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U.S. Relations with Burma: Key Issues for 2017

Between 2011 and 2015, the Obama Administration increased engagement with Burma (Myanmar), and waived some of the sanctions imposed by Congress. Following the formation of a new government in April 2016, with Aung San Suu Kyi in the newly created position as State Counsellor, the Obama Administration waived most of the remaining restrictions on U.S. relations. Congress, however, chose to continue some restrictions via appropriations legislation. The Trump Administration has provided little indication of its intended policy toward Burma.

Ongoing Conflict and the Peace Process

Burma has endured a low-intensity civil war since 1948, the result of a perceived failure, according to many of Burma's ethnic minorities, of Burma's central government to abide by the terms of the Panglong Agreement which granted Burma's seven ethnic states a high degree of autonomy. For nearly 70 years, the Burmese government and various ethnic armed organizations (EAOs) have vacillated between periods of active fighting and times of relative peace under negotiated ceasefire agreements. In 2011, several ceasefire agreements broke down and fighting between the Burmese military, or Tatmadaw, and some of the EAOs increased.

During his term in office (2011-2016), former President Thein Sein attempted to negotiate a nationwide ceasefire agreement with most of the EAOs. Those efforts were partially successful, when, on October 15, 2015, 8 of 21 EAOs signed a ceasefire agreement with the Thein Sein government and the Tatmadaw. Thein Sein's subsequent efforts to advance the peace process were largely unsuccessful.

Aung San Suu Kyi has made the peace process a top priority of the new NLD-led government. More than 1,400 representatives of ethnic political parties, EAOs, the NLD-led government, the Tatmadaw, and other concerned parties attended a peace conference, dubbed the "21st Century Panglong Peace Conference," in Naypyitaw, Burma on August 31–September 3, 2016. Progress at the conference appeared to be hampered by the Tatmadaw's objection to inviting three EAOs—the Arakan Army, the Myanmar National Democratic Alliance Army, and the Ta'ang National Liberation Army—to the conference. Statements presented by Commander-in-Chief Senior General Min Aung Hlaing and representatives of several EAOs, moreover, indicated a serious gap in their visions of a democratic federated union of Burma. A second peace conference, originally scheduled for the end of February, has been postponed indefinitely.

The NLD-led government faces many of the same challenges in the peace negotiations that the Thein Sein government faced, including:

- Disagreement over the distribution of power between the central government and the seven ethnic States; and
- The Tatmadaw's opposition to the participation of several of the EAOs in the negotiations, and the insistence of several of the larger EAOs that all EAOs be included.

Progress is also being hindered by the continuing fighting between the Tatmadaw and ethnic militias in the States of Kachin and Shan. Most of these ethnic militias are associated with EAOs that did not sign the October 2015 ceasefire agreement. Fighting between the Tatmadaw and the EAOs escalated following the 2016 peace conference, raising doubts about the Tatmadaw's commitment to peace.

Continuing Crisis in Rakhine State

Rakhine State is home for two major ethnic groups, the Rakhine (or Arakan) and the Rohingya. The Rohingya have been subjected to human rights abuses, mostly perpetrated by the government and military, for more than 50 years. In 1982, Burma's military junta promulgated a series of discriminatory policies, including a new Citizenship Law that effectively stripped the Rohingya of their citizenship. The junta also denied the Rohingya such rights as access to education and employment, and freedom of movement. The Thein Sein government continued these practices when it was in power.

The NLD-led government initially showed some willingness to reexamine past policies in Rakhine State. For example, on August 24, 2016, Aung San Suu Kyi announced the creation of an international Advisory Commission on Rakhine State, headed by former U.N. Secretary General Kofi Annan, to analyze the factors that have resulted in violence in Rakhine State.

October 2016 Attacks

On October 9, 2016, an unknown number of assailants attacked three border outposts in northern Rakhine State, killing nine Myanmar Police Force (MPF) officers. In response, the Tatmadaw deployed additional security personnel into northern Rakhine State, imposed martial law, and restricted humanitarian assistance and media access to the affected areas of northern Rakhine State as part of a "clearance operation."

The Tatmadaw and the NLD-led government initially claimed that the attacks were carried out by a group of Rohingya organized by Aqa Mul Mujahidin, a Muslim extremist group operating in Bangladesh. The Tatmadaw and the NLD-led government subsequently attributed the attacks to a different group, the Harakah al-Yaqin (HaY). (The group's leader, Ata Ullah, has renamed the organization the Arakan Rohingya Salvation Army [ARSA], which he claimed is committed to defending the rights of the Rohingya.)

Human Rights Violations

Various Burmese and international organizations, including the United Nations High Commissioner for Human Rights (UNHCHR), Amnesty International, and Human Rights Watch, claim that the Tatmadaw forces have inflicted reprisals against the civilian Rohingya population, killing unarmed civilians, raping women and children, and burning down villages. The Tatmadaw, the NLD-led government, and the presidential commission deny that serious human rights violations have occurred in Rakhine State. Reports from some journalists who were already in northern Rakhine State support the claims of violent Tatmadaw reprisals against the Rohingya.

The U.N. High Commissioner for Refugees (UNHCR) has stated that the alleged violence in Rakhine State may constitute “crimes against humanity.” Other groups have raised fears that the Tatmadaw are attempting an “ethnic cleansing” of the Rohingya. The Advisory Commission on Rakhine State released its interim report on March 16, 2017, recommending that humanitarian assistance be restored and the temporary camps closed as soon as possible. On March 22, 2017, the U.N. Human Rights Council decided “to dispatch urgently an independent international fact-finding mission ... to establish the facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar, in particular in Rakhine State.” The NLD-led government has agreed to implement the commission’s recommendations, but opposes the fact-finding mission.

Humanitarian and Displacement Issues

Serious humanitarian issues exist in many parts of Burma. The country is also one of the most vulnerable to natural disasters in Asia. Millions of Burma’s estimated 51.5 million people suffer from food insecurity, chronic poverty, lack of adequate health and other services. In addition, an estimated 6.4 million people live in conflict-affected areas. Emanating from this fragile situation are regional refugee, migration, and labor issues, including an estimated 320,000 registered refugees in Bangladesh, India, Malaysia, and Thailand, and reportedly 350,000 to 500,000 who remain unregistered (mainly in Bangladesh). Thousands of undocumented Burmese workers and vulnerable migrants live in Thailand and Malaysia.

Within Burma, in December 2016, the U.N. Office for the Coordination of Humanitarian Affairs (UNOCHA) identified 525,000 people who were in need of critical humanitarian and protection assistance, mainly as a result of conflict. These include 218,000 people who were Internally Displaced Persons (IDPs) in camps and host communities in Kachin (87,000), Shan (11,000), and Rakhine (120,000); and 307,000 non-displaced, vulnerable people with a lack of access to services. By April 2017, due to ongoing conflict, the overall number of IDPs increased to 260,000. (See “Vulnerable Population of Rakhine State.”)

Constitutional and Legal Reforms

Since taking office in April 2016, little progress has been made on NLD campaign pledges to establish a more democratic government and protect the human rights of the people of Burma.

Vulnerable Population of Rakhine State

Of the vulnerable populations identified by UNOCHA, in Rakhine State, the 120,000 long-term IDPs—mostly Rohingya—live in 36 camp or camp-like settings. An additional 282,000 people in 11 townships are also in need of humanitarian support. UNHCR has stated that nearly one million people (mostly Rohingya in Rakhine) are stateless. For the Rohingya, restrictions on freedom of movement impact many areas of their lives and create dependence on humanitarian and protection assistance. Since the October 2016 attacks, an estimated 30,000 Rohingya have become IDPs and 65,000 to 73,000 Rohingya have fled to Bangladesh. Humanitarian organizations have faced severe constraints on access due to limitations imposed by the government in northern Rakhine and Kachin/northern Shan.

Prospects for constitutional reforms are stymied by the appointed military members of the Union Parliament having veto power over most of proposed constitutional amendments. Changes to most of the articles in the 2008 constitution require the support of more than a 75% majority of the members, and the military members hold 25% of the seats in the Union Parliament. Having failed to obtain a constitutional amendment that would have made it possible for her to serve as President, Aung San Suu Kyi appears to have abandoned efforts to reform the 2008 constitution.

The NLD, however, does have a sufficient majority in both chambers of the Union Parliament to pass legislation to repeal or revise repressive laws without the support of its military members. Nearly a year after taking office, however, the Union Parliament has made few changes in Burma’s more problematic laws, such as the Electronic Transactions Act, the Peaceful Assembly and Peaceful Processions Act, and the Telecommunications Act, which continue to be used to arrest people for their political beliefs. In addition, the NLD has not taken up the four so-called “Race and Religion Protection Laws” passed in 2015, that violate international standards regarding freedom of religion and women’s rights.

Political Prisoners

When the military junta transferred power to the Thein Sein government in 2011, more than 1,000 political prisoners were in Burmese jails. Ex-President Thein Sein promised to release all of Burma’s political prisoners by the end of 2014, but when the President Htin Kyaw took office in April 2016, an estimated 121 political prisoners were in prison, and another 414 were facing trial. President Htin Kyaw and Aung San Suu Kyi pardoned a number of political prisoners, but new political prisoners continue to be arrested by the Myanmar Police Force, which directly reports to the Tatmadaw, for alleged violations of Burma’s repressive laws. As of January 31, 2017, there were 250 political prisoners in Burma.

Michael F. Martin, Specialist in Asian Affairs

Rhoda Margesson, Specialist in International Humanitarian Policy

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