

# US POLICY AT ASIA'S STRATEGIC CROSSROADS:



## AFTER THE 2015 ELECTIONS IN BURMA 2016 TASK FORCE REPORT





"To those who cling to power through corruption and deceit and the silencing of dissent, know that you are on the wrong side of history, but that we will extend a hand if you are willing to unclench your fist."

PRESIDENT BARACK OBAMA, 2009



# **US POLICY AT ASIA'S STRATEGIC CROSSROADS: AFTER THE 2015 ELECTIONS IN BURMA**

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# LIST OF ACRONYMS

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AA	Arakan Army
AAPPB	Assistance Association for Political Prisoners Burma
ADB	Asian Development Bank
ABSDF	All Burma Students Democratic Front
ACIA	ASEAN Comprehensive Investment Agreement
ACTI	ASEAN Connectivity for Trade and Investment
ADB	Asian Development Bank
ADCs	Agricultural Development Companies
AEC	ASEAN Economic Community
AFAS	ASEAN Framework Agreement on Services
AFPFL	Anti-Fascist People's Freedom League
AHN	ASEAN Highway Network
ASEAN	Association of Southeast Asian Nations
ASSK	Aung San Suu Kyi
ATIGA	ASEAN Trade in Goods Agreement
AYVP	ASEAN Youth Volunteer Program
BGF	Border Guard Force
BSPP	Burma Socialist Programme Party
CBM	Central Bank of Myanmar
CBO	Community-Based Organization
CCDAC	Central Committee for Drug Abuse Control
CDNH	Center for Diversity and National Harmony
CEPT	Common Effective Preferential Tariff
CPB	Communist Party of Burma
CSO	Civil Society Organization
DAI	Development Alternatives Incorporated
DHS	Demographic and Health Survey
EITI	Extractive Industries Transparency Initiative
FDI	Foreign direct investment
GDP	Gross domestic product
GHI	Global Health Initiative
IAEA	International Atomic Energy Agency
ICCPR	International Covenant on Civil and Political Rights
IDPs	Internally displaced persons
IMF	International Monetary Fund
KIA	Kachin Independence Army
KMT	Kuomintang
KUKI	Kuki National Organization
MADB	Myanmar Agricultural Development Bank
NCA	Nationwide Ceasefire Agreement
NDF	National Democratic Force
NGO	Non-Governmental Organization

NLD	National League for Democracy
NLUP	National Land Use Policy
NSAG	Non-state Armed Groups
OFAC	Office of Foreign Assets Control
OTI	Office of Transition Initiatives
PEPFAR	President's Emergency Plan for AIDS Relief
PFM	Public Financial Management
PLE	Project for Local Empowerment
PMI	Presidential Malaria Initiative
SDC	Swiss Agency for Development and Cooperation
SDNs	Specially Designated Nationals
SE Asia	Southeast Asia
SEZ	Special Economic Zone
SLORC	State Law and Order Restoration Council
SPDC	State Peace and Development Council
SMEs	Small and Medium Enterprises
TIFA	Trade and Investment Framework Agreement
TNLA	Ta'ang National Liberation Army
TPP	Trans-Pacific Partnership
UN	United Nations
UNDP	United Nations Development Program
UNFPA	United Nations Population Fund
UNHCR	The UN Refugee Agency
UNFC	United Nationalities Federal Council
UNODC	United Nations Office on Drugs and Crime
UPWC	Union Peacemaking Work Committee
USAID	United States Agency for International Development
UWSP	United Wa State Party
VOA	Voice of America
YSEALI	Young Southeast Asian Leaders Initiative
YSX	Yangon Stock Exchange



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**US POLICY AT ASIA'S STRATEGIC CROSSROADS:  
AFTER THE 2015 ELECTIONS IN BURMA**



## EXECUTIVE SUMMARY

*Heather Ellis and Tharin Sethi*

On November 8, 2015, Burma's first credible elections in 25 years welcomed a promising democratic change: the handover of power from a government led by the military to one led by a popularly elected, former opposition political party, the National League for Democracy (NLD). This report examines many of the challenges still facing Burma, as well as the diplomatic and assistance-related tools the United States can use to mitigate those challenges and ensure progress toward liberalization and democratization. We have aimed to answer two key questions:

1. What has the United States done right in the last four years in its relationship with Burma?
2. What are the concrete steps that can be taken through diplomacy and foreign assistance to support the emergent, democratically-elected government?

US policies have been credited for their role in ensuring continued momentum in the many Burmese reform processes currently underway. Peter Popham, a long-time critic of Myanmar's leaders, wrote in the *Independent* on February 2016 that Burma's "transformation is substantially Obama's doing" (Popham 2016). In this regard, the United States plays a critical role in ensuring that Burma continues on this path of reform. More importantly, Burma's location in the heart of the Asia Pacific region, bordering India, China and Thailand as well as facing the Bay of Bengal and the Andaman Sea, is strategically critical for future US engagement in the region. Southeast Asia remains a favored region for American businesses, and Burma is a largely untapped market brimming with resources and opportunities for US economic interests. Moreover, Burma's remarkably smooth electoral process and transition of power offers the Obama Administration a final opportunity to showcase its successful re-engagement in Asia and to cast itself as a champion for the American ideals of democracy and justice. Over the next eleven months, the United States can support and foster unprecedented progress for the people of Burma through a series of policies that could become paramount to the legacy of the current administration.

US policy toward Burma has historically been exclusionary and hostile in an attempt to cripple the former military junta. President Obama's 2011 decision to adopt an action-for-action strategy has proved effective in incentivizing political reform, opening Burma to US businesses, initiating academic exchanges through the Fulbright program, cultivating youth leadership through Youth South East Asian Leaders Initiative (YSEALI) initiatives, and stimulating significant policy changes through collaborative efforts between various Burmese, US, and international organizations. In continuing with that model, the recent election stands as a signal that Burma is ready and interested in further engagement with the United States and the wider international community. It is important to note that Burma's democratization and commitment to international human rights standards remain incomplete in their development; the long journey ahead must be navigated through calculated measures and with focus on the remaining year for the Obama

Administration, as well as the future of the region thereafter. With this in mind, this report presents policy recommendations for expanded US-Burmese relations over the remaining course of Obama's presidency. The challenges to be faced and recommended US policies are outlined as follows.

The trend away from sanctions towards a policy of action-for-action has proved useful not only to in furthering US-Burmese relations, but in promoting primary economic development. While easing sanctions has proved effective, continued review and consideration of sanctions is necessary to ensure that the United States does not dismantle its economic leverage pre-maturely so to continue encouraging and rewarding further reform. Executive sanctions limiting US business interests should be repealed, while sanctions preventing illegal and illicit activity such as those within the jade trade should remain.

Lack of experience in governing and policy creation among newly elected party members complicates predictions for what will come during the first quarter of the NLD-led government. While the new members of parliament learn the ropes of Naypyitaw, they must also address contentious issues like the Myitsone Dam project, civilian-led protests, and military-personnel retirees continuing to influence the legislative process. The NLD government should lead a number of initiatives to facilitate the transition process, and the United States should be ready to provide capacity building and technical support.

Another set of key issues are the ongoing ethnic conflicts that have caused widespread displacement, human rights violations, drug trafficking, and overarching instability across the nation. Under the peace process initiated by President Thein Sein in 2011, the Burmese government and several armed groups signed a Nationwide Ceasefire Agreement (NCA), and the momentum from these efforts must continue. The United States should support conflict-affected areas through expanding humanitarian aid and providing capacity building workshops for actors involved in the peace process.

Burmese human rights abuses must also be addressed to achieve stability. Proposed policies and initiatives include encouraging the Burmese government to sign the International Covenant on Civil and Political Rights (ICCPR), assisting in the development of a well-educated media, and providing legal and technical aid to continue strengthening and clarifying national land use policy and rights.

In terms of economics, US policy must increasingly focus on development, economic reforms and investments in order to continue pursuing US business interests while also supporting Burma's growing economic market. The United States should continue strategically reducing sanctions within particular areas to benefit US businesses while also leading poverty eradication and government capacity building programs that stabilize the Burmese state and society.

To promote economic development, the United States should recognize the importance of Burma’s agricultural sector, industrial sector, natural resources, labor practices, and regional integration within ASEAN. The United States could support the implementation of a microcredit system easily accessible to individuals in the agricultural sector and small and medium enterprises (SMEs). ASEAN integration has also been a priority of the United States, and it is therefore recommended that the United States continue providing resources and training for Burma to develop the necessary institutions, infrastructures and human resources necessary to comply with existing ASEAN policies and to escalate the creation of the ASEAN Economic Community.

The following table outlines the policy recommendations set forth by this report:

Table 0.1: Proposed Policy Recommendations

<b>Chapters</b>	<b>Policy Recommendations</b>
<b>Analyzing Current US Policy</b>	<p><i>Maintain jade sanctions until EITI/other transparency and accountability mechanisms are more firmly established.</i></p> <p><i>Maintain the Responsible Investment Reporting Requirements for US companies, but explore whether the NLD prioritizes renegotiation of the terms of these sanctions.</i></p> <p><i>Retarget executive branch sanctions to minimize the negative effect on the Yangon Stock Exchange (YSX.)</i></p> <p><i>Continue HIV/AIDS, tuberculosis, and malaria prevention programs.</i></p>
<b>The First 100 Days</b>	<p><i>Provide guidance to the NLD government on budgetary process issues.</i></p> <p><i>Provide humanitarian aid to Burma and help the incoming NLD government to achieve its short-term development goals.</i></p>
<b>Peace Process and Ethnic Conflicts</b>	<p><i>Encourage the NLD government to promote inclusivity by increasing representation in negotiations and a nationwide ceasefire agreement.</i></p> <p><i>Expand the role of USAID in Burma to provide conflict-mediating development assistance and interethnic education initiatives.</i></p> <p><i>Establish engagement with the Defence Services for non-lethal defense training under the conditions that the Tatmadaw comply with international standards of human rights and the conditions of ceasefire agreements.</i></p>

<p><b>Human Rights &amp; Sustainable Futures</b></p>	<p><i>Continue to support the creation of laws that focus on land tenure rights for women, smallholder farmers, and other vulnerable populations to enhance the strengths of the new NLUP.</i></p> <p><i>Initiate joint government, USAID, and community mapping and Geographic Information Systems (GIS) projects to create standardized and accessible guides to land use within the year.</i></p> <p><i>Increase funding to and expand the scope of USAID’s projects aimed at strengthening civilian rule of law and advocating for transparent and accountable governance.</i></p> <p><i>Promote the development of an independent and well-educated media. Give support to NGOs and CSOs working to protect free speech and counter hate speech.</i></p>
<p><b>US Economic Interests</b></p>	<p><i>Support, plan, and facilitate capacity-building programs for new members of parliament and government leaders, most likely on weeknight evenings to provide information about how to develop good policy for a new tax structure, rule of law surrounding property rights, and special economic zones.</i></p> <p><i>Per consultation with the NLD, move to reduce sanctions on businesses, banks, and trade in Burma and incentivize US investment in Burma by matching positive reforms, movements, and laws with the decrease of US sanctions.</i></p> <p><i>Invest in poverty eradication programs that increase quality and access to clean water, electricity, and education through supporting reforms to the current education system.</i></p>
<p><b>Domestic Development Policy and Regional Integration</b></p>	<p><i>Encourage the NLD to support a common credit system for farmers.</i></p> <p><i>Recommend that the NLD revisit and update the goals pertaining to the establishment of committees and subcommittees focused on the development of SMEs, as outlined in Notification No. 11/2013.</i></p> <p><i>Recommend the creation of more youth-based educational programs and exchanges between the US and Burma modelled after the Fulbright program and the YSEALI conference.</i></p>

	<p><i>Construct a US-Burma task force focused on assisting Burma to meet ASEAN guidelines while also protecting Burmese businesses and economy in order to ensure stable growth that is key to the Burmese democratization movement.</i></p> <p><i>Continue to promote the principles of TPP by focusing on setting the ground work for its continued development after the 2016 US election</i></p>
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To conclude, the overall nature of our recommendations for US foreign policy toward Burma encourage the Obama administration to continue embracing an action-for-action approach through incentivizing democratic reform in the country; the Department of State should consider stronger economic and securities ties, reassessing sanctions, and advancing basic military-to-military partnerships. Despite many reasons for optimism around the NLD government and the future of Burma, any future policy and actions must acknowledge the existence of the still very powerful Burmese military. Burma has a long road to pursue in regards to its human rights violations, ethnic conflicts and democratic reforms, and the United States should continue to foster that journey. Furthermore, promoting US business interests within the country and the ASEAN region, as well as prioritizing further US engagement in the Asia-Pacific region, remain key to tackling growing regional powers. As such, Burma should remain a priority of the Obama Administration and any forthcoming presidential administration post-2016.

## INTRODUCTION

*Tharin Sethi*

Burma, also known as the Republic of the Union of Myanmar, is a sovereign state in Southeast Asia with a total area of 261,228 square miles and a population of roughly 51 million people (IMF 2015). The country borders China, India, Bangladesh, Laos and Thailand, and one-third of its total perimeter forms the coastlines along the Bay of Bengal and the Andaman Sea. The country largely practices Theravada Buddhism and is home to a majority Burman ethnic nationality along with numerous other ethnic nationalities. Burma has witnessed historic violent ethnic conflicts that still remain largely unresolved. Despite its rich natural resources such as jade, gems and energy, Burma remains one of the least developed countries in the world with a Gross Domestic Product of US \$63 billion, and ranks 150th out of 187 countries on the Human Development Index (IMF 2015).

In the 19<sup>th</sup> century, after three Anglo-Burmese Wars, Burma became a British colony and remained one until 1948, when it first received independence. Democracy lasted in Burma for 14 years before a coup d'état in 1962 led to three decades of persistent and authoritative military rule. On November 8, 2015, this military rule weakened after the country witnessed its first competitive elections in decades that produced results indicative of the will of the people. Millions flooded voting centers, many waiting through the night to be first in line, in what has historically become a watershed in the development of Burmese democracy. This landmark event resulted in the victory of Aung San Suu Kyi's NLD party, which now holds 86 percent of the contested seats in the Assembly of the Union, including 255 of the 440 seats within the House of Representatives and 135 of the 224 seats within the House of Nationalities (Fisher 2016). While the Burmese military still continues to appoint 25 percent of the parliament and has boundless control over the Ministries of Defence, Home Affairs, and Border Affairs, as well as law enforcement, constitutional reform and the justice system, the NLD's overwhelming majority makes it Burma's first predominantly civilian government since 1962 (Fisher 2016). Their victory acts as glimmer of hope for the impoverished state.

Taking into consideration the 2015 Burmese elections amongst other recent democratic reforms in the Southeast Asian state, this task force advocates for certain changes in US foreign policy towards Burma and contains a set of policy recommendations that could be implemented over the remaining 11 months of the Obama Administration.

In order to comprehend the rationality behind each of these policy recommendations presented in the forthcoming chapters, it is necessary to understand Burma's political and economic history and US foreign policy towards Burma since the country's independence in 1948. In this respect, the following introduction attempts to provide a chronological timeline of US-Burmese relations.

It is important to note that the United States continues to refer to Burma by its original name rather than Myanmar, as it does not recognize the authority of the military government responsible for the name change. We have also chosen to refer to the country as Burma in our report, for the reason stated above and because the NLD has not yet indicated their stance on the future of the country's name.

### A Short-Lived Democracy: 1948-1962

In 1947, Burmese General Aung San and British Prime Minister Clement Atlee ratified the Aung San-Atlee Agreement, which gave rise to an independent Burma. Burma's first civilian government assumed power and functioned under a parliamentary system whereby the military was a dominant state institution, but did not wield the same control as the post-1962 military (Steinberg 2013). This attempt at democracy lasted 14 years, with a brief interruption of state-sponsored military rule from 1958 to 1960. Sao Shwe Thaik became Burma's first President and U Nu, its first Prime Minister. Multiparty elections were held in 1951-1952, 1956 and 1960; however, all these civilian governments failed consistently (Steinberg 2013). The cause of this failure stemmed from post-colonial legacies that continue to plague Burma to this date.

The civilian governments inherited a country with infrastructure and economic development severely deteriorated from warfare, and more importantly, an ethnically divided population with armed sects who considered self-governance their right (Steinberg 2013). By 1950, the young incumbent government faced several active insurgency movements ranging from communist parties who saw U Nu's party as an extension of British colonialism, to Kachin, Karen, and Chin forces that sought greater autonomy. The root of these ethno-nationalistic movements can be traced back to WWII when the British and the United States forced armed rebels to fight against the Japanese with the false hope of independence (Steinberg 2013). Surrounded by insurgencies and with the assassination of Burma's unifying General Aung San, the civilian governments scrambled to remain in power and maintain their legitimacy.

With the help of British and American aid, the Burmese army slowly retook control of major cities that had faced insurgencies and effectively returned control of the state to the civilian government (Steinberg 2013). Before long, the military leaders proclaimed themselves the protectors of the state. Finally in 1958, General Ne Win took control of the government in a constitutional coup. Interestingly, Ne Win's stated reason for the coup was not necessarily the insurgencies and instability around the country's borders, but rather the political conflicts between contentious political parties within the capital city (Steinberg 2013). As a result of the enormous costs to maintain both a strong army and the power of the ruling political party, the civilian governments had failed to fuel Burmese economic growth and lost further legitimacy. Thus, the people of Burma did not actively protest when Ne Win's military apparatus took over.

During this period, US foreign policy towards Burma was fairly rudimentary, with the largest focus being the prevention of the spread of communism within Southeast Asia. For the United States, Burma's large, unprotected border with China and primarily agrarian economy positioned Burma as one of the greatest threats to the spread of communism (Clymer 2015). The United States dispatched a team to the region to determine what measures were necessary to prevent the rise of communist sentiments, resulting in a US Foreign Assistance Program that included technical assistance in economic planning within Burma (Steinberg 2013); however, this program was at first rejected by the Burmese government in an attempt to protest the United States' technical support of the Kuomintang (KMT). Over time, Burma accepted the program to maintain its neutrality between the world's super-powers. To recognize Burma's non-communist government, the United States began endorsing aid and training initiatives provided by USAID and other non-governmental agencies, namely the British Council, the Ford Foundation, The Asia Society and The Fulbright Program (Steinberg 2013). These endorsements came shy of military aid. During Burma's fight against the communist insurgencies and ethnic conflicts, U Nu's government requested arms from the United States twice but was declined both times due to US fear of Burma's suspiciously left-wing, weak, and unstable government (Clymer 2015). While the United States considered international intervention in regards to Burma's ethnic conflicts and human rights violations, especially against the Karen people, the United States eventually refused to proceed so as not to interfere in Burmese internal politics (Clymer 2015).

#### Ne Win's Military Rule: 1962-1988

On March 2, 1962, General Ne Win led the Burmese military in a coup that resulted in the formation of a military government. From the very onset of his rule, he displayed his brutality when the military open fired at student protesters' only months after first taking office. General Ne Win formed a revolutionary council led by Generals tasked with governing the country and succeeded in nationalizing large businesses and maintaining control over natural resources and the media. He adopted an ideology dubbed the "Burmese Way of Socialism," which can best be described as a hybrid of soviet-style nationalization, central planning, and Buddhist doctrine (Steinberg 2015). General Ne Win then founded the Burma Socialist Programme Party (BSSP). In regards to governing structure, the general chose to adopt a military command pyramid structure whereby orders were given from the top and failing to follow those orders often meant execution (Clymer 2015).

Over the next few years, over 15,000 businesses were nationalized, political parties were banned, inefficient state economic enterprises were created, foreign investments were forbidden, tourism was discouraged, and Burma was effectively cut off from the global economy (Steinberg 2013). Once the biggest exporter of rice in the world, by 1967 Burma began facing difficulties in feeding its own population. Despite his disastrous policies, General Ne Win yielded enormous power within the country and often misused this for personal satisfaction rather than economic and social growth. He managed to maintain his authority by brutally terminating any who opposed him

through state-mandated executions or worse. In 1974, the junta formed a one-party system and adopted a new constitution. Over the next few years, any anti-government protests were harshly suppressed, inequality soared, and Burma became one of the most impoverished countries in the world. The country's infrastructure and development stagnated, and the Burmese economy struggled to grow.

Ne Win's rise to power in 1962 was not initially condemned by the United States as he presented himself as an anti-communist force. Within five days of the coup, the US government recognized the new government and extended an invitation to General Ne Win to visit Washington DC. The United States began discussing military and economic assistance through programs such as the Rangoon-Mandalay highway initiative, although many of these plans failed when Burma was unable to garner support from USAID (Clymer 2015). Over time, US-Burma relations deteriorated as American organizations were ordered to close up shop and Burma suspended the Fulbright Program. US foreign policy circles began reassessing their relations with Burma and often patiently tolerated General Ne Win's extreme policies in order to maintain his neutrality in regards to the war in Vietnam. By the early 1970s, Burma's strategic neutrality in the Cold War context became less important, and instead, the war on drugs within the region became a US priority. Cheap narcotics from Burma were reaching American soldiers in Vietnam, so President Nixon began his initiative for narcotics control (Ibid). During this time, under Nelson Gross, Nixon's point person on international narcotics control, the United States pursued an initiative attempting to provide the Burmese government with technical and military equipment necessary against the war on drugs. This proposal was turned down until 1974, when Burma accepted eighteen American aircrafts primarily for narcotics suppression (Clymer 2015). Following this breakthrough, US-Burmese partnerships began improving until the 1988 revolution.

General Ne Win's failed government eventually sparked a people's revolution in 1988 at an event historically referred to as the 8888 Uprising. The political and economic frustrations that had built up over time resulted in widespread civilian dissatisfaction. The protests started with students at the University of Rangoon and spread across the nation. They resulted in General Ne Win stepping down as Chairman of the BSSP and seriously weakened the legitimacy of the incumbent government. In response to the protests, the military declared yet another coup and began brutally executing demonstrators in a large-scale attempt to restore order. This ordeal led to the death of approximately 10,000 people (Steinberg 2013). It is during this revolution that Aung San Suu Kyi first took a prominent role in Burmese politics as she emerged as a national icon who led and inspired protests.

#### Coping with the 8888 Uprising: 1988-2011

To mitigate anti-junta sentiment after the 8888 revolutions, the Burmese military created the State Law and Order Restoration Council (SLORC) as a means to prolong its position in power. Similar to Ne Win's revolutionary council, a proxy government consisting of 19 high-profile military men

was created to continue ruling the country under Sen. Gen. Saw Maung and later Sen. Gen. Than Shwe. Aung San Suu Kyi and thousands of demonstrators were arrested or put under house arrest. The new military government began challenging past isolationist and socialist doctrine and making strategic concessions to remain in power. They put in place new investment laws to protect foreign investments from being nationalized, dismantled socialist policies, and encouraged private-sector growth. International firms were invited to extract natural resources such as oil, and the jade trade with China began to grow.

In 1989, the government announced the creation of a multi-party system and that elections were to be held. The National League for Democracy was created and although Aung San Suu Kyi was not allowed to run for elections, she was given the high-ranking post of secretary of the party. On May 27 of 1990, 2209 candidates from 93 parties and 87 independents competed for 479 seats (Steinberg 2013). The elections resulted in a landslide victory for the NLD, who secured 80 percent of all the seats. These results came as a shock to the military junta, which had been oblivious to the popularity of the NLD prior to these elections. The original purpose of the elections was to allow the winning party to recreate a constitution, which would then be utilized to form a new democratic government. That intent was entirely ignored when the military refused to step down and secede to the NLD. The military government never recognized the result of this election, and until 2011, Sen. Gen. Than Shwe's junta actively suppressed the NLD to retain its power (Steinberg 2013). As a result of its handling of the 1990 election and other events, the Burmese military government under Than Shwe was constantly accused of human right abuses and failures in economic and social governance.

The failure to hand over power after the 1990 election, as well as the crackdown against the 8888 revolutions, led to international criticism and condemnation of the Burmese government. Along with most other western states, the United States called for Burma to honor the election results and refused to recognize the military government as the official representative of the people of Burma. During this time, US-Burmese relations deteriorated as the US Congress and the executive branch took deep interest in supporting Aung San Suu Kyi and her fight for democracy. Congress also began pursuing economic sanctions and adopted harsh policies towards Burma in order to incentivize democratic reform. The US Department of State officially downgraded relations, and the United States did not have an ambassador posted in Burma from 1990 to 2012 (Clymer 2015). The United States refused to recognize Burma's name change to Myanmar in 1989 to protest the military's illegitimate rule (ibid). Much of US foreign policy towards Burma during this period was influenced by Congress's distrust of the Burmese military government, and lack of interest by US executive leadership (ibid).

#### Dawn of a Discipline-Flourishing Democracy: 2011-

In 2008, the Burmese military government announced the formation of a new constitution entitled the "roadmap to democracy." The constitution reserves 25 percent of parliamentary seats for the

military and in many ways presents a hybrid form of democratic governance whereby the military still holds an enormous amount of power. The first election under that constitution was held in 2010 during which the military backed party Union Solidarity and Development party won majority of the seats, mainly because the NLD boycotted the election. The elections received some criticism from the international community. Nonetheless, in keeping with the results of the 2010 elections, former Prime Minister and Lt. Gen. Thein Sein took office and formed a government that, once again, consisted mostly of military commanders.

Under President Thein Sein's leadership, Burma underwent reforms to eliminate censorship laws, liberalize labor laws and address human rights violations through measures such as the release of hundreds of political prisoners and the formation of a national human rights commission to investigate violations across the country. All of these reforms led to a thawing of US-Burma relations (Clymer 2015). The Obama administration adopted an action-for-action policy and began re-engaging with Burma through a principled engagement approach. Secretary of State Hillary Clinton and President Obama both visited Burma in what have become historic and symbolic key events for US-Burmese relations. Sanctions against Burma have been eased, and the current administration has increased US aid in order to continue incentivizing the Burmese government to persist on its path of meaningful democratization and development.

The November 2015 elections came four years after President Thein Sein was first sworn into office. In this election, the NLD participated and won the vast majority of seats at the Union and state/region levels. This time, the military government has formally recognized the NLD's victory and is currently in the process of handing over power. In doing so, it has symbolized to the world that democratic reform in Burma is occurring rapidly.

The following chapters provide policy recommendations for the United States to keep in step with Burma's transformations. Covering a broad spectrum of issues ranging from human rights, ethnic conflict, and sanctions policy to economic opportunities and Burmese development, each distinct chapter provides a short introduction and background before discussing US interests and policy options. They conclude by presenting a concise list of policy recommendations.

# CHAPTER ONE: ANALYZING CURRENT US POLICY TOWARD BURMA

*Natasha Karmali and Jernej Markovc*

## INTRODUCTION

Since 2012, Burma has seen massive unexpected reforms. From 2012-2014, President Thein Sein released hundreds of political prisoners, removed most censorship restrictions on the press, signed a labor law that allowed for the formation of unions, introduced into parliament a foreign investment law he eventually signed, and committed the country to join the Extractive Industries Transparency Initiative. In addition, the Burmese government established bilateral ceasefire agreements with more than a dozen non-state armed groups and conducted free and fair parliamentary by-elections that led to a landslide victory by the main democratic opposition party. These steps towards greater transparency, economic liberalization, human rights, and democracy were recognized and applauded by the Obama administration and members of the US Congress. The unexpected reforms garnered bipartisan support in Washington, DC and led to the easing of sanctions that had directed pressure against the former military regime.

Subsequently, the United States has changed its policy of promoting regime capitulation or change via economic sanctions to a policy of engagement, aimed at rebalancing relationships in the Asia-Pacific region. For Burma, this new policy is premised on far greater engagement with the government and the people of Burma (Stivers 2015). It has been more of an "action-for-action" approach, where sanctions policy was revised to show US support for reforms while continuing to use US foreign policy tools on areas that still need improvement. The United States has eased sanctions on sectors directly related to the well-being of the people of Burma and some aspects of banking (Martin 2012, 10). The Obama Administration has also used other diplomatic tools to show their support for these changes. In an effort to rebalance US influence in the Asia Pacific region, President Obama launched the Young Southeast Asian Leaders Initiative (YSEALI) to strengthen leadership development and networking in Southeast Asia. Additionally, in 2012, USAID's mission director to Burma and the agency itself returned to Burma to "build up a team in country, including more technical experts, which will enable USAID to more effectively engage with partners, oversee programs, coordinate with other donors, and directly benefit the Burmese people" (Cartwright and Truong 2012).

Burma's reforms have headed in the right direction, but in order to lift all remaining sanctions, Burma needs to continue to make reforms. The US State Department has expressed the need to see progress in the following areas:

- The peace process
- Full political transition to a democratic civilian government
- Constitutional reforms
- Respect for human rights of all Burmese people, including the Rohingya people (U.S. Department of State 2015)

The Burmese government continues to make progress in some of these areas, and after the 2015 election of the NLD, Burma is expected to see greater reforms. But the NLD still faces enormous challenges, and many are skeptical that they have the authority to make necessary reforms given the remaining constitutional restrictions. The governing style of Aung San Suu Kyi and the overall lack of experience of the parliamentary ministers both cause major concerns about the NLD's ability to effectively lead the country in the future.

Given the changing circumstances in Burma, the State Department needs to evaluate how much progress Burma has made in the areas of concern and which diplomatic tools the Obama Administration should use to aid the NLD and civil society groups to face the challenges that continue to exist. The goal of these diplomatic tools is to direct Burmese policies towards greater inclusion, peace, protection of human rights, and democratization. This evaluation should be undertaken within a context of what has worked well in the past in terms of US policy towards Burma. Since the Department of State is limited in its time to make drastic changes, this chapter will focus on which diplomatic tools the State Department should use to work with the Burmese government to achieve "quick wins" and move towards further democratization and economic development.

Table 1.1: Past and Current US Policy toward Burma

Policy	Year Enacted	Continuation	Task Force Recommendation
<b>Sanctions*</b>	1996	Sanctions preventing arms sales, doing business with SDNs, and jade imports remain. Requirement to report new investments to OFAC	<ul style="list-style-type: none"> <li>• Retarget executive branch sanctions to minimize the negative effect on the Yangon Stock Exchange</li> <li>• Maintain jade sanctions until EITI/other transparency and accountability mechanisms are more firmly established</li> <li>• Maintain reporting requirements for US companies to OFAC, but explore whether the NLD prioritizes renegotiation of the terms of these sanctions</li> </ul>
<b>Regime Change</b>	N/A	No longer US policy	<ul style="list-style-type: none"> <li>• Inappropriate at this time</li> </ul>
<b>Pragmatic Engagement</b>	2009	In general terms, the principles of Pragmatic Engagement continue to inform US policy	<ul style="list-style-type: none"> <li>• Maintain reporting requirements for US companies to OFAC but explore whether the NLD prioritizes renegotiation of the terms of these sanctions</li> </ul>
<b>Rebalancing Asia-Pacific Region</b>	2011	The Obama Administration continues to increase US influence in the Asia-Pacific region	<ul style="list-style-type: none"> <li>• Retarget executive branch sanctions to minimize the negative effect on the Yangon Stock Exchange</li> <li>• Bring in more disenfranchised people in YSEALI to help with peace process and reconciliation, such as, ethnic minorities, women, people who live outside of main cities</li> </ul>

\* See Appendix A for a list of U.S. sanctions on Burma

## **US INTERESTS**

Burma has been an integral part of President Obama's shift to a more active Asia policy. Under the Obama Administration, Burma received its first presidential visit, an ambassador was appointed, USAID was expanded, YSEALI was launched, and sanctions were revised. The Obama Administration has put a great deal of effort into engaging with both the government and civil society to direct Burma towards greater democratization and economic growth. These efforts have not gone unrewarded; Burma has seen unprecedented liberalization in a short period of time. However, the current administration should not stop here. The NLD has massive issues to address, which will be a significant challenge given the high expectations of the people of Burma and international community. If the NLD fails to make good on their campaign promises, there will be mass protests and potentially a destabilization and backsliding on the hard-won progress that has been made thus far. During the remainder of the presidential term, the Obama Administration should continue to make Burma a priority. A stable and prosperous Burma would not only become a legacy of the Administration, but it would also serve to increase stability and US influence in the Asia-Pacific region. The remainder of this section will introduce what interests the United States has in focusing its efforts on the following policy areas.

### Sanctions and Democracy

Since first enacted in 1996, the purpose of sanctions has been to pressure the Burmese government to improve human rights and democracy in the country. However, the results of this pressure are inconclusive. Some argue that the sanctions have pushed too hard on human rights issues and caused tension with the Burmese government: "[i]f [local Burmese] officials cannot see from a human rights lens, they will think that the United States is biased" (Anonymous Myanmar NGO representative, quoted in Kuok 2014). Critics of sanctions have argued that as US companies begin to invest in Burma, the companies will bring better standards of workers' rights, which would potentially improve the overall human rights situation in Burma (Hadar 1998). The Department of State has also acknowledged this potential for US businesses to serve as a "model for responsible investment and business operations, encouraging further change, promoting inclusive economic development, and contributing to the welfare of the Burmese people" (U.S. Department of State 2013). The "action-for-action" policy of the Obama Administration has also shown that the United States can continue to have good relations with Burma while still pushing its human rights agenda. The United States needs to strike the right balance of promoting this agenda in a way where it will not lose out from the possible economic benefits of allowing US businesses to fully be involved in the economy.

### Threats to Burmese Security

The jade mining industry is a huge part of the Burmese economy. A recent report by the advocacy group Global Witness estimated that the sector was worth \$31 billion in 2014 (Global Witness 2015). However, this industry is highly unregulated and involves Specially Designated Nationals (SDNs) that are sanctioned by the United States, such as Mr. Wei Hsueh Kang. The lucrative jade

industry in the Kachin State has worsened this unrest along the Chinese border. The ongoing insurgency along the border with China harms US national security interests, as well as US objectives to see peace and inclusion of disenfranchised communities.

Apart from environmental and human rights impacts, corruption in the mining industry also poses a threat to the long-term security of Burma as it has contributed to civilian discontent and ethnic violence. Mr. Wei's illicit business has funded the United Wa State Army, which has been recognized as "the largest and best equipped of Myanmar's ethnic armed groups" (Global Witness 2015). Since the revenue of jade mining is often unregulated, the money often ends up in the hands of SDNs like Mr. Wei.

The people of Kachin state feel that this mineral extraction greatly burdens the region and gives them no benefits. The rising discontent in recent months has paralleled an increase in mining, which was brought on by the fear that the NLD may stop the illicit trade. In December of 2015, villagers staged a roadblock in protest to the increase in mining activity in their region. The mining companies were continuing to dump their waste in areas close to water sources, threatening water quality and increasing flooding (Zarni Mann 2015). Villagers also expressed anger over the expansion of Chinese operations in jade extraction (Ibid). The protesters believe that these practices are illegal and have filed multiple complaints with the Burmese government.

These news reports demonstrate that the current Burmese government does not have the capacity to adequately address the issue of illegal mining practices. While they will not be able to make significant reforms on the jade trade during the remainder of the Obama Administration, the NLD can at least make efforts to reduce the negative effects of the increased mining. More specifically, the NLD should be prepared to provide assistance during the monsoon season, when floods will mix with the mining waste, threatening the health and shelter of those living in mining areas.

### Economic Development

In order to have a greater economic influence in Burma, the United States needs to consider revising its sanctions. The United States enacted sanctions in 1996 that banned US investment in the country and has implemented several other sanctions since then (see Appendix A). With the absence of US competition in foreign direct investment, economic development over the period of 1990-2011 relied upon China, Russia, and other non-democratic and unaccountable countries. These countries have achieved disproportionate influence on the economy and—to a lesser degree— government policy.

The United States' policy of rebalancing, in part, has been aimed at increasing the United States' economic impact in the region. President Obama has promoted more trade between Southeast Asia and US companies. In effort to support that trade, the United States has suspended sanctions so that US companies can have a greater presence in Burma's emerging market. With the suspension

of some of these sanctions came a warning for US companies to "do their homework" so as to not get caught up in corrupt undertakings (Wong Aung, quoted in Hodal 2012).

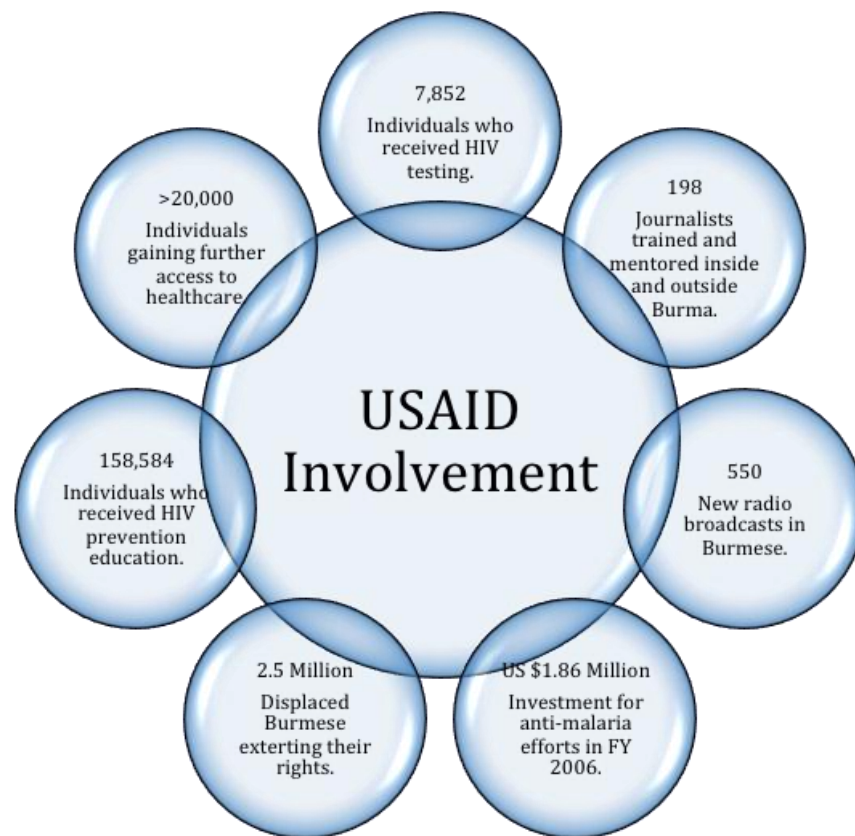
In 2014, President Obama promised that "the United States would continue to do whatever it could to help ensure Burma's success" (Office of the Press Secretary 2014). While the revision of sanctions has led to more trade, the current sanctions continue to prevent US companies from becoming directly involved with the Yangon Stock Exchange (YSX), which was launched in December of 2015. Though no companies are yet listed on the YSX, it is said to be crucial for Burma's long-term economic development (EIU 2015). Very recently, US Deputy Secretary of State Anthony Blinken reaffirmed the administration's commitment to promoting responsible US commercial investment in Burma. However, the inability to engage with the emergent YSX is one example of how US sanctions need to be revised to uphold the Obama Administration's commitment to doing whatever it can to ensure Burma's economic success.

#### Rebalancing U.S. Influence in Asian Pacific Region

The policy of rebalancing is intended to give the United States a broader influence in Asia and in Burma, which the United States can do by continuing to monitor progress on sanctions and expanding the role of USAID. However, the existing influence of Burma's other dominant neighbors such as China complicates this objective. China has two decades' worth of large scale commercial investment, military-to-military engagement, and strong diplomatic relations. These relationships have been facilitated by China's geographic proximity and immense demand for the energy and other natural resources that Burma has provided (Clymer 2015). Therefore, the United States should do what it can to level the playing field.

USAID has been of the United States' most important tools in pursuing its national interests in Burma (See Figure 1 and Appendix B). The primary goals of USAID are to strengthen democratic institutions and provide both humanitarian and development aid to balance the influence of Burma's other major donors, particularly China. Between 2008 and 2012, USAID spent over \$196 million in bilateral foreign assistance to support humanitarian needs, promote democracy, and protect human rights through projects focused on civil society, capacity building, health, education, and humanitarian assistance along the Thai-Burma border, in the Irrawaddy delta, and in central Burma (USAID "Factsheet #3" 2015). In 2015, the total aid distributed by USAID equaled \$42,934,956 (Ibid.). USAID can continue to promote US interests in Burma if the Department of State understands the importance of continuing and expanding its mission.

Figure 1.1: USAID Involvement in Burma



Sources: USAID. "Fact Sheet: USAID Assistance to Burma from 2008 - 2012." [www.usaid.gov](http://www.usaid.gov). [https://www.usaid.gov/sites/default/files/documents/1861/USAID\\_Burma\\_assistance\\_2008-2012\\_fact\\_sheet.pdf](https://www.usaid.gov/sites/default/files/documents/1861/USAID_Burma_assistance_2008-2012_fact_sheet.pdf)  
USAID. "BURMA - COMPLEX EMERGENCY FACT SHEET #1, FISCAL YEAR (FY) 2015." [www.usaid.gov](http://www.usaid.gov). [https://www.usaid.gov/sites/default/files/documents/1866/burma\\_ce\\_fs01\\_02-06-2015.pdf](https://www.usaid.gov/sites/default/files/documents/1866/burma_ce_fs01_02-06-2015.pdf)  
USAID. "Burma Health." [www.usaid.gov](http://www.usaid.gov). [https://www.usaid.gov/sites/default/files/documents/1861/2013\\_BURMA\\_Health\\_FactSheet.pdf](https://www.usaid.gov/sites/default/files/documents/1861/2013_BURMA_Health_FactSheet.pdf)

### Health

Since Burma had been internationally isolated for decades, no extensive international humanitarian aid has reached the country until recently. Poor health infrastructure, lack of doctors, and poor health awareness have led to a less healthy population. Disease treatment instead of disease prevention have become a never-ending cycle. The United States has therefore made health, and disease prevention especially, a priority of USAID's mission. It has poured extensive resources into this sector to promote both its economic and financial interests, and it must continue to improve health outcomes to create a happier, healthier, and more productive society that can become more self-sustainable in the years ahead. The following paragraphs will outline its

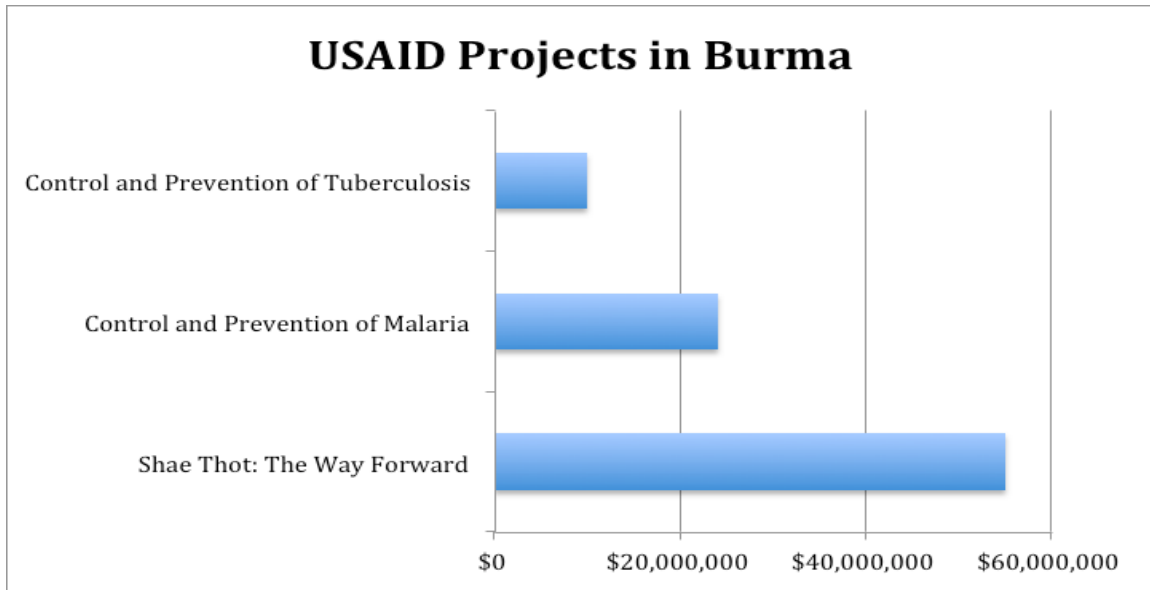
commitments in detail, proving that the United States has significant interests in protecting its investments.

Due to Burma's position in the tropics, its population is exposed to a variety of preventable diseases. USAID has initiated several infectious disease programs focused particularly on HIV/AIDS, malaria, tuberculosis, and Avian Influenza. Three Presidential Initiatives are currently implemented in country: the Global Health Initiative (GHI), the President's Emergency Plan for AIDS Relief (PEPFAR), and the Presidential Malaria Initiative (PMI) (USAID "Burma Health" 2013). USAID assistance has provided 158,584 people with a comprehensive package of HIV prevention and ensured that 7,852 individuals (4,445 males and 3,407 females) received HIV testing and counseling services across 29 of the most populous cities in Burma. USAID also provided "a total of US \$1.86 million in fiscal year 2006 for anti-malaria efforts along the Thai-Burmese border" (Cho 2007).

USAID has displayed its commitment to Burmese health through three country-specific projects currently in place: the Project on Control and Prevention of Tuberculosis, Project on Control and Prevention of Malaria, and Shae Thot. All three projects emphasize the prevention of infection and reduced mortality related to HIV, tuberculosis, and malaria. The CAP-Malaria project itself aims to serve nearly four million beneficiaries in the Greater Mekong Sub-region (USAID "CAP Malaria" n.d.). Additionally, USAID is aiming to build the technical, management and leadership capacities of Community-Based Organization partners to deliver health, education, legal, and protection services, distribute food and cash transfers, and advocate for positive change for displaced people of Burma.

USAID's biggest project, Shae Thot, has a total obligation of 55 million dollars and provides technical assistance and resources to address critical needs in maternal and child health, livelihoods, food security, water, sanitation and hygiene. Specific activities include: training community health workers and auxiliary midwives in safe pregnancies; diagnosis and treatment of common illnesses and facilitating emergency care; mobile clinics providing pregnancy monitoring/prenatal care; supporting community managed agricultural diversification and intensification; providing institutional based credit models and savings based group approaches; improving water infrastructure and water points and training community technical volunteers for upkeep and management of water and sanitation infrastructure. Figure 1.2 below provides an infographic summary of the commitments discussed above.

Figure 1.2: Current USAID Health Projects in Burma



Source: USAID. n.d. "Project Search | U.S. Agency for International Development." Project Search | U.S. Agency for International Development. [http://portfolio.usaid.gov/#. Project Search for Burma](http://portfolio.usaid.gov/#.ProjectSearchforBurma)

### POLICY OPTIONS

In the past several years, the major strengths of the United States' policy towards Burma have been an "action-for-action" policy regarding sanctions and engaging with the government and civil society to increase US influence in Burma and the Asia-Pacific region. During the Obama Administration, Burma has seen massive reforms and a move towards greater democratization and human rights. However, as the State Department has indicated, the US would still like to see further reform. The United States needs to maintain a policy that provides support to the Burmese government without making pre-emptive moves. As a Western diplomat to Burma said, "democracy needs to deliver" (as cited by DeCicca 2016). Therefore, the current administration should pursue a foreign policy that revises sanctions to prevent negative effects on economic platforms such as the YSX while maintaining sanctions on areas that still concern the United States. The United States should also expand programs that successfully improved the livelihoods of the people of Burma and increased US influence, such as USAID health initiatives and YSEALI. We therefore give the following recommendations with those principles in mind.

- Maintain jade sanctions until EITI/other transparency and accountability mechanisms are more firmly established.

Whether the United States chooses to lift sanctions on jade and other gems could have a significant impact on the jade mining sector. The Director General of the mining department in the Ministry of Mines said that he hopes the United States will lift sanctions, explaining that he thinks it will

improve the industry (as cited by Htwe 2015). However, the imposed sanctions do send a clear message to the Burmese government that reforms are necessary. The sanctions put the US in a unique position to pressure the Burmese government to implement these reforms. Global Witness has also asked that the United States benchmark its sanctions against jade sector reform. Their suggested priorities include sharing control and benefits with the people of Kachin State and making business accountable to the public (as cited by Htwe 2015). These two priorities are in line with the promises made by the NLD. The United States could therefore use the sanctions as an incentive and to show support for the NLD government making those promises a reality, thereby continuing their "action-for-action" policy of engagement.

- Promote NLD awareness of the complexity of "conflict economies" and build capacity to respond to the disasters that result from rapacious resource extraction and trade.

Although the Obama Administration has little time to make real changes to the jade sanctions, it can help the NLD understand the root causes of the broader conflict economy, as well as the specific dangers of the jade mining industry and prepare them to respond effectively to the landslides and flooding that can be expected in mining and other natural resource extraction areas. This could involve sending Burmese Members of Parliament to the United States to learn about conflict resolution or bringing in teams of experts to carry out in-country training. In order to better prepare for the monsoon season flooding that will likely prove most devastating in areas where large-scale resource extraction has occurred, the United States should encourage the new government to be prepared to stock food and health resources in areas accessible to the large-scale extraction operations. The United States should also consider providing such resources, possibly through USAID.

- Maintain The Responsible Investment Reporting Requirements for US companies, but explore whether the NLD prioritizes renegotiation of the terms of these sanctions.

Sanctions have played a role in preventing US companies from doing business in Burma—specifically of concern are The Responsible Investment Reporting Requirements, which require individuals making new investments of more than \$500,000 to submit two annual reports to the Department of State on their ongoing activities “to provide information on areas of concern to the US government” (U.S. Department of State 2013). The time spent writing the reports and the sensitive information companies have to disclose both pose significant costs, which could prevent companies from making investments in Burma. However, these requirements ensure that US companies doing business in the area are in line with the State Department’s interests; therefore, they should not be done away with completely. Because of the US’s commitment to encouraging economic growth in Burma, the Obama Administration should explore renegotiation of the requirements, if the NLD sees this as a priority.

- Retarget executive branch sanctions to minimize the negative effect on the Yangon Stock Exchange (YSX).

As stated above, US economic sanctions are an obstacle to the success of economic platforms such as the YSX. The YSX could greatly benefit from more involvement and investment of US companies such as Coca-Cola, Colgate PalmOlive, and Yum!, which have all already invested a great deal in Burma; "a functioning equity market would complement these inflows and, ideally, serve as a source of finance for small- and medium-sized domestic firms" (EIU 2015). US companies can also benefit indirectly from more firms being listed in the YSX. Because companies have to meet certain transparency requirements to be listed in the stock exchange, the YSX serves as a kind of vetting system. As more Burmese companies are listed on the YSX, US companies will have a better sense of which companies they can do business with so as to not get involved with cronies. Opening a stock exchange would also serve to promote transparency and involve more people in the growth of the economy (as cited by Aung 2016).

- Bring in more disenfranchised people to programs like YSEALI to help with the peace process and reconciliation, such as ethnic minorities, women, and people who live outside of main cities.

In a joint press conference during Obama's 2014 visit to Burma, the President expressed the Administration's commitment "to working directly with the people of Burma, and not just the government" (Office of the Press Secretary 2014). In order to increase US influence in the region, the Obama Administration should continue to engage with civil society groups through avenues like YSEALI.

Since its launch in 2013, the YSEALI network has grown to 5,500 members and has partnered with government agencies and US companies to implement new programs (Office of the Press Secretary 2015). In one such program, the State Department "partnered with Citibank, Coca-Cola, General Electric, Google, Intel, Microsoft, and the US-ASEAN Business Council to give emerging Southeast Asian leaders the opportunity to further their professional growth" (Ibid). These types of programs not only benefit US businesses, but also allow the kind of people-to-people exchange that can give the US greater exposure and a better reputation in the region. In order to expand on the effectiveness of YSEALI, the Secretary of State should consider including a greater number of disenfranchised people to help with the peace process and reconciliation. Ethnic minorities, women, and people who live outside of main cities should be targeted in this expansion.

- Continue with a firm commitment to improving the Burmese healthcare system.

Currently, USAID is planning to launch two new programs that will address maternal and child health care and control of zoonotic diseases (through the Pandemic Influenza and Other Emerging

Pandemic Threats program). USAID should further commit to help building technical capacities for improving the quality and access to essential health services in Burma. Additionally, USAID should commit to helping build monitoring and evaluation capacity to assist with overall health systems strengthening. Overall improvement can only be achieved by a coordinated investment in new infrastructure, education of doctors and assistants and mechanisms to ensure equitable access to healthcare across the country. Direct investments in infrastructure through USAID can provide adequate conditions for a future work place. Education of doctors and other technical assistance can be achieved through cooperation between Burmese and US universities. This exchange of knowledge and experience will provide an opportunity for better educated and more experienced doctors to operate in Burma.

- Continue investing in programs that have brought positive results in the last couple years, including prevention programs for HIV/AIDS, Tuberculosis, and Malaria.

USAID should continue supporting cross-border surveillance of HIV/AIDS prevention and treatment as well as prevention of TB, avian influenza, and malaria. In cooperation with the Burmese Ministry of Health, USAID should also continue providing technical assistance for maternal, new-born, and child health interventions. Finally, in order to bring Burma into closer economic partnership with the United States, USAID should continue welcoming partners and donors in supporting the Sustainable Development Goals for Burma and should furthermore aim at reducing maternal and child mortality rates and fighting three diseases – HIV/AIDS, TB, and malaria – in the next five years.

## **RECOMMENDATIONS**

- Maintain jade sanctions until EITI/other transparency and accountability mechanisms are more firmly established.
- Promote NLD awareness of the complexity of "conflict economies" and build capacity to respond to the disasters that result from rapacious resource extraction and trade.
- Maintain The Responsible Investment Reporting Requirements for US companies, but explore whether the NLD prioritizes renegotiation of the terms of these sanctions.
- Retarget executive branch sanctions to minimize the negative effect on the Yangon Stock Exchange (YSX).
- Bring in more disenfranchised people to programs like YSEALI to help with the peace process and reconciliation, such as ethnic minorities, women, and people who live outside of main cities.
- Continue with a firm commitment to improving the Burmese healthcare system.

## CHAPTER TWO: THE FIRST 100 DAYS OF THE POWER TRANSITION

*Shiming Shen, Cheryl Isberto, and Natasha Karmali*

### INTRODUCTION

The National League of Democracy emerged as the victorious party in the 2015 elections and is set to elect the next president early this year. After decades of authoritarian military rule, the Burmese people anticipate the new government to bring about many changes in the country. The people are hopeful that Aung San Suu Kyi and her compatriots can transform Burma from an impoverished nation to a prosperous country. They expect improvements in many areas such as education, employment, international recognition, and so forth. Thus, the NLD's legitimacy is dependent on its ability to rise to the challenge of the people's high expectations.

However, many have cast doubts on the NLD's ability to maintain its allure in the first 100 days after the power transition. One concern is the NLD's lack of governing experience. Many NLD supporters tend to express their preference for the party because of its leader, who is known as Mother Suu, instead of actually believing in the party's policy (VOA 2015). Suu Kyi is barred from presidency according to the 2008 constitution drafted by former military rulers. The party's official election manifesto provides little detail on its planned course of action. Furthermore, the majority of the party's candidates are medical doctors, poets, and former political prisoners who are not necessarily versed in economics or politics (Ibid.).

The NLD continues to inspire hope for better days amongst the general Burmese population. The party's Chairman of the Mandalay region, Shwe Hla has promised that the NLD will be the party that would bring a list of improvements to the country. He assured "the law to be fair for the people, no corruption or bribery in the government, peace with the ethnic people, rule of law, stability and tranquility" along with many other promises (Quoted in VOA 2015). However, under the constitution the military still holds a significant number of seats in the parliament which gives them leverage to block any efforts to undo policies established by former generals. Thus, the reform process is very much reliant on the progress the military is willing to take.

The United States should take great interest in the success of this new democratically elected government; it should not only monitor their progress, but should also provide support where the NLD lacks capacity and experience. NLD leaders must demonstrate their ability to govern the nation and make initiatives that will produce identifiable, positive results in the early months of its rule. In order lay the basis for a successful five-year term, the United States should help the new government satisfy what demands it can and retain the support of the masses. The following is a timeline of the plausible challenges anticipating the NLD within its first 100 days in office. This period spans from early April to early July of this year (see Appendix C for illustrated diagram).

## The First 100 Days of the Power Transition

- Myitsone Dam Decision (Early April):

The most difficult and politically hazardous decision the new NLD government will face is whether to continue or end the suspension of the construction of the Myitsone Dam, one of the world's largest hydroelectric power development projects. No easy solution is apparent. On the one hand, the dam is extremely unpopular among Burmese people. Most undoubtedly, they expect the new president to at least continue the suspension, if not to outright cancel it. On the other hand, a multi-billion-dollar contract and Burma's political and economic relations with China as a whole are at stake (Laignee Barron and Wa Lone 2015). Whether the NLD government extends the suspension of Myitsone Dam or re-opens the project will have a large impact on what the NLD government can accomplish in the first 100 days, and beyond.

Continuing to suspend the Myitsone Dam project would draw a groundswell of support from the Burmese people and be a huge domestic win for Daw Aung San Suu Kyi's party (Ibid.). However, to say that the cancellation of a multi-billion-dollar project might displease China would be an understatement. Given that China is Burma's top source of FDI and has invested in total \$14.7 billion since 1988-1989, it is in a position to place serious pressure on the Burmese government and economy (Republic of the Union of Myanmar 2015). The NLD government must make the final decision on the Myitsone Dam project by early April, after which point China will request a Yes-or-No response (Steinberg 2016).

- Institutional Reform (April~June):

The NLD has announced that one of their most important priorities after the inauguration of the new president will be to improve the efficiency of the government by cutting the number of ministries from 36 to about 20. During President U Thein Sein's term of office, 36 ministers and nearly 100 deputy ministers held office. U Win Htein, NLD spokesperson, informed The Myanmar Times that the new government would combine those ministries that had similar responsibilities to form a "more efficient" government (Ei Ei Toe Lwin 2016). The Ministries of Defense, Home Affairs, and Border Affairs will be not influenced by this government institutional reform, and military will retain its control of these ministries beyond the government (Ibid).

Lack of governing experience may hinder this institutional reorganization. Most NLD leadership has had no past governing experience whatsoever, and yet they are about to take responsibility for an entire country. A large number of parliament members who the NLD selected as their candidates and who successfully won their seats were medical doctors, former political prisoners, and poets. (De Carteret & Simon Lewis 2015). The international community also fears that ageing leadership will limit the capacity of the government, as the NLD has not paid much attention to the cultivation of a younger generation of leaders (Xing Yun 2015).

- Military Retirement (Early April):

Managing their relationship with the military will also be a challenge for the new government. In early April, the annual announcement of military retirements in Burma will occur. The first days following this announcement will be a very sensitive period for both NLD and military. According to Professor Mary Callahan, many of the high-ranking retired military officers are assigned to or choose to join civilian government service (Callahan 2016). This has always been an unpopular practice among the people of Burma, who now expect the military to reduce their influence in civilian affairs. However, the NLD risks jeopardizing their already fragile balance of power with the military if they refuse to accept these appointments. Therefore, the upcoming annual announcement will be an important bellwether of relations between the NLD government and military.

The NLD has two options: either accept those retired military officers in government service positions or reject them. Assigning those retired military officers in the new administration will help the NLD to build a better relationship with the military, but it will have a negative influence on its popular support. Keeping those retired military officers away from the new government would damage the new democratic government's prospects for cooperation with the military in the next few years (Mong Palatino 2015).

In all likelihood, the recent reports that Senior General Min Aung Hlaing, the commander-in-chief of Myanmar Defence Services would have his term extended for another five years suggests that the NLD will have little room to reject this long-standing practice of retirement and reassignment to the government service (Parameswaran 2016). According to one scholar of Myanmar military affairs, Senior General Min Aung Hlaing might likely be less reactive to NLD's pushes, and his extensive international exposure might make him a better alternative than those who would succeed him (Callahan 2016).

- Potential Triggers of Protests (June~July)

Another challenge the NLD will have to face will be how to react to anticipated protests. Historically, there have been protests commemorating Martyrs Day (July 19th), the 8888 uprising (August 8th), and the anniversary of the military coup in 1988 (September 18th). Under military control, for the most part protests were not tolerated, resulting in many arrests and abuses. This harsh reaction was met with outcry from western nations, where human rights organizations, like Amnesty International and Human Rights Watch are more influential. However, under President Thein Sein, organized celebrations of the anniversary of Martyrs Day, the 8888 uprising and other momentous events were allowed in 2013. According to a February 2016 interview with Professor Mary Callahan, these anniversaries are very significant to the people of Burma. The NLD should

understand the potential for these anniversaries to not only result in mass celebrations, but also to spark criticism, depending on the unfolding of events and perceptions of NLD rule. The NLD, long accustomed to popular accolades and not denunciation, must prepare for measured response if there are protests against its actions or inactions.

Martyrs Day commemorates the assassination of General Aung San and seven other government officials. Aung San has since become a national symbol for “freedom, independence, courage, and integrity” (Dr. Felix Girke, quoted in Penna 2015). Although the Panglong conference actually failed to incorporate representatives of all major ethnic groups and make peace with them (Smith 1999, 77-79), but the Martyrs Day has still been a time to reflect upon the ongoing peace process. The NLD has stated that among its many priorities, the peace process ranks highly, but if they are unable to deliver tangible gains, there may be protests on Martyrs Day against the government.

The 8888 uprising is commemorated to honor not only those killed during the 1988 student-led uprising against General Ne Win but also the heroic efforts of the Burmese people. It is also to remind people of what was at stake and to grieve lost opportunities. 2013 was the first year the government allowed for a large-scale event to be held, and remarkably, it was held at the Convention Center in Yangon and attended by tens of thousands of people. This led to grass-roots political discussion and educating the younger generations of the significance of the 8888 uprising (Kipgen 2013). In August 2016, protests are possible if people are dissatisfied with NLD progress as a result of their high expectations (Interview with Professor Mary Callahan 2016). Again, the NLD should be cautious of the way it handles these protests.

The NLD has an interesting relationship with these anniversaries, which will make their response to the anticipated 2016 protests all the more important. Aung San Suu Kyi’s political career was launched after she was able to inspire and lead people during the 8888 uprising. Along with the 8888 protest, Aung San Suu Kyi gained support because of her father, whose death is commemorated during Martyrs Day. The NLD’s success has been, in part, due to the support they were able to amass during these two anniversaries. For example, in 2013, Suu Kyi asked the people of Burma to use Martyrs Day as a time to commemorate the death of her father and reflect on the kinds of leaders they would want in the future (Radio Free Asia 2013). Given the NLD’s use of Martyrs Day in the past, many Burmese will be using this day to reflect on how the government has lived up to the promises it has made during past Martyrs Day rallies.

If there are protests during these anniversaries, the NLD will need to make sure that the protests do not erupt into an event that could be perceived as endangering national security and thus open the door to a military role in managing them. However, they must be aware that they will be under great scrutiny, internationally and domestically, if they decide to use force to stop the protesters.

## **US INTERESTS**

The first 100 days of the NLD's tenure in office is a critical and vulnerable period in which it must establish its role as the legitimate leader of the people. The NLD's ability to meet the expectations of the Burmese population will likely determine the support it will enjoy in the coming years; their challenge now is to sustain the massive support they enjoyed after the 2015 elections. Therefore, it is important for the NLD to make quick wins in order to assure the masses of its ability to lead the country in the right direction. Failing to do so could mean the breakout of serious protests at the end of the year. Not only would this cast doubt on the party's legitimacy, but it would also jeopardize the country's stability.

The NLD's lack of experience in governing roles is a major roadblock to achieving its policy reforms. Thus, as a major supporter of Burma throughout its transition, the United States must continue to provide the assistance needed to ensure a satisfactory pace of deliverables to the population and thereby build popular confidence in the transition to a functional democratic government that allows for voices from all across Burmese society to be heard. By providing assistance and other forms of support to the newly elected government during this critical period, the United States will strengthen its position as a valuable partner to the new government. Hence, the United States would have greater force in influencing the decisions made by the political party. This is of great strategic importance as the United States attempts to rebalance influences in Asia.

## **POLICY OPTIONS**

The first 100 days is a critical and sensitive period for Burmese people and the incoming NLD government. The NLD government needs quick wins to maintain its popular support, and must consider the most feasible ways to meet people's high expectations. The future of US interests in this region will hinge on the actions that the Department of State makes during this period. Our recommendations for this chapter therefore focus on the areas in which the United States can have a direct influence in promoting the success of the NLD. The NLD's lack of governing experience and expertise will be one of the most important issues. The agriculture sector, institutional reform and budgetary issues are other much-repeated priorities already announced by NLD leadership. USAID can provide financial support via implementers working with Burmese farmers, technical assistance for the incoming government's institutional reforms, and public financial support for new government's budgeting process. These actions will be key factors that have a huge influence on US-Burmese relations in next few years.

- Provide credit to farmers through USAID.

The 2010 UNDP Human Development Report showed that Burma ranked just 132 out of 169 countries in gross domestic product (GDP) per capita. The annual per capita income of Burmese people is US \$183, which is one of the lowest in the world (UNDP 2011). Agriculture is a key sector of Burma's economy, representing 32.8 percent of GDP and around 61.2 percent of the

labor force (69 United Nations' General Assembly 2014). Farmers, therefore, represent the largest social group in Burma's society. Support to smallholder farmers and rural livelihoods have been an important focus of US and international policies toward to Burma for the last few years; the following quote from the UNDP's Project Proposal for USAID Funding in Myanmar summarizes the situation these farmers face:

The majority of the rural poor are comprised of marginal farmers and landless casual laborers. Among them households with handicapped, widows and chronically sick members are most vulnerable to social and economic shocks. All of them are not served by banks as they are unable to provide the collateral needed for a bank loan. Therefore, they must resort to multiple sources of informal credit at very high interest rates which push them into vicious cycles of indebtedness. The lack of access to credit at an affordable cost (interest) is the most critical constraint faced by the rural poor in order to engage in productive economic activities (UNDP 2011).

Most Burmese farmers do not have access to credit and loans from reliable fair sources. They are exploited by unscrupulous moneylenders, who operate in the black market. Microfinance is recognized globally as one of the most effective tools for poverty alleviation since 1980s. In 1997, the UNDP operated its Human Development Initiative with a microfinance component for 11 townships in the three zones of Delta, Dry and Shan (UNDP 2011). The microfinance project provided multiple financial services including short term loans or credits to the Burmese Farmers who had no access to credits or loans from reliable and fair sources.

The United States would increase its influence in Myanmar by providing credit or short-term loans to small-holder farmers, who at present have very little access to much-needed credit. Because of the various natural disasters the Burmese farmers experienced in 2015, this is a period in which those farmers desperately need financial assistance from the international community. Providing credit in the form of microfinance or other small-loan programs would not only improve the United States' relationship with Burma, but would also help millions of people improve their livelihoods. USAID could be the primary implementer of this initiative, since it has experience working in agriculture, microcredit, and rural livelihoods alongside the Burmese people and government.

- Provide Technical Support for Burma's Institutional Reforms.

Bribery, corruption, and inefficiency have always been major concerns for Burmese people and businesses in Burma. Reuters reported that about 20 percent of more than 3000 firms consider corruption as a serious barrier to their operation (Reuters 2014). There are 36 ministries (including five ministries of President's Office), an overall total that some observers also consider a barrier to efficiency.

Lack of administrative experience is a grave weakness of the NLD government, and the reduction in the number of ministries will be more complicated than the incoming NLD government likely expects. There are two ways the reduction can go: (1) the outright shutdown of ministries (which most consider unlikely) or (2) the combination of 2 or more ministries under one single minister. For example, the president last year placed the Minister of Home Affairs in charge of the Ministry of Immigration and Population (Callahan Lecture 2016). The outcome will not be good if the NLD government chooses to execute this institutional reform without any external assistance. People have very high expectation for the incoming NLD government, so Burma's institutional reform will be an important "exam" that the new administration cannot fail. Otherwise, people will start to question NLD's ability to lead the country, and it will soon lose its popular support.

US assistance in this regard could involve activating technical support from applied public affairs programs, such as the Woodrow Wilson School at Princeton or the School of International and Public Affairs at Columbia University. The United States can also send experts on bureaucratic reorganization, public policy and governance to Burma to train the incoming NLD government officials and parliamentarians (who will exercise oversight functions) as to how to efficiently administer the country to achieve NLD goals. The institutional reform will be a benchmark for the incoming NLD government in the first 100 days period, which will bring either positive or adverse impact to the new regime in Burma. It may be an excellent opportunity for the United States to show its goodwill and achieve positive outcomes in collaboration with the new government.

- Provide guidance to the NLD Government on budgetary process issues.

The budget of this fiscal year was formulated and approved by the outgoing government and former parliament, which the incoming NLD executive and legislative branches may have concerns about. This task force recommends the US embassy political and economic officers consult with the NLD on this particular quandary, as political capital and time that is wasted on revising the budget already allocated will result in opportunity costs – other priorities that will not be addressed. Since lack of expertise is a serious problem for the NLD government, now is not the right time for revising the budget. However, donors are likely to continue efforts to build the capacities of new MPs and new government officials, so that they are able to prepare an adequate supplemental budget for later in 2016.

Since the incoming NLD government will have to face severe budget issues, it will be in desperate need of technical assistance of public financial management (PFM). The Maxwell School of Citizenship and Public Affairs at Syracuse University and the Evans School of Public Affairs at University of Washington have the top public finance and budgeting programs worldwide (U.S. News 2012). The United States can therefore assist the new NLD government by providing public finance and budgeting experts to increase awareness of PFM best practices. This will be a great

opportunity for the United States to increase its influence in the new NLD government, which will be very beneficial to US interests in the next few years.

- Provide humanitarian aid to Burma and help the incoming NLD government achieve its short-term goals.

In light of the political transition occurring in Burma, USAID should take advantage of its window of opportunity to engage with domestic organizations and institutions in support of the country's political reforms, sponsoring of national unity, and strengthening its peacebuilding capacity. USAID has been providing humanitarian assistance to Burma since 2002 and formally established a Burma mission in 2012. In order for the United States to more effectively support Burma in its reform process as it seeks to reengage with the international community, it should continue to implement humanitarian programs and initiate more programs in disaster prevention.

The United States' humanitarian policy in Burma has been to increase the country's capacity for disaster management and humanitarian practices. In partnership with the Burmese government, USAID is developing better ways to coordinate emergency assistance programs in an effort to more effectively serve the people's needs during conflict and natural disasters (USAID n.d.). In 2015, Burma experienced mass flooding and landslides, which affected more than 1.6 million people. Of the people affected, those in the agricultural sector suffered most. The floods destroyed 1.4 million acres of farmland, 972,000 acres of standing crops, 36,000 acres of fish and shrimp ponds, and about 20,000 head of cattle (FAO 2015). USAID provided \$600,000 in humanitarian aid and sent a team of disaster experts to ensure appropriate assistance went to victims who were affected by the floods in a timely manner (USAID 2015).

The US-Burma partnership for democracy, peace, and prosperity is bounded by four principles: inclusivity, transparency, accountability, and local empowerment (USAID n.d.). This allows the United States to hold Burma to a standard that is consistent with the aspirations of the people, which it must abide by in order to continue receiving assistance. As the United States continues to provide humanitarian assistance to Burma, especially over the first 100 days, upholding these standards is important in advancing the democratic reforms and in establishing the foundation for a prosperous future for Burma.

## **RECOMMENDATIONS**

- Provide credit to farmers through USAID.
- Provide technical support for Burma's institutional reforms.
- Provide guidance to the NLD Government on budgetary process issues.
- Provide humanitarian aid to Burma and help the incoming NLD government achieve its short-term goals.

## CHAPTER THREE: ETHNIC CONFLICT AND SECURITY THROUGH THE PEACE PROCESS

*Camille Sasson, Cherryl Isberto, and Nicole Shermer*

### INTRODUCTION

Burma has experienced more than seven decades of armed ethnic conflict dating back to before its independence in 1948. Periodic attempts at peace negotiations between the government and armed anti-state groups have met with varying degrees of success, but in many areas of the country, the conflict has raged on. Continuous violence and instability have resulted in hundreds of thousands of internally displaced persons (IDPs) and refugees since the early 1980s, in the continuation of a drug trade that is unresponsive to government and international efforts to eradicate it, in a myriad of human rights violations against civilians committed by military forces and armed anti-state groups, and in domestic and regional instability that jeopardizes the country's political and economic development (Myanmar Peace Monitor 2016). In recent years, steps have been taken toward a nationwide ceasefire and launching political dialogue between armed groups and the government. However, the recent elections and political transition could either threaten to disrupt the progress that has been made, or they could present an opportunity for new commitments to the peace process.

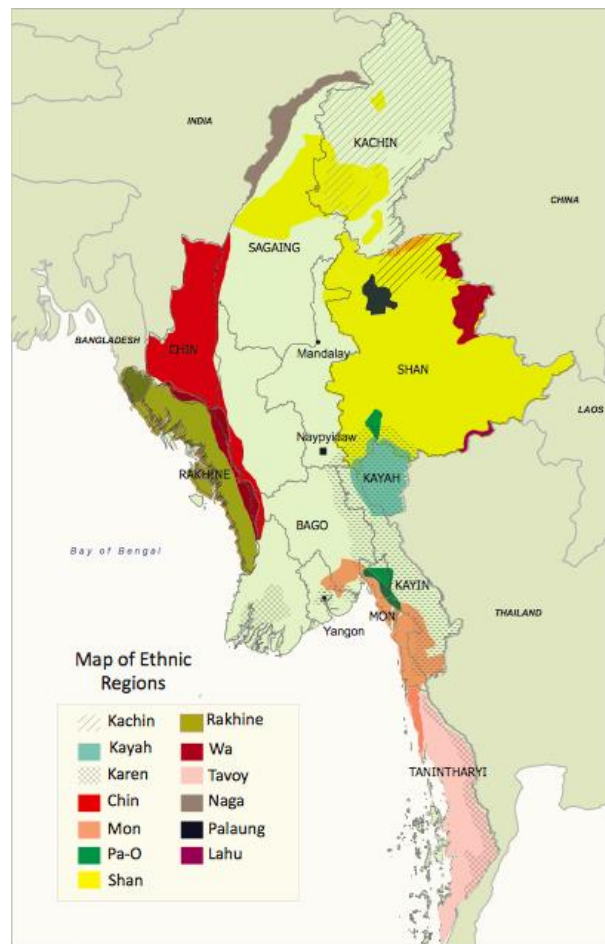
In the coming months, the United States should expand existing programs of humanitarian assistance to conflict-affected communities as well as engage with all parties involved in the peace process to provide technical support and capacity-building. In this way, the United States can facilitate and encourage dialogue between parties, while respecting the internally-driven nature of the peace process. Trust building and negotiations through the peace process will be critical, both for the success of the political and economic reforms underway in Burma and for the potential prosperity of the country. Because of the central importance of the conflict and its impact on all sectors of Burman society, this chapter of the report argues that the peace process should be a central priority of US policy toward Burma in the coming months.

### History of the Conflict and Attempts at Peace

In order to craft effective policy on the peace process, it is important to first understand the complex history of the internal conflict, the main actors, and the most pressing areas in which the United States can have a positive impact. Conflicting ideas about the concentration of power and the formula for representation of identity and territory have been at the root of ethnic conflict in Burma since its anti-colonial movement neared an agreement with its former colonizer, the United Kingdom, in the mid-late 1940s. Ethnic minorities called for greater autonomy through territorially-based federalism and ethnic-based representation in the national and subnational institutions; the central-based Burman political leaders, later embodied in the government, insisted on unity. Many attempts have been made to address the violent conflicts between the military and a constantly changing array of armed groups over the last 70 years, but to the present day none

have had full participation by both the military and non-state armed groups. No single formula could broker a compromise to satisfy all parties. In the decades since independence, insurgency and rebellion have become an ongoing, economically self-sustaining reality in Burma that has stretched the country's resources and disrupted countless lives (Smith 1999, 88-101).

Figure 2.1: Map of Ethnic Regions of Burma



*Source: Myanmar Peace Monitor. 2016. "Historical Legacy." MPM.  
<http://www.mmpeacemonitor.org/background/historical>.*

Burma is a very ethnically diverse country, and ethnicity has long been an area of controversy. The majority Burman ethnic group is said to make up about two thirds of the country, with the remaining one third composed of 135 officially recognized and many unrecognized ethnic groups. These minorities primarily populate the border areas of the country (MPM "Historical Legacy" 2016). Ethnic data is weak as Burma has never had a thorough, inclusive census. In March 2014, in partnership with UNFPA, the Government of Burma launched the first census in 30 years; however, the census was very controversial and is said to have exacerbated inter-ethnic and inter-religious tensions (International Crisis Group 2014). Each with its own history, culture, grievances

and agendas, the multiplicity of ethnic groups has only added complexity to the peace process and the associated issues of inclusivity and representation.

The Panglong conference of 1947, during which General Aung San and representatives of ethnic groups agreed to cooperate with an interim Burmese government post-independence, is often referred to as a symbol of cooperation. However, even this renowned conference failed to incorporate representatives of all major ethnic groups, and its promises of the continuation of self-rule for Frontier Areas have failed to be achieved (Smith 1999, 77-79). Union Day, the anniversary of the signing of the Panglong Agreement, is celebrated as a symbol of cooperation between ethnic leaders and the Burman majority government; however, many ethnic minorities are long disillusioned with the “spirit of Panglong” and point to the continued inequalities that disadvantage ethnic groups (Kaung Kin Ko 2016).

Since the anti-colonial movement in the early-mid 20<sup>th</sup> century, various ethnic and political opposition groups have been in constant contention with the central government, periodically flaring in violence or, alternately, making attempts at negotiation. In the mid-1950s, the Communist Party of Burma (CPB) led a peace movement to unify other political opposition groups, but the government of the Anti-Fascist People's Freedom League (AFPFL) under the leadership of U Nu scorned proposals for peace talks in 1950 and 1955. In 1958, U Nu launched the amnesty campaign “arms for democracy” under which insurgents of ethnic and political opposition groups around the country surrendered (Smith 1999, 167-168). However, later in the year General Ne Win seized power and made it clear he was opposed to amnesties for insurgents, undoing the hopes for peace that had followed the mass surrenders (Ibid, 175).

Under U Nu, who was re-elected in 1960 and served until a March 1962 military coup, ethnic minority groups joined in several “united fronts” calling for political dialogue, including the National Democratic United Front, the National Religious Minorities Alliance, and the Federal Movement (Smith 1999, 183-195). In 1962, any progress toward political dialogue was once again interrupted by the military coup that reinstated Ne Win for the next 26 years. Repressive policies and widespread unrest led to an expansion of old and eruption of new ethnic insurgent movements (Ibid, 219-221). Ne Win issued an announcement of a general amnesty in April 1963 and agreed to calls for peace talks, but he feared a ceasefire would lead to division of the country; the talks quickly broke down and fighting resumed immediately (Ibid, 206-210). With the failure of the peace talks, Ne Win established a new ‘Four Cuts’ counter-insurgency program designed to cut off food, funds, intelligence and recruits from insurgents, building on scorched earth campaigns periodically employed by the *Tatmadaw*, the Burmese term for the Defense Service (Ibid, 259). A new 1974 Constitution granted the seven largest minorities with states named after them, but the unitary structure of the government put an end to hopes for discussion of autonomy, succession, or independent political representation (Ibid, 198). When in 1980 the CPB again called for peace talks, Ne Win suddenly ended them, arguing that there was no place in the political framework for a second political party (Ibid, 318-320).

The 1990 elections brought another wave of political upheaval and confusion. After seizing power to crackdown on anti-government protests in 1988, the military regime, the State Law and Order Restoration Council (SLORC), promised multiparty democratic elections. Though its leader Aung San Suu Kyi was under house arrest at the time, the NLD won handily with an anti-military, pro-democracy agenda that received support from many of the larger ethnic parties. However, the SLORC refused to transfer power, instead declaring the intent to involve elected representatives and their parties in a National Assembly to draft a new constitution (Tonkin 2007). Despite this confusion, the 1990 elections presented a new opportunity for ethnic minority representation as candidates sought ethnic minority support. However, political relationships between the SLORC, the new political parties, and armed opposition remained unclear (Smith 1999, 384).

Through the political turbulence of the 1990s, SLORC allowed some space for negotiations and peace talks, and there was progress in reaching ceasefires and truces between the military and armed groups. 1989-90 saw a wave of ceasefires in northeast Burma between the military and ethnic and anti-state armed groups, such as the United Wa State Party (UWSP) and CPB forces. Though more of military truces lacking political agreements, these ceasefires had a dramatic impact on the war-weary country. Active combat ended in large areas of north-east Burma and many ceasefire leaders joined in economic development projects. Setting an important precedent, ceasefire groups were allowed to continue controlling their forces and territory until the new constitution was introduced and ethnic minority leaders were invited to join in the National Convention (Ibid, 440-441). Again, in 1992, SLORC created space for peace talks with the unilateral announcement of a halt to military offensives, but obstacles remained as SLORC rejected any international mediation and required ceasefires to be agreed upon before engaging in political discussion. Though many ethnic opposition forces entered into talks, they each came with different agendas. While SLORC reached ceasefire agreements with some groups in the mid-1990s, fighting flared with others (Smith 1999, 444-446). In this period many groups saw the process to lasting reconciliation as first reaching ceasefire agreements before building trust through development schemes and eventual political dialogue and reform (Ibid, 450); though the final stages of political dialogue have yet to be reached, the peace process today has followed a similar trajectory, with many groups still hoping for a nationwide ceasefire and dialogue with the military government and the NLD.

### The Current State of Affairs

The peace process initiated in 2011 by President Thein Sein has seen significant progress in securing bilateral ceasefire agreements with 14 groups and in the move toward a nationwide ceasefire agreement and political dialogue (MPM “Ceasefire Implementation” 2016). Even as gains toward peace have been made, deep-rooted tensions and distrust remain. Problems of displacement, drug trade, human rights violations and instability continue to impair the country’s development and ability to reach open, inclusive, and accountable governance. The current

political transition may present a new opportunity to advance the peace process, or it may push the issue to the sideline. Although the NLD has expressed its desire to prioritize internal peace, it has yet to show a vision or expertise in how to implement this priority. Achieving these promises will require the commitment of significant political capital and will from the NLD, ethnic armed groups and the military, as well as assistance and encouragement from international actors.

The 2008 Constitution drafted under the last military government created some space for ethnic nationality rights, but its failure to address key issues related to power-sharing has limited the scope of peace negotiations. The constitution expanded opportunities for ethnic nationality participation in state governments, allowing some degree of autonomy, but with the landslide victory of the NLD, there is no guarantee that ethnic minority leaders will be appointed to state chief minister positions. A main criticism of the constitution raised by ethnic groups and others is the political power of the military which, with a guaranteed 25 percent of the seats parliament, has override power for any constitutional amendments (MPM “Constitutional Concerns” 2015). Many ethnic armed groups are seeking extra-parliamentary dialogue, but for any meaningful change to occur the military will have to be an active participant and commit to implementation of whatever peace accords eventually emerge. Another problematic provision of the 2008 Constitution is the Border Guard Forces (BGFs). Beginning in April 2009, the constitution required all militia groups to integrate with and come under the command of the Burma military. All major ethnic groups refused to comply, as it would have forced them to give up their autonomy. After a September 2010 deadline, the government declared the post-1990 ceasefire agreements “null and void,” but BGFs continue in northeastern and southeastern Burma. The government increased economic and military pressure against the ceasefire groups, resulting in violent clashes and a re-escalation of tension (MPM “BGF” 2015).

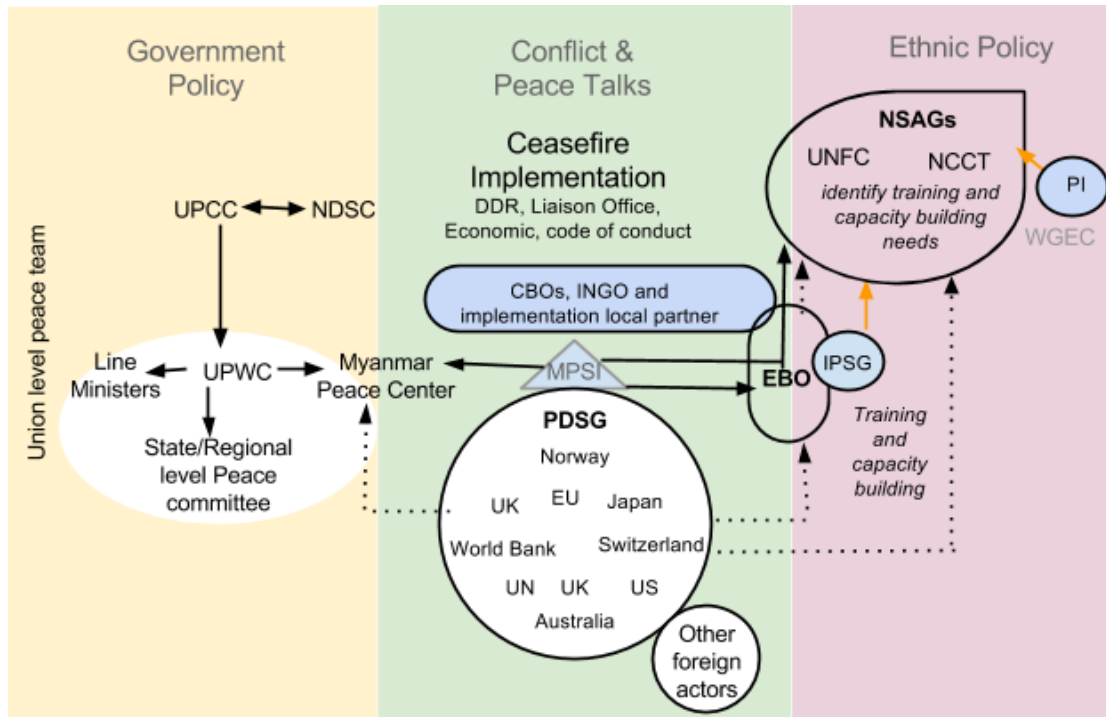
In 2011, President Thein Sein initiated the most recent attempt at peace with the goals of establishing a nationwide ceasefire agreement and political dialogue to bring lasting peace. The process began with Thein Sein dropping the demand for ethnic armed groups to become border guard forces and calling a national conference to discuss ethnic divisions. A three-part plan was developed: ceasefires and free travel at the state level; trust building, political dialogue, and regional development at the union level; and the signing of an agreement for lasting peace by all parties (MPM “Government Peace Plan” 2016). The Union Peacemaking Work Committee (UPWC) was established as the government’s negotiating team with the goals of obtaining ceasefire agreements, limiting the carrying of arms, opening liaison offices and reaching a Union Level Peace Negotiation at which longer-term cooperation and solutions are to be discussed. In the government’s list of priorities is non-integration of the Union or national sovereignty, acceptance of the 2008 Constitution with necessary amendments, and cooperation in development, drug elimination, and the political system. The Thein Sein government has made reforms in the peace process to allow leniency in requiring ceasefires and the surrendering of weapons prior to

discussions, has allowed talks to take place outside Burma, and is viewing the ethnic issue as political rather than as a military matter (Ibid).

Most of the anti-state groups entered these negotiations without a cohesive plan or representative body, but in general with an agenda that prioritizes self-determination, federalism and ethnic equality based on the terms associated with the Panglong Agreement. Ethnic armed groups have called for political dialogue outside parliament to circumvent the military veto to constitutional amendments. Main demands of ethnic armed groups include amnesty and legalization of ethnic groups, international monitoring bodies, Panglong terms, cultural protection, protection of human rights and the environment, and resettlement of refugees and soldiers. The United Nationalities Federal Council (UNFC) is currently the most active ethnic alliance, but does not represent all of the ethnic armed groups (MPM “Ethnic Peace Plan” 2016).

The current peace process has been largely internally-driven. International engagement has taken the form of oversight and financial assistance rather than direct mediation or pressure (International Crisis Group 2015). To date, the main role of the United States in the peace process has been in “issuing statements and making recommendations to the government and some ethnic armed groups” (MPM “International Response” 2016). Diplomatic engagement, such as a delegation led by US Ambassador Derek Mitchell in 2012 to the Kachin State to meet with ethnic leaders, has drawn attention to the ethnic conflict and shown it to be an area of concern for the United States (Ibid). Additionally, USAID has programs targeted at capacity building for ethnic groups and other actors involved in the peace process; it also has a mission to provide humanitarian assistance to those affected by the conflict (USAID “Burma” 2016). Individual countries, including Japan, China, India, Thailand, the United States and Finland, have engaged directly with the Burmese government to provide varying degrees of diplomatic and financial support for the peace process and humanitarian or development assistance to those affected by the conflict (MPM “International Response” 2016). Additionally, foreign countries have acted collectively in the provision of aid through multilateral donor groups such as the Peace Support Group and the not-yet launched Joint Peace Fund. However, the effectiveness of these groups has been limited by a lack of a common strategy in a conflict-sensitive approach to spending (Richards, Morrice, and Carr 2016).

Figure 2.2: Overview of the Peace Process



Source: Myanmar Peace Monitor. 2016. "Peace Process Overview."  
<http://www.mmpeacemonitor.org/peace-process/peace-process-overview>.

Since 2011, over a dozen ethnic armed groups have agreed to bilateral ceasefires, seen as a first step toward a nationwide ceasefire and political dialogue (International Crisis Group 2015). With the exception of the Kachin Independence Army (KIA) and its allies (AA, ABSDF, and TNLA), all major active ethnic armed groups have signed bilateral ceasefires, and eight have entered into the second, union-level stage of the peace process after signing the Nationwide Ceasefire Agreement (NCA) in October 2015 (MPM "Ceasefire Implementation" 2016). Regions in which ethnic armed groups have signed ceasefire agreements have generally seen a significant turn toward peace, with a decline in military activities and human rights abuses of civilians. However, conflicts continue, particularly in Kachin and northern Shan states between the KIA, which has not signed a ceasefire, and the Burmese military (Ibid). While many domestic and international bodies have praised the NCA signed in October 2015 as a crucial and significant step toward securing lasting peace, others have criticized the agreement's lack of inclusivity (Bachmutsky 2015). The United States has commended the NCA while urging the government to engage in dialogue with the ethnic armed groups that did not sign. It also called upon all signatories to adhere to the agreement and to continue to engage in dialogue for lasting peace (Kirby 2015). U Aung Min, the chief government negotiator, released a message to the ethnic armed groups that refused to sign, saying that they would be welcomed to sign when ready and not signing would not be used as a reason to launch military offensives (Dinmore 2015).

With the upcoming power transition, the future of the peace process remains unsure. Although Aung San Suu Kyi and representatives of the NLD have said that achieving internal peace will be a priority of the incoming government, her party has taken no firm position on the ceasefire process so far or what form future dialogue will take. Many remain skeptical of Suu Kyi's real commitment to the current peace process. She has expressed the need for greater inclusivity, though it is unclear what she meant by this (Reuters 2016). Additionally, she expressed dissatisfaction with the terms of the NCA, and chose to neither attend the October signing nor to have NLD attendees sign as witnesses (Ye Mon and Dinmore 2015). It will be vital for the NLD to revive peace talks and further progress toward a nationwide ceasefire agreement and political dialogue with ethnic armed groups and the military (Transnational Institute 2015).

Expectations for the NLD's ability to achieve real change toward lasting peace are high among many Burmese and in the international community; however, upon taking office in April, the NLD will face many challenges as discussed in Chapter Two. To further the peace process and begin political dialogue with ethnic armed groups and the military, the NLD will need to build trust with all sides, including armed groups, their associated legal and illegal businesses, and others long disdained by Aung San Suu Kyi. The NLD will need to work with the military to address the fighting that has continued in northern Burma and to promote the terms of ceasefire agreements (Myint 2015). The NLD will also need to address the humanitarian and developmental crises wracking many areas of Burma as a result of the ongoing conflict. Among the main issues are internally displaced persons and refugees, which the UN Office for the Coordination of Humanitarian Affairs has estimated to be in the hundreds of thousands (USAID "Myanmar" 2016). A second major issue is drug trade and illegal trafficking in conflict areas, which has been a major source of funding for ethnic armed groups and has been largely unresponsive to recent government and international drug eradication programs (MPM "Increasing Drug Trade" 2016). A third issue is the continued human rights violations committed by the military and non-state armed groups in conflict areas, including forced labor and human trafficking, land confiscation, and religious discrimination (MPM "Human Rights Violations" 2016). Finally, the decades of conflict have had detrimental effects on the political and economic development of conflict areas and the country at large (MPM "Negative Impacts" 2016). All of these issues need to be addressed in tandem with continued efforts toward a nationwide ceasefire and political dialogue. Continued and new break-outs of hostilities following the signing of the NCA make the peace process an urgent issue for the incoming NLD to address in the coming months (MacGregor 2016; Gray 2016).

## **US INTERESTS**

Burma is in a period of economic and political transition, the success of which depends largely on the peace process; thus, as the United States takes advantage of new opportunities to engage with the country, the peace process must take a central role in US policy for the remainder of the Obama Administration. The United States has been a prominent supporter of Burma throughout the reform

process initiated by president Thein Sein and the country's subsequent shifts toward becoming a more democratic and prosperous nation (U.S. Department of State 2014). These developments have allowed for greater integration with the global community, which has provided the United States with an opportunity to increase its engagement in Burma. In doing so, the United States has established more meaningful communication with the current government, and it has also gained leverage to influence the direction of the reforms in the country and have a greater impact in the Asian Pacific region. However, the ongoing ethnic conflict in Burma endangers the country's future in terms of both security and economics. To protect its interests in these areas, the United States should prioritize the peace process as critical component of US policy toward Burma.

Considering Burma's important geographic location in Southeast Asia, the country's internal security has far-reaching implications. The resulting spillover effect of the conflict has threatened the stability of the entire region. Refugees have flooded into neighboring countries such as Bangladesh and Thailand, who often have little resources or willpower to deal with the problem themselves (MPM "Internally Displaced Persons" 2016). The future of Burma's security issues will impact Southeast Asia both directly and indirectly; thus, the United States has direct interests in ensuring the stability not only of the country, but of the strategically important region as a whole. Several promising developments in Burma's regional security have already been made. President Thein Sein gave a speech in Washington, DC recognizing the end of the country's isolation as a goal of the reform process and a contributor to regional and global security and development (Cefkin 2013). Accordingly, the Burmese government signed the International Atomic Energy Agency (IAEA) additional protocol and has committed to global nonproliferation. Most importantly, Burma has indicated adherence to the UN Security Council resolutions prohibiting military trade with North Korea, greatly contributing to global security (Ibid). Thus, in the Obama Administration's emphasis on engagement with Asia, supporting the peace process and conflict-affected areas should remain an area of priority for regional and US national security.

The ethnic conflict also creates a risky economic climate, thus potentially dissuading foreign investment and limiting Burma's economic development. By engaging with the peace process and providing humanitarian aid to increase dialogue and stability in the country, the United States can contribute to the growth of the Burmese economy while positioning itself to influence and take advantage of the untapped Burmese market. Recent changes have created opportunities for trade and links between India, Bangladesh, Burma, China and the rapidly expanding economies of the Association of Southeast Asian Nations (ASEAN) (Cefkin 2013). Reforms in Burma have also fostered more bilateral economic ties essential for sustainable growth and development. The United States should not allow the ongoing conflict to jeopardize those reforms.

If the United States wants to expand its influence in Burma, it should use its potential to support and accelerate the reform process and the peace process. By 2013, the United States had provided over \$222 million in humanitarian assistance alone (Global Humanitarian Assistance 2016).

Additionally, the United States endorses inclusion and political dialogue between the government and ethnic groups in order to foster national unity. The United States can play a role in establishing the safety and order necessary to Burma's development into a functional democracy in which voices from across Burmese society are heard, and the rights of all including ethnic minorities are protected. Assisting in the establishment of a stable democracy at this critical juncture could establish the United States as an ally of Burma and thus ensure long-term benefits for the United States' political and economic agenda in the region.

The peace process is critical to the stability of Burma, as promoting greater inclusion within the government is necessary to create an environment in which democracy can take hold. Additionally, supporting Burma's social development is directly correlated to fostering the nation's economic growth and the security of the region. Thus, as the United States engages with Burma, it is in the United States' political, economic, and security interests to address the effects of the ethnic conflict and to support the peace process.

#### **POLICY OPTIONS**

In engaging with the NLD government in coming months, the United States should provide diplomatic support and solidarity to encourage the peace process to progress in an inclusive way and provide oversight to ensure that all parties adhere to their agreements. A major strength of the peace process so far has been its internally-driven nature; international bodies have and should continue to provide assistance and oversight rather than drive or apply pressure to the process (International Crisis Group 2015). The following recommendations should be tempered with an effort to remain respectful of Burmese autonomy in the peace process and recognize that the principle role of the United States should be providing guidance to the parties involved in negotiations and humanitarian assistance to affected areas. Nevertheless, the United States should make clear its position on the issues of the ethnic conflict and use its relationship with Aung San Suu Kyi to encourage the NLD to address certain key deficiencies in the existing peace process.

This chapter of the report recommends that the United States increase its commitments to humanitarian aid, expand its development assistance, and engage in military-to-military relations with the Burmese military. However, we recognize that the US Congress has typically resisted efforts to explore military engagement and expand the role of USAID in Burma. This resistance could be overcome through greater awareness of the ethnic conflict and political climate in Burma. Thus, we propose that the Department of State take greater initiative in organizing congressional hearings and other educational events sponsored and moderated by experts and other relevant actors from Burma to garner greater support from US Congress for more meaningful engagement and hands-on development work.

- Encourage the NLD government to promote inclusivity by increasing representation in the nationwide ceasefire agreement and in the political dialogue aimed at producing a comprehensive peace agreement.

Burma has a long history of a lack of inclusion and representation in the government, apparent in the independence movement, the project of the Burmese Way to Socialism, the State Peace and Development Council, the National Convention and 2008 Constitution, and the 2010 general election. This has created a legacy of instability and state failure. For real peace to be achieved moving forward, political dialogue and discussions must represent all peoples to be considered inclusive (Lahpai Seng Raw 2016). The most recent instance of the inability to achieve inclusiveness was in the NCA signed October 2015 by only eight ethnic armed groups. President Thein Sein and chief government negotiator U Aung Min have said that any ethnic armed groups that refused to sign will be welcome to do so when they are ready and that their refusal to sign will not be used as a reason to launch offensives against them (Dinmore 2015). In an October 2015 press statement, the United States commended the signing of the NCA but urged continued dialogue and engagement with all ethnic groups (Kirby 2015). The United States should maintain this position, encouraging the NLD to increase representation in the current or an updated NCA.

- Provide leadership on the collection of country data in the Demographic and Health Survey (DHS) in 2016, with recognition of lessons learned from census methodology flaws.

In 2014, the controversial 2014 Housing and Population Census was jointly released by the United Nations Population Fund (UNFPA) and Burma's Ministry of Immigration and Population under the Department of Population (Republic of the Union of Myanmar 2015). Many protested the survey, predicting that its methodology would exclude key ethnic groups and exacerbate ethnic tensions, especially in the political climate leading up to the 2015 elections (Transnational Institute 2014). Despite these objections, the UNFPA continued with the project as originally planned. The results have been mixed. Many human rights groups have expressed concern that participants could only indicate their ethnicity based on the government's official list of 135 ethnic groups, meaning that people of certain ethnicities, like the Rohingya, were left uncounted or misrepresented. Additionally, census data could not be collected in places of active combat, such as the KIA-controlled regions of Kachin State (International Crisis Group 2014, 2). The effects of their work could have further consequences when they release flawed data pertaining to the composition of Burma's ethnic groups; just weeks before the publication of this report, a government official told the Myanmar Times that "the findings were still going to be kept secret to avoid shattering the peace and stability of the state during the transition period," even though the results were originally going to be released earlier this year (Pyae Thet Phyo 2016). Therefore, in constructing the methodology and method of results delivery of the 2016 Demographic and Health Survey (DHS), USAID should take into account the flaws and consequences of this earlier census.

For the last 30 years, USAID has partnered with various international organizations and governments to produce the Demographic and Health Surveys Program (USAID “The Demographic” 2016). One survey under this program is currently underway in Burma, with fieldwork continuing through April 2016 (USAID “Myanmar” 2016). Since USAID is the lead donor to DHS, it is in a position to effectively emphasize the importance and sensitivity of Household and Respondent Characteristics information, which includes religion and ethnicity, among other identifiers. Many ethnic groups have felt that the classification of Burma’s ethnic nationalities into 135 separate groups has marginalized both their identities and national representation (Burma Campaign UK 2014, 5). Groups such as the Kuki people, who are not officially recognized, have expressed concern at their exclusion (Moe Myint 2016); this remains a contentious issue for the non-ceasefire-signatory group, the Kuki National Organization (KUKI). A more accurate and conflict-sensitive methodology which allows participants to self-identify their ethnicity could contribute to trust-building and reduce the tensions between ethnic groups and the government that have been a cause of violence.

This approach would have certain political repercussions, but they can be mitigated with an effective public relations strategy. By far the most marginalized group has been the Rohingya. Any survey that identifies them as such risks inciting existing ethnic and racial tensions from the majority Burman population which denies the existence of a Rohingya ethnicity. However, if the survey results include the self-identification caveat, many would recognize the designation is not actual policy of either the Government of Burma or the United States. The results would also help international organizations and CSOs determine a more accurate distribution of ethnic populations for a more effective delivery of aid. The 2016 Myanmar DHS survey should therefore take these recommendations into mind for the content and manner of data they release. If done well, a DHS survey could bring more reliable evidence to bear upon a range of policies and processes, not the least of which are the peace negotiations.

- Increase bilateral commitments to peacebuilding activities in Burma.

Since the NLD is inexperienced at organizing and maintaining a peace process, the United States should focus commitments regarding the peace process on capacity-building and technical assistance through both the Office of Transition Initiatives (OTI) and local CSO partner organizations working on the ground. As of October 2014, USAID had already committed a total of \$23.5 million to OTI’s activities in Burma, which include support for civil society engagement, increasing public access to information about the peace process, and promoting national reconciliation through an “inclusive identity” (USAID “Burma Infographic” 2014). The Kann Let program, implemented in partnership with the DAI international development company, has aimed to “strengthen the skills and provide tools civil society and government require to effectively engage in reform and peace processes” and is set to run through 2016 (DAI 2016). The United

States should evaluate the success of programs such as Kann Let to either renew or refocus their work.

Renewal and development of such programs should focus on two key priorities: first, on ensuring that the NLD is able to develop and utilize effective peace negotiations strategies. OTI can provide technical assistance and capacity-building to assist in this goal. Second, USAID and OTI should focus on helping local CSOs develop a broader system to educate the general population about the peace process. These kind of education initiatives will help the public develop a greater vested interest in the success of the peace talks. Again, the work of programs such as Kann Let should be assessed to determine which are the most successful and should receive the most resources in the future.

- Expand the role of USAID in Burma to provide conflict-mediating development assistance and interethnic education initiatives.

USAID could make real progress in mediating ethnic conflict in Burma through the continuation of existing initiatives and a commitment to more substantive efforts. However, the role of USAID has been limited to emergency assistance until recently. With sufficient funding, USAID could expand the types of vulnerable populations it serves to encompass women, refugees, IDPs, and other marginalized peoples affected by the conflict.

USAID programs could also play a more effective role in shifting national discourses on faith and ethnicity. One of the main issues hindering the process of national reconciliation in Burma is lack of interethnic and interreligious dialogue, which perpetuates negative stereotypes, nationalism, and hate speech. The country has not been exposed until very recently to globalized ideas of diversity and minority rights, which also contributes to the acceptance of a discriminatory mentality. The incoming NLD government needs to realize the importance of changing this discourse. One tool for doing so is through education-- in particular, a more ethnically inclusive national education system. Thus far, the importance of mother-tongue-language education has been neglected in favor of nationalistic curriculum (Pon Nya Mon 2014, 1). For this reason, USAID should encourage intercultural and bilingual education initiatives, both through its own programming and through partnerships with NGOs. On a broader diplomatic level, the United States should also encourage the NLD to undertake exposure tours in other regions that have undertaken multiethnic education initiatives to increase the NLD's understanding of the pressing need for national education reform in Burma. Additionally, USAID should partner with CSOs working to educate civilians and foster interfaith dialogue in ethnic states, especially in Rhakine State where the conflict between Muslims and Buddhists is so prominent.

Any development initiatives regarding the ethnic conflict should keep in mind the politics of representation in how they target certain populations. Aid that addresses basic needs such as food,

water, sanitation, education, and infrastructure in poor ethnic areas will mitigate many effects of the violence of the conflict and could ease sources of tension for civilians. Providing for the wellbeing of all citizens, particularly those in conflict-affected areas, is essential to create the stability needed for true reconciliation and state-building.

- Engage with the Defence Services on non-lethal defense issues under the condition that the Defence Services show identifiable progress in complying with international standards of human rights and with the conditions of ceasefire agreements.

The Defence Services play a critical role in the peace process and must agree to any ceasefire agreements, political dialogue, or potential constitutional reforms. By engaging with the military, the United States can build trust and create leverage with which to encourage the military to make productive reforms toward compliance with ceasefire agreements and the protection of human rights in the short term, and contribute to political dialogue and potential constitutional reforms in the long term. The United States has engaged with the Burmese Defence Services in the past, funding 175 *Tatmadaw* officers to attend US military schools from 1980 to 1988. The goals of the United States then paralleled those regarding the Defence Services today: professionalize officers, increase efficiency, and encourage democratization through exposure to US ideology; balance Chinese and Soviet influence; and counter-narcotics and regional security objectives. While the program was small in size, many US trainees are now among the reformists at upper levels of the Burmese government (Riley and Balaram 2013).

The Defence Services' soldiers have been responsible for many human rights violations, particularly in conflict areas, including child soldiers, forced labor, sexual violence, torture, and killing of civilians (Khu Oo Reh 2016). NGOs and members of Congress who oppose military engagement cite these human rights violations, as well as the Burmese military's alleged relations with North Korea, as reasons not to engage. They argue that US engagement would be seen as a public relations victory for the Burmese military, granting it prestige and legitimacy despite its actions (Pennington 2013). However, with proper Leahy vetting, the United States would not engage with any individuals with a history of human rights abuses personally or in their units (Riley and Balaram 2013). In order to encourage reform, the United States needs to retain some leverage over the military. It is argued that before the Burmese military receives US assistance, it needs to make progress in ending human rights violations and establishing institutional reforms to allow perpetrators of human rights violations to be held accountable (Chabot 2013).

These human rights concerns are serious problems that need to be addressed if the United States is to engage with the Burmese military. However, the United States is more likely to build the relationships necessary to encourage the military to reform through active engagement. Through President Obama's proposed non-lethal defense training program, the United States could contribute directly to increasing the professionalism of the Burmese military and the conduct of

soldiers in conflict zones. By establishing a military relationship, the United States could open lines of communication with ethnic nationalities and create a roadmap for their integration into the military, which is a key piece of the Burmese government's goal of establishing a single military and in efforts for greater integration and representation of ethnic groups. On the other hand, failure to engage with the Defence Services could alienate them from the United States, jeopardizing the renewed political and economic relationships fostered between the Obama and Thein Sein administrations. Additionally, in the interest of diversifying foreign relations, Burma will likely engage in military-military talks with neighboring countries, particularly China. The United States should take advantage of Burma's foreign expansion to engage in all sectors, rather than allowing its influence in the country to be overshadowed (Haake 2015, 17).

Military participation is crucial for establishing meaningful ceasefires and future constitutional amendments. Military-to-military engagement would strengthen the professionalism of the military and the influence of the reformers within the military (Pennington 2013; Riley and Balaram 2013). However, in exploring engagement with the Defence Services the United States should practice proper Leahy vetting while remaining respectful to the Burmese government and military's sensitivity to sovereignty and national unity (Haake 2015).

- Reevaluate strategy of countering drug production.

Burma has long been one of the world's largest producers of opium, and poppy cultivation has remained stable for the last three years despite the extension of a 15-year plan implemented by the Government of Burma in 1999 to eliminate illicit crop production. Poppy cultivation sites tend to be located in Shan and Kachin states, where violent conflicts between EAGs and military forces are particularly frequent and the central government has a limited reach (UNODC 2015). This illicit production and trafficking of drugs fuels the activities of many non-signatory non-state armed groups, which directly inhibits the peace process. Therefore, the United States should reevaluate its current strategy in order to support the efforts of the Government of Burma in fighting the drug trade.

A recent survey by the Central Committee for Drug Abuse Control (CCDAC) and the United Nations Office on Drugs and Crime (UNODC) identifies the primary reason for continued poppy cultivation as the economic needs of farmers in poppy-producing areas. While farmers have reported regulations established by local authorities and awareness campaigns as reasons for decreasing their poppy cultivation, economic necessity and a lack of alternate sources of income has kept many farmers from ceasing poppy cultivation completely (UNODC 2015). Thus, reducing poppy cultivation requires a diverse strategy to strengthen state institutions and create sustainable economic development in poor, conflict-affected areas.

The United States' current counternarcotics efforts regarding Burma are largely targeted at law enforcement capacity-building. According to the U.S. Department of State, "USAID is working to support Burma's overall rule of law capacity, and the State Department will continue to advance counter narcotics programming and explore capacity-building activities for law enforcement in Burma" (Cefkin 2013). Thus, real commitments to counternarcotics have been predominantly through USAID programs with broad agendas aimed at strengthening governance. Since 2011, the United States has been sharing intelligence and cooperating with the Government of Burma on counternarcotics investigations through the US DEA office at the US Embassy Rangoon. This relationship should be continued with the incoming NLD government with an emphasis on capacity building for the police counternarcotics task forces established by the Burmese Central Committee for Drug Abuse Control (U.S. Bureau of International Narcotics and Law Enforcement Affairs 2014).

While farmers have responded to regulations against poppy cultivation (UNODC 2015), the United States should consider a more diverse and comprehensive counternarcotics strategy. One option to consider is committing funds to the CCDAC for programs such as the alternative development plan it proposed in 2011. Committing to a program like this, intended to motivate farmers to forego poppy cultivation for alternate sources of livelihood, would show the United States' support of the counternarcotics efforts of the Government of Burma and serve as an example for other nations to commit to this cause (U.S. Bureau of International Narcotics and Law Enforcement Affairs 2014). Ultimately, success in the peace process and economic development would allow further counternarcotics efforts to take effect. Thus, the United States should expand its counternarcotics agenda through commitments to the peace process and economic development in Burma.

- Continue to implement and improve refugee resettlement assistance.

According to UN Office for the Coordination of Humanitarian Affairs (OCHA), more than 240,000 people have been displaced in Burma since 2011. The country's laws do not provide for the granting of asylum or refugee status, and the government has not established a system of providing protection to refugees (US Department of State 2014). Many displaced people remain in camps under dismal circumstances and rely on international aid agencies to provide clean water, food, shelter, and sanitation. The increasing refugee population in Burma poses challenges for other states in the region and has caused political tension between Burma and its neighbors as many displaced by the conflict have fled to neighboring countries.

From 2005 to 2014, the United States welcomed and settled more than 73,000 Burmese refugees on the Thai-Burma border through the group resettlement program. This UN Refugee Agency (UNHCR) program, supported by the Thai and US governments, recently ended though demand for resettlement remains high (Tan and McClellan 2014). The United States should consider reopening this program and committing to continuing to accept Burmese refugees displaced by the

ethnic conflict. The United States could also use its growing influence in the region as well as incentives such as increased trade to encourage neighboring countries to accept greater numbers of refugees. Additionally, the United States should continue to provide humanitarian assistance to refugee and IDP camps in Burma and neighboring countries.

## **RECOMMENDATIONS**

- Encourage the NLD government to promote inclusivity by increasing representation in the nationwide ceasefire agreement and in the political dialogue aimed at producing a comprehensive peace agreement.
- Provide leadership on the collection of country data in the Demographic and Health Survey (DHS) in 2016, with recognition of lessons learned from census methodology flaws.
- Increase bilateral commitments to peacebuilding activities in Burma.
- Expand the role of USAID in Burma to provide conflict-mediating development assistance and interethnic education initiatives.
- Engage with the Defense Services on non-lethal defense issues under the conditions that the Defense Services show identifiable progress in complying with international standards of human rights and with the conditions of ceasefire agreements.
- Reevaluate strategy of countering drug production.
- Continue to implement and improve refugee resettlement assistance.

## CHAPTER FOUR: HUMAN RIGHTS, DIGNITY, AND SUSTAINABLE FUTURES

*Heather Ellis, Camille Sasson, and Nicole Shermer*

### INTRODUCTION

Since 2011, when President Thein Sein began an unexpected process of reform, the Burmese government has begun to address and make improvements to long-standing human rights issues. The government has released as many as 1700 political prisoners according to the Assistance Association for Political Prisoners Burma (AAPPB), closed down the Press Scrutiny censorship board, criminalized forced labor, has signed a joint action plan with the United Nations to end the recruitment of child soldiers, and has taken some action to prosecute citizens responsible for human rights abuses (U.S. Department of State 2012; U.S. Department of State 2013; U.S. Department of State “Burma” 2014). Additionally, a new National Land Use Policy that has the potential to protect farmers and small land holders from displacement has been released and the Ministry of Information has eased restrictions on domestic journalists allowing increased freedom of expression.

Despite movements toward reform and subsequent improvements in protections of human rights in Burma, significant problems remain. As the NLD takes office, abuses by both high ranking and petty local government officials, military forces, and non-state armed groups will need to be addressed, or they will jeopardize the success of the transition to democracy and the stability of the country. Many farmers and non-Bamar groups remain displaced or destitute because of policies in need of reform, and their ability to actively protest and draw light to their struggle is still limited despite changes to freedom of expression policies.

The protection of human rights has always been a critical priority for the United States; lack thereof during Senior General Than Shwe’s military government resulted in multiple US sanctions, and their repeal should not come without tangible commitments from the current government to continue making progress. This policy report thus far has encouraged the United States to continue engaging with Burma economically, militarily, and diplomatically. If the United States is to justify that engagement, it must ensure that human rights continue to gain more protection and respect. Therefore, this chapter will address the potential role of the United States in transforming the structure of Burma’s land rights through USAID, mitigating human rights abuses, and promoting greater freedom of expression to protect the country’s nascent civil society and democracy. Now is a critical moment in Burma’s trajectory of progress; should the United States not offer expanded support for reform, the progress already made risks being lost.

Figure 4.1: Letpadaung mine, Monywa--northwestern Myanmar on Dec. 22, 2014.



*Source: Today's Zaman. 2014. "Police fire on Myanmar protesters, 1 killed and 20 hurt." Today's Zaman, December 22.*

In this chapter we have chosen to focus on rule of law, land use policies, and freedom of speech in the context of human rights. While there are many areas in which human rights violations in Burma should be discussed, the topics presented are all interrelated and can be at least partially addressed in the upcoming year through various diplomatic and assistance based tools. Much of the restrictions on freedom of speech and peaceful assembly have been targeted at those protesting land confiscation, and have been met not just with silencing but with police brutality and other conflict that evolves into violence. These areas of human rights are not only key to upholding the United States values of justice and freedom for all humans, but in stabilizing the country and giving the new government a genuine chance to lead Burma to continued progress. Furthermore, much of the ethnic and non-state group conflicts in the Shan and Kachin States overlaps with land dispute and confiscation issues-- the peace process is tied to the process of ensuring the rights of the people. It should thus be the position of the United States to ensure human rights are part of the discussion in establishing peace and stability.

### Land Rights as Human Rights

The new National Land Use Policy (NLUP) is praised by activist groups for its rights-based language and attention to vulnerable groups and traditional land use patterns. The policy, if maintained, could stand as a shining example not only of what the Burmese government can accomplish in collaboration with the people of Burma and international organizations, but of what surrounding nations could strive to uphold; however, the policy is only a guiding document and does not provide any indication of how back-logged land dispute cases should be resolved. Existing laws are out of line with the policy, which is another challenge to its future success. If

embraced by the NLD, the policy could dramatically shift the way old legislation is interpreted but will be more powerful if accompanied by new laws altogether that reiterate the rights of the people of Burma to live without fear of displacement in the name of opaque government projects or business purposes.

Under Burmese law, land remains ultimately state-owned despite reforms to increase and protect private property rights. Article 37 of the Burmese Constitution, the new National Land Use Policy, The Farmland Law, and the Vacant, Fallow and Virgin Land Law maintain the right of the state to seize land declared under those categories for “public purposes or business purposes,” which has resulted in widespread rural conflict.

According to land rights organizations Namati and Landesa in their joint 2015 report, millions of small landholders remain vulnerable even with positive changes to the National Land Use policy, and thousands of land claims have yet to be processed. Under the Farmland Law in 2012, the government created the Farmland Investigation Commission. In the years since, according to Namati, the commission has received “30,000 cases. Of these, only two-thirds have been heard, and in fewer than 1,000 – a mere 4 percent – has it ruled that compensation is justified” (Pearce 2015).

Prasse-Freeman a Yale PhD student, points out that while only 11,000 cases have been filed, an estimated 5 percent of farmers in Burma are involved in land disputes-- significant in a nation where 60 to 70 percent of people rely entirely on agriculture (Prasse-Freeman 2015). Former general and member of the Farmland Investigation Commission, U Aung Thein Lin has expressed fear that land protests “may result in a national uprising, and if this happens it will reverse our democratic transition” (Quoted in Min Min 2015). Activists have also expressed concerns over land conflicts intervening in the peace process. Representatives from the Kachin State Farmers Network have said “If land disputes remain unresolved they will be detrimental to the peace process and overall stability of Kachin State” (Thin Lei Win 2016). Nationally recognized activist and chair of Kachin States National Democratic Force (NDF) Bawk Ja Lum Nyoï has said “Without resolving the land issue, there’s no way you can achieve real peace” (ibid).

Indeed, protests have been prevalent-- and have frequently been met with force from police. According to Land in Our Hands’ 2015 report, the majority of land conflicts occurred in Kachin and Shan states. In the same report, they found that of their survey respondents, 42.9 percent of those whose land had been confiscated by the government believed they had legal documents declaring their rights to the land. The group’s conclusion that “Important questions around access to and control of land are at the heart of the civil war, and unless they are addressed well, real peace is likely to remain out of reach,” (Quoted in Thin Lei Win 2016) seems to be strongly founded in the number of violent protests occurring even just over the last couple of years. Incidents include protests over land lost to the Chinese-owned Letpadaung mine, where since 2012

a number of villagers have been injured, activists have been arrested for accusations of having violated the Act on the Right to Peaceful Assembly and Peaceful Procession, and two villagers have been killed (Lwin Oo & Boliek 2014). In the Shan state village of Yepu, a farmer died of burns from self-immolation after losing tenure rights in part of the 5,000 acres seized by the military for their own agricultural project (Nadi and Aye 2015). Most recently was the large-scale displacement of several hundred people in the township of Mingalardon. While many were considered squatters, their duration (20 or more years) raises questions about that allegation. Some possessed property titles but were moved nonetheless (Phyu Phyu 2016). Overall, Human Rights Watch reports the number of activists arrested for protesting land grabs went up significantly in 2015, especially in Karen State (Human Rights Watch “Burma: Land Rights Activists” 2015). Beyond the conflicts caused by land policies and practices, land rights organizations note a lack of gender equity in existing land tenure policy, mainly among smallholders and ethnic and religious minorities (Namati Memorandum 2014). This situation was addressed, but only partially, in the National Land Use Policy released in January 2016.

It should be noted that this policy contains many commendable plans to secure tenure rights for vulnerable populations, and civil society organizations and NGO’s with longstanding interest in land are optimistic about what the policy includes -- especially the recognition of local land rights by occupant communities, regardless of the possession of registration documentation. Acknowledgement of traditional land rights was one of USAID’s top goals in their efforts to help shape the National Land Use Policy. USAID had also hoped to see more gender equity in the titling system, which the change to allow two names on a title in the new policy addresses. There are still a few items these groups are disappointed to see excluded: a plan to expedite the processing of thousands of unresolved disputes; a compulsory acquisition policy more in line with ‘international best practices,’ a direct reference to the need for clearer outlines of seizure purpose requirements; and reductions in landlessness, as 30 to 50 percent of the population still remains landless (USAID “Land Tenure Profile Burma”).

#### Violence, Rule of Law, and Accountability

Improvements in human rights made at the Union government level have not translated into practice throughout all regions of Burma. In conflict and border areas, where the central government has limited reach and authority, state security forces and non-state armed groups have continued to commit human rights abuses, including the recruitment of child soldiers, forced labor, sexual violence, and forced displacement. An overall lack of rule of law throughout the nation, especially in conflict areas, has left victims without adequate reporting mechanisms. While the government has taken some actions to prosecute citizens responsible for abuses, military officials have acted with constitutionally-guaranteed impunity, (“Burma 2014 Human Rights Report” 2014; Lwin 2016; MacGregor and Aung 2016).

Recent news reports illustrate the continuation of abuse in conflict or military occupied spaces. In Northern Shan state there have been recent outbreaks of violence between the Defense Forces and non-state armed groups (NSAGs), where non-state armed groups have reportedly increased abductions of young people from their own as well as other ethnic groups to increase their troop strength (MacGregor and Thu Thu Aung 2016). Villagers are left mourning their missing children, caught between the Tatmadaw and NSAGs with little legal recourse (MacGregor and Aung 2016). Another example illustrating the human rights violations committed by members of the Burmese military and the impunity that has followed is the case of Khawn Nan Tsin and Maran Lu Ra, two Kachin schoolteachers who were raped and murdered in January 2015 in Shan state, allegedly by Burmese army soldiers stationed in the area. Despite ample evidence assembled by local communities and receiving widespread domestic and international attention, the military has denied charges that soldiers were responsible and threatens to take legal action against anyone who publicly alleges that army personnel were responsible. Police investigations into the matter have not resulted in any conclusions, let alone arrests and trial (Mathieson 2016). A recent report by the Kachin Women's Association Thailand calls attention to the inadequacy of the police investigations and state institutions, linking this case to the broader environment of impunity for military actors despite a post-2011 growing human rights rhetoric and the endorsement of international agreements at the Union level (KWAT 2016). Even in cases like these, which have received media coverage and the involvement of international humanitarian organizations, little legal progress has been made in prosecution of human rights violators, or in justice for victims. Establishing rule of law is a critical priority for Burma in the next several months. The NLD must hold the perpetrators of human rights violations accountable, and it should also attempt to provide resources and recourse for victims. The United States will need to keep the seriousness of these issues in mind as they move forward in their policies to promote human rights.

### Freedom of Expression and Freedom of the Press

For all of these reasons-- protecting the human rights of vulnerable communities, such as farmers and other civilians victimized by the military and non-state armed groups-- the protection and promotion of free speech as a fundamental human right will be essential in strengthening their avenues for redress. Citizens must be able to voice their concerns in order to spark domestic and international dialogue, because that dialogue can pressure those in power to find solutions. As freedom of expression is imperative to the process of democratizing and addressing other human rights issues, it is vital that US policy towards Burma include conditions regarding improvements in press freedom and freedom of speech.

Freedoms of the press and expression in Burma have had a long and tenuous history. At one point, Burma was known as the most "free" country in Southeast Asia. Under Section 17(i) of the 1947 constitution, citizens enjoyed the right to "to express freely their convictions and opinions" (Constituent Assembly of Burma 1948). More than 30 daily newspapers in a variety of languages and on a variety of subjects flourished (Smith 1991, 18); however, many obstacles to complete

freedom and immunity from political persecution for journalists still existed. Certain topics were more sensitive than others, particularly the ongoing civil wars and ethnic conflict. A journalist for the human rights organization Article 19, Martin Smith, wrote that “frequent confrontations over press coverage of the insurgencies” occurred in this post-independence era (Smith 1991, 18). In 1950, the ruling party enacted the Emergency Provisions law, which designated certain offenses as punishable by death or life imprisonment, such as indictment for anyone who: “causes or intends to cause fear to a group of citizens or to the public in general; [or] causes or intends to spread false news, knowing beforehand that it is untrue” (Union of Burma 1950, 2). This act was used to terrorize reporters and insurgents alike, even during Burma’s so-called era of freedom.

Whatever constitutional freedoms citizens did enjoy ended with the 1962 coup and the 1974 constitution, which turned the country into a haven of censorship and human rights abuses. A complicated litany of laws and administrations has facilitated this suppression, including the 1950 Emergency Provisions Act, the Press Scrutiny Board and Printer and Publishers Registration Law enacted after the 1962 coup, and the Press Scrutiny and Registration Division formed in 2005. A series of reforms enacted post-2012, including the shuttering of the Press Scrutiny Board for the first time in 50 years, have since liberated many forms of journalistic reporting. In recent years, Burma is freer than it has been for decades.

However, the most recent and surprising threat to freedom of speech, and subsequently, to one of the country’s most essential tool in promoting human rights, is the incoming NLD government itself. The NLD has limited press access to parliamentary meetings in what appears to be Aung San Syu Kyi’s strategy of tightly controlling all aspects of NLD governance, including what messages on reform and progress are reported by the press (Thin Thiri and Aung Theinkha 2016). Aung San Syu Kyi has also limited the capacity of newly elected Members of Parliament to speak to the press without her consent (Shwe Yee Saw Myint 2016). As discussed in Chapter Two, the people of Myanmar will undoubtedly voice their concerns over a myriad of issues in the coming months, from land rights and human rights abuses to direct suppression of protests. If the NLD suppresses their voices, NLD leaders could face a problem of rising unpopular sentiments. For this reason, the US should direct its efforts towards ensuring the stability of the government by encouraging it to respect the rights of all citizens-- farmers, victims of violence, protesters, and journalists alike.

## **US INTERESTS**

Through numerous reports and policies, the United States has made clear its support for strengthening protections of human rights in foreign countries. Around the world, the United States has funded programs to strengthen the role of civil society in governance, to combat impunity and corruption, and to improve labor standards and other initiatives to protect human rights (U.S. Department of State “Advancing Freedom” 2014). In Burma, President Obama’s “action-for-action” engagement policy has recognized and rewarded the Burmese government’s improvements

in human rights (Bureau of East Asian and Pacific Affairs 2015). As the United States continues to increase its political and economic engagement with Burma, it cannot lower expectations for the new government or back down on urging adherence to international human rights standards and providing resources to support civil society. The continued human rights abuses in conflict areas and the inadequacy of legal systems to report and prosecute abuses have created an environment of impunity and instability jeopardizing the country's political and economic reforms; the United States has vested geopolitical and economic interests in seeing those reforms succeed.

Farmer uprisings are not out of the question should farmer land rights fail to be addressed. USAID has recognized the importance of farmer-positive land policy in Burma, where 60 to 70 percent of the population remains agrarian. Activist Bawk Ja Lum Nyo of the Kachin State has said "Land confiscations in Kachin have been so rampant there is little vacant land left. Villagers are too scared to speak up. There are more landless people now and many are struggling to survive" (Quoted in Thin Lei Win 2016). If the US hopes to have any meaningful impact on the human rights and dignity of the people of Burma, the rights of farmers and thereby land tenure must be considered. As the NLD steps into its first quarter, its leaders will be under a microscope. While much about the transition remains unknown, there is optimism that the NLD will continue to champion land rights for farmers among activists. NLD Upper House representative from Kachin State Dr. Khun Win Taung says that "Farmers are our benefactors and I'm aware of the suffering they have endured. We will try our best to resolve these land issues" (Quoted in Thin Lei Win 2016). Putting aside any ambiguity about commitment to land rights, the new government will continue to need the support of USAID and associated organizations to guide them through the implementation of the new National Land Use Policy.

Many factors contribute to instability in Burma-- from the ethnic conflicts discussed in the previous chapter to the shortfalls in upholding human rights discussed in this one. However, the abuse of force and lack of rule of law are likely to be some of the largest hurdles to widespread progress. Without the people's trust and accountable judicial and legislative systems, ceasefire agreements will only be temporary. Democracy will be limited by people's fear of speaking out, even with legislation to allow for more freedom to the press and to peaceably assemble. Both the United States and the NLD should promote government accountability to address violence against farmers, discrepancies in how laws are carried out for and against different ethnic and religious groups, and the inhumane societal conditions for many vulnerable groups, as lack of rule of law is counterproductive to democratization.

Through the months ahead, the government will need to withstand significant criticism from farmers, victims of violence, activists and journalists alike. Perceived ignorance of their concerns will do little to bolster the legitimacy of the NLD, especially if progress on the protections of free speech and forms of expression begins to regress. As discussed in Chapter One, the US has already dedicated significant resources to the development of programs protecting free speech and civil

society and the promotion of independent media. The relatively free media environment established post-2012 undoubtedly changed the dynamic of this work. However, the US may find that if no bulwarks against potential abuses of force against civilian demonstrators or arbitrary restrictions on journalists are developed, it may become more difficult to ensure a suitable environment for continued work on these issues. It may also find that there are unintended consequences that accompany “free” speech-- namely, the pervasiveness of hate speech, which could potentially inflame and destabilize the situation in conflict areas if left unmitigated. The protection of free speech and discouragement of hate speech will be a tricky balance to strike, for both the NLD and the United States. Nonetheless, it is essential to make a concentrated effort. The United States must encourage the NLD to uphold international standards for civil and media freedoms, and it must work through its US development assistance programs to continue to develop its priorities.

After meeting with Aung San Suu Kyi in her home in November 2014, President Barack Obama stated that “Strengthening human rights protections for all of Burma’s people is an essential step to realizing the vision we share... The last time I stood here, I made a pledge to the people of Burma -- that if we continued to see progress toward reform, the ties between our countries would grow stronger, and the United States would continue to do whatever it could to help ensure Burma’s success” (The White House 2014). If the United States desires to continue to build those ties, it must work to prevent the NLD from losing its grip of critical human rights issues in its country. As stated above, this would risk jeopardizing political and economic reforms in Burma, which thus far have positioned the country as a potential partner in rebalancing the power dynamics of Asia. Burma must not backtrack-- and the United States must do what it can do ensure that it moves forward.

## **POLICY OPTIONS**

Given the importance of the issues at hand, the US can and must use the tools at its disposal to promote and protect human rights in Burma. While many human rights initiatives require more long term strategies than the current administration can implement, Burma’s unique transition and budding promise in these areas creates opportunities for short term initiatives that will not only improve human rights, but also improve the US-Burmese relationship. The policy options in this chapter include recommendations to improve and maintain already functioning USAID projects in land tenure, expanding rule of law in partnership with the NLD, expanding USAID programs for the development of independent media, as well as diplomatic requests for the Burmese government to continue fostering a mutual partnership with the US through “action-for-action”.

The first few recommendations will focus on land use policy, and the rest will focus on promoting rule of law and freedom of speech. Given the extensive nature of these land use recommendations, the next two paragraphs will provide some brief background. USAID has already proven to be exceedingly successful in working alongside other donors and the Burmese government to shape

a new and more equitable land tenure policy. This work can only take course with adequate resources for implementation of the new policy. The goal of reducing landlessness can best be achieved through continued joint efforts to adjust the law and equitably allocate available land to those who have been displaced. While the new NLUP is based on and even exceeds some of the international best standards for land rights and uses language from a human rights perspective, the NLUP does nothing to change or remove the Farmland or Vacant, Fallow, and Virgin Lands Law which combined with the 2008 Constitution continue to restrict clear, transparent, and equitable land rights for smallholder farmers and villagers. In order to meaningfully implement the NLUP, pre-existing laws must be reworked with the NLD government and advocacy groups, with the same vigilance in transparency and community involvement that created the NLUP.

USAID's strategy has included and should continue to include many important initiatives that prioritize equity for groups vulnerable to landlessness. These initiatives should continue and be expanded in order to reduce human rights violations as well as strengthen markets in Burma. They are listed below among other critical projects to improve land security.

- Continue to support the revisions to land laws and implementing instructions that focus on land tenure rights for women, smallholder farmers, and other vulnerable populations to enhance the strengths of the new NLUP.

Previous land policy has tended to disproportionately impact women, due in part to the limit of one name on land titles. While customarily married couples share land, this limit often means that the male partner is listed. The new policy includes the ability to list multiple shareholders and even expands titles to community groups should they apply using the proper paperwork. This process is not particularly transparent or accessible, however. USAID should continue to work to spread information about this option and provide paralegal workers to assist those working to settle land cases-- particularly the vulnerable populations previously mentioned.

- Support policy and economic initiatives that reduce landlessness.

In a country where more than half the population relies on agriculture, a landlessness rate between 30 and 50 percent has a significant impact on agricultural productivity. Those who are landless may still be tending to land, but lack security and thereby the ability to improve their lot and output year after year. Most of the people of Burma rely on land for survival, and to deny these rights is to deny them their human rights and dignity. Providing for those rights involves creating streamlined pathways to resolving land dispute cases, and giving special attention to ethnic groups and other vulnerable populations. Land distribution should be further evaluated to recategorize forest and reserve being used for agricultural purposes as agricultural land, to protect those who, despite having tended to crops in those areas for generations, are labeled as trespassers.

- Continue to support the improvement of compulsory acquisition laws that allow for uncompensated or undercompensated land seizure.

The remaining compulsory acquisition laws are not in line with international best protocol, allowing for the seizure of thousands of acres of land from vulnerable communities and smallholder farmers in favor of government projects that lack actual benefits. In addition to the subjective merit of these projects, compensation for titled land is often not given, or is given at prices far below market value—for example, 4,000USD an acre for land appraised at 200,000USD per acre for purchase by foreign businesses (Pierce 2015). These compulsory acquisition laws disenfranchise those who already have little, and do not help to foster economic growth for those outside of the business class. Action to improve compulsory acquisition laws should include the organization of a national level workshop where stakeholders including farmers, the government, and groups like the Land Core Group and the Swiss Agency for Development and Cooperation (SDC) gather to create a work plan for the transparent management of land use and develop procedures to test and resolve land conflicts.

- Encourage the new government to uphold the ideals of the new NLUP with minimal revision.

It is yet unknown how the NLD will respond to the NLUP. The policy, released in January, is commendable for the collaborative nature in which it was created, and the initiative shown to create pro-farmer policies after decades of land policy favoring foreign companies and military projects. Official action in regards to NLD policy has yet to be seen, and there is some doubt about dedication to farmers' rights among NLD members -- including Aung San Suu Kyi herself. While the policy is a product of the outgoing government, it was carefully crafted with land and human rights organizations across the country and the international community, including USAID. It represents a very progressive approach to reducing and avoiding landlessness and protecting vulnerable peoples from displacement. The United States and USAID should encourage the NLD to maintain and strengthen the NLUP through corresponding legislation and what Land Core Groups's U Shwe Thein calls a set of 'special instructions' to implement the NLUP in the time until new legislation is enacted.

- Continue funding USAID Land Tenure projects to assist in implementation of the NLUP, and expand capabilities to resolve past disputes with the help of legal organizations like the Land Core Group, Landesa and Namati.

USAID's Land Tenure and Global Climate Change Project workers played an important role in helping to craft the NLUP. Many incoming parliament members may lack knowledge of the context of the policy and understanding of its collaborative nature, and there may also be a lack of urgency in eliminating the elements of the Farmland and Virgin, Fallow, and Vacant Land laws that contradict each other and the NLUP. Financial and technical assistance should be provided to

draft such legislation in ways that uphold the principles of the NLUP and ensure its meaningful implementation in rural areas. This will involve making progress in strengthening civilian rule of law as discussed below.

- Initiate joint government, USAID, and community mapping and Geographic Information Systems (GIS) projects to create standardized and accessible guides to land use within the year.

Much of the controversy over land comes from a lack of transparency or common understanding of where the boundaries of certain land types are-- both types of government reserved land and public versus private property. USAID, the Land Core Group, and other domestic land rights organizations have begun engaging villages in community mapping projects, but these maps are created by hand and with landmarks from oral traditions, rather than official boundaries, often leaving villages with cases still in contest (“USAID TGCC Success Story” 2014). Digitizing property maps will reduce confusion over boundary disputes and make it more difficult for official land designations to be obfuscated in favor of land grabs— a method that would be appropriate for a nation rapidly modernizing and gaining widespread internet access.

- Increase funding to and expand the scope of USAID’s projects aimed at strengthening civilian rule of law and advocating for transparent and accountable governance.

While the Burmese government under Thein Sein made improvements in human rights, such as the release of political prisoners, demobilization of child soldiers, and criminalizing forced labor, a general lack of rule of law, particularly in conflict zones, has allowed human rights violations to continue and perpetrators to go unpunished (U.S. Department of State 2013; U.S. Department of State “Burma” 2014). The United States should focus on strengthening civil society to support victims of human rights abuses and increase judicial capacity to prosecute and punish human rights violators in a transparent way.

USAID has established programs aimed at strengthening civil society, providing humanitarian assistance as well as institutional capacity building to support citizen engagement in the reform process. One such program through USAID, in preparation for the 2015 elections, focused on improving electoral administration local stakeholder capacity for voter education and oversight, improving the ability of parliamentary committees to effectively perform their functions, and strengthening the capacities of political parties (USAID “Democracy, Human Rights, and Rule of Law” 2013). In 2015, USAID provided over \$2.5 million to the Elections and Political Processes Assistance Program (USAID “Burma (Myanmar)” 2016). The elements of this program targeted strengthening rule of law and citizens’ education, which remain relevant even after the election as USAID disbursed \$1.2 million and \$800,000 respectively in 2015 through funding for “promoting the rule of law” and “civic participation” (Ibid). Another program, in partnership with the Government of Burma and other stakeholders, has encouraged strengthening the rule of law

through the justice sector by increasing access to justice and empowering disenfranchised groups, such as women, to participate in the reform process. USAID has also engaged in campaigns to raise awareness about specific issues such as “MTV Exit Live in Myanmar”, a concert in 2012 to raise awareness to raise awareness about trafficking in persons (USAID “Democracy, Human Rights, and Rule of Law” 2013).

Additionally, USAID has supported capacity building in community-based organizations and NGOs engaged in child protection and local political participation. These efforts have been primarily focused in communities of internally displaced and refugees along the Burma-Thai border and in central Burma (USAID “Fact Sheet” 2012). Moving forward, USAID should expand its programs of targeted assistance to promote rule of law and civil society to reach conflict-affected areas, such as Northern Shan, Kachin, and Rakhine states. In doing so, USAID could strengthen the access to and representation within legal systems for these marginalized areas, contributing to strengthening the rule of law throughout the country, mitigating human rights abuses and providing legal access to victims to pursue justice.

- Promote the development of an independent and well-educated media. Give support to NGOs and CSOs working to protect free speech and counter hate speech.

After decades of suppression, the independent media sector has finally begun to overcome the consequences of government censorship and stifled development. The organization Reporters without Borders has dubbed this revival the “Burmese Media Spring,” however, this opening has not been without its challenges (Ismail 2012, 8). While the government initially allowed journalists to surpass the PSRD, those who levied criticism against authorities could still face post-publication punishment and thus were forced to practice various forms of self-censorship (17). The situation has improved overall, despite several drawbacks leading up to the 2015 elections. Today, the country is home to a host of vibrant media organizations that will be crucial in providing reliable and timely information to the public about the ongoing government reforms.

The United States has recognized the importance of promoting the growing media sector in the past through the Media Information Support Project, which ran from 2010 through 2013 with a total obligation of \$3,130,000. This project trained 198 journalists both within Burma and in exile and provided small grants to various journalists and media organizations (“Media Information Support Project”). USAID should commit more resources to the continuation or renewal of this program and specifically target the development of media outlets and training of journalist in areas of ethnic conflict, where a lack of reliable information is highly prevalent. The United State could also invest in developing scholarship funds to produce well-educated, high-quality journalists who wish to study journalism in US or domestic universities.

While freedom of speech and expression are critical, they can also be destabilizing. The reduction of censorship restrictions has significantly increased internet activity, opening the floodgates for inflammatory and potentially destabilizing hate speech, such as prominent Buddhist monk U Wirathu's most recent anti-Muslim video. Facebook found sufficient grounds to remove this video, but the overall problem of unmonitored hate speech on the internet—and in society-- remains (Wa Lone and Aung Kyaw Min 2016). Such rhetoric has the potential to incite violence, discrimination, and marginalization against vulnerable minority groups like the Rohingya. The United States must attempt to promote free speech and expression while simultaneously encouraging inclusive human rights for all of Burma's people—a critical balance that it must encourage the NLD to seek as well.

While the United States can encourage private US-based media corporations such as Facebook to proactively monitor inflammatory material, the United States can also support interfaith and interethnic dialogue on the ground by supporting organizations that counter the dangerous effects of hate speech and nationalistic xenophobia. For example, the Center for Diversity and National Harmony in Burma works to “enhance social harmonization, peaceful coexistence and mitigation of violence in Myanmar” (CDNH). One of the center's partners is the UN Peacebuilding Fund, which has helped the center build researching capacity for organizations involved in the Rakhine conflict (Ibid). The US State Department should consider giving bilateral funding to organizations such as the CDNH through USAID or give multilateral funding to the UN Peacebuilding Fund for this purpose. All the while, the United States must continue to express diplomatic concern over the perpetuation of hate speech and the lack of government initiative to discourage anti-Muslim rhetoric.

- Encourage the current government to sign the International Covenant on Civil and Political Rights (ICCPR).

The International Covenant on Civil and Political Rights (ICCPR) was adopted by the United Nations in 1996. Its signatories commit to the protection of various human rights related to the principles of freedom of expression, freedom of speech, freedom of religion and other civil and political rights (Multilateral 1996). The Government of Burma agreed to consider signing the ICCPR in 2011 when pressed by other UN Member States at the UN Universal Periodic Review (PEN American Center 2015, 10); however, it has not followed through with signing or adopting the agreement. In order to develop a strong legal base of action for the protection of journalist and civil society rights, the United States should encourage the NLD to sign the ICCPR. According to a report by the PEN American Center, this would “establish standards against which the ongoing process of legislative and policy reform can be measured” (Ibid). The United States could coordinate joint diplomatic pressure with other ICCPR signatories and encourage the NLD to follow through on its commitments to respect human and civil rights.

### In Summary

Many pre-existing USAID programs and partner programs addressing human rights issues demand continuation due to their success and the possible consequences if these programs are discontinued. Strengthening rule of law and justice in the areas discussed in this chapter is essential not only to protect the inherent dignity and freedom of fellow human beings, but also to ensure Burma continues to move towards social, political, and economic stability. The peace process discussed in Chapter Three and the economic development in agriculture discussed in following chapters cannot be achieved without addressing the issues of land, civilian rule of law, and freedom of speech. Following the recommendations given will not only create a stronger Burma, but also a more unified and stable region.

### **RECOMMENDATIONS**

- Continue to support the creation of law that focuses on land tenure rights for women, smallholder farmers, and other vulnerable populations to enhance the strengths of the new NLUP.
- Support policy and economic initiatives that reduce landlessness.
- Continue to support the improvement of compulsory acquisition laws that allow for uncompensated or undercompensated land seizure.
- Encourage the new government to uphold the ideals of the new NLUP with minimal revision.
- Continue funding USAID Land Tenure projects to assist in implementation of the NLUP, and expand capabilities to resolve past disputes with the help of legal organizations like the Land Core Group, Landesa and Namati.
- Initiate joint government, USAID, and community mapping and Geographic Information Systems (GIS) projects to create standardized and accessible guides to land use within the year.
- Increase funding to and expand the scope of USAID's projects aimed at strengthening civilian rule of law and advocating for transparent and accountable governance.
- Promote the development of an independent and well-educated media. Give support to NGOs and CSOs working to protect free speech and counter hate speech.
- Encourage the current government to sign the International Covenant on Civil and Political Rights (ICCPR).

## CHAPTER FIVE: US POLICY FOR ECONOMIC INVESTMENT AND DEVELOPMENT

*Devi Johnson and Jernej Markovc*

### INTRODUCTION

For decades, Burma has been mired in desperate poverty. Western sanctions have prevented many forms of foreign direct investment from reaching the country, and ineffective autocratic military rule has prevented Western humanitarian assistance from reaching Burma's most vulnerable populations until very recently. The years ahead are open to a vast array of opportunities for improving Burma's economic situation, including many quick-wins that can be leveraged through informed US and international policy. Moving forward after the 2015 election, the people of Burma, the NLD, and US based Burma campaigns will all have high expectations. To help the new government provide easy economic deliverables to its constituents, US and international policy should support and facilitate government capacity building, poverty eradication programs, and incentivization of economic investment. Overall, this chapter will address how the United States can become more involved in Burma's economy, both in terms of lowering the barriers for economic investment and increasing humanitarian assistance for economic development.

Once thought to become one of the richest states in Southeast Asia after its independence, Burma has become one of the region's and the world's poorest (Steinberg 2016). Of Burma's 51.4 million people, about 13.4 million people live in poverty (UNDP 2016). The overall poverty rate is 26 percent, but rises to around 51 percent for those living in rural areas, which is about 70 percent of the Burmese population (UNDP 2016). In 2012, the United States re-established the USAID mission in Burma to acknowledge the reforms taking place in Burma as part of President Obama's "action-for-action" plan (Department of State 2015). USAID aims to reduce poverty by building the technical, management and leadership capacities of Community-Based Organization partners to deliver health, education, legal, and protection services, distribute food and cash transfers, and advocate for positive change for displaced Burmese. As discussed in Chapter Two, the NLD must strive for easy economic and political victories during the first year of their government to maintain their high level of overall popular support. One way to gain these "quick wins" is through poverty alleviation programs. Both the United States and multinational aid organizations have deep interests in supporting such programs.

However, as US and USAID involvement in Burma increases, this report recommends that their actions should reflect the principles of accountability and sustainability set by the Busan Partnership, which creates a framework for donor coordination and direction for following of the host country's development agenda ("The Busan Partnership for Effective Development Cooperation" 2012). The Busan Partnership for Effective Development Cooperation is based around five shared principles that recognize the benefits to development support that come from

maximizing collaboration and coordination (“Expanding and Enhancing Public and Private Cooperation for Broad-based, Inclusive Sustainable Growth” 2011). The Partnership helps its members understand that the private sector provides jobs, creates growth, expands the network of goods and services, and it also emphasizes the importance of government and other organizations to leverage private sector activities (Ibid.). The five principles create an environment that brings together state, non-state, and international actors to have a dialogue favorable to sustainable development and collective action by the public and private sector for transparency and accountability on all sides (Ibid.). Private corporations, organizations, and many heads of states, including those from Burma and the United States, have endorsed these principles, and as such, future development policy in Burma by outside organizations needs to reflect them (OECD “Countries, Territories and Organisations”).

In order for the United States to increase its influence in Burma’s economy, reduce poverty, and promote economic development, the United States needs to engage in greater investment and more strategic planning to ensure that US companies can flourish in the Burmese market (Sun 2014). Greater support for the development of the Burmese institutions, evaluation of US executive sanctions towards Burma, and incentivization of economic investment by US companies in Burma are ways that will ease the process of doing business in and with Burma. These actions must be considered within the context of major powers in the Asia-Pacific region. Their proximity to Burma aids their involvement, migration, and saturation of the Burmese market. If the United States desires a greater role in the development of Burma’s economy, society, and government--three areas long dominated by other major powers as a result of US sanctions and regime change policies—US action must be targeted in areas to support that goal.

Many obstacles will lie on the road ahead. Corruption and long standing infrastructure deficits in particular increase the difficulty of doing business in Burma, making it even more essential for the United States and the international community to order to help to create a strong tax structure, protection of property rights, and rule of law. It is imperative that the United States, through USAID, work in partnership with international organizations and the NLD so that these initial policies benefit the interests of the Burmese and help to set the stage for long-term plans. Support for Burma’s growth and development by the United States and the international community serves to benefit US interests in Burma and in the greater Asia-Pacific region and will be a missed opportunity if action is not taken immediately (Turnell 2015).

## **US INTERESTS**

Increasing the United States’ influence and presence in Burma is essential. If the NLD is unsuccessful with its economic liberalization, growth, and poverty eradication plans, destabilization and protectionist backlash may occur, which would threaten the democratically elected government, the United States’ position in Burma, and the role of other major powers in Burma. These potential consequences make proper US support through capacity building, program

development, and program management even more essential to strengthen the legacy of the current administrations' foreign policy in Southeast Asia.

### Economic Opportunities and Poverty Alleviation in Burma

The United States, along with many other countries, should see Burma as a new market with numerous opportunities for private sector businesses to build factories in a pivotal location between India and China. Existing US sanctions make it difficult for US companies to be involved in Burma, but there are a growing number of US corporations setting up projects and facilities in the country, including GE, Caterpillar, ExxonMobile and the GAP. There is an increasing need for the United States to help implement domestic standards in regards to minimum wage and banking practices (US Department of State 2014). Currently, there is also little transparency or consistency between Burmese banks and foreign corporations on accounting and deposit and withdrawal procedures. Lack of disclosure within the banking sector has kept several businesses from investing in the region and moving into a largely untapped market. Should banking laws and practices be implemented, there is a likely chance that more US businesses will invest in Burma and potentially fund infrastructure projects. However, foreign investment laws in Burma have both favored and worked against FDI in the past, and it would not be unlikely for a protectionist backlash to occur as the number of foreign companies increases (Fujitani 2012). The United States therefore has a direct economic interest in decreasing barriers for investment, such as sanctions. They also have interests in reforming the banking system, transparency issues, and foreign investment laws.

Burma's economy is heavily dependent on agriculture, as 70 percent of the population still lives in rural areas, holding a significant manufacturing labor force potential. In the long term, the United States should aim to develop infrastructure and urbanize the country, thus moving the population from rural areas to cities and increasing the percentage of population employed in manufacturing and industry sectors. The Special Economic Zones (SEZ) model, as seen particularly in China, is a promising path for economic development in Burma and for increasing US economic involvement. Since SEZs require the development of infrastructure and manufacturing facilities in only a few designated areas, the United States should consider taking first steps with this strategy, which will provide immediate jobs in civil engineering, industry and manufacturing.

To complement and aid the development of SEZs led by Burmese, international, and US companies, tax structure and land rights reform would make SEZs more economically feasible and welcoming to outside investors. Since 2011, Thein Sein's government has taken measures to simplify Burma's tax code to help boost investment through the Framework for Economic and Social Reform, but that framework is no longer applicable now that the NLD government has come to office ("Framework for Economic and Social Reforms" 2013). The NLD needs to continue this process of reform to make Burmese tax structure less complicated and increase compliance, of

which the United States is interested in for the stability and success of the NLD government (Oo et al. 2015). The role of land rights reform and small and medium enterprises have on US interests are further discussed in Chapter Two and Chapter Six, respectively.

Burma's economic growth and the number of jobs available revolve around the ability of the new NLD government to decrease the poverty rate and increase efficiency in their agriculture, government, and economy. USAID and multilateral aid organizations like the United Nations and Asian Development Bank are very involved in partnering with Burma to achieve its development and poverty alleviation agenda. The success of poverty reduction programs is essential to growth of the Burmese economy and stability of the government; these programs can also increase US involvement and support for the NLD. In the past, much of US policy focused on increasing respect for human rights. As the United States' position expands toward opening economic markets and developing laws and the state to support those markets, decreasing poverty in Burma will be a key aspect of ensuring the success of Burma's economy and increasing US influence in Burma and the region.

#### The Role of Major Powers in the Asia-Pacific Region

The United States has increased its interest and involvement in Burma in the past several years. Burma's strategic location between India and China and on the Bay of Bengal makes it imperative for the United States to strengthen their ties with the Burmese government and military in order to strengthen US economic, geostrategic and political influence in the region as a whole. The United States' failure to act would create a vacuum for control that would be filled by other influential countries in the Asia-Pacific region.

China and other major powers in the region continue to be large players in Burma's economy, threatening possible opportunities for US businesses and involvement. China, India, and Thailand's close proximity to Burma provides them with an ability to access Burmese markets and exports that the United States cannot match. China's past relations with Burma indicate that it will conduct business in and around Burma, regardless of the openness of Burma's economy. Indeed, arguably the closed nature of the Burmese economy in the past favored Thai, Indian, and Chinese involvement, given that there was so little competition from other nations with greater geographic barriers. Although the current downturn in the Chinese economy may weaken demand for natural resources from Burma, Chinese energy needs will continue to increase. Chinese companies continue to expand their presence in Burma with strategic gas and oil pipelines, projects on major rivers, and in February, five large Chinese companies and one Thai company were awarded the tenders to the Kyaukphyu special economic zone (Plumer 2015; Frontier Myanmar 2016). However, many Burmese are dissatisfied with Chinese and international projects due to the lack of transparency, exploitation of natural resources, and the threat of or actual confiscation of property (Dingding Chen 2016). It is in the main interest of the United States to ensure that

Burmese markets have greater diversity to elevate Burma's role with other countries and international groups.

## **POLICY OPTIONS**

In order to fully support the NLD government and its members of parliament, the United States should increase its presence and influence in Burma through diplomatic and foreign assistance to develop the Burmese economy, reform financial institutions, and decrease poverty. The NLD has an enormous amount of work to do during its first year; US-led capacity training for new government members, the elimination of barriers for US economic involvement in Burma, and improving access to education, clean water, and electricity will aid in accomplishing quick wins, which can be followed with larger scale, long-term policy reforms. For these reason, this chapter of our report outlines the following policy options to improve the US stake in Burma's economy and to improve the state of Burma's economy in and of itself. Each of the issues should be considered in the context of preceding sections of the chapter and report.

- Support, plan, and facilitate capacity building programs for new members of parliament and executive branch leadership, most likely on weeknight evenings in Naypyitaw. Provide information about how to develop good policy for a new tax structure, rule of law surrounding property rights, and special economic zones.

US-led capacity training for new Burmese members of parliament, executive branch leadership, and business people on how to properly liberalize the economy and market will lead to the creation of responsible laws that support the Burmese economy and work to secure financial institutions and property rights. Such training will help to boost the NLD and provide more opportunities for the United States to become a larger player in the making and functioning of the Burmese economy, ensuring the interests of both countries in the immediate and distant future.

As the NLD lacks previous governing experience, capacity training is essential to the new government's ability to make legitimate policy. The United States should earmark funding to continue the current USAID Governance and Rule of Law program, future programs should advise new NLD MPs and other society members in the development of the changes that need to take place to promote strong financial and economic institutions.

A joint US-Burmese commission could be formed to create a collection of feasible changes to the Burmese tax structure, property rights, and the allowance and development of special economic zones along with a timeline that sets deadlines for parliamentary action and implementation for each issue. The development of strong financial and economic institutions is of crucial importance to the future growth and competitiveness of the Burmese economy. Such institutions would also ensure that Burmese products meet the standards necessary to be competitive in the US market. As institutions within Burma begin to function more efficiently and Burmese relationships with

the United States and other neighboring countries strengthen, larger macroeconomic reforms can be considered.

During the first year of the NLD government, Burma will need to begin developing structures that support increased investment and development of the Burmese economy, which will be matched by US action to decrease the limitations on US involvement in Burma. The sooner these changes take place, the quicker local and international companies can develop their businesses, hire employees, and create growth in the Burmese economy.

- Per consultation with the NLD, move to reduce sanctions on businesses, banks, and trade in Burma, and incentivize US investment in Burma by matching positive reforms, movements, and laws with decrease of US sanctions.

To aid the NLD transition and support the burgeoning economy, the United States should consult with NLD leadership on whether the continuation of sanctions is in the country's best interests, or if it would be better for the new government to initiate any requests for the lifting of sanctions. If the NLD finds it best to lift sanctions, the immediate removal of executive sanctions would allow for greater involvement of US businesses, opportunities for FDI, increases in Burma's GDP, and construction of infrastructure within Burma to further support more economic development (Tin Maung Maung Than 2015). To match US action, Burmese financial and business systems must be expanded to develop and promote economic growth, corporate accountability, and social responsibility within its public and private sectors, which the previous recommendation discussed (Hook, Tin Maung Than, and Ninh 2015).

Lack of business transparency that hinders US involvement in Burma must also be addressed through policy reforms. In the absence of sanctions, the United States must incentivize US private sector companies to invest in Burma. Such incentives could include rebates, tax cuts, and other measures to make investing in Burma more appealing. These actions will decrease the political obstacles that have prevented US-based companies from investing and building in Burma and hiring Burmese workers (The White House 2014).

- Invest in poverty eradication programs that increase quality and access to education through reforms of the current education system, and improve access to clean water and electricity.

The key areas to focus on in terms of poverty eradication in Burma are education reform and investments in Burmese infrastructure. The first can be achieved through gradual cooperation between Burmese and the US education systems, and the latter through improving access to clean water and electricity. Thus, USAID policies for poverty eradication should be aimed toward those areas. In a country where GDP and livelihoods are so dependent on rural production, increasing productivity through education and access to basic services must be a priority.

Education is an incredibly important sector for any country's economic development. USAID should, in cooperation with the new government, other development partners, and bilateral agencies, provide support to the NLD to initiate reforms for Burmese the education system, which has been in place since 1962 under the military junta. While full education reform requires years to plan and take place, US-led training for NLD members on educational policy development and implementation and the reduction of barriers to education can happen almost immediately. Chapter Three has also discussed the need for interethnic and mother-tongue language initiatives to be a part of this reform.

Another tool to achieve this goal could be increased cooperation between US and Burmese universities. The United States should support domestic universities with federal funding to incentivize such exchange programs. Burmese students could be invited to the United States for 12-month exchange programs—three months being intensive English courses and nine being a regular school year. The United States should also recognize that student visa applications are very costly and complicated and should assist Burmese students financially and technically. Such an initiative would require very little policy adjustment and would be very easy to implement.

Access to clean water and electricity also are important tools in poverty alleviation. The United States should commit to investing in the Burmese energy system by supporting Asian Development Bank (ADB) projects in Burma. ADB's projects are focused on transportation, energy, agriculture, natural resources, education, and urban development, including water and sanitation (ADB 2015). Currently, the Burmese power sector is controlled by a complex network of eight ministries, and the state still owns and runs many power supply companies (Nam, Rowena Cham, and Rodelio Halili 2015). Many opportunities for private-public sector partnership to provide electricity and power in Burma exist, but there are few policies or institutions in place to officiate and develop that transition (ibid). As such, an expansion of access to on-grid electricity has not occurred, which remains at a dismal 25 percent (ibid). A decentralized approach through international nongovernmental organizations (INGOs) to providing electricity seems promising (Dale and Kyle n.d.). In order to provide efficient and accessible electricity to the rural areas, USAID should work with other international financial institutions and bilateral aid organizations, most likely from Japan or Korea, two countries that are highly involved in Burmese development already.

Expanding Burma's water and electricity infrastructure will provide resources to the Burmese that are essential for economic growth and higher standards of living. As the current infrastructure deficits discourage investment in Burma's economy, increasing access and developing quality infrastructure will also promote the United States' economic interests in the country.

## **RECOMMENDATIONS**

- Support, plan, and facilitate capacity building programs, for new members of parliament and government leaders, most likely on weeknight evenings. Provide information about how to develop good policy for a new tax structure, rule of law surrounding property rights, and special economic zones.
- Per consultation with the NLD, move to reduce sanctions on businesses, banks, and trade in Burma, and incentivize US investment in Burma by matching positive reforms, movements, and laws with decrease of US sanctions.
- Invest in poverty eradication programs that increase quality and access to education through reforms of the current education system, and improve access to clean water and electricity.

# CHAPTER SIX: DOMESTIC DEVELOPMENT POLICY AND REGIONAL INTEGRATION

*Jason Flick and Tharin Sethi*

## INTRODUCTION

Chapter Five discussed the potential role for the United States in reordering the Burmese financial and banking sectors in such a way that they operate more favorably for US and international foreign direct investors. It also discussed certain critical sectors in which the United States can target its development assistance for more effective poverty alleviation. This chapter, in contrast, will discuss how the United States can aid in the restructuring of the Burmese economy so that it becomes a self-sustaining engine of economic growth. Extensive sector-oriented and infrastructural development needs to take place before foreign investors can be economically successful. Our recommendations include proposed policy reforms for Burma to develop its agricultural and industrial sectors followed by institution building necessary for greater regional and global economic integration. The following recommendations reflect those two factors with the key goal of ensuring that Burma continues on its path of democratization.

### Agricultural and Industrial Policies: Promoting Growth and Development

Accounting for 61.2 percent of Burma's labor force, the agricultural sector is key to the development of Burma's economy (World Bank 2014). From 1988 until 2011, the military heavily regulated Burma's agricultural practices. Since President Thein Sein's government relinquished control over a number of sectors within Burma's public and private spheres in 2011, including agriculture, noticeable policy reforms have taken place. Greater autonomy for farmers regarding crop practices and production underlie many of these changes. These new policies are important and necessary for greater change overall in Burma, which a foreign economic advisor to the NLD has acknowledged. The NLD has also stated that one of its major priorities is to increase growth and innovation in the agricultural sector (Turnell 2015). Providing greater opportunities for farmers, especially those with less access to capital, will be a fundamental part of this goal. This report recommends supporting current plans or proposing new ones to develop existing systems to implement a micro-financing credit system for farmers so they have extra capital to buy seed and other supplies before the planting season, which begins in April.

For years, Burma's centrally planned manufacturing sector relied heavily on labor intensive practices, including the production of garments and textiles. This legacy can be seen in the ongoing existence and dominance of state-owned enterprises within Burma's industrial sector. This continued influence came at the expense of small and medium enterprises (SMEs), which while accounting for roughly 80 percent of the total workforce, have been severely disadvantaged in competing for opportunities resulting from the liberalization of the Burmese economy. The promotion of existing SMEs and development of new ones will prove to be crucial to Burma's

future, particularly as competitive entities to foreign enterprises from neighboring states (Central Department of Small and Medium Enterprises Development 2014). SMEs face limited access to capital and resources, requiring extra support from the new NLD government. Recommendations pertaining to this section will outline practices to encourage the development of SMEs as an essential part of Burma's industrial sector.

#### Regional Integration: Building Domestic Frameworks

Increased foreign direct investment and infrastructure projects from national and international organizations have allowed Burma to enhance its role as a player in the global economy (Department of State 2014). As recognized by the Obama administration, the development and integration of regional economic organizations will prove to be crucial to new and future infrastructure projects and growth in the region (Office of the Press Secretary 2011). Burma must continue preparations to be ready for the emergent economic integration under the Association of Southeast Asian Nations (ASEAN) Economic Community; Burma, like Cambodia, Laos, and Vietnam is expected to meet all integration requirements by 2020. ASEAN has become the seventh largest multinational organization in the world representing 622 million people (ASEANstats, 2015). Recognizing the importance of ASEAN, the United States has increased its partnership with the organization, resulting in the formation of the US-ASEAN Trade and Investment Framework Agreement (TIFA), the US-ASEAN Expanded Economic Engagement, and the ASEAN Connectivity for Trade and Investments (ACTI).

Currently, ASEAN's primary goal is to create an ASEAN Economic Community (AEC) before 2017, which would establish free flows of goods, services, and skilled labor in addition to easing the flow of cross-border capital and investments. Burma has already undertaken efforts to improve its potential role within the AEC, including strengthening its trade and security (Theingi & Siri 2011). Many of the priorities of AEC align with the values of the Trans-Pacific Partnership (TPP), a trade deal that the current administration has continued interests in promoting. Considering Burma is one of the least developed countries within ASEAN and lacks the necessary institutions, infrastructure and skilled labor to comply with existing ASEAN agreements, Burma must strengthen its domestic capacity for trade to enhance its regional and global economic ties (Umezaki 2012).

#### **US INTERESTS**

In 2011, the Obama administration made commitments to strengthen the role of the United States in the Asia-Pacific region and make Burma a key area of interest for the United States (Office of the Press Secretary 2011). Burma has an opportunity to develop and shape its role in the region and establish close political and economic partners moving forward, including the United States. The success of US programs and economic support are essential for Burma to achieve self-sustaining economic development and become a more productive and integrated economic player in the region. Interests outlined in this chapter will focus on strengthening Burma's domestic

economy, including the development of Burma's agricultural sector, industrial sector and domestic frameworks.

#### Burmese Agricultural and Industrial Development Policy

Burma's agricultural and industrial sectors are expected to account for the majority of the country's workforce for the near future (IMF 2015). The United States therefore has an interest in promoting standard practices within those sectors to promote opportunities for workers, especially those with less access to capital. Regarding the agricultural sector, Burma is expected to experience significant flooding in the upcoming growing year with the potential for severe agricultural and economic impacts (IMF 2015). Providing financial resources in the case of crop loss and failure will be fundamental for preventing substantial economic consequences. Within the industrial sector, SMEs face the risk of phasing out as a possible result of expanding foreign corporations should investment and policies not be done in a smart way that required higher levels of social responsibility.

#### Regional Integration: Building Domestic Frameworks

US interests within ASEAN focus on increasing Burma's integration into ASEAN so as to further diversify the Southeast Asian market and increase security and respect for human rights (White House, 2015; Plummer, 2008). In 2015, the United States formed a new strategic partnership with ASEAN within the five priority areas of cooperation: economic integration, maritime cooperation, transnational challenges including climate change, emerging leaders and women's opportunities (White House, 2015). Many of the priority areas for US-ASEAN cooperation reflect the goals and interests of the United States in Burma. Considering the engagement with ASEAN under the Obama administration, the United States understands the large role ASEAN plays in the economics and security of Southeast Asia and the importance of continuing to being a part of those developments.

The formation of the AEC will allow for even greater investments both in ASEAN and in the United States. Support to strengthen Burmese economic institutions as discussed in Chapter Five will help to direct some of this investment and growth towards Burma. Southeast Asia has long been a favored destination for the investment of US multinational corporations. The effective implementation of the AEC and Burma's AEC integration will greatly enhance US-ASEAN commercial ties (White House, 2015).

Burma's successful integration into ASEAN would also favor the strategic security interests of the United States. The United States has major interests in ensuring maritime security and safety, combating transnational global issues such as climate change, piracy, environmental degradation, disease, disarmament, human trafficking, illegal and unregulated fishing and cyber security, all of which are major parts of ASEAN. ASEAN has long been a critical ally of the United States in the war on terror and has resisted major long-standing insurgencies within the region. In recent years,

Southeast Asia has faced a significant number of terrorist threats (State Department 2014). A strong AEC will improve security cooperation for states within the region and in turn have the opportunity to improve campaigns against radical groups. Non-state armed groups have been a particular threat to the authority of the Burmese government and will continue to be if the recommendations in Chapter Three are not taken to ensure a successful peace process.

For Burma, growing ASEAN partnerships could help expedite the shift away from an agriculturally based economy towards an industrializing one, alleviating poverty and fostering development. The success of ASEAN will also help ensure the success of the TPP and other US policies in Southeast Asia. ASEAN can help facilitate and implement regional labor practices, as outlined in the TPP.

Having established US interests related to the development of Burma's agricultural and industrial sectors and further integration within ASEAN, this chapter will recommend that US policy towards Burma includes measures to further the process of continued development and integration. Accordingly, the next section covers a list of policy options for the United States to help Burma pursue its agenda of economic growth.

## **POLICY OPTIONS**

The policies recommended below cover programs and strategies that the United States can adopt during the remainder of the Obama administration in order to facilitate Burmese economic growth and help Burma become a more influential player in Southeast Asia. Overall, the United States should persist in forming partnerships with the government and people of Burma to build agricultural and industrial opportunities for self-sustaining economic growth and regional integration.

- Encourage the NLD to support an easily accessible credit system for farmers.

As discussed in Chapter Two, microfinance and localized credit systems provide much needed relief for farmers impacted by natural disasters, crop failures, and limited opportunity for social mobility. Supporting the NLD in establishing an accessible credit system will not only help farmers, but continue to improve US-Burma relations. Economists close to the NLD have stated that the NLD plans to utilize the agricultural sector and accelerate previous agricultural reforms. This option supports the NLD plan and is closely related to US interests in promoting economic development in Burma (Turnell 2015). As outlined in Chapter Two, the majority of Burma's population lives in rural areas, relying on agriculture as a means of economic well-being (World Bank 2014). To address this aspect of the agricultural sector, this report suggests that the United States encourage the NLD to create more opportunities for poor, rural farmers to utilize their land, increase crop yields, and further improve the Burmese economy (World Bank 2014). The United

States should also support the work of ongoing projects, such as the World Bank's Agricultural Development Support Project in Burma.

Ultimately it is up to the NLD to implement agricultural reforms and policies. If they succeed, workers will embrace the NLD and benefit from the creation of a better environment for critical sectors of the Burmese economy. If the United States provides an adequate toolkit for economic development based upon the goals of the NLD, both the policies outlined and the new government will have a better chance of success.

- Recommend that the NLD revisit and update Notification No. 11/2013 to focus on the development of SMEs.

In line with improving rule of law as discussed in Chapters Four and Five, the United States has and should continue to back the consistent use of domestic and regional labor laws (Office of the Press Secretary 2011). Ensuring that private organizations in Burma cooperate with the policies outlined by the government, especially regarding the review of policies governing SMEs, should be included in these efforts. During President Thein Sein's presidency, SME promotion was made a priority in light of the importance of the industrial sector. His government's commitments and responsibilities are outlined in Notification No. 11/2013, a set of rules mapped out by the Ministry of National Planning and Economic Development, with the approval of the government. The section pertaining to SMEs include the following guidelines:

- (d) To establish a network with respective local and foreign organization to meet technical requirements;
  - (e) To encourage development of the markets of small and medium enterprises from rural to urban areas;
  - (f) To make small and medium enterprises as supporting industries for local and foreign investments to help healthy development of market chain;
  - (g) To plan for nurturing human resources required for SMEs development;
  - (h) To set up committees and subcommittees and assign duties as necessary.
- (Ministry of National Planning and Economic Development 2013)

With the introduction of the NLD government, policy toward SMEs should be revisited, further emphasized, and updated accordingly. This is especially true regarding Sections (d) and (f) of Notification No. 11/2013, the goal to "establish a network with respective local and foreign organization to meet technical requirements" and "make small and medium enterprises as supporting industries for local and foreign investments to help healthy development of market chain" (Ministry of National Planning and Economic Development 2013). While these goals were created by the previous government, there is no strong indication of coming changes regarding these policies. Foreign investment in Burma has increased in recent years and it is clear that Burma

must work with neighboring states, such as China, India and Thailand. In addition, Burma must work to develop and support its own domestic markets through SMEs.

This report recommends that the United States encourage the NLD to revisit and update the goals pertaining to the establishment of committees and subcommittees focused on the development of SMEs, as outlined in Notification No. 11/2013, Section (h). The government has the ability to “set up committees and subcommittees and assign duties as necessary” (Ministry of National Planning and Economic Development 2013). Utilizing existing working groups and frameworks such as the Ministry of National Planning and Economic Development will be the most efficient way to begin this process. Should these working groups find inconsistencies with current policies and trends, changes could be made to mitigate this.

- Encourage the creation of more youth-based educational programs and exchanges between the United States and Burma modelled after existing ones such as the Fulbright program and the YSEALI conference.

The United States should increase the number of US Peace Corps volunteers in Burma and Fulbright scholarships awarded to students in Burma to encourage deeper cultural exchanges and increase Burmese exposure to educational institutions in the United States. More importantly, the United States should expand upon existing youth-focused, capacity-building initiatives, workshops and programs modelled after existing ones hosted by the US-ASEAN Business Council and USAID. Examples of these programs include the Southeast Asia Leadership Network and the Young Southeast Asian Leaders Initiative. These programs and initiatives provide Burmese youth a chance to interact with people from other cultures which can foster a better educated Burmese workforce, stronger institutions, education system, and infrastructure. This generation will eventually take the reins of both Burma’s economic and political systems, so the United States should help ensure they are well-educated, well-exposed to the outside world, and well-prepared to take on the responsibility of leading Burma into the future.

- Create bilateral conferences to share expertise that consequently allow for stronger Burmese institutions and workforce.

Bilateral governmental or non-governmental conferences and dialogues on information, communication, technology, financial systems, e-commerce and other relevant fields would provide opportunities for the Burmese government to improve the efficiency and abilities of existing government institutions, which is a key step to allowing greater integration for Burma within ASEAN. Through these conferences, the United States could play an active role in dialogue around infrastructural developments.

- Construct a US-Burma task force focused on helping Burma meet ASEAN guidelines and TPP principles while also protecting Burmese businesses and economy in order to ensure stable growth.

Another important focus for the United States is to encourage Burma to continue participating and complying with existing ASEAN regulations. These include participating in ASEAN-led mechanisms such as the East Asia Summit, ASEAN Regional Forum and ASEAN Defense Ministers meetings, and more importantly, complying with free and fair trade measures outlined in the ASEAN Trade in Goods Agreement (ATIGA), the ASEAN Comprehensive Investment Agreement (ACIA), the ASEAN Framework Agreement on Services (AFAS) and the ASEAN Highway Network (AHN). Compliance with free and fair trade measures can be achieved by creating a US-Burma ASEAN task force with the purpose of helping the Burmese government meet its ASEAN requirements as well laying the groundwork to comply with the principles of the TPP. While the TPP may not come to fruition before the end of the current administration, there are still opportunities to ensure its future development. While results from the task force may not be seen immediately, establishing membership and outlining policy goals should be prioritized in the next year.

#### **RECOMMENDATIONS**

- Encourage the NLD to support an easily accessible credit system for farmers.
- Recommend that the NLD revisit and update Notification No. 11/2013 to focus on the development of SMEs.
- Encourage the creation of more youth-based educational programs and exchanges between the United States and Burma modelled after existing ones such as the Fulbright program and the YSEALI conference.
- Create bilateral conferences to share expertise that consequently allow for stronger Burmese institutions and workforce.
- Construct a US-Burma task force focused on helping Burma meet ASEAN guidelines and TPP principles while also protecting Burmese businesses and economy in order to ensure stable growth.

## CONCLUSION

*Heather Ellis and Tharin Sethi*

Burmese democratic reforms have made significant progress, but they are far from complete. In this regard, while this task force recognizes the importance of continuously endorsing and rewarding Burma's reform, it is also critical that the United States remain cautious and maintain its economic and political leverage over Burma's military in order to ensure that progress is not disrupted, and that the many unresolved issues ranging from human rights abuses to ethnic conflicts continue to receive necessary attention. With this in mind, this task force strongly endorses President Obama's strategy of continued engagement coupled with the repeal of some sanctions, the continuation of others, unrestricted humanitarian aid, and less restricted development aid.

The quality of the recent election is the greatest indication of Burma's large steps toward democratic reform, alongside constitutional and other legislative reforms. Such reforms largely outdate current US foreign policy towards the Southeast Asian country and call for a serious reassessment and restructuring of US strategy toward Burma. The United States has a moral commitment to continue encouraging and incentivizing this positive growth. Since the beginning of President Obama's first term in office, his administration has prioritized productive re-engagement in Asia and has put improving US-Burma relations on their agenda, which should continue during the president's remaining months in office. The United States should harness the success of Burma's democratization, the rise of the NLD, and its transition to power as a moment to lock in the legacy of US foreign policy in bringing about this transformation.

In short, Burma should remain a priority for the United States for the next 11 months and throughout the next presidential administration; continued US engagement through diplomatic tools and policy initiatives are vital to support Burma's progress towards stability, sustainable development, and democratization. This report has outlined a plethora of policy options and recommendations for the United States to use in helping the people and government of Burma strengthen economic and legislative institutions, foster peace, and champion human rights throughout the country. These options include the continuation of certain sanctions, including those against the jade industry, in order to uphold US values and continue to provide leverage for Aung San Suu Kyi, the NLD, and their new government. We have also recommended that the United States take swift action within the first 100 days of the power transition, prioritize the peace process, remain staunch in its position toward human rights, and work with the NLD government to facilitate foreign direct investment, alleviate poverty, and promote self-sustaining economic development. Above all else, the United States should prioritize strengthening democracy in Burma, especially through continued assistance in crafting and implementing new and equalizing legislation.

Democratization is both an end and a means in Burma. Democracy has been an integral aspect of US re-engagement with the country and will continue to be a top value and priority as US-Burma relations continue. Greater participation of the people of Burma in the legislative process will yield a freer and fairer domestic economy and will create a civil society able to flourish after decades of oppressive military rule. However, in order to foster meaningful democracy, there must be more pro-poor and especially pro-farmer legislation integrated into the Burmese political and economic systems. If these policies are effectively implemented and backed by the United States and other stakeholders, they will not only prevent some of the gravest human rights violations, but also foster social harmony, economic growth, and more equitable participation of all groups in the democratic process.

Ignoring the opportunities in post-transition Burma due to superseding global events will have repercussions both for Burma and US interests in Southeast Asia. Should the United States choose to let Burma fade into the background, current US sanctions will stifle possible growth in Burma, and Burma's current democratic and liberal trajectory will falter. The chance for the United States to engage with Burma will pass as other nations fill that role. The United States must seize this moment and strengthen ties with this rapidly evolving nation; failing to do so will not only cost the United States a unique and valuable opportunity, but also will disappoint the millions of people in Burma who have fought for their rights and waited so long for democracy.





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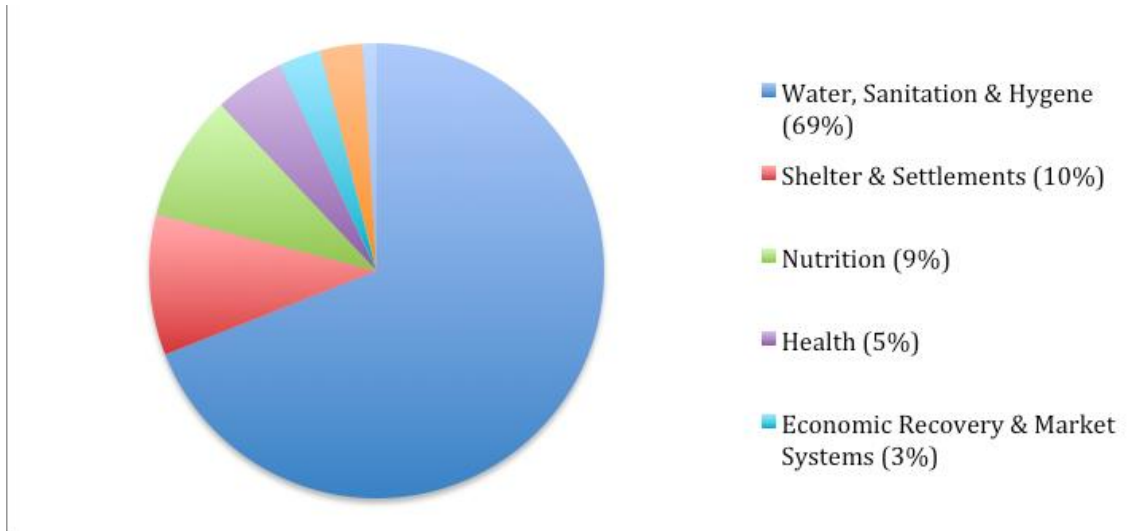
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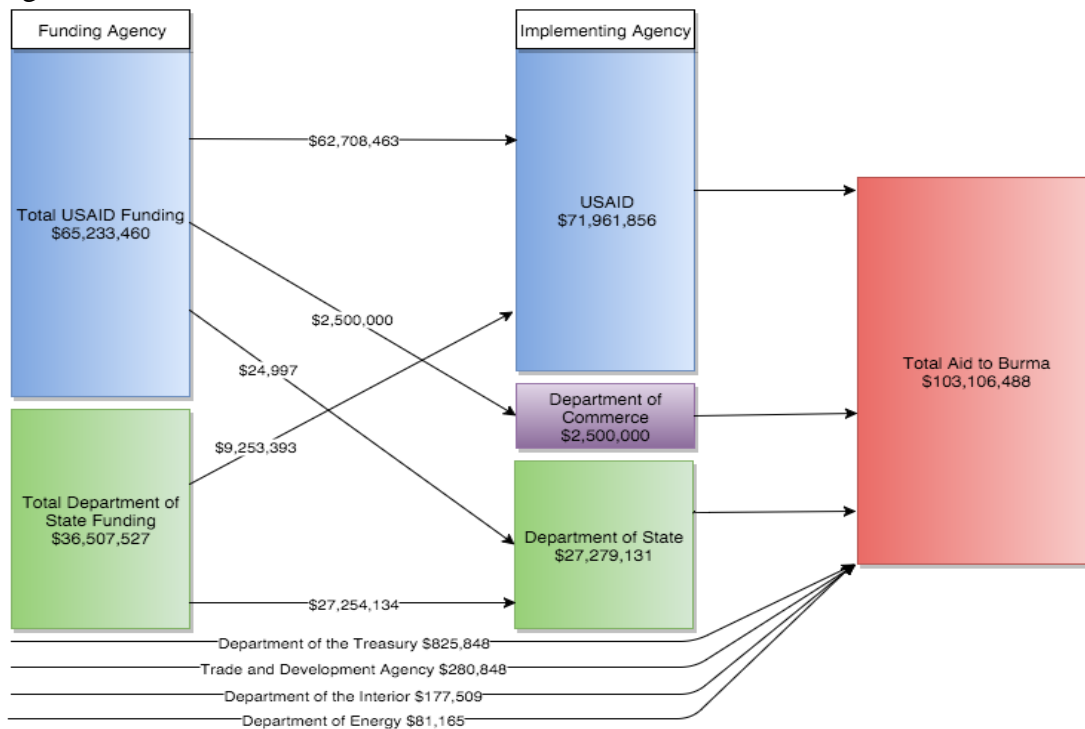
**Appendix A: USAID Burma Projects and Funding**

Figure B.1: USAID/OFDA Funding in FY 2015



Source: USAID. "BURMA – COMPLEX EMERGENCY FACT SHEET #1, FISCAL YEAR (FY) 2016." [https://www.usaid.gov/sites/default/files/documents/1866/burma\\_ce\\_fs01\\_12-29-2015.pdf](https://www.usaid.gov/sites/default/files/documents/1866/burma_ce_fs01_12-29-2015.pdf).

Figure B.2: Total US Aid to Burma



\*Information for FY 2013.

Source: USAID. "Country Detail." Country Detail. Accessed February 24, 2016. <https://explorer.usaid.gov/country-detail.html#Burma> (Myanmar).

Table B.1: US Aid to Burma by Projects

IMPLEMENTING AGENCY	ACTIVITY	AMOUNT
Department of State	The UN High Commissioner for Refugees (UNHCR)	\$13,800,000
USAID	Project for Local Empowerment	\$9,000,000
USAID	Burma Transition Initiative	\$7,079,760
Department of State	Democracy, Human Rights and Labor Program	\$5,890,866
USAID	World Food Program Burma Emergency Food Security Program (EFSP) - 2013 Award	\$5,000,000
USAID	Elections and Political Processes Assistance (EPPA) Program	\$3,200,000
USAID	World Food Programme Burma Emergency Food and Shelter Program (EFSP) - 2013 Award for Internally Displaced Persons (IDPs) in Rakhine	\$3,000,000
USAID	Behavior Change Communication for Infectious Disease Prevention Program	\$2,930,000
USAID	Elections and Political Processes Assistance (EPPA) Program	\$2,800,000
Department of State	Contribution To International Committee of the Red Cross (ICRC)'s 2013 Emergency Appeal for Myanmar (\$600,000) and Bea (\$2,200,000)	\$2,800,000
USAID	Burma Transition Initiative	\$2,357,300
USAID	Crisis Assistance and Recovery	\$2,350,000
USAID	ASEAN Connectivity Through Trade and Investment (ACTI)	\$2,000,000

Source: USAID. "Country Detail." Country Detail. Accessed February 24, 2016. <https://explorer.usaid.gov/country-detail.html#Burma> (Myanmar).

## Appendix B: Summary of US Economic Sanctions Toward Burma

<b>Date</b>	<b>Initiative #/ Sanction</b>	<b>Legal Authority</b>	<b>Brief Purpose</b>	<b>Citation (html)</b>
9/30/96	Public Law 104-208. Section 570 of the Foreign Operations, Export financing, and Related Programs Appropriations Act	Congress	Prohibits bilateral assistance, multilateral assistance, visas, and new investment in Burma. Multilateral strategy to work with ASEAN and encourage a dialogue between SLORC and democratic opposition groups in Burma. Calls for bi-annual reports by the President on the progress of Burma and gives the president authority to wave parts of the sanctions.	<a href="https://www.treasury.gov/resource-center/sanctions/Documents/pl104_208.pdf">https://www.treasury.gov/resource-center/sanctions/Documents/pl104_208.pdf</a>
5/20/97	E.O. 13047	President	Prohibits new investment in Burma	<a href="https://www.treasury.gov/resource-center/sanctions/Documents/13047.pdf">https://www.treasury.gov/resource-center/sanctions/Documents/13047.pdf</a>
7/28/03	Public Law 108-61, 50 U.S.C. 1701 note	President	Ban on military junta, ban all imports from Burma, extended Executive Order 13047.	<a href="https://www.treasury.gov/resource-center/sanctions/Documents/bfda_2003.pdf">https://www.treasury.gov/resource-center/sanctions/Documents/bfda_2003.pdf</a>
7/28/03	E.O. 13310	President	Blocking property of the Government of Burma and prohibiting certain transactions.	<a href="https://www.treasury.gov/resource-center/sanctions/Documents/13310.pdf">https://www.treasury.gov/resource-center/sanctions/Documents/13310.pdf</a>
10/18/07	EO 13448	President	Expanding the scope and taking additional steps with respect to the national emergency declaration and blocking all property and interests in property of the persons listed in its Annex and of persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to meet the criteria set forth in E.O. 13448.	<a href="https://www.treasury.gov/resource-center/sanctions/Documents/13448.pdf">https://www.treasury.gov/resource-center/sanctions/Documents/13448.pdf</a>
4/30/08	EO 13464	President	Taking additional steps with respect to the national emergency declared in E.O. 13047 and blocking all property and interests in property of the persons listed in its Annex and of	<a href="https://www.treasury.gov/resource-center/sanctions/Documents/13464.pdf">https://www.treasury.gov/resource-center/sanctions/Documents/13464.pdf</a>

			persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to meet the criteria set forth in E.O. 13464.	
7/29/08	JADE Act; Public Law 110-286	Congress	Imposed sanctions on certain categories of persons enumerated in the JADE Act, and amended the BFDA ban to prohibit the importation into the United States of any jadeite or rubies mined or extracted from Burma and any articles of jewelry containing jadeite or rubies mined or extracted from Burma.	<a href="https://www.treasury.gov/resource-center/sanctions/Documents/pl110_286_jade_act.pdf">https://www.treasury.gov/resource-center/sanctions/Documents/pl110_286_jade_act.pdf</a>
7/11/12	EO 13619	President	Blocking property of persons threatening the peace, security, or stability of Burma	<a href="https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13619.pdf">https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13619.pdf</a>
8/6/13	EO 13651	President	Revoking the provisions of E.O. 13310 that implemented the BFDA's ban on importing Burmese-origin goods; however, due to continuing concerns with respect to labor and human rights in specific sectors, E.O. 13651 reinstated the prohibition on the importation into the United States of any jadeite or rubies mined or extracted from Burma and any articles of jewelry containing jadeite or rubies mined or extracted from Burma that was originally imposed by the JADE Act, which amended the BFDA.	<a href="https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13651.pdf">https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13651.pdf</a>
6/30/14	E.O. 13448, E.O. 13464, E.O. 13619, and E.O. 13651	President	Several key authorizations easing financial and investment sanctions on Burma that had been contained in General Licenses 16, 17, and 19 and published on OFAC's website were incorporated into the reissued regulations.	<a href="http://www.ecfr.gov/cgi-bin/text-idx?SID=e7bd89735355a88109ef606e0084ca48&amp;node=pt31.3.537&amp;rgn=div5">http://www.ecfr.gov/cgi-bin/text-idx?SID=e7bd89735355a88109ef606e0084ca48&amp;node=pt31.3.537&amp;rgn=div5</a>
12/18/15	Consolidated Appropriations Act, 2016'; Section 7043 (b)(3)	Congress	The Secretary of the Treasury should instruct the United States executive director of each international financial institution to use the voice and vote of the United States to support projects in Burma only if	<a href="https://www.congress.gov/114/bills/hr2029/BILLS-114hr2029enr.pdf">https://www.congress.gov/114/bills/hr2029/BILLS-114hr2029enr.pdf</a>

			such projects meet certain criteria such as being transparent, following best practice in regards to environmental conservation, does not promote the displacement of local populations, and does not partner with military owned enterprises or state-owned enterprises associated with the military.	
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# THE FIRST 100 DAYS POST-TRANSITION



