

# ANTICIPATIONS AND ANTICIPATED RESPONSES: THE UNITED STATES AND THE 2010 BURMESE ELECTIONS

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## INTRODUCTION

The Obama administration's initiative to review U.S. policy in six countries, of which Burma/Myanmar<sup>1</sup> was one, was taken as a welcome sign among most observers of the Burma/Myanmar scene with the exception of those deeply committed to endorsing even more stringent measures against Naypyidaw.<sup>2</sup> They were unrealistically fearful that the Obama administration would completely reverse the policies of the previous Republican and Democratic regimes. This was politically impossible in the United States at that time.

Welcome and obvious, but modest, signals, however, had been sent by both the Americans and the Burmese that increased contacts were desirable. The Burmese foreign minister had an unprecedented meeting with a mid-level State Department official in March 2009, and the United States indicated it would consider signing (and later did) the Association of Southeast Asian Nations (ASEAN) Treaty of Amity and Cooperation, which it had not done in large part because of Myanmar's ASEAN membership, which the U.S. adamantly opposed, in 1997. The beginnings of such contacts moved the possibility of progress forward. The constraints of the domestic U.S. political scene resulted in a modified policy from isolation and regime change under both the Clinton and the Bush administrations to "pragmatic engagement," essentially meaning the continuation of the sanctions regimen together with dialogue at a relatively high

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diplomatic level aimed at the amelioration of human rights violations and governance excesses associated with the junta. In a quiet shift, “regime change” and the honoring of the May 1990 elections swept by the opposition National League for Democracy (NLD) were discarded. As Assistant Secretary of State Kurt Campbell said in his testimony before the Senate Foreign Relations Committee’s Subcommittee on East Asian and Pacific Affairs (January 21, 2010):

As you [Senator Webb] are well aware, the Administration’s formal review of U.S. policy towards Burma reaffirmed our fundamental goals: a democratic Burma at peace with its neighbors and that respects the rights of its people. A policy of pragmatic engagement with the Burmese authorities holds the best hope for advancing our goals. Under this approach, U.S. sanctions will remain in place until Burmese authorities demonstrate that they are prepared to make meaningful progress on U.S. core concerns. The leaders of Burma’s democratic opposition have confirmed to us their support for this approach.

Now, as this essay is written in June 2010, a sense of frustration over the lack of progress seems evident in both the American and Burmese camps. In Washington, there is increasing talk of even further sanctions beyond those instituted in 1988 (cutting off military sales and support, as well as the U.S. economic assistance and anti-narcotics programs), 1997 (prohibiting new investment), 2003 (denying imports and the U.S. banking system to the Burmese state), and 2008 (focusing on jade and ruby import restrictions). Some of these actions denied U.S. visas for high-level Burmese officials and their families, and contained other provisions. These new concerns focus on the rules and preparations, publicly released during the week of March 10, 2010, for the elections that the State Peace and Development Council (SPDC) has promised in 2010 and the subsequent inauguration of the new government under the constitution that had been approved by referendum in 2008 and that will come into force following those elections.

All U.S. administrations since 1988 have treated the Burmese military regime with varying degrees of opprobrium: from dismay, disdain, and disgust over past policies to skepticism of any of its future actions. However undiplomatic and demeaning was former Secretary of State Condoleeza

Rice's inclusions of Burma/Myanmar as one of the "outposts of tyranny," that phrase not only summed up the position of much of the U.S. foreign policy community—it established a characterization of the regime that continues today. The causes of this opprobrium not only include broad human rights abuses and the state's neglect of the well-being of the population, but also the violent suppression of what was a failed peoples' revolution and its brutal aftermath in 1988, the lack of public recognition of the results of the May 1990 elections, the Depayin incident in 2003 when the NLD entourage of Aung San Suu Kyi was set upon, the Buddhist monks' "saffron revolution" of 2007, the belated response to Cyclone Nargis in May 2008, and most recently to the virtually Stalinistic counting of the votes for the 2008 constitution.

As in so many countries mired in problems of human rights and civil wars, the crisis in Burma/Myanmar has been a major focus of human rights associations. These well-organized voices have had an exceptional impact on Congress from the diligent lobbying activities of the Burmese expatriate community. Although they do not have the internal political capacity in the United States to influence elections as does the Cuban expatriate community in the politically pivotal state of Florida, those Burmese expats, who have left for political or economic reasons or both, have been remarkable in the success of their pressures on Congress.

The sympathy with which the political and human rights problems have been greeted in the United States, as well as the economic deprivation in a country that many would have predicted a half century ago should have been the richest in Southeast Asia, has not been dependent on these factors alone. Burma/Myanmar has been in the popular attention because of the singular appeal of Aung San Suu Kyi, who has now become the world avatar for democracy under repressive regimes. Her appeal has become the bedrock of concern about that country, and it is probable that more people abroad know her name than that of the new designation of that country—from Burma to Myanmar.

Aung San Suu Kyi has become the most important determinant of U.S. foreign policy toward that country. She has been mentioned in the *Congressional Record* some 1,598 times from 1988 until January 2010, and her support is interestingly bipartisan in a Congress that has been polarized in recent years.<sup>3</sup> As one former official noted, "Many of us have looked to her for guidance as to what our policy should be."

The focus of U.S. policy on Burma/Myanmar, in contrast to other authoritarian regimes in the Asia region, was solely on human rights and governance until Cyclone Nargis in May 2008, after which political issues were supplemented with humanitarian concerns.<sup>4</sup> For some two decades, the United States has essentially concentrated on the mantra of regime change by stating that the military junta should honor the results of the NLD victory in the May 1990 elections, and thus, step down, and then the U.S. would have dialogue with them. This is documented in most of the biannual reports that the U.S. Department of State is required to send to Congress. This non-sequitur, naturally, was ignored by the Burmese military. In other areas of Asia, the human rights and governance issues are tempered by other U.S. national interests, such as security, trade, and investment, as well as regional relations. Although it would be almost inconceivable that these issues were not raised by the United States in the Myanmar context, but if this has occurred, it has taken place in classified materials, not in public discourse. But in a democracy such as the United States, public discussion of national interests has normally been important if any administration is to have the support of the American people in foreign policy.

## ANTECEDENTS TO THE 2010 ELECTIONS

Before the Obama administration's policy review was completed, significant elements of the U.S. establishment had already determined that the planned 2010 elections would not be "free and fair." On April 3, 2009, seventeen members of Congress wrote to Secretary of State Clinton to that effect, and a campaign had begun to charge that the elections could not be carried out in an appropriate manner. This occurred before the kangaroo court trial of Aung San Suu Kyi during the summer of 2009, before Senator Jim Webb's August 2009 trip to Myanmar, prior to the September 2009 announcement of a new policy toward that country and Assistant Secretary Campbell's November 2009 visit, and before the promulgation of 2010 election laws in March 2010. Indeed, that skepticism was rampant in non-American circles as well, with even one ambassador in Yangon saying that the Myanmar government would not be held to a "high international standard" of elections.<sup>5</sup>

Whatever may occur in the 2010 elections, ironically the military's record on elections, which may not be precedent, has been more nuanced in the two previous ones they sponsored. In 1960, the military "caretaker" government oversaw an election in which the party they did not want to win in fact did so, electing U Nu's party at that time. In May 1990, although the campaigning was clearly controlled (and Aung San Suu Kyi stood up to the military that on one occasion threatened to shoot her), the counting of votes by any consideration must be regarded as fair, for otherwise, how could the opposition NLD have garnered some 57 percent of the votes and 80 percent of the contested seats much to the chagrin of the junta? In that election, Senior General Saw Maung, then head of state, is supposed to have ordered the military not to interfere with vote counting.<sup>6</sup>

The referendum of May 2008 on the new constitution, which established the military's leading role in governance and includes a provision against prosecuting previous (military) administration officials for their actions, was handled in a very different manner. The virtual "Stalinistic" voting pattern of 98 percent participating shortly after Cyclone Nargis and a 92.4 percent approval rating of the constitutional referendum clearly flies in the face of any credible results. The junta's public political commitment to that document had to be reflected in some remarkable level of popular approval, otherwise, the whole "seven-step road map to discipline-flourishing democracy" would have collapsed and internally delegitimized the leadership. Thus, those in the lower levels of the military and civilian hierarchy had to have been seen by their superiors to have performed properly their Potemkin-like duties, and the level of approval had to be overwhelming. Those pressures are likely to continue in the planned 2010 elections.

The cry in the United States has been that the 2010 election be "free, fair, and inclusive." This statement, to which few democratically-oriented persons would conceptually object, remains officially undefined. Ambiguity in policy, as "strategic ambiguity" in security matters, is sometimes useful in providing escape routes from confrontational situations, but in this instance, while it may have placated members of Congress, in fact it has allowed a variety of interpretations so that every member of that body, the executive branch, and various nongovernmental organizations can all interpret the proper meaning of that phrase according to their own proclivities. In effect, it means that no Burmese government would be able to satisfy all the varying stipulations that would be placed on that definition

unless the 2008 constitution were abrogated, rescinded, or modified. The SPDC has invested too much in its legitimacy and in public propaganda on that document to have this happen.

These varying concerns ranged from the stipulation that Aung San Suu Kyi should run for the highest office (the president and two vice presidents are indirectly elected by the legislatures, and under the constitution, which ironically is to come into effect only after the elections of 2010, she is ineligible), to the participation by the NLD, other opposition parties, effective voices for the minorities, sufficient time to campaign, the openness of the campaign period and conditions including the ability to freely distribute campaign literature (thus retraction or relaxation of the press censorship laws), the registration procedures, and the fair counting of votes. Of most concern after the prohibition of Aung San Suu Kyi was the provision in the law that those serving prison sentences were ineligible both to run for office and to be members of a political party. Since there are said to be 2,100 political prisoners in jail (the government, of course, denies that they are incarcerated for political reasons), and many of whom are, to some degree, associated with the NLD, this would have rendered the remains of that party virtually emaciated.

In the welter of concerns over the eligibility of parties and their membership, the western media has ignored a modest element of potential fairness: vote counting will take place in local precincts and in the presence of members of the various registered parties, rather than centrally where surveillance of counting is less possible. The constitution also stipulates local *hluttaws* (parliaments) at the ethnic state and Burman regional levels, and also at six smaller ethnic minority areas. Although each *hluttaw* will have its requisite 25 percent active-duty military, the junta could claim that this is the most local government any of these groups have had since independence. While this may be true, this is not the level of “federalism” that many of these groups wanted and that the military abhors. None of them will have any significant power at the national level, despite potentially having very limited authority at local levels. How these administrative units will interact with the 13 regional military commands is critical, yet unaddressed, in the constitution.

Concerns about fairness also relate to the state’s capacity to mobilize resources through its surrogate presences, government-sponsored or -controlled mass organizations, of which the most important is the Union Solidarity and Development Association (USDA), mandated to do the

*tatmadaw's* bidding and under its direct control. It is said to have 24.5 million members, and since a large percentage of the population is young and below the voting age (18 years), it probably constitutes up to some two-thirds of the adult voting groups in the country. Membership in the USDA may in part be inflated and socially coerced, so that simple membership may not necessarily mean a vote for a government-authorized or supportive party, but is evidently an important potential force for the mobilization of support. It has spawned a political unit—the Union Solidarity and Development Party (USDP), headed by Prime Minister Thein Sein.

Anecdotes abound about what in the United States would be called “pork barrel” projects—efforts by the government at local levels around the country to provide facilities/services, and designed to convince voters to support state-sponsored parties and candidates. Many members of the military hierarchy, including ministers, will resign from the *tatmadaw* to run as civilians. Stories abound about even supplying voter registration cards to the Rohingya, the stateless Muslim minority on the Bangladesh border who have been denied even the status of a minority group, but who will be allowed to vote to increase the junta's claim to victory.<sup>7</sup>

## THE NATIONAL LEAGUE FOR DEMOCRACY AND ITS DECISION

The undermined NLD, decimated by the junta over years, had remained a legal political party, along with nine other, ineffectual parties. Unless it were to register for the 2010 elections by May 6, 2010, however, it would no longer be a valid party and whatever assets it might have accrued would probably revert to the state.

That the party had continued legally to exist since it won the May 1990 elections is both remarkable in the face of the blatant harassment by the junta, and in large part is due to the involvement of Aung San Suu Kyi. Even when she has been under house arrest, and that has been for approximately 14 of the past 21 years, her views, or her purported opinions when she has not been able to have contact with the executive committee of the NLD, have been the guiding force in the NLD.

Faced with the prospect of the 2010 elections, the NLD had a dilemma. The party's executive committee had stipulated that to participate in the

elections, all political prisoners (including Aung San Suu Kyi) should be freed, and the newly approved constitution should be subject to review and changes. The junta had invested too much in the constitution and scripted it too heavily to ever agree to changes before it came into effect. Although some political prisoners might be released (and General Tin Oo was extricated from house arrest and more may follow), it was evident that Aung San Suu Kyi would be kept under some form of house arrest until around the time of the elections.<sup>8</sup> For the NLD to agree to participate in the elections meant going back on its position, rescinding its legal case that the constitution was not proper, and effectively abandoning its claim to victory in the May 1990 elections. To participate would mean effective abandonment of its previous positions but continued legal status.

The government election laws effectively emasculated the already weak NLD. The provisions that no member of a political party could be in jail effectively eliminated many of the NLD leaders (whether house arrest is considered as jail was a question some raised, but Aung San Suu Kyi would not have been able to run in any case, but she later indicated she would not under any of the present circumstances).

When Aung San Suu Kyi told her confidants that she would not consider running under these unjust laws, U Aung Shwe, the chair of the NLD executive committee, said he would abide by her wishes, and then on March 29, the NLD “unanimously” (in a kind of “democratic centralism”) agreed not to participate. Recognizing they would be disbanded as a party, and understanding that they would not be allowed to register as a nongovernmental organization, they said they would continue their democratic efforts as a “mass movement”; that is, one without formal organizational authority.

The election laws were decried in the United States as intending to disenfranchise the NLD. This interpretation is likely accurate. There are those within the NLD who have opted either to form another opposition party or join one that has already been formed. Given the strong elements of personalized power and authority in Burma/Myanmar, they may be regarded as “traitors” to the NLD, and this, as one observer noted, would be a major error.<sup>9</sup> Aung San Suu Kyi’s lawyer, Nyan Win, quoted her as saying that their actions were “incompatible with the democratic process.”<sup>10</sup> In any case, there will be opposition parties, both in Burman areas and among the minorities, who will put forth candidates many of whom are

likely to be elected. As of May 27, 2010, 40 parties have registered to run. It is unlikely, however, that they will be able to coalesce as a voting bloc, or maintain a majority in either of the two national *hluttaus*.

## THE ONCE AND FUTURE U. S. POLICY OPTIONS

The Obama administration's attempt to formulate a new policy toward Myanmar was probably grounded in the realization—so long publicly unarticulated in Washington political circles—that the sanctions policy has been a failure in reaching its stated goal of regime change and the installation of a democratically-elected government in Myanmar. The continued imposition of new sanctions piled upon previous ones was, in effect, an exercise in futility and in outrage against specific events in Myanmar. Although the moral high ground may have been taken by those who supported such efforts, and their motivations may have been both sincere and altruistic, it would have been virtually impossible for the junta to agree to such conditions. In that highly nationalistic country, giving in to such foreign pressures would have removed any semblance of political legitimacy from the *tatmadaw*, which had been rewriting history and stressing its past, present, and future roles in protecting the state from just those internal and external elements attempting to subvert or even influence it. Thus the continuing sanctions policy has been both moral and politically opportunistic in light of the extensive and effective lobbying groups in the United States.

Some have argued that sanctions had failed because the countries around Myanmar, specifically China, India, and Thailand, as well as ASEAN and the UN, would not agree with them. The assumption here has been that universal sanctions would force the junta to surrender to foreign pressures. But various high cabinet figures, including former prime minister Khin Nyunt, had indicated that Burma had “gone it alone” for many years under the previous Burma Socialist Programme Party regime (1962–1988, militarily controlled), that they had sufficient rice and resources, and that they would do so again if that were necessary, saying, “We will stand up to you Americans.”<sup>11</sup> Sanctions have rarely worked in forcing policy changes.

Sanctions have negatively affected the lives of the Burmese by cutting jobs in a country with a high unemployed and underemployed labor force.

The United States has also frustrated efforts to improve the well-being of the people by other means, at least before the Nargis tragedy. The Global Fund of \$90 million over five years was designed to try to alleviate three of the major health scourges of that society: malaria, tuberculosis, and HIV/AIDS. This effort was informally vetoed by some members of Congress when they charged that effective monitoring could not be carried out in that country. The falsity of that claim was soon demonstrated when a number of European countries and Australia formed the “Three Diseases Fund,” which was designed to treat the very same diseases at a cost of \$100 million over five years. Evaluations have shown that the program was successful as far as it could financially go, and now the United States is considering approval of the Global Fund once more.

Myanmar had dropped opium production by some 80 percent. In 2002, in an effort to take Burma off the U.S. narcotics list, the most senior Burmese officer to come to Washington in years was invited to work out a protocol for such negotiations. After the Burmese expected that Myanmar would be so approved, elements in Congress stopped that effort, citing methamphetamine production by the Wa minority, for, as some influential former U.S. officials have said in other contexts, nothing positive can be said about that “abhorrent” regime. The result, of course, was that those in the Burmese administration who were attempting to improve relations with the United States were badly hurt.<sup>12</sup>

Junta leaders may believe that they have already signaled their interest in improving relations. They have met with senior American congressional and executive branch officials. The senior general has reduced by half the court sentence of Aung San Suu Kyi in the summer of 2009. Dialogue has begun. The junta has given permission for U.S. leaders to meet with Aung San Suu Kyi, which for the former, probably was a concession but not so considered in U.S. circles. So the junta may be waiting for the United States to respond in kind.

The United States, however, believes that it has also sent signals to the Burmese by such visits and by articulating a new policy that is, in U.S. terms, a significant amelioration of past policy, like signing the ASEAN Treaty of Amity and Cooperation, as well as President Obama meeting with the Burmese prime minister at an ASEAN summit. No longer does the United States officially call for regime change (although it still calls the country “Burma”), and it is now willing to engage in a long process

of dialogue at senior levels. So each side awaits a significant policy change that would allow new levels of association to occur. To the junta, a probable significant U.S. action would be to change the sanctions regimen. To the United States, a significant action would be the release of Aung San Suu Kyi and other political prisoners. Both administrations, however, are bound by their own internal criteria that make such actions difficult at the present time. Each administration needs a rationale to modify its rigid positions, but none is forthcoming.

The Burmese junta has invested an enormous degree of prestige and effort in the approved constitution and the planned 2010 elections. Every day leading up to the referendum on the constitution, citizens were bombarded with statements that it was their duty to support the new constitution, and that the military was the parent of all citizens and was promoting this in the interests of the people and the country. There are still concerns within the leadership that Aung San Suu Kyi could disrupt this very carefully scripted election process and the formation of a new government should she be allowed to campaign before the elections, even if she were not to attempt to run for any office. Such a new government based on a new constitution, together with the infrastructure built by the military, the new capital at Naypyidaw, the extensive foreign exchange holdings of the state, national unity, ceasefires with most of the minorities, and Myanmar as a “modern” nation are to be the legacy that Senior General Than Shwe may want to leave behind. He might well argue that this period before the elections should be dedicated to their preparations to ensure their success, and that the new government that will be formed as a result of the elections will be the one to negotiate better relations with the United States. But by then, new sanctions may be imposed, making such negotiations even more difficult.

To the United States, Burma is still a “boutique” issue, one that appeals to a relatively small clientele compared to the major foreign and domestic issues facing the administration (and even those solely focused on East Asia), and for which only a modest amount of political ammunition is to be expended.<sup>13</sup> To rid, or even to modify, the sanctions policy built up in successive waves and with bipartisan support would be to exacerbate internal U.S. political tensions and the polarization already so evident in Washington and in the country. Although, as one congressman said in the early 1990s, sanctions would pass because a few people want them

and no one could be seen as voting for a “pariah regime,”<sup>14</sup> those few who have wanted sanctions have grown in number and have rallied under the unarticulated banner of Aung San Suu Kyi. These reactions have grown because of a series of destructive actions by the Burmese junta itself that have increased the level of concern.

Although President Obama has publicly called for the junta to release Aung San Suu Kyi, the height of presidential involvement was under the Bush administration, when both George W. and Laura Bush became engaged with dissidents and others in Washington, New York, and in Thailand. Laura Bush held an unprecedented press conference on the subject and wrote an op-ed in the *Washington Post*.<sup>15</sup>

On May 14, 2010, President Obama renewed the sanctions by invoking the required mantra that “The actions and policies of the Government of Burma continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States.” This was not a result of any external threat, but is instead based on internal U.S. legal requirements combined with political expediency. Prior to 1977, unilateral sanctions could be invoked by the executive branch under the Trading with the Enemy Act of 1917; now, however, this requires a congressionally enacted state of war. Presently, the president may impose sanctions under the Emergency Economic Powers Act of 1997 only if such an extraordinary “threat” exists.<sup>16</sup> Therefore, when internal politics calls for executive branch-initiated sanctions (in contrast to an act of the legislature declaring war), these words must be invoked whatever the reality.

Although Assistant Secretary of State Kurt Campbell earlier indicated that the process of dialogue with Burma was likely to be arduous and slow and had no illusions as to quick and massive changes either within Burma or in U.S. policy, there were elements within Congress that were frustrated by the elections laws promulgated in March 2010, and wanted the imposition of new, tougher sanctions, especially those involving targeted bank sanctions along the lines imposed on North Korea. That cry has not ceased, and a preliminary meeting has taken place among interested executive branch organizations on what might be done, although at this writing, such procedures are still in their preliminary stages. Of course, there are those within the Washington beltway who look for any chance to criticize the Obama administration for its failure in affecting change in Myanmar. The actions of the junta, the continued house arrest of Aung San

Suu Kyi, and the seeming lack of concern over the plight of the Burmese peoples have all provided ample material for their concerns.

Assistant Secretary Campbell's return trip to Naypyidaw in May 2010 seems to have accomplished little. He met with Aung San Suu Kyi and gave strong verbal support to the opposition, but met only with ministers of the government, not with the prime minister or the head of state. He raised the issue of North Korean sanctions, but seemed to get from this trip no "deliverables"—any concessions from the Burmese authorities. Campbell was quoted as saying, "As a direct result [government unilateral actions without consultations with stakeholders], what we have seen to date leads us to believe that these elections will lack international legitimacy."<sup>17</sup> This seems likely to be another factor in Republican criticisms that Obama's Burma policy initiative has failed.

But what "leverage" does the United States have for actions in that country?<sup>18</sup> The answer is very little. Although an article in the August 2007 issue of *Foreign Affairs* admitted that sanctions had failed, it called for the United States to take the lead in dealing with Myanmar.<sup>19</sup> Yet the lack of trust in the United States is so strong in that country that the U.S. has squandered any influence it might have had. There are palpable concerns in Myanmar that the United States might mount an invasion of that country. As absurd as this might appear to Americans burdened with wars and commitments elsewhere, this feeling is real in the inner circles of the *tatmadaw* as demonstrated by a leaked junta memorandum expressing such a fear should the junta allow the direct delivery of relief supplies from U.S. naval vessels to the Irrawaddy delta following Cyclone Nargis. Congressman Dana Rohrabacher, perhaps the most bellicose exponent of regime change in Myanmar in Congress, called for the Burmese military to overthrow the junta and pledged that the United States would be behind them.<sup>20</sup> Even the blatantly absurd movie "Rambo IV," the most violent exposition of anti-Burmese military action, caused concerns in Yangon and the movie was, naturally, banned. The digging of tunnels in Naypyidaw, either with or without North Korean help, is evidently directed as a defensive effort against the United States, the only power who might theoretically (from a Burmese perspective) be interested in overt action against the junta.

As concerns grew, Congress in the 2008 Lantos sanctions bill called for the appointment of an ambassadorial level official, not presently employed by the State Department, to be coordinator of sanctions policy and one

who could negotiate directly with the Burmese. By including the term “ambassadorial level,” Congress was ensuring that such an appointment would have to have senatorial approval. Yet the anomaly was that any such individual who would be approved by the Senate would be unlikely to be able to carry out negotiations with the Burmese. The Bush administration, in its waning days, nominated former National Security Council member Michael Green to that position, but he never was approved because the financial crisis prevented Senate hearings on his nomination. The position remains unfilled, but on March 26, 2010, nine senators called for a new nomination and heightened sanctions.

The United States has backed the NLD and Aung San Suu Kyi. It has supplied assistance (\$36 million authorized this fiscal year) through the National Endowment for Democracy and others to dissident (and humanitarian) elements along the Thai border. Significantly, the law indicates that any new programs with these funds “shall only support activities that are consistent with the principles and goals of the National League for Democracy in Burma.”<sup>21</sup> Our bellicose language and use of such terms as “rogue,” “pariah,” “failed,” “thuggish” state simply indicate our intent toward that regime in their eyes, as does the insistence on using “Burma” rather than “Myanmar” (how long did it take the United States to stop using “Peking” and call the Chinese capital “Beijing”?). Even the supposedly neutral study by the Asia Society called for continued support to the NLD.<sup>22</sup>

The United States is not going to do anything to or in Myanmar that would seriously upset U.S. relations with China, and the question of Chinese influence and massive penetration of Myanmar seems to have been excluded from all administration public policy statements until raised by Senator Webb in September 2009. There is evidence that China would like to see reforms, not to encourage a non-military administration, but to ensure that there is no popular uprising against the present government or any new one formed after the elections. Beijing’s discussions with the Burmese have been *sotto voce*, probably a more effective way to deal with the junta as it does not give rise to the necessary public nationalistic response, as do the U.S. diatribes against the regime. The Chinese evidently want the same thing in Myanmar that they want in North Korea: a quiet, pliant regime and a border that excites no refugee problem and in which Chinese economic interests and strategic concerns can be protected.

Although the sanctions legislations have been emotionally responsive to Burmese tragedies, they have also been inconsistent (e.g., those who are banned from receiving U.S. visas have neither been coordinated nor publicly listed as required), ineffective (e.g., the 2008 Lantos bill as documented by the Government Accountability Office of the U.S. government), or unimplemented (the ambassadorial coordinator). Yet the pressures grow for more, exacerbated by a lack of progress in internal positive change and the charges of Burmese intent to pursue some nuclear weapons production, although far distant if at all, and possible North Korean involvement in that effort as well as in assistance in tunnel construction.<sup>23</sup> Senator Webb at the last minute while in Bangkok cancelled his planned visit to Myanmar in early June 2010, asserting that the release of a television program on North Korean nuclear issues while he was in Myanmar was inappropriate and that the U.S. Department of State needed to clarify the U.S. position on that subject. Senator Webb is reported to continue to be interested in meaningful dialogue. On June 8, 2010, Senator Webb wrote to Secretary of State Clinton:

In May 2010, Assistant Secretary of State Kurt Campbell raised allegations that Burma has violated its commitment to UN Resolution 1874 regarding acceptance of shipments of military items from North Korea. Although not explained in his statement, and not validated by subsequent information news reports alleged that Burma received a shipment of arms from North Korea. This allegation, which from my understanding has yet to be publicly clarified and substantiated by the State Department, has frozen any prospect of further engagement with the Burmese Government. Prior to me [sic] recent trip, I and my staff worked for weeks to seek public clarification of this allegation, but the State Department provided none. At the time I left for my trip to Asia, no other country had joined the United States in this allegation, although it had been discussed with several other countries. The State Department still has not publicly clarified this matter.<sup>24</sup>

The preparation of the report on Burma's nuclear interests had been well known in both official and unofficial circles for a considerable time.

So the undefined free, fair, and inclusive elections have already been violated. There will be more pressure from within Myanmar to make

the results of this election pleasing to the senior general and his entourage. The personalization of power and the hierarchical structure of the command system, together with Burmese societal patterns, mean that it is far more likely that the military will want to ensure a victory than in the past.<sup>25</sup>

This does not mean that there may not be somewhat more space in the parliaments that are elected at various levels, even with 25 percent active-duty military in all legislative institutions. Opposition voices will probably be heard within the walls of these institutions. How much the new government will allow those voices to be spread to the populace through the media is an important matter, for it would mean changing the press censorship laws and rigid state control.

Over time, we may see a modest relaxation of state control, and in the interim, the United States and other countries will provide assistance to Burmese civil society groups (NGOs) and to international NGOs operating within that country, often with the stipulation that no assistance go to state-run or -influenced institutions. The assumption that such assistance will over time foster pluralism and democratic openings is widespread, but it is based on the premise that such nongovernmental organizations have a differing set of unarticulated approaches to power, authority, hierarchy, and control. This has yet to be demonstrated. In addition, research on Chinese civil society indicates that those organizations outside of state control are most effective when they cooperate with the state to some degree. This is presently against U.S. policy in Myanmar.<sup>26</sup>

Scott Marciel, U.S. ambassador to ASEAN, said that “Burma’s new election laws are a step backward.” And Richard Horsey has summed up the situation:

These elections, while they will not be free and fair, nevertheless represent the most important political shift in a generation. A new political space will be created—however constrained it may be—along with a set of new State institutions. The ageing military will also hand over the reins of power to a new generation. . . . This strongly suggests that while the authorities may try to manipulate the campaigning process and influence which parties register—and they have already taken steps to ensure the playing field is not level—they are not planning to manipulate the count itself.<sup>27</sup>

At the same time, the Congressional Research Service notes that options for new sanctions include:

A ban on the import of products containing timber or lumber from Burma; prohibiting “United States persons” [including corporations] from entering into economic–financial transactions, paying taxes, or performing “any contract” with Burmese government institutions or individuals under U.S. sanctions; requiring all U.S. entities to divest their investments and cease operations in Burma; and restricting the provision of transactional services to foreign financial institutions that hold assets on behalf of senior Burmese officials.<sup>28</sup>

As the period for announcing and holding the elections according to the government’s timetable of 2010 closes, U.S. concerns grow, and it may only be the pressure of other crises (oil spills, Iran, Gaza, North Korea, etc., as well as internal U.S. congressional elections in November 2010) that may cause Congress to delay actions until the Burmese elections have been held. Even so, the outlook for U.S. policy changes both as a result of internal dynamics or Burmese actions seem dim. Aung San Suu Kyi still strongly influences U.S. policies, and her castigation of the election process will be important to the United States even if it might free her to play a different role in Myanmar. As the International Crisis Group noted:

Regardless of the party’s [NLD] future, however, Aung San Suu Kyi will continue to wield considerable moral and political authority, within the country and internationally. Indeed, the fact that she is no longer associated with the opposition could potentially enhance her role as a national figure, standing above party politics. She had contemplated taking such a step in the past, when the dialogue between her and the regime appeared to have some momentum, but had been reluctant to abandon her party—a concern that is no longer relevant.<sup>29</sup>

Basic questions in the U.S.–Myanmar relationship remain unaddressed, let alone answered, making alleviation of the tensions more difficult. The United States does not seem to understand how the Burmese military view themselves and their role (their “mindset”), incorrectly attributing all that

is publicly enunciated as cant and propaganda for solely venal purposes. There is, no doubt, a great deal of that in some members' thinking, but it seems also intermixed with their perceptions (however erroneous) of the *tatmadaw* as the savior of national unity and sovereignty. These features are likely inculcated through the military educational system.

The Burmese junta does not seem to understand the political limitations of any U.S. administration and the need for adherence to democratic principles. Both sides assume the worst of intentions from the other—whether a U.S. invasion, or subversion of the regime, or Burmese nefarious plans to develop weapons of mass destruction. So in this transitory negotiating period before the Burmese elections of 2010, what did each side expect of the other during the enhanced dialogue mode? What assumptions, expectations, or promises did each make in the relationship? Does each side understand that the sad history of this bilateral relationship affects what can be done over the short term? What seems likely at this writing is that little progress will be made before the Burmese elections, and that any positive changes after the installation of a new Burmese administration will require both time and mutually enhanced understanding.

So the forecast for Myanmar by its military leadership is, internally, for fair weather ahead with the attainment of its “discipline-flourishing democracy,” but for those in opposition to military rule, there are distinct clouds on the horizon. For the United States officially, those clouds may presage a storm.

## NOTES

1. The military in 1989 changed the name of the state from “Burma” to “Myanmar,” an old written form. Although much of the world and the UN accepted this change, the opposition National League for Democracy and the United States did not, keeping the older form. This has become a surrogate indicator of political persuasion. Here, without political intent, “Myanmar” will be used for the period since 1989, “Burma” before, and “Burmese” for all citizens of that country, as the language of that state, and as an adjective. Many other names were also changed; e.g., “Rangoon” to “Yangon.”

2. These countries were Myanmar, North Korea, Iran, Syria, Sudan, and Palestine.

3. See David I. Steinberg, “Aung San Suu Kyi and the Making of U.S. Policy toward Burma/Myanmar” (draft, June 2010).

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4. The United States supplied \$75 million in assistance for relief efforts and later added \$10 million.

5. Personal interview, Yangon.

6. Maung Aung Myoe. *Building the Tatmadaw. Myanmar Armed Forces since 1948* (Singapore: Institute of Southeast Asian Studies, 2009).

7. This was also true in 1990. Registered foreigners, such as Chinese and Indians, will also be allowed to vote. For an analysis of the election laws, see Richard Horsey, "Preliminary Analysis of Myanmar's 2010 Electoral Laws" (paper prepared for the Social Science Research Council (SSRC) Conflict Prevention and Peace Forum, March 31, 2010). Available from <http://www.networkmyanmar.org/images/stories/PDF3/rhl.pdf>.

8. Personal interview, Myanmar, March 2009.

9. Personal interview, Yangon.

10. Ko Htwe, "Suu Kyi Criticizes NDF Faction," *The Irrawaddy*, May 14, 2010.

11. Personal interview, Yangon.

12. When the Obama administration was considering possible lines of action, the author suggested that key members of the U.S. Congress be consulted in advance, for to have this situation recur would be devastating.

13. See David I. Steinberg, "The United States and Myanmar: a 'Boutique issue'?" *International Affairs* 86 (1) (2010): 175–194.

14. Personal interview, Washington, D.C.

15. Laura Bush, *Spoken from the Heart* (New York: Simon & Schuster, 2010).

16. Thihan Myo Nyun, "Feeling Good or Doing Good: Inefficiency of the U.S. Unilateral Sanctions Against the Military Government of Burma/Myanmar," *Washington University Global Studies Law Review* 7 (455) (2008): 469–470. The United States used exactly the same language in renewing the sanctions against North Korea on May 24, 2009 in relation to nuclear issues, but consciously did not spell out the reasons against Burma/Myanmar.

17. Brian McCartan, "US Engagement with Myanmar Falters." *Asia Times*, May 18, 2010.

18. The term "leverage" implies the United States can move regimes, but the historical record demonstrates that in smaller states, but for ones critical to the U.S., the "criticality" means that leverage is not effective. No drastic action is likely to be imposed on Myanmar that would compromise Chinese interests there and U.S. relations with China more broadly.

19. Michael Green and Derek Mitchell, "Asia's Forgotten Crisis," *Foreign Affairs*, August 2007.

20. Lalit K. Jha, "U.S. Congressman Calls for Burmese Military Revolt," *The Irrawaddy*, April 23, 2010. The danger that those inside Myanmar might believe the United States would back such an event with force could be disastrous for those involved, as the likelihood of any such military engagement by the U.S. is far-fetched indeed. The analogy of the U.S. involvement in fostering the Hungarian revolution in 1956 and then only helping refugees is an object lesson. For more

information, see David I. Steinberg, “Burma and Lessons from the Hungarian Revolution,” *The Irrawaddy*, October 2006.

21. Omnibus Appropriations Act 2010 (P.L. 111–117), also in the previous year’s bill. Cited in Michael F. Martin, “Burma’s 2010 Elections: Implications of the New Constitution and Election Laws” CRS Report R41218 (Washington, DC: Government Printing Office, 2010).

22. The Asia Society, *Current Realities and Future Possibilities in Burma/Myanmar: Perspectives from Asia* (New York: The Asia Society, March 2010). The study was printed before the NLD withdrew. The intent of the study was to support U.S. policy changes, but it neglected to discuss the recent history of U.S. policies that negatively affects what might be accomplished.

23. Robert E. Kelley and Ali Fowler, “Nuclear Related Activities in Burma,” (report for the Democratic Voice of Burma, May 2010). Available from <http://www.dvb.no/burmas-nuclear-ambitions/burmas-nuclear-ambitions-nuclear/expert-analysis/9297>.

24. Letter released by Senator Webb’s office, June 8, 2010. Senator Webb also called for President Obama to appoint a special envoy under the 2008 legislation, pass the Korean Free Trade Agreement, not downgrade Thailand’s status on trafficking, and increase the budget of the U.S. Department of State’s Bureau of East Asia and Pacific Affairs.

25. See David I. Steinberg, *Burma/Myanmar: What Everyone Needs to Know* (Oxford: Oxford University Press, 2010).

26. See David I. Steinberg, “Tenuous Spaces: Civil Society in Burma/Myanmar” (draft, May 2010).

27. Horsey, “Preliminary Analysis.”

28. Martin, “Burma’s 2010 Elections.”

29. International Crisis Group, “The Myanmar Elections” Asia Briefing #105 (Jakarta/Brussels: International Crisis Group, 2010): 12.