

**REGIME CHANGE AND REGIME MAINTENANCE
IN ASIA AND THE PACIFIC**

Discussion Paper No. 17

Two Papers on Burma

JOSEF SILVERSTEIN

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REGIME CHANGE AND REGIME MAINTENANCE IN ASIA AND THE PACIFIC

In recent years there have been some dramatic changes of political leadership in the Asia-Pacific region, and also some dramas without leadership change. In a few countries the demise of well-entrenched political leaders appears imminent; in others regular processes of parliamentary government still prevail. These differing patterns of regime change and regime maintenance raise fundamental questions about the nature of political systems in the region. Specifically, how have some political leaders or leadership groups been able to stay in power for relatively long periods and why have they eventually been displaced? What are the factors associated with the stability or instability of political regimes? What happens when longstanding leaderships change?

The Regime Change and Regime Maintenance in Asia and the Pacific Project will address these and other questions from an Asia-Pacific regional perspective and at a broader theoretical level.

The project is under the joint direction of Dr R.J. May and Dr Harold Crouch. For further information about the project write to:

The Secretary

Department of Political and Social Change

Research School of Pacific and Asian Studies (RSPAS)

The Australian National University

GPO Box 1428

Canberra ACT 2600

AUSTRALIA

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THE 1994 UNITED NATIONS RESOLUTION: WHAT THE SECRETARY GENERAL CAN DO^{*}

When the UN Charter was drafted in 1945, its authors declared that one of its purposes was to promote and encourage respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion (*United Nations Charter*, Art. 1.3). Three years later, the members of the UN adopted the Declaration of Human Rights, which detailed the human rights and fundamental freedoms all people should enjoy and established a moral standard by which state actions toward its citizens could be measured.¹ But not all members, despite their pledges and approval, honour these commitments.

* Subsequent to the writing of this paper a further UN resolution was passed in 1995, repeating the call for the secretary general 'to continue his discussion with the Government of Myanmar in order to assist in the implementation of the present resolution and in its efforts for national reconciliation', and to report to the General Assembly and the Commission on Human Rights (*A/C.3/50/L.52* 5 December 1995). At a March 1995 meeting of the Commission on Human Rights, in Geneva, the Commission encouraged the secretary general 'to continue his discussions with the Government of Myanmar in order to assist in the process of democratization and national reconciliation...' (*E/CN.4/1995/L.101* 3 March 1995). However, references to 'national reconciliation', which was emphasized in the UN speech by Burma's foreign minister in 1994, did not appear in his 1995 speech.

Since this paper was written, Aung San Suu Kyi has been released from house arrest, but her movements and activities remain heavily circumscribed. In October 1995 the SLORC refused to recognize her reappointment as general secretary of the National League for Democracy (NLD); in December she was taken to military headquarters and warned against attending a Karen new year celebration; and she and other members of the NLD must obtain permission to travel within Burma.

Following the Burma military's violent and brutal suppression of peaceful popular demonstrations for the restoration of democracy and human rights on 18 September 1988, the nations of the world and international organizations condemned their actions and used a variety of political, economic and diplomatic means to try and persuade the military rulers, the State Law and Order Restoration Council (SLORC), to allow the Burmese people to achieve their goals.

As early as 1989, the UN Commission on Human Rights (UNCHR) took note of events in Burma and began investigations. It subsequently appointed a special rapporteur, Yazo Yokota, to visit Burma and make specific inquiries.² Because SLORC would neither comply fully with the investigator nor take the necessary actions called for in the resolutions, the UNCHR made its reports and resolutions public, thus giving the widest publicity to violations of human rights by the Burma armed forces.

Independently, the UN General Assembly, in 1991, began to examine and discuss human rights violations and denial of democracy in Burma. Following careful examination of charges and complaints the General Assembly adopted four successive resolutions which, like those adopted by the UNCHR, called repeatedly upon the rulers in Burma to halt their brutality and disregard for human rights and allow the people to establish a democratic multiparty system of their own choice. On 13 December 1994 the UN General Assembly adopted by consensus a resolution which expressed grave concern that SLORC 'still had not implemented its commitments to take all necessary steps towards democracy in the light of the results of the election held in 1990...' and continued the violations of human rights detailed by the UNCHR Special Rapporteur. It repeated its earlier calls for the SLORC to release Daw Aung San Suu Kyi and other political prisoners, to end human rights violations, to restore democracy, and 'to respect fully the obligations of the Geneva Conventions of 1949, in particular the obligations in common article III...'.³

Several nations around the world, including the US, Japan, and members of the European Community, cut off aid, halted lending, and refused to renew some bilateral trade agreements in order to persuade SLORC to honour its international obligations and the resolutions of the Commission on Human Rights and the UN General Assembly.

But many other nations draw upon the UN Charter's Art. I.7 — which holds that the world body 'shall not intervene in matters which are essentially within the domestic jurisdiction of any state...' — and do not believe that any international body or nation has a right to interfere in the internal affairs of Burma.

Several of these nations which allowed themselves to be included in the 1994 consensus resolution went with the flow rather than have a full debate and recorded vote because they knew that General Assembly resolutions are recommendations only and carry no mandatory obligations upon members to carry them out.

The ASEAN countries, Burma's nearby neighbours, do not believe that bringing pressure on the military rulers of Burma will lead to change; instead, they have sought to employ 'constructive engagement' — which assumes that the SLORC will remain in control and, therefore, that the best way to deal with it is by expanding ties, increasing foreign influence, and promoting economic growth.

The SLORC's permanent representative to the UN, U Win Mra, made Burma's position perfectly clear in his response to the 1993 General Assembly resolution:

...the resolution flagrantly attempted to interfere in the internal affairs of the Union of Myanmar...it completely ignored the principles ...of impartiality, objectivity and non-selectivity, on the promotion of human rights...the resolution was totally unacceptable to the Government of Myanmar and the Myanmar delegation dissociated itself from its adoption.⁴

With a divided UN and SLORC's unwillingness to be deflected from its self-chosen course, the authors of the resolutions tried a new tack in 1993, requesting the assistance of the secretary general in implementing the resolution and reporting to the 1994 General Assembly.

The secretary general carried out the request by transmitting the UNCHR special rapporteur's interim report and addendum on the human rights situation in Burma. He also distributed a letter from Burma's permanent representative which answered the charges raised by Yokota and others. In his own report, the secretary general described his efforts to establish contact with the leaders of SLORC and start a dialogue. He met with Burma's foreign minister,

U Ohn Gyaw, at the UN where they talked about SLORC's plan to restore democracy to Burma, about human rights and humanitarian issues, and about the prospects for reintegrating the national races in Burma's political life.

A second meeting took place in Rangoon between the secretary general's representative, the undersecretary general, Rafeudin Ahmed, Burma's foreign minister and members of SLORC. The secretary general concluded that the talks did not produce the results he desired because SLORC refused to allow his representative to meet with Daw Aung San Suu Kyi and would not accept any of the specific ideas offered by the UN on resolving the issues raised in the several resolutions and reports; nevertheless, he welcomed SLORC's agreement to continue the talks.⁵

The 1994 resolution enlarged the UN General Assembly's request for help from the secretary general. In addition to continuing his discussions with SLORC, it asked him to assist SLORC's efforts to achieve national reconciliation and to report to the next General Assembly and the 1995 meeting of the UNCHR.⁶

'National reconciliation' is a term which the SLORC uses as one of its justifications for continuing to rule the peoples of Burma. The SLORC has spoken repeatedly of the 'Three Causes' which forced it to take power, and how it works vigilantly to prevent the disintegration of the Union, to prevent the disintegration of national unity, and to protect the perpetuation of national sovereignty.

SLORC argues that disunity in Burma can be traced back to the period of British rule, when the imperialists practised a policy of 'divide and rule' and institutionalized the separation of the Burman majority from the ethnic minorities.⁷ At the time of Burma's independence in 1948, it says, it was British insistence upon a federal political system with the 'right of secession' for the Shans and Karenni which kept the peoples divided and gave rise to multiple insurgencies. The unrest in 1988, it argues, could have been the prelude to the end of national sovereignty had the army not acted decisively. SLORC's permanent representative to the UN, U Win Mra, said:

...unity among the national races is vital for the preservation of the independence and sovereignty of Myanmar as well as for economic and social progress of the country. Beset with internal strife started by various armed groups immediately after independence, Myanmar has lagged in economic development far behind other nations in the

region. The State Law and Order Restoration Council therefore attaches great importance to the strengthening of unity and solidarity among all national races. Since its inception, the State Law and Order Restoration Council has been giving priority to the achievement of national reconciliation (*United Nations General Assembly A/C.3/49/15, op. cit., p.4*).

During discussion of the 1994 resolution, U Win Mra reminded the General Assembly that the process of national reconciliation was an internal matter. 'We shall seek to...find a domestic solution...without any outside involvement'.⁸ Since U Win Mra did not say specifically that SLORC would reject an offer of help from the secretary general, it seems possible that he will be able to carry out his charge without provoking the military rulers to defy the resolution and block his efforts.

Despite SLORC's protestations against international interference in internal affairs, it needs international political support, foreign investment, purchase of its products, aid and loans. Its human rights record keeps most developed nations from lending money or approving loans from the World Bank and other international lending agencies. Given the level of its international debt, estimated at \$US7 billion, its lack of foreign exchange, and its need to sell off its nonrenewable resources to pay for its expanding army and military modernization, it cannot continue indefinitely the internal war and at the same time take the necessary steps to achieve real economic development.

Only China and the ASEAN states have befriended Burma openly; their investments and trade have provided crucial support during the past six years. Even though a united and peaceful Burma would make it possible for them to expand their investments in Burma and realise greater profits, they do not show any desire to take the initiative in helping the Burmese solve their national unity problem.⁹

There is a number of reasons why the UN secretary general should become involved, as the General Assembly has requested. He has standing with both sides; his office has given neither public support nor formal recognition to any of the opposition groups at war with the government. At the same time, the minorities and Burmans who are free to speak out have expressed trust in him and have called for his or his staff's presence in proposed meetings between themselves and SLORC. He and his staff have demonstrated impartiality whenever called upon to gather or convey information. Finally,

given the hardened positions of all the principals in the Burma drama, and the positions and statements of world leaders on Burma affairs, the secretary general may be the only person who is acceptable to all sides in offering a new perspective on the problem.

Based on his experience in 1993-94, the secretary general knows a good deal about Burma's recent past. He knows from published and widely distributed sources that from independence to the mid 1980s the government and the majority of the people faced revolt and demands for the right of secession from several ethnic minorities; that the position of most of the dissident minorities then changed as they fought for inclusion in a true federal union based on the principle of equality with the majority Burmans. He also knows that since 1988 the thousands of Burmans who took refuge amongst the minorities following the military's brutal seizure of power made it possible for both to learn much about each other; in 1992 the organizations of the Burmans and the minorities agreed to form a common organization, the National Council of the Union of Burma, and to live in peace and unity while fighting to defeat SLORC; they agreed to call a truly national convention representing all the peoples of Burma to draw up a federal constitution based on equality, rights of self-determination, democracy, and human rights under a government based on the principle of civilian supremacy.¹⁰

Thus, with national reconciliation between Burmans and the minorities living in areas where they are free to speak out, the threat to national unity no longer is between the Burmans and the minorities, but between the ruler — SLORC, who holds power by force — and the ruled — the people of Burma, who fight for the right to determine their own political future. In the Burma heartland, the absence of popular support for SLORC shows that there, too, the struggle is between the rulers and the ruled and not between ethnic groups.

The secretary general also knows that the military leaders tell the story of Burma differently. They see the history of modern Burma as 'synonymous with the history of the *Tatmadaw*. [Burma's army]'. Since the struggle for national independence following the end of World War II, 'it [the *Tatmadaw*] has been in the forefront of national politics' and has had the primary responsibility for ensuring national unity.¹¹

SLORC argues that the 1988 demonstrations were the work of the Burma Communist Party (BCP) whose secret plan was to foment demonstrations and

take advantage of popular discontent in order to seize power, destroy the state, break up national unity and fragment the territory of the union.¹²

The military's version of events reports that the BCP sought to use Daw Aung San Suu Kyi, the national leader who rose during the demonstrations, by infiltrating her circle of advisors. She, according to SLORC, 'has been influenced by anti-government, opportunistic politicians and insurgent groups in their attempt to seize political power...'. Her criticisms of General Ne Win's dictatorial rule and misuse of the army against the people were seen as seditious and were believed to have incited 'the people to acts of violence and to cause division within the armed forces and division between the armed forces and the people.' It placed her under arrest on 20 August 1989, 'for her own good and for the good of the country....'.¹³ Until the collapse of the BCP in 1989, it posed a major threat to the nation and a challenge to the army.

SLORC sees a second threat to national unity coming from the revolts and secessionist movements of the various minorities. Since 1949 it has fought against the Karens and other minorities; on at least two occasions it sought to negotiate settlements in the interest of national unity and peace, but the efforts failed. SLORC believes that only the military's patriotism and sacrifice saved the union.

Finally, it prides itself on having saved the nation in another way — by taking political power in 1958 when a split in the governing party threatened to erupt into a new stage of civil war. Although the military returned power in 1960, two years later it overthrew the government and established a military dictatorship, which, in various forms, governs to this day.

The secretary general also knows that shortly after it seized power in 1988, SLORC's spokesmen promised that it had no intention of holding power longer than necessary to restore unity and peace, hold new elections and give power to a strong government operating under a new constitution. It held the elections in 1990, but refused to transfer power: instead, it systematically destroyed the organizations of the people in the Burma heartland. A few of those elected in 1990 took refuge amongst the minorities in the hills and, with their backing, organized a rival government, the National Coalition Government of the Union of Burma.

Also during this period, SLORC expanded its war against the minorities who rejected its offers of ceasefire. It refused to recognize and negotiate with

the organizations of the minorities; instead, it attacked the ethnic armies and brutalized the noncombatant villagers in the war zones as a way of pressuring the armed units to accept its offer of a ceasefire to individual groups. By 1994 thirteen groups had signed agreements; three others remained in revolt. The ceasefire agreements require that those who accept them have no contact with former allies still in revolt.

From his sources, the secretary general knows that SLORC has succeeded in destroying nearly all organized opposition groups in the nation, separating the people from their leaders and from each other. In this environment, it has convened a national convention of hand-picked delegates to write a new constitution which will give the military permanent leadership of the nation. It has also created a mass political organization, the Union Solidarity Development Association, which appears to be the vehicle by which it will replace political parties as a means of mobilizing the people.

Recognizing that SLORC's plans for national reconciliation are well under way, what role can and should the secretary general play in assisting SLORC's 'efforts of national reconciliation'? The secretary general well knows that SLORC is able to impose its solution and will use armed force to gain compliance. He should attempt to point out to SLORC that such a course can produce temporary results, at best, and probably will cause a new round of unrest, revolt and secession. A real and lasting solution can be achieved only when the leaders of SLORC and the Burmese people meet, talk and develop answers together in an environment of trust and freedom.

If the secretary general is to have any success he should go to Burma and meet with the leaders of SLORC and initiate a dialogue. By personally visiting Burma he will elevate the meeting to the highest level—between the head of the UN and the head of state. This will underscore the importance and seriousness of his mandate and the institutions he represents while demonstrating his respect for the men who govern and represent Burma in world affairs. It will be a clear signal of the urgency that he and the members of the UN attach to the resolution of the Burmese situation and of his serious effort to carry out the responsibilities it has given him.

In his talks, the secretary general should begin by emphasizing the international aspects of Burma's internal problems: the endless flow of refugees to its neighbour's lands, which is both costly and potentially destabilizing; the threat of border wars and international incidents resulting from intrusions into

neighbouring territory and causing human and property damage as well as ill will among neighbours; the growing opium problem which stems from the flow of the narcotic into and through neighbouring states, affecting the lives of peoples both in Burma and beyond. He should review the basis for international concern over events inside Burma and ask why the member states in the General Assembly have not accepted SLORC's responses to serious charges of human rights violations. He especially should convey the UN's continuing concern about the [house arrest and] near isolation of Daw Aung San Suu Kyi and the continuing imprisonment of other political leaders of the victorious political party, the National League for Democracy (NLD). He should emphasize that these are but two of the specific violations of basic human rights which symbolize the large number of cases of human rights violations against ordinary people in the Burma heartland and the border areas.

The secretary general should seek to enlarge the discussion by asking the SLORC leaders to inform him as fully as possible about the problems of internal war, the national convention, and the other issues which stand in the way of resolving national reconciliation. At the same time, he must convey to SLORC that the international community believes that real and lasting solutions to Burma's problems can only be achieved when it and the leaders of the Burmese people meet and talk; they will not result from the present national convention, which has no popular mandate.

The secretary general should emphasize that he has not come to offer a readymade plan for solving national reconciliation. His purpose is to urge that a permanent solution not be imposed on the people; that it should result from free and open discussions between SLORC, the leaders and elected representatives of the victorious parties, and the leaders of the minorities who were not permitted to contest the elections.

The secretary general should make clear that his purpose is to suggest that SLORC needs to change the political environment and create a climate for discussion which is open, free and reflective of the equality of all who participate, and build confidence; that it wants the input and participation of the people and their leaders. He should emphasize that the absence of popular support either for the government or for the way it is going about writing a new constitution casts serious doubt amongst the leaders of the nations of the world that it will achieve national reconciliation. In the nearly five years since the national elections, the UN General Assembly and UNCHR find little or no

evidence that SLORC's policies for national reconciliation are working; they believe that it is time to take a new approach.

The new approach, the secretary general should suggest, begins with creating a new relationship between all parties. With all power in the hands of SLORC it is in a position to change the environment by taking several unilateral steps:

1. Release Daw Aung San Suu Kyi unconditionally. By having met with her at least twice in 1994 and reporting it to the nation, SLORC demonstrated to the world that it recognized her unique importance and position of leadership of the people. From its discussions with her, together with her written words, SLORC should be clear that she does not intend to foment revolution; instead, she stands ready to work for peaceful political change. The secretary general must convince SLORC that Daw Aung San Suu Kyi is its only means of reaching the people, and can be trusted to participate in a peaceful process leading to national unity and a real transfer of power. She must be allowed to renew her contacts and exchange ideas with the people if she is to be an effective and responsible partner in any future dialogue. SLORC could make no clearer move to indicate to the Burmese and the watching world that a change in the political climate of Burma has begun.

2. SLORC also must take a companion step and release all remaining political prisoners unconditionally so that the civilian leadership of the people can be reestablished. It is clear from the transcripts of the Bill Richardson and Aung San Suu Kyi talks and from her writings that she does not see herself as the lone spokesperson for the people; she has said repeatedly that she and the other leaders will work together and arrive at common stands which they will convey to the listening public. The students, monks and the NCGUB, both inside Burma and in exile, also must be free to return home and be reunited with their families and communities. This, too, will be a confidence-building step the people will welcome and to which they will respond positively.

The secretary general must attempt to impress upon the military rulers that all restrictions on the movement of leaders and people, and their rights to free speech, assembly and publication must be ended so that the people will have further reasons to believe that real change is in progress.

3. Probably the most important step SLORC should be encouraged to take is to declare a national armistice in the civil war and grant freedom of

movement between the leaders of the ethnic military forces and their people. It should call upon the opposition to join in separating armies on both sides so that warfare cannot be resumed accidentally. The secretary general also must encourage the SLORC to relax or repeal its restrictions upon minority groups¹⁴ which have signed ceasefire agreements and allow them to have contact with former allies who never signed. He should point out that such freedom is necessary to demonstrate that a new environment exists, that the minorities will have the political freedom to talk to one another and begin integrating themselves with the peoples in the heartland and ending their long isolation and division from the rest of the nation.

Once a new environment has begun to emerge and the people have reason to believe that it reflects a genuine and permanent change away from SLORC's dictatorial rule, the secretary general should suggest a way to use the new environment to take a further step to real and lasting national reconciliation. He should offer to organize a unique forum for all parties, which fits the particular situation in Burma, where they can carry forth the process already begun under the earlier steps.

A model he might consider is the one created by the Indonesian foreign minister for bringing together the rival forces in Cambodia and starting a dialogue among them. There, too, all sides in the civil war initially were unwilling to move toward discussions. But, by hosting an informal meeting and inviting all to come, with no agenda and no demand for anyone to talk to anyone else, there began a process which eventually led to peace.

In the case of Burma, the secretary general might offer the UN headquarters as the venue, or suggest a location either in China or Thailand with the three acting as co-hosts. If SLORC accepted the offer, it most likely would prefer a site on the territory of one of its neighbours because this would be seen as a friendlier location; both China and Thailand have major economic interests in Burma which are located in the minority areas; both know the SLORC and minority leaders well; both have demonstrated, by their political support for and business relations with SLORC, that they are Burma's friends and not intent upon dictating how its internal affairs should be resolved.

Given that almost all of its internal enemies are under control and that foreign investment and trade are growing, SLORC may believe that it can continue to reject such advice and that eventually the world will come around

and accept its regime. But such optimism does not take into account that the UNCHR 1995 meeting in Geneva will endorse a stronger resolution against SLORC than those in the past because SLORC made no real improvement on the issue of human rights violations nor did it cooperate fully with the special rapporteur. The continued imprisonment of Daw Aung San Suu Kyi is decried by all nations of the world and many, such as Japan, once Burma's major source of financial support, have said bluntly that there will be no real aid for Burma until she is released. Although ASEAN's members remain quiet and supportive of SLORC, they have seen no real political change in Burma despite their 'constructive engagement' policy. And several ASEAN states have made further progress in their relations conditional on her release.

SLORC knows that refusal to cooperate with the secretary general in carrying out his mandated mission will only harden the nations of the world against it and could cause them to increase their pressure at the General Assembly in 1995. SLORC could face a call for a world embargo against its products, a call for foreign companies to halt doing business in Burma, and a tourist embargo in 1996, the year SLORC has designated as 'Visit Myanmar [Burma] Year'.

Finally, SLORC knows that its ceasefire agreement with the minorities¹⁵ are not peace treaties ending the threat of renewed warfare. While SLORC scored a major victory over the Karens in January 1995, it did not defeat them or force them to accept a ceasefire on its terms. Also, the renewal of large-scale warfare against the Karens, after having announced a unilateral ceasefire in April 1992, was a blow to SLORC's credibility and the reliability of its word. The weakening of the Karens will hurt the efforts of the Mons and Karenni who continue their fight, but there are no signs that any of the three will end their wars.

Both the SLORC and the world know that the minorities in revolt still are in a position to impede the construction of the gas pipeline in their area and to threaten it once it is built. Both also know that the instability in the countryside continues to present greater risks to investment than many foreign firms may be willing to take. And while SLORC proudly announces the growing size of international investment, most money has been promised but not actually invested; with citizen boycotts and demonstrations in the US and elsewhere gaining success against products made in Burma, the likelihood of new long-term investment by private enterprise remains slim.

The General Assembly's request to the secretary general to assist in the implementation of the resolution and help SLORC achieve national reconciliation offers SLORC a way out of its difficulties. It remains to be seen if SLORC is wise enough to seize the opportunity to solve problems which, thus far, have eluded it.

Notes

- ¹ United Nations, *Universal Declaration of Human Rights*, General Assembly Resolution 217A (ICC) 10 December 1948.
- ² United Nations Commission on Human Rights, *Resolution 1992/58*, para 3, nominated a 'Special Rapporteur to establish direct contacts with the Government and people of Myanmar...'
- ³ *United Nations General Assembly, A/C.3/49/L43* 2 December 1994. Adopted by unanimous consent by the General Assembly on 13 December 1994.
- ⁴ *United Nations General Assembly, A/C.3/49/15* 10 November 1994. Annex. *Memorandum Relating to General Assembly Resolution. 48/150*. p. 2.
- ⁵ *United Nations General Assembly, A/C.49/716* 25 November 1994, Situation on Human Rights in Myanmar: Report of the Secretary General, p. 3.
- ⁶ *United Nations General Assembly, A/C.3/49/L43*, para. 19.
- ⁷ State Law and Order Restoration Council, *State Law Order Restoration Council Stand Clarified Regarding Myanmar Naing-Ngan's National Objectives* (Rangoon, 1992), pp. 217-18.
- ⁸ Permanent Mission of the Union of Myanmar to the UN, 'Statement by the Permanent Representative Alternative Chairman of the Delegation of the Union of Myanmar to the Forty ninth Session of the UN General Assembly in the Third Committee on Draft Resolution A/C.3/49/1.43, Situation of Human Rights in Myanmar' (mimeo), p.6.
- ⁹ In 1989 Thailand's General Chavalit offered to mediate between SLORC and the minorities but SLORC rejected the offer and neither Thailand nor any other ASEAN state has tried again.
- ¹⁰ 'Manerplaw Agreement: Agreement to Establish a Federal Union of Burma. Constitution and Rules and Regulations of the National Council of the Union of Burma' (mimeo).

¹¹ *United Nations General Assembly, A/C.3/49/15, op.cit. p.4.*

¹² *Ministry of Information, State Law and Order Restoration Council, Burma Communist Party's Conspiracy to Take Over State Power (Rangoon, 1989).*

¹³ *United Nations General Assembly, A/49/594/Add. 1, Human Rights Question: Human Rights Situation and Report of Special Rapporteurs and Representatives: Situation of Human Rights in Myanmar, Note by the Secretary General. Addendum. 9 November 1994, p.11.*



FEDERALISM AS A SOLUTION TO THE ETHNIC PROBLEM IN BURMA*

From 4 January 1948, the day the Union of Burma came into existence as an independent nation, the Burmese people and their leaders have been divided over how to achieve national unity and structure their state. Until 1988, Burma was federal in name and theory, but unitary in practice. After nearly five decades of political discussion, peaceful movements for secession or autonomy, and warfare, the majority Burmans and most of the ethnic minorities remain disunited. From time to time efforts have been made by the government of Burma and the minorities, either alone or in groups, to end revolt and disunity, but none has succeeded.

Today, the basic problem is the same as that which the nation's founding fathers faced nearly fifty years ago: how to construct a political system wherein diverse peoples feel free and equal, able to govern themselves in their own areas, and to protect and preserve their languages, cultures and traditions, while at the same time give their political loyalty to the nation-state.

But today's political conditions are different from those when the state was created. In 1947, the Burman leaders made a sincere effort to win the participation of the minorities in a common political union. Both at the Panglong Conference and, later, at the constitutional convention, the participants came as equals, seeking each other's help and agreement; the participants thought they found the answer in the idea of a federal union. But the state they erected was soon challenged by misunderstandings and mistrust as faulty draftsmanship, fundamental disagreements about how power was divided, the degree of local authority, and the threat of Burmanization led to

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disunity, discontent and rebellion. In 1962, the military overthrew the government arguing that such a move was necessary because the minorities were bent on breaking up the union and creating independent states. The coup leaders set aside the constitution and, under their decrees, created a centralized state with all power located in Rangoon. Twelve years later, in 1974, they institutionalized the unitary state in a new constitution while retaining a nominal federal form; under the principle of democratic centralism, they concentrated authority at the apex, made all subunits of government subordinate, and placed the whole system under a single political party created and controlled by the military.

The new constitution did not bring peace and national unity; instead, it brought wider revolution and new demands by some minorities for the right to leave the union.

In September 1988 Burma's military leaders seized power from the government they had created fourteen years earlier, abrogated the constitution they had written, and set the nation on a new course. Following their dissatisfaction with the outcome of a free and fair election in 1990, which would have handed power to the representatives of the people, the soldier-rulers wrote a charter (Declaration 1/90) empowering themselves to govern by martial law and began erecting a new state structure. Through force and negotiations, they created the illusion of peace by crushing all opposition in the Burman heartland and by signing ceasefire agreements with fifteen ethnic groups, leaving, at the time of writing (August 1995), only two in open revolt.

Today, the military rulers, the State Law and Order Restoration Council (SLORC) are in the process of imposing their ideas about how to solve Burma's long-festered national unity problem. While the soldier-rulers have given the appearance of consulting some of the minorities and have brought them into the formal process, the majority of ethnic groups — those who have been at war with the state and have entered into ceasefire agreements — have not been included. They have been working, since the beginning of the decade, to develop their ideas about a state structure based on the principles of equality, federalism, democracy and human rights. They look to the future when a constitution-making process, like that of 1947, will emerge and they will be able to engage in full and open discussion with the leaders of the military and the Burman peoples; together, they hope a new constitution will

be written which all will support, making it possible for the peoples of Burma to live peacefully together and solve problems by parliamentary means.

Since 1990 SLORC has slowly revealed its ideas about the constitution and the political structure of Burma it wants to put in place. From its several statements about why it seized power and what it wants to see established before it transfers power, there is a number of implied as well as expressed assumptions.

1. There must be an end to social and political disunity and the threat to the integrity of the state. SLORC never tires of reminding the people that its primary purpose in taking and holding power in 1988 stemmed from the 'Three Causes': prevention of the disintegration of the Union; prevention of the disintegration of national unity; and perpetuation of sovereignty. Its leaders speak frequently of the threats to Burma posed by the rebellions of the Burma Communist Party (BCP), the ethnic minorities, the invasion of foreign forces, the breakdown in law and order in 1988, and the interference in internal affairs by foreign governments. With the demise of the BCP, the end of the threat of foreign invasion, the reestablishment of law and order in the heartland and the ceasefires with most of the minorities, the military now is putting all its energies into writing a constitution which will eliminate forever the three causes and establish permanent peace and unity in the nation.

2. There must be recognition of the rights and interests of the several minorities and they must approve of the constitution before it can be implemented. Under the two previous constitutions the rights and interests of several minorities, especially the smaller ones, were not clearly stated and this led to misunderstanding, discontent and revolt. The military wants all minority groups recognized, and wants their participation in the drafting of the constitution and approval of the final draft. In the past, the larger ethnic minorities spoke for the smaller ones living amongst them; for many, this was unsatisfactory. To avoid a repetition of the past, the military is determined to win minority support by granting ethnic minorities nominal control of local administration in their areas and allowing them to preserve their cultures and traditions.

3. The future constitution must be based on a multiparty political system. After fulfilling a promise to hold multiparty elections, the military talks about the creation of a 'multiparty democratic system' as a goal for the new constitu-

tion. It makes no mention of a federal union. It is clear that SLORC, rather than establish democracy on the Western model used in the past, intends to create a directed state in which elected representatives will be able to ratify the policies, legislation and actions of the leaders. It looks to the military-led polity of Indonesia as one model.

4. *The military must be given a permanent role in governing the future state of Burma.* In the past, when national and territorial unity and sovereignty were threatened, the military, as a last resort, was called upon to save the situation. SLORC argues that it paid a heavy price in personnel losses as it fought to save the nation in the face of opposition forces which had been allowed to grow strong and entrenched. This cycle can be broken, it believes, only if the military has a leading role in the government during normal times and can shape national policies which will settle disputes before any threat matures.

Acting under the authority it has given itself in Declaration 1/90, the military created a National Convention to draw up the principles for the new constitution. It began its work in January 1993 following the selection and invitation of 702 delegates, representing political parties, the ethnic minorities, social classes and distinguished individuals, to carry out the task under its guidance. With the exception of delegates who were elected in 1990 to the national parliament, the delegates neither have a popular mandate nor head groups for whom they are authorized to speak. Amongst the minorities invited, there are none from those who entered into ceasefires after the Convention began. The members of the National Convention are restricted in discussing with people outside what happens at meetings ; they also are restricted in discussing with other delegates the issues under consideration in meetings, except in accordance with the narrow rules imposed by the convenors. Some of the delegates, dissatisfied with the process, left and have either sought refuge among the minorities still outside SLORC's control or gone abroad; others have been arrested and imprisoned. After more than two years, the National Convention still has not completed its mission.

On two important issues, the National Convention has finished its work: the state structure, and the role of the military in the political leadership of the nation. The National Convention has agreed that there will be a nominal federal union consisting of a national government and fourteen states and regions. Within the states and regions there will be self-administered areas for

the ethnic groups. The larger of these areas will be designated as self-administered divisions and the smaller as self-administered zones. Although it remains for the constitutional convention to define the powers and limits of these divisions and zones, it is agreed that the various ethnic groups should be able to practise and preserve their traditions and cultures, while the state will have responsibility for helping develop local languages and literature, fine arts and cultures of the national races; the state also will help promote social and economic development. One representative from each of the self-administered divisions and zones will be sent to the National Parliament.

Thus far, the National Convention has adopted no principles to guide the authors of the future constitution on how the states, regions, and self-administered divisions and areas will finance their governments and programs. Since land and economic resources have been designated as belonging to the state, the power to tax residents and businesses, if granted, will provide limited income, especially in the smaller and poorer subdivisions. Thus, as under the previous two constitutions, the subunits of government will be dependent upon the national government for most funding and this will open the door to interference in local affairs.

The principles adopted regarding a leading role for the military reflect a great concern for the security of the state from enemies both within and without. The future president of the nation must have extensive military experience and have resided in Burma continuously for twenty years; the two houses of the legislature must reserve 25 per cent of seats for the military representatives chosen by the Minister of Defence. The budget and administration of the military will be under the control of the Minister of Defence and beyond the scrutiny of the civilian-dominated legislature. In times of national emergency, the head of the armed forces can take all state power and exercise it for as long as necessary.

In this blueprint for a garrison state the National Convention is planning to erect, the military will have a permanent role in the subunits of the state through participation in administration at all levels and responsibility for defence, security and border administration; in times of national emergency it will have the same powers in the subunits as it has at the national level.

If it is the military's objective to create a multiparty democratic system, it is hard to see what powers and responsibilities remain for the people to exercise.

If the adopted principles for the new constitution are compared with the structure of the government and the powers of the Burma Socialist Program Party under the 1974 constitution, it is clear that SLORC intends to recreate the earlier model; only this time, it has replaced the party with the military and has given the military all powers necessary to overcome popular opposition wherever and whenever it occurs.

There is an alternative set of principles for the organization of the state and society developed by the Democratic Alliance of Burma (DAB), an enlarged coalition of the National Democratic Front — an organization of the minorities — students, monks and other individuals. Drawn up by a small committee of the DAB, the authors began their work by studying various federal systems. ‘They mixed borrowed ideas with their own to produce a constitutional solution for Burma’s longstanding problem of national unity. The committee produced three drafts under its original Kachin chairman and a final draft after the Kachins withdrew from the NDF and DAB. ‘The third draft was reviewed and discussed at a seminar of international experts and the final draft, reflecting the criticisms and comments made at the meeting, was adopted by the 1st Congress of the DAB in July 1993.

The object of the study/drafting committee was to find a way to end a state of warfare and disunity in Burma and to create a federal system where all parties could preserve and protect their cultures and traditions. Anticipating the day when representatives, freely chosen by the people, would be able to sit together, exchange ideas and arrive at common acceptable solutions, the committee hoped to prepare its future representatives so that they could articulate the interests of their groups and contribute to erecting a lasting political structure all could accept and defend.

At the heart of the DAB proposals is the idea that the source of power resides in the people. The people must be free and equal, and enjoy the right of self-determination. They must have rights and freedoms as set forth in the constitution and the political process must be democratic. The society must be organized as a federal union in which the constituent units are based on the principles of equality and self-determination. The territory of Burma will be divided into National States and Nationalities States. Under conditions set forth in the proposed constitution, the states will be subdivided further into National Autonomous Regions and Special National Territories. National States will be based on the existence of a large national group, representing

two thirds of the population and recognized as an historical group, with a common territory, language, customs, culture and viable economy. Nationalities States will be composed of two or more ethnic groups, none of which has two thirds of the population, a common territory and a viable economy.

National Autonomous Regions will be formed inside states among nationalities making up one quarter of the state population and living on historic lands, each having a separate language, literature and culture. Special National Territories will be formed in areas where a nationality has a majority in the territory, and a separate language, culture and customs.

Recognizing that the military in the past abrogated the constitution, changed political configurations and usurped the power of the people, the DAB proposals set forth the idea of civilian supremacy with the military subordinate to the elected government and not an independent actor. It will never interfere in political matters and it will have no place in the national legislature or administration and no role in the subunits of government. The armed forces are to be commanded by the Minister of Defence and no active member of the defence forces will be appointed as minister. Defence policy will be set by the Defence minister and the federal cabinet. The armed forces will be formed from troops drawn proportionately from the member states. Each state will send a proportionate number of candidates to the military academies for training as officers. The president will appoint, upon the recommendation of the prime minister, the commander-in-chief; the office shall be rotated among the military commanders from each state who together will form a board of commanders. The constitutional draft of the DAB would restrict members of the armed forces, at any time, from interfering in political matters, involving themselves in business and from declaring a state of emergency, a military administration or martial law.

A careful reading of the DAB constitutional proposals makes clear how differently its authors view the problems and solutions of Burma's disunity and civil war. By the solutions the minorities offer, in the way of a new basic law, the problems are seen as stemming from an absence of human rights and the existence of a true federal union. The most important denial has been the right of the people to rule themselves; this was taken from them by the military coup of 1962 and was not returned under the 1974 constitution; and it is not granted in the National Convention proposals. In the past the national

army misused its arms against the people and usurped what little power they had. Because the minority-written constitution starts from assumptions the other will not acknowledge and offers solutions the other has not even considered, there seems to be no way to resolve the problem of disunity and there is a strong probability that there will be a renewal of warfare in the future.

With the two sides so far apart and with the military determined to impose its solution, an outside voice to offer a third way may be the answer.

At the 1994 UN General Assembly meeting, the Assembly adopted a Burma resolution which included a request to the secretary general to help the government of Burma achieve national reconciliation. During 1995, his deputies made efforts to speak to the members of SLORC and to the minorities — both those in revolt and in ceasefire agreements with the armed forces. While reports of his efforts are not available, the fact that the world body asked the secretary general to offer assistance in solving the problem of national unity reflected the belief in the General Assembly that a third party was necessary to move the issue forward in a positive way. It remains to be seen if SLORC will depart from its previous position, that the issue is an internal matter and not the concern of the world body, and allow the secretary general to contribute to a lasting solution.

If SLORC acknowledges the request in the General Assembly resolution, the secretary general will find the DAB constitutional proposals a good starting point. With their emphasis upon human rights, popular rule, and federalism, they offer the outlines for the only solution likely to succeed. It should be clear to the secretary general that SLORC's proposals for a unitary state cloaked in federal dress was intended to disguise the real outcome of the National Convention principles and will not provide a lasting solution. The secretary general should know from the talks his deputies had with the minorities that the people do not want a 'Potemkin Village'; they want a real federal union. The secretary general also should know that if SLORC is to surrender its power to popular rule peacefully, the military must be offered some kind of role in government. Here the creativity and wisdom of the secretary general will prove invaluable. There is a useful model for this problem in Chile.

Finally, the secretary general knows that, after five decades of struggle, the minorities have been willing to sacrifice life and property to achieve what they were promised in 1947 and there is little likelihood that they will accept anything less now or in the foreseeable future. A careful reading of Burma's history will show that long before the British arrived the minorities lived under their own leaders, spoke their own languages, and developed and passed on their culture and traditions. Only in 1947 did the minorities voluntarily accept the Burman invitation to join in forming an independent union. It was the promise of *that* union the minorities sought to achieve and still desire. They stand ready today to form a union with the Burmans provided that it is based on the principles they fought for and enunciated in the several DAB constitutional proposals. They are ready to discuss their proposals alongside those offered from other quarters. They will accept refinement and further elaboration when they are discussed in a future constitutional assembly and will leave it to the elected representatives of the people to decide.

Today, SLORC has the power to solve the problem and end the threat of war and disunity forever. With the help of the secretary general, SLORC may be convinced that a peaceful federal union under democratic civilian rule is better than a permanently hostile population and the threat of renewed internal war.

