



Burma's April Parliamentary By-Elections

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Summary

The Republic of the Union of Myanmar (Burma) is scheduled to hold parliamentary by-elections on April 1, 2012. Depending on the conduct of the election and the official election results, the Obama Administration may seek to alter policy towards Burma, possibly including the waiver or removal of some current sanctions. Such a shift may require congressional action, or may be done using executive authority granted by existing laws.

The by-elections originally were to fill 46 vacant seats in Burma's national parliament (out of a total of 664 seats) and 2 seats in local parliaments. On March 23, the Union Election Commission postponed voting for three seats from the Kachin State for security reasons. A total of 17 political parties are running candidates in the by-elections, including the National League for Democracy (NLD) and the pro-military Union Solidarity and Development Party (USDP). The by-elections are viewed as significant primarily because of the decision by the NLD to compete for the vacant seats.

The NLD and others allege that some Burmese officials and the USDP are taking steps to disrupt the NLD's campaign and possibly win the by-elections by fraudulent means. Despite these problems, events at which Aung San Suu Kyi speaks routinely draw tens of thousands of people. In response to international pressure, the Union Government has invited the Association of Southeast Asian Nations (ASEAN), the European Union (EU), the United Nations, and the United States to send election observers. The State Department has said it intends to accept the offer.

Although largely free and fair by-elections would be a significant development, the current political situation in Burma remains a source of serious concern for U.S. policy makers. Hundreds of political prisoners remain in detention. Despite ceasefire talks, fighting between the Burmese military and various ethnic militias continues, resulting in a new flow of internally displaced people (IDPs) and refugees into nearby countries. Reports of severe human rights abuses by the Burmese military against civilians in conflict areas regularly appear in the international press.

The response of the Obama Administration to Burma's by-elections will depend on the conduct of the campaign, the balloting process, the veracity of the official election results, and possibly on how the winners of the elections are treated once they become members of Burma's parliaments. In addition, the response of opposition parties (particularly the NLD and its chairperson, Aung San Suu Kyi), other nations and the EU to the by-elections may influence the U.S. response.

Under current law, President Barack Obama has the authority to waive many—but not all—of the existing sanctions on Burma, and he may choose to exercise that authority following the by-elections. Alternatively, the White House may ask Congress to consider legislation removing or altering some of the existing sanctions. For its own part, Congress may decide to re-examine U.S. policy towards Burma and make whatever changes it deems appropriate.

For additional information on Burma, see CRS Report R41971, *U.S. Policy Towards Burma: Issues for the 112th Congress*; CRS Report R41336, *U.S. Sanctions on Burma*; and CRS Report R42363, *Burma's Political Prisoners and U.S. Sanctions*. The report will be updated following the announcement of the official results of the by-elections, and as circumstances warrant.

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Background on the By-Elections

The Republic of the Union of Myanmar (Burma)¹ is scheduled to hold parliamentary by-elections on April 1, 2012. Depending on the conduct of the election and the official election results, U.S. policy towards Burma may undergo a major shift, possibly including the waiver or removal of some of the current U.S. sanctions. Other nations and the European Union (EU) are reportedly also considering removing sanctions or restrictions on Burma depending on the outcome of the by-elections.

The by-elections originally were to fill 48 vacant seats in Burma's various parliaments. Burma's parliamentary system consists of the bicameral Union Parliament (*Pyidaungsu Hluttaw*) plus separate local parliaments for each of the nation's seven states and seven regions.² The two chambers of the Union Parliament are the lower house People's Assembly³ (*Pyithu Hluttaw*) with 440 seats, and the upper house National Assembly⁴ (*Amyotha Hluttaw*) with 224 seats. The number of seats in the local parliaments vary. One-quarter of the seats in each chamber of the Union Parliament and in each of the local parliaments are appointed by the commander-in-chief of Burma's military, the Tatmadaw.

The April by-elections were to fill 40 vacant seats in People's Assembly, 6 seats in the National Assembly, 1 seat in Ayeyarwady (Irrawaddy) Region, and 1 seat in the Bago (Pegu) Region (see **Figure 1**). However, on March 23, 2012, the Union Election Commission (UEC) postponed voting for three People's Assembly seats in the Kachin State for security reasons.⁵ Forty-five of the seats are vacant because the elected member accepted a position in the Union Government.⁶ Two seats are vacant because the elected member was removed from office, and the last seat is vacant due to the member's death. All 48 seats were previously held by members of the pro-military Union Solidarity and Development Party (USDP).

In terms of the overall balance of power in the Union Parliament, the by-elections will have only a marginal impact. Less than 10% of the total seats in the People's Assembly and under 3% in the National Assembly are being contested (see **Table 1**). Even if the National League for Democracy (NLD) or other pro-democracy candidates wins all 43 seats in the Union Parliament, the USDP and the members appointed by the commander-in-chief will continue hold a sufficient majority to pass legislation without the support of the NLD or any other political party, as well as to pass constitutional amendments.⁷

¹ The 2008 constitution declares the official name of the country to be "The Union of the Republic of Myanmar." The United States continued to refer to the nation as "The Union of Burma."

² Burma consists of seven states (Chin, Kachin, Kayah, Kayin, Mon, Rakhine, and Shin) and seven regions or divisions (Ayeyarwady, Bago, Magway, Mandalay, Sagaing, Tanintharyi, and Yangon). The constitution stipulates that the capital of Nay Pyi Taw shall be a Union Territory under the direct administration of the president.

³ Sometimes referred to as the House of Representatives.

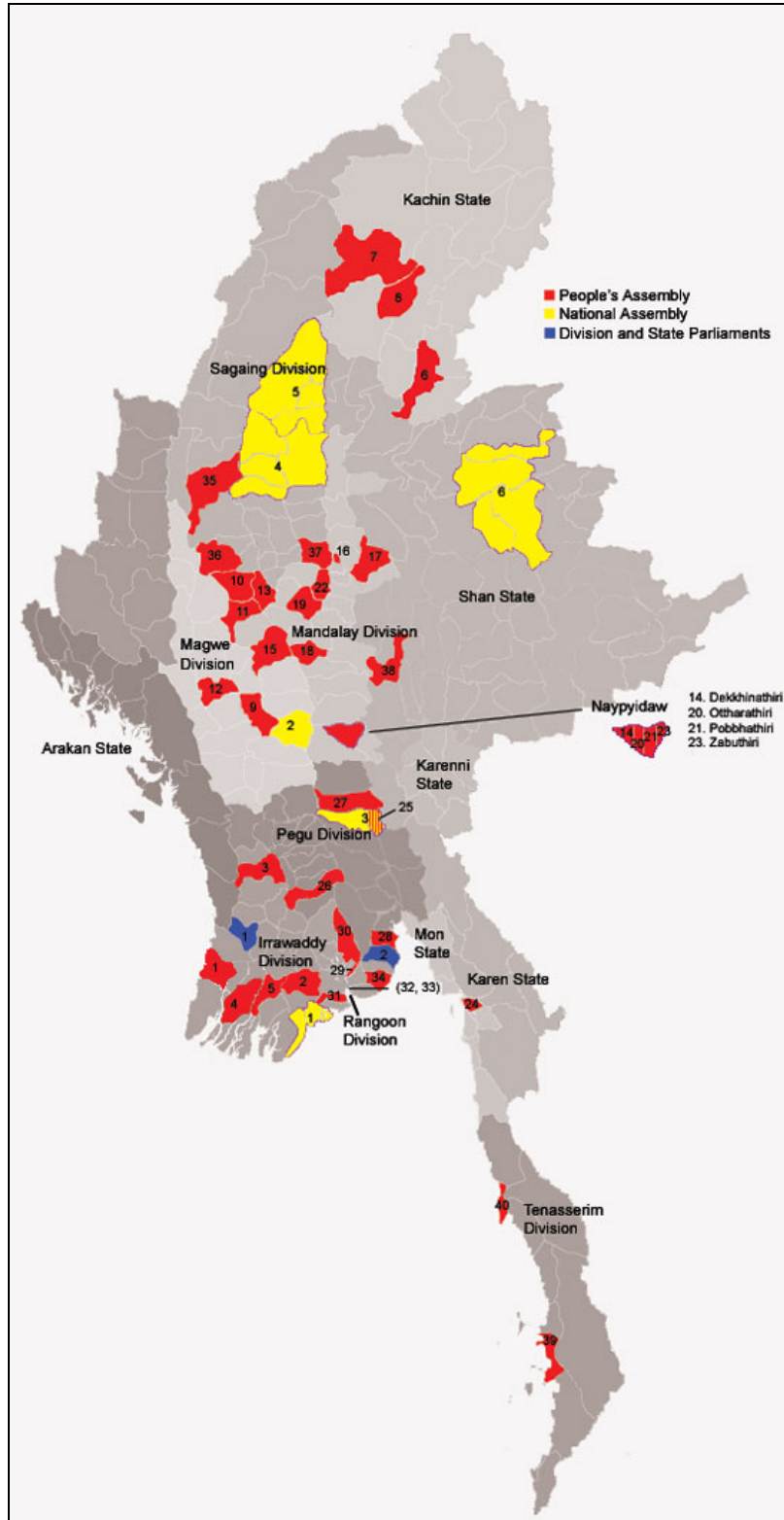
⁴ Sometimes referred to as the House of Nationalities.

⁵ Union Election Commission, "Announcement on the List of Constituencies Postponed for By-election," Announcement No. 16/2012, March 23, 2012, as published in the *New Light of Myanmar* on March 24, 2012.

⁶ Burma's constitution states, "If the Union Minister or Deputy Minister is a representative of a Hluttaw, it is to be assumed that he has resigned as a Hluttaw representative from the date he is appointed Union Minister or Deputy Minister."

⁷ Prior to the by-elections, the USDP held 342 seats and the military holds 166, or a total of 508 seats, in the Union Parliament. To pass a constitutional amendment requires 499 votes out of 664.

Figure I Map of Contested Seats in April By-Election



Source: Alternative ASEAN Network on Burma.

Note: Regions are sometimes referred to as divisions.

Table 1. Proportion of Union Parliament Seats Contested in By-Election

	People's Assembly (Lower House)	National Assembly (Upper House)
Total Number of Seats	440	224
Seats Appointed by Commander-in-Chief	110	56
Seats Being Contested in By-election	40	6
Percentage of Total Seats Contested	9.1%	2.7%
Percentage of Nonmilitary Seats Contested	12.1%	3.6%

Source: CRS.

The election campaign unofficially began in March 2012, after each party registered its slate of candidates with the Union Election Commission (UEC). President Thein Sein and the Union Government have pledged to make the by-elections free and fair. However, a number of incidents during the campaign period have revealed efforts by government officials to undermine the ability of the NLD to carry out its campaign, as well as intimidate or coerce people to support the USDP. The exclusion of certain political parties and the campaign irregularities have raised doubts about how free and fair the by-elections will be.

Who's Running—and Who is Not

A total of 17 political parties reportedly have registered the minimum number of three candidates running for office in the by-elections including the pro-democracy NLD and the pro-military USDP (see *textbox*).⁸ Two newly-registered parties—the 88-Forces of People's Party and the Democratic Alliance Party—were abolished for failing to field at least three candidates for the by-elections. The NLD and the USDP reportedly will field candidates for all 48 seats up for election on April 1, 2012.⁹ A spin-off party from the NLD, the National Democratic Front (NDF), and military's political party in the 1990 elections, the National Unity Party, will contest approximately 20 seats.

A number of political parties will not be participating in the by-elections for a variety of reasons. In addition to the two parties abolished for failing to field enough candidates, at least four political parties will be unable to participate in the by-election because the UEC has not acted on their applications.¹⁰ Two political parties—the Chin National Party and the Rakhine National Development Party—are not participating because none of the contested seats are located in their home states of Chin and Rakhine, respectively. Four political parties—the Arakan League for Democracy, the Mon National Democratic Front, the Shan Nationalities League for Democracy, and the Zomi National Congress—announced plans to register with the UEC, but not run candidates in the by-elections.¹¹ Members of the 88-Generation students group, an informal association of the student leaders of Burma's 8888 Uprising,¹² have also announced that they will

⁸ Under Burma's elections laws, a party must run at least three candidates.

⁹ "Seventeen Political Parties to Contest By-Election," *Mizzima*, February 8, 2012.

¹⁰ Four parties—the All National Races Unity and Development Party (Kayah State), Kachin State Progressive Party (KSPP), Northern Shan State Progressive Party, and the People's New Society Party (PNSP)—submitted applications to the UEC before the November 2010 elections, but were never granted permission to register as political parties.

¹¹ "Ethnic Shan Leader in Myanmar to Re-register Party," *Associated Press*, January 19, 2012, and "Four Dissolved (continued...)"

not run candidates as part of a separate political party, but will support the NLD. Several political parties—such as the Karen National Union, the Karenni National Progressive Party, and the Pa-O National Liberation Organization—have also decided not to participate in the by-elections because some of their members remain in detention and/or because the Burmese militia continue to attack their associated militias.

The Campaign

President Thein Sein and the Union Government have repeatedly promised free and fair by-elections. Each of the 17 political parties is being provided air time on the radio and television during the month of March.¹³ In addition, each party is allowed to print a party policy statement in the government-run newspaper, *The New Light of Myanmar*. However, both the texts of the broadcasts and the printed policy statements must be submitted in advance and are subject to censorship.¹⁴

The election campaign has been marred by reports of government officials using their official powers to hinder the NLD's ability to hold political rallies, as well as intimidating and threatening voters to support USDP candidates.¹⁵ In addition, the USDP allegedly has developed a “dirty tricks” campaign to ensure their candidates win the elections. The Union Election Commission (UEC) has taken steps to undo the roadblocks placed before the NLD candidates, but reports of unfair campaign practices continue to appear in the press.

One of the most common impediments placed before the NLD campaign has been the refusal of the Ministry of Sports to allow the NLD to hold rallies in football (soccer) stadia. NLD rallies at

Political Parties Participating in the April By-Elections

All Mon Region Democracy Party*
 Democratic Party (Myanmar)*
 Kokang Democracy and Unity Party*
 Lahu National Development Party*
 Modern People's Party
 Myanmar National Congress
 Myanmar New Society Democratic Party*
 National Democratic Force*
 National League for Democracy
 National Unity Party*
 New National Democracy Party
 Pa-O National Organization*
 People's Democracy Party
 Shan Nationalities Democratic Party*
 Union of Myanmar Federation of National Politics*
 Union Solidarity and Development Party*
 Unity and Peace Party
 *participated in November 2010 elections

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Ethnic Parties to Re-Register,” *Mizzima*, January 20, 2012.

¹² The 8888 Uprising was the largest ever national Burmese uprising demanding democracy, erupting on August 8, 1988 (8-8-88) in Rangoon by various student groups. The uprising was brutally suppressed by the ruling military junta, but is generally considered a contributing factor to the military's decision to hold parliamentary elections in 1990.

¹³ A timetable providing the dates on which each party will be on the air was published in the government-run newspaper, *The New Light of Myanmar*, on February 18, 2012.

¹⁴ The restrictions on the text of the broadcasts were published in *The New Light of Myanmar* on February 17, 2012, and include such items as ban on tarnishing the image of the State and the Tatmadaw, or making statements that are “detrimental to security, prevalence of law and order and peace and tranquility.”

¹⁵ For a more detailed list of attempts to obstruct the NLD campaign, see Alternative ASEAN Network on Burma, *Burma Bulletin*, Issue 62, Bangkok, Thailand, February 2012.

which Aung San Suu Kyi has spoken routinely draw over 10,000 people, making it desirable to use the stadia. On February 17, 2012, the NLD wanted to hold a rally at Pyapon Stadium in the Irrawaddy region, but the sports ministry refused permission and the event was relocated to the outskirts of the city.¹⁶ Previous requests to use a football stadium on February 15 in the Rangoon region and in Mandalay on February 4 had also been denied by the sports ministry.¹⁷ On February 20, 2012, the UEC instructed the sports ministry to lift its restrictions on the use of sports stadia.¹⁸ While the block on NLD access to sports stadia seems over, the Mon State Election Commission refused to grant permission for the NLD to hold a rally at Than Lwin Garden in the city of Moulmein.¹⁹

Besides their apparent attempts to block NLD rallies, it has been alleged that local government officials and the USDP are intimidating and threatening voters to support the USDP as part of what opposition groups see as a larger “dirty tricks” campaign. Civil servants in the capital of Nay Pyi Taw (Naypyidaw) were reportedly told not to attend NLD rallies.²⁰ The residents of one village were told they would not be connected to the electric grid if someone in their household attended an NLD rally.²¹ Factory workers have reportedly been warned that they will lose their jobs if they do not vote for the USDP.²² One report alleges that the USDP has a secret election strategy paper calling for the use of bribery, vote-buying, intimidation, and fraud to win the parliamentary seats in the by-election.²³

The NLD has also reported other forms of campaign irregularities. It claims that the official voter registration lists include a significant number of dead people, but omit many eligible voters.²⁴ In addition, the NLD report that in some parts of the country, advance ballots were being collected well ahead of the official dates of March 30 and 31.²⁵ It was alleged that advanced ballots were used by the SPDC, the UEC, and the USDP to steal some of the seats in the November 2010 parliamentary elections.

The UEC’s decision to postpone the voting for the three People’s Assembly seats from the Kachin State has been criticized as being politically motivated. Some of the opposition party candidates for those seats dispute the UEC’s claim of security problems, maintaining that the districts are not in areas where the Tatmadaw and the Kachin Independence Army (KIA) have been fighting.²⁶ The NLD, NDF, USDP, and the Shan Nationalities Democratic Party had candidates running in one or more of the postponed constituencies.

The Alternative ASEAN Network on Burma (ALTSEAN)²⁷ released an overview of the by-elections on March 27, 2012, asserting that the conduct of the elections to date falls short of

¹⁶ Myo Thant, “Sports Ministry Denying Suu Kyi Access to Stadiums,” *Mizzima*, February 20, 2012.

¹⁷ Ibid.

¹⁸ “Ban on Suu Kyi Rallies is Lifted,” *Mizzima*, February 21, 2012.

¹⁹ Lawi Weng, “NLD Venue Snub for Suu Kyi Rally,” *Irrawaddy*, March 9, 2012.

²⁰ “Suu Kyi Lashes Out in Taungoo,” *Irrawaddy*, March 6, 2012.

²¹ Hpyo Wai Tha, “NLD Supporters Left in the Dark,” *Irrawaddy*, March 9, 2012.

²² Larry Jagan, “USDP Plans Dirty Tricks Campaign for Burma By-election,” *Irrawaddy*, February 28, 2012.

²³ Ibid.

²⁴ “Complaints Lodged over Accuracy of Burma’s Voter Registration Rolls,” *Mizzima*, March 8, 2012.

²⁵ “Suu Kyi Questions the Fairness of the Burmese Election,” *Mizzima*, March 19, 2012.

²⁶ Myo Thant, “Authorities Cancel Election in Three Kachin Constituencies,” *Mizzima*, March 26, 2012.

²⁷ ALTSEAN (Alternative ASEAN Network on Burma) is a network of organizations and individuals based in ASEAN (continued...)

international standards.²⁸ According to ALTSEAN's assessment, the by-elections fall short of international standards in several ways, including:

- The election laws limit political participation;
- The UEC is neither independent nor impartial;
- Campaign restrictions remain in place;
- The complaint process is ineffective and inaccessible;
- Government officials and UEC representatives interfere in the activities of opposition parties;
- Government officials and USDP members have threatened, harassed, or attempted to bribe voters;
- Thousands of voters have been disenfranchised because of inaccurate voter registration lists; and
- Campaign materials have been censored.

Despite the reported irregularities, rallies at which Aung San Suu Kyi speaks have proven to be very popular. Turnout at these rallies regularly top 10,000 people, and in some cases over 40,000 people have attended the event. The press has not provided much coverage of the political rallies held by the USDP or the smaller opposition parties, but it is presumed that these events are not as well attended.

The Union Government has been under significant international pressure to allow international election monitors or observers for the April by-election. The Burmese government initially said that international observers were not necessary, but President Thein Sein indicated on February 21 that the Burmese government was "seriously considering" allowing observers from ASEAN.²⁹ On March 20, 2012, the Association of Southeast Asian Nations (ASEAN) announced that it had been invited to send 5 observers and 18 parliamentarians (2 from each of the other 9 ASEAN member nations) starting on March 28, 2012.³⁰ On March 22, the European Union (EU), the United Nations, and the United States were also invited to send a limited number of election observers.³¹ State Department spokesperson Victoria Nuland has stated that the United States is ready to send its observers.³² However, at the same time reports of the invitation of international observers from ASEAN, the EU, the United Nations, and the United States appeared in the press, an election monitor for the Bangkok-based Asian Network for Free Elections was deported by the Union Government.³³

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member states working to support the movement for human rights and democracy in Burma.

²⁸ ALTSEAN, *Burma's By-elections: Still Short of International Standards*, BN 2011/1089, March 27, 2012.

²⁹ "Myanmar to Consider ASEAN Poll Monitors," *Channel News Asia*, February 21, 2012.

³⁰ "Burma Gets ASEAN Poll Monitor Boost," *Democratic Voice of Burma*, March 20, 2012; and "Myanmar to Allow Some Election Observers," *Channel News Asia*, March 20, 2012.

³¹ "U.S., EU Election Observers Invited to Burma," *Mizzima*, March 22, 2012; "Burma Invites US and EU Observers to April By-Elections," *BBC*, March 21, 2012; and "Myanmar invites US, EU, UN Election Observers," *Straits Times*, March 22, 2012.

³² "US Ready to Send Observers to Myanmar," *AFP*, March 21, 2012.

³³ Saw Yan Naing, "Election Coordinator Deported from Burma," *Irrawaddy*, March 21, 2012.

U.S. Response

Since the UEC officially announced the dates for the parliamentary by-elections, the Obama Administration has called upon the Burmese government to take the necessary measures to ensure that the elections are held in a free and fair manner. During his trip to Burma three weeks before the by-elections, Special Representative and Policy Coordinator for Burma Derek Mitchell reiterated the U.S. position, saying, "What we're interested in is the process. We're committed to a free, fair, and transparent process that truly represents the will of the people of this country."³⁴ In addition, senior U.S. officials have indicated to the Burmese government that it should consider allowing international observers to watch the election campaign, the balloting process, and the vote-counting to confirm that the election was conducted according to internationally accepted standards.

The Obama Administration has also signaled that it would consider modifying or waiving some of the existing sanctions on Burma if it determines that the elections were sufficiently free and fair to warrant such a response. It has not, however, announced what changes in the sanctions are being considered. Nor has it disclosed the manner in which the possible changes would be made, including whether it intends to approach Congress to pass legislation. Among the criteria to be considered in determining if the by-elections were sufficiently free and fair are the conduct of the campaign, the voting process, and the official results. Many observers believe that Aung San Suu Kyi's assessment of the election process will influence the Obama Administration's decision as well. Some analysts suggest that the U.S. response may be done in a series of steps, with some possible sanction modifications being made only after the winners of the by-elections have been sworn into office and sufficient time has passed to assess how the new members of Parliament are being treated by the USDP majority.

The Obama Administration's response to the by-elections may also be influenced by how other countries and the EU react to the election results. On January 23, 2012, the EU suspended a visa ban against 87 individuals, including President Thein Sein, the nation's two vice presidents, its cabinet members, and the speakers of the two houses of Burma's parliament.³⁵ In addition, the EU has indicated that—pending the conduct of Burma's by-elections and continuing progress in a number of areas—it could relax other restrictive measures during the next comprehensive review of Burma sanctions, most likely to occur in late April.³⁶ Australia and Japan have also signaled their intent to review their sanctions on Burma following the by-elections. The Obama Administration may decide to weigh its response after consultation with other entities that have imposed sanctions on Burma.

³⁴ Aung Hla Tun, "U.S. Urges Free and Fair Polls in Myanmar—Envoy," *Reuters*, March 15, 2012.

³⁵ See *Council Conclusions on Burma/Myanmar*, <http://register.consilium.europa.eu/pdf/en/12/st05/st05618.en12.pdf>. The decision was formalized and detailed Council Decision 2012/98/CFSP on February 17, 2012 (see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:047:0064:0068:EN:PDF>).

³⁶ Since 2003, the EU's Common Position on Burma expires every 12 months. Prior to the expiration date, the position comes up for renewal, amendment, or replacement, and is accordingly reviewed by EU foreign ministers at the Council of the European Union. The next expiration date is April 30, 2012. Decisions require consensus among all 27 EU member countries.

Other Developments in Burma

While the parliamentary by-elections are drawing much of the attention in Burma, important developments have occurred with respect to other major issues of concern for the United States, particularly the continued detention of political prisoners, the Tatmadaw's continued attacks on ethnic militias, and the continued human rights violations of civilians in conflict areas.³⁷ The perceived status of these issues is likely to influence the Obama Administration's potential response to the outcome of the parliamentary by-elections.

Political Prisoners

Since assuming office in April 2011, President Thein Sein has authorized four separate amnesties or pardons for large groups of prisoners in Burma, including several hundred political prisoners (see **Error! Reference source not found.**). However, hundreds of political prisoners remain in detention. Burma's political prisoners include members of the NLD and other opposition parties, representatives of various ethnic groups in Burma, Buddhist monks and nuns, student and youth organizers, news reporters, and other dissidents. Conditions for the political prisoners are reportedly harsh.³⁸ According to the Thailand-based advocacy group Assistance Association for Political Prisoners (Burma) (AAPP(B)), 458 political prisoners reportedly remained in detention in Burma as of March 17, 2012.³⁹ The AAPP(B) has also compiled a list of 403 additional political prisoners allegedly under detention but whose location has not been verified.⁴⁰ The Organization of Former Political Prisoners (OFPP), a group of recently recent political prisoners, has released a list of 619 political prisoners still under detention.⁴¹ The State Department's Bureau of Democracy, Human Rights, and Labor has compiled and continues to update a list of all known political prisoners in Burma based on nongovernmental organization (NGO) and government sources, which forms the basis of the State Department's ongoing engagement with the government of Burma on political prisoners.

Table 2. Prisoner Reprieves, 2011-2012
(in reverse chronological order)

Date	Total Prisoners	Political Prisoners
January 13, 2012	651	302
January 2, 2012	6,656	34
October 11, 2011	6,359	237
May 16, 2011	14,578	55

Source: Assistance Association for Political Prisoners (Burma).

³⁷ For more information on Burma's political prisoners, see CRS Report R42363, *Burma's Political Prisoners and U.S. Sanctions*, by Michael F. Martin. For more information on human rights in Burma, see CRS Report R41971, *U.S. Policy Towards Burma: Issues for the 112th Congress*, by Michael F. Martin and Derek E. Mix.

³⁸ According to a story in the *Los Angeles Times*, some prisoners are tortured and placed in solitary confinement for years. Others are forbidden to speak. Medical care is limited, and the provided food is "barely edible." ("Political Prisoners in Burma Face Bleak Conditions," *Los Angeles Times*, December 3, 2010.)

³⁹ The complete list of names is available at http://www.aappb.org/Updated_Confirmed_PP_list_1.html.

⁴⁰ The complete list of names is available at http://www.aappb.org/Updated_To_Confirm_PP_list_1.html.

⁴¹ Nyein Nyein, "US Envoy Told 619 Political Prisoners in Burma," *Irrawaddy*, March 16, 2012.

The Burmese government has given significantly different estimates of the number of political prisoners in custody. President Thein Sein told reporters in Bali, Indonesia, on November 20, 2011, that there were no political prisoners in Burma and that “all prisoners have broken the law.”⁴² However, Ko Ko Hlaing, a close political advisor to President Thein Sein, estimated the number of political prisoners in detention in Burma at about 600 prior to the October 2011 prisoner amnesty.⁴³ Following the January 13 release, Home Affairs Minister Lieutenant General Ko Ko told the press that 302 of the 651 people released were “prisoners of conscience,” and that 128 dissidents remain in detention.⁴⁴

Ethnic Conflicts and Ceasefire Talks

The Union Government has apparently abandoned the SPDC initiative to transform the various ethnic militias into Border Guard Forces (BGFs) and returned to a policy of negotiating ceasefire agreements with the militias' representative organizations.⁴⁵ Nine of the 16 ethnic minority groups have signed initial ceasefire agreements with the Union Government, but in many cases fighting continues. Ceasefire talks with the larger ethnic groups—particularly the Kachin Independence Organization (KIO)—have been unsuccessful. President Thein Sein has instructed Commander-in-Chief General Min Aung Hlaing to order his troops to stop all offensives against the ethnic militias, but such assaults reportedly continue. In addition, the Tatmadaw allegedly continue their past practices of mistreating the civilians in conflict areas, resulting in the internal displacement of tens of thousands of people and the flight of an unknown number of people across the borders into China and Thailand. As a result, the human rights situation in Burma—particularly in conflict areas—has not improved significantly over the last year, according to a recent report by Human Rights Watch.⁴⁶

A negotiating team headed by Minister of Railways Aung Min has concluded initial ceasefire agreements with several ethnic organizations. A second negotiating team, headed by member of Parliament Aung Thaung and responsible for the talks with the KIO, has had less success. The negotiating teams' goals appear to be to secure promises to not secede from Burma and stop hostilities in exchange for autonomy in militia-controlled areas and a promise for future talks aimed a more permanent ceasefire or peace agreement. The two major stumbling blocks in the negotiations are the general terms of the permanent ceasefire or peace agreement and the militias' lack of trust of the Burmese government and the military, given their past history of breaking ceasefire agreements.

Preliminary ceasefire agreements have been signed with the Chin National Front, the Democratic Karen Buddhist Army, the Karen National Union, the New Mon State Party, the Shan State Army—North, the Shan State Army—South, and several smaller ethnic militias. Talks with the KIO have so far failed to come to a preliminary agreement. To date, the Union Government has refused to hold ceasefire talks with the Arakan Liberation Party.

⁴² “Myanmar President Insists No Political Prisoners in Jails,” *Asia-Pacific News*, November 20, 2011.

⁴³ “Only 600 Political Prisoners in Burma; President’s Advisor,” *Irrawaddy*, October 18, 2011.

⁴⁴ “Burma’s Remaining Jailed Dissidents,” *Irrawaddy*, January 17, 2012.

⁴⁵ For a history of Burma’s ethnic militias, and the SPDC’s Border Guard Force initiative, see Transnational Institute, *Neither War Nor Peace: The Future of the Cease-fire Agreements in Burma*, Amsterdam, The Netherlands, July 2009.

⁴⁶ Human Rights Watch, *World Report 2012: Country Report—Burma*, January 2012.

Human Rights

The ongoing fighting in the ethnic conflict areas and reports of continued political repression in Burma's urban areas indicate that progress on human rights remains slow. According to Human Rights Watch, "Burma's human rights situation remained dire in 2012 despite some significant moves by the government..."⁴⁷ The organization noted the relaxation of some media restrictions and censorship of the press, as well as the passage of legislation allowing the formation of trade unions and the holding of peaceful protests. However, pre-publication censorship is still required for most publications, and certain topics remain forbidden, such as coverage of the ongoing fighting in conflict areas or criticism of the Tatmadaw. In addition, the new laws have yet to be enforced. For example, attempts to register labor unions have been rejected supposedly because of a lack of implementing rules and regulations.

In the conflict areas, reports of grievous human rights abuses conducted by the Burmese military continue to appear in the international press. The Tatmadaw allegedly have engaged in the following activities since the Union Government took power:

- Summary execution of militia members and civilians;
- Rape and sexual assault of women and girls in conflict areas;
- Forced labor of civilians as porters, human shields, or as human "minesweepers";
- Impressments of under-aged children as "child soldiers"; and
- Destruction and expropriation of property.

Similar allegations have been made against some of the ethnic militias.

The continued fighting in Burma has resulted in ten of thousands of internally displaced people (IDPs) and thousands of new refugees fleeing into China and Thailand. The situation is apparently quite severe for the IDPs in the Kachin state, where the Union Government and the Tatmadaw have largely refused to allow international relief organizations access to the IDPs. The Chinese government recently admitted that hundreds of Burmese refugees have crossed the border. Thailand has also acknowledged that the recent fighting in eastern Burma has led to an inflow of refugees.

Implications for Congress

The April parliamentary by-elections provide Burma's Union Government, its Union Parliament, and the Tatmadaw another opportunity to demonstrate their commitment to political reform and national reconciliation. They also provide Congress with more evidence by which to assess the present situation in Burma and to possibly re-examine current U.S. policy. In addition, Congress may be asked by the Obama Administration to alter or amend one or more of the existing laws governing U.S. sanctions on Burma, depending on the outcome of the parliamentary by-elections.⁴⁸

⁴⁷ Human Rights Watch, *World Report 2012: Country Summary—Burma*, January 2012.

⁴⁸ For more information on which sanctions are subject to presidential waivers and which require congressional action, see CRS Report R41336, *U.S. Sanctions on Burma*, by Michael F. Martin.

One of the key issues likely to be considered is the criteria by which to assess the by-elections. Events to date demonstrate that the elections will not achieve internationally recognized standards for free and fair elections. The exclusion of some political parties, constraints on campaigning activities, and censorship of campaign speeches and materials already violate expectations for free and fair elections. In the end, the question will be if the by-elections are sufficiently free and fair to warrant some response by the United States.

Another likely key issue is the establishment of the criteria by which to select and construct such a U.S. response. One criterion used in the past has been the rewarding of positive developments by providing Burma with something it desires. A second criterion suggested is to respond in a manner that is expected to encourage or create incentives for the Burmese government to undertake further reforms. A third criterion is to take actions that bolster the political power or authority of Burmese officials identified as being pro-reform, and/or undermine the power or authority of Burmese officials views as being barriers to progress in Burma. Other criteria for the formation of the U.S. response have been discussed, but it may benefit Congress to consider its goals and objections when taking up the issue of a possible response to the April by-elections.

Finally, the Obama Administration may approach Congress with specific requests for the alternation or amendment of existing laws imposing sanctions on Burma. In many cases, the President has the authority to temporarily or permanently waive existing sanctions. However, in some cases, such authority does not exist and reduction or removal of the sanctions will require congressional action. The Obama Administration has already begun consultations with Congress on the future development of U.S. policy towards Burma. During the period prior to and after the by-elections, Congress may decide to conduct hearings and undertake other forms of investigation into the situation in Burma in preparation for its response to a request from the Obama Administration.

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