

HUMAN RIGHTS, DEMOCRACY AND RULE OF LAW IN BURMA: MAKING THE CASE
*BY THE DEMOCRACY & HUMAN RIGHTS WORKING GROUP**

After nearly 60 years as a pariah state under military rule, Burma is now engaged in an economic and political transition process. If managed successfully, this transition could transform the country into an increasingly important regional player in the strategic calculations of China, India and Southeast Asia, as well as the United States. Following a gradual liberalization process that began under the military in 2010, the historic 2015 elections resulted in an overwhelmingly victory for pro-democracy leader Aung San Suu Kyi and her opposition party, the National League for Democracy (NLD). The NLD secured 77 percent of contested parliamentary seats and the power to choose the president, one of two vice presidents and the chief ministers of all states and regions. Despite the constitutional block on Aung San Suu Kyi from the presidency because her sons hold foreign citizenship, NLD was able to create a role for her as State Counselor that placed her at the center of the government and without upending the 2008 constitution.

Not surprisingly, Burma has a long way to go in its economic and political development; the effects of decades-long, stultifying military rule will be felt for a long time. The military still plays a prominent role in the government, with constitutional provisions granting it autonomy from civilian control and 25 percent of the seats in the national, state and regional legislatures as well as control over the powerful defense, home affairs and border affairs ministries. The conflict and tensions between the military and ethnic minorities, exacerbated by ongoing human rights violations committed against ethnic minorities, have complicated the relationship between the ethnic minorities and the civilian government. Some of the fiercest fighting in years in Kachin and Shan States is jeopardizing the hopes of a nationwide peace agreement and eroding support for the NLD and Aung San Suu Kyi, who ethnic leaders feel is not sufficiently using her office and authority to push for an end to the fighting and a more inclusive process. In Rakhine State, the situation of the Rohingya, a religious and ethnic minority, has seriously deteriorated since October 9, 2016, when security forces launched a widespread and systematic attack against them following militant attacks on border police posts. Scores of thousands have fled to squalid refugee camps in Bangladesh, creating tensions with both Bangladesh and Malaysia.

Media restrictions have been loosened since 2010, though the state still controls major broadcasters and publications. Corruption is rampant at all levels, with Burma ranked 136 out of 176 countries in Transparency International's 2016 Corruption Perceptions Index. Further, Burma is one of the poorest countries in Asia, with 26% of its population living in poverty. Although U.S. sanctions on Burma have ended, risk calculations that view Burma's legal environment as too uncertain hamper large investment.

The reforms begun in 2010 have led to a more open economic and political system in Burma, but the transition is still in its early stages and will take time to solidify. Since 2012, the United States has provided over \$500 million in support of Burma's transition and the peace process. In December 2016, President Obama lifted prohibitions on direct U.S. assistance to the

Burmese government. With a population of over 50 million people and located between India and China, Burma is a geostrategically important country. Its vast natural resources make it a potentially lucrative investment partner for U.S. businesses, and its membership in ASEAN means it could be a democratic force in a region in need of strong democracies. As such, it is in the United States' national interest to continue to support Burma's transition.

Recommendations for the U.S. administration on working with Burma on democracy and human rights include:

- Maintaining the current bipartisan policy toward Burma of supporting the economic and political transition, the peace process, and strengthening of democratic institutions and civil society, including pushing for civilian control over the military.
- Stressing the importance of ending human rights abuses, releasing political prisoners, and improving conditions for ethnic minorities.
- Identifying avenues to engage constructively in the ongoing peace process and supporting increased representation for all ethnic groups in that process, in Burma's government, and in the country's evolving political dialogue.
- Emphasizing the importance of a diverse and independent media and development of strong institutions, including an autonomous judiciary.
- Working to extend the mandate of the U.N. Special Rapporteur.
- Increasing support to moderate groups that are willing to address and take action on crucial issues such as ethnic and religious tolerance that will need to be confronted to push the democratic transition forward.
- Providing support to the next generation of young leaders across all sectors, including political parties and civil society.
- Identifying reformers and points of leverage within the military that can be used to try to encourage faster and more substantial democratic and economic reform, as well as greater respect for human rights.
- Creating a private sector development strategy to identify ways to strengthen the private sector, including the legal environment, in Burma and assist U.S. companies to invest there responsibly.
- Convening a meeting between the U.S. Treasury Department and civil society, financial institutions, and other stakeholders to enhance understanding of the termination of the Burma Sanctions Program and to discuss ways to facilitate legitimate financial transactions with civil society organizations and private sector entities in Burma.
- Providing assistance to Burma's government and parliament to help them develop the required action plan and fulfill the requirements of membership in the Open Government Partnership, an international platform involving 75 countries for making governments more open, responsive and accountable to citizens.
- Encouraging other democracies in the region, such as India and Indonesia, to support Burma's transition and provide support for its political and economic development.

** The Democracy & Human Rights Working Group is a nonpartisan initiative bringing together academic and think tank experts and practitioners from NGOs and previous Democratic and Republican administrations, seeking to elevate the importance of democracy and human rights issues in U.S. foreign policy. It is convened by Arizona State University's McCain Institute for International Leadership. The views expressed here do not necessarily represent the positions of individual members of the group or of their organizations.*