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'Garrison State' back to dismantle democracy?

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By K.M. SEETHI

Fears of a military takeover in Myanmar came true in the early hours of 1 February when the powerful army resorted to a series of measures which included detention of the State Counsellor Aung San Suu Kyi, President Win Myint and other senior government leaders, followed by the declaration of a state of emergency in the country. The commander-in-chief of the armed forces, Min Aung Hlaing, took over power in Myanmar which has long been beleaguered by the interventions and powerplay of the ‘Garrison State’—a “developmental construct” enunciated by Harold Lasswell way back in 1941 which refers to “the specialist on violence” (the soldier) being in charge, and the socio-economic life getting subordinated to the military (Lasswell 1941: 455–468).

The Tatmadaw (military) has taken the draconian measures only hours before the opening session of the country’s new Parliament on 1 February. The developments came as a culmination of mounting tensions between the government and the military following the general elections held in November 2020. The National League for Democracy (NLD) led by Aung San Suu Kyi was declared to have won in the polls, securing over 80 per cent of the seats. However, this was contested by the military and its proxy, the Union Solidarity and Development Party (USDP), besides others like Democratic Party of National Politics, another proxy of the military, alleging that the elections were manipulated by ‘fraud’ and ‘irregularities.’ Apparently, the USDP and hence the military, had expected a victory in the elections. Deep frustrations eventually resulted in the ‘Trumpian’ style of accusations and finally the very reversal of the electoral verdict by scuttling the democratic process.

The Supreme Court and the Union Election Commission (UEC) did not yet consider whether they were to accept a writ submitted by USDP and its allies regarding ‘irregularities.’ Moreover, the UEC said that it did not have any evidence yet of the alleged irregularities. The elections held in November last were the second democratic polls in Myanmar since the end of



nearly five decades of military rule. The NLD had won the first elections in 2015.

In a television broadcast, the military announced that fresh general elections would be held and the ‘winning’ party would assume power. The state of emergency was declared after installing Myint Swe as acting President. Myint Swe, a former general, was serving as Vice President. Following this, Myint Swe transferred power to military chief Min Aung Hlaing. The newly elected members of Myanmar’s legislature who belonged to NLD were detained in their residential places under heavy security. Reports said that the military also detained the chief ministers of 14 states and regions.

In a statement issued by the NLD, Suu Kyi called on the people to fully oppose the military coup and “resoundingly resist against it.” She said that the Tatmadaw “showed no consideration whatsoever for the ongoing Covid-19 pandemic” (*Myanmar Now* 2021).

The state of emergency was declared under Article 417 of the 2008 Constitution of Myanmar which was drafted by the military under heavy international pressure. As per Article 417,

If there arises or if there is sufficient reason for a state of emergency to arise that may disintegrate the Union or disintegrate national solidarity or that may cause the loss of sovereignty, due to acts or attempts to take over the sovereignty of the Union by insurgency, violence and wrongful forcible means, the President may, after co-ordinating with the National Defence and Security Council, promulgate an ordinance and declare a state of emergency (Myanmar, Ministry of Information 2008).

The country’s legislative, administrative and judicial powers are also transferred to the Commander-in-Chief of the Defence Services, under Article 418 of the Constitution, until the actions are taken against (alleged irregularities in) voter list checking and (approval), the notification said.

According to the Constitution, only the President can declare a state of emergency and hand over power to the military. Article 419 says:

The Commander-in-Chief of the Defence Services to whom the sovereign power has been transferred shall have the right to exercise the powers of legislature, executive and judiciary. The Commander-in-Chief of the Defence Services



may exercise the legislative power either by himself or by a body including him. The executive power and the judicial power may be transferred to and exercised by an appropriate body that has been formed or a suitable person (Ibid).

It may not seem strange that the Constitution itself conforms to the logic of the “Garrison State” when the Tatmadaw made specific provisions for itself in the document. Under Article 74 of the military-made Constitution, the Union legislature of Myanmar, known as ‘Pyidaungsu Hluttaw’ (The Assembly of the Union) consists of ‘Amyotha Hluttaw’ (House of Nationalities), a 224-seat upper house and ‘Pyithu Hluttaw’ (House of Representatives), a 440-seat lower house. Of the total 664 seats, 75 per cent members (498) are elected directly by voters and 25 per cent (166 members) are Defence Services Personnel nominated by the Commander-in-Chief of the Defence Services. This ‘Garrison’ model was akin to Suharto’s ‘New Order’ regime in Indonesia which came to power in the wake of the removal of President Sukarno.

The ‘Garrison State’ of Myanmar has its history going back to the early 1960s when the country fell prey to military rule in 1962. In fact, Myanmar (erstwhile Burma) emerged as a democratic

country after gaining independence from the British colonial office in 1948. The fact that the Burmese Independence Army had played an important role in gaining independence would have emboldened its stature. U Nu, the first prime minister of Myanmar, himself had sought the help of military in 1958 to form a caretaker government with some internal crisis brewing. However, the direct military rule began in 1962 when General Ne Win captured power through a coup d’état. Myanmar transformed itself into a military dictatorship under the Burma Socialist Programme Party (BSPP) that continued for decades (under the pretext of saving the country from disintegration).

Under General Ne Win, Myanmar witnessed various forms of military rule. Ne Win and his Revolutionary Council managed the affairs of the government directly for more than a decade until when Myanmar was transformed into a military-propped up, socialist one-party state under the guardianship of his own BSPP with the slogan ‘Burmese Way to Socialism.’ However, this eventually resulted in a severe economic crisis that persisted in the 1980s. Myanmar then witnessed massive pro-democracy protests which forced Ne Win to step down in July 1988. But the military was able to reconsolidate its power, after unleashing violence on the pro-democracy demonstrations which led to



massive killing. The military regime was reinstated in a coup in August 1988 by the State Law and Order Restoration Council (SLORC), which continued for another 24 years.

In fact, the military had assured that it would transfer power to an elected government; but it did not even approve the results of the elections held in May 1990, which led to a landslide victory for the National League for Democracy (NLD). The justification of the military for not conceding the mandate was that the country did not have a constitution. This caused long years of conflict between the military, ethnic groups and political parties. The western powers continued to support the opposition parties' struggle to restore democracy. Opposition party members, including NLD chief and Nobel Peace Prize laureate Aung San Suu Kyi and other leaders of the party had to live under house arrest for long and many had to flee the country following the military persecution. Meanwhile political prisoners swelled their numbers over the two decades.

However, in September 2003, the military regime declared its intention to bring in a 'disciplined democracy'—giving a hint that the transfer power to an elected government would take place soon. Yet, it took another five years for the military to draft a new constitution, and when the Constitution came into being

in 2008, it turned out to be an instrument for reserving a specific role for the military. The Constitution was placed for referendum, but it was boycotted by the opposition parties. It was a blessing in disguise for the junta as it declared that there was 'massive' mandate for the new Constitution.

The military finally agreed to hold the general election in 2010—the first after two decades—but the NLD was declared ineligible to participate as per the election laws. Consequently, the military-backed Union Solidarity and Development Party won majority, securing 259 of the 330 contested seats. There was widespread condemnation of the elections held under the façade of 'disciplined democracy.'

However, Suu Kyi was released from house arrest in 2010, and later she was allowed to contest in a by-election in 2012 and a won a seat in the Pyithu Hluttaw. Significantly, the NLD won an absolute majority of seats in the 2015 general elections, taking 86 per cent of the seats in the Assembly of the Union well more than the 67 per cent majority required to ensure that its own candidates would be elected president and first vice president.

But it was a challenging time for Suu Kyi to work with military generals who drafted the Constitution with clear intentions.



Already the military retained 25 per cent of seats in both houses giving it a veto over any move to change the constitution.

Obviously, Suu Kyi cannot become president without such constitutional change. As per Article 59(f) of the Constitution, the president must be someone who "he himself, one of the parents, the spouse, one of the legitimate children or their spouses not owe allegiance to a foreign power." "(They shall) not be subject of a foreign power or citizen of a foreign country ... (or) be persons entitled to enjoy the rights and privileges of a subject of a foreign government or citizen of a foreign country." As Aung San Suu Kyi's two sons are British citizens, she could not become president. Hence she had to reconcile to the position as the State Counsellor having the rank of *de facto* head of the government.

The general election held in 2020 was quite decisive as it gave a clear mandate for the present government to continue for another term. The setbacks for the military-proxy parties obviously alarmed the generals as the new government would be in a position to amend the 2008 Constitution which will erode the powers of the military. This could plausibly be the immediate reason for all charges of "irregularities." The military even went to the extent of accusing the Union Election Commission of

failing to address voter list 'irregularities' and said it was compelled to step in because the government had turned down the military's demands, including the postponement of the new Parliament.

Many believed that the coup was the result of Min Aung Hlaing's personal political greed. He had already earned notoriety for the ethnic cleansing against the Rohingya minorities in the Rakhine State, which led to more than 7 lakh people fleeing the country. There was widespread international condemnation of the military atrocities against the Rohingyas and there was even a travel restriction imposed on Min Aung Hlaing by countries like the United States for his direct involvement in the ethnic cleansing (*The Washington Post* 2019). A United Nations Independent Fact-Finding Mission (UNFFM) on Myanmar found adequate proof to call for the investigation of senior military officials for crimes and genocide against ethnic Rohingya Muslims. The Chairperson of UNFFM said:

The Council, and its individual members, should also impose targeted individual sanctions against those most responsible for serious crimes under international law. In our report, we identified six of the Tatmadaw's most senior generals with



command responsibility for the “clearance operations” in Rakhine State, starting with the Commander-in-Chief, Senior-General Min Aung Hlaing. They must cease to benefit from all international support, both institutionally and personally. This includes an arms embargo on Myanmar and a prohibition of all transactions with Tatmadaw affiliated enterprises (UN Human Rights Council 2018).

It may seem strange that in December 2019, Aung San Suu Kyi had defended Myanmar’s military against genocide allegations at the International Court of Justice (ICJ), in the midst of widespread accusations of mass killings, rape and expulsion of the Rohingya minority. In her opening statement before the ICJ in The Hague, Suu Kyi rejected the case filed by the Gambia. In fact, Suu Kyi’s image got discredited in the international media for the defence of the military.

It is these top Tatmadaw echelons who are now at the helm of affairs in Myanmar. Consequently, the Rohingyas in the Rakhine State are the most distressed minority in the country who were among the 2.6 million ethnic-minorities having been excluded from voting in the last November elections.

Min Aung Hlaing and his family members also got into controversies for the wealth they have amassed from business under the state patronage. For instance, Min Aung Hlaing was reported to have major shares in Myanmar Economic Holdings Public Company Limited (MEHL)—one of two major firms run by the military (Myanmar Economic Corporation (MEC) is the other business conglomerate). MEHL, which has a monopoly on Myanmar’s gems sector, as well as having stakes in various industries including metals, banking, tourism, real estate, transportation etc, generated huge profits and that ostensibly reinforced military's independent operations.

Human rights agencies like Amnesty International (AI) reported about such dubious connections the MEHL maintains. According to Mark Dummett, Head of Business, Security and Human Rights at AI, “the perpetrators of some of the worst human rights violations in Myanmar’s recent history are among those who benefit from MEHL’s business activities – for example, military chief Min Aung Hlaing owned 5,000 shares in MEHL in 2011.” He said: “This is not a case of MEHL unwittingly financing human rights violations – its entire board is composed of high-level military figures.” According to different sources, MEHL also has exclusive privileges in securing contracts with foreign



companies and most of the foreign direct investments are carried out through joint ventures with MEHL (Amnesty International 2020).

The UN Human Rights Council (2019) through its Independent International Fact-Finding Mission on Myanmar had already recorded ample evidences of the economic interests of the Myanmar military and its dubious role in the ethnic cleansing. The Mission report says that “the Tatmadaw insulates itself from accountability and oversight. Through controlling its own business empire, the Tatmadaw can evade the accountability and oversight that normally arise from civilian oversight of military budgets.” In the concluding part, the Report says:

At least 45 companies and organizations provided the Tatmadaw with USD 6.15 million in financial donations that were solicited in September 2017 by senior Tatmadaw leadership in support of the “clearance operations” that began in August 2017 against the Rohingya in northern Rakhine. The Mission also found that private companies with enduring links to the Tatmadaw are financing development projects in northern Rakhine in furtherance of the Tatmadaw’s objective of re-engineering the region in a way that erases evidence of Rohingya belonging in Myanmar, and preventing their return

to access their homeland and communities (UN Human Rights Council 2019).

The ruling military junta has such a dubious history of manipulating both the ethnic and economic climate of the country to its own advantages. However, it knows that both the domestic and international situations are not very smooth today. While the pandemic continues to affect the lives and livelihoods of the people, the economy is now slowing down. The uncertainty in these sectors is likely to persist, even get worsened, in the coming months when the United States threatens to impose sanctions if electoral verdict is not accepted. The UN Secretary-General, António Guterres, also voiced “grave concern” over the military takeover of all legislative, executive and judicial powers. He said, “These developments represent a serious blow to democratic reforms in Myanmar” (United Nations 2021). The European Union and many other countries have already warned that the military cannot set aside the electoral verdict and take the country back to dictatorial days.

While the global pressure and condemnation keep on mounting, China said that “military’s actions can be seen as an adjustment to the country’s dysfunctional power structure”, citing ‘experts’ opinion. It said: “China has maintained good relations with both



the current government and the military, and it hopes that the two sides can reach a compromise through negotiations to maintain peace and stability.” China “also noted the country should be wary of possible external interference” (*Global Times* 2021). Obviously, China has multiple stakes in Myanmar which included strategic and economic ties that go beyond the conventional parameters of trade and commerce.

For India, the relations with Myanmar will remain important given the geopolitics of India’s ‘Act East Policy.’ However, in a cautious statement, the foreign ministry said that “India has always been steadfast in its support to the process of democratic transition in Myanmar. We believe that the rule of law and the democratic process must be upheld (India, Ministry of External Affairs 2021). It may be noted that notwithstanding its support to the democratic movement in Myanmar, New Delhi always sought to sustain a balanced relationship with both the military and democratic dispensations.

The state of emergency is declared for a year in Myanmar, but given the military’s absolute control over the system, it remains to be seen if such a period is ‘enough’ for the junta to ensure a ‘disciplined democracy’ in the country. The detention of a large number of leaders and officials is surely not a method of

‘disciplining’ democracy. And, more profoundly, ‘specialists on violence’ won’t be able to hold on to power for long in the twenty-first century as this is a critical phase in human history with multitude of issues having human rights implications.

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