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POLITICAL DEVELOPMENTS IN MYANMAR: NEW CONSTITUTION, INTERNATIONAL CONCERNS AND STRATEGIES OF THE MILITARY

Abstract

The military government of Myanmar announced a new Constitution for the country and held a referendum in May 2008 to legitimise it. The military also declared its intention for holding a new election in the year 2010. Although the international community remains concerned about the internal developments of Myanmar, the divergence of national interests among the regional and international players could not yet result in any unified external stance or action against the country's military regime. Meanwhile, Myanmar's engagement with the neighbours in the areas of trade, commerce and investment remains unabated, saving it from both international sanction and isolation. While the US is always very vocal against the military regime in Myanmar, the new administration under President Obama shows its intent to bring about few changes in its policy *vis-à-vis* Myanmar. In this backdrop, the paper is an attempt to discuss critically the recent political developments in Myanmar in the light of the proposed new Constitution. The discussion takes into account the policies of the international community with respect to Myanmar. It also examines the policies of the military regime as to how it would adapt itself with the new realities, both internal and external.

1. INTRODUCTION

The military regime of Myanmar announced a new Constitution for the country terming it as a "road map to democracy". Despite Cyclone Nargis,¹ the military held a constitutional referendum in the country in May 2008. However, there were accusations that the referendum was massively rigged, although the military junta denies such allegations saying that the referendum reflected the people's approval of the new Constitution. It may be mentioned that it took the

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¹ Cyclone Nargis hit Myanmar's central coast on 2-3 May 2008 leaving at least 133,000 dead or missing and 2.4 million people in need of food, water, shelter and medicines.

military 14 years to draft the Constitution. They declared that the Constitution would strengthen the stability and integrity of the country and at the same time it would ensure the 'rights' of every section of the society. However, the democratic forces of Myanmar, in the country and abroad, are criticising the constitution saying that it will not bring any change in the political stalemate of Myanmar. Furthermore, it will strengthen the position of the military regime in the country and weaken the hope of democracy. It is also argued that the new Constitution failed to ensure the rights of the people and the ongoing political system, hence its policy of isolation would remain unchanged. The military also pledged to hold a national election in the country under the new Constitution in 2010.

The political history of Myanmar shows that military remained as the unchallenged power in the country. It came to power in 1962. Since then, it has suppressed all democratic movements in the country. The crack down of 1988, the military's refusal to accept the victory of National League for Democracy (NLD) in the election of 1990, the arrest for NLD leader Aung San Suu Kyi, and dismantling of the Saffron Revolution of 2007 established the military as the single political power of the country. The military considers itself as the 'sole saviour' of the country. Hence, they always deny international concerns about their policies towards the democratic forces. The military junta considers any international response towards Myanmar as interference in the internal affairs of the country. It continues having strong relations with China. Currently, its engagement with the Association of South East Asian Nations (ASEAN) countries has given the military an opportunity to ensure enhancing its trade and Foreign Direct Investment (FDI) facilities in the country. Also, the natural resources of the country made some western countries eager to extend their investment in Myanmar. The military exploits it as an opportunity to deny any democratic transition of the country. The western support towards Aung San Suu Kyi, the head of the NLD and the icon of democratic movements in the country, sometimes compels the military to rethink about its strategies towards democratic forces in the country. The new Constitution is thus, considered as a consequence of constant pressure from the international community for establishing democracy in Myanmar.

But the new Constitution appears to give little hope towards democratisation in the country. Furthermore, it ensures overwhelming control of state power by the military. Hence, the international community's response to the military regime has not changed yet. The United States (US), the European Union (EU) and the ASEAN countries seem to be not much hopeful about the future democratisation in the country. On the other hand, the response from the US is always not considered as a sincere will to democratise the country, rather the US tries to contain China in the region by undermining pro-China regime in Myanmar. The western companies also want to ensure their presence in

exploration of natural resources of the country, for which they need a pro-west regime in Myanmar. That is also a Chinese concern.

In this respect, the main objectives of the paper are to examine the contexts and contents of the new Constitution of Myanmar. Is the new Constitution raising any hope for democracy in the country? What are the positions of democratic forces in the new Constitution? What are the responses from the international community towards the military regime of Myanmar and why international community fails to take a consolidated policy towards Myanmar? And what are the strategies of the military regime to ensure its control in the country, and how do they want to address the concerns of the international community towards Myanmar? The paper has been divided into six sections including introduction and conclusion. Section two gives a brief background of the active political forces of Myanmar at present. Section three examines the contexts and contents of the new Constitution. Section four focuses on the international concerns about the military regime of Myanmar. Section five examines the strategies of the military to continue their superiority in the country, and how they want to deal with internal and external players.

2. POLITICAL FORCES IN MYANMAR

Monks, masses and the military forces are the three important forces in Myanmar. Myanmar is a union of 135 ethnic groups with their own languages and dialects. Compositions of the different ethnic groups are under the eight major national ethnic races. In the composition, Burmese constitute 68 percent of the total population. Over 100 distinct languages or dialects are spoken in Myanmar. Some scholars think that the recent unrest in Myanmar is not only for democracy, but also it has historical and ethnic relations.² The government's version of Myanmar's history is radically different from the memories of other minorities.³ At present, all of them are the supporters of Aung San Suu Kyi thinking that Suu Kyi can ensure their betterment in future days. Suu Kyi established the NLD in 1988. The party won 392 out of 492 seats in the election of 1990 under the military. In the manifesto, the party declared "all the people of Burma are very keen to establish a firmly united "Union" in the near future with equal rights for all ethnic nationalities who cherish democracy."⁴ The military is accused of oppression on some selected minorities, and recruiting in the armed forces people from some minorities who were thought to be less political and

² Zarni and May Oo, "Common Problems and Shared Responsibilities: Citizens' Quest for National Reconciliation in Burma/Myanmar", *Free Burma Coalition Report*, The Free Burma Coalition, USA, 2004.

³ *Ibid.*

⁴ Manifesto of the National League for Democracy during the Multi-Party General Election of 1990.

more loyal to the national government.⁵ Hence, most of the ethnic communities think that only NLD will ensure equal right for all communities and they are dedicated to Aung San Suu Kyi. Though military did not hand over power to the NLD, the NLD remains an influential force in the country. Officially NLD is not permitted as a political organisation, but behind the scene, the NLD supporters are playing key role against military regime. Presently, most of the senior leaders of NLD are in jail, yet it is still the main political rival of the military. Until now, the military's suppression and violations of human rights against NLD remains unchanged. However, recently, the development of internet communication has opened a new opportunity for non-resident Myanmarese to extend their support to the internal protests of the country. They play an important role in ensuring the support of the international community in different levels against the military regime.

Myanmar's Armed Forces have created a state within the State, to ensure the institutional survival, dominance, and reproduction in the country.⁶ They ensure their unity from three elements: training, ideology, and self declared special position in the society.⁷ The officers of the armed forces have come from three backgrounds, from the ranks, from the students and graduates of Universities who were given a special training in the University and from the non-ranked militaries who completed the Officers' Training School (OTS) course after entering the armed forces. Until 1988, the military leadership remained in the hands of officers who rose from the ranks, the OTS and those close to Ne Win.⁸ Since then, some of the graduates from the academy have been chosen to leadership, though they are limited in number. There are reports of growing divisions among the rank and file of the Army, though it claims that they are united.⁹ The military regime argues that the membership of the United Nations (UN) and links with international community indicates its legitimacy. The Army believes that they are the only saviour of sovereignty and integrity of the country. If the power goes out of their hand, Myanmar would disintegrate and lose its freedom to the imperialists. In March 2006, Myanmar changed its capital from Yangon to Naypyidaw for preventing any internal protest and external

⁵ Josef Silverstein, "Burma's Struggle for Democracy: The Army against the People", in R. J. May and Viberto Selochan (ed.), *The Military and Democracy in Asia and the Pacific*, Department of Political and Social Change, Australian National University, Canberra, 2004.

⁶ David I. Steinberg, "The Problems of Myanmar and Myanmar's Problems", *Asia Regional Consultation on Social Cohesion and Conflict Prevention*, Asian Development Bank-World Bank, 16-17 March, 2000.

⁷ *Ibid.*

⁸ Military Commander and the Head of State of Burma from 1962 until 1988.

⁹ Brian McCartan, "Moment of Truth for Myanmar's Military", *Asia Times*, 27 September 2007.

intervention.¹⁰ Any pressure from the international community is considered by the military government as interference in the internal affairs of Myanmar.¹¹

Besides the political arena, the military junta controls the religious affairs of the country. In 1979, a Supreme Council of monks was created by the military for ensuring its control over the monks and the monasteries of the country. Every traditional ceremony, construction of monastery or temple has to be approved by the local representative of the Supreme Council. Monks who refuse to join the council are persecuted. However, the experience is that the military failed to achieve their credibility from the monks who continued to support the people. They protested against the military in 1988 as well as in 2007.

The control of the military is, however, not limited to religious congregations. Since the coup by General Ne Win in 1962, the military has dominated nearly every aspect of the political, economic, and social life in the country. Since then, no social mobility or opportunity took place outside of the army. At the economic level, the army controls two of the most powerful Burmese companies - the Union of Myanmar Economic Holdings (UMEH) and the Myanmar Economic Cooperation (MEC). The declared objectives of the UMEH are to “meet the needs of the military personnel and of their family” and to “become the main logistical support of the army.” The goal of the MEC is to “transfer the funds allocated to the defence of the public sector towards the private.” It is authorised to do business in virtually every area it wishes. All foreign investment in Myanmar has to be approved by the Myanmar Investment Commission (MIC), controlled directly by the military, which allows them to channel the profits from investment towards companies dominated by the military.¹² But Total SA¹³ and other companies which have invested massively in Myanmar have made it clear that they are not involved in their politics.

In September 1993, to consolidate its power over the society, the military regime created the United Solidarity and Development Association (USDA), presenting it as civil society organisation but having direct links with General Than Shwe, who became head of the military in 1992 and the most powerful man in the country. The association now claims that 22.8 million people, nearly half the population of the country are members of the USDA. In fact, membership of the association is compulsory for students and citizens, many of whom have enrolled as members without knowing its purpose. On the other hand, any one

¹⁰ Col R Hariharan (retd.), “Myanmar: Military Regimes Strategy to Stay in Power”, *South Asian Analysis Group*, Paper no. 1612, 11 November 2005.

¹¹ Col R Hariharan (retd.), “Myanmar: U. N. Security Council’s Move to Tackle the Military Regime”, *South Asian Analysis Group*, Paper no. 1955, 17 September 2006.

¹² *The Gathering Storm, Infections, Diseases and Human Rights in Burma*, Universities of Berkeley and Johns Hopkins, July 2007.

¹³ A French oil and gas company, which is one of the six super major oil and gas exploration companies in the world.

refusing to join the association is exposed to harassment and opportunities in the educational or professional field are closed for him/her. Inside the association, student members are encouraged to monitor the activities of their classmates. Becoming a member of the USDA gives access to English and Computer courses as well as extra curricular and sporting activities. In 1996, the regime transformed the association into a force against the student members of the NLD. Since then, USDA members have often been in the vanguard of repression. In this respect, the military is accused of human rights violation in the country.

The monks have important spiritual role in the society. About 89 percent of the population are followers of Buddhism in Myanmar. The monks are considered as spiritual icons. Hence, they are highly respected in the society. Buddhism as a religion always stands against violence and it motivates people towards peace and harmony. The monks are the symbol of this harmony. The monks have no personal property and economic expectations. Every morning, they collect their living for whole day from the houses. As a religious practice none can deny them any alms. The senior monks are known as abbots. They are the owners of pagodas. They use collected funds for pagodas. The government funds are also important for the development of pagodas. Basically, monks have no business without meditation. Since the independence of the country in 1948, monks have had an uneasy relationship with the State, but they appear not to have any political ambitions. Burmese monks not only play a spiritual role, but also have a history of political activism. They have been at the forefront of protest against unpopular authorities from British colonial power in the 1930s to the last pro-democracy campaigns in 1988 and 2007. Their political role stems from the days of the Burmese monarchy, which operated until the late 19th century, under which monks worked as intermediaries between the monarch and the public, and lobbied to the King over unpopular moves such as heavy taxation. Hence, the protest of September 2007 is not for the first time that monks have raised their voice against a repressive State and this is also not for the first time that the State has prevailed. In fact, this has happened throughout the political history of Myanmar.¹⁴ The conflict between military versus people and monks is creating instability in the country. It is hampering the country's political and economic progress.

The Army engaged the country with multilateral organisations like United Nations Organisation (UNO), ASEAN, Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC), and ASEAN Regional Forum (ARF). They, however, pursues an isolationist policy. The military rulers are cautious against taking any initiative that can be used against them in future. Such a policy is hampering the country's economic progress.

¹⁴ S. D. Muni, "Monks, Masses and the Military", *Frontline*, Volume 24, Issue 20, October 06-19, 2007.

However, the Chinese political and strategic support is an important strength for the military.

3. PROPOSED NEW CONSTITUTION AND ITS CONTENTS

After a drafting process for fourteen years, the military government of Myanmar, unveiled a new Constitution for the country on 19 February 2008. The text of the Constitution is 194 pages with 15 chapters and 457 provisions. From 10 to 24 May 2008, the military organised a referendum for ensuring people's support for the new Constitution. The State Peace and Development Council (SPDC) issued the Referendum Law in February 2008 for the approval of the draft Constitution. The law excludes the voting right of the members of religious orders and persons who are illegally living abroad. They excluded monks thinking that their moral clout may influence the voting behaviours of the general people. There are 27 million eligible voters in Myanmar out of a total population of 54 million. General people had very limited scope to know about the new Constitution. The draft Constitution was circulated at limited levels and most of the people failed to know about the contents of the Constitution. The referendum was held without any international monitors. The junta prohibited the international aid workers to facilitate a multi-million dollar disaster relief programme in the country during Cyclone Nargis, thinking that the foreign nationals might take it as an opportunity to observe the election process. It was mandatory for the civil servants, including teachers, soldiers, police, and members of the USDA, to cast their votes supporting the new Constitution and most were told by their seniors to do so. The international community did not recognise the voting process as fair. The internal democratic forces of the country were accused of rigging the results of the referendum. But the government of Myanmar declared that 92.4 percent people gave their vote supporting the draft Constitution.

However, it is not the first Constitution of Myanmar. The constitutional history of Myanmar is a chequered one. The first Constitution of Myanmar was written in 1947, which created a Parliamentary system with two legislative chambers. It included a renunciation of war as an instrument of policy, a set of socialist-influenced unenforceable goals called directive principles, and a definition of relations of the state to peasants and workers, and fundamental rights of all. The Constitution established religious freedom, but in the same chapter it declared that Buddhism enjoyed a 'special position'. As early as 1949, a Ministry of Religious Affairs was created and religious courts were established. The State also conducted religious examinations and sponsored an international Buddhist celebration to commemorate the Buddha's 2500th birthday. Although the State was declared to be the ultimate owner of all the land, agriculture lands were, in fact, in private hands and the farmers were free to buy and sell as well as make all farming and marketing decisions. While some economic enterprises,

such as transportation and power generation became government monopolies, there was a private economic sector which flourished alongside government business and cooperatives.

But the leadership of Burma failed to ensure unity and stability in the country according to the Constitution of 1947. In 1958, when the leaders split in their struggle to win control of the party and government, the rivals provoked a constitutional crisis. Prime Minister Nu tried to resolve it through a vote in the Parliament, but even though he won, his margin was small and his backing came mainly from the minorities rather than the Burmese members. Having no dependable majority in Parliament on 26 October 1958, Nu stepped down as Prime Minister and recommended General Ne Win, the military commander, to form a caretaker government and restore political conditions under which elections could be held to resolve the political crisis. Ne Win's caretaker government of 1958-60 ruled without party support. It drew upon senior military officers and respected civil servants to serve in the cabinet and administer government officers. Ne Win scrupulously adhered to the letter of the Constitution, even demanding its amendment to allow him to serve beyond six months as non-elected member. But this strict enforcement of the law, insensitivity to the people, and impatience with the democratic process turned the public against his rule even though his administration brought law and order to a good portion of the country and improved the economy. However, when elections were held in 1960, the party favoured by the military suffered a devastating defeat while its opponents, led by U Nu, returned to power. A major issue was U Nu's promise, if elected, to make Buddhism as State religion. Nu worked hard to strengthen democracy and address the causes of national disunity, but he could not continue for too long.

In March 1962, General Ne Win led a military coup and arrested U Nu, the chief justice, and several cabinet ministers. He justified his actions as a means of keeping the union from disintegrating, restoring order and harmony in the society and solving economic problems facing the nation.¹⁵ Suspending the 1947 constitution, which had been in effect since independence, he ruled the country with a Revolutionary Council consisting of senior military officers. Ne Win's stated purpose was to make Burma a truly socialist State. A military-controlled one-party system was established.¹⁶ In April 1972, Ne Win and other members of the Revolutionary Council retired from the army, but they retained their positions of power in the Burma Socialist Programme Party (BSPP). Following the socialist policy, all lands and much of the country's commerce and industry were nationalised. However, Ne Win had promised a new Constitution, and in September 1971, representatives of the party's central committee of the country's

¹⁵ Josef Silverstein, *Burma: Military Rule and Politics of Stagnation*, Cornell University Press, London, 1977, p. 80.

¹⁶ Burma Socialist Programme Party (BSPP).

various ethnic groups, and of other interest groups were appointed to draft a document. A referendum to ratify the new Constitution was held in December 1973 with more than 90 percent of eligible voters signifying approval. The Constitution was promulgated in January 1974 which became the second constitution of Myanmar.

The Constitution of 1974 identified Burma as “a sovereign independent socialist State of the working people.”¹⁷ “A socialist society”, “A socialist economic system” and “Socialist democracy” were defined as the basic principles of the State policy.¹⁸ However, the new Constitution transferred power from the armed forces to a People's Assembly of former military leaders headed by Ne Win. It allowed for a unicameral legislature and one legal political party. Ne Win was installed as President. The Constitution was nothing more than the institutionalisation of the power of BSPP. The system was intact, with relatively little change until 1988. The first change was seen in August 1987, when Ne Win startled the nation by admitting ‘failure and faults’ in the management of the economy and called for open discussion about the past and change. Within weeks, some changes were seen in the economic policies, and the restrictions on sale, purchase, transport, and storage of foodstuffs were removed.

In July 1988, while the nation was in turmoil and an emergency party congress was in session, Ne Win announced his resignation as party head and urged the leaders to consider the creation of a multiparty system. The party permitted his resignation, but did not adopt his recommendations. Another retired General, U Sein Lwin came in power as head of the party and sworn in as President of Burma.¹⁹ To put down the growing national unrest, which had been building up during the year of 1988 and was about to culminate in a national strike on 8 August, Sein Lwin ordered the military to suppress the strike of unarmed civilians which resulted in the death of thousands.²⁰ He had resigned, shaken by violent student-led pro-democracy demonstrations, after only 17 days in office. Maung Maung, a civilian with ties to Burma's long time military rulers, the country's attorney general, was selected as the President of Burma on 19 August 1988. The country's military leadership evidently felt that having a civilian President would help to abate the protests, but instead they grew more.

¹⁷ Article-1, The Constitution of the Socialist Republic of the Union of Burma, 1974.

¹⁸ Article- 6, 7 and 8, The Constitution of the Socialist Republic of the Union of Burma, 1974.

¹⁹ He had the reputation of having led his military unit in suppressing dissent on the university campus in 1962, and again in 1974 where hundred of students were killed and wounded.

²⁰ The uprising began on 8 August 1988, and from this date (8-8-88), it is known as the "8888 Uprising". Hundreds of thousands of ocher-robed monks, young children, university students, housewives, doctors demonstrated against the regime and mostly Buddhist monks and civilians (primarily students) were slaughtered by the military.

Maung promised for a multi party democratic system to end the people uprising, but the generals were not in favour of establishing democracy in the country. Hence, the Chief of the Army, General Saw Maung staged a coup on 18 September 1988, seized power and ordered the armed forces to suppress all dissent. The military's carefully constructed constitutional dictatorship crumbled and the army decided to restore all powers to its leadership. The military ordered all members of the armed forces to resign from the BSPP and abolished all state institutions. They formed State Law and Order Restoration Council (SLORC) comprising nineteen senior military officers under the leadership of General Saw Maung. The military government announced a change of name for the country from Burma to Myanmar in 1989. Also following the coup, the army dropped the original ethnic names of its military units as a last step in erasing the federal structure of Myanmar.

However, General Maung's take over of power started a new form of instability in the country. The democratic forces under the leadership of Aung San Suu Kyi declared their strong desire for democracy. In the face of huge international pressure, the military declared elections to form a national assembly to revise the Constitution of 1974. Under the full control of the military, the country went for a multiparty election in May 1990 in which the NLD²¹ won a landslide victory over the National Unity Party (NUP),²² and about a dozen smaller parties.²³ The military, however, would not let the assembly convene, and continued to hold the two leaders of the NLD, U Tin U and Aung San Suu Kyi, under house arrest. Myanmar came under increasing international pressure to convene the elected assembly, particularly after Aung San Suu Kyi was awarded the Nobel Peace Prize in 1991, and also faced economic sanctions. In April 1992, the military replaced Saw Maung with General Than Shwe. However, with the failure of the National Convention to create a new constitution, tensions between the government and the NLD mounted, resulting in two major crackdowns on the NLD in 1996 and 1997. The SLORC was abolished in November 1997 and replaced by the SPDC, but it was merely a cosmetic change. The military announced that they were not bound by any constitution and they gained legitimacy from the international organisations and neighbours. Besides China, Myanmar also succeeded in extending its relations with the countries of ASEAN and India.

But again strong international pressure came against the military government after the Saffron revolution of 2007. On 5 September 2007, the army forcibly broke up a peaceful demonstration in Pakokku and injured three monks. The next day, other monks took government officials as hostages in retaliation. They

²¹ The party was formed in the aftermath of the 1988 uprising.

²² The successor to the BSPP and patronised by military.

²³ In the elections, the NLD won 392 out of 485 contested seats (80.8%) compared to 10 seats by NUP.

demanded an apology by 17 September, but the military refused to apologise. This sparked protests, involving the increasing numbers of monks in conjunction with the withdrawal of religious services for the military. Their role in the protests has been significant due to the respect paid to them by the civilian population and the military. Monks were demanding the government to reduce fuel prices, release all political prisoners, and begin negotiations with Suu Kyi and other democratic leaders. What make the 2007 protests different from the student-led uprising of 1988 are the monks' non-confrontational tactics, their orderly marches and religious chanting to provoke the military. Monks leading the procession carried their alms bowl upside-down as a symbol of protest. Some monks refused to take alms from the military and their families. The protest of monks threatened the legitimacy of the military in the national as well as in the international level. The Army has taken initiatives since then to ensure their position and strength in the power structure.²⁴ Hence, they felt an urgency to declare a new constitution for the country. They thought that it would stabilise the position of the regime in the internal and external arenas.

Among the basic principles of the Constitution, “Sovereign power of the State is derived from the citizens”²⁵ and “the Union is constituted by the Pyidaungsu (Union) systems”, give some positive impressions, but the Constitution is to establish the superiority of the military in all of the State affairs. The Constitution proposed a presidential system, with extensive powers to the President. But it implies that President should have the knowledge of military affairs. On the other hand, the election process of the President is in the hand of an electoral college, where military has an important role. The Electoral College is comprised of the members of the People’s Assembly, National Assembly, and Regional Assemblies, where 25 percent are selected by the Chief of Army. Hence, it is clear that the military will play the main role in the process of electing a President.

The Union Assembly is the national legislature and will comprise a Peoples’ Assembly and a National Assembly. The National Assembly, theoretically, represents the states and regions of the country. 75 percent of the membership of each assembly is to be elected. The Chief of Staff of the Defence Forces is entitled to nominate 25 percent of all members of the Peoples’ Assembly, the National Assembly and Regional Assemblies. The Constitution is vague as to the true nature and functions of each assembly. The Constitution is also silent about entire law making process. It establishes a servile judicial system comprising a supreme court and subordinate courts. The Union of Myanmar is to be divided into seven states and seven regions. The President will appoint a Chief Minister for each state and region.

²⁴ The strategies of the military to ensure their position in the power structure is discussed in latter sections of this article.

²⁵ Article-4, Constitution of the Republic of the Union of Myanmar 2008.

However, the Constitution is criticised for its autocratic nature. It proposes a centralist government with very few checks and balances. The Army is to be entrenched in every institutions of the State, including the Union Presidency, the Union Government, the Union Assembly and Regional and State Assemblies. The military has the right to independently administer all affairs concerning the armed forces. There is nothing in the Constitution about the appointment and removal of the Chief of Army. The Chief of Army will appoint the Ministers of Defence, Security and Border Affairs. He can also appoint 6 out of 11 members of the National Defence and Security Council which can declare a State of emergency. The Constitution gives the President the power to run the machinery of the State, but he does not have total control. The Chief of Army has total control over military and more control in the parliament. Hence, all powers belong to him.

The Constitution is considered by the military as a step forward for the seven-point road map of national reconciliation and transition to democracy in Myanmar, which was declared by the military on 30 August 2003. From the current Burmese government's point of view, the Constitution provides for a stable transition to democratic rule. Elections are scheduled for 2010, after which the new constitution would go into effect. On the other hand, the new Constitution raises very little hope for democracy among the internal political forces of the country and the international community. But the people's participation in the referendum for legitimising Constitution gives an idea that it can open up an opportunity to separate military from the administrative affairs. However, a new change in the governing structure may give some hope for democracy, but the real face of democracy will remain a dream to the people of Myanmar.

Since the Independence of Myanmar, the people have always remained eager for a democratic constitution in the country. During the Independence struggle of Myanmar, a conflict arose between older leaders of the pre-war period and the young leaders who had formed and led the wartime Myanmar army and the coalition nationalist party, the Anti Fascist People's Freedom League (AFPFL). Senior leaders were thinking of following the British framework, but young leaders were choosing a new framework. The founders of the Myanmar Constitution found three options for framing the new Constitution.²⁶ They could either return to some form of monarchy, which existed before British rule or they could create a bureaucratic authoritarian system, under the model of British rule. They had a third model, Parliamentary Democracy, which was introduced by British rulers to put the nation on a course to self-rule. At the end, the third model was accepted and the Constitution of the 1947 created a parliamentary system with two legislative chambers, where the right of ethnic groups were

²⁶ Josef Silverstein, "Burma's Struggle for Democracy: The Army against the People", *op. cit.*

clearly elaborated. The new Constitution failed to resolve the internal ethnic conflicts of Myanmar. During the British period, some minorities were given special priority and others were excluded from the political process. After independence, the discriminated minorities revolted for their equal rights, but other groups denied it. The government failed to unite these conflicting minorities, and as a result, minority revolts started throughout the whole country. Hence, how the new Constitution will ensure the rights of all citizens was not clear. On the other hand, the opposition forces of the country criticised the new Constitution saying that the Constitution was nothing but enlarging and extending the role of the military in the country. The oppositions and groups inside and outside the country have unanimously rejected moves toward the new convention, because they said that the SPDC was just trying to avoid its responsibility of honouring the 1990 election results. The government presented itself as a regime that played by the rules and believed it had no reason to compromise with the opposition. The opposition, meanwhile, was caught uneasily between rejecting the government's rules and pushing for a different rule-based political and economic system.²⁷ However, the oppositions are repressed and undermined and it is clear that they would not be able to challenge the military. Though the new Constitution is a new model of military rule, the participation of massive electorates during the voting day proves that the people of the country still hope for an open democracy. Yet, the new Constitution raises very little hope towards democracy.

4. INTERNATIONAL CONCERNS

The concerns of the international community are divergent due to differences in the national and strategic interests of the respective countries. Myanmar is identified as a centre for huge natural resources. It has 283.2 billion cubic metres of proven gas reserves.²⁸ Hence, all the regional and international players feel it a necessity to continue good relations with Myanmar. The ASEAN countries, Japan, China, and India are economically and strategically related with Myanmar. Over the last 15 years, the countries have developed significant political and economic relations with Myanmar, with billions of dollars in trade and investment and more than a billion dollars by sale of weapons. In early 2007, China and Russia cast their first joint veto in the UN Security Council to block a measure that would have sanctioned Myanmar. The ASEAN countries are continuing "positive engagement"²⁹ with Myanmar.³⁰ But they failed to change

²⁷ Naw May Oo, "Change in Burma?", *Foreign Policy In Focus*, 13 March 2008.

²⁸ Estimated on 1 January 2008, *The World Fact Book*, Central Intelligence Agency (CIA), USA, URL: <https://www.cia.gov/library/publications/theWorldfactbook/geos/BM.html>, accessed on 18 June 2009.

²⁹ It is believed that engagement would help pressurise Myanmar to ensure reform in the country without any economic sanctions or without military interventions.

the position of Myanmar government on the internal issues. Previously, India was vocal against the military regime in Myanmar. But now it has changed its stance and strengthened its relations with Myanmar mainly to serve its national interests, forged ties for importing gas from Myanmar and strengthening its connectivity with the countries of ASEAN region. The US wants to see a pro-US regime in the country that will help the US companies to extend their business in Myanmar. At the same time, the US wants to contain China through their presence in Myanmar. But the regime looks at US as a threat to its existence. China is also aware that any US engagement with Myanmar might hamper Chinese interests. The US has imposed sanctions against military regime. But the sanctions are not much effective for changing regime in Myanmar.

The UN, over the years, has been actively engaging itself with the leaders of the Myanmar government, and working for the release of Aung San Suu Kyi. Amid renewed western sanctions against Myanmar in recent years, the UN special envoy, Ibrahim Gambari, has remained literally the communicator between the military government and the international community.³¹ During the crisis of 2007, the UN Secretary-General acted promptly by sending his envoy to Myanmar when the conflicts on the streets were intensified. He talked directly to the military leaders and opposition while remaining in close touch with the ASEAN leaders, China, and other concerned parties. His good offices were highly appraised by China and ASEAN. In finding a solution to the issue of Myanmar, the role of the UN as the representative of the international community will be essential for three main reasons. First, despite isolation, Myanmar has grown a relationship of trust with the UN through cooperation. Second, China, the trusted ally of Myanmar always considers the UN as the legitimate body through which international conflicts should be resolved, and has worked closely with the UN on many international issues. Third, the Myanmar opposition lobby has always maintained a good relationship of understanding and trust with the UN over the years. However, the UN efforts alone are not enough. Without regional players, it is not possible by any one to exert influence on the military government to accelerate reconciliation process.

Meanwhile, on 6 September 2007, the European Parliament condemned the violations of human rights and accused Myanmar's military of being a threat to South East Asia, but added at the same time, through the voice of its commissioner Vivian Reding, "Isolation will only make the population pay a greater price. We do not believe that additional restrictive measures will push the government in the desired direction or will alleviate the suffering of the

³⁰ Michael Green and Derek Mitchell, "Asia's Forgotten Crisis: A New Approach to Burma", *Foreign Affairs*, November/December 2007.

³¹ Aside from other regional actors such as China and ASEAN.

people.”³² Although the EU position towards Myanmar is a common one, i.e., establishment of a legitimate civilian government that respects human right, its members are divided over the actual policy on ground *vis-a-vis* Myanmar. For example, some states like Britain, the Czech Republic, Holland, Ireland and Denmark are favourable for a firmer policy towards Myanmar, while France, Germany, Austria, Spain and Poland have until now opposed it. Their position is explained in particular by the economic interests that they have developed in the country. Despite the regular appeals for the liberation of Aung San Suu Kyi, French diplomacy, for example, is mainly dictated by its financial investment in the country. It has supported the Total SA Company, one of the most important investors in Myanmar, and often accused of using forced labour. The enterprise directs the operation of gas fields in Yadana, which bring Myanmar’s government between 200 and 450 million US dollars annually, or around 7% of the budget of Myanmar.³³

The current measures from the European Commission include an embargo on the sale of arms and defence equipment, a ban on any non-humanitarian aid and a ban on investment in certain public enterprises. The strategic sectors which bring in money for the military and help it stay in power, like lumber, precious stones, minerals, gas and oil are not affected by the various banning measures. One cannot envisage an effective sanctions policy without a total ban on investment in the country, or at least a ban on investment in the areas vital for the military. From a political viewpoint, the EU has not shown very firm determination. In recent years, the EU has reduced its subsidies to projects aimed at the development of human rights and democracy. According to the association Info-Birmanie, the EU has only supported “softening” the draft resolution on Myanmar at the UN Security Council in early 2007.

In Asia, Myanmar’s democrats have little chance of obtaining better support. The neighbouring countries, notably India and China, being big consumers of the raw materials that Myanmar possesses in abundance, have decided to remain silent about the internal affairs of Myanmar. The geographic location of Myanmar is of great interest to India which seeks to implement its “eastward” policy and to China which sees the possibility of obtaining an opening to the Indian Ocean and thus avoids the Strait of Malacca for routing its supply of Middle East oil.

³² “EU calls rights violations in Myanmar a scandal,” *BurmaNet News*, 7 September 2007, URL: <http://www.burmanet.org/news/2007/09/07/>, accessed on 26 November 2007.

³³ Danielle Sabai, “The Burmese Crisis, Its Roots and the Urgency of Solidarity”, URL: <http://www.internationalviewpoint.org/spip.php?article1328>, accessed on 26 November 2007.

China and Myanmar have always been good neighbours. Myanmar is the first country outside of the “Communist” bloc to recognise the People’s Republic of China in 1949. Myanmar was also the first to sign a treaty of friendship and non-aggression in 1961 with China, and its leaders were the first to express their sympathy to the Beijing government following the repression at Tiananmen Square in 1989. In 1991, the Chinese leaders were the first to sell arms, planes, frigates and other military equipment to Myanmar military. China has also invested greatly in Myanmar’s infrastructure, ports on the Indian Ocean, roads and so on. It is a big importer of wood and minerals from Myanmar. Since early 2007, support from China for Myanmar has considerably deepened with a view to strengthening economic and financial links, intended to ensure the development of Yunnan, the Chinese province bordering Myanmar. China, with much caution, has recently added its voice to the international pressure against the repression, but it maintains its policy of “non-interference in the domestic affairs” of Myanmar. China has wished that Myanmar “begins a democratic process appropriate for the country” and restores “internal stability as quickly as possible”. The well being of the Myanmarese people has little place therein.

India has taken a *realpolitik*³⁴ policy towards Myanmar considering its economic and strategic interests. In addition, India like ASEAN, believes that a positive engagement with the country may create opportunity for restoration of democracy. At the same time, it would ensure India’s relations with the ASEAN countries in the economic as well as the political level. During the 2007 crisis, India waited until 26 September, the first few days where the Burmese junta sent the troops and killed several monks and civilians, to “express its concern” on the repression of the mobilizations. Questioned on the close relations between the Burmese junta and India by the US and British ambassadors during a visit to Thailand, the Indian foreign minister replied that “The cardinal principle of our foreign policy is non-interference in the domestic affairs of any country. It is essentially the job of the people in the country to decide what government they want.”³⁵

Thailand is the third biggest investor in Myanmar and the first destination for Myanmar’s natural gas. In 2005, the Thai State Electricity Company, Electricity Generating Authority of Thailand (EGAT) signed a Memorandum of Understanding (MoU) with Myanmar regarding the construction of several dams on the river Salween, which borders Thailand and Myanmar, to supply Thai industry with electricity and water.

³⁴ Refers to diplomacy based primarily on practical considerations, rather than ideological notions.

³⁵ “Indian Foreign Minister grilled on Myanmar”, *Deutsche Presse-Agentur*, 14 September 2007, URL: <http://www.burmanet.org/news/2007/09/14/deutsche-presse-agentur-indian-foreign-minister-grilled-on-myanmar/>, accessed on 30 November 2008.

Myanmar became a member of ASEAN in 1997. The members of the Association, and particularly Malaysia, Indonesia and Singapore, defended their position faced with international criticisms explaining that a State which violates human rights should not remain isolated and in a position to continue its abuses. According to the then Malaysian Prime Minister, Mahathir bin Mohamad “If Myanmar is outside of it, she is free to behave as a hooligan or a pariah, whereas if she is in, she will be subject to certain norms.” It is what ASEAN has called the “policy of constructive engagement” supposed to lead the junta on the path of democratic reforms. Russia, and Japan all have strategic interest in Myanmar, and none wishes to see instability in the region. Furthermore, as mediating players, these countries have less wielding power than China and ASEAN.

Hence, it is very complicated for the international community to ensure any effective reform in the country. The US and EU are trying to change the regime in the country. They are thinking about more sanctions. But the reality is that Myanmar has isolated itself from the west. On the other hand, the US slogan for restoration of democracy lost its legitimacy to some countries for the cause of its failure in Iraq.³⁶ Some countries think that this is the policy of the US to expand its hand to the natural resources of Myanmar. At the same time, the multinational companies of the west are thinking that the regime change in the Myanmar would strengthen their position in Myanmar. China, India, and some South East Asian countries, think that regime change would not be helpful for them to secure their interest in Myanmar. On the other hand, the US Secretary of State Hillary Clinton’s comment on Myanmar, “clearly, the path we have taken in imposing sanctions has not influenced the Burmese junta”³⁷ indicates that the US might reconsider its policy towards Myanmar. During her visit to Indonesia, Hillary Clinton announced that the Obama administration would consider signing the group’s Treaty of Amity and Cooperation, a nonaggression pact signed by fifteen nations outside the South East Asian region. The Bush administration had declined to sign it, in part because of concerns that it might hamper the policy towards Myanmar.³⁸ However, it needs to be clear here that Hillary reiterated, like the former US officials, the policy of “constructive engagement” has also been unsuccessful. The situation has created a better position for China to increase its involvement in the energy sector of Myanmar. Chinese companies already have increased their investment in the different projects of Myanmar. Like China, India is also hungry for natural gas and other resources and eager to

³⁶ *BurmaNews Net*, 15 October 2007, URL: <http://www.burmanet.org/news/2007/10/15/agence-france-presse-myanmar-regime-change-could-create-another-iraq-asean-chief-martin-abbugao/>, accessed on 22 October 2007.

³⁷ Glenn Kessler, “Shift Possible on Burma Policy”, *Washington Post*, 19 February 2009.

³⁸ *Ibid.*

build a road network through Myanmar that would expand its trade with the ASEAN states. India is now Myanmar's fourth largest trading partner.³⁹

Considering the reality, some international experts including UN representative to Myanmar Ibrahim Gambari, are proposing for strengthening multilateral approaches to ensure reform in Myanmar. They think that, like Six Party negotiations about the issue of North Korea, they can also forge a common way for pressuring the military regime of Myanmar. But others think that any international cooperation on the issue can do little to change the military regime in Myanmar. However, all parties agree that international cooperation on the issue may change the behaviour of the military on their own community. But China would not be eager to engage with any initiative that can increase United States' role in the country as well as in the region. Hence, it would not be easy for India and ASEAN to take further initiative against military government considering their economic and strategic interests. The US and EU are thinking of "carrot and stick policy"⁴⁰ to pressurise military for ensuring reforms in the country. However, it is not yet clear how far the policy would be effective⁴¹ because if China and ASEAN think that the US wants to increase its influence on Myanmar, they may take different initiatives. Some observers think that China may change its policy considering the international concern on the issue. The response from Myanmar government is also important. Previously, when the issue became an international concern, they took some initiatives indicating that they were going for democracy. But few days later, they returned to their forceful approach of dealing with the international community.

5. STRATEGIES OF THE MILITARY

The military of Myanmar considers itself as the only credible upholder of national interest and national security of the country. Hence, it has taken measures to ensure its permanent position in power. It has also taken measures to tackle any international pressure for restoring democracy. The military proposed a roadmap for democracy without losing its control on administration. It has formed National Convention for drawing up guidelines for a new Constitution for the country and organised referendum for the proposed new Constitution. It has also contained ethnic insurgencies and tried to make sure that ethnic groups do not find common cause with the pro-democratic movements. When international pressure increases, the military release some political leaders saying that it is changing its policy and going for democracy. But, after some days they

³⁹ Michael Green and Derek Mitchell, *op.cit.*

⁴⁰ Reward or punishment offered in order to get to do a certain task.

⁴¹ Ian Holliday, "Rethinking the United States Myanmar Policy", *Asian Survey*, Vol. XLV, No. 4, July-August 2005.

increase their pressure on the political forces and try to divide internal political forces from taking any combined initiative against government. They also have exerted full control over press and free expression.

Military leaders are working on a plan to organise two fronts to counter NLD in future elections and to establish its own power base in the country. The first was the creation of USDA in September 1993. It is estimated that USDA now has 16 million youths as members and is gradually turning into a leading political organisation under the guidance of Myanmar's military government. It now plays the lead role in staging anti-opposition campaigns and rallies specially targeting Aung San Suu Kyi and her party NLD. The second organisation that the military is trying to revamp since 1998 is the War Veterans Organization (WVO). Speaking at the recently convened reorganised WVO conference in Yangon, Senior General Than Shwe stated that WVO members would be responsible for national politics, national defence, economy, community service and social welfare activities. War Veterans were also told that they would have to accept the command of the existing military leadership as they did when they were in active service in order to carry out national defence and security tasks. It is reported that WVO has 3010 retired officers and 88,162 other ranks as its members. WVO is being encouraged to function as NGO and has received financial assistance from the government to open business fronts to provide better incentive for its members. Present military government has also passed a law that forbids retired military personnel from forming any other organisation. This has been done possibly to ward off reoccurrence of 1985 event, when some senior retired military officers formed a political party called Patriotic Old Commanders League (POCL) and registered themselves with the election commission. Three candidates from POCL contested in the 1990 election and won one seat in the legislature. The military government disbanded the POCL in March 1992 because their activities were seen to be undermining the unity within the forces. All retired military personnel are now legally bound to be members of revamped WVO and thus willingly or unwillingly come under the leadership of the present military government.

In the international level, the military regime has successfully ensured its engagement with neighbouring countries. It secured its membership in ASEAN. China still remains its strongest ally. India's 'Look East Policy' and its desire for natural resources of Myanmar have given the opportunity for military to limit India's concern about the internal issues of Myanmar. Myanmar is considered as highway for forging any relation with the South and South East Asian countries. It is also a member of Bay of Bengal Initiative for Multi Sectoral Technical and Economic Cooperation (BIMSTEC). Hence, the military regime can easily control the regional powers for taking any initiative against them. Though the US and Europe are contemplating of taking action, Myanmar's strong relation with its neighbouring countries can off-set any problem from the western sanctions. Historically, Myanmar followed a restricted economic policy. But in recent

times, Myanmar is increasing relations with its neighbouring countries. Till 2003, Myanmar's economy was performing well. In the last four years (2004-2008), its economy has taken a negative trend. This has an implication for its political unrest. But the authority is not eager to open its economy considering that its larger engagement with the western economy would increase political pressure from the west.

The natural resources of the country are the major strength of the military. It is using it as an instrument for ensuring its position in the international arena. Myanmar has declared opening up its economy to market forces and foreign investment but this has not worked because the military is unwilling to release its grip on cartel areas like imports and exports, issuing of licenses, trading in rice and creation of infrastructure. This drawback and economic mismanagement have resulted in a near economic collapse with the official exchange rate of the *Kayat*, the local currency, being nearly 200 times lower than the black market rate.⁴² The western companies want to invest in the gas sector of the country, but international sanctions are hampering their investment. The situation provides an opportunity for Myanmar to increase its relation with China by offering investment in the gas sector.

6. CONCLUSION

The new Constitution apparently did not raise much hope for democracy in Myanmar. Nonetheless, the huge participation during the voting makes it clear that people hope for a constitutional system in the country. The new Constitution does not indicate that the military would reward the nation with a western style democracy. But it seems that the military wants to hand over power to a government which would be controlled by them and help forge a relationship between the military and people. The regime's engagement with its neighbours in the areas of trade and investment may give a new understanding among the military officials to reshape its governing system, which will save them from criticism in the international arena as well as ensure their interests over the resources of the country. However, on the face of limitations, the new Constitution somehow created an impression that the army was changing its unscrupulous control over power in the country. But how the people of the country can play a role to choose their leadership and how a multi-ethnic country can secure its integrity are not addressed in the Constitution.

Meanwhile, the international community is divided on the issue of Myanmar. Though the new US President Obama's policy towards Myanmar has not taken any clear shape yet, it seems Obama administration may not be as aggressive as the Bush administration. At the same time, the Bush administration's policies

⁴² Muhammad Zamir, "International Concern over Myanmar", *The Daily Star*, 20 October 2007.

cannot suddenly be abandoned. At the same time, there is also the concern that any action against Myanmar cannot be taken unilaterally without China's support. As indicated earlier, China's policy towards Myanmar is based on its own strategic interests. China will not like any change in Myanmar which could hamper its strategic and economic interests. This is because of the present military junta's continued good relations with China. However, international concern over Myanmar can transmit a strong signal to the Chinese policy makers for reshaping its policy towards Myanmar. The new Constitution may be an initiative in this regard. However, considering the present developments, there appears to be little hope for democracy in the country in near future.