



Sustaining Myanmar's Transition: Ten Critical Challenges

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EXECUTIVE SUMMARY

AFTER MORE THAN HALF A CENTURY of brutal, debilitating military rule, Myanmar is in the process of a calculated top-down course reversal, which has unleashed a bottom-up awakening of political, economic, and civil society activity. President Thein Sein, a former general and an unlikely reformer, stands at the helm of this stunning transition.

In a show of just how far Myanmar has come, President Thein Sein met President Barack Obama at the White House in May 2013. The last time such a visit occurred was nearly 50 years ago during the Lyndon Johnson administration. The trip followed President Obama's visit to Myanmar—the first by a sitting U.S. president—last November.

As he approaches the midpoint of his five-year term, Thein Sein has set in motion an impressive array of reforms. Additionally, parliamentarian and democracy leader Aung San Suu Kyi, and the speaker of parliament's lower house Thura Shwe Mann have emerged as key reform leaders. In response to their efforts, President Obama has extended “the hand of friendship” to Myanmar and opened the door for the United States to become an active source of support and encouragement in meeting the enormous challenges that lie ahead.¹

Notwithstanding the progress to date, from now until the next general election in 2015, the country's reform leaders will face a range of challenges that will test their capacity and determination. Among the most urgent priorities are resolving ethnic and sectarian conflicts within Myanmar's diverse society, creating jobs for the vast majority of the population who live in poverty (per capita gross domestic product based on purchasing power parity amounts to approximately U.S. \$3.60 per day²), continuing to transform the role of the military, tackling corruption, and establishing the rule of law.

This report takes stock of progress and challenges in Myanmar's reform process over the past two years and thinks through ways forward for strengthening U.S.-Myanmar relations. It draws on the authors' March 2013 visit to Myanmar, which included meetings and consultations with parliamentarians, senior government officials, President Thein Sein's advisors, business and civil society leaders, activists, and journalists.

The report builds on Asia Society's ongoing U.S.-Myanmar Initiative, consisting of nearly four years of Myanmar-focused policy dialogue and analysis, and directly following the February 2012 report *Advancing Myanmar's Transition: A Way Forward for U.S. Policy*, which assessed the nature

¹ Barack Obama, “Remarks by President Obama at the University of Yangon,” The White House, Office of the Press Secretary (November 19, 2012), accessed June 10, 2013, <http://www.whitehouse.gov/the-press-office/2012/11/19/remarks-president-obama-university-yangon>.

² International Monetary Fund, “Myanmar: Staff Report for the 2011 Article IV Consultation,” March 2, 2012, pg. 15, accessed June 17, 2013, <http://www.imf.org/external/pubs/ft/scr/2012/cr12104.pdf>.

of the changes under way in Myanmar and recommended measures that the United States should take to support the institutionalization of democracy in Myanmar.³ These efforts also expand on the work carried out by Asia Society's Task Force on U.S. Policy toward Myanmar from 2009 to 2011,⁴ as well as seminal meetings convened by the Society in New York in September 2011 that brought together for the first time policy makers from Myanmar, the United States, and the broader international community to informally discuss prospects for Myanmar's reform.

In the coming months and years, Myanmar's reformers will face a range of serious obstacles. There are many difficult choices ahead, and how the government approaches them in the immediate and near term will determine in large part whether the transition succeeds.

From this vantage point, the report identifies 10 critical challenges facing Myanmar's leaders:

1. Redefining and professionalizing the military's political and economic role
2. Firmly establishing the rule of law and strengthening the judicial branch
3. Protecting individual rights
4. Developing effective formulas for ethnic equality
5. Instilling social and religious tolerance
6. Rooting out corruption
7. Addressing the "missing middle," a capacity void across the spectrum of the government and the economy
8. Delivering the benefits of reforms to the broader population
9. Addressing land and property rights
10. Developing mechanisms for negotiating trade-offs between economic development on the one hand, and social development and environmental protection on the other

The report concludes with ideas aimed at advancing a new stage in U.S.-Myanmar relations that moves beyond the transactional nature of the current relationship and toward greater normalization. U.S. mechanisms for addressing ongoing concerns and challenges in Myanmar must continue to shift away from negative actions and move in the direction of positive reinforcement, responding as fully as possible to President Thein Sein's and other reform leaders' requests for assistance to advance democratic reforms and their institutionalization.

Our recommendations focus on:

- Strengthening government and civil society capacity and fostering cooperation between them
- Working closely with government institutions to help them become more effective in carrying out reforms and responding to their public constituents

³ This report is available at <http://AsiaSociety.org/USPolicyMyanmarReport>.

⁴ The Task Force report is available at <http://AsiaSociety.org/BurmaMyanmarReport>.

- Initiating sustained Myanmar-U.S. parliamentary exchanges
- Developing ties with Myanmar's military leaders to help them redefine their role in an emerging democracy

Transitions are never smooth, and it is likely that the situation on the ground in Myanmar will get messier before it gets better, especially as we start to see winners and losers in the process. Economic development will be uneven, investment will not be broad based, disputes over land rights will not be easily resolved, people will be displaced, and ethnic and sectarian conflicts will continue until acceptable solutions for all involved can be reached. Given what is at stake, the United States should do all that it can to be a reliable partner to Myanmar as the country works to ensure that current positive trends continue to 2015 and beyond.

I. ASSESSING THE FIRST TWO YEARS

THE STILL NASCENT REFORM PROCESS in Myanmar has emerged as one of the most promising efforts at democratization in the world today. Following national elections in 2010 that were marred by irregularities, former general Thein Sein was elected president by Myanmar's parliament in early 2011. As he approaches the midpoint of a five-year term, President Thein Sein has already set in motion an impressive array of political and economic reforms to address the central concerns of the political opposition and the international community: national reconciliation, political repression and political prisoners, lack of freedom of speech and assembly, press censorship, and the manipulation of the economy.

Just months into his presidency, he met with Aung San Suu Kyi to begin a process of reconciliation with the political opposition that brought the National League for Democracy (NLD) into the parliament through by-elections in April 2012. He initiated a peace process with

From now until the next general election in 2015, the country's reform leaders will face a range of challenges that will test their capacity and determination.

ethnic nationality cease-fire groups to address their long-standing differences with the central government. The government gradually released hundreds of political prisoners and established a commission to review remaining cases. Press censorship was eased with the abolition of the Press Scrutiny and Registration Division, and private journals began to engage in wide-ranging political reporting, with independent dailies allowed to begin publication in April 2013. Throughout this process, the space for civil society has opened up, and nongovernmental organizations have been allowed to form and participate in political life and economic and social development.

On the economic side, Thein Sein's reforms have succeeded in unifying the country's multiple currency exchange rates and taking the first steps to develop a modern banking system. This has injected transparency into foreign exchange earnings, whose manipulation under the previous system had allowed the state to divert and expropriate foreign earnings. Both inflation and government spending have been brought under control, and banking restrictions have been gradually eased. A microfinance law was finally completed and in late 2012 a new foreign investment law was passed, substantially easing previous restrictions and barriers to foreign investment. The telecommunications sector was opened to foreign investment, with the promise of bringing the price of cell phones within reach of the broader population. Although still not at an adequate level, spending on health has quadrupled⁵ and on education has almost tripled,⁶ while military spending has been reduced.⁷

There are many difficult choices ahead, and how the government approaches them in the immediate and near term will determine in large part whether the transition succeeds.

Thein Sein is focusing the third year of his term on administrative reform, removing bureaucratic impediments and corruption in government and the business environment in order to ensure that reforms translate into tangible benefits for the broader population. To this end, he established the Public Services Performance Appraisal Task Force to review the operations of all government ministries dealing with the public, cut red tape, streamline decision making, restructure

organization where necessary, and change organizational culture to improve the delivery of public services. He also created an anti-corruption committee, signed onto the Extractive Industries Transparency Initiative (EITI), and declared intent to join the Open Government Partnership—setting up a working group in the president's office to make the necessary preparations to meet these standards for transparency, accountability, citizen participation, and technology and innovation.

Contrary to early expectations, the national parliament has developed into an equally powerful center of reform under the leadership of lower house speaker Thura Shwe Mann, a former commander of Myanmar's armed forces. Over the past two years, the parliament has taken seriously its responsibility for oversight of the executive branch and legislating reform.

With the NLD's arrival in parliament in April 2012, Shwe Mann quickly formed a productive working relationship with NLD leader Aung San Suu Kyi and assigned her to chair the parliament's new Committee for Rule of Law and Stability. He encouraged all members of parliament to eschew party differences in the interest of promoting a reform agenda while attempting to build an organizational identity among members that would produce consensus votes. In a surprise demonstration of parliamentary solidarity, Shwe Mann decided in March 2013 to form a constitutional reform commission.

⁵ Mark Tay, "Myanmar Overhauls Healthcare as It Opens Up," *Reuters*, March 20, 2012, accessed June 5, 2013, <http://in.reuters.com/article/2012/03/20/myanmar-health-idINDEE82JOB20120320>.

⁶ Lara Farrar, "Myanmar's Educators Reach Out to the World," *New York Times*, May 5, 2013, accessed June 5, 2013, <http://www.nytimes.com/2013/05/06/world/asia/Myanmar-educators-reach-out-to-the-world.html?smid=pl-share>.

⁷ Tha Lun Zaung Htet, "Burma Parliament Approves Controversial Defense Budget," *The Irrawaddy*, March 1, 2013, accessed June 5, 2013, <http://www.irrawaddy.org/archives/28162>.

During a January 31, 2013, press conference, Shwe Mann acknowledged that many had expected a “15-minute parliament” like the “raise hand, nod parliament” of former strongman Ne Win’s Burma Socialist Program Party.⁸ While drawing attention to members of the executive and judicial branches who complain of parliamentary interference, he said that they did not understand the role of a multiparty parliament in a democratic system, where it was expected by the electorate to monitor and check the executive branch.

Not surprisingly, the reform process has not been universally welcomed. During 2011, it was clear that a number of former generals in both the parliament and the executive branch were actively impeding reform efforts. In a countermove in 2012, Thein Sein reshuffled his cabinet, sidelining the more prominent of the “reluctant reformers.” Some still remain in the parliament and play leading roles in the ruling Union Solidarity and Development Party (USDP). Additionally, some officials occupying strategic positions within government ministries are believed to be less than enamored with the direction of the reforms.

It would be a mistake to characterize this situation as a standoff between liberals and hard-liners. It is a much more fluid process in which some officials who support the general tenor of the reforms will come out against certain proposals for a variety of personal reasons. Other officials thought to be reluctant reformers may actually become important supporters of particular reforms. Thein Sein plays a crucial balancing role among all of the competing points of view and appears to have selected the senior officials in his own office to reflect the range of interests he must take into account to keep the reform process moving forward.

II. LOOKING AHEAD: 2015 ELECTIONS

THE YEAR 2015 STANDS TO BE A PIVOTAL ONE for Myanmar’s transition that will likely usher in a new generation of political leaders. Although the outcome of the 2015 election is difficult to predict at this point, one can anticipate that the process will be dramatically different from the heavily manipulated elections of 2010. Having demonstrated the ability to run largely free and fair by-elections in 2012, the government will be expected to repeat this performance in 2015.

The NLD will be a formidable opponent for the government party, challenging its domination of the parliament. When the government party recently signaled that it favored a change in the election rules for 2015 so that the lower house would be chosen according to proportional

⁸ Soe Than Lynn, “Ministers Do Not Understand Role of the Hluttaw: Speaker,” *Myanmar Times*, February 11, 2013, accessed June 4, 2013, <http://mmtimes.com/index.php/national-news/4021-ministers-do-not-understand-role-of-hluttaw-speaker.html>.

representation, the NLD objected strongly. Because proportional representation would improve the USDP's competitiveness with a strong NLD, this issue is likely to remain in contention as the elections approach.

It is still unclear whether President Thein Sein will seek a second term. If he decides to do so, he will be a strong candidate. It could turn out to be quite a race as two additional candidates are positioning themselves for the presidency. Speaker of the lower house Shwe Mann has established himself as a compelling leader in the parliament and a champion of reform. NLD leader Aung San Suu Kyi has been outspoken in her desire to become president and has taken issue with the provisions in the constitution ruling against her candidacy.⁹ The composition of the parliament after the election will be the critical factor in deciding who will be elected president, with the military likely to hold the key.

The year 2015 stands to be a pivotal one for Myanmar's transition that will likely usher in a new generation of political leaders.

Whatever the outcome of the next election, Myanmar has three recognized leaders behind its political transition, promising a continuity of leadership supportive of reform beyond 2015.

One of the most remarkable developments of the past two years has been the willingness of the former military leaders now in positions of power to embrace their strongest critic and political opponent, Aung San Suu Kyi. Defying all prior notions of their inherent opposition to democratic governance, Thein Sein, Shwe Mann, and other former military officials leading the reform effort have recognized that without the country's icon of democracy at their side, their program would not capture the support of the people. If they needed any further proof of this, the NLD's sweeping victory of the 2012 by-elections left no doubt.

Upon taking her seat in the parliament, Aung San Suu Kyi was quickly elevated to the status of political leader. In the past year, she has developed a working relationship with Shwe Mann and President Thein Sein that has come to symbolize a cooperative spirit vital to the success of the rapid transformation under way in Myanmar, sending a powerful message of reassurance to the people and, in the process, establishing herself as a viable candidate for president.

⁹ For more on these constitutional provisions, see "Suu Kyi: I Want to Run for President," *Radio Free Asia*, June 6, 2013, accessed June 17, 2013, <http://www.rfa.org/english/news/myanmar/assk-06062013180113.html>.

III. TOWARD 2015: TEN KEY CHALLENGES

THE FOLLOWING SECTION OUTLINES 10 CRITICAL CHALLENGES facing Myanmar's reformers between now and 2015. How the country's leaders approach them in the immediate and near term will determine in large part whether the transition succeeds.

1. REDEFINING AND PROFESSIONALIZING THE MILITARY'S POLITICAL AND ECONOMIC ROLE

The military still controls too much of Myanmar's political and economic structures. Although military leaders have so far played a rather benign role in the parliament and executive branch of the new government, their position within the country's economy is far from benign. The military holds power over a vast amount of the country's land and regularly takes additional property for its own purposes. Large military companies maintain access to the lion's share of the country's resources and, along with a handful of crony businessmen, dominate the economy. The military's desire to control the wealth of resources in Kachin State is undoubtedly a major reason why a cease-fire has been so difficult to reach.

Military and crony control of the economy, as it now exists, is a serious impediment to broad-based economic development.

Until the military can be removed from its economic domination of the country, both political reconciliation with minority nationalities and economic development are likely to remain elusive. If the country's reforms cannot deliver economic development to relieve the country's dire poverty, instability will be a constant threat.

2. FIRMLY ESTABLISHING THE RULE OF LAW AND STRENGTHENING THE JUDICIAL BRANCH

As Aung San Suu Kyi often points out, the absence of the rule of law is at the heart of most of the country's problems—land grabbing, ethnic and religious conflict, economic disparities, and corruption—and an independent judicial branch is essential to establishing the rule of law.

The judicial branch remains a major weakness in the new government structure. This is partly a structural problem and partly the result of decades of judicial abuse by successive military governments. On the structural side, the attorney general is separate from the court system, unlike most ministries of justice, including the U.S. Department of Justice. As a result, the two entities do not appear to be coordinating their reform efforts. It will be difficult to institutionalize the rule of law without better integration between the legal authorities and the courts that administer the law.

Furthermore, the newly established Constitutional Tribunal has not been able to forge an independent role for itself with authority to make rulings on constitutionality. Unfortunately, it has become a political football in the competition between the executive and legislative branches. These structural disconnects add to the problem of developing courts that are perceived by the people as capable of delivering justice fairly and establishing the rule of law in a justice system that has endured misuse over the course of five decades.

3. PROTECTING INDIVIDUAL RIGHTS

The 2008 military-drafted constitution contains an array of guarantees for individual rights, but it also makes these rights fully subject to security concerns. Although the reform process has opened the door to new freedoms over the past two years, they have not been enshrined in law. There are no legal protections for individual rights, despite the language in the constitution. In fact, all of the rules and regulations adopted since 1962 have focused strictly on security, and they remain on the books, available for security forces to use at their will.

It is time for both the parliament and the executive branch to begin rescinding the harsh security restrictions, beginning with Section 401 of the Code of Criminal Procedure, which maintains the original language pertaining to political prisoners even after they have been granted amnesty.¹⁰ Only then can the citizens of Myanmar be confident that they are truly on the road to democracy.

4. DEVELOPING EFFECTIVE FORMULAS FOR ETHNIC EQUALITY

For more than 20 years, the international community has called for reconciliation among Myanmar's military authorities, democratic opposition, and minority nationalities. A first step was taken by Thein Sein's government in allowing the democratic opposition to participate in the political system. In a surprising turn, the government has adopted the opposition's agenda for democratization and included Aung San Suu Kyi and the NLD in the reform process. With this, the first leg of reconciliation within the Burman majority nationality has been largely achieved.

Political transition itself is not enough to achieve ethnic equality; some hard, practical decisions about power sharing—both political and economic, and eventually necessitating constitutional amendment—will be required.

The intense focus on the military-civilian standoff during the past two decades has tended to subsume the differences between the military and ethnic nationalities within the anti-military movement. It is now clear that these differences are far more complex and difficult to resolve. Political transition

itself is not enough; some hard, practical decisions about power sharing—both political and economic, and eventually necessitating constitutional amendment—will be required. The early steps in this direction have been instructive for both parties, but these groups still have a long way to go.

¹⁰ For more information on Section 401, see Michael F. Martin, "Burma's Political Prisoners and U.S. Sanctions," Congressional Research Service, May 14, 2013, pg.9, accessed June 17, 2013, <http://www.fas.org/sgp/crs/row/R42363.pdf>.

As the democratization process develops, the minority nationalities are increasingly concerned with achieving a larger degree of self-determination than the new constitution appears to provide, not only to preserve their ethnic identity, but also to have more autonomy over resources in and the economic development of their native areas. At the heart of the matter is continuing central control—largely at the hands of the military—over their land and resources, which was consolidated during 50 years of military governance and oppression of minority groups. Untangling this web will take time and a great deal of creative compromise.

At the same time, two hopeful trends are under way that are not yet fully appreciated. First is the development of a serious debate over how to define federalism and whether it should be based on ethnicity or geography. The second is a government effort to change the reality on the ground by gradually strengthening local government and decentralizing authority and allowing more administrative power to devolve to the chief ministers, giving them more financial clout and a greater say in central government budget allocations. In fact, the main constraint on the devolution of the central government's power at this stage is more likely to be inadequate capacity than constitutional restrictions.

5. INSTILLING SOCIAL AND RELIGIOUS TOLERANCE

With the relaxation of authoritarian control and the expansion of free expression, social divisions arising from intolerance and prejudice have manifested to an alarming degree over the past year. To a certain extent, this is to be expected in a complex, diverse society that has been held in suspended animation for 50 years.

The communal violence occurring between Buddhist and Muslim populations is providing fertile ground for small bands of troublemakers to turn local disputes into major conflicts. Civilian police must be properly organized and trained to prevent and respond effectively to mob violence. At the same time, civil society, religious, and government leaders must address intolerance and prejudice urgently and with sustained education and counseling.

By working together to produce a set of guidelines to manage social and religious divides, Thein Sein, Shwe Mann, and Aung San Suu Kyi have taken an important first step. Even so, it is clear that the government must develop and implement better crisis management policies to prevent communal disputes from flaring into major conflicts.

6. ROOTING OUT CORRUPTION

As in most underdeveloped countries, corruption is endemic to Myanmar's government and economy and presents one of the most serious challenges to the reform process, democratization, and economic liberalization. The president has formed an anti-corruption committee to tackle this problem, but he realizes that such a campaign will inevitably collide with crony business structures, which control the economy through cozy relationships with key government officials. As cronies' ties with former military leaders and ministries are reduced and curtailed, they can be expected to

become more inventive, for example, by trying to influence parliament to pass legislation favorable to crony interests—as has already happened with the new Foreign Investment Law.

President Thein Sein will have to play the balancing role between competing factions and interests in the effort to curb corruption, as his past record is viewed as “clean.” If the level of corruption that exists today is not significantly reduced by 2015, Myanmar’s reforms will likely lead to the kind of “half-baked” democracy we have seen in many other areas of the world.

7. ADDRESSING THE “MISSING MIDDLE,” A CAPACITY VOID ACROSS THE SPECTRUM OF THE GOVERNMENT AND THE ECONOMY

One of the most serious hurdles for Myanmar’s reform process is the capacity void in the middle, across the spectrum of the government and the economy. The reforms are coming down from the top, and the emerging freedom is generating a great deal of activity, organization, and innovation at the ground level in urban areas, particularly Yangon, where approximately 10 percent of the country’s population resides.¹¹ The leadership at the top is pressing rapid and dramatic reforms on a sclerotic system, while civil society is beginning to clamor for responses on the ground.

Meanwhile, the missing middle, where the reforms should be translated from policy into practice, does not know which way to turn. It is a problem of both mindset and capacity. Government institutions and large economic enterprises accustomed to a military command structure have learned that taking the initiative and not waiting for explicit orders from above can be dangerous.

Civil service and business enterprises have been stacked with retired military without proper training to carry out what are now their civilian responsibilities.

The president and his ministers are trying to address this void in the government by using the Public Services Performance Appraisal Task Force to apply some shock treatment to the bureaucracy, connect it with its public customers, and make

it more efficient and responsive within a year. Building this capacity will take time, but given the range of urgent challenges facing the government, it should be a top priority.

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8. DELIVERING THE BENEFITS OF REFORMS TO THE BROADER POPULATION

Macroeconomic stabilization and new investment laws are major steps toward improving the business environment for foreign investors. While continuing these efforts, the government also must encourage and direct this investment toward job creation and agriculture that empowers ordinary farmers, not the crony class.

¹¹ United Nations Department of Economic and Social Affairs/Population Division, “World Urbanization Prospects: The 2011 Revision,” 2012, p. 274, accessed June 5, 2013, http://esa.un.org/unup/pdf/FINAL-FINAL_REPORT%20WUP2011_Annexables_01Aug2012_Final.pdf.

Military and crony control of the economy, as it now exists, is a serious impediment to broad-based economic development. Freeing farmers from onerous government control over production decisions and marketing, expanding access to loans, promoting model agricultural projects to demonstrate modern practices, and liberalizing product and export markets are the kinds of reforms that could deliver immediate improvements in living standards. Of the ten priorities identified in the President's Framework for Economic and Social Reform, five aim to achieve these objectives, but their implementation has been very weak.¹² The government must be pushed to stick to the President's Framework and deliver on these priorities.

9. ADDRESSING LAND AND PROPERTY RIGHTS

Despite the passage of a new land law by the parliament, people in Myanmar are still being unfairly displaced by large business and agricultural projects without adequate compensation or means of providing a livelihood. This is largely a legal matter, in which the law itself still allows sizeable tracts of land to be seized. The lack of access to a fair justice system leaves people with no means of redress for displacement.

In addition to legal remedies, new models must be found for ensuring that local residents gain a fair share in large development projects and that they have stable land rights that cannot be arbitrarily removed by entrepreneurs who have special ties to the government. A promising effort is now under way to develop the Thilawa Port Special Economic Zone with Japanese investment. This potential model is being designed with the participation of local residents, business leaders, government officials, and investors.

If the level of corruption that exists today is not significantly reduced by 2015, Myanmar's reforms will likely lead to the kind of "half-baked" democracy we have seen in many other areas of the world.

10. DEVELOPING MECHANISMS FOR NEGOTIATING TRADE-OFFS BETWEEN ECONOMIC DEVELOPMENT ON THE ONE HAND, AND SOCIAL DEVELOPMENT AND ENVIRONMENTAL PROTECTION ON THE OTHER

President Thein Sein's decision in September 2011 to suspend the construction of the Chinese-backed Myitsone Dam in Kachin State signaled the rise of social and environmental activism targeting past and future infrastructure and resource extraction projects. The previous government's wanton disregard for human welfare and the environment in the pursuit of lucrative resource extraction and large-scale industrial projects created a deep reservoir of anger and resentment among those displaced and harmed by the projects. When the new government began to define the public good as the responsibility of government, local groups began to push back against some of these projects, demanding proper compensation, access to arable land, and environmental protection.

¹² For more on the Framework for Economic and Social Reform, see "President U Thein Sein Delivers Address at First Myanmar Development Cooperation Forum," The Republic of the Union of Myanmar: President Office (January 19, 2013), accessed June 17, 2013, <http://www.president-office.gov.mm/en/briefing-room/news/2013/01/21/id-1430>.

One of the most remarkable developments of the past two years has been the willingness of the former military leaders now in positions of power to embrace their strongest critic and political opponent, Aung San Suu Kyi.

A government commission headed by Aung San Suu Kyi and composed of parliamentarians, officials from multiple ministries, and local stakeholders was formed to suggest solutions to a controversial copper mine operated as a joint venture between a large military company and a Chinese state-owned enterprise. The Letpadaung mine controversy, which faced increasing protest, turned contentious when a police attack seriously burned a group of Buddhist monks who had joined the local protesters. In March 2013, the commission produced a well-researched report about the dispute and offered suggestions for resolving it by meeting the interests of all stakeholders to some extent, although not fully satisfying any one group. The commission report presents a model for dealing with many similar projects. It calls for adequate social and environmental

safeguards from companies, transparency in the conduct of the project, proper compensation for local people who have been displaced, adequate provisions for their future livelihoods, preservation of local cultural and religious sites where appropriate, and training for local populations to provide the skills needed to work on the project.

Similarly, the EITI has established a Leading Authority consisting of the ministers concerned with extractive industries, finance, and the environment.¹³ Reportedly, the

pressure for transparency in the extractive industries is leading to heated debate among these ministers, which has, in turn, elevated the authority of the environmental ministry. The Leading Authority is staffed at the working level by a committee of senior director generals who are tasked with working out the trade-offs. These two examples are among the first clear signs of inter-ministerial coordination, which had been lacking in the past.

Apparently, the government is preparing to renegotiate all previously agreed-upon projects to ensure that appropriate safeguards are in place and to subject future projects to stricter social and environmental controls. It will be essential to work with local communities affected by development projects to address their needs and avoid having popular protests seriously impede the country's economic development and construction of essential national infrastructure. In ethnic minority areas, it will be necessary to ensure that proceeds from large resource extraction projects are shared fairly with the local area.

¹³ Extractive Industries Transparency Initiative, "Myanmar Appoints EITI Lead," December 17, 2012, accessed June 5, 2013, <http://eiti.org/news/myanmar-appoints-eiti-lead>.

IV. A NEW STAGE IN U.S.-MYANMAR RELATIONS

PRESIDENT THEIN SEIN'S VISIT TO WASHINGTON in May 2013—the first such visit in nearly 50 years—marked the beginning of a new stage in U.S.-Myanmar relations, one in which bilateral concerns will expand beyond the important human rights and democracy issues that have dominated the agenda for more than two decades.

While human rights and democracy should continue to occupy a paramount position in the relationship—with a special focus on addressing the social, economic, and ethnic divides that fuel violence in the country—U.S. mechanisms for addressing these concerns must continue to shift away from negative actions and move in the direction of positive reinforcement, responding as fully as possible to President Thein Sein's and other reform leaders' requests for assistance to advance democratic reforms and their institutionalization.

President Thein Sein's meetings with President Obama and U.S. officials in Washington, while dealing with key human rights and democracy concerns, also introduced important new dimensions to the relationship, promising a broad expansion of economic and political ties. The two sides signed a Trade and

Investment Framework Agreement to expand trade, strengthen labor standards, and improve conditions for investment. The U.S. pledged to help strengthen oversight of Myanmar's energy sector, improve agricultural productivity, and upgrade the Rangoon-Mandalay highway.¹⁴ It is expected that duties on Myanmar's exports to the United States may soon be removed. While these are modest steps compared with U.S. economic relations elsewhere in Asia, they are likely to produce a significant near-term boost in bilateral trade and investment, because these are starting from practically zero.

Given what is at stake, the United States should do all that it can to be a reliable partner to Myanmar as the country works to ensure that current positive trends continue to 2015 and beyond.

In a groundbreaking speech on the Senate floor during President Thein Sein's visit, Senator Mitch McConnell set the stage for lawmakers to begin rolling back trade sanctions on Myanmar, arguing that it was time for the U.S. Congress to take positive action in support of the democratic reforms under way: "In this post-junta period, the Burmese people need our help and bilateral trade can do just that. It can help improve Burmese lives and show the

¹⁴ Lin Thant, "US to Upgrade Burma's Transportation Structure," *The Irrawaddy*, May 23, 2013, accessed June 11, 2013, <http://www.irrawaddy.org/archives/35384>.

people of Burma that a move toward greater political openness under a new government brings with it tangible benefits in their daily lives.”¹⁵

While sanctions may have played a useful role in pressing the previous government to return the country to democracy, they are no longer a rational policy for addressing the problems of building democracy when the new government is intent on doing so. U.S. policy should focus on fully supporting Myanmar's transition to ensure the sustainability of current trends through 2015

While sanctions may have played a useful role in pressing the previous government to return the country to democracy, they are no longer a rational policy for addressing the problems of building democracy when the new government is intent on doing so.

and beyond. Myanmar is a desperately poor country, lacking democratic institutions, and rife with internal tensions born of poor education, a dearth of reliable information and data, and decades of isolation from the world. These problems are no longer the consequence of the new government's actions or intentions.

The restrictions on U.S. investors against partnering with and enhancing the country's military industries and crony system still make sense. As the goal of promoting economic growth and development will require the creation of a much broader-based free market system, U.S. investment and

assistance should be aimed at diminishing and not strengthening the corrupt military patronage system that currently dominates the economy. The investment guidelines developed by the State and Treasury Departments offer the best means to achieve this objective.¹⁶ At the same time, these guidelines and the list of Specially Designated Nationals that accompanies them should be kept under regular review and adjusted according to changing conditions.

During our recent discussions in Myanmar with government, political, business, and civil society leaders, we heard several common refrains on the question of how the United States could be most helpful to Myanmar at this stage in its transition.

- First was a request from government officials for the United States to work with Myanmar's civil society actors to help them understand the role of nongovernmental groups in a democracy and their complex relationship vis-à-vis government that makes democracy strong and stable. At the same time, civil society activists would like the United States to help Myanmar's government better understand the vital role that the nongovernmental sector plays in democratic governance, particularly in holding the government accountable for its policies and actions. This should not simply be perceived as political opposition in another guise. The clear message is that government and civil society must work in partnership.

¹⁵ Mitch McConnell, “McConnell Calls for Lifting Import Sanctions Against Burma,” press release, May 21, 2013, accessed June 11, 2013, http://www.mcconnell.senate.gov/public/index.cfm?p=PressReleases&ContentRecord_id=782adf5f-f924-4df0-bee0-eb504a97ea30&ContentType_id=c19bc7a5-2bb9-4a73-b2ab-3c1b5191a72b&Group_id=0fd6ddca-6a05-4b26-8710-a0b7b59a8f1f.

¹⁶ For more information on these guidelines, see HumanRights.gov, “Administration Eases Financial and Investment Sanctions on Burma,” May 25, 2013, accessed June 17, 2013, <http://www.humanrights.gov/2012/07/11/burmaresponsibleinvestment/>.

- Second was a similar request that the United States also work closely with government institutions to help them become more effective in carrying out reforms and responding to their public constituents.
- Third was a strong request from parliamentary leaders for a sustained parliamentary exchange, beginning with the top legislative leaders and extending to specialized committees, to increase their knowledge of the fundamental concepts of democracy and how it operates in practice. Many recognize that “democracy” in Myanmar is a word that has only recently been elevated to political respectability, having been decried by previous governments as a symbol of treason punishable by imprisonment. Most people, including those leaders now seeking to reshape the country into a democracy, have never received political science training and do not have any direct experience with the practice of democracy.
- Fourth, there was almost universal agreement that the United States should begin developing ties with and training Myanmar’s military leaders. Saying that the military should go back to the barracks is not a practical solution; military forces are not designed to sit in barracks. The Myanmar *Tatmadaw* (military) needs to have a role in the new democracy that international experts and counterparts can help them define. International assistance to and interaction with Myanmar’s military forces, therefore, can play a critical role in reorienting the *Tatmadaw*’s mission.
- Above all, our discussions in Myanmar over the past year have reinforced our belief that Americans in both governmental and nongovernmental spheres who wish to become involved in the historic transition in Myanmar need to take the time to look at the situation from Myanmar’s point of view and not approach it with the notion of pressing American solutions. A great deal of empathy, understanding, and sustained interest will be required in order for assistance from outside to take root and move this process forward effectively.