Designing Constitution as Policy Formulation
to Stop Human Rights Violations

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An intensive people’s movement for the restoration of democracy and human rights has been existing in Burma for more than a decade. In the meantime, both government and opposition groups have been drafting constitutions, to be put into force during the transition to a more open and democratic system of government.

The adoption of a new constitution in Burma (the country with the worst human rights record in the region) would probably not help to improve the present situation unless it adequately addresses the political issues that have been the main cause for human rights abuses. There are several political issues to be addressed by the new constitution, one of these being the half-century-old ethnic conflict, which has been a major cause for the serious and systematic human rights violations.

Burma’s experiences from the past suggest that the resistance movements, run by the non-Burman ethnic minority groups, would not be satisfied until their demands for political equality are guaranteed by the constitution. Even when Burma was led by a democratic government from 1948 to 1962, the non-Burman ethnic groups were not convinced that only having a democratic government would be sufficient to ensure their political equality. As long as the constitution fails to guarantee political equality for the ethnic groups, they will continue their resistance against the central government, no matter how democratic it is.
Political Equality Guaranteed?

During the struggle for independence, the Burman leaders (particularly General Aung San, the architect of Burma’s independence movement) told the non-Burman minority groups that their political equality would be guaranteed by the post-independence constitution. It was promised that such a constitution would create a federal system of government. However, when this constitution was finally put into force in 1947, most non-Burman ethnic groups felt that the quasi-federalism mentioned in it did not really guarantee political equality with the Burman majority group.

Therefore, the non-Burman ethnic groups demanded an amendment to the 1947 constitution, by adding provisions that would provide political equality. Ethnic minority groups conducted a series of consultation meetings, both among themselves and with Burman government leaders, in order to come to the desired amendment. The main demand was to transform the government system into what they called a “genuine federal system” in which Burmans would no longer be granted special privileges. If this demand was not met, the non-Burman ethnic groups’ option would have been the exercise of the right of secession as laid down in Chapter 10 of the 1947 constitution.

The movement of non-Burman ethnic groups demanding political equality, also known as the Federal Movement, reached its peak between 1956 and 1962, coincidently along with the leadership crisis within Burma’s ruling party, the Anti-Fascist People’s Freedom League (AFPFL), which had been in power since the independence. As a result from this crisis, the AFPFL split into two factions (AFPFL-Clean and AFPFL-Stable) in May 1958, whereupon prime minister U Nu, also leader of AFPFL-Clean, invited army chief General Ne Win to form a caretaker government. This caretaker government was assigned to conduct general elections and to transfer power to the election winning party. The general elections were held in 1960, bringing U Nu’s faction back into power.

Meanwhile, the leaders of the ethnic minority groups continued demanding ethnic equality and federalism, and wanted discussions with U Nu about the amendments to the constitution. General Ne Win, prime minister in the caretaker government, saw this as a major threat to the integration of the country. Accordingly, when Ne Win seized power in 1962, he justified the coup by reasoning that the political situation had demanded the army to respond in this way, to save the country from disintegration by the Federal Movement. Ne Win’s military government, known as the Revolutionary Council, arrested U Nu and many ethnic leaders including Sao Shwe Theik, ex-President of Burma.

As it became clear that the military regime would not be offering any possibility for political equality, many non-Burman ethnic groups joined the underground
and intensified their insurgency against the military government. In the eyes of the non-Burman ethnic groups, the military was conceived as representing the Burman majority anyway.

With the propagation of the 1974 constitution, totalitarianism was installed, supported by the army-controlled Burma Socialist Programme Party (BSPP). The quasi-federal form of government, as described in the 1947 constitution, was replaced by a centralized unitary system of government.

**Insurgency: Reason for Human Rights Violations?**

As a consequence of government’s failure to properly address the demands of ethnic minority groups, that could have been resolved peacefully if only the government had been willing to do so, the insurgency movements emerged. According to the Revolutionary Council, the main reason for the coup d’etat was to defend the integrity of the country against the Federal Movement. While the military strengthened its power at central as well as regional and local levels, it intensified its actions against ethnic insurgency movements. The army has allowed itself to commit any kind of human rights violations, if this is “considered necessary for the consolidation of the state”. The army often sees civilians who belong to non-Burman ethnic groups as supporters of the insurgency movements. It is even said that the military regime keeps the civil war going in an attempt to propagate military leadership as essential in defending the integration of the country. The military government sees the existence of the ethnic insurgency movements, together with their demands for political equality, as justifying factors for imposing suppressive actions—resulting in systematic human rights violations.

**Systematic Human Rights Violations**

International human rights organizations such as Amnesty International and Human Rights Watch, have been documenting more and more human rights violations committed by the Burmese military government against its own people. As in all authoritarian states, human rights violations are usually politically motivated. Human rights violations in Burma can generally be seen in two categories: violations against individuals and violations against ethnic groups.

If violations are committed against individuals who are involved in politics critical of the government, this can be classified under the first category. This type
of violations is not based on ethnic background but on political activity. That is why the violations against individuals are selective in terms of targeted victims and arbitrary in terms of practice.

Violations against non-Burman ethnic groups are irrespective of involvement in politics. Any non-Burman ethnic group waging war against the government is often considered as “one unit” by the government, and subject to suppression. Forced relocation, burning down the whole village, destroying crops and rice fields, confiscation of property, rape, torture and murder have become part of military operations in the suppression of ethnic insurgency movements. Worst is the practice of what is called the “Four Cuts Policy”: cut off communication lines between villagers and the insurgency movements, cut back on new recruitment for insurgency groups, cut up their logistics and cut down their flow of information. As a tragic consequence, such operations have become systematically entrenched in military government policy. Innocent non-Burman ethnic people at large suffer from these indiscriminate military operations.

The features that make the human rights violations in Burma systematic include (a) that the military government backs the violations (b) on a massive scale, with (c) the intention to eliminate the ethnicity of the victims (for example, Burmese soldiers are ‘encouraged’ to marry ethnic minority women, whereupon these women have to change their religion into Buddhist), (d) entire populations are indiscriminately targeted as belonging to the resistance groups, and (e) there is no political and judicial remedy available for the victims.

The Remedy

Non-Burman ethnic groups opt for the insurgency movements because the government fails to resolve their demands for political equality peacefully within a democratic framework. The military junta in Burma sees the existence of the insurgency movements as a justification for systematic human rights violations. Only when two essential steps are taken—first, to restore a democratic government that is willing to resolve the demands of the non-Burman ethnic groups peacefully, and second, to introduce constitutional arrangements that guarantee the political equality of the non-Burman ethnic groups—can the systematic human rights violations be brought to an end.

Endnote

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