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U.S. Relations with Burma: Key Issues for 2015

2014 was a mixed year for U.S. relations with Burma (Myanmar). During his visit to Burma in November 2014, President Obama praised President Thein Sein for the release of child soldiers and political prisoners, and stated that the democratization process in Burma was both “real” and “incomplete.” In a letter to President Obama, however, 41 Members of the House questioned administration decisions to undertake new initiatives in Burma while reforms appear to have stalled or even reversed.

Burma is scheduled to hold nationwide parliamentary elections on November 8, the results of which many analysts see as a bellwether for the prospects for further political reforms. Efforts to conclude a nationwide ceasefire agreement (NCA) to end nearly six decades of low-grade civil war have run into problems. Given the current refugee and migrant crisis in the Andaman Sea, the Thein Sein government may try to address the continuing ethnic crisis in Rakhine State. Other pressing issues for Burma are the continued arrest and detention of political prisoners and the incomplete fulfillment of President Thein Sein’s “11 commitments” made during Obama’s first visit in 2012.

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 as the largest party in the new parliament, if they participate in the election. Proposed changes in Burma’s 2008 constitution 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). In contrast to 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 to 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 16 ethnic groups agreed on a draft nationwide ceasefire agreement (NCA) on March 31, 2015. The NCA’s conclusion awaits its formal approval by the various participants in the negotiations.

The draft NCA resolved many issues, but does not address some of the more 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.

Leaders of the 16 ethnic groups met in early May and again in early June, when they proposed 15 amendments to the draft NCA. In addition, the ethnic groups appointed a new negotiating team to continue negotiations with the Thein Sein government and the Tatmadaw. The new negotiating team met with the Thein Sein government’s chief negotiator Aung Min in early July. Aung Min reiterated his side’s opposition to any changes in the draft NCA.

Meanwhile, low-intensity conflict continues in Kachin, Mon, and Shan states. Fighting between the Burmese Army and the Myanmar National Democratic Alliance Army (MNDAA) in the Kokang region of Shan State is particularly intense. Although the MNDAA is a party to the NCA negotiations, the Thein Sein government does not recognize the organization as a legitimate party to the talks.

The Plight of the Rohingyas

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 Rohingyas, members of a largely Muslim minority, 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 Thein Sein government insists that the Rohingyas be called “Bengalis” because the government considers most of them to be illegal immigrants from Bangladesh. In July 2014, the Thein Sein government announced a Rakhine State Action Plan (RSAP) that would allow some of the Rohingyas citizenship, but would resettle the majority of the Rohingyas into permanent “resettlement camps.” The RSAP has been criticized by the United Nations and various international organizations for violating international human rights agreements.

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 July 3, 2015, at least 138 political prisoners remain in jail, along with 452 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” of 2012

1. Allow the International Committee of the Red Cross access to prisons.
2. Establish U.N. High Commissioner for Human Rights Office in Burma.
3. Allow “blacklisted” people to enter or leave Burma.
4. Initiate a process to assess the criminality of alleged political prisoners.
5. Establish a ceasefire in Kachin State and a sustainable political solution of differences with ethnic minorities.
6. Address the ethnic problems in Rakhine State.
7. Allow international humanitarian assistance into conflict-affected areas.
8. Sign the Additional Protocol to the U.N.’s Comprehensive Safeguards Agreement.
9. Stop arms trade with North Korea.
10. Combat human trafficking.
11. Make government more open and accountable.

Thein Sein’s “11 Commitments”

During President Obama’s first visit to Burma in November 2012, President Thein Sein made “11 commitments” (see shaded box). In a September 2014 Fact Sheet, the State Department stated, “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.” Assessments of progress in fulfilling the commitments vary, but according to one advocacy NGO, Thein Sein has fulfilled only 1 of the 11 commitments (signing the Additional Protocol), partially fulfilled 6, and

not fulfilled 3. The status of the last commitment—arms trade with North Korea—is uncertain.

Obama’s 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.

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 ex-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.” Neither report has yet been submitted to Congress. 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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