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Prospects for Burma's New Constitution (Commentary)

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In February the SPDC military government announced that a referendum will be held this May, to endorse a new constitution. Following the referendum (presumably, if the regime is successful in engineering a 'yes' vote) elections are scheduled for 2010.

The government-controlled constitution-drafting process of 1993-2007 did not involve significant participation from elected representatives (the NLD, and 67 ethnic nationality MPs-elect, including five from the MNDF). Although several ceasefire groups (especially the NMSP and KIO) attempted to include federal principles in the constitution, their efforts were frustrated by the government. Under the new charter -which has not yet been made public -the Burma Army would control 25% of the seats in parliament, as well as the key portfolios of defence, home affairs and border affairs. The military would also retain institutional autonomy, and control the police and paramilitary organizations. Therefore the new constitution is widely perceived as deeply flawed.

The basic territorial division of the country into seven ethnic States and seven predominantly (but not exclusively) Burman-populated Divisions would be retained in the new constitution, with the creation of new semi-autonomous, sub-provincial administrations for six ethnic nationality groups (five in Shan State). The new constitutional arrangements would provide for legislatures, with very limited powers, at the state level, while at the central level there would be a lower 'house of the people' (Pyithu Hluttaw) elected by popular vote, and an upper house (Amyotha Hluttaw), containing equal numbers of representatives from each of the Divisions and States.

It is worth asking whether this new structure, despite its obvious faults, might allow for a slightly more open expression of political views. For example, it may be that the new legislative assemblies will find some freedom to debate important issues. The creation of ethnic state legislatures may allow for the participation of local political and civil society organizations, in at least some sectors of public life, as well as providing a forum to argue for greater allocation of resources to ethnic nationality-populated areas.

According to this view, any constitution is better than continued direct rule by the military. Although the space available to ethnic nationality and other parties under the new constitution is likely to be very limited, it will at least allow them to participate in above-ground politics,

from 'within the legal fold'.

Regarding the referendum -calls to boycott the process, or vote 'No', are understandable. However, the referendum seems to represent a 'win-win' situation for the military government: if the constitution is rejected, presumably this will mean many more years of military rule, while the generals take their time before presenting new proposals.

Regarding any future election -whatever its deficiencies, this will probably confer at least a degree of legitimacy upon those elected. Ethnic nationality politicians and communities are therefore likely to be faced with a dilemma, regarding whether and how to participate in elections organized by the SPDC.

It will be interesting to observe whether -given the choice -ethnic nationality communities will choose to support all-Burma parties (such as the NLD), or to endorse specifically ethno-nationalist groups. Historically, elites representing some ethnic groups, such as the Mon, have successfully competed in elections in Burma (e.g. in the 1950s and in 1990), while others, such as the Karen, have not. Will the ceasefire groups be prepared to risk testing their electoral popularity? Despite several positive developments since the ceasefires (such as the re-emergence of civil society networks, which I have written about in detail elsewhere), the continuation of human and civil-political rights abuses have led many to criticise these agreements. Such complaints have weakened the standing of most ceasefire groups, at least in some sectors of the community. This is a common phenomenon in post-conflict situations: leaders and organisations which are prepared to make political compromises often find their position undermined by 'hard-line' critics.

One of the most important and interesting questions, thirteen years after the ceasefire, is what the future holds for the NMSP. The party still retains most of the characteristics, and opposition-oriented political culture, of an insurgent organization. Will the NMSP be able to re-invent itself as a dynamic political party (and rival to the partly-dormant MNDF) -or will it continue to guard the frontiers of the ceasefire zone, while exercising a declining influence over the wider Mon population?

While it may be argued that Burma's armed ethnic groups have little to gain from participating in future

elections, something is perhaps better than nothing. A continuation of the present armed stand-off mostly benefits the military government, at a time when the regime is undergoing a generational change, and seems to be establishing the ground rules for politics in Burma over the coming decade.

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