

Myanmar: Amending the Constitution, Elections, and the United States by David I. Steinberg

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The Myanmar parliamentary commission that is studying amendment of the Burmese constitution, approved by a flawed and manipulated referendum in 2008, will consider the more than 2,500 recommendations it has received in January 2014. Of these recommendations, 590 concern the first chapter of that document, which deals with fundamental principles of the state, including the extensive role and autonomy of the military, and citizens' rights and privileges. The military designed the constitution to ensure its indirect, continuing control.

Foreign observers, insofar as they consider Myanmar and its constitution, clamor for change regarding the qualifications for the presidency. Aung San Suu Kyi has specifically and on numerous occasions called for amendments that would allow her to assume that role, currently denied her because her family has foreign citizenship. Internal concerns about amendments are far more broad.

Amending the constitution is far from easy, requiring 75 percent approval of the Parliament – thus military approval – plus a national referendum. And yet, if Myanmar is to have a constitution that fully conforms to its stated aspirations to become a democracy, even a “discipline-flourishing” one as the previous junta proclaimed, many provisions need reconsideration, and not only the one calling for 25 percent of all seats in all parliaments – the bicameral national one and 14 provincial and six sub-provincial ones – to be allotted to active duty military chosen by the military commander-in-chief of the armed forces. This provision was based on an Indonesia model under President (former general) Suharto.

The United States has called for fundamental changes, not only to allow Nobel laureate Aung San Suu Kyi to run for either the presidency or vice-presidency, but also for civilian control over the Myanmar military. The next elections will be scheduled sometime in late 2015. If the constitution is amended prior to the elections, especially if the presidential provisions are relaxed, international approval from the West would no doubt result.

But if those elections are as manipulated as the ones held in November 2010, rather than the free and fair by-elections of April 2011, there will be major outcries from the United States, the European Union, and other states. How the Burmese people will react given their greater freedom of expression is unclear. In such circumstances, there may be calls from some in Congress to re-impose some of the

sanctions that have been lifted and to take a harder line with the new government. The US legislative and executive branches would probably be in accord on issuing clear negative signs to Myanmar, although there might be differences in the intensity of their responses, with the Congress likely to be more harsh.

Consider, however, the not improbable results of those elections if foreign observers and others consider them relatively free and fair but the constitution is not amended, thus denying the international community's avatar of democracy her chance at the presidency. Since Suu Kyi is now 67, 2015 might realistically be her last opportunity to fulfill her revered father's potential role – denied with his assassination in 1947 – and what she might consider to be her “manifest destiny.”

What will the position of the United States be? Statesmen and politicians never like to answer hypothetical questions, but policy makers should be considering alternatives. This could be the most important future policy position on Myanmar that President Obama will have to make. Leadership on Myanmar policy has over the past half-decade moved to the State Department from the generally hardline position on the Hill. But the 2016 US elections will likely distract executive branch policymakers as well as trigger shifts in State Department personnel both before and after the vote – even if the Democrats retain the White House – permitting Congress to play an even more important role in Myanmar policy.

United States policy has been guided by Aung San Suu Kyi. Even today, her imprimatur is placed on new programs, which are cleared with her before approval. Although she may no longer have the informal but effective de facto veto power she once held, her influence is still important. She has been articulate in her search for the presidency and has been attempting to influence foreign governments to support her claims. But such decisions need to be determined locally to have internal political legitimacy.

Whether any state should rely on any single national of a foreign state to effectively determine its policy toward the latter has long been a matter of some debate in the United States. In the case of Burma/Myanmar, the question may again loom large in Washington in two years.

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