



ALL EYES ON MYANMAR 2015

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The changed face of Myanmar after the 2010 elections and the blitzkrieg of reforms has brought this erstwhile pariah state back into the mainstream. Though the present regime under President Thein Sein seems to be moving in the right direction, yet, there are spots of skepticism which surround the basic tenets of democracy on which this state rests, its constitution.

In the 1990 elections Aung San Suu Kyi not only emerged as a national leader but also her party National League of Democracy (NLD) won a clear mandate of the people. Instead of conceding defeat, the defiant Military Junta refused to transfer power and dissolved the constitution on the basis of which 1990 elections were held. This was followed by rampant human rights abuse and imprisonment of political leaders including Aung San Suu Kyi.¹ Seeing this, the USA, many countries of European Union (EU) and all other responsible democracies in the world imposed strict sanctions against Myanmar. China seized this opportunity and came to the rescue of the military junta. The military government's priority was immediate modernization of the military with new weapons, ammunition, surveillance and communication systems, which China readily agreed to supply. The then government deliberately delayed the formation of the new constitution and focused on the military built-up. There were no protests as all the politicians were under arrest. This went on for almost eighteen years. A Constitution Committee which was formed in 1996 was languishing over the draft constitution for over ten years. NLD members, sensing prejudice had boycotted this committee long back. After significant international pressure, in

2008 a constitution was formed which overtly promised the rule by democratic values. However, some clauses in this constitution was grossly skewed towards vesting immense power to the military (*tatmadaw*) and keeping the most favoured national leader Aung San Suu Kyi out of race for the Presidential position. How this skewed constitution was supposedly passed by a public referendum in 2009 is unknown to all. As per this constitution the people will only elect 75% of the members to both houses of the parliament i.e. 498 out of 664 seats, and, 166 members will be nominated from the army by the Chief of the Army Staff. At best this form of governance can be called as "Militarised Democracy" and not 'Disciplined Democracy' as some analysts called it. The 2010 elections were held as per this constitution which NLD again boycotted. The military backed Union Solidarity and Development Party (USDP) won not only majority in the 75 percent seats in the parliament but also had the support of the 25% military members nominated by the Chief of Army Staff. This constitution also gives three important ministries to the Military nominated members – Home, Border Affairs and Defence². In this way the present regime under President Thein Sein came into power. Though later this regime has undertaken series of political,

economic and press related reforms, yet the monolith of Democracy – the Constitution requires a serious re-look.

After the onset of reforms in 2011, President Thein Sein got a standing ovation where ever he went. His reform process has been well reciprocated by the USA and EU by lifting off most of the sanctions. However, everybody is watching the developments in the nation very closely. Is the reform process a one-man show, or it has the backing of the

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Military? Will the Military, who have tasted an elitist status for years, let the power slip out of their hands in 2015? These are some of the important questions which need to be analysed.

Although the 2015 elections seem to be two years away, some preliminary preparations need to commence forthwith. The main issue which is being watched is how and when does the military democratic constitution remove the clauses which make Aung San Suu Kyi ineligible for the Presidential or Vice Presidential position. There are numerous hurdles for her to become the President. The first is Article 59(e) of the constitution which gives the eligibility for the Post of the President and the Vice President of Union Of Myanmar. It states “*he himself, or one of the parents, the spouse, one of the legitimate children or their spouses not owe allegiance to a foreign power, not be subject of a foreign power or citizen of a foreign country. They shall not be persons entitled to enjoy the rights and privileges of a subject of a foreign government or citizen of a foreign country.*” According to this Aung San Suu Kyi name is debarred from being proposed not only for the President but also for the Vice-President as her late husband Micheal Aris was a British Citizen and her two sons too are British Citizens. There are strong rumours about the US backed parleys to amend this clause of the constitution. The second hurdle - election procedure of the President, is even more complex. The President shall be elected by the **Presidential Electoral College**, comprising of three groups of the Parliament (*Pyidaungsu Hluttaw*):

- (a) Elected representatives in the *Pyithu Hluttaw* (lower House);
- (b) Elected representatives in the *Amyotha Hluttaw* (Upper House); and
- (c) The *Tatmadaw* member representatives nominated by the C-in-C for both *Hluttaws*.

Each group shall elect a Vice-President candidate from among *Hluttaw* representatives or from among persons who are not *Hluttaw* representatives. Therefore, there will be three Vice-President candidates. Finally, the Presidential electoral college made up of all the representatives (or members) of *Pyidaungsu Hluttaw*, that is 664 parliamentarians, will vote one of the three Vice-Presidential candidates as the President of the Union of Myanmar while the other two remain Vice-Presidents³.

In such a procedure, What are the prospects of a political party nominee for Vice-President becoming the President?

It depends on the electoral results for both houses of the legislature. In the *Pyithu Hluttaw*, 330 elected members and in the *Amyotha Hluttaw*, 168 elected members will propose a candidate. To be the President, a candidate must secure at least 50% votes out of the 664 members of the *Pyidaungsu Hluttaw*; thus, he needs to get more than 332 votes. Therefore, if a political party or a coalition of political parties controls more than 50% of the seats in each house (165 for the lower house and 84 for the upper house) and holds at least 67% of the seats of both houses combined (333 seats), it will have two Vice-Presidential candidates and one of them will surely become the President. In this situation, the Vice-Presidential candidate nominated by the C-in-C or the *Tatmadaw* will remain a Vice-President.

Under immense international pressure, in March this year, Myanmar's parliament approved a motion to set up a

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committee to review the 2008 constitution, a move that could become the first step to seeing opposition leader Aung San Suu Kyi contest the Presidency in the next election. However, the second hurdle of procedure has been so well knitted that a political party has to have a two third majority in

the parliament to have its representative elected as the President. And even if that be so the President will have a Military nominated General as his Vice-President.

Elections 2015 in Myanmar are going to be only the fourth election after its independence in 1948. All eyes are going to be glued to this historic election. The main competition is between Military backed USDP and NLD. USPD needs only 25% of the elected seats, whereas NLD needs 67% of the elected seats. Is it an even playing field? The NLD under the enigmatic leadership of Aung San Suu Kyi is surely going to contest in this uneven playing field. Some analysts feel that to win the 2015 presidential elections, Aung San Suu Kyi and her NLD party have to first rejuvenate its leadership which at present is dominated by elderly activists who do not have much experience of governance. Global Times carried an article stating Khin Zaw Win, director of Yangon's Tampadipa Institute, that the priority for Suu Kyi is to rebuild the NLD's internal structure and reset the party's policies and principles, as the NLD is said to be very loosely organized and unable to even confirm how many members are there in its cadre.⁸

At the same time President Thein Sein is on an international appeasement mission to project the reform process undertaken by his government and inviting aid and investment. On one such missions Japan Prime Minister waved off Myanmar's \$1.74 billion debt and sanctioned a fresh loan of \$504 million⁴. At home, the government machinery too is busy in ironing out differences especially among the ethnic regions where the NLD does not have much support base. After thirteen peace accords with ethnic groups the Government on May 31, 2013 have inked a peace accord with KIO, the most virulent ethnic group, which is being seen as a big victory for the government. It must be remembered that Kachins had refused mediation by Aung San Suu Kyi.⁵ Taking yet another positive step towards reformation, in March this year the parliament adopted a resolution to amend the Constitution, results of which are awaited.⁶ All in all its going to be a neck to neck race which will be watched carefully.⁷

India has been engaging with the military junta since mid nineties but has been overshadowed by the mighty investment made by Chinese government in all spheres of infrastructure upgradation. The USDP has known to have pro-China stance especially after 2007, when China vetoed a UN resolution against Myanmar.

The return of a democratically elected political power in 2015, will certainly be beneficial to India in many ways. Aung San Suu Kyi while delivering the Jawaharlal Nehru Memorial Lecture on Nov 16, 2012, said that *"Our movement for democracy in Burma is firmly rooted in the principle of non-violence that Gandhi made into an effective political force even against the most powerful opponents. His influence on my political thinking is widely recognized. The influence of Jawaharlal Nehru on my life in politics is less well known"*.⁸

As preparations take off for the 2015 elections with election commission of Myanmar has started updating the voter list.⁹ The USAID has already suggested electoral reforms in the country so that the elections are 'free and

fair'.¹⁰ Its beyond doubt that they will closely monitor the election process too. India being the largest democracy in the sub continent must utilize this opportunity and extend its expertise to help this nation not only in the electoral reforms, but also the technology being used by India in conducting elections. Towards this, on February 14, 2013 a parliamentary delegation under the Lok Sabha speaker Ms Meira Kumar had visited Myanmar and not only witnessed the proceedings of parliament but also interacted with their parliamentarians. India has offered support in strengthening parliamentary practices, conventions and procedures. It would not be out of place for India to offer the Electronic Voting Machine (EVM) Technology and training for its use in the elections 2015 in Myanmar. After all Myanmar with 89.9% literacy rate is well poised to use this technology. India has successfully used this technology for over ten years with over 6 lakh EVMs used in every Lok Sabha elections. Right diplomatic indulgence at this hour would not only strengthen our 'Look East Policy' but also provide us a positive platform to deal with the new government which emerges from the 2015 mandate in Myanmar.

Notes

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