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Assessing Burma's Parliamentary Elections

On November 8, 2015, Burma (Myanmar) is scheduled to hold its second nationwide parliamentary election since the military junta that seized power in 1962 transferred power to a mixed civilian/military government in March 2011. President Thein Sein and the Union Election Commission (UEC) have promised that the election will be free and fair according to international standards. The Obama Administration has called on the Burmese authorities to hold “transparent, inclusive, and credible” elections.

Developments during the campaign period and some aspects of the election rules and regulations have prompted concerns that the elections could fall short of being either “free and fair,” or “transparent, inclusive, and credible.” Some observers argue that President Thein Sein, the UEC, Burma's military (also known as the Tatmadaw), and the pro-military Union Solidarity and Development Party (USDP) appear to be seeking to ensure that the USDP wins enough seats in Burma's bicameral Union Parliament to retain power and select a pro-military president. Other observers, however, argue that despite some irregularities in the election process, the results will likely reflect the wishes of the Burmese people.

“Free and Fair,” and “Transparent, Inclusive, and Credible”

For many years, the international community has judged elections around the world by whether observers deemed them to be “free and fair.” In March 1994, the Inter-Parliamentary Union (IPU), to which Burma is a member and the United States is not, adopted a set of criteria for free and fair elections. Those criteria covered voting and election rights, the rights and responsibilities of candidates and political parties, and the rights and responsibilities of the government in conducting free and fair elections. Among the criteria are the right of every adult citizen to vote on a non-discriminatory basis; the right to appeal if denied the right to vote; the right to campaign “on an equal basis” throughout the country; equal access to the media for all candidates and political parties; the provision of “an effective, impartial and non-discriminatory procedure for the registration of voters”; and the provision of a voting process “so as to avoid fraud or other illegality.”

Some observers have challenged the use of “free and fair” for being too vague and potentially implying thresholds that could be too high for many countries realistically to meet. The Obama Administration and the State Department have generally used the terms “transparent, inclusive, and credible” with reference to assessing the Burmese elections.

Issues in the Election Process

Several recent developments prompt concerns about whether Burma's upcoming elections will meet either standard or those international standards.

Transparency

Burma's 2008 constitution confers complete authority over elections to the Union Election Commission (UEC), which is appointed by the president. The chairman is Tin Aye, a retired lieutenant general and previously a USDP member of parliament. Under the constitution, the UEC's decisions are “final and conclusive” with respect to the conduct of the elections, the campaign activities of political parties and their candidates, the counting of the ballots, and the announcement of the official results.

The UEC is permitting international election monitors, including delegations from the Carter Center and the European Union, as well as the foreign embassies in Burma. The election monitors reportedly are not being provided full access to advance balloting, particularly on military installations. Access to advance balloting may be important as the results in 2010 were affected by the last-minute delivery of ballot boxes containing advance ballots.

The UEC issued the election rules in May 2014, but subsequently revised them after complaints from various political parties who felt the rules were overly restrictive. Aung San Suu Kyi's National League for Democracy (NLD) and other political parties claim that their candidates are being arbitrarily and unfairly restricted in their campaign activities by local UEC officials citing provisions in the revised election rules and regulations.

The UEC has also been criticized for its lack of transparency over its rejection of 88 candidates, including 17 of the 18 candidates from the largely-Muslim Democracy and Human Rights Party (DHRP) and at least one Rohingya candidate who is currently a member of parliament, Shwe Maung. While 11 of the candidates, including Shwe Maung, were reinstated as candidates upon appeal, the circumstances around the initial decision to bar their candidacies remain unclear.

Inclusiveness

In terms of the number of political parties fielding candidates, the 2015 elections are expected to be more inclusive than the 2010 elections. A total of 92 political parties have candidates in the 2015 election, compared to 40 in 2010. However, in terms of the number of people eligible to vote, the 2015 elections may be viewed as less inclusive than the 2010 elections.

The UEC has experienced continuing problems in compiling an accurate voter registration list. In late May, the UEC posted initial voter registration lists across the country, which the NLD and other political parties claimed were 30%-80% inaccurate. The UEC made revisions to the lists, which were posted in late September. However, the NLD and others continued to find errors, including “fake

people” (that is, individuals who do not exist) and the omission of previously registered voters. The UEC’s seeming inability to compile an accurate voter registration list has prompted some observers to speculate that it could be trying to influence the election in favor of the USDP.

The UEC has also decided that voting will not take place in more than 600 villages because it is “impossible to hold elections in a free and fair manner” in those locations. The decision will prevent large numbers of voters from participating in the election. Many of the villages are located in or near areas where the Tatmadaw and various ethnic groups are involved in periodic fighting. However, some of the villages reportedly are not near such fighting. Some observers claim that the UEC has barred voting in certain villages because the voters might support ethnic parties over the USDP.

Another factor undermining the inclusiveness of the 2015 election is President Thein Sein’s decision to withdraw the voting rights of the Rohingyas of Rakhine State. The Rohingyas have been able to vote in every previous election in Burma, including the 2010 elections. However, President Thein Sein in February withdrew their eligibility on the grounds that the Rohingyas are not citizens (in 1982, Burma’s military junta promulgated a new citizenship law that effectively took away the Rohingyas’ citizenship). According to one report, the decision removed about 750,000 Rohingyas from the voter registration list.

A smaller group of people who will be unable to participate in the 2015 elections are the approximately 100 alleged political prisoners currently in detention. Two Burmese organizations, the Assistance Association for Political Prisoners (AAPP) and the Former Political Prisoners Society (FPPS), have called for the release of all political prisoners before the November elections.

Credibility

Problems with the transparency and inclusivity of the electoral environment have raised questions about the credibility of the election results. With potentially millions of legitimate voters unable to vote, candidates barred from running or campaigning as they wish, and some voters unable to meet or hear the candidates in their districts, it is unclear whether the results will reflect the preferences of Burmese voters or whether authorities will be held accountable for violations of voter rights.

In addition, under the 2008 constitution, 25% of the seats in the Union Parliament are reserved for active duty military officers, who are appointed to the Parliament by the Tatmadaw’s commander-in-chief, Senior General Min Aung Hlaing. As a result, the threshold for gaining control of the parliament, and by extension, the selection of the president and vice presidents, is lower for the pro-military USDP and its supporters than it is for the NLD and its supporters. Whereas the NLD would need to win more than 50% of seats to gain control of the parliament, the USDP

faction only needs to win more than 25% of the seats to have a majority in the parliament.

Ceasefire Agreement and the Elections

On October 15, 2015, President Thein Sein, Commander-in-Chief Senior General Min Aung Hlaing, and representatives of eight ethnic organizations signed a ceasefire agreement in Burma’s capital city of Naypyitaw. (see CRS Insight IN10374, *Less-than-Nationwide Ceasefire Agreement Signed in Burma*, by Michael F. Martin). However, more than a dozen ethnic organizations did not sign the agreement, leaving it well short of the nationwide accord President Thein Sein had sought.

Since the agreement was signed, new fighting has broken out between the Burmese military and the militias of some of the non-signators to the agreement, including National Socialist Council of Nagaland-Khaplang, the Shan State Progressive Party, and the Ta’ang National Liberation Army. The increase in fighting has raised the possibility that the UEC could add locations to the list of areas where voting will not take place due to security concerns.

Implications for U.S. Relations with Burma

The Obama Administration has identified the November elections as a crucial event for the future of democracy and political reform in Burma. How the elections are conducted, as well as their outcome, could have a significant impact on future U.S. relations with Burma.

According to some observers, the political situation in Burma may remain unsettled after the election results are announced. Although many analysts anticipate that the NLD will emerge with the most seats in the new Union Parliament, it may not win enough seats to form a majority coalition and control the selection of Burma’s next president. Similarly, it is uncertain if the SPDC and its allied political parties can win enough seats to form a majority in the Union Parliament. The nature of changes in Burma’s government may remain unclear until the Union Parliament selects the next president in March 2016.

President Thein Sein and his senior advisors have indicated they hope that by holding relatively free and fair elections, they will have demonstrated to Congress and the Obama Administration their commitment to democratic reforms and obtain the removal or repeal of the restrictions on U.S. relations with Burma that remain in place, such as a visa ban on certain Burmese nationals. Commander-in-Chief Min Aung Hlaing and Burma’s military leaders would like to see the restrictions on military-to-military relations lifted following the completion of the parliamentary elections. Whether or not these goals are met may depend in part on how Congress and the Obama Administration assess the November elections.

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