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U.S. Relations with Burma: Key Issues for 2016

Aung San Suu Kyi's National League for Democracy (NLD) secured a landslide victory in Burma's nationwide parliamentary elections held on November 8, 2015 (see CRS Report R44436, *Burma's 2015 Parliamentary Elections: Issues for Congress*, by Michael F. Martin). The newly elected Union Parliament took office in early February 2016, and in March chose Htin Kyaw, a close friend of Aung San Suu Kyi, as President. In early April, the Union Parliament established the new office of State Counsellor, and confirmed the appointment of Aung San Suu Kyi to that office. She also was confirmed as Foreign Minister.

A key issue in Burma's future will be the emerging relationship between the NLD-led government and the Burmese military (Tatmadaw). Burma's 2008 constitution ensures that the Tatmadaw will continue to be a major force in the new government. The Tatmadaw occupies 25% of the seats in both chambers of the Union Parliament, giving it the ability to block constitutional amendments (which require at least a 75% majority to pass). The Tatmadaw also appoints military officers as key Ministers (Border Affairs, Defence, and Home Affairs) and maintains near complete autonomy from civilian control or oversight.

Political Transition

Burma's formal transition to a new NLD-led government took several months. The two chambers of the newly elected Union Parliament, the *Pyithu Hluttaw* (House of Representatives) and the *Amyotha Hluttaw* (House of Nationalities), took office on February 1 and 3, 2016, respectively. On March 15, the Union Parliament chose Htin Kyaw—close friend to Aung San Suu Kyi, long-term NLD member, and ex-political prisoner—as President. Htin Kyaw defeated retired Lieutenant General Myint Swe and Henry Na Thio, who were subsequently appointed as Vice Presidents (see CRS Insight IN10464, *Burma's Union Parliament Selects New President*, by Michael F. Martin).

President Htin Kyaw soon announced candidates for his Cabinet, including Aung San Suu Kyi as Education Minister, Energy and Electric Power Minister, Foreign Minister, and President's Office Minister. The Union Parliament, however, approved the new position of State Counsellor on April 5, and Aung San Suu Kyi was appointed to the position. She subsequently stepped down as Education Minister and Energy and Electric Power Minister.

Ongoing Conflicts 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 (negotiated between General Aung San, Aung San Suu Kyi's father,

and the leaders of several of Burma's larger ethnic minorities) which effectively 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.

During his term in office, ex-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 an agreement with the Thein Sein government and the Tatmadaw (see CRS Insight IN10374, *Less-than-Nationwide Ceasefire Agreement Signed in Burma*, by Michael F. Martin). Following the signing of the agreement, ex-President Thein Sein's efforts to advance the peace process in accordance with the terms of the ceasefire agreement were largely unsuccessful, as most of the major EAOs and representatives of civil society refused to participate in the negotiations.

Over 1,400 representatives of ethnic political parties, EAOs, the government in Naypyitaw and its military (Tatmadaw), and other concerned parties attended a peace conference convened by Aung San Suu Kyi 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 to the conference, and two other ethnic organizations downgrading their participation. In addition, differences over protocol matters during the conference were perceived by some EAO representatives as deliberate disrespect on the part of the organizers. 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 state of Burma and the path to achieving that goal.

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

- Disagreement over the proper 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 in the negotiations.

Progress is also being hindered by the continuing fighting between the Tatmadaw and ethnic militias in the States of Kachin, Rakhine, and Shan. Most of these ethnic militias are associated with ethnic organizations that did not sign the October 2015 ceasefire agreement, including some that the Tatmadaw refused to allow to participate in the

ceasefire negotiations. In some cases, however, the Tatmadaw has been accused of attacking militias associated with ethnic organizations that signed the October 2015 ceasefire agreement.

Plight of the Rohingya

The Rohingya are one of two ethnic minorities living in Burma's Rakhine State. The Thein Sein government insisted that the roughly one million Rohingya be called "Bengalis" because the government considered most of them to be illegal immigrants from Bangladesh, even though many of them have lived in Burma for generations.

The Thein Sein government continued the practice of Burma's ruling military junta by denying the Rohingya some basic human rights, such as rights to education and employment, freedom of movement, and the freedom to marry and bear children according to their personal preference. 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, and disenfranchising the Rohingya for the 2015 parliamentary elections.

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

On August 24, 2016, Aung San Suu Kyi announced the creation of the Advisory Commission on Rakhine State, headed by former U.N. Secretary General Kofi Annan. The commission is tasked to investigate human rights, security and development issues in Rakhine State. The Arakan National Party (ANP) and other ethnic Rakhine groups have objected to the creation of the commission and its inclusion of international members. The commission is to present its findings and recommendations to the State Counsellor in one year.

The NLD-led government faces domestic and international pressure to find a solution to the Rohingya problem. Inside Burma, organizations like the ANP and the Buddhist nationalist Ma Ba Tha may press for the continuation of the discriminatory policies toward the Rohingya and their possible deportation. The United States and other nations, as well as the United Nations, may continue to push for the protection of the human rights of the Rohingya, and possibly the reinstatement of their citizenship, which was taken away by a law promulgated by Burma's military junta in 1982.

Burma's Internally Displaced Persons

In addition to the estimated 100,000 Rohingya located in resettlement camps in Rakhine State, Burma has tens of

thousands of other internally displaced persons (IDPs), mostly in Kachin State and Shan State, the result of ongoing fighting between the Tatmadaw and several ethnic militias. In Kachin State and parts of Shan State, the Burmese military has frequently blocked access to IDPs in areas controlled by ethnic militias because continuing fighting allegedly makes the areas unsafe for domestic and international relief efforts. As a result, the IDPs are receiving inadequate supplies of food and water, and medical care is limited and poorly equipped.

In November 2012, then-President Thein Sein made 11 commitments to President Obama during his first visit to Burma, one of which was to grant access to conflict-affected areas to international humanitarian organizations. That commitment (and some of the others) has gone largely unfulfilled. The NLD-led government can anticipate domestic and international efforts to obtain better access and provide better assistance to Burma's IDPs.

Political Prisoners

When Burma's ruling military junta handed power to the Thein Sein government in April 2011, approximately 2,000 political prisoners were in prison. 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. Since taking office, President Htin Kyaw has authorized the release of over 230 political prisoners. However, the Assistance Association for Political Prisoners (Burma) asserts that as of July 31, 2016, at least 83 political prisoners remained in jail, along with 202 activists awaiting trial for political actions. The new Union Parliament, which includes approximately 100 ex-political prisoners, is reportedly considering changing some of the laws being used to arrest and detain people for political reasons.

Implications for Congress

It is unclear what actions Congress could or should take at this time, if any, to promote the development of a more democratic Burma that respects the human rights of its residents. Aung San Suu Kyi and the NLD may have their own opinions on how Congress may best support further political and economic reforms in Burma. Congress also may consider whether to refrain from making changes in U.S. policy until it can ascertain how Burma's military responds to the new NLD-led government and its policies, such as the peace conference.

The Burma-related provisions in the Consolidated Appropriations Act, 2016 (P.L. 114-113) appear to indicate that Congress supports continuing current U.S. policy and its related programs and activities for FY2016, but holding on undertaking new initiatives until the nature of the NLD-led government is more apparent, and whether or not the Tatmadaw provides constructive support or opposition to the new government.

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