

THE CONUNDRUM FACING MYANMAR

THE CONSEQUENCES FACING INDIA

The article surveys the current situation in Myanmar, a nation at risk of disintegration amid a civil war that pits several ethnic regional armed militias and political parties against the military (Tatmadaw) regime. The author points out that the widening internal conflict, fostered by US and Western support for the insurgents, benefits China's growing penetration of the country's economy while posing a major challenge to India's troubled Northeastern border states.

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INTRODUCTION

What was meant to be a move by the military on 1 February 2021 to restore the integrity of the military-drafted Constitution in order to uphold the rule of law, three years since the coup, has come a full circle. The Tatmataw, that has viewed itself as the protector of national unity, is today dealing with the potential splitting of the country. With ethnic armed organisations (EAOs) launching attacks on military assets and democratic and ethnic forces battling to dislodge the junta, the growing complexity of issues in Myanmar is impacting India. With over 1643kms of porous land borders with the northeast region in India and transnational ethnic relations, the repercussions of the civil-war-like-situation in Myanmar extends far beyond causing a refugee crisis for India with grave consequences for states like Manipur in the northeastern region. However, India must also keep a close eye on the democratic National

Unity Government (NUG). Questions must be asked about the ability of the NUG to keep Myanmar and all its varied components and aspirations united. Without military experience and a unique Constitution, unlike anywhere else in the world, will a change in power centres prove to be as challenging as the situation seems today, especially with repercussion of the conflict looming large for India?

PRESENT CONFLICT

In 2023, Operation 1027 was launched against the military junta by The Three Brotherhood Alliance members comprising the Arakan Army (AA) based in Rakhine State, the Myanmar National Democratic Alliance Army (MNDAA) from the Kokang region of Shan State and the Ta'ang National Liberation Army (TNLA) also from Shan State. On 27 October 2023, the Alliance simultaneously attacked military outposts, police stations and took control over key cities and highways in the northern part of Shan State. The rebellion quickly spread to the Sagaing region and by the 6 November, the second biggest city in the province, Kawlin, fell into the hands of the ethnic armed organisations (EAOs), becoming the first district level town to be taken by the insurgents. By the 7 November, 2023 and with the launch of Operation 1107 in support of Operation 1027,

many other insurgent groups across the country joined hands. This was perhaps one of the rare occasions in the troubled history of Myanmar where insurgent groups from a variety of ethnic groups had come together in a meticulously coordinated attack against the junta.

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of the HR 5497 Burma Unified through Rigorous Military Accountability Act of 2021 by the US Congress, which authorises appropriations to provide humanitarian assistance and “other” support to Myanmar, in addition to taking upon itself the promotion of democracy and human rights. (<https://www.cbo.gov/system/files/2022-02/hr5497.pdf>) The name itself is provocative as the name of Burma was rejected by the junta and replaced by Myanmar, presumably to reflect the multi-ethnic character of the country. Burma relates to the Bamar, hitherto the dominant ethnic group.

INTERNATIONAL INTERESTS IN MYANMAR

Western policies and sanctions have encouraged Myanmar to look towards China and Russia for support, Washington having accused Myanmar’s defence ministry of importing nearly US\$ 1 billion worth of material and raw materials to manufacture arms. (<https://www.ohchr.org/sites/default/files/documents/countries/myanmar/crp-sr-myanmar-2023-05-17.pdf>) China remains Myanmar’s major source of foreign investment with 40 per cent of its foreign debt owed to the PRC. Further, there is a danger of sanctions helping Beijing’s debt trap policy. Considering China’s projects in Myanmar that have advanced under the junta, creating the ambitious Belt and Road Initiative (BRI), India has every reason to worry about China’s interest in a “back door” access to the Indian Ocean.

Further, Myanmar’s rich oil and natural gas reserves along with its geographical location have made it a priority in China’s future plans. China has constructed a natural gas and oil pipeline that starts from Kyaukphyu city in Myanmar’s Rakhine State, traversing Chin State to China’s Yunnan region, which is China’s springboard to the Association of Southeast Asian Nations (ASEAN), just as the northeast region, is a springboard to the ASEAN for India. Gwadar port, in Pakistan, part of the China-Pakistan Economic Corridor (CPEC) along with Kyaukphyu port, gives China an advantage for strategically containing India and blocking its access to both the West and East.

Myanmar is also paying the price for the world’s and especially the West’s transition to green energy. The debate on critical and rare earth minerals led to an investigation by Associated Press, which has called Myanmar the “Sacrifice Zone”. (<https://apnews.com/article/technology-forests-myanmar-75df22e8d7431a6757ea4a426fbde94c>) Amongst other findings, the investigation revealed that even though the US Congress

required companies to disclose ‘conflict minerals’ with the assurance that they did not benefit armed groups, the law did not cover rare earth minerals. Rare earth elements were also found to be omitted from the European Union’s (EU) 2021 regulation on conflict minerals.

Today, Myanmar is one of the top four producers in the world of rare earth elements. The unregulated mining, combined with political instability, has fostered a culture of underhand deals and profits that are shared by militias and insurgent groups. Chin and Rakhine states as well as the Sagaing region, apart from Kachin State, are rich in resources such as aluminium, nickel, iron, chromite, oil and gas and most importantly, rich in heavy rare earth elements, such as dysprosium and terbium, classified as the single-most critical element among them.

As economies grow, geo-strategic competition will be based on critical minerals that will fuel these economies. In such a scenario, India’s north-eastern frontier will suffer the consequences. The conflict in Manipur that began in 2023 is only an indication of what India may have in store for the future. Internecine wars, such as seen in Manipur, will demand a wider perspective, geo-strategic and geopolitical understanding. Stepping away from short-sighted analyses, especially those of vested Western interests that customarily misunderstand complex historical sensibilities might be the first step towards unravelling the changing dynamics of a complex conflict that has wider ramifications. The successive US, EU and UK policy failures in this region have already created a fraught situation. For instance, while the EU was imposing its seventh round of sanctions last year, its imports from Myanmar surged substantially from the pre-coup years. (<https://indianexpress.com/article/world/eu-imports-from-myanmar-surge-despite-sanctions-8860003/>).

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Arguably there should be a better policy than sanctions that impact the common man on the ground without facilitating a regime change. However, alienation of the junta has not only exacerbated the insurgency in Myanmar but also given China a stronger foothold. “China not only maintains a good rapport with Tatmadaw, it tries to improve its relation with conflict groups such

as Ethnic Armed Organisations (EAO), non-state combatants by offering arms. Thus, China exploits every possible tactics to build trust with Tatmadaw and at the same time with opposing groups”. (<https://www.claws.in/chinas-investments-in-the-post-coup-myanmar-an-assessment/>)

Myanmar has borne the brunt of foreign interference, whether it was during the 1950s when the CIA supported the Kuomintang (KMT) or pro-democracy forces in the 1980s, giving those funds and training in Thailand. (https://irp.fas.org/congress/1998_cr/980507-l.htm) Today, the NUG and the allied EAOs have reportedly asked the US Congress for US\$ 525 million in aid and US\$ 200 million in non-lethal humanitarian aid. (<https://www.voanews.com/a/burma-act-debate-pushed-into-early-2024/7356280.html>)

MYANMAR'S UNIQUE DEMOCRATIC SYSTEM

Myanmar has had a troubled political history, with neither the Tatmadaw nor the democratic forces being able to adjust in their entirety to the evolving political landscape post-Independence in 1948. All of Myanmar's three Constitutions have been short lived with the present Constitution being drafted in 2008.

This current Constitution drafted by the Tatmadaw does not allow much space for amendments but it grants substantial power to the army. The Constitution of Myanmar gives 25 per cent reservation to military officers. They are unelected. It also gives the Commander-in-Chief of the military the option to take power in case of emergencies, including the executive, legislature and judiciary branches. These vested powers were evident in the action that was taken by the Tatmadaw in 2021 to overthrow the democratically elected government.

However, it is important to note that amendments to Myanmar's 2008 Constitution are also difficult to achieve as 75 per cent of the parliamentarians need to approve the amendments, with the Tatmadaw responsible for the final veto power. The Constitution's Article 436 gives the Tatmadaw one-quarter of the seats in the upper and lower houses of the national parliament and one-third of the seats in the state/regional parliaments. There are various minority and other rights specifically provided in that Constitution, as well as those regarding the preservation of minority cultures. Chapter VIII of the Constitution lists a variety of such rights, prohibiting discrimination on all accounts, including culture, religion etc. (*The Problem of Democracy in the Republic of the Union of Myanmar: Neither Nation-State Nor State-Nation?* David I. Steinberg, *Southeast Asian Affairs*, 2012, pp220-237 ISEAS - Yusof Ishak Institute)

Analyst Priscilla A Clapp states that “Myanmar is a highly militarised country at both the national and local levels and will remain so for years to come. Uniformed military leaders believe that democratisation in the country has not yet matured to a degree that civilian leaders can prevent society from descending into chaos and conflict. Military representatives made this argument vehemently when vetoing a majority vote in parliament in July 2015 that favoured constitutional amendments to reduce the military’s hold on political power”. (*Challenges to Stability in Myanmar, Securing a Democratic Future for Myanmar, Council on Foreign Relations, 2016, pp 9-10*)

David I Steinberg, historian and Myanmar expert, argues that the “the Constitution that was drafted in 2008 in several ways limits the role of standard democratic powers, its uniqueness lays in the interests of the military. Therefore military members get several opportunities to represent the military in state as well as national level institutions. Important posts such as ministers of home, defence etc are chosen from high ranking military officials directly reporting to the commander in chief of the armed forces. For example, it does not incorporate an effective separation of powers among the president, the parliament, the judiciary and the armed forces; most state powers are either vested in the president or subject to his influence or direction, or concentrated in the commander in chief of the armed forces. Additionally, Chapter XI of the constitution grants the National Defense and Security Council (NDSC)—composed of the president, both vice presidents, the two speakers of the national parliament, the commander in chief of the armed forces and his deputy and the ministers of defense, home affairs, border affairs and foreign affairs—powers to impose martial law, disband parliament and rule directly, but only if the president declares a state of emergency. And it provides a legal channel for the military to reimpose direct military rule”. (*David I Steinberg, Southeast Asian Affairs, 2012, ibid*)

If one were solely to rely on the wording of the Burmese Constitution approved by referendum in May 2008, there would be ample evidence to assure the reader that Myanmar is on the cusp of becoming a democratic nation.

Myanmar, as argued by many experts and as reflected in its Constitution, has large amounts of its powers vested in its military. It is clearly a country which has, over time, failed to forge a cohesive national identity. In the ongoing conflict in Myanmar, the EAOs with regional aspirations are countering the Tatmadaw; the Tatmadaw, on the other hand, with Burmese nationalism at its core and with little interest in losing complete control over Myanmar is reluctant to allow democratic forces that they accuse of corruption to take over. Although India has kept its channels of communication open with the Tatmadaw, the repercussions of the civil war-like situation are being felt with the conflict in Manipur and the consistent illegal migration into India. This has led New Delhi to close the Free Movement Regime (FMR) that allowed entry upto 16 kms into India without any restrictions.

While it has been widely reported that the Tatmadaw has executed three brigadier generals who were accused of surrendering to the Three Brotherhood Alliance in the northern Shan State whereas three other brigadier generals have been jailed for life, the questions still remains whether the Tatmadaw will give up power just yet. Even if it does at some point, with the Constitution being tilted towards the military, the outcome of a handover to democratic forces will not be as simple as many Western countries believe it. Priscilla A Clapp in her report on Myanmar has argued that one of the major obstacles to the country's democratic transition is the legacy of patrimonial governance created purposely to concentrate the country's wealth in the hands of a small military-oriented elite class. This process accelerated rapidly during the final decade of military government, with the result that the top generals from the former State Peace and Development Council (SPDC)—which was dissolved by Thein Sein in 2011—and their families and friends still control the levers of economic power. (*Challenges to Stability in Myanmar, Securing a Democratic Future for Myanmar, Priscilla A. Clapp Council on Foreign Relations pp8-9, 2016*)

The unified launches of the Operation 1027 and 1107 bear testimony to the unfulfilled aspirations of ethnic groups in Myanmar. For the first time they set their differences aside to counter a common target—the Tatmadaw. However, the fact also remains that none of the three Constitutions that Myanmar has seen, even though have all given weight to the aspirations of ethnic groups and to multiculturalism, has satisfied their demands. Steinberg has argued that there has been retrogression since the military coup of 1962, in part because of the army's fears that real, multiculturalist policies would result in the break-up of the fragile Union of Burma/Myanmar, the survival of which is their primary goal. These


fears are real and dominate military thinking, however inaccurate the analysis may be. As early as 1962, General Ne Win said that federalism was the first step towards secession. In 1969, the military approached a group of distinguished civilian Burmese leaders to recommend the type of government that should be instituted under a new constitution (one that eventually came into force on 2 March 1974). The group was split in its recommendations, but the majority opted for some sort of federal structure. Instead, the military introduced the unitary state to perpetuate military control, thus exacerbating ethnic conflicts. Since that time, the Tatmadaw has continued to regard as anathema any type of federalist structure granting real power to minority units or even legislatures. *(David I. Steinberg Southeast Asian Affairs, 2012 ibid)*

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Priscilla A Clapp notes that relaxing government controls over the population has seriously strained government capacity. Although civilian government institutions have attempted to transform from an authoritarian command structure that prioritises military objectives to one more responsive to the people's needs, they are not keeping pace with popular expectations. Some policy analysts who have worked to reform government ministries during the past five years have concluded that efforts to retrain and build the capacity of civil servants will fail until the government itself is fundamentally restructured. The current structure of the government in Naypyidaw, for example, does not allow middle and lower levels of the bureaucracy to participate actively in policymaking and implementation. *(Priscilla A. Clapp ibid)*

However, confronted with multiple vested interests, whether it is China's mining of critical earth minerals, or EAOs coming together to target the Tatmadaw, India today is at the risk of feeling the impact of Myanmar's instability. The EAOs' capture of the strategic town of Paletwa in Chin State, where India's ambitious Kaladan Multimodal Project was being built, jeopardises India's Act East Policy. Arguably, even if the NUG was to gain control of Myanmar through its EAOs the Constitution would not allow a true federal structure to emerge. Like many constitutions in the world, the Constitution of Myanmar too has provisions for minority rights but they are subject to condition about social

order, law and national unity. Rights have been granted in principle but remain in the realm of ritual tokenism.

The reality of the situation brewing in Myanmar is that it is too close for comfort for India. The conflict in Manipur has made not just the region but also the entire country anxious. The fall of crucial towns, military installations and infrastructure just across the border of India, will not only give impetus to anti-national elements and insurgents but also to illegal trade of drugs, gold and areca nuts that is already common in the area. The US support to EAOs is giving insurgents hope for independence. Acting President Myint Swe, (in February, 2021) in an admission of the challenge faced by the junta, stated that the conflict in Myanmar risked breaking the country apart. This could plunge the wider region into chaos. It is in India's interest to help Myanmar regain stability, not just for the sake of the 'Act East' Policies and ambitions, but also to keep the peace and build prosperity in the North Eastern region.  (DI2812024CFMRD@7078)