Managing Democratic Transition in Burma

Learning Lessons From Abroad

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Managing Democratic Transition in Burma: Learning Lessons from Abroad

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Acknowledgement

I would like to thank the Ford Foundation for giving us an opportunity to organize this important conference, “Managing Democratic Transition in Burma: Lessons Learned From Abroad.” I would like to thank specifically to Prof. Andrew Reynolds whose tireless work on organizing the participation of international scholars to the conference made the final event happen. I also owe deep gratitude to Prof. Alfred Stepan and Prof. Stephen Levine who came from far flung places like New York and Wellington on either side of the globe in joining the conference. Again, the conference would not become a successful one if I did not get very supportive help from Prof. Mark Tamthai and Prof. Withaya Sucharitanarugse.

Thanks are due to the Johns Hopkins University Press for permitting to re-print the article, “How Burma Could Democratize,” published in their October 2001 issue of Journal of Democracy. I was very privileged to co-author the article with Prof. Reynolds, Prof. Stepan and Prof. Levine, and we all agreed that the conference provided the best opportunity for us to make our original ideas a more practical proposal for Burma.

The views expressed in this publication do not necessarily represent those of the Burma Fund or the Ford Foundation. The editor and authors take full responsibility for the ideas, organization, and analysis presented in the article and discussions elsewhere. I hope that readers find in this report a useful reference for their quest in restoring democratic transition in Burma.

Zaw Oo
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Reorienting civil-military relations, introducing functional federalism, and organizing free and fair elections are all critical steps in the process of national reconciliation and democratization in Burma. Such themes constitute a key focus of the conference organized by the Burma Fund that organizes policy workshop series in facilitating broad discussions on future democratic transition in Burma.
Background: Managing Democratic Transition in Burma

There is an urgent need to promote democratization in Burma, and to prepare future Burmese leaders for a democratic transition. After 10 years of democratic struggle, Burma recently witnessed a series of on-going talks between the military authorities and Daw Aung San Suu Kyi. Although these talks have brought some hopes for the future of Burma, the conditions surrounding the talks are very fragile. It is very important that the democratic opposition is capable of consolidating the talks, formalizing the negotiations and making transition irreversible. As Burma steps into a new phase of political development the Burmese democrats are required to learn new skills and build diverse capacities to engage effectively in the ‘transition’ process. The Burma Fund (TBF), therefore, is dedicated to facilitate a series of policy workshops that will inform and assist the leadership of the democratic movement in bringing smooth transition from authoritarian rule in Burma. This particular workshop on managing democratic transition will inform the Burmese democrats regarding policy options that are available to address the pertinent problems of change in the country. The workshop focused the following areas:

1) Civil-military relations during democratic transition
2) Electoral system
3) Structure of the state and federalism

Civil-Military Relations:

In the light of on-going negotiations in Burma, the decision of the Burmese military to withdraw from power will be a very important victory for the democratic movement. Although such development can be a major breakthrough for democratization in Burma, it is not an end in itself. The new democratic regime will face two urgent problems in dealing with Burma’s powerful military. First, it needs to address the accountability of the country’s human rights violations under military rule. The democratic regime will find this task a great challenge because of the delicacy of maintaining popular support on one hand and preventing backlash from the military on the other. Therefore, the democratic regime will have to adopt a mechanism that can meet three requirements: promoting human rights, accounting for transitional justice and strengthening national reconciliation. Second, the other fundamental task for the democratic regime is institution building, which strengthens rule of law and democratic consolidation for the long run. One key aspect of institution building is to nurture a proper relationship between civilian and military leaderships. Sound civil-military relations strengthen all checks and balances within the governance system that can maintain effective civilian control over
military affairs. Reforms of the internal security system will be a key to advancing democratization.

Electoral System:

Burma gained independence in 1948 after over hundred years of colonial rule under the British Empire. Burma therefore inherited British systems including the ‘First Past the Post (FPTP)’ electoral system. Anti-Fascist People’s Freedom League (AFPFL), the national umbrella front of the liberation movement led the transfer of power from the British and won subsequent elections in 1952 and 1956. In 1958, the ruling AFPFL split into two factions: Stable and Clean factions, the former inherited the League’s title and the latter changed the party’s name into Pyidaungsu (Union) Party. However, the military intervened the split and U Nu, then the leader of Clean faction and prime minister, was asked to transfer power to the Burmese army in forming a “Caretaker Government.”

After 18 months of ruling the country, the military’s Caretaker Government held a free and fair election in 1960. Pyidaungsu party won a landslide victory on the ticket of democracy (somewhat appealing to anti-military sentiments within the population), Buddhism and open market policies. However, the military intervened again in 1962 with a coup d’etat that decisively set Burma onto a completely different path under “Burmese way to Socialism.” During the 26-year rule of “Burmese way,” the so-called socialist elections were held regularly for the public to confirm candidates selected by the Party. These elections never provided much needed legitimacy to the BSPP, which failed miserably and eventually collapsed under popular uprisings in 1988.

In 1988, the military styled itself the State Law and Order Restoration Council (SLORC) took power from the BSPP, declared martial laws, introduced limited economic reforms and welcomed direct foreign investments. Under severe international pressure, the SLORC decided to hold elections in May 1990. The National League for Democracy (NLD) led by Daw Aung San Suu Kyi emerged as the leading political party of the democratic movement and won the election. The NLD won a stunning landslide victory with a total of 392 seats or 80% of the total seats, whereas the military-backed National Unity Party (NUP) could hold only 10 seats. SLORC, however, refused to honor the election results. Since then, the political crisis has continued to overshadow the country and the mandate of 1990 national elections have not been implemented yet.

As electoral system is one of the most important mechanisms for shaping political competition, it is worth analyzing the election results of the most recent election in Burma. In the hindsight, it would have been possible that if Burma used different electoral system, say, list proportional representation system, then, the election results (share of parliamentary seats) would have been different as followed:
Federalism

The Union of Burma is a nation-state of diverse ethnic nationalities. It gained independence from the British empire in 1948 by the agreement signed in 1947 at the Panglong Conference where independent ethnic nationalities such as Chin, Kachin, Karen, Karenni, Mon, Rakhine (Arakan), Myanmar (Burman), and Shan made the principle of equality as a basis of coming together into a Union.

During the colonial period, the British applied two different administrative systems: “direct rule” and “indirect rule”. The first was applied to the peoples and areas they conquered together with the Burman Kingdom, i.e., “Burma Proper”. “Indirect rule”, on the other hand, was applied to the peoples who were “pacified” or added by treaty (the Shan principalities, for example) to the British empire after the annexation of the Burman kingdom. Under the British policy of “indirect rule”, the traditional princes and local chiefs of the Chin, Kachin and the Shan were allowed to retain a certain level of administrative and judiciary powers within their respective territories.

The Second World War and the Japanese invasion of Burma brought British rule to an abrupt end. The British could return to Burma after the Second World War in the spring of 1945. They outlined their long-term plan for the future of Burma in the form of a White Paper. This plan provided for a three-year period of direct rule under the British Governor, during which economic rehabilitation from the ravages of war was to be undertaken. Next, the Legislative Council of Ministerial Burma would be restored in accordance with the 1935 Burma Act. Only after the elections had been held under this Act would the
legislature be invited to frame a new constitution “which would eventually provide the basis on which Burma would be granted dominion status.”

For the Frontier Areas, the White Paper provided a means of maintaining the pre-war status quo. The Karenni (Kayah) State was still bound by the pre-colonial treaty as an independent nation. Likewise, the Kachin State and the Federated Shan States were also excluded from the administration of Burma Proper, they would, according to the White Paper, have “a special regime under the Governor”. When the Labour Government came to power, Britain reversed its policy, and Burma’s political agenda became largely a matter of bilateral negotiation between the British Labor government and U Aung San’s AFPFL (Anti-Fascist People’s Freedom League). British prime minister Atlee invited U Aung San to London in January 1947. The meeting’s outcome was the signing of “Aung San-Atlee Agreement,” which guaranteed full independence to Burma within a year. With British’s concession of independence, U Aung San came back to Burma and organized Panlong Conference in February 1947 to discuss the formation of new independence state with leaders of ethnic nationalities. The agreement obtained in Panlong facilitated the final passage of independence in 1948 in the form of a federal union, despite of the loss of U Aung San and other top leaders who were assassinated in July 1947.

In January 1948, the first independent government was formed with U Nu as prime minister and Sao Shwe Thaikes, a Shan leader, as President of the Union. Although U Nu offered a consociational-style administration to other prominent leaders who did not won constituent assembly elections in 1947, Burma Communist Party and Karen National Union did not accept the offer and staged rebellion against the government. As a result, a civil war broke out in Burma, which took many years for the AFPFL to regain control over insurgencies while rebuilding the country from the destructions of two world wars.

While Burma regained stability in early 1960s, there were many concerns made by the ethnic nationalities regarding the actual practice of federalism within the Union. Many nationalities leaders regarded the issues such as revenue-sharing, natural resource use, the autonomy of federated states, and the promulgation of Buddhism the “state religion of the Union of Burma” in 1961 as deviations from the Panglong Agreement. In response, U Nu invited all the political leaders and legal experts from all nationalities to what became known as the Federal Seminar at which “the issues of federalism and the problems of minorities would be discussed with a view to finding a peaceful solution.” While the meeting was about to make another historic agreement, the military led by General Ne Win seized state power on March 2. With this coup, the federalism in Burma was abolished and one-party socialist state was established.
Endnotes:

A Summary Report

Introduction

The conference on “Managing Democratic Transition in Burma: Lessons Learned From Others” was held at the Siam Intercontinental Hotel in Bangkok on June 11-12, 2001. The conference was organized by the Burma Fund with a grant from the Ford Foundation. About 30 Burmese participants attended the conference together with a few scholars from the U.S., New Zealand, Australia, United Kingdom, and Thailand. Burmese participants came from all walks of life: cabinet ministers of the exile government, members of parliament, leaders of ethnic nationality groups, representatives of civil-society organizations and academics.

The conference was part of the series of policy workshops organized by the Burma Fund to facilitate broad discussions on the critical issues facing democratic transition in Burma. Hon. Mr. Teddy Buri, President of the Members’ of Parliament Union opened the conference by thanking scholars taking interest in Burma issues and by encouraging frank and active interactions. The conference produced a very fruitful exchange of views between those who have comparative knowledge and experience about transitions around the world and those who have deep insights on the dynamics of Burmese context.

There were four sessions in two-day conference; each session consisted of one presenter and either one or two discussants. Each session was followed by discussions among the participants who had adequate time to reflect their views and clarify some rationale behind certain policy recommendations made by the presenters.

Session One: Transitions from Military Rule

Presenter: Prof. Alfred Stepan

Prof. Stepan focused upon three central issues in his presentation: (1) the model of military professionalism; (2) modes of transition from military rule; and (3) post-military structure of the state. Prof. Stepan commented on Huntington’s model of “old professionalism of external defence,” which had five interrelated subarguments: (a) the function of the military is “external defence”; (b) the military skills required are “highly specialized skills incompatible with political skills”; (c) the scope of military action is “restricted”; (d) such professional socialization “renders the military politically neutral”; and (e) the impact on civil military relations “contributes to an apolitical military and civilian control”. He explained that his model model of military professionalism differed from Huntington’s model of military professionalism in that, using the same five variables as Huntington, an equally interrelated, but fundamentally opposed, set of arguments. In the new professionalism (1) the function of the military is
“primarily internal security”; (2) the military skills required are “highly interrelated political and military skills”; (3) the scope of military professional action is “unrestricted”; (4) professional socialization is such that it “politicizes the military”; and (5) the impact of the new professionalism on civil-military relations is that it “contributes to military political managerialism and role expansion.”

In relating to the case of Burma, one in which a clear military government is the central base of power, he explained that democratization may originate from within such an institutional base. In addition, he also thought that there can be a case in which the military-as-institution, though at one time a component part of the authoritarian regime, seeks to overthrow the military-as-government because it comes to believe that the continuation of the authoritarian regime is detrimental to its long-term core institutional interests. In cases in which the military-as-institution sees the leaders of the authoritarian government as carrying out policies that create a crisis for the military-as-institution, it may be willing to sacrifice many of its own fellow officers—especially the leaders of the military-as-government—in order to transcend the crisis and reequilibrate the situation.

Prof. Stepan also questioned the possibility of “pacted transition” in Burma. He argued that although four-player pacts—involving regime hardliners and regime softliners, and opposition moderates and opposition militants—were increasingly being seen by important scholars in comparative politics as an attractive, and almost a necessary, part of the construction of democratic transitions, there were limits to how one can construct democratic transitions under this mode of transition in certain situations. Like many regimes—“sultanism,” “totalitarianism,” and “early post-totalitarianism”—four-player games of pacted transitions might not be possible in Burma because all of the players do not, and cannot, exist. He further suggested how can a moderated opposition player exist and carry out tactical and strategic bargaining with moderate regime softliners in a sultanistic or a totalitarian regime.

Another important issue Prof. Stepan touched upon was the issue of practising federalism in the context of multiethnic societies. He explained the nature of ethnic conflicts based on identities that (1) human beings can have multiple and complementary identities. (2) Identities, because they are to a great extent socially and politically constructed, can change extremely rapidly. (3) Political leadership and political choices (such as the choice to make the first multiple and complementary, or polarized and conflictual, political identities. He brought the integrating and disintegrating states of Spain, Yugoslavia, and the USSR as case examples to make all three of these claims painfully clear.

On federalism, he counted that of the nine states that once made up communist Europe, six were unitary and three were federal. The six unitary states are now five states (East Germany has united with the Federal Republic), while the three federal states—Yugoslavia, USSR, and Czechoslovakia—are now twenty-three.
independent states and most of postcommunist Europe’s ethnocracies and ethnic bloodshed has occurred in these postfederal states. He questioned the relevance of conventional wisdom on federalism such as the classic one made by William Riker, who sees all enduring federations as emerging out of a voluntary bargain to pool sovereignty by polities all of which have a substantial degree of previous sovereignty, or namely “coming together” federalism of United States type.

Prof. Stepan put forward the examples of Belgium, Spain, and India, all of originally unitary states with multinational populations, states which, in order to facilitate different groups living together democratically in one state, devolved by constitutional means into federations. He called this “holding together” federalism. Prof. Stepan commented that the US model will not be a model for most new federations, especially if they are multinational, because the US federal model is coming together, demos constraining, and constitutionally symmetrical. He suggested that the possibly new federation in Burma can be “holding together,” “demos enabling” federation with “constitutionally asymmetrical” structures binding together various ethnic nationality populations.

The discussion that followed Prof. Stepan’s presentation elicited debates on possible transitions in Burma, the future role of the armed forces, and the advantages and disadvantages of federalism for democratic consolidation in Burma. Prof. Stepan in his response gave the example of Brazil’s transition where liberalization commenced under the aegis of the military-as-government. However, liberalization was sustained and broadened by a complex process involving governmental concessions and societal conquest—a gradual process of change that can be too possible in Burma.

**Session Two: Designing Electoral System in Democratic Transition**

*Presenter: Prof. Andrew Reynolds*

The choice of electoral system in Burma was the result of the influence of British colonialism and the effects of difficult independence struggle that unwittingly nurtured zero-sum political culture. The choice of first-past-the-post electoral system had a profound effect on the post-independence political life of the country, where many rival political parties shunned away from electoral exercise and got involved in extra-constitutional means of competing the dominant political party. The result was a tragic civil war that brought not only massive destructions but also the reign of military rule to the country.

After three decades of political gap between two elections of 1960 and 1990, most political actors and general population in Burma lack basic knowledge and information regarding the choices and consequences of different electoral systems. Against this background, Prof. Reynolds introduced the session in three basic themes of designing electoral system in democratic transition:
(1) variations of different electoral system and rationale of each system, (2) special considerations for disenfranchised groups, and (3) the administration of the system.

Prof. Reynolds explained the importance of electoral system in democratic transitions. He maintained that the particular outcome of election can contribute to political stability in a given country. Political stability is critical for advancing democratic consolidation and rebuilding economy during transition. Prof. Reynolds argued that the elections can enhance stability if people perceive the system to be fair avoiding any discriminations against particular parties or interest groups, and the elected government can efficiently enact legislation and govern the country.

As many participants have requested further clarification on proportional representation options for Burma, Prof. Reynolds provided 4 types of PR options that can be considered for Burma (all options based on 485 members of parliament):

1. National List PR
   - Entire nation constitutes a single constituency
   - Political parties present a list of up to 485 candidates
   - One single vote
   - Threshold - 5%, 3%, 1% or no imposed threshold

2. Regionally-based List PR
   - Eight regional multi-member constituencies based on existing states:
     - Each region receives seats in proportion to its share of national electorate.
     - Kachin (13), Kayah (4), Karen (14), Chin (10), Burman (339), Mon (28), Arakan (29), and Shan (48).
   - Political parties register lists of candidates in each region they wish to contest.
   - One single vote
   - Threshold
     - No national threshold imposed.
     - Regional constituency threshold anywhere between 5%-0%.

3. National and Regional List PR
   - One national constituency - 200 seats
   - Eight regional multi-member constituencies (based on States) sharing 285 seats:
     - Kachin (7), Kayah (3), Karen (8), Chin (6), Burman (200), Mon (14), Arakan (18), and Shan (29).
Political parties present both a national list of candidates and regional lists.
- One or two votes (one national and one regional)
- Thresholds - Both national and regional thresholds can be applied.

4. Mixed Member Proportional
- 285 single member constituencies - Candidates elected by a simple plurality (current First Past the Post System)
- 200 members elected from a national party list - Political parties present candidates list of up to 200 names.
- The list (or ‘top up’/compensatory) MPs ensure that overall parties win seats in proportion to their national vote.
- One vote (in the constituency which is then used for the national seat allocation) or Two votes - one constituency vote and one national list PR vote.
- Threshold
  - No threshold in the constituencies.
  - Threshold between (5% - 0%) for the national seat allocation.

Prof. Reynolds further provided a detailed explanation of how an MMP system might work in Burma. Under the system to be used parties and independents stand candidates in the single member constituencies. Parties also present a list of candidates for the national PR seat allocation. The 200 directly elected “national” party list MPs are allocated after the first past the post seats are won, in such a way as to ensure the overall proportionality of the system. These are in effect “top up” seats which would correct for any disproportionality arising out of the FPTP constituency elections. Ultimately the system will be nationally proportional. If a party wins 50% of the national vote they will win approximately 243 of the 485 seats. If they won 10% they will win approximately 49 seats.

A hypothetical example serves to illustrate how these ‘top up’ seats ensure proportionality:

<table>
<thead>
<tr>
<th>Party</th>
<th>Vote %</th>
<th>FPTP seats</th>
<th>National seats</th>
<th>Total seats won</th>
<th>Seat %</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>60%</td>
<td>250</td>
<td>54</td>
<td>304</td>
<td>63%</td>
</tr>
<tr>
<td>B</td>
<td>20%</td>
<td>5</td>
<td>97</td>
<td>102</td>
<td>21%</td>
</tr>
<tr>
<td>C</td>
<td>5%</td>
<td>0</td>
<td>26</td>
<td>26</td>
<td>5%</td>
</tr>
<tr>
<td>D</td>
<td>3%</td>
<td>15</td>
<td>1</td>
<td>16</td>
<td>3%</td>
</tr>
<tr>
<td>E</td>
<td>2%</td>
<td>0</td>
<td>11</td>
<td>11</td>
<td>2%</td>
</tr>
<tr>
<td>F</td>
<td>2%</td>
<td>0</td>
<td>11</td>
<td>11</td>
<td>2%</td>
</tr>
<tr>
<td>Indep.</td>
<td>8%</td>
<td>15</td>
<td>-</td>
<td>15</td>
<td>3%</td>
</tr>
<tr>
<td></td>
<td>100</td>
<td>285</td>
<td>200</td>
<td>485</td>
<td></td>
</tr>
</tbody>
</table>

Note: Lower house of 485: 285 constituencies and 200 compensatory list PR seats.
Prof. Reynolds also brought in related issues of the representation of women in the parliament and whether any electoral preference should be made on the election of more women candidates to the parliament. He discussed on whether such mechanism should be applied to a party’s candidate lists or their parliamentary caucuses. He also touched upon the advantage and disadvantage of PR lists be ‘open’ or ‘closed’ and with regard to whether the voters can alter the order of names on the party list or not. Like reservations for women candidates, the discussions also focused on the pros and cons of ‘preferred representations’ for the military and distinct ethnic groups at least in transition. He ended the session with an optimistic note that if less resourceful countries like Cambodia and Sierra Leone could reform their antiquated electoral systems to more advanced ones, Burma should be able to develop a better electoral system that can promote further democratization in the country.

Session Three: Issues of Federalism, Autonomy and Decentralization
Presenter: Prof. Stephen Levine

Prof. Levine used the constitutional examples of United States, Japan, New Zealand, Tonga and others to highlight the themes for his presentations: (1) the importance of popular sovereignty in constitutional writing; (2) the origins of sovereignty in different levels of governments; and (3) the spirit of constitutionalism.

“We the People” is the most common form of preamble in many constitutions of the world, which emphasized the importance of popular sovereignty. Constitutions are meant to serve people, and constitutions have emerged according to the people’s will of designing political structures that are most suited to their needs. People of Japan have enshrined Article 9 in their constitutions that have deprived the Japanese military to wage war against any other nations on earth, making Japan a strictly pacifist state. The humiliating experiences of war on Japan made their people to utilize constitutional means to begin a new chapter in its history, i.e. to prevent militarization of the government while advancing democratization within the country. Like Japan, Prof. Levine said, many other countries and their constitutions place popular sovereignty as the ultimate source of constitutional power of the land.

Prof. Levine reminded that the constitutions are man-made, therefore, they are subjected to errors and failures. Most states that have attempted federalism in particular do not fare very well with their experiments. Nevertheless, it is the permission of ‘amendments’ in most constitutions make the citizens able to change their constitutions without having needed to go through another revolution or lengthy constitutional conventions. The possibility of ‘amendments’ make constitutions not so rigid that they can adapt to the practical and changing circumstances of the country.
Here, he emphasized that it is important to realize the origins of sovereignty in different levels of governments. In some countries like the United States, states form the federal government, while in many other countries like New Zealand, federal government form the provincial governments. Therefore, in New Zealand, the federal government at one point abolished the provincial levels of government administration and made the country a unitary state. This kind of amendment cannot be possible in the United States even in the time of severe economic contraction like the years under ‘Great Depression’ when the federal government wanted to combine all states into manageable economic units. Because the states form the federal government in the United States, the federal government cannot abolish the states.

Constitutions are set up to circumscribe ‘powers,’ as governments are no angle. The lack of trust among citizens toward their governments are one of the common obstacles facing newly democratic countries; and Prof. Levine thought that Burma can also face a similar problem. Since federalism can be a kind of constitutional arrangement for distribution of authority or sharing of power, it is an excellent tool for the Burmese to overcome mistrust. However, it is a much more complex system with many power centers, it will take time to make citizens familiar to the practice of federalism. On the other hand, federalism is only one of many tools for power sharing, other methods such as coalition formation, seperation of power within the government such as executive and legislative branches and independent judiciary mechanisms should be thoroughly studied to make them available to the citizens.

Last not least, Prof. Levine stressed that federal principles are dedicated to the core values of peace, power-sharing and democracy, it is more important to promote these values in the transition of Burma. Such federal principles or values can be nourished even without a federal structure, and the principles not the structures that matter most in the end.

Session Four: Transition in Thailand

Presenters: Prof. Mark Tamthai

Prof. Mark Tamthai shared his experience in dealing with some critical issues facing Thailand during the last seven years since the Thai military’s disengagement from politics following bloody uprisings in 1992. He discussed at length on the changing trends of national security policy development in Thailand over the last few years, which he and other scholars played a leading role in shaping them. Thailand’s security policy has shifted its focus on ‘territorial security’ to ‘human security’ with more participatory development in its making. Prof. Tamthai said that it is very important for the scholars to engage with military professionals and engage them on the issues that concern them most. Security policy is one of such issues; it happens often that sincere discussions on simple questions can lead to dynamic interactions that can shape national
policies. It is very instructive for the Burmese participants to learn that a simple type of dynamic can affect the policy-making process at the national level. He also shared Thailand’s success in integrating Southern provinces that have been at odds with the central government for many years in the past. Security policy of the past emphasized the ‘sameness’ among all the regions of the Kingdom, which did not work well. Unity in diversity is increasingly accepted nowadays in Thailand, and security policy for all citizens of Thailand regardless of their regional origin was developed with full participation from the grassroots. As a result, a proper relationship between civilian and military leaders were achieved with more confidence-building engagements on common issues.

Prof. Withaya Sucharitanarugse of Chulalongkorn University added his insight over working with the past in Thailand. He emphasized the importance of trust building among various entities within the body politic during a transitional period. People need to regain their trust in government institutions, while the government cannot rule the country without public trust. He called for more cooperation between Burmese and Thai scholars to work on common interests.

**Conclusion**

The conference brought a very lively discussions among the participants who debated all the themes set out by the organizers. Although many participants felt that two-day conference has a rather limited time frame to set out any concrete proposals for democratic transition in Burma, they recognized that this conference gave them an opportunity to brainstorm some of the critical issues facing Burma in a most comprehensive and constructive manner. While there are many questions are raised than being answered during the conference, the following points are worth noting:

1) Some concepts which have become local buzzwords, such as federalism, are found to be understood at a very superficial level among Burmese political activists and leaders. It is thus crucial to provide more opportunities for the key players within Burmese democracy movement to understand common interpretations of the concepts and that their basic rationales are clearly understood.

2) For many Burmese participants at the conference, the question of electoral choices for democratic Burma is being introduced for the first time. More workshops and training on the issue is warranted.

3) Many participants agreed the ultimate importance of confidence building among various elements within the democratic movement, as well as with the military. Technical solutions and legal structures will not solve all the human problems; and it is clear that it is human will that can resolve deep-seated problems within a country.
How Burma Could Democratize

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In June 2001, Burma’s long-ruling military regime began to intensify its on-again, off-again talks with the leader of the country’s largest democratic opposition party, 1991 Nobel Peace Prize winner Aung San Suu Kyi. Observers have split over the meaning of this move. Some see the renewed dialogue as potentially the most important opening in a decade, while others dismiss it as little more than a ruse to forestall further sanctions and perhaps to get some of the current sanctions lifted.

At the request of the Burmese democratic opposition, we recently met with some of its leaders in Thailand. Drawing on our knowledge of comparative politics, we discussed three questions: 1) What has, and has not, been accomplished in the Burmese talks so far? 2) How do military regimes give way to democracy, and how might that happen in Burma? 3) What sort of electoral system and federal arrangements will work best to ensure that free and fair elections are held and honored in Burma? This article is a report and a reflection upon these discussions, out of which emerged both new problems and surprising possibilities.

The military has ruled Burma continuously since 1962. From 1988 to 1997, the junta called itself the State Law and Order Restoration Council (SLORC), a name it changed to the State Peace and Development Council (SPDC) in the latter year. Currently, the SPDC has 19 members. All of them are high-ranking military officers, mostly army generals. The armed services (collectively called the Tatmadaw) are led by Senior General Than Shwe, an army officer who is also the SPDC chairman, head of state, prime minister, and defense minister. Than Shwe may be ill, and on occasion has expressed a wish to retire.

The talks with Aung San Suu Kyi would not have happened without a minimal consensus among the top five generals of the SPDC. However, the talks seem to be under the control of Lieutenant General Khin Nyunt, who is an SPDC member, the longstanding head of military intelligence, and the head of the Office of Strategic Studies (OSS) charged with political and international affairs. Khin Nyunt, who historically has been seen as close to the dying Ne Win (the longtime armed-forces chief), is the leader of what is reputed to be a “soft-line” faction within the upper echelons of the regime. The 12 major generals who are regional commanders are ex officio members of the SPDC. Most are close to a reputedly “hard-line” faction led by army commander-in-
chief General Maung Aye (who himself, however, has also met with Aung San Suu Kyi). The military’s dialogue with Aung San Suu Kyi appears closed, but with two top generals possibly leaving the scene, it may in fact be partly open.

Institutionalized oppression, ethnic fragmentation, and political distrust have been facts of life in Burma ever since it won full independence from Britain in 1948. Indigenous rulers, invariably presenting themselves as the embodiment of “the State,” have adopted and refined the old British-colonial strategy of divide-and-rule. Electoral democracy lasted for just 12 years before the military swept away the civilian government in March 1962, but even during the years of multiparty competition, ethnic issues were never entirely laid to rest. The military has always seen itself as the mainstay of the state’s integrity.

Burma’s minority “nationalities” have never been truly assimilated into the polity of this land of 48 million, as many as 68 percent of whom are thought to be ethnic Burmans. Aside from the Burmans, there are at least eight identifiable ethnic communities based on linguistic, religious, and regional divisions. The Shan represent roughly 9 percent, with the rest of the ethnic breakdown more or less as follows: Karen, 7 percent; Arakanese, 4 percent; Chinese, 3 percent; Mon, 2 percent; Indians, 2 percent; and Chin and Kachin together, 5 percent. While the Burmans are clearly a majority, the political fragmentation of the Burmese state remains a highly charged problem against a historical background of insurgencies and ethnic-secessionist movements. Religious differences are also important: Christians have long filled a leadership role in Karen State, while Arakan State is home to about a million Muslims and Hindus, few of whom are citizens.

The military’s hold on power was rocked by a nationwide wave of prodemocracy protest strikes in August and September 1988, but a bloody campaign of repression restored the generals’ grip. Aung San Suu Kyi, the daughter of Burma’s assassinated founder Aung San, had returned to Rangoon in April of that year in order to care for her ailing mother. As a result of her visible presence and rousing speeches, she emerged as the prodemocracy movement’s natural leader.

The generals surprised some by honoring a pledge to hold free elections for the unicameral national legislature in May 1990. Most likely they were counting on a fragmented outcome that would allow them to dominate any new government. In the event, Aung San Suu Kyi’s National League for Democracy (NLD) won nearly 60 percent of the vote. Moreover, thanks to Burma’s British-style “first-past-the-post” electoral system, this gave the NLD an overwhelming 81 percent of the seats. Throughout the campaign, Aung San Suu Kyi had been kept under house arrest at her home in Rangoon, where she remains as of this writing. The military responded to its defeat at the polls by insisting that the new parliament could not meet until a regime-appointed National Convention drafted a new constitution. The generals then proceeded to grant the NLD only 86 of the 703 seats in this body, which first met in January 1993. (The NLD walked out in late 1995.)

Let us now move to our first question: What has, and what has not,
been accomplished in the talks to date?

The Talks in Burma

Except for a three-month hiatus between February and May 2001, Aung San Suu Kyi has been serving tea to her jailers—the Burmese generals—on a fortnightly basis at her home in Rangoon since October 2000. Most of the talks have been with the military-intelligence wing of the army, up to and including General Khin Nyunt. The discussions, which have been private and confidential, are generally thought to be stuck at the “confidence-building” stage. Yet since June 2001, more than 150 political prisoners have been freed, among them between 35 and 40 members-elect of parliament. Eighteen of the 40 NLD offices in the Yangon (Rangoon) Division have been allowed to reopen. The state-owned media have stopped attacking Suu Kyi and her associates. This sequence of moves is in line with what informed observers consider to be Aung San Suu Kyi’s conditions for a broader set of talks: the staggered release of all political prisoners, a relaxation of the regime’s efforts to suppress NLD activities, and the ending of house arrest for herself and her principal lieutenants, Tin Oo and Aung Shwe.

International pressure has also been mounting. Malaysian Prime Minister Mahathir Mohammad, who has influence with the Burmese generals, encouraged the talks. His compatriot Ismail Razali, the UN Secretary General’s special representative in Burma, has had some success in prodding the generals to enter into and continue dialogue with the democracy movement. In April 2001, Brazilian political scientist Paulo Sergio Pinheiro, UN Special Rapporteur for Human Rights in Burma, was allowed to visit the country, and was able to speak to senior military officers and NLD leaders. There have been recent assessment efforts by the European Union and Red Cross. But perhaps most important of all, the International Labor Organization (ILO) has recommended some of the most severe sanctions in its history against Burma due to widespread forced labor. The ILO has insisted that sanctions not be softened until a team of its experts makes on-site inspections to verify that forced labor has ceased.

If Aung San is reminiscent of Ireland’s Michael Collins—a young mastermind of independence from Britain who was murdered by rivals angry at his willingness to compromise—then his daughter Suu Kyi’s situation resembles that of Nelson Mandela under apartheid. She is the iconic leader of an oppressed people, a world-famous symbol of moral resistance to unjust power. Her authority comes not only from her imprisonment, but from her sheer refusal to be intimidated. Like Mandela, she has been able to open a discreet dialogue with her jailers despite the not entirely unfounded misgivings of her own supporters, apprehensions that have flourished in the absence of information. As in the South African case, the talks are beginning to show signs of hope, but is Suu Kyi in as strong a bargaining position as Mandela was in the late 1980s?
Might the Generals Let Go?

How and why do military governments leave power, and leave in such a way that the successor regime is democratic? Are there other cases that can furnish insights into the Burmese situation?

The scenario of military defeat and foreign occupation bringing democracy (as in Japan after World War II) is not on the horizon in Burma. A slightly more likely possibility would see a weakened and divided military regime trying and failing to regain its footing through a misbegotten foreign military adventure. In such a case, a faction of the senior officer corps, fearing for the institutional unity and prestige of the military, could overthrow the losing junta and either hand power to a civilian caretaker (as in Greece in 1974) or encourage rapid elections (as in Argentina after the Falklands War). For Burma, such an adventure would take the form of violating Thai territory in order to attack Burmese rebels, as it has briefly done recently, but it is highly unlikely that border skirmishes will lead to major hostilities.

In a country with a strong democratic past, the military may hold elections in which it hopes to do well, so as to legitimate its rule. If it loses it may give up power, but only after imposing constraints (such as no trials of senior officers) on the first successor democratic governments. This is what happened in Uruguay and Chile in the 1980s. The Burmese military, in a country with a much weaker democratic past, allowed elections in 1990, but then barred the winners from taking power.

Lastly, in the cases of South Korea and Taiwan, which had weak traditions of democracy, military-backed parties that had already participated in semi-free elections (and in the case of Taiwan had undergone political renewal which included the party being led by a civilian) believed that they could retain control through free elections, and were correct for two successive cycles. But ultimately the military-backed parties lost the voting, and accepted the verdict of an entrenched democratic process. The problem with this scenario is that the Burmese generals remember 1990 all too well and harbor no illusions that they can win a fair vote. What may revive this possibility, however, is the chance of new constitutional arrangements assuring them of seats in the legislature and influence over government.

In a context of a deteriorating economy and widespread repression, a spontaneous revolt may occur, as it did in Burma in 1988. But if the military responds with a reprise of the mass killings of that year, the opposition must manage to do what neither the Burmese students nor the non-Burman national movements could do the first time: They must summon the resolve to mount and sustain a unified struggle.

Indeed, in the modern history of defeated mass uprisings, only the nondemocratic regimes of Hungary in 1956 and Czechoslovakia in 1968 managed to recover as effectively from a suppressed revolt as the Burmese military did after September 1988. But the communist rulers in Budapest and Prague had help from Soviet tanks. How did the Burmese generals manage to
To restore their grip on power without foreign help? How stable is their regime? And what are the implications for democratization?

Part of the explanation of the Burmese generals’ successful political recovery—or “re-equilibration,” as political scientists call it—lies in their success over the last decade at forging “standfast” agreements with 17 of the 24 ethnic armies that operate in or near sections of Burma’s enormously long and remote land frontiers. As part of these agreements, some of the more potent ethnic insurgent groups have tacitly been handed control over smuggling and the drug trade in their respective zones. In return, the insurgents refrain from attacking the Burmese Army, and share the wealth from drugs and smuggling with selected Burmese officers. These quid pro quo arrangements mean that the Burmese state (unlike such “failed states” as the government of Sierra Leone, for instance) has managed to reassert a degree of control over the disposition of the “lootable” resources that its country offers. 3

The cost to both Burma and the world of the junta’s path to reascendancy has been immense. Before 1988, Burma accounted for a tenth of the world’s heroin supply. It now accounts for more than twice that, and its share is increasing (thanks partly to the Taliban’s efforts to curtail opium-growing in Afghanistan). The bloated military, moreover, may be swelling beyond the point of sustainability. Burma has about seven million men aged 15 to 35; estimates put the number in uniform at around a half-million, or about 1 out of every 14. This is a stunningly high proportion by world standards, and represents a more than threefold increase from the 1980s.

The military has grown in other ways, too. It now controls virtually every aspect of Burmese society: education, the media, public expression. Plus, the top generals have gained ownership over large segments of both private and nationalized companies, a source of wealth considerably enlarged through the illicit drug trade.

While some generals (especially commanders in the drug-rich east) may thrive by milking the black market and drug trade for all it is worth, the nation as a whole steps closer to economic implosion each day. For Burma, the late-1990s Asian financial crisis was devastating. Foreign direct investment flows nearly vanished, plummeting from US$2.8 billion in 1997 to US$54 million in 1999, and have scarcely recovered since. Not only did foreign investment dry up, but exports stagnated while imports burgeoned, leading to a trade deficit that has been rising by an average of about 20 percent a year. A balance-of-payments crisis is now a constant threat. The government had just US$312 million in net foreign reserves last year, enough to pay for less than two months of vitally needed imports.

Given Burma’s weak foreign-exchange earning capacity, its currency (the kyat) has come under heavy speculative assault in the black market. The regime’s reaction has been to sweep across the capital, arresting more than four hundred exchange traders and effectively shutting down the private currency market. 4 The latest arrests came in April 2001, as the government attempted to stop the currency’s slide from the official rate of 6 kyat to the dollar to a black-
market rate as high as 800 kyat to the dollar.

The sudden depreciation of the kyat dramatically harms many citizens, particularly those living in border areas, as many lower-ranking soldiers and their families do. Not surprisingly, desertions are up as troops find themselves forced to live off the land. Military involvement in extortion, drug dealing, and forced-labor conscription has become common.

What Might a Transition Look Like?

In considering how the changes to date in Burma fit into what we know about democratic transitions, it is well to note at the outset that those activists, analysts, and policy makers who look askance at the current dialogue have ample reason to be suspicious. The Burmese military has held tightly to power for almost 40 years, slaughtering civilian protesters, refusing to honor the results of free elections, and continuing to let political prisoners die in its custody. It is hardly a promising partner for those who wish to see a democratic opening.

It is important, first of all, to avoid confusing democratization with liberalization. For example, Juan Linz and Alfred Stepan argue that liberalization may entail “less censorship of the media . . . greater space for autonomous working class activities . . . the releasing of most political prisoners . . . and most important, the toleration of opposition.” All those things are fine, but democratization means more, for it “requires open contestation over the right to win control of the government, and this in turn requires free competitive elections, the results of which determine who governs.”

The key to democratization, in other words, is holding free and fair elections—and then letting the winners rule. So far, there have been absolutely no steps toward this in Burma. Liberalization is not the same thing, and liberalizations can be—and have been—reversed. History is full of examples. Warsaw Pact tanks shut down the Prague Spring; China’s Tiananmen Square student movement was crushed under soldiers’ boots. What the regime gives, it can take away.

In some cases, however, liberalization may become an opening wedge for democratization. This happened in Brazil in the mid-1970s, where a dynamic of regime concession and societal conquest developed, and to some extent in the former USSR in the 1980s. In both Brazil and the USSR, this process received a big boost as a side effect of intrastate conflicts in which one faction of the state tried to gain an edge by promoting the emergence of some previously marginalized groups. It is not inconceivable that something like this could happen in Burma.

Yet even should an opening somehow come to pass, the conundrum of diverse national groups will complicate any attempt at democratization. Burma has at least eight distinct, regionally concentrated, and often mutually mistrustful minority ethnic groups. Whether under the country’s early, democratically elected governments or the socialistmilitary regimes of the last four decades, the numerically superior Burmans (who predominate in the center) have never
managed to reach an accommodation with the minority peoples who cluster along various stretches of the Thai, Indian, Laotian, Bangladeshi, and Chinese borders. The open wounds of ethnic antagonism have frustrated efforts at nationbuilding and the development of a robust constitutional order. Apart from a brief period of postindependence euphoria, Burma has always been riven by both vertical and horizontal conflict: The people suspect the government, and the disparate Burmese peoples suspect one another. Since 1990, the military junta’s favorite tactic for dealing with the “ethnic question” has been quietly to offer some insurgent leaders shares in the international drug trade. Less sinister but still disturbing examples of politically motivated “side payments” include the granting of import licenses and mining and lumbering concessions. The “rent seeking” involved in such deals distorts Burma’s economic and political life. In the case of the mining and forestry concessions, moreover, there have been environmental side effects devastating enough to rouse international concern.

Poor as the omens for democratization may seem, the talks do furnish a glimmer of hope. It is possible that a split is emerging between military intelligence officers who believe that they and the country would be better off if talks accelerated, and the drug-rich commanders of eastern units who are ever more attached to their fiefdoms. With the grounds for hope in mind, then, we turn to the shape that the democratization process—if there is to be one—could perhaps take.

Constitutional Alternatives: Why Process Matters

Actors on all sides in the Burmese milieu have now begun to consider various institutional options for their state, seeking to devise a political order that will be both internally stable and acceptable to the outside world.

As we weigh the options, it is wise to keep in mind two truisms of constitutional design. First, in a fragmented and fragile developing nation like Burma, there is little room for error. The designers had better “get it right the first time.” Second, and perhaps more troubling, even if they do, democracy could still founder amid Burma’s poverty and ethnic mistrust. Free elections may solve the problem of “the military as government,” but they cannot, in and of themselves, remedy the multinational question. At the same time, any future democratic order can be expected to collapse quickly if the new political institutions do not address the realities of ethnic diversity and lingering disaffection from the country’s Rangoon-based, ethnic-Burman ruling elite.

The best evidence we have for the Tatmadaw’s constitutional thinking is the list of proposals that came out of the regime-run National Convention of 1993–96. From the opposition-in-exile, we have the “first draft” of a proposed new constitution published in November 1998 by the National Council of the Union of Burma (NCUB), the umbrella organization of the major opposition and ethnic groups in exile. This draft, though it does not reflect all NLD or minority-group thinking by any means, can nonetheless give us at least a rough
preliminary idea of what an opposition constitution might look like.

### Table 1: Constitutional Alternatives—NCUB and National Convention (Military-Sponsored) Proposals

<table>
<thead>
<tr>
<th></th>
<th>NCUB Proposals</th>
<th>National Convention Proposals</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FEDERALISM</strong></td>
<td>• Symmetrical federalism (8 national states)</td>
<td>• Symmetrical federalism (based on 14 regions and states)</td>
</tr>
<tr>
<td></td>
<td>• Federal law has precedence</td>
<td>• Federal law has precedence</td>
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<tr>
<td></td>
<td>• Rights of self-determination (through referendum)</td>
<td>• No explicit rights of self-determination.</td>
</tr>
<tr>
<td><strong>CAMERALISM</strong></td>
<td>• Bi-cameral</td>
<td>• Bi-cameral</td>
</tr>
<tr>
<td></td>
<td>• People’s Assembly (Lower) (485 directly elected nationally)</td>
<td>• People’s Assembly (Lower) (440 members: 330 elected by population, 110 appointed by military).</td>
</tr>
<tr>
<td></td>
<td>• National Assembly (Upper) (4 members from each of the states – method of election determined by State assemblies)</td>
<td>• National Assembly (Upper) (12 members per state or region, plus one-quarter of seats set aside for military).</td>
</tr>
<tr>
<td><strong>PRESIDENTIAL OR PARLIAMENTARY</strong></td>
<td>• Parliamentary</td>
<td>• Presidential</td>
</tr>
<tr>
<td></td>
<td>• Prime minister elected by People’s Assembly</td>
<td>• President elected by combination of People’s Assembly and National Assembly (664 members, one quarter military nominees).</td>
</tr>
<tr>
<td></td>
<td>• But president of Federal Union, (elected by upper house), as head of state, is commander-in-chief of the armed forces.</td>
<td></td>
</tr>
<tr>
<td><strong>ELECTORAL SYSTEM</strong></td>
<td>• No mention of any change from plurality voting – assumption of continuity of existing system.</td>
<td>• No mention of any change from plurality voting.</td>
</tr>
<tr>
<td><strong>MILITARY PREROGATIVES</strong></td>
<td>• Subordination of the military to civilian control, with its status being equivalent only to other departments of the state, and with no right to participate in politics.</td>
<td>• 25 percent of seats in both houses of parliament, one-third in state and regional assemblies, one-third of civil-service appointments.</td>
</tr>
<tr>
<td></td>
<td>• Ethnic armies may exist</td>
<td>• Jurisdiction over internal law and order.</td>
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<tr>
<td></td>
<td>• Active-duty commander is commander-in-chief.</td>
<td>• Active-duty commander is commander-in-chief.</td>
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<td></td>
<td>• President must have “military experience.”</td>
<td>• President must have “military experience.”</td>
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<tr>
<td></td>
<td>• Retain control over state enterprises – Burma Economic Holdings Ltd.</td>
<td>• Retain control over state enterprises – Burma Economic Holdings Ltd.</td>
</tr>
<tr>
<td></td>
<td>• Military subject to civilian courts only under highly restricted conditions.</td>
<td>• Military subject to civilian courts only under highly restricted conditions.</td>
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</tbody>
</table>
The Table on the facing page provides a broad summary of some of the major points of contrast between the NCUB draft and the Burmese military’s own perspective.

The Table reveals the key issues to be: 1) the nature of any form of federalism or decentralization; 2) the type of electoral system; 3) the nature of the executive power—whether parliamentary or presidential; and 4) the prerogatives to be enjoyed by the military under any new scheme.

These elements must, of course, be thought of as interrelated. If they do not complement one another, the whole constitutional web will fall apart. Any redesign of the Burmese polity will perform a new attempt to adapt in the light of previous difficulties. In this respect, it may not be not sufficient simply to decentralize a measure of power to the regions; governments need to be elected in the best possible way, according to broadly accepted national and international criteria, with governmental responsibilities distributed in a manner that will allow many if not all groups to feel involved in the national experiment. At the same time, representative institutions must not be set up in ways that guarantee legislative deadlock.

Surprisingly, the two constitutional proposals somewhat resemble each other in their desired federal arrangements. Both call for “symmetrical federalism,” meaning a system (variants exist in Germany, Austria, and the United States) in which each constituent unit of the federation enjoys certain identical, constitutionally embedded prerogatives. Furthermore, both Burmese proposals would allocate each state the same number of seats regardless of population.

A better choice for Burma is “asymmetrical federalism,” under which the various states could have somewhat different constitutionally embedded prerogatives tailored to their key cultural characteristics. In truth, every longstanding democracy that is also a multinational polity—Belgium, Canada, India, and Spain are the members of this club—is asymmetrically federal, and in all but Canada, even upper-house seats are apportioned mostly by population size. Making room for prudent “asymmetries” gives constitution makers and politicians more leeway to craft cultural agreements that help “hold together” a multinational country.

The NCUB has outlined a symmetrically federal system with at least eight national states, as well as a possible but unfixed number of “nationalities states” where no single ethnic group would predominate. For smaller minority enclaves within the several states, the NCUB draft envisages “autonomous regions or special national areas” with special powers but only indirect representation at the federal level. The military’s version of symmetrical federalism envisions at least a dozen states and regions as well as concurrent autonomous territories. The upper house would be much larger—with a quarter of the seats to be filled directly by the military—but the National Convention proposals neither detailed state powers, or clarified the relationship between the upper and lower legislative houses.

Although the superficial consistency of symmetrical federalism might make it appealing at first glance, there are ominous precedents which suggest
that such a system—with the overrepresentation and balancing of small states it would entail—might be a risky choice for a newly democratizing Burma. While the ethnic-Burman majority may come around to the idea that the minorities need reassurances that their rights and privileges will be respected, members of this majority are still likely to view with unease the prospect of a political system in which their 68 percent predominance translates into a mere 12 percent share of power. Under the NCUB’s proposals, five of the projected eight states (representing only 14 percent of the population) could form a majority in the upper house, outvoting the Burman majority.

What may be far more workable is an asymmetrical federal system in which each minority group (or state) receives devolved powers tailored to its special needs. This is perhaps best exemplified in Canada’s arrangements for Quebec and in the autonomous regional powers found in the constitutions of Belgium, India, and Spain (where such powers are most notably utilized in the Catalan region).

Such an asymmetrical arrangement for Burma might involve certain states being reserved particular rights specific to their own group, as, for example, religion in Karen State (which has sizable numbers of Christians) or language rights in Shan State. In return for these specially agreed-upon rights over issues of particular local salience, states might be willing to accept a weaker upper house and the absence of a right of secession. No existing democratic constitution explicitly allows secession, and whatever the possible differences between reputed “soft-liners” and “hard-liners” in its ranks, the Burmese military will never tolerate a constitutional right of secession. Some of the opposition leaders with whom we spoke seemed to understand this.

Toward a New Electoral System

One of the more productive areas of system change may well be in the development of a new system for choosing the federal legislature. Burma inherited first-past-the-post voting from Britain. Between 1948 and 1962, this system appears to have worked reasonably well. It seldom yielded “seats bonuses” of more than ten percentage points, it allowed for strong opposition parliamentary caucuses (103 seats in 1956 and 93 in 1960, out of a legislature numbering 250 members), and it enabled minority nationalities to achieve representation. Shan parties, for instance, took 8 percent of the seats in the 1956 parliament at a time when they constituted about 10 percent of the population.

The 1990 election, however, demonstrated the inherent dangers of plurality voting in the Burmese context. Under any system of proportional representation (PR), the NLD (with almost 60 percent of the vote) would still have won handily, but the military’s party (with 20 percent support) would likely have gained more than a hundred seats instead of the paltry ten they actually wound up with. This would have meant not only a sizable opposition bloc, but 90 more senior military politicians probably enjoying legal immunity from
prosecution as members of parliament.

This leads us to wonder: Had Burma used PR instead of plurality voting in 1990, would the military have been so quick to nullify the results and invite more than a decade of international opprobrium and ostracism? In retrospect, many in the NLD now think not. More significantly, during our discussions with them we learned that key members of the opposition find PR appealing even though they realize that it might cost them seats. The mixed-member proportional (MMP) version of PR—used in New Zealand and Germany—might do the best job of combining geographical-constituency representation with a parliament that also reflects nationwide political preferences. NLD and NCUB participants at a June 2001 constitutional workshop in Bangkok were able to consider how MMP would look in a 485-seat parliament comprising 285 singlemember districts and 200 national-list PR seats.

In contrast to the NLD’s preference for parliamentarism, the military favors the hierarchical majoritarianism of a presidential system. The National Convention proposals reflect this, calling as they do for a strong executive president to be chosen by both houses of parliament (including at least 166 hand-picked military appointees).

Even if we abstract from the question of military involvement, robust presidentialism may be a risky choice for a multinational country such as Burma. A strong presidency is too big a prize, and will always leave some segments of the country feeling more or less permanently left out or even threatened. Ethnic voting could mean that the president might always be a Burman, and minority groups (which together contain perhaps as much as 40 percent of the populace) could come to feel at best tangentially connected to national power. This has been the structural flaw of strong presidencies in countries as diverse as Nigeria, Sri Lanka, Kenya, and Guyana. Some scholars argue that presidentialism can have ethnically moderating and inclusionary potential, but such recommendations always presuppose that no single ethnic group is in a position to dominate the way the Burmans do in Burma.

Perhaps recognizing the problems with direct, winner-take-all presidentialism, the National Convention proposed indirect election by parliament. But the type of parliament that the military wants, reserved seats and all, would itself be hopelessly flawed in the manner of its composition. As in Indonesia, this could easily lead to the election of a candidate whose party lacked majority or even plurality support. Under the National Convention proposal, the president would be chosen from three vice-presidents elected by three groups: the civilian members of the lower house; the civilian members of the upper house; and the military members of both. A civilian candidate could arise from either assembly, but with 25 percent of the seats in each house reserved for military appointees, any party opposed by the military would have to carry well over 60 percent of the civilian members in both houses to ensure that its candidate won the presidency.

In some “pacted” transitions between outgoing authoritarians and their democratic opponents, there have been formal or informal coalition or “national-
unity” governments. These include all (or most) of the significant political players regardless of their electoral performance. Some of these have been “sunset” deals that expire after a set time (South Africa), while others have been made more entrenched (Fiji). Burma does not seem a promising environment for such pacts. The military does not represent a significant popular bloc, though it cannot be ruled out that some new version of the old military-run Burma Socialist Program Party might someday pick up substantial popular support. At the regional level, most of the minorities are so small that giving all of them representation in a government of national unity would be counterproductive.

If decentralized or federal arrangements are well wrought, and if the NLD continues to enjoy significant support among non-Burmans, then mandated power sharing among ethnically based minority parties may prove needless or even harmful. In the best-case scenario, inclusiveness would be a natural by-product of the existing party system (as it was during the first two decades of Congress Party rule in India).

The existing military regime is in any case much more concerned with its own prerogatives than with the basics of healthy multiparty government. This is clear from its constitutional proposals. The military’s plans for Burma envisage a greater political role for the military than can be found in any democratic or even semidemocratic polity. The military hopes to retain a significant number of seats in legislatures at every level; control of major security and economic-policy domains; and a predominant decision-making role in bureaucratic and judicial affairs.

If military prerogatives have to be retained—and given the current balance of power they may be if a peaceful democratic transition is to come about—these need to be as limited and temporary as possible. The example of Chile shows how long it can take for power to be wrested from military hands when the transition arrangements are full of concessions made to a junta that has taken care to safeguard its own personal and private interests.

It is clear that the National Convention’s undemocratic call for military-controlled seats in the legislature was driven by the military’s fear of what free national elections could hold in store. Simply by switching the rules to PR, however, the military party could win at least a hundred seats in the next election (assuming that it can duplicate its 1990 performance). These seats would probably also acquire greater insulation from extradition, and a more easily defended parliamentary immunity, than would seats held without benefit of electoral legitimation. Thus some of the protection the military seeks would come from the normal operation of democratic institutions.

There is some reason to think that the democratic opposition might well accept both PR and asymmetrical federalism. First, these proposals would give military officers more of the personal safeguards that they want and that the opposition has reluctantly begun to contemplate as the price of military extrication. Second, military acceptance of these proposals would make a turn to democratic competition more likely. And third, some of the specific—but different from state to state—national desires of various segments of the non-
Burman opposition can be more easily accommodated in an asymmetrical federal system. (The special arrangements made for the Catalan and Basque regions in Spain are useful examples here.)

The staples of the inherited British-style approach—a unitary state and a majoritarian electoral system—would seem to have little place in a future democratic Burma. At the heart of all federal arrangements lies an acceptance of the need for partnership among those concerned. If Burma is to be a coherent democracy, it will need institutions that work to foster such a sense of partnership and mutual confidence among Burmans and non-Burmans alike. An electoral system better tailored to Burmese conditions can help.

In time, as the reputation of the military begins to recover from its descent into authoritarianism and drug-based criminality, it may be possible for the armed forces to assume once again an honorable place as the lawful defenders of national independence and constitutional democracy. More even than the holding of new elections or the inauguration of a new constitution, the establishment of a professional army, characterized by integrity and resting firmly under civilian control, will mark the moment when the transition to a new and democratic Burma has been finally brought to fruition.

It would be foolish to make precise claims about what may happen in Burma, or when, or how. Yet given what we have shown is happening there, it would be even more foolish for analysts and policy makers not to examine Burma with a greater intensity now than they have in the past.

NOTES

1. The meetings were held in Bangkok and Chiang Mai, Thailand, in June 2001, under the auspices of the Burma Fund (which is closely connected to the Burmese democratic opposition) with the support of the Ford Foundation.


4. Thomas Crampton, “Crackdown Does Little to Help Burma’s Economy,”


7. See, for example, Donald Horowitz, “Presidents vs. Parliaments: Comparing Democratic Systems,” *Journal of Democracy* 1 (Fall 1990): 73–79.
Learning Lessons from Abroad

How Burma Could Democratize

How Burma Could Democratize

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How Burma Could Democratize
Managing Democratic Transition in Burma

Juan Linz
Alfred Stepan

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regime (concession and societal conquest) It again that might be

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### Managing Democratic Transition in Burma

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Learning Lessons from Abroad

How Burma Could Democratize

1. The question is: How can Burma democratize?

2. The question is: What are the factors that contribute to democratization?

3. The question is: How can Burma incorporate these factors into its political system?

4. The question is: What role can international aid play in this process?

5. The question is: How can Burma ensure that the democratic process is inclusive and just?

6. The question is: What challenges does Burma face in implementing these changes?

7. The question is: What lessons can Burma learn from other countries that have successfully democratized?
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(Proportional representation)
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Learning Lessons from Abroad
CONTRIBUTORS

Stephen Levine is an Associate Professor of Political Science and Head of the School of Philosophy, History, Political Science and international Relations at Victoria University, Wellington New Zealand. He has been Director of the New Zealand Political Change Project and is an expert on the politics of Japan, Taiwan, New Zealand and a number of Pacific Island nations. He publications include Left Turn: The New Zealand General Election of 1999 (2000); New Zealand Under MMP: A New Politics? (1996); Waging Peace: Towards 2000, Maori Political Perspectives (He Whakaaro Maori Mo Nga Ti Kanga Kawanatanga) (1985); and The Fijian Provincial Administration Review Regional Report (1985).

Andrew Reynolds is Assistant Professor in the Department of Political Science at the University of North Carolina at Chapel Hill. He received his M.A. from the University of Cape Town and his Ph.D. from the University of California, San Diego. Reynolds has worked for the United Nations, the International Institute for Democracy and Electoral Assistance (IDEA), and the Organization for Security and Cooperation in Europe (OSCE) and has served as a consultant on issues of electoral and constitutional design for Angola, Fiji, Guyana, Indonesia, Jordan, Liberia, Northern Ireland, Sierra Leone, South Africa, and Zimbabwe. His interest in Africa has concentrated on democratization and electoral politics, political consequences of electoral systems, and political theory of representation, for which he has received research awards from the U.S. Institute of Peace, National Science Foundation, and Institute on Global Conflict. Among his publications are The Architecture of Democracy (2001); Electoral Systems and Democratization in Southern Africa (1999); Election '99 South Africa: From Mandela to Mbeki (1999); and Elections and Conflict Management in Africa (1998), co-edited with T. Sisk.

Alfred C. Stepan is Wallace Sayre Professor of Government at the School of International and Public Affairs of the Columbia University. He was the first Rector and President, Central European University (Budapest, Prague and Warsaw) from 1993-1996. Before this, he was the Dean of SIPA from 1983-91. He holds B.A. from University of Notre Dame, B.A. and M.A. from Balliol College, Oxford University, and Ph.D. from Columbia University. He has written extensively on comparative politics, democratic transition and federalism including Problems and Democratic Transition and Consolidation: Southern Europe South America and Post-Communist Europe (with Juan J. Linz); Rethinking Military Politics: Brazil and the Southern Cone; and The Military on Politics: Changing Patterns in Brazil.

Mark Tamthai is Director of the Humanities for Society Center, Faculty of Arts, Chulalongkorn University, Bangkok. He has taught at Chulalongkorn University for the past 27 years, first in the Mathematics Department and then in the Department of Philosophy. He is also an Advisor to the Office of the National Security Council of Thailand. His recent publications include "Democracy with a Heart" (1999) and "Can Constitutional Monarchies be Justified" (2000).
List of Participants

1) Mr. Teddy Buri, MP – President, Members of Parliament Union (MPU)
2) Dr. Chotzang Yawngwhe – Technical Advisory Network of Burma (TAN)
3) Dr. Sann Aung, MP – Minister, National Coalition Government of the Union of Burma (NCGUB)
4) Khun Marko Ban, MP – Minister, NCGUB
5) Mr. Maung Maung Latt, MP – Secretary, MPU
6) Mr. Bo Thaung, MP – Secretary, MPU
7) Mr. Zin Lin – Senior Staff, Secretary, MPU
8) Mr. Aung Thin – Director, NCGUB (Thailand)
9) Mr. Htan Lian Paung, MP – MPU
10) Dr. Thaung Htun – UN Representative, NCGUB
11) Dr. Tin Maung Than – Researcher and Former Editor of Thintba-wa Magazine
12) Dr. Kyaw Nyunt – Secretary, NCGUB
13) Mr. Sunny Mahinda – Secretary, All Burma Student Democratic Front
14) Mr. Soe Aung – Director, National Democratic Development
15) Mr. Zaw Min – Secretary, Democratic Party for New Society
16) Ms. Shelly – Kachin Women Association in Thailand
17) Ms. Khin Ohmar – Women Affairs Coordinator, NCGUB
18) Mr. Doe Sae – Director, Foreign Affairs, Karen National Progressive Party
19) Mr. David Htaw – Secretary of Foreign Affairs, National Democratic Front, Karen National Union
20) Mr. Khun Kyar Nu – Chairman, Shan Democratic Union
21) Mr. Than Htut – Joint Secretary, National League for Democracy (Liberated Area)
22) Ms. Myint Myint Sann – Burmese Women Union
23) Mr. Daniel Aung – Vice President, MPU
24) Mr. Myint Cho – Special Assistant to the President, MPU
25) Mr. Zaw Oo – The Burma Fund
Conference Agenda

Monday, June 11th

8:30 – 9:00  Registration
9:00 – 9:30  Introduction: Zaw Oo (TBF)
          Welcoming remarks: Mr. Teddy Buri, MP, President, Members of Parliament Union
          Prof. Andrew Reynolds, Notre Dame University
9:30 – 10:45 Facilitator: Dr. Chao-tzang Yawngew (TAN)

Session 1: Transition from Military Rule
          Prof. Alfred Stepan, Columbia University
10:45 – 11:00 Coffee Break
11:00 – 12:30 Brainstorming on 'Transition from Military Rule in Burma'
12:30 – 2:00 Lunch
2:00 – 3:15 Facilitator: Dr. Thaung Htun (NCGUB)

Session 2: Designing Electoral System in Democratic Transitions
          Prof. Andrew Reynolds, Notre Dame University
3:15 – 3:30 Coffee Break
3:30 – 5:00 Brainstorming on 'Electoral options for Burma's Transitions'

Tuesday, June 12th

9:00 – 10:15 Facilitator: Dr. Myo Nyunt (Edith Cowan University)

Session 3: Issues of federalism, autonomy and decentralization
          Prof. Stephen Levine, Victoria University
10:15 – 10:45 Brainstorming on "Practical aspects of federal formula for Burma"
10:45 – 11:00 Coffee break
11:00 – 12:00 Continue brainstorming on 'decentralization'
12:00 – 12:30 Facilitator: Dr. Tin Maung Than (University of Pittsburg)

Summary: Overall transition issues facing Burma: Where to now?
12:30 – 2:00 Lunch break
2:00 – 3:15 Facilitator: Prof. Witthaya Sucharithanarugse (Chulalongkorn University)
          Session 4: Transition in Thailand
          Prof. Mark Tamthai, Chulalongkorn University
3:15 – 3:30 Coffee break
3:30 – 4:45 Brainstorming on "What next: practical steps?"
4:45 – 5:00 Conclusion:
          - Prof. Andrew Reynolds
          - Zaw Oo