The Myanmar Project

A Year in Transition

Assessing Democracy in Myanmar

Special Report #186 | March 2017

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A YEAR IN TRANSITION

ASSESSING DEMOCRACY IN MYANMAR

On 7 February 2017, the Institute of Peace and Conflict Studies (IPCS) hosted a panel discussion, titled 'A Year in Transition: Assessing Democracy in Myanmar'. It was chaired by Ambassador (Retd) Rajiv Bhatia, former Indian Ambassador to Myanmar. The panellists were: Professor Nehginpao Kipgen, Executive Director, Centre for Southeast Asian Studies, Jindal School of International Affairs; Dr Bibhu Prasad Routray, Visiting Fellow, IPCS, and Director, Mantraya; and Professor Kenneth Holland, Executive Director, Centre for International Development, Ball State University (US).

The following are the introductory remarks and an overview of the issues discussed.

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REMARKS BY THE CHAIR

AMBASSADOR (RETD) RAJIV BHATIA

FORMER INDIAN AMBASSADOR TO MYANMAR

The issue of when the transition began has always interested Burmese scholars. Was it 2003? Or did it begin when the roadmap to democracy was crafted in 2008? Or did it begin when the new constitution cleared its final hurdles in 2011? Did it begin President Thein Sein became the first civilian head of state, or in 2016, when democracy took its biggest stride in Myanmar and Suu Kyi became the de facto leader of the country?

Another important question is when the transition will end. Just as it has a beginning, a transition must also have an end. In this content, a successfully concluded transition would mean complete and genuine democracy and an apolitical army. Will this be achieved by 2020? Or by 2025? Or beyond?

In the past ten months, several sharp fluctuations have been witnessed. Prior to October 2016, the dualism of power appeared to be working fine. Major initiatives on ethnic reconciliation were being undertaken; the Kofi Annan-led Advisory Commission on Rakhine State was established; foreign businesses received a huge welcome; and finally, an outreach initiative was undertaken to nurture and cultivate relationships with foreign powers.

However, the period after October 2016 paints a different picture. There has been little progress on ethnic issues after the Panglong Conference. Strains have developed in Myanmar-ASEAN relations, especially in the Myanmar-Malaysia bilateral. The escalating Rohingya issue continues to be a casualty and to top it all, the assassination of the lawyer Ko Ni is highly disturbing.

What does the present situation look like? To use an analogy, it appears as though Myanmar has two wives, the military and the NLD. All may seem harmonious in public, but not all is well in private.

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THE ROHINGYA CONUNDRUM

PROFESSOR NEHGINPAO KIPGEN

EXECUTIVE DIRECTOR, CENTRE FOR SOUTHEAST ASIAN STUDIES, JINDAL SCHOOL OF INTERNATIONAL AFFAIRS

THE ROHINGYA ISSUE

Rohingyas are a Muslim minority community in Myanmar and are primarily settled in Rakhine State. Some claim that the Rohingyas have lived in Myanmar for centuries and are the descendants of Muslim Arabs, Moors, Persians, Turks, Mughals and Bengalis who came mostly as traders, warriors, and saints via land and sea routes.

According to the government of Myanmar, there are 135 ethnic races in Myanmar. Rohingyas are not included in the list. The problem lies within that nomenclature itself. Even though they call themselves Rohingyas, this is rejected by the local population who claim this label was given to them by the international community and that they are actually illegal immigrants from neighbouring Bangladesh. While Rohingyas claim to be the original settlers of Rakhine State, most of the population in Myanmar, including the majority Burmans as well as other minority communities, call them illegal immigrants. In short, Rohingyas can be defined as an ethnic minority of Myanmar even though they are not officially counted as citizens by the government, and are therefore, a stateless people.

The problem is that the people want to be recognised and called Rohingyas while the government refuses to do so. Recently, Myanmar's ruling party, the National League for Democracy (NLD), has taken a more diplomatic route, calling them the Muslims of Rakhine so that both sides of the issue can be taken into account. Thus, the question is whether the people of Myanmar will recognise this population as fellow citizens of Myanmar and as one of their own.

POTENTIAL SOLUTIONS

There are several theories and schools of thought regarding a solution to the 'Rohingya conundrum'.

The first theory - which goes back to former President of Myanmar Thein Sein's government - was a proposal to resettle the Rohingyas to a third country which would be willing to take them. However, President Sein was rebuked by the UN, which said the government of Myanmar was responsible for finding a solution and the UN was ready to help if necessary.

More recently, there have been calls to resettle the Rohingya population in Bangladesh and a delegation was sent to the country from Myanmar. The UN United Nations High Commissioner for Refugees has asked Bangladesh to allow it to negotiate the resettlement of around 1,000 Rohingyas with the US, Canada and some European countries. The Bangladeshi government, however, rejected the Myanmar government's argument that the Rohingyas are illegal immigrants of Bangladeshi origin. Myanmar plans to take back some of the refugees after verifying their identity. Meanwhile, the Bangladeshi government is seeking the international community's assistance to develop the Thengar Char Island and for transporting Rohingya refugees there. The plan has drawn criticism from across the world, given that the island located in the Bay of Bengal is lashed by high tides all year round and is submerged during monsoon. It is a largely uninhabitable marshland and can be reached only after several hours of travel via boats from the Bangladeshi mainland. The relocation plan was last proposed in 2015, but the government suspended it after aid groups and rights activists criticised it. It was revived following the arrival of about 65,000 Rohingyas from Myanmar in October and November 2016.

Another argument is that Myanmar's NLD government led by Aung San Suu Kyi must find a solution. The challenge, however, is that prior to 2010, Suu Kyi was an icon of democracy, speaking out for human rights, but now as a politician, she must take into account the views and sentiments of the majority of the electorates - who are largely ethnic Burman.

Despite the international community calling on her to take a stand on this issue, she remains steadfast as a pragmatic politician. Suu Kyi has very little ability to publicly support the Rohingyas against the sentiment of the larger population.

At present, three potential solutions seem to exist:

A solution does not seem plausible via Suu Kyi. The first important element is Myanmar's military. According to the 2008 constitution, Myanmar's military enjoys 25 per cent of seats reserved for it in all legislatures. Simultaneously, they hold power over three key ministries: home, defence and borders. At present, the Rohingya issue falls directly under the purview of the Home Ministry, which is controlled by the military. Therefore, more than Suu Kyi or President Htin Kyaw, it is Senior General Min Aung Hlaing who prevails over any other stakeholders on the Rohingya issue.

Secondly, the role of civil society groups in Myanmar, despite not being as organised or robust as those in developed countries, is important. The civil society groups, including the

media fraternity could form pressure groups to increase pressure on the military and the NLD government. Unfortunately, however, the Rohingyas have little support within these civil society groups as well.

Thirdly, the solution could lie with the general public. The people of Myanmar offer the most permanent solution to the Rohingya issue. As long as the majority of the Myanmar population views the Rohingya as illegal immigrants, neither the military nor the NLD is likely to take steps against the popular sentiment.

It is up to these three elements to understand that as long as the Rohingya issue remains unresolved, Myanmar will continue to be in the international spotlight for all the wrong reasons, and that could affect the peace process as well. Moreover, the democratisation process in Myanmar cannot be consolidated as long as the Rohingya issue remains unresolved.

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ETHNIC RECONCILIATION AND THE PEACE PROCESS

DR BIBHU PRASAD ROUTRAY

DIRECTOR, MANTRAYA; AND VISITING FELLOW, IPCS

There are various complexities that exist in Myanmar: complexities in the peace process; complexities in the ethnic situation in Myanmar; and complexities between the notions of nationality and peace, among others. Since the conflict is long-standing, many external actors who were previously uninvolved in the conflict have now become serious players and their interests must be considered while making assessments. What are the actors gaining or not gaining? And, if they are not gaining, are they becoming stumbling blocks to the processes?

OVERVIEW

Myanmar's population currently stands at approximately 60 million. Of this, 60-70 per cent is ethnic Bamar, primarily present in Myanmar's central regions. The peripheries are inhabited by the minority ethnic groups, accounting for approximately 30 per cent. Due to their numbers the Barmars are politically important. For instance, the Tatmadaw (Myanmar's armed forces), which is an important political player in the country, is Bamar-dominated. Compared to the ethnic political parties and armies in their home-states, the peripheries are dominated by the minorities and there is little Bamar presence.

PEACE PROCESS

The peace process began in 2011. In 2010, Myanmar's military declared its intention to identify a reform process. In 2011, Thein Sein (a retired general of the Myanmar army and the former chief of the Union Solidarity and Development Party) became the quasi-democratic president of Myanmar and began implementing reform policies. As soon as the peace process was announced, a surge in fighting was witnessed in the peripheries. Along with this surge in fighting, there was a surge in arms imports into Myanmar. Between 1989 and 1993, Myanmar imported approximately US$ 350 million worth of arms. In 2011, US$ 700 million worth of arms was imported (from Russia, China, Italy and Ukraine). In 2012, it surged to US$ 1.2 billion with imports including MiG-29s, ground attack helicopters, heavy battle tanks, mobile artillery guns, and arms that were being actively used in Myanmar. With this, there was a surge in the attacks on the Kachins, in Shan State, on the Ta'ang National

Liberation Army (TNLA) and the Myanmar National Democratic Alliance Army (MNDAA), and a rise in deaths concurrent to the surge in arms imports.

Who is interested in peace in Myanmar? The EU has played a role with the establishment of the Myanmar Peace Centre. However, some would consider the EU's role as extremely controversial. Veteran journalist Bertil Lintner commented that this was one of Myanmar's biggest follies. Initially, the EU began by focusing on human rights but then diluted its stand by talking about trade and investment while human rights issues were pushed to the backseat.

NCA: OVERRATED ACHIEVEMENTS

This was how the peace process began, with a roadmap by Thein Sein's government - to sign individual peace agreements, followed by drafting and then passing a nationwide agreement. Before Thein Sein left office, he was able to make some progress by getting a few ethnic parties to sign the Nationwide Ceasefire Agreement (NCA) in 2015. The NCA was signed by three prominent groups: Restoration Council of Shan State (RCSS), the Karen National Union/Karen National Liberation Army (KNU/KLA), and the Democratic Karen Buddhist Army (DKBA). However, the cumulative cadre size of the groups that signed the NCA amounts to only 18,000 compared to the groups that did not sign (whose cumulative cadre strength stands at 40,500). This means the NCA, which was touted as a success, could actually be called a charade.

On the overall humanitarian crisis, it has been seen that the Myanmar army has targeted many minority groups just like it has targeted the Rohingyas, in a barbaric, inhumane and completely uncivilised manner. So, in spite of the NCA, new violence has been witnessed against groups that did not sign the NCA.

Thus, the problem with the peace process is a lack of trust between the Bamar-majority army and the minorities. Soldiers are brainwashed into believing that the minorities and tribal populations are sub-human and genetically inferior. On the other side, there exists an existential crisis: the ethnic insurgencies aim to enjoy the benefits of autonomy they are used to for a number of years. The Peace Process on the other hand, forces them to surrender completely and be subjugated by the Myanmar army.

LOOKING AHEAD

Is the time ripe for peace now? Countries seek peace when they realise that the situation has potential for a Mutually Hurting Stalemate (MHS). Is that what is happening in Myanmar? Not likely, because both the military and the ethnic armies are in a position to believe that they can hold on to their ground if they continue fighting. The motivations for Thein Sein's reforms - to open up the country and bring in more investment - are now irrelevant. Myanmar continues to grow at a fast rate. On the other hand, Suu Kyi's motivations regarding Myanmar are different. The peace process is not the most important priority for her as this does not concern the Bamar majority much.

When it comes to incentives, there is little that can be done by the courts when it comes to adjudicating over matters concerning the military at both the national and state levels. Simultaneously, China plays a role by providing arms to both the Myanmar army and the ethnic armies while also holding talks with Suu Kyi's government. Some are of the opinion that a revival of the Panglong Agreement might be a solution. However, this 21st century Panglong Agreement has its own set of issues.

Overall, the prospects of Myanmar entering a peace mode appear slightly dim.

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THE PARLIAMENT AS A LEGISLATIVE BODY

PROFESSOR KENNETH HOLLAND

EXECUTIVE DIRECTOR, CENTRE FOR INTERNATIONAL DEVELOPMENT, BALL STATE UNIVERSITY (US)

The current US-Myanmar relationship began with the thawing of relations between Washington and Naypyidaw with the ascension of Thein Sein as Myanmar's president and a movement away from military dictatorship to democracy. The breakthrough came in 2011, with the visit of then US Secretary of State Hillary Clinton to Myanmar.This was followed by the visit of President Barack Obama in 2012, during whose visit, the US announced that it would reopen its embassy as well as its grant programme - which was a major shift in US policy.

Thus, in 2013, a delegation made up a number of representatives from different universities and three diplomats made their first official US visit to Myanmar to visit universities and ministry officials in Yangon, Mandalay and Naypyidaw. This delegation promised to reintroduce the teaching of political science in Myanmar (the former President of Myanmar Ne Win had banned the study of political science after the 1962 revolution) and, in October 2016, it was officially reintroduced.

OVERVIEW

The National League for Democracy (NLD) led by Suu Kyi won a clear majority of 300-92 in the 1990 elections in Myanmar, but the military declared the results invalid and Suu Kyi was placed under house arrest. A new constitution was adopted in 2008. Most political leaders the abovementioned delegation worked with were political leaders like Suu Kyi. Elections were held under the new constitution in 2010, but the NLD boycotted those claiming them as unjust. NLD contested the by-elections of 2012, in which it won all the seats, signalling what was to come; i.e., the people being overwhelmingly in favour of democracy.

Under the 2008 constitution, Myanmar has a bicameral legislature with an upper house (house of nationalities) and a lower house (house of representatives) comprising 440 members. Of this, 330 seats are directly elected by single member constituencies but 25 per cent (110 seats) are reserved for the military. After the first five-year term, the next election was held in 2015. The NLD won the majority while the military's party lost. The newly

elected party was sworn in in 2016. A peculiar feature is that the president is elected by the parliament but the party members are elected first, creating a lame duck situation.

INITIATIVES

The Members of Parliament (MPs) have three functions: to represent their constituents; oversee the administration of the government; and make the laws themselves. Due to Myanmar'shistory, 80 per cent of the seats changed hands in the 2015 election, and a vast majority of the MPs have never served in parliament before. In February 2016, the UN pitched in along with the Inter-Parliamentary Union to conduct a five-day introductory seminar. However, the MPs did not find the seminar very helpful and said that they needed help specific to Myanmar's constitution. The UN has established a permanent centre to assist the MPs where they have promised to bring in experts from around from the world on particular policy issues.

Meanwhile, the US embassy in Myanmar approached academics to provide assistance to the Yangon School of Political Science established by former political prisoners. Students in this school come from all of Myanmar's different ethnic groups and the school board includes two Muslim members. In a way, the school is a microcosm of what Myanmar could be. The US ambassador to Myanmar encouraged US academics working in Myanmar to apply for a grant from the US Department of State's Bureau of Democracy, Human Rights and Labour under the Global Religious Freedom programme. There have thus been programmes and projects involved in training Myanmar's MPs in religious tolerance. Some of the deliverables of these projects include helping the MPs understand the international scale and standards of religious freedom; drafting and passing legislation; nullifying laws that impede human rights; interpreting and utilising Myanmar's constitution; building coalitions across party lines; working with civil society organisations; and fashioning multi-party and multi-regional alliances to fight for religious freedoms.

These projects involve working with national as well as state and regional parliaments. At present, these legislative bodies are extremely weak - just like Myanmar's judiciary. The constitution not only provides for the army to hold 25 per cent of the seats in the national parliament but also to hold one-third of the seats in state and regional parliaments. There are seven state and seven regional parliaments; they vary in size and are extremely diverse. At present, the NLD has full control in 12 of the 14 sub-national parliaments but they share power in the remaining two. Interestingly, one of these is Shan State (the largest state in Myanmar) where power is shared by the military's party - the USDP. The second of these is

Rakhine State, where NLD shares power with the Arakan National Party. The Buddhists in Rakhine State are politically well-organised and view themselves as the defenders of the Burmese race and the Buddhist religion.

CONCLUSION

Myanmar's parliaments are extremely weak. One of their greatest weaknesses is the human capacity of the newly elected NLD members. Another problem is the military, because they can check anything the parliament can do. One of the most difficult tasks is reforming the constitution, which requires a 75 per cent majority in parliament. In fact, Burmese lawyer U Ko Ni (born to U Sultan of Bengali Indian origin, and Daw Khin Hla of Burmese origin), a specialist in constitutional law, who was assassinated on 29 January 2017, was calling for the drafting of a new constitution, characterising the current one as fundamentally flawed.

Myanmar's parliaments are in huge need of international assistance and guidance not just from UN but also from India to address this weakness.

SPEAKERS

Ambassador (Retd) Rajiv Bhatia is a career diplomat who has served in the Indian Foreign Service (IFS) for 37 years. He was India's Ambassador to Myanmar, among other postings. Since retirement, he has published over 85 articles on international affairs and diplomacy in India's national dailies, journals and other publications. He was Director General of Indian Council of World Affairs from 2012-15. His book India-Myanmar Relations: Changing Contours has received critical acclaim.

Dr Nehginpao Kipgen is Executive Director, Centre for Southeast Asian Studies, Jindal School of International Affairs. He has served as a country expert on Myanmar for Varieties of Democracy, a collaborative research project between the University of Gothenburg (Sweden), and Kellogg Institute, University of Notre Dame (US). He has published over 140 articles in leading international newspapers/magazines, and has recently published two books titled Myanmar: A Political History (OUP) and Democratisation of Myanmar (Routledge).

Dr Bibhu Prasad Routray is Director, Mantraya, and Visiting Fellow & Columnist, IPCS. He has served as Deputy Director in the National Security Council Secretariat, Government of India, and as Director of the Institute for Conflict Management (ICM)'s Database & Documentation Centre, Guwahati, Assam. His writings on the conflict in India's Northeast and left-wing extremism (LWE)-affected areas, have appeared in a wide range of academic and policy publications.

Dr Kenneth Holland is Executive Director, Center for International Development, Ball State University, Indiana, the US. He has been involved with the democratic transition in Myanmar since February 2013, when he participated in the first official visit of higher education leaders to the country from the US. He has been working with public universities in Myanmar and with its Ministry of Education to help institutions of higher education connect with universities and NGOs around the world. He is the winner of three research awards, and has published 8 books and more than 60 articles.

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18 Link Road, Jungpura Extension, New Delhi 110014, Delhi, India
officemail@ipcs.org | www.ipcs.org | +91-11-41001902