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## Burma's new election laws

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*At the beginning of March 2010, Myanmar's military government enacted five laws that were designed to pave the way for the national elections to be held at the end of the year. The new election laws were immediately criticised by the opposition NLD, the US and the UK, among other countries, and a wide range of activist organisations.*

The international outcry over Burma's new election laws was inevitable and justified. More surprising was the apparent expectation on the part of some commentators that these laws would be anything other than repressive and unjust. This raises an intriguing question: was some of the public outrage expressed last week designed to put pressure on governments other than the military regime in Naypyidaw?

Given the regime's behaviour since 1988, not to mention the provisions of the 2008 constitution, it has long been clear that the proposed transition to a 'genuine multiparty discipline-flourishing democracy' in Burma is simply a legalistic device to disguise continuing military rule, behind the facade of an 'elected' parliament. This being the case, few observers seriously expected the new laws to be other than, in the words of one US official, 'a mockery of the electoral process'.<sup>1</sup>

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1 David Gollust, 'US: Burma Election Law "Mockery" of Democratic Process', *Voice of America*, 10 March 2010, [www1.voanews.com/english/news/US--Burma-Election-Law-Mockery-of-Democratic-Process-87269337.html](http://www1.voanews.com/english/news/US--Burma-Election-Law-Mockery-of-Democratic-Process-87269337.html) [page discontinued].

There is still some uncertainty over what the laws actually mean, but it appears that political parties cannot list any members who have criminal convictions. This means the NLD, which won the 1990 elections by a landslide, must expel opposition leader Aung San Suu Kyi—and other political prisoners—or be declared illegal.<sup>2</sup> The laws also require allegiance to the new constitution, which, among other provisions, sets aside 25 per cent of all parliamentary seats for members of the armed forces.

The fact that everyone's worst fears have been realised is no reason to passively accept the new electoral laws, but it does make some of the comments heard about them seem a little disingenuous. There are good reasons to decry the failure of the military government to observe widely accepted democratic principles and to acknowledge the clear wishes of the Burmese people. But no one should act surprised that the laws are as restrictive as they are.

Indeed, given the tenor of a few of the comments heard over the past week, it is worth considering whether there might be some other reason this issue has attracted so much attention, particularly from hardline opponents of the regime.

It is self-evident that, over the past 20 years, economic sanctions and other punitive measures levelled against Burma have failed to remove the military regime or persuade it to abandon any of its core policies. It has refused to transfer power to a democratically elected civilian government or to engage in a substantive dialogue with the opposition movement and ethnic communities. Nor has the regime taken steps to improve its human rights record, release political prisoners (including Aung San Suu Kyi) or introduce major economic reforms.

The harsh reality is that, despite all the pressures it has faced over the past 20 years, from both internal opposition forces and hardline foreign states, the military regime has become progressively stronger. It still faces some serious problems but, measured objectively against several criteria, the regime is now better off and more firmly entrenched in power than at any time since the abortive 1988 prodemocracy uprising. It would not be risking the transition to a new system of government if it was not confident of being able to control the process.

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2 'PM Calls Election Terms in Burma "Restrictive and Unfair"', *Number 10.gov.uk*, 15 March 2010, [www.number10.gov.uk/Page22826](http://www.number10.gov.uk/Page22826) [page discontinued].

There are still some politicians and activist groups, however, who remain convinced that even stronger rhetoric and tougher sanctions will eventually bring down Burma's military regime, or at least persuade it to mend its ways. These advocates have strongly criticised the Obama administration and others, like the ASEAN member states, for engaging with the military regime in an effort to ameliorate political, economic and social conditions in Burma. Critics of this approach have characterised it as naive, while some have even branded it immoral.<sup>3</sup>

In these circumstances, it is worth asking whether some of the criticisms heard about Burma's new election laws—characterised by US Senator Mitch McConnell as 'a farce'—represent at least in part an attempt to discredit the Obama administration's policy of 'practical engagement'.<sup>4</sup> By highlighting Naypyidaw's apparent indifference to US wishes, opponents of the administration's more nuanced approach are able to press their case for a return to the hardline policies of the Bush era.

When it introduced its new Burma policy last September, the Obama administration stated that political change in that country was going to be a long, slow and difficult process. It knew that there were going to be setbacks. It also accepted that, at times, President Obama would face accusations from his political opponents that Burma's generals were treating the US with contempt. And, indeed, over the past six months, all this has proven to be the case. Yet this does not mean that the policy was misguided or will be easily abandoned.

The US Government has publicly expressed its deep disappointment over the new election laws. It has stated plainly that Washington has no hope that the elections due to be held later this year, given their nature, will be credible.<sup>5</sup> However, officials have also said that the US is not surprised by the regime's failure so far to open up the political process.

3 Andrew Selth, 'Burma: Obama's "Practical Engagement"', *The Interpreter*, 18 November 2009, [www.lowyinterpreter.org/post/2009/11/18/Burma-Obamas-pragmatic-engagement.aspx](http://www.lowyinterpreter.org/post/2009/11/18/Burma-Obamas-pragmatic-engagement.aspx) [page discontinued] [now at [archive.lowyinstitute.org/the-interpreter/burma-obama-pragmatic-engagement](http://archive.lowyinstitute.org/the-interpreter/burma-obama-pragmatic-engagement)].

4 Senator Mitch McConnell, 'Statement of Senator McConnell on Burma's Election Laws', Press release, 10 March 2010, [mccconnell.senate.gov/public/index.cfm?p=PressReleases&ContentRecord\\_id=791027b0-1f0b-489c-9022-4105a85fc37c&ContentType\\_id=c19bc7a5-2bb9-4a73-b2ab-3c1b5191a72b&Group\\_id=0fd6ddca-6a05-4b26-8710-a0b7b59a8f1f&MonthDisplay=3&YearDisplay=2010](http://mccconnell.senate.gov/public/index.cfm?p=PressReleases&ContentRecord_id=791027b0-1f0b-489c-9022-4105a85fc37c&ContentType_id=c19bc7a5-2bb9-4a73-b2ab-3c1b5191a72b&Group_id=0fd6ddca-6a05-4b26-8710-a0b7b59a8f1f&MonthDisplay=3&YearDisplay=2010).

5 Philip J. Crowley, Assistant Secretary, 'Daily Press Briefing', US Department of State, Washington, DC, 10 March 2010, [www.state.gov/r/pa/prs/dpb/2010/03/138195.htm](http://www.state.gov/r/pa/prs/dpb/2010/03/138195.htm) [page discontinued] [now at [2009-2017.state.gov/r/pa/prs/dpb/2010/03/138195.htm](http://2009-2017.state.gov/r/pa/prs/dpb/2010/03/138195.htm)].

They have emphasised the continuing need for a strategic approach, taken in collaboration with likeminded countries, based on commitment, consistency and patience.<sup>6</sup>

After all is said and done, perhaps the most obvious lesson to be drawn from the regime's new electoral laws is that meaningful political change can only come from within Burma and from the Burmese people themselves. Whatever their policies, the ability of foreign countries and international organisations to influence internal developments will remain limited.

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6 Aye Chan Naing, 'Kurt Campbell: "No Change in Burma"', *Democratic Voice of Burma*, 8 March 2010, [www.dvb.no/interview/kurt-campbell-no-change-in-burma/](http://www.dvb.no/interview/kurt-campbell-no-change-in-burma/) [page discontinued].

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