

The 1990 Elections in Myanmar: Broken Promises or a Failure of Communication?

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“Whoever is elected will first have to draw up a constitution that will have to be adopted before the transfer of power. They haven’t said how the constitution will be adopted. It could be through a referendum, but that could be months and months, if not years.”

Daw Aung San Suu Kyi, interview with Dominic Faulder, “AsiaWeek” 21 July 1989

Abstract

The National League for Democracy (NLD) won a resounding victory in the May 1990 general elections, but was unable to persuade the ruling military junta to agree to the transfer of power. The State Law and Order Restoration Council (SLORC) had initially promised when they took control in September 1988 that whichever party won the elections could form the new government. But within months they backtracked as democracy activists, led by the NLD, pursued a vigorous campaign for basic civil rights, including freedom of expression, publication and assembly. Even before NLD leader Daw Aung San Suu Kyi was confined to house arrest in July 1989, the junta had redefined their position, which was that they would continue to govern until a new constitution, approved by the people, had been promulgated and a new government based on that constitution appointed.

When the NLD won the elections with over 80% of the seats in the National Assembly, they argued that they now had a strong mandate for assuming power without delay. But the regime reaffirmed in a formal Declaration its pre-election stance that the main purpose of the new Assembly must be to draft a new Constitution. The NLD however rejected this process and decided to confront the junta. Internationally, the junta could not compete for the world’s understanding against the iconic, charismatic personality of the daughter of the leader of Burma’s independence. A more appropriate charge against the SLORC than failure to hand over power is that they did not allow elected members of the new National Assembly to play the major role in supervising the drafting of the new Constitution, as they had promised both before and after the elections. The facts about the post-election constitutional process set out prior to the elections by the SLORC should be recognised if the continuing confrontation between the NLD and other pro-democracy parties and the military regime is to be fully understood.

Introduction

Burma, redesignated Myanmar in 1989, was a somewhat fractious, though vibrant democracy from independence in 1948 until 1962 when General Ne Win, the head of the Armed Forces, seized power and ruled through a Revolutionary Council, which proclaimed the Burmese Way to Socialism. In 1974 a new Constitution, similar to the People’s Democracies of Eastern Europe, was approved in a national referendum and a new Socialist Republic of the Union of Burma established under the guidance of the Burma Socialist Programme Party. However, popular dissatisfaction with one-Party rule, with the socialist regime and with growing economic problems resulted in some rioting in mid 1987, anti-government demonstrations in March 1988 led primarily by students, culminating in the bloody suppression by the military of widespread, but peaceful protests on 8 August 1988. On 18 September 1988, fearful of still mounting chaos, the military seized power again, cracked down hard on rioters and dissidents, but nonetheless promised that multiparty democratic elections could be held and political parties set up.

In the ensuing general elections held in Myanmar (Burma) on 27 May 1990, the National League for Democracy (NLD), whose founding Secretary-General Nobel Peace Prize laureate Daw Aung San Suu Kyi¹ had been placed under house arrest on 20 July 1989 along with other leading members of the NLD, won a resounding victory, fielding 447 candidates and securing 392 of the 485 seats to the Pyithu Hluttaw or National Assembly. The NLD secured 80.82% of the seats with 59.87% of valid votes cast, 52.44% of all votes cast (valid and invalid) and 38.11 % of all eligible votes which could have been cast. The voter turn-out was 72.59% of the total.

The statistical record ² was:

Constituencies	492
Elections held	485 - 7 suspended
Eligible voters	20,818,313
Votes cast	15,112,524 ³
Valid votes cast	13,253,606
Party candidates	2,209 - 479 elected
Independent candidates	87 - 6 elected
Registered political parties	235
Parties presenting candidates	93

	Seats	%	Votes	%
National League for Democracy	392	80.82	7,934,622	59.87
Shan Nationalities League for Democracy	23	4.74	222,821	1.68
Arakan League for Democracy	11	2.27	160,783	1.21
National Unity Party	10	2.06	2,805,559	21.16
Mon Democratic Front	5	1.03	138,572	1.05
Miscellaneous Parties and independents	44	9.08	1,991,249	15.03

National League for Democracy	447 candidates	[392 elected]
National Unity Party	413 candidates	[10 elected]
League for Democracy and Peace	309 candidates	[0 elected]
United National Democracy Party	247 candidates	[1 elected]

The NLD's nearest rivals in terms of valid votes cast were the National Unity Party (NUP), the successor to the Burma Socialist Programme Party ("BSPP") which had dominated political life in the one-Party state. The NUP, which most observers expected to do well, polled only 21.16% of valid votes cast and secured only 10 seats although fielding 413 candidates. They failed to capture a single seat in the capital Rangoon, even in districts with military cantonments. The remaining seats

¹ Though under house arrest, Daw Aung San Suu Kyi sought to register as an election candidate, but her application was refused primarily on the grounds that she had given a place of permanent residence in Britain and that because she was married to a British national she might owe allegiance to a foreign power, contrary to Chapter V Articles 8(b) and 10(e) respectively of the Election Law of 31 May 1989.

² Adapted from 1990 Multi-Party Democracy General Elections - Khin Kyaw Han MP NLD - Online Burma Library at www.ibiblio.org/obl/docs/Elections-01.htm , -02.htm, -03.htm and -04.htm which provide a detailed statistical analysis and documentary database of the 1990 Elections.

³ The proportion of invalid votes - 12.3% of all votes cast - is high. Several explanations have been offered, none of them mutually exclusive. It might be that there were so many candidates in some constituencies that voters were confused by the ballot paper, or that vote scrutineers favourable to the NUP sought to invalidate as many votes for the NLD as possible.

were won by other parties and independent candidates who were either in electoral alliance with the NLD or generally supported their aims. If anything, Daw Aung San Suu Kyi's enforced absence from the electoral campaign enhanced the success of the NLD. She had become the national symbol of democratic opposition to military rule.

The vote was an expression of overwhelming support for a change to democratic politics and at the same time a rejection of old-style politicians like former Prime Minister U Nu whose League for Democracy and Peace, though fielding 309 candidates, secured no seats at all. Some writers (Smith 1999) have rightly seen the elections as more of a popular referendum rather than as a competition between political parties whose declared policies were so generalised that it was often very difficult to distinguish between them. Against this background, the voting could reasonably be interpreted as 78.94% (475 seats) in favour of fully democratic government and 21.06% (10 seats) in favour of power-sharing with the military.

The NLD, which now dominated the political scene, made it clear after some initial hesitation that they expected to assume political power, and became increasingly frustrated because the State Law and Order Restoration Council ("SLORC"), which had taken control on 18 September 1988 in a coup against a collapsing BSPP administration and had supervised the elections, was reluctant to agree to a date for the National Assembly to convene. In the ensuing political crisis, some elected representatives met secretly in Mandalay in October 1990 and agreed to try and convene an Assembly. A security clamp-down followed, a dozen elected representatives fled to insurgent controlled territory and subsequently established a National Coalition Government of the Union of Burma (NCGUB) on 18 December 1990 at Manerplaw in Karen State on the Thai-Burmese border. The NCGUB later went into exile. The NLD however maintained its legal presence in Rangoon and in the interests of its own survival formally disassociated itself from the NCGUB and those NLD elected representatives who had fled.

International Condemnation

The international community strongly condemned the SLORC for refusing to allow elected representatives to meet as a National Assembly, and for failing - as they saw it - to honour the results of the elections and hand over power. The UN General Assembly (UNGA) has since 1991 passed successive annual Resolutions in the Third Committee on Human Rights Questions, more recently calling on Myanmar (Burma) "to restore democracy and respect the results of the 1990 elections" (UNGA 2003 and 2004).⁴ For the first time at UNGA 2005, and again in 2006, the reference to the 1990 elections was moved from an operative paragraph to the preamble, to affirm that "the will of the people of Myanmar was clearly expressed in the elections held in 1990". These annual UNGA Resolutions have prior to 2006 been passed by consensus. In 2006 the Resolution was contested, but approved by a vote of 82 in favour to 25 against, with 45 abstentions and 40 absent. At UNGA 2004, 2005 and 2006, no Asian country co-sponsored the Resolution.

In terms of international public relations, there was simply no contest. From September 1988 to election day, the SLORC had relied on set-pattern weekly press conferences to present their views, and occasional speeches by the SLORC Chairman General Saw Maung to mainly military audiences. The SLORC insisted throughout that they would remain neutral in the election campaign, that they were only holding the ring for the contestants and that military personnel should vote for candidates of their choice. The NLD, through the iconic, charismatic, and cosmopolitan personality of Daw Aung San Suu Kyi until her confinement to house arrest on 20 July 1989, had unhindered access to the

⁴ I am unhappy with the phrase "to restore democracy" since I am less than convinced that the previous Burmese experience with democracy 1948 to 1962 was in any sense a model to be "restored". Democracy as then practised became dirigiste, fractious, divisive and corrupt, though probably marginally better than military rule.

international media to relay her message about the struggle in Myanmar (Burma) for civil rights and democracy.

The situation in Myanmar (Burma) might then seem to be beyond dispute. In failing to hand over power to the election winners, the SLORC was held to be in serious breach of internationally accepted norms of civil and political liberties. Yet this generally received wisdom (Lintner 1999) is not compatible with some historical facts. Only recently has the popular view been examined more closely (Steinberg 2006). Indeed, a study of the period from the SLORC assumption of power on 18 September 1988 to the elections on 27 May 1990 points to a slow but steady erosion of their original intention to hand over power after the elections, and a growing realisation that elections in themselves were not a sure or effective means to arrange a smooth and peaceful transition to multi-party democracy. As Carl Bildt, the former Swedish Prime Minister and currently Foreign Minister, said on a BBC Interview on 18 January 2004:

“It is only when you get a consensus on the structure of a State that you can move forward towards electing the representatives to govern that State. Then, elections could unite, otherwise they risk to divide.”

Carl Bildt's concerns reflect closely what happened in Myanmar (Burma) in 1990. There was indeed no consensus on the way ahead. The elections were held in a political vacuum without any previously agreed process designed to lead to the transfer of power, or even a general understanding of how best to proceed. It is right to allocate the blame for this to the SLORC.

US Call for an Interim Administration in September 1988

The final days of the BSPP administration saw first the resignation of General Ne Win ⁵ as Chairman in July 1988, then the resignation a month later of his successor Sein Lwin who had an unsavoury reputation for crushing dissent, and finally an offer by the respected civilian Dr Maung Maung (Maung 1999) to organise multi-party elections within three months. It is possible that if the emerging political leaders, the “Big Four” of Daw Aung San Suu Kyi ⁶, Aung Gyi ⁷, Tin Oo ⁸ and U Nu ⁹, had agreed to this and had been willing to accept the nominated Election Commission to supervise the elections, the 18 September 1988 coup might never have happened. But the four leading politicians said that they could not accept the Election Commission as impartial because, though they respected the commissioners individually, it had been appointed by a compromised administration. They demanded instead the establishment of an interim administration comprising non-BSPP personalities which could pave the way towards multi-party democracy. The BSPP not surprisingly declined.

The call for an interim administration was enthusiastically taken up by the United States where the House of Representatives on 7 September 1988 passed a resolution expressing its strong support for the restoration of democracy in Burma “and, to this end, urges the establishment of a transitional body, consisting of Burmese citizens who are unquestionably committed to democracy and who have the confidence of the Burmese people, to organize multi-party elections.....” While such sentiments may be applauded in the abstract, it was not really practicable to establish such a body in the conditions existing in Burma at the time. If politics is the art of the possible, the expression of such

⁵ Deputy Prime Minister 1949 and Commander-in-Chief, seized power in 1962 from Prime Minister U Nu.

⁶ Daughter of General Aung San, national independence hero, assassinated on 19 July 1947.

⁷ Former Vice-Chief of Staff and Minister of Trade and Industry, who fell out of favour and was imprisoned 1965-68, 1973-74 and July/August 1988.

⁸ Former Chief of Staff and Defence Minister, imprisoned 1976-80 for alleged involvement in a suspected coup attempt.

⁹ Prime Minister 1948-58 and 1960-62, imprisoned 1962-66, in exile overseas, but later returned.

wishful thinking is not helpful in resolving a complex situation in which the *Tatmadaw*, the Burmese Armed Forces, were bound to play a crucial role and not simply step aside as the US proposed.

The SLORC and the Transfer of Power: September 1988 to June 1989

It was encouraging and understandable, but in retrospect possibly somewhat rash that one of the first measures introduced by the SLORC on its assumption of power was to confirm its intention to hold multi-party elections and to reconfirm the appointments to the Election Commission. In a rapid *volte-face*, the “Big Four” agreed to recognise the Commission. The then Brigadier General Khin Nyunt, Director of Defence Services Intelligence, speaking to foreign Military Attachés on 22 September 1988, made it clear that:

"Elections would be held as soon as law and order had been restored, and the Defence Forces would then 'systematically hand over state power to the party which wins', Khin Nyunt said." ¹⁰

These words have frequently been quoted to show that SLORC intended to hand over power without delay, though the word “systematically” is often omitted. On 23 September 1988 the SLORC Chairman General Saw Maung gave assurances in a broadcast appeal that:

"The fact that we have formed a government with very few people is evidence that we have absolutely no desire to hold on to state power for a prolonged period.....As our period of responsibility is very short, we will only be able to take limited action on social affairs such as health, education and other social services. The long-term reforms in social services, such as in health and education, have to be carried out by the government that comes to power after democratic multi-party general elections are held." ¹¹

To confirm the SLORC's intention to return power to a civilian administration, General Saw Maung assured the nation in a speech on the occasion of the 44th Armed Forces Day parade on 27 March 1989: ¹²

"As conditions improve on all fronts, genuinely fair multi-party democratic elections will be held nationwide except in some areas where there is no security due to insurgency. After the necessary work has been carried out following the elections, a new government will be formed in accordance with the law by members of the People's Assembly elected by the people..... As for members of our Defence Forces, we will return to the barracks and continue to relentlessly to carry out our original duties....."

Yet there are nuances already creeping into SLORC pronouncements. General Saw Maung¹³ saw a requirement for “necessary work to be carried out following the elections”, and for the new government to be formed “in accordance with the law” which could be seen to imply the need for a new constitution to be first drafted and promulgated. For the Electoral Law of 31 May 1989 only set out the technical and administrative requirements for the holding of the elections, but contained no provisions about how and when the National Assembly should be convened, nor what its powers might be.

¹⁰ BBC SWB FE/0265 i - 24 September 1988

¹¹ BBC SWB FE/0266 B/1 - 26 September 1988.

¹² BBC SWB FE/0420 B/4 - 29 March 1989.

¹³ General Saw Maung was in many ways a simple soldier, and not a politician. He was most at ease when talking to his troops as their Commander, and it would be a mistake to analyse his pronouncements on these occasions too profoundly. Such “political” statements as were necessary, though often made in the name of the SLORC Chairman, came from Major Gen Khin Nyunt and military spokesmen responsible to him.

The SLORC and the Transfer of Power: June 1989 onwards

A gradual change in SLORC policy on the transfer of power was indeed taking place. The struggle in many cities and towns in Myanmar (Burma) for human rights and democracy, seen as an essential preliminary to any free and fair elections, dominated the political scene. By June 1989 the SLORC had come to realise that the transfer of power through multi-party elections was a rather more complicated task than they had initially thought. The change in SLORC policy well before the elections was noted by specialist Burma watchers like Asia Watch, the predecessor to Human Rights Watch - Asia, who in their 1990 Report ¹⁴ commented:

“Despite the Government’s initial promise of a rapid transfer of power, SLORC soon backtracked and insisted that a new constitution would first have to be drafted and approved in a general referendum - a process which some say may take several years.”

The enactment of the Election Law on 31 May 1989 (and of the subsequent Election Rules on 30 June 1989) marked the beginning of a period of confrontation between the SLORC and the NLD concerning the eventual transfer of power. Their controversy lasted seven weeks, until Daw Aung San Suu Kyi was placed under house arrest on 20 July 1989, and was never resolved in that time, or indeed later. The NLD were disappointed that the Law contained no provisions for the convening of the National Assembly or the transfer of power. Indeed, according to an Amnesty International Report¹⁵ :

“On 2 June 1989 military spokesmen.....said it [SLORC] would stay in power until after the parliament elected could agree to a constitution and a government could be formed on the basis of that constitution..... On 5 June the NLD denounced the announcement. Party Chairman Tin U described the military's position as a 'senseless' delaying tactic to prolong its power, and said that if it stayed in power after the elections this would be tantamount to 'ignoring the people's mandate.' Aung San Suu Kyi declared that the NLD could not participate in the elections 'until the question of power transfer is resolved.....'.”

The next key document is the record of the 43rd SLORC Press Conference held on 9 June 1989:¹⁶

“We cannot transfer power as soon as the elections are held..... The elected representatives are to draw up the constitution. If the people approve that constitution, we will transfer power as soon as possible to the government which emerged according to that constitution. There should be no worry about the transfer of power. We are ever-ready to transfer power. We are just stressing systematic transfer of power according to the law. We do not want to hold on to power for a long time.”

Quite what this “systematic transfer” might be was never elaborated through a formal policy statement by the SLORC, nor even discussed with the main political parties. SLORC Chairman General Saw Maung explained his reluctance to discuss the post-electoral process with the political parties at a press conference on 5 July 1989 in the following terms:

“They selected Daw Aung San Suu Kyi as the representative of the alliances and [said] that she would like to discuss with the SLORC..... There are many, many parties that want to discuss with us. We have to think whether we should meet with them or not..... I spent the

¹⁴ Text at www.hrw.org/reports/1990/WR90/ASIA.BOU-02.htm.

¹⁵ Amnesty International - “Prisoners of Conscience - A Chronicle of Developments since September 1988” Reference ASA 16/23/89, November 1989, Paragraph 16A.

¹⁶ BBC SWB FE/0489 B/2 -22 June 1989.

whole of the other night thinking about this matter. I thought that I would invite the journalists, that we should show them what ought to be shown, that I would address them and it would also amount to telling all the parties, and that in the same way the people would also come to know facts. I also thought we would explain matters to journalists and by doing so what ought to be known would come to be known not only within the country, but also in foreign countries.....”¹⁷

This was indeed the pattern in the months leading up to the elections. There were no direct talks with the political parties. But there was a series of brief pronouncements at the weekly SLORC press conference and in speeches by leading SLORC representatives. Unfortunately, and with Daw Aung San Suu Kyi held *incommunicado* under house arrest from 20 July 1989, there is no evidence that any of the political parties took any serious notice of what the SLORC were saying. It was as though the political parties had taken a decision long before the elections that it was their democratic right to decide how and when political power would be assumed. This is evident from the NLD Election Manifesto issued on 9 November 1989 which decreed in paragraphs 8 and 9 that “the sovereign power of this National Assembly is absolute” and “shall be practiced without reservation.” The lines for confrontation were drawn long before election day.

SLORC Intention to Retain Power until the Constitution is drafted

In a lengthy and rather rambling address to State and Division Law and Order Restoration Councils on 9 January 1990, General Saw Maung said that: “As soon as the election is held, form a government according to law and then take power. The materialization of a political government is only months away. There is no other way toward such materialisation than through the election.”¹⁸ On the face of it, this might suggest that General Saw Maung still intended only five months before the elections to hand over power immediately after the elections. It does however invite the question: what law was he referring to, if not the new Constitution? To make it clear that the hand-over of power would not follow automatically after the elections, SLORC Secretary (1) Major General Khin Nyunt said on 12 April 1990 in the course of an address to Yangon officials, and hence only six weeks before the elections:¹⁹

“Only if a firm Constitution can be drawn up and a government formed in accordance with it will the government be a strong one. Only a strong government can lead the State for a long time. The Law and Order Restoration Councils at different levels will continue to carry out the responsibilities of the State while the Constitution is being drafted. So we will continue to carry out the responsibilities even after the elections. We will continue to do so till a strong government has been formed.”

To make quite sure that the SLORC message was not in doubt, on 9 May 1990, and so only 18 days before the elections, SLORC Chairman General Saw Maung clarified his 9 January 1990 address by telling the same audience of State and Division Law and Order Restoration Councils:

“And what is the situation today? It is the SLORC that has permitted the political parties to be formed. It is the SLORC that is going to hold the election. It is the SLORC that is taking all the responsibilities of Myanmar Naing-Ngan. It is the SLORC that is serving as an interim government before a government created by a constitution comes into being.”

¹⁷ Working People’s Daily 6 July 1989.

¹⁸ Speeches of SLORC Chairman General Saw Maung , Yangon News and Periodicals Enterprise Volume II - October 1990. Speech of 9 January 1990.

¹⁹ Working People’s Daily - 13 April 1990.

It should have been clear by then that the SLORC designated process of approval of the draft Constitution would entail a national referendum and, as some SLORC commentators noted ²⁰, even fresh elections under the new Constitution. Yet few Burmese politicians seem to have grasped or wanted to grasp the implications of this redefined policy. Similarly, the overwhelming majority of the Burmese people were convinced that they were indeed electing representatives to a National Assembly which would take over power from the military administration (Steinberg 2006). There were two Burmese who might have sounded a note of caution, namely Daw Aung San Suu Kyi, Secretary-General of the NLD ²¹ and U Nu, Patron of the League for Peace and Democracy. Unfortunately, both were under house arrest. In any case U Nu, deposed in a military coup in 1962 by Army Commander General Ne Win, had rather crossed the Rubicon by announcing, on 9 September 1988, even while the BSPP administration was still in power, that he was reclaiming power as Prime Minister under the 1947 Constitution and appointing a parallel government.

Foreign News Media and the Transfer of Power

The political parties, and the NLD in particular, seemed to regard the SLORC as the enemy to be dealt with once “democratic” power had been achieved. One seasoned observer of the Burmese scene has suggested to me that the parties tended to look on General Saw Maung as something of a buffoon, already exhibiting early signs of the mental instability which was to lead to his resignation in April 1992. This was a serious miscalculation on their part, compounded when NLD Spokesman U Kyi Maung, flushed with the NLD’s landslide election victory, observed to AsiaWeek correspondent Dominic Faulder in July 1990 ²² - “In actual fact, how many Germans stood trial at Nuremberg?” The SLORC saw the writing on the wall. They knew what awaited them when power had been transferred. They were now unlikely to let this happen.

Burma-watchers internationally had also well understood that power would not be handed over on a plate to the election winners. In the days preceding the elections, the international press were unanimous in their view that early promises by the SLORC to hand over power to whoever won the elections had now been replaced by an intention to retain power until the process they had set out had been completed under their control. In the case of those journalists granted visas to cover the elections, their reports generally reflected briefings given by the Election Commission. The following is a selection of pre-election or election day comment from widely differing sources:

- *The Economist* - 19 May 1990: “The main job of the elected assembly will be to write a constitution on which there will be a referendum. This will be followed by an election to form a new government. The whole process is expected to take two years, during which the State Council will continue to rule.”
- *Asian Wall Street Journal* - 7 May 1990, Dominic Faulder: “The point of these elections is obscure, since it has been abundantly clear since last year that they would not be allowed to lead to any immediate change in the nature of the government. Even assuming a commitment on the part of the new assembly to rushing through a constitution, and non-interference from the SLORC, this process would likely take at least two years.”
- *The New York Times* - 27 May 1990, Steven Erlanger: “The military authorities now say that those elections will produce only a national assembly to write a new constitution, a process that could take many months.....”
- *The Independent* - 26 May 1990, Terry McCarthy: “Burma holds its first elections in 30 years tomorrow, but the ruling military junta has already said there will be no transfer of power”.

²⁰ E.g. Nyan Htet writing in *Loktha Pyithu Nezin* on 22 April 1990: “The problem of drawing up a constitution and having to form a new government.....[means] having to hold another election.”

²¹ Daw Aung San Suu Kyi had stepped down voluntarily as Secretary-General after she was placed under house arrest on 20 July 1989.

²² *AsiaWeek* 13 July 1990.

- *Reuters* from Rangoon 27 May 1990: "Military leaders said during the campaign that a new constitution must be passed and a stable government formed before the junta stepped down."
- *Le Monde* - 28 May 1990, Jean-Claude Pomonti: "The SLORC has recently declared that its withdrawal must be preceded by the adoption of a new Constitution and the formation of a new government, which could take two years."
- *Asian and Pacific Review* - 1990, published just prior to the elections, Nicholas Nugent: "The people will elect a constituent assembly²³ whose job will be to rewrite Burma's one-party socialist-oriented constitution, perhaps preparing the way for a real transfer of power."

The NLD must have known well in advance of the elections what the SLORC had planned and what they expected the electoral winners to do. We may sympathise with, even applaud the NLD's subsequent bid for power, but few international observers were in the least surprised when the SLORC said no and clamped down hard.

Daw Aung San Suu Kyi's Views on the Elections and the Transfer of Power

The primary focus of Daw Aung San Suu Kyi's activities at this stage was the struggle for civil rights, not winning the elections. In an interview broadcast by New Delhi Radio on 25 March 1989 she commented:²⁴

"What our League has said is that right now we should be aiming neither for an interim government nor for the elections, but should be seeking the attainment of basic human rights as soon as possible. If these basic rights are achieved, one of the rights - free and fair elections - will materialise."

Some weeks later, Daw Aung San Suu Kyi expressed even greater concern. In an interview with Dominic Faulder on 1 July 1989 (Aung San Suu Kyi 1995) and published on 21 July 1989, the day after she was placed under house arrest which lasted until 1995, she said:

" 'Day by day we're losing more and more of our basic political rights.' The NLD had studied carefully the elections rules drawn up by the Election Commission, but she regretted: 'They haven't paid any attention to all the suggestions that must have poured in. We have made a large number which were totally ignored. We have also asked for special provisions to do with the transfer of power, and they haven't touched on that at all.' "

Asked what she thought would happen after the elections, Daw Aung San Suu Kyi said:

"We don't know; this is the problem. Whoever is elected will first have to draw up a constitution that will have to be adopted before the transfer of power. They haven't said how the constitution will be adopted. It could be through a referendum, but that could be months and months, if not years. That's why provisions for the transfer of power are so important....." ²⁵

[Seven years later, Daw Aung San Suu Kyi was to say:

"When the military regime took over power in 1988 it announced that it had no intention of governing the country for a long period. It would assume the responsibility of bringing

²³ Nicholas Nugent had no doubt that the sole purpose of the elected "National Assembly" was to draft a Constitution.

²⁴ BBC SWB FE/0419 B/3 - 29 March 1989.

²⁵ The interview was published in *AsiaWeek* of 21 July 1989

genuine multi-party democracy and power would be transferred to the party that proved victorious in 'free and fair elections'. The elections of May 1990 were hailed as one of the freest and fairest ever and the NLD won 82% of the seats. As this was not the result SLORC had expected it forgot its earlier promise and brought out Notification 1/90 (another nice Orwellian touch), according to which the job of the elected representatives was merely to draw up a State constitution. But once the NLD and other political parties had been made to sign an undertaking to abide by this notification, SLORC proceeded to organize a National Convention in which less than one fifth of the delegates were elected representatives of the people. The duty of the convention was to endorse the basic principles of the state constitution which had been laid down by the authorities without reference to public sentiment." ²⁶

This conflicts with what she said in her interview in July 1989 in which she made it clear that she was already fully aware of SLORC intentions.]

Detention of Daw Aung San Suu Kyi and other Senior NLD Officials

Pressures for civil and political liberties led to numerous arrests of student activists. These increased from March 1989 and by June NLD several activists had been taken into custody as well. Suu Kyi's increasingly outspoken criticisms of the SLORC and the *Tatmadaw* were to result in the detention not only of herself, but also of most of the NLD leadership in the NLD on 20 July 1989. She was quoted by SLORC spokesmen as making unacceptably divisive and hostile remarks. ²⁷

- Syriam 18 March 1989: "There are two sides within the Defence Forces: one side represents the Defence Force personnel who honourably stand on the side of the people, while the dishonourable ones prolong their hold on power."
- Kemmendine 14 June 1989: "The Defence Forces are divorced from the people and also divided within because they have been used to preserve the power of U Ne Win" (the retired Chairman of the former ruling BSPP).
- Okkalapa 17 June 1989: "The NLD would stand on the side of the people and defy authority."
- NLD headquarters 26 June 1989: "Basic human rights are currently being eroded bit by bit and repressive acts were getting worse, so it is the duty of everyone to defy unlawful commands in the present struggle for democracy."
- NLD headquarters 8 July 1989: "The Army have been made to play the role of thugs, to make sure that a few old men can remain in power."
- NLD headquarters 19 July 1989: "We have a fascist government in power.....They are acting now like a fascist government and like fascists the only language they understand is confrontation."

Tensions rose as 19 July 1989 approached, the day commemorating the assassination of her father, a national hero. On the day itself, however, Daw Aung San Suu Kyi called off a planned march, in order to prevent bloodshed. However, by then the SLORC had decided that she had to be silenced. A major contributory factor in their decision was their conviction that the NLD had been infiltrated by Communist agents and advisors who had, they said, even prior to the SLORC's assumption of power allegedly been encouraging Daw Aung San Suu Kyi along the path of strikes and confrontation. The evidence later produced for this, notably at a Press Conference on 5 August 1990, was generally unconvincing, and the most that could reasonably be concluded is that Daw Aung San Suu Kyi may have been unwise to allow a small number of left-wing intellectuals to join her campaign organization, while student groups supporting the NLD may well have had contact with individuals from the ailing

²⁶ Daw Aung San Suu Kyi - Letter from Burma (№ 31) Mainichi Daily News 24 June 1996.

²⁷ All quotations taken from Amnesty International ob. cit. Pages 50 et seq.

Communist Party of Burma. Nonetheless, communist influence was the reason given by former Brigadier General Aung Gyi for leaving the NLD in December 1988 and setting up his own party, the Union National Democracy Party. The SLORC's obsessive concerns with communism might however have been better taken into account by the NLD, not least because the *Tatmadaw* had been fighting communist insurgents ever since independence and many officers and soldiers had been killed or seriously injured over the years. The *Tatmadaw* was in no mood to tolerate any sign of communist influence in the country's emerging political parties.

Pre-Election Perceptions

In contrast to the political settlements in South Africa and Cambodia which began at about the same time, the 1990 elections to the National Assembly in Myanmar were not part of an agreed process which should have involved some or more of the elements of negotiation, transitional authority, interim settlement, elections and final constitution. In South Africa the settlement process took eight years to complete, in Cambodia five. The elections in Myanmar (Burma) were carried through on a wave of naivety, even wishful thinking about what the political parties chose to assume would be the immediate transfer of power.

In the run-up to the elections, Western media and politicians were unanimous that the forthcoming elections would not be free and fair. There were serious restrictions on canvassing, electoral publications, and radio and television appearances by candidates. Yet when an overwhelming victory for the NLD was announced, the elections were instantly acclaimed.²⁸ What happened on the day indeed contrasted sharply with the pre-election campaign, which underlined *a fortiori* the success of the NLD. To quote:

- *The Sunday Times* - 27 May 1990. Jon Swain noted from the Thai-Burmese border that "with the main opposition leaders jailed, free speech muzzled, a curfew, gatherings of more than five people banned, and the prisons full of political prisoners, many Burmese regard today's elections as an exercise in democracy conducted through the barrel of a gun."
- *The Economist* - 19 May 1990 : "The ruling State Law and Order Restoration Council is determined that the election on May 27th is held in as much privacy as it can impose. The little news that does come out is uniformly bad and seems to confirm that describing the election campaign as free and fair, as the military leaders persist in doing, is a macabre joke."

Reactions to the Election Results

The SLORC were taken aback (as were the NLD and most international observers) by the dramatic results of the elections, but within 48 hours, in a radio broadcast on 30 May 1990, General Saw Maung had reminded Burmese citizens of the SLORC position:²⁹

"If someone asks us if our duties are over, we must say no, they are not over. Our duties will not be over until a government has been formed in accordance with the law. It is necessary to understand that we will bear the responsibility of enforcing the rule of law and order and regional peace and tranquillity."

²⁸ In a video-taped message presented at Capitol Hill on 16 May 2000, Daw Aung San Suu Kyi said: "The elections of 1990 were free and fair. It was one of the freest and fairest that had taken place in this region at that time. But unfortunately the results of the elections were not honoured."

²⁹ BBC SWB FE/0779 B/1 1 June 1990.

At the 100th SLORC Press Conference ³⁰ on 13 July 1990, in an extensive review Major General Khin Nyunt sought to contain NLD pressures for an immediate transfer of power. He made it clear once again at the Press Conference that:

“If a political party convenes a parliament and forms a government according to its own wishes, then such a government can only be a parallel government. If that happens, the SLORC Government, which is a legal government, will not look on with folded arms. Representatives from political parties which are to build a new democratic state must consult among themselves on a new constitution stage by stage.....”

The NLD's Bid for Power

The NLD thereupon threw down the gauntlet and demanded that a National Assembly be called before the end of September 1990. The battle lines were drawn in SLORC Declaration No 1/90 of 27 July 1990 and the Gandhi Hall Declaration by the NLD on 29 July 1990 ³¹ Aware that elected NLD representatives would be meeting on 29 July 1990, the SLORC confirmed in their pre-emptive Declaration that they retained legislative, executive and judicial power, and that this had been pointed out already by the Chairman of SLORC in pronouncements before the elections.

The received wisdom is that the SLORC Declaration was an unexpected bombshell (Lintner 1990). Yet this was not the case. It was fully consistent with SLORC's declared pre-election statements. If SLORC had shown a greater awareness of the looming public relations battle, particularly on the international stage, they might have referred more pointedly to statements made by their Chairman and other spokesmen on various occasions prior to the elections, and even to reports in the US and British press. But public relations were not one of SLORC's strongest talents, and they found themselves outclassed. The sympathies of the Western world lay with the NLD.

In their Gandhi Hall Declaration, the NLD had made a strong bid for the rapid transfer of power. “It is against political nature that the NLD, which has overwhelmingly won enough seats in the Pyithu Hluttaw to form a government, itself has been prohibited from the minimum democratic rights.” The SLORC position expressed in their Declaration 1/90 was that “under the present circumstances, the representatives elected by the people are those who have the responsibility to draw up the constitution of the future democratic state.”

The new National Assembly would however clearly have been in these circumstances without effective power, even as an interim administration. It could be surmised that the SLORC may at some point have contemplated amending the Election Law to make it clear that the first Assembly elected would only be a Constituent Assembly, but such an amendment might have led to serious unrest as popular expectations would have been dashed. The SLORC may have calculated that they could let the elections to a “National Assembly” go ahead on the assumption that with 93 parties and 87 independent candidates contesting the elections, a clear-cut result could almost be discounted. To judge from the texts of their radio pre-election addresses, however, none of the political parties, not even the NUP, seem to have accepted, or even perhaps understood, that representatives were being elected to a body whose primary, indeed sole task was to draft a new constitution.

On the other hand, in none of the pre-election radio addresses by the four main is there any indication of an awareness of how the process for the transfer of power might in practice work, nor even a reference to the need, of which they must have been aware, for a new Constitution. The NLD seem to have been vaguer than most on whether they were to form a government or not. Acting Secretary-General U Chit Khaing told listeners on 12 April 1990 that: “I will have to submit a

³⁰ BBC SWB FE/0817 B/1-4 16 July 1990.

³¹ The texts of both declarations may be found at http://www.ibiblio.org/obl/docs/1990_elections.htm .

statement on what the NLD's disposition will be and what it will do for the country if it wins the elections.....The forthcoming election is not meant for a group, a single party or a group of people to attain power or to form a government. It is an extraordinary event in our country's history and will go down in history as an election that marks the change and transfer to a new system and a new democratic era."³² Nonetheless, even if the pro-military NUP had won the elections and shown themselves to be more accommodating, indeed compliant towards the SLORC, there is no reason to suppose that the SLORC would have changed their basic policy in any way, but would have retained power until the due processes of drafting and promulgating a new constitution to their liking had been completed, and a new government had been appointed.

The NLD's Tactics and Strategy Challenged by SLORC

Following the elections, the NLD had achieved, both domestically and internationally, recognised political legitimacy. But initially, the NLD were at a loss how to proceed. NLD Spokesman U Kyi Maung reportedly asked Michael Adler, the AFP correspondent in Rangoon covering the elections, what the Party should do. Michael Adler at once suggested that their first action should be to thank the SLORC for holding the elections. Michael Adler subsequently said that he had been astonished that the NLD had no game plan at all about what they should do if they won the elections.³³ Within a very short time an excess of zeal and over-enthusiasm to take political power as soon as possible seems to have overcome the caution and concern the NLD should perhaps have exercised in dealing with an antagonistic military regime. Relations between the SLORC and NLD once again became confrontational. The NLD did not improve their chances of persuading SLORC to agree to the convening of a National Assembly by presenting as an Interim Constitution a hastily drawn-up draft revision of the 1947 Constitution, which had long been defunct, and which in the eyes of the military, significantly flawed. Such a move, reminiscent of U Nu's declaration on 9 September 1988 of a parallel government also based on the 1947 Constitution, did not appeal to the SLORC, not least because the draft constitution left in abeyance so many issues for further discussion, such as the status of the various non-Burman nationalities. It is perhaps not surprising that by mid-September 1990 the NLD had dropped this particular proposal. AFP reported from Hong Kong on 19 September 1990 that "the NLD has offered to start drafting a new constitution as required by the military.....Observers see the NLD decision as a direct response to an overture by the SLORC on 11 September 1990 urging successful candidates to start drafting a constitution 'together with the leading political party'."

But by then relations between SLORC and the NLD had reached a new low. The SLORC had turned down flatly the convening of an Assembly on NLD terms. The SLORC would in any case soon have to contend not only with U Nu's "parallel government" but with a second government as well, set up in December 1990 by soon-to-be exiled politicians of the NCGUB. Political fortune no longer favoured the NLD. Reuter reported on 30 October 1990³⁴ that Daw Myint Myint Khin, a senior member of the NLD had "signed Friday [27 October 1990] an order of the SLORC yielding to its plans for drawing up a constitution.....Diplomats said that the NLD's apparent capitulation amounted to surrender of its claim that it had won a popular mandate to form a civilian government." On 12 November 1990, SLORC Chairman General Saw Maung confirmed that the NLD, among other parties, "have signed pledges that they will abide by Declaration 1/90 issued by us."³⁵ The NLD, in short, had agreed under pressure to take part in the National Convention, which was not to start until January 1993, and which they left in late 1995 when Daw Aung San Suu Kyi, now released from house arrest, proclaimed that its procedures were undemocratic and discussion too highly controlled.

³² Pre-election radio addresses in BBC SWB : NUP - see FE/0736 B/1-2 of 11 April 1990 ; NLD - see FE/0740 B/1-2 of 17 April 1990 ; UNDP and LPD - see FE/0747 B/1-3 of 25 April 1990.

³³ Related to me by another Bangkok-based correspondent who knew Michael Adler well.

³⁴ Reuter report carried in *The Christian Science Monitor* of 30 October 1990.

³⁵ *Working People's Daily* 12 November 1990.

By then, as others have pointed out (Arnott 2004), the elected representatives had been relieved “of even the limited task of constitution drafting.”

SLORC “Recognition” of the Election Results, though not of their Implications

I do not agree with the widely accepted conclusion that the SLORC did not recognise the results of these elections. They undertook in Declaration № 1/90 “to help with the convening and formation of the National Assembly” and sought to involve elected representatives and their parties in the process of drafting a new constitution. It was the political parties, and particularly the NLD, which declined to contemplate a National Assembly called for these purposes only, but continued to demand the transfer of power with full legislative, executive and judicial authority. The result was an impasse, which inevitably led to confrontation.

It is undeniable that SLORC did not live up to their earlier promises to transfer power immediately to the winning party, but they could have claimed that their change of direction in mid 1989 and their declared intention to follow a step-by-step process had been made clear well in advance and had been a necessary response to events.³⁶ Even NLD Spokesman, the late U Kyi Maung, is quoted in *The Times* of 14 June 1990 as saying that there was no point in rushing to push the SLORC in a corner, but insisting that there was a clear mandate from the people. “SLORC has recognised that. So it has to tie up its own affairs, and then give us the information we need to govern the country properly.” U Kyi Maung was right to draw attention to the mandate from the people. But the SLORC did not accept the stark implications of the NLD’s electoral victory and refused to short-circuit the process they had set out.

Some time later, at the Coordinating Meeting for the National Convention in June 1992, the NLD were themselves to refer to SLORC Declaration 1/90, and to note that elected representatives had been tasked with the responsibility of drawing up the new constitution and that accordingly all those elected should be invited to participate in the National Convention. NLD Chairman U Aung Shwe told a Coordinating Committee session on 30 June 1992 that the elections had been recognised internationally as free and fair and that “for this reason, the country has gained considerable prestige”.³⁷ SLORC did not however accept the NLD proposal to invite all those elected to the National Convention, though their failure to do so is in clear breach of their own Declaration 1/90. Indeed, as early as 11 May 1990 SLORC spokesmen at their 90th Press Conference had expressed the view that “the drafting of a constitution should be discussed and decided by elected representatives in the Assembly.”³⁸

The 1990 Election Process flawed and so doomed from the start

In seeking the reasons for the failure of the 1990 elections, we would be right to conclude that they were doomed to failure because of the SLORC’s unwillingness to discuss with, nor even to communicate formally to the main political parties the process which SLORC had devised for moving to multi-party political rule. The elections should in any case have been the culmination of a settlement process, not the first item on the agenda. The SLORC claimed that it was not practical for them to open discussions with some 235 registered political parties. On the other hand, it was

³⁶ I do not regard this “broken promise” as more than a political error committed in haste. Initial statements about having elections as soon as possible and handing over power were done more than anything to calm the population.

³⁷ Burma Press Summary - July 1992.

³⁸ BBC SWB FE/0763 B/6 - 14 May 1990.

generally acknowledged that the NLD, NUP, UNDP and LPD, who provided 1,416 of the 2,209 party candidates, were the leading contenders. The SLORC asserted that they were not a political party and that their sole responsibility was to see that “free and fair” elections were held. But it is now clear, particularly in the light of experience with South Africa, Cambodia and currently Afghanistan and Iraq, that a serious attempt should have been made to open discussions with the main protagonists before the elections, and certainly with the NLD immediately after the elections.

There will be those who will say that the SLORC never had any intention of giving up effective power, that having secured well over 90% popular support in a referendum for the 1974 Constitution they thought that they could not possibly fail to secure a leading role for the NUP, or at the worst a coalition of parties, and that when the elections produced a totally unexpected result, they refused to yield to the popular will. Although the NUP, unlike the NLD, was not subject to harassment in the run-up to the elections and may have received some logistical support from the military in some local areas, and although it was clear to all that the NUP was the SLORC favoured political party, there is little evidence that SLORC openly sought to influence the way military personnel voted. It might indeed be said that in the elections the rank and file of the *Tatmadaw* did not give the SLORC their vote of confidence.

Military rulers who intend to stay in power do not normally leave matters to chance. SLORC would clearly have preferred an NUP victory, since the NUP would have been more amenable to the protection of military interests. But there is so much more that SLORC could have done to secure an NUP victory.

The Elections in Perspective

The failed elections of 1990 were an important stage in Myanmar’s progress towards political maturity. The NLD undoubtedly acquired political legitimacy, especially in the eyes of Western countries for whom elections have an almost mystic sanctity.

The events surrounding the 1990 Elections merit substantial redefinition. The old shibboleth that the “NLD won the 1990 Elections, but the SLORC refused to hand over power” implies that the SLORC had agreed to the transfer of power unconditionally. The SLORC had however set conditions for the transfer of power through the promulgation of a new constitution, a process of which the leader of the NLD, Daw Aung San Suu Kyi, had herself been made aware before she was placed under house arrest. It took visiting foreign journalists arriving in Rangoon just prior to the elections only a few hours to discover and report this reality, yet the political parties on the ground seemingly did not want to know that the elections were not to an immediately governing parliament.

It is rather the steady erosion during the 1990s of the mandated responsibility of the NLD, representing the clearly expressed will of the Burmese people, even to participate in the drafting of the constitution which should be the primary focus of our attention and criticism, not the unwillingness of the SLORC to cut short the electoral process they had set out and hand over power forthwith to the NLD, which is what Western countries would have preferred.

As in several other countries in South East Asia, the crucial issue remains the nature of the power-sharing which needs to be worked out between the military and the politicians. The difficulties in the case of Burma/Myanmar are particularly problematic because of the much higher and all-pervasive profile of the *Tatmadaw* in national affairs, indeed their dominance in the country’s administration at all levels ever since independence in 1948. A resolution of the issue of power-sharing is likely to require considerable compromise on all sides. Reconciliation will not be easy to achieve, given the traditionally authoritarian nature of Burmese politics.

[Dated 9th February 2008: expanded with additional quotations and some minor corrections from the article which first appeared in *Contemporary Southeast Asia*, Volume 29 № 1 - April 2007]

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REFERENCES CITED

Arnott, David. 2004. "Burma/Myanmar : How to read the Generals' 'Roadmap' " (accessed at <http://www.ibiblio.org/obl/docs/how9.html>)

Aung San Suu Kyi. New Edition 1995. Chapter 17 "Freedom from Fear", Penguin Books.

Lintner, Bertil. 1990 "Outrage: Burma's Struggle for Democracy", Chiang Mai, White Lotus Press, and 1999 "Burma in Revolt: Opium and Insurgency since 1948", Bangkok, Silkworm Books.

Maung, Dr Maung. 1999. "The 1988 Uprising in Burma". Yale Southeast Asia Studies.

Smith, Martin. Second Edition 1999. "Burma: Insurgency and the Politics of Ethnicity", Zed Books London.

Steinberg, David I. 2006. "Turmoil in Burma: Contested Legitimacies in Myanmar", Norwalk, Connecticut Eastbridge.

A NOTE ON SOURCES

Four main "raw material" sources have been used. They are:

- BBC Summary of World Broadcasts Far East Section ["BBC SWB FE"] available on open shelves at the Library of the School of Oriental and African Studies at the University of London or on microfiche at the BBC Written Archives Centre at Caversham, Reading.
- The Burma Press Summary 1987-1996 created and edited by Hugh MacDougall, Counsellor at the US Embassy in Rangoon 1981-84, available at the Online Burma Library on <http://public.ibiblio.org> .
- Amnesty International - "Myanmar (Burma) Prisoners of Conscience : A Chronicle of Developments since September 1988" November 1989.
- British Newspaper Library at Colindale, London, a section of the British Library. All regional and international newspapers. [Note: the BNL also holds copies of the *Working People's Daily* [Rangoon] 1964-75 and *The Guardian* [Rangoon] 1959-77]

The SLORC published at the time verbatim official records of their weekly Press Conferences, with illustrations of documents and materials presented as well as photographs of the proceedings and of individual participants, including military spokesmen and local and foreign correspondents. The SOAS Library in London holds three volumes: № 1 [PCs 1-22], № 2 [PCs 23-37] and № 4 [PCs 50-66]. A full set is no doubt available in Yangon (Rangoon).

APPENDIX

A note on relevant references subsequent to the completion of this study

Letter from Burma № 31
Daw Aung San Suu Kyi
Mainichi Daily News Monday 24 June 1996
http://burmalibrary.org/docs/Letters_from_Burma.htm

The following two extracts present the NLD version of the election process. It should be noted that Daw Aung San Suu Kyi was under house arrest from 20 July 1989 to 10 July 1995 and may be unaware of the materials between those two dates, especially from overseas sources.

QUOTE

The main issue on which we disagree with SLORC is the matter of promises. We hold that a promise given to the nation should be honored, not cast aside with a shrug and a sneer when "it no longer suits" them. When the military regime took over power in September 1988 it announced that it had no intention of governing the country for a long period. It would assume the responsibility of bringing genuine multiparty democracy to Burma and power would be transferred to the party that proved victorious in "free and fair elections." The elections of May 1990 were hailed as one of the freest and fairest ever and the NLD won 82 percent of the seats. As this was not the result SLORC had expected it decided to forget its earlier promise and brought out Notification 1/90 (another nice Orwellian touch), according to which the job of the elected representatives was merely to draw up a state constitution. But once the NLD and other political parties had been made to sign an undertaking to abide by this notification, SLORC proceeded to organize a National Convention in which less than one fifth of the delegates were elected representatives of the people. The duty of the convention was to endorse the basic principles of the state constitution which had been laid down by the authorities without reference to public sentiment.

It has been recognized by successive resolutions of the United Nations General Assembly that the will of the people of Burma expressed through the elections of 1990 remains valid.

UNQUOTE

Letter from Burma № 37
Daw Aung San Suu Kyi
Mainichi Daily News Monday 14 August 1996
http://burmalibrary.org/docs/Letters_from_Burma.htm

QUOTE

U Hla Than took an active part in the democracy movement of 1988 as member of the Rangoon Lawyers Association. Later he joined the NLD and became the party committee chairman of one of the important townships of the Rangoon Division. When preparations for the elections began, he offered to stand as the party candidate in the Coco Islands, a constituency that aroused little enthusiasm. His offer was gratefully accepted.

The official announcements of the results of the elections were dragged out over weeks but it was widely known with in a matter of days that the NLD had won a spectacular victory. The country was in a jubilant mood, proud of the outcome of the first democratic elections in three decades, full of hope for the future, confident that at last there would be a government which would be transparent and accountable and which would gain trust and respect both at home and abroad.

Few in Burma suspected then that they were going to be the victims of one of the most blatant acts of deceit practiced on any people. Few realized then that the fair promises of a democratic transfer of power were worth less than the withered palm leaves drifting off the shores of the Coco Islands.

It was some two months after the elections when SLORC still showed no signs of relinquishing power, or of convening Parliament, that a climate of unease began to set in. And when U Kyi Maung and other key members of the NLD were taken into custody in September, the unease turned into dismay and disillusionment. The next month, a number of members of Parliament, including U Hla Than, were arrested. In April 1991 U Hla Than was tried by a martial law court, accused of complicity in attempts to set up a parallel government, and sentenced to 25 years imprisonment for high treason. Now, five years later, he is dead, the victim of a warped process of law and a barbaric penal system.

UNQUOTE

Letters to the Editor

Financial Times 27 July 2004, 9 August 2004 and 13 August 2004

Jeffrey Sachs and Aung Din

Documents accessed at:

<http://yaleglobal.yale.edu/display.article?id=4295>

<http://www.burmanet.org/news/2004/08/09/financial-times-letter-to-the-editor-sanctions-against-burma-can-help-domestic-activists-aung-din>

<http://www.burmanet.org/news/2004/08/13/financial-times-economic-boost-is-top-priority-jeffrey-d-sachs/>

Copies on file

Extract from letter of 13 August 2004:

QUOTE

Aung Din (Letters, August 9) claims my analysis “parrots the revisionist claims by Burma’s military rulers that the 1990 election (won by a landslide by Aung San Suu Kyi and her National League for Democracy) was about writing a new constitution - it was most certainly not”.

Yet, in the lead-up to the May 27 1990 election, the ruling state council had emphasised that a new constitution would be required. On May 19 1990, *The Economist* reported: “The main job of the elected assembly will be to write a constitution on which there will be a referendum. This will be followed by an election to form a new government. The whole process is expected to take two years, during which the state council will continue to rule.”

The Independent newspaper, the Associated Press and other international media issued similar reports before the election. Indeed, Aung San Suu Kyi made the same point on July 1 1989 in an interview reprinted in her essays *Freedom from Fear*. Asked what would happen after elections, she answered: “Whoever is elected will first have to draw up a constitution that will have to be adopted before the transfer of power. They haven’t said how the constitution will be adopted. It could be through a referendum, but that could mean months and months, if not years.”

The NLD, in the wake of its landslide victory, proposed to come to power within weeks by reintroducing the 1947 constitution. The army rejected this, arguing that a new constitution should be ratified by referendum, in part to secure the support of the ethnic minorities. According to *The Independent*, the army also wanted to revise the constitution to eliminate “any possibility of secession for ethnic minority states around the Burmese borders”. In the event, politics failed, and a devastating crackdown ensued.

UNQUOTE

“A Historical View of Political Transition in Myanmar since 1988”

Dr Maung Aung Moe - Post-doctoral Fellow

Biography accessed at http://www.ari.nus.edu.sg/people_details.asp?peopleid=231

Asia Research Institute - National University of Singapore

August 2007

Document accessed at: <http://www.ari.nus.edu.sg/showfile.asp?pubid=679&type=2>

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Extract from Page 15:

QUOTE

In fact, the importance and necessity of a constitution for the transfer of power was clearly spelled out in more detail at the 43rd press conference held on 9 June 1989. The SLORC spokesman said:

"It has been said that power will be transferred to the government that will come into being *in accordance with the law* after the elections are held. Power could not be handed over immediately after the elections are held as *government will have to be formed on the basis of a constitution*. If power will be transferred hastily [without a proper procedure], it would lead to a shaky and weak government; any rational person can understand it. Only if the power is transferred to a government formed *systematically* on a basis of a constitution, will the government to be constituted be stable. We have two constitutions at present, namely the 1947 constitution and the 1974 constitution. If the Hluttaw members *unanimously* selected one of the two constitutions and formed a government then, power would be transferred to them. We are ready to transfer power to the government formed *in accordance with the constitution*. If both the constitutions are not acceptable, a new one should be written. The Tatmadaw will not draw up a new constitution. The SLORC will not do it either. The representatives elected are to draw it; if the people approve the constitution then power will be transferred to the government which emerged according to that new constitution [author's italics]". [translated from *Loktharpyithu Naetzin* of 10 June 1989 - the Burmese language version of *The Working People's Daily*]

It is clear from the start that the SLORC will transfer power "systematically" to a government legally constituted on the basis of a constitution. Constitution is a *sine qua non* for any *de jure* government. By mid 1989, the SLORC made it abundantly clear that a new constitution is needed for the transfer of power. Both the 1947 and the 1974 constitutions could not be used straight away. The 1947 constitution was unacceptable for the secessionist clause. The 1974 constitution was because of its one party socialist state clause. When the SLORC enacted the Pyithu Hluttaw Election Law on 31 May 1989, though it set out technical and administrative detail for the successful holding of general elections in Myanmar, it did not contain any provision about how and when the Hluttaw should be convened. Moreover, the law did not define the nature of the Pyithu Hluttaw, whether it could exercise legislative, executive or judicial power. Besides, the Myanmar phrase "Pyithu Hluttaw" was never translated into English as "parliament". When the draft of the election law was released to the public, some political parties sent letters to the Election Commission to clarify the nature of the Hluttaw.³¹ Despite the formal letters of request for clarification on the nature of Hluttaw, there was no manifestation of this clarification when the law was finally passed.

UNQUOTE

"Burma - Twenty Thousand Ghandis"

Sandra Carney

Document accessed at http://www.michnews.com/artman/publish/article_18111.shtml

MitchNews. com 8 October 2007

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Extract:

QUOTE

During the election in 1990, Daw Suu Kyi's party, the NLD (National League for Democracy) won the right to draft a foundation for laws and take the first step towards forming a government. "This is a little known fact," says Ko Sithu.

NLD won by a landslide and together with other political parties and ethnic groups, were to plan a referendum and finally hold an election with rules for governing.

Ko Sithu declares "if NLD had been allowed to govern Burma in 1990, with no fundamental laws in place, there were no guarantees for ethnic groups or religious freedom and no foreign policy, etc." Currently there is no "constitution" in Burma, but successive generals ruling on "emergency powers."

[From *Burmanet* 5 September 2007

2:50 p.m - Interview with Ko Sithu, who was released this morning after being arrested on August 31st during demonstrations in Taungkok town of Arakan State.

"I was released this morning at about 6 a.m. (local time). I was not arrested, but was held for a while. And they [authorities] did not ask too many questions. It was the police who took me, but a lot of officials from other departments came along with them. I don't know what happened but I believe I was released because what I did was acceptable and supported by the townspeople, my fellow countrymen and the world. At the moment I cannot think. **I am a member of the NLD** [my emphasis - DT], we plan to discuss, as a group, further actions as well as the group's direction."

UNQUOTE

"Junta Presses on with 'Exclusive' Constitution Drafting
Wai Moe
The Irrawaddy Online 19 October 2007
Document accessed at: http://www.irrawaddy.org/article.php?cat_id=3
Copy on file
Extract

QUOTE

Aung Htoo, Secretary of the Burma Lawyers' Council, told *The Irrawaddy* on Friday that the job of writing a constitution still lay legally with winning candidates in the 1990 election. That was enshrined in a junta statement described as "1/90," which was still technically in effect.

NLD candidates won 80 percent of the votes in the 1990 election.

"According to the junta's 1/90 statement, only those elected can write the constitution," said Aung Htoo.

Aung Htoo said the 1/90 statement and a later one, 11/92, calling for the establishment of a National Convention, conflicted with each other. "It means the junta doesn't follow its statements and the law itself," he said.

Aung Htoo said a further statement, 5/96, ruled out any public participation in drawing up a new constitution, ensuring it would be an "exclusive" process and not an "inclusive" one.

Although the proposed draft of the constitution enshrines some civil rights, such as freedom of expression, it retains such articles as 10 (A), 10 (B), "Protection of the State from Threat", which date from 1975. These laws allow the state to detain citizens without trial for up to five years, said Aung Htoo.

NLD spokesman Thein Nyunt confirmed that the party had signed the 1/90 statement in 1990 and still stood by its terms, which dictate that elected candidates in the 1990 election should write the new constitution. [my emphasis - DT: the statement reasserted SLORC's right to govern until a Constitution had been approved]

Thein Nyunt rejected the junta's 5/96 statement. "The 5/96 [statement] means non- participation by the public in the constitution process," he said. "The constitution is for all Burmese. So all must join in."

UNQUOTE

" 'Four Powers' Policy needed for Myanmar"

Mike Billington

Executive Intelligence Review Volume 34 № 41 - 19 October 2007

Document accessed at http://www.larouchepub.com/eirtoc/2007/eirtoc_3441.html

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Extract:

QUOTE

Although Suu Kyi had not previously been involved in political activity, she was rapidly adopted as the spokesperson for the movement, joined by her husband and the British intelligence operations behind him.

The military forces that crushed the uprising also deposed Ne Win. The new junta quickly undertook the first serious operations to pacify the multiple ethnic armies, and set elections for 1990 to select delegates to a constitutional convention. **This election, which was won by Suu Kyi's NLD, is repeatedly mis-reported in the West as a governmental election, as if the NLD had been elected to rule - a falsehood easily refuted by reading even the Western press coverage from before the election.** [my emphasis - DT]

UNQUOTE

"UN holds false hope for Myanmar"

Bertil Lintner

Asia Times Online - 16 November 2007

Document accessed at http://www.atimes.com/atimes/Southeast_Asia/IK17Ae01.html

Extract

QUOTE

Despite his bravado in the Security Council, it is highly unlikely that Gambari will achieve more than a host of other UN envoys who have over the past 17 years visited Myanmar and failed to achieve any progress towards more democracy. Consider the UN's record. The first "independent expert" the UN sent to the country to "study" violations of human rights was Sadako Ogata, a Japanese professor who later went on to become the United Nations High Commissioner for Refugees.

The report she submitted to the UN's Commission of Human Rights on December 27, 1990, was unusually bland for a rights advocate. "General elections had been held that year in May, resulting in a landslide victory for Aung San Suu Kyi's National League for Democracy (NLD) party and **Ogata concluded in her report that "it is not in dispute that it will be the task of the elected representatives of the Pyithu Hluttaw (National Assembly) to draft a new constitution, on the basis of which a new government will be formed** (my emphasis - DT). At present, however ... it is not clear when the Hluttaw will be convened for that purpose".

In fact, it was never convened. Instead the government began arresting elected MPs and three years later formed a "constituent assembly" consisting of mostly handpicked people to draw up a new

constitution, a task which just after 14 years has been completed as the first of seven steps in the junta's "road map".

UNQUOTE

"Roadmap of Myanmar"

Nay Dun

Japan Today Discussion - 31 August 2003

Document accessed at <http://www.japantoday.com/jp/news/271131>

Extract

QUOTE

The 1990 election was not to form a new government, and that it was only to hold a National Convention.

Actually, in May 1990, before the election was held, SLORC had stated clearly the process of transference of the power after the election. They said after the election, they hold the National Convention for new constitution.

Then after established a new constitution, a new government will be made by the General Election under the new constitution, then they transfer the power to the new government.

In other words, it was already clarified before the 1990 election that whether the result of election was, the time to transfer the power is after the establishment of new constitution.

UNQUOTE

Myanmar's Roadmap to Democracy

Carlyle Thayer

Radio Singapore International - 31 March 2008

Extract

QUOTE

Few foreign commentators realize that Myanmar's 1990 elections were problematic from the start. After announcing the elections, the military junta began to back track almost immediately. The junta declared that the elections were only the first step. In their view the 1990 elections were never intended to lead to an immediate turnover of power to the victor.

Rather, the elections were to select a constituent assembly whose task it was to prepare a draft constitution to be approved by a national referendum. Then and only then could democratic elections be held to select a national legislature.

The NLD's leader Aung San Suu Kyi and her supporters acknowledged as much during the campaign. Yet when the NLD won an overwhelming electoral victory they demanded an immediate hand over of power. The military junta refused to yield and a seventeen year political stalemate ensued.

UNQUOTE

The State of the Pro-Democracy Movement in Authoritarian Myanmar/Burma

Kyaw Yin Hlaing

Institute for Security and Development Policy Stockholm

January 2008

Accessed at:

http://www.isdp.eu/images/stories/isdp-main-pdf/2008_guo-ed_myanmar-burma-challenges-and-perspectives.pdf

Extract

BEGINS

[Pages 99 - 100]

The fact that the NLD without Daw Suu has not functioned well can be seen in the failure of the NLD caretaker leaders to manage the party effectively. Right after the elections, General Khin Nyunt reiterated the army's pre-election announcement at a press conference that the winning party of the election would have to convene the National Convention and draw up a constitution prior to its ratification in a referendum and a further election so as to form a new government. The NLD's caretaker leadership accepted these terms. The central executive committee then declared that the party would aim to finish drafting the constitution within the year; in the meantime, the military would govern the country. Once the constitution was ready, the NLD would call for the constituent assembly to be instituted so that it could form a new government. However, many NLD members from local areas were disgruntled with this decision, as they wanted to adhere to the ultimatum.³⁹ Due to this, the NLD was split by an internal disagreement. The more radical proponents attempted to form an alternative parliament, but were arrested before they could put their plan into action. Two former leading NLD members noted that if Daw Suu had been with the party at that time, things could have been under control.⁴⁰

.....Pro-democracy groups have often failed to come up with comprehensive and concrete strategies to deal with the military government. A good example of this is the NLD's lack of contingency planning in dealing with major political issues. This is discernible in the way NLD leaders dealt with the military junta in the wake of the election in 1990. Ignoring the advice given by a group of veteran politicians that the NLD should try to find a way to work with the regime, the NLD, led by the members of the intelligentsia group, issued an ultimatum to the military government. The ultimatum which was known as the Gandhi Declaration stated that the junta should surrender power to the NLD by the end of September 1990. A member of the former military commander group, Major Chit Khine, reportedly disapproved of this ultimatum because the party did not have a contingency plan in the event of failure. The members of the intelligentsia group ignored this warning, leading the veteran politicians to conclude that after winning the election, NLD leaders were too conceited to see the reality of the situation.

ENDS

AsiaWeek 15 June 1990.

"Will the Winner take all?"

Accessed at <http://networkmyanmar.org/images//aw5.pdf> on 24 July 2008

BEGINS

The ruling council had counted on a respectable showing by the pro-government National Unity Party. But from the outset SLORC had only vague plans for the assembly, declaring just that the body would need a year or more to draft a new constitution. **The generals said that they would hand power to a new civilian government only when the new charter was in place.** For its part, the National League had not looked beyond the May polls, given the junta's hardball tactics.....

A possible collision between the party's student-intellectual faction and the so-called old patriotic comrades also needs to be headed off. The younger elements are calling for a tougher line against the government. **'We have the absolute sovereignty vested by the people so we don't have to listen to the SLORC'** argues a member of the labour bureau. Urges 29-year-old Rangoon senior Ko

³⁹ See note 47 - based on Interview on 20 July 2004

⁴⁰ See note 48 - based on Interviews on 20 July 2004 and 17 December 2006

Ko Gyi: 'We have to try to immediately [replace] the government.' He is the acting chairman of the All Burma Federation of Student Unions, the country's largest student organisation with which many members of the NLD and other opposition parties are affiliated.

The comrades - retired military officers who rallied around Suu Kyi in late 1988 - favour a more conciliatory approach. **They seem to be considering the SLORC's charter-before-government plan.** A proposal to set a four-month time frame has been floated. Some say the disagreement between age and youth extends to the central executive committee, which at the moment is composed equally of representatives of the two factions. (Of the five other members in jail or detention, four, including Suu Kyi, some from the younger ranks.) **The friction is only exacerbated by the older members' insistence that it is their collective experience that can see the party through the storm.**

The committee dismisses talk of a rift. 'There are no big differences,' insists Soe Thein, 45, who is identified with the intellectuals. "We have agreed on a more moderate approach. U Kyi Maung announced that the party has already written a draft constitution based on the 1947 charter, which was federal in nature and enshrined a multi-party system. The retired colonel also dismissed talk of a witch hunt against the army for its bloody crackdown on pro-democracy protests in 1988.

But the compromises rankle with some in the rank-and-file. 'There are many students who disapprove of our softer line.' Says party youth leader Yan Aung, 28. And new cracks threaten to appear if and when the National League finally takes over. 'Two years ago this party was nothing' observes a diplomat. 'Now everyone wants to be a minister.' Other important issues will need to be discussed as well. One is the legal status of the new assembly. **The government has not made clear whether those elected in May will become legislators after they have drawn up a new constitution.**

ENDS

Far Eastern Economic Review - 3 August 1989
Article - "Political Phoenix : Government Party mobilises for 1990 elections"
Bertil Lintner
Fifth paragraph

"When it seized power last September, the State Law and Order Restoration Council (SLORC) declared it would step down once the promised elections have been held. However, the state-run *Working People's Daily* on 10 June backtracked on that promise, saying the 1990 elections are going to be for a constituent assembly that will draft a new constitution which will have to be approved. After that, new elections will be held and the SLORC will transfer its powers to an elected government. This augurs another one to two years of military rule."

Far Eastern Economic Review - 18 January 1990
Article - "The Election Charade : Government eliminates liberal poll contenders"
Bertil Lintner.
Concluding paragraph:

"Despite the oppression and the apparent manipulations of the SLORC, 2,134 candidates have registered to contest the elections, including 72 independents and 2,071 from 97 political parties. They are seeking seats in a 489-member national assembly whose duty will be to draft a new constitution before a second set of elections are held. Meanwhile, the SLORC will remain in power, which will give it more leeway if the first round of elections do not produce the desired result."

Far Eastern Economic Review - 24 May 1990
Article - "Catch-22 poll : No one is sure for what or for whom they are voting"
Bertil Lintner
Third paragraph:

"The SLORC in effect suspended Burma's old constitution when it assumed power in 1988 - an indication that the upcoming elections will in fact be for a constituent assembly, not a parliament. Diplomats say it might take up to two years to write a new constitution, have it approved by a referendum and then hold fresh elections. Meanwhile, the military will remain in power.

"Rangoon-based diplomats are openly sceptical of how fair the elections will be, characterising them as 'one big unknown'. They point out that the military government has still not made clear what kind of an assembly the Burmese people are going to elect. In addition the general public has no overall picture of who is running in the elections or whom they represent, as lists of candidates have only been made public at the local level - in each of the countries 486 constituencies.....

"In recent weeks, the military has emphasised the need for 'a strong government'. This is being interpreted as a government acceptable to the military. It is evident, say diplomats, that the SLORC will attempt to manipulate the outcome of the elections as well as the work of the future constituent assembly with the aim of keeping the opposition weak and disunited."

Far Eastern Economic Review - 7 June 1990
Article - "Backlash at the ballot : Opposition grabs victory as military stands back"
Bertil Lintner
Fifth paragraph from the end:

"However, the key question remains: how is power to be transferred to the assembly that has just been elected? If seats in the assembly had been even divided among several parties, the choice would have been an easy one: the SLORC would have announced that the assembly would have to draft a new constitution and, meanwhile, the military had to remain in power. But the outcome was so overwhelmingly pro-NLD that this is no longer a feasible option. If the NLD is not allowed to form a new government within the next few weeks, unrest is likely to break out, analysts say."

[Comment: in fact, the SLORC decided that reminding the MPs-elect that their first task was to draft a new constitution was the main message in SLORC Declaration № 1 of 27 July 1990 and that during this period the SLORC would remain in power.]

Far Eastern Economic Review - 11 October 1990
Briefing - Regional
"Military pressure may split Burma's NLD"
[Bertil Lintner]

A sharp difference of opinion has erupted in the ranks of Burma's National League for Democracy (NLD) over whether the party should stick to its original programme to demand the early transfer of power from the military rule of the State Law and Order Restoration Council (SLORC), or go along with SLORC's call for it to settle down to the lengthy process of drafting a new constitution. The NLD leadership has written to the SLORC to seek a "dialogue" on the proposed drafting procedures, but hawks in the party - many of them younger members - have dismissed the letter as amounting to a "knee-bending" to the SLORC and a betrayal of the party's programme.

Chronology of statements by Burmese military spokesmen on multi-party elections, a new constitution, the national convention, transfer of power etc. A compilation of statements which the Online Burma Library has collected and presented in 91 pages. Accessed on 16 July 2011.
<http://www.ibiblio.org/obl/docs/Statements.htm>