

# America Adopts ‘the Asian Way’? Or, the Emergence of a Two-level Game in US Policy towards Myanmar

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## Introduction

After decades of self-enforced isolationism and long-term underdevelopment, in 1988, Burma<sup>1</sup> seemed to have become the latest East Asian state to succumb to the “third wave” of democratisations that had already engulfed the Philippines, South Korea and Taiwan (and later Thailand and Indonesia). However, while the democracy movements in other East Asian nations initiated a jump in the democratisation process, such did not happen in the case of Burma. Indeed, in 2008, while both the Philippines and South Korea had Polity scores of eight, Myanmar’s Polity score was minus eight. This means that, twenty years after all three countries experienced widespread home-grown democracy movements, both the Philippines and South Korea are categorised as ‘democracies’, while Myanmar is still considered to be an ‘autocracy’. In this way, Myanmar has been going in the opposite direction to much of the rest of East Asia.

Importantly, the 1988 public demonstrations in Burma (that later became known as ‘Democracy Summer’) began, like all those before and since, as demonstrations firstly against the economic hardships that had resulted from failed state economic policies. These failed policies led to Burma’s long-term “contra-development”<sup>2</sup> (under-development), that was ‘officially’ acknowledged by the 1987 UN ‘demotion’ of Burma to a Least-developed country. It was against this background that the democracy summer briefly flourished, before being suppressed by the *tatmadaw* (Burmese military).

It is here that the modern history of Myanmar begins, and it is this event

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that continues to provide the basic reference point for much of Myanmar's international relations (or at least those with Western governments/organisations). Following the military crackdown foreign donors suspended aid, although it was not until the failure to implement the results of the 1990 election that many of these suspensions became semi-permanent. As the impasse over Myanmar's economic and political development continued, international sanctions, particularly those of the US also continued, both deepening and broadening. Indeed, the evolving sanctions and Myanmar government policies have been akin to long, drawn-out conversation, in which sanctions are both the response to some perceived negative trend, and the cause for further entrenchment. Relations between the US and Myanmar have therefore been in seemingly terminal decline, and in this way one must conclude that sanctions are a 'blunt stick' with which to communicate.

However, there has finally been recognition within US policy circles of this reality. In September 2009, after a nine-month review, the Obama administration announced a new approach in foreign policy towards Myanmar. While not proposing a softening of sanctions, the US announced that it was now prepared to engage in high-level dialogue with the Myanmar government. In essence the US government was announcing a new policy of "pragmatic engagement", a policy more akin to the "Asian Way" of ASEAN, Japan, and India. The substance of the shift in US policy is shown by the words of Kurt M. Campbell, Assistant Secretary, Bureau of East Asian and Pacific Affairs, who described the shift in US policy as, changing "our methods, not our goals".<sup>3</sup> Of course, the Asian Way of pragmatic or constructive engagement purports to have the same goal of democratic transition.

Importantly for this study, just two days after the new US policy towards Burma was announced by the State Department, Campbell gave testimony before the East Asia and Pacific Affairs Subcommittee of the Senate Committee on Foreign Relations. This is important because it is an example of what Robert Putman termed the "entanglement of domestic and international politics"<sup>4</sup>, meaning the recognition of the importance of domestic politics in the formation of foreign policy. This study will use Putman's two-level game of diplomacy and

domestic politics as a framework for analysing firstly the shift in US policy towards Myanmar, and secondly its resilience and potential for success.

Under previous US administrations, policy towards Myanmar can best be characterised as overwhelming focused on principles of democracy, and on negative developments in Myanmar. This policy has been “captive to moral symbolism”<sup>5</sup>, and reflected the absence of significant broad-based stakeholder interest. In this way, US foreign policy towards Myanmar has been formed according to a one-sided two-level game. The crucial strategic interests/international pressures of supporting allies in the region and countering the rise of China, as well as the usual economic interests of access to raw materials and markets, have played no role, while the domestic political pressures resulting from exiled activists and their lobby have dominated the game. The new administration however, is actively seeking areas where positive developments can be used to underpin further cooperation, and this could be seen therefore, as the emergence of a two-level game of the interaction between international and domestic politics.

This paper will first outline the development of US sanctions against Myanmar and it will be argued, as was done by Secretary of State Hilary Clinton, that the sanctions policy towards Myanmar has failed because it has not brought about any positive developments whatsoever in Myanmar<sup>6</sup>. The recognition of this failure is obviously a major motivation behind the shift in policy. There are a number of reasons for this failure that will be discussed here. However, importantly, not only have the sanctions not had any positive impact, but they have in fact had serious and lasting detrimental outcomes for US interests in the region as well as for the people of Myanmar. US interests in the region include support for continued ASEAN integration and stability, and for countering the ‘Rise of China’. The following section will give a brief discussion of the deteriorating humanitarian situation that has been worsening in tandem with the deepening US sanctions. In the early 21<sup>st</sup> Century, awareness of this unfolding humanitarian crisis provided the imperative for some level of engagement, and this included states and intergovernmental organisations that also had sanctions in place against Myanmar (the EU and Britain, for example). The following

section will therefore, present examples where Western states and IGOs have successfully engaged with the government of Myanmar, and it must be the case that these experiences have also influenced the change in US policy. The following section will deal with the substance of the policy shift and finally, there will be a discussion of the resilience of the new engagement policy.

### **US sanctions: the primacy of domestic politics**

Since the pro-democracy movement was first quelled in 1988, the international community has become increasingly divided over how to deal with Myanmar. There are those countries that favour engagement and those countries that advocate sanctions. While this division began as one along ideological lines, with democratic countries sanctioning the military government in Myanmar, over time, the division transformed into one of simple geography. The sanctions coalition, increasingly centred around the US and the EU, have focused overwhelmingly on the twin issues of human rights and democracy, and have hence pursued policies of intensifying sanctions. The engagement camp, though hardly a coherent unit, consists of all regional states (China, India, member states of ASEAN) that have followed policies of varying levels of engagement, the “Asian Way”. Japan has followed a path between these two extremes, attempting to do what the new Obama administration now advocates; a “sunshine policy”<sup>7</sup> of dialogue and engagement, with concurrent sanctions.

Simply put, (and to be discussed in more detail later), the Western sanctions policy has been undermined and effectively cancelled out by the engagement policies of Myanmar’s neighbours, especially China. The sanctions include both a restriction on the flow of financial resources into Myanmar, and a limitation on the flow of products out of Myanmar. The potential negative impact of both these two sanctions has been nullified by the cooperation of Myanmar’s neighbours, who have been forthcoming with both financial resources and access to domestic markets.

While foreign policy should be formulated according to national interest (to be determined, according to Putman at the point of interplay between international and domestic politics), it could be said that US foreign policy towards

Myanmar has been formulated according to national 'disinterest'. The lack of any meaningful US national (security or economic) interest in Myanmar, or to be more precise, *the perceived* lack of US national interest, gives the US "the luxury of adhering to its proclaimed foreign policy morality"<sup>8</sup>. This disinterest is reflected in the extraordinary cohesion among decision-makers with normally diverse interests. Such cohesion is typically visible only during times of war. There has been remarkable harmony between almost all the main stakeholders in the executive, legislature, civil society and business community. Voices of dissent have been resounding in their virtual silence. There exist a small group of powerful stakeholders, particularly within the legislature, who strictly adhere to principles of democracy and human rights *in the case of* Myanmar. While the Secretary of State under President Clinton, Madelaine Albright took such an active interest in Myanmar that she was jokingly referred to as the 'US Minister for Burma', Senators McConnell, Feinstein, McCain, Lugar, Biden, Grassley, Baucus, and Leahy, as well as Congressmen Lantos, Delay, Thomas, Hyde and Peter King, have all taken high profile approaches, sponsoring a stream of new legislation/sanctions against Myanmar. This is the basis for the statement by USAID that, "U.S. law prohibits direct support to the military junta"<sup>9</sup>. Such laws have been passed relentlessly over the last twenty years. In 2003, the Burma Freedom and Democracy Act (BFDA) became law and included a ban on all imports from Burma, a ban on the export of financial services to Burma, a freeze on the assets of certain Burmese financial institutions, and extended the visa restrictions on military leaders and their families. One of the main sponsors of the act was then-Senate Deputy Majority Leader Mitch McConnell who proudly said that, "the 418-2 vote in the House yesterday compliments the 97-1 vote we had on a very similar bill in the Senate on June 11<sup>th</sup>"<sup>10</sup>. In 2007, President Bush renewed this Act and at the same time signed the new Block Burmese JADE Act which was sponsored by Tom Lantos, and was specifically made to prevent the import, through third countries, of precious gems from Myanmar into the US. According to Martin and Sikkink, "Washington's interest in human rights as a foreign policy issue originated in Congress rather than the executive branch"<sup>11</sup>, and these two bills are evidence that both houses have vigorously, even single-

mindedly, pursued human rights diplomacy towards Myanmar. However, the executive branch has become more and more active. On top of the previously mentioned laws, President Bush issued a number of executive orders targeting senior Burmese Government officials and companies, such as the Union of Myanmar Economic Holdings Ltd. (UMEH) and the Myanmar Economic Corporation that are owned or controlled by the military government.

In addition to these domestic laws, consecutive US governments have blocked Myanmar's access to the resources of international financial institutions such as the World Bank, the IMF and the Asian Development Bank<sup>12</sup>. The US has also pursued sanctions through the United Nations, and has attempted to use its power on the United Nations Security Council to highlight negative trends in Myanmar. On 15<sup>th</sup> September 2006, after having many attempts blocked by the PRC, the US finally achieved its aim of getting the issue of Myanmar onto the permanent agenda of the UN Security Council. This means that the council can increase its scrutiny of the Myanmar government by asking for regular briefings by UN officials and by adopting resolutions. At the time, US Ambassador to the UN John Bolton said that Washington wanted to wait for a return visit to Burma by Under Secretary-General Ibrahim Gambari before deciding on the exact contents of any draft resolution<sup>13</sup>. The US stated that Myanmar is a threat to regional security because the refugee crisis, illicit narcotics trade, HIV/AIDS and human rights situation were "destabilising" factors in the region.

While this activity has been driven by domestic political pressures, and regardless of having had no positive impact on the Myanmar government, it has also severely limited US policy options. As identified by Martin and Sikkink, in the case of Argentina, the US successfully linked the improvement of human rights in Argentina to Eximbank loans and US military aid, which means that sanctions and negotiation were undertaken *concurrently*. In the case of Myanmar, there are so few exchanges between the two states that the conduits necessary for successful linkage strategies do not exist. The mounting US sanctions, combined with the increasing and often vociferous vilification of the Myanmar government essentially removed the possibility for linkage strategies.

While the US government has been increasing and intensifying its sanctions

against Myanmar, they have also released a continuous barrage of often fervent criticism of the Myanmar military government. As noted by Taylor, in his second term, President George W. Bush and his wife "took up the cause of regime change in Myanmar in a visible manner."<sup>14</sup> In 2005, just after beginning his second term in office, President Bush put Myanmar with Cuba, Belarus, Iran, North Korea and Zimbabwe in what he described as "outposts of tyranny". However, the most illustrative example is perhaps that of then-First Lady Bush, who made a rare public statement at the White House just two days after Cyclone Nargis hit Myanmar in May 2008. The main component of this speech was a scathing criticism of the human rights record and lack of progress towards democratisation in Myanmar. Furthermore, just two days after the cyclone had hit landfall, Mrs Bush openly condemned the Myanmar government for their handling of the crisis and accused them of preventing the US and other nations from sending in aid. She went on to accuse the regime of purposely failing to warn people of the imminent danger of the cyclone<sup>15</sup>.

Needless to say, these comments drew widespread criticism for both showing a lack of compassion, and risking the flow of international aid into the country<sup>16</sup>. If one assumes that the First Lady's request was based on humanitarian considerations, it is illogical to first go to such lengths to alienate the one organisation that holds power over the realisation of such humanitarian goals. Importantly, it is highly likely that, considering the defensive nature of the government in Myanmar, the comments from First Lady Bush severely hindered the swift and comprehensive disbursement of humanitarian aid.

This episode is highly illustrative of the 'Burma bashing' that overrode rational decision-making, and that was not the product of a two-level game that utilises the interplay of international and domestic politics to formulate the most rational policy. Importantly too, it runs concurrently with the extremely limited diplomatic contact between the two states. In the case of Argentina in the 1970s, as shown by Martin and Sikkink, the US maintained high-level contact, even while criticising the Argentine regime for its human rights abuses, and this was a factor that allowed the two sides to reach an agreement, enabling an improvement in human rights in Argentina (which was the goal of US policy)<sup>17</sup>. The

twenty year absence of an American Ambassador to Myanmar is striking evidence of the limited contact between the governments of the US and Myanmar<sup>18</sup>. A lack of meaningful contacts or conduits between two states will invariably limit the international political input into the two-level game of foreign policy formation, and will allow domestic politics to dominate. In the case of US policy towards Myanmar, it has further reinforced the situation whereby the formulation of foreign policy is dominated by domestic politics, or only one-level of what *should be* a two-level game.

### **Undermining sanctions: counterbalancing regional engagement**

In its drive to get the UNSC to monitor the situation in Myanmar, the US government states that Myanmar is a threat to regional security because the refugee crisis, illicit narcotics trade, HIV/AIDS and human rights situation were “destabilising” factors in the region. Ironically, these same reasons have been used by the neighbours of Myanmar to justify their engagement policies. For ASEAN, countering Chinese influence in Myanmar provided the initial rationale for granting Myanmar membership in 1997, and this imperative is far more significant now. Japan has long argued that countering Chinese influence/expansion and supporting ASEAN integration are reason enough to justify some level of engagement. As they are neighbours, China obviously views stability in Myanmar as being essential to its national interest, but access to Myanmar’s considerable natural resources and markets are an important consideration. Furthermore (and most worrying for India), China sees Myanmar as a land bridge between Yunnan Province and the Indian Ocean and this is perceived to be of considerable strategic importance. The 2007 deal between China and Myanmar to build a 2,000km pipeline between the Arakan coast of Myanmar and southern China is often cited as an example of Chinese ambitions.

To further China’s strategic interests, considerable assistance to the Myanmar government has included infrastructure investment, lucrative business deals, arms sales, military training, and support in the international arena. The potential negative impact of sanctions on Western finance has been effectively neutralised with Chinese aid, just two examples of which are the September 2000



Bank of China loan of US \$ 120 million for a hydroelectric power project, and the January 2003 offer of another US \$ 200 million soft loan<sup>19</sup>. Cross border trade and Chinese economic penetration of upper Burma is so extreme as to be referred to as a “Chinese colonization” of the border region stretching down to Mandalay<sup>20</sup>.

India, Malaysia, Russia, as well as ASEAN, are all trying to “woo” the Myanmar government away from its “strong relationship” with China<sup>21</sup>. However, ASEAN's engagement policy may have come at a high price. To many, the status of ASEAN has been seriously damaged because it has largely failed to achieve any tangible results. More importantly perhaps, the issue of Myanmar has split the cohesion of the organisation, and damaged the solidarity between members that was built on the principle of non-interference in the internal affairs of fellow member countries. Myanmar, and the lack of progress, has caused Member states and the organisation itself to break with this long tradition, and to publicly advise (criticize) the Myanmar government on domestic issues<sup>22</sup>.

While the sanctions have undoubtedly pushed Myanmar further into the arms of China, and while this has certainly weakened the US and her allies in the region, it has also been argued that, “sanctions disproportionately impact the people of Burma, not its military”<sup>23</sup>.

### **Side effects of sanctions**

While it may be said that the sanctions have had no serious impact on the government of Myanmar, it is not possible to say that they have not had a broader impact. According to Taylor, the 2003 Burmese Freedom and Democracy Act, “ended the textile trade”<sup>24</sup> in Myanmar, because it banned the import of Burmese textiles into the United States, which had amounted to US \$ 350 million annually<sup>25</sup>. While this resulted in the closure of countless factories and the loss of thousands of jobs, it happened against the background of a far more serious and far-reaching consequence of the sanctions.

Myanmar ranks 129<sup>th</sup> in the Human Development Index, which places it at the lower end of the countries categorised as having Medium Human Development. However, when comparing Myanmar's performance against other similarly placed countries with similar HDIs, in some key indicators, the humanitarian

crisis become clear and irrefutable.

When compared to regional neighbours, Myanmar has a worse performance in infant and under-5 mortality rates than even those countries that have a significantly lower overall HDI<sup>26</sup> and this shows that public health in Myanmar is an issue of serious concern. According to the World Health Organisation, Myanmar is also a poor performer in overall life expectancy, with a significantly lower life expectancy for men than other Asian countries<sup>27</sup>.

The advocates of sanctions would no doubt argue that low levels of public health in Myanmar results from ineffective and inappropriate government policies, and it is certainly true that the government do not prioritise health spending, as is shown by the low level of government expenditure on health. Total public expenditure on health as a percentage of GDP was 0.4% in Myanmar in 2002, and this compares to 1.3% for India, 2.1% for Cambodia, 1.5% for Laos, 1.1% for Pakistan and 1.4% for Nepal. These countries also receive considerably more foreign assistance than do the citizens of Myanmar, whose needs are arguably greater (considering the low level of government support they receive). This low level of public expenditure is reflected in two high profile areas of public health.

Myanmar is characterised as having a generalized epidemic of HIV in reproductive age adults. A 2006 report estimated that there were 687,000 Burmese adults living with HIV infection in 1999, or about one of every 29 adults, and recommended that, "HIV prevention and care programs are urgently needed in Burma"<sup>28</sup>. UNAIDS also characterises Myanmar as having a generalised HIV/AIDS epidemic and that the spread across the country is heterogeneous. UNAIDS estimates there have been 37,000 deaths due to AIDS<sup>29</sup>. According to the WHO, Myanmar is one of four countries (also India, Thailand and Indonesia) that account for 99% of the total HIV/AIDS cases in the Southeast Asian Region<sup>30</sup>.

Malaria is endemic in Myanmar and it is the number one priority in health planning<sup>31</sup> because it is the number one cause of death, accounting for over 10% of deaths in 2003<sup>32</sup>. Importantly, and reflecting the humanitarian crisis, while Myanmar has the third largest number of reported Malaria cases in South East Asia (6% of total cases, after India and Indonesia)<sup>33</sup>, it has the highest number

of deaths from malaria, accounting for 53% of total deaths in the region<sup>34</sup>.

This unfolding humanitarian crisis caused some Western governments and IGOs to cooperate on a limited scale with the government of Myanmar.

### **Western (limited) Engagement**

The Joint Programme for HIV/AIDS in Myanmar and the Fund for HIV/AIDS in Myanmar were both established in 2003 and, “they represent the successful commitment of a variety of partners — international development agencies, the Government of Myanmar, national and international non-Governmental organizations, and the United Nations family to find effective ways of helping the people of Myanmar fight AIDS.”<sup>35</sup> The Fund is financed by the governments of UK, Sweden, Norway and the Netherlands. Importantly, the UK government regard the Joint Programme as a success, and acknowledge that,

“Policy change is possible: Patient advocacy by NGOs and the UN on specific issues such as voluntary HIV/AIDS testing has been successful at changing SPDC policy. Change is achievable in the medium to long term if the case for change is presented in a way that both demonstrates the benefits for the people and does not challenge the SPDC.”<sup>36</sup>

This statement means that DFID acknowledge that it is possible to work with the *tatmadaw*/SPDC (State Peace and Development Council- the ruling military council), and that “change is achievable in the medium to long term”. Such cooperation is of course an essential conduit that will allow for the development of linkage strategies that could provide leverage over the government in Myanmar.

While the Myanmar government was initially reluctant to allow Western organization to assist in the relief effort following Cyclone Nargis, and while many international donors were hesitant to pledge money, three weeks after the cyclone, the Tripartite Core Group (TGC) was established to coordinate relief efforts. This group consists of the UN, ASEAN and the government of Myanmar. According to ASEAN, “the aim of the TCG is to act as an ASEAN-led mechanism to facilitate trust, confidence and cooperation between Myanmar and the international community in the urgent humanitarian relief and recovery

work after Cyclone Nargis hit Myanmar.”<sup>37</sup> In March 2009, the mandate of the TCG was extended to July 2010. In July 2009, on his visit to Myanmar, the UNSG Ban Ki-moon lauded the “unprecedented” cooperation between Myanmar, the UN and ASEAN through the TCG, which he said showed that humanitarian imperatives and the principle of sovereignty do not conflict. While the TCG's role was limited to humanitarian assistance, as argued by Roberts, “it may well have provided a model for … the socialization of more positive norms of behaviour.”<sup>38</sup> It is within such contexts as this that national (domestic) stakeholders assess the international political pressures, and are hence more equipped to rationally formulate foreign policy according to a two-level game.

Although not actually including the government of Myanmar, the *Group of Friends of Myanmar* represents a broad range of views on Myanmar. It was established by the UNSG in December 2007 to hold informal discussions and develop shared approaches to support UN efforts. Its members are Australia, China, the European Union, France, India, Indonesia, Japan, Norway, Russia, Singapore, the Republic of Korea, Thailand, the United Kingdom, the United States and Viet Nam. The Group has met 9 times since its inception, once in 2007, four times in 2008, three times in 2009 and the latest meeting was in March 2010. Following the latest meeting, while showing “concerns that the published electoral laws and the overall electoral environment so far do not fully measure up to what is needed for an inclusive political process”, the UNSG did state that the view of the Group was that, “Myanmar's political, humanitarian and development challenges should be addressed in parallel and with equal attention.” This is a veiled criticism of the monopoly of political (human rights and democracy) considerations that provided the foundation for the sanctions policies. Having said that, it is also within this international political environment that the new US engagement policy is set, and for this reason, it could be said that US policy towards Myanmar is beginning to be set according to a two-level game.

### **US Engagement: “The Asian Way”, or the Emergence of a Two-level Game?**

In February 2009, the new Secretary of State, Hilary Clinton announced a review of US Burma policy, stating clearly that, “neither sanctions nor

engagement, when implemented alone, had succeeded in influencing Burma's generals." After a nine-month review, the new US policy towards Myanmar was announced on the 28<sup>th</sup> September 2009, and then, on 30<sup>th</sup> September 2009, Kurt Campbell gave testimony at the East Asia and Pacific Affairs Subcommittee of the Senate Committee on Foreign Relations. It was announced that "the Burmese leadership has shown an interest in engaging with the United States, and we intend to explore that interest. In addition, concerns have emerged in recent days about Burma and North Korea's relationship that require greater focus and dialogue."

Therefore, after nearly two decades of policies designed to isolate the Myanmar government, the new Obama policy is one of 'pragmatic engagement'. This policy does not now include the withdrawal of sanctions, but does include efforts to expand channels of communication with the military leadership at higher levels of authority. While the 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 US intends to take "gradual confidence-building steps to foster cooperation and better understanding". Just two-months after the announcement of the new policy, President Obama attended the first ASEAN-U.S. Leaders Summit in Singapore and met the Burmese Prime Minister Thein Sein. Such a meeting was unimaginable under previous US administrations, and considering the vilification of the Myanmar government under the previous US administration, such a shift in policy could only be possible under new leadership. The meeting on the sidelines of the ASEAN-US Leaders Summit was an example of the imperative for "the United States [to] seek greater collaboration and cooperation with key regional and international players"<sup>39</sup>. On his way back to the US, President Barack Obama stopped in Japan, and on November 14<sup>th</sup>, at Suntory Hall in Tokyo, said of his new policy towards Myanmar,

"Despite years of good intentions, neither sanctions by the United States nor engagement by others succeeded in improving the lives of the Burmese people. So we are now communicating directly with the leadership to make it clear that existing sanctions will remain until there are concrete steps toward democratic reform. We support a Burma that is

unified, peaceful, prosperous, and democratic. And as Burma moves in that direction, a better relationship with the United States is possible.”<sup>40</sup>

Needless to say, the US administration continues to stress the importance of human rights and democratisation, because even though “players will tolerate some differences in rhetoric between the two games”<sup>41</sup>, extreme incongruence would not be accepted. In the two-level game of foreign policy formulation, the executive must balance the international and domestic forces, and the domestic forces would not tolerate a sharp divergence from their interests, especially when those very same interests had held sway over foreign policy for so long. In this way, the above quote can be interpreted as Presidential reassurances to Congress. Needless to say, the audience for the above remarks are expected to be in Washington as much as in Tokyo, Beijing, or Yangon.

To implement such a shift in policy, the executive invariably needs allies within the legislature. US Senator Jim Webb, chairman of the East Asia and Pacific Affairs Subcommittee of the Senate Committee on Foreign Relations, is one such ally. A long-time advocate of lifting economic sanctions against Myanmar, he visited the country in August 2009 to try to secure the release of US citizen John Yettaw who had been sentenced to seven years imprisonment for illegally entering Aung San Suu Kyi’s home. During his visit, he met with the top general, Than Swe and successfully secured the release of John Yettaw. After his return, Webb said that, “right now we have an opportunity here to try to construct a new formula”<sup>42</sup>, obviously referring to the new US administration. In an article published in the New York Times, Senator Webb argued that, “the United States needs to develop clearly articulated standards for its relations with the nondemocratic world. Our distinct policies toward different countries amount to a form of situational ethics that does not translate well into clear-headed diplomacy”<sup>43</sup>. Obviously this type of opinion is regularly articulated in much of the world as the hypocrisy of using different standards to judge different countries, of strictly adhering to principles of human rights in diplomacy towards Myanmar, but ignoring those very same issues in diplomacy towards Saudi Arabia, for example. It is of course telling, that the senator uses the phrase

“situational ethics” to refer, presumably, to the uneven application of what are purported (by those who advocate them) to be universal values. In recognition of the international politics (of the two-level game), Senator Webb recognises that China has gained a “huge strategic advantage ... as a result of our current policies”<sup>44</sup>, and this means that the US Senator understands that US policies have empowered China, its *strategic competitor*. This had been a trend concurrent with other US attempts, strengthening the US-Japan alliance, strengthening military cooperation with India, and establishing US military bases in Central Asia, to *contain* China. In this way, we must conclude, as has Senator Webb, that US policy towards Myanmar has been in contradiction to US strategic goals in Asia. In the comment of Senator Webb, it is possible to further see the emergence of the international political level to the two-level game of foreign policy formulation toward Myanmar.

However, while Martin and Sikkink argue that in the 1970s, it was the *combination* of sanctions and dialogue that led to an improvement in human rights in Argentina (the policy goal of the US), it was the *linkage* of US aid and Argentine human rights policies that was the “central dynamic” in determining success<sup>45</sup>. In this way, the opening of dialogue is only the first very small step on a long road that will involve a reduction in US sanctions towards Myanmar. It is likely that only the removal of at least some sanctions will allow linkages that will in turn provide leverage.

Some six-months into the new engagement policy and the development of a two-level game can clearly be seen. The US administration was continuing to justify its nascent engagement policy. On 10<sup>th</sup> March 2010, in response to the Burmese announcement of restrictive election laws, Assistant Secretary, Philip J. Crowley said, “...our engagement with Burma is about our national interest, our regional interest together with our partners in the region. Our engagement, as we’ve said in a variety of contexts, is not a reward for Burma; it is a recognition that past policies isolating Burma have not had results either”<sup>46</sup>. Such statements as these are obviously attempts to reframe the game of US foreign policy towards Myanmar into one that is a two-level game, a game which includes international political factors as well as domestic political factors.

On 10<sup>th</sup> May 2010, Kurt Campbell visited Myanmar and met with government ministers and opposition leaders such as Aung San Suu Kyi, as well as leaders from ethnic minorities. At the same time, and as evidence of the domestic political side to the two-level game, on May 7<sup>th</sup>, the United States Senate, in a unanimous resolution, “condemns the continued persecution of Burmese democracy leader Daw Aung Suu Kyi, her supporters, and the citizens of Burma”. However, this same resolution, co-sponsored by Senators Judd Gregg, Mitch McConnell, Patrick Leahy, Joseph Lieberman, Bob Bennett, Sam Brownback, and Susan Collins, “also expect[s] Secretary of State Clinton to engage with governments and organizations that can bring about positive change for the people of Burma, including China, the Association of Southeast Asian Nations, and even the United Nations Security Council”. Such a resolution was obviously timed to coincide with the Campbell visit, and shows that there does indeed exist bipartisan support for some level of engagement.

### **Restrictions on US engagement**

Regardless of the new Obama Administration engagement policy towards Myanmar, the last twenty years has witnessed the construction of a complex web of laws and executive orders that has created American policy. In this way, the new engagement policy is framed by, or set within the context of, twenty years worth of accumulated sanctions. Obviously, this means that there are serious limitations to any major shift in policy, even if it is, “changing our methods, not our goals”, because the sanctions are ‘the methods’, and these are set in law. For example, the State Department review of Myanmar policy had just begun when, on 14<sup>th</sup> May 2009, President Obama was *compelled* to extend by executive order the prohibition on new American investment in Myanmar that had begun in 1997 under President Clinton. Under the 1997 Foreign Operations Appropriations Act, the President was required to continue the prohibition if he determined that the government of Myanmar had “committed large-scale repression”, which had, according to the State Department’s annual human rights reports, continued unabated. This is a vivid example of the considerable path dependence that exists, whereby limitations on policy options have been pre-determined by past events.



Furthermore, on 22<sup>nd</sup> July 2010, the U.S. House of Representatives extended again for another year the ban on imports imposed by the Burmese Freedom and Democracy Act of 2003 and, just five days later, on 27<sup>th</sup> July 2010, President Obama renewed the Burmese Freedom and Democracy Act, thereby continuing the sanctions on imports from Myanmar<sup>47</sup>. One must conclude that from the perspective of the Myanmar government, there seems little benefit to be gained from dialogue with the US. The Myanmar government must be aware that the new US engagement policy includes no linkages that could be used by the US as leverage, or seen by the Myanmar government as incentives.

Because of this, US administration officials are attempting to broaden the domestic political debate regarding US Myanmar policy by offering incentives to other potential stakeholders. An example of this is the 2009 offer by Secretary of State Hillary Clinton to "open up opportunities" for U.S. investment in Myanmar if Suu Kyi is released.<sup>48</sup> This could potentially both expand the domestic coalition supporting the US engagement policy, as well as provide possible incentives for the leadership of Myanmar.

## Conclusion

Needless to say, the new Obama engagement policy of Myanmar has a long way to go, and as we have seen in only its first year, it has considerable hurdles to overcome. The next main hurdle will be how the US responds to the elections due to be held in Myanmar on 7th November 2010, and even though the US has said on countless occasions that the Burmese elections lack legitimacy because they are insufficiently free nor fair, it is not inconceivable that there may be political space for diplomatic action/further engagement.

Furthermore, while according to Putman's two-level game, it is the "Central executives that have a special role" because they are exposed to both the domestic political sphere and in the international political sphere<sup>49</sup>, the success or failure of US engagement will be largely determined by Congress. The twenty years of US sanctions towards Myanmar have been made by Congress, and it is in Congress that they will have to be dismantled. For this reason, the domestic political level to the two-level game of diplomacy towards Myanmar will maintain its

controlling position. However, as has been shown in this paper, the international political level has been in ascendancy, and this has the potential to successfully counterbalance what has been the domination of domestic politics over foreign policy towards Myanmar. With such a balance between the dual imperatives of international politics and domestic politics, the chances of sustaining a rational policy towards Myanmar greatly increases. Having said that, the nature of American politics means that the domestic political level will maintain its control of any potential leverage mechanisms that could be utilised in pursuit of the engagement policy, and it is for this reason that the successful outcome of any engagement will surely involve a two-level game of the interaction between international and domestic politics.

The dismantling of sanctions is obviously a vital component of the engagement policy, although it will doubtless take considerable time. The comparison with US engagement of Argentina highlights the necessity of the leverage that comes from the linkage between aid and an improvement in human rights. It may well be that, if the November elections run smoothly, the Myanmar government will gain some political space (legitimacy) that will allow them to loosen their grip on society. This loosening could include the release of some political prisoners, which could in turn provide Congress with the justification for loosening sanctions (even just minimally). This could lead to further positive developments in Myanmar. Conversely, if the elections do not run smoothly, such an outcome is highly unlikely. Importantly, of course, regardless of outcome, the US must continue with negotiations. If the US is seen to falter at the first setback, it will reinforce prejudices within the Myanmar government (that have formed over twenty years of sanctions), which will in turn negate the perception of any possible benefit for continuing negotiations. It will also severely damage the image of the US in Asia. In essence, “the door must *always* be left open”.

#### Notes

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