounts and financial transactions tied to Burma's government in order to detect misappropriation of the country's gas proceeds. Such efforts will help to combat corruption; position the United States to further target and tighten financial sanctions, if circumstances warrant; and provide important information that can be used to promote key economic reforms in the future.

Stage 2: Additional measures to be implemented if and when the United States begins to see indications of change on the part of the Burmese leadership

U.S. policy during this period should be designed to assist the process of developing more democratic institutions, both inside and outside government, and to encourage government capacity building. The key indicators for U.S. policy will be whether the new government is at all interested in relaxing political restrictions, instituting economic reforms, and improving human rights. If there is no movement on these fronts, there will be little room for improving U.S. relations with Burma, and, in fact, pressure in the United States for tightening sanctions and other punitive measures likely will follow. In such a scenario, U.S. policy essentially would be left in pre-election mode, with limited engagement and assistance confined largely to humanitarian, community development, and limited capacity-building programs.

If a different scenario emerges that includes the release of political prisoners, including Aung San Suu Kyi, and a demonstrated tolerance for expanded political activity, it should open the way for a much more active role by the United States in assisting with capacity building, governance training, and international efforts to encourage economic reforms. One priority should be the development of an appropriate mechanism for ensuring that revenues from the sale of natural gas are properly repatriated and applied to urgent national needs. U.S. policy during this period should also be aimed at expanding assistance to the minority nationalities. Examples of specific measures that would advance these goals include the following:

- Creating bilateral and multilateral training programs for government officials, particularly in ministries involved in economic management
- Allowing international financial institutions to assist in planning economic reforms
- Investigating bank accounts and financial transactions to detect and combat the misappropriation of Burma's gas proceeds
- Encouraging the repatriation of gas proceeds and their appropriate allocation to meet public needs—for example, by advancing concrete initiatives to address the transparency of revenues and spending, to create well-managed and accountable structures for social investment that meet international standards, and to promote the creation of a qualified and independent audit body
- Creating human rights, democracy, and governance training programs focused on parliamentary representatives (including elected members and military personnel appointed to parliament) and civil servants
- Designing special governance training programs for elected and appointed officials in state-level government, aimed especially at minority nationalities
- Upgrading diplomatic representation to ambassador in both capitals

Assuming that Burma's agricultural sector will continue to suffer from a chronic deficit in lending facilities for small farmers, the United States should consider offering microcredit programs for the farming sector in order to encourage the government to establish a legal basis for microcredit in its banking system, as described earlier in this report, and to devote more government resources to agricultural credit. In fact, this is an example of how assistance might be used to leverage positive government change.

Regardless of the direction that the new government takes, this period would be an appropriate time for the United States to encourage the United Nations to form an international support group consisting of the United States, the European Union, Japan, China, India, Australia, Indonesia, and Burma. The group should coordinate its members' mutual efforts to advance Burma's transition, both politically and economically. It also should bring in other governments and international institutions as appropriate to focus on specific tasks, but its main objective should be to coordinate and demonstrate collective encouragement of reform, protection of human rights, and good governance.

We should expect that conditions in Burma, with regard to both quality of life and poor governance, will be much as they are today. It will continue to be difficult to deliver assistance reliably, the government still will attempt to control and divert assistance, corruption will be endemic, and many forms of assistance will continue to be viewed as unwelcome external interference. This will impose practical limits on the degree to which the United States (and the international community) can expand assistance programs, reinforcing the importance of maintaining robust assistance and training programs in Thailand. To the extent that the United States can develop collaborative efforts with China, Japan, and ASEAN, particularly with regard to economic reform initiatives, it will increase the possibility of achieving progress, because advice and support from these countries, rather than Western governments, are likely to be more welcome by the Burmese leadership.

Stage 3: Actions to be undertaken after real progress has been demonstrated on a sustained basis

If a second round of parliamentary elections is held in 2015, this could provide a more reliable measure of political progress in Burma. By this time, the civilian population may have a better idea of whether the new government is making sincere efforts to serve the public interest, whether it is safe to run for office and engage openly in political activity, and whether a new generation of socially responsible political and military leaders may be emerging. It is, of course, impossible to provide informed answers to these questions at this point. Suffice it to say that U.S. policy should remain predicated on encouraging positive change by balancing engagement with the most effective and well-targeted sanctions.

In the absence of serious progress, engagement with the government can expand only modestly, and sanctions will remain more or less as they are now or, in the worst case, could be tightened. On the other hand, if there is definitive progress both politically and economically, engagement will expand and sanctions should begin to diminish. The investment, trade, and financial sanctions currently in place can be gradually eased in

response to positive developments, including during regular reviews of relevant legislation scheduled on an annual basis. In fact, sanctions can be effective only if they are carefully calibrated to encourage and reward reforms. The United States probably would want to keep targeted financial sanctions in force, in order to deal with continuing corruption and attempts by the military and its cronies to control the economy and manipulate government resources.

If things progress in the longer term, the United States may begin to consider selective development assistance, health and education assistance in cooperation with government ministries, significantly expanded outreach and public diplomacy programs, educational exchanges, and many other elements of normal relations with an underdeveloped country. In such a scenario, USAID should develop an official bilateral relationship with the Burmese government, as is common practice. Economic reform should remain a priority, and the United States should begin to focus on legal reform to address civil rights, economic law, and corruption. It also might eventually be possible to provide assistance and training to parliamentary and legislative organizations. All of these efforts should place special emphasis on minority nationalities to facilitate their full participation in the country's political and economic development.

In the final analysis, the United States, on its own, can have only a limited impact on the course of political development in Burma, and should not overestimate its powers to do so. Under the best of circumstances, the social, political, and economic development necessary to support stable democracy will take decades to achieve. The chances of instability and internal strife as the country goes through this process are very high. Reform will require a concerted and coordinated effort by the entire neighborhood and the international community more broadly to keep this process moving forward. The United States would be best advised to make collaboration with other concerned governments and international institutions the centerpiece of its policy toward Burma over the longer term.

Appendix A: A Mechanism for Assessing and Appropriately Adjusting Economic Sanctions on Burma³²

This proposal recommends a program of sanctions and potential trade-offs based on the objective criteria set out in the “Ruling Justly” indicators of the Millennium Challenge Corporation (MCC).³³ The MCC was established by the U.S. government in 2004 as a vehicle for channeling aid (appropriated annually to the MCC by Congress) to countries that have in place the policies and institutions that make such aid effective. The MCC groups these policies and institutions into three broad categories: “Ruling Justly,” “Investing in People,” and “Encouraging Economic Freedom.” Indicators that measure the degree to which these activities are successfully in place are brought together in a country “scorecard.” The scorecards determine a country’s eligibility or ineligibility for MCC funding. The indicators are judged by organizations independent of the U.S. government employing public data, and they express a country’s performance relative to its peer average. With respect to the “Ruling Justly” category, the relevant indicators and the organizations scoring them include the following:

Civil liberties—rated according to the independence of the press and the judiciary; freedom of assembly and organization; freedom from arbitrary arrest and imprisonment; the freedom to marry or not to marry; and the freedom to choose where to work and live. *Assessing organization: Freedom House*

Political rights—rated according to the existence of free and fair elections; fair electoral laws; the right to organize political parties; the degree of participation by minority groups in decision making; and the freedom to seek political representation. *Assessing organization: Freedom House*

Voice and accountability—rated according to the accountability of government between elections; constitutional mechanisms for the transfer of power; freedom of speech; the freedom of civic groups and NGOs from government interference; and the degree of access to public information. *Assessing organization: World Bank Institute*

Government effectiveness—rated according to the independence and competence of the civil service; the efficiency of revenue and expenditure management; the extent of bureaucratic delays; institutional sustainability; the transparency with which taxes are levied; the adherence of spending to the national budget and the degree of consultation in its formation; and the provision of accurate statistics relating to budgetary and monetary issues. *Assessing organization: World Bank Institute*

³² This proposal was written by Sean Turnell, an advisor to the Task Force.

³³ These indicators (and the relevant source for all that follows in this section) are set out in Millennium Challenge Corporation, *Guide to the MCC Indicators and the Selection Process, Fiscal Year 2009* (Washington, DC: MCC, 2009).

Rule of law—rated according to the degree to which laws are observed by, among other entities, the police, government officials, and political leaders; the protection of private property rights; the impartiality of the legal system; the degree of public confidence in the police and the judiciary; the enforceability of contracts; civilian control of policy; and military and internal security through democratic institutions. *Assessing organization: World Bank Institute*

Control of corruption—rated according to the degree to which corruption exists at all levels of government; the extent of cronyism and nepotism in government appointments; perceptions of corruption and the attractiveness of a country to investment; and the degree to which government officials are liable for prosecution and the extent to which victims of corrupt decisions can seek redress. *Assessing organization: World Bank Institute*

Burma currently scores poorly on all of these indicators. In order to qualify for MCC funding, a country must score at or above the median of its country-income peers. Expressed as a percentile ranking, this median is 50%, with 100% representing the best country score in an income-peer set, and 0% the worst. The failure of Burma's leaders to "rule justly" is comprehensive, with percentile rankings of 0% for political rights; 4% for civil liberties; 4% for control of corruption; 7% for government effectiveness; 14% for rule of law; and 1% for voice and accountability.

In the context of sanctions on Burma—and the creation of a process through which they can be assessed, recalibrated, and, where appropriate, relaxed or intensified—the MCC "scores" provide a useful benchmark against which change in Burma can be scaled and judged. For instance, positive movements in Burma's scores, especially as they approach (or exceed) the crucial 50th percentile ranking, could justify the step-by-step lifting of sanctions. Because the MCC process is symmetrical in its scoring of "regression" as well as progress, it also provides an objective scale against which the tightening of sanctions could be considered. However, the process for utilizing the MCC criteria to consider relaxing sanctions on Burma should not be automatic, or triggered by some numerical score. Discretion and flexibility on such matters must remain with the U.S. government, lest opportunities to encourage progress, not otherwise counted in scores that rely on already established outcomes, are missed. Though the process of evaluating sanctions on Burma will always be difficult and controversial, this can be minimized by following a procedure that is transparent, objective, and relatively simple. The MCC's "Ruling Justly" criteria provide for such a process.

If the need arises to intensify sanctions (a scenario that, as the sentencing of Aung San Suu Kyi and other recent acts of internal suppression demonstrate, cannot be discounted), the critical issue is to ensure that any measures have a minimum impact on the "average citizen" in Burma. Financial sanctions largely fulfill this criterion while, at the same time, sending the right message to the right people. In this light, the Task Force proposes that the United States and other governments leave open the option of extending financial sanctions in a way that would effectively prevent money that presently evades international

injunctions against the Burmese regime (as well as questionable entities within Burma) from accessing the international financial system.

One way of doing this would be for the United States to apply so-called third-party sanctions under Section 311 of the USA PATRIOT Act. This act has already been employed in the context of Burma (see Appendix C), but here, the idea is that the act would be invoked to target banks in third countries that provide financial services to Burma's regime and connected parties. This approach was employed against the Macau-based Banco Delta Asia and its money laundering activities for North Korea. The action taken against Banco Delta Asia prompted more than 20 other banks (from Singapore, Mongolia, Japan, Vietnam, and China) to suspend their own links with that organization, and hence with North Korea. More recently, the U.S. government, largely through the actions of the Treasury Department, applied considerable pressure to foreign financial institutions doing business in Iran, citing the risk that certain transactions might facilitate nuclear and weapons proliferation activities. As a result, at least 40 foreign banks have stopped transactions with Iranian accounts. Should circumstances warrant it, the U.S. government could engage in a similar effort to reach out to third-country banks, in particular to target transactions involving Burma's generals and others responsible for corruption and repression. Meanwhile, the United States should gather intelligence on the SPDC's foreign bank accounts and financial movements, especially those relating to the oil and gas sector, so that it will be in a position to tighten targeted sanctions should this be necessary.

Appendix B: The Current Trajectory: 2010 Elections and the Economics of the Constitution³⁴

In 1990, the SPDC announced that it would not seat the newly elected parliament until a new constitution could be written. In the ensuing years, the SPDC worked fitfully on the creation of a constitution that would preserve as much military control over the political system as possible in a multiparty parliamentary system. After languishing for years in a stalemate with the regime's political opposition and ethnic minorities, the constitutional effort suddenly came to life in 2004, when Burma's Asian neighbors pressured the regime to follow through on promises made in 1988 to return the country to multiparty democracy. Responding to this pressure, the regime railroaded a new constitution through a National Convention that included selected representatives of non-Burman ethnic groups, but excluded the NLD and other opposition parties. In May 2008, the regime brought the new constitution to a national referendum in the immediate aftermath of Cyclone Nargis and announced that parliamentary elections would be held in 2010.

Since the promulgation of the constitution, the military leadership has been laying the groundwork for the complex multiparty elections called for in the constitution. They also are attempting to ensure that the SPDC will be able to maintain strict control over the process. They are determined not to repeat the experience of 1990, when they dramatically miscalculated the dynamics of the parliamentary elections. Despite government efforts to manipulate the vote by harassing opposition parties and restricting their ability to campaign, the 1990 elections resulted in a resounding victory for the NLD. Although an election law spelling out the detailed rules for the 2010 contest has not yet been published, a variety of groups are already beginning to form the rudiments of political parties to contest the elections. The popular expectation is that government-sponsored parties will dominate the elections, with only a minimum of seats going to nongovernment and nationality-based parties.

If the 2010 elections proceed as outlined, they stand to produce a new national parliament and 14 state and regional parliaments. All of these parliaments would have a 25% uniformed military membership appointed by the commander in chief, and a large percentage of the people running for civilian seats in the parliaments may be former military, hand-picked by the government. Most of the senior military in the SPDC, except perhaps the top two generals, are likely to emerge as ex-military senior officials in the new government. Reports from inside Burma suggest that, with the retirement of the current SPDC generals, the military retirement age of 60 will once again be enforced, in which case the new commander in chief could 55 years or younger—some 20 years the junior of current top leaders.

Despite the heavy military and ex-military overlay of the new government, the elections

³⁴ This analysis was written by Priscilla Clapp and Sean Turnell, advisors to the Task Force.

could bring a cadre of civilians to office and restore some of the country's political life. For example, aside from government-inspired parties and candidates, at least one independent democratic political party (although not the NLD) has announced its intention to run, and a number of nationality-based parties are preparing to form. Judging by the regime's handling of the constitutional referendum in 2008, however, it is highly unlikely that the 2010 elections will be free and fair. Nonetheless, it is incumbent on the international community to insist that only free and fair elections can produce credible results.

The 2008 constitution is not simply a creature of the SPDC. Many, if not most, of its provisions were adapted from the 1947 and 1974 constitutions. Many of the provisions that outside observers have attributed to the control mentality of the military leaders have been part of the Burmese political makeup for decades and reflect traditional rules of Burmese society. By and large, the new elements in the 2008 constitution are provisions for the uniformed military to participate directly in and largely control the political process. Another feature of the new constitution is a set of provisions establishing state and regional parliaments and outlining intricate rules for allowing non-Burman nationalities to be represented at this and the national level. Many Burmese expect that most of these non-Burman representatives will not be freely chosen, but rather will be anointed by the regime.

Although there are opportunities for greater participation by non-Burman nationalities in the new government than has been the case in the past, the new constitution is not attractive or acceptable to the non-Burman nationalities, particularly among cease-fire groups and those who are still engaged in active insurgency. Many of their concerns and requests were not taken into consideration by the SPDC, and agreements with the armed cease-fire groups stipulating that the matter of their arms would be settled after the elections have been willfully ignored by the SPDC.

The regime is now requiring that the cease-fire militias become part of the national border force under the command of the Burmese army before the elections take place. Several of the groups are resisting this plan and refusing to participate in the elections. To illustrate the full extent of its determination, the regime recently attacked the leadership of the Kokang cease-fire group, sending more than 30,000 ethnic Chinese refugees into China's Yunnan Province. The regime subsequently negotiated with the other cease-fire groups, although it maintains a threatening military presence around their areas. The attack on the Kokang capital has strained SPDC relations with China, but the generals seem to have expected this. Beijing is urging both the SPDC and the cease-fire groups to negotiate a peaceful solution and to avoid letting this dispute delay the elections. If the regime fails to reach a compromise with the Wa and the Kachin and resorts to force, it is likely to provoke a serious conflagration that will cause a strong reaction from China, and perhaps even India, which could destabilize the region.

Even if the question of the militias can be resolved peacefully, the cease-fire groups will continue to have grievances with the regime, as the new constitution disenfranchises them in other ways. First, only six of the original 17 groups were granted autonomous areas. Furthermore, the size of these areas was reduced from what was originally set out in the

cease-fire agreements. Second, the constitution calls for the military to have a strong role in the governance of the cease-fire areas, which is likely to be a continuing source of tension and resentment. Finally, the constitution does not provide the same degree of self-administration and economic independence for the cease-fire groups as that allowed under the original cease-fire agreements. Dissatisfaction with the new government could make these groups a continuing source of instability along the Chinese and Thai borders and possibly in Burma's urban areas. The lack of economic incentive also may encourage the border groups to become more economically aligned with China and Thailand, a trend that is already well established.

With regard to the seven states that are named for non-Burman nationalities, the new constitution could give them much more responsibility for their own affairs than is now the case, particularly in the long term. Once they learn the rudiments of governance, it may be possible for the residents of these states to begin expanding control over their own affairs. A number of non-Burman groups are already studying the possibilities of the new constitution and exploring the responsibilities of self-governance. In the Shan State, however, the constitution appears to be deliberately diminishing the power and influence of the majority Shan national group. The constitution calls for the creation of five self-administered zones for non-Shan cease-fire groups and provides other nationalities with at least 100,000 people nationwide to have their own parliamentary representatives and ministries in the state government. Considering the many minority groups residing in the Shan State, the new state parliament is likely to see a proliferation of nationality-based administrative bodies, potentially diluting the influence of the Shan majority population.

The possibilities of the new constitution ultimately will be determined by how the new government interprets its provisions. Despite the enormous detail in the constitution devoted to how the government should operate, there is still wide room for interpretation. For example, the constitution calls for the elimination of the SPDC as soon as the new parliament is seated. However, this does not preclude the possibility that senior SPDC generals could insert themselves into formal or informal positions that are not identified in the constitution. Furthermore, the current structures of the SPDC government (aside from the council itself), along with its laws and regulations, are to remain in place until the new government replaces them. This could be a very long process, and one that leaves the population caught between ostensibly competing laws—the seemingly more liberal provisions of individual rights and freedoms contained in the new constitution, on the one hand, and the archaic, decidedly undemocratic laws and judicial system currently in place, on the other.

For foreign aid donors and international institutions, a troubling provision in the constitution is the requirement that any recipient of assistance from a foreign entity (governmental or nongovernmental) is ineligible to run for parliament. If interpreted strictly to include all forms of foreign assistance, the provision could prohibit most people from running for office. If used selectively against liberal candidates whom the authorities wish to keep out of government, the provision could seriously complicate current aid programs aimed at empowering local civil society organizations. Moreover, the provision could also be used against business leaders who have received investment income from foreign sources.

A number of such provisions exist in the constitution, reflecting the Burmese military's tendency toward xenophobia, which will have to be addressed as the country redefines its relationship with the international community in the years ahead.

Regardless of the degree to which the regime attempts to control the new political process, because of the complexity and the number of parliamentary seats that must be filled, the elections will require a degree of political activity that has not been allowed for decades. Perhaps the NLD, which has kept the political flame alive for the past 20 years at great personal cost, will be able to reinvigorate its party operations, if it decides to participate in the elections. If it decides not to participate, the legacy of the NLD nonetheless will continue to inspire an independent democracy movement in Burma.

Looking out over the next 10 to 15 years, the military could find it more and more difficult to control its primacy in the political process. For example, even assuming that the government's Union Solidarity Development Association (USDA) becomes the vehicle for controlling the civilian side of the government, with time, the USDA is likely to develop interests in the political process separate from the uniformed military. Furthermore, the USDA is not likely to remain a nationally cohesive organization at the state and division levels. The key question is whether the military will refrain from reimposing martial law and allow the new government to survive long enough to develop its own legitimacy and strength. With the appropriate instruments and coordination, the international community can play a substantial role in buttressing the survival of elected civilian government in Burma.³⁵

The Economics of the New Constitution

Constitutions are not primarily economic documents. As statements of fundamental values and as templates for the rational organization of society, they incorporate ethics, morals, aesthetics, religious belief, nationalist sentiment, historical and cultural memory, communal imagining, and any number of considerations (including prescribed mechanisms through which existing rulers aim to stay in power) beyond economics. Nevertheless, it is a country's economy—and the extent to which this produces a surplus above subsistence—that allows, disallows, and otherwise shapes constitutions. Burma's 2008 constitution is no exception. The most important "economic" aspects of Burma's new constitution are contained in Chapter I, which details the "Basic Principles of the Union." Among these, the most critical are Articles 35 and 36:

- (35) The economic system of the Union is market economic system
- (36) The Union shall:
 - (a) permit all economic forces such as the State, regional organizations, cooperatives, joint-ventures, private individual, so forth, to take part in economic activities for the development of the national economy;

³⁵ For further analysis of the constitution, see the International Crisis Group, "Myanmar: Towards the Election," Asia Report No. 174, August 20, 2009, <http://www.crisisgroup.org/home/index.cfm?id=6280> (accessed February 2, 2010).

(b) protect and prevent acts that injure public interests through monopolization or manipulation of prices by an individual or group with intent to endanger fair competition in economic activities;

(c) strive to improve the living standard of the people and development of investments;

(d) not nationalize economic enterprises;

(e) not demonetize the currency legally in circulation.

A number of implications emerge from these Articles, most obviously the declaration that Burma's economic system will be market based—which stands in great contrast to Burma's doctrinaire socialist constitution of 1974. Clause (b) echoes old concerns of monopolies and manipulation that resonate through modern Burma's founding 1947 constitution and its colonial anxieties. The item is not *necessarily* problematic.

Also interesting in light of Burma's past are Clauses (d) and (e). Such "negative" pledges (i.e., declaring that the state will not do something) are not unusual in constitutions,³⁶ but here, the clauses evoke Burma's tortured economic history. In the past, enterprises were nationalized, and episodes of currency demonetization became characteristic of the country. Whether these assurances in Burma's latest constitution can be trusted is open to great doubt. Burma is not a country where the "rule of law" prevails or where the rights of the people to private property are respected. Burma's military leadership is hardly constrained by formal legalities. Given the obvious incentives, there is little reason to believe this will change in the absence of profound political reform. Secure property rights, in short, will not be established in Burma simply by constitutional assertion.

Other sections of the new constitution also cast doubt on the extent to which market relations will prevail in Burma, especially over the presumptions of the state and its organs. Of particular significance is Article 37:

(37) The Union:

(a) is the ultimate owner of all lands, and all natural resources above and below the ground, above and beneath the water and in the atmosphere in the Union;

(b) shall enact necessary law to supervise extraction and utilization of State owned natural resources by economic forces;

(c) shall permit citizens right of private property, right of inheritance, right of private initiative and patent in accord with law.

Clause (b) is not contradictory to a market economy—similar preeminent extraction rights of the state exist in most countries, and Clause (c) would be foundational if it was applied in practice.

³⁶ The injunction in the U.S. constitution against the establishment of a state-supported religion is one of the most well known

The most problematic provision is Clause (a) of Article 37. Clause (a) is a significant barrier to transformational investment by genuine private sector actors in Burma, especially in the agricultural sector. Article 37 is little more than a continuation of the existing land title arrangements in Burma, which are the progeny of the Land Nationalisation Act of 1948. Under these provisions, individuals are eligible for 30-year inheritable use rights on rural land, with such rights determined by village and regional-level land committees that also determine whether the land is used “productively.” Land cannot legally be transferred between unrelated individuals. This also means that land cannot be used as collateral on loans and denies Burmese cultivators the incentive and security to invest or improve their farms. The SPDC’s practice of engaging in arbitrary land confiscation only makes a mockery of such land rights that exist on paper. The importance of this issue cannot be overstated. According to the Food and Agriculture Organization of the United Nations, the ability to buy and sell title over land is a fundamental economic “right,” the provision of which for Burmese agriculture is the “key to sector development.”³⁷

Finally, the constitution assigns economic policy-making oversight to a “Financial Commission.” The president serves as the commission’s chair, and members include the vice presidents, attorney general, auditor general, the chief ministers of the regions and states; the chairperson of the Council of Naypyidaw; and the minister of finance. The commission “may, if necessary, seek advice from financial experts.” The main responsibility of the Financial Commission is to vet the budgets submitted by the Union ministries, as well as the state and regional governments, and to submit these to the Pyidaungsu Hluttaw and the president. Given that other parts of the constitution seem to allow the commander in chief sole discretion over military spending—by far the largest component of the budget—the extent to which the Financial Commission will have real control over economic policy making is questionable.

³⁷ Food and Agriculture Organization of the United Nations, *FAO/WFP Crop and Food Security Assessment Mission to Myanmar* (Rome: FAO, 2009)..

Appendix C: U.S. Sanctions on Burma

The economic and financial sanctions currently applied to Burma by the United States, and their relevant dates of application, are as follows:

1997—President Bill Clinton issues Executive Order 13047, which prohibits all new investment by U.S. persons or corporations beginning May 21, 1997. This order was enacted under the auspices of the International Emergency Economic Powers Act—the provisions of which underlay most U.S. sanctions programs—as well as Section 570 of the Foreign Appropriations Act. These sanctions effectively amount to a comprehensive investment ban, but they contain an important “grandfather clause” with respect to investments agreed to before May 21, 1997.

2003—The Burmese Freedom and Democracy Act (BFDA) is signed into law by President George W. Bush. The BFDA requires the U.S. president to ban all imports from Burma (with a waiver for products determined to be in the national interest), allows the imposition of a freeze on the assets of senior members of the Burmese government and other persons and entities (including certain banks) located in the United States, requires that the United States veto the provision of financial assistance to Burma by international financial institutions, and authorizes the president to withhold visas for entry into the United States of past and present leaders of the Burmese government, and other designated officials. Executive Order 13310, issued by President Bush on July 28, 2003, to implement the BFDA, also included a partial export ban of financial services provided to Burma by U.S. persons (anywhere), and by any other person or corporation located in the United States. In October 2007, this partial export ban was effectively extended to include computer, micro processing, and other technological equipment to Burma. Meanwhile, an annex to Executive Order 13310 listed the persons, property, and interests subject to the asset freeze. This list has been updated and expanded in scope in a series of subsequent executive orders (E.O. 13448 in 2007, E.O. 13464 in 2008). On July 28, 2009, President Barack Obama signed the Burma Sanctions Renewal Act, extending the BFDA for another year.

2008—The Tom Lantos Block Burmese JADE (Junta’s Anti-Democratic Efforts) Act becomes law. The JADE Act bans the importation of not just jadeite and rubies from Burma, but also jewelry and other articles imported from elsewhere containing such stones. In order to enforce this, jade and rubies from elsewhere must be fully documented to prove that they are not from Burma. The JADE Act also contains a number of other provisions. These include a direction that the U.S. Department of State submit to Congress regular reports on countries and entities that provide arms and intelligence to Burma, and that the president appoint a “Special Representative and Policy Coordinator” for Burma. One of the pre-1997 investment ventures “grandfathered” under Executive Order 13047 is the Yadana gas project, in which the U.S. oil firm Unocal (subsequently taken over by Chevron) holds a minority interest. The JADE Act calls on Chevron, in a “sense of congress,” to “consider voluntary divestment over

time.” Finally, the JADE Act includes the most comprehensive statement outlining the asset freezing and dealing prohibitions against “blocked persons,” who include:

- i. Former and present leaders of the SPDC, the Burmese military, or the USDA
- ii. Officials of the SPDC, the Burmese military, or the USDA involved in the repression of peaceful political activity or in other gross violations of human rights in Burma or in the commission of other human rights abuses, including any current or former officials of the security services and judicial institutions of the SPDC
- iii. Any other Burmese persons who provide substantial economic and political support for the SPDC, the Burmese military, or the USDA
- iv. The immediate family members of any person described in categories (i)–(iii)

In addition to these sanctions explicitly imposed on Burma, other measures contain some of the most significant injunctions against Burma’s government. These measures, which arise primarily as a consequence of breaches by Burma’s government of international norms relating to financial, narcotics, and criminal activities, include:

- The designation in November 2003, under Section 311 of the USA PATRIOT Act, that Burma’s financial system was a jurisdiction of “primary money laundering concern.” The intention of the designation was:

...to deny Burmese financial institutions access to the U.S. financial system through correspondent accounts. Thus, the proposed rule would prohibit U.S. financial institutions from establishing or maintaining any correspondent account for, or on behalf of, a Burmese financial institution. This prohibition would extend to any correspondent account maintained by a U.S. financial institution for any foreign bank if the account is used by the foreign bank to provide a Burmese financial institution indirect access to the U.S. financial system. In such a case, the U.S. financial system would be required to ensure that the account no longer is used to provide such access, including, if necessary, terminating the correspondent relationship.³⁸

- The continual designation, over many years, by the State Department that Burma is a “major illicit drug producing country.” This excludes Burma from certain forms of U.S. assistance, while aviation and other links are also downgraded. In September 2008, the U.S. government identified Burma as one of three countries that had “failed demonstrably” to meet its international obligations to counternarcotics.³⁹

³⁸ These provisions relating to Burma under the USA PATRIOT Act are set out in U.S. Department of the Treasury, “Imposition of Special Measures Against Myanmar Mayflower Bank and Asia Wealth Bank as Financial Institutions of Primary Money Laundering Concern,” *Federal Registry* 68, no. 227 (November 25, 2003): 66305–66311.

³⁹ See U.S. Department of State, “2009 International Narcotics Control Strategy Report, Country Reports,” February 27, 2009, <http://www.state.gov/p/inl/rls/nrcrpt/2009/vol1/116520.htm> (accessed February 2, 2010).

Map of Burma/Myanmar



Biographies of Task Force Members

Co-Chair

Wesley K. Clark is Chairman and CEO of Wesley K. Clark and Associates, a strategic advisory and consulting firm, and Senior Fellow at the University of California Los Angeles Burkle Center for International Relations. General Clark retired as a four-star general in 2000 after serving 33 years in the U.S. Army. In 2004, he was a candidate for the U.S. presidency. From 1997 to 2000, he was NATO Supreme Allied Commander and Commander in Chief of the U.S. European Command, where he commanded Operation Allied Force, NATO's first major combat action, which saved 1.5 million Albanians from ethnic cleansing in Kosovo. General Clark is the recipient of numerous U.S. and foreign military awards, including the Silver Star, Bronze Star, and Purple Heart.

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Henrietta H. Fore is Chairman and CEO of Holsman International, an investment and management company involved in domestic and international business. From 2007 to 2009, Ms. Fore served as the first female Administrator of the U.S. Agency for International Development (USAID). Additionally, she was designated as the Director of U.S. Foreign Assistance, holding the equivalent rank as Deputy Secretary of State. She served as the thirty-seventh Director of the U.S. Mint in the Department of Treasury from August 2001 to August 2005. Ms. Fore is a Trustee of the Asia Society.

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George Packer has been a staff writer for *The New Yorker* since May 2003. In addition to his coverage of Iraq, he has written on the atrocities committed in Sierra Leone, civil unrest in the Ivory Coast, and the Al-Jazeera satellite news channel. Mr. Packer was awarded two Overseas Press Club awards for his work in 2003, one for his Iraq coverage and the other for his reporting on the civil war in Sierra Leone. In 2001–2002, he was awarded the prestigious Guggenheim Fellowship.

Thomas Pickering is Vice Chairman of Hills and Company, an international consulting firm that provides advice to U.S. businesses on investment, trade, and risk assessment issues abroad. Ambassador Pickering retired from the U.S. Foreign Service in 2001 and holds the personal rank of Career Ambassador. During his five-decade-long career as a U.S. diplomat, he served as Undersecretary of State for Political Affairs, Ambassador to the United Nations, and Ambassador to Russia, India, Israel, Nigeria, Jordan, and El Salvador.

Paulo Sergio Pinheiro is a visiting professor of international relations at the Watson Institute of International Studies at Brown University, and a research associate at the University of Sao Paulo's Center for the Study of Violence, which he founded in 1987. From 2000 to 2008, he held the position of UN Special Rapporteur on the Situation of Human Rights in Myanmar. He also served as UN Special Rapporteur for Burundi from 1995 to 1999. Mr. Pinheiro is serving as a commissioner and as a rapporteur on children for the Inter-American Commission on Human Rights with the Organization of America States.

Kenneth Roth is the Executive Director of Human Rights Watch, a position he has held since 1993. Mr. Roth has investigated human rights abuses around the globe, with special expertise on issues of justice and accountability for atrocities committed in the quest for peace; military conduct in war under the requirements of international humanitarian law; counterterrorism policy, including resort to torture and arbitrary detention; the human rights policies of the United States, the European Union, and the United Nations; and the human rights responsibilities of multinational businesses.

James Scott is the Sterling Professor of Political Science and Professor of Anthropology and the Director of the Agrarian Studies Program at Yale University. He is a fellow of the American Academy of Arts and Sciences and has been awarded grants from the National Science Foundation, the National Endowment for the Humanities, and the Guggenheim Foundation. He has been a fellow at the Center for Advanced Study in the Behavioral Science, Science, Technology and Society Program at the Massachusetts Institute of Technology, and the Institute for Advanced Study at Princeton University.

Amartya Sen is the Thomas W. Lamont University Professor and Professor of Economics and Philosophy at Harvard University. He has served as President of the Econometric Society, the Indian Economic Association, the American Economic Association, and the International Economic Association. Professor Sen's many books have been translated into more than 30 languages, and he has received numerous national and international awards, including the Nobel Prize for Economics for his work in mathematical economics in 1998 and the Bharat Ratna in 1999, which is the highest civilian award given by the government of India.

George Soros is the Founder and Chairman of the Open Society Institute and the Soros Foundations Network, which promote, among other things, the creation of open, democratic societies based on the rule of law, market economies, transparent and accountable governance, freedom of the press, and respect for human rights. Born in Budapest in 1930, Mr. Soros survived the Nazi occupation and then fled Communist Hungary for England, where he graduated from the London School of Economics. He then settled in the United States, where he accumulated a large fortune through the investment advisory firm he founded and managed. Mr. Soros is the author of 10 books, including, most recently, *The Crash of 2008* and *What It Means*.

Richard Williamson served as U.S. Special Envoy to Sudan, Ambassador to the United Nations for Special Political Affairs, and Ambassador to the UN Commission on Human Rights. He served in senior foreign policy positions under Presidents Ronald Reagan and George H. W. Bush, including Assistant Secretary of State for International Organizations and Assistant to the President for Intergovernmental Affairs in the White House. Ambassador Williamson was the Chairman of the Illinois Republican Party, and he is currently the Roberta Buffett Visiting Scholar at Northwestern University.

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Priscilla Clapp (Principal Advisor) is a retired Minister-Counselor in the U.S. Foreign Service. During her 30-year career with the U.S. government, she served as Chief of Mission at the U.S. Embassy in Burma (1999–2002), Deputy Chief of Mission at the U.S. Embassy in South Africa (1993–96), Principal Deputy Assistant Secretary of State for Refugee Programs (1989–93), Political Counselor at the U.S. Embassy in Moscow (1986–88), and Chief of Political-Military Affairs at the U.S. Embassy in Japan (1981–85).

Sean Turnell (Principal Advisor) is an Associate Professor of Economics at Macquarie University in Sydney, Australia. A former Senior Analyst at the Reserve Bank of Australia, Dr. Turnell joined Macquarie's Economics Department in 1991. His research interests include Burma and its economy, financial sector reform in developing countries, the history of global monetary institutions, and the history of Australian economic thought. His book examining the history of Burma's monetary and financial system, *Fiery Dragons: Banks, Moneylenders and Microfinance in Burma*, was published in 2009 by the Nordic Institute of Asian Studies Press.

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