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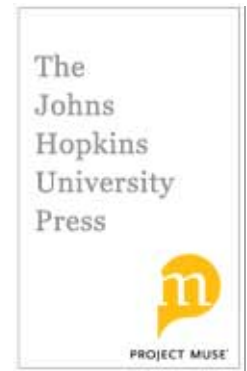
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HOW BURMA COULD DEMOCRATIZE

Andrew Reynolds, Alfred Stepan, Zaw Oo, and Stephen Levine

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

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

The military has ruled Burma continuously since 1962. From 1988 to 1997, the junta called itself the State Law and Order Restoration Council (SLORC), a name it changed to the State Peace and Development Council (SPDC) in the latter year. Currently, the SPDC has 19 members. All of them are high-ranking military officers, mostly army generals. The armed services (collectively called the Tatmadaw) are led by Senior General

Than Shwe, an army officer who is also the SPDC chairman, head of state, prime minister, and defense minister. Than Shwe may be ill, and on occasion has expressed a wish to retire.

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

The military’s dialogue with Aung San Suu Kyi appears closed, but with two top generals possibly leaving the scene, it may in fact be partly open.

Institutionalized oppression, ethnic fragmentation, and political distrust have been facts of life in Burma ever since it won full independence from Britain in 1948.² Indigenous rulers, invariably presenting themselves as the embodiment of “the State,” have adopted and refined the old British-colonial strategy of divide-and-rule. Electoral democracy lasted for just 12 years before the military swept away the civilian government in March 1962, but even during the years of multiparty competition, ethnic issues were never entirely laid to rest. The military has always seen itself as the mainstay of the state’s integrity.

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

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

As a result of her visible presence and rousing speeches, she emerged as the prodemocracy movement's natural leader.

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

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

The Talks in Burma

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

International pressure has also been mounting. Malaysian Prime Minister Mahathir Mohammad, who has influence with the Burmese generals, encouraged the talks. His compatriot Ismail Razali, the UN Secretary General's special representative in Burma, has had some success in prodding the generals to enter into and continue dialogue with the democracy movement. In April 2001, Brazilian political scientist Paulo Sergio Pinheiro, UN Special Rapporteur for Human Rights in Burma, was allowed to visit the country, and was able to speak to senior

military officers and NLD leaders. There have been recent assessment efforts by the European Union and Red Cross. But perhaps most important of all, the International Labor Organization (ILO) has recommended some of the most severe sanctions in its history against Burma due to widespread forced labor. The ILO has insisted that sanctions not be softened until a team of its experts makes on-site inspections to verify that forced labor has ceased.

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

Might the Generals Let Go?

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

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

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

Lastly, in the cases of South Korea and Taiwan, which had weak

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

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

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

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

The cost to both Burma and the world of the junta's path to re-ascendancy has been immense. Before 1988, Burma accounted for a tenth of the world's heroin supply. It now accounts for more than twice that, and its share is increasing (thanks partly to the Taliban's efforts to curtail opium-growing in Afghanistan). The bloated military, moreover, may be swelling beyond the point of sustainability. Burma has about seven million men aged 15 to 35; estimates put the number in uniform at around

a half-million, or about 1 out of every 14. This is a stunningly high proportion by world standards, and represents a more than threefold increase from the 1980s.

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

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

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

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

What Might a Transition Look Like?

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

It is important, first of all, to avoid confusing democratization with liberalization. For example, Juan Linz and Alfred Stepan argue that

liberalization may entail “less censorship of the media . . . greater space for autonomous working class activities . . . the releasing of most political prisoners . . . and most important, the toleration of opposition.” All those things are fine, but *democratization* means more, for it “requires open contestation over the right to win control of the government, and this in turn requires free competitive elections, the results of which determine who governs.”⁵

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

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

Yet even should an opening somehow come to pass, the conundrum of diverse national groups will complicate any attempt at democratization. Burma has at least eight distinct, regionally concentrated, and often mutually mistrustful minority ethnic groups. Whether under the country’s early, democratically elected governments or the socialist-military regimes of the last four decades, the numerically superior Burmans (who predominate in the center) have never managed to reach an accommodation with the minority peoples who cluster along various stretches of the Thai, Indian, Laotian, Bangladeshi, and Chinese borders. The open wounds of ethnic antagonism have frustrated efforts at nation-building and the development of a robust constitutional order.

Apart from a brief period of postindependence euphoria, Burma has always been riven by both vertical *and* horizontal conflict: The people suspect the government, and the disparate Burmese *peoples* suspect one another. Since 1990, the military junta’s favorite tactic for dealing with the “ethnic question” has been quietly to offer some insurgent leaders shares in the international drug trade. Less sinister but still disturbing examples of politically motivated “side payments” include the granting of import licenses and mining and lumbering concessions. The “rent seeking” involved in such deals distorts Burma’s economic and political life. In the case of the mining and forestry concessions, moreover, there have been environmental side effects devastating enough to rouse international concern.

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

Constitutional Alternatives: Why Process Matters

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

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

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

The Table on the facing page provides a broad summary of some of the major points of contrast between the NCUB draft and the Burmese military’s own perspective.

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

These elements must, of course, be thought of as interrelated. If they do not complement one another, the whole constitutional web will fall apart. Any redesign of the Burmese polity will perforce represent a new

TABLE—CONSTITUTIONAL ALTERNATIVES: NCUB AND NATIONAL CONVENTION (MILITARY-SPONSORED) PROPOSALS

	NCUB PROPOSALS	NATIONAL CONVENTION PROPOSALS
FEDERALISM	<ul style="list-style-type: none"> • Symmetrical federalism (8 national states) • Federal law has precedence • Rights of self-determination (through referendum) 	<ul style="list-style-type: none"> • Symmetrical federalism (based on 14 regions and states) • Federal law has precedence • No explicit rights of self-determination
CAMERALISM	<ul style="list-style-type: none"> • Bicameral • People’s Assembly (lower) (485 directly elected nationally) • National Assembly (upper) (4 members from each of the states—method of election determined by state assemblies) 	<ul style="list-style-type: none"> • Bicameral • People’s Assembly (lower) (440 members: 330 elected by population, 110 appointed by military) • National Assembly (upper) (12 members per state or region, plus one-quarter of seats set aside for military)
PRESIDENTIAL OR PARLIAMENTARY	<ul style="list-style-type: none"> • Parliamentary • Prime minister elected by People’s Assembly • But president of Federal Union (elected by upper house), as head of state, is commander-in-chief of the armed forces 	<ul style="list-style-type: none"> • Presidential • President elected by combination of People’s Assembly and National Assembly (664 members, one-quarter military nominees)
ELECTORAL SYSTEM	<ul style="list-style-type: none"> • No mention of any change from plurality voting—assumption of continuity of existing system 	<ul style="list-style-type: none"> • No mention of any change from plurality voting
MILITARY PREROGATIVES	<ul style="list-style-type: none"> • Subordination of the military to civilian control, with its status being equivalent only to other departments of the state, and with no right to participate in politics • Ethnic armies may exist 	<ul style="list-style-type: none"> • 25 percent of seats in both houses of parliament, one-third in state and regional assemblies, one-third of civil service appointments • Jurisdiction over internal law and order • Active-duty commander-in-chief • President must have “military experience” • Retain control over state enterprises—Burma Economic Holdings Ltd. • Military subject to civilian courts only under highly restricted conditions

attempt to adapt in the light of previous difficulties. In this respect, it may not be not sufficient simply to decentralize a measure of power to the regions; governments need to be elected in the best possible way, according to broadly accepted national and international criteria, with governmental responsibilities distributed in a manner that will allow many if not all groups to feel involved in the national experiment. At the same time, representative institutions must not be set up in ways that guarantee legislative deadlock.

Surprisingly, the two constitutional proposals somewhat resemble each other in their desired federal arrangements. Both call for “symmetrical federalism,” meaning a system (variants exist in Germany, Austria, and the United States) in which each constituent unit of the federation enjoys certain identical, constitutionally embedded

prerogatives. Furthermore, both Burmese proposals would allocate each state the same number of seats regardless of population.

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

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

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

What may be far more workable is an asymmetrical federal system in which each minority group (or state) receives devolved powers tailored to its special needs. This is perhaps best exemplified in Canada’s arrangements for Quebec and in the autonomous regional powers found in the constitutions of Belgium, India, and Spain (where such powers are most notably utilized in the Catalan region).⁶ Such an asymmetrical arrangement for Burma might involve certain states being reserved particular rights specific to their own group, as, for example, religion in Karen State (which has sizable numbers of Christians) or language rights

in Shan State. In return for these specially agreed-upon rights over issues of particular local salience, states might be willing to accept a weaker upper house and the absence of a right of secession. No existing democratic constitution explicitly allows secession, and whatever the possible differences between reputed “soft-liners” and “hard-liners” in its ranks, the Burmese military will never tolerate a constitutional right of secession. Some of the opposition leaders with whom we spoke seemed to understand this.

Toward a New Electoral System

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

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

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

In contrast to the NLD’s preference for parliamentarism, the military favors the hierarchical majoritarianism of a presidential system. The National Convention proposals reflect this, calling as they do for a strong

executive president to be chosen by both houses of parliament (including at least 166 hand-picked military appointees).

Even if we abstract from the question of military involvement, robust presidentialism may be a risky choice for a multinational country such as Burma. A strong presidency is too big a prize, and will always leave some segments of the country feeling more or less permanently left out or even threatened. Ethnic voting could mean that the president might always be a Burman, and minority groups (which together contain perhaps as much as 40 percent of the populace) could come to feel at best tangentially connected to national power. This has been the structural flaw of strong presidencies in countries as diverse as Nigeria, Sri Lanka, Kenya, and Guyana. Some scholars argue that presidentialism can have ethnically moderating and inclusionary potential, but such recommendations always presuppose that no single ethnic group is in a position to dominate the way the Burmans do in Burma.⁷

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

In some “pacted” transitions between outgoing authoritarians and their democratic opponents, there have been formal or informal coalition or “national-unity” governments. These include all (or most) of the significant political players regardless of their electoral performance. Some of these have been “sunset” deals that expire after a set time (South Africa), while others have been made more entrenched (Fiji). Burma does not seem a promising environment for such pacts. The military does not represent a significant popular bloc, though it cannot be ruled out that some new version of the old military-run Burma Socialist Program Party might someday pick up substantial popular support. At the regional level, most of the minorities are so small that giving all of them representation in a government of national unity would be counterproductive. If decentralized or federal arrangements are well wrought, and if the NLD continues to enjoy significant support among non-Burmans, then mandated power sharing among ethnically based minority parties may prove needless or even harmful. In the best-case scenario,

inclusiveness would be a natural by-product of the existing party system (as it was during the first two decades of Congress Party rule in India).

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

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

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

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

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

Burmans and non-Burmans alike. An electoral system better tailored to Burmese conditions can help.

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

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

NOTES

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

2. For an excellent overview of political developments in modern Burma, see Peter Carey, ed., *Burma: The Challenge of Change in a Divided Society* (New York: St. Martin's, 1997). See, in particular, ch. 2, Robert Taylor, "The Constitutional Future of Myanmar in Comparative Perspective"; ch. 4, Martin Smith, "Burma's Ethnic Minorities: A Central or Peripheral Problem in the Regional Context"; and ch. 5, Josef Silverstein, "The Civil War, the Minorities, and Burma's New Politics." For a recent discussion of constitutional design in a democratizing Burma, see Claire M. Smith, "Adapting Consociationalism: Viable Democratic Structures in Burma" (Washington, D.C.: Technical Advisory Network of Burma, 2000).

3. See Richard Snyder, "Does Lootable Wealth Breed Disorder? The Political Economy of 'Chaosocracy,'" unpubl. ms., Department of Political Science, University of Illinois at Urbana-Champaign, July 2001.

4. Thomas Crampton, "Crackdown Does Little to Help Burma's Economy," *International Herald Tribune*, 11 July 2001.

5. See Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe* (Baltimore: Johns Hopkins University Press, 1996), 1.

6. For the argument that every democracy with a territorially based and politically active multinational population is federal and asymmetrical, see Alfred Stepan, "Toward a New Comparative Politics of Federalism, (Multi)Nationalism, and Democracy: Beyond Rikerian Federalism," in Alfred Stepan, *Arguing Comparative Politics* (Oxford: Oxford University Press, 2001), 315–62. See also Alfred Stepan, "Federalism and Democracy: Beyond the U.S. Model," *Journal of Democracy* 10 (October 1999): 19–34.

7. See, for example, Donald Horowitz, "Presidents vs. Parliaments: Comparing Democratic Systems," *Journal of Democracy* 1 (Fall 1990): 73–79.