Coups, Dialogue and Transition

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The Burmese military junta, in the course of its rule for the last forty years, has adopted a range of strategies for its survival. Overthrowing the constitution, bringing in a fake constitution, martial law rule, then an attempt to install constitutional rule by holding elections, then initiating talks with the winning party... the list seems endless. These are just a few of the strategies adopted. These were the political exercises. Internally the junta carried out purges and reorganization of its different commands, at different levels, at different times. However, all these actions had one thing in common, namely the total denial of Rule of Law. The well-publicized, attempted coup by the Ne Win family has been dramatized for the first time.

The underlying cause of the instability of the regime is the elimination of Rule of Law and all the principles of accountability and transparency. Concentration of power in a few hands is fraught with inherent dangers. The military junta has to release this power centre and put into place an open society. This would enable dissent and differences to be ventilated and channel legal activities by civil society, thereby minimizing the necessity for a violent regime change. The power struggle inside the junta can never be resolved by one group eliminating another. Power belongs to the people and logically, if power is in the hands of the people, the conflict will revolve around the groups representing the people. The armed forces will remain out of this battle zone, which also means that their integrity as an institution can be maintained. One of the founders of the Burma Army, hero of the independence movement, uncrowned king for the last forty years, the symbol of oppression and brute force has met his nemesis. What popular movement could not do, the long arm of the law has done. Ironically, law has become the arbitrator of the conflict between the two...
illegal outfits. The need of the hour is a speedy trial, all the conspirators have to be brought before an open court, and the public must have access to the proceedings. The trial will be historical. Not Ne Win will be in the dock, but militarism will be accused number one. This is the first part.

The second part is expediting the dialogue, making it inclusive and time-bound. If the two processes go on hand in hand, the destabilizing factors can be isolated. The military junta will have to negotiate with the pro-democracy movement and restore a civilian government based on Rule of Law. Democratic transition is the only lighthouse in the turbulent sea of Burma.

The Kashmir Issue: Relevant to Burma?

The India-Pakistan talks have been scuttled. At first glance there may be no apparent relevance of the Kashmir issue to Burma. However, the giant issue which led to the talks between the world’s largest democracy and a coup-ridden military dictatorship is very relevant to Burma. That issue is the secession of Kashmir, a state adjoining India and Pakistan. Kashmir once was an independent state under British paramountcy. It was neither part of India nor under the jurisdiction of the Government of India. At the time of Independence, the state of Kashmir was given the option to join either the Republic of India or Pakistan, a newly-created State at the time of Independence. The Head of the Kashmir government decided to have accession to India, subject to referendum by the Kashmiri people. However, shortly afterwards a war broke out between India and Kashmir on the question of ‘no accession without referendum’. The United Nations intervened and a Peacekeeping Force, with a Line of Control, was installed until a plebiscite was held to finally determine the question of accession. That was in 1948. Up until now it has not taken place. On the contrary, three large-scale wars have taken place. Now the United Nations are not insisting on a plebiscite, as the parties at the Simla Conference agreed to settle it bilaterally.

The first question of relevance to Burma is why the UN has refused to intervene. The second question is what will become of the plebiscite. The third question is what the legal remedy for the people of Kashmir would be, to enforce their right of self-determination. The fourth question is what has become of the militant armed fight that has been waged for over half a century, apart from gross abuses of human rights. Kashmir has become a giant issue that has defied political and constitutional solutions.
Even the international community has taken its hands off the case. The right of self-determination of the people of Kashmir is equated with the right of secession. The result has been devastation of this beautiful land. There is no gain in just saying that people have the right of self-determination. Will this self-determination, in the context of the history of the struggle and international law, include the right of secession?

There are differences in the two situations: in Burma, first and foremost the states are in a Union and very much part of that Union. It would be something unpractical to claim secession under the 1947 Constitution which has been buried at this point of history. If secession as such were claimed, there would not be any takers. For example, if the Shan State said it has its own constitution and is a free sovereign State, this unilateral action would not take it anywhere. It would only reduce the state to one of the failed states of Africa. In contrast, the people of Kashmir, as two big powers are directly involved in the issue of their self-determination, do not seem to have a say in deciding their own future.

**Endnote**

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