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U.S. Relations with Burma: Key Issues for 2015 (Update)

U.S. relations with Burma (Myanmar) in 2015 have continued to present challenges. Burma is scheduled to hold nationwide parliamentary elections on November 8, 2015, which the Administration has called “an important milestone in Burma’s political transition.” As detailed below, efforts to conclude a nationwide ceasefire agreement (CA) to end nearly six decades of low-grade civil war have yielded mixed results. Ethnic crisis in Rakhine State continues. The upcoming elections have heightened the sensitivity of issues at the heart of the crisis, including, for example, the citizenship status of ethnic Rohingya. Other pressing issues include the rise of *Ma Ba Tha*, a nationalist Buddhist group, and its anti-Islam rhetoric; the continued arrest and detention of political prisoners; and the incomplete fulfillment of President Thein Sein’s “11 commitments” made during President Obama’s 2012 visit.

During his visit to Burma in November 2014, President Obama stated that the democratization process in Burma was both “real” and “incomplete.” In a letter to President Obama, 41 Members of the House questioned Administration decisions to undertake new initiatives in Burma while reforms appear to have stalled or even reversed.

The 113th Congress authorized new military-to-military programs in Burma that are likely to begin after the parliamentary elections, depending on how the elections are conducted and their results.

Parliamentary Elections and Constitutional Reform

Many observers anticipate that Aung San Suu Kyi’s National League for Democracy (NLD) party will emerge from the November elections as the largest party in the new parliament. However, it is unclear if it will have sufficient support to form a new government. By contrast, because 25% of seats are reserved for active military officers likely to support the pro-military Union Solidarity and Development Party (USDP), the USDP only needs to win just over another 25% of the seats to form a government.

Proposed changes to Burma’s 2008 constitution that are backed by the NLD and other opposition parties—including one that would allow Aung San Suu Kyi to be eligible to become president—were rejected by the Union Parliament in July. In addition, Burma’s Union Election Commission (UEC), which runs the elections, has placed some restrictions on campaigning that may hinder the prospects of the opposition parties and favor the ruling Union Solidarity and Development Party (USDP). Although it did not do so during the 2010 parliamentary elections, Burma has said it will allow international observers in 2015.

The State Department and the U.S. Agency for International Development (USAID) are working with the Thein Sein government, the Union Parliament, and the UEC in hopes that the 2015 elections will be “credible, transparent, and inclusive.” U.S. election assistance to Burma has in part been allocated by USAID to the International Republican Institute (IRI) and the National Democratic Institute (NDI).

Ceasefire Negotiations and Ongoing Low-Intensity Conflict

The Thein Sein government, the Burmese military (Tatmadaw), and representatives of eight ethnic groups signed a ceasefire agreement (CA) on October 15. However, many larger ethnic groups, including the Kachin Independence Army (KIA), refused to sign unless three other ethnic groups—the Arakan Army (AA), the Myanmar Nationalities Democratic Alliance Army (MNDAA), and the Ta-ang National Liberation Army (TNLA)—also sign the agreement.

The Tatmadaw, which has sustained substantial casualties in fighting with the three groups, opposes the AA, MNDAA, and TNLA signing the CA until each group negotiates a separate ceasefire agreement. The Thein Sein government also is opposed to three non-combatant ethnic groups—the Arakan National Council, the Lahu Democratic Union, and Wa National Organization—signing the CA. President Thein Sein had made concluding the ceasefire agreement before the November parliamentary election a priority, in part to improve the USDP’s prospects. The CA does not address some controversial issues, such as the terms of post-ceasefire political dialogue, the status of the ethnic militias, and the ceasefire’s code of conduct for the Tatmadaw and the ethnic militias. Meanwhile, low-intensity conflict continues in Kachin, Mon, and Shan states. Fighting between the Burmese Army and the MNDAA in the Kokang region of Shan State has been particularly intense.

The Plight of the Rohingyas

The Rohingya are one of two ethnic minorities living in Burma’s Rakhine State. The Thein Sein government insists that the Rohingyas be called “Bengalis” because the government considers most of them to be illegal immigrants from Bangladesh, even though many of them have lived in Burma for generations. On February 11, 2015, President Thein Sein announced that Temporary Registration Certificates, known as “white cards,” would expire on March 31, 2015, eliminating the official document that allowed most Rohingya formally to reside in Burma. In addition the expiration of the “white cards” also disenfranchised the Rohingyas for the 2015 parliamentary elections. Moreover, the UEC initially barred 124 candidates (11 have been reinstated) from running in the November election, with a disproportionate number of

Muslims among them, including one Rohingya currently a member of the Union Parliament.

During the first quarter of 2015, an estimated 25,000 Rohingyas and Bangladeshis boarded boats in the Andaman Sea, heading primarily to Indonesia and Malaysia to escape persecution by the Thein Sein government. The Thein Sein government initially denied these people were from Burma. Indonesia, Malaysia, and Thailand refused to allow them to disembark in their territories. In response to international pressure, however, all four nations then offered to provide temporary assistance to address the crisis.

In 2012, hundreds of Arakans (or Rakhines), a predominately Buddhist minority in Burma's western Rakhine State, attacked Rohnigyas, resulting in the deaths of hundreds of Arakans and Rohingyas and the internal displacement of an estimated 140,000 people, mostly Rohingyas. More than two years later, over 100,000 displaced people remain in camps, with limited access to international assistance, education, or employment. In addition, Burma's Union Parliament has passed legislation that restricts the marriage and child-bearing rights of the Rohingyas.

The Rise of *Ma Ba Tha* and Anti-Islam Attitudes

In January 2014, a group of Buddhist monks established the Patriotic Association of Myanmar, or *Ma Ba Tha*, to defend Theravada Buddhism in Burma from a perceived threat from Islam. *Ma Ba Tha* and its leader Wirathu were the main supporters of the four, so-called "race and religion protection laws" that were approved by Burma's parliament and President Thein Sein. The four laws restrict interfaith marriage, religious conversion, and the reproductive rights of women. *Ma Ba Tha* has also been actively campaigning for the USDP and against the NLD, saying the NLD is supported by "Islamists and foreign countries."

Political Prisoners

When Burma's ruling military junta handed power to the Thein Sein government in April 2011, approximately 2,000 political prisoners were imprisoned in Burma. Between April 2011 and December 2013, President Thein Sein pardoned over 1,100 political prisoners to fulfill a pledge to release all political prisoners by the end of 2013. However, the Assistance Association for Political Prisoners (Burma) asserts that as of September 30, 2015, at least 96 political prisoners remain in jail, along with 466 activists currently awaiting trial for political actions. The termination of some U.S. sanctions on Burma is contingent on the unconditional release of all political prisoners in Burma.

Thein Sein's "11 Commitments"

During President Obama's first visit to Burma in November 2012, President Thein Sein made "11 commitments." A September 2014 State Department Fact Sheet said: "In a May 2013 visit to the United States, President Thein Sein and his senior ministers reaffirmed their intention to uphold these commitments, though as of August 2014, many of them remain only partially fulfilled." The commitments most frequently described by observers as unfulfilled are: establishing a U.N. High Commissioner for Human Rights

Office in Burma; establishing a ceasefire in Kachin State and a sustainable political solution of differences with ethnic minorities; addressing the ethnic problems in Rakhine State; allowing international humanitarian assistance into conflict-affected areas; and combating human trafficking.

New Initiatives

The White House announced two new initiatives during the President's November 2014 visit to Burma—the opening of a Peace Corps program in Burma and a joint program involving Denmark, Japan, and the International Labour Organization (ILO), to improve Burma's system of labor administration and improve worker-management relations.

Military-to-Military Relations

The Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (P.L. 113-291) authorized Defense Department funding for "consultation, education, and training" in Burma on the laws of armed conflict, civilian control of the military, defense institution reform, humanitarian and disaster assistance, and improvements in medical and health standards. The Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235) prohibits use of State Department funding for certain forms of military assistance to Burma, including International Military Education and Training (IMET) and the Foreign Military Finance (FMF) program. The Continuing Appropriations Act, 2016 (P.L. 114-53) extended the authorization and restrictions on relations with Burma's military into FY2016.

President Thein Sein has reportedly pressed the United States to enhance its engagement with the Tatmadaw. On June 25, 2014, the United Nationalities Federal Council of Burma (UNFC), a coalition of ethnic organizations with armed militias, wrote to Secretary of State John Kerry and then-Secretary of Defense Chuck Hagel opposing any military-to-military training programs in Burma. Aung San Suu Kyi reportedly also urged President Obama not to pursue greater military engagement until after the 2015 parliamentary elections. U.S. engagement with the Tatmadaw is also controversial in part because of ongoing reports of serious human rights abuses by the Tatmadaw.

Implications for Congress

Within 180 days of the enactment of the NDAA, the Secretary of Defense was to have provided Congress with a "report on military-to-military engagement between the United States Armed Forces and the Burmese military." P.L. 113-235 required that the Secretary of State provide a report to Congress within 90 days of enactment "detailing steps taken by the United States and other international donors to protect human rights and address conflict in Rakhine State." Congress may also choose to press the Obama Administration for progress reports on Thein Sein's "11 commitments," the status of political prisoners, and the prospects for free and fair parliamentary elections in 2015.

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